

CUSTOMS DIRECTIVE

ORIGINATING OFFICE: FO:TP

DISTRIBUTION: S-01

CUSTOMS DIRECTIVE NO. 3530-002A

DATE: JUNE 27, 2001

SUPERSEDES: 3530-002, 11/6/84

REVIEW DATE: JUNE 2003

SUBJECT: RIGHT TO MAKE ENTRY

1 PURPOSE. To clarify the changes made to Section 484, Tariff Act of 1930, as amended, as a result of the implementation of Public Law 97-446.

2 POLICY. Section 484, Tariff Act of 1930, was amended to provide that only the owner, purchaser or licensed Customs broker has the right to make entry.

3 AUTHORITIES/REFERENCES. Section 484, Tariff Act of 1930; Public Law 76-446

4 RESPONSIBILITIES.

4.1 Directors, Field Operations, are responsible for ensuring that the provisions of this Directive are carried out effectively and uniformly throughout their areas of responsibility.

4.2 Port Directors are responsible for ensuring that the provisions of this Directive are followed and uniformly applied. They are also responsible for the dissemination of the contents of this Directive to personnel within their jurisdiction.

5 PROCEDURES.

5.1.1 RIGHT TO MAKE ENTRY

5.1.2 Section 484 provides that only the "importer of record" has the right to make entry. "Importer of Record" is defined as the owner or purchaser of the goods, or when designated by the owner, purchaser, or consignee, a licensed Customs broker.

5.1.3 A nominal consignee may designate a Customs broker to make entry on his behalf but may not make entry on his own behalf. If a Customs broker makes entry for a nominal consignee, the broker must appear as importer of record.

5.1.4 The purpose of the amendment to Section 484 was to prevent nominal consignees, other than licensed Customs brokers, from filing entries and thereby engaging in the transaction of Customs business without a license.

5.2 BONDING

5.2.1 If a nominal consignee designates a Customs broker to make entry on his behalf, the broker must be listed as importer of record, both on the entry and entry summary. The Customs broker's bond would, therefore, be liable for subsequent filing of the entry summary and payment of estimated duties.

5.2.2 Pursuant to 19 CFR 141.20, the broker may later transfer any subsequent liability to the actual owner and provide a superseding bond in the name of the owner. However, the Customs broker must appear as importer of record on both the entry and entry summary.

5.3 OWNER OR PURCHASER DEFINED

5.3.1 The terms "owner" and "purchaser" include any party with a financial interest in a transaction, including, but not limited to, the actual owner of the goods, the actual purchaser of the goods, a buying or selling agent, a person or firm who imports on consignment, a person or firm who imports under loan or lease, a person or firm who imports for exhibition at a trade fair, a person or firm who imports goods for repair or alteration or further fabrication, etc. Any such owner or purchaser may make entry on his own behalf or may designate a licensed Customs broker to make entry on his behalf and may be shown as the importer of record on the CF 7501. The terms "owner" or "purchaser" would not include a "nominal consignee" who effectively possesses no other right, title, or interest in the goods except as he possessed under a bill of lading, air waybill, or other shipping document.

5.3.2 Examples of nominal consignees not authorized to file Customs entries are express consignment operators (ECO), freight consolidators who handle consolidated shipments as described in 5.10 below, and Customs brokers who are not permitted to transact business in Customs ports where a shipment is being entered.

5.4 DECLARATION ON CF 3461 AND CF 7501

5.4.1 Only the importer of record (owner, purchaser, or Customs broker) may execute the declaration on an entry or entry summary.

5.5 CONSIGNEE'S INABILITY TO SECURE SERVICE OF AN AGENT

5.5.1 In the event that a nominal consignee cannot secure the services of a licensed Customs broker to transact Customs business on his or her behalf, entry of merchandise must be denied. In that event, the consignee may (1) notify the owner or purchaser to designate a licensed Customs broker to make entry for them; or (2) notify the owner or purchaser that they could make entry on their own behalf as importer of record. In no case can the nominal consignee make entry in his own name, even through a licensed Customs broker, or serve as the ultimate consignee.

5.6 SIGNING THE ENTRY OR ENTRY SUMMARY

5.6.1 Only the owner, purchaser or a properly designated Customs broker may sign or certify electronic transmissions of the entry or entry summary.

5.7 MESSENGER SERVICES

5.7.1 In those instances where the owner, purchaser, or licensed Customs broker utilizes the services of a messenger to deliver the entry or entry summary to Customs, there is no violation of Section 484 because simple delivery of documents shall be considered as a clerical function.

5.8 IMMEDIATE DELIVERY (I.D.)

5.8.1 Since the immediate delivery procedure does not constitute "entry", Section 484 and the amendments to it do not affect I.D. procedures. However, the subsequent filing of the entry/entry summary must meet the criteria established in 19 USC 1484.

5.9 CONSOLIDATED SHIPMENTS

5.9.1 Where a freight consolidator acts as a consignee on behalf of an exporter to handle Customs matters on behalf of numerous U.S. purchasers, such freight forwarder is not the owner or purchaser of the goods and, therefore, does not have the right to make entry either with or without permission of the actual owner. Under the law, as the nominal consignee, the freight forwarder does have the right to designate a Customs broker to make entry on his behalf.

5.10 WAREHOUSE ENTRIES AND WITHDRAWALS

5.10.1 The filing of an entry or entry summary for warehouse must be made by the importer of record (i.e., owner, purchaser, licensed Customs broker). Further, by regulations (19 CFR 144.31) only the importer of record would then have the right to withdraw merchandise from the warehouse unless an actual owner's declaration and superseding bond have been filed (19 CFR 141.20) or the right to withdraw the goods has been transferred (21 CFR 144.21-28).

5.11 TEMPORARY IMPORTATION UNDER BOND (TIB) AND PERMANENT EXHIBITION

5.11.1 Merchandise to be entered under a TIB or Permanent Exhibition must be entered by the importer of record (i.e., the owner, purchaser, or licensed Customs broker).

5.11.2 These entries normally do not involve a purchase transaction, i.e., the buying and selling of merchandise. However, the person or firm importing such merchandise will have an interest in the goods beyond a nominal consignee and, therefore, may be

listed as importer of record or may make entry on their behalf.

designate a licensed Customs broker to

5.12 ADMISSION TEMPORAIRE-TEMPORARY ADMISSION CARNETS (A.T.A. CARNET) AND TAIPEI ECONOMIC AND CULTURAL REPRESENTATIVE OFFICE IN THE UNITED STATES AND THE AMERICAN INSTITUTE IN TAIWAN CARNET (TECRO/AIT CARNET)

5.12.1 The requirements applicable to the filing of TIB entries by the importer of record, i.e., the owner, purchaser, or licensed Customs broker, shall be applied to the filing of A.T.A. and TECRO/AIT Carnets. Such carnets presented by freight forwarders or others without an interest in the merchandise shall not be accepted unless they are a licensed Customs broker.

5.13 INFORMAL ENTRIES, ENTRY FOR IMMEDIATE TRANSPORTATION WITHOUT APPRAISMENT (I.T.) AND ENTRY FOR TRANSPORTATION AND EXPORTATION (T&E)

5.13.1 Informal entries, I.T.'s and T&E's are not subject to the provisions of Section 484 of the Tariff Act of 1930, as amended. The persons entitled to make informal entry of merchandise are listed in 19 CFR 143.26.

5.14 FRIENDS AND RELATIVES AS AGENTS OF IMPORTER

5.14.1 An individual who qualifies as an importer of record under 19 USC 1484 has the legal authority to appoint an agent to clear merchandise in his name, provided the importer is not a regular importer, the appointment is for a single non-commercial shipment, and the agent is unpaid.

6 MEASUREMENT. Directors, Field Operations, shall ensure that all ports under their jurisdiction verify that the requirements of this Directive have been adhered to. This will be accomplished during the semi-annual self inspection process.

Assistant Commissioner
Office of Field Operations