

CUSTOMS DIRECTIVE

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SUBJECT: DUTY FREE ENTRY OF SCIENTIFIC INSTRUMENTS

1 PURPOSE. To direct field officers to apprise themselves of the procedures for duty-free entry of scientific instruments and apparatus under subheading 9810.00.60, HTSUS, and related tariff numbers.

2 POLICY. Customs field officers, especially import specialists and entry personnel should familiarize themselves with the following procedures required for importations entered under subheadings 9810.00.60, HTSUS, 9810.00.65, HTSUS and 9810.00.67, HTSUS. The Customs Regulations (19 CFR) do not contain these procedures. They are found in 15 CFR 301, which are joint regulations of the Department of Commerce and the Department of the Treasury pertaining solely to these tariff numbers. Because 15 CFR 301 may not be readily available to Customs field officers who may need to refer to these regulations to process merchandise under these tariff numbers, this Directive provides a summary of the portions of 15 CFR 301 relevant to field processing of merchandise and entries under these tariff numbers and clarification of those provisions for which problems have been perceived in the past.

3 AUTHORITIES/REFERENCES. Chapter 98, Subchapter X, U. S. Note 6.(a.), Harmonized Tariff Schedule of the United States (HTSUS), Subheading 9810.00.60, HTSUS, Subheading 9810.00.65, HTSUS, Subheading 9810.00.67, HTSUS, 15 CFR 301, 15 CFR 301, revisions, F.R. May 25, 2001, 19 CFR Subsection 10.114, 19 U.S.C. 1202, Form ITA-338P.

4 RESPONSIBILITIES. It is the responsibility of Port Directors to see that the policies in this directive are carried out. Port Directors and headquarters employees may release copies of this document to the public upon request without a Freedom of Information Act request.

5 PROCEDURES.

5.1 Instructions for entering under subheading 9810.00.60, HTSUS. Subheading 9810.00.60, HTSUS, provides for duty-free treatment for scientific instruments and apparatus which are entered for the use of any nonprofit institution, public or private, established for educational or scientific purposes, and intended exclusively for educational purposes or scientific research.

5.1.1 Entry procedures at time of initial claim:

5.1.1.1 An applicant may make a claim at the time of filing an entry that an instrument is entitled to duty-free classification under 9810.00.60, HTSUS.

5.1.1.2 If no claim is made, the instrument shall be classified without regard to 9810.00.60, HTSUS, duty assessed, and the entry liquidated in the ordinary course.

5.1.1.3 If a claim is made for duty-free treatment under 9810.00.60, HTSUS, the entry summary shall be accepted without requiring a deposit of estimated duties, provided that a copy of form ITA-338P, stamped by Customs Headquarters (upper right corner) with the 5 digit Docket Number, signed and dated, is filed simultaneously with the entry summary.

5.1.1.4 If a claim for duty-free treatment under 9810.00.60, HTSUS, is made, but the entry summary is not accompanied by a copy of the properly stamped form ITA-338P, the entry may be rejected. In the alternative, liquidation may be proposed under the tariff classification otherwise applicable to the instrument or apparatus. Such liquidation of the entry shall be suspended for a period of 180 days from the date of entry. On or before the end of this suspension period the applicant must file with the Customs port a properly stamped copy of the form. In the event that the Customs port does not receive a copy of the properly stamped form within 180 days, the instrument shall be classified and liquidated in the ordinary course.

5.1.1.5 The entry shall not be liquidated or allowed to liquidate duty-free, unless proof of the subsequent approval of the application by the Department of Commerce is presented to the port by the applicant or his agent. If the proper filing procedures above have been followed, extensions of liquidation shall be made pursuant to 19 U.S.C. 1504 (19 CFR 159.12), as necessary, to allow for completion of the Department of Commerce's review.

5.1.1.6 The normal Customs entry requirements, including the filing of a bond must be complied with.

5.1.1.7 Notwithstanding the preceding provisions, the Commerce Department-approved application may be filed at any time before liquidation of the entry becomes final. Liquidation of any entry at the normal duty rate becomes conclusive upon all persons, unless the liquidation is protested within 90 days after notice of liquidation and the necessary document substantiating duty-free entry is produced.

5.1.2 Entry procedures after Commerce approval of an application:

5.1.2.1 Whenever an institution defers entry until after it receives Commerce approval of the application for duty-free entry, the importer shall file the following with the entry summary:

5.1.2.1.1 The stamped copy of the Form ITA-338P,

5.1.2.1.2 A copy of the notice to the institution of the approval of the application by the Department of Commerce, or a copy of the notice of approval for duty-free entry for the applicant's instrument, which was published in the Federal Register, and

5.1.2.1.3 Proof that a bona fide order for the merchandise was placed on or before the favorable decision became final.

Upon receipt of the above documents, liquidation in such case shall be made under 9810.00.60, HTSUS.

5.1.2.2 Normal Customs entry requirements:

The normal Customs entry requirements, including the filing of a bond, must be complied with.

5.1.2.3 Late filing:

Notwithstanding the preceding provisions, the Commerce Department-approved application may be filed at any time before liquidation of the entry becomes final. Liquidation of any entry at the normal duty rate becomes conclusive upon all persons unless the liquidation is protested within 90 days after notice of liquidation and the necessary document substantiating duty-free entry is produced.

5.2 Uses and disposition of instruments entered under 9810.00.60, HTSUS:

5.2.1 An instrument granted duty-free entry may be transferred from the applicant institution to another eligible institution, provided the latter institution agrees not to use the instrument for commercial purposes within five (5) years of the date of entry of the instrument. In such cases title to the instrument must be transferred directly between the institutions involved.

5.2.2 An institution transferring a foreign instrument entered under 9810.00.60, HTSUS, within five (5) years of its entry shall so inform the Customs Port in writing and shall include the following information:

5.2.2.1 The name and address of the transferring institution.

5.2.2.2 The name and address of the receiving institution.

5.2.2.3 The date of transfer.

5.2.2.4 A detailed description of the instrument.

5.2.2.5 The serial number of the instrument and of any accompanying accessories.

5.2.2.6 The entry number, date of entry, and port of entry of the instrument.

5.2.3 If an instrument is transferred in a manner other than specified above or is used for commercial purposes with five (5) years of entry, the institution for which such instrument was entered shall promptly notify the Customs officials at the Port and shall be liable for the payment of duty in an amount determined on the basis of its condition as imported and the rate applicable to it.

5.3 Importation of repair components under 9810.00.65, HTSUS for an instrument or apparatus previously entered under 9810.00.60, HTSUS:

Subheading 9810.00.65 provides duty-free treatment for repair components for scientific instruments previously admitted duty-free under subheading 9810.00.60.

An institution which owns an instrument entered under 9810.00.60, HTSUS, and desires to enter repair components for such instrument under 9810.00.65, HTSUS, may do so without regard to the application procedures applicable to entries under 9810.00.60, HTSUS, provided the institution certifies to the Customs official at the port of entry upon entry of such components that they are needed repair components for an instrument owned by that institution which was previously entered and liquidated under 9810.00.60, HTSUS.

5.4 Importation under 9810.00.67, HTSUS of tools for articles previously entered under 9810.00.60, HTSUS:

Subheading 9810.00.67 provides duty-free treatment for tools specially designed to be used for the maintenance, checking, gauging or repair of instruments or apparatus previously admitted under subheading 9810.00.60.

An institution which owns an instrument entered under 9810.00.60, HTSUS and desires to enter tools specially designed to be used for the maintenance, checking, gauging or repair of this instrument under 9810.00.67, HTSUS may do so without regard to the application procedures applicable to entries under 9810.00.60, HTSUS, provided the institution certifies to the Customs official at the port of entry, upon entry of such tools, that they are tools needed for an instrument owned by that institution which was previously entered and liquidated under 9810.00.60, HTSUS.

For questions on these instructions, first consult the regulations, 15 CFR 301. If the questions are still not resolved, call the Chief, Special Classification and Marking Branch, Customs Service Headquarters at (202) 572-8810.

6 MEASUREMENT. Whenever the circumstances warrant, and occasionally in any event, the fact of continued use for five years for noncommercial purposes by the applicant institution shall be verified by the Port Director.

Assistant Commissioner
Office of Regulations & Rulings

Attachment

Attachment

Notes to the Guidelines

Numbers in the left column refer to the sections of the Guidelines.

- 5. I Field officers need not be concerned with these two requirements. They are verified at Customs Headquarters.
- 5.1.1.1 See 15 CFR 301.8(a)(1).
- 5.1.1.2 See 15 CFR 301.8(a)(2).
- 5.1.1.3 See 15 CFR 301.8(a)(3), 15 CFR 301.4(b). The application form for duty-free entry ITA-338P, if approved by Customs Headquarters, will have been stamped in the upper right hand corner with "ACCEPTED FOR TRANSMITTAL TO THE DEPARTMENT OF COMMERCE" and the name of the approving officer and date signed. The "Docket Number" (5 digits) will have been stamped in the space labeled "APPLICATION NUMBER." An ITA-338P form so stamped entitles the applicant or his agent to enter the importation provisionally duty-free. Note that it does not entitle the entry to be liquidated duty-free under subheading 9810.00.60, HTSUS. (Do not allow provisionally duty-free entry of an importation for which an unstamped application is presented; the duty must be collected.) The entry shall not be liquidated duty-free nor allowed to liquidate duty-free unless and until proof of the subsequent approval of the application by the Department of Commerce is presented to the port by the applicant or his agent. Acceptable proof is either the notice of approval by the Department of Commerce or the notice of approval published in the Federal Register at the same time. If the Department of Commerce has been given entry information by the applicant for duty-free (ITA-338P, items 10.A. through 10.D.), a copy of the notice of approval or denial of the application will be mailed to the port where entry was made. Extension of liquidation can be made pursuant to 19 U.S.C. 1504 (19 CFR 159.12), if necessary, to allow time for the Department of Commerce to complete their review. If proof of the approval by the Department of Commerce is not received during the period of the extension of the liquidation, or the application has been denied by the Department of Commerce, the entry shall be liquidated at the dutiable rate.
- 5.1.1.4 See 15 CFR 301.8(a)(4). This subsection of the regulations

requires that if the properly stamped application form (ITA-338P) is not filed with the port when formal entry of the article is made (see 4.A.(1)(c) above), but duty-free entry is claimed, estimated duties must be deposited, and the properly stamped application form must be filed with the port within 180 days or the entry is to be liquidated as dutiable. However, even if the properly stamped application form is presented within the 180 day period, the entry shall not be liquidated duty-free nor allowed to liquidate duty-free unless and until proof of the subsequent approval by the Department of Commerce is presented to the port by the applicant or his agent. Acceptable proof is either the notice of approval from the Department of Commerce or the notice of approval published in the Federal Register at the same time. If the Department of Commerce has been given entry information by the applicant for duty-free entry (ITA-338P, items 10.A. through 10.D.), a copy of the notice of approval or denial of the application will be mailed to the port where entry was made. Extensions of liquidation can be made pursuant to 19 U.S.C. 1504 (19 CFR 159.12), if necessary, to allow time for the Department of Commerce to complete their review. If proof of the approval by the Department of Commerce is not received during the period of the extension of the liquidation, or the application has been denied by the Department of Commerce, the entry shall be liquidated at the dutiable rate.

- 5.1.1.5 See 19 U.S.C. 1504, 19 CFR 159.12.
- 5.1.1.6 See 15 CFR 301.8(b), 19 CFR 142.3, 19 CFR 142.4.
- 5.1.1.7 See 15 CFR 301.8(c), 19 CFR Part 174, 19 CFR 10.112.
- 5.1.2.1 See 15 CFR 301.8(a)(5).
- 5.1.2.2 See 15 CFR 301.8(b), 19 CFR 142.3, 19 CFR 142.4.
- 5.1.2.3 See 15 CFR 301.8(c), 19 CFR Part 174, 19 CFR 10.112.
- 5.2.1 See 15 CFR 301.9(a).
- 5.2.2 See 15 CFR 301.9(a).
- 5.2.3 See 15 CFR 301.9(c).
- 5.3 See 15 CFR 301.10(a), subheading 9810.00.65, HTSUS.

5.4 See subheading 9810.00.67, HTSUS.