

GEORGE W. BUSH

President of the United States of America

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETING:

CONSIDERING THAT:

The Senate of the United States of America by its resolution of September 26, 2005, two-thirds of the Senators present concurring therein, gave its advice and consent to accession by the United States of America to the Protocol of Amendment to the International Convention on the Simplification and Harmonization of Customs Procedures done at Brussels on June 26, 1999, with Specific Annexes and reservations to certain Recommended Practices;

NOW, THEREFORE, I, George W. Bush, President of the United States of America, approve accession of the United States of America to the Protocol and accept Specific Annexes A, B, C, D, E and G; Chapters 1, 2 and 3 of Specific Annex F; and Chapters 3, 4 and 5 of Specific Annex J with the reservations attached hereto.

IN TESTIMONY WHEREOF, I have signed this instrument of accession and caused the Seal of the United States of America to be affixed.

DONE at the city of Washington

this sixth day of

December in the year of

our Lord two thousand

five and of the

Independence

America

hundred thirtieth.



By the President:



Secretary of State

**Reservations to Recommended Practices in the Specific Annexes to the Protocol of
Amendment to the Kyoto Convention**

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Specific Annex A Arrival of goods in a Customs territory

Chapter 1 Formalities prior to the lodgment of the Goods Declaration

Recommended Practice 12. The United States requires documents to be in the English language (See, e.g., U.S. Code of Federal Regulations (CFR) 19 CFR 141.86).

Chapter 2 Temporary storage of goods

Recommended Practice 11. Although the United States generally provides for duty allowances due to deterioration, spoilage, or damage (19 CFR Part 158), U.S. legislation forbids such allowance in certain instances, e.g., “No allowance or reduction of duties for partial damage or loss in consequence of discoloration or rust occurring before entry shall be made upon iron or steel or upon any article of iron or steel.” Harmonized Tariff Schedule of the United States (HTSUS) (19 U.S.C. §1202), Ch. 72, Additional U.S. Note 3.

Any abatement or allowance for loss or damage to merchandise may be allowed by U.S. Customs upon satisfactory proof under 19 U.S.C. §1563(a). No refund or abatement is allowed for merchandise that has remained in a bonded warehouse for over 3 years from the date of importation.

Specific Annex B Importation

Chapter 2 Re-importation in the same state

Recommended Practice 15. The United States requires an entry to be lodged upon importation (19 CFR 141.4).

Chapter 3 Relief from import duties and taxes

Recommended Practice 7. In the United States under the HTSUS there are no areas of the tariff schedule that provide for duty free treatment for Recommended Practice 7 (d), (f), and (g).

With regard to Recommended Practice 7 (a), (b), (c), (e), (h), (ij), (k) and (l) the relevant subheadings in the HTSUS are listed below.

- (a) Subheadings 3001 and 3006, HTSUS, provide for duty-free treatment of items described as in the amended Kyoto Convention as therapeutic substances of human origin, blood grouping and tissue typing reagents.

(b) Subheading 9811.00.60, HTSUS, provides for duty-free treatment for certain samples, valued not over \$1 each, that are unsuitable for sale or for use otherwise than as a sample to be used in the United States only for soliciting orders for products of foreign countries.

(c) Subheading 9804.00.10, HTSUS, provides for duty-free treatment for professional books, implements, instruments and tools of trade, occupation or employment which have been taken abroad by or for the account of the person arriving in the United States and are being imported by or for his account.

(e) Subheading 9804.00.30, HTSUS, provides for duty-free treatment for a person arriving in the United States who is not a returning resident thereof for items not exceeding \$100 in value (not including alcoholic beverages and cigarettes but including not more than 100 cigars) accompanying such person to be disposed of by him as bona fide gifts, if such person has not claimed an exemption under the subheading within the 6 months immediately preceding his arrival and he intends to remain in the United States for not less than 72 hours.

(h) There is no provision in the HTSUS specifically addressing military cemeteries. However, subheading 9810.00.20, HTSUS, (concerning hand-woven fabrics, to be used by the institution in making religious vestments for its own use or for sale, imported for the use of an institution established solely for religious purposes) and subheading 9810.00.25, HTSUS, (concerning articles imported for the use of an institution organized and operated for religious purposes, including cemeteries...) provide a duty exemption for articles used for religious purposes including cemeteries. Subheading 9812.00.40, HTSUS, provides for articles imported by any institution, society, or state, or for a municipal corporation, for the purpose of erecting a public monument.

(ij) General Note 16 in the HTSUS, provides for a duty exemption for records, diagrams, and other data with regard to any business, engineering or exploration operation whether on paper, cards, photographs, blueprints, tapes, or other media.

(k) Subheading 9810.00.25, HTSUS, provides a duty exemption for articles imported for the use of an institution organized and operated for religious purposes.

(l) Subheading 9813.00.30, HTSUS, provides for duty-free importation under bond (TIB) for articles intended solely for testing, experimental or review purposes, including specification, photographs, and similar articles for use in connection with experiments or for study.

Specific Annex D Customs warehouses and free zones

Chapter 1 Customs warehouses

Recommended Practice 7. In the United States, the drawback statute conditions eligibility for drawback on exportation or destruction. The mere warehousing of the goods with intention to export does not give rise to a right to drawback (19 U.S.C. §1313).

Recommended Practice 8. In the United States, the cancellation of bond charges under the U.S. temporary admission procedure occur only upon exportation or destruction (19 CFR 10.31, 10.39).

Recommended Practice 9. The United States requires exportation for refund of internal revenue taxes (19 U.S.C. §1313(d)). No provisions in the U.S. legislation governing warehouses accomplish exportation by admission into a warehouse (19 U.S.C. §§1555 and 1557).

Chapter 2 Free zones

Recommended Practice 9. In the United States, regulations governing Foreign Trade Zones in the United States (see, e.g., 19 CFR 146.32) require that all goods entered into a Foreign Trade Zone must be applied for on a Customs Form 214.

Recommended Practice 18. In the United States, regulations require filing of a Customs Form 7512 for an entry for immediate exportation from a zone, along with the filing of an export bond on Customs Form 301 (19 CFR 146.67).

Specific Annex E Transit

Chapter 1 Customs transit

Recommended Practice 7. In general, the United States does not allow the use of a commercial document in place of the required Customs document (see, e.g., 19 CFR 18.11 and 18.13).

Chapter 2 Transshipment

Recommended Practice 6. In general, the United States does not allow the use of a commercial document in place of the required Customs document (see, e.g., 19 CFR 18.11 and 18.13).

Specific Annex F Processing

Chapter 1 Inward processing

Recommended Practice 7. The United States allows for Recommended Practice 7(a) in Foreign Trade Zones (FTZ) (19 U.S.C. §81c(a) and (d)), and Temporary Importation under Bond (TIB)(9813.00.05, HTSUS). Recommended Practice 7(b) allows for substitution (“equivalent goods”) of the import which, under U.S. legislation, is only allowed for oil (19 U.S.C. §81c(d)) in an FTZ.

Recommended Practice 23. Under 19 CFR §10.39 the failure to export results in the assessment of liquidated damages in an amount equal to double the estimated duties and taxes.

Recommended Practice 25. This Recommended Practice provides for setoff by substitution of other goods. Except for identification by an accounting method, which is not a substitution concept, U.S. legislation (19 U.S.C. §81c(a)) conflicts with this Recommended Practice.

Recommended Practice 26. U.S. legislation (19 U.S.C. §81c(a)) does not provide for Substitution of equivalent goods (except oil in an FTZ (19 U.S.C. §81c(d))).

Chapter 2 Outward processing

Recommended Practices 16, 17 and 18. These Recommended Practices require articles repaired abroad free of charge to be returned duty-free. Currently, the only articles that may be returned free of duty into the United States are those articles exported and repaired under warranty in certain countries in accordance with subheading 9802.00.40, HTSUS, and those articles repaired/altered in Israel or Mexico in accordance with subheading 9802.00.50, HTSUS.

Chapter 3 Drawback

Recommended Practice 5. The United States prohibits allowing drawback if the completed article is not exported within 5 years of importation (19 U.S.C. §1313(i)).

Recommended Practice 6. The United States cannot extend the 3-year limitation on filing a drawback claim except in those instances where “it can be established that the Customs Service was responsible for untimely filing” (19 U.S.C. §1313(r)(1)).

Recommended Practice 9. In the United States no authority presently exists to treat entry into a warehouse as an exportation. Compare 19 U.S.C. §81c(a) with 19 U.S.C. §§1555-1557 and 19 CFR 101.1 (which defines exportation).

Recommended Practice 10. In the United States, the payment of drawback is set by legislation (19 U.S.C. §1313) that does not presently contain provisions for periodic payment as provided in the Recommended Practice.

Specific Annex G Temporary Admission

Chapter 1 Temporary admission

Recommended Practice 16. The United States does not provide for the transfer of the benefit of the temporary admission to any other person (19 U.S.C. §1484).

Recommended Practice 22. This Recommended Practice refers to provisions of the Istanbul Convention to which the United States is not currently a party. As a result, the United States may not be in conformance with its provisions. For example, the United States does not recognize or have special procedures for a class of goods known as “goods imported as frontier traffic” (Recommended Practice 22(7) as defined by the Istanbul Convention. However, with respect to the other parts of Recommended Practice 22 some of the relevant HTSUS, CFR and U.S.C. provisions are listed below as they correspond to specific parts of Recommended Practice 22:

- (1) Goods for display or use at exhibitions, fairs, meetings, or similar events—19 CFR 147.2 implements 19 U.S.C. 1751-1756 and provides that any article imported or brought into the United States may be entered under bond ... for the purpose of exhibition at a fair, or for use in constructing, installing, or maintaining foreign exhibits at fairs.
- (2) Professional equipment—Subheading 9813.00.50, HTSUS, provides for temporary admission under bond for professional equipment, tools of trade, repair components for equipment, or tools admitted under this provision.
- (3) Pallets are considered as instruments of international traffic as specified in 19 CFR 10.41a and may be admitted into the United States without paying duty and the filing of a Customs entry. 19 CFR 10.41b provides for serial numbered substantial holders or outer containers. Samples solely for use in taking orders of merchandise are allowed duty-free temporary admission in the United States under bond under Subheading 9813.00.20, HTSUS.
- (4) Subheading 9812.00.20, HTSUS, provides for duty-free admission under bond for articles imported for exhibition by an institution or society established for the encouragement of agriculture, arts, education, or science, or for such exhibition by any state or for a municipal corporation. Subheading 9810.00.60, HTSUS, provides for duty free treatment for articles entered for use of any nonprofit institution, whether public or private, established for educational or scientific purposes. Also Subheading 9810.00.30, HTSUS, provides duty-free treatment for articles imported for use of any public library, any other public institution, or

any nonprofit institution established for educational, scientific, literary or philosophical purposes, or for the encouragement of the fine arts.

- (5) Travelers' personal effects and goods imported for sports purposes may be covered as professional equipment or tools of trade under subheading 9813.00.50, HTSUS.
- (6) The United States does not have any specific provision for temporary admission of tourist publicity material. Subheading 4911.10.00.60, HTSUS, provides for tourist and other literature, which is presently duty-free. This provision is not restricted to material which is imported only for temporary admission.
- (8) 19 U.S.C. §1322 provides for duty-free and tax-free admission of aircraft equipment, supplies, and spare parts for use in searches, rescues, investigations, repairs, and salvage in connection with accidental damage to aircraft. 19 U.S.C. §1322 also permits duty-free entry for fire fighting and rescue and relief equipment for emergent temporary use in connection with conflagration. Rescue and relief equipment and supplies for emergent temporary use in connection with floods and other disasters are also permitted duty-free entry under the statute.
- (9) Locomotives, railroad equipment, trucks, buses, taxicabs, and other vehicles may be used as instruments of international traffic, and under 19 CFR 10.41 they are not subject to duties, taxes, or fees and their admission into the United States does not require the filing of a Customs entry.
- (10) Subheading 9813.00.60, HTSUS, provides for temporary admission under bond for animals and poultry brought into the United States for purposes of breeding, exhibition, or competition for prizes and the usual equipment therefor.

Recommended Practice 23. The same reservations as for Recommended Practice 22.

Specific Annex J Special procedures

Chapter 4 Stores

Recommended Practice 4. The United States does not presently specifically provide for supplies aboard international express trains. The general rule for supplies acquired abroad on international trains is that duty is owing, unless they are locked or sealed, or a proper inventory list is filed (19 CFR 123.11).