

their territory, provided it is shown that the importation or reimportation took place after the exportation which it is intended to establish.

(4) Upon the payment of an amount equal to double the duty which would have accrued on the articles had they been entered under an ordinary consumption entry, or equal to 110 percent of such duties where that percentage is prescribed in § 10.31(f), if such amount is determined to be less than the full amount of the bond.

(f) If there has been compliance with the terms of the bond with respect to part of but not all the articles covered thereby and a written petition for relief is filed as provided in part 172 of this chapter, and if that part of the liability for liquidated damages which represents double the duty or 110 percent of the duty, as required under § 10.31(f), on the articles in respect of which there has been a default does not exceed \$100,000, the Fines, Penalties, and Forfeitures Officer may cancel the total liability for payment of liquidated damages in any amount upon the payment of an amount equal to double the duty or 110 percent of the duty, as appropriate, on the articles in respect of which the default occurred, or, under the circumstances enumerated in paragraphs (e)(1), (2), or (3) of this section, upon payment of such lesser amount as the Fines, Penalties, and Forfeitures Officer may deem appropriate, provided the Fines, Penalties, and Forfeitures Officer is satisfied that the importation was properly entered under Chapter 98, subchapter XIII, and that there was no intent to defraud the revenue or delay the payment of duty.

(g) *Anticipatory breach.* If an importer anticipates that the merchandise entered under a Temporary Importation Bond will not be exported or destroyed in accordance with the terms of the bond, the importer may indicate to Customs in writing before the bond period has expired of the anticipatory breach. At the time of written notification of the breach, the importer shall pay to Customs the full amount of liquidated damages that would be assessed at the time of breach of the bond, and the entry will be closed. The importer shall notify the surety in

writing of the breach and payment. By this payment, the importer waives his right to receive a notice of claim for liquidated damages as required by § 172.1(a) of this chapter.

(h) If the petitioner is not satisfied with the port director's action under this section and submits a supplemental petition, both the original and the supplemental petitions shall be transmitted to the designated Headquarters official with a full report on the case.

[28 FR 14663, Dec. 31, 1963, as amended by T.D. 69-146, 34 FR 9799, June 25, 1969; T.D. 70-249, 35 FR 18265, Dec. 1, 1970; T.D. 71-70, 36 FR 4485, Mar. 6, 1971; T.D. 73-308, 38 FR 30549, Nov. 6, 1973; T.D. 74-227, 39 FR 32015, Sept. 4, 1974; T.D. 75-36, 40 FR 5146, Feb. 4, 1975; T.D. 84-213, 49 FR 41165, Oct. 19, 1984; T.D. 89-1, 53 FR 51249, Dec. 21, 1988; T.D. 91-71, 56 FR 40779, Aug. 16, 1991; T.D. 95-22, 60 FR 14632, Mar. 20, 1995; T.D. 98-10, 63 FR 4167, Jan. 28, 1998; T.D. 99-27, 64 FR 13675, Mar. 22, 1999]

#### § 10.40 Refund of cash deposits.

(a) When a cash deposit is made in lieu of surety, it shall be refunded to the person in whose name the entry is made upon exportation in compliance with § 10.38.

(b) If any article entered under Chapter 98, subchapter XIII, Harmonized Tariff Schedule of the United States, is not exported or destroyed within the period of time during which articles may remain in the Customs territory of the United States under bond (including any lawful extension), the port director shall notify the importer in writing that the entire cash deposit will be transferred to the regular account as liquidated damages unless a written application for relief from the payment of the full liquidated damages is filed with the port director within 60 days after the date of the notice. If such an application is timely filed, the transfer of the cash deposit to the regular account as liquidated damages shall be deferred pending the decision of the Headquarters, U.S. Customs Service or, in appropriate cases, the port director on the application.

[28 FR 14663, Dec. 31, 1963, as amended by T.D. 84-213, 49 FR 41165, Oct. 19, 1984; T.D. 89-1, 53 FR 41249, Dec. 21, 1988]

## INTERNATIONAL TRAFFIC

**§ 10.41 Instruments; exceptions.**

(a) Locomotives and other railroad equipment, trucks, buses, taxicabs, and other vehicles used in international traffic shall be subject to the treatment provided for in part 123 of this chapter.

(b) [Reserved]

(c) Foreign-owned aircraft arriving in the United States shall be subject to the treatment provided for in part 122 of this chapter, unless entered under the provisions of §§ 10.31, 10.183, or paragraph (d) of this section.

(d) Any foreign-owned vehicle, aircraft, or undocumented boat brought into the United States for the purpose of carrying merchandise or passengers between points in the United States for hire or as an element of a commercial transaction, except as provided at § 123.14(c), is subject to treatment as an importation of merchandise from a foreign country and a regular entry therefor shall be made. The use of any such vehicle, aircraft, or boat without a proper entry having been made may result in liabilities being incurred under section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592).

(e) [Reserved]

(f) Material for the maintenance or repair of international cables under the high seas, if requiring storage in special tanks for preservation, may be placed in tanks specially bonded for the purpose and withdrawn therefrom for high-seas installation without the payment of duty and without limitation of the storage period to the usual 3-year warehousing period. International cables laid under the territorial waters of the United States but not brought on shore in the United States shall be admitted without entry or the payment of duty. With respect to international cables laid under the territorial waters of the United States but brought on shore in the United States, only that part of the cable in the United States between the point of entry into the territorial waters of the United States and the first point of support on land in the United States

shall be admitted without the payment of duty.

[28 FR 14663, Dec. 31, 1963, as amended by T.D. 70-121, 35 FR 8222, May 26, 1970; T.D. 79-160, 44 FR 31956, June 4, 1979; T.D. 84-109, 49 FR 19450, May 8, 1984; T.D. 88-12, 53 FR 9315, Mar. 22, 1988; T.D. 93-66, 58 FR 44130, Aug. 19, 1993]

**§ 10.41a Lift vans, cargo vans, shipping tanks, skids, pallets, and similar instruments of international traffic; repair components.**

(a)(1) Lift vans, cargo vans, shipping tanks, skids, pallets, caul boards, and cores for textile fabrics, arriving (whether loaded or empty) in use or to be used in the shipment of merchandise in international traffic are hereby designated as "instruments of international traffic" within the meaning of section 322(a), Tariff Act of 1930, as amended. The Commissioner of Customs is authorized to designate as instruments of international traffic, in decisions to be published in the weekly Customs Bulletin, such additional articles or classes of articles as he shall find should be so designated. Such instruments may be released without entry or the payment of duty, subject to the provisions of this section.

(2) Repair components, accessories, and equipment for any container of foreign production which is an instrument of international traffic may be entered or withdrawn from warehouse for consumption without the deposit of duty if the person making the entry or withdrawal from warehouse files a declaration that the repair component was imported to be used in the repair of a container of foreign production which is an instrument of international traffic, or that the accessory or equipment is for a container of foreign production which is an instrument of international traffic. The port director must be satisfied that the importer of the repair component, accessory, or equipment had the declared intention at the time of importation.

(3) As used in this section, "instruments of international traffic" includes the normal accessories and equipment imported with any such instrument which is a "container" as defined in Article 1 of the Customs Convention on Containers.