

documents with foreign customs and law enforcement agencies if the Secretary reasonably believes the exchange of information is necessary to—

(1) insure compliance with any law or regulation enforced or administered by the Customs Service;

(2) administer or enforce multilateral or bilateral agreements to which the United States is a party;

(3) assist in investigative, judicial and quasi-judicial proceedings in the United States; and

(4) an action comparable to any of those described in paragraphs (1) through (4)¹ undertaken by a foreign customs or law enforcement agency, or in relation to a proceeding in a foreign country.

(b) Nondisclosure and uses of information provided

(1) Information may be provided to foreign customs and law enforcement agencies under subsection (a) only if the Secretary obtains assurances from such agencies that such information will be held in confidence and used only for the law enforcement purposes for which such information is provided to such agencies by the Secretary.

(2) No information may be provided under subsection (a) to any foreign customs or law enforcement agency that has violated any assurances described in paragraph (1).

(c) Government agency of USMCA country

(1) In general

The Secretary may authorize U.S. Customs and Border Protection to exchange information with any government agency of a USMCA country, if the Secretary—

(A) reasonably believes the exchange of information is necessary to implement chapter 2, 4, 5, 6, or 7 of the USMCA; and

(B) obtains assurances from such agency that the information will be held in confidence and used only for governmental purposes.

(2) Definitions

In this subsection, the terms “USMCA” and “USMCA country” have the meanings given those terms in section 4502 of this title.

(June 17, 1930, ch. 497, title IV, § 628, as added Pub. L. 99-570, title III, § 3127, Oct. 27, 1986, 100 Stat. 3207-89; amended Pub. L. 103-182, title II, § 209, Dec. 8, 1993, 107 Stat. 2098; Pub. L. 116-113, title II, § 209(c), Jan. 29, 2020, 134 Stat. 52.)

Editorial Notes

AMENDMENTS

2020—Subsec. (c). Pub. L. 116-113 added subsec. (c) and struck out former subsec. (c). Prior to amendment, text read as follows: “The Secretary may authorize the Customs Service to exchange information with any government agency of a NAFTA country, as defined in section 3301(4) of this title, if the Secretary—

“(1) reasonably believes the exchange of information is necessary to implement chapter 3, 4, or 5 of the North American Free Trade Agreement, and

“(2) obtains assurances from such country that the information will be held in confidence and used only for governmental purposes.”

¹ So in original. Probably should be “(3)”.

1993—Subsec. (c). Pub. L. 103-182 added subsec. (c).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2020 AMENDMENT; RETENTION OF AUTHORITY TO EXCHANGE INFORMATION

Amendment by Pub. L. 116-113 effective on the date the USMCA enters into force (July 1, 2020) and applicable with respect to goods entered for consumption, or withdrawn from warehouse for consumption, on or after that date, see section 209(d) of Pub. L. 116-113, set out as an Effective Date of 2020 Amendment note under section 1304 of this title.

Pub. L. 116-113, title II, § 209(e), Jan. 29, 2020, 134 Stat. 53, provided that: “Notwithstanding the amendment made by subsection (c) [amending this section], the Secretary of the Treasury shall retain the authority provided in section 628(c) of the Tariff Act of 1930 [19 U.S.C. 1628(c)] (as in effect on the day before the date on which the USMCA enters into force [July 1, 2020]) to exchange information with any government agency of a NAFTA country (as defined in section 2 of the North American Free Trade Agreement Implementation Act [19 U.S.C. 3301] (as in effect on the day before the date on which the USMCA enters into force)).”

[For definition of “USMCA” as used in section 209(e) of Pub. L. 116-113, set out above, see section 4502 of this title.]

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-182 effective on the date the North American Free Trade Agreement enters into force with respect to the United States (Jan. 1, 1994), see section 213(b) of Pub. L. 103-182, formerly set out as an Effective Date note under former section 3331 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107-296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114-125, and section 802(b) of Pub. L. 114-125, set out as a note under section 211 of Title 6.

§ 1628a. Exchange of information related to trade enforcement

(a) In general

Subject to subsections (c) and (d), if the Commissioner of U.S. Customs and Border Protection suspects that merchandise is being imported into the United States in violation of section 1526 of this title or section 602, 1201(a)(2), or 1201(b)(1) of title 17 and determines that the examination or testing of the merchandise by a person described in subsection (b) would assist the Commissioner in determining if the merchandise is being imported in violation of that section, the Commissioner, to permit the person to conduct the examination and testing—

(1) shall provide to the person information that appears on the merchandise and its packaging and labels, including unredacted images of the merchandise and its packaging and labels; and

(2) may, subject to any applicable bonding requirements, provide to the person unredacted samples of the merchandise.

(b) Person described

A person described in this subsection is—

(1) in the case of merchandise suspected of being imported in violation of section 1526 of this title, the owner of the trademark suspected of being copied or simulated by the merchandise;

(2) in the case of merchandise suspected of being imported in violation of section 602 of title 17, the owner of the copyright suspected of being infringed by the merchandise;

(3) in the case of merchandise suspected of being primarily designed or produced for the purpose of circumventing a technological measure that effectively controls access to a work protected under that title, and being imported in violation of section 1201(a)(2) of that title, the owner of a copyright in the work; and

(4) in the case of merchandise suspected of being primarily designed or produced for the purpose of circumventing protection afforded by a technological measure that effectively protects a right of an owner of a copyright in a work or a portion of a work, and being imported in violation of section 1201(b)(1) of that title, the owner of the copyright.

(c) Limitation

Subsection (a) applies only with respect to merchandise suspected of infringing a trademark or copyright that is recorded with U.S. Customs and Border Protection.

(d) Exception

The Commissioner may not provide under subsection (a) information, photographs, or samples to a person described in subsection (b) if providing such information, photographs, or samples would compromise an ongoing law enforcement investigation or national security.

(June 17, 1930, ch. 497, title IV, § 628A, as added Pub. L. 114–125, title III, § 302(a), Feb. 24, 2016, 130 Stat. 149.)

§ 1629. Inspections and preclearance in foreign countries**(a) In general**

When authorized by treaty or executive agreement, the Secretary may station customs officers in foreign countries for the purpose of examining persons and merchandise prior to their arrival in, or subsequent to their exit from, the United States.

(b) Functions and duties

Customs officers stationed in a foreign country under subsection (a) may exercise such functions and perform such duties (including inspections, searches, seizures and arrests) as may be permitted by the treaty, agreement or law of the country in which they are stationed.

(c) Compliance

The Secretary may by regulation require compliance with the customs laws of the United States in a foreign country and, in such a case the customs laws and other civil and criminal laws of the United States relating to the importation or exportation of merchandise, filing of false statements, and the unlawful removal of

merchandise from customs custody shall apply in the same manner as if the foreign station is a port of entry or exit within the customs territory of the United States.

(d) Seizures

When authorized by treaty, agreement or foreign law, merchandise which is subject to seizure or forfeiture under United States law may be seized in a foreign country and transported under customs custody to the customs territory to the United States to be proceeded against under the customs law.

(e) Stationing of foreign customs and agriculture inspection officers in the United States

The Secretary of State, in coordination with the Secretary and the Secretary of Agriculture, may enter into agreements with any foreign country authorizing the stationing in the United States of customs and agriculture inspection officials of that country (if similar privileges are extended by that country to United States officials) for the purpose of ensuring that persons and merchandise going directly to that country from the United States, or that have gone directly from that country to the United States, comply with the customs and other laws of that country governing the importation or exportation of merchandise. Any foreign customs or agriculture inspection official stationed in the United States under this subsection may exercise such functions, perform such duties, and enjoy such privileges and immunities as United States officials may be authorized to perform or are afforded in that foreign country by treaty, agreement, or law.

(f) Application of certain laws

When customs officials of a foreign country are stationed in the United States in accordance with subsection (e), and if similar provisions are applied to United States officials stationed in that country—

(1) sections 111 and 1114 of title 18 shall apply as if the officials were designated in those sections; and

(2) any person who in any matter before a foreign customs official stationed in the United States knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, is liable for a fine of not more than \$10,000 or imprisonment for not more than 5 years, or both.

(g) Privileges and immunities

Any person designated to perform the duties of an officer of the Customs Service pursuant to section 1401(i) of this title shall be entitled to the same privileges and immunities as an officer of the Customs Service with respect to any actions taken by the designated person in the performance of such duties.

(h) Customs procedures and commitments**(1) In general**

The Secretary of Homeland Security, the United States Trade Representative, and other