

## Background

Section 1460 of Public Law 106–476, popularly known as the Tariff Suspension and Trade Act of 2000, amended section 484 of the Tariff Act of 1930 (19 U.S.C. 1484) by adding a new paragraph (j) in order to provide for the treatment of certain multiple shipments of merchandise as a single entry.

The new paragraph (j) involves two scenarios. First, section 1484(j)(1) addresses a problem long encountered by the importing community in entering merchandise whose size or nature necessitates that the merchandise be shipped in an unassembled or disassembled condition on more than one conveyance. Second, section 1484(j)(2) offers relief to importers whose shipments which they intended to be carried on a single conveyance are divided at the initiative of the carrier. As to both these matters, the legislation is silent as to the affected modes of transportation, thus indicating that the new law is to apply to merchandise shipped by air, land or sea.

By a document published in the **Federal Register** (66 FR 57688) on November 16, 2001, Customs proposed regulations to implement 19 U.S.C. 1484(j)(2) relating to shipments which are divided by carriers; these shipments are referred to as “split shipments”. These final regulations today concern such split shipments.

It is noted that by a separate document published in the **Federal Register** (67 FR 16664) on April 8, 2002, Customs proposed regulations to implement 19 U.S.C. 1484(j)(1) concerning the entry of shipments of unassembled or disassembled entities that arrive on more than one conveyance. This latter proposed rule will be the subject of a final rule document that should be published in the **Federal Register** in the near future.

### *Split Shipment Defined*

Generally speaking, a split shipment consists of merchandise that is capable of being transported on a single conveyance, and that is delivered to and accepted by a carrier in the exporting country as one shipment under one bill of lading or waybill, and is thus intended by the importer to arrive as a single shipment. However, the shipment is thereafter divided by the carrier into different parts which arrive in the United States at different times, often days apart.

In practice, shipments often become split after being delivered intact to a carrier. The movement of cargo as a split shipment on multiple conveyances appears to be a regular and routine

industry practice when shipped by air. There are various reasons for a shipment to be split by a carrier, such as limited space, the need to balance weight distribution on a conveyance, and offloading for safety concerns.

The Customs Regulations ordinarily require, with certain exceptions not here relevant, that all merchandise arriving on one conveyance and consigned to one consignee be included on one entry (see § 141.51, Customs Regulations (19 CFR 141.51)). While today’s final regulations permit the acceptance of a single entry in the case of such a split shipment, importers may, of course, continue to file a separate entry for each portion of a split shipment as it arrives, if they so choose.

### *Filing of Single Entry for Split Shipment Under Proposed Rule*

In principal part, the November 16, 2001, **Federal Register** document proposed to permit the filing of a single entry to cover a split shipment provided that: (1) The subject shipment was capable of being transported on a single conveyance, and was delivered to and accepted by a carrier in the exporting country under one bill of lading or waybill and was thus intended by the importer to be a single shipment; (2) the shipment was thereafter split or deconsolidated by the carrier, acting on its own; (3) the split-portions of the shipment remain consigned to the same party in the United States to whom they were destined in the original bill of lading or waybill; and (4) those portions of the split shipment that could be covered under the entry arrived directly from abroad at the same port of importation in the United States within 10 calendar days of the date of the portion that arrived first.

Specifically, to implement 19 U.S.C. 1484(j)(2) under which an importer could make a single entry for a split shipment, it was proposed to add a new § 141.57 to the Customs Regulations (19 CFR 141.57), in addition to making certain amendments to § 142.21 of the Customs Regulations (19 CFR 142.21). Also, a minor conforming change was to be made as well to § 141.51 of the Customs Regulations (19 CFR 141.51).

By a document published in the **Federal Register** (67 FR 3135) on January 23, 2002, the period of time within which public comments could be submitted in response to the proposed rule was re-opened until February 14, 2002.

### *Discussion of Comments*

A total of twenty-two commenters responded to the notice of proposed rulemaking. A description of the issues

raised by these commenters, together with Customs response to these issues is set forth below.

### *General Comments on the Proposed Rule*

*Comment:* It is improper for Customs to propose regulations for split shipments and for unassembled and disassembled entities in two separate regulation packages.

*Customs Response:* Although 19 U.S.C. 1484(j)(1) and (j)(2) allow for the filing of a single entry for shipments which arrive at different times, sections 1484(j)(1) and 1484(j)(2) ultimately address two very different situations. As a result, and to minimize confusion between the two provisions, Customs decided to address each provision in separate rulemakings.

*Comment:* The proposed regulations providing for a single entry for shipments split by the carrier do not reflect an agreement that Customs reached prior to the enactment of 19 U.S.C. 1484(j)(2) on the manner in which such split shipments would be regulated.

*Customs Response:* The legislation supersedes any informal agreements that Customs and the trade may have made prior to its enactment. In the proposed rule, Customs endeavored to reflect the intent of Congress in enacting 19 U.S.C. 1484(j)(2). Customs thoroughly reviewed the comments that were received in response to the proposed rule and, in this final rule, has made a number of changes to the regulations as initially proposed for split shipments.

*Comment:* The split shipment procedures followed by Customs at Los Angeles International Airport and at John F. Kennedy Airport in New York are preferable to those reflected in the proposed rule.

*Customs Response:* Customs reviewed the split shipment procedures at these airports. In developing the proposed regulations, Customs included the most operationally feasible features of the procedures for handling split shipments at those locations.

*Comment:* It was asked whether entries of split shipments may be processed through the Pre-Arrival Processing System (PAPS). The PAPS system allows electronic entries to be submitted prior to the time a truck arrives at the United States border.

*Customs Response:* Customs plans to issue a Federal Register notice on PAPS shortly and will address this comment then.

*Comment:* It is contended that, by allowing for a single entry for merchandise arriving on separate