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SENATE

} REPORT
No. 1123

TO AMEND THE TARIFF ACT TO PROVIDE FOR A DRAW- BACK ON CONTAINERS, COVERINGS, ETC.

MAY 13 (calendar day, JULY 17), 1935.—Ordered to be printed

Mr. WALSH, from the Committee on Finance, submitted the following

REPORT

[To accompany S. 1421]

The Committee on Finance, to whom was referred the bill (S. 1421) to amend subsection (a) of section 313 of the Tariff Act of 1930, having considered the same, report favorably thereon and recommend that the bill do pass with an amendment in the nature of a substitute.

The bill, as amended, is recommended by the Treasury Department; and its purposes are set forth in a letter from the Secretary of the Treasury to the chairman of the committee, which is incorporated herein and made a part of this report.

TREASURY DEPARTMENT,
Washington, April 13, 1935.

HON. PAT HARRISON,
Chairman Committee on Finance, United States Senate.

DEAR MR. CHAIRMAN: The Department refers to your communication of March 18, 1935, requesting comment on S. 1421, as redrafted to meet the suggestions contained in Department letter of March 4, 1935, to amend subsection (a) of section 313 of the Tariff Act of 1930, to provide that: "Any imported labels used in putting up articles manufactured in the United States shall be held and considered, when such articles are exported to the place from which such labels were imported, to be merchandise used in the manufacture of such articles within the meaning of this subsection."

S. 1421, as introduced, provided that: "Any imported packages, coverings, vessels, brands, or labels used in putting up articles manufactured or produced in the United States shall be held and considered to be merchandise used in the manufacture or production of such articles within the meaning of this subsection."

In its letter of March 4, 1935, the Department informed you that it perceived no administrative objection to the passage of the bill, provided it were amended to show clearly whether it covers all articles which are the growth, produce, manufacture, or production of the United States, or only articles which are manufactured or produced in the United States with the use of domestic and/or imported merchandise; whether it applies to articles shipped to the Philippine Islands, as well as to articles exported to a foreign country; and whether it contemplates the allowance of drawback on any imported merchandise used in putting up or preparing for export or shipment the articles provided for therein.

The redrafted bill is confined to imported labels, whereas the original bill included "imported packages, coverings, vessels, brands, or labels." It is also

provided in the redrafted bill that the articles to which the labels are affixed must be exported to the place from which the labels were imported, a limitation not contained in S. 1421, as introduced. Further, the redrafted bill is restricted to articles manufactured in the United States, though subsection (a) of section 313, which it proposes to amend, provides for the allowance of drawback on articles manufactured or produced in the United States, as did S. 1421, as introduced.

The Department submits that a law providing for the allowance of drawback only on imported labels used in putting up articles manufactured in the United States, when such articles are exported to the place from which such labels were imported, would be discriminatory and unduly restrictive. The Department's records show that because of the absence of a statute such as that proposed in S. 1421, as introduced, it has been necessary to deny drawback on imported bottles used in putting up domestic beer for exportation; on imported burlap used in baling cotton for exportation; on imported steel drums used as containers of domestic fuel oil products which are exported; and in many similar cases. If section 313 is to be amended to provide that labels shall be considered imported merchandise used in the manufacture of exported articles, it is submitted that imported coverings and containers should be accorded a similar privilege. It is likewise submitted that it should not be necessary to export the articles to the place from which the imported merchandise came. Section 313 at present does not contain such a requirement.

As stated, the redrafted bill does not authorize the allowance of drawback, unless the imported labels are attached to articles manufactured in the United States. The Department is of opinion that consideration should be given to enlarging the scope of the bill to provide for articles which are the growth, product, or manufacture of the soil or industry of the United States. If this were done, and if imported coverings (including material for coverings) and containers were added, it would be possible to allow drawback on imported burlap used in baling domestic cotton, and on other kinds of imported coverings and containers used in putting up articles which are the growth or product of the United States, such as ores, raw fruit, and unprocessed wool, as distinguished from articles which are the manufacture or production of the United States, such as refined sugar or filtered olive oil.

The Department has prepared for your consideration the enclosed draft of a bill which it recommends be enacted into law. It provides for the allowance of drawback on imported containers, packages, coverings (including materials for coverings), vessels, brands, and labels used in putting up or packing articles exported (or shipped to the Philippine Islands) which are the growth, product, or manufacture of the soil or industry of the United States. The language describing the imported merchandise concerned is the same as that contained in paragraph four of section 311 of the Tariff Act, which was adopted in S. 1421, as introduced, except that the word "containers" has been added, and the phrase "including materials for coverings" placed after the word "coverings". It is believed desirable to provide specifically for containers, inasmuch as there may be certain types of containers which might not come within the words "packages", "coverings", and "vessels." The adding of the phrase "including materials for coverings" seems necessary to insure that drawback will be allowed on imported burlap used in baling cotton.

In order to prevent possible abuse of the law, the Department, following section 504 of the tariff act, which provides that unusual coverings and containers shall be assessed with duty at the rate or rates to which they would be subjected if separately imported, has included in the suggested draft a proviso that no drawback shall be allowed unless the imported merchandise enumerated in the draft constitutes the usual container, package, covering, material for covering, vessel, brand, or label used in putting up or packing the particular article being exported (or shipped to the Philippine Islands).

There is also included in the draft a provision that the drawback shall be allowed "subject to such rules and regulations as the Secretary of the Treasury may prescribe." The customs courts take the position that the regulations issued by the Secretary of the Treasury under the general authority given him by section 624 of the tariff act to make rules and regulations to carry out its provisions, are directory only; whereas compliance with regulations issued under sections containing language such as that contained in the enclosed draft is mandatory.

In accordance with your request, the redrafted bill which you forwarded for the Department's comment, is returned herewith.

Very truly yours,

H. MORGENTHAU,
Secretary of the Treasury.