**12.19 Controlled Substance—Unlawful Importation**

**(21 U.S.C. §§ 952, 960)**

The defendant is charged in [Count \_\_\_\_\_\_\_ ] of the indictment with unlawful importation of a controlled substance in violation of Sections 952 and 960 of Title 21 of the United States Code. For the defendant to be found guilty of that charge, the government must prove each of the following elements beyond a reasonable doubt:

First*,* the defendant knowingly brought [*specify controlled substance*] into the United States from a place outside the United States; and

Second*,* the defendant knew the substance he was bringing into the United States was [*specify controlled substance*] or some other prohibited drug.

[The government is not required to prove the amount or quantity of [*specify controlled substance*]. It need only prove beyond a reasonable doubt that there was a measurable or detectable amount of [*specify controlled substance*].]

It does not matter whether the defendant knew that the substance was [*specify controlled substance*]. It is sufficient that the defendant knew that it was some kind of a prohibited drug.

**Comment**

*See* Comment to Instructions 12.1 (Controlled Substance—Possession with Intent to Distribute) and 12.2 (Determining Amount of Controlled Substance).

An indictment charging separate counts for different controlled substances is not multiplicitous. *See United States v. Vargas-Castillo*, 329 F.3d 715, 720-22 (9th Cir. 2003).

“By their very nature, ‘importation’ offenses and ‘distribution’ offenses require entirely different factual bases to justify a conviction.” *United States v. Transfiguracion*, 442 F.3d 1222, 1235-36 (9th Cir. 2006).

*See also United States v. Vallejo*,237 F.3d 1008, 1025 n.8 (9th Cir. 2001) (noting that “the Ninth Circuit model instructions correctly state the law under 21 U.S.C. § 952 and 960”).