

–CITE–

28 USC CHAPTER 169 – COURT OF INTERNATIONAL TRADE

PROCEDURE 01/06/03

–EXPCITE–

TITLE 28 – JUDICIARY AND JUDICIAL PROCEDURE

PART VI – PARTICULAR PROCEEDINGS

CHAPTER 169 – COURT OF INTERNATIONAL TRADE PROCEDURE

–HEAD–

CHAPTER 169 – COURT OF INTERNATIONAL TRADE PROCEDURE

–MISC1–

Sec.

2631. Persons entitled to commence a civil action.

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[2647. Repealed.]

#### AMENDMENTS

1984 – Pub. L. 98–620 title IV, Sec. 402(29)(G), Nov. 8, 1984, 98

Stat. 3359, struck out item 2647 "Precedence of cases".

1980 – Pub. L. 96–417, title III, Sec. 301, Oct. 10, 1980, 94

Stat. 1730, substituted "COURT OF INTERNATIONAL TRADE PROCEDURE"

for "CUSTOMS COURT PROCEDURE" in chapter heading, "Persons entitled

to commence a civil action" for "Time for commencement of action"

in item 2631, "Commencement of a civil action" for "Customs Court

procedures and fees" in item 2632, "Procedure and fees" for

"Precedence of cases" in item 2633, "Filing of official documents"

for "Burden of proof; evidence of value" in item 2635, "Time for

commencement of action" for "Analysis of imported merchandise" in

item 2636, "Exhaustion of administrative remedies" for "Witnesses;

inspection of documents" in item 2637, "New grounds in support of a

civil action" for "Decisions; findings of fact and conclusions of

law; effect of opinions" in item 2638, "Burden of proof; evidence

of value" for "Retrial or rehearing" in item 2639, and added items

2640 to 2647.

1979 – Pub. L. 96–39, title X, Sec. 1001(b)(4)(F), July 26, 1979,

93 Stat. 306, substituted "Precedence of cases" for "Precedence of

American manufacturer, producer, or wholesaler cases" in item 2633.

1970 – Pub. L. 91–271, title I, Sec. 123(e), June 2, 1970, 84

Stat. 282, substituted "Time for commencement of action" for

"Appeal for reappraisal; assignment to single judge; hearing" in item 2631, "Customs Court procedures and fees" for "Notice" in item 2632, "Precedence of American manufacturer, producer, or wholesaler cases" for "Evidence of value, upon reappraisal; burden of proof" in item 2633, "Notice" for "Witnesses; inspection of documents" in item 2634, "Burden of proof; evidence of value" for "Decision of single judge in reappraisal appeal" in item 2635, "Analysis of imported merchandise" for "Review of single judge's decision; disqualification of judges; remand; presumption" in item 2636, "Witnesses; inspection of documents" for "Review of decisions of divisions" in item 2637, "Decisions; findings of fact and conclusions of law; effect of opinions" for "Precedence of classification cases" in item 2638, and "Retrial or rehearing" for "Analysis of imported merchandise" in item 2639, and struck out item 2640 "Rehearing or retrial", item 2641 "Frivolous protest or appeal", and item 2642 "Amendment of protests, appeals, and pleadings".

1949 – Act May 24, 1949, ch. 139, Sec. 121, 63 Stat. 106, substituted "Amendment of protests, appeals, and pleadings" for "Disqualification of judge" in item 2642.

–SECRET–

#### CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 19 sections 1499, 1514, 1516, 1516a.

–End–

–CITE–

–EXPCITE–

TITLE 28 – JUDICIARY AND JUDICIAL PROCEDURE

PART VI – PARTICULAR PROCEEDINGS

CHAPTER 169 – COURT OF INTERNATIONAL TRADE PROCEDURE

–HEAD–

Sec. 2631. Persons entitled to commence a civil action

–STATUTE–

(a) A civil action contesting the denial of a protest, in whole or in part, under section 515 of the Tariff Act of 1930 may be commenced in the Court of International Trade by the person who filed the protest pursuant to section 514 of such Act, or by a surety on the transaction which is the subject of the protest.

(b) A civil action contesting the denial of a petition under section 516 of the Tariff Act of 1930 may be commenced in the Court of International Trade by the person who filed such petition.

(c) A civil action contesting a determination listed in section 516A of the Tariff Act of 1930 may be commenced in the Court of International Trade by any interested party who was a party to the proceeding in connection with which the matter arose.

(d)(1) A civil action to review any final determination of the Secretary of Labor under section 223 of the Trade Act of 1974 with respect to the eligibility of workers for adjustment assistance under such Act may be commenced in the Court of International Trade by a worker, group of workers, certified or recognized union, or authorized representative of such worker or group that applies for

assistance under such Act and is aggrieved by such final determination.

(2) A civil action to review any final determination of the Secretary of Commerce under section 251 of the Trade Act of 1974 with respect to the eligibility of a firm for adjustment assistance under such Act may be commenced in the Court of International Trade by a firm or its representative that applies for assistance under such Act and is aggrieved by such final determination, or by any other interested domestic party that is aggrieved by such final determination.

(3) A civil action to review any final determination of the Secretary of Commerce under section 271 of the Trade Act of 1974 with respect to the eligibility of a community for adjustment assistance under such Act may be commenced in the Court of International Trade by a community that applies for assistance under such Act and is aggrieved by such final determination, or by any other interested domestic party that is aggrieved by such final determination.

(e) A civil action to review a final determination made under section 305(b)(1) of the Trade Agreements Act of 1979 may be commenced in the Court of International Trade by any person who was a party-at-interest with respect to such determination.

(f) A civil action involving an application for the issuance of an order directing the administering authority or the International Trade Commission to make confidential information available under section 777(c)(2) of the Tariff Act of 1930 may be commenced in the

Court of International Trade by any interested party whose application for disclosure of such confidential information was denied under section 777(c)(1) of such Act.

(g)(1) A civil action to review any decision of the Secretary of the Treasury to deny a customs broker's license under section 641(b)(2) or (3) of the Tariff Act of 1930, or to deny a customs broker's permit under section 641(c)(1) of such Act, or to revoke such license or permit under section 641(b)(5) or (c)(2) of such Act, may be commenced in the Court of International Trade by the person whose license or permit was denied or revoked.

(2) A civil action to review any decision of the Secretary of the Treasury to revoke or suspend a customs broker's license or permit or impose a monetary penalty in lieu thereof under section 641(d)(2)(B) of the Tariff Act of 1930 may be commenced in the Court of International Trade by the person against whom the decision was issued.

(3) A civil action to review any decision or order of the Customs Service to deny, suspend, or revoke accreditation of a private laboratory under section 499(b) of the Tariff Act of 1930 may be commenced in the Court of International Trade by the person whose accreditation was denied, suspended, or revoked.

(h) A civil action described in section 1581(h) of this title may be commenced in the Court of International Trade by the person who would have standing to bring a civil action under section 1581(a) of this title if he imported the goods involved and filed a protest which was denied, in whole or in part, under section 515 of the

Tariff Act of 1930.

(i) Any civil action of which the Court of International Trade has jurisdiction, other than an action specified in subsections (a)–(h) of this section, may be commenced in the court by any person adversely affected or aggrieved by agency action within the meaning of section 702 of title 5.

(j)(1) Any person who would be adversely affected or aggrieved by a decision in a civil action pending in the Court of International Trade may, by leave of court, intervene in such action, except that

–

(A) no person may intervene in a civil action under section 515 or 516 of the Tariff Act of 1930;

(B) in a civil action under section 516A of the Tariff Act of 1930, only an interested party who was a party to the proceeding in connection with which the matter arose may intervene, and such person may intervene as a matter of right; and

(C) in a civil action under section 777(c)(2) of the Tariff Act of 1930, only a person who was a party to the investigation may intervene, and such person may intervene as a matter of right.

(2) In those civil actions in which intervention is by leave of court, the Court of International Trade shall consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties.

(k) In this section –

(1) "interested party" has the meaning given such term in section 771(9) of the Tariff Act of 1930; and

(2) "party-at-interest" means –

(A) a foreign manufacturer, producer, or exporter, or a United States importer, of merchandise which is the subject of a final determination under section 305(b)(1) of the Trade Agreements Act of 1979;

(B) a manufacturer, producer, or wholesaler in the United States of a like product;

(C) United States members of a labor organization or other association of workers whose members are employed in the manufacture, production, or wholesale in the United States of a like product;

(D) a trade or business association a majority of whose members manufacture, produce, or wholesale a like product in the United States,(!1) and

(E) an association composed of members who represent parties-at-interest described in subparagraph (B), (C), or (D).

–SOURCE–

(Added Pub. L. 96–417, title III, Sec. 301, Oct. 10, 1980, 94 Stat. 1730; amended Pub. L. 98–573, title II, Sec. 212(b)(3), title VI, Sec. 612(b)(3), Oct. 30, 1984, 98 Stat. 2983, 3034; Pub. L. 103–182, title VI, Sec. 684(a)(2), Dec. 8, 1993, 107 Stat. 2219.)

–REFTEXT–

#### REFERENCES IN TEXT

Section 515 of the Tariff Act of 1930, referred to in subsecs.

(a), (h), (j)(1)(A), is classified to section 1515 of Title 19,

Customs Duties.

Section 514 of the Tariff Act of 1930, referred to in subsec.

(a), is classified to section 1514 of Title 19.

Section 516 of the Tariff Act of 1930, referred to in subsecs.

(b), (j)(1)(A), is classified to section 1516 of Title 19.

Section 516A of the Tariff Act of 1930, referred to in subsecs.

(c), (j)(1)(B), is classified to section 1516a of Title 19.

The Trade Act of 1974, referred to in subsec. (d)(1) to (3), is

Pub. L. 93–618, Jan. 3, 1975, 88 Stat. 1978, as amended, which is

classified principally to chapter 12 (Sec. 2101 et seq.) of Title

19. Sections 223, 251, and 271 of the Trade Act of 1974 are

classified to sections 2273, 2341, and 2371, respectively, of Title

19. Section 2371 of Title 19 was omitted from the Code as

terminated Sept. 30, 1982. For complete classification of this Act

to the Code, see References in Text note set out under section 2101

of Title 19 and Tables.

Section 305(b)(1) of the Trade Agreements Act of 1979, referred

to in subsecs. (e), (k)(2)(A), is classified to section 2515(b)(1)

of Title 19.

Section 777 of the Tariff Act of 1930, referred to in subsecs.

(f), (j)(1)(C), is classified to section 1677f of Title 19.

Section 641 of the Tariff Act of 1930, referred to in subsec.

(g), is classified to section 1641 of Title 19.

Section 499(b) of the Tariff Act of 1930, referred to in subsec.

(g)(3), is classified to section 1499(b) of Title 19.

Section 771(9) of the Tariff Act of 1930, referred to in subsec.

(k)(1), is classified to section 1677(9) of Title 19.

–MISC1–

#### PRIOR PROVISIONS

A prior section 2631, acts June 25, 1948, ch. 646, 62 Stat. 980; May 24, 1949, ch. 139, Sec. 122, 63 Stat. 106; June 2, 1970, Pub. L. 91–271, title I, Sec. 112, 84 Stat. 278; Jan. 3, 1975, Pub. L. 93–618, title III, Sec. 321(f)(2), 88 Stat. 2048, related to time for commencement of action, prior to the general revision of this chapter by Pub. L. 96–417. See section 2636 of this title.

#### AMENDMENTS

1993 – Subsec. (g)(3). Pub. L. 103–182 added par. (3).

1984 – Subsec. (g). Pub. L. 98–573, Sec. 212(b)(3), amended subsec. (g) generally. Prior to amendment, subsec. (g) read as follows:

"(1) A civil action to review any decision of the Secretary of the Treasury to deny or revoke a customhouse broker's license under section 641(a) of the Tariff Act of 1930 may be commenced in the Court of International Trade by the person whose license was denied or revoked.

"(2) A civil action to review any order of the Secretary of the Treasury to revoke or suspend a customhouse broker's license under section 641(b) of the Tariff Act of 1930 may be commenced in the Court of International Trade by the person whose license was revoked or suspended."

Subsec. (k)(2)(E). Pub. L. 98–573, Sec. 612(b)(3), added subpar. (E).

#### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 212(b)(3) of Pub. L. 98–573 effective on close of 180th day after Oct. 30, 1984, see section 214(d) of Pub. L. 98–573, set out as a note under section 1304 of Title 19, Customs Duties.

Amendment by section 612(b)(3) of Pub. L. 98–573 applicable with respect to investigations initiated by petition or by the administering authority under subtitle A or B of title VII of the Tariff Act of 1930 (19 U.S.C. 1671 et seq., 1673 et seq.), and to reviews begun under section 751 of that Act (19 U.S.C. 1675), on or after Oct. 30, 1984, see section 626(b)(1) of Pub. L. 98–573, as amended, set out as a note under section 1671 of Title 19.

#### EFFECTIVE DATE

Chapter effective Nov. 1, 1980, unless otherwise provided, and applicable with respect to civil actions pending on or commenced on or after such date, see section 701(a) of Pub. L. 96–417, set out as an Effective Date of 1980 Amendment note under section 251 of this title.

Subsecs. (d) and (g) to (j) of this section applicable with respect to civil actions commenced on or after Nov. 1, 1980, see section 701(b)(1)(B) of Pub. L. 96–417.

#### APPLICATION OF 1993 AMENDMENT

For purposes of applying amendment by Pub. L. 103–182, any decision or order of Customs Service denying, suspending, or revoking accreditation of a private laboratory on or after Dec. 8, 1993, and before regulations to implement 19 U.S.C. 1499(b) are issued to be treated as having been denied, suspended, or revoked

under such section 1499(b), see section 684(b) of Pub. L. 103–182,  
set out as a note under section 1581 of this title.

–TRANS–

## 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.

–FOOTNOTE–

(!1) So in original. The comma probably should be a semicolon.

–End–

–CITE–

28 USC Sec. 2632 01/06/03

–EXPCITE–

## TITLE 28 – JUDICIARY AND JUDICIAL PROCEDURE

### PART VI – PARTICULAR PROCEEDINGS

#### CHAPTER 169 – COURT OF INTERNATIONAL TRADE PROCEDURE

–HEAD–

Sec. 2632. Commencement of a civil action

–STATUTE–

(a) Except for civil actions specified in subsections (b) and (c)  
of this section, a civil action in the Court of International Trade

shall be commenced by filing concurrently with the clerk of the court a summons and complaint, with the content and in the form, manner, and style prescribed by the rules of the court.

(b) A civil action in the Court of International Trade under section 515 or section 516 of the Tariff Act of 1930 shall be commenced by filing with the clerk of the court a summons, with the content and in the form, manner, and style prescribed by the rules of the court.

(c) A civil action in the Court of International Trade under section 516A of the Tariff Act of 1930 shall be commenced by filing with the clerk of the court a summons or a summons and a complaint, as prescribed in such section, with the content and in the form, manner, and style prescribed by the rules of the court.

(d) The Court of International Trade may prescribe by rule that any summons, pleading, or other paper mailed by registered or certified mail properly addressed to the clerk of the court with the proper postage affixed and return receipt requested shall be deemed filed as of the date of mailing.

–SOURCE–

(Added Pub. L. 96–417, title III, Sec. 301, Oct. 10, 1980, 94 Stat. 1732.)

–REFTEXT–

#### REFERENCES IN TEXT

Sections 515 and 516 of the Tariff Act of 1930, referred to in subsec. (b), are classified to sections 1515 and 1516, respectively, of Title 19, Customs Duties.

Section 516A of the Tariff Act of 1930, referred to in subsec.

(c), is classified to section 1516a of Title 19.

–MISC1–

#### PRIOR PROVISIONS

A prior section 2632, acts June 25, 1948, ch. 646, 62 Stat. 980; June 2, 1970, Pub. L. 91–271, title I, Sec. 113, 84 Stat. 279; Jan. 3, 1975, Pub. L. 93–618, title III, Sec. 321(f)(3), 88 Stat. 2048; July 26, 1979, Pub. L. 96–39, title X, Sec. 1001(b)(4)(C), 93 Stat. 306, related to Customs Court procedure and fees, prior to the general revision of this chapter by Pub. L. 96–417. See section 2633 of this title.

#### EFFECTIVE DATE

Subsec. (a) of this section applicable with respect to civil actions commenced on or after Nov. 1, 1980, see section 701(b)(1)(B) of Pub. L. 96–417, set out as an Effective Date of 1980 Amendment note under section 251 of this title.

–End–

–CITE–

28 USC Sec. 2633 01/06/03

–EXPCITE–

#### TITLE 28 – JUDICIARY AND JUDICIAL PROCEDURE

#### PART VI – PARTICULAR PROCEEDINGS

#### CHAPTER 169 – COURT OF INTERNATIONAL TRADE PROCEDURE

–HEAD–

Sec. 2633. Procedure and fees

–STATUTE–

(a) A filing fee shall be payable to the clerk of the Court of International Trade upon the commencement of a civil action in such court. The amount of the fee shall be prescribed by the rules of the court, but shall be not less than \$5 nor more than the filing fee for commencing a civil action in a district court of the United States. The court may fix all other fees to be charged by the clerk of the court.

(b) The Court of International Trade shall prescribe rules governing the summons, pleadings, and other papers, for their amendment, service, and filing, for consolidations, severances, suspensions of cases, and for other procedural matters.

(c) All summons, pleadings, and other papers filed in the Court of International Trade shall be served on all parties in accordance with rules prescribed by the court. When the United States, its agencies, or its officers are adverse parties, service of the summons shall be made upon the Attorney General and the head of the Government agency whose action is being contested. When injunctive relief is sought, the summons, pleadings, and other papers shall also be served upon the named officials sought to be enjoined.

–SOURCE–

(Added Pub. L. 96–417, title III, Sec. 301, Oct. 10, 1980, 94 Stat. 1732.)

–MISC1–

#### PRIOR PROVISIONS

A prior section 2633, acts June 25, 1948, ch. 646, 62 Stat. 980; June 2, 1970, Pub. L. 91–271, title I, Sec. 114, 84 Stat. 279; July

26, 1979, Pub. L. 96–39, title X, Sec. 1001(b)(4)(D), 93 Stat. 306,

related to precedence of cases, prior to the general revision of  
this chapter by Pub. L. 96–417. See section 2647 of this title.

–End–

–CITE–

28 USC Sec. 2634 01/06/03

–EXPCITE–

TITLE 28 – JUDICIARY AND JUDICIAL PROCEDURE

PART VI – PARTICULAR PROCEEDINGS

CHAPTER 169 – COURT OF INTERNATIONAL TRADE PROCEDURE

–HEAD–

Sec. 2634. Notice

–STATUTE–

Reasonable notice of the time and place of trial or hearing  
before the Court of International Trade shall be given to all  
parties to any civil action, as prescribed by the rules of the  
court.

–SOURCE–

(Added Pub. L. 96–417, title III, Sec. 301, Oct. 10, 1980, 94 Stat.

1733.)

–MISC1–

PRIOR PROVISIONS

A prior section 2634, acts June 25, 1948, ch. 646, 62 Stat. 981;

June 2, 1970, Pub. L. 91–271, title I, Sec. 115, 84 Stat. 280,

related to notice, prior to the general revision of this chapter by

Pub. L. 96–417. See section 2634 of this title.

–End–

–CITE–

28 USC Sec. 2635 01/06/03

–EXPCITE–

TITLE 28 – JUDICIARY AND JUDICIAL PROCEDURE

PART VI – PARTICULAR PROCEEDINGS

CHAPTER 169 – COURT OF INTERNATIONAL TRADE PROCEDURE

–HEAD–

Sec. 2635. Filing of official documents

–STATUTE–

(a) In any action commenced in the Court of International Trade contesting the denial of a protest under section 515 of the Tariff Act of 1930 or the denial of a petition under section 516 of such Act, the Customs Service, as prescribed by the rules of the court, shall file with the clerk of the court, as part of the official record, any document, paper, information or data relating to the entry of merchandise and the administrative determination that is the subject of the protest or petition.

(b)(1) In any civil action commenced in the Court of International Trade under section 516A of the Tariff Act of 1930, within forty days or within such other period of time as the court may specify, after the date of service of a complaint on the administering authority established to administer title VII of the Tariff Act of 1930 or the United States International Trade Commission, the administering authority or the Commission shall transmit to the clerk of the court the record of such action, as

prescribed by the rules of the court. The record shall, unless otherwise stipulated by the parties, consist of –

(A) a copy of all information presented to or obtained by the administering authority or the Commission during the course of the administrative proceedings, including all governmental memoranda pertaining to the case and the record of ex parte meetings required to be maintained by section 777(a)(3) of the Tariff Act of 1930; and

(B)(i) a copy of the determination and the facts and conclusions of law upon which such determination was based, (ii) all transcripts or records of conferences or hearings, and (iii) all notices published in the Federal Register.

(2) The administering authority or the Commission shall identify and transmit under seal to the clerk of the court any document, comment, or information that is accorded confidential or privileged status by the Government agency whose action is being contested and that is required to be transmitted to the clerk under paragraph (1) of this subsection. Any such document, comment, or information shall be accompanied by a nonconfidential description of the nature of the material being transmitted. The confidential or privileged status of such material shall be preserved in the civil action, but the court may examine the confidential or privileged material in camera and may make such material available under such terms and conditions as the court may order.

(c) Within fifteen days, or within such other period of time as the Court of International Trade may specify, after service of a

summons and complaint in a civil action involving an application for an order directing the administering authority or the International Trade Commission to make confidential information available under section 777(c)(2) of the Tariff Act of 1930, the administering authority or the Commission shall transmit under seal to the clerk of the Court of International Trade, as prescribed by its rules, the confidential information involved, together with pertinent parts of the record. Such information shall be accompanied by a nonconfidential description of the nature of the information being transmitted. The confidential status of such information shall be preserved in the civil action, but the court may examine the confidential information in camera and may make such information available under a protective order consistent with section 777(c)(2) of the Tariff Act of 1930.

(d)(1) In any other civil action in the Court of International Trade in which judicial review is to proceed upon the basis of the record made before an agency, the agency shall, within forty days or within such other period of time as the court may specify, after the date of service of the summons and complaint upon the agency, transmit to the clerk of the court, as prescribed by its rules –

(A) a copy of the contested determination and the findings or report upon which such determination was based;

(B) a copy of any reported hearings or conferences conducted by the agency; and

(C) any documents, comments, or other papers filed by the public, interested parties, or governments with respect to the

agency's action.

(2) The agency shall identify and transmit under seal to the clerk of the court any document, comment, or other information that was obtained on a confidential basis and that is required to be transmitted to the clerk under paragraph (1) of this subsection. Any such document, comment, or information shall include a nonconfidential description of the nature of the material being transmitted. The confidential or privileged status of such material shall be preserved in the civil action, but the court may examine such material in camera and may make such material available under such terms and conditions as the court may order.

(3) The parties may stipulate that fewer documents, comments, or other information than those specified in paragraph (1) of this subsection shall be transmitted to the clerk of the court.

–SOURCE–

(Added Pub. L. 96–417, title III, Sec. 301, Oct. 10, 1980, 94 Stat. 1733; amended Pub. L. 103–182, title VI, Sec. 684(d), Dec. 8, 1993, 107 Stat. 2219.)

–REFTEXT–

#### REFERENCES IN TEXT

The Tariff Act of 1930, referred to in subsecs. (a), (b)(1), and (c), is act June 17, 1930, ch. 497, 46 Stat. 590, as amended. Title VII of the Tariff Act of 1930 is classified generally to subtitle IV (Sec. 1671 et seq.) of chapter 4 of Title 19, Customs Duties. Sections 515, 516, 516A, and 777 of the Tariff Act of 1930 are classified to sections 1515, 1516, 1516a, and 1677f, respectively,

of Title 19. For complete classification of this Act to the Code, see section 1654 of Title 19 and Tables.

–MISC1–

#### PRIOR PROVISIONS

A prior section 2635, acts June 25, 1948, ch. 646, 62 Stat. 981; June 2, 1970, Pub. L. 91–271, title I, Sec. 116, 84 Stat. 280, related to burden of proof and evidence of value, prior to the general revision of this chapter by Pub. L. 96–417. See section 2639 of this title.

#### AMENDMENTS

1993 – Subsec. (a). Pub. L. 103–182 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows:

"(1) Upon service of the summons on the Secretary of the Treasury in any civil action contesting the denial of a protest under section 515 of the Tariff Act of 1930 or the denial of a petition under section 516 of such Act, the appropriate customs officer shall forthwith transmit to the clerk of the Court of International Trade, as prescribed by its rules, and as a part of the official record –

"(A) the consumption or other entry and the entry summary;

"(B) the commercial invoice;

"(C) the special customs invoice;

"(D) a copy of the protest or petition;

"(E) a copy of the denial, in whole or in part, of the protest or petition;

"(F) the importer's exhibits;

"(G) the official and other representative samples;

"(H) any official laboratory reports; and

"(I) a copy of any bond relating to the entry.

"(2) If any of the items listed in paragraph (1) of this subsection do not exist in a particular civil action, an affirmative statement to that effect shall be transmitted to the clerk of the court."

#### EFFECTIVE DATE

Section applicable with respect to civil actions commenced on or after Nov. 1, 1980, see section 701 (b)(1)(B) of Pub. L. 96-417, set out as an Effective Date of 1980 Amendment note under section 251 of this title.

-TRANS-

#### 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.

-SECRET-

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 19 section 1641.

-End-

–CITE–

28 USC Sec. 2636 01/06/03

–EXPCITE–

TITLE 28 – JUDICIARY AND JUDICIAL PROCEDURE

PART VI – PARTICULAR PROCEEDINGS

CHAPTER 169 – COURT OF INTERNATIONAL TRADE PROCEDURE

–HEAD–

Sec. 2636. Time for commencement of action

–STATUTE–

(a) A civil action contesting the denial, in whole or in part, of a protest under section 515 of the Tariff Act of 1930 is barred unless commenced in accordance with the rules of the Court of International Trade –

(1) within one hundred and eighty days after the date of mailing of notice of denial of a protest under section 515(a) of such Act; or

(2) within one hundred and eighty days after the date of denial of a protest by operation of law under the provisions of section 515(b) of such Act.

(b) A civil action contesting the denial of a petition under section 516 of the Tariff Act of 1930 is barred unless commenced in accordance with the rules of the Court of International Trade within thirty days after the date of mailing of a notice pursuant to section 516(c) of such Act.

(c) A civil action contesting a reviewable determination listed in section 516A of the Tariff Act of 1930 is barred unless

commenced in accordance with the rules of the Court of International Trade within the time specified in such section.

(d) A civil action contesting a final determination of the Secretary of Labor under section 223 of the Trade Act of 1974 or a final determination of the Secretary of Commerce under section 251 or section 271 of such Act is barred unless commenced in accordance with the rules of the Court of International Trade within sixty days after the date of notice of such determination.

(e) A civil action contesting a final determination made under section 305(b)(1) of the Trade Agreements Act of 1979 is barred unless commenced in accordance with the rules of the Court of International Trade within thirty days after the date of the publication of such determination in the Federal Register.

(f) A civil action involving an application for the issuance of an order making confidential information available under section 777(c)(2) of the Tariff Act of 1930 is barred unless commenced in accordance with the rules of the Court of International Trade within ten days after the date of the denial of the request for such confidential information.

(g) A civil action contesting the denial or revocation by the Secretary of the Treasury of a customs broker's license or permit under subsection (b) or (c) of section 641 of the Tariff Act of 1930, or the revocation or suspension of such license or permit or the imposition of a monetary penalty in lieu thereof by such Secretary under section 641(d) of such Act, is barred unless commenced in accordance with the rules of the Court of

International Trade within sixty days after the date of the entry of the decision or order of such Secretary.

(h) A civil action contesting the denial, suspension, or revocation by the Customs Service of a private laboratory's accreditation under section 499(b) of the Tariff Act of 1930 is barred unless commenced in accordance with the rules of the Court of International Trade within 60 days after the date of the decision or order of the Customs Service.

(i) A civil action of which the Court of International Trade has jurisdiction under section 1581 of this title, other than an action specified in subsections (a)–(h) of this section, is barred unless commenced in accordance with the rules of the court within two years after the cause of action first accrues.

–SOURCE–

(Added Pub. L. 96–417, title III, Sec. 301, Oct. 10, 1980, 94 Stat. 1734; amended Pub. L. 98–573, title II, Sec. 212(b)(4), title VI, Sec. 623(b)(1), Oct. 30, 1984, 98 Stat. 2984, 3041; Pub. L. 103–182, title VI, Sec. 684(a)(3), Dec. 8, 1993, 107 Stat. 2219.)

–REFTEXT–

#### REFERENCES IN TEXT

Section 515 of the Tariff Act of 1930, referred to in subsec.

(a), is classified to section 1515 of Title 19, Customs Duties.

Section 516 of the Tariff Act of 1930, referred to in subsec.

(b), is classified to section 1516 of Title 19.

Section 516A of the Tariff Act of 1930, referred to in subsec.

(c), is classified to section 1516a of Title 19.

Sections 223, 251, and 271 of the Trade Act of 1974, referred to in subsec. (d), are classified to sections 2273, 2341, and 2371, respectively, of Title 19, Customs Duties. Section 2371 of Title 19 was omitted from the Code as terminated Sept. 30, 1982.

Section 305(b)(1) of the Trade Agreements Act of 1979, referred to in subsec. (e), is classified to section 2515(b)(1) of Title 19.

Section 777(c)(2) of the Tariff Act of 1930, referred to in subsec. (f), is classified to section 1677f(c)(2) of Title 19.

Section 641 of the Tariff Act of 1930, referred to in subsec. (g), is classified to section 1641 of Title 19.

Section 499(b) of the Tariff Act of 1930, referred to in subsec. (h), is classified to section 1499(b) of Title 19.

–MISC1–

#### PRIOR PROVISIONS

A prior section 2636, acts June 25, 1948, ch. 646, 62 Stat. 981; June 2, 1970, Pub. L. 91–271, title I, Sec. 117, 84 Stat. 280, related to analysis of imported merchandise, prior to the general revision of this chapter by Pub. L. 96–417. See section 2642 of this title.

#### AMENDMENTS

1993 – Subsecs. (h), (i). Pub. L. 103–182 added subsec. (h) and redesignated former subsec. (h) as (i).

1984 – Subsec. (c). Pub. L. 98–573, Sec. 623(b)(1)(A), amended subsec. (c) generally, striking out ", other than a determination under section 703(b), 703(c), 733(b), or 733(c) of such Act," and substituting "within the time specified in such section" for

"within thirty days after the date of the publication of such determination in the Federal Register".

Subsec. (d). Pub. L. 98-573, Sec. 623(b)(1)(B), redesignated subsec. (e) as (d). Former subsec. (d), which provided that civil actions contesting certain determinations by the administering authority under sections 703(b), (c), and 733(b), (c), of the Tariff Act of 1930 were barred unless commenced in accordance with the rules of the Court of International Trade within 10 days after publication of the determination in the Federal Register, was struck out.

Subsecs. (e) to (g). Pub. L. 98-573, Sec. 623(b)(1)(B), redesignated subsecs. (f) to (h) as (e) to (g), respectively.

Former subsec. (e) redesignated (d).

Subsec. (h). Pub. L. 98-573, Sec. 623(b)(1)(B), redesignated subsec. (i) as (h). Former subsec. (h) redesignated (g).

Pub. L. 98-573, Sec. 212(b)(4), amended subsec. (h) generally, substituting "customs broker's license or permit under subsection (b) or (c) of section 641 of the Tariff Act of 1930, or the revocation or suspension of such license or permit or the imposition of a monetary penalty in lieu thereof by such Secretary under section 641(d) of such Act," for "customhouse broker's license under section 641(a) of the Tariff Act of 1930 or the revocation or suspension by such Secretary of a customhouse broker's license under section 641(b) of such Act".

Subsec. (i). Pub. L. 98-573, Sec. 623(b)(1)(B), redesignated subsec. (i) as (h).

## EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 212(b)(4) of Pub. L. 98–573 effective on close of 180th day after Oct. 30, 1984, see section 214(d) of Pub. L. 98–573, set out as a note under section 1304 of Title 19, Customs Duties.

Amendment by section 623(b)(1) of Pub. L. 98–573 applicable with respect to civil actions pending on, or filed on or after, Oct. 30, 1984, see section 626(b)(2) of Pub. L. 98–573, set out as a note under section 1671 of Title 19.

## EFFECTIVE DATE

Section applicable with respect to civil actions commenced on or after Nov. 1, 1980, see section 701(b)(1)(B) of Pub. L. 96–417, set out as an Effective Date of 1980 Amendment note under section 251 of this title.

## APPLICATION OF 1993 AMENDMENT

For purposes of applying amendment by Pub. L. 103–182, any decision or order of Customs Service denying, suspending, or revoking accreditation of a private laboratory on or after Dec. 8, 1993, and before regulations to implement 19 U.S.C. 1499(b) are issued to be treated as having been denied, suspended, or revoked under such section 1499(b), see section 684(b) of Pub. L. 103–182, set out as a note under section 1581 of this title.

–TRANS–

## 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.

–SECRET–

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 19 sections 1514, 1515.

–End–

–CITE–

28 USC Sec. 2637 01/06/03

–EXPCITE–

#### TITLE 28 – JUDICIARY AND JUDICIAL PROCEDURE

#### PART VI – PARTICULAR PROCEEDINGS

#### CHAPTER 169 – COURT OF INTERNATIONAL TRADE PROCEDURE

–HEAD–

Sec. 2637. Exhaustion of administrative remedies

–STATUTE–

(a) A civil action contesting the denial of a protest under section 515 of the Tariff Act of 1930 may be commenced in the Court of International Trade only if all liquidated duties, charges, or exactions have been paid at the time the action is commenced, except that a surety's obligation to pay such liquidated duties, charges, or exactions is limited to the sum of any bond related to each entry included in the denied protest.

(b) A civil action contesting the denial of a petition under section 516 of the Tariff Act of 1930 may be commenced in the Court of International Trade only by a person who has first exhausted the procedures set forth in such section.

(c) A civil action described in section 1581(h) of this title may be commenced in the Court of International Trade prior to the exhaustion of administrative remedies if the person commencing the action makes the demonstration required by such section.

(d) In any civil action not specified in this section, the Court of International Trade shall, where appropriate, require the exhaustion of administrative remedies.

–SOURCE–

(Added Pub. L. 96–417, title III, Sec. 301, Oct. 10, 1980, 94 Stat. 1735.)

–REFTEXT–

#### REFERENCES IN TEXT

Section 515 of the Tariff Act of 1930, referred to in subsec.

(a), is classified to section 1515 of Title 19, Customs Duties.

Section 516 of the Tariff Act of 1930, referred to in subsec.

(b), is classified to section 1516 of Title 19.

–MISC1–

#### PRIOR PROVISIONS

A prior section 2637, acts June 25, 1948, ch. 646, 62 Stat. 982;

June 2, 1970, Pub. L. 91–271, title I, Sec. 118, 84 Stat. 280; July

26, 1979, Pub. L. 96–39, title X, Sec. 1001(b)(4)(E), 93 Stat. 306,

related to witnesses and inspection of documents, prior to the

general revision of this chapter by Pub. L. 96–417. See section 2641 of this title.

#### EFFECTIVE DATE

Subsec. (c) of this section applicable with respect to civil actions commenced on or after Nov. 1, 1980, see section 701(b)(1)(B) of Pub. L. 96–417, set out as an Effective Date of 1980 Amendment note under section 251 of this title.

–End–

–CITE–

28 USC Sec. 2638 01/06/03

–EXPCITE–

#### TITLE 28 – JUDICIARY AND JUDICIAL PROCEDURE

#### PART VI – PARTICULAR PROCEEDINGS

#### CHAPTER 169 – COURT OF INTERNATIONAL TRADE PROCEDURE

–HEAD–

Sec. 2638. New grounds in support of a civil action

–STATUTE–

In any civil action under section 515 of the Tariff Act of 1930 in which the denial, in whole or in part, of a protest is a precondition to the commencement of a civil action in the Court of International Trade, the court, by rule, may consider any new ground in support of the civil action if such new ground –

- (1) applies to the same merchandise that was the subject of the protest; and
- (2) is related to the same administrative decision listed in section 514 of the Tariff Act of 1930 that was contested in the

protest.

–SOURCE–

(Added Pub. L. 96–417, title III, Sec. 301, Oct. 10, 1980, 94 Stat. 1736.)

–REFTEXT–

#### REFERENCES IN TEXT

Section 515 of the Tariff Act of 1930, referred to in text, is classified to section 1515 of Title 19, Customs Duties.

Section 514 of the Tariff Act of 1930, referred to in par. (2), is classified to section 1514 of Title 19.

–MISC1–

#### PRIOR PROVISIONS

A prior section 2638, acts June 25, 1948, ch. 646, 62 Stat. 982; June 2, 1970, Pub. L. 91–271, title I, Sec. 119, 84 Stat. 281, related to decisions, findings of fact and conclusions of law, and effect of opinions, prior to the general revision of this chapter by Pub. L. 96–417. See section 2645 (a) and (c) of this title.

–End–

–CITE–

28 USC Sec. 2639 01/06/03

–EXPCITE–

#### TITLE 28 – JUDICIARY AND JUDICIAL PROCEDURE

#### PART VI – PARTICULAR PROCEEDINGS

#### CHAPTER 169 – COURT OF INTERNATIONAL TRADE PROCEDURE

–HEAD–

Sec. 2639. Burden of proof; evidence of value

–STATUTE–

(a)(1) Except as provided in paragraph (2) of this subsection, in any civil action commenced in the Court of International Trade under section 515, 516, or 516A of the Tariff Act of 1930, the decision of the Secretary of the Treasury, the administering authority, or the International Trade Commission is presumed to be correct. The burden of proving otherwise shall rest upon the party challenging such decision.

(2) The provisions of paragraph (1) of this subsection shall not apply to any civil action commenced in the Court of International Trade under section 1582 of this title.

(b) In any civil action described in section 1581(h) of this title, the person commencing the action shall have the burden of making the demonstration required by such section by clear and convincing evidence.

(c) Where the value of merchandise or any of its components is in issue in any civil action in the Court of International Trade –

(1) reports or depositions of consuls, customs officers, and other officers of the United States, and depositions and affidavits of other persons whose attendance cannot reasonably be had, may be admitted into evidence when served upon the opposing party as prescribed by the rules of the court; and

(2) price lists and catalogs may be admitted in evidence when duly authenticated, relevant, and material.

–SOURCE–

(Added Pub. L. 96–417, title III, Sec. 301, Oct. 10, 1980, 94 Stat.

1736.)

–REFTEXT–

#### REFERENCES IN TEXT

Sections 515, 516, and 516A of the Tariff Act of 1930, referred to in subsec. (a)(1), are classified to sections 1515, 1516, and 1516a, respectively, of Title 19, Customs Duties.

–MISC1–

#### PRIOR PROVISIONS

A prior section 2639, acts June 25, 1948, ch. 646, 62 Stat. 982; June 2, 1970, Pub. L. 91–271, title I, Sec. 120, 84 Stat. 281, provided for retrial or rehearing, prior to the general revision of this chapter by Pub. L. 96–417. See section 2646 of this title.

#### EFFECTIVE DATE

Subsec. (a)(2) of this section applicable with respect to civil actions commenced on or after the 90th day after Nov. 1, 1980, see section 701(c)(1)(A) of Pub. L. 96–417, set out as an Effective Date of 1980 Amendment note under section 251 of this title.

Subsec. (b) of this section applicable with respect to civil actions commenced on or after Nov. 1, 1980, see section 701(b)(1)(B) of Pub. L. 96–417.

–SECREP–

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2641 of this title; title 19 section 1499.

–End–

–CITE–

–EXPCITE–

TITLE 28 – JUDICIARY AND JUDICIAL PROCEDURE

PART VI – PARTICULAR PROCEEDINGS

CHAPTER 169 – COURT OF INTERNATIONAL TRADE PROCEDURE

–HEAD–

Sec. 2640. Scope and standard of review

–STATUTE–

(a) The Court of International Trade shall make its determinations upon the basis of the record made before the court in the following categories of civil actions:

- (1) Civil actions contesting the denial of a protest under section 515 of the Tariff Act of 1930.
  - (2) Civil actions commenced under section 516 of the Tariff Act of 1930.
  - (3) Civil actions commenced to review a final determination made under section 305(b)(1) of the Trade Agreements Act of 1979.
  - (4) Civil actions commenced under section 777(c)(2) of the Tariff Act of 1930.
  - (5) Civil actions commenced to review any decision of the Secretary of the Treasury under section 641 of the Tariff Act of 1930, with the exception of decisions under section 641(d)(2)(B), which shall be governed by subdivision (d) of this section.
  - (6) Civil actions commenced under section 1582 of this title.
- (b) In any civil action commenced in the Court of International Trade under section 516A of the Tariff Act of 1930, the court shall

review the matter as specified in subsection (b) of such section.

(c) In any civil action commenced in the Court of International Trade to review any final determination of the Secretary of Labor under section 223 of the Trade Act of 1974 or any final determination of the Secretary of Commerce under section 251 or section 271 of such Act, the court shall review the matter as specified in section 284 of such Act.

(d) In any civil action commenced to review any order or decision of the Customs Service under section 499(b) of the Tariff Act of 1930, the court shall review the action on the basis of the record before the Customs Service at the time of issuing such decision or order.

(e) In any civil action not specified in this section, the Court of International Trade shall review the matter as provided in section 706 of title 5.

–SOURCE–

(Added Pub. L. 96–417, title III, Sec. 301, Oct. 10, 1980, 94 Stat. 1736; amended Pub. L. 98–573, title II, Sec. 212(b)(5), Oct. 30, 1984, 98 Stat. 2984; Pub. L. 103–182, title VI, Sec. 684(a)(4), Dec. 8, 1993, 107 Stat. 2219.)

–REFTEXT–

#### REFERENCES IN TEXT

Section 515 of the Tariff Act of 1930, referred to in subsec.

(a)(1), is classified to section 1515 of Title 19, Customs Duties.

Section 516 of the Tariff Act of 1930, referred to in subsec.

(a)(2), is classified to section 1516 of Title 19.

Section 305(b)(1) of the Trade Agreements Act of 1979, referred to in subsec. (a)(3), is classified to section 2515(b)(1) of Title 19.

Section 777(c)(2) of the Tariff Act of 1930, referred to in subsec. (a)(4), is classified to section 1677f(c)(2) of Title 19.

Section 641 of the Tariff Act of 1930, referred to in subsec. (a)(5), is classified to section 1641 of Title 19.

Section 516A of the Tariff Act of 1930, referred to in subsec. (b), is classified to section 1516a of Title 19.

Sections 223, 251, 271, and 284 of the Trade Act of 1974, referred to in subsec. (c), are classified to sections 2273, 2341, 2371, and 2395, respectively, of Title 19, Customs Duties. Section 2371 of Title 19 was omitted from the Code as terminated Sept. 30, 1982.

Section 499(b) of the Tariff Act of 1930, referred to in subsec. (d), is classified to section 1499(b) of Title 19.

–MISC1–

#### PRIOR PROVISIONS

A prior section 2640, act June 25, 1948, ch. 646, 62 Stat. 982, authorized the division which had decided a case or the single judge who had decided an appeal for a reappraisal to grant a rehearing or retrial, prior to repeal by Pub. L. 91–271, title I, Sec. 121, June 2, 1970, 84 Stat. 281. See section 2646 of this title.

#### AMENDMENTS

1993 – Subsecs. (d), (e). Pub. L. 103–182 added subsec. (d) and

redesignated former subsec. (d) as (e).

1984 – Subsec. (a)(5). Pub. L. 98–573 amended par. (5) generally, substituting "under section 641 of the Tariff Act of 1930, with the exception of decisions under section 641(d)(2)(B), which shall be governed by subdivision (d) of this section" for "to deny or revoke a customhouse broker's license under section 641(a) of the Tariff Act of 1930".

#### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–573 effective on close of 180th day after Oct. 30, 1984, see section 214(d) of Pub. L. 98–573, set out as a note under section 1304 of Title 19, Customs Duties.

#### EFFECTIVE DATE

Subsecs. (a)(5), (c), and (d) of this section applicable with respect to civil actions commenced on or after Nov. 1, 1980, see section 701(b)(1)(B) of Pub. L. 96–417, set out as an Effective Date of 1980 Amendment note under section 251 of this title.

Subsec. (a)(6) of this section applicable with respect to civil actions commenced on or after the 90th day after Nov. 1, 1980, see section 701(c)(1)(A) of Pub. L. 96–417.

#### APPLICATION OF 1993 AMENDMENT

For purposes of applying amendment by Pub. L. 103–182, any decision or order of Customs Service denying, suspending, or revoking accreditation of a private laboratory on or after Dec. 8, 1993, and before regulations to implement 19 U.S.C. 1499(b) are issued to be treated as having been denied, suspended, or revoked under such section 1499(b), see section 684(b) of Pub. L. 103–182,

set out as a note under section 1581 of this title.

–TRANS–

## 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.

–End–

–CITE–

28 USC Sec. 2641 01/06/03

–EXPCITE–

## TITLE 28 – JUDICIARY AND JUDICIAL PROCEDURE

### PART VI – PARTICULAR PROCEEDINGS

#### CHAPTER 169 – COURT OF INTERNATIONAL TRADE PROCEDURE

–HEAD–

Sec. 2641. Witnesses; inspection of documents

–STATUTE–

(a) Except as otherwise provided by law, in any civil action in the Court of International Trade, each party and its counsel shall have an opportunity to introduce evidence, to hear and cross-examine the witnesses of the other party, and to inspect all samples and papers admitted or offered as evidence, as prescribed

by the rules of the court. Except as provided in section 2639 of this title, subsection (b) of this section, or the rules of the court, the Federal Rules of Evidence shall apply to all civil actions in the Court of International Trade.

(b) The Court of International Trade may order that trade secrets and commercial or financial information which is privileged and confidential, or any information provided to the United States by any foreign government or foreign person, may be disclosed to a party, its counsel, or any other person under such terms and conditions as the court may order.

–SOURCE–

(Added Pub. L. 96–417, title III, Sec. 301, Oct. 10, 1980, 94 Stat. 1737.)

–REFTEXT–

#### REFERENCES IN TEXT

The Federal Rules of Evidence, referred to in subsec. (a), are set out in the Appendix to this title.

–MISC1–

#### PRIOR PROVISIONS

A prior section 2641, act June 25, 1948, ch. 646, 62 Stat. 982, authorized the Customs Court to assess a penalty of not less than \$5 nor more than \$250 against any person filing a frivolous protest or appeal, prior to repeal by Pub. L. 91–271, title I, Sec. 121, June 2, 1970, 84 Stat. 281.

–End–

–CITE–

–EXPCITE–

TITLE 28 – JUDICIARY AND JUDICIAL PROCEDURE

PART VI – PARTICULAR PROCEEDINGS

CHAPTER 169 – COURT OF INTERNATIONAL TRADE PROCEDURE

–HEAD–

Sec. 2642. Analysis of imported merchandise

–STATUTE–

The Court of International Trade may order an analysis of imported merchandise and reports thereon by laboratories or agencies of the United States or laboratories accredited by the Customs Service under section 499(b) of the Tariff Act of 1930.

–SOURCE–

(Added Pub. L. 96–417, title III, Sec. 301, Oct. 10, 1980, 94 Stat. 1737; amended Pub. L. 103–182, title VI, Sec. 684(a)(5), Dec. 8, 1993, 107 Stat. 2219.)

–REFTEXT–

REFERENCES IN TEXT

Section 499(b) of the Tariff Act of 1930, referred to in text, is classified to section 1499(b) of Title 19, Customs Duties.

–MISC1–

PRIOR PROVISIONS

A prior section 2642, act May 24, 1949, ch. 139, Sec. 123, 63 Stat. 106, authorized the Customs Court under its rules and in its discretion to permit the amendment of protests, appeals and pleadings, prior to repeal by Pub. L. 91–271, title I, Sec. 121,

June 2, 1970, 84 Stat. 281. See section 2633(b) of this title.

#### AMENDMENTS

1993 – Pub. L. 103–182 inserted before period at end "or laboratories accredited by the Customs Service under section 499(b) of the Tariff Act of 1930".

#### APPLICATION OF 1993 AMENDMENT

For purposes of applying amendment by Pub. L. 103–182, any decision or order of Customs Service denying, suspending, or revoking accreditation of a private laboratory on or after Dec. 8, 1993, and before regulations to implement 19 U.S.C. 1499(b) are issued to be treated as having been denied, suspended, or revoked under such section 1499(b), see section 684(b) of Pub. L. 103–182, set out as a note under section 1581 of this title.

–TRANS–

#### 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.

–End–

–CITE–

28 USC Sec. 2643 01/06/03

–EXPCITE–

TITLE 28 – JUDICIARY AND JUDICIAL PROCEDURE

PART VI – PARTICULAR PROCEEDINGS

CHAPTER 169 – COURT OF INTERNATIONAL TRADE PROCEDURE

–HEAD–

Sec. 2643. Relief

–STATUTE–

(a) The Court of International Trade may enter a money judgment –

(1) for or against the United States in any civil action

commenced under section 1581 or 1582 of this title; and

(2) for or against the United States or any other party in any counterclaim, cross–claim, or third–party action under section 1583 of this title.

(b) If the Court of International Trade is unable to determine the correct decision on the basis of the evidence presented in any civil action, the court may order a retrial or rehearing for all purposes, or may order such further administrative or adjudicative procedures as the court considers necessary to enable it to reach the correct decision.

(c)(1) Except as provided in paragraphs (2), (3), (4), and (5) of this subsection, the Court of International Trade may, in addition to the orders specified in subsections (a) and (b) of this section, order any other form of relief that is appropriate in a civil action, including, but not limited to, declaratory judgments, orders of remand, injunctions, and writs of mandamus and prohibition.

(2) The Court of International Trade may not grant an injunction or issue a writ of mandamus in any civil action commenced to review any final determination of the Secretary of Labor under section 223 of the Trade Act of 1974, or any final determination of the Secretary of Commerce under section 251 or section 271 of such Act.

(3) In any civil action involving an application for the issuance of an order directing the administering authority or the International Trade Commission to make confidential information available under section 777(c)(2) of the Tariff Act of 1930, the Court of International Trade may issue an order of disclosure only with respect to the information specified in such section.

(4) In any civil action described in section 1581(h) of this title, the Court of International Trade may only order the appropriate declaratory relief.

(5) In any civil action involving an antidumping or countervailing duty proceeding regarding a class or kind of merchandise of a free trade area country (as defined in section 516A(f)(10) of the Tariff Act of 1930), as determined by the administering authority, the Court of International Trade may not order declaratory relief.

(d) If a surety commences a civil action in the Court of International Trade, such surety shall recover only the amount of the liquidated duties, charges, or exactions paid on the entries included in such action. The excess amount of any recovery shall be paid to the importer of record.

(e) In any proceeding involving assessment or collection of a

monetary penalty under section 641(b)(6) or 641(d)(2)(A) of the Tariff Act of 1930, the court may not render judgment in an amount greater than that sought in the initial pleading of the United States, and may render judgment in such lesser amount as shall seem proper and just to the court.

–SOURCE–

(Added Pub. L. 96–417, title III, Sec. 301, Oct. 10, 1980, 94 Stat. 1737; amended Pub. L. 98–573, title II, Sec. 212(b)(6), Oct. 30, 1984, 98 Stat. 2984; Pub. L. 100–449, title IV, Sec. 402(b), Sept. 28, 1988, 102 Stat. 1884; Pub. L. 103–182, title IV, Sec. 414(b), Dec. 8, 1993, 107 Stat. 2147.)

–REFTEXT–

#### REFERENCES IN TEXT

Sections 223, 251, and 271 of the Trade Act of 1974, referred to in subsec. (c)(2), are classified to sections 2273, 2341, and 2371, respectively, of Title 19, Customs Duties. Section 2371 of Title 19 was omitted from the Code as terminated Sept. 30, 1982.

Section 777(c)(2) of the Tariff Act of 1930, referred to in subsec. (c)(3), is classified to section 1677f(c)(2) of Title 19.

Section 516A(f)(10) of the Tariff Act of 1930, referred to in subsec. (c)(5), is classified to section 1516a(f)(10) of Title 19.

Section 641 of the Tariff Act of 1930, referred to in subsec. (e), is classified to section 1641 of Title 19.

–MISC1–

#### AMENDMENTS

1993 – Subsec. (c)(5). Pub. L. 103–182 substituted "merchandise

of a free trade area country (as defined in section 516A(f)(10) of the Tariff Act of 1930)" for "Canadian merchandise".

1988 – Subsec. (c). Pub. L. 100–449 substituted "(4), and (5)" for "and (4)" in par. (1) and added par. (5).

1984 – Subsec. (e). Pub. L. 98–573 added subsec. (e).

#### 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], but not applicable to any final determination described in section 1516a(a)(1)(B) or (2)(B)(i), (ii), or (iii) of Title 19, Customs Duties, notice of which is published in the Federal Register before such date, or to a determination described in section 1516a(a)(2)(B)(vi) of Title 19, notice of which is received by the Government of Canada or Mexico before such date, or to any binational panel review under the United States–Canada Free–Trade Agreement, or to any extraordinary challenge arising out of any such review that was commenced before such date, see section 416 of Pub. L. 103–182, set out as an Effective Date note under section 3431 of Title 19.

#### EFFECTIVE AND TERMINATION DATES OF 1988 AMENDMENT

Amendment by Pub. L. 100–449 effective on date United States–Canada Free–Trade Agreement enters into force (Jan. 1, 1989), and to cease to have effect on date Agreement ceases to be in force, see section 501(a), (c) of Pub. L. 100–449, set out in a note under section 2112 of Title 19, Customs Duties.

#### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–573 effective on close of 180th day after Oct. 30, 1984, see section 214(d) of Pub. L. 98–573, set out as a note under section 1304 of Title 19, Customs Duties.

#### EFFECTIVE DATE

Subsecs. (a) and (c)(2), (4) of this section applicable with respect to civil actions commenced on or after Nov. 1, 1980, see section 701(b)(1)(B) of Pub. L. 96–417, set out as an Effective Date of 1980 Amendment note under section 251 of this title.

#### EFFECT OF TERMINATION OF NAFTA COUNTRY STATUS

For provisions relating to effect of termination of NAFTA country status on sections 401 to 416 of Pub. L. 103–182, see section 3451 of Title 19, Customs Duties.

–End–

–CITE–

28 USC Sec. 2644 01/06/03

–EXPCITE–

#### TITLE 28 – JUDICIARY AND JUDICIAL PROCEDURE

#### PART VI – PARTICULAR PROCEEDINGS

#### CHAPTER 169 – COURT OF INTERNATIONAL TRADE PROCEDURE

–HEAD–

Sec. 2644. Interest

–STATUTE–

If, in a civil action in the Court of International Trade under section 515 of the Tariff Act of 1930, the plaintiff obtains monetary relief by a judgment or under a stipulation agreement, interest shall be allowed at an annual rate established under

section 6621 of the Internal Revenue Code of 1986. Such interest shall be calculated from the date of the filing of the summons in such action to the date of the refund.

–SOURCE–

(Added Pub. L. 96–417, title III, Sec. 301, Oct. 10, 1980, 94 Stat. 1738; amended Pub. L. 99–514, Sec. 2, Oct. 22, 1986, 100 Stat. 2095.)

–REFTEXT–

#### REFERENCES IN TEXT

Section 515 of the Tariff Act of 1930, referred to in text, is classified to section 1515 of Title 19, Customs Duties.

Section 6621 of the Internal Revenue Code of 1986, referred to in text, is classified to section 6621 of Title 26, Internal Revenue Code.

–MISC1–

#### AMENDMENTS

1986 – Pub. L. 99–514 substituted "Internal Revenue Code of 1986" for "Internal Revenue Code of 1954".

#### EFFECTIVE DATE

Section applicable with respect to civil actions commenced on or after Nov. 1, 1980, see section 701(b)(1)(B) of Pub. L. 96–417, set out as an Effective Date of 1980 Amendment note under section 251 of this title.

–End–

–CITE–

28 USC Sec. 2645 01/06/03

–EXPCITE–

TITLE 28 – JUDICIARY AND JUDICIAL PROCEDURE

PART VI – PARTICULAR PROCEEDINGS

CHAPTER 169 – COURT OF INTERNATIONAL TRADE PROCEDURE

–HEAD–

Sec. 2645. Decisions

–STATUTE–

(a) A final decision of the Court of International Trade in a contested civil action or a decision granting or refusing a preliminary injunction shall be supported by –

- (1) a statement of findings of fact and conclusions of law; or
- (2) an opinion stating the reasons and facts upon which the decision is based.

(b) After the Court of International Trade has rendered a judgment, the court may, upon the motion of a party or upon its own motion, amend its findings or make additional findings and may amend the decision and judgment accordingly. A motion of a party or the court shall be made not later than thirty days after the date of entry of the judgment.

(c) A decision of the Court of International Trade is final and conclusive, unless a retrial or rehearing is granted pursuant to section 2646 of this title or an appeal is taken to the Court of Appeals for the Federal Circuit by filing a notice of appeal with the clerk of the Court of International Trade within the time and in the manner prescribed for appeals to United States courts of appeals from the United States district courts.

–SOURCE–

(Added Pub. L. 96–417, title III, Sec. 301, Oct. 10, 1980, 94 Stat. 1738; amended Pub. L. 97–164, title I, Sec. 141, Apr. 2, 1982, 96 Stat. 45.)

–MISC1–

#### AMENDMENTS

1982 – Subsec. (c). Pub. L. 97–164 substituted "is taken to the Court of Appeals for the Federal Circuit by filing a notice of appeal with the clerk of the Court of International Trade within the time and in the manner prescribed for appeals to United States courts of appeals from the United States district courts" for "is taken to the Court of Customs and Patent Appeals within the time and in the manner provided in section 2601 of this title".

#### EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–164 effective Oct. 1, 1982, see section 402 of Pub. L. 97–164, set out as a note under section 171 of this title.

–End–

–CITE–

28 USC Sec. 2646 01/06/03

–EXPCITE–

TITLE 28 – JUDICIARY AND JUDICIAL PROCEDURE

PART VI – PARTICULAR PROCEEDINGS

CHAPTER 169 – COURT OF INTERNATIONAL TRADE PROCEDURE

–HEAD–

Sec. 2646. Retrial or rehearing

–STATUTE–

After the Court of International Trade has rendered a judgment or order, the court may, upon the motion of a party or upon its own motion, grant a retrial or rehearing, as the case may be. A motion of a party or the court shall be made not later than thirty days after the date of entry of the judgment or order.

–SOURCE–

(Added Pub. L. 96–417, title III, Sec. 301, Oct. 10, 1980, 94 Stat. 1739.)

–SECRETF–

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2645 of this title.

–End–

–CITE–

28 USC Sec. 2647 01/06/03

–EXPCITE–

#### TITLE 28 – JUDICIARY AND JUDICIAL PROCEDURE

#### PART VI – PARTICULAR PROCEEDINGS

#### CHAPTER 169 – COURT OF INTERNATIONAL TRADE PROCEDURE

–HEAD–

[Sec. 2647. Repealed. Pub. L. 98–620, title IV, Sec. 402(29)(G), Nov. 8, 1984, 98 Stat. 3359]

–MISC1–

Section, added Pub. L. 96–417, title III, Sec. 301, Oct. 10, 1980, 94 Stat. 1739; amended Pub. L. 98–573, title VI, Sec. 623(b)(2), Oct. 30, 1984, 98 Stat. 3041, related to precedence of

cases.

#### EFFECTIVE DATE OF REPEAL

Repeal not applicable to cases pending on Nov. 8, 1984, see section 403 of Pub. L. 98-620, set out as an Effective Date note under section 1657 of this title.

-End-