

## PRIOR PROVISIONS

Provisions similar to those relating to the assignment of judges to hear and determine cases, and provisions similar to those authorizing the chief judge to designate judges to hear and determine cases within the jurisdiction of the United States, formerly contained in this section, are covered by sections 255 and 256 of this title, respectively.

## AMENDMENTS

1980—Pub. L. 96-417 redesignated the Customs Court as the Court of International Trade.

1970—Pub. L. 91-271 substituted in section catchline “Single-judge trials” for “Divisions; powers and assignments” and substituted provisions in text requiring the judicial power of the Customs Court with respect to any action, suit, or proceeding to be exercised by a single judge, for provisions setting forth the powers of the chief judge of the Customs Court with respect to the organization of such Court into divisions, and the assignment of judges to hear and determine pending cases.

1949—Act May 24, 1949, inserted “to hear or” before “to hear and determine” in third par.

## EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-417 effective Nov. 1, 1980, 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 a note under section 251 of this title.

## EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-271 effective Oct. 1, 1970, see section 122 of Pub. L. 91-271, set out as a note under section 256 of this title.

**§ 255. Three-judge trials**

(a) Upon application of any party to a civil action, or upon his own initiative, the chief judge of the Court of International Trade shall designate any three judges of the court to hear and determine any civil action which the chief judge finds: (1) raises an issue of the constitutionality of an Act of Congress, a proclamation of the President or an Executive order; or (2) has broad or significant implications in the administration or interpretation of the customs laws.

(b) A majority of the three judges designated may hear and determine the civil action and all questions pending therein.

(Added Pub. L. 91-271, title I, §108, June 2, 1970, 84 Stat. 277; amended Pub. L. 96-417, title V, §501(5), Oct. 10, 1980, 94 Stat. 1742.)

## PRIOR PROVISIONS

A prior section 255 was renumbered section 257 of this title.

## AMENDMENTS

1980—Subsec. (a). Pub. L. 96-417 redesignated the Customs Court as the Court of International Trade.

## EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-417 effective Nov. 1, 1980, 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 a note under section 251 of this title.

## EFFECTIVE DATE

Section effective Oct. 1, 1970, see section 122 of Pub. L. 91-271, set out as a note under section 256 of this title.

**§ 256. Trials at ports other than New York**

(a) The chief judge may designate any judge or judges of the court to proceed, together with

necessary assistants, to any port or to any place within the jurisdiction of the United States to preside at a trial or hearing at the port or place.

(b) Upon application of a party or upon his own initiative, and upon a showing that the interests of economy, efficiency, and justice will be served, the chief judge may issue an order authorizing a judge of the court to preside in an evidentiary hearing in a foreign country whose laws do not prohibit such a hearing: *Provided, however,* That an interlocutory appeal may be taken from such an order pursuant to the provisions of section 1292(d)(1) of this title, and the United States Court of Appeals for the Federal Circuit may, in its discretion, consider the appeal.

(Added Pub. L. 91-271, title I, §109, June 2, 1970, 84 Stat. 277; amended Pub. L. 97-164, title I, §107, Apr. 2, 1982, 96 Stat. 28.)

## AMENDMENTS

1982—Subsec. (b). Pub. L. 97-164 substituted “section 1292(d)(1) of this title, and the United States Court of Appeals for the Federal Circuit may, in its discretion, consider the appeal” for “section 1541(b) of this title, subject to the discretion of the Court of Customs and Patent Appeals as set forth in that section”.

## 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.

## EFFECTIVE DATE

Section 122 of title I of Pub. L. 91-271 provided that: “(a) This title [see Short Title of 1970 Amendment note set out under section 1 of this title] shall become effective on October 1, 1970, and shall thereafter apply to all actions and proceedings in the Customs Court and the Court of Customs and Patent Appeals except those involving merchandise entered before the effective date for which trial has commenced by such effective date.

“(b) An appeal for reappraisal timely filed with the Bureau of Customs before the effective date, but as to which trial has not commenced by such date, shall be deemed to have had a summons timely and properly filed under this title. When the judgment or order of the United States Customs Court has become final in this appeal, the papers shall be returned to the appropriate customs officer to decide any remaining matters relating to the entry in accordance with section 500 of the Tariff Act of 1930, as amended [section 1500 of Title 19, Customs Duties]. A protest or summons filed after final decision on an appeal for reappraisal shall not include issues which were raised or could have been raised on the appeal for reappraisal.

“(c) A protest timely filed with the Bureau of Customs before the effective date of enactment of this Act [June 2, 1970], which is disallowed before that date, and as to which trial has not commenced by such date, shall be deemed to have had a summons timely and properly filed under this title.

“(d) All other provisions of this Act [see Short Title notes set out under section 1 of this title and section 1500 of Title 19] shall apply to appeals and disallowed protests deemed to have had summonses timely and properly filed under this section.”

**§ 257. Publication of decisions**

All decisions of the Court of International Trade shall be preserved and open to inspection. The court shall forward copies of each decision to the Secretary of the Treasury or his designee and to the appropriate customs officer for the

district in which the case arose. The Secretary shall publish weekly such decisions as he or the court may designate and abstracts of all other decisions.

(June 25, 1948, ch. 646, 62 Stat. 900, §255; renumbered §257 and amended Pub. L. 91-271, title I, §107, June 2, 1970, 84 Stat. 277; Pub. L. 96-417, title V, §501(6), Oct. 10, 1980, 94 Stat. 1742.)

#### HISTORICAL AND REVISION NOTES

Based on section 1519 of title 19, U.S.C., 1940 ed., Customs Duties (June 17, 1930, ch. 497, title IV, §519, 46 Stat. 739).

Changes in phraseology were made.

#### AMENDMENTS

1980—Pub. L. 96-417 redesignated the Customs Court as the Court of International Trade.

1970—Pub. L. 91-271 inserted “or his designee” after “Secretary of the Treasury,” and substituted “to the appropriate customs officer” for “the collector”.

#### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-417 effective Nov. 1, 1980, 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 a note under section 251 of this title.

#### EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-271 effective Oct. 1, 1970, see section 122 of Pub. L. 91-271, set out as an Effective Date note under section 256 of this title.

### § 258. Chief judges; precedence of judges

(a)(1) The chief judge of the Court of International Trade shall be the judge of the court in regular active service who is senior in commission of those judges who—

- (A) are 64 years of age or under;
- (B) have served for 1 year or more as a judge of the court; and
- (C) have not served previously as chief judge.

(2)(A) In any case in which no judge of the court meets the qualifications under paragraph (1), the youngest judge in regular active service who is 65 years of age or over and who has served as a judge of the court for 1 year or more shall act as the chief judge.

(B) In any case under subparagraph (A) in which there is no judge of the court in regular active service who has served as a judge of the court for 1 year or more, the judge of the court in regular active service who is senior in commission and who has not served previously as chief judge shall act as the chief judge.

(3)(A) Except as provided under subparagraph (C), the chief judge serving under paragraph (1) shall serve for a term of 7 years and shall serve after expiration of such term until another judge is eligible under paragraph (1) to serve as chief judge.

(B) Except as provided under subparagraph (C), a judge of the court acting as chief judge under subparagraph (A) or (B) of paragraph (2) shall serve until a judge meets the qualifications under paragraph (1).

(C) No judge of the court may serve or act as chief judge of the court after attaining the age of 70 years unless no other judge is qualified to serve as chief judge under paragraph (1) or is qualified to act as chief judge under paragraph (2).

(b) The chief judge shall have precedence and preside at any session of the court which such judge attends. Other judges of the court shall have precedence and preside according to the seniority of their commissions. Judges whose commissions bear the same date shall have precedence according to seniority in age.

(c) If the chief judge desires to be relieved of the duties as chief judge while retaining active status as a judge of the court, the chief judge may so certify to the Chief Justice of the United States, and thereafter the chief judge of the court shall be such other judge of the court who is qualified to serve or act as chief judge under subsection (a).

(d) If a chief judge is temporarily unable to perform the duties as such, such duties shall be performed by the judge of the court in active service, able and qualified to act, who is next in precedence.

(Added Pub. L. 104-317, title V, §501(a), Oct. 19, 1996, 110 Stat. 3855.)

#### CONTINUANCE OF POSITION OF CHIEF JUDGE

Section 501(c) of Pub. L. 104-317 provided that:

“(1) Notwithstanding the provisions of section 258(a) of title 28, United States Code (as added by subsection (a) of this section), the chief judge of the United States Court of International Trade who is in office on the day before the date of enactment of this Act [Oct. 19, 1996] shall continue to be such chief judge on or after such date until any one of the following events occurs:

“(A) The chief judge is relieved of his duties under section 258(c) of title 28, United States Code.

“(B) The regular active status of the chief judge is terminated.

“(C) The chief judge attains the age of 70 years.

“(D) The chief judge has served for a term of 7 years as chief judge.

“(2) When the chief judge vacates the position of chief judge under paragraph (1), the position of chief judge of the Court of International Trade shall be filled in accordance with section 258(a) of title 28, United States Code.”

### CHAPTER 13—ASSIGNMENT OF JUDGES TO OTHER COURTS

Sec.	
291.	Circuit judges.
292.	District judges.
293.	Judges of the Court of International Trade.
294.	Assignment of retired justices or judges to active duty. <sup>1</sup>
295.	Conditions upon designation and assignment.
296.	Powers upon designation and assignment.
297.	Assignment of judges to courts of the freely associated compact states.

#### AMENDMENTS

1988—Pub. L. 100-702, title X, §1022(2), Nov. 19, 1988, 102 Stat. 4673, added item 297.

1982—Pub. L. 97-164, title I, §110(c), Apr. 2, 1982, 96 Stat. 29, substituted “the Court of International Trade” for “other courts” in item 293.

1958—Pub. L. 85-755, §8, Aug. 25, 1958, 72 Stat. 850, substituted “Judges of other courts” for “Circuit or district judges to Court of Customs and Patent Appeals” in item 293.

### § 291. Circuit judges

(a) The Chief Justice of the United States may, in the public interest, designate and assign

<sup>1</sup> Section catchline amended by Pub. L. 85-755 without corresponding amendment of analysis.