

1516, and 1516a, respectively, of Title 19, Customs Duties.

PRIOR PROVISIONS

A prior section 2639, acts June 25, 1948, ch. 646, 62 Stat. 982; June 2, 1970, Pub. L. 91-271, title I, §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.

§ 2640. Scope and standard of review

(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.

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

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.

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, §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 custom-house 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.

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.

§ 2641. Witnesses; inspection of documents

(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.

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

REFERENCES IN TEXT

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

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, § 121, June 2, 1970, 84 Stat. 281.

§ 2642. Analysis of imported merchandise

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.

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

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.

PRIOR PROVISIONS

A prior section 2642, act May 24, 1949, ch. 139, § 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, § 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.

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.

§ 2643. Relief

(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.