

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.

(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.

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

AMENDMENT OF SECTION

For termination of amendment by section 501(c) of Pub. L. 100-449, see Effective and Termination Dates of 1988 Amendment note below.

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.

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 temporarily substituted “(4), and (5)” for “and (4)” in par. (1) and added par. (5). See Effective and Termination Dates of 1988 Amendment note below.

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.

§ 2644. Interest

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.

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

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.

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.

§ 2645. Decisions

(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