

CONSTRUCTION OF 1993 AMENDMENT

Amendment by section 208 of Pub. L. 103-182 to be made after amendment by section 645 of Pub. L. 103-182 is executed, see section 212 of Pub. L. 103-182, formerly set out as a note under section 58c 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. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107-296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114-125, and section 802(b) of Pub. L. 114-125, set out as a note under section 211 of Title 6.

Functions of Secretary of the Treasury under this section insofar as they relate to any protest, petition, or notice of desire to contest described in section 1002(b)(1) of the Trade Agreements Act of 1979, set out as a note under section 1516a of this title, transferred to Secretary of Commerce pursuant to Reorg. Plan No. 3 of 1979, §5(a)(1)(D), 44 F.R. 69275, 93 Stat. 1381, eff. Jan. 2, 1980, as provided by section 1-107(a) of Ex. Ord. No. 12188, Jan. 2, 1980, 45 F.R. 993, set out as notes under section 2171 of this title.

INCONSISTENT DECISIONS OF CUSTOMS OFFICERS

Pub. L. 100-690, title VII, §7361(c), Nov. 18, 1988, 102 Stat. 4474, provided that:

“(1) The Secretary of the Treasury shall prescribe regulations that—

“(A) effect uniformity in—

“(i) decisions described in section 514(a) of the Tariff Act of 1930 (19 U.S.C. 1514(a)) that are made by customs officers with respect to the same, or substantially similar, merchandise, and

“(ii) decisions to conduct intensified inspections or examinations of merchandise at ports of entry, and

“(B) establish procedures that allow individuals described in section 514(c)(1) of the Tariff Act of 1930 (19 U.S.C. 1514(c)(1)), any port authority, and any other interested party (within the meaning of section 516(a)(2) of the Tariff Act of 1930 (19 U.S.C. 1516(a)(2))) to petition the Secretary to obtain such uniformity in an expedited and timely fashion.

“(2) The Secretary of the Treasury shall publish in the Federal Register and submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives the proposed and final form of the regulations prescribed under paragraph (1) and shall receive and consider comments from the public regarding the proposed form of such regulations during the 60-day period beginning on the date the proposed form of such regulations are published in the Federal Register.

“(3) The regulations prescribed under paragraph (1) shall take effect by no later than April 1, 1989.

“(4) By no later than September 1, 1989, the Secretary of the Treasury shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report on the effectiveness of the regulations prescribed under paragraph (1) and recommendations for permanent legislation addressing uniformity.”

PLAN AMENDMENTS NOT REQUIRED UNTIL
JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§ 1101-1147 and 1171-1177] or title XVIII [§§ 1801-1899A] of Pub. L. 99-514 require an amendment to any plan, such plan

amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99-514, set out as a note under section 401 of Title 26, Internal Revenue Code.

§ 1515. Review of protests

(a) Administrative review and modification of decisions

Unless a request for an accelerated disposition of a protest is filed in accordance with subsection (b) of this section the appropriate customs officer, within two years from the date a protest was filed in accordance with section 1514 of this title, shall review the protest and shall allow or deny such protest in whole or in part. Thereafter, any duties, charge, or exaction found to have been assessed or collected in excess shall be remitted or refunded and any drawback found due shall be paid. Upon the request of the protesting party, filed within the time allowed for the filing of a protest under section 1514 of this title, a protest may be subject to further review by another appropriate customs officer, under the circumstances and in the form and manner that may be prescribed by the Secretary in regulations, but subject to the two-year limitation prescribed in the first sentence of this subsection. Within 30 days from the date an application for further review is filed, the appropriate customs officer shall allow or deny the application and, if allowed, the protest shall be forwarded to the customs officer who will be conducting the further review. Notice of the denial of any protest shall be mailed in the form and manner prescribed by the Secretary. Such notice shall include a statement of the reasons for the denial, as well as a statement informing the protesting party of his right to file a civil action contesting the denial of a protest under section 1514 of this title.

(b) Request for accelerated disposition of protest

A request for accelerated disposition of a protest filed in accordance with section 1514 of this title may be mailed by certified or registered mail to the appropriate customs officer any time concurrent with or following the filing of such protest. For purposes of section 1581 of title 28, a protest which has not been allowed or denied in whole or in part within thirty days following the date of mailing by certified or registered mail of a request for accelerated disposition shall be deemed denied on the thirtieth day following mailing of such request.

(c) Request for set aside of denial of further review

If a protesting party believes that an application for further review was erroneously or improperly denied or was denied without authority for such action, it may file with the Commissioner of U.S. Customs and Border Protection a written request that the denial of the application for further review be set aside. Such request must be filed within 60 days after the date of the notice of the denial. The Commissioner of U.S. Customs and Border Protection may review such request and, based solely on the information before the Customs Service at the time the application for further review was denied, may set aside the denial of the application for fur-

ther review and void the denial of protest, if appropriate. If the Commissioner of U.S. Customs and Border Protection fails to act within 60 days after the date of the request, the request shall be considered denied. All denials of protests are effective from the date of original denial for purposes of section 2636 of title 28. If an action is commenced in the Court of International Trade that arises out of a protest or an application for further review, all administrative action pertaining to such protest or application shall terminate and any administrative action taken subsequent to the commencement of the action is null and void.

(d) Voiding denial of protest

If a protest is timely and properly filed, but is denied contrary to proper instructions, the Customs Service may on its own initiative, or pursuant to a written request by the protesting party filed with the appropriate port director within 90 days after the date of the protest denial, void the denial of the protest.

(June 17, 1930, ch. 497, title IV, § 515, 46 Stat. 734; Pub. L. 91-271, title II, § 208, June 2, 1970, 84 Stat. 285; Pub. L. 96-39, title X, § 1001(b)(2), July 26, 1979, 93 Stat. 304; Pub. L. 96-417, title VI, § 606, Oct. 10, 1980, 94 Stat. 1745; Pub. L. 103-182, title VI, § 617, Dec. 8, 1993, 107 Stat. 2179; Pub. L. 104-295, § 3(a)(11), Oct. 11, 1996, 110 Stat. 3516; Pub. L. 106-36, title II, § 2407, June 25, 1999, 113 Stat. 171; Pub. L. 108-429, title II, § 2104, Dec. 3, 2004, 118 Stat. 2598; Pub. L. 114-125, title VIII, § 802(d)(2), Feb. 24, 2016, 130 Stat. 210.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, § 515, 42 Stat. 970. That section was superseded by section 515 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

Provisions for transmission of the invoice, papers, and exhibits to the board of general appraisers in case of protest, and provisions concerning the conclusiveness of its determination, were contained in act Oct. 3, 1913, ch. 16, § III, N, 38 Stat. 187, the provisions of which were substituted for provisions of a similar nature in Customs Administrative Act of June 10, 1890, ch. 407, § 14, 26 Stat. 137, as amended by Payne-Aldrich Tariff Act of Aug. 5, 1909, ch. 6, § 28, 36 Stat. 100.

AMENDMENTS

2004—Subsec. (b). Pub. L. 108-429 substituted “concurrent with or” for “after ninety days” in first sentence.

1999—Subsec. (a). Pub. L. 106-36 inserted after third sentence “Within 30 days from the date an application for further review is filed, the appropriate customs officer shall allow or deny the application and, if allowed, the protest shall be forwarded to the customs officer who will be conducting the further review.”

1996—Subsec. (d). Pub. L. 104-295 substituted “port director” for “district director”.

1993—Subsecs. (c) and (d). Pub. L. 103-182 added subsecs. (c) and (d).

1980—Subsec. (b). Pub. L. 96-417 substituted reference to section “1581” for “1582” of title 28.

1979—Subsec. (a). Pub. L. 96-39 required that notice of denial include a statement of reasons for denial, as well as a statement informing protesting party of his right to file a civil action contesting denial of a protest under section 1514 of this title.

1970—Pub. L. 91-271 designating existing provisions as subsec. (a), substituted provisions authorizing review by appropriate customs officer for provisions authorizing review by collector and revised such review procedures, and added subsec. (b).

CHANGE OF NAME

“Commissioner of U.S. Customs and Border Protection” substituted for “Commissioner of Customs” wherever appearing in subsec. (c) on authority of section 802(d)(2) of Pub. L. 114-125, set out as a note under section 211 of Title 6, Domestic Security.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-429 applicable to merchandise entered, or withdrawn from warehouse for consumption, on or after the 15th day after Dec. 3, 2004, see section 2108 of Pub. L. 108-429, set out as a note under section 1401 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-295 applicable as of Dec. 8, 1993, see section 3(b) of Pub. L. 104-295, set out as a note under section 1321 of this title.

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 Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-39 effective Jan. 1, 1980, see sections 1002 and 107 of Pub. L. 96-39, set out as Effective Date notes under sections 1516a and 1671 of this title, respectively.

EFFECTIVE DATE OF 1970 AMENDMENT

For effective date of amendment by Pub. L. 91-271, see section 203 of Pub. L. 91-271, set out as a note under section 1500 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. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107-296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114-125, and section 802(b) of Pub. L. 114-125, set out as a note under section 211 of Title 6.

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REVIEW OF PROTESTS IN IMPORT SURCHARGE CASES

Pub. L. 93-618, title VI, § 611, Jan. 3, 1975, 88 Stat. 2075, provided that: “Notwithstanding the provisions of section 515(a) of the Tariff Act of 1930 (19 U.S.C. 1515(a)), in the case of any protest under section 514 of such Act [section 1514 of this title] involving the imposition of an import surcharge in the form of a supplemental duty pursuant to Presidential Proclamation 4074, dated August 17, 1971 [formerly set out as a note preceding section 1202 of this title], the time for review and allowing or denying the protest shall not expire until five years from the date the protest was filed in accordance with such section 514 [section 1514 of this title].”

§ 1516. Petitions by domestic interested parties**(a) Request for classification and rate of duty; petition**

(1) The Secretary shall, upon written request by an interested party furnish the classification and the rate of duty imposed upon designated imported merchandise of a class or kind manufactured, produced, or sold at wholesale by such interested party. If the interested party believes that the appraised value, the classification, or rate of duty is not correct, it may file a petition with the Secretary setting forth—

(A) a description of the merchandise,

(B) the appraised value, the classification, or the rate of duty that it believes proper, and

(C) the reasons for its belief.

(2) As used in this section, the term “interested party” means a person who is—

(A) a manufacturer, producer, or wholesaler in the United States;

(B) a certified union or recognized union or group of workers which is representative of an industry engaged in the manufacture, production, or wholesale in the United States; or

(C) a trade or business association a majority of whose members are manufacturers, producers, or wholesalers in the United States,

of goods of the same class or kind as the designated imported merchandise. Such term includes an association, a majority of whose members is composed of persons described in subparagraph (A), (B), or (C).

(3) Any producer of a raw agricultural product who is considered under section 1677(4)(E) of this title to be part of the industry producing a processed agricultural product of the same class or kind as the designated imported merchandise shall, for purposes of this section, be treated as an interested party producing such processed agricultural product.

(b) Determination on petition

If, after receipt and consideration of a petition filed by such an interested party, the Secretary determines that the appraised value, the classification, or rate of duty is not correct, he shall determine the proper appraised value, classification, or rate of duty and shall notify the petitioner of his determination. All such merchandise entered for consumption or withdrawn from warehouse for consumption more than thirty days after the date such notice to the petitioner is published in the weekly Customs Bulletin shall be appraised, classified, or assessed as to the rate of duty in accordance with the Secretary’s determination.

(c) Contest by petitioner of appraised value, classification, or rate of duty

If the Secretary determines that the appraised value, classification, or rate of duty with respect to which a petition was filed pursuant to subsection (a) of this section is correct, he shall notify the petitioner. If dissatisfied with the determination of the Secretary, the petitioner may file with the Secretary, not later than thirty days after the date of the notification, notice that it desires to contest the appraised value, classification, or rate of duty. Upon receipt of notice from the petitioner, the Secretary shall

cause publication to be made of his determination as to the proper appraised value, classification, or rate of duty and of the petitioner’s desire to contest, and shall thereafter furnish the petitioner with such information as to the entries and consignees of such merchandise, entered after the publication of the determination of the Secretary, at such ports of entry designated by the petitioner in his notice of desire to contest, as will enable the petitioner to contest the appraised value, classification, or rate of duty imposed upon such merchandise in the liquidation of one such entry at such port. The Secretary shall direct the appropriate customs officer at such ports to immediately notify the petitioner by mail when the first of such entries is liquidated.

(d) Appraisal, classification, and liquidation of entries of merchandise covered by published decisions of Secretary

Notwithstanding the filing of an action pursuant to chapter 169 of title 28, merchandise of the character covered by the published decision of the Secretary (when entered for consumption or withdrawn from warehouse for consumption on or before the date of publication of a decision of the United States Court of International Trade or of the United States Court of Appeals for the Federal Circuit, not in harmony with the published decision of the Secretary) shall be appraised or classified, or both, and the entries liquidated, in accordance with the decision of the Secretary and, except as otherwise provided in this chapter, the final liquidations of these entries shall be conclusive upon all parties.

(e) Consignee or his agent as party in interest before the Court of International Trade

The consignee or his agent shall have the right to appear and to be heard as a party in interest before the United States Court of International Trade.

(f) Appraisement, classification, and assessment of duty of merchandise covered by published decision of Secretary in accordance with final judicial decision of Court of International Trade or Court of Appeals for the Federal Circuit sustaining cause of action in whole or in part; suspension of liquidation of entries; publication

If the cause of action is sustained in whole or in part by a decision of the United States Court of International Trade or of the United States Court of Appeals for the Federal Circuit, merchandise of the character covered by the published decision of the Secretary, which is entered for consumption or withdrawn from warehouse for consumption after the date of publication in the Federal Register by the Secretary or the administering authority of a notice of the court decision, shall be subject to appraisement, classification, and assessment of duty in accordance with the final judicial decision in the action, and the liquidation of entries covering the merchandise so entered or withdrawn shall be suspended until final disposition is made of the action, whereupon the entries shall be liquidated, or if necessary, reliquidated in accordance with the final decision. Such notice of the court decision shall be published within ten days