Subsec. (b). Pub. L. 91–271 substituted provisions authorizing the Secretary to determine the proper appraised value, classification, or rate of duty of the imported merchandise, and to notify the American manufacturer, producer, or wholesaler of his determination, for provision setting forth the procedure for the determination of a protest by an American manufacturer, producer, or wholesaler that the classification of, and the rate of duty, if any, is not proper.

Subsec. (c). Pub. L. 91–271 substituted provisions setting forth the procedure for the petitioner to contest the decisions of the Secretary with respect to a petition filed pursuant to subsec. (a) of this section, for provisions requiring the collector to mail to the consignee or his agent a copy of every appeal and every protest filed by an American manufacturer, producer, or wholesaler, and authorizing such consignee or his agent to appear and be heard as a party in interest before the Customs Court.

Subsecs. (d) to (g). Pub. L. 91–271 added subsecs. (d) to (g).

1948—Subsec. (b). Act June 25, 1948, repealed last sentence relating to procedure of proceeding over all other cases on Customs Court docket. See sections 2602 and 2638 of Title 28, Judiciary and Judicial Procedure.

Subsec. (c). Act June 25, 1948, repealed last sentence relating to finality of Customs Court's decision. See section 2637 of Title 28.

Subsec. (d). Act June 25, 1948, repealed subsec. (d) relating to inspection of documents. See section 2634 of Title 28.

1938—Subsec. (b). Act June 25, 1938, amended subsec. (b) generally.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–418 applicable with respect to investigations initiated after Aug. 23, 1988, and to reviews initiated under section 1673e(c) or 1675 of this title after Aug. 23, 1988, see section 1337(b) of Pub. L. 100–418, set out as a note under section 1671 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 Title 28, Judiciary and Judicial Procedure.

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 1975 AMENDMENT

Section 321(g)(3) of Pub. L. 93–618 provided that: ''The amendment made by subsection (f) [amending this section and sections 2631 and 2632 of Title 28, Judiciary and Judicial Procedure] shall apply with respect to determinations under section 201 of the Antidumping Act, 1921 [section 160 of this title], resulting from questions of dumping raised or presented on or after the date of the enactment of this Act [Jan. 3, 1975].''

Amendment by section 331(b) of Pub. L. 93–618 effective Jan. 3, 1975, see section 331(d)(1) of Pub. L. 93–618, set out as a note under section 1315 of this title.

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.

EFFECTIVE DATE OF 1948 AMENDMENT

Section 38 of act June 25, 1948, provided that the amendment made by that act is effective Sept. 1, 1948.

EFFECTIVE DATE OF 1938 AMENDMENT

Amendment by act June 25, 1938, effective on thirtieth day following June 25, 1938, except as otherwise specifically provided, see section 37 of act June 25, 1938, set out as a note under section 1401 of this title.

TRANSFER OF FUNCTIONS

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. 11288, Jan. 2, 1980, 45 F.R. 993, set out as notes under section 2171 of this title.

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, as amended, set out as a note under section 401 of Title 26, Internal Revenue Code.

APPLICATION OF SUBSECTION (b) TO COMPLAINTS

Section 17(b), (c) of act of June 25, 1938, as amended by act June 16, 1951, ch. 141, § 9(b), 65 Stat. 75, provided that:

''(b) The provisions of subsection (b) of section 516 of the Tariff Act of 1930 [this section], as amended by this act, shall apply only in the case of complaints filed after the effective date of this act [see Effective Date of 1938 Amendment note set out under section 1401 of this title]. The provisions of subsection (b) of section 516 of the Tariff Act of 1930, as in force prior to the effective date of this act, shall continue in force with respect to any proceedings commenced by the filing of a complaint thereunder, except that upon the expiration of thirty days after the effective date of this act, or upon the expiration of thirty days after the date of a decision of the Secretary adverse to the complainant, whichever is the later, any such proceedings in which a protest has not been duly filed shall be deemed to have been terminated unless the complainant shall have filed with the Secretary after the effective date of this act a notice that he desires to protest the classification of, or rate of duty assessed upon, the merchandise.

''(c) [Repealed. June 16, 1951, ch. 141, § 9(b), 65 Stat. 75.]''

§ 1516a. Judicial review in countervailing duty and antidumping duty proceedings

(a) Review of determination

(1) Review of certain determinations

Within 30 days after the date of publication in the Federal Register of—

(A) a determination by the administering authority, under 1671a(c)[1] or 1673a(c) of this title, not to initiate an investigation,

(B) a determination by the Commission, under section 1675(b) of this title, not to review a determination based upon changed circumstances,

[1] So in original. Probably should be preceded by ''section''.

(C) a negative determination by the Commission, under section 1671b(a) or 1673b(a) of this title, as to whether there is reasonable indication of material injury, threat of material injury, or material retardation, or

(D) a final determination by the administering authority or the Commission under section 1675(c)(3) of this title,

an interested party who is a party to the proceeding in connection with which the matter arises may commence an action in the United States Court of International Trade by filing concurrently a summons and complaint, each with the content and in the form, manner, and style prescribed by the rules of that court, contesting any factual findings or legal conclusions upon which the determination is based.

(2) Review of determinations on record

(A) In general

Within thirty days after—

(i) the date of publication in the Federal Register of—

(I) notice of any determination described in clause (ii), (iii), (iv), (v), or (viii) of subparagraph (B),

(II) an antidumping or countervailing duty order based upon any determination described in clause (i) of subparagraph (B), or

(III) notice of the implementation of any determination described in clause (vii) of subparagraph (B), or

(ii) the date of mailing of a determination described in clause (vi) of subparagraph (B),

an interested party who is a party to the proceeding in connection with which the matter arises may commence an action in the United States Court of International Trade by filing a summons, and within thirty days thereafter a complaint, each with the content and in the form, manner, and style prescribed by the rules of that court, contesting any factual findings or legal conclusions upon which the determination is based.

(B) Reviewable determinations

The determinations which may be contested under subparagraph (A) are as follows:

(i) Final affirmative determinations by the administering authority and by the Commission under section 1671d or 1673d of this title, including any negative part of such a determination (other than a part referred to in clause (ii)).

(ii) A final negative determination by the administering authority or the Commission under section 1671d or 1673d of this title, including, at the option of the appellant, any part of a final affirmative determination which specifically excludes any company or product.

(iii) A final determination, other than a determination reviewable under paragraph (1), by the administering authority or the Commission under section 1675 of this title.

(iv) A determination by the administering authority, under section 1671c or 1673c of this title, to suspend an antidumping duty or a countervailing duty investigation, including any final determination resulting from a continued investigation which changes the size of the dumping margin or net countervailable subsidy calculated, or the reasoning underlying such calculations, at the time the suspension agreement was concluded.

(v) An injurious effect determination by the Commission under section 1671c(h) or 1673c(h) of this title.

(vi) A determination by the administering authority as to whether a particular type of merchandise is within the class or kind of merchandise described in an existing finding of dumping or antidumping or countervailing duty order.

(vii) A determination by the administering authority or the Commission under section 3538 of this title concerning a determination under subtitle IV of this chapter.

(viii) A determination by the Commission under section 1675b(a)(1) of this title.

(3) Exception

Notwithstanding the limitation imposed by paragraph (2)(A)(i)(II) of this subsection, a final affirmative determination by the administering authority under section 1671d or 1673d of this title may be contested by commencing an action, in accordance with the provisions of paragraph (2)(A), within thirty days after the date of publication in the Federal Register of a final negative determination by the Commission under section 1671d or 1673d of this title.

(4) Procedures and fees

The procedures and fees set forth in chapter 169 of title 28 apply to an action under this section.

(5) Time limits in cases involving merchandise from free trade area countries

Notwithstanding any other provision of this subsection, in the case of a determination to which the provisions of subsection (g) of this section apply, an action under this subsection may not be commenced, and the time limits for commencing an action under this subsection shall not begin to run, until the day specified in whichever of the following subparagraphs applies:

(A) For a determination described in paragraph (1)(B) or clause (i), (ii) or (iii) of paragraph (2)(B), the 31st day after the date on which notice of the determination is published in the Federal Register.

(B) For a determination described in clause (vi) of paragraph (2)(B), the 31st day after the date on which the government of the relevant FTA country receives notice of the determination.

(C) For a determination with respect to which binational panel review has commenced in accordance with subsection (g)(8) of this section, the day after the date as of which—

(i) the binational panel has dismissed binational panel review of the determination for lack of jurisdiction, and

(ii) any interested party seeking review of the determination under paragraph (1), (2), or (3) of this subsection has provided timely notice under subsection (g)(3)(B) of this section.

If such an interested party files a summons and complaint under this subsection after dismissal by the binational panel, and if a request for an extraordinary challenge committee is made with respect to the decision by the binational panel to dismiss—

(I) judicial review under this subsection shall be stayed during consideration by the committee of the request, and

(II) the United States Court of International Trade shall dismiss the action if the committee vacates or remands the binational panel decision to dismiss.

(D) For a determination for which review by the United States Court of International Trade is provided for—

(i) under subsection (g)(12)(B) of this section, the day after the date of publication in the Federal Register of notice that article 1904 of the NAFTA has been suspended, or

(ii) under subsection (g)(12)(D) of this section, the day after the date that notice of settlement is published in the Federal Register.

(E) For a determination described in clause (vii) of paragraph (2)(B), the 31st day after the date on which notice of the implementation of the determination is published in the Federal Register.

(b) Standards of review

(1) Remedy

The court shall hold unlawful any determination, finding, or conclusion found—

(A) in an action brought under subparagraph (A), (B), or (C) of subsection (a)(1) of this section, to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law, or

(B)(i) in an action brought under paragraph (2) of subsection (a) of this section, to be unsupported by substantial evidence on the record, or otherwise not in accordance with law, or

(ii) in an action brought under paragraph (1)(D) of subsection (a) of this section, to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

(2) Record for review

(A) In general

For the purposes of this subsection, the record, unless otherwise stipulated by the parties, shall consist of—

(i) a copy of all information presented to or obtained by the Secretary, the administering authority, or the Commission during the course of the administrative proceeding, including all governmental memoranda pertaining to the case and the record of ex parte meetings required to be kept by section 1677f(a)(3) of this title; and

(ii) a copy of the determination, all transcripts or records of conferences or hearings, and all notices published in the Federal Register.

(B) Confidential or privileged material

The confidential or privileged status accorded to any documents, comments, or information shall be preserved in any action under this section. Notwithstanding the preceding sentence, the court may examine, in camera, the confidential or privileged material, and may disclose such material under such terms and conditions as it may order.

(3) Effect of decisions by NAFTA or United States-Canada binational panels

In making a decision in any action brought under subsection (a) of this section, a court of the United States is not bound by, but may take into consideration, a final decision of a binational panel or extraordinary challenge committee convened pursuant to article 1904 of the NAFTA or of the Agreement.

(c) Liquidation of entries

(1) Liquidation in accordance with determination

Unless such liquidation is enjoined by the court under paragraph (2) of this subsection, entries of merchandise of the character covered by a determination of the Secretary, the administering authority, or the Commission contested under subsection (a) of this section shall be liquidated in accordance with the determination of the Secretary, the administering authority, or the Commission, if they are entered, or withdrawn from warehouse, for consumption on or before the date of publication in the Federal Register by the Secretary or the administering authority of a notice 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 that determination. Such notice of a decision shall be published within ten days from the date of the issuance of the court decision.

(2) Injunctive relief

In the case of a determination described in paragraph (2) of subsection (a) of this section by the Secretary, the administering authority, or the Commission, the United States Court of International Trade may enjoin the liquidation of some or all entries of merchandise covered by a determination of the Secretary, the administering authority, or the Commission, upon a request by an interested party for such relief and a proper showing that the requested relief should be granted under the circumstances.

(3) Remand for final disposition

If the final disposition of an action brought under this section is not in harmony with the published determination of the Secretary, the administering authority, or the Commission, the matter shall be remanded to the Secretary, the administering authority, or the Commission, as appropriate, for disposition consistent with the final disposition of the court.

(d) Standing

Any interested party who was a party to the proceeding under section 1303[2] of this title or subtitle IV of this chapter shall have the right to appear and be heard as a party in interest before the United States Court of International Trade. The party filing the action shall notify all such interested parties of the filing of an action under this section, in the form, manner, style, and within the time prescribed by rules of the court.

(e) Liquidation in accordance with final decision

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—

(1) entries of merchandise of the character covered by the published determination of the Secretary, the administering authority, or the Commission, which is entered, 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, and

(2) entries, the liquidation of which was enjoined under subsection (c)(2) of this section,

shall be liquidated in accordance with the final court decision in the action. Such notice of the court decision shall be published within ten days from the date of the issuance of the court decision.

(f) Definitions

For purposes of this section—

(1) Administering authority

The term ''administering authority'' means the administering authority described in section 1677(1) of this title.

(2) Commission

The term ''Commission'' means the United States International Trade Commission.

(3) Interested party

The term ''interested party'' means any person described in section 1677(9) of this title.

(4) Secretary

The term ''Secretary'' means the Secretary of the Treasury.

(5) Agreement

The term ''Agreement'' means the United States-Canada Free-Trade Agreement.

(6) United States Secretary

The term ''United States Secretary'' means—

(A) the secretary for the United States Section referred to in article 1908 of the NAFTA, and

(B) the secretary of the United States Section provided for in article 1909 of the Agreement.

(7) Relevant FTA Secretary

The term ''relevant FTA Secretary'' means the Secretary—

(A) referred to in article 1908 of the NAFTA, or

(B) provided for in paragraph 5 of article 1909 of the Agreement,

of the relevant FTA country.

(8) NAFTA

The term ''NAFTA'' means the North American Free Trade Agreement.

(9) Relevant FTA country

The term ''relevant FTA country'' means the free trade area country to which an antidumping or countervailing duty proceeding pertains.

(10) Free trade area country

The term ''free trade area country'' means the following:

(A) Canada for such time as the NAFTA is in force with respect to, and the United States applies the NAFTA to, Canada.

(B) Mexico for such time as the NAFTA is in force with respect to, and the United States applies the NAFTA to, Mexico.

(C) Canada for such time as—

(i) it is not a free trade area country under subparagraph (A); and

(ii) the Agreement is in force with respect to, and the United States applies the Agreement to, Canada.

(g) Review of countervailing duty and antidumping duty determinations involving free trade area country merchandise

(1) "Determination" defined

For purposes of this subsection, the term ''determination'' means a determination described in—

(A) paragraph (1)(B) of subsection (a) of this section, or

(B) clause (i), (ii), (iii), (vi), or (vii) of paragraph (2)(B) of subsection (a) of this section,

if made in connection with a proceeding regarding a class or kind of free trade area country merchandise, as determined by the administering authority.

(2) Exclusive review of determination by binational panels

If binational panel review of a determination is requested pursuant to article 1904 of the NAFTA or of the Agreement, then, except as provided in paragraphs (3) and (4)—

(A) the determination is not reviewable under subsection (a) of this section, and

(B) no court of the United States has power or jurisdiction to review the determination on any question of law or fact by an action in the nature of mandamus or otherwise.

(3) Exception to exclusive binational panel review

(A) In general

A determination is reviewable under subsection (a) of this section if the determination sought to be reviewed is—

(i) a determination as to which neither the United States nor the relevant FTA country requested review by a binational panel pursuant to article 1904 of the NAFTA or of the Agreement,

[2] See References in Text note below.

(ii) a revised determination issued as a direct result of judicial review, commenced pursuant to subsection (a) of this section, if neither the United States nor the relevant FTA country requested review of the original determination,

(iii) a determination issued as a direct result of judicial review that was commenced pursuant to subsection (a) of this section prior to the entry into force of the NAFTA or of the Agreement,

(iv) a determination which a binational panel has determined is not reviewable by the binational panel,

(v) a determination as to which binational panel review has terminated pursuant to paragraph 12 of article 1905 of the NAFTA, or

(vi) a determination as to which extraordinary challenge committee review has terminated pursuant to paragraph 12 of article 1905 of the NAFTA.

(B) Special rule

A determination described in subparagraph (A)(i) or (iv) is reviewable under subsection (a) of this section only if the party seeking to commence review has provided timely notice of its intent to commence such review to—

(i) the United States Secretary and the relevant FTA Secretary;

(ii) all interested parties who were parties to the proceeding in connection with which the matter arises; and

(iii) the administering authority or the Commission, as appropriate.

Such notice is timely provided if the notice is delivered no later than the date that is 20 days after the date described in subparagraph (A) or (B) of subsection (a)(5) of this section that is applicable to such determination, except that, if the time for requesting binational panel review is suspended under paragraph (8)(A)(ii) of this subsection, any unexpired time for providing notice of intent to commence judicial review shall, during the pendency of any such suspension, also be suspended. Such notice shall contain such information, and be in such form, manner, and style, as the administering authority, in consultation with the Commission, shall prescribe by regulations.

(4) Exception to exclusive binational panel review for constitutional issues

(A) Constitutionality of binational panel review system

An action for declaratory judgment or injunctive relief, or both, regarding a determination on the grounds that any provision of, or amendment made by, the North American Free Trade Agreement Implementation Act implementing the binational dispute settlement system under chapter 19 of the NAFTA, or the United States-Canada Free-Trade Agreement Implementation Act of 1988 implementing the binational panel dispute settlement system under chapter 19 of the Agreement, violates the Constitution may be brought only in the United States Court of Appeals for the District of Columbia Circuit, which shall have jurisdiction of such action.

(B) Other constitutional review

Review is available under subsection (a) of this section with respect to a determination solely concerning a constitutional issue (other than an issue to which subparagraph (A) applies) arising under any law of the United States as enacted or applied. An action for review under this subparagraph shall be assigned to a 3-judge panel of the United States Court of International Trade.

(C) Commencement of review

Notwithstanding the time limits in subsection (a) of this section, within 30 days after the date of publication in the Federal Register of notice that binational panel review has been completed, an interested party who is a party to the proceeding in connection with which the matter arises may commence an action under subparagraph (A) or (B) by filing an action in accordance with the rules of the court.

(D) Transfer of actions to appropriate court

Whenever an action is filed in a court under subparagraph (A) or (B) and that court finds that the action should have been filed in the other court, the court in which the action was filed shall transfer the action to the other court and the action shall proceed as if it had been filed in the court to which it is transferred on the date upon which it was actually filed in the court from which it is transferred.

(E) Frivolous claims

Frivolous claims brought under subparagraph (A) or (B) are subject to dismissal and sanctions as provided under section 1927 of title 28 and the Federal Rules of Civil Procedure.

(F) Security

(i) Subparagraph (A) actions

The security requirements of rule 65(c) of the Federal Rules of Civil Procedure apply with respect to actions commenced under subparagraph (A).

(ii) Subparagraph (B) actions

No claim shall be heard, and no temporary restraining order or temporary or permanent injunction shall be issued, under an action commenced under subparagraph (B), unless the party seeking review first files an undertaking with adequate security in an amount to be fixed by the court sufficient to recompense parties affected for any loss, expense, or damage caused by the improvident or erroneous issuance of such order or injunction. If a court upholds the constitutionality of the determination in question in such action, the court shall award to a prevailing party fees and expenses, in addition to any costs incurred by that party, unless the court finds that the position of the other party was substantially justified or that special circumstances make an award unjust.

(G) Panel record

The record of proceedings before the binational panel shall not be considered part of the record for review pursuant to subparagraph (A) or (B).

(H) Appeal to Supreme Court of court orders issued in subparagraph (A) actions

Notwithstanding any other provision of law, any final judgment of the United States Court of Appeals for the District of Columbia Circuit which is issued pursuant to an action brought under subparagraph (A) shall be reviewable by appeal directly to the Supreme Court of the United States. Any such appeal shall be taken by a notice of appeal filed within 10 days after such order is entered; and the jurisdictional statement shall be filed within 30 days after such order is entered. No stay of an order issued pursuant to an action brought under subparagraph (A) may be issued by a single Justice of the Supreme Court.

(5) Liquidation of entries

(A) Application

In the case of a determination for which binational panel review is requested pursuant to article 1904 of the NAFTA or of the Agreement, the rules provided in this paragraph shall apply, notwithstanding the provisions of subsection (c) of this section.

(B) General rule

In the case of a determination for which binational panel review is requested pursuant to article 1904 of the NAFTA or of the Agreement, entries of merchandise covered by such determination shall be liquidated in accordance with the determination of the administering authority or the Commission, if they are entered, or withdrawn from warehouse, for consumption on or before the date of publication in the Federal Register by the administering authority of notice of a final decision of a binational panel, or of an extraordinary challenge committee, not in harmony with that determination. Such notice of a decision shall be published within 10 days of the date of the issuance of the panel or committee decision.

(C) Suspension of liquidation

(i) In general

Notwithstanding the provisions of subparagraph (B), in the case of a determination described in clause (iii) or (vi) of subsection (a)(2)(B) of this section for which binational panel review is requested pursuant to article 1904 of the NAFTA or of the Agreement, the administering authority, upon request of an interested party who was a party to the proceeding in connection with which the matter arises and who is a participant in the binational panel review, shall order the continued suspension of liquidation of those entries of merchandise covered by the determination that are involved in the review pending the final disposition of the review.

(ii) Notice

At the same time as the interested party makes its request to the administering authority under clause (i), that party shall serve a copy of its request on the United States Secretary, the relevant FTA Secretary, and all interested parties who were parties to the proceeding in connection with which the matter arises.

(iii) Application of suspension

If the interested party requesting continued suspension of liquidation under clause (i) is a foreign manufacturer, producer, or exporter, or a United States importer, the continued suspension of liquidation shall apply only to entries of merchandise manufactured, produced, exported, or imported by that particular manufacturer, producer, exporter, or importer. If the interested party requesting the continued suspension of liquidation under clause (i) is an interested party described in subparagraph (C), (D), (E), or (F) of section 1677(9) of this title, the continued suspension of liquidation shall apply only to entries which could be affected by a decision of the binational panel convened under chapter 19 of the NAFTA or of the Agreement.

(iv) Judicial review

Any action taken by the administering authority or the United States Customs Service under this subparagraph shall not be subject to judicial review, and no court of the United States shall have power or jurisdiction to review such action on any question of law or fact by an action in the nature of mandamus or otherwise.

(6) Injunctive relief

Except for cases under paragraph (4)(B), in the case of a determination for which binational panel review is requested pursuant to article 1904 of the NAFTA or of the Agreement, the provisions of subsection (c)(2) of this section shall not apply.

(7) Implementation of international obligations under article 1904 of the NAFTA or the Agreement

(A) Action upon remand

If a determination is referred to a binational panel or extraordinary challenge committee under the NAFTA or the Agreement and the panel or committee makes a decision remanding the determination to the administering authority or the Commission, the administering authority or the Commission shall, within the period specified by the panel or committee, take action not inconsistent with the decision of the panel or committee. Any action taken by the administering authority or the Commission under this paragraph shall not be subject to judicial review, and no court of the United States shall have power or jurisdiction to review such action on any question of law or fact by an action in the nature of mandamus or otherwise.

(B) Application if subparagraph (A) held unconstitutional

In the event that the provisions of subparagraph (A) are held unconstitutional

under the provisions of subparagraphs (A) and (H) of paragraph (4), the provisions of this subparagraph shall take effect. In such event, the President is authorized on behalf of the United States to accept, as a whole, the decision of a binational panel or extraordinary challenge committee remanding the determination to the administering authority or the Commission within the period specified by the panel or committee. Upon acceptance by the President of such a decision, the administering authority or the Commission shall, within the period specified by the panel or committee, take action not inconsistent with such decision. Any action taken by the President, the administering authority, or the Commission under this subparagraph shall not be subject to judicial review, and no court of the United States shall have power or jurisdiction to review such action on any question of law or fact by an action in the nature of mandamus or otherwise.

(8) Requests for binational panel review

(A) Interested party requests for binational panel review

(i) General rule

An interested party who was a party to the proceeding in which a determination is made may request binational panel review of such determination by filing a request with the United States Secretary by no later than the date that is 30 days after the date described in subparagraph (A), (B), or (E) of subsection (a)(5) of this section that is applicable to such determination. Receipt of such request by the United States Secretary shall be deemed to be a request for binational panel review within the meaning of article 1904(4) of the NAFTA or of the Agreement. Such request shall contain such information and be in such form, manner, and style as the administering authority, in consultation with the Commission, shall prescribe by regulations.

(ii) Suspension of time to request binational panel review under the NAFTA

Notwithstanding clause (i), the time for requesting binational panel review shall be suspended during the pendency of any stay of binational panel review that is issued pursuant to paragraph 11(a) of article 1905 of the NAFTA.

(B) Service of request for binational panel review

(i) Service by interested party

If a request for binational panel review of a determination is filed under subparagraph (A), the party making the request shall serve a copy, by mail or personal service, on any other interested party who was a party to the proceeding in connection with which the matter arises, and on the administering authority or the Commission, as appropriate.

(ii) Service by United States Secretary

If an interested party to the proceeding requests binational panel review of a determination by filing a request with the relevant FTA Secretary, the United States Secretary shall serve a copy of the request by mail on any other interested party who was a party to the proceeding in connection with which the matter arises, and on the administering authority or the Commission, as appropriate.

(C) Limitation on request for binational panel review

Absent a request by an interested party under subparagraph (A), the United States may not request binational panel review of a determination under article 1904 of the NAFTA or the Agreement.

(9) Representation in panel proceedings

In the case of binational panel proceedings convened under chapter 19 of the NAFTA or of the Agreement, the administering authority and the Commission shall be represented by attorneys who are employees of the administering authority or the Commission, respectively. Interested parties who were parties to the proceeding in connection with which the matter arises shall have the right to appear and be represented by counsel before the binational panel.

(10) Notification of class or kind rulings

In the case of a determination which is described in paragraph (2)(B)(vi) of subsection (a) of this section and which is subject to the provisions of paragraph (2), the administering authority, upon request, shall inform any interested person of the date on which the Government of the relevant FTA country received notice of the determination under paragraph 4 of article 1904 of the NAFTA or the Agreement.

(11) Suspension and termination of suspension of article 1904 of the NAFTA

(A) Suspension of article 1904

If a special committee established under article 1905 of the NAFTA issues an affirmative finding, the Trade Representative may, in accordance with paragraph 8(a) or 9, as appropriate, of article 1905 of the NAFTA, suspend the operation of article 1904 of the NAFTA.

(B) Termination of suspension of article 1904

If a special committee is reconvened and makes an affirmative determination described in paragraph 10(b) of article 1905 of the NAFTA, any suspension of the operation of article 1904 of the NAFTA shall terminate.

(12) Judicial review upon termination of binational panel or committee review under the NAFTA

(A) Notice of suspension or termination of suspension of article 1904

(i) Upon notification by the Trade Representative or the Government of a country described in subsection (f)(10)(A) or (B) of this section that the operation of article 1904 of the NAFTA has been suspended in accordance with paragraph 8(a) or 9 of article 1905 of the NAFTA, the United States Secretary shall publish in the Federal Register a no-

tice of suspension of article 1904 of the NAFTA.

(ii) Upon notification by the Trade Representative or the Government of a country described in subsection (f)(10)(A) or (B) of this section that the suspension of the operation of article 1904 of the NAFTA is terminated in accordance with paragraph 10 of article 1905 of the NAFTA, the United States Secretary shall publish in the Federal Register a notice of termination of suspension of article 1904 of the NAFTA.

(B) Transfer of final determinations for judicial review upon suspension of article 1904

If the operation of article 1904 of the NAFTA is suspended in accordance with paragraph 8(a) or 9 of article 1905 of the NAFTA—

(i) upon the request of an authorized person described in subparagraph (C), any final determination that is the subject of a binational panel review or an extraordinary challenge committee review shall be transferred to the United States Court of International Trade (in accordance with rules issued by the Court) for review under subsection (a) of this section; or

(ii) in a case in which—

(I) a binational panel review was completed fewer than 30 days before the suspension, and

(II) extraordinary challenge committee review has not been requested,

upon the request of an authorized person described in subparagraph (C) which is made within 60 days after the completion of the binational panel review, the final determination that was the subject of the binational panel review shall be transferred to the United States Court of International Trade (in accordance with rules issued by the Court) for review under subsection (a) of this section.

(C) Persons authorized to request transfer of final determinations for judicial review

A request that a final determination be transferred to the Court of International Trade under subparagraph (B) may be made by—

(i) if the United States made an allegation under paragraph 1 of article 1905 of the NAFTA and the operation of article 1904 of the NAFTA was suspended pursuant to paragraph 8(a) of article 1905 of the NAFTA—

(I) the government of the relevant country described in subsection (f)(10)(A) or (B) of this section,

(II) an interested party that was a party to the panel or committee review, or

(III) an interested party that was a party to the proceeding in connection with which panel review was requested, but only if the time period for filing notices of appearance in the panel review has not expired, or

(ii) if a country described in subsection (f)(10)(A) or (B) of this section made an allegation under paragraph 1 of article 1905 of the NAFTA and the operation of article 1904 of the NAFTA was suspended pursuant to paragraph 9 of article 1905 of the NAFTA—

(I) the government of that country,

(II) an interested party that is a person of that country and that was a party to the panel or committee review, or

(III) an interested party that is a person of that country and that was a party to the proceeding in connection with which panel review was requested, but only if the time period for filing notices of appearance in the panel review has not expired.

(D) Transfer for judicial review upon settlement

(i) If the Trade Representative achieves a settlement with the government of a country described in subsection (f)(10)(A) or (B) of this section pursuant to paragraph 7 of article 1905 of the NAFTA, and referral for judicial review is among the terms of such settlement, any final determination that is the subject of a binational panel review or an extraordinary challenge committee review shall, upon a request described in clause (ii), be transferred to the United States Court of International Trade (in accordance with rules issued by the Court) for review under subsection (a) of this section.

(ii) A request referred to in clause (i) is a request made by—

(I) the country referred to in clause (i),

(II) an interested party that was a party to the panel or committee review, or

(III) an interested party that was a party to the proceeding in connection with which panel review was requested, but only if the time for filing notices of appearance in the panel review has not expired.

(June 17, 1930, ch. 497, title IV, §516A, as added Pub. L. 96–39, title X, §1001(a), July 26, 1979, 93 Stat. 300; amended Pub. L. 96–417, title VI, §§601(7), 608, Oct. 10, 1980, 94 Stat. 1744, 1745; Pub. L. 96–542, §2, Dec. 17, 1980, 94 Stat. 3210; Pub. L. 97–164, title I, §163(a)(2), Apr. 2, 1982, 96 Stat. 49; Pub. L. 98–573, title VI, §623(a), Oct. 30, 1984, 98 Stat. 3040; Pub. L. 99–514, title XVIII, §1888(6), Oct. 22, 1986, 100 Stat. 2925; Pub. L. 100–449, title IV, §401, Sept. 28, 1988, 102 Stat. 1878; Pub. L. 101–382, title I, §134(a)(3), Aug. 20, 1990, 104 Stat. 649; Pub. L. 103–182, title IV, §411, Dec. 8, 1993, 107 Stat. 2140; Pub. L. 103–465, title I, §129(e), title II, §§220(b), 270(a)(1)(N), 271(b), Dec. 8, 1994, 108 Stat. 4838, 4864, 4917, 4921; Pub. L. 104–295, §§20(a)(1), 21(c)(3), 22, Oct. 11, 1996, 110 Stat. 3526, 3530, 3531; Pub. L. 109–432, div. D, title III, §3002, Dec. 20, 2006, 120 Stat. 3173.)

REFERENCES IN TEXT

Section 1303 of this title, referred to in subsec. (d), is defined in section 1677(26) of this title to mean section 1330 as in effect on the day before Jan. 1, 1995.

The North American Free Trade Agreement Implementation Act, referred to in subsec. (g)(4)(A), is Pub. L. 103–182, Dec. 8, 1993, 107 Stat. 2057, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 3301 of this title and Tables.

The United States-Canada Free-Trade Agreement Implementation Act of 1988, referred to in subsec. (g)(4)(A), is Pub. L. 100–449, Sept. 28, 1988, 102 Stat. 1851, which is set out as a note under section 2112 of this title. For complete classification of this Act to the Code, see Tables.

The Federal Rules of Civil Procedure, referred to in subsec. (g)(4)(E), (F), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

CODIFICATION

In the original, section 1001(a) of Pub. L. 96–39 directed that this section, designated as section 516A, be added to title V of the Tariff Act of 1930, however, since a title V of the Tariff Act of 1930 has not been enacted, this section was added to title IV of the Tariff Act of 1930 to reflect the probable intent of Congress.

AMENDMENTS

2006—Subsec. (g)(1)(B). Pub. L. 109–432 substituted ''(vi), or (vii)'' for ''or (vi)''.

1996—Subsec. (a)(2)(A)(i)(I). Pub. L. 104–295, § 20(a)(1), inserted comma after ''subparagraph (B)''.

Subsec. (g)(4)(A). Pub. L. 104–295, § 22, substituted ''Agreement Implementation Act of 1988'' for ''Implementation Agreement Act of 1988''.

Subsec. (g)(12)(D). Pub. L. 104–295, § 21(c)(3), transferred designation ''(i)'' from heading to before sentence beginning ''If the Trade Representative''.

1994—Subsec. (a)(1)(D). Pub. L. 103–465, § 220(b)(1), added subpar. (D).

Subsec. (a)(2)(A)(i)(I). Pub. L. 103–465, § 271(b)(1), substituted ''(v), or (viii)'' for ''or (v)''.

Pub. L. 103–465, § 129(e)(1)(A)(i), struck out '', or'' after ''(B)''.

Subsec. (a)(2)(A)(i)(III). Pub. L. 103–465, § 129(e)(1)(A)(ii), added subcl. (III).

Subsec. (a)(2)(B)(iv). Pub. L. 103–465, § 270(a)(1)(N), inserted ''countervailable'' before ''subsidy''.

Subsec. (a)(2)(B)(vii). Pub. L. 103–465, § 129(e)(1)(B), added cl. (vii).

Subsec. (a)(2)(B)(viii). Pub. L. 103–465, § 271(b)(2), added cl. (viii).

Subsec. (a)(5)(E). Pub. L. 103–465, § 129(e)(2), added subpar. (E).

Subsec. (b)(1)(A). Pub. L. 103–465, § 220(b)(2)(A), substituted ''under subparagraph (A), (B), or (C) of subsection (a)(1) of this section'' for ''under paragraph (1) of subsection (a) of this section''.

Subsec. (b)(1)(B). Pub. L. 103–465, § 220(b)(2)(B), designated existing provisions as cl. (i), substituted '', or'' for period at end, and added cl. (ii).

Subsec. (g)(8)(A)(i). Pub. L. 103–465, § 129(e)(3), substituted ''(A), (B), or (E)'' for ''(A) or (B)''.

1993—Subsec. (a)(5). Pub. L. 103–182, § 411(1), amended par. (5) generally, substituting present provisions for provisions relating to time limits for commencing review in cases involving Canadian merchandise.

Subsec. (b)(3). Pub. L. 103–182, § 411(2), inserted ''NAFTA or'' after ''decisions by'' in heading and ''of the NAFTA or'' after ''article 1904'' in text.

Subsec. (f)(6), (7). Pub. L. 103–182, § 411(3)(A), amended pars. (6) and (7) generally, substituting present provisions for provisions which, in par. (6) defined ''United States Secretary'' as the secretary provided for in paragraph 4 of article 1909 of the United States-Canada Free-Trade Agreement, and in par. (7), defined ''Canadian Secretary'' as the secretary provided for in paragraph 5 of article 1909 of the Agreement.

Subsec. (f)(8) to (10). Pub. L. 103–182, § 411(3)(B), added pars. (8) to (10).

Subsec. (g). Pub. L. 103–182, § 411(4)(A), substituted ''free trade area country merchandise'' for ''Canadian merchandise'' in heading.

Subsec. (g)(1). Pub. L. 103–182, § 411(4)(B), substituted ''free trade area country merchandise'' for ''Canadian merchandise'' in concluding provisions.

Subsec. (g)(2). Pub. L. 103–182, § 411(4)(C), inserted ''of the NAFTA or'' after ''article 1904'' in introductory provisions.

Subsec. (g)(3)(A). Pub. L. 103–182, § 411(4)(D), in cl. (i), substituted ''nor the relevant FTA country'' for ''nor Canada'' and inserted ''of the NAFTA or'' before ''of the Agreement'', in cl. (ii), substituted ''nor the relevant FTA country'' for ''nor Canada'', in cl. (iii), inserted ''of the NAFTA or'' before ''of the Agreement'' and struck out ''or'' at end, in cl. (iv), struck out ''under paragraph (2)(A)'' before ''is not reviewable'' and substituted a comma for period at end, and added cls. (v) and (vi).

Subsec. (g)(3)(B). Pub. L. 103–182, § 411(4)(E), substituted first two sentences for former sentences which read as follows: ''A determination described in subparagraph (A)(i) or (iv) is reviewable under subsection (a) of this section only if the party seeking to commence review has provided timely notice of its intent to commence such review to the United States Secretary, the Canadian Secretary, all interested parties who were parties to the proceeding in connection with which the matter arises, and the administering authority or the Commission, as appropriate. Such notice is provided timely if the notice is delivered by no later than the date that is 20 days after the date described in subparagraph (A) or (B) of subsection (a)(5) of this section that is applicable to such determination.''

Subsec. (g)(4)(A). Pub. L. 103–182, § 411(4)(F), inserted ''the North American Free Trade Agreement Implementation Act implementing the binational dispute settlement system under chapter 19 of the NAFTA, or'' after ''or amendment made by,'', a comma before ''violates'', ''only'' after ''may be brought'', and '', which shall have jurisdiction of such action'' after ''Circuit'' and struck out at end ''Any action brought under this subparagraph shall be heard and determined by a 3-judge court in accordance with section 2284 of title 28.''

Subsec. (g)(5). Pub. L. 103–182, § 411(4)(G), inserted ''of the NAFTA or'' after ''article 1904'' in subpars. (A), (B), and (C)(i), substituted '', the relevant FTA Secretary,'' for '', the Canadian Secretary,'' in subpar. (C)(ii), and inserted ''of the NAFTA or'' after ''chapter 19'' in subpar. (C)(iii).

Subsec. (g)(6). Pub. L. 103–182, § 411(4)(H), inserted ''of the NAFTA or'' after ''article 1904''.

Subsec. (g)(7). Pub. L. 103–182, § 411(4)(I)(i), inserted ''of the NAFTA or the Agreement'' in heading.

Subsec. (g)(7)(A). Pub. L. 103–182, § 411(4)(I)(ii), (iii), substituted heading for one which read ''In general'' and inserted ''the NAFTA or'' before ''the Agreement''.

Subsec. (g)(8)(A). Pub. L. 103–182, § 411(4)(J), designated existing provisions as cl. (i), inserted cl. heading, realigned margin, inserted ''of the NAFTA or'' after ''article 1904(4)'', and added cl. (ii).

Subsec. (g)(8)(B)(ii). Pub. L. 103–182, § 411(4)(K), substituted ''relevant FTA Secretary'' for ''Canadian Secretary''.

Subsec. (g)(8)(C). Pub. L. 103–182, § 411(4)(L), substituted ''of a determination under article 1904 of the NAFTA or the Agreement'' for ''under article 1904 of the Agreement of a determination''.

Subsec. (g)(9). Pub. L. 103–182, § 411(4)(M), inserted ''of the NAFTA or'' after ''chapter 19''.

Subsec. (g)(10). Pub. L. 103–182, § 411(4)(N), substituted ''Government of the relevant FTA country received notice of the determination under paragraph 4 of article 1904 of the NAFTA or the Agreement'' for ''Government of Canada received notice of the determination under article 1904(4) of the Agreement''.

Subsec. (g)(11), (12). Pub. L. 103–182, § 411(4)(O), added pars. (11) and (12).

1990—Subsec. (a)(5)(A). Pub. L. 101–382, § 134(a)(3)(A)(i), added subpar. (A) and struck out former subpar. (A) which read as follows: ''the date of publication in the Federal Register of—

''(i) notice of any determination described in paragraph (1)(B) or a determination described in clause (ii) or (iii) of paragraph (2)(B), or

''(ii) an antidumping or countervailing duty order based upon any determination described in clause (i) of paragraph (2)(B), or''.

Subsec. (a)(5)(C). Pub. L. 101–382, § 134(a)(3)(A)(ii), added subpar. (C).

Subsec. (g)(3)(A)(iv). Pub. L. 101–382, §134(a)(3)(B)(i), added cl. (iv).

Subsec. (g)(3)(B). Pub. L. 101–382, §134(a)(3)(B)(ii), inserted ''or (iv)'' after ''subparagraph (A)(i)''.

1988—Subsec. (a)(5). Pub. L. 100–449, §401(a), added par. (5).

Subsec. (b)(3). Pub. L. 100–449, §401(d), added par. (3).

Subsec. (f)(5) to (7). Pub. L. 100–449, §401(b), added pars. (5) to (7).

Subsec. (g). Pub. L. 100–449, §401(c), added subsec. (g).

1986—Subsec. (a)(3). Pub. L. 99–514 substituted ''(2)(A)(i)(II)'' for ''(2)(A)(ii)''.

1984—Subsec. (a)(1). Pub. L. 98–573, §623(a)(1), amended par. (1) generally, and thereby struck out the designation ''(A)'' before ''Within 30 days'', redesignated former cls. (i) to (iii) as subpars. (A) to (C), respectively, in subpar. (A) as so redesignated struck out references to the Secretary and to section 1303(a)(3) of this title, in subpar. (B) as so redesignated struck out reference to the administering authority and to review of agreements based on changed circumstances, and struck out former subpar. (B), relating to a right of judicial review of certain determinations of the administering authority within 10 days after publication of notice of the determination in the Federal Register.

Subsec. (a)(2)(A). Pub. L. 98–573, §623(a)(2), inserted the designation ''(i)'' before ''the date of publication in the Federal Register of'', redesignated cls. (i) and (ii) as subcls. (I) and (II), respectively, and added cl. (ii).

Subsec. (a)(2)(B)(i). Pub. L. 98–573, §623(a)(3), amended cl. (i) generally and thereby struck out provisions referring to final affirmative determinations by the Secretary and by the Commission under section 1303 of this title, and inserted reference to any negative part of decisions under section 1671d or 1673d of this title.

Subsec. (a)(2)(B)(ii). Pub. L. 98–573, §623(a)(3), amended cl. (ii) generally and thereby struck out references to the Secretary and to section 1303 of this title and inserted provision relating to any part of a final affirmative determination which specifically excludes any company or product.

Subsec. (a)(2)(B)(iii). Pub. L. 98–573, §623(a)(3), amended cl. (iii) generally and thereby substituted provisions relating to final determinations by the administering authority or the Commission for provisions relating to determinations by the Secretary, the administering authority, or the Commission.

Subsec. (a)(2)(B)(iv). Pub. L. 98–573, §623(a)(3), amended cl. (iv) generally and thereby inserted provision relating to any final determination resulting from a continued investigation which changes the size of the dumping margin or net subsidy calculated, or the reasoning underlying such calculations, at the time the suspension agreement was concluded.

Subsec. (a)(2)(B)(vi). Pub. L. 98–573, §623(a)(3), added cl. (vi).

Subsec. (a)(3), (4). Pub. L. 98–573, §623(a)(4), added par. (3) and redesignated former par. (3) as (4).

1982—Subsecs. (c)(1), (e). Pub. L. 97–164 substituted ''Court of Appeals for the Federal Circuit'' for ''Court of Customs and Patent Appeals''.

1980—Subsec. (a)(1). Pub. L. 96–417, §608(a), inserted subpar. ''(A) Thirty-day review'' heading; redesignated as cls. (i), (ii), and (iii) of subpar. (A) provisions formerly designated as subpars. (A), (C), and (D) of par. (1); inserted subpar. ''(B) Ten-day review'' heading and its introductory text; redesignated as cls. (i) and (ii) of subpar. (B) provisions formerly designated as subpars. (B) and (E) of par. (1), thus substituting ten-day for thirty-day review for such clauses; enacted provision respecting commencement of action by an interested party following subpars. (A) and (B), formerly enacted following only par. (1); and redesignated the United States Customs Court as the United States Court of International Trade in the latter provisions.

Subsec. (a)(2)(A). Pub. L. 96–417, §601(7), redesignated the United States Customs Court as the United States Court of International Trade.

Subsec. (a)(3). Pub. L. 96–542 substituted ''chapter 169 of title 28'' for ''subsections (b), (c), and (e) of chapter 169 of title 28''.

Pub. L. 96–417, §608(b), substituted ''chapter 169 of title 28'' for ''section 2632 of title 28''.

Subsec. (c)(1), (2). Pub. L. 96–417, §§601(7), 608(c), redesignated in pars. (1) and (2) the United States Customs Court as the United States Court of International Trade and deleted from par. (2) the criteria to be considered in ruling on an injunction, namely, the party likely to prevail, irreparable harm, public interest, and greater harm.

Subsec. (d). Pub. L. 96–417, §§601(7), 608(d), redesignated the United States Customs Court as the United States Court of International Trade and substituted requirement for notification of ''all such interested parties of the filing of an action under this section, in the form, manner, style, and within the time prescribed by rules of the court'' for prior notice requirement to ''all interested parties of the filing of an action pursuant to this section''.

Subsec. (e). Pub. L. 96–417, §601(7), redesignated the United States Customs Court as the United States Court of International Trade.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 129(e) of Pub. L. 103–465 effective on the date on which the WTO Agreement enters into force with respect to the United States [Jan. 1, 1995], see section 130 of Pub. L. 103–465, set out as an Effective Date note under section 3531 of this title.

Amendment by sections 220(b), 270(a)(1)(N), and 271(b) of Pub. L. 103–465 effective, except as otherwise provided, on the date on which the WTO Agreement enters into force with respect to the United States [Jan. 1, 1995], and applicable with respect to investigations, reviews, and inquiries initiated and petitions filed under specified provisions of this chapter after such date, see section 291 of Pub. L. 103–465, set out as a note under section 1671 of this title.

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 this title, 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 this title, 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 this title.

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 this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by 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 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 Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1980 AMENDMENTS

Section 3 of Pub. L. 96–542 provided that: ''The amendments made by this Act [amending this section

and provisions set out as a note under section 251 of Title 28, Judiciary and Judicial Procedure] shall be effective as of November 1, 1980.''

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.

EFFECTIVE DATE; TRANSITIONAL RULES

Section 1002 of title X of Pub. L. 96–39 provided that:

''(a) EFFECTIVE DATE.—The amendments made by this title [enacting this section and amending sections 1514, 1515, and 1516 of this title and sections 1541, 1582, 2632, 2633, and 2637 of Title 28, Judiciary and Judicial Procedure] shall take effect on that date (hereinafter in this section referred to as the 'effective date') on which title VII of the Tariff Act of 1930 [subtitle IV of this chapter] (as added by title I of this Act) takes effect [Jan. 1, 1980]; and section 515(a) of such Act of 1930 [section 1515(a) of this title] (as amended by section 1001(b)(2)) shall apply with respect to any denial, in whole or in part, of a protest filed under section 514 of such Act of 1930 [section 1514 of this title] on or after the effective date.

''(b) TRANSITIONAL RULES.—

''(1) CERTAIN PROTESTS, PETITIONS, ACTIONS, ETC.—The amendments made by this title [enacting this section and amending sections 1514, 1515, and 1516 of this title and sections 1541, 1582, 2632, 2633, and 2637 of Title 28, Judiciary and Judicial Procedure] shall not apply with respect to—

''(A) any protest, petition, or notice of desire to contest filed before the effective date [Jan. 1, 1980] under section 514, 516(a), or 516(d), respectively, of the Tariff Act of 1930 [section 1514, 1516(a), or 1516(d) of this title];

''(B) any civil action commenced before the effective date [Jan. 1, 1980] under section 2632 of title 28 of the United States Code; or

''(C) any civil action commenced after the effective date [Jan. 1, 1980] under such section 2632 if the protest, petition, or notice of desire to contest (under section 514, 516(a), or 516(d), respectively, of the Tariff Act of 1930) on which such action is based was filed before such effective date.

''(2) LAW TO BE APPLIED FOR PURPOSES OF SUCH ACTIONS.—Notwithstanding the repeal of the Antidumping Act, 1921 [sections 160 to 171 of this title], by section 106(a) of this Act, and the amendment of section 303 of the Tariff Act of 1930 [section 1303 of this title] by section 103 of this Act, the law in effect on the date of any finding or determination contested in a civil action described in subparagraph (A), (B), or (C) of paragraph (1) shall be applied for purposes of that action.

''(3) CERTAIN COUNTERVAILING AND ANTIDUMPING DUTY ASSESSMENTS.—The amendments made by this title [enacting this section and amending sections 1514, 1515, and 1516 of this title and sections 1541, 1582, 2632, 2633, and 2637 of Title 28, Judiciary and Judicial Procedure] shall apply with respect to the review of the assessment of, or failure to assess, any countervailing duty or antidumping duty on entries subject to a countervailing duty order or antidumping finding if the assessment is made after the effective date. If no assessment of such duty had been made before the effective date that could serve the party seeking review as the basis of a review of the underlying determination, made by the Secretary of the Treasury or the International Trade Commission before the effective date, on which such order, finding, or lack thereof is based, then the underlying determination shall be subject to review in accordance with the law in effect on the day before the effective date.

''(4) CERTAIN COUNTERVAILING AND ANTIDUMPING DUTY DETERMINATIONS.—With respect to any preliminary determination or final determination of the Secretary of the Treasury under section 303 of the Tariff Act of 1930 [section 1303 of this title] or the Antidumping Act, 1921 [sections 160 to 171 of this title], which is treated under section 102 of this Act [set out as a note under section 1671 of this title] as if made under section 703(b), 705(a), 733(b), or 735(a) of the Tariff Act of 1930 [section 1671b(b), 1671d(a), 1673b(b), or 1673d(a) of this title] (as added by title I of this Act) such determinations shall be subject to judicial review in the same manner and to the same extent as if made on the day before the effective date.''

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.

EFFECT OF TERMINATION OF NAFTA COUNTRY STATUS

For provisions relating to effect of termination of NAFTA country status on the provisions of sections 401 to 416 of Pub. L. 103–182, see section 3451 of this title.

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, as amended, set out as a note under section 401 of Title 26, Internal Revenue Code.

ACCEPTANCE BY PRESIDENT OF PANEL AND COMMITTEE DECISIONS

For acceptance by President of decisions of binational panels and extraordinary challenge committees in event that subsec. (b)(7)(B) of this section takes effect, see section 2 of Ex. Ord. No. 12889, Dec. 27, 1993, 58 F.R. 69681, set out as a note under section 3311 of this title.

For provision that in the event that subsec. (g)(7)(B) of this section takes effect, the President accepts, as a whole, all decisions of binational panels and extraordinary challenge committees, see section 3 of Ex. Ord. No. 12662, Dec. 31, 1988, 54 F.R. 785, set out as a note under section 2112 of this title.

§§ 1517 to 1519. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948

Section 1517, act June 17, 1930, ch. 497, title IV, § 517, 46 Stat. 737, related to frivolous protest or appeal. See section 2641 of Title 28, Judiciary and Judicial Procedure.

Section 1518, acts June 10, 1890, ch. 407, § 12, 26 Stat. 136; May 27, 1908, ch. 205, § 3, 35 Stat. 406; Aug. 5, 1909, ch. 6, § 28, 36 Stat. 98; May 28, 1926, ch. 411, § 1, 44 Stat. 669; June 17, 1930, ch. 497, title IV, § 518, 46 Stat. 737, related to the judges of the United States Customs Court: their appointment, salary, retirement, vacancies, and powers; the control of the fiscal affairs and of the clerical force of the court; and the division of the court. See sections 251 to 254, 456, 1581, 2071, 2639, and 2640 of Title 28, Judiciary and Judicial Procedure. Last sentence of section, relating to the transfer of unexpended appropriations for salaries to be available for expenditures for the same purposes, was omitted as executed.

Section 1519, act June 17, 1930, ch. 497, title IV, § 519, 46 Stat. 739, related to publication of Customs Court's decisions. See section 255 of Title 28, Judiciary and Judicial Procedure.