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§ 174.31 Judicial review of denial of protest.

Any person whose protest has been denied, in whole or in part, may contest the denial by filing a civil action in the United States Court of International Trade in accordance with 28 U.S.C. 2632 within 180 days after—

(a) The date of mailing of notice of denial, in whole or in part, of a protest,

(b) The date a protest, for which accelerated disposition was requested, is deemed to have been denied in accordance with § 174.22(d), or

(c) The date that a protest is deemed denied in accordance with § 174.21(b), or § 151.16(g) of this chapter.

[T.D. 78-17, 43 FR 1938, Jan. 13, 1978, as amended by T.D. 85-90, 50 FR 21430, May 24, 1985; T.D. 99-65, 64 FR 43612, Aug. 11, 1999]

§ 174.32 Publication.

Within 120 days after issuing a protest review decision, the Customs Service shall publish the decision in the Customs Bulletin or otherwise make it available for public inspection. Disclosure is governed by 31 CFR part 1 and 19 CFR part 103.

[T.D. 78-394, 43 FR 49791, Oct. 25, 1978]

PART 175—PETITIONS BY DOMESTIC INTERESTED PARTIES

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175.31 Publication of notice of court decision.

AUTHORITY: R.S. 251, as amended, secs. 516, 624, 46 Stat. 735, as amended, 759; 19 U.S.C. 66, 1516, 1624, unless otherwise noted.

SOURCE: T.D. 70-181, 35 FR 13432, Aug. 22, 1970, unless otherwise noted.

§ 175.0 Scope.

This part sets forth the procedures applicable to requests by domestic interested parties for the classification and rate of duty applicable to designated imported merchandise, and to petitions alleging that the appraised value is too low, that the classification is not correct, or that the proper rate of duty is not being assessed upon designated imported merchandise which is claimed to be similar to the class or kind of merchandise manufactured, produced, or wholesaled by the petitioner.

[T.D. 70-181, 35 FR 13432, Aug. 22, 1970, as amended by T.D. 80-271, 45 FR 75642, Nov. 17, 1980]

Subpart A—Request for Classification, Appraised Value and Rate of Duty

§ 175.1 Submission of request.

Written requests pursuant to section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516), for information as to the classification, appraised value and rate of duty imposed upon designated imported merchandise shall be submitted in triplicate to the Commissioner of Customs.

[T.D. 70-181, 35 FR 13432, Aug. 22, 1970, as amended by T.D. 80-271, 45 FR 75642, Nov. 17, 1980]

§ 175.2 Contents of request.

The request for information shall contain the following information:

(a) The name of the person making the request, his principal place of business, and the fact that he is a domestic interested party;

(b) A designation of the imported merchandise for which the classification, appraised value and rate is requested; and

(c) A showing of the class or kind of merchandise manufactured, produced, or sold by him which is claimed to be similar to the imported merchandise in such detail as will permit the Commissioner to establish the similarity between the domestic and foreign merchandise.

[T.D. 70-181, 35 FR 13432, Aug. 22, 1970, as amended by T.D. 80-271, 45 FR 75642, Nov. 17, 1980]

§ 175.3 Domestic interested party.

“Domestic interested party”, when used in this part, means:

(a) A manufacturer, producer, or wholesaler in the United States of a like product,

(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 of a like product, or

(c) A trade or business association a majority of whose members manufacture, produce, or wholesale a like product in the United States.

[T.D. 80-271, 45 FR 75642, Nov. 17, 1980]

Subpart B—Petitions

§ 175.11 Filing of petitions.

(a) *Number of copies and where filed.* All petitions pursuant to section 516 Tariff Act of 1930, as amended (19 U.S.C. 1516), shall be submitted to the Commissioner of Customs in triplicate.

(b) *By whom filed.* Petitions may be filed by the domestic interested parties themselves, or by duly authorized attorneys or agents on their behalf. A petition filed by a corporation shall be signed by an officer thereof, and petition filed by a partnership shall be signed by a member thereof.

[T.D. 70-181, 35 FR 13432, Aug. 22, 1970, as amended by T.D. 80-271, 45 FR 75642, Nov. 17, 1980]

§ 175.12 Contents of petition.

The petition shall be itemized as to each class or kind of merchandise involved, and shall contain the following:

(a) The name of the petitioner, his principal place of business, and the fact that he is a domestic interested party;

(b) A statement showing the class or kind of merchandise manufactured, produced, or sold by him which is claimed to be similar to the imported merchandise in such detail as will permit the Commissioner of Customs to establish the similarity between the domestic and foreign merchandise; and

(c) A presentation, in detail, of the information required by section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516).

[T.D. 70-181, 35 FR 13432, Aug. 22, 1970, as amended by T.D. 80-271, 45 FR 75642, Nov. 17, 1980]

Subpart C—Procedure Following Petition

§ 175.21 Notice of filing of petition, inspection of petition, and inspection of documents and papers.

(a) *Notice of filing of petition.* Upon the filing of a petition, a notice shall be published in the FEDERAL REGISTER setting forth that a petition has been filed by a domestic interested party, identifying the merchandise which is the subject of the petition, and its present and claimed appraised value or classification or rate of duty. The notice shall invite interested persons to make such written submissions as they desire within such time as is specified in the notice.

(b) *Inspection of petition; inspection of documents and papers.* The petition filed by a domestic interested party will be made available for inspection by interested parties in accordance with the provisions of §103.11(b) of this chapter. However, neither a petitioner nor other interested parties shall in any case be permitted to inspect documents or papers of the consignee or importer which are exempted from disclosure by §103.12(d) of this chapter.

(R.S. 251, as amended, secs. 516, 624, 46 Stat. 735, as amended, 759; 5 U.S.C. 552, 19 U.S.C. 66, 1516, 1624)

[T.D. 74-236, 39 FR 33207, Sept. 16, 1974, as amended by T.D. 80-271, 45 FR 75642, Nov. 17, 1980; T.D. 81-168, 46 FR 32574, June 24, 1981]

§ 175.22 Publication of decisions following petition.

(a) *Incorrect appraised value, classification, or rate of duty.* If the appraised

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value of, classification of, or rate of duty upon imported merchandise of the character which is the subject of a petition is found to be incorrect, the Commissioner of Customs shall so inform the petitioner, and shall cause the proper value, classification, or rate of duty to be published in the FEDERAL REGISTER and the weekly Customs Bulletin. Such merchandise entered for consumption or withdrawn from warehouse for consumption after 30 days after the date of publication of such notice to the petitioner in the Customs Bulletin shall be appraised, classified, or assessed as to rate of duty in accordance with the published decision.

(b) *Correct appraised value, classification, or rate of duty.* If the appraised value of, classification of, or rate of duty upon the imported merchandise which is the subject of the petition is found to be correct, the Commissioner of Customs shall so notify the petitioner, but the decision shall not be published.

§ 175.23 Notice of desire to contest decision.

If the petitioner is dissatisfied with the decision of the Commissioner that the appraised value, classification, or rate of duty is correct for the merchandise which was the subject of the petition, in accordance with section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516) he may file with the Commissioner of Customs not later than 30 days after the date of the decision a notice that he desires to contest the appraised value of, classification of, or rate of duty assessed upon the imported merchandise. Such notice shall designate the port or ports at which such merchandise is being imported into the United States, and at which the petitioner desires to protest.

§ 175.24 Publication following notice of desire to contest.

Upon receipt of a properly filed petitioner's notice that he desires to contest the decision as to the appraised value of, classification of, or rate of duty assessed upon the imported merchandise, the Commissioner of Customs shall cause to be published in the FEDERAL REGISTER and the weekly Customs Bulletin a notice of his decision

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as to the proper appraised value of, classification of, or rate of duty assessed upon the imported merchandise, and of petitioner's desire to contest the decision.

§ 175.25 Procedure at port of entry designated by petitioner.

(a) *Information as to character and description of merchandise.* All information secured by the director of the port designated by the petitioner in his notice of desire to contest as to the character and description of merchandise of the kind covered by the petition and entered after publication by the Commissioner of Customs of his decision as to the proper appraised value, classification and rate of duty, and samples of such merchandise, shall be made available to the petitioner upon application by him to the port director.

(b) *Notice of liquidation.* Notice of liquidation of the first of the entries to be liquidated which would enable the petitioner to present the issue desired shall be given to the petitioner by the director of the designated port as required by section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516).

(c) *Further notice when issue not presented.* If, upon examination of the information and inspection of any sample supplied by the port director, the petitioner believes and the port director agrees that the merchandise or the facts surrounding this importation are not sufficient to raise the issue involved in the petition, the port director shall then give the petitioner notice of the first liquidation thereafter which will permit the framing of the issue covered by the petition. The port director shall, under the same conditions, continue to give notice for so long as he is of the opinion that the petitioner affirmatively intends to contest. When the port director concludes that the petitioner does not intend to contest the decision of the Commissioner of Customs, he shall refer the matter to the Commissioner of Customs for his decision before issuing any further notice of liquidation.

[T.D. 70-181, 35 FR 13432, Aug. 22, 1970, as amended by T.D. 99-27, 64 FR 13677, Mar. 22, 1999]

Subpart D—Procedure Following Court Decision

§ 175.31 Publication of notice of court decision.

Notice of a decision of the Court of International Trade or of the Court of Appeals for the Federal Circuit which sustains, in whole or in part, a cause of action before the court under the provisions of section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516), shall be published by the Commissioner of Customs in the FEDERAL REGISTER within 10 days from the date of issuance of the court decision.

[T.D. 80-271, 45 FR 75642, Nov. 17, 1980, as amended by T.D. 85-90, 50 FR 21430, May 24, 1985]

PART 176—PROCEEDINGS IN THE COURT OF INTERNATIONAL TRADE

Sec.
176.0 Scope.

Subpart A—Service

- 176.1 Service of summons.
- 176.2 Service of notice of appeal.

Subpart B—Transmission of Records

176.11 Transmission of records to Court of International Trade.

Subpart C—Statement of Agreed Facts

- 176.21 Referral of statements of agreed facts for certification.
- 176.22 Deletion of protest or entry number.

Subpart D—Procedure Following Court Decision

176.31 Reliquidation following decision of court.

AUTHORITY: R.S. 251, as amended, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624, unless otherwise noted.

§ 176.0 Scope.

This part deals with service of summons and notice of appeal in actions before the Court of International Trade, the transmission of records to the court, statements of agreed facts,

and Customs procedures following a decision by the court.

[T.D. 70-181, 35 FR 13433, Aug. 22, 1970, as amended by T.D. 85-90, 50 FR 21430, May 24, 1985]

Subpart A—Service

§ 176.1 Service of summons.

When an action is initiated in the Court of International Trade a copy of the summons shall be served in the manner prescribed by the Court of International Trade upon the director of each port where a protest cited in the summons was denied, and an additional copy shall be served upon the Assistant Chief Counsel for Court of International Trade Litigation, United States Customs Service, 26 Federal Plaza, New York, N.Y. 10007.

(28 U.S.C. 2632, as amended)

[T.D. 70-181, 35 FR 13433, Aug. 22, 1970, as amended by T.D. 85-90, 50 FR 21430, May 24, 1985]

§ 176.2 Service of notice of appeal.

When the United States is an appellee in an appeal taken to the Court of Appeals for the Federal Circuit, a copy of the notice of appeal shall be served upon the Assistant Chief Counsel for Court of International Trade Litigation.

(28 U.S.C. 2601, as amended)

[T.D. 70-181, 35 FR 13433, Aug. 22, 1970, as amended by T.D. 85-90, 50 FR 21430, May 24, 1985]

Subpart B—Transmission of Records

§ 176.11 Transmission of records to Court of International Trade.

Upon receipt of service of a summons in an action initiated in the Court of International Trade the following items shall be immediately transmitted to the Court of International Trade as part of the official record by the Customs officer concerned:

- (a) Consumption or other entry;
- (b) Commercial invoice;
- (c) Special Customs invoice;
- (d) Copy of protest and any amendments thereto;