

Union Calendar No. 767

96TH CONGRESS
2D SESSION

H. R. 7540

[Report No. 96-1235]

To improve the Federal judicial machinery by clarifying and revising certain provisions of title 28, United States Code, relating to the judiciary and judicial review of international trade matters, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 10, 1980

Mr. RODINO introduced the following bill; which was referred to the Committee on the Judiciary

AUGUST 20, 1980

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced June 10, 1980]

A BILL

To improve the Federal judicial machinery by clarifying and revising certain provisions of title 28, United States Code, relating to the judiciary and judicial review of international trade matters, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 *That this Act may be cited as the “Customs Courts Act of*
2 *1980”.*

3 *TITLE I—COMPOSITION OF THE COURT OF*
4 *INTERNATIONAL TRADE AND ASSIGN-*
5 *MENT OF JUDGES TO OTHER COURTS*

6 *COMPOSITION OF COURT*

7 *SEC. 101. Section 251 of title 28, United States Code,*
8 *is amended to read as follows:*

9 **“§ 251. Appointment and number of judges; offices**

10 *“(a) The President shall appoint, by and with the*
11 *advice and consent of the Senate, nine judges who shall con-*
12 *stitute a court of record to be known as the United States*
13 *Court of International Trade. The court is a court estab-*
14 *lished under article III of the Constitution of the United*
15 *States.*

16 *“(b) The President shall designate one of the judges of*
17 *the Court of International Trade who is less than seventy*
18 *years of age to serve as chief judge. The chief judge shall*
19 *continue to serve as chief judge until he reaches the age of*
20 *seventy years and another judge is designated as chief judge*
21 *by the President. After the designation of another judge to*
22 *serve as chief judge, the former chief judge may continue to*
23 *serve as a judge of the court.*

24 *“(c) The offices of the Court of International Trade*
25 *shall be located in New York, New York.”.*

ASSIGNMENT OF JUDGES

1

2 *SEC. 102. (a) Section 293(b) of title 28, United States*
3 *Code, is amended by striking out "Customs Court" and all*
4 *that follows through "need arises" and inserting in lieu*
5 *thereof "Court of International Trade to perform judicial*
6 *duties in any circuit, either in a court of appeals or district*
7 *court, upon presentation of a certificate of necessity by the*
8 *chief judge or circuit justice of the circuit in which the need*
9 *arises".*

10 *(b) Section 293(d) of title 28, United States Code, is*
11 *amended to read as follows:*

12 *"(d) The chief judge of the Court of International Trade*
13 *may, upon presentation to him of a certificate of necessity by*
14 *the chief judge of the Court of Appeals for International*
15 *Trade, Patents, and Trademarks or the chief judge of the*
16 *Court of Claims, designate and assign temporarily any judge*
17 *of the Court of International Trade to serve as a judge of the*
18 *Court of Appeals for International Trade, Patents, and*
19 *Trademarks or the Court of Claims."*

20 **TITLE II—JURISDICTION OF THE COURT OF**21 **INTERNATIONAL TRADE**22 **JURISDICTION OF THE COURT**

23 *SEC. 201. Chapter 95 of title 28, United States Code,*
24 *is amended to read as follows:*

1 **“CHAPTER 95—COURT OF INTERNATIONAL TRADE**

“Sec.

“1581. Civil actions against the United States and agencies and officers thereof.

“1582. Civil actions commenced by the United States.

“1583. Counterclaims, cross-claims, and third-party actions.

“1584. Cure of defects.

“1585. Powers in law and equity.

2 **“§ 1581. Civil actions against the United States and agencies**
3 **and officers thereof**4 *“(a) The Court of International Trade shall have exclu-*
5 *sive jurisdiction of any civil action commenced to contest the*
6 *denial of a protest, in whole or in part, under section 515 of*
7 *the Tariff Act of 1930.*8 *“(b) The Court of International Trade shall have exclu-*
9 *sive jurisdiction of any civil action commenced under section*
10 *516 of the Tariff Act of 1930.*11 *“(c) The Court of International Trade shall have exclu-*
12 *sive jurisdiction of any civil action commenced under section*
13 *516A of the Tariff Act of 1930.*14 *“(d) The Court of International Trade shall have exclu-*
15 *sive jurisdiction of any civil action commenced to review any*
16 *final determination of the Secretary of Labor certifying or*
17 *refusing to certify workers as eligible for adjustment assist-*
18 *ance under the Trade Act of 1974 and any final determina-*
19 *tion of the Secretary of Commerce certifying or refusing to*
20 *certify firms or communities as eligible for adjustment assist-*
21 *ance under such Act.*

1 “(e) *The Court of International Trade shall have exclu-*
2 *sive jurisdiction of any civil action commenced to review any*
3 *final determination of the Secretary of the Treasury under*
4 *section 305(b)(1) of the Trade Agreements Act of 1979.*

5 “(f) *The Court of International Trade shall have exclu-*
6 *sive jurisdiction of any civil action involving an application*
7 *for an order directing the administering authority or the In-*
8 *ternational Trade Commission to make confidential informa-*
9 *tion available under section 777(c)(2) of the Tariff Act of*
10 *1930.*

11 “(g) *The Court of International Trade shall have exclu-*
12 *sive jurisdiction of any civil action commenced to review—*

13 “(1) *any decision of the Secretary of the Treas-*
14 *ury to deny or revoke a customhouse broker’s license*
15 *under section 641(a) of the Tariff Act of 1930; and*

16 “(2) *any order of the Secretary of the Treasury to*
17 *revoke or suspend a customhouse broker’s license under*
18 *section 641(b) of the Tariff Act of 1930.*

19 “(h) *The Court of International Trade shall have exclu-*
20 *sive jurisdiction of any civil action commenced to review,*
21 *prior to the importation of the goods involved, a ruling issued*
22 *by the Secretary of the Treasury, or a refusal to issue or*
23 *change such a ruling, relating to classification, valuation,*
24 *rate of duty, marking, restricted merchandise, entry require-*
25 *ments, drawbacks, vessel repairs, or similar matters, but only*

1 *if the party commencing the civil action demonstrates to the*
2 *court that he would be irreparably harmed unless given an*
3 *opportunity to obtain judicial review prior to such*
4 *importation.*

5 “(i) *In addition to the jurisdiction conferred upon the*
6 *Court of International Trade by subsections (a)–(h) of this*
7 *section and subject to the exception set forth in subsection (j)*
8 *of this section, the Court of International Trade shall have*
9 *exclusive jurisdiction of any civil action commenced against*
10 *the United States, its agencies, or its officers, that arises out*
11 *of any law of the United States providing for—*

12 “(1) *revenue from imports or tonnage;*

13 “(2) *tariffs, duties, fees, or other taxes on the im-*
14 *portation of merchandise for reasons other than the*
15 *raising of revenue;*

16 “(3) *embargoes or other quantitative restrictions*
17 *on the importation of merchandise for reasons other*
18 *than the protection of the public health or safety; or*

19 “(4) *administration and enforcement with respect*
20 *to the matters referred to in paragraphs (1)–(3) of this*
21 *subsection and subsections (a)–(h) of this section.*

22 “(j) *The Court of International Trade shall not have*
23 *jurisdiction of any civil action arising under section 305 of*
24 *the Tariff Act of 1930.*

1 **“§ 1582. Civil actions commenced by the United States**

2 *“The Court of International Trade shall have exclusive*
3 *jurisdiction of any civil action which arises out of an import*
4 *transaction and which is commenced by the United States—*

5 *“(1) to recover a civil penalty under section 592,*
6 *704(i)(2), or 734(i)(2) of the Tariff Act of 1930;*

7 *“(2) to recover upon a bond relating to the impor-*
8 *tation of merchandise required by the laws of the*
9 *United States or by the Secretary of the Treasury; or*

10 *“(3) to recover customs duties.*

11 **“§ 1583. Counterclaims, cross-claims, and third-party ac-**
12 **tions**

13 *“In any civil action in the Court of International*
14 *Trade, the court shall have exclusive jurisdiction to render*
15 *judgment upon any counterclaim, cross-claim, or third-party*
16 *action of any party, if (1) such claim or action involves the*
17 *imported merchandise that is the subject matter of such civil*
18 *action, or (2) such claim or action is to recover upon a bond*
19 *or customs duties relating to such merchandise.*

20 **“§ 1584. Cure of defects**

21 *“(a) If a civil action within the exclusive jurisdiction of*
22 *the Court of International Trade is commenced in a district*
23 *court of the United States, the district court shall, in the*
24 *interest of justice, transfer such civil action to the Court of*
25 *International Trade, where such action shall proceed as if it*

1 *had been commenced in the Court of International Trade in*
 2 *the first instance.*

3 “(b) *If a civil action within the exclusive jurisdiction of*
 4 *a district court, a court of appeals, or the Court of Appeals*
 5 *for International Trade, Patents, and Trademarks is com-*
 6 *menced in the Court of International Trade, the Court of*
 7 *International Trade shall, in the interest of justice, transfer*
 8 *such civil action to the appropriate district court or court of*
 9 *appeals or to the Court of Appeals for International Trade,*
 10 *Patents, and Trademarks, where such action shall proceed as*
 11 *if it had been commenced in such court in the first instance.*

12 **“§ 1585. Powers in law and equity**

13 “*The Court of International Trade shall possess all the*
 14 *powers in law and equity of, or as conferred by statute upon,*
 15 *a district court of the United States.”*

16 **TITLE III—COURT OF INTERNATIONAL TRADE**

17 **PROCEDURE**

18 **COURT PROCEDURE**

19 **SEC. 301.** *Chapter 169 of title 28, United States Code,*
 20 *is amended to read as follows:*

21 **“CHAPTER 169—COURT OF INTERNATIONAL TRADE**

22 **PROCEDURE**

“Sec.

“2631. *Persons entitled to commence a civil action.*

“2632. *Commencement of a civil action.*

“2633. *Procedure and fees.*

“2634. *Notice.*

“2635. *Filing of official documents.*

“2636. *Time for commencement of action.*

Sec.

"2637. *Exhaustion of administrative remedies.*

"2638. *New grounds in support of a civil action.*

"2639. *Burden of proof; evidence of value.*

"2640. *Scope and standard of review.*

"2641. *Witnesses; inspection of documents.*

"2642. *Analysis of imported merchandise.*

"2643. *Relief.*

"2644. *Interest.*

"2645. *Decisions.*

"2646. *Retrial or rehearing.*

"2647. *Precedence of cases.*

1 **"§ 2631. *Persons entitled to commence a civil action***

2 "*(a) A civil action contesting the denial of a protest, in*
3 *whole or in part, under section 515 of the Tariff Act of 1930*
4 *may be commenced in the Court of International Trade by*
5 *the person who filed the protest pursuant to section 514 of*
6 *such Act, or by a surety on the transaction which is the sub-*
7 *ject of the protest.*

8 "*(b) A civil action contesting the denial of a petition*
9 *under section 516 of the Tariff Act of 1930 may be com-*
10 *menced in the Court of International Trade by the person*
11 *who filed such petition.*

12 "*(c) A civil action contesting a determination listed in*
13 *section 516A of the Tariff Act of 1930 may be commenced in*
14 *the Court of International Trade by any interested party who*
15 *was a party to the proceeding in connection with which the*
16 *matter arose.*

17 "*(d) A civil action to review any final determination of*
18 *the Secretary of Labor certifying or refusing to certify work-*
19 *ers as eligible for adjustment assistance under the Trade Act*
20 *of 1974, or any final determination of the Secretary of Com-*

1 *merce certifying or refusing to certify firms or communities*
2 *as eligible for adjustment assistance under such Act, may be*
3 *commenced by a worker, group of workers, certified or recog-*
4 *nized union, authorized representative of such worker or*
5 *group, firm or its representative, or community that applies*
6 *for assistance under such Act and is aggrieved by such final*
7 *determination, or by any other interested domestic party that*
8 *is aggrieved by such final determination.*

9 “(e) *A civil action to review a final determination made*
10 *under section 305(b)(1) of the Trade Agreements Act of 1979*
11 *may be commenced in the Court of International Trade by*
12 *any person who was a party-at-interest with respect to such*
13 *determination.*

14 “(f) *A civil action involving an application for the issu-*
15 *ance of an order directing the administering authority or the*
16 *International Trade Commission to make confidential infor-*
17 *mation available under section 777(c)(2) of the Tariff Act of*
18 *1930 may be commenced in the Court of International Trade*
19 *by any interested party whose application for disclosure of*
20 *such confidential information was denied under section*
21 *777(c)(1) of such Act.*

22 “(g)(1) *A civil action to review any decision of the Sec-*
23 *retary of the Treasury to deny or revoke a customhouse bro-*
24 *ker’s license under section 641(a) of the Tariff Act of 1930*

1 *may be commenced in the Court of International Trade by*
2 *the person whose license was denied or revoked.*

3 “(2) *A civil action to review any order of the Secretary*
4 *of the Treasury to revoke or suspend a customhouse broker’s*
5 *license under section 641(b) of the Tariff Act of 1930 may be*
6 *commenced in the Court of International Trade by the person*
7 *whose license was revoked or suspended.*

8 “(h) *A civil action described in section 1581(h) of this*
9 *title may be commenced in the Court of International Trade*
10 *by the person who would have standing to bring a civil action*
11 *under section 1581(a) of this title if he imported the goods*
12 *involved and filed a protest which was denied, in whole or in*
13 *part, under section 515 of the Tariff Act of 1930.*

14 “(i) *Any civil action of which the Court of Internation-*
15 *al Trade has jurisdiction, other than an action specified in*
16 *subsections (a)–(h) of this section, may be commenced in the*
17 *court by any person adversely affected or aggrieved by*
18 *agency action within the meaning of section 702 of title 5.*

19 “(j)(1) *Any person who would be adversely affected or*
20 *aggrieved by a decision in a civil action pending in the Court*
21 *of International Trade may, by leave of court, intervene in*
22 *such action, except that—*

23 “(A) *no person may intervene in a civil action*
24 *under section 515 or 516 of the Tariff Act of 1930;*

1 “(B) in a civil action under section 516A of the
2 *Tariff Act of 1930, only an interested party who was a*
3 *party to the proceeding in connection with which the*
4 *matter arose may intervene, and such person may in-*
5 *tervene as a matter of right; and*

6 “(C) in a civil action under section 777(c)(2) of
7 *the Tariff Act of 1930, only a person who was a party*
8 *to the investigation may intervene, and such person*
9 *may intervene as a matter of right.*

10 “(2) *In those civil actions in which intervention is by*
11 *leave of court, the Court of International Trade shall con-*
12 *sider whether the intervention will unduly delay or prejudice*
13 *the adjudication of the rights of the original parties.*

14 “(k) *In this section—*

15 “(1) *‘interested party’ has the meaning given such*
16 *term in section 771(9) of the Tariff Act of 1930; and*

17 “(2) *‘party-at-interest’ means—*

18 “(A) *a foreign manufacturer, producer, or*
19 *exporter, or a United States importer, of mer-*
20 *chandise which is the subject of a final determi-*
21 *nation under section 305(b)(1) of the Trade*
22 *Agreements Act of 1979;*

23 “(B) *a manufacturer, producer, or wholesal-*
24 *er in the United States of a like product;*

1 “(C) *United States members of a labor orga-*
2 *nization or other association of workers whose*
3 *members are employed in the manufacture, pro-*
4 *duction, or wholesale in the United States of a*
5 *like product; and*

6 “(D) *a trade or business association a ma-*
7 *jority of whose members manufacture, produce, or*
8 *wholesale a like product in the United States.*

9 **“§ 2632. Commencement of a civil action**

10 “(a) *Except for civil actions specified in subsections (b)*
11 *and (c) of this section, a civil action in the Court of Interna-*
12 *tional Trade shall be commenced by filing concurrently with*
13 *the clerk of the court a summons and complaint, with the*
14 *content and in the form, manner, and style prescribed by the*
15 *rules of the court.*

16 “(b) *A civil action in the Court of International Trade*
17 *under section 515 or section 516 of the Tariff Act of 1930*
18 *shall be commenced by filing with the clerk of the court a*
19 *summons, with the content and in the form, manner, and*
20 *style prescribed by the rules of the court.*

21 “(c) *A civil action in the Court of International Trade*
22 *under section 516A of the Tariff Act of 1930 shall be com-*
23 *menced by filing with the clerk of the court a summons or a*
24 *summons and a complaint, as prescribed in such section,*

1 *with the content and in the form, manner, and style pre-*
2 *scribed by the rules of the court.*

3 “(d) *The Court of International Trade may prescribe by*
4 *rule that any summons, pleading, or other paper mailed by*
5 *registered or certified mail properly addressed to the clerk of*
6 *the court with the proper postage affixed and return receipt*
7 *requested shall be deemed filed as of the date of mailing.*

8 **“§ 2633. Procedure and fees**

9 “(a) *A filing fee shall be payable to the clerk of the*
10 *Court of International Trade upon the commencement of a*
11 *civil action in such court. The amount of the fee shall be*
12 *prescribed by the rules of the court, but shall be not less than*
13 *\$5 nor more than the filing fee for commencing a civil action*
14 *in a district court of the United States. The court may fix all*
15 *other fees to be charged by the clerk of the court.*

16 “(b) *The Court of International Trade shall prescribe*
17 *rules governing the summons, pleadings, and other papers,*
18 *for their amendment, service, and filing, for consolidations,*
19 *severances, suspensions of cases, and for other procedural*
20 *matters.*

21 “(c) *All summons, pleadings, and other papers filed in*
22 *the Court of International Trade shall be served on all par-*
23 *ties in accordance with rules prescribed by the court. When*
24 *the United States, its agencies, or its officers are adverse*
25 *parties, service of the summons shall be made upon the Attor-*

1 *ney General and the head of the Government agency whose*
2 *action is being contested. When injunctive relief is sought,*
3 *the summons, pleadings, and other papers shall also be served*
4 *upon the named officials sought to be enjoined.*

5 **“§ 2634. Notice**

6 *“Reasonable notice of the time and place of trial or*
7 *hearing before the Court of International Trade shall be*
8 *given to all parties to any civil action, as prescribed by the*
9 *rules of the court.*

10 **“§ 2635. Filing of official documents**

11 *“(a)(1) Upon service of the summons on the Secretary*
12 *of the Treasury in any civil action contesting the denial of a*
13 *protest under section 515 of the Tariff Act of 1930 or the*
14 *denial of a petition under section 516 of such Act, the appro-*
15 *priate customs officer shall forthwith transmit to the clerk of*
16 *the Court of International Trade, as prescribed by its rules,*
17 *and as a part of the official record—*

18 *“(A) the consumption or other entry and the entry*
19 *summary;*

20 *“(B) the commercial invoice;*

21 *“(C) the special customs invoice;*

22 *“(D) a copy of the protest or petition;*

23 *“(E) a copy of the denial, in whole or in part, of*
24 *the protest or petition;*

25 *“(F) the importer’s exhibits;*

1 “(G) the official and other representative samples;

2 “(H) any official laboratory reports; and

3 “(I) a copy of any bond relating to the entry.

4 “(2) If any of the items listed in paragraph (1) of this
5 subsection do not exist in a particular civil action, an affirm-
6 ative statement to that effect shall be transmitted to the clerk
7 of the court.

8 “(b)(1) In any civil action commenced in the Court of
9 International Trade under section 516A of the Tariff Act of
10 1930, within forty days or within such other period of time
11 as the court may specify, after the date of service of a com-
12 plaint on the administering authority established to adminis-
13 ter title VII of the Tariff Act of 1930 or the United States
14 International Trade Commission, the administering authori-
15 ty or the Commission shall transmit to the clerk of the court
16 the record of such action, as prescribed by the rules of the
17 court. The record shall, unless otherwise stipulated by the
18 parties, consist of—

19 “(A) a copy of all information presented to or ob-
20 tained by the administering authority or the Commis-
21 sion during the course of the administrative proceed-
22 ings, including all governmental memoranda pertain-
23 ing to the case and the record of ex parte meetings re-
24 quired to be maintained by section 777(a)(3) of the
25 Tariff Act of 1930; and

1 “(B)(i) a copy of the determination and the facts
2 and conclusions of law upon which such determination
3 was based, (ii) all transcripts or records of conferences
4 or hearings, and (iii) all notices published in the
5 Federal Register.

6 “(2) The administering authority or the Commission
7 shall identify and transmit under seal to the clerk of the
8 court any document, comment, or information that is accord-
9 ed confidential or privileged status by the Government
10 agency whose action is being contested and that is required to
11 be transmitted to the clerk under paragraph (1) of this sub-
12 section. Any such document, comment, or information shall
13 be accompanied by a nonconfidential description of the
14 nature of the material being transmitted. The confidential or
15 privileged status of such material shall be preserved in the
16 civil action, but the court may examine the confidential or
17 privileged material in camera and may make such material
18 available under such terms and conditions as the court may
19 order.

20 “(c) Within fifteen days, or within such other period of
21 time as the Court of International Trade may specify, after
22 service of a summons and complaint in a civil action involv-
23 ing an application for an order directing the administering
24 authority or the International Trade Commission to make
25 confidential information available under section 777(c)(2) of

1 *the Tariff Act of 1930, the administering authority or the*
2 *Commission shall transmit under seal to the clerk of the*
3 *Court of International Trade, as prescribed by its rules, the*
4 *confidential information involved, together with pertinent*
5 *parts of the record. Such information shall be accompanied*
6 *by a nonconfidential description of the nature of the informa-*
7 *tion being transmitted. The confidential status of such infor-*
8 *mation shall be preserved in the civil action, but the court*
9 *may examine the confidential information in camera and*
10 *may make such information available under a protective*
11 *order consistent with section 777(c)(2) of the Tariff Act of*
12 *1930.*

13 “(d)(1) *In any other civil action in the Court of Inter-*
14 *national Trade in which judicial review is to proceed upon*
15 *the basis of the record made before an agency, the agency*
16 *shall, within forty days or within such other period of time as*
17 *the court may specify, after the date of service of the sum-*
18 *mons and complaint upon the agency, transmit to the clerk of*
19 *the court, as prescribed by its rules—*

20 “(A) *a copy of the contested determination and*
21 *the findings or report upon which such determination*
22 *was based;*

23 “(B) *a copy of any reported hearings or confer-*
24 *ences conducted by the agency; and*

1 “(C) any documents, comments, or other papers
2 filed by the public, interested parties, or governments
3 with respect to the agency’s action.

4 “(2) The agency shall identify and transmit under seal
5 to the clerk of the court any document, comment, or other
6 information that was obtained on a confidential basis and
7 that is required to be transmitted to the clerk under para-
8 graph (1) of this subsection. Any such document, comment,
9 or information shall include a nonconfidential description of
10 the nature of the material being transmitted. The confidential
11 or privileged status of such material shall be preserved in the
12 civil action, but the court may examine such material in
13 camera and may make such material available under such
14 terms and conditions as the court may order.

15 “(3) The parties may stipulate that fewer documents,
16 comments, or other information than those specified in para-
17 graph (1) of this subsection shall be transmitted to the clerk
18 of the court.

19 “§ 2636. **Time for commencement of action**

20 “(a) A civil action contesting the denial, in whole or in
21 part, of a protest under section 515 of the Tariff Act of 1930
22 is barred unless commenced in accordance with the rules of
23 the Court of International Trade—

1 “(1) within one hundred and eighty days after the
2 date of mailing of notice of denial of a protest under
3 section 515(a) of such Act; or

4 “(2) within one hundred and eighty days after the
5 date of denial of a protest by operation of law under
6 the provisions of section 515(b) of such Act.

7 “(b) A civil action contesting the denial of a petition
8 under section 516 of the Tariff Act of 1930 is barred unless
9 commenced in accordance with the rules of the Court of In-
10 ternational Trade within thirty days after the date of mailing
11 of a notice pursuant to section 516(c) of such Act.

12 “(c) A civil action contesting a reviewable determination
13 listed in section 516A of the Tariff Act of 1930, other than a
14 determination under section 703(b), 703(c), 733(b), or
15 733(c) of such Act, is barred unless commenced in accord-
16 ance with the rules of the Court of International Trade
17 within thirty days after the date of the publication of such
18 determination in the Federal Register.

19 “(d)(1) A civil action contesting a determination by the
20 administering authority under section 703(c) or 733(c) of the
21 Tariff Act of 1930 that a case is extraordinarily complicated
22 is barred unless commenced in accordance with the rules of
23 the Court of International Trade within ten days after the
24 date of the publication of such determination in the Federal
25 Register.

1 “(2) A civil action contesting a negative determination
2 by the administering authority under section 703(b) or
3 733(b) of the Tariff Act of 1930 is barred unless commenced
4 in accordance with the rules of the Court of International
5 Trade within ten days after the date of the publication of
6 such determination in the Federal Register.

7 “(e) A civil action contesting a final determination of
8 the Secretary of Labor certifying or refusing to certify work-
9 ers as eligible for adjustment assistance under the Trade Act
10 of 1974, or a final determination of the Secretary of Com-
11 merce certifying or refusing to certify firms or communities
12 as eligible for adjustment assistance under such Act, is
13 barred unless commenced in accordance with the rules of the
14 Court of International Trade within sixty days after the date
15 of notice of such determination.

16 “(f) A civil action contesting a final determination
17 made under section 305(b)(1) of the Trade Agreements Act of
18 1979 is barred unless commenced in accordance with the
19 rules of the Court of International Trade within thirty days
20 after the date of the publication of such determination in the
21 Federal Register.

22 “(g) A civil action involving an application for the issu-
23 ance of an order making confidential information available
24 under section 777(c)(2) of the Tariff Act of 1930 is barred
25 unless commenced in accordance with the rules of the Court

1 of *International Trade* within ten days after the date of the
2 denial of the request for such confidential information.

3 “(h) A civil action contesting the denial or revocation by
4 the Secretary of the Treasury of a customhouse broker’s li-
5 cense under section 641(a) of the *Tariff Act of 1930* or the
6 revocation or suspension by such Secretary of a customhouse
7 broker’s license under section 641(b) of such Act is barred
8 unless commenced in accordance with the rules of the Court
9 of *International Trade* within sixty days after the date of the
10 entry of the decision or order of such Secretary.

11 “(i) A civil action of which the Court of *International*
12 *Trade* has jurisdiction under section 1581 of this title, other
13 than an action specified in subsections (a)–(h) of this section,
14 is barred unless commenced in accordance with the rules of
15 the court within two years after the cause of action first
16 accrues.

17 **“§ 2637. Exhaustion of administrative remedies**

18 “(a) A civil action contesting the denial of a protest
19 under section 515 of the *Tariff Act of 1930* may be com-
20 menced only if all liquidated duties, charges, or exactions
21 have been paid at the time the action is commenced, except
22 that a surety’s obligation to pay such liquidated duties,
23 charges, or exactions is limited to the sum of any bond
24 related to each entry included in the denied protest.

1 “(b) A civil action contesting the denial of a petition
2 under section 516 of the Tariff Act of 1930 may be com-
3 menced only by a person who has first exhausted the proce-
4 dures set forth in such section.

5 “(c) A civil action described in section 1581(h) of this
6 title may be commenced prior to the exhaustion of adminis-
7 trative remedies if the person commencing the action makes
8 the demonstration required by such section.

9 “(d) In any civil action not specified in this section, the
10 Court of International Trade shall, where appropriate, re-
11 quire the exhaustion of administrative remedies.

12 **“§ 2638. New grounds in support of a civil action**

13 *“In any civil action under section 515 of the Tariff Act*
14 *of 1930 in which the denial, in whole or in part, of a protest*
15 *is a precondition to the commencement of a civil action in the*
16 *Court of International Trade, the court, by rule, may con-*
17 *sider any new ground in support of the civil action if such*
18 *new ground—*

19 “(1) applies to the same merchandise that was the
20 subject of the protest; and

21 “(2) is related to the same administrative decision
22 listed in section 514 of the Tariff Act of 1930 that was
23 contested in the protest.

1 **“§ 2639. Burden of proof; evidence of value**

2 “(a)(1) *Except as provided in paragraph (2) of this sub-*
3 *section, in any civil action commenced in the Court of Inter-*
4 *national Trade under section 515, 516, or 516A of the Tariff*
5 *Act of 1930, the decision of the Secretary of the Treasury,*
6 *the administering authority, or the International Trade*
7 *Commission is presumed to be correct. The burden of proving*
8 *otherwise shall rest upon the party challenging such decision.*

9 “(2) *The provisions of paragraph (1) of this subsection*
10 *shall not apply to any civil action commenced in the Court of*
11 *International Trade under section 1582 of this title.*

12 “(b) *In any civil action described in section 1581(h) of*
13 *this title, the person commencing the action shall have the*
14 *burden of making the demonstration required by such section*
15 *by clear and convincing evidence.*

16 “(c) *Where the value of merchandise or any of its com-*
17 *ponents is in issue in any civil action in the Court of Inter-*
18 *national Trade—*

19 “(1) *reports or depositions of consuls, customs*
20 *officers, and other officers of the United States, and*
21 *depositions and affidavits of other persons whose at-*
22 *tendance cannot reasonably be had, may be admitted*
23 *into evidence when served upon the opposing party as*
24 *prescribed by the rules of the court; and*

1 “(2) price lists and catalogs may be admitted in
2 evidence when duly authenticated, relevant, and
3 material.

4 **“§ 2640. Scope and standard of review**

5 “(a) The Court of International Trade shall make its
6 determinations upon the basis of the record made before the
7 court in the following categories of civil actions:

8 “(1) Civil actions contesting the denial of a pro-
9 test under section 515 of the Tariff Act of 1930.

10 “(2) Civil actions commenced under section 516
11 of the Tariff Act of 1930.

12 “(3) Civil actions commenced to review a final
13 determination made under section 305(b)(1) of the
14 Trade Agreements Act of 1979.

15 “(4) Civil actions commenced under section
16 777(c)(2) of the Tariff Act of 1930.

17 “(5) Civil actions commenced to review any deci-
18 sion of the Secretary of the Treasury to deny or revoke
19 a customhouse broker’s license under section 641(a) of
20 the Tariff Act of 1930.

21 “(6) Civil actions commenced under section 1582
22 of this title.

23 “(b) In any civil action commenced in the Court of In-
24 ternational Trade under section 516A of the Tariff Act of

1 1930, the court shall review the matter as specified in subsec-
2 tion (b) of such section.

3 “(c) In any civil action commenced in the Court of In-
4 ternational Trade to review any final determination of the
5 Secretary of Labor certifying or refusing to certify workers
6 as eligible for assistance under the Trade Act of 1974, or any
7 final determination of the Secretary of Commerce certifying
8 or refusing to certify firms or communities as eligible for
9 adjustment assistance under such Act, the court shall review
10 the matter as specified in section 284 of such Act.

11 “(d) In any civil action not specified in this section, the
12 court shall review the matter as provided in section 706 of
13 title 5.

14 **“§ 2641. Witnesses; inspection of documents**

15 “(a) Except as otherwise provided by law, in any civil
16 action in the Court of International Trade, each party and
17 its counsel shall have an opportunity to introduce evidence, to
18 hear and cross-examine the witnesses of the other party, and
19 to inspect all samples and papers admitted or offered as evi-
20 dence, as prescribed by the rules of the court. Except as pro-
21 vided in section 2639 of this title, subsection (b) of this sec-
22 tion, or the rules of the court, the Federal Rules of Evidence
23 shall apply to all civil actions in the Court of International
24 Trade.

1 “(b) *The Court of International Trade may order that*
2 *trade secrets and commercial or financial information which*
3 *is privileged and confidential, or any information provided to*
4 *the United States by any foreign government or foreign*
5 *person, may be disclosed to a party, its counsel, or any other*
6 *person under such terms and conditions as the court may*
7 *order.*

8 “**§ 2642. Analysis of imported merchandise**

9 “*The Court of International Trade may order an analy-*
10 *sis of imported merchandise and reports thereon by laborato-*
11 *ries or agencies of the United States.*

12 “**§ 2643. Relief**

13 “(a) *In any civil action commenced under section 1581*
14 *or 1582 of this title or in any counterclaim, cross-claim, or*
15 *third-party action under section 1583 of this title, the Court*
16 *of International Trade may enter a money judgment for or*
17 *against the United States.*

18 “(b) *If the Court of International Trade is unable to*
19 *determine the correct decision on the basis of the evidence*
20 *presented in any civil action, the court may order a retrial or*
21 *rehearing for all purposes, or may order such further admin-*
22 *istrative or adjudicative procedures as the court considers*
23 *necessary to enable it to reach the correct decision.*

24 “(c)(1) *Except as provided in paragraphs (2), (3), and*
25 *(4) of this subsection, the Court of International Trade may,*

1 *in addition to the orders specified in subsections (a) and (b)*
2 *of this section, order any other form of relief that is appropri-*
3 *ate in a civil action, including, but not limited to, declaratory*
4 *judgments, orders of remand, injunctions, and writs of man-*
5 *damus and prohibition.*

6 “(2) *The Court of International Trade may not grant*
7 *an injunction or issue a writ of mandamus in any civil*
8 *action commenced to review any final determination of the*
9 *Secretary of Labor certifying or refusing to certify workers*
10 *as eligible for adjustment assistance under the Trade Act of*
11 *1974, or any final determination of the Secretary of Com-*
12 *merce certifying or refusing to certify firms or communities*
13 *as eligible for adjustment assistance under such Act.*

14 “(3) *In any civil action involving an application for the*
15 *issuance of an order directing the administering authority or*
16 *the International Trade Commission to make confidential in-*
17 *formation available under section 777(c)(2) of the Tariff Act*
18 *of 1930, the Court of International Trade may issue an*
19 *order of disclosure only with respect to the information speci-*
20 *fied in such section.*

21 “(4) *In any civil action described in section 1581(h) of*
22 *this title, the Court of International Trade may only order*
23 *the appropriate declaratory relief.*

24 “(d) *If a surety commences a civil action in the Court*
25 *of International Trade, such surety shall recover only the*

1 *amount of the liquidated duties, charges, or exactions paid on*
2 *the entries included in such action. The excess amount of any*
3 *recovery shall be paid to the importer of record.*

4 **“§ 2644. Interest**

5 *“If, in a civil action in the Court of International*
6 *Trade under section 515 of the Tariff Act of 1930, the plain-*
7 *tiff obtains monetary relief by a judgment or under a stipula-*
8 *tion agreement, interest shall be allowed at an annual rate*
9 *established under section 6621 of the Internal Revenue Code*
10 *of 1954. Such interest shall be calculated from the date of the*
11 *filing of the summons in such action to the date of the refund.*

12 **“§ 2645. Decisions**

13 *“(a) A final decision of the Court of International*
14 *Trade in a contested civil action or a decision granting or*
15 *refusing a preliminary injunction shall be supported by—*

16 *“(1) a statement of findings of fact and conclu-*
17 *sions of law; or*

18 *“(2) an opinion stating the reasons and facts*
19 *upon which the decision is based.*

20 *“(b) After the Court of International Trade has ren-*
21 *dered a judgment, the court may, upon the motion of a party*
22 *or upon its own motion, amend its findings or make addition-*
23 *al findings and may amend the decision and judgment ac-*
24 *cordingly. A motion of a party or the court shall be made not*
25 *later than thirty days after the date of entry of the judgment.*

1 “(c) *A decision of the Court of International Trade is*
2 *final and conclusive, unless a retrial or rehearing is granted*
3 *pursuant to section 2646 of this title or an appeal is taken to*
4 *the Court of Appeals for International Trade, Patents, or*
5 *Trademarks within the time and in the manner provided in*
6 *section 2601 of this title.*

7 “**§ 2646. Retrial or rehearing**

8 “*After the Court of International Trade has rendered a*
9 *judgment or order, the court may, upon the motion of a party*
10 *or upon its own motion, grant a retrial or rehearing, as the*
11 *case may be. A motion of a party or the court shall be made*
12 *not later than thirty days after the date of entry of the judg-*
13 *ment or order.*

14 “**§ 2647. Precedence of cases**

15 “*The following civil actions in the Court of Interna-*
16 *tional Trade shall be given precedence, in the following order,*
17 *over other civil actions pending before the court, and shall be*
18 *assigned for hearing at the earliest practicable date and expe-*
19 *dited in every way:*

20 “(1) *First, a civil action involving the exclusion*
21 *of perishable merchandise or the redelivery of such*
22 *merchandise.*

23 “(2) *Second, a civil action for the review of a de-*
24 *termination under section 516A(a)(1)(B) (i) or (ii) of*
25 *the Tariff Act of 1930.*

1 “(2) *the qualifications for jurors shall be the same*
2 *as those established by section 1865(b) of this title for*
3 *jurors in the district courts of the United States;*

4 “(3) *each party shall be entitled to challenge*
5 *jurors in accordance with section 1870 of this title;*
6 *and*

7 “(4) *jurors shall be compensated in accordance*
8 *with section 1871 of this title.”.*

9 (b) *The section analysis for chapter 121 of title 28,*
10 *United States Code, is amended by adding at the end thereof*
11 *the following new item:*

 “1876. *Trial by jury in the Court of International Trade.”.*

12 (c) *Section 1862 of title 28, United States Code, is*
13 *amended by inserting “or in the Court of International*
14 *Trade” immediately after “United States”.*

15 **TITLE IV—COURT OF APPEALS FOR INTERNA-**
16 **TIONAL TRADE, PATENTS, AND TRADE-**
17 **MARKS**

18 **JURISDICTION OF THE COURT**

19 **SEC. 401. (a)(1)** *Section 1541(a) of title 28, United*
20 *States Code, is amended to read as follows:*

21 “(a) *The Court of Appeals for International Trade, Pat-*
22 *ents, and Trademarks shall have exclusive jurisdiction of ap-*
23 *peals from all final decisions of the Court of International*
24 *Trade.”.*

1 (2) *Section 1541 of title 28, United States Code, is*
 2 *amended by adding at the end thereof the following new sub-*
 3 *section:*

4 “(c) *The Court of Appeals for International Trade, Pat-*
 5 *ents, and Trademarks shall have exclusive jurisdiction of ap-*
 6 *peals from interlocutory orders of the Court of International*
 7 *Trade granting, continuing, modifying, refusing, or dissolv-*
 8 *ing injunctions, or refusing to dissolve or modify*
 9 *injunctions.”.*

10 (b)(1) *Section 1543 of title 28, United States Code, is*
 11 *amended to read as follows:*

12 “**§ 1543. International Trade Commission determinations**

13 “*The Court of Appeals for International Trade, Pat-*
 14 *ents, and Trademarks shall have jurisdiction to review the*
 15 *final determinations of the United States International*
 16 *Trade Commission made under section 337 of the Tariff Act*
 17 *of 1930 relating to unfair trade practices in import trade.”.*

18 (2) *The item relating to section 1543 in the section*
 19 *analysis of chapter 93 of title 28, United States Code, is*
 20 *amended to read as follows:*

“1543. *International Trade Commission determinations.”.*

21

POWERS OF THE COURT

22 **SEC. 402.** (a) *Chapter 93 of title 28, United States*
 23 *Code, as amended by section 401 of this Act, is further*

1 *amended by adding at the end thereof the following new*
2 *section:*

3 **“§ 1546. Powers in law and equity**

4 *“The Court of Appeals for International Trade, Pat-*
5 *ents, and Trademarks shall have all the powers in law and*
6 *equity of, or as conferred by statute upon, a court of appeals*
7 *of the United States.”.*

8 *(b) The section analysis of chapter 93 of title 28,*
9 *United States Code, as amended by section 401 of this Act,*
10 *is further amended by adding at the end thereof the following*
11 *new item:*

“1546. Powers in law and equity.”.

12 **COURT OF APPEALS FOR INTERNATIONAL TRADE,**
13 **PATENTS, AND TRADEMARKS PROCEDURE**

14 **SEC. 403. (a)** *Section 2601(a) of title 28, United*
15 *States Code, is amended by adding at the end thereof the*
16 *following new sentence: “If a timely notice of appeal is filed*
17 *by a party, any other party may file a notice of appeal*
18 *within fourteen days after the date on which the first notice*
19 *of appeal was filed.”.*

20 *(b) The first sentence of section 2601(b) of title 28,*
21 *United States Code, is amended—*

22 *(1) by inserting “or cross appeal” immediately*
23 *after “appeal” each place it appears; and*

1 (2) by striking out “which shall include a concise
2 statement of the errors complained of”.

3 (c) The third sentence of section 2601(b) of title 28,
4 United States Code, is amended by striking out “and the
5 Secretary of the Treasury or their designees” and inserting
6 in lieu thereof “and any named official”.

7 (d) Section 2601(c) of title 28, United States Code, is
8 amended by inserting immediately after the first sentence the
9 following new sentences: “Findings of fact shall not be set
10 aside unless clearly erroneous and due regard shall be given
11 to the opportunity of the Court of International Trade to
12 judge the credibility of the witnesses. A party may raise on
13 appeal the question of whether the findings of fact are clearly
14 erroneous, whether or not the party raising such question
15 made an objection to such findings in the Court of Interna-
16 tional Trade or made a motion to amend such findings.”.

17 (e)(1) Section 2602 of title 28, United States Code, is
18 amended to read as follows:

19 “§ 2602. **Precedence of cases**

20 “The following civil actions in the Court of Appeals for
21 International Trade, Patents, and Trademarks shall be given
22 precedence, in the following order, over other civil actions
23 pending before the court, and shall be assigned for hearing at
24 the earliest practicable date and expedited in every way:

1 *is further amended by adding at the end thereof the following*
2 *new item:*

"260A. Judicial conference."

3 *TITLE V—TECHNICAL AND CONFORMING*
4 *AMENDMENTS TO TITLE 28*

5 *SEC. 501. The following provisions of title 28, United*
6 *States Code, are amended by striking out "Customs Court"*
7 *and inserting in lieu thereof "Court of International Trade":*

8 (1) *The item relating to chapter 11 in the chapter*
9 *analysis of part I.*

10 (2) *The chapter heading of chapter 11.*

11 (3) *Section 253(a).*

12 (4) *Section 254.*

13 (5) *Section 255(a).*

14 (6) *Section 257.*

15 (7) *Section 292(e).*

16 (8) *Section 293(c).*

17 (9) *Section 372 (a) and (b).*

18 (10) *Section 451 (including that section as it will*
19 *become effective on April 1, 1984).*

20 (11) *Section 456.*

21 (12) *Section 569(a) (including that section as it*
22 *will become effective on April 1, 1984).*

23 (13) *The item relating to chapter 55 in the chap-*
24 *ter analysis of part III.*

1 (14) *Section 605.*

2 (15) *Section 610.*

3 (16) *The chapter heading of chapter 55.*

4 (17) *Section 871.*

5 (18) *Section 872.*

6 (19) *Section 873.*

7 (20) *The item relating to chapter 95 in the chap-*
8 *ter analysis of part IV.*

9 (21) *Section 1340.*

10 (22) *The item relating to section 1541 in the sec-*
11 *tion analysis of chapter 93.*

12 (23) *The section heading for section 1541.*

13 (24) *Section 1541(b).*

14 (25) *The item relating to chapter 169 in the chap-*
15 *ter analysis of part VI.*

16 (26) *The item relating to section 2601 in the sec-*
17 *tion analysis of chapter 167.*

18 (27) *The section heading for section 2601.*

19 (28) *Section 2601 (a), (b), and (c).*

20 *SEC. 502. The following provisions of title 28, United*
21 *States Code, are amended by striking out "Court of Customs*
22 *and Patent Appeals" and inserting in lieu thereof "Court of*
23 *Appeals for International Trade, Patents, and Trademarks":*

24 (1) *The item relating to chapter 9 in the chapter*
25 *analysis of part I.*

- 1 (2) *The chapter heading of chapter 9.*
- 2 (3) *Section 211.*
- 3 (4) *Section 212.*
- 4 (5) *Section 213.*
- 5 (6) *Section 214.*
- 6 (7) *Section 215.*
- 7 (8) *Section 216.*
- 8 (9) *Section 256(b).*
- 9 (10) *Section 291(b).*
- 10 (11) *Section 292(e).*
- 11 (12) *Section 293 (a) and (c).*
- 12 (13) *Section 331 (including that section as it will*
13 *become effective on April 1, 1984).*
- 14 (14) *Section 372 (a) and (b).*
- 15 (15) *Section 451 (including that section as it will*
16 *become effective on April 1, 1984).*
- 17 (16) *Section 456 (including that section as it will*
18 *become effective on April 1, 1984).*
- 19 (17) *The item relating to chapter 53 in the chap-*
20 *ter analysis of part III.*
- 21 (18) *Section 610.*
- 22 (19) *The chapter heading of chapter 53.*
- 23 (20) *Section 831.*
- 24 (21) *Section 832.*
- 25 (22) *Section 833(a).*

1 (23) *Section 834.*

2 (24) *Section 957(b).*

3 (25) *The item relating to chapter 93 in the chap-*
4 *ter analysis of part IV.*

5 (26) *The item relating to section 1256 in the sec-*
6 *tion analysis of chapter 81.*

7 (27) *The section heading for section 1256.*

8 (28) *Section 1256.*

9 (29) *The chapter heading of chapter 93.*

10 (30) *Section 1541(b).*

11 (31) *Section 1542.*

12 (32) *Section 1544.*

13 (33) *Section 1545.*

14 (34) *The item relating to section 1926 in the sec-*
15 *tion analysis of chapter 123.*

16 (35) *The section heading for section 1926.*

17 (36) *Section 1926.*

18 (37) *The item relating to chapter 167 in the chap-*
19 *ter analysis of part VI.*

20 (38) *The chapter heading of chapter 167.*

21 (39) *Section 2601 (a), (b), and (c).*

22 *SEC. 503. Section 252 of title 28, United States Code,*
23 *is amended by striking out "Judge of the Customs Court"*
24 *and inserting in lieu thereof "Judges of the Court of Interna-*
25 *tional Trade".*

1 *SEC. 504. Section 518(a) of title 28, United States*
2 *Code, is amended by inserting "and in the Court of Interna-*
3 *tional Trade" immediately after "Claims".*

4 *SEC. 505. Section 751 of title 28, United States Code,*
5 *is amended by adding at the end thereof the following new*
6 *subsection:*

7 *"(f) When the Court of International Trade is sitting in*
8 *a judicial district, other than the Southern District or East-*
9 *ern District of New York, the clerk of the district court of*
10 *such judicial district or an authorized deputy clerk, upon the*
11 *request of the chief judge of the Court of International Trade*
12 *and with the approval of such district court, shall act in the*
13 *district as clerk of the Court of International Trade, as pre-*
14 *scribed by the rules and orders of the Court of International*
15 *Trade for all purposes relating to the civil action then pend-*
16 *ing before such court."*

17 *SEC. 506. Section 1337 of title 28, United States*
18 *Code, is amended by adding at the end thereof the following*
19 *new subsection:*

20 *"(c) The district courts shall not have jurisdiction under*
21 *this section of any matter within the exclusive jurisdiction of*
22 *the Court of International Trade under chapter 95 of this*
23 *title."*

24 *SEC. 507. Section 1352 of title 28, United States*
25 *Code, is amended by inserting immediately before the period*

1 *at the end thereof the following: “, except matters within the*
2 *jurisdiction of the Court of International Trade under sec-*
3 *tion 1582 of this title”.*

4 *SEC. 508. Section 1355 of title 28, United States*
5 *Code, is amended by inserting immediately before the period*
6 *at the end thereof the following: “, except matters within the*
7 *jurisdiction of the Court of International Trade under sec-*
8 *tion 1582 of this title”.*

9 *SEC. 509. Section 1356 of title 28, United States*
10 *Code, is amended by inserting immediately before the period*
11 *at the end thereof the following: “, except matters within the*
12 *jurisdiction of the Court of International Trade under sec-*
13 *tion 1582 of this title”.*

14 *SEC. 510. The second paragraph of section 1491 of title*
15 *28, United States Code, is amended by striking out “in*
16 *suits” and inserting in lieu thereof “of any civil action*
17 *within the exclusive jurisdiction of the Court of International*
18 *Trade, or of any action”.*

19 *SEC. 511. Section 1919 of title 28, United States*
20 *Code, is amended by inserting “or the Court of International*
21 *Trade” immediately after “court” the first place it appears.*

22 *SEC. 512. (a) Chapter 125 of title 28, United States*
23 *Code, is amended by inserting immediately after section*
24 *1963 the following new section:*

1 **“§ 1963A. Registration of judgments of the Court of Interna-**
2 **tional Trade**

3 “(a) A judgment in any civil action for the recovery of
4 money or property entered by the Court of International
5 Trade which has become final by appeal or expiration of time
6 for appeal may be registered in any judicial district by filing
7 a certified copy of such judgment. A judgment so registered
8 shall have the same effect as a judgment of the district court
9 of the district where registered and may be enforced in like
10 manner.

11 “(b) A certified copy of the satisfaction of any judgment
12 in whole or in part may be registered in like manner in any
13 district in which the judgment is a lien.”.

14 (b) The section analysis of chapter 125 of title 28,
15 United States Code, is amended by inserting immediately
16 after the item relating to section 1963 the following new item:

“1963A. Registration of judgments of the Court of International Trade.”.

17 SEC. 513. The first paragraph of section 2414 of title
18 28, United States Code, is amended by inserting “or the
19 Court of International Trade” immediately after “court” in
20 the first sentence.

21 **TITLE VI—TECHNICAL AND CONFORMING**
22 **AMENDMENTS TO OTHER ACTS**

23 SEC. 601. The following provisions of law are amended
24 by striking out “Customs Court” and inserting in lieu there-
25 of “Court of International Trade”:

1 (1) *Section 6001 of title 18, United States Code.*

2 (2) *Section 305 of the Tariff Act of 1930 (19*
3 *U.S.C. 1305).*

4 (3) *Section 502(b) of the Tariff Act of 1930 (19*
5 *U.S.C. 1502(b)).*

6 (4) *Section 503 of the Tariff Act of 1930 (19*
7 *U.S.C. 1503).*

8 (5) *Section 514 (a) and (b) of the Tariff Act of*
9 *1930 (19 U.S.C. 1514(a) and (b)).*

10 (6) *Section 516 (d), (e), and (f) of the Tariff Act*
11 *of 1930 (19 U.S.C. 1516 (d), (e), and (f)).*

12 (7) *Section 516A (a)(2), (c), (d), and (e) of the*
13 *Tariff Act of 1930 (19 U.S.C. 1516a (a)(2), (c), (d),*
14 *and (e)).*

15 (8) *Section 528 of the Tariff Act of 1930 (19*
16 *U.S.C. 1528).*

17 (9) *Section 308(9) of the Ethics in Government*
18 *Act (28 U.S.C. app.).*

19 (10) *Section 7443(d) of the Internal Revenue*
20 *Code of 1954.*

21 (11) *Section 906 of title 44, United States Code.*

22 *SEC. 602. The following provisions of law are amended*
23 *by striking out "Court of Customs and Patents Appeals"*
24 *and inserting in lieu thereof "Court of Appeals for Interna-*
25 *tional Trade, Patents, and Trademarks":*

1 (1) *Section 71 of the Plant Variety Protection*
2 *Act (7 U.S.C. 2461).*

3 (2) *Section 21(a) and (b) of the Trademark Act*
4 *of 1946 (15 U.S.C. 1071(a) and (b)).*

5 (3) *Section 6001 of title 18, United States Code.*

6 (4) *Section 337(c) of the Tariff Act of 1930 (19*
7 *U.S.C. 1337(c)).*

8 (5) *Section 516 (d) and (f) of the Tariff Act of*
9 *1930 (19 U.S.C. 1516 (d) and (f)).*

10 (6) *Section 516A (c) and (e) of the Tariff Act of*
11 *1930 (19 U.S.C. 1516a (c) and (e)).*

12 (7) *Section 528 of the Tariff Act of 1930 (19*
13 *U.S.C. 1528).*

14 (8) *Section 308(9) of the Ethics in Government*
15 *Act (28 U.S.C. app.).*

16 (9) *The item relating to section 141 in the section*
17 *analysis of chapter 13 of title 35, United States Code.*

18 (10) *Section 141 of title 35, United States Code.*

19 (11) *Section 142 of title 35, United States Code.*

20 (12) *Section 143 of title 35, United States Code.*

21 (13) *Section 144 of title 35, United States Code.*

22 (14) *Section 145 of title 35, United States Code.*

23 (15) *Section 146 of title 35, United States Code.*

24 (16) *Section 152 of the Atomic Energy Act of*
25 *1954 (42 U.S.C. 2182).*

1 (17) Section 305(d) of the National Aeronautics
2 and Space Act of 1958 (42 U.S.C. 2457(d)).

3 (18) Section 906 of title 44, United States Code.

4 SEC. 603. The first section of the Act entitled "An Act
5 to provide the name by which the Board of General Apprais-
6 ers and members thereof shall be known" approved May 28,
7 1926 (19 U.S.C. 405a), is repealed.

8 SEC. 604. Section 337(c) of the Tariff Act of 1930 (19
9 U.S.C. 1337(c)) is amended—

10 (1) by inserting "for review in accordance with
11 chapter 7 of title 5, United States Code" immediately
12 before the period at the end of the fourth sentence; and

13 (2) by striking out the last sentence and inserting
14 in lieu thereof the following new sentence: "Notwith-
15 standing the foregoing provisions of this subsection,
16 Commission determinations under subsections (d), (e),
17 and (f) with respect to its findings on the public health
18 and welfare, competitive conditions in the United
19 States economy, the production of like or directly com-
20 petitive articles in the United States, and United
21 States consumers, the amount and nature of bond, or
22 the appropriate remedy shall be reviewable in accord-
23 ance with section 706 of title 5, United States Code."

24 SEC. 605. (a) Section 514(a)(4) of the Tariff Act of
25 1930 (19 U.S.C. 1514(a)(4)) is amended to read as follows:

1 “(4) the exclusion of merchandise from entry or
2 delivery or a demand for redelivery to customs custody
3 under any provision of the customs laws, except a de-
4 termination appealable under section 337 of this Act;”.

5 (b) Section 514(a) of the Tariff Act of 1930 (19 U.S.C.
6 1514(a)) is further amended by striking out “section 2632 of
7 title 28 of the United States Code within the time prescribed
8 by section 2631” and inserting in lieu thereof “chapter 169
9 of title 28 of the United States Code within the time pre-
10 scribed by section 2636”.

11 SEC. 606. Section 515(b) of the Tariff Act of 1930 (19
12 U.S.C. 1515(b)) is amended by striking out “section 1582”
13 and inserting in lieu thereof “section 1581”.

14 SEC. 607. (a) Section 516(a) of the Tariff Act of 1930
15 is amended—

16 (1) by inserting “(1)” immediately before “The
17 Secretary”;

18 (2) by striking out “(as defined in section 771(9)
19 (C), (D), and (E) of this Act)”;

20 (3) by redesignating paragraphs (1), (2), and (3)
21 as subparagraphs (A), (B), and (C), respectively; and

22 (4) by inserting at the end thereof the following
23 new paragraph:

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

1 “(ii) a determination by the administer-
2 ing authority or the Commission, under sec-
3 tion 751(b) of this Act, not to review an
4 agreement or a determination based upon
5 changed circumstances, or

6 “(iii) a negative determination by the
7 Commission, under section 703(a) or 733(a)
8 of this Act, as to whether there is reasonable
9 indication of material injury, threat of mate-
10 rial injury, or material retardation,
11 an interested party who is a party to the proceed-
12 ing in connection with which the matter arises
13 may commence an action in the United States
14 Court of International Trade by filing concu-
15 rently a summons and complaint, each with the
16 content and in the form, manner, and style pre-
17 scribed by the rules of that court, contesting any
18 factual findings or legal conclusions upon which
19 the determination is based.

20 “(B) TEN-DAY REVIEW.—Within 10 days
21 after the date of publication in the Federal Regis-
22 ter of notice of—

23 “(i) a determination by the administer-
24 ing authority, under section 703(c) or 733(c)

1 of this Act, that a case is extraordinarily
2 complicated, or

3 “(ii) a negative determination by the
4 administering authority under section 703(b)
5 or 733(b) of this Act,

6 an interested party who is a party to the proceed-
7 ing in connection with which the matter arises
8 may commence an action in the United States
9 Court of International Trade by filing concu-
10 rently a summons and complaint, each with the
11 content and in the form, manner, and style pre-
12 scribed by the rules of that court, contesting any
13 factual findings or legal conclusions upon which
14 the determination is based.”.

15 (b) Section 516A(a)(3) of the Tariff Act of 1930 (19
16 U.S.C. 1516a(a)(3)) is amended by striking out “section
17 2632” and inserting in lieu thereof “chapter 169”.

18 (c) Section 516A(c)(2) of the Tariff Act of 1930 (19
19 U.S.C. 1516a(c)(2)) is amended by striking out the second
20 sentence.

21 (d) The second sentence of section 516A(d) of the Tariff
22 Act of 1930 (19 U.S.C. 1516a(d)) is amended to read as
23 follows: “The party filing the action shall notify all such
24 interested parties of the filing of an action under this section,

1 *in the form, manner, style, and within the time prescribed by*
2 *rules of the court.”.*

3 *SEC. 609. Section 592(e) of the Tariff Act of 1930 (19*
4 *U.S.C. 1592(e)) is amended by striking out “(e) DISTRICT*
5 *COURT PROCEEDINGS.—” and all that follows through*
6 *“under this section—” and inserting in lieu thereof the*
7 *following:*

8 *“(e) COURT OF INTERNATIONAL TRADE PROCEED-*
9 *INGS.—Notwithstanding any other provision of law, in any*
10 *proceeding commenced by the United States in the Court of*
11 *International Trade for the recovery of any monetary penalty*
12 *claimed under this section—”.*

13 *SEC. 610. Section 604 of the Tariff Act of 1930 (19*
14 *U.S.C. 1604) is amended—*

15 (1) *by striking out “every United States district*
16 *attorney” and inserting in lieu thereof “the Attorney*
17 *General of the United States”;*

18 (2) *by inserting “or the Court of International*
19 *Trade” immediately after “district court”; and*

20 (3) *by striking out “such district attorney” and*
21 *inserting in lieu thereof “the Attorney General”.*

22 *SEC. 611. (a) The second sentence of the second para-*
23 *graph of section 641(b) of the Tariff Act of 1930 (19 U.S.C.*
24 *1641(b)) is amended by striking out “in the circuit court”*

1 *and all that follows through "District of Columbia" and in-*
2 *serting in lieu thereof "in the Court of International Trade".*

3 (b) *Section 641(b) of the Tariff Act of 1930 (19 U.S.C.*
4 *1641(b)) is amended by striking out the next to last sentence*
5 *of the second paragraph.*

6 *SEC. 612. Section 250 of the Trade Act of 1974 (19*
7 *U.S.C. 2322), and the item relating to such section in the*
8 *table of contents of such Act, are repealed.*

9 *SEC. 613. (a) Title II of the Trade Act of 1974 (19*
10 *U.S.C. 2251 et seq.) is amended by redesignating section*
11 *284 as section 285 and by inserting immediately after sec-*
12 *tion 283 the following new section:*

13 **"SEC. 284. JUDICIAL REVIEW.**

14 *"(a) A worker, group of workers, certified or recognized*
15 *union, or authorized representative of such worker or group*
16 *aggrieved by a final determination of the Secretary of Labor*
17 *under section 223 of this title, a firm or its representative*
18 *aggrieved by a final determination of the Secretary of Com-*
19 *merce under section 251 of this title, a community aggrieved*
20 *by a final determination of the Secretary of Commerce under*
21 *section 271 of this title, or any other interested domestic*
22 *party aggrieved by any such final determination may, within*
23 *60 days after notice of such determination, commence a civil*
24 *action in the United States Court of International Trade for*
25 *review of such determination. The clerk of such court shall*

1 *send a copy of the summons and the complaint in such action*
2 *to the Secretary of Labor or the Secretary of Commerce, as*
3 *the case may be. Upon receiving a copy of such summons*
4 *and complaint, such Secretary shall promptly certify and file*
5 *in such court the record on which he based such*
6 *determination.*

7 “(b) *The findings of fact by the Secretary of Labor or*
8 *the Secretary of Commerce, as the case may be, if supported*
9 *by substantial evidence, shall be conclusive; but the court, for*
10 *good cause shown, may remand the case to such Secretary to*
11 *take further evidence, and such Secretary may thereupon*
12 *make new or modified findings of fact and may modify his*
13 *previous action, and shall certify to the court the record of the*
14 *further proceedings. Such new or modified findings of fact*
15 *shall likewise be conclusive if supported by substantial*
16 *evidence.*

17 “(c) *The Court of International Trade shall have juris-*
18 *diction to affirm the action of the Secretary of Labor or the*
19 *Secretary of Commerce, as the case may be, or to set such*
20 *action aside, in whole or in part. The judgment of the Court*
21 *of International Trade shall be subject to review by the*
22 *United States Court of Appeals for International Trade,*
23 *Patents, and Trademarks as prescribed by the rules of such*
24 *court. The judgment of the Court of Appeals for Internation-*
25 *al Trade, Patents, and Trademarks shall be subject to review*

1 *by the Supreme Court of the United States upon certiorari*
 2 *as provided in section 1256 of title 28.”*

3 *(b) The table of contents of the Trade Act of 1974 (19*
 4 *U.S.C. 2101 et seq.) is amended by striking out the item*
 5 *relating to section 284 and inserting in lieu thereof the fol-*
 6 *lowing new items:*

“Sec. 284. Judicial review.

“Sec. 285. Effective date.”

7 **TITLE VII—EFFECTIVE DATES AND**
 8 **MISCELLANEOUS PROVISIONS**

9 **EFFECTIVE DATES**

10 *SEC. 701. (a) Except as otherwise provided in this sec-*
 11 *tion, the amendments made by this Act shall take effect on*
 12 *the date of the enactment of this Act and shall apply with*
 13 *respect to civil actions pending on or commenced on or after*
 14 *such date of enactment.*

15 *(b)(1) The following sections of title 28, United States*
 16 *Code, shall apply with respect to civil actions commenced on*
 17 *or after the date of the enactment of this Act:*

18 *(A) Sections 1581(d), 1581(g), 1581(h), 1581(i),*
 19 *and 1583, as amended by section 201 of this Act.*

20 *(B) Sections 2631(d), 2631(g), 2631(h), 2631(i),*
 21 *2631(j), 2632(a), 2635, 2636, 2637(c), 2639(b),*
 22 *2640(a)(5), 2640(c), 2640(d), 2643(a), 2643(c)(2),*
 23 *2643(c)(4), and 2644, as amended by section 301 of*
 24 *this Act.*

1 (C) Section 1876, as added by section 302(a) of
2 this Act.

3 (D) Sections 2601 and 2602, as amended by sec-
4 tion 403 of this Act.

5 (E) Section 1919, as amended by section 511 of
6 this Act.

7 (F) Section 1963A, as added by section 512(a) of
8 this Act.

9 (2) Sections 337(c) and 641(b) of the Tariff Act of
10 1930, as amended by sections 604 and 611 of this Act, shall
11 apply with respect to civil actions commenced on or after the
12 date of the enactment of this Act.

13 (3) Section 284 of the Trade Act of 1974, as added by
14 section 613 of this Act, shall apply with respect to civil ac-
15 tions commenced on or after the date of enactment of this Act.

16 (c)(1) The following sections of title 28, United States
17 Code, shall apply with respect to civil actions commenced on
18 or after the 90th day after the date of the enactment of this
19 Act:

20 (A) Sections 1582, 2639(a)(2), and 2640(a)(6),
21 as amended by sections 201 and 301 of this Act.

22 (B) Sections 1352, 1355, and 1356, as amended
23 by sections 507, 508, and 509 of this Act.

24 (2) Section 592(e) of the Tariff Act of 1930, as amend-
25 ed by section 609 of this Act, shall apply with respect to civil

1 *actions commenced on or after 90th day after the date of the*
2 *enactment of this Act.*

3 *(d) Section 2604 of title 28, United States Code, as*
4 *added by section 405(a) of this Act, shall take effect on Octo-*
5 *ber 1, 1980.*

6 **TREATMENT OF REFERENCES**

7 *SEC. 702. Any reference in any statute or regulation of*
8 *the United States to the United States Customs Court, the*
9 *U.S. Customs Court, or the Customs Court shall be deemed*
10 *to be a reference to the United States Court of International*
11 *Trade, and any reference in any such statute or regulation to*
12 *the United States Court of Customs and Patent Appeals, the*
13 *U.S. Court of Customs and Patent Appeals, or the Court of*
14 *Customs and Patent Appeals shall be deemed to be a refer-*
15 *ence to the United States Court of Appeals for International*
16 *Trade, Patents, and Trademarks.*

17 **EFFECT ON CUSTOMS COURT JUDGES**

18 *SEC. 703. (a) Except as provided in subsection (b) of*
19 *this section, the amendments made by title I of this Act shall*
20 *not affect the status of any individual serving as judge or*
21 *chief judge of the Customs Court on the date of enactment of*
22 *this Act.*

23 *(b) The requirement that a person may not continue to*
24 *serve as chief judge of the Court of International Trade after*
25 *having reached the age of seventy years, as set forth in the*

1 *amendment made by section 101 of this Act, shall apply to*
2 *any individual serving as chief judge on or after the date of*
3 *enactment of this Act.*

4 *EFFECT ON PENDING CASES*

5 *SEC. 704. Nothing in this Act shall cause the dismissal*
6 *of any action commenced prior to the date of enactment of*
7 *this Act under jurisdictional statutes relating to the Customs*
8 *Court or the Court of Customs and Patent Appeals as in*
9 *effect immediately prior to such date of enactment.*

Union Calendar No. 767

96TH CONGRESS
2D SESSION

H. R. 7540

[Report No. 96-1235]

A BILL

To improve the Federal judicial machinery by clarifying and revising certain provisions of title 28, United States Code, relating to the judiciary and judicial review of international trade matters, and for other purposes.

JUNE 10, 1980

Referred to the Committee on the Judiciary

AUGUST 20, 1980

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed