

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;
- (e) Copy of denial or protest in whole or in part;
- (f) Importer's exhibits;
- (g) Official samples;
- (h) Any official laboratory reports;
- (i) The summary sheet;
- (j) In any case in which one or more of the items listed in paragraphs (a) through (i) of this section do not exist, the Customs officer shall include a statement to that effect, identifying the items which do not exist.

(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]

Subpart C—Statement of Agreed Facts**§ 176.21 Referral of statement of agreed facts for certification.**

Statements of agreed facts (also referred to as stipulations) to be used by the Department of Justice in submitting cases to the Court of International Trade may be referred for certification to Customs officials by the office of the Assistant Attorney General, International Trade Field Office, Civil Division, Department of Justice, 26 Federal Plaza, New York, N.Y. 10278.

[T.D. 70-181, 35 FR 13433, Aug. 22, 1970, as amended by T.D. 85-90, 50 FR 21430, May 24, 1985; T.D. 88-47, 53 FR 30984, Aug. 17, 1988]

§ 176.22 Deletion of protest or entry number.

If any protest number or entry number is to be deleted from a schedule of

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protest numbers or entry numbers attached to or embodied in a statement of agreed facts, a line shall be drawn through the number and the change shall be initialed by the authorized official making and approving the deletion.

[T.D. 70-181, 35 FR 13433, Aug. 22, 1970]

Subpart D—Procedure Following Court Decision

§ 176.31 Reliquidation following decision of court.

(a) *Decision of U.S. Court of International Trade.* Except as provided in paragraph (c) of this section, an entry which is the subject of a decision of the U.S. Court of International Trade shall be reliquidated in accordance with the judgment order thereon at the expiration of 60 days from the date of the decision, unless an appeal or motion for a rehearing is filed. However, entries which are the subject of decisions of the court following a decision of the Court of Appeals for the Federal Circuit which involve the same issue, or which are based on submission of an agreed statement of fact, may be reliquidated immediately upon receipt of the judgment orders from the U.S. Court of International Trade.

(b) *Decision of the Court of Appeals for the Federal Circuit.* Except as provided in paragraph (c) of this section, an entry covering merchandise which is the subject of a decision of the Court of Appeals for the Federal Circuit shall be reliquidated at the expiration of 90 days from the date of entry of decision by that court and only upon receipt of the judgment order from the U.S. Court of International Trade. However, no such entry shall be reliquidated pursuant to such order if a petition for certiorari is taken to the Supreme Court.

(c) *Waiver of right of appeal.* Upon receipt of a letter from the Assistant Attorney General, Civil Division, Department of Justice, signed by the Chief, Customs Section, advising that no appeal will be taken from a decision of the U.S. Court of International Trade or that it has been determined that no petition for certiorari shall be filed in the Supreme Court to review a decision

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of the Court of Appeals for the Federal Circuit, any entry or entries covered by such decision may be reliquidated pursuant to the judgment of the U.S. Court of International Trade prior to the expiration of the times specified in paragraphs (a) and (b) of this section.

(Sec. 514, 46 Stat. 734, as amended; 19 U.S.C. 1514)

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

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Sec.

177.0 Scope.

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AUTHORITY: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1502, 1624, 1625.