

---



---

IMPORTATION OF PRE-COLUMBIAN SCULPTURE AND  
MURALS; CUSTOMS PORT SECURITY; JUDICIAL RE-  
VIEW IN COUNTERVAILING DUTY CASES

---

SEPTEMBER 25, 1972.—Ordered to be printed

---

Mr. LONG of Louisiana, from the Committee on Finance,  
submitted the following

REPORT

[To accompany H.R. 9463]

The Committee on Finance, to which was referred the bill (H.R. 9463) to prohibit the importation into the United States of pre-Columbian monumental and architectural sculpture, murals, and any fragment or part thereof, exported contrary to the laws of country of origin, and for other purposes having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

HOUSE BILL

As passed by the House, H.R. 9643 would prevent the importation into the United States of certain archeological objects exported contrary to the laws of the country of origin. The committee bill would not modify this provision of the House bill, but would add the amendments relating to customs port security and judicial review in countervailing duty cases.

SUMMARY OF AMENDMENTS

*Customs Port Security.*—The Committee was informed that theft and pilferage of cargo have reached such proportions that it has become necessary to take stern protective measures. These measures provided by the Committee amendments are designed to insure the security and safety of international cargo from the time of unloading to the time of delivery to the consignee or his agent.

The amendment deals with the areas where cargo is handled and stored and establishes criminal penalties to the illegal removal of cargo from areas under Customs control. It also directs the Secretary

of the Treasury to establish national standards for the physical security of terminal facilities and gives additional power to the Secretary to prohibit the unloading or loading of merchandise at any terminal that does not conform to the standards prescribed.

By the implementation of these security measures, the Committee believes there will be increased protection, not only against the theft of cargo, but also against the smuggling of narcotics, dangerous drugs, and other contraband.

*Judicial Review—Countervailing Duty Cases.*—The Committee also approved an amendment which would give an American manufacturer, producer, or wholesaler the right to contest the decision of the Secretary of the Treasury on countervailing duty cases. At present only importers have the right to judicial review of an administrative decision that a bounty or grant exists with respect to certain imported merchandise. This amendment would give American producers an equal right. Moreover, American producers have the right to challenge other kinds of customs decisions in court under existing law. Extending the right to countervailing duty decisions is thus consistent with established legal concepts in this field.

#### PRE-COLUMBIAN ART

H.R. 9463 was proposed by the Department of State to assist countries in Latin America which are experiencing serious depredation of archeological sites of the pre-Columbian era. The committee is informed that the ceremonial centers and architectural complexes of the ancient civilizations of Latin America are being pillaged and mutilated in order to meet the demands of a flourishing international market for pre-Columbian art objects. Frequently, art objects taken from these centers and complexes are broken into pieces and otherwise seriously damaged for the convenience of the looters who export the fragments from the country of origin for sale to collectors and cultural institutions.

Despite the efforts of most of the affected countries in Latin America to control the outflow of these culturally significant objects, the large number of sites, often in remote locations, and the high places commanded by these objects in the international market, work against effective regulations. In addition, adequate resources are not available in some countries to prevent the pillage and exportation of these objects. Clandestine archeological operations, which are encouraged by existing circumstances, destroy the scientific value of the objects and of the sites from which they are removed. While these problems are not unique to Latin America, your committee is informed that the situation in that area is particularly urgent.

Insofar as the United States is concerned, a number of illegally exported pre-Columbian treasures have appeared in this country. Also, it is not uncommon to see advertisements in art circulars for the sale of art objects coming from documented pre-Columbian Mayan sites.

While legal remedies for the return of such objects are available in U.S. courts in some cases, these procedures can be extremely expensive and time consuming, and do not provide a meaningful deterrent to the pillage of pre-Columbian sites now taking place. A number of Latin American countries have requested the cooperation of the United

States in stopping this pillage through the placing of controls on the importation of such objects not legally exported from those countries.

A panel of the American Society of International Law on International Movement of National Art Treasures has suggested to the Secretary of State that legislation be drafted which would prohibit the future importation into the United States of pre-Columbian monumental and architectural sculpture and murals exported without the consent of the exporting country. The legislation which was subsequently introduced as H.R. 9463, is supported by the panel of representatives of major collecting institutions and art dealers in this country as well as interested scientists and attorneys. Enactment of H.R. 9463 has also been recommended by the American Institute of Archeology.

The committee believes that the type of import limitations provided for in H.R. 9463, as reported, would be an effective means of assisting the interested countries in preserving their cultural heritage. In addition, such limitations will facilitate the work of American and foreign archeologists.

#### PROVISIONS OF THE BILL

H.R. 9463, as reported, would prevent the importation into the United States of a narrow class of valuable archeological objects exported contrary to the laws of the respective countries of origin. The objects to which the bill applies are pre-Columbian monumental or architectural sculpture or murals which are defined in the bill as any stone carving or wall art which (1) is a product of the pre-Columbian Indian culture of Mexico, Central America, South America, or the Caribbean Islands; (2) was an immobile monument or structure or was part of, or affixed to, any such monument or structure; and (3) is subject to export control by the country of origin. Under the first section of the bill, the Secretary of the Treasury, after consultation with the Secretary of State, is directed to promulgate, and from time to time revise, by regulation a list of stone carvings and wall art (which may be arranged by type or other suitable classification) which meet that definition.

Section 102 of the bill provides that a pre-Columbian sculpture or mural included on the list promulgated by the Secretary of the Treasury, or any part or fragment of such a listed object, may not be imported into the United States if it was exported from the country of origin (whether or not such exportation is to the United States) after the effective date of the regulation placing such sculpture or mural on the list unless the importer can produce a certificate issued by the government of the country of origin stating that the exportation was not in violation of the laws of that country. An importer may enter a pre-Columbian sculpture or mural without such a certificate if he can produce (1) evidence establishing that the sculpture or mural, or part or fragment thereof, was exported from the country of origin on or before the effective date of its listing, or (2) evidence that the sculpture or mural is not covered by the list. Section 2 of the bill further provides that an importer whose sculpture or mural has been seized at the time of entry has a period of 90 days, or such longer period as the Secretary of the Treasury may allow for good

cause shown, to produce the certification or evidence necessary to establish his right to enter the sculpture or mural into the United States. During such period, the sculpture or mural will be retained in customs custody. Any sculpture or mural for which such documentation is not produced within the specified period is imported into the United States in violation of the bill.

Section 103(a) of the bill also provides for the seizure and forfeiture under the customs law of any sculpture or mural imported in violation of the bill. Seizures and forfeitures of such objects would be processed in the same manner for any other article imported contrary to law. Petitions may be filed under section 618 of the Tariff Act of 1930 (19 U.S.C. 1618) to mitigate any forfeiture where appropriate. Section 3(b) of the bill provides that any sculpture or mural which is forfeited shall be returned to the country of origin (which is defined in section 105(4) of the bill as the country where the sculpture or mural was first discovered) if that country bears all of the expenses incurred incident to such return and it complies with all other requirements relating to such return as may be prescribed by the Secretary of the Treasury. If a sculpture or mural is not returned to the county of origin, it will be disposed of in accordance with the laws which apply in the case of other articles forfeited for violation of the customs law.

Section 104 of the bill authorizes the Secretary of the Treasury to prescribe such rules and regulations as are necessary and appropriate to carry out the provisions of the act.

#### CUSTOMS PORT SECURITY

The Committee amendment dealing with customs port security is designed to meet the serious problem of theft and pilferage of cargo at our nation's port of entry. Cargo security is of course, a responsibility of the carrier or terminal operator, but the dimensions of the problem are such as to constitute a burden upon interstate and foreign commerce, making it necessary for the Federal Government to mount a broad-scale campaign to eradicate it. An ever-growing dollar loss to the transportation industry is obviously important to the entire nation. In addition to the actual dollar loss, however, the economy is affected in various other ways. Manufacturing schedules may be delayed or not met, employees of manufacturers may be laid off because of lack of raw materials, seasonal markets may be lost, cargo insurance premiums skyrocket, stolen merchandise may be put into the stream of commerce by the underworld to compete with legitimate business, and taxes and customs duties are not collected on merchandise which is stolen.

The amendment attempts to stem the growth of this criminal activity and the influence of organized crime at our nation's airports and seaports by prescribing standards of physical and procedural security of cargo, by providing an identification card system for those persons seeking access to high-risk cargo areas, and by providing civil penalties and other sanctions for failure to comply with such standards.

The Committee amendment is a revised version of the Customs-Port Security Act of 1971, introduced on behalf of the Administration as S. 1654, on April 26, 1971. The House Ways and Means Com-

mittee held extensive hearings on the original bill at which a number of labor organizations expressed objections to certain features of that bill. All those features have been removed, without jeopardizing the purpose and effect of the legislation. The Committee received informal assurances from the AFL-CIO, the International Longshoreman's Association, the International Longshoreman's Warehouses Union the Air Transport Association and the Airport Operators Council International that they have no objection to the Committee amendment.

The Committee agrees with the findings of the Select Committee on Small Business based on hearings before that Committee on May 23 and July 22, 1969. The Committee report (Report No. 91-612) indicated that the failure to provide adequate cargo security arrangements has contributed significantly to the rising rate of theft and pilferage, a condition which continues to this day.

The Committee feels that the revised version of the Customs-Port Security Act will result in increased protection, not only against the theft of cargo, but also against the smuggling of narcotics, dangerous drugs, and other contraband.

The Committee received the following letter from Assistant Secretary Rossides addressed to Senator Bennett, the Ranking Republican on the Committee and original sponsor of the Customs-Port Security Act.

THE DEPARTMENT OF THE TREASURY,  
*Washington, D.C., September 20, 1972.*

HON. WALLACE F. BENNETT,  
*Committee on Finance,*  
*U.S. Senate, Washington, D.C.*

DEAR SENATOR BENNETT: Enclosed herewith is our final draft of the Customs-Port Security Act. The sections in the original bill relating to the licensing of employees and businesses and the establishment of Customs-security areas have been withdrawn. We believe these provisions are not necessary for the accomplishment of the bill's basic objectives, and deleting them should resolve the few objections to this bill that have been expressed.

In addition, several of the other sections have been revised to clarify procedures and language and conforming amendments have been made to the consequential amendments to title 18, United States Code.

Your assistance in this matter is greatly appreciated.

Sincerely yours,

EUGENE T. ROSSIDES.

The following describes the section-by-section analysis of the Committee amendment establishing the "Customs Port Security Act of 1972."

*Section 201* provides that the Act shall be known as the "Customs Port Security Act of 1972."

*Section 202* contains a statement of Congressional intent to indicate how the Congress expects the implementing regulations to be fashioned.

*Section 202(a)* contains findings of fact concerning the gravity of the problem and the need to deter theft and pilferage of international

cargo by requiring carriers and terminal operators to provide security measures for cargo under their control.

*Section 202(b)* states that it is the purpose of this Act to establish a program which takes into consideration various factors bearing upon the security of cargo in terminals within each port, such as port topography, terminal configuration, size, location, and the type and volume of cargo handled.

*Section 203* contains definitions of terms used in the bill: The term "Secretary" is defined to mean the Secretary of the Treasury. The term "United States" is defined to include the several states, the District of Columbia, Puerto Rico, and the Virgin Islands. The term "person" means an individual. The term "terminal" means a place within a port of entry at which imported merchandise is unladen from or merchandise is laden on, a carrier engaged in commerce, and any place adjacent thereto which is used for the receiving, storage or other handling of, or dealing with respect to such merchandise. This would include dock and lighterage facilities, receiving and handling facilities such as depots, truck terminals, container stations, piers, wharves, warehouses, and other storage areas, including management offices. The term "terminal operator" is defined to mean any individual, association, partnership, corporation, public body or agency who operates or otherwise manages a terminal.

*Section 204(a)* provides that if the Secretary determines that the theft or pilferage of imported cargo or cargo for export has become detrimental to the international trade and commerce of a port of entry, taking into account the pertinent factors relevant to the security of cargo at the port, he shall, after consultation with the various federal, state and local agencies having authority over the safety of goods and merchandise moving in commerce, publish in the Federal Register notice of his intention to establish such cargo security measures as he may require to protect such cargo. This would include measures and procedures relating to adequate storage space, special storage areas for high-value items, lighting, fencing, alarm systems, patrols and guards, entrances, exits, loading areas, parking, cargo quantity control, and cargo loss reporting. The notice shall contain the basis for his determination and the measures and procedures he intends to apply, and shall invite the submission from terminal operators, and other interested parties, of written data, views or comments with respect to the application of any and all such measures and procedures. Opportunity is provided for a public hearing upon the request of an interested party. After considering such data, views or comments, or after public hearing if one is held, the Secretary shall publish in the Federal Register notice of any cargo security measures or procedures which will be required at terminals.

*Section 204(b)* provides that the cargo security measures or procedures which are required shall become effective six months after the date of publication in the Federal Register. The Secretary is authorized to grant additional time, where necessary, to ensure compliance. The Secretary may at any time on his own initiative or upon petition by a terminal operator or other affected party withdraw any or all cargo security measures or procedures required at a port of entry or terminals. If the Secretary denies a petition for withdrawal of cargo

security measures he shall, upon request of the aggrieved party, promptly hold a hearing to review his denial, and thereafter notify the applicant in writing of his decision.

*Section 205* provides that any individual having access to a terminal area in which imported cargo or cargo for export is handled shall carry and display an identification card issued by the individual's union or employer, an agency of the Federal, State or local government or a recognized carrier security association or organization. The Secretary is authorized to issue rules and regulations with respect to the form and contents of the identification cards to be issued pursuant to this section. Any person not having an identification card who has reason to require access to a terminal in any port may apply to the terminal operator for a temporary identification card.

*Section 206* provides civil penalties to ensure compliance with any regulation issued pursuant to Section 4 of this Act in the amount of \$1,000 for each violation. Each day on which failure of compliance persists shall constitute a new violation, but no penalty shall be assessed more than two years after the alleged violation of such regulation. The maximum civil penalty shall not exceed \$5,000 for any related series of violations. Said civil penalty may be remitted or mitigated by the Secretary, in whole or in part, upon such terms and conditions, as he deems reasonable and just. The amount of the penalty, when finally determined, may be collected by proceeding in the appropriate United States district court.

*Section 207* provides that if the Secretary determines that, because of repetitive violations or otherwise, the imposition of civil penalties or other sanctions against a terminal are unavailing to secure its compliance with cargo security measures and procedures made applicable to such terminal pursuant to this Act, he may prohibit the unloading of imported merchandise or the lading of merchandise for export at such terminal.

*Section 208* provides for judicial review of any final decision of the Secretary rendered under Section 4 of the Act in accordance with chapter 7 of title 5, United States Code. Such review would be initiated by filing a petition for review in the appropriate United States district court, within sixty days after the date on which the decision is rendered or published in the Federal Register.

*Section 209* amends section 549 of title 18, United States Code, which deals with the removal of goods from customs custody. At present, the offenses described are punishable by a fine of not more than \$5,000 or imprisonment not more than two years, or both. The amendment provides that if the amount or value of the merchandise or baggage unlawfully removed exceeds \$250 he shall be fined not more than \$5,000 or imprisoned not more than ten years, or both, but if the amount or value of the merchandise or baggage does not exceed \$250, he shall be fined not more than \$1,000 or imprisoned not more than one year, or both. By increasing the maximum penalty for serious violations to the level generally applicable for felony offenses, the commission of such offenses will be more easily deterred, and by including a misdemeanor penalty for thefts of property with a value of \$250 or less, minor thefts could be prosecuted before a United States Magistrate. In many such small cases United States Attorneys prefer

not to prosecute in a United States district court because of overburdened calendars and the high penalties on low-valued thefts.

*Section 210* provides general authority to issue rules and regulations necessary to carry out the provisions of this Act.

*Section 211* provides that if any part or provision of this Act or the application thereof to any person or circumstances be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of the Act or the application thereof to other persons or circumstances.

*Section 212* authorizes the appropriation of such sums as may be necessary to effect the purposes of the legislation.

#### JUDICIAL REVIEW IN COUNTERVAILING DUTY CASES

The Committee amendment providing judicial review to domestic producers in countervailing duty cases is necessitated because of a 1971 decision of the Court of Customs and Patent Appeals (*United States v. Hammond Lead Products, Inc.*) holding that judicial review was not available to American producers in countervailing duty cases. The Committee is concerned that that decision might adversely affect the ability of American producers to obtain meaningful relief against subsidized import competition under the Countervailing Duty Law (section 303 of the Tariff Act) because of administrative inaction or insufficient action, or because of excessive delay in the administrative process.

In addition, importers enjoy the right to judicial review in countervailing duty cases under existing law. The Committee believes that American producers as well as importers should be permitted to have the right to judicial review in countervailing duty cases as a matter of basic equity and fairness, and as a means to secure administration of the law in keeping with the intent of Congress reflected in the broad, explicit and mandatory terms used in section 303.

The Countervailing Duty Law requires the Secretary of the Treasury to assess an additional duty on imports of dutiable articles with respect to which a bounty or grant has been paid. The additional duty must be equal to the amount of the bounty or grant, thereby neutralizing the artificial advantage afforded the foreign product by virtue of the subsidy. Consequently, countervailing duties are not, nor were they ever intended to be, penal in nature; they are remedial in nature inasmuch as they operate to offset the effect of subsidies afforded foreign merchandise.

Section 516 of the Tariff Act of 1930, as amended, permits American manufacturers, producers, or wholesalers to file a petition with the Secretary of the Treasury contesting the appraisalment, classification, or rate of duty assessed with respect to imported merchandise by the Bureau of Customs. The amendment permits such petitions to be filed by American manufacturers, producers, or wholesalers where it is believed that countervailing duties should be assessed, or, if assessed, that the rate or amount is too low.

Under section 516, if the Secretary of the Treasury agrees with the claims made in the manufacturer's petition, he must determine the



proper appraised value, classification, or rate of duty and notify the petitioner of his determination and publish such notice in the weekly *Customs Bulletin*. All merchandise concerned entered thereafter shall be appraised, classified, or assessed with a rate of duty in accordance with the Secretary's decision. The amendment would apply the same procedure to countervailing duty cases, except that the notification in such cases would be published in the *Federal Register*.

If the Secretary disagrees with the petitioner's claim, the petitioner may file, within thirty days, after being notified of the negative decisions, notice that he desires to contest the decision. The Secretary must then publish his decision and the fact that the petitioner desires to contest.

Under section 516(f), if the petitioner's cause of action is sustained by the court, the merchandise concerned entered after that date will be subject to appraisal, classification, or assessment of duty in accordance with the final judicial decision. The amendment provides that in countervailing duty cases merchandise entered after the date of publication of the Secretary's negative decision in the *Federal Register* shall be assessed with a countervailing duty in accordance with the final judicial decision sustaining the petitioner's claim. The Committee felt that this retrocative feature is appropriate and necessary in order to ensure some relief should the petitioner's claim be found valid by the courts. Without this feature, the petitioner could find that after lengthy judicial review of his case a decision in his favor, applied only prospectively, would not provide any relief from the injurious effect of the subsidized imports which could have continued during the lengthy judicial process.

#### THE EFFECT ON REVENUES OF THE BILL AND VOTE OF THE COMMITTEE IN REPORTING THE BILL

In compliance with Section 252(a) of the Legislative Reorganization Act of 1970, the following statement is made relative to the effect on revenues of this bill.

The Committee has been informed by the Department of the Treasury that there will be no additional costs involved in administering this bill as reported by your Committee.

In compliance with section 133 of the Legislative Reorganization Act of 1946 as amended, the following statement is made relative to the vote by the committee on reporting the bill. This bill was ordered favorably reported by the committee without objection. No rollcall vote was taken.

#### CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman) :

#### TARIFF ACT OF 1930, AS AMENDED

\* \* \* \* \*

**[SEC. 516. PETITIONS BY AMERICAN MANUFACTURERS, PRODUCERS, OR WHOLESALERS—VALUE AND CLASSIFICATION.**

[(a) The Secretary shall, upon written request by an American manufacturer, producer, or wholesaler, furnish the classification, and the rate of duty, if any, imposed upon designated imported merchandise of a class or kind manufactured, produced, or sold at wholesale by him. If such manufacturer, producer, or wholesaler believes that the appraised value is too low, that the classification is not correct, or that the proper rate of duty is not being assessed, he may file a petition with the Secretary setting forth (1) a description of the merchandise, (2) the appraised value, the classification, or the rate or rates of duty that he believes proper, and (3) the reasons for his belief.

[(b) If, after receipt and consideration of a petition filed by an American manufacturer, producer, or wholesaler, the Secretary decides that the appraised value of the merchandise is too low, or that the classification of the article or rate of duty assessed thereon is not correct, he shall determine the proper appraised value or classification or rate of duty, and notify the petitioner of his determination. All such merchandise entered for consumption or withdrawn from warehouse for consumption more than thirty days after the date such notice to the petitioner is published in the weekly Customs Bulletin shall be appraised or classified or assessed as to rate of duty in accordance with the Secretary's determination.

[(c) If the Secretary decides that the appraised value or classification of the articles or the rate of duty with respect to which a petition was filed pursuant to subsection (a) is correct, he shall so inform the petitioner. If dissatisfied with the decision of the Secretary, the petitioner may file with the Secretary, not later than thirty days after the date of the decision, notice that he desires to contest the appraised value or classification of, or rate or duty assessed upon, the merchandise. Upon receipt of notice from the petitioner, the Secretary shall cause publication to be made of his decision as to the proper appraised value or classification or rate of duty and of the petitioner's desire to contest, and shall thereafter furnish the petitioner with such information as to the entries and consignees of such merchandise, entered after the publication of the decision of the Secretary at such ports of entry designated by the petitioner in his notice of desire to contest, as will enable the petitioner to contest the appraised value or classification of, or rate of duty imposed upon, such merchandise in the liquidation of one such entry at such port. The Secretary shall direct the appropriate customs officer at such ports to notify the petitioner by mail immediately when the first of such entries is liquidated.

[(d) Notwithstanding the filing of an action pursuant to section 2632 of title 28 of the United States Code, merchandise of the character covered by the published decision of the

Secretary (when entered for consumption or withdrawn from warehouse for consumption on or before the date of publication of a decision of the United States Customs Court or of the United States Court of Customs and Patent Appeals, not in harmony with the published decision of the Secretary) shall be appraised or classified, or both, and the entries liquidated, in accordance with the decision of the Secretary and, except as otherwise provided in this chapter, the final liquidations of these entries shall be conclusive upon all parties.

[(e) The consignee or his agent shall have the right to appear and to be heard as a party in interest before the United States Customs Court.

[(f) If the cause of action is sustained in whole or in part by a decision of the United States Customs Court or of the United States Court of Customs and Patent Appeals, merchandise of the character covered by the published decision of the Secretary, which is entered for consumption or withdrawn from warehouse for consumption after the date of publication of the court decision, shall be subject to appraisal, classification, and assessment of duty in accordance with the final judicial decision in the action, and the liquidation of entries covering the merchandise so entered or withdrawn shall be suspended until final disposition is made of the action, whereupon the entries shall be liquidated, or if necessary, reliquidated in accordance with the final decision.

[(g) Regulations shall be prescribed by the Secretary to implement the procedures required under this section.]

**SEC. 516. PETITIONS BY AMERICAN MANUFACTURERS, PRODUCERS, OR WHOLESALERS.**

(a) *The Secretary shall, upon written request by an American manufacturer, producer, or wholesaler, furnish the classification, the rate of duty and the additional duty described in section 303 of this Act (hereinafter referred to as "countervailing duties"), if any, imposed upon designated imported merchandise or a class or kind manufactured, produced, or sold at wholesale by him. If such manufacturer, producer, or wholesaler believes that the appraised value is too low, that the classification is not correct, that the proper rate of duty is not being assessed, or that countervailing duty should be assessed, he may file a petition with the Secretary setting forth (1) a description of the merchandise, (2) the appraised value, the classification, or the rate or rates of duty that he believes proper, and (3) the reasons for his belief including, in appropriate instances, the reasons for his belief that countervailing duties should be assessed.*

(b) *If, after receipt and consideration of a petition filed by an American manufacturer, producer, or wholesaler, the Secretary decides that the appraised value of the merchandise is too low, that the classification of the article or rate of duty assessed thereon is not correct, or that countervailing duties should be assessed, he shall determine the proper ap-*

*praised value or classification or rate of duty or the countervailing duties in accordance with section 303 of this Act, and notify the petitioner of his determination. All such merchandise entered for consumption or withdrawn from warehouse for consumption more than thirty days after the date such notice to the petitioner is published in the weekly Customs Bulletin, or, in the case of countervailing duties after the date such notice to the petitioner is published in the Federal Register shall be appraised or classified or assessed as to rate of duty or countervailing duties in accordance with the Secretary's determination.*

*(c) If the Secretary decides that the appraised value or classification of the articles or the rate of duty with respect to which a petition was filed pursuant to subsection (a) is correct or that countervailing duties shall not be assessed, he shall so inform the petitioner. If dissatisfied with the decision of the Secretary, the petitioner may file with the Secretary, not later than thirty days after the date of the decision, notice that he desires to contest the appraised value or classification of, or rate of duty assessed upon or the failure to assess countervailing duties upon, the merchandise. Upon receipt of notice from the petitioner, the Secretary shall cause publication to be made of his decision as to the proper appraised value or classification or rate of duty or that countervailing duties shall not be assessed and of the petitioner's desire to contest, and shall thereafter furnish the petitioner with such information as to the entries and consignees of such merchandise, entered after the publication of the decision of the Secretary at such ports of entry designated by the petitioner in his notice of desire to contest, as will enable the petitioner to contest the appraised value or classification of, or rate of duty imposed upon or failure to assess countervailing duties upon, such merchandise in the liquidation of one such entry at such port. The Secretary shall direct the appropriate customs officer at such ports to notify the petitioner by mail immediately when the first of such entries is liquidated.*

*(d) Notwithstanding the filing of an action pursuant to section 2632 of title 28, United States Code, merchandise of the character covered by the published decision of the Secretary (when entered for consumption or withdrawn from warehouse for consumption on or before the date of publication of a decision of the United States Customs Court or of the United States Court of Customs and Patent Appeals, not in harmony with the published decision of the Secretary) shall be appraised or classified, or both, and the entries liquidated, in accordance with the decision of the Secretary and, except as otherwise provided in this chapter, the final liquidations of these entries shall be conclusive upon all parties.*

*(e) The consignee or his agent shall have the right to appear and to be heard as a party in interest before the United States Customs Court.*

(f) *If the cause of action is sustained in whole or in part by a decision of the United States Customs Court or of the United States Court of Customs and Patent Appeals, merchandise of the character covered by the published decision of the Secretary, which is entered for consumption or withdrawn from warehouse for consumption after the date of publication of the court decision, or, in the case of countervailing duties, after the date of publication of the Secretary's decision, shall be subject to appraisement, classification, and assessment of duty in accordance with the final judicial decision in the action, and the liquidation of entries covering the merchandise so entered or withdrawn shall be suspended until final disposition is made of the action, whereupon the entries shall be liquidated, or if necessary, reliquidated in accordance with the final decision.*

(g) *Regulations shall be prescribed by the Secretary to implement the procedures required under this section.*

\*

\*

\*

\*

\*

