

In the event the administrative procedures outlined above do not result in a satisfactory decision to impose additional countervailing duty, it is recommended that the necessary procedural steps be taken to place the matter within the jurisdiction of the Customs Court. Section 1583 of Title 28 of the United States Code vests jurisdiction in the Customs Court as follows:

"The Customs Court shall have exclusive jurisdiction to review on protest the decisions of any Collector of Customs, including all orders and findings entering into the same, as to the rate and amount of the duties chargeable and as to all exactions of whatever character within the jurisdiction of the Secretary of the Treasury. . . ."

It has been held that this exclusive jurisdiction of the Customs Court includes all protests made pursuant to Section 1516(b) of Title 19 of the United States Code. See *North American Cement Corporation v. Anderson*, 284 F.2d 591 (D.C. Cir. 1960). Section 1516(b) governs protests by American manufacturers of Treasury Department findings as to value of, classification of and rates of duties on imported goods.

Before detailing the procedural steps required by Section 1516(b), it should be pointed out that if it ultimately becomes necessary to litigate this matter in the Customs Court, the Ad Hoc Committee will no longer be able to function as such. Each of the procedural steps under Section 1516(b) must be taken by the companies represented on the Ad Hoc Committee as individual entities, although each company will be filing identical papers to comply with each step of the procedure. See *Manufacturers and Producers of Goat, Sheep and Cabretta Leathers, etc. v. United States*, 21 C.C.P.A. 591 (1934).

Section 1516(b) sets forth the following procedure to come within the jurisdiction of the Customs Court:

(1) The domestic manufacturer shall make a written request of the Secretary of the Treasury to furnish the classification of 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;

(2) If dissatisfied with the status quo as reflected by the Secretary of the Treasury's response to that request, the domestic manufacturer must file a complaint with the Secretary setting forth a description of the merchandise and the classification and rate of duty he believes to be proper, and the reasons for that belief;

(3) If the Secretary decides that the domestic manufacturer is correct, he shall issue an order changing the classification and rate of duty and so inform the complainant. If the Secretary decides that the status quo is correct, he shall so inform the complainant. If dissatisfied with the decision of the Secretary, the complainant must, within 30 days after the date of such decision, notify the Secretary that he desires to protest the classification of or rate of duty assessed upon the merchandise in question;

(4) Upon receipt of such notice of intent to protest, the Secretary will publish notice of his decision of the proper classification and rate of duty and of the domestic manufacturer's desire to protest. Thereafter, the complainant shall be notified of all entries of such merchandise after publication of the notice by the Secretary at the ports of entry designated by the complainant in his notice of desire to protest. The Secretary of the Treasury shall direct the Collector at such port to notify the complainant immediately when the first of such entries is liquidated. Within 30 days after the date of mailing to the complainant of notice of such liquidation, the complainant must file with the Collector at such port a protest in writing setting forth a description of the merchandise and the classification and the rate of duty which he believes to be proper;

(5) A copy of such protest will be mailed by the Collector to the consignee or his agent within 5 days after the mailing thereof so that such consignee or his agent shall have the right to appear and be heard as a party in interest before the United States Customs Court; and

(6) The Customs Court will then take jurisdiction of the protest and the case will be set for hearing.

Sections 2631, *et seq.* of Title 28 of the United States Code set forth the procedure to be followed in the Customs Court. Among these procedural provisions is Section 2638 which provides that Section 1516(b) cases shall be given precedence on the docket.

Section 1516(b) cases are also given precedence in the Court of Customs and Patent Appeals, pursuant to Section 2602 of Title 28 of the United States Code.