

FO:TC:C:E:D LF/AM

TO : Port Directors, Boston, New York, Miami, Chicago,
New Orleans, Houston, Los Angeles, San Francisco,
All Interested Parties

FROM : Assistant Commissioner
Office of Field Operations

SUBJECT: Application Procedures for Accelerated Payment of
Drawback, Waiver of Prior Notice of Intent to Export and
One-Time Waiver of Prior Notice of Intent to Export

PASS TO: Drawback Chiefs and Drawback Specialists

In order to assist in the administration of the new drawback regulations, we are providing you with application procedures for Accelerated Payment of Drawback, Waiver of Prior Notice of Intent to Export, and One-Time Waiver of Prior Notice of Intent to Export.

Treasury Decision 98-16, dated March 5, 1998, revised the Customs Regulations for Drawback, Part 191. The final rule revised the regulations to implement the extensive and significant changes of the drawback law contained in the Mod Act. Subpart I of the revised drawback regulations established uniform policy and instructions for both Customs and the trade to follow for the preparation and submission of applications for Accelerated Payment (19 CFR 191.92) and prospective Waiver of Prior Notice of Intent to Export (19 CFR 191.91). Additionally, Subpart C of the revised drawback regulations established a provision for a One-Time Waiver of Prior Notice of Intent to Export, Destroy, or Return Merchandise for Purposes of Drawback (19 CFR 191.36).

For the purposes of uniformity in the submission of applications for Accelerated Payment of Drawback, Prospective Waivers of Prior Notice of Intent to Export and the One-Time Waiver of Prior Notice of Intent to Export, we have attached a sample application for

each procedure. Drawback claimants are encouraged to follow these examples in order to ensure compliance with the application procedures and to streamline the review and approval process.

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An applicant may apply for only one procedure; any number of procedures separately; or any combination of procedures in one application. In the latter instance, the intent to apply for more than one procedure must be clearly stated. In all instances, all the requirements for the procedures must be met. When the same information is requested in more than one application, the applicant need only address the item once. In a combination application, all information required for each procedure, all required sample documents for each procedure and all required certifications must be submitted before approval for any procedure is issued.

Applications for accelerated payment of drawback, waiver of prior notice of intent to export and the one-time waiver of prior notice of intent to export should be filed with the drawback office where the drawback claims will be filed. Approvals for these procedures are valid in any of the eight drawback offices.

Please note that claimants are required to use reasonable care in the preparation of claims for drawback, and if claims are inaccurate or unsupported by company records and documents, privilege approvals will be subject to stay or revocation.

If you have any questions regarding the contents of this memo, please contact Mr. Al Morawski, Chief, Drawback, HQ, at (202) 927-1413 or Ms. Maryanne Carney, Chief, Drawback, New York, at (212) 637-7690.

Charles W. Winwood

Attachment

Distribution:

All Port Directors
Drawback Chiefs:
Boston, Massachusetts

New York, New York
Miami, Florida
Chicago, Illinois
New Orleans, Louisiana
Houston, Texas
San Francisco, California
Los Angeles, California-Seaport

SAMPLE APPLICATION
ACCELERATED PAYMENT OF DRAWBACK
19 CFR 191.92

Drawback Office
U.S. Customs Service
Address
City, State Zip

Dear Sir:

In accordance with Section 191.92 of the revised Customs Regulations, we are requesting approval for Accelerated Payment of Drawback. This application is addressed to the Customs office where our drawback claims will be filed.

We further understand that accelerated payment of drawback consists of the payment of estimated drawback before liquidation of the drawback entry. Accelerated payment of a drawback claim does not constitute liquidation of the drawback entry.

The following is a description of our drawback program. We will maintain a similar copy which will be readily available and comprehensive.

NOTE: *The detail expected in your application will vary depending on the size and complexity of your drawback program (for example, if the dollar amount is great and/or there are several kinds of drawback involved, with differing inventory, manufacturing, or shipping methods, greater detail will be required).*

This sample application was designed for use by manufacturing, rejected and unused merchandise drawback claimants. Though information requested may appear to be repetitive or may not apply to your drawback program, it is nonetheless relevant and necessary for some types of drawback or industries. Please address all items. If an item does not apply to your drawback program, indicate that it is not applicable.

NOTE: *This description and attachments may be in the form of a booklet, loose leaf binder or other concise digest.*

- 1 Name, address and Internal Revenue Service (IRS) number (with suffix) of applicant. The IRS number with suffix should be the number that will appear on your drawback entries.
- 2 Identity (name, title, address, telephone number) of the person in the company who will be responsible for oversight of the drawback program and is knowledgeable of the legal requirements of drawback. This person may be contacted in the event that further information is required and will receive notification of our action.

If the person responsible for the drawback program is different than the contact person for additional information or to whom notification of our action should be addressed, supply the names, titles, addresses, telephone numbers and drawback responsibilities (e.g., oversight, approval contact) of all involved.

If the person in the company who is responsible for the drawback program or the contact person, if applicable, leaves or is replaced, please define the procedures that will be followed to ensure that Customs is notified of the identity of the new person(s) (names, titles, addresses, telephone numbers).

- 3 Type(s) of drawback covered by this application -
manufacturing: direct identification or substitution; unused merchandise: direct identification or substitution; or rejected merchandise.

For manufacturing drawback claimants: Identify the ACS Ruling Number assigned to your manufacturing drawback ruling(s) and furnish a copy of Customs ruling letter(s) - see Item 20(D) (i).

NOTE: *If a manufacturing drawback ruling has not been issued, processing of your application will be suspended. You will be advised to resubmit your request for accelerated payment after a ruling has been issued.*

If you need assistance obtaining a manufacturing drawback ruling, contact the drawback office where your claims will be filed.

For substitution unused merchandise drawback claimants:

Attach a copy of Headquarters ruling(s) of commercial interchangeability or a drawback office's non-binding determination(s) of commercial interchangeability. If commercial interchangeability will be determined with each drawback claim filed, supply sample laboratory or other documents which establish the qualification of the merchandise for substitution under 1313(j)(2). If documents have already been submitted to establish the qualification of the merchandise for substitution and Customs has issued a letter that commercial interchangeability will be determined on an individual claim basis, provide a copy of that letter in lieu of documents - see Item 20(D)(ii) & (iii).

NOTE: *If a Headquarters ruling or non-binding determination of commercial interchangeability has not been issued, processing of your application will be suspended. You will be advised to resubmit your request for accelerated payment after a determination has been issued.*

If commercial interchangeability will be determined with each drawback claim filed, action on your application for accelerated payment will be suspended pending an evaluation of the documents submitted to establish commercial interchangeability. Following completion of review of the documents submitted to establish qualification for substitution, processing of your application for accelerated payment will recommence. You will receive written notification of our action within 90 days of our recommencement date.

If you need assistance obtaining a commercial interchangeability determination, contact the drawback office where your claims will be filed.

- 4 A brief description of the applicant's general business operations.
- 5 Detailed description and uses of the imported merchandise and exported articles covered by this application.

For items not identified by part number, such as but not limited to, chemicals, petrochemicals, pharmaceuticals,

textiles, yarns, fibers, provide laboratory specifications, industry standards, fiber content, specific dimensions, construction, etc. Attach descriptive brochures, technical

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manuals, catalogs, advertising materials, etc., - see Item 20(D) (v). Substitution unused merchandise drawback claimants may furnish a copy of Customs commercial interchangeability determination in lieu of this information - see Item 20(D) (ii).

For unused merchandise, state whether the part, item, model or other identifying number or name of the imported merchandise is replaced or modified in the United States or otherwise differs from that of the exported merchandise. Provide the reason for any differences. Furnish company catalogs, brochures or other cross-reference material for the imported and exported merchandise - see Item 20(D) (iv).

For unused merchandise, describe all operations occurring in this country, *including but not limited to*, testing, cleaning, repacking, blending, on the imported and/or exported merchandise and provide an inventory record before the processing, as well as, an inventory record after the processing.

- 6 Estimated dollar value of potential drawback covered by this application during the next 12-month period.
- 7 Describe the bond coverage the applicant intends to use to cover accelerated payments of drawback, including:
 - (A) Identity of surety to be used.
 - (B) Dollar amount of bond coverage for the first year under the accelerated payment procedure. **NOTE:** *Bond coverage should cover the applicant's projected drawback refunds for the bond year, at a minimum, dollar for dollar.*
 - (C) Procedures to ensure that bond coverage remains adequate, including the procedures used to alert the applicant when and if the accelerated payment potential liability exceeds bond coverage.
- 8 State whether claims will be filed via ABI, disk or manually.

9 State whether claims will include the actual proof of export or a chronological summary of exports.

For applicants who will use the exporter's summary procedure, provide a sample of the "Chronological Summary of Exports" which will be filed with your claims - see Item 20(D)(vi). Describe the time frames your claims will cover.

NOTE: *You may propose to file bimonthly, quarterly or biannual drawback claims to consolidate your exports. You may also propose to file weekly drawback claims to reduce the number of exports per entry. Drawback claims for export periods of more than six months are discouraged. For administrative efficiency, claims for drawback should cover distinct and sequential export periods (e.g., claim "1" would cover all exports during January 1999, claim "2" would cover all exports during February 1999). Care should be taken to ensure drawback claims for the same items do not repeat export periods. If claims will be filed under multiple statutes (e.g., manufacturing and unused merchandise drawback), separate drawback claims must be filed for each export period.*

- 10 Provide a statement that claims will or will not include exports to Canada or Mexico.

If claims will include exports to Canada or Mexico, identify the provision of drawback which will be used (e.g., same condition, unused merchandise, or manufacturing). Also, provide the dates during which these exports will or have occurred.

NOTE: *Same condition merchandise must conform to the definition of "same condition" under Section 181.45(b)(1). For 1313(j)(1) claims, if the exported merchandise does not meet the "same condition" definition, it will be subject to a "Lesser of the Two" drawback payment and a NAFTA Drawback Coding Sheet must accompany claims.*

Drawback on exports to Canada and Mexico under the provisions of substitution unused merchandise drawback, 1313(j)(2) has been eliminated.

Manufacturing drawback claims for articles exported to Canada on or after January 1, 1996 or to Mexico on or after January 1, 2001 will be subject to the "Lesser of the Two" rule when computing drawback refunds.

NAFTA claims must be filed separately from non-NAFTA claims.

- 11 Provide a statement that the claimant will or will not be the actual importer of the merchandise to be designated for drawback. **NOTE:** *When the claimant is not the actual importer, the claimant will be obligated to obtain the certifications required in the Customs Regulations.*
- 12 Provide a statement that the claimant will or will not be the actual exporter of the merchandise to be designated for drawback. **NOTE:** *If the claimant is not the actual exporter, the claimant will be obligated to obtain the waivers and certifications required in the Customs Regulations.*
- 13 Provide a statement as to where and how the documentation and records to support the drawback claims will be maintained. Include a certification, in the form of a statement, that such documentation and records will be retained for three years after payment of the related drawback claims.
- 14 Describe the procedures and controls in place to ensure compliance with statutory and regulatory drawback requirements.
- 15 Describe the procedures for an annual review by the applicant to ensure that the drawback program complies with the statutory and regulatory drawback requirements and that Customs will be notified of any modifications of the

procedures
described in
this
application.

- 16 Describe the procedures that will be used to notify Customs of changes to the applicant's drawback program, variances from the procedures described in this application, and violations of the statutory and regulatory drawback requirements.
- 17 Inventory and Record Keeping Methods

- (A) List the records that will be maintained, including but not limited to import documents, export documents, inventory and transportation documents, if applicable. Laboratory or other documents establishing the qualification of merchandise or articles for substitution under the appropriate drawback law and manufacturing documents should also be listed, if applicable.
- (B) For direct identification drawback claimants filing under 1313(a), (c) or (j)(1), provide a narrative which traces an item from import through inventory to export and describes your inventory and record keeping system, referencing the sample documents provided, for tracking by a Drawback Specialist - see Item 20(A), (B) & (C).

State whether the exported merchandise will be claimed identifying the specific import entry under which that merchandise was imported or if an approved accounting method, such as FIFO or LIFO, will be followed. (see Schedule X of the Appendix to Part 181 and Section 191.14 of the Customs Regulations)

NOTE: For direct identification drawback claimants using an approved accounting method, the lots of merchandise or articles must be fungible. Fungible merchandise or articles are merchandise or articles which for commercial purposes are identical and interchangeable in all situations.

- (C) For substitution drawback claimants filing under 1313(b) or (j)(2), provide a narrative which traces the same item number from import to export and describes your inventory and record keeping system, referencing the inventory and record keeping samples provided, for tracking by a Drawback Specialist - see Item 20(A), (B) & (C).

Drawback claimants filing under 1313(b) should be sure to include in the narrative the system and records that will be maintained to monitor the progression of the imported and substituted merchandise through production.

- (D) For companies with multiple divisions or facilities, list the divisions or facilities (offices, factories, warehouses, etc.) where merchandise or articles are received into or withdrawn from inventory.

Specify whether receipts and withdrawals are recorded in the same or different inventory records.

NOTE: *Even if merchandise or articles are received or withdrawn at different geographical locations, if such inventory records treat receipts or withdrawals as being from the same inventory, those inventory records may be used to identify all merchandise or articles.*

NOTE: *If you have different divisions or facilities which perform parallel drawback programs (different divisions or facilities do their own importing and exporting or maintain distinct inventory records, etc.), separate drawback entries should be filed for each division or facility by export period.*

NOTE: *In the event of a post-audit review, the claimant may be required to describe how all receipts into and all withdrawals from inventory are recorded and provide supporting documents. Manufacturing drawback claimants may also be required to fully describe and document the progression of imported and substituted merchandise through production.*

18 Mandatory Written Certification of Compliance

Submit a written certification, signed by the applicant, that all applicable statutory and regulatory requirements for drawback will be met and conform to the drawback program described in your application.

19 Provide the following declarations.

- (A) State whether or not the applicant has ever been approved or denied accelerated payment of drawback and/or waiver of prior notice by any drawback office.

(B) State whether or not the applicant has ever had an approval for accelerated payment and/or waiver of prior notice revoked by any drawback office.

If approval has previously been denied or revoked, attach documentation to this effect, representing the applicant's position and the position of the drawback office involved - see Item 20(D) (vii).

(C) State whether or not this is a request to renew previously approved permission to receive accelerated payment. If so, attach a copy of the permission letter - see Item 20(D) (vii).

20 Attachments

Include at least one sample of each of the following records for each type of drawback (manufacturing, unused merchandise, rejected; direct identification, substitution) that will be claimed. Use a yellow marker to highlight a specific identifying number or name on all documents and records.

For direct identification merchandise, the set of samples should clearly trace all relevant movement, including production, if applicable, and storage of the same item from import through inventory to export - see Item 17(B).

For commercially interchangeable merchandise, the samples should clearly trace all relevant movement of items with the same identifying number or name from import to inventory and from inventory to export - see Item 17(C).

For merchandise claimed under 1313(b), the samples should clearly trace all relevant movement, including production, and storage of the imported merchandise, substituted merchandise, and/or exported articles that were made with the imported merchandise, substituted merchandise or both - see Item 17(C).

(A) Import Documents - Purchase order and confirmation, Entry Summary (CF 7501), commercial invoice with tariff classification, packing lists, Delivery Certificate (CF 7552), if applicable, etc.

(B) Inventory Documents

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- (i) Entry records, receiving records, inventory records, production records (if applicable), export records, etc.
- (ii) For merchandise claimed under 1313 (a) or (j) (1) using an approved accounting method, such as FIFO or LIFO, attach inventory record samples identifying, describing and substantiating the method.

(C) Export Documents

- (i) Sales order, export invoice, packing lists, etc.
- (ii) Evidence of Exportation - such as a copy of an originally signed bill of lading, air waybill, freight waybill, Canadian Customs manifest, cargo manifest. (The applicant should maintain the original for submission with claims, or if export summary procedure is utilized this documentation should be retained in the claimant's files).

If an originally signed bill of lading will not be used as supporting documentation for exportation with a drawback claim, Customs will accept copies certified by the exporter, claimant or authorized agent. Certification in this instance requires that the exporter, claimant or authorized agent sign and date the document and include a brief statement that the document is a true copy of the original. The identity of the person who signs the document - name, title and affiliation (e.g., agent of the carrier, etc.) - must be provided and legible.

Be aware that the original bill of lading issued by the exporting carrier is the primary proof of export for drawback purposes. This document must be presented in the event of a request for the actual proof of export or if a review of your drawback program is conducted by Customs. If such

original bills of lading signed by the overseas carrier will not exist, or are unobtainable, provide samples with this application of the export documentation which your company proposes to maintain in support of exports and your drawback program along with an explanation of how the date and fact of export is shown by these

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records. For example, if the records show only the date the carrier received the goods, describe the claimant's procedure to obtain, from the carrier, the date the goods actually left the United States.

If the applicant uses different modes of transportation (ocean, air, truck, courier services, mail, etc.), a sample export document should be submitted for each mode. Sample export documents should also be provided for exports to Canada and Mexico, if applicable. **NOTE:** *Exportations to Canada or Mexico often need to be supported by Canadian or Mexican (pedimento) import documents.*

(D) Other documents

- (i) Manufacturing drawback ruling letter(s), if applicable - see Item 3
- (ii) Commercial interchangeability determination(s), if applicable - see Items 3 & 5
- (iii) Sample laboratory or other documents which establish the qualification of merchandise for substitution under 1313(j)(2) - see Item 3
- (iv) Company catalogs, brochures or other cross-reference material to support differences in import and export identifying numbers or names - see Item 5
- (v) Laboratory specifications, industry standards, fiber content, specific dimensions, construction, brochures, catalogs, technical manuals, etc. which describe the drawback merchandise - see Item 5

(vi) Sample of the "Chronological Summary of Exports" the applicant proposes to file, if applicable - see Item 9

(vii) Previously issued approvals, denials or revocations of accelerated payment and/or waiver of prior notice, if applicable - see Item 19

(viii) Sample of the Calculation Worksheet the applicant proposes to file

(ix) Any other documents prepared in the ordinary course of business which will establish compliance with drawback requirements or are relevant to the applicant's drawback program, such as laboratory records

21 Signature

This application should be signed by an authorized individual, as described in Section 191.6 of the Customs Regulations and the appropriate title should be included.

**SAMPLE APPLICATION
WAIVER OF PRIOR NOTICE OF INTENT TO EXPORT
19 CFR 191.91**

Drawback Office
U.S. Customs Service
Address
City, State, Zip

Dear Sir:

In accordance with Section 191.91 of the revised Customs Regulations, we are requesting a waiver from the requirement of prior notice of intent to export unused drawback merchandise for future exports. This application is addressed to the Customs office where our drawback claims will be filed.

- 1 Name, address and Internal Revenue Service (IRS) number (with suffix) of applicant. The IRS number with suffix should be the number that will appear on your drawback entries.

- 2 Identity (name, title, address, telephone number) of the person in the company who will be responsible for oversight of the drawback program and is knowledgeable of the legal requirements of drawback. This person may be contacted in the event that further information is required and will receive notification of our action.

If the person responsible for the drawback program is different than the contact person for additional information or to whom notification of our action should be addressed, supply the names, titles, addresses, telephone numbers and drawback responsibilities (e.g., oversight, approval contact) of all involved.

If the person in the company who is responsible for the drawback program or the contact person, if applicable, leaves or is replaced, please define the procedures that will be followed to ensure that Customs is notified of the identity of the new person(s) (names, titles, addresses, telephone numbers).

- 3 Type(s) of drawback covered by this application - unused merchandise: direct identification or substitution.

For substitution unused merchandise drawback claimants:
Attach a copy of Headquarters ruling(s) of commercial interchangeability or a drawback office's non-binding

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determination(s) of commercial interchangeability. If commercial interchangeability will be determined with each drawback claim filed, supply sample laboratory or other documents which establish the qualification of the merchandise for substitution under 1313(j)(2). If documents have already been submitted to establish the qualification of the merchandise for substitution and Customs has issued a letter that commercial interchangeability will be determined on an individual claim basis, provide a copy of that letter in lieu of documents - see Item 15(D)(i) & (ii).

NOTE: *If a Headquarters ruling or non-binding determination of commercial interchangeability has not been issued, processing of your application will be suspended. You will be advised to resubmit your request for waiver of prior notice after a determination has been issued.*

If commercial interchangeability will be determined with each drawback claim filed, action on your application for waiver of prior notice will be suspended pending an evaluation of the documents submitted to establish commercial interchangeability. Following completion of review of the documents submitted to establish qualification for substitution, processing of your application for waiver of prior notice will recommence. You will receive written notification of our action within 90 days of our recommencement date.

If you need assistance obtaining a commercial interchangeability determination, contact the drawback office where your claims will be filed.

- 4 Provide a description of the commodity or product lines of the imported and exported merchandise covered by this application.

State whether the part, item, model or other identifying number or name of the imported merchandise is replaced or modified in the United States or otherwise differs from that of the exported merchandise. Provide the reason for any

differences. Furnish company catalogs, brochures or other cross-reference material for the imported and exported merchandise - see Item 15(D)(iii).

Describe all operations occurring in this country, *including but not limited to*, testing, cleaning, repacking, blending, on the imported and/or exported merchandise and provide an inventory record before the processing, as well as, an inventory record after the processing.

5 Provide the origin of merchandise covered by this application.

6 Provide the export period covered by this application.

You may use specific starting and closing dates. If you have an on-going drawback program, you may use "The date of approval of this application" as a starting date and "Future" as the closing date in this application.

NOTE: *Acceptable proof of export for claims filed with waiver of prior notice issued under Section 191.91 must be dated on or after Customs approval of your application. If you wish to claim drawback on exports which occurred prior to the date of our approval, you are advised to submit an application for a one-time waiver of prior notice under Section 191.36.*

7 Estimated number of export transactions covered by this application during the next 12-month period.

8 Estimated dollar value of potential drawback covered by this application during the next 12-month period.

9 List the port(s) of exportation covered by this application during the next 12-month period.

10 Provide a statement that the claimant will or will not be the actual exporter of the merchandise to be designated for drawback.

If the applicant is not the exporter, provide the name, address and Internal Revenue Service (IRS) number (with suffix) of current exporter(s). If more than three exporters will be involved, provide this information for only the three most frequent exporters. **NOTE:** *If the claimant is not the actual exporter, the claimant will be obligated to obtain the*

*waivers and certifications required in the Customs
Regulations.*

- 11 Describe the business relationships between the parties involved in the import and export transactions.
- 12 Provide the following declarations.
 - (A) State whether or not the applicant has ever been approved or denied waiver of prior notice by any drawback office.
 - (B) State whether or not the applicant has ever had an approval of waiver of prior notice revoked by any drawback office.
 - (C) State whether or not the applicant has previously requested a one-time waiver of prior notice under Section 191.36 and whether such request was approved or denied.

If approval has previously been denied or revoked, attach documentation to this effect, representing the applicant's position and the position of the drawback office involved - see Item 15(D) (iv).

- (D) State whether or not this is a request to renew previously approved waiver of prior notice. If so, attach a copy of the permission letter - see Item 15(D) (iv).
- 13 Provide certifications that the following documentary evidence will be made available for Customs review upon request:
 - (A) Business records prepared in the ordinary course of business;
 - (B) Laboratory records prepared in the ordinary course of business; and
 - (C) Inventory records prepared in the ordinary course of business tracing all relevant movements and storage of the imported merchandise, substituted merchandise, and/or exported merchandise.

This evidence should support that the imported merchandise under 1313(j)(1), or that the exported merchandise which is commercially interchangeable with the imported merchandise under 1313(j)(2), was not used. These documents should also establish compliance with other applicable drawback requirements.

If the claimant is not the exporter, describe the records that the claimant will use to substantiate the exportation.

- 14 Provide a statement as to where and how the documentation and records to support the drawback claims will be maintained. Include a certification, in the form of a statement, that such documentation and records will be retained for three years after payment of the related drawback claims.

15 Attachments

Include at least one sample of each of the following records which will be used to establish compliance with the applicable requirements. Provide a brief narrative, referencing the sample documents provided, for tracking by a Drawback Specialist. Use a yellow marker to highlight a specific identifying number or name on all documents and records.

For direct identification merchandise, samples should clearly trace all relevant movement and storage of the same item from import through inventory to export.

For commercially interchangeable merchandise, samples should clearly trace all relevant movement of items with the same identifying number or name from import to inventory and from inventory to export.

- (A) Import Documents - Entry Summary (CF 7501), commercial invoice with tariff classification and packing lists
- (B) Inventory Documents - Entry records, receiving records, inventory records and export records
- (C) Export Documents
 - (i) Export invoice and packing lists

- (ii) Evidence of Exportation - such as a copy of an originally signed bill of lading, air waybill, freight waybill, Canadian Customs manifest, cargo

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manifest. (The applicant should maintain the original for submission with claims, or if export summary procedure is utilized, this documentation should be retained in the claimant's files).

If an originally signed bill of lading will not be used as supporting documentation for exportation with a drawback claim, Customs will accept copies certified by the exporter, claimant or authorized agent. Certification in this instance requires that the exporter, claimant or authorized agent sign and date the document and include a brief statement that the document is a true copy of the original. The identity of the person who signs the document - name, title and affiliation (e.g., agent of the carrier, etc.) - must be provided and legible.

Be aware that the original bill of lading issued by the exporting carrier is the primary proof of export for drawback purposes. This document must be presented in the event of a request for the actual proof of export or if a review of your drawback program is conducted by Customs. If such original bills of lading signed by the overseas carrier will not exist, or are unobtainable, provide samples with this application of the export documentation which your company proposes to maintain in support of exports and your drawback program along with an explanation of how the date and fact of export is shown by these records. For example, if the records show only the date the carrier received the goods, describe the claimant's procedure to obtain, from the carrier, the date the goods actually left the United States.

If the applicant uses different modes of transportation (ocean, air, truck, courier services, mail, etc.), a sample export document should be submitted for each mode. Sample export documents should also be provided for exports to

Canada and Mexico, if applicable. **NOTE:**
Exportations to Canada or Mexico often need to be supported by Canadian or Mexican (pedimento) import documents.

(D) Other Documents

- (i) Commercial interchangeability determination(s), if applicable - see Item 3
- (ii) Sample laboratory or other documents which establish the qualification of merchandise for substitution under 1313(j) (2) - see Item 3
- (iii) Company catalogs, brochures or other cross-reference material to support differences in import and export identifying numbers or names - see Item 4
- (iv) Previously issued approvals, denials or revocations of waiver of prior notice, if applicable - see Item 12

16 Signature

This application should be signed by an authorized individual, as described in Section 191.6 and the appropriate title should be included.

**SAMPLE APPLICATION
ONE-TIME WAIVER OF PRIOR NOTICE OF INTENT TO EXPORT
19 CFR 191.36**

Drawback Office
U.S. Customs Service
Address
City, State, Zip

Dear Sir:

In accordance with Section 191.36 of the revised Customs Regulations, we are requesting a waiver from the requirement of prior notice of intent to export unused drawback merchandise for past exports. This application is addressed to the Customs office where our drawback claims will be filed.

- 1 Name, address and Internal Revenue Service (IRS) number (with suffix) of applicant. The IRS number with suffix should be the number that will appear on your drawback entries.

- 2 Identity (name, title, address, telephone number) of the person in the company who will be responsible for oversight of the drawback program and is knowledgeable of the legal requirements of drawback. This person may be contacted in the event that further information is required and will receive notification of our action.

If the person responsible for the drawback program is different than the contact person for additional information or to whom notification of our action should be addressed, supply the names, titles, addresses, telephone numbers and drawback responsibilities (e.g., oversight, approval contact) of all involved.

If the person in the company who is responsible for the drawback program or the contact person, if applicable, leaves or is replaced, please define the procedures that will be followed to ensure that Customs is notified of the identity of the new person(s) (names, titles, addresses, telephone numbers).

- 3 Type(s) of drawback covered by this application - unused merchandise: direct identification or substitution.

For substitution unused merchandise drawback claimants:
Attach a copy of Headquarters ruling(s) of commercial interchangeability or a drawback office's non-binding

- 2 -

determination(s) of commercial interchangeability. If commercial interchangeability will be determined with each drawback claim filed, supply sample laboratory or other documents which establish the qualification of the merchandise for substitution under 1313(j)(2). If documents have already been submitted to establish the qualification of the merchandise for substitution and Customs has issued a letter that commercial interchangeability will be determined on an individual claim basis, provide a copy of that letter in lieu of documents - see Item 19(D)(i) & (ii).

NOTE: *If a Headquarters ruling or non-binding determination of commercial interchangeability has not been issued, processing of your application will be suspended. You will be advised to resubmit your request for waiver of prior notice after a determination has been issued.*

If commercial interchangeability will be determined with each drawback claim filed, action on your application for waiver of prior notice will be suspended pending an evaluation of the documents submitted to establish commercial interchangeability. Following completion of review of the documents submitted to establish qualification for substitution, processing of your application for waiver of prior notice will recommence. You will receive written notification of our action within 90 days of our recommencement date.

If you need assistance obtaining a commercial interchangeability determination, contact the drawback office where your claims will be filed.

- 4 Provide a description of the commodity or product lines of the imported and exported merchandise covered by this application.

State whether the part, item, model or other identifying number or name of the imported merchandise is replaced or modified in the United States or otherwise differs from that of the exported merchandise. Provide the reason for any

differences. Furnish company catalogs, brochures or other cross-reference material for the imported and exported merchandise - see Item 19(D)(iii).

Describe all operations occurring in this country, *including but not limited to*, testing, cleaning, repacking, blending, on the imported and/or exported merchandise and provide an inventory record before the processing, as well as, an inventory record after the processing.

Since, an outbound examination was not performed by Customs, describe how the records will show non-use.

5 Provide the origin of merchandise covered by this application.

6 Provide the export period covered by this application.

You may use specific starting and closing dates. The starting date of the export period covered should be no more than three years prior to the date of your application. The closing date should be prior to the date of your application.

If you are also applying for waiver of prior notice for future exports, use "until waiver for future exports is approved" as the closing date.

NOTE: *For waiver of prior notice for future exports, you are advised to submit an application under Section 191.91.*

7 Estimated number of export transactions covered by this application.

8 Estimated number of drawback claims and estimated time of filing those claims covered in this application.

9 Estimated dollar value of potential drawback covered by this application.

10 List the port(s) of exportation covered by this application.

11 Provide a statement that the claimant was or was not the actual exporter of the merchandise designated for drawback.

If the applicant was not the exporter, provide the name, address and Internal Revenue Service (IRS) number (with suffix) of the exporter(s). **NOTE:** *If the claimant was not the actual exporter, the claimant will be obligated to obtain*

the waivers and certifications required in the Customs Regulations.

- 12 Describe the business relationships between the parties involved in the import and export transactions.
- 13 Provide the reason(s) that Customs was not timely notified of the intent to export the merchandise covered by this application.
- 14 State whether or not the applicant, to the best of its knowledge, will have future exportations on which unused merchandise drawback might be claimed.
- 15 Describe the applicant's experience in all drawback offices, including but not limited to claims filed, and denials of claims or drawback privileges.
- 16 Provide the following declarations.
 - (A) State whether or not the applicant has ever been approved or denied waiver of prior notice by any drawback office.
 - (B) State whether or not the applicant has ever had an approval of waiver of prior notice revoked by any drawback office.
 - (C) State whether or not the applicant has previously requested a one-time waiver of prior notice under Section 191.36 and whether such request was approved or denied.

If approval has previously been denied or revoked, attach documentation to this effect, representing the applicant's position and the position of the drawback office involved - see Item 19(D) (iv).

- 17 Provide certifications that the following documentary evidence will be made available for Customs review upon request:
 - (A) Business records prepared in the ordinary course of business;
 - (B) Laboratory records prepared in the ordinary course of business; and

(C) Inventory records prepared in the ordinary course of business tracing all relevant movements and storage of the imported merchandise, substituted merchandise, and/or exported merchandise.

This evidence should support that the imported merchandise under 1313(j) (1), or that the exported merchandise which is commercially interchangeable with the imported merchandise under 1313(j) (2), was not used. These documents should also establish compliance with other applicable drawback requirements.

If the claimant is not the exporter, describe the records that the claimant will use to substantiate the exportation.

18 Provide a statement as to where and how the documentation and records to support the drawback claims will be maintained. Include a certification, in the form of a statement, that such documentation and records will be retained for 3 years after payment of the related drawback claims.

19 Attachments

Include at least one sample of each of the following records which will be used to establish compliance with the applicable requirements. Provide a brief narrative, referencing the sample documents provided, for tracking by a Drawback Specialist. Use a yellow marker to highlight a specific identifying number or name on all documents and records.

For direct identification merchandise, samples should clearly trace all relevant movement and storage of the same item from import through inventory to export.

For commercially interchangeable merchandise, samples should clearly trace all relevant movement of items with the same identifying number or name from import to inventory and from inventory to export.

(A) Import Documents - Entry Summary (CF 7501), commercial invoice with tariff classification and packing lists

(B) Inventory Documents - Entry records, receiving records, inventory records and export records

(C) Export Documents

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- (i) Export invoice and packing lists
- (ii) Evidence of Exportation - such as a copy of an originally signed bill of lading, air waybill, freight waybill, Canadian Customs manifest, cargo manifest. (The applicant should maintain the original for submission with claims, or if export summary procedure is utilized, this documentation should be retained in the claimant's files).

If an originally signed bill of lading will not be used as supporting documentation for exportation with a drawback claim, Customs will accept copies certified by the exporter, claimant or authorized agent. Certification in this instance requires that the exporter, claimant or authorized agent sign and date the document and include a brief statement that the document is a true copy of the original. The identity of the person who signs the document - name, title and affiliation (e.g., agent of the carrier, etc.) - must be provided and legible.

Be aware that the original bill of lading issued by the exporting carrier is the primary proof of export for drawback purposes. This document must be presented in the event of a request for the actual proof of export or if a review of your drawback program is conducted by Customs. If such original bills of lading signed by the overseas carrier will not exist, or are unobtainable, provide samples with this application of the export documentation which your company proposes to maintain in support of exports and your drawback program along with an explanation of how the date and fact of export is shown by these records. For example, if the records show only the date the carrier received the goods, describe the claimant's procedure to obtain, from the carrier, the date the goods actually left the United States.

If the applicant used different modes of transportation (ocean, air, truck, courier services, mail, etc.), a sample of export document should be submitted for each mode. Sample export documents should also be provided for exports to Canada and Mexico, if applicable.

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NOTE: *Exportations to Canada or Mexico often need to be supported by Canadian or Mexican (pedimento) import documents.*

(D) Other Documents

- (i) Commercial interchangeability determination(s), if applicable - see Item 3
- (ii) Sample laboratory or other documents which establish the qualification of merchandise for substitution under 1313(j)(2) - see Item 3
- (iii) Company catalogs, brochures or other cross-reference material to support differences in import and export identifying numbers or names - see Item 4
- (iv) Previously issued approvals, denials or revocations of waiver of prior notice, if applicable - see Item 16

20 Signature

This application should be signed by an authorized individual, as described in Section 191.6 and the appropriate title should be included.