

## § 10.1

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Sections 10.1001 through 10.1034 also issued under 19 U.S.C. 1202 (General Note 33, HTSUS), 19 U.S.C. 1520(d), and Pub. L. 112–41, 125 Stat. 428 (19 U.S.C. 3805 note).

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SOURCE: 28 FR 14663, Dec. 31, 1963, unless otherwise noted.

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### Subpart A—General Provisions

#### ARTICLES EXPORTED AND RETURNED

#### § 10.1 Domestic products; requirements on entry.

(a) Except as otherwise provided for in paragraph (g), (h), (i) or (j) of this

| Marks | Number    | Quantity | Description | Value, in U.S. coin |
|-------|-----------|----------|-------------|---------------------|
|       | .....     | .....    | .....       | .....               |
|       | .....     | .....    | .....       | .....               |
|       | .....     | .....    | .....       | .....               |
|       | .....     | .....    | .....       | .....               |
|       | (Date)    | .....    | .....       | (Signature)         |
|       | (Address) | .....    | .....       | (Capacity)          |

(2) A declaration by the owner, importer, consignee, or agent having knowledge of the facts regarding the claim for free entry. If the owner or ultimate consignee is a corporation, such declaration may be signed by the president, vice president, secretary, or treasurer of the corporation, or may be signed by any employee or agent of the corporation who holds a power of attorney executed under the conditions outlined in subpart C, part 141 of this chapter and a certification by the corporation that such employee or other agent has or will have knowledge of the pertinent facts. This declaration must be in substantially the following form:

I, \_\_\_\_\_,  
declare that the (above) (attached) declaration by the foreign shipper is true and correct to the best of my knowledge and belief, that the articles were manufactured by \_\_\_\_\_ (name of manufacturer) lo-

section or elsewhere in this part or in §145.35 of this chapter, the following documents must be filed in connection with the entry of articles in a shipment valued over \$2,500 and claimed to be free of duty under subheading 9801.00.10 or 9802.00.20, Harmonized Tariff Schedule of the United States (HTSUS):

(1) A declaration by the foreign shipper in substantially the following form:

I, \_\_\_\_\_,  
declare that to the best of my knowledge and belief the articles herein specified were exported from the United States, from the port of \_\_\_\_\_ on or about \_\_\_\_\_, 20\_\_\_\_, and that they are returned without having been advanced in value or improved in condition by any process of manufacture or other means.

cated in \_\_\_\_\_ (city and state), that the articles were not manufactured or produced in the United States under subheading 9813.00.05, HTSUS, and that the articles were exported from the United States without benefit of drawback.

(Date)

(Address)

(Signature)

(Capacity)

(b) In any case in which the value of the returned articles exceeds \$2,500 and the articles are not clearly marked with the name and address of the U.S. manufacturer, the Center director may require, in addition to the declarations

required in paragraph (a) of this section, such other documentation or evidence as may be necessary to substantiate the claim for duty-free treatment. Such other documentation or evidence may include a statement from the U.S. manufacturer verifying that the articles were made in the United States, or a U.S. export invoice, bill of lading or airway bill evidencing the U.S. origin of the articles and/or the reason for the exportation of the articles.

(c) A certificate from the master of a vessel stating that products of the United States are returned without having been unladen from the exporting vessel may be accepted in lieu of the declaration of the foreign shipper required by paragraph (a)(1) of this section.

(d) If the Center director is reasonably satisfied, because of the nature of the articles or production of other evidence, that the articles are imported in circumstances meeting the requirements of subheading 9801.00.10 or 9802.00.20, HTSUS, and related section and additional U.S. notes, he may waive the requirements for producing the documents specified in paragraph (a) of this section.

(e) No evidence relative to the conditions of subheading 9801.00.10, HTSUS, will be required in the case of articles the product of the U.S. in use at the time of importation as the usual coverings or containers of merchandise not subject to an ad valorem rate of duty unless such articles would be dutiable if not products of the U.S. under General Rule of Interpretation 5, HTSUS.

(f) In the case of photographic films and dry plates manufactured in the United States (except motion picture films to be used for commercial purposes) exposed abroad and entered under subheading 9802.00.20, HTSUS, the requirements of paragraphs (a) and (c) of this section are applicable except that the declaration by the foreign shipper provided for in paragraph (a)(1) to the effect that the articles "are returned without having been advanced in value or improved in condition by any process of manufacture or other means" must be crossed out, and the entrant must show on the declaration

provided for in paragraph (a)(2) that the subject articles when exported were of U.S. manufacture and are returned after having been exposed, or exposed and developed, and, in the case of motion picture films, that they will not be used for commercial purposes.

(g) *Aircraft and aircraft parts and equipment.* (1) In the case of aircraft and aircraft parts and equipment returned to the United States under subheading 9801.00.10, HTSUS, by or for the account of an aircraft owner or operator and intended for use in his own aircraft operations, within or outside the United States, the entry summary may be made on CBP Form 3311, or its electronic equivalent. The entry summary on CBP Form 3311, or its electronic equivalent, must be executed by the entrant and supported by the entry documentation required by §142.3 of this chapter. If the CBP officer is satisfied that the articles are products of the United States, that they have not been improved in condition or advanced in value while abroad, and that no drawback has been or will be paid, the other documents described in this section will not be required, and no bond need be filed for their production.

(2) The entrant must show on CBP Form 3311, or its electronic equivalent:

(i) The name and address of the aircraft owner or operator by whom or for whose account the articles are returned to the United States, in the block headed "Articles Returned To (Name and Address)";

(ii) The name of the importing vessel or conveyance,

(iii) The date of its arrival,

(iv) A description of the articles,

(v) The value of the articles, and

(vi) That the articles are intended for use by the aircraft owner or operator in his own aircraft operations.

(3) If CBP Form 3311, or its electronic equivalent, is filed at time of entry, it will serve as both the entry and the entry summary.

(h) *Nonconsumable vessel stores and equipment.* (1) In the case of nonconsumable vessel stores and equipment returned to the United States under subheading 9801.00.10, HTSUS, the entry summary may be made on CBP Form 3311, or its electronic equivalent. The entry summary on CBP

Form 3311, or its electronic equivalent, must be executed in duplicate by the entrant and supported by the entry documentation required by §142.3 of this chapter. Before an entry summary on CBP Form 3311, or its electronic equivalent, may be accepted for nonconsumable vessel stores and equipment, the CBP officer must be satisfied that:

- (i) The articles are products of the United States.
- (ii) The articles have not been improved in condition or advanced in value while abroad.
- (iii) No drawback has been or will be paid, and
- (iv) No duty equal to an internal revenue tax is payable under subheading 9801.00.80, HTSUS.

(2) The documentation described in paragraph (a) of this section will not be required in connection with an entry for nonconsumable vessel stores and equipment on CBP Form 3311, or its electronic equivalent.

(3) To satisfy the CBP officer that no drawback has been or will be paid on the articles in connection with their removal from the United States, the master of the vessel or other person having knowledge of the facts must furnish a written declaration which may be made on the reverse side of CBP Form 3311, or its electronic equivalent, showing that the articles were:

- (i) Exported as stores or equipment on a United States vessel or a vessel operated by the United States Government,
- (ii) Not landed in a foreign country, except for any needed repairs, adjustments, or refilling and return to the vessel from which landed or,
- (iii) For transshipment as stores or equipment to another vessel.

(4) The entrant also must show:

- (i) The name of the importing vessel,
- (ii) The date of its arrival,
- (iii) A description of the articles, and
- (iv) The value of the articles.

(5) If CBP Form 3311, or its electronic equivalent, is filed at time of entry, it will serve as both the entry and the entry summary.

(i) When the total value of articles of claimed American origin contained in any shipment does not exceed \$250 and such articles are found to be unques-

tionably products of the United States and do not appear to have been advanced in value or improved in condition while abroad and no quota is involved, free entry thereof may be made under subheading 9801.00.10 on CBP Form 3311, or its electronic equivalent, executed by the owner, importer, consignee, or agent and filed in duplicate, without regard to the requirement of filing the documentation provided for in paragraph (a) of this section, unless the CBP officer has reason to believe that Customs drawback or exemption from internal revenue tax, or both, were probably allowed on exportation of the articles or that they are otherwise subject to duty. The entrant must show on Customs Form 3311, or its electronic equivalent, the name of the importing conveyance, the date of its arrival, the name of the country from which the articles were returned to the United States, and the value of the articles. The entrant must also produce evidence of his right to make entry (except as provided in §141.11(b) of this chapter). If the Customs officer is not entirely certain that the articles to be entered under this paragraph by a nominal consignee are products of the United States, the actual owner or ultimate consignee thereof may be required to execute a Customs Form 3311, or its electronic equivalent.

(j) In the case of products of the United States, when the aggregate value of the shipment does not exceed \$10,000 and the products are imported—

(1) For the purposes of repair or alteration, prior to reexportation, or

(2) After having been either rejected or returned by the foreign purchaser to the United States for credit, free entry thereof may be made under subheading 9801.00.10, HTSUS, on CBP Form 3311, or its electronic equivalent, (a CBP Form 7501, or its electronic equivalent, must be submitted as well for such articles as provided in §143.23(h) of this chapter), executed by the owner, importer, consignee, or agent and filed in duplicate, without regard to the requirement of filing the documentation provided for in paragraph (a) of this section, unless the CBP officer has reason to believe that CBP drawback or exemption from internal revenue tax,

or both, were probably allowed on exportation of the articles or that they are otherwise subject to duty. The person making entry must show on CBP Form 3311, or its electronic equivalent, the name of the importing conveyance, the date of its arrival, the name of the country from which the articles were returned to the United States, and the value of the articles. The person making entry must also produce evidence of his right to make entry (except as provided in §141.11(b) of this chapter). If the CBP officer is not entirely certain that the articles to be entered under this paragraph by a nominal consignee are products of the United States, the actual owner or ultimate consignee thereof may be required to execute a CBP Form 3311, or its electronic equivalent.

[T.D. 72-119, 37 FR 8867, May 2, 1972, as amended by T.D. 78-99, 43 FR 13060, Mar. 29, 1978; 43 FR 20003, May 10, 1978; T.D. 79-221, 44 FR 46812, Aug. 9, 1979; T.D. 83-82, 48 FR 14596, Apr. 5, 1983; T.D. 89-1, 53 FR 51246, Dec. 21, 1988; T.D. 94-47, 59 FR 25566, May 17, 1994; T.D. 97-82, 62 FR 51769, Oct. 3, 1997; T.D. 98-28, 63 FR 16416, Apr. 3, 1998; 77 FR 72718, Dec. 6, 2012; CBP Dec. 15-14, 80 FR 61284, Oct. 13, 2015]

### § 10.3 Drawback; internal-revenue tax.

(a) Except as prescribed in §10.1(f) or in paragraphs (c) and (f) of this section, no free entry shall be allowed under Chapter 98, Subchapter 1, Harmonized Tariff Schedule of the United States (HTSUS), in the final liquidation of an entry unless the Center director is satisfied by the certificate of exportation or other evidence or information that no drawback was allowed in connection with the exportation from the United States, and unless no internal-revenue tax is imposed on the importation of like articles not previously exported from the United States or, if such tax is being imposed at the time of entry for consumption or withdrawal from warehouse for consumption, the Center director is satisfied that an internal-revenue tax on production or importation was paid in respect of the imported article before it was exported from the United States and was not refunded. Except as provided for in §10.1(f), when it is impracticable, because of the destruction of Customs records or other circumstances, to de-

termine whether drawback was allowed, or the amount of drawback allowed, with respect to an article established to be a returned product of the United States which has not been advanced in value or improved in condition while abroad, there shall be assessed on the returned article an amount of duty determined as follows:

(1) If there is any likelihood that drawback was allowable on the exportation of like articles at any time when the imported article may have been exported from the United States, the estimated amount of any drawback which would have been allowable if duty had been paid on any foreign merchandise likely to have been used in the manufacture of the returned article at the rate or rates applicable to such foreign merchandise on the date of importation of the returned article (see paragraph (b) of this section), and

(2) If there is any likelihood that a refund or remission of tax was allowed on the exportation of the returned article, the amount of any internal-revenue tax which would be payable at the time of importation if the returned article were wholly of foreign origin, but in no such case shall there be assessed more than an amount equal to the duty and tax that would apply if the returned article were wholly of foreign origin and originally imported. (See §10.7(a).) Except as provided for in §10.1(f), if the imported article is of a kind which would be subject to an internal-revenue tax if of foreign origin and payment of an internal-revenue tax before exportation without refund thereof is not established, duty shall be assessed on the imported article in an amount equal to the internal-revenue tax imposed at the time of entry for consumption or withdrawal from warehouse for consumption on like articles of foreign origin, plus the amount of any drawback allowed on the exportation of the article from the United States; but if no drawback was allowed, the duty equal to internal-revenue tax shall be the total duty to be assessed. If an allowance of drawback on the exportation from the United States of the imported article is established, duty shall be assessed in an amount equal to such drawback, plus an amount equal to any internal-revenue tax which may