

1. When the merchandise has entered into the commerce of the United States. If a petitioner claims the merchandise has been exported or destroyed, but does not present satisfactory proof of such exportation or destruction, the merchandise shall be presumed to have entered the commerce for purposes of these guidelines.
2. When the importer requests that a TIB entry be amended to a consumption entry after the merchandise has been released from Customs custody.
3. When TIB merchandise is sold, but not exported.

III. Guidelines for Cancellation of Claims Involving Carnets (T.D. 02-20)

A. Assessment of claims

1. Articles entered under an ATA or TECRO/AIT carnet must be re-exported or destroyed prior to the expiration of the carnet period.
2. Failure to re-export or destroy those articles in the time period prescribed will result in the assessment of liquidated damages in an amount equal to 110 percent of the duties due on said articles.
3. The term “duties” shall not include Merchandise Processing Fees or Harbor Maintenance Fees for carnet claim assessment purposes.
4. All claims are assessed against the guaranteeing association, the United States Council for International Business (USCIB).
5. No claim may be established more than one year after the expiration of the period for which the carnet was valid.

B. Petitions for relief

1. Petitions for relief must be filed within 6 months of the date of the claim.
2. The petition must provide proof of re-exportation or destruction of the articles.
3. If no petition is submitted in the 6-month period, the USCIB must provide full payment of the claim.

4. Such payment must be made within 30 days from the end of the 6-month period.
 5. The USCIB will then have 90 days from the date of payment to submit adequate proof of re-exportation or destruction in order to receive a refund.
- C. Proof of re-exportation or destruction; regularization fees.
1. The ATA Convention allows Customs officials to charge a regularization fee for assisting the foreign issuing association in avoiding the liquidated damages. The regularization fee is a service fee and is not liquidated damages. Regularization fees shall be charged as described herein.
 2. If the petitioner provides a re-exportation counterfoil, unconditionally discharged by Customs, then the claim will be closed without payment. If payment of liquidated damages has been made, then a full refund shall be afforded. The term "unconditionally discharged" means that no remarks were noted by a Customs officer in the appropriate sections of the counterfoil.
 3. If the petition provides an appropriate importation carnet voucher, signed by a foreign Customs officer, the claim will then be regularized upon payment of \$50.
 4. If the petitioner provides any other acceptable proof of re-exportation or destruction, then the claim will be regularized upon payment of \$100.
 5. Small dollar value carnets. If the assessed amount for breach of a carnet is \$100 or less (including carnets for zero duties), the claim still must be assessed. It is possible, based upon the type of proof of re-exportation or destruction provided, that payment of a regularization fee in excess of the assessed liquidated damages amount, could occur. Unlike other liquidated damages claims, the amount of the bond does not limit liability for payment of the regularization fee, which is a fee for service. (See, section F. below)
- D. Partial re-exportation or destruction.

1. In any situation where partial re-exportation or destruction occurs, if that re-exportation or destruction occurs within the carnet period and proof of re-exportation or destruction other than an unconditional discharge by a Customs officer is provided, Customs will collect a regularization fee with regard to that portion of merchandise for which adequate proof of re-exportation or destruction is provided.
2. If the partial re-exportation or destruction occurs beyond the carnet period, mitigation may be afforded (see Section E. below).
3. Full liquidated damages will be charged on that portion of the merchandise for which neither proof of re-exportation or destruction is provided. As such, partial liquidated damages and a regularization fee could be collected in closure of the same carnet.
4. If a re-exportation counterfoil showing an unconditional discharge as to part of a shipment of merchandise is provided timely, no collection will be made as to that merchandise.

E. Late Re-Exportation.

1. If merchandise is re-exported (or destroyed) after the one-year period and a re-exportation counterfoil indicating unconditional discharge by a Customs officer is provided timely, the claim shall be cancelled without payment.
2. If merchandise is re-exported (or destroyed) 180 days or more after the expiration of the carnet period and a re-exportation counterfoil indicating an unconditional discharge by a Customs officer is not provided, no relief from the claim shall be afforded.
3. If merchandise is re-exported (or destroyed) more than 90 days but less than 180 days after the expiration of the carnet period and adequate proof of re-exportation or destruction other than a re-exportation counterfoil with an unconditional discharge by a Customs officer is provided, the claim for liquidated damages may be cancelled upon payment of 50 percent of the liquidated damages assessed amount but not less than \$100.
4. If merchandise is re-exported (or destroyed) 90 days or less after the expiration of the carnet period and adequate proof of re-exportation or destruction other than an exportation counterfoil with an unconditional discharge by a Customs officer is provided, the claim for liquidated damages may be cancelled upon payment of 25 percent of the claim but not less than \$50.

F. Late Re-Exportation of Duty-free and Zero Duty Merchandise.

1. If merchandise is duty-free or has a zero duty rate, claims for liquidated damages should still be assessed.
2. Claims for duty-free and zero duty Carnets will be processed in accordance with these guidelines.

G. Issuance of claims.

1. If a claim is received by the USCIB after the one-year period has expired, the claim will not be pursued.
2. Claims issued by Customs more than 30 days prior to the end of the one-year period will be presumed to be timely.
3. Claims should be issued by Customs as promptly as possible after discovery.

IV. Guidelines for Cancellation of Claims Involving Failure to Redeliver Merchandise into Customs Custody or Failure to Comply With a Notice of Refusal of Admission Issued by Another Government Agency (19 C.F.R. 141.113, 113.62(d) or 113.62(e)) (T.D. 94-38)

- A. Statutes and regulations enforced on behalf of the Food and Drug Administration (FDA) and the Consumer Product Safety Commission (CPSC).
1. The provisions of 21 C.F.R. 1.97 (FDA Regulations) and 16 C.F.R. 1500.271 (CPSC Regulations) require that the port director of Customs and the district director of the other agency be in agreement as to the amount to be accepted in cancellation of the claim for liquidated damages. All petitions for relief received in FDA and CPSC cases must be referred to those agencies for recommendation. By regulation Customs must follow the recommendation of FDA or CPSC.
 2. EXCEPTION: When the sole requirement which has been imposed by FDA on refused merchandise is exportation or destruction under Customs supervision, apply guidelines to be used in the case of other Customs statutes or regulations in Subparagraph K below.