New Duty Drawback Regime

Challenges and Opportunities Under the New Drawback Law

Anthony Nogueras
Executive Director,
Alliance Drawback Services

www.alliancechb.com
U.S., Mexico Reach Deal on Trade

Trump threatens to freeze out Canada, proposes getting rid of the name NAFTA

President Trump moved closer to revising the North American Free Trade Agreement by striking a deal with Mexico, but cast new doubts on the quarter-century-old pact by threatening to leave out Canada. While the deal was created to foster harmonized rules across the continent, Mr. Trump said on Monday he was happy to see Washington’s northern neighbor from that bloc if necessary. He proposed to rename the pact the “United States-Mexico Trade Agreement,” while setting terms that will hinder Ottawa’s efforts to join it.

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Propelled by Tech Stocks, Nasdaq Tops 8000 for First Time

The Nasdaq’s latest thousand-point milestone was its fastest since the dot-com era. Enthusiasm for technology stocks, plus broader optimism about the U.S. recovery, has helped drive the index to new heights this year.

Airlines Bank On Loyalty Credit Cards

Airlines are inundating customers with credit-card offers, hoping to widen a lucrative and steady revenue stream as they rely more on income beyond fares.

Every major U.S. carrier generated more from credit-card and loyalty programs in the second quarter than during the year-earlier period, according to the airline’s data. For many airlines, these increases surpassed overall sales growth. Much of the revenue comes from the credit cards associated with loyalty programs, though most programs don’t require customers to have a credit card.
Section 301 Tariffs

• List 1 and List 2 placed 25% tariffs on approximately $50 billion in imports from China.

• List 3: Announced yesterday places 10% tariff on additional $200 billion until January 1st then tariff increases to 25%.

• Juices, agricultural products, and many chemicals on list 3.
Tariff Mitigation Strategies

1) Review Accuracy of HTS Classification
2) Raise Non 301 Inventory Levels
3) Tariff Engineering: Change assembly configuration if possible. Example Kits vs. Finished Article.
4) Petition for Exemption from 301 List
5) First Sale Invoice Value
6) In-Bond Shipments and use of FTZ
7) Duty Drawback
What is Drawback?

How does it work?

Drawback is a refund of 99% of duties and fees paid on imported merchandise and that is subsequently exported or destroyed. Approximately $1 Billion per year returned to US Business.

Primary Industries

- Petroleum and Chemicals
- Electronics
- Food and Beverage
- Wearing Apparel
Unused Merchandise Drawback

**USC 1313 (j)**
A refund of duties on imported merchandise exported in essentially the “same condition”.

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**J1: Direct Identification**
Lot Number, Serial Number, or Drawback Accounting Method

**J2: Substitution**
Match like Merchandise within time frames.
Manufacturing Drawback
19 USC 1313 (a) or (b)

Production process results in a product with a new name, character or, different use. Historically, FCOJ submitted under this provision.

**USC 1313 (a&b)** - Drawback on raw materials or component parts exported as part of a finished product.

- ✔ Finished article must have a new name, character, or use.
- ✔ Need a secure a drawback ruling if filing under substitution (19 USC 1313(b)).
The Substitution Principle
Under Old “Core” Drawback Law

Import

Export

Similar Merchandise

Three Years
Existing Law (Referred to as Core)

Must Secure Determination of Commercial Interchangeability for Unused Substitution Drawback

4 Criteria (from CFR part 191)

- Governmental and recognized industry standards
- Part numbers
- Tariff classification
- Relative value
H.R 644
Trade Facilitation and Enforcement Act of 2015 (TFTEA)

Signed into law on February 24, 2016 following 12 year process!

- Expand drawback program by liberalizing and simplifying rules
- Section 906 covers drawback refunds
- Decrease administrative burden for Customs and allow for full automation of claim submission

New regulatory structure pending
FCOJ Claimants Today
Massive Program Simplification

File Under *Unused Drawback*
If both import & export HTS 2009.11.00 for FCOJM

* No special determination of interchangeability required.
IMPORTED FROM BRAZIL AND CONSUMED IN THE U.S.

IMPORTED FROM MEXICO VIA U.S. & CONSUMED IN CANADA

FLORIDA ORANGES EXPORTED TO EUROPE
The “Other” Problem

If...

HTS begins with “Other” and the 8th Digit then must match at the 10th Digit

HTS begins with “Other” at the 10th then NO SUBSTITUTION DRAWBACK

Must file direct identification drawback at the part number level
**TFTEA VS CORE**
Length of Retro-active Recovery Window

**TFTEA:** Export Must Be after Import

5 Years of Retro-active Recovery from Date of Import

- 2013

**CORE:** Import Must Be Within 3 Years of Date of Export

3 Years of Retro-active Recovery from Date of Export

- 2015
**Summary: New Substitution Standard**

Import and export must ONLY fall into the same 8 digit Harmonized Tariff Schedule Number. Specification, Grade, Quality Standards No Longer Applicable!

<table>
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Drawback Trading Company Concept
Trading Company Receives "Flash" Title to Imported and Exported COJM

Company A: Imports Brazilian FCOJ

Trading Company
and Drawback Claimant

Company B: Exports Domestic or Mexican FCOJ
The Process

Conduct a Thorough Assessment

- Determine Recovery Potential: Duty paid method most common
- Assess the resources required

Implementation Process

- Establish Program Procedures
- Outline Initial Actions
- Review Record Retention

Set-up Program with Customs

Claim Preparation and Submission

Continuous Operations
CHUCK NORRIS APPROVES
INTERNATIONAL TRADE