



Overview

Drawback (Entry Type 47) is the refund of certain duties, internal revenue taxes and certain fees collected upon the importation of goods and refunded when the merchandise is exported or destroyed. In general, the new United States-Mexico-Canada Agreement (USMCA) retains drawback restrictions that existed under the North American Free Trade Agreement (NAFTA).

References

- **USMCA**
 - *Final Text*: Chapter 2, Article 2.5
- **NAFTA**
 - *Final Text*: Chapter 3, Section B – Tariffs, Article 303

When does NAFTA or USMCA Apply When Filing a Drawback Claim?

The date of entry determines which agreement controls, not the date of claim.

SCENARIO I: June 30, 2020 – Before USMCA Entry-into-Force (EIF)

- **Only NAFTA drawback claims can be filed** with designated imports dated on or before June 30, 2020 as the NAFTA drawback rules apply.
 - *The filer must check the NAFTA indicator prior to the drawback submission indicating that the drawback claim meets the NAFTA drawback requirements.*
- A USMCA drawback claim **cannot be filed**, as USMCA has not entered into force.

SCENARIO II: On July 1, 2020 – On USMCA EIF

- NAFTA drawback claims can be filed, until at least 2025, with designated imports dated **on or before June 30, 2020**.
 - *The filer must check the NAFTA indicator prior to the drawback submission indicating that the drawback claim meets the NAFTA drawback requirements.*
- AND**
- USMCA drawback claims can be filed with designated imports **dated July 1, 2020**.
 - *The filer must check the USMCA indicator prior to the drawback submission indicating that the drawback claim meets the USMCA drawback requirements.*

SCENARIO III: On July 2, 2020 – After USMCA EIF

- NAFTA drawback claims can be filed, until at least 2025, with designated imports dated **on or before June 30, 2020**.
 - *The filer must check the NAFTA indicator as previously mentioned prior to the drawback submission indicating that the drawback claim meets the NAFTA drawback requirements.*

AND

- USMCA drawback claims can be filed with designated imports dated **on or after July 1, 2020**.
 - *The filer must check the USMCA indicator as previously mentioned prior to the drawback submission indicating that the drawback claim meets the USMCA drawback requirements.*

Note: An import dated June 30, 2020 and an import dated July 1, 2020 will **not** be allowed on the same drawback claim for NAFTA and USMCA.

- The drawback claimant would need to file their claim with an underline consumption entry date of **June 30, 2020 under NAFTA** and the one with a date of **July 1, 2020 under USMCA**.

Significant Changes in USA

The following table lists the changes in the USMCA drawback provision:

| Change | Description |
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| Substitution Standards | <ul style="list-style-type: none"> • USMCA adopts TFTEA substitution standards when drawback is permitted (e.g. substitution under the same 8-digit subheading of the HTSUS rather than “same kind and quality” substitution for manufacturing drawback). • <i>Note: Claims under unused substitution drawback, 19 U.S.C. 1313(j)(2) are still ineligible for drawback under NAFTA and USMCA.</i> |
| Sugar Exception | <ul style="list-style-type: none"> • USMCA made minor changes to the sugar exception to drawback and duty deferral restrictions under 19 USC 3333(a)(6). • The exception is expanded in scope. • More importantly, the exception retained pre-TFTEA substitution standards of “same-kind-and quality” for specific sugar products, to benefit the trade. <ul style="list-style-type: none"> ○ TFTEA drawback substitution standards would be more prohibitive. |
| ACE Indicator for Drawback | <ul style="list-style-type: none"> • For entries that are relevant for drawback under USMCA, CBP has created an ACE indicator (check box) for USMCA (similar to the NAFTA indicator) that is added at claim level to handle drawback. • CBP expects that the sunset for drawback entries will be at least five (5) years after USMCA entry-into-force (EIF). |
| Conditions of Export | <ul style="list-style-type: none"> • USMCA eliminate a provision under NAFTA that applied a fee pursuant to Section 22 of the U.S. Agricultural Adjustment Act, subject to Chapter Seven (Agriculture and Sanitary and Phytosanitary Measures). |
| Drawback Claims for Section 201 and/or 301 Duties | <ul style="list-style-type: none"> • Not a change, but rather a consideration. • As with NAFTA, drawback filers for USMCA can submit claims related to Section 301 and/or 201 duties. Please see Cargo Systems Messaging Service #19-000050. |

Further questions regarding Drawback processing can be sent to OTDRAWBACK@cbp.dhs.gov

Detailed USMCA/NAFTA Side-by-Side

| USMCA | NAFTA |
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| <p>1. Except as otherwise provided in this Article, no Party shall refund the amount of customs duties paid, or waive or reduce the amount of customs duties owed, on a good imported into its territory, on condition that the good is:</p> <ul style="list-style-type: none"> a) subsequently exported to the territory of another Party; b) used as a material in the production of another good that is subsequently exported to the territory of another Party; or c) substituted by an identical or similar good used as a material in the production of another good that is subsequently exported to the territory of another Party, <p>in an amount that exceeds the lesser of the total amount of customs duties paid or owed on the good on importation into its territory and the total amount of customs duties paid to another Party on the good that has been subsequently exported to the territory of that other Party.</p> | <p>1. Except as otherwise provided in this Article, no Party may refund the amount of customs duties paid, or waive or reduce the amount of customs duties owed, on a good imported into its territory, on condition that the good is:</p> <ul style="list-style-type: none"> a) subsequently exported to the territory of another Party, b) used as a material in the production of another good that is subsequently exported to the territory of another Party, or c) substituted by an identical or similar good used as a material in the production of another good that is subsequently exported to the territory of another Party, <p>in an amount that exceeds the lesser of the total amount of customs duties paid or owed on the good on importation into its territory and the total amount of customs duties paid to another Party on the good that has been subsequently exported to the territory of that other Party.</p> |
| <p>2. No Party shall, on condition of export, refund, waive, or reduce:</p> <ul style="list-style-type: none"> a) an antidumping or countervailing duty; b) a premium offered or collected on an imported good arising out of any tendering system in respect of the administration of quantitative import restrictions, or tariff rate quotas or tariff preference levels; or c) customs duties paid or owed on a good imported into its territory and substituted by an identical or similar good that is subsequently exported to the territory of another Party. | <p>2. No Party may, on condition of export, refund, waive or reduce:</p> <ul style="list-style-type: none"> a) an antidumping or countervailing duty that is applied pursuant to a Party's domestic law and that is not applied inconsistently with Chapter Nineteen (Review and Dispute Settlement in Antidumping and Countervailing Duty Matters); b) a premium offered or collected on an imported good arising out of any tendering system in respect of the administration of quantitative import restrictions, tariff rate quotas or tariff preference levels; c) a fee applied pursuant to section 22 of the U.S. Agricultural Adjustment Act, subject to Chapter Seven (Agriculture and Sanitary and Phytosanitary Measures); or d) customs duties paid or owed on a good imported into its territory and substituted by an identical or similar good that is subsequently exported to the territory of another Party. |
| <p>3. If a good is imported into the territory of a Party pursuant to a duty deferral program and is subsequently exported to the territory of another Party, or is used as a material in the production of another good that is subsequently exported to the territory of another Party, or is substituted by an identical or similar good used as a material in the production of another good that is subsequently</p> | <p>3. Where a good is imported into the territory of a Party pursuant to a duty deferral program and is subsequently exported to the territory of another Party, or is used as a material in the production of another good that is subsequently exported to the territory of another Party, or is substituted by an identical or similar good used as a material in the</p> |

| USMCA | NAFTA |
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| <p>exported to the territory of another Party, the Party from whose territory the good is exported:</p> <ul style="list-style-type: none"> a) shall assess the customs duty as if the exported good had been withdrawn for domestic consumption; and b) may waive or reduce such customs duty to the extent permitted under paragraph 1. | <p>production of another good that is subsequently exported to the territory of another Party, the Party from whose territory the good is exported:</p> <ul style="list-style-type: none"> a) shall assess the customs duties as if the exported good had been withdrawn for domestic consumption; and b) may waive or reduce such customs duties to the extent permitted under paragraph 1. |
| <p>4. In determining the amount of a customs duty that may be refunded, waived, or reduced pursuant to paragraph 1 on a good imported into its territory, each Party shall require presentation of satisfactory evidence of the amount of customs duties paid to another Party on the good that has been subsequently exported to the territory of that other Party.</p> | <p>4. In determining the amount of customs duties that may be refunded, waived or reduced pursuant to paragraph 1 on a good imported into its territory, each Party shall require presentation of satisfactory evidence of the amount of customs duties paid to another Party on the good that has been subsequently exported to the territory of that other Party.</p> |
| <p>5. If satisfactory evidence of the customs duty paid to the Party to which a good is subsequently exported under a duty deferral program described in paragraph 3 is not presented within 60 days after the date of exportation, the Party from whose territory the good was exported:</p> <ul style="list-style-type: none"> a) shall collect the customs duty as if the exported good had been withdrawn for domestic consumption; and b) may refund such customs duty, to the extent permitted under paragraph 1, on the timely presentation of such evidence under its laws and regulations. | <p>5. Where satisfactory evidence of the customs duties paid to the Party to which a good is subsequently exported under a duty deferral program described in paragraph 3 is not presented within 60 days after the date of exportation, the Party from whose territory the good was exported:</p> <ul style="list-style-type: none"> a) shall collect customs duties as if the exported good had been withdrawn for domestic consumption; and b) may refund such customs duties to the extent permitted under paragraph 1 on the timely presentation of such evidence under its laws and regulations. |
| <p>6. This Article does not apply to:</p> <ul style="list-style-type: none"> a) a good entered under bond for transportation and exportation to the territory of another Party; b) a good exported to the territory of another Party in the same condition as when imported into the territory of the Party from which the good was exported.¹ If that good has been commingled with fungible goods and exported in the same condition, its origin for purposes of this subparagraph may be determined on the basis of inventory management methods such as first-in, first-out or last-in, first-out. For greater certainty, nothing in this subparagraph shall be construed to permit a Party to waive, refund, or reduce a customs duty contrary to paragraph 2(c); c) a good imported into the territory of a Party that is deemed to be exported from its territory, is used as a material in the production of another good that is deemed to be exported to the territory of another Party, or is substituted by an identical or | <p>6. This Article does not apply to:</p> <ul style="list-style-type: none"> a) a good entered under bond for transportation and exportation to the territory of another Party; b) a good exported to the territory of another Party in the same condition as when imported into the territory of the Party from which the good was exported (processes such as testing, cleaning, repacking or inspecting the good, or preserving it in its same condition, shall not be considered to change a good's condition). Except as provided in Annex 703.2, Section A, paragraph 12, where such a good has been commingled with fungible goods and exported in the same condition, its origin for purposes of this subparagraph, may be determined on the basis of the inventory methods provided |

| USMCA | NAFTA |
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| <p>similar good used as a material in the production of another good that is deemed to be exported to the territory of another Party, by reason of:</p> <ul style="list-style-type: none"> i. delivery to a duty-free shop, ii. delivery for ship's stores or supplies for ships or aircraft, or iii. delivery for use in joint undertakings of two or more of the Parties and that will subsequently become the property of the Party into whose territory the good was deemed to be exported; <p>d) a refund of customs duties by a Party on a particular good imported into its territory and subsequently exported to the territory of another Party, if that refund is granted by reason of the failure of that good to conform to sample or specification, or by reason of the shipment of that good without the consent of the consignee;</p> <p>e) an originating good that is imported into the territory of a Party and is subsequently exported to the territory of another Party, or used as a material in the production of another good that is subsequently exported to the territory of another Party;</p> <p>f) for exports from the territory of the United States to the territory of Canada or Mexico, goods provided for in U.S. tariff items 1701.13.20 or 1701.14.20 that are imported into the territory of the United States under any re-export program or any like program and used as a material in the production of, or substituted by an identical or similar good used as a material in the production of:</p> <ul style="list-style-type: none"> i. a good provided for in Canadian tariff item 1701.99.00 or Mexican tariff items 1701.99.01, 1701.99.02, and 1701.99.99 (refined sugar), or ii. sugar containing products that are prepared foodstuffs or beverages classified in headings 17.04 and 18.06 or in Chapters 19, 20, 21, or 22; or <p>g) for trade between Canada and the United States:</p> <ul style="list-style-type: none"> i. imported citrus products, ii. an imported good used as a material in the production of, or substituted by an identical or similar good used as a material in the production of, a good provided for in U.S. tariff items 5811.00.20 (quilted cotton piece goods), 5811.00.30 (quilted man-made piece | <p>for in the Uniform Regulations established under Article 511 (Uniform Regulations);</p> <p>c) a good imported into the territory of a Party that is deemed to be exported from its territory, or used as a material in the production of another good that is deemed to be exported to the territory of another Party, or is substituted by an identical or similar good used as a material in the production of another good that is deemed to be exported to the territory of another Party, by reason of</p> <ul style="list-style-type: none"> i. delivery to a duty-free shop, ii. delivery for ship's stores or supplies for ships or aircraft, or iii. delivery for use in joint undertakings of two or more of the Parties and that will subsequently become the property of the Party into whose territory the good was deemed to be imported; <p>d) a refund of customs duties by a Party on a particular good imported into its territory and subsequently exported to the territory of another Party, where that refund is granted by reason of the failure of such good to conform to sample or specification, or by reason of the shipment of such good without the consent of the consignee;</p> <p>e) an originating good that is imported into the territory of a Party and is subsequently exported to the territory of another Party, or used as a material in the production of another good that is subsequently exported to the territory of another Party, or is substituted by an identical or similar good used as a material in the production of another good that is subsequently exported to the territory of another Party; or</p> <p>f) a good set out in Annex 303.6.</p> |

| USMCA | NAFTA |
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| <p>goods) or 6307.90.99 (furniture moving pads), or Canadian tariff items 5811.00.10 (quilted cotton piece goods), 5811.00.20 (quilted man-made piece goods) or 6307.90.30 (furniture moving pads), that are subject to the most-favored-nation rate of duty when exported to the territory of the other Party, and</p> <p>iii. an imported good used as a material in the production of apparel that is subject to the most-favored-nation rate of duty when exported to the territory of the other Party.</p> | |
| <p>7. For the purposes of this Article:</p> <p>a) identical or similar goods means “identical goods” and “similar goods,” respectively, as defined in the Customs Valuation Agreement, or as otherwise provided for under the law of the importing Party;</p> <p>b) material means “material” as defined in Article 4.1 (Definitions);</p> <p>c) used means “used” as defined in Article 4.1 (Definitions).</p> | <p>7. Except for paragraph 2(d), this Article shall apply as of the date set out in each Party's Section of Annex 303.7.</p> |
| <p>8. If a good referred to by a tariff item number in this Article is described in parentheses following the tariff item number, the description is provided for purposes of reference only.</p> | <p>8. Notwithstanding any other provision of this Article and except as specifically provided in Annex 303.8, no Party may refund the amount of customs duties paid, or waive or reduce the amount of customs duties owed, on a non-originating good provided for in item 8540.11.aa (color cathode-ray television picture tubes, including video monitor tubes, with a diagonal exceeding 14 inches) or 8540.11.cc (color cathoderay television picture tubes for high definition television, with a diagonal exceeding 14 inches) that is imported into the Party's territory and subsequently exported to the territory of another Party, or is used as a material in the production of another good that is subsequently exported to the territory of another Party, or is substituted by an identical or similar good used as a material in the production of another good that is subsequently exported to the territory of another Party.</p> |
| | <p>9. For purposes of this Article:</p> <ul style="list-style-type: none"> ○ customs duties are the customs duties that would be applicable to a good entered for consumption in the customs territory of a Party if the good were not exported to the territory of another party; ○ identical or similar goods means "identical or similar goods" as defined in |

| USMCA | NAFTA |
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| | Article 415 (Rules of Origin Definitions); material means "material" as defined in Article 415; used means "used" as defined in Article 415. |
| | 10. For purposes of the Article: <ul style="list-style-type: none">○ Where a good referred to by a tariff item number in this Article is described in parentheses following the tariff item number, the description is provided for purposes of reference only. |