

# PROTEST

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After liquidation\* of an Entry Summary, an importer may still pursue any claim for an adjustment, or refund of duties tendered, by filing a Protest on Customs form 19 within 90 days of liquidation. The Protest ***must*** be filed within the 90 day time period! Customs form 19 asks for certain information to identify the specific Entry Summary(s) being protested. The Protest argument itself has three parts:

- The decision or fact being protested
- the claim you are making
- the legal argument in defense of your claim.

In addition, any substantiation assisting the validity of your claim should be attached to the Protest.

Unless an obvious error in liquidation has occurred, the Protest generally will not be acted upon until the expiration of the 90-day Protest period. After the end of the Protest period, the reviewing Customs Officer will review and decide on the merits of the Protest. The reviewing Officer has 90 days in which to review the Protest. Occasionally, a decision as to the merits of the Protest cannot be made within this 90 day time period. In all cases, however, Customs must act upon a Protest within two years of the filing date of the protest.

A request for Accelerated disposition of the Protest can be filed with Customs any time after 90 days period following the filing of such Protest. Customs will review the request within 30 days. However, if Customs does not choose to act on the request for accelerated disposition within 30 days, the original protest is deemed to be denied!

If a protest is denied, an importer has the right to litigate the matter by filing a summons with the U.S. ITC within 180 days of denial of the protest. The rules of the court and other applicable statutes and precedence determine the course of Customs litigation.

While the Customs ascertainment of dutiable status is final for most purposes at the time of liquidation, a liquidation is not final until any Protest that has been filed against it has been decided. Similarly, the administrative decision issued on a Protest is not final until any litigation filed against it has become final. Customs itself has two years within which to reliquidate the entry in the event of the discovery of an importer's simple error or fraud. If the Importer has been found guilty of gross negligence or negligence, the Customs service has five years to reliquidate the entry summary and assess lawful duties.

*\*Protest must be made within 90 days of either the notice of liquidation or reliquidation. In the case of a decision not involving liquidation or reliquidation, the date of the Customs decision (for example, date of notice excluding merchandise from entry or re-delivery under any of the Customs laws or a refusal to reliquidate).*