

Proposed Amendments to Form 9

UNITED STATES COURT OF INTERNATIONAL TRADE
[(Insert name of Judge if assigned)]

FORM 9

<p>Plaintiff[s],</p> <p style="text-align: center;">v.</p> <p>THE UNITED STATES,</p> <p style="text-align: center;">Defendant.</p>
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COURT NO. [(Insert court number)]

COURT NOS. [(Insert all court numbers, or insert lead number and add “, etc. (See attached schedule)”)] [1]

STIPULATED JUDGMENT ON AGREED STATEMENT OF FACTS

[This action] [These actions], as prescribed by Rule 58.1 of the Rules of the United States Court of International Trade, [is] [are] stipulated for judgment on the following agreed statement of facts in which the parties agree that:

1. The protest[s] and the action[s] involved herein were filed within the time provided by law, and all liquidated duties, charges or exactions have been paid prior to the filing of the summons[es].
2. The imported merchandise covered by the [entry] [entries] set forth on Schedule A, attached[2], consists of [(Describe the imported merchandise. The description should be sufficiently specific to enable U.S. Customs and Border Protection to identify the stipulable articles.)] [3]

3. The imported merchandise was classified by U.S. Customs and Border Protection or its predecessors[4] as [(describe)] under [(insert pertinent tariff provision(s))] at the rate[s] of [(insert tariff rate(s))] [, depending upon the date of entry].[3] [5]

4. The stipulable imported merchandise is classifiable as [(describe)] under [(insert pertinent tariff provision(s))] at the rate[s] of [(insert tariff rate(s))] [, depending upon the date of entry].[3] [5]

5. The imported merchandise, covered by the [entry] [entries] set forth on the attached schedule[s],[6] is stipulable in accordance with this agreement.[7]

6. Any refunds payable by reason of this judgment are to be paid with any interest provided for by law.

7. All other claims and non-stipulable entries[8] are abandoned.

8. Each party will bear its own costs and attorney's fees.[9]

Respectfully submitted,

By: _____
Attorney[s] for Plaintiff[s]
[(Insert name of firm, address & telephone number)]

Stipulated Judgment On Agreed Statement Of Facts, Court No. [(Insert court number)], (continued)

Assistant Attorney General
Civil Division

By: _____
[(Insert name of Attorney in Charge)]
Attorney in Charge

International Trade Field Office

By: _____
[(Insert name of applicable DOJ attorney)]
U.S. Dept. of Justice, Civil Division
Commercial Litigation Branch
26 Federal Plaza
New York, New York 10278
Tel.: (212) 264-9230
Attorneys for the United States

IT IS HEREBY ORDERED that [this action is] [these actions are] decided and this final judgment is to be entered by the Clerk of the Court; the appropriate U.S. Customs and Border Protection officials shall reliquidate the [entry] [entries] and make refund in accordance with the stipulation of the parties set forth above.[10]

Judge [(Insert name)]

Date: _____

SCHEDULE A TO STIPULATED JUDGMENT[2][10]

[Port of entry] [~~Center of Excellence and Expertise~~]: [(insert port of entry or Center of Excellence and Expertise)][11]

<u>Court #</u>	<u>Protest #</u>	<u>Entry #</u>	Description of <u>Merchandise</u> [12]
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ENDNOTES

Endnotes are for guidance in preparation of a document and are not part of the final document. Material in brackets should be selected and/or modified depending on whether singular or plural text, et cetera, is applicable, and inserted into the text of the document; the brackets themselves are ordinarily not part of the final document.

1. If the stipulated judgment (“stipulation”) involves more than one civil action, the civil actions should be listed in ascending order. The listing may be provided on a separate schedule.

2. If a stipulation involves a single port and only a few entries, the parties may, at their discretion and to suit the particular circumstances of the case, set forth in this paragraph the information otherwise set forth in Schedule A, and omit the schedule. See endnotes 11 and 12 with respect to the format and content of Schedule A.

3. If the stipulation involves multiple types of merchandise (e.g., goods with different descriptions, goods classified under different tariff provisions, or goods stipulable under two or more provisions), the parties may, at their discretion and to suit the particular circumstances of the case, subdivide paragraphs 2, 3, and 4 to address the description, classification/assessment, and stipulated classification/assessment of each type of merchandise separately.

4. The use of the term “U.S. Customs and Border Protection or its predecessors” is preferable over any attempt to specify which agency took the action. Responsibility for the implementation of the court’s judgment, as provided for later in the stipulation, now rests with U.S. Customs and Border Protection.

5. Paragraphs 3 and 4 may be altered at the discretion of the parties to suit the particular circumstances of the case. For example, if appropriate, as an addition or an alternative:

3. The imported merchandise was appraised by U.S. Customs and Border Protection or its predecessors, upon the basis of [(describe and insert statutory provision(s))] at a value of [(describe)].

4. The imported merchandise will be appraised upon the basis of [(describe and insert statutory provision(s))] at a value of [(describe)].

6. If appropriate, insert:

which [has] [have] been marked with the letter[s] “A” [and “B”]* and initialed [(initials to be inserted by the Government)] by [(name(s) of person(s) to be inserted by the Government)], of U.S. Customs and Border Protection,

*Different letters should be used to distinguish merchandise stipulable under more than one tariff provision and/or at different appraised values.

7. In most instances the parties will prefer that the refund be effectuated by having the entry(ies) reliquidated; in other instances the parties may agree that a refund should be made without the necessity of reliquidation. If appropriate, where a refund is made without the necessity of reliquidation, the following sentence should be adopted as an alternative to paragraph 5 of the stipulated judgment:

5. Without the necessity of reliquidating the [entry] [entries], the United States will pay plaintiff [(insert the appropriate refund amount and, if applicable, any further description of the payment and any instructions for calculating interest)].

8. In the event the civil action(s) covered by the stipulation include(s) non-stipulable entries (e.g., no stipulable merchandise, untimely-protested entries, increased duties not timely paid), such entries should be clearly marked with an asterisk (*) on each page on which they appear, including schedules, with the footnote: "*All claims arising from this entry are abandoned."

9. The inclusion of this paragraph in Form 9 should not be construed as a determination by the Court regarding the assignment of costs and attorney's fees. Should the parties disagree that they will each bear their own costs and attorney's fees, then Form 9 is not an appropriate means to resolve the civil action(s).

10. If the alternative language set forth in endnote 7 for paragraph 5 of the stipulated judgment is adopted, the following alternative language should similarly be adopted for the order accompanying the stipulated judgment:

IT IS HEREBY ORDERED that [this action is] [these actions are] decided and this final judgment is to be entered by the Clerk of the Court; in accordance with the stipulation of the parties set forth above, without the necessity of reliquidating the entries, the appropriate U.S. Customs and Border Protection officials will pay plaintiff [(insert the appropriate refund amount and, if applicable, any instructions for calculating interest)].

11. The schedule should contain all entries included on the (amended) summons, including those asterisked as not stipulable (see endnote 8). If more than one port of entry and/or Center of Excellence and Expertise is covered by a single stipulated judgment, separate pages of the schedule should be used for listing each different port and/or Center of Excellence and Expertise and its applicable entries and protests. Civil actions involving different ports of entry and/or Centers of Excellence and Expertise should not normally be combined on a single stipulation, since the need to consider the entries at the ports and/or centers involved will usually delay the stipulation until all of these offices respond; in such instances, it is preferable that separate stipulations be prepared.

12. If and to the extent necessary or appropriate, include in the schedule a description of the merchandise.

(As amended, eff. Jan. 1, 1982; Oct. 3, 1990, eff. Jan. 1, 1991; Sept. 30, 2003, eff. Jan. 1, 2004; Aug. 2, 2010, September 1, 2010; Sept. 19, 2017, eff. Oct. 23, 2017; _____, **2021**, eff. _____ **2021**.)