



DECEMBER 15, 2023

Customs Compliance Strategies in an Era of Increasing Enforcement

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Presenters



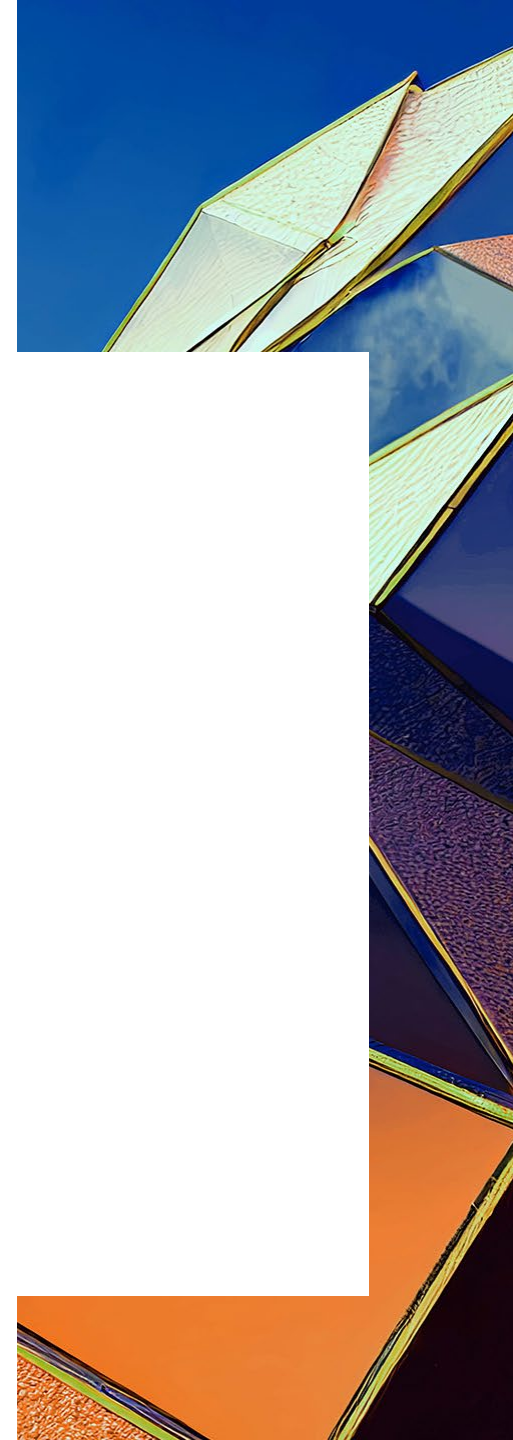
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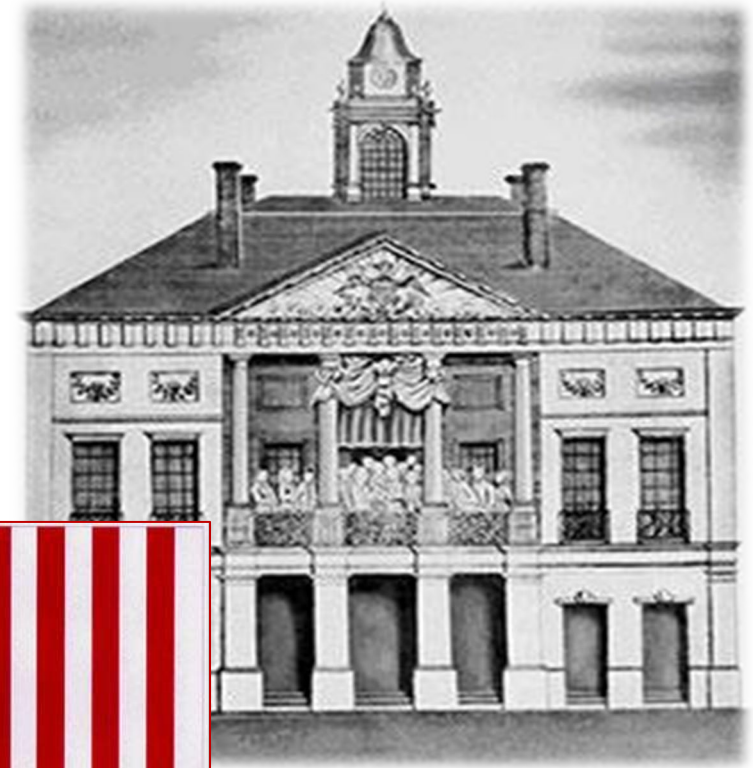
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Did you know?

One of the first laws passed by Congress was the Tariff Act of July 4, 1789. The Customs Service was established a few days later.



CBP - Introduction

- CBP facts
 - Dept. of Homeland Security's largest and most complex component; 60,000 employees
 - U.S. Treasury's second-highest source of income
- CBP's primary responsibilities
 - Collecting duties
 - Securing/facilitating trade
 - Keeping terrorists and their weapons out of the U.S.
 - Regulating goods entering the U.S.
 - Enforcing hundreds of U.S. regulations



Importer of Record (IOR)

- Customs Modernization Act of 1993 (the “Mod Act”)
 - Shifts most responsibilities for Customs compliance to the Importer of Record (“IOR”)
 - IOR is responsible for using reasonable care when entering goods into the U.S.
- IOR responsibilities
 - Ensure that imported goods comply with local laws and regulations
 - File a completed duty entry and associated documents
 - Pay the assessed import duties and other taxes on goods
- Who is the IOR?
 - Usually the company importing the goods – NOT the Customs broker or freight forwarder
 - Standard broker contract – liability generally limited to the cost incurred for entry

Did you know?

K-9 teams are assigned to 73 commercial ports and 74 border patrol stations, making CBP the employer of the largest number of working dogs of any U.S. federal agency.

SECURITY

Pecky, a K-9 Belgian Malinois for the Border Patrol retires with honor

by Steve Balestrieri

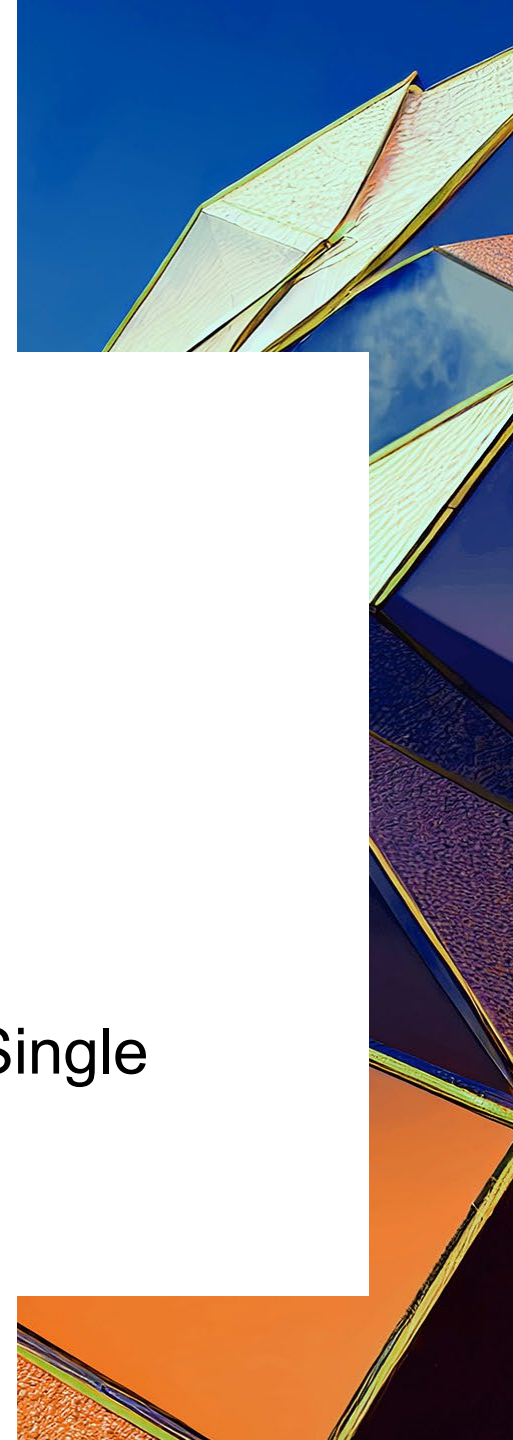
Nov 29, 2019

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Determining Tariffs

- Roadmap to Determining Tariffs
 - Country of Origin
 - Classification
 - Tariff Rate
 - Value (or Sometimes Quantity)
- The Combination Determines Tariffs Due (Paid by Importer)
- All Information Required to Determine Tariff Due Reported on a Single Electronic Form





ENTRY SUMMARY

1. Filer Code/Entry No.		2. Entry Type		3. Summary Date	
4. Surety No.		5. Bond Type		6. Port Code	
7. Entry Date		8. Importing Carrier		9. Mode of Transport	
10. Country of Origin		11. Import Date		12. B/L or AWB No.	
13. Manufacturer ID		14. Exporting Country		15. Export Date	
16. I.T. No.		17. I.T. Date		18. Missing Docs	
19. Foreign Port of Lading		20. U.S. Port of Unlading		21. Location of Goods/G.O. No.	
22. Consignee No.		23. Importer No.		24. Reference No.	
25. Ultimate Consignee Name and Address				26. Importer of Record Name and Address	
City		State		Zip	
City		State		Zip	
27. Line No.		28. Description of Merchandise		32. Relationship	
29. A. HTSUS No. B. ADA/CVD No.		30. A. Grossweight B. Manifest Qty. C. Net Quantity in HTSUS Units		33. A. HTSUS Rate B. ADA/CVD Rate C. Rate D. Visa No.	
34. Duty and I.R. Tax		Dollars		Cents	
Other Fee Summary for Block 29		35. Total Entered Value		TOTALS	
\$		\$		37. Duty	
Total Other Fees		REASON CODE		38. Tax	
\$		A. LIQ CODE		B. Ascertained Duty	
36. DECLARATION OF IMPORTER OF RECORD (OWNER OR PURCHASER) OR AUTHORIZED AGENT		C. Ascertained Tax		39. Other	
I declare that I am the <input type="checkbox"/> importer of record and that the actual owner, purchaser, or consignee for CBP purposes is as shown above, OR <input type="checkbox"/> owner or purchaser or agent thereof. I further declare that the merchandise <input type="checkbox"/> was obtained pursuant to a purchase or agreement to purchase and that the prices set forth in the invoices are true, OR <input type="checkbox"/> was not obtained pursuant to a purchase or agreement to purchase and the statements in the invoices as to value or price are true to the best of my knowledge and belief. I also declare that the statements in the documents herein filed fully disclose to the best of my knowledge and belief the true prices, values, quantities, rebates, drawbacks, fees, commissions, and royalties and are true and correct, and that all goods or services provided to the seller of the merchandise either free or at reduced cost are fully disclosed. I will immediately furnish to the appropriate CBP officer any information showing a different statement of facts.		D. Ascertained Other		40. Total	
		E. Ascertained Total			
		41. DECLARANT NAME		TITLE	
42. Broker/Filer Information (Name, address, phone number)		43. Broker/Importer File No.		DATE	

Form 7501

- Items where Customs expects Reasonable Care are reflected on Form 7501
- Areas of most common errors are circled
- Note there is no special box for Section 301 duties – they are entered using a second set of special HTS numbers (9903.88)

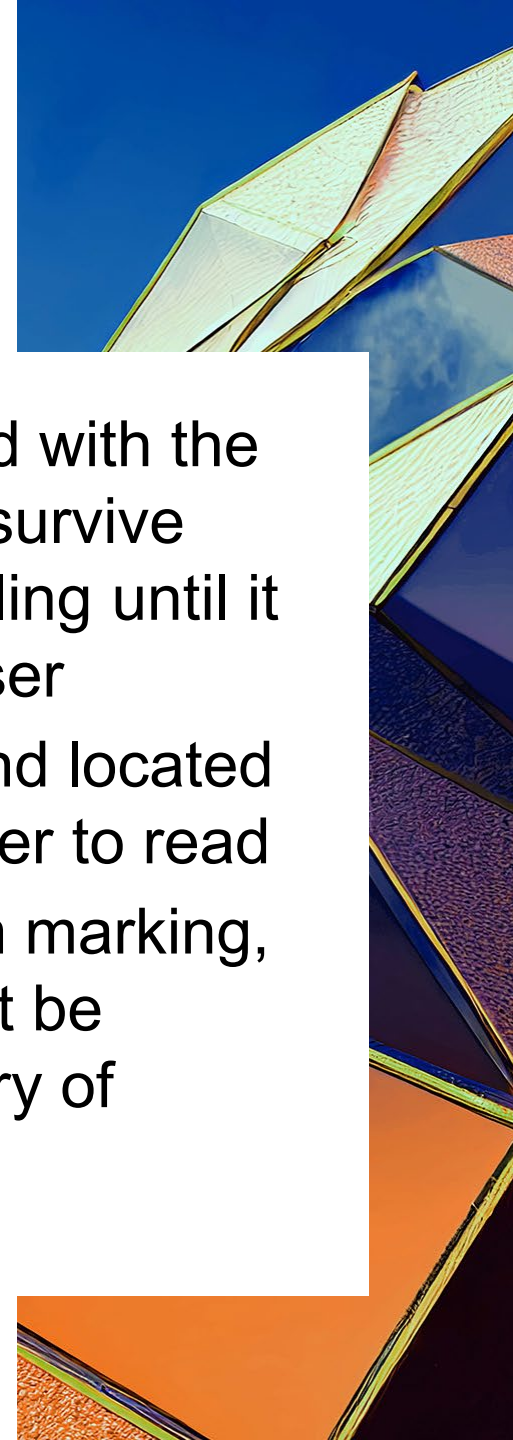


ENTRY SUMMARY

8. Importing Carrier		9. Mode of Transport		10. Country of Origin		11. Import Date					
12. B/L or AWB No.		13. Manufacturer ID		14. Exporting Country		15. Export Date					
16. I.T. No.		17. I.T. Date		18. Missing Docs		19. Foreign Port of Lading		20. U.S. Port of Unlading			
21. Location of Goods/G.O. No.		22. Consignee No.		23. Importer No.		24. Reference No.					
25. Ultimate Consignee Name and Address				26. Importer of Record Name and Address							
City		State		Zip		City		State		Zip	
27. Line No.		28. Description of Merchandise				32. A. Entered Value B. CHGS C. Relationship		33. A. HTSUS Rate B. ADA/CVD Rate C. IRC Rate D. Visa No.		34. Duty and I.R. Tax Dollars Cents	
29. A. HTSUS No. B. ADA/CVD No.		30. A. Grossweight B. Manifest Qty		31. Net Quantity in HTSUS Units							
Other Fee Summary for Block 39		35. Total Entered Value \$		CBP USE ONLY		TOTALS					
				A. LIQ CODE		B. Ascertained Duty		37. Duty			
		Total Other Fees \$		REASON CODE		C. Ascertained Tax		38. Tax			
36. DECLARATION OF IMPORTER OF RECORD (OWNER OR PURCHASER) OR AUTHORIZED AGENT				D. Ascertained Other		39. Other					
I declare that I am the <input type="checkbox"/> Importer of record and that the actual owner, purchaser, or consignee for CBP purposes is as shown above, OR <input type="checkbox"/> owner or purchaser or agent thereof. I further declare that the merchandise <input type="checkbox"/> was obtained pursuant to a purchase or agreement to purchase and that the prices set forth in the invoices are true, OR <input type="checkbox"/> was not obtained pursuant to a purchase or agreement to purchase and the statements in the invoices as to value or price are true to the best of my knowledge and belief. I also declare that the statements in the documents herein filed fully disclose to the best of my knowledge and belief the true prices, values, quantities, rebates, drawbacks, fees, commissions, and royalties and are true and correct, and that all goods or services provided to the seller of the merchandise either free or at reduced cost are fully disclosed. I will immediately furnish to the appropriate CBP officer any information showing a different statement of facts.				E. Ascertained Total		40. Total					
41. DECLARANT NAME		TITLE		SIGNATURE		DATE					
42. Broker/Importer Information (Name, address, phone number)				43. Broker/Importer File No.							

Country of Origin, Marking & Product Content

- Every import must be marked with the country of origin in a way to survive normal distribution and handling until it reaches the ultimate purchaser
- Must be sufficiently visible and located to allow the ultimate purchaser to read
- If an article is exempted from marking, the outermost container must be marked to indicate the country of origin



U.S. Customs Marking Requirements

■ Marking Requirements

- Every article of foreign origin imported into the U.S. must be marked with its country of origin (19 USC. § 1304)
- Marking generally needs to be on the good itself or in a form that is not likely to fall off or be obscured
- Marking must reach “ultimate purchaser” – the last person in the U.S. who will receive the article in the form it was imported
- Last person may be the manufacturer if the article is “substantially transformed” in the U.S. or satisfies tariff-shift analysis under USMCA

Country of Origin, Marking & Product Content Requirements

- Key considerations for determining country of origin:
 - Initial sourcing of parts and components/good
 - Where the key components that give the product its essential attributes are manufactured or extracted
 - Where the bulk of the value added occurs
 - Where the assembly occurs
 - Whether the goods are assembled from a set of components that predetermine the final outcome of the assembly
 - The amount of time the assembly takes
 - The amount of skill the assembly takes

Did you know?

U.S. importers filed 39.1 million entry summaries in FY 2022, relating to tariffs of \$111.8 billion on \$3.35 trillion worth of goods





ENTRY SUMMARY

1. Filer Code/Entry No.		2. Entry Type		3. Summary Date	
4. Surety No.		5. Bond Type		6. Port Code	
7. Entry Date		8. Importing Carrier		9. Mode of Transport	
10. Country of Origin		11. Import Date		12. B/L or AWB No.	
13. Manufacturer ID		14. Exporting Country		15. Export Date	
16. I.T. No.		17. I.T. Date		18. Missing Docs	
19. Foreign Port of Lading		20. U.S. Port of Unlading		21. Location of Goods/G.O. No.	
22. Consignee No.		23. Importer No.		24. Reference No.	
25. Ultimate Consignee Name and Address				26. Importer of Record Name and Address	
City		State		Zip	
City		State		Zip	
27. I.T. No.		28. Description of Merchandise		32. A. Entered Value	
29. A. HTSUS No.		30. A. Grossweight		33. A. HTSUS Rate	
31. Net Quantity in HTSUS Units		34. Duty and I.R. Tax		B. ADA/CVD Rate	
35. Total Entered Value		CBP USE ONLY		C. IRC Rate	
36. Total Other Fees		A. LIQ CODE		D. Visa No.	
37. Duty		B. Ascertained Duty		E. Ascertained Total	
38. Tax		C. Ascertained Tax		39. Other	
39. Other		D. Ascertained Other		40. Total	
40. Total		E. Ascertained Total		41. Total	
36. DECLARATION OF IMPORTER OF RECORD (OWNER OR PURCHASER) OR AUTHORIZED AGENT					
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41. DECLARANT NAME		TITLE		SIGNATURE	
42. Broker/Filer Information (Name, address, phone number)		43. Broker/Importer File No.		DATE	

Classification

- All imported goods have a special code
- Goods are classified at a ten-digit level
- Organized by 97 broad groupings (chapters), then increasingly specific, up to ten-digit codes
- Chapters 98 and 99 are for special classification provisions and temporary modifications of duty rates

Tariff Classification Responsibilities

- “Classification” is the subheading of the tariff code that most specifically describes the import
 - The system is the Harmonized Tariff Schedule (HTS), which is the U.S. version of the Harmonized System (HS)
 - The tariff classification is the basis for determining an imported article’s lawful tariff rate and eligibility for tariff preference programs
- General Rules of Interpretation (GRIs) guidance application of the classification rules
- Products may be classified:
 - under items or descriptions that name them (technically known as *eo nomine* provisions);
 - under provisions that provide a general description;
 - under provisions that identify the product by component material; or
 - under provisions that describe merchandise in accordance with its actual or principal use



ENTRY SUMMARY

8. Importing Carrier		9. Mode of Transport		10. Country of Origin		11. Import Date	
12. B/L or AWB No.		13. Manufacturer ID		14. Exporting Country		15. Export Date	
16. I.T. No.		17. I.T. Date		18. Missing Docs		19. Foreign Port of Lading	
20. U.S. Port of Unlading		21. Location of Goods/G.O. No.		22. Consignee No.		23. Importer No.	
24. Reference No.		25. Ultimate Consignee Name and Address		26. Importer of Record Name and Address			
City		State		Zip		City	
State		Zip		City		State	
Zip		City		State		Zip	
27. Line No.		28. Description of Merchandise		32. A. Entered Value B. CHGS C. Relationship		33. A. HTSUS Rate B. ADA/CVD Rate C. IRC Rate D. Visa No.	
29. A. HTSUS No. B. ADA/CVD No.		30. A. Grossweight B. Manifest Qty.		31. Net Quantity in HTSUS Units		34. Duty and I.R. Tax	
						Dollars Cents	
Other Fee Summary for Block 39		35. Total Entered Value		CBP USE ONLY		TOTALS	
\$				A. LIQ CODE		B. Ascertained Duty	
Total Other Fees		\$		REASON CODE		37. Duty	
36. DECLARATION OF IMPORTER OF RECORD (OWNER OR PURCHASER) OR AUTHORIZED AGENT		I declare that I am the <input type="checkbox"/> Importer of record and that the actual owner, purchaser, or consignee for CBP purposes is as shown above, OR <input type="checkbox"/> owner or purchaser or agent thereof. I further declare that the merchandise <input type="checkbox"/> was obtained pursuant to a purchase or agreement to purchase and that the prices set forth in the invoices are true, OR <input type="checkbox"/> was not obtained pursuant to a purchase or agreement to purchase and the statements in the invoices as to value or price are true to the best of my knowledge and belief. I also declare that the statements in the documents herein filed fully disclose to the best of my knowledge and belief the true prices, values, quantities, rebates, drawbacks, fees, commissions, and royalties and are true and correct, and that all goods or services provided to the seller of the merchandise either free or at reduced cost are fully disclosed. I will immediately furnish to the appropriate CBP officer any information showing a different statement of facts.		D. Ascertained Other		38. Tax	
41. DECLARANT NAME		TITLE		SIGNATURE		DATE	
42. Broker/File Information (Name, address, phone number)		43. Broker/Importer File No.		E. Ascertained Total		39. Other	
						40. Total	

Quantity

- Quantity can be in a variety of units, so long as specified
- In most cases, it is the value of the goods rather than the quantity that sets the duty rate

Did you know?

There are 20 million shipping containers and 55,000 cargo ships in service worldwide. About 25% are active on any given day.





ENTRY SUMMARY

1. Filer Code/Entry No.		2. Entry Type		3. Summary Date	
4. Surety No.		5. Bond Type		6. Port Code	
7. Entry Date		8. Importing Carrier		9. Mode of Transport	
10. Country of Origin		11. Import Date		12. B/L or AWB No.	
13. Manufacturer ID		14. Exporting Country		15. Export Date	
16. I.T. No.		17. I.T. Date		18. Missing Docs	
19. Foreign Port of Lading		20. U.S. Port of Unlading		21. Location of Goods/G.O. No.	
22. Consignee No.		23. Importer No.		24. Reference No.	
25. Ultimate Consignee Name and Address		26. Importer of Record Name and Address		27.	
City		State		Zip	
28. Description of Merchandise		32.		33.	
29. A. HTSUS No. B. ADA/CVD No.		30. A. Grossweight B. Manifest Qty.		31. Net Quantity in HTSUS Units	
A. Entered Value B. CHGS C. Relationship		B. ADA/CVD Rate C. IRC Rate D. Duty No.		34. Duty and I.R. Tax Dollars Cents	
Other Fee Summary for Block 35		35. Total Entered Value \$		CBP USE ONLY	
Total Other Fees \$		REASON CODE		37. Duty	
36. DECLARATION OF IMPORTER OF RECORD (OWNER OR PURCHASER) OR AUTHORIZED AGENT		D. Ascertained Other		38. Tax	
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41. DECLARANT NAME		TITLE		SIGNATURE	
42. Broker/Filer Information (Name, address, phone number)		43. Broker/Importer File No.		DATE	
40. Total					

Entered Value

- The wrong entered value will nearly always mean the wrong duty paid
- Entered value is one of the hardest items to get correct
- Customs maintains a 580-page Valuation Encyclopedia (<https://www.cbp.gov/sites/default/files/assets/documents/2016-Jul/Valuation%20Encyclopedia%20Dec%202015%20final.pdf>)

Customs Valuation Requirements

- Product valuation refers to the amount or cost on which Customs applies duties and fees
- Methods:
 - Transaction value (preferred method);
 - Transaction value of identical goods;
 - Transaction value of similar goods;
 - Deductive value;
 - Computed value; or
 - Some residual method.

Customs Valuation Calculation

Transaction Value is Customs preferred method of appraisement – defined as “the price actually paid or payable” for the merchandise when exported to the United States

Required Additions:

- packing costs incurred by the importer;
- selling commissions incurred by the importer;
- the value of any assist (calculated using the procedures in the next section);
- any royalties or licensing fees paid to the seller by the importer; and
- any proceeds of subsequent resale, disposal, or use of the merchandise that accrue to the seller.

Allowable Deductions:

- international freight;
- international insurance;
- packaging costs;
- any buying agent’s commission;
- post-importation maintenance, assembly, erection, construction, and technical assistance costs; and
- Customs duties, freight forwarder, and Customs brokerage fees.

Assists Declaration Responsibilities

- An assist is a production aid provided by the U.S. importer to a supplier
- The following are examples of assists if provided free of charge, or at a reduced cost, by the importer to produce the importer's imports:
 - Materials, components, parts, and similar items used in merchandise
 - Merchandise consumed in the production of imported merchandise
 - Tools, dies, molds, and similar items used in merchandise production
 - Engineering, development, artwork, design work, and plans
- Requirements
 - the importer must record all assists and tie them to specific entries
 - the importer must identify all assists to be able to properly report to Customs the value of the assists
 - the importer must properly apportion and allocate the value of the assist (proportional, first entry, etc.)



ENTRY SUMMARY

1. Filer Code/Entry No.		2. Entry Type		3. Summary Date	
4. Surety No.		5. Bond Type		7. Entry Date	
8. Importing Carrier		9. Mode of Transport		10. Country of Origin	
12. B/L or AWB No.		13. Manufacturer ID		14. Exporting Country	
16. I.T. No.		17. I.T. Date		18. Missing Docs	
19. Foreign Port of Lading		20. U.S. Port of Unlading		11. Import Date	
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24. Reference No.		25. Ultimate Consignee Name and Address		26. Importer of Record Name and Address	
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29. A. HTSUS No. B. ADA/CVD No.		30. A. Grossweight B. Manifest Qty.		31. A. Net Quantity in HTSUS Units	
33. A. HTSUS Rate B. ADA/CVD Rate C. IRC Rate D. Memo No.		34. Duty and I.R. Tax		Dollars Cents	
Other Fee Summary for Block 39		35. Total Entered Value \$		36. CBP USE ONLY	
Total Other Fees \$		A. HQ CODE		B. Ascertained Duty	
		REASON CODE		C. Ascertained Tax	
		D. Ascertained Other		37. Duty	
		E. Ascertained Total		38. Tax	
				39. Other	
				40. Total	
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41. DECLARANT NAME		TITLE		SIGNATURE	
				DATE	
42. Broker/Filer Information (Name, address, phone number)		43. Broker/Importer File No.			

Entry Type / Impact of Incoterms

- Entry type generally 01 (Consumption) or 03 (AD/CVD)
- International Commercial Terms (Incoterms):
 - set responsibilities between buyers and sellers
 - impact who needs to act as importer of record, the entered value, and other elements of the 7501 Form

Incoterms

- Incoterms provide rules for determining the obligations of both the seller and the buyer by stating:
 - what acts the seller must render to deliver the goods;
 - what acts the buyer must perform to accommodate delivery;
 - what costs each party must bear; and
 - at what point in the delivery process the risk of loss passes from the seller to the buyer.

The seven Incoterms® rules for any mode of transport are:

- **EXW:** Ex Works (insert place of delivery);
- **FCA:** Free Carrier (Insert named place of delivery);
- **CPT:** Carriage Paid to (insert place of destination);
- **CIP:** Carriage and Insurance Paid To (insert place of destination);
- **DAP:** Delivered at Place (insert named place of destination);
- **DPU:** Delivered at Place Unloaded (insert of place of destination); and
- **DDP:** Delivered Duty Paid (Insert place of destination).

The four Incoterms® 2020 rules for Sea and Inland Waterway Transport are:

- **FAS:** Free Alongside Ship (insert name of port of loading);
- **FOB:** Free on Board (insert named port of loading);
- **CFR:** Cost and Freight (insert named port of destination); and
- **CIF:** Cost Insurance and Freight (insert named port of destination).

Did you know?

- About 10,000 containers per year are lost during the voyage
- The Incoterms in place determine who bears the risk of loss





20 in 20

The Top 20 Customs Errors and
How You Can Avoid Them

The Importance of Managing Import Risk

- Greater chance of getting caught
 - Automation through ACE leads to increasing CBP mining of import data
 - Increasing whistleblower opportunities
 - Increasing use of Form 28s and 29s
 - Increase the use of spot audits and Risk Analysis and Survey Assessments (RASAs)
- Greater chance of high penalties
 - High tariff environment = greater potential penalties (Section 301)
 - Increasing use of criminal cases
- Increasing Ways to Violate Customs Requirements
 - New supply chain scrutiny and the Uyghur Forced Labor Prevention Act
 - Greater use of CBP to enforce dictates of other agencies



The Seven Deadly Customs Sins ... And Their Cure

1. Over-reliance on Customs brokers →
 - Compliance, post-entry checks, and audits
2. Failure to have a Customs Manual →
 - Tailored Customs Manual
3. Failure to have a Customs Classification Index →
 - Systemize classification and memorialize
4. Failure to Meet USMCA or other FTA Requirements →
 - Update NAFTA rules, check country of origin, and ensure certificates of origin are in order
5. Failure to Mark Goods Correctly →
 - Learn rules relevant for your types of goods
6. Failure to Manage Supply Chain →
 - Full-spectrum due diligence
7. Failure to Maintain Required Customs Records →
 - Systemize recordkeeping, integrate into RIM program, and tie records to individual entries

The Seven Deadly Import Sins ... And Their Cure

1. Failure to Provide All Required Form 7501 and Backup Information → ■ Take full responsibility for Customs issues/don't assume Customs broker is handling everything correctly
2. Field 2 (Entry Type): Failure to Recognize Applicable AD/CVD Orders → ■ Independent research of AD/CVD orders, work with Customs brokers to ensure part of review
3. Field 10 (Country of Origin): Failure to Properly Determine Country of Origin → ■ Learn substantial transformation rules (chapter 1-97, FTA) and apply
4. Field 29 (Classification/HTSUS): Failure to Classify Goods Correctly → ■ Don't rely on Customs broker; develop a classification index and update it regularly
5. Field 32 (Entered Value): Failure to Declare Correct Entered Value Based on Relevant Incoterms/Terms of Sale → ■ Understand Incoterms and required additions and deductions; understand rules for affiliated parties/transfer pricing
6. Field 36 (Entered Value): Failure to Include Off-Invoice Items, Such as Assists and Royalties → ■ Develop consistent methodology for handling assists & royalties and communicate to Customs brokers
7. Field 37 (Duty): Failure to Follow USMCA/FTA Requirements When Claiming Preferential Treatment → ■ Understand deviations from normal Customs rules (tariff shift v. substantial transformation, origination rules, specialty rules)

The Six Most-Missed Tariff-Saving Opportunities ... And Their Cure

- | | | |
|---|---|---|
| 1. Failure to Classify Correctly | ➔ | ▪ Risk-Based Review of Classifications |
| 2. Failure to Identify Tariff-Engineering Opportunities | ➔ | ▪ Applying rules of origin across countries to seek favorable tariff rates |
| 3. Failure to Use Duty Drawback | ➔ | ▪ Identify re-export situations |
| 4. Failure to use Temporary Import Bonds, Foreign Trade Zones, or Bonded Warehouses | ➔ | ▪ Weigh the pros and cons of keeping goods from entering the U.S. Customs territory or forestalling duty payments |
| 5. Failure to Use First-Sale Rule | ➔ | ▪ Understand opportunities to apply |
| 6. Failure to File PSCs or Protests Against Liquidation | ➔ | ▪ Using post-entry checks to identify problems and claim favorable tariff treatment |

Did you know?

After the Milwaukee Bucks were awarded NBA Championship rings, CBP officers seized more than 1,300 fake rings (valued at \$1 million) in the ensuing three months



Handling Day-to-Day Import Operations

An Audit a Day Helps Keep Customs Away

Handling Day-to-Day Import Management

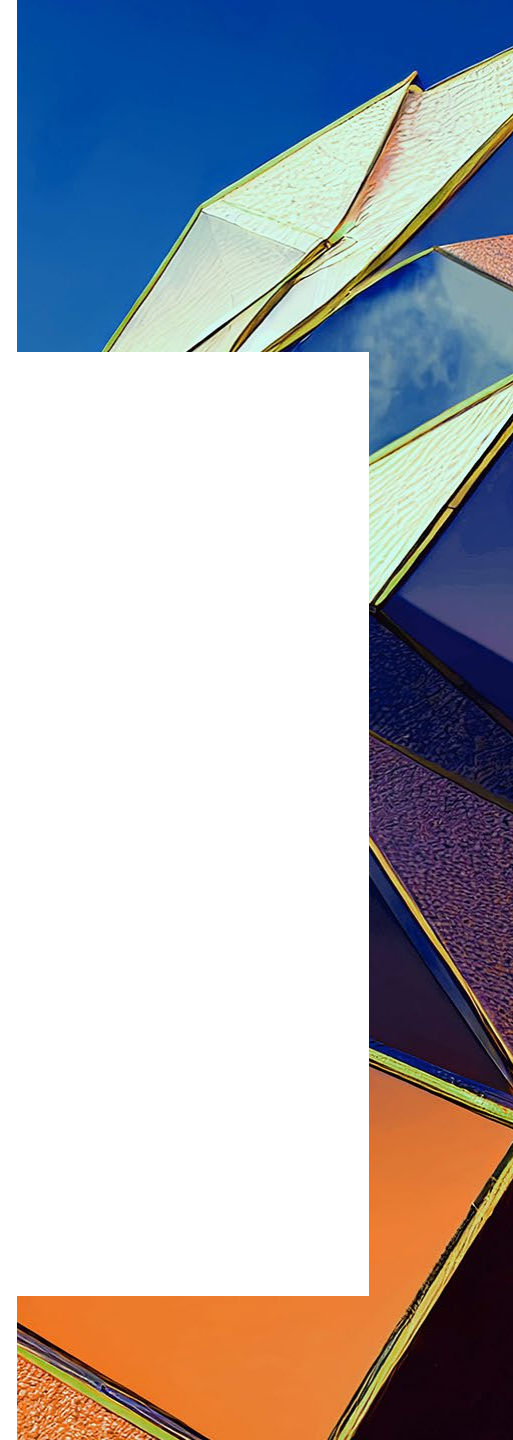
- The Key Elements of Customs Compliance
 - Managing Customs Brokers & Freight Forwarders
 - Creating a Classification Index
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 - When to Use Protests Against Liquidation
 - Using Internal Customs Audits to Spot-Check Compliance
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 - Recordkeeping

Managing Customs Brokers & Freight Forwarders

- Ensure that a signed, current version of the Standard Operating Procedures (SOP) is in place
- The SOP should address all areas of Customs risk exposure applicable to your importations
- The broker should NEVER make decisions for the importer that fall outside of the SOP
- Ensure post-entry reviews are occurring that would alert the importer to any broker errors
- Participate in quarterly business reviews with the broker to review the previous quarter's metrics

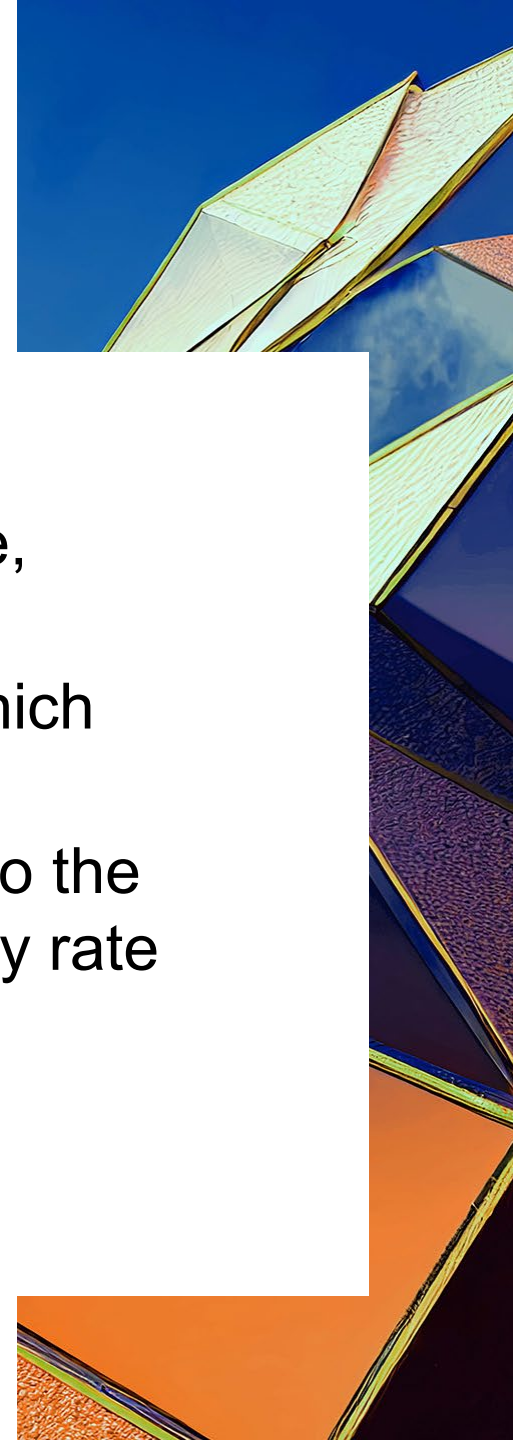
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Creating a Classification Index

- Ensuring that importers have a comprehensive Harmonized Tariff Schedule (HTS) database is essential for your import operations
- The database should have all parts included, regardless if obsolete, covering a period of at least five years
- The HTS database should ensure accurate product declaration, which can save time in the Customs clearance process
- Since duty is calculated based on the product's description and also the country of origin, the HTS database should ensure an accurate duty rate declared to CBP
- Make sure your database includes the part number, HTS, product description, duty rate, any historical duty rate, any Section duty implications, and the basis for the HTS determination



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Effective Use of Post-Entry Checks

- Post-entry reviews ensure the importer is monitoring their suppliers and Customs brokers
- Post-entry checks should be documented.
- If you are not conducting 100% post-entry checks, the post-entry review should be risk-based, meaning that you are reviewing the entry documentation where there is greater risk exposure to Customs
- Post-entry checks can be conducted within 10 days of the release of the cargo to avoid the Post Summary Correction (PSC) process



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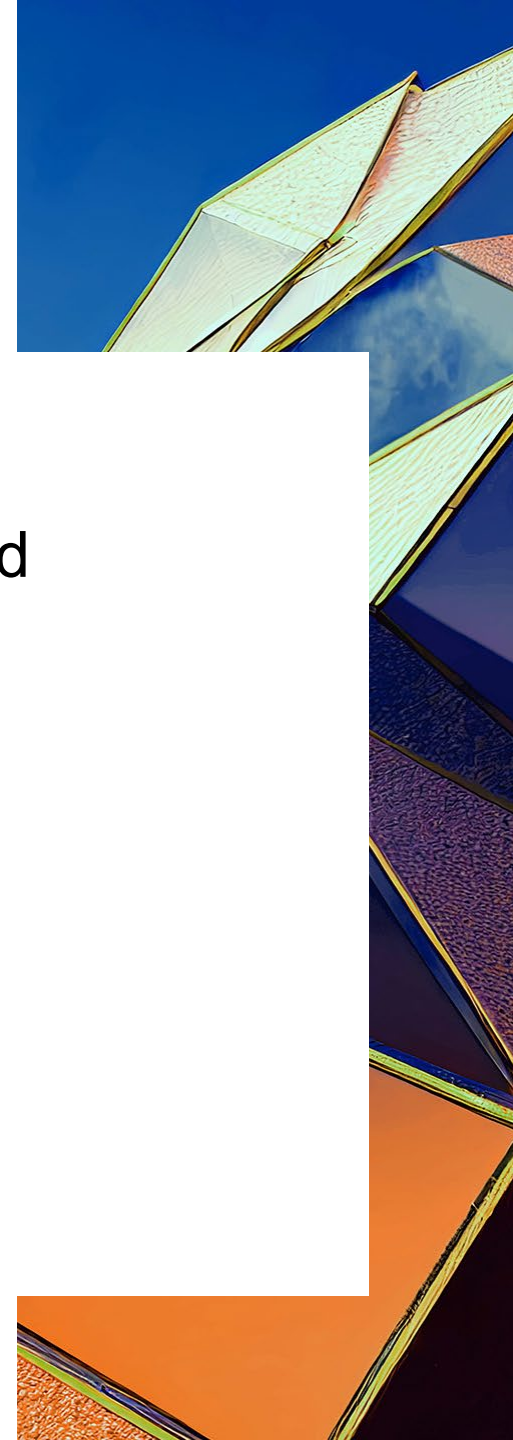
Managing Post-Summary Corrections

- Allows penalty-free correction of most 7501 Entry Summary information for approximately 310 days
- Post-Summary Corrections (PSC) allow electronic corrections using the Automated Commercial Environment (“ACE”):
 - The entry summary must be in accepted status
 - The entry summary cannot be under CBP review
 - The entry summary must be in CBP control
 - The entry summary must be paid
 - If on a Periodic Monthly Statement, the entry must be “truly” paid
 - The entry summary cannot be liquidated
 - The PSC filing must be within 300 days from the date of entry and up to 15 days prior to the scheduled liquidation date, whichever date is earlier

Did you know?

When a shipping container with 28,000 rubber duckies fell off a container ship near Alaska in 1992, the ducks were eventually found all over the world and were used to help map the world's ocean currents.

They are still being found today.





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When to Use Protests Against Liquidation

- A protest is the method primarily used by importers to take issue with Customs' decisions which the importer disagrees with
- They provide an avenue to correct errors in entry summaries that should result in a refund of duties and other fees that were erroneously paid
- A protest cannot be submitted before the entry liquidating but must be submitted within 180 days after liquidation
- Protests are filed in ACE using the ACE Protest Module or on Customs Form 19
- Only the importer, its broker, the attorney, or the surety (rare) can file the protest



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ENTRY SUMMARY

8. Importing Carrier		9. Mode of Transport		10. Country of Origin		11. Import Date					
12. B/L or AWB No.		13. Manufacturer ID		14. Exporting Country		15. Export Date					
16. I.T. No.		17. I.T. Date		18. Missing Docs		19. Foreign Port of Lading		20. U.S. Port of Unlading			
21. Location of Goods/G.O. No.		22. Consignee No.		23. Importer No.		24. Reference No.					
25. Ultimate Consignee Name and Address				26. Importer of Record Name and Address							
City		State		Zip		City		State		Zip	
27. Line No.		28. Description of Merchandise		32. A. Entered Value B. CHGS C. Relationship		33. A. HTSUS Rate B. ADA/CVD Rate C. MKC Rate D. Visa No.		34. Duty and I.R. Tax Dollars Cents			
29. A. HTSUS No. B. ADA/CVD No.		30. A. Grossweight B. Manifest Qty.		31. Net Quantity in HTSUS Units							
Other Fee Summary for Block 39		35. Total Entered Value		CBP USE ONLY		TOTALS					
		\$		A. LIQ CODE		B. Ascertained Duty		37. Duty			
		Total Other Fees		REASON CODE		C. Ascertained Tax		38. Tax			
		\$				D. Ascertained Other		39. Other			
						E. Ascertained Total		40. Total			
36. DECLARATION OF IMPORTER OF RECORD (OWNER OR PURCHASER) OR AUTHORIZED AGENT											
I declare that I am the <input type="checkbox"/> Importer of record and that the actual owner, purchaser, or consignee for CBP purposes is as shown above, OR <input type="checkbox"/> owner or purchaser or agent thereof. I further declare that the merchandise <input type="checkbox"/> was obtained pursuant to a purchase or agreement to purchase and that the prices set forth in the invoices are true, OR <input type="checkbox"/> was not obtained pursuant to a purchase or agreement to purchase and the statements in the invoices as to value or price are true to the best of my knowledge and belief. I also declare that the statements in the documents herein filed fully disclose to the best of my knowledge and belief the true prices, values, quantities, rebates, drawbacks, fees, commissions, and royalties and are true and correct, and that all goods or services provided to the seller of the merchandise either free or at reduced cost are fully disclosed. I will immediately furnish to the appropriate CBP officer any information showing a different statement of facts.											
41. DECLARANT NAME		TITLE		SIGNATURE		DATE					
42. Broker/Filer Information (Name, address, phone number)				43. Broker/Importer File No.							

Using Internal Customs Audits to Spot-Check Compliance

- Internal Customs audits serve the same function as financial audits and are just as important
- The seven key elements of internal customs audits:
 - Using ACE to identify import patterns & changes
 - Using risk-based principles to identify a meaningful sample
 - Checks on country of origin
 - Checks on the accuracy of classification
 - Checks on accuracy of valuations, including recognition of assists and other non-invoice elements of value
 - Checks on FTA/USMCA compliance
 - Checks on customs brokers/freight forwarders

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Management of Tariff-Saving Opportunities

- Free Trade Agreements
- Harmonized Tariff Schedule (HTS)
Chapter 98 Provisions
- Duty Drawback
- First Sale
- FTZ
- Bonded Warehouse

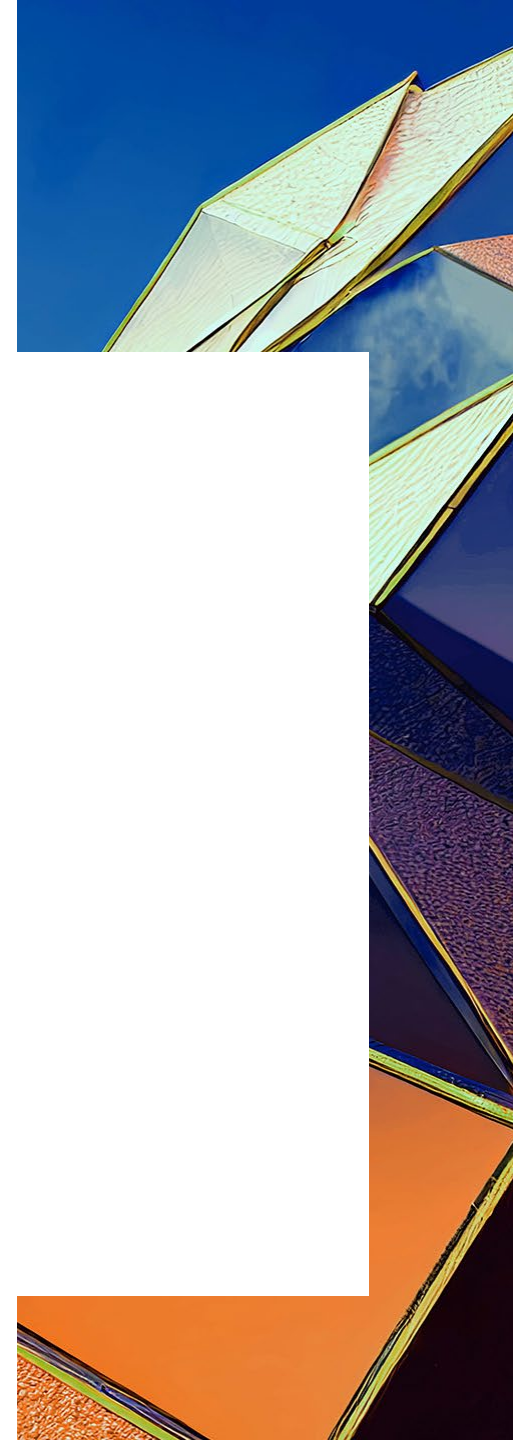


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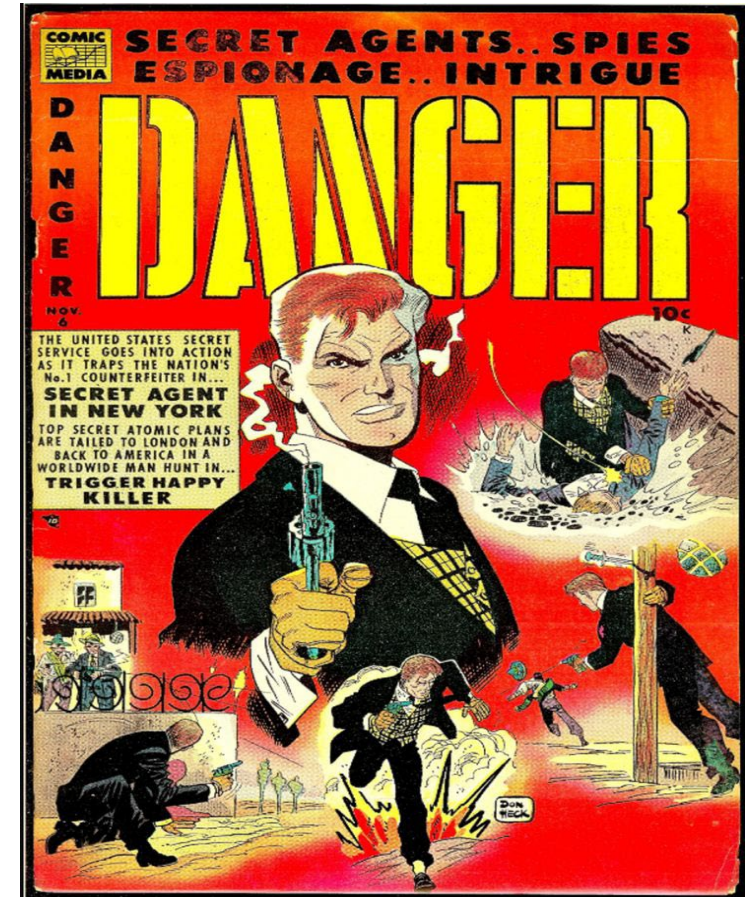
Recordkeeping

- Customs Requirements (19 USC. 1508)
- Importers must maintain accurate records
- This includes but is not limited to:
 - Any Forms submitted to Customs, including Form 7501
 - Any supporting information (packing lists, billings of lading, commercial invoices, etc.)
 - Related back-up information
 - Must maintain original records, whether paper or electronic
 - Entry Package Documents
 - Non-Entry Package Documents



Recordkeeping

- Customs requires that the importer maintain policies and procedures to ensure recordkeeping compliance
- The importer of record, not the Customs broker, is the repository of records
- Customs brokers often delete records after one year, or archive them, so regular downloads of Customs broker records is important
- Customs has the right under 19 USC 1509 to examine books and witnesses



Takeaways

- Although customs brokers are an essential element of import operations, the ultimate responsibility for accuracy is on the importer of record
- Constant and careful oversight of customs brokers minimizes potential issues and Customs inquiries
- Adopting a complete and regularly updated Classification Index minimizes classification inconsistencies that can attract the attention of Customs
- Post-entry checks are a key way in which regular importers can take advantage of the ability to fix most import errors
- Savvy importers can take advantage of a number of duty-saving methods to minimize tariffs



Form 28s, Form 29s, and Customs Visits, Oh My Handling Customs Inquiries and Disclosure

Form 28 (Request for Information)

- Issued by CBP to obtain information on specific entries
- Steps to take:
 - Set up ACE to receive notice of Form 28s issued by CBP
 - Carefully review Form 28, particularly sections 12-14, which describe the requested information
 - Attempt to determine why the Form 28 was issued (*i.e.*, single error or larger, systemic issue)
 - If unclear, contact the CBP Import Specialist listed on the bottom of the form
 - Prepare response with the assistance of counsel, customs broker
 - Generally due within 30 days, though extensions may be requested

DEPARTMENT OF HOMELAND SECURITY U.S. Customs and Border Protection		REQUEST FOR INFORMATION 19 CFR 151.11		OMB No. 1651-0023 Exp. 03-31-2014
			1. Date of Request	
			2. Date of Entry and Importation	
3. Manufacturer/Seller/Shipper	4. Carrier	5. Entry No.		
5a. Invoice Description of Merchandise		5b. Invoice No.	6. HTSUS Item No.	
7. Country of Origin/Exportation		8. CBP Broker and Reference or File No.		
9. TO:		10. FROM:		
Production of Documents and/or Information Required by Law: If you have provided the information requested on this form to U.S. Customs and Border Protection at other ports, please indicate the port of entry to which it was supplied, and furnish a copy of your reply to this office, if possible.		11a. Port	11b. Date Information Furnished	
General Information and Instructions on Reverse				
12. Please Answer Indicated Question(s)		13. Please Furnish Indicated Item(s)		
<input type="checkbox"/> A. Are you related (see reverse) in any way to the seller of this merchandise? If you are related, please describe the relationship, and explain how this relationship affects the price paid or payable for the merchandise.		<input type="checkbox"/> A. Copy of contract (or purchase order and seller's confirmation) covering the transaction, and any revisions thereto.		
<input type="checkbox"/> B. Identify and give details of any additional costs/expenses incurred in this transaction, such as: <input type="checkbox"/> (1) packing <input type="checkbox"/> (2) commissions <input type="checkbox"/> (3) proceeds that accrue to the seller <input type="checkbox"/> (4) assists <input type="checkbox"/> (5) royalties and/or license fees		<input type="checkbox"/> B. Descriptive or illustrative literature or information explaining what the merchandise is, where and how it is used, and exactly how it operates. <input type="checkbox"/> C. Breakdown of components, materials, or ingredients by weight and the actual cost of the components at the time of assembly into the finished article. <input type="checkbox"/> D. Submit samples: Article number and description _____ from container _____ mark(s) and number _____ Samples consumed in analysis, and other samples whose return is not specifically requested, will not normally be returned. <input type="checkbox"/> E. See item 14 below.		
14. CBP Officer Message				
15. Reply Message (Use additional sheets if more space is needed.)				
16. CERTIFICATION It is required that an appropriate corporate/company official execute this certificate and/or endorse all correspondence in response to the information requested. (NOTE: NOT REQUIRED IF FOREIGN FIRM COMPLETES THIS FORM.)				
I hereby certify that the information furnished herewith or upon this form in response to this inquiry is true and correct, and that any samples provided were taken from the shipment covered by this entry.		16a. Name and Title/Position of Signer (Owner, Importer, or Corporate/Company Official)	16b. Signature	
17. CBP Officer		16c. Telephone No.	16d. Date	
		18. Team Designation	19. Telephone No.	

Form 29 (Notice of Action)

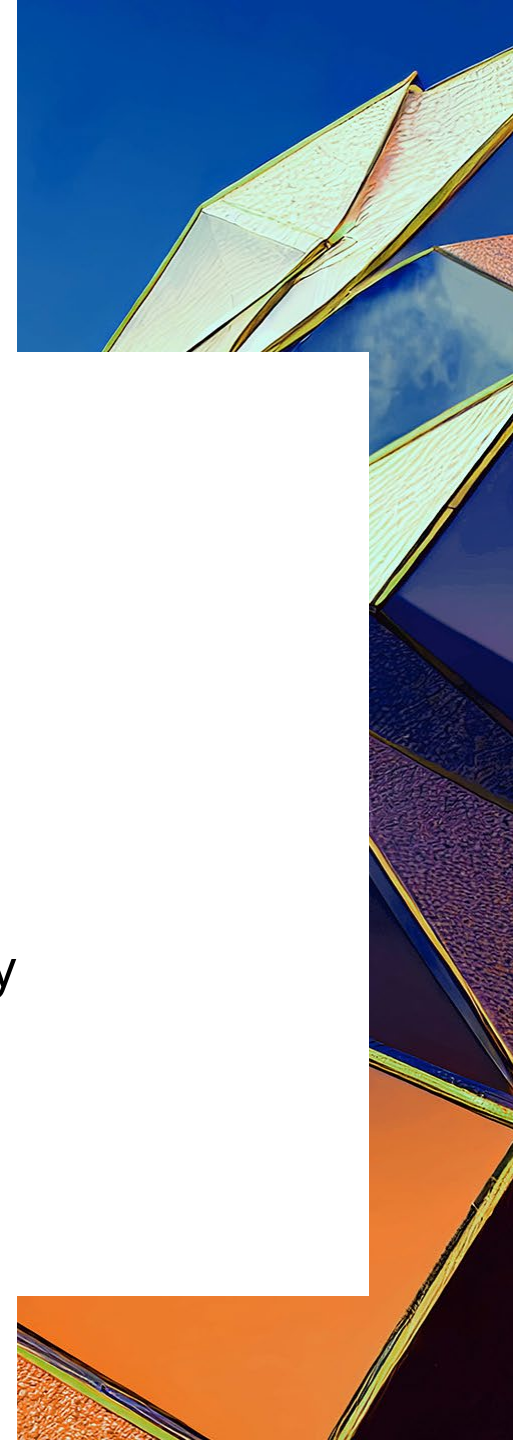
- Issued when CBP believes sufficient information exists to take immediate action
 - Notice received through ACE
 - Important to be set up to immediately receive ACE notices
- “Proposed Action” or “Action Taken”?
 - If “Proposed Action,” IOR has 20 days to submit arguments and supporting documents why proposed action should not be taken
 - If “Action Taken,” CBP has made its final decision, and entry will be liquidated

DEPARTMENT OF HOMELAND SECURITY CUSTOMS AND BORDER PROTECTION		NOTICE OF ACTION <i>This is NOT a Notice of Liquidation</i>		1. DATE OF THIS NOTICE
19 CFR 152.2	2. CARRIER	3. DATE OF IMPORTATION	4. DATE OF ENTRY	5. ENTRY NO.
6. MFR/SELLER/SHIPPER	7. COUNTRY	8. CUSTOMS BROKER AND FILE NO.		
9. DESCRIPTION OF MERCHANDISE				
10. TO		11. FROM		
12. THE FOLLOWING ACTION, WHICH WILL RESULT IN AN INCREASE IN DUTIES, —				
<input type="checkbox"/> IS PROPOSED		IF YOU DISAGREE WITH THIS PROPOSED ACTION, PLEASE FURNISH YOUR REASONS IN WRITING TO THIS OFFICE WITHIN 20 DAYS FROM THE DATE OF THIS NOTICE. AFTER 20 DAYS THE ENTRY WILL BE LIQUIDATED AS PROPOSED.		
<input type="checkbox"/> HAS BEEN TAKEN		THE ENTRY IS IN THE LIQUIDATION PROCESS AND IS NOT AVAILABLE FOR REVIEW IN THIS OFFICE.		
TYPE OF ACTION				
A. <input type="checkbox"/> RATE ADVANCE				
B. <input type="checkbox"/> VALUE ADVANCE				
C. <input type="checkbox"/> EXCESS <input type="checkbox"/> WEIGHT <input type="checkbox"/> QUANTITY				
D. <input type="checkbox"/> OTHER (See below)				
13. EXPLANATION (Refer to Action letter designations above)				
14. CUSTOMS OFFICER (Print or Type)		15. TEAM DESIGNATION		16. TELEPHONE

CBP FORM 29

Implications of Form 28s and 29s

- Customs expectations:
 - Cannot ignore – mandatory response
 - Strict time limits
 - Can provide supporting documents
 - Can follow up with protests against liquidation
 - **Must implement to all comparable entries**
 - Large penalties for companies that implemented only for entries specifically identified on received Form 28s and 29s



CBP Pre-Emptive Audits

- Importers have the tools to perform their own, independent audits
- Starting with ACE data, can pull judgmental samples and spot-check accuracy
 - High-volume goods
 - Goods from China
 - Goods potentially subject to AD/CVD orders
 - FTA goods
- Audits, like post-entry checks, are one of the key ways to minimize the chances of CBP penalties

Prior Self-Disclosure

- Timing is critical
 - Disclose potential customs violations before IOR has knowledge of formal CBP investigation
- Scope of self-disclosure
 - Can be limited or broad enough to cover all goods entered during the 5-year statutory period of review
 - Consider a mini-audit to assess the effectiveness of the compliance program; sampling
- Process
 - Notice of Self-Disclosure
 - Audit of entries (often with the assistance of Customs specialists)
 - Review all entry data, correct any errors, and submit corrected data to CBP
 - Pay corrected duties owed (if any), with interest
 - Remediation; training

Prior Self-Disclosure - Benefits

- **No penalties for negligent or even grossly negligent conduct**
 - Effectively a safe harbor (in contrast to self-disclosures in other areas of law)
 - Ability to offset underpayments with overpayments
- **Allows for a clean slate moving forward**
 - Self-disclosure provides a restart to the customs program
 - Training and remediation safeguard against future customs violations
- **Additional tariff savings on a going-forward basis**
 - Majority of self-disclosures reveal missed opportunities, or
 - Reveal that the company has overpaid customs duties

Did you know?

- During prohibition, there was a special Customs patrol known as the U.S. Prohibition Border Patrol.
- To enforce prohibition, the number of Customs personnel grew by 45 percent, which made even local schoolchildren very sad



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