

## **Importing into the United States** ***A Guide for Commercial Importers***

### **A Notice To Our Readers**

*On March 1, 2003, U.S. Customs and Border Protection, or CBP, was born as an agency of the Department of Homeland Security, merging functions of the former Customs Service, Immigration and Naturalization Service, Border Patrol, and Animal and Plant Health Inspection Service. Many changes took place in preparation for this merger and many have occurred since in order to safeguard U.S. borders against high-risk cargo, contraband, and unsafe imports. We encourage you to visit our Website ([www.cbp.gov](http://www.cbp.gov)) for the latest information on specific laws, regulations or procedures that may affect your import transactions.*

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This edition of *Importing Into the United States* contains material pursuant to the Trade Act of 2002 and the Customs Modernization Act (Title VI of the North American Free Trade Agreement Implementation Act), commonly referred to as the Mod Act.

The Customs Modernization Act (Title VI of the North American Free Trade Agreement Implementation Act [P.L. 103-182, 107 Stat. 2057]) became effective December 8, 1993. Its provisions have fundamentally altered the relationship between importers and CBP by shifting to the importer, the legal responsibility for declaring the value, classification, and rate of duty applicable to entered merchandise.

A prominent feature of the Mod Act is a relationship between CBP and importers that is characterized by *informed compliance*. (See Section Three of this book, which starts on page 26, for details and definitions.) A key component of informed compliance is the shared responsibility between CBP and the import community, wherein CBP communicates its requirements to the importer, and the importer, in turn, uses reasonable care to assure that CBP is provided with accurate and timely data pertaining to his or her importations.

*Importing Into the United States* provides wide-ranging information about the importing process and import requirements. We have made every effort to include essential requirements, but it is not possible for a book this size to cover all import laws and regulations. Also, this publication does not supersede or modify any provision of those laws and regulations. Legislative and administrative changes are always under consideration and can occur at any time. Quota limitations on commodities are also subject to change. Therefore, reliance solely on the information in this book may not meet the “reasonable care” standard required of importers.

We urge interested parties to contact their nearest CBP office for information on specific issues or questions. CBP ports of entry, with their addresses and phone numbers, can be found on our Website under “Ports.”

We cannot overemphasize that although the information in this book is provided to promote understanding of, and compliance with, importing laws and regulations, the information provided here is for general purposes only. Importers may also wish to obtain guidance from private-sector experts who specialize in importing, for example, licensed customs brokers, attorneys or consultants.

Federal agencies whose laws CBP helps to enforce are listed throughout this book, as well as in the Appendix and on our Website.

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## **U.S. CUSTOMS AND BORDER PROTECTION: MISSION AND ORGANIZATION**

### **1. Organization**

#### **Mission**

Before September 11, 2001, the major responsibility of the former U.S. Customs Service was to administer the Tariff Act of 1930, as amended. When Customs subsequently merged with other border enforcement agencies to become U.S. Customs and Border Protection, CBP's priority mission became homeland security: detecting, deterring and preventing terrorists and their weapons from entering the United States.

This mission fits ideally with CBP's long-established responsibilities for protecting and facilitating international trade. CBP retains its traditional enterprise of protecting the nation's revenue by assessing and collecting duties, taxes and fees incident to international traffic and trade. Further, by providing procedural guidance to the import community, CBP enhances and increases compliance with domestic and international customs laws and regulations. CBP thus helps importers assure that their shipments are free from terrorist or other malicious interference, tampering, or corruption of containers or commodities.

Today, CBP is the nation's premiere border enforcement agency, and it accomplishes this new mandate in part by executing the responsibilities for which it has always been known: controlling, regulating, and facilitating the movement of carriers, people, and commodities between the United States and other nations; protecting the American consumer and the environment against the introduction of hazardous, toxic or noxious products into the United States; protecting domestic industry and labor against unfair foreign competition; and detecting, interdicting, and investigating smuggling and other illegal practices aimed at illegally entering narcotics, drugs, contraband or other prohibited articles into the United States.

CBP is also responsible for detecting, interdicting, and investigating fraudulent activities intended to avoid the payment of duties, taxes and fees, or activities meant to evade the legal requirements of international traffic and trade; and for detecting, interdicting, and investigating illegal international trafficking in arms, munitions, currency, and acts of terrorism at U.S. ports of entry.

#### **Organization**

##### **Field Operations Offices**

CBP operates through a field-office structure that consists of 20 Field Operations offices around the United States. These field offices provide managerial oversight and operational assistance to 324 ports of entry around the nation and 14 preclearance offices in Canada and the Caribbean.

Established according to geographic region, Field Operations offices are the means by which CBP Headquarters distributes key policies and procedures to CBP officers and importing staff around the country. Each field office supervises a certain number of service or area ports, which are larger, full-service ports with staff subdivisions designated to handle commercial transactions, as well as smaller ports of entry that handle less traffic.

Field Operations offices provide guidance to the ports under their geographic jurisdiction to ensure the dissemination and implementation of CBP guidelines, policies and procedures. Import transactions are conducted at service ports, area ports, and ports of entry, so these locations will be of primary interest to the trade community. CBP is also responsible for administering the customs laws of the United States Virgin Islands.

#### **Ports Of Entry**

Ports of entry conduct the daily, port-specific operations like clearing cargo, collecting duties and other monies associated with imports, and processing passengers arriving from abroad. Port personnel are the face at the border for nearly all cargo carriers and people entering the United States. Ports of entry are the level at which CBP enforces import and export laws and regulations and implements immigration policies and programs. Port officers also perform agricultural inspections to protect the USA from potential carriers of animal and plant pests or diseases that could cause serious damage to America's crops, livestock, pets, and the environment.

For a detailed listing of ports of entry, please refer to:  
*<http://www.cbp.gov/xp/cgov/toolbox/ports/>*.

**U.S. CBP OFFICERS IN FOREIGN COUNTRIES**

- Bold indicates the presence of a CBP Attaché, Representative, International Operations Specialist and/or Technical Representative by 1 May, 2006.
- \* Indicates that a CBP Attaché, Representative and/or International Operations Specialist is currently waiting to deploy.

**Brussels, Belgium****CBP Attaché****U.S. Mission to the European Union****27 Blvd. Du Regent****1000 Brussels****011-32-2-508-2770****Ottawa, Canada****CBP Attaché****Embassy of the United States****P.O. Box 866 station B****Ottawa, Ontario K1P 5T1****Tel: 613-688-5496****\*Hong Kong****CBP Representative****11/F., St. John's Building****33 Garden Road, Central****Hong Kong****Tel: 011-852-2230-5100****Rome, Italy****CBP Representative****American Embassy****Via Veneto 119/A****00187 Rome****Tel: 011-39-06-4674-2475****Tokyo, Japan****CBP Representative****American Embassy****10-5, Akasaka 1-Chome****Minato-ku****Tokyo 107-8420 Japan****Tel: 011-813-3224-5433**

**Mexico City, Mexico**  
**CBP Attaché**  
**American Embassy**  
**Paseo de la Reforma 305**  
**Colonia Cuauhtemoc**  
**Mexico City, D.F., Mexico**  
**C.P. 06500**  
**Tel: 011-52-55-5080-2000**

**New Delhi, India**  
**CBP Representative**  
**24 Kasturba Gandhi Marg.**  
**New Delhi**  
**110021 India**  
**Tel: 011-91-11-2331-0080**

\* Panama City, Panama  
CBP Representative  
American Embassy  
Calle 38 & Avenida Balboa  
Panama City, Panama  
Tel: 011-507-225-7562

**Singapore**  
**CBP Representative**  
**American Embassy**  
**27 Napier Road**  
**Singapore 258508**  
**Tel: 011-65-476-9020**

**Pretoria, South Africa**  
**ICE Attaché**  
**American Embassy**  
**877 Pertorius**  
**Arcadia, Pretoria 001**  
**Tel: 011-27-12-342-8062**

\*Bangkok, Thailand  
CBP Representative  
Sindhorn Building  
130-1332 Wireless Road  
Tower 2, 12<sup>th</sup> Floor



Bangkok 10330  
Tel: 011-66-2-205-5015

**London, United Kingdom**  
**CBP Representative**  
**American Embassy**  
**24/31 Grosvenor Square**  
**London, W1A 1AE**  
**Tel: 011-44-207-894-0070**

**SUGGESTIONS TO THE EXPORTER  
FOR FASTER CLEARANCE OF YOUR MERCHANDISE:**

1. Include all information required on your customs invoices.
2. Prepare your invoices carefully. Type them clearly. Allow sufficient space between lines. Keep the data within each column.
3. Make sure that your invoices contain the information that would be shown on a well-prepared packing list.
4. Mark and number each package so it can be identified with the corresponding marks and numbers appearing on your invoice.
5. Show a detailed description on your invoice of each item of merchandise contained in each individual package.
6. Mark your goods legibly and conspicuously with the country of origin unless they are specifically exempted from country-of-origin marking requirements, and with such other marking as is required by the marking laws of the United States. Exemptions and general marking requirements are detailed in Chapters 29 and 30.
7. Comply with the provisions of any special laws of the United States that may apply to your goods, such as laws relating to food, drugs, cosmetics, alcoholic beverages, radioactive materials, and others. (See Chapters 33, 34 and 35.)
8. Observe the instructions closely with respect to invoicing, packaging, marking, labeling, etc., sent to you by your customer in the United States. He or she has probably made a careful check of the requirements that will have to be met when your merchandise arrives.
9. Work with CBP to develop packing standards for your commodities.
10. Establish sound security procedures at your facility and while transporting your goods for shipment. Do not give narcotics smugglers the opportunity to introduce narcotics into your shipment.
11. Consider shipping on a carrier participating in the Automated Manifest System (AMS).
12. If you use a licensed customs broker for your transaction, consider using a firm that participates in the Automated Broker Interface (ABI).

## **ENTRY OF GOODS**

### **2. Entry Process**

When a shipment reaches the United States, the importer of record (i.e., the owner, purchaser, or licensed customs broker designated by the owner, purchaser, or consignee) will file entry documents for the goods with the port director at the goods' port of entry. Imported goods are not legally entered until after the shipment has arrived within the port of entry, delivery of the merchandise has been authorized by CBP, and estimated duties have been paid. It is the importer of record's responsibility to arrange for examination and release of the goods.

Pursuant to 19 U.S.C. 1484, the importer of record must use reasonable care in making entry.

**NOTE:** In addition to contacting CBP, importers should contact other agencies when questions arise about particular commodities. For example, questions about products regulated by the Food and Drug Administration should be forwarded to the nearest FDA district office (check local phone book under U.S. government listings) or to the Import Division, FDA Headquarters, 301.443.6553. The same is true for alcohol, tobacco, firearms, wildlife products (furs, skins, shells), motor vehicles, and other products and merchandise regulated by the other federal agencies for which CBP enforces entry laws. Appropriate agencies are identified on page 197.

Addresses and phone numbers for these agencies are listed in the appendix.

Goods may be entered for consumption, entered for warehouse at the port of arrival, or they may be transported in-bond to another port of entry and entered there under the same conditions as at the port of arrival. Arrangements for transporting the merchandise in-bond to an in-land port may be made by the consignee or by a customs broker or by any other person with an interest in the goods for that purpose. Unless your merchandise arrives directly at the port where you wish to enter it, you may be charged additional fees by the carrier for transportation to that port unless other arrangements have been made. Under some circumstances, your goods may be released through your local port of entry, even if they arrive at a different U.S. port from a foreign country. Prior to the goods' arrival, arrangements for entry must be made at the CBP port of entry where you intend to file your duties and documentation.

Goods to be placed in a foreign trade zone are not entered at the customhouse. See Chapter 41 for more information on foreign trade zones.

#### **Evidence Of Right To Make Entry**

Goods may only be entered by their owner, purchaser, or a licensed customs

broker. When the goods are consigned “to order,” the bill of lading, properly endorsed by the consignor, may serve as evidence of the right to make entry. An air waybill may be used for merchandise arriving by air.

In most instances, entry is made by a person or firm certified by the carrier bringing the goods to the port of entry. This entity (i.e., the person or firm certified) is considered the “owner” of the goods for customs purposes.

The document issued by the carrier for this purpose is known as a “Carrier’s Certificate.” An example of this certificate is shown in the Appendix. In certain circumstances, entry may be made by means of a duplicate bill of lading or a shipping receipt. When the goods are not imported by a common carrier, possession of the goods by the importer at the time of arrival shall be deemed sufficient evidence of the right to make entry.

#### **Entry For Consumption**

Entering merchandise is a two-part process consisting of: (1) filing the documents necessary to determine whether merchandise may be released from CBP custody, and (2) filing the documents that contain information for duty assessment and statistical purposes. Both of these processes can be accomplished electronically via the Automated Broker Interface (ABI) program of the Automated Commercial System (ACS).

#### **Entry Documents**

Within 15 calendar days of the date that a shipment arrives at a U.S. port of entry, entry documents must be filed at a location specified by the port director. ~~an extension is granted~~ These documents are:

- Entry Manifest (CBP Form 7533) or Application and Special Permit for Immediate Delivery (CBP Form 3461) or other form of merchandise release required by the port director,
- Evidence of right to make entry,
- Commercial invoice or a pro forma invoice when the commercial invoice cannot be produced,
- Packing lists, if appropriate,
- Other documents necessary to determine merchandise admissibility.

If the goods are to be released from CBP custody at the time of entry, an entry summary for consumption must be filed and estimated duties deposited at the port of entry within 10 working days of the goods' entry.

#### **Surety**

The entry must be accompanied by evidence that a bond has been posted with CBP to cover any potential duties, taxes, and charges that may accrue. Bonds may be

secured through a resident U.S. surety company, but may be posted in the form of United States currency or certain United States government obligations. In the event that a customs broker is employed for the purpose of making entry, the broker may permit the use of his bond to provide the required coverage.

### **Entry Summary Documentation**

Following presentation of the entry, the shipment may be examined, or examination may be waived. The shipment is then released if no legal or regulatory violations have occurred. Entry summary documentation is filed and estimated duties are deposited within 10 working days of the entry of the merchandise at a designated customhouse. Entry summary documentation consists of:

- Return of the entry package to the importer, broker, or his authorized agent after merchandise is permitted release,
- Entry summary (CBP Form 7501),
- Other invoices and documents necessary to assess duties, collect statistics, or determine that all import requirements have been satisfied. This paper documentation can be reduced or eliminated by using features of the ABI.

### **Immediate Delivery**

An alternate procedure that provides for immediate release of a shipment may be used in some cases by applying for a special permit for immediate delivery on CBP Form 3461 prior to arrival of the merchandise. Carriers participating in the Automated Manifest System can receive conditional release authorizations after leaving the foreign country and up to five days before landing in the United States. If the application is approved, the shipment will be released expeditiously after it arrives. An entry summary must then be filed in proper form, either on paper or electronically, and estimated duties deposited within 10 working days of release. Immediate-delivery release using Form 3461 is limited to the following types of merchandise:

- Merchandise arriving from Canada or Mexico, if the port director approves it and an appropriate bond is on file,
- Fresh fruits and vegetables for human consumption arriving from Canada or Mexico and removed from the area immediately contiguous to the border and placed within the importer's premises within the port of importation,
- Shipments consigned to or for the account of any agency or officer of the U.S. government,
- Articles for a trade fair,
- Tariff-rate quota merchandise and, under certain circumstances, merchandise subject to an absolute quota. Absolute-quota items require a formal entry at all times,
- In very limited circumstances, merchandise released from warehouse

followed within 10 working days by a warehouse withdrawal for consumption,

- Merchandise specifically authorized by CBP Headquarters to be entitled to release for immediate delivery.

### **Entry For Warehouse**

If one wishes to postpone release of the goods, they may be placed in a CBP bonded warehouse under a warehouse entry. The goods may remain in the bonded warehouse up to five years from the date of importation. At any time during that period, warehoused goods may be re-exported without paying duty, or they may be withdrawn for consumption upon paying duty at the duty rate in effect on the date of withdrawal. If the goods are destroyed under CBP supervision, no duty is payable.

While the goods are in the bonded warehouse, they may, under CBP supervision, be manipulated by cleaning, sorting, repacking, or otherwise changing their condition by processes that do not amount to manufacturing. After manipulation, and within the warehousing period, the goods may be exported without the payment of duty, or they may be withdrawn for consumption upon payment of duty at the rate applicable to the goods in their manipulated condition at the time of withdrawal. Perishable goods, explosive substances, or prohibited importations may not be placed in a bonded warehouse. Certain restricted articles, though not allowed release from custody, may be warehoused.

Information regarding bonded manufacturing warehouses is contained in section 311 of the Tariff Act (19 U.S.C. 1311).

### **Unentered Goods**

If no entry has been filed for the goods at the port of entry, or at the port of destination for in-bond shipments, within 15 calendar days after their arrival, the goods may be placed in a general-order warehouse at the importer's risk and expense. If the goods are not entered within six months from the date of importation, they can be sold at public auction or destroyed. Perishable goods, however, and goods subject to depreciation and explosive substances may be sold sooner.

Storage charges, expenses of sales, internal revenue or other taxes, duties, fees, and amounts for the satisfaction of liens must be taken out of the money obtained from the sale of the unentered goods. Claims for the surplus proceeds of sale may be filed with the port director at whose instruction the merchandise was sent to sale. Any claim for such proceeds must be filed within 10 days of sale and supported with an original bill of lading. A photostatic copy or certified copy of the bill of lading may be used if only part of a shipment is involved in the sale. Carriers, not port directors, are required to notify a bonded warehouse of unentered merchandise. Once notified, the bonded warehouse operator/manager shall arrange for the unentered merchandise to be transported to his or her premises for storage at the consignee's risk and expense. If the goods are subject to

internal revenue taxes, but will not bring enough to pay the taxes if sold at public auction, they are subject to destruction.

### **Mail Entries**

Importers have found that in some cases it is to their advantage to use the national postal service—that is, a country's mail system, rather than courier services—to import merchandise into the United States. Some benefits to be gained are:

- Ease in clearing shipments through CBP. The duties on parcels valued at \$2,000 or less are collected by the letter carrier who delivers the parcel to the addressee (see note on page 16),
- Savings on shipping charges: smaller, low-valued packages can often be sent less expensively through the mails,
- No formal entry required on duty-free merchandise not exceeding \$2,000 in value,
- No need to clear shipments personally if under \$2,000 in value.

Joint CBP and postal regulations provide that all parcel post packages must have a CBP declaration securely attached to the outer wrapping giving an accurate description of the contents and their value. This declaration can be obtained at post offices worldwide. Commercial shipments must also be accompanied by a commercial invoice enclosed in the parcel bearing the declaration.

Each mail parcel containing an invoice or statement of value should be marked on the outer wrapper, on the address side, "Invoice enclosed." If the invoice or statement cannot be conveniently enclosed within the sealed parcel, it may be securely attached to the parcel. Failure to comply with any of these requirements will delay clearance of the shipment through CBP.

Packages other than parcel post—for example, letter-class mail, commercial papers, printed matter, or samples of merchandise—must bear on the address side a label, Form C1, provided by the Universal Post Union, or the endorsement "May be opened for customs purposes before delivery," or similar words definitely waiving the privacy of the seal and indicating that CBP officers may open the parcel without recourse to the addressee. Parcels not labeled or endorsed in this manner and found to contain prohibited merchandise, or containing merchandise that is subject to duty or tax, are subject to forfeiture.

A CBP officer prepares the CBP entry (a form) for mail importations not exceeding \$2,000 in value, and the letter carrier at the destination delivers the parcel to

the addressee upon payment of duty. If the value of a mail importation exceeds \$2,000, the addressee is notified to prepare and file a formal CBP entry (also called a consumption entry) for it at the CBP port nearest him. A commercial invoice is required with the entry.

A CBP processing fee of \$5.00 will be assessed on each item of dutiable mail for which a CBP officer prepares documentation. The postal carrier will collect this nominal fee on all dutiable or taxable mail along with the duty owed. There is also a postal fee (in addition to prepaid postage) authorized by international postal conventions and agreements as partial reimbursement to the Postal Service for its extra work in clearing packages through CBP and delivering them.

**NOTE:** The following general exceptions apply to the \$2,000 limit:

- Articles classified in Subchapters III and IV, Chapter 99, Harmonized Tariff Schedule,
- Billfolds and other flat goods,
- Feathers and feather products,
- Flowers and foliage, artificial or preserved,
- Footwear,
- Fur, articles of,
- Gloves,
- Handbags,
- Headwear and hat braids,
- Leather, articles of,
- Luggage,
- Millinery ornaments,
- Pillows and cushions,
- Plastics, miscellaneous articles of,
- Rawhides and skins,
- Rubber, miscellaneous articles of,
- Textile fibers and products,
- Toys, games, and sports equipment, and
- Trimmings.

The limit for these articles is \$250, except for textiles (fibers and products). Virtually all commercial shipments of textiles require formal entry, regardless of value. Unaccompanied shipments of made-to-measure suits from Hong Kong, a category that includes single suits for personal consumption, also require a formal entry regardless of the suit's value.

### **Transportation Of Merchandise In Bond**



Not all merchandise imported into the United States and intended for domestic commerce is entered at the port where it arrives. The importer may prefer to enter the goods at a different location in the United States, in which case the merchandise will have to be further transported to that location. In order to protect United States revenue in these cases, the merchandise must travel in a bonded status from the port of arrival to the intended port of entry. This process is referred to as *traveling under Immediate Transportation procedures* and is accomplished by the execution of CBP Form 7512 (Transportation Entry and Manifest of Goods Subject to CBP Inspection and Permit). The merchandise is then placed with a carrier who accepts it under its bond for transportation to the intended destination, where the normal merchandise entry process will occur.

### **3. Right To Make Entry**

#### **Entry By Importer**

Merchandise arriving in the United States by commercial carrier must be entered by the owner, purchaser, his or her authorized regular employee, or by the licensed customs broker designated by the owner, purchaser, or consignee. U.S. CBP officers and employees are not authorized to act as agents for importers or forwarders of imported merchandise, although they may give all reasonable advice and assistance to inexperienced importers.

Customs brokers are the only persons who are authorized by the tariff laws of the United States to act as agents for importers in the transaction of their customs business. Customs brokers are private individuals or firms licensed by CBP to prepare and file the necessary customs entries, arrange for the payment of duties found due, take steps to effect the release of the goods in CBP custody, and otherwise represent their principals in customs matters. The fees charged for these services may vary according to the customs broker and the extent of services performed.

Every entry must be supported by one of the forms of evidence of the right to make entry outlined in this chapter. When a customs broker makes entry, a CBP power of attorney is made in the name of the customs broker. This power of attorney is given by the person or firm for whom the customs broker is acting as agent. Ordinarily, the authority of an employee to make entry for his or her employer is established most satisfactorily by a CBP power of attorney.

#### **Entries Made By Others**

Entry of goods may be made by a nonresident individual or partnership, or by a foreign corporation through a U.S. agent or representative of the exporter, a member of the partnership, or an officer of the corporation.

The surety on any CBP bond required from a nonresident individual or

organization must be incorporated in the United States. In addition, a foreign corporation in whose name merchandise is entered must have a resident agent in the state where the port of entry is located who is authorized to accept service of process on the foreign corporation's behalf.

A licensed customs broker named in a CBP power of attorney may make entry on behalf of the exporter or his representative. The owner's declaration made by a nonresident individual or organization which the customs broker may request must be supported by a surety bond providing for the payment of increased or additional duties found due. Liability for duties is discussed in Chapter 13. An owner's declaration executed in a foreign country is acceptable, but it must be executed before a notary public and bear the notary's seal. Notaries public will be found in all American embassies around the world and in most of the larger consulates.

#### **Power Of Attorney**

A nonresident individual, partnership, or foreign corporation may issue a power of attorney to a regular employee, customs broker, partner, or corporation officer to act in the United States for the nonresident employer. Any person named in a power of attorney must be a resident of the United States who has been authorized to accept service of process on behalf of the person or organization issuing the power of attorney. The power of attorney to accept service of process becomes irrevocable with respect to customs transactions duly undertaken. Either the applicable CBP form (see Appendix) or a document using the same language as the form is acceptable. References to acts that the issuer has not authorized the agent to perform may be deleted from the form or omitted from the document. A power of attorney from a foreign corporation must be supported by the following documents or their equivalent when foreign law or practice differs from that in the United States:

- A certificate from the proper public officer of the country showing the legal existence of the corporation, unless the fact of incorporation is so generally known as to be a matter of common knowledge.
- A copy of that part of the charter or articles of incorporation which shows the scope of the corporation's business and its governing body.
- A copy of the document or part thereof by which the person signing the power of attorney derives his authority, such as a provision of the charter or articles of incorporation, a copy of the resolution, minutes of the board of directors' meeting, or other document by which the governing body conferred this authority. In this case, a copy is required of the bylaws or other document giving the governing board the authority to designate others to appoint agents or attorney.

A nonresident individual or partnership or a foreign corporation may issue a power of attorney to authorize the persons or firms named in the power of attorney to

issue like powers of attorney to other qualified residents of the United States and to empower the residents to whom such powers of attorney are issued to accept service of process on behalf of the nonresident individual or organizations.

A power of attorney issued by a partnership must be limited to a period not to exceed two years from the date of execution and shall state the names of all members of the partnership. One member of a partnership may execute a power of attorney for the transaction of customs business of the partnership. When a new firm is formed by a change of membership, the prior firm's power of attorney is no longer effective for any customs purpose. The new firm will be required to issue a new power of attorney for the transaction of its customs business. All other powers of attorney may be granted for an unlimited period.

CBP Form 5291, or a document using the same language as the form, is also used to empower an agent other than an attorney-at-law or customs broker to file protests on behalf of an importer under section 514 of the Tariff Act of 1930 as amended. (See 19 CFR 141.32.)

Foreign corporations may comply with CBP regulations by executing a power of attorney on the corporation's letterhead. A form of power of attorney used for this purpose is given below. A nonresident individual or partner may use this same form.

The X Corporation, \_\_\_\_\_  
(Address, city, and country)

organized under the laws of \_\_\_\_\_ hereby authorizes

\_\_\_\_\_  
(Name or names of employee or officer in United States)

\_\_\_\_\_  
(and address or addresses)

to perform on behalf of the said corporation any and all acts specified in CBP Form 5291, Power of Attorney; to accept service of process in the United States on behalf of the X Corporation; to issue powers of attorney on CBP Form 5291 authorizing a qualified resident or residents of the United States to perform on behalf of the X Corporation all acts specified in CBP Form 5291; and to empower such resident or residents to accept service of process in the United States on behalf of the said X Corporation.

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Because the laws regarding incorporation, notation, and authentication of

documents vary from country to country, the agent to be named in the power of attorney should consult the port director of CBP at the port of entry where proof of the document's existence may be required as to the proper form to be used and the formalities to be met.

#### **4. Examination Of Goods And Entry Documents**

Examination of goods and documents is necessary to determine, among other things:

- The value of the goods for customs purposes and their dutiable status,
- Whether the goods must be marked with their country of origin or require special marking or labeling. If so, whether they are marked in the manner required,
- Whether the shipment contains prohibited articles,
- Whether the goods are correctly invoiced,
- Whether the goods are in excess of the invoiced quantities or a shortage exists,
- Whether the shipment contains illegal narcotics.

Prior to the goods' release, the port director will designate representative quantities for examination by CBP officers under conditions that will safeguard the goods. Some kinds of goods must be examined to determine whether they meet special requirements of the law. For example, food and beverages unfit for human consumption would not meet the requirements of the Food and Drug Administration.

One of the primary methods of smuggling narcotics into the United States is in cargo shipments. Drug smugglers will place narcotics inside a legitimate cargo shipment or container to be retrieved upon arrival in the United States. Because smugglers use any means possible to hide narcotics, all aspects of the shipment are examined, including container, pallets, boxes, and product. Only through intensive inspection can narcotics be discovered.

Textiles and textile products are considered trade-sensitive and as such may be subject to a higher percentage of examinations than other commodities.

CBP officers will ascertain the quantity of goods imported, making allowances for shortages under specified conditions and assessing duty on any excess. The invoice may state the quantities in the weights and measures of the country from which the goods are shipped or in the weights and measures of the United States, but the entry must state the quantities in metric terms.

#### **Excess Goods And Shortages**

In order to facilitate duty allowances for goods that do not arrive and to determine

whether excess goods are contained in the shipment, the importer (or foreign exporter) is advised to pack the goods in an orderly fashion; properly mark and number the packages in which the goods are contained; list each package's contents on the invoice; and place marks and numbers on the invoices that correspond to those packages.

If the CBP officer finds any package that contains an article not specified on the invoice, and there is reason to believe the article was omitted from the invoice by fraud, gross negligence, negligence on the part of the seller, shipper, owner, or agent, a monetary penalty may be imposed, or in some cases, the merchandise may be seized or forfeited. (See e.g., 19 U.S.C. 1592.)

If, during the examination of any package that has been designated for examination, the CBP officer finds a deficiency in quantity, weight or measure, he or she will make a duty allowance for the deficiency. An allowance in duty may be made for those packages not designated as long as the importer notifies the port director of the shortage before liquidation of the entry becomes final and establishes to the port director's satisfaction that the missing goods were not delivered.

#### **Damage Or Deterioration**

Goods that the CBP officer finds to be entirely without commercial value at the time of arrival in the United States because of damage or deterioration are treated as a "nonimportation." No duties are assessed on these goods. When damage or deterioration is present with respect to part of the shipment only, allowance in duties is not made unless the importer segregates, under CBP supervision, the damaged or deteriorated part from the remainder of the shipment. When the shipment consists of fruits, vegetables, or other perishable merchandise, allowance in duties cannot be made unless the importer, within 96 hours of unloading the merchandise and before it has been removed from the pier, files an application for an allowance with the port director. Allowance or reduction of duty for partial damage or loss as a result of rust or discoloration is precluded by law on shipments consisting of any article partially or wholly manufactured of iron or steel, or any manufacture of iron or steel.

#### **Tare**

In determining the quantity of goods dutiable on net weight, a deduction is made from the gross weight for just and reasonable tare. Tare is the allowance for a deficiency in the weight or quantity of the merchandise caused by the weight of the box, cask, bag, or other receptacle that contains the merchandise and that is weighed with it. The following schedule tares are provided for in the CBP Regulations:

**Apple boxes.** 3.6 kilograms (8 lb.) per box. This schedule tare includes the paper wrappers, if any, on the apples.

**China clay in so-called half-ton casks.** 32.6 kilograms (72 lb.) per cask.

**Figs in skeleton cases.** Actual tare for outer containers plus 13 percent of the gross weight of the inside wooden boxes and figs.

**Fresh tomatoes.** 113 grams (4 oz.) per 100 paper wrappings.

**Lemons and oranges.** 283 grams (10 oz.) per box and 142 grams (5 oz.) per half-box for paper wrappings, and actual tare for outer containers.

**Ocher, dry, in casks.** Eight percent of the gross weight; in oil in casks, 12 percent of the gross weight.

**Pimentos in tins,** imported from Spain.

<b>Size can</b>	<b>Drained weights</b>
3 kilos	13.6 kilograms (30 lb.)—case of 6 tins
794 grams (28 oz.)	16.7 kilograms (36.7 lb.)—case of 24 tins
425 grams (15 oz.)	8.0 kilograms (17.72 lb.)—case of 24 tins
198 grams (7 oz.)	3.9 kilograms (8.62 lb.)—case of 24 tins
113 grams (4 oz.)	2.4 kilograms (5.33 lb.)—case of 24 tins

**Tobacco, leaf not stemmed.** 59 kilograms (13 lb.) per bale; Sumatra: actual tare for outside coverings, plus 1.9 kilograms (4 lb.) for the inside matting and, if a certificate is attached to the invoice certifying that the bales contain paper wrappings and specifying whether light or heavy paper has been used, either 113 grams (4 oz.) or 227 grams (8 oz.) for the paper wrapping according to the thickness of paper used.

For other goods dutiable on the net weight, an actual tare will be determined. An accurate tare stated on the invoice is acceptable for CBP purposes in certain circumstances.

If the importer of record files a timely application with the port director of CBP, an allowance may be made in any case for excessive moisture and impurities not usually found in or upon the particular kind of goods.

## **5. Packing Of Goods—Commingling**

### **Packing**

Information on how to pack goods for the purpose of transporting them may be obtained from shipping manuals, carriers, forwarding agents, and other sources. This chapter, therefore, deals with packing goods being exported in a way that will permit CBP officers to examine, weigh, measure, and release them promptly.

Orderly packing and proper invoicing go hand in hand. You will speed up the clearance of your goods through CBP if you:

- Invoice your goods in a systematic manner,
- Show the exact quantity of each item of goods in each box, bale, case, or other package,
- Put marks and numbers on each package,
- Show those marks or numbers on your invoice opposite the itemization of goods contained in the package that bears those marks and numbers.

When packages contain goods of one kind only, or when the goods are imported in packages the contents and values of which are uniform, the designation of packages for examination and the examination for CBP purposes are greatly facilitated. If the contents and values differ from package to package, the possibility of delay and confusion is increased. Sometimes, because of the kinds of goods or because of the unsystematic manner in which they are packed, the entire shipment must be examined.

Pack and invoice your goods in a manner which makes a speedy examination possible. Always bear in mind that it may not be possible to ascertain the contents of your packages without full examination unless your invoice clearly shows the marks and numbers on each package (whether box, case, or bale) and specifies the exact quantity of each item of adequately described goods in each marked and numbered package.

Also, be aware that CBP examines cargo for narcotics that may, unbeknownst to the shipper or the importer, be hidden inside. This can be time-consuming and expensive for both the importer and for CBP. Narcotics inspections may require completely stripping a container in order to physically examine a large portion of the cargo. This labor-intensive handling of cargo, whether by CBP, labor organizations, or private individuals, results in added costs, increased delays, and possible damage to the product. Importers can expedite this inspection process by working with CBP to develop packing standards that will permit effective CBP examinations with a minimum of delay, damage, and cost.

A critical aspect in facilitating inspections is how the cargo is loaded. “Palletizing” cargo—loading it onto pallets or other consolidated units—is an effective way to expedite such examinations. Palletization allows for quick cargo removal in minutes using a forklift compared to the hours it would take manually. Another example is leaving enough space at the top of a container and an aisle down the center to allow access by a narcotic-detector dog.

Your cooperation in this respect will help CBP officers decide which packages must be opened and examined; how much weighing, counting, or measuring must be

done, and whether the goods are properly marked. It will simplify the ascertainment of tare and reduce the number of samples to be taken for laboratory analysis or for other customs purposes. It will facilitate verification of the packages and contents, as well as the reporting by CBP officers of missing or excess goods. And it will minimize the possibility that the importer may be asked to resubmit for examination packages that were already released under the belief that the ones originally designated for examination were sufficient for that purpose.

Packing a combination of different types of goods makes it impracticable for CBP officers to determine the quantity of each type of product in an importation. Such packing can also lead to a variety of other complications in the entry process. No problem will arise, however, from the orderly packing of several different kinds of properly invoiced goods in a single package. It is indiscriminate packing that causes difficulty.

### **Commingling**

Except as mentioned hereafter, whenever articles subject to different rates of duty are so packed together or combined such that CBP officers cannot readily determine the quantity or value of each class of articles without physically separating the shipment or the contents of any package, the combined articles will be subject to the highest rate of duty applicable to any part of the commingled lot, unless the consignee or his agent separates the merchandise under CBP supervision.

The three methods of ready ascertainment specified by General Note 3(f) of the Harmonized Tariff Schedule are:

- (1) Sampling,
- (2) Verification of packing lists or other documents filed at the time of entry,  
or
- (3) Evidence showing performance of commercial settlements tests generally accepted in the trade and filed in the time and manner as prescribed in the CBP Regulations.

Segregation of merchandise is at the risk and expense of the consignee. It must be done within 30 days (unless a longer time is granted) after the date of personal delivery or the date of mailing a notice to the consignee by the port director that the goods are commingled. The compensation and expenses of the CBP officers supervising the segregation must be borne by the consignee.

Assessing duty on the commingled lot at the highest applicable rate does not apply to any part of a shipment if the consignee or his agent furnishes satisfactory proof that:

1. Such part is commercially negligible, is not capable of segregation without excessive cost, and will not be segregated prior to its use in a



- manufacturing process or otherwise; and
2. The commingling was not intended to avoid the payment of lawful duties.

Any article for which such proof is furnished shall be considered for all CBP purposes as a part of the article, subject to the next lower rate of duty, with which it is commingled.

In addition, the highest-rate rule does not apply to any part of a shipment if satisfactory proof is furnished that:

1. The value of the commingled articles is less than the aggregate value would be if the shipment were segregated;
2. The shipment is not capable of segregation without excessive cost and will not be segregated prior to its use in a manufacturing process or otherwise; and
3. The commingling was not intended to avoid the payment of lawful duties.

Any merchandise for which such proof is furnished shall be considered for all CBP purposes to be dutiable at the rate applicable to the material present in greater quantity than any other material.

The above rules do not apply if the tariff schedules provide a particular tariff treatment for commingled articles.

## INFORMED COMPLIANCE

### 6. Definition

*Informed compliance* is a shared responsibility between CBP and the import community wherein CBP effectively communicates its requirements to the trade, and the people and businesses subject to those requirements conduct their regulated activities in accordance with U.S. laws and regulations. A key component of informed compliance is that the importer is expected to exercise reasonable care in his or her importing operations.

Informed compliance benefits both parties: When voluntary compliance is achieved, CBP resources need not be expended on redundant examinations or entry reviews for the importer's cargo found to be dependably compliant. From the trade perspective, when voluntary compliance is attained, compliant importers are less likely to have their shipments examined or their entries reviewed.

CBP publishes a wealth of information to assist the import community in complying with CBP requirements. We issue rulings and informed compliance publications on a variety of technical subjects and processes. Most of these materials can be found on-line at [www.cbp.gov](http://www.cbp.gov).

We urge importers to make sure they are using the latest versions of any printed materials.

### 7. Reasonable Care Checklists

Reasonable care is an explicit responsibility on the part of the importer. Despite its seemingly simple connotation, the term reasonable care defies easy explanation because the facts and circumstances surrounding every import transaction differ, from the experience of the importer to the nature of the imported articles. Consequently, neither CBP nor the importing community can develop a reasonable care checklist capable of covering every import transaction.

CBP recommends that the import community examine the list of questions below. These questions may suggest methods that importers may find useful in avoiding compliance problems and in meeting the responsibilities of reasonable care.

These questions are intended to promote compliance with CBP laws and regulations, but be aware that the list is advisory, not exhaustive. The checklist is intended as a guide and *has no legal, binding or precedential effect on CBP or the importing community*.

The questions apply whether the importer of record conducts the transactions(s) him- or herself, or whether the importer hires others to do it.

**General Questions for All Transactions:**

1. If you have not retained an expert (e.g., lawyer, customs broker, accountant, or customs consultant) to assist you in complying with CBP requirements, do you have access to the *CBP Regulations* (Title 19 of the Code of Federal Regulations), the *Harmonized Tariff Schedule of the United States* (generally referred to as the Harmonized Tariff Schedule), and *CBP Bulletin and Decisions*? (All three are available from the Superintendent of Documents, Tel. 202.512.1800.) Do you have access to the CBP Website at [www.cbp.gov](http://www.cbp.gov), or other research service that provides the information to help you establish reliable procedures and facilitate compliance with CBP law and regulations?
2. Has a responsible, knowledgeable individual within your organization reviewed your CBP documentation to assure that it is full, complete and accurate? If the documentation was prepared outside your organization, do you have a reliable method to assure that you receive copies of the information submitted to CBP, that it is reviewed for accuracy, and that CBP is apprised of needed corrections in a timely fashion?
3. If you use an expert to help you comply with CBP requirements, have you discussed your importations in advance with that person, and have you provided him or her with complete, accurate information about the import transaction(s)?
4. Are identical transactions or merchandise handled differently at different ports or CBP offices within the same port? If so, have you brought this fact to CBP officials' attention?

**Questions by Topic: Merchandise Description & Tariff Classification**

**Basic Question:** Do you know what you ordered, where it was made, and what it is made of?

1. Have you provided a complete, accurate description of your merchandise to CBP in accordance with 19 U.S.C. 1481? (Also, see 19 CFR 141.87 and 19 CFR 141.89 for special merchandise description requirements.)
2. Have you provided CBP with the correct tariff classification of your merchandise in accordance with 19 U.S.C. 1484?
3. Have you obtained a CBP ruling regarding the description of your merchandise or

its tariff classification (see 19 CFR Part 177)? If so, have you followed the ruling and apprised appropriate CBP officials of those facts (i.e., of the ruling and your compliance with it)?

4. Where merchandise description or tariff classification information is not immediately available, have you established a reliable procedure for obtaining it and providing it to CBP?
5. Have you participated in a CBP classification of your merchandise in order to get it properly described and classified?
6. Have you consulted the tariff schedules, CBP informed compliance publications, court cases or CBP rulings to help you properly describe and classify the merchandise?
7. Have you consulted with an expert (e.g., lawyer, customs broker, accountant, customs consultant) to assist in the description and/or classification of the merchandise?
8. If you are claiming a conditionally free or special tariff classification or provision for your merchandise (e.g., GSP, HTS Item 9802, NAFTA), how have you verified that the merchandise qualifies for such status? Do you have the documentation necessary to support the claim? If making a NAFTA preference claim, do you have a NAFTA certificate of origin in your possession?
9. Is the nature of your merchandise such that a laboratory analysis or other specialized procedure is advised for proper description and classification?
10. Have you developed reliable procedures to maintain and produce the required entry documentation and supporting information?

### **Valuation**

**Basic Questions:** Do you know the “price actually paid or payable” for your merchandise? Do you know the terms of sale? Whether there will be rebates, tie-ins, indirect costs, additional payments? Whether “assists” were provided or commissions or royalties paid? Are amounts actual or estimated? Are you and the supplier “related parties”?

1. Have you provided CBP with a proper declared value for your merchandise in accordance with 19 U.S.C. 1484 and 19 U.S.C. 1401a?
2. Have you obtained a CBP ruling regarding valuation of the merchandise (see 19

CFR Part 177)? Can you establish that you followed the ruling reliably? Have you brought those facts to the attention of CBP?

2. Have you consulted the CBP valuation laws and regulations, *CBP Valuation Encyclopedia*, CBP informed compliance publications, court cases and CBP rulings to assist you in valuing merchandise?
4. If you purchased the merchandise from a “related” seller, have you reported that fact upon entry? Have you assured that the value reported to CBP meets one of the “related party” tests?
5. Have you assured that all legally required costs or payments associated with the imported merchandise (assists, commissions, indirect payments or rebates, royalties, etc.) have been reported to CBP?
6. If you are declaring a value based upon a transaction in which you were/are not the buyer, have you substantiated that the transaction is a bona fide “sale at arm’s length” and that the merchandise was clearly destined to the United States at the time of sale?
7. If you are claiming a conditionally free or special tariff classification or provision for your merchandise (GSP, HTS Item 9802, NAFTA), have you reported the required value information and obtained the documentation necessary to support the claim?
8. Have you produced the required entry documentation and supporting information?

#### **Country of Origin/Marking/Quota**

**Basic Question:** Have you ascertained the correct country of origin for the imported merchandise?

1. Have you reported the correct country of origin on CBP entry documents?
2. Have you assured that the merchandise is properly marked upon entry with the correct country of origin (if required) in accordance with 19 U.S.C. 1304 and any other applicable special marking requirements (watches, gold, textile labeling, etc)?
3. Have you obtained a CBP ruling regarding the proper marking and country of origin of the merchandise (see 19 CFR Part 177)? If so, have you followed the ruling and brought that fact to the attention of CBP?

4. Have you consulted with a customs expert regarding the correct country-of-origin/proper marking of your merchandise?
5. Have you apprised your foreign supplier of CBP country-of-origin marking requirements prior to importation of your merchandise?
6. If you are claiming a change in the origin of the merchandise or claiming that the goods are of U.S. origin, have you taken required measures to substantiate your claim (e.g., do you have U.S. milling certificates or manufacturers' affidavits attesting to production in the United States)?
7. If importing textiles or apparel, have you ascertained the correct country of origin in accordance with 19 U.S.C. 3592 (Section 334, P.L. 103-465) and assured yourself that no illegal transshipment or false or fraudulent practices were involved?
8. Do you know how your goods are made, from raw materials to finished goods, by whom and where?
9. Have you ensured that the quota category is correct?
10. Have you checked the *Status Report on Current Import Quotas* (Restraint Levels), issued by CBP, to determine if your goods are subject to a quota category with "part" categories?
11. Have you obtained correct visas for those goods subject to visa categories?
12. For textile articles, have you prepared a proper country declaration for each entry, i.e., a single country declaration (if wholly obtained/produced) or a multi-country declaration (if raw materials from one country were transformed into goods in a second)?
13. Can you produce all entry documentation and supporting information, including certificates of origin, if CBP requires you to do so?

### **Intellectual Property Rights**

**Basic Question:** Have you determined whether your merchandise or its packaging use any trademarks or copyrighted material or are patented? If so, can you establish that you have a legal right to import those items into and/or use them in the United States?

1. If you are importing goods or packaging bearing a trademark registered in the United States, have you established that it is genuine and not restricted from

importation under the “gray-market” or parallel-import requirements of United States law (see 198 CFR 133.21), or that you have permission from the trademark holder to import the merchandise?

2. If you are importing goods or packaging that contain registered copyrighted material, have you established that this material is authorized and genuine? If you are importing sound recordings of live performances, were the recordings authorized?
3. Is your merchandise subject to an International Trade Commission or court-ordered exclusion order?
4. Can you produce the required entry documentation and supporting information?

#### **Miscellaneous**

1. Have you assured that your merchandise complies with other agencies’ requirements (e.g., FDA, EPA, DOT, CPSC, FTC, Agriculture, etc.) and obtained licenses or permits, if required, from them?
2. Are your goods subject to a Commerce Department dumping or countervailing-duty investigation or determination? If so, have you complied with CBP reporting requirements of this fact (e.g., 19 CFR 141.61)?
3. Is your merchandise subject to quota/visa requirements? If so, have you provided a correct visa for the goods upon entry?
4. Have you assured that you have the right to make entry under the CBP Regulations?
5. Have you filed the correct type of CBP entry (e.g., TIB, T&E, consumption entry, mail entry)?

#### **Additional Questions for Textile and Apparel Importers**

Section 333 of the Uruguay Round Implementation Act (19 U.S.C. 1592a) authorizes the Secretary of the Treasury to publish a list of foreign producers, manufacturers, suppliers, sellers, exporters, or other foreign persons found to have violated 19 U.S.C. 1592 by using false, fraudulent or counterfeit documentation, labeling, or prohibited transshipment practices in connection with textiles and apparel products. Section 1592a also requires any importer of record who enters or otherwise attempts to introduce into United States commerce textile or apparel products that were directly or indirectly produced, manufactured, supplied, sold, exported, or transported by such

named person(s) to show, to the Secretary's satisfaction, that the importer has exercised reasonable care to ensure that the importations are accompanied by accurate documentation, packaging and labeling regarding the products' origin. Under section 1592a, reliance solely upon information from a person named on the list does not constitute the exercise of reasonable care. Textile and apparel importers who have a commercial relationship with any of the listed parties must exercise reasonable care in ensuring that the documentation covering the imported merchandise, its packaging and its labeling, accurately identify the importation's country of origin. This demonstration of reasonable care must rely upon more information than that supplied by the named party.

In order to meet the reasonable care standard when importing textile or apparel products and when dealing with a party named on this list, an importer should consider the following questions to ensure that the documentation, packaging and labeling are accurate regarding country-of-origin considerations. This list is illustrative, not exhaustive:

1. Has the importer had a prior relationship with the named party?
2. Has the importer had any seizures or detentions of textile or apparel products that were directly or indirectly produced, supplied, or transported by the named party?
3. Has the importer visited the company's premises to ascertain that the company actually has the capacity to produce the merchandise?
4. Where a claim of an origin-conferring process is made in accordance with 19 CFR 102.21, has the importer ascertained that the named party actually performed that process?
5. Is the named party really operating from the country that he or she claims on the documentation, packaging or labeling?
6. Have quotas for the imported merchandise closed, or are they near closing, from the main producer countries for this commodity?
7. Does the country have a dubious or questionable history regarding this commodity?
8. Have you questioned your supplier about the product's origin?
9. If the importation is accompanied by a visa, permit or license, has the importer verified with the supplier or manufacturer that the document is of valid, legitimate origin? Has the importer examined that document for any irregularities that would call its authenticity into question?



## 8. Compliance Assessment/Compliance Measurement

Of primary interest to the trade community is the compliance assessment, which is the systematic evaluation of an importer's systems supporting his or her CBP-related operations. The assessment includes testing import and financial transactions, reviewing the adequacy of the importer's internal controls, and determining the importer's compliance levels in key areas. Compliance assessments are conducted in accordance with 19 U.S.C. 1509.

The assessment is conducted by an interdisciplinary team composed of a CBP auditor, import specialist, account manager, industry expert (highly knowledgeable of the electronics or auto parts or surgical equipment industries, for example), and possibly other CBP specialists (attorneys, inspectors, scientists). The compliance assessment utilizes professionally accepted statistical sampling and auditing techniques to review selected import transactions from the company's previous fiscal year.

Compliance assessments will evaluate the company's applicable customs operations such as:

- Record keeping,
- Merchandise classification/trade statistics,
- Merchandise quantities,
- Antidumping/countervailing duty operations,
- Quota conformity,
- Merchandise value,
- Warehouse or foreign trade zone operations,
- Merchandise transshipment,
- Special trade programs (GSP, CBI, others).

Companies found in compliance with CBP laws and regulations will get a report stating that fact. Companies whose systems are determined to be noncompliant will also get a report and will be asked to formulate, in cooperation with CBP advisors, a compliance improvement plan specifying corrective actions the company will take to increase compliance levels. Serious violations of law or regulation may result in CBP referring the company for a formal investigation or other enforcement actions.

By law, CBP is required to provide the importer with advance notice of an intended assessment and an estimate of its duration. Importers are entitled to an entry conference, during which the assessment's purpose will be explained and its duration provided. Using information from CBP databases about the company or the importer's industry, the compliance assessment team may have prepared questionnaires seeking specific information about the importer's internal procedures. These questionnaires will

be distributed at the entry conference.

Upon completion of the assessment, CBP will schedule a closing conference, at which its preliminary findings will be explained. A closing conference may not be scheduled for companies found to have serious enforcement issues. If no enforcement action is taken, CBP will provide the company with a written report of the assessment's results.

The Importer Audit/Compliance Assessment Team Kit (also called the CAT Kit), which provides extensive details of the assessment procedure, can be found at CBP Website, [www.cbp.gov](http://www.cbp.gov), or by calling the CBP Regulatory Audit Division office nearest you.

***Compliance Measurement*** is the primary tool CBP uses to assess the accuracy of port-of-entry transactions and to determine the compliance rate for all commercial importations. By using statistical sampling methods, a valid compliance level for all commercial importations can be obtained. One of CBP's goals is to assure that at least 99 percent of the import revenues legally owed the United States government are collected. Cargo is sampled for compliance with international trade laws at the port of entry, at the time of entry into the United States. Importers should be aware that misclassification of merchandise, among other violations, will be detected through the compliance measurement process.

#### **9. A Notice To Small-Business Importers**

The Small Business Regulatory Enforcement Fairness Act was designed to create a more cooperative regulatory environment between federal agencies and small businesses.

*Your comments are important.* The Small Business and Regulatory Enforcement Ombudsman and 10 regional Fairness Boards were established to receive comments from small businesses about federal agency enforcement activities and to rate each agency's responsiveness to small business. If you wish to comment on the enforcement actions of U.S. Customs and Border Protection, call 1.888.REG.FAIR (1.888.734.3247).

## INVOICES

### 10. Commercial Invoice

A commercial invoice, signed by the seller or shipper, or his agent, is acceptable for CBP purposes if it is prepared in accordance with Section 141.86 through 141.89 of the CBP Regulations, and in the manner customary for a commercial transaction involving goods of the kind covered by the invoice. Importers and brokers participating in the Automated Broker Interface may elect to transmit invoice data via the Automated Invoice Interface or EDIFACT and eliminate the paper document. The invoice must provide the following information, as required by the Tariff Act:

- The port of entry to which the merchandise is destined,
- If merchandise is sold or agreed to be sold, the time, place, and names of buyer and seller; if consigned, the time and origin of shipment, and names of shipper and receiver,
- A detailed description of the merchandise, including the name by which each item is known, the grade or quality, and the marks, numbers, and symbols under which it is sold by the seller or manufacturer to the trade in the country of exportation, together with the marks and numbers of the packages in which the merchandise is packed,
- The quantities in weights and measures,
- If sold or agreed to be sold, the purchase price of each item in the currency of the sale,
- If the merchandise is shipped for consignment, the value of each item in the currency in which the transactions are usually made, or, in the absence of such value, the price in such currency that the manufacturer, seller, shipper, or owner would have received, or was willing to receive, for such merchandise if sold in the ordinary course of trade and in the usual wholesale quantities in the country of exportation,
- The kind of currency,
- All charges upon the merchandise, itemized by name and amount including freight, insurance, commission, cases, containers, coverings, and cost of packing; and, if not included above, all charges, costs, and expenses incurred in bringing the merchandise from alongside the carrier at the port of exportation in the country of exportation and placing it alongside the carrier at the first U.S. port of entry. The cost of packing, cases, containers, and inland freight to the port of exportation need not be itemized by amount if included in the invoice price and so identified. Where the required information does not appear on the invoice as originally prepared, it shall be shown on an attachment to the invoice,
- All rebates, drawbacks, and bounties, separately itemized, allowed upon the exportation of the merchandise,
- The country of origin,

- All goods or services furnished for the production of the merchandise not included in the invoice price.

If the merchandise on the documents is sold while in transit, the original invoice reflecting this transaction and the resale invoice or a statement of sale showing the price paid for each item by the purchaser shall be filed as part of the entry, entry summary, or withdrawal documentation.

The invoice and all attachments must be in the English language, or shall be accompanied by an accurate English translation.

Each invoice shall state in adequate detail what merchandise is contained in each individual package.

If the invoice or entry does not disclose the weight, gauge, or measure of the merchandise necessary to ascertain duties, the importer of record shall pay expenses incurred to obtain this information prior to the release of the merchandise from CBP custody.

Each invoice shall set forth in detail, for each class or kind of merchandise, every discount from the list or other base price that has been or may be allowed in fixing each purchase price or value.

When more than one invoice is included in the same entry, each invoice with its attachments shall be numbered consecutively by the importer on the bottom of the face of each page, beginning with number 1. If an invoice is more than two pages, begin with number 1 for the first page of the first invoice and continue in a single series of numbers through all the invoices and attachments included in one entry. If an entry covers one invoice of one page and a second invoice of two pages, the numbering at the bottom of the page shall be as follows: Inv. 1, p.1; Inv. 2, p.2; Inv. 2, p.3, etc.

Any information required on an invoice may be set forth either on the invoice or on the attachment.

### **Specific Requirements**

**1. Separate Invoice Required for Each Shipment.** Not more than one distinct shipment from one consignor to one consignee by one commercial carrier shall be included on the same invoice.

**2. Assembled Shipments.** Merchandise assembled for shipment to the same consignee by one commercial carrier may be included in one invoice. The original bills or invoices covering the merchandise, or extracts therefrom, showing the actual price paid or agreed

to be paid, should be attached to the invoice.

**3. Installment Shipments.** Installments of a shipment covered by a single order or contract and shipped from one consignor to one consignee may be included in one invoice if the installments arrive at the port of entry by any means of transportation within a period not to exceed 10 consecutive days.

The invoice should be prepared in the same manner as invoices covering single shipments and should include any additional information that may be required for the particular class of goods concerned. If it is practical to do so, the invoice should show the quantities, values, and other invoice data with respect to each installment, and the identification of the importing conveyance in which each installment was shipped.

**4. Production "Assist."** The invoice should indicate whether the production of merchandise involved costs for "assists" (e.g., dies, molds, tooling, printing plates, artwork, engineering work, design and development, financial assistance, etc.) that are not included in the invoice price. If assists were involved, state their value, if known, and by whom supplied. Were they supplied without cost, or on a rental basis, or were they invoiced separately? If the latter, attach a copy of the invoice.

Whenever CBP requires information on the cost of production of goods for customs valuation, the importer will be notified by the port director. Thereafter, invoices covering shipments of such goods must contain a statement on the cost of production by the manufacturer or producer.

**5. Additional Information Required.** Special information may be required on certain goods or classes of goods in addition to the information normally required on the invoice. Although the United States importer usually advises the exporter of these special situations, section 141.89 of the CBP Regulations, which covers the requirements for these goods, has been reproduced in the appendix.

**6. Rates of Exchange.** In general, no rate(s) of exchange may be used to convert foreign currency for customs purposes other than the rate(s) proclaimed or certified in 31 U.S.C. 5151. For merchandise imported from a country having a currency for which two or more rates of exchange have been certified by the Federal Reserve Bank of New York, the invoice will show the exchange rate or rates used in converting the United States dollars received for the merchandise into the foreign currency and the percentage of each rate if two or more rates are used. If a rate or combination of rates used to pay costs, charges, or expenses is different from those used to pay for the merchandise, state that rate or combination of rates separately. When dollars have not been converted at the time the invoice is prepared, state that fact on the invoice, in which case the invoice shall also state the rate or combination of rates at which the dollars will be converted, or that it is not known what rate or rates will be used. Rates of exchange are not required for

merchandise unconditionally free of duty or subject only to a specific rate of duty not depending on value.

## **11. Other Invoices**

### **Pro Forma Invoice**

If the required commercial invoice is not filed at the time the merchandise is entered, a statement in the form of an invoice (a *pro forma* invoice) must be filed by the importer at the time of entry. A bond is given for production of the required invoice not later than 120 days from the date of the entry summary, or entry if there is no entry summary. If the invoice is needed for statistical purposes, it must generally be produced within 50 days from the date on which the entry summary is required to be filed.

The exporter should bear in mind that unless he or she forwards the required invoice in time, the American importer will incur a liability under his bond for failure to file the invoice with the port director of CBP before the 120-day period expires.

Although a pro forma invoice is not prepared by the exporter, it is of interest to exporters as it gives a general idea of the kind of information needed for entry purposes. A pro forma invoice indicates what the importer may find necessary to furnish CBP officers at the time a formal entry is filed for a commercial shipment, if a properly prepared CBP or commercial invoice is not available at the time the goods are entered. An acceptable format for a pro forma invoice is reproduced in the appendix.

Some of the additional information specified for the commodities under section 141.89 of the CBP Regulations may not be required when entry is made on a pro forma invoice. However, the pro forma invoice must contain sufficient data for examination, classification, and appraisement purposes.

### **Special Invoices**

Special invoices are required for some merchandise. See 19 CFR 141.89.

## **12. Frequent Errors In Invoicing**

Foreign sellers or shippers must exercise care in preparing invoices and other documents used to enter goods into the commerce of the United States in order for their importers to avoid difficulties, delays, or possibly even penal sanctions. Each document must contain all information required by law or regulations, and every statement of fact contained in the documents must be true and accurate. Any inaccurate or misleading statement of fact in a document presented to a CBP officer in connection with an entry, or the omission from the document of required information, may result in delays in merchandise release, the detention of the goods, or a claim against the importer for domestic value. Even though the inaccuracy or omission was unintentional, the importer

may be required to establish that he exercised due diligence and was not negligent, in order to avoid sanctions with consequent delay in obtaining possession of goods and closing the transaction. (See 19 U.S.C. 1592.)

It is particularly important that all statements relating to merchandise description, price or value, and amounts of discounts, charges, and commissions be truthfully and accurately set forth. It is also important that the invoices set forth the true name of the actual seller and purchaser of the goods, in the case of purchased goods, or the true name of the actual consignor and consignee when the goods are shipped otherwise than in pursuance of a purchase. It is important, too, that the invoice otherwise reflect the real nature of the transaction pursuant to which the goods were shipped to the United States.

The fundamental rule is that both the shipper and importer must furnish CBP officers with all pertinent information with respect to each import transaction to assist CBP officers in determining the tariff status of the goods. Examples of omissions and inaccuracies to be avoided are:

- The shipper assumes that a commission, royalty, or other charge against the goods is a so-called “nondutiable” item and omits it from the invoice.
- A foreign shipper who purchases goods and sells them to a United States importer at a delivered price shows on the invoice the cost of the goods to him instead of the delivered price.
- A foreign shipper manufactures goods partly with the use of materials supplied by the United States importer, but invoices the goods at the actual cost to the manufacturer without including the value of the materials supplied by the importer.
- The foreign manufacturer ships replacement goods to his customer in the United States and invoices the goods at the net price without showing the full price less the allowance for defective goods previously shipped and returned.
- A foreign shipper who sells goods at list price, less a discount, invoices them at the net price, and fails to show the discount.
- A foreign shipper sells goods at a delivered price but invoices them at a price f.o.b. the place of shipment and omits the subsequent charges.
- A foreign shipper indicates in the invoice that the importer is the purchaser, whereas he is in fact either an agent who is receiving a commission for selling the goods or a party who will receive part of the proceeds of the sale of the goods sold for the joint account of the shipper and consignee.
- Invoice descriptions are vague, listing only parts of numbers, truncated or coded descriptions, or lumping various articles together as one when several distinct items are included.





## ASSESSMENT OF DUTY

### 13. Dutiable Status Of Goods

#### Rates Of Duty

All goods imported into the United States are subject to duty or duty-free entry in accordance with their classification under the applicable items in the Harmonized Tariff Schedule of the United States. An annotated loose-leaf edition of the tariff schedule may be purchased from the U.S. Government Printing Office, Washington, DC 20402. (See 19 U.S.C. 1202.)

When goods are dutiable, *ad valorem*, specific, or compound rates may be assessed. An ad valorem rate, which is the type of rate most often applied, is a percentage of the value of the merchandise, such as five percent ad valorem. A specific rate is a specified amount per unit of weight or other quantity, such as 5.9 cents per dozen. A compound rate is a combination of both an ad valorem rate and a specific rate, such as 0.7 cents per kilo plus 10 percent ad valorem.

#### Free of Duty or Dutiable

Rates of duty for imported merchandise may vary depending upon the country of origin. Most merchandise is dutiable under the most-favored-nation—now referred to as *normal trade relations*—rates in the General column under column 1 of the tariff schedule. Merchandise from countries to which these rates have *not* been extended is dutiable at the full or “statutory” rates in column 2 of the tariff schedule.

Free rates are provided for many subheadings in columns 1 and 2 of the tariff schedule. Duty-free status is also available under various conditional exemptions which are reflected in the *Special* column under column 1 of the tariff schedule. It is the importer’s burden to show eligibility for a conditional exemption from duty.

One of the more frequently applied exemptions from duty occurs under the Generalized System of Preferences (GSP). GSP-eligible merchandise qualifies for duty-free entry when it is from a beneficiary developing country and meets other requirements as discussed in Chapter 17. Other exemptions are found under the subheadings in Chapter 98 of the tariff schedule. These subheadings include, among other provisions, certain personal exemptions, exemptions for articles for scientific or other institutional purposes, and exemptions for returned American goods.

#### Rulings On Imports

CBP makes its decision on the dutiable status of merchandise when the entry is liquidated after the entry documents have been filed. When advance information is needed, do not depend on a small “trial” or “test” shipment because there is no guarantee that the next shipment will receive the same tariff treatment. Small importations may slip by, particularly if they are processed under informal procedures that apply to small

shipments or in circumstances warranting application of a flat rate. An exporter, importer, or other interested party may get advance information on any matter affecting the dutiable status of merchandise by writing to the port director where the merchandise will be entered or to:

Director, National Commodity Specialist Division  
U.S. Customs and Border Protection  
One Penn Plaza, 11th Floor  
New York, New York 10119

or to:

U.S. Customs and Border Protection  
Attention: Office of Regulations and Rulings  
Washington, DC 20229

Detailed information on the procedures for the issuance of administrative rulings is given in 19 CFR Part 177.

#### **Binding Decisions**

While you will find that, for many purposes, CBP ports are your best sources of information, informal information obtained on tariff classifications is not binding. Under 19 CFR part 177, the importing public may obtain a binding ruling, which can be relied upon for placing or accepting orders or for making other business determinations, under Chapters 1 through 97 of the Harmonized Tariff Schedule or by writing to:

National Commodity Specialist Division  
U.S. Customs and Border Protection  
One Penn Plaza, 11th Floor  
New York, New York 10119

The ruling will be binding at all ports of entry unless revoked by the CBP Office of Regulations and Rulings.

The following information is required in ruling requests:

- The names, addresses and other identifying information of all interested parties (if known) and the manufacturer ID code (if known),
- The name(s) of the port(s) at which the merchandise will be entered (if known),
- A description of the transaction; for example, a prospective importation of (merchandise) from (country),
- A statement that there are, to the importer's knowledge, no issues on the

commodity pending before CBP or any court, and

- A statement as to whether classification advice has previously been sought from a CBP officer, and if so, from whom, and what advice was rendered, if any.

A request for a tariff classification should include the following information:

- A complete description of the goods. Send samples, if practical, sketches, diagrams, or other illustrative material that will be useful in supplementing the written description,
- Cost breakdowns of component materials and their respective quantities shown in percentages, if possible,
- A description of the principal use of the goods, as a class or kind of merchandise, in the United States,
- Information as to commercial, scientific or common designations, as may be applicable, and
- Any other information that may be pertinent or required for the purpose of tariff classification.

To avoid delays, your request should be as complete as possible. If you send a sample, do not rely on it to tell the whole story. Also, please note that samples may be subjected to laboratory analysis, which is done free of charge. If a sample is destroyed during laboratory analysis, however, it cannot be returned.

Information submitted and incorporated in response to a request for a CBP decision may be disclosed or withheld in accordance with the provisions of the Freedom of Information Act, as amended 5 U.S.C. 552, 19 CFR 177.8(a)(3).

### **Protests**

The importer may disagree with the dutiable status after the entry has been liquidated. A decision at this stage of the entry transaction is requested by filing a protest and application for further review on CBP Form 19. For entries filed before December 18, 2006, the time limit is within 90 days after liquidation, but for entries filed after that date, it is now 180 days (see CFR part 174; see 19 USC 1514(c)(3) as amended by section 2103(2)(B), Pub. L.108-429. The same legislation also eliminated the 1 year to file protests for clerical errors and mistakes of fact for entries after 12/18/04). If CBP denies a protest, the adverse decision may be appealed to the U.S. Court of International Trade.

**Liability For Duties**

There is no provision under which U.S. duties or taxes may be prepaid in a foreign country before exportation to the United States. This is true even for gifts sent by mail.

In the usual case, liability for the payment of duty becomes fixed at the time an entry for consumption or for warehouse is filed with CBP. The obligation for payment is upon the person or firm in whose name the entry is filed. When goods have been entered for warehouse, liability for paying duties may be transferred to any person who purchases the goods and desires to withdraw them in his or her own name.

Paying a customs broker will not relieve the importer of his or her liability for customs charges (duties, taxes, and other debts owed CBP) should those charges not be paid by the broker. Therefore, if the importer pays the broker by check, he or she should give the broker a separate check, made payable to "U.S. Customs and Border Protection" for those customs charges, which the broker will then deliver to CBP.

If the entry is made in the name of a customs broker, the broker may obtain relief from statutory liability for the payment of increased or additional duties found due if (1) the actual owner of goods is named, and (2) the owner's declaration whereby the owner agrees to pay the additional duty and the owner's bond are both filed by the broker with the port director within 90 days of the date of entry.

**14. Containers or Holders**

CBP designates such items as lift vans, cargo vans, shipping tanks, pallets and certain articles used to ship goods internationally as *instruments of international traffic*. So long as this designation applies, these articles are not subject to entry or duty when they arrive, whether they are loaded or empty. Other classes of merchandise containers may also be designated as instruments of international traffic upon application to the Commissioner of CBP for such a designation. If any article so designated is diverted to domestic use, however, it must be entered and duty paid, if applicable.

Containers specially shaped or fitted to contain a specific article or set of articles, suitable for long term use and entered with the articles for which they are intended, are classifiable with the accompanying articles if they are of a kind normally sold therewith. Examples of such containers are: camera cases, musical instrument cases, gun cases, drawing instrument cases, and necklace cases. This rule does not apply to containers that give the importation as a whole its essential character.

Subject to the above rule, packing materials and packing containers entered with goods packed in them are classified with these goods if they are of a kind normally used

for packing such goods. However, this does not apply to packing materials or containers that are clearly suitable for repetitive use.

## **15. Temporary Free Importations**

### **Temporary Importation Under Bond (TIB)**

Goods of the types enumerated below, when not imported for sale or for sale on approval, may be admitted into the United States under bond, without the payment of duty, for exportation within one year from the date of importation. Generally, the amount of the bond is double the estimated duties. The one-year period for exportation may, upon application to the port director, be extended for one or more further periods which, when added to the initial one year, shall not exceed a total of three years. There is an exception in the case of articles covered in item 14: the period of the bond may not exceed six months and may not be extended.

Merchandise entered under TIB must be exported or destroyed before expiration of the bond period, or any extension, to avoid assessment of liquidated damages in the amount of the bond.

All goods entered under TIB are subject to quota compliance.

### **Classes Of Goods**

- (1) Merchandise to be repaired, altered, or processed (including processes which result in an article being manufactured or produced in the United States), provided that the following conditions are met:

The merchandise will not be processed into an article manufactured or produced in the United States if the article is:

- Alcohol, distilled spirits, wine, beer, or any dilution or mixture of these,
- Perfume or other commodity containing ethyl alcohol, whether denatured or not,
- A product of wheat.

If merchandise is processed and results in an article being manufactured or produced in the United States other than those described above:

- A complete accounting will be made to CBP for all articles, wastes, and irrecoverable losses resulting from the processing, and
- All articles will be exported or destroyed under CBP supervision within the bonded period. Valuable waste must also be exported or so destroyed unless duty, if applicable, is paid.

- (2) Models of women's wearing apparel imported by manufacturers for use solely as models in their own establishments; these articles require quota compliance.
- (3) Articles imported by illustrators and photographers for use solely as models in their own establishments to illustrate catalogs, pamphlets, or advertising matter.
- (4) Samples solely for use in taking orders for merchandise; these samples require quota compliance.

- (5) Articles solely for examination with a view to reproduction or for examination and reproduction (except photoengraved printing plates for examination and reproduction); and motion-picture advertising films.
- (6) Articles intended solely for testing, experimental, or review purposes, including plans, specifications, drawings, blueprints, photographs, and articles for use in connection with experiments or for study. If articles under this category are destroyed in connection with the experiment or study, proof of such destruction must be presented to satisfy the obligation under the bond to export the articles.
- (7) Automobiles, motorcycles, bicycles, airplanes, airships, balloons, boats, racing shells, and similar vehicles and craft, and the usual equipment of the foregoing, if brought temporarily into the United States by nonresidents for the purpose of taking part in races or other specific contests. Port directors may defer the exaction of a bond for a period not to exceed 90 days after the date of importation for vehicles and craft to take part in races or other specific contests for other than money purposes. If the vehicle or craft is not exported or the bond is not given within the period of such deferment, the vehicle or craft shall be subject to forfeiture.
- (8) Locomotives and other railroad equipment brought temporarily into the United States for use in clearing obstructions, fighting fires, or making emergency repairs on railroads within the United States or for use in transportation otherwise than in international traffic when the Secretary of the Treasury finds that the temporary use of foreign railroad equipment is necessary to meet an emergency. Importers can expedite approval of a request for temporary importation to meet an emergency by including evidence of the existence of the emergency, such as news reports.
- (9) Containers for compressed gases, filled or empty, and containers or other articles used for covering or holding merchandise (including personal or household effects) during transportation and suitable for reuse for that purpose.
- (10) Professional equipment, tools of trade, repair components for equipment or tools admitted under this item, and camping equipment imported by or for nonresidents for the nonresident's use while sojourning temporarily in the United States.
- (11) Articles of special design for temporary use exclusively in connection with the manufacture or production of articles for export.
- (12) Animals and poultry brought into the United States for the purpose of breeding, exhibition, or competition for prizes, and the usual equipment therefor.
- (13) Works of free fine arts, drawings, engravings, photographic pictures, and philosophical and scientific apparatus brought into the United States by professional artists, lecturers, or

scientists arriving from abroad for use by them for exhibition and in illustration, promotion, and encouragement of art, science or industry in the United States.

- (14) Automobiles, automobile chassis, automobile bodies, cutaway portions of any of the foregoing, and parts for any of the foregoing, finished, unfinished, or cutaway, when intended solely for show purposes. These articles may be admitted only on condition that the Secretary of the Treasury has found that the foreign country from which the articles were imported allows or will allow substantially reciprocal privileges with respect to similar exports to that country from the United States. If the Secretary finds that a foreign country has discontinued or will discontinue the allowance of such privileges, the privileges under this item shall not apply thereafter to imports from that country.

### **Relief From Liability**

Relief from liability under bond may be obtained in any case in which the articles are destroyed under CBP supervision, in lieu of exportation, within the original bond period. However, in the case of articles entered under item 6, destruction need not be under CBP supervision where articles are destroyed during the course of experiments or tests during the bond period or any lawful extension, but satisfactory proof of destruction shall be furnished to the port director with whom the customs entry is filed.

### **ATA Carnet**

ATA stands for the combined French and English words “Admission Temporaire—Temporary Admission.” ATA carnet is an international customs document that may be used for the temporary duty-free importation of certain goods into a country in lieu of the usual customs documents required. The carnet serves as a guarantee against the payment of customs duties that may become due on goods temporarily imported and not reexported. Quota compliance is required on merchandise subject to quota; for example, textiles are subject to quota and visa requirements.

A carnet is valid for one year. The traveler or businessperson, however, may make as many trips as desired during the period the carnet is valid provided he or she has sufficient pages for each stop.

The United States currently allows ATA carnets to be used for the temporary admission of professional equipment, commercial samples, and advertising material. Most other countries allow the use of carnets for the temporary admission of these goods and, in some cases, other uses of the ATA carnet are permitted.

Local carnet associations, as members of the International Bureau of the Paris-based International Chamber of Commerce, issue carnets to their residents. These associations guarantee the payment of duties to local customs authorities should goods imported under cover



of a foreign-issued carnet not be reexported. In the United States, CBP has designated the U.S. Council of the International Chamber of Commerce, located at 1212 Avenue of the Americas, New York, NY 10036, Tel. 212.354.4480, as the United States issuing and guaranteeing organization. The Council charges a fee for its service.

ATA carnets can be used in the following countries:

Algeria	Ivory Coast
Australia	Japan
Austria	Republic of South Korea
Belgium	Lebanon
Bulgaria	Luxembourg
Canada	Malaysia
Canary Islands	Malta
China	Mauritius
Croatia	Netherlands
Cyprus	New Zealand
Czech Republic	Norway
Denmark	Poland
Estonia	Portugal
Finland	Romania
France	Senegal
French Polynesia	Singapore
French West Indies	Slovakia
Germany	Slovenia
Gibraltar	South Africa
Greece	Spain
Hong Kong	Sri Lanka
Hungary	Sweden
Iceland	Switzerland
India	Thailand
Ireland	Turkey
Israel	United Kingdom
Italy	United States

Egypt and certain other countries have accepted the ATA convention, but have not implemented the use of carnets. As countries are being continuously added to the carnet system, please check with the U.S. Council if a country you wish to visit is not included in the above list.

#### **16. The North American Free Trade Agreement (NAFTA)**

The provisions of the North American Free Trade Agreement (NAFTA) were adopted by the United States with enactment of the North American Free Trade Agreement Implementation Act of 1993 (107 Stat. 2057, P.L. 103-182). Nineteen Code of Federal Regulation (19 CFR) Parts

10, 12, 123, 134, 162, 174, 177, and 178 were amended, and new parts 102 and 181 of the CBP Regulations were developed to implement NAFTA's duty provisions.

NAFTA phased out tariffs on almost all "originating" goods traded between Canada and the United States by January 1, 2003, and provides for an additional 5-year phase-out period on certain sensitive commodities traded between Mexico and the United States.

Article 401 of NAFTA eliminates both tariffs and the merchandise processing fees for goods that "originate." Transshipping goods through Mexico or Canada that were made in another country, or performing only minor processing or packaging operations on them in North America, will not invoke preferential NAFTA duty rates.

The term "originate" means those goods that meet the requirements of NAFTA Article 401. Article 401 defines "originate" in four ways:

1. Goods wholly obtained or produced entirely in the NAFTA region (these contain no foreign inputs);
2. Goods produced entirely in the NAFTA region exclusively from originating materials (these contain foreign materials that have been previously manufactured into originating materials);
3. Goods meeting an Annex 401 specific rule of origin such as a prescribed change in tariff classification, regional value content requirement; and in extremely limited instances,
4. Unassembled goods and goods classified with their parts, which do not meet the tariff-shift rule but contain 60 percent regional value content using the transaction-value method, or 50 percent using the net-cost method.

Annex 401 of NAFTA is codified in General Note 12(t) of the Harmonized Tariff Schedule of the United States and is available at [www.cbp.gov/nafta/rulesorg.htm](http://www.cbp.gov/nafta/rulesorg.htm).

### **Entry Procedures**

For NAFTA, as with other preferential trade programs, it is the importer's responsibility to claim the benefits. In the United States, a NAFTA claim is made as follows:

- **NON-COMMERCIAL (PERSONAL) IMPORTATIONS**  
For a non-commercial importation of NAFTA goods, a NAFTA claim may be made in the United States without a certificate of origin or statement.
- **COMMERCIAL IMPORTATIONS, LOW-VALUE**  
In order to claim preferential tariff treatment on a commercial shipment of NAFTA goods valued at US \$2,500 or less, the entry packet must include the 19 CFR 181.22(d) statement certifying that the goods "originate" ([www.cbp.gov/nafta/docs/us/181sec1-1.html#181.21](http://www.cbp.gov/nafta/docs/us/181sec1-1.html#181.21)).

- **COMMERCIAL IMPORTATIONS, OTHER**

The importer must have a valid NAFTA certificate of origin, signed by the exporter or his agent, when claiming preferential tariff treatment on a commercial shipment of NAFTA goods valued at more than US \$2,500.

- **POST-IMPORTATION CLAIMS**

Importers who may not have a valid NAFTA certificate of origin, or who are unsure whether their goods “originate,” or who otherwise choose not to make a NAFTA claim at the time of entry summary have up to one year from the date of importation to make a post-importation claim.

#### **Exporter’s Certificate Of Origin**

NAFTA Article 502 requires that an importer’s NAFTA claim be based on the exporter’s certificate of origin. This may be CBP Form 434, the Canadian B-232, or the Mexican Certificado de Origen. When making a NAFTA claim in the United States, the importer must have one of these three certificates of origin or a CBP-approved, privately printed or alternate certificate of origin. For a single shipment, the certificate of origin shall be annotated with the invoice number or other distinguishing marks. For multiple shipments of identical goods, the certificate shall be annotated with a blanket period of up to 12 months.

#### **NAFTA Certificates Of Origin And NAFTA Claims Are Optional**

The exporter or producer is never obligated to provide a certificate of origin to a customer. However, since the importer may not claim NAFTA preferential tariff treatment without one, it is in the exporter or producer’s interest to provide it. By providing a certificate of origin, the producer is attesting that:

1. The goods originate,
2. He has the substantiating production and accounting documentation, and
3. He will make it available to the customs authorities upon request.

#### **Country of Origin for Marking and Duty Purposes**

For goods processed in Canada, Mexico or the United States, NAFTA codified the concept of “substantial transformation,” the process by which a good’s country of origin is determined for marking and duty purposes. Even though a good may be sufficiently processed in Canada, Mexico or the United States to be marked with that country of origin, it may not be sufficiently manufactured to “originate” under the rules of origin for NAFTA tariff treatment purposes (Harmonized Tariff Schedule of the United States, General Note 12(t)). With certain limited exceptions, only originating goods benefit from NAFTA preferential treatment. For additional marking information, please see *NAFTA: A Guide to Customs Procedures*, available at [www.cbp.gov/nafta/nafta\\_new.htm](http://www.cbp.gov/nafta/nafta_new.htm) or 19 CFR 102 at [www.gpoaccess.gov/cfr/index.html](http://www.gpoaccess.gov/cfr/index.html).

#### **Special Provisions For Sensitive Sectors**

The NAFTA Annex 401-origin criteria ensure that most textile- and apparel-related production occur in North America. The basic rule of origin for textiles and apparel is commonly referred to as “yarn forward.” This means that the yarn used to form the fabric must be spun in the NAFTA territory, and all subsequent processing must take place in North America. Textiles and apparel of man-made filament fibers have an even more restrictive “fiber-forward” rule. Some apparel goods must additionally meet a “visible-lining rule,” meaning that certain linings must be woven or knit in North America.

#### **Transshipment**

Goods that are entitled to NAFTA preferential duty rates by virtue of their originating status will lose that status if they leave customs control outside of North America or undergo any operation outside of North America other than unloading, reloading, or any other operation necessary to preserve them in good condition or to transport the goods to Canada, Mexico or the United States.

#### **Repair Or Alteration**

Goods may be exported from one NAFTA country to another for repair or alteration and returned free of duty regardless of the origin of the goods. This provision does not apply to alterations that are part of a manufacturing process.

#### **Territory**

With respect to the United States, the customs territory includes the 50 states, the District of Columbia, Puerto Rico and the foreign trade zones located therein.

Additional NAFTA information can be obtained in *NAFTA: A Guide to Customs Procedures*, available on line at [www.cbp.gov/nafta/nafta\\_new.htm](http://www.cbp.gov/nafta/nafta_new.htm) or from the Code of Federal Regulations at [www.cbp.gov/nafta/resource.htm](http://www.cbp.gov/nafta/resource.htm).

### **17. Generalized System Of Preferences (GSP)**

The Generalized System of Preferences (GSP) is a preferential program that provides duty-free treatment to products of beneficiary designated countries and territories. The program was authorized by the Trade Act of 1974 (19 U.S.C. 2461 et seq.) as a means of promoting economic development in the developing countries and was instituted on January 1, 1976. The GSP periodically expires and must be renewed by Congress to remain in effect. CBP provides the trade community with notification of these expirations and renewals.

#### **ELIGIBLE ITEMS**

The GSP eligibility list contains a wide range of products classifiable under 3,400 different subheadings in the Harmonized Tariff Schedule of the United States (Tariff Schedule). These items are identified by the symbols “A”, “A\*”, or “A+” in the “Special” subcolumn under column 1 of the tariff schedule. Merchandise classifiable under a subheading designated in this manner may qualify for duty-free entry if imported into the United States directly from any of the

designated countries and territories. Items identified by an “A\*” may be excluded from the exemption if imported from certain designated countries.

The list of countries and exclusions, as well as the list of GSP-eligible articles, will change from time to time. For example, countries immediately lose GSP eligibility upon joining the European Union. Consult the *Federal Register* at [www.ustr.gov](http://www.ustr.gov) for the most current information regarding country and/or commodity eligibility. Click on the link to “Trade and Development” and then the link for the “USTR Reference Programs.” A GSP guidebook is available at [http://www.ustr.gov/assets/Trade\\_Development/Preference\\_Programs/GSP/asset\\_upload\\_file890\\_8359.pdf](http://www.ustr.gov/assets/Trade_Development/Preference_Programs/GSP/asset_upload_file890_8359.pdf).

Importers and other interested parties may obtain an advance ruling to determine whether a particular product is eligible for GSP treatment, see Chapter 13 for details regarding the issuance of administrative rulings.

### Claims

For commercial shipments requiring a formal entry, a claim for duty-free status is made under the GSP by declaring on the entry summary that the country of origin is a designated beneficiary developing country and by placing the symbol “A” as a prefix to the subheading of the tariff schedule for each article for which such treatment is claimed. Eligible merchandise will be entitled to duty-free treatment provided the following conditions are met:

- The merchandise must be the “product of” a beneficiary country. This requirement is satisfied when:
  - (1) The goods are wholly the growth, product, or manufacture of a beneficiary country, or
  - (2) When an article is produced from materials imported into the beneficiary developing country and those imported materials are substantially transformed into a new or different article of commerce in a beneficiary country. A statement to that effect shall be included on the commercial invoice.
- The merchandise must be imported *directly* from any beneficiary country into the customs territory of the United States.
- The cost or value of materials produced in the beneficiary developing country and/or the direct cost of processing performed there must be at least 35 percent of the appraised value of the goods.

The cost or value of materials imported into the beneficiary developing country may be included in calculating the 35-percent value-content requirement of the GSP only if such materials undergo a “double substantial transformation” in the beneficiary developing country. That is, such materials must be substantially transformed in the beneficiary developing country into a new and different intermediate article of commerce, which is then transformed a second time in the production of the final good. The phrase “direct costs of

processing” refers to costs directly incurred in, or which can be reasonably allotted to, the processing of the article. Such costs include, but are not limited to: all actual labor costs involved with production of the good; dies, molds, tooling, and depreciation on machinery and equipment; research and development; and costs of inspecting and testing the merchandise. Profit and general expenses are not considered direct costs of processing. General expenses are those that cannot be allocated to the good or costs that do not relate to production of the good, such as administrative salaries, insurance, advertising, and salaries for sales employees.

### **Sources Of Additional Information**

CBP rules and regulations on the GSP are incorporated in sections 10.171-10.178 of the CBP Regulations. Address any question you may have on the administrative or operational aspects of the GSP to:

CBP Trade Agreements Branch  
U.S. Customs and Border Protection  
1300 Pennsylvania Avenue, NW  
Washington, DC 20229

Requests for information concerning additions to or deletions from the list of merchandise eligible under the GSP, or changes to the list of beneficiary developing countries, should be directed to:

Chairman, Trade Policy Staff Subcommittee  
Office of U.S. Trade Representative  
600 17th St., NW  
Washington, DC 20506

### **GSP Independent Countries**

*[note: typesetter should have countries in two or three columns per page]*

Afghanistan  
Albania  
Algeria  
Angola  
Antigua and Barbuda  
Argentina  
Armenia  
Bahrain  
Bangladesh  
Barbados 1

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1 Member countries of the Caribbean Common Market—CARICOM (treated as one country).

Belize<sup>1</sup>  
 Benin<sup>2</sup>  
 Bhutan  
 Bolivia<sup>3</sup>  
 Bosnia and Hercegovina  
 Botswana<sup>4</sup>  
 Brazil  
 Bulgaria  
 Burkina Faso  
 Burundi  
 Cambodia<sup>5</sup>  
 Cameroon  
 Cape Verde  
 Central African Republic  
 Chad  
 Colombia<sup>3</sup>  
 Comoros  
 Congo (Brazzaville)  
 Congo (Kinshasa)  
 Costa Rica  
 Côte d'Ivoire  
 Croatia  
 Djibouti  
 Dominica<sup>1</sup>  
 Dominican Republic  
 Ecuador<sup>3</sup>  
 Egypt  
 El Salvador  
 Equatorial Guinea  
 Eritrea  
 Ethiopia  
 Fiji  
 Gabon  
 Gambia, The  
 Georgia

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2 Member countries of the West African Economic and Monetary Union—WAEMU (treated as one country).

3 Member countries of the Cartagena Agreement—Andean Group (treated as one country).

4 Member countries of the Southern Africa Development Community—SADC (treated as one country).

5 Association of South East Asian Nations—ASEAN (GSP-eligible countries only) treated as one country.

3 Member countries of the Cartagena Agreement—Andean Group (treated as one country).

1 Member countries of the Caribbean Common Market—CARICOM (treated as one country).

Ghana  
Grenada 1  
Guatemala  
Guinea  
Guinea-Bissau 2  
Guyana 1  
Haiti  
Honduras  
India  
Indonesia 5  
Iraq  
Jamaica 1  
Jordan  
Kazakhstan  
Kenya  
Kiribati  
Kyrgyzstan  
Lebanon  
Lesotho  
Macedonia, Former Yugoslav Republic of  
Madagascar  
Malawi  
Mali <sup>2</sup>  
Mauritania  
Mauritius 4  
Moldova  
Mongolia  
Mozambique  
Namibia  
Nepal  
Niger <sup>4</sup>  
Nigeria  
Oman

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1 Member countries of the Caribbean Common Market—CARICOM (treated as one country).

2 Member countries of the West African Economic and Monetary Union—WAEMU (treated as one country).

4 Member countries of the Southern Africa Development Community—SADC (treated as one country).

5 Association of South East Asian Nations—ASEAN (GSP-eligible countries only) treated as one country.

1 Member countries of the Caribbean Common Market—CARICOM (treated as one country).

4 Member countries of the Southern Africa Development Community—SADC (treated as one country).



Pakistan  
 Panama  
 Papua, New Guinea  
 Paraguay  
 Peru 3  
 Philippines 5  
 Romania  
 Russia  
 Rwanda  
 Saint Kitts and Nevis 1  
 Saint Lucia 1  
 Saint Vincent and the Grenadines <sup>1</sup>  
 Samoa  
 Sao Tome and Principe  
 Senegal 2  
 Seychelles  
 Sierra Leone  
 Solomon Islands  
 Somalia  
 South Africa  
 Sri Lanka  
 Suriname  
 Swaziland  
 Tanzania 4  
 Thailand <sup>5</sup>  
 Togo 2  
 Tonga  
 Trinidad and Tobago 1  
 Tunisia  
 Turkey  
 Tuvalu  
 Uganda  
 Uruguay  
 Uzbekistan

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3 Member countries of the Cartagena Agreement—Andean Group (treated as one country).

5 Association of South East Asian Nations—ASEAN (GSP-eligible countries only) treated as one country.

1

2 Member countries of the West African Economic and Monetary Union—WAEMU (treated as one country).

4 Member countries of the Southern Africa Development Community—SADC (treated as one country).

5 Association of South East Asian Nations—ASEAN (GSP-eligible countries only) treated as one country.

2 Member countries of the West African Economic and Monetary Union—WAEMU (treated as one country).

1 Member countries of the Caribbean Common Market—CARICOM (treated as one country).

Vanuatu  
 Venezuela <sup>3</sup>  
 Yemen, Republic of  
 Zambia  
 Zimbabwe

**Non-Independent Countries and Territories**

Anguilla  
 British Indian Ocean Territory  
 Christmas Island (Australia)  
 Cocos (Keeling) Island  
 Cook Islands  
 Falkland Islands (Islas Malvinas)  
 Gibraltar  
 Heard Island and McDonald Islands  
 Montserrat <sup>1</sup>  
 Niue  
 Norfolk Island  
 Pitcairn Island  
 Saint Helena  
 Tokelau  
 Turks and Caicos Islands  
 Virgin Islands, British  
 Wallis and Funtuna  
 West Bank and Gaza Strip  
 Western Sahara

**18. Caribbean Basin Initiative (CBI) and the Caribbean Basin Economic Recovery Act (CBERA)**

The Caribbean Basin Initiative (CBI) is a program that allows duty-free entry of certain merchandise from designated beneficiary countries or territories. This program was enacted by the United States as the Caribbean Basin Economic Recovery Act, (CBERA) which became effective January 1, 1984, and has no expiration date.

**Beneficiary Countries**

The following countries and territories have been designated as beneficiary countries for purposes of the CBI: *[printed in two columns]*

Antigua and Barbuda  
 Aruba

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<sup>3</sup> Member countries of the Cartagena Agreement—Andean Group (treated as one country).

Bahamas  
Barbados  
Belize  
Costa Rica  
Dominica  
Dominican Republic  
El Salvador  
Grenada  
Guatemala  
Guyana  
Haiti  
Honduras  
Jamaica  
Montserrat  
Netherlands Antilles  
Nicaragua  
Panama  
Saint Kitts and Nevis  
Saint Lucia  
Saint Vincent and the Grenadines  
Trinidad and Tobago  
Virgin Islands, British

**Eligible Items**

Most products from designated beneficiary countries may be eligible for CBI duty-free treatment. These items are identified by either an “E” or “E\*” in the Special column under column 1 of the Harmonized Tariff Schedule. Merchandise classifiable under a subheading designated in this manner may qualify for duty-free entry if imported into the United States directly from any of the designated countries and territories.

Merchandise from one or more of these countries, however, may be excluded from time to time over the life of the program. Also, the list of beneficiary countries may change from time to time as well. Therefore, importers should consult the latest edition of the *Harmonized Tariff Schedule of the United States* for the most up-to-date information on eligible commodities. General Note 7(a) in the latest edition of the Harmonized Tariff Schedule contains updated information on the current list of beneficiary countries.

**Claims**

Merchandise will be eligible for CBI duty-free treatment only if the following conditions are met:

- The merchandise must have been produced in a beneficiary country. This requirement is satisfied when:

1. The goods are wholly the growth, product, or manufacture of a beneficiary country, or
  2. The goods have been substantially transformed into a new or different article of commerce in a beneficiary country.
- The merchandise must be imported directly from any beneficiary country into the customs territory of the United States.
  - For commercial shipments requiring a formal entry, a claim for preferential tariff treatment under CBI is made by showing that the country of origin is a designated beneficiary country and by inserting the letter “E” as a prefix to the applicable tariff schedule number on CBP Form 7501.
  - At least 35 percent of the imported article’s appraised value must consist of the cost or value of materials produced in one or more beneficiary countries and/or the direct costs of processing operations performed in one or more beneficiary countries. The Commonwealth of Puerto Rico and the U.S. Virgin Islands are defined as beneficiary countries for purposes of this requirement; therefore, value attributable to Puerto Rico or to the Virgin Islands may also be counted. The cost or value of materials produced in the customs territory of the United States other than Puerto Rico may also be counted toward the 35 percent value-added requirement, but only to a maximum of 15 percent of the imported article’s appraised value.

The cost or value of materials imported into a beneficiary country from a non-beneficiary country may be included in calculating the 35 percent value-added requirement for an eligible article if the materials are first substantially transformed into new or different articles of commerce which are subsequently used as constituent materials in the production of the eligible article. The phrase “direct costs of processing operations” includes costs directly incurred or reasonably allocated to the production of the article; for example, the cost of actual labor, dies, molds, tooling, depreciation of machinery, research and development, inspection, and testing. Business overhead, administrative expenses and profit, and general business expenses like casualty and liability insurance, advertising, and salespeople’s salaries, are not considered direct costs of processing operations.

#### **CBI II Sections 215 and 222**

In addition to the origin rules enumerated above, the Customs and Trade Act of 1990 added new criteria for duty-free eligibility under the Caribbean Basin Initiative. First, articles that are the growth, product or manufacture of Puerto Rico and that are subsequently processed in a CBI beneficiary country may also receive duty-free treatment if the three following conditions are met:

- They are imported directly from a beneficiary country into the customs territory of the United States.
- They are advanced in value or improved in condition by any means in a beneficiary country.

- Any material added to the article in a beneficiary country must be a product of a beneficiary country or the United States.

In addition, articles that are assembled or processed in whole from U.S. components or ingredients (other than water) in a beneficiary country may be entered free of duty. Duty-free treatment will apply if the components or ingredients are exported directly to the beneficiary country, and the finished article is imported directly into the customs territory of the United States.

Importers and other interested parties may obtain an advance ruling to determine whether your commodity is eligible for CBI treatment, please see Chapter 13 for details regarding the issuance of administrative rulings.

#### **Sources Of Additional Information**

CBP rules and regulations regarding CBI are incorporated in sections 10.191-10.198 of the CBP Regulations. Address any questions you may have about CBI's administrative or operational aspects to the port director where the merchandise will be entered, or to:

Director, Trade Enforcement and Facilitation Division  
U.S. Customs and Border Protection  
1300 Pennsylvania Avenue, NW  
Washington, DC 20229

#### **19. Andean Trade Preference Act (ATPA)/ Andean Trade Promotion and Drug Eradication Act (ATPDEA)**

The Andean Trade Preference Act (ATPA) provides for the duty-free entry of certain merchandise from designated beneficiary countries. The United States enacted ATPA into law on December 4, 1991, and it expired on December 4, 2001. When the Trade Act of 2002 became law on December 4, 2001, it renewed ATPA through December 31, 2006, and introduced the new Andean Trade Promotion and Drug Eradication Act (ATPDEA) provision. ATPDEA expanded some trade benefits for textiles from ATPA beneficiary countries.

#### **Beneficiary Countries**

The following countries have been designated as ATPA/ATPDEA beneficiary countries:

Bolivia      Colombia      Ecuador      Peru

#### **Eligible Items**

When ATPA was renewed, portions of the Act were expanded into ATPDEA, which extends preferential treatment for merchandise previously excluded by ATPA. These include certain leather materials, watches and watch parts, petroleum and petroleum derivatives, tuna packaged in foil or other flexible packages, some footwear, and certain textile and apparel

articles.

However, many products remain excluded from receiving preferential treatment, including certain textile and apparel items; rum and tafia; and above-quota imports of certain agricultural products like tuna in cans, syrups, sugars, and sugar products, which are subject to tariff-rate quotas.

Non-textile goods for which all ATPA countries are eligible for preferential treatment are identified by a “J” in the “Special” subcolumn under Column 1 of the Harmonized Tariff Schedule. Goods for which only some ATPA countries qualify for preferential treatment are identified by a “J\*.” Goods that qualify for preferential treatment in the expanded ATPDEA provision are identified by “J+.”

Certain textile and apparel goods may enter the United States free of duty or restrictions on quantity if they meet certain requirements. The textile and apparel goods eligible for preferential treatment are listed in Chapter 98, subchapter XXI of the Harmonized Tariff Schedule.

### **Rules Of Origin**

Commercial shipments from designated beneficiary countries that require formal entry may make a claim for preferential tariff treatment under ATPA/ATPDEA by entering the letter “J” on CBP Form 7501 (the entry summary) as a prefix to the appropriate tariff schedule number.

Non-textile merchandise will be eligible for ATPA/ATPDEA duty-free treatment only if the following conditions are met:

- The merchandise must have been produced in a beneficiary country. This requirement is satisfied when:
  - (1) The goods are wholly the growth, product, or manufacture of a beneficiary country, or
  - (2) The goods have been substantially transformed into a new or different article of commerce in a beneficiary country.
- The merchandise must be imported directly from any beneficiary country into the customs territory of the United States.
- At least 35 percent of the article’s appraised value must consist of the cost or value of materials produced in one or more ATPA or CBI beneficiary countries and/or the direct costs of processing operations performed in one or more ATPA or CBI beneficiary countries. The Commonwealth of Puerto Rico and the U.S. Virgin Islands are defined as beneficiary countries for purposes of this requirement. In addition, the cost or value of materials produced in the customs territory of the United States (other than Puerto Rico) may be counted toward the 35 percent value-added requirement, but only to a maximum of 15 percent of the appraised value of the imported article.

Certain textile and apparel goods may enter the United States free of duty or restrictions on quantity if they meet certain requirements. The textile and apparel goods eligible for preferential treatment are listed in Chapter 98, subchapter XXI of the Harmonized Tariff Schedule.

The cost or value of materials imported into ATPA or CBI beneficiary countries from non-beneficiary countries may be included when calculating the 35 percent value-added requirement for an eligible article if the materials are first substantially transformed into new or different articles of commerce and are then used as constituent materials in producing the eligible article. The phrase “direct costs of processing operations” means costs directly incurred or reasonably allocated to producing the article, including the cost of actual labor, dies, molds, tooling, depreciation of machinery, research and development, inspection, and testing. Business overhead, administrative expenses and profit, and other general business expenses like casualty and liability insurance, advertising, and salespeople’s salaries, are not considered direct costs of processing operations.

Further information can be found at:

[cbp.gov/xp/cgov/import/international\\_agreements/atpa/](http://cbp.gov/xp/cgov/import/international_agreements/atpa/)

#### **20. U.S.-Israel Free Trade Area Agreement (ILFTA)**

The United States-Israel Free Trade Area agreement was originally enacted to provide for duty-free treatment for merchandise produced in Israel to stimulate trade between the two countries. This program was authorized by the United States in the Trade and Tariff Act of 1984, became effective September 1, 1985, and has no termination date. The Harmonized Tariff Schedule was amended to include General Note 8 implementing the U.S.-Israel Free Trade Area Implementation Act.

The ILFTA Implementation Act was amended on October 2, 1996, authorizing the president to implement certain changes affecting the duty status of goods from the West Bank, Gaza Strip, and qualifying industrial zones (QIZs). Presidential Proclamation 6955 of November 13, 1996, created General Note 3(v) to implement the new program for these goods. Pursuant to General Note 3(v), duty-free treatment is allowed for products of the West Bank, Gaza Strip, or a QIZ, imported directly from the West Bank, Gaza Strip, a QIZ or Israel, provided certain requirements are met. Presidential Proclamation 6955 also modified the eligibility requirements for duty-free treatment of articles that are the product of Israel.

General Note 3(a)(v)(G) of the Harmonized Tariff Schedule defines a QIZ as any area that:

- 1) Encompasses portions of the territory of Israel and Jordan or Israel and Egypt;
- 2) Has been designated by local authorities as an enclave where merchandise may enter without payment of duty or excise taxes; and
- 3) Has been designated as a QIZ by the United States Trade Representative in a notice published in the *Federal Register*.

**Eligible Items**

The ILFTA applies to a broad range of tariff items listed in the Harmonized Tariff Schedule and identified by “IL” in the “Special” column.

**Products Of Israel**

An article imported into the customs territory of the United States is eligible for treatment as a “product of Israel” only if:

- The merchandise has been produced in Israel. This requirement is satisfied when
  - (1) The goods are wholly the growth, product, or manufacture of Israel, or
  - (2) The goods have been substantially transformed into a new or different article of commerce in Israel;
- That article is imported directly from Israel, the West Bank, Gaza Strip, or a QIZ into the customs territory of the United States;
- The sum of:
  - (1) The cost or value of the materials produced in Israel, the West Bank, Gaza Strip, or a QIZ, plus
  - (2) The direct costs of processing operations performed in Israel, the West Bank, Gaza Strip, or a QIZ

is not less than 35 percent of the appraised value of such article at the time it is entered. If the cost or value of materials produced in the customs territory of the United States is included with respect to an eligible article, an amount not to exceed 15 percent of the appraised value of the article at the time it is entered may be applied toward determining the 35 percent.

**Products of The West Bank, Gaza Strip, or a Qualifying Industrial Zone**

An article imported into the customs territory of the United States is eligible for treatment as a product of the West Bank, Gaza Strip, or a QIZ only if:

- The article is the growth, product, or manufacture of the West Bank, Gaza Strip or a QIZ,
- The article is imported directly from the West Bank, Gaza Strip, a QIZ or Israel into the customs territory of the United States,
- The sum of:
  1. The cost or value of the materials produced in the West Bank, Gaza Strip, a QIZ or Israel, plus
  2. The direct costs of processing operations performed in the West Bank, Gaza Strip, a QIZ or Israel

is not less than 35 percent of the appraised value of such article at the time it is entered. If the cost or value of materials produced in the customs territory of the United States is included with respect to an eligible article, an amount not to exceed 15 percent of the appraised value of the



article at the time it is entered may be applied toward the 35 percent.

No article may be considered to meet these requirements by virtue of having undergone:

- Simple combining or packaging operations, or
- Mere diluting with water or another substance that does not materially alter the characteristics of the article.

The phrase “direct costs of processing operations” includes, but is not limited to:

- All actual labor costs involved in the growth, production, manufacture or assembly of the specific merchandise, including fringe benefits, on-the-job training and the costs of engineering, supervisory, quality control and similar personnel.
- Dies, molds, tooling and depreciation on machinery and equipment that are allocable to the specific merchandise.

Direct costs of processing operations do not include costs that are not directly attributable to the merchandise concerned or are not costs of manufacturing the product, such as:

1. Profit,
2. General expenses of doing business that are either not allocable to the specific merchandise or are not related to the growth, production, manufacture or assembly of the merchandise, such as administrative salaries, casualty and liability insurance, advertising and sales staff salaries, or commissions or expenses.

### **Certificate of Origin Form A**

The United Nations Conference on Trade and Development Certificate of Origin Form A is used as documentary evidence to support duty-free and reduced-rate claims for Israeli articles covered by a formal entry. It does not have to be produced at the time of entry, however, unless CBP requests it at that time.

Form A may be presented on an entry-by-entry basis or may be used as a blanket declaration for a period of 12 months. Form A can be obtained from the Israeli authorizing issuing authority or from:

United Nations Conference on Trade and Development  
Two U.N. Plaza  
Room 1120  
New York, NY 10017  
Tel. 212.963.6895

**Informal Entries**

Form A is not required for commercial or non-commercial shipments covered by an informal entry. However, the port director may require other evidence of the country of origin as deemed necessary.

In order to avoid delays to passengers, the inspecting CBP officer will extend Israeli duty-free or reduced-rate treatment to all eligible articles accompanying the traveler if the available facts satisfy the officer that the merchandise concerned is a product of Israel. In such cases, Form A is not required.

**Sources of Additional Information**

Questions about the administrative or operational aspects of the ILFTA should be addressed to:

Executive Director, Trade Compliance and Facilitation Division  
U.S. Customs and Border Protection  
Washington, DC 20229

Requests for information about ILFTA policy issues should be directed to:

Chairman, Trade Policy Staff Subcommittee  
Office of U.S. Trade Representative  
600 17th St., NW  
Washington, DC 20506.

**21. U.S.-Jordan Free Trade Area Agreement (JFTA)**

The United States-Jordan Free Trade Area agreement went into effect on December 17, 2001, and provides for the elimination of tariffs on almost all qualifying goods within 10 years.

**Eligible Items**

JFTA benefits apply to tariff items listed in the Harmonized Tariff Schedule and identified by "JO" in the Special column.

**Eligibility Requirements, General**

An article imported into the customs territory of the United States is eligible for JFTA preference if:

- It was wholly obtained or produced entirely in Jordan with no foreign inputs; or
- It is a "product of" Jordan, and the sum of (1) the cost of the materials produced in Jordan, plus (2) the direct costs of processing performed in Jordan is not less than 35 percent of the article's appraised value at the time it enters the commerce of the United States. Materials produced in the United States that do not to exceed 15

percent of the article's appraised value may be applied toward the 35 percent threshold; and

- The article is imported directly into the United States.

### **Eligibility Requirements, Textiles And Apparel**

Textile and apparel articles, with exceptions, are subject to the same "substantial transformation plus 35 percent" value-content rule as non-textiles (see General Note 18(d)).

### **Qualified Industrial Zones**

The JFTA does not affect merchandise entered from a Qualifying Industrial Zone (QIZ). Because duty reductions for some products will be staged, importers may chose to continue entering qualifying merchandise under the QIZ, rather than under the JFTA.

### **Certification**

CBP does not require presentation of a certificate of origin. By making the preference claim, the importer is deemed to certify that the goods meet the requirements of the agreement.

### **Documentation**

The importer shall be prepared to submit to CBP a declaration setting forth the pertinent information concerning the article's production or manufacture and all supporting documentation upon which the declaration is based. This information must be retained in the importer's files for five years. The importer's failure to provide the declaration and/or sufficient evidentiary documentation will result in the claim's denial.

### **Merchandise Processing Fees**

The JFTA provides no exemption from payment of the merchandise processing fee.

### **Sources Of Additional Information**

Additional information is available on CBP's Website at:

[www.cbp.gov/xp/cgov/import/international\\_agreements/free\\_trade/usjfta.xml](http://www.cbp.gov/xp/cgov/import/international_agreements/free_trade/usjfta.xml) or  
[www.cbp.gov/xp/cgov/import/textiles\\_and\\_quotas/](http://www.cbp.gov/xp/cgov/import/textiles_and_quotas/).

Information can also be found on the U.S. Trade Representative Website,  
[www.ustr.gov/Trade\\_Agreements/Bilateral/Jordan/Section\\_Index.html](http://www.ustr.gov/Trade_Agreements/Bilateral/Jordan/Section_Index.html).

### **References**

- Presidential Proclamation 7512, December 7, 2001,
- Public Law 107-43, September 28, 2001,
- Harmonized Tariff Schedule of the United States, General Note 18.

## **22. Compact of Free Association (FAS)**

FAS is a program providing for the duty-free entry of certain merchandise from

designated freely associated states. (U.S. Pub. Law 99-239, Compact of Free Assoc. Act of 1985, 48 USC 1681 note. 59 Stat. 1031 and amended Dec. 17, 2003 by House Jt. Res. 63; U.S. Pub. Law 180-188)

The Compact of Free Association between the Federated States of Micronesia and the United States was initiated by negotiators in 1980 and signed in 1982. The Compact was approved by the citizens of the FSM in a plebiscite held in 1983. Legislation on the Compact was adopted by the U.S. Congress in 1986, and signed into law on November 13, 1986.

### **Beneficiary Countries**

The following freely associated states have been designated as beneficiary countries for purposes of the FAS:

Marshall Islands  
 Federated States of Micronesia  
 Republic of Palau

### **Eligible Items**

The duty-free treatment is applied to most products from the designated beneficiaries. For commercial shipments requiring formal entry, a claim for duty-free status is made by placing the letter "Z" next to the eligible subheading. The following merchandise is excluded from the duty-free exemption:

- Textile and apparel articles that are subject to textile agreements.
- Footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel that were not eligible for GSP treatment, discussed in Chapter 17, on April 1, 1984.
- Watches, clocks, and timing apparatus of Chapter 91 of the Harmonized Tariff Schedule (except such articles incorporating an opto-electronic display and no other type of display).
- Buttons of subheading 9606.21.40 or 9606.29.20 of the Harmonized Tariff Schedule.
- Tuna and skipjack, prepared or preserved, not in oil, in airtight containers weighing with their contents not more than 7 kilograms each, "in excess" of the consumption quota quantity allowed duty-free entry.
- Any agricultural product of Chapters 2 through 52 inclusive, that is subject to a tariff-rate quota, if entered in a quantity in excess of the in-quota quantity for such products.

### **Rules Of Origin**

Merchandise will be eligible for FAS duty-free treatment only if the following conditions are met:

- The merchandise must have been produced in the freely associated state. This requirement is satisfied when (1) the goods are wholly the growth, product, or manufacture of the freely associated state, or (2) the goods have been substantially transformed into a new or different article of commerce in the freely associated state.
- The merchandise must be imported directly from the freely associated state into the customs territory of the United States.
- At least 35 percent of the appraised value of the article imported into the United States must consist of the cost or value of materials produced in the beneficiary country. In addition, the cost or value of materials produced in the customs territory of the United States may be counted toward the 35 percent value-added requirement, but only to a maximum of 15 percent of the appraised value of the imported article. The cost or value of the materials imported into the freely associated state from a non-beneficiary country may be included in calculating the 35 percent value-added requirement for an eligible article if the materials are first substantially transformed into new or different articles of commerce and are then used as constituent materials in the production of the eligible product.

#### **Sources Of Additional Information**

Address any questions you may have about the administrative or operational aspects of the FAS to the port director where the merchandise will be entered or to:

Director  
Commercial Compliance Division  
U.S. Customs and Border Protection  
Washington, DC 20229.

#### **23. AFRICAN GROWTH AND OPPORTUNITY ACT (AGOA)**

The African Growth and Opportunity Act provides duty-free treatment under the Generalized System of Preferences (GSP) for certain articles from sub-Saharan African countries that would normally be excluded from GSP provisions. Enacted May 18, 2000, as Title I of the Trade and Development Act of 2000 (P.L. 106-200, 114 Stat. 251), AGOA became effective on October 1, 2000 and was amended by the Trade Act of 2002. The expanded GSP treatment remains effective through September 30, 2008.

AGOA also provides for the duty-free, quantity-free entry of specific textile and apparel articles provided that strict conditions are met. This preferential treatment for eligible textiles and apparel is subject to certain limitations.

Non-textile, non-apparel AGOA claims are designated by inserting the symbol "D" in the "Rates of Duty 1-Special" column of the Harmonized Tariff Schedule for subheadings covering such articles. Textile and apparel claims are made by entering the appropriate Chapter 98 tariff

number, details of which may be found in subchapter XIX of Chapter 98 of the Harmonized Tariff Schedule.

### **Beneficiary Countries**

There are three types of beneficiary-country designations under AGOA:

- Beneficiary sub-Saharan African countries;
- Lesser-developed beneficiary sub-Saharan African countries; and
- Beneficiary sub-Saharan African countries eligible for textile/apparel benefits.

The president will monitor and review annually the current or potential eligibility of sub-Saharan African countries to be designated as beneficiary countries. Thus, the list of such countries may change over the life of the program. Importers should consult General Note 16 of the latest edition of the Harmonized Tariff Schedule of the United States for the current information on designated countries.

Countries designated as *beneficiary* sub-Saharan African countries for AGOA purposes are listed in General Note 16 of the Harmonized Tariff Schedule. Sub-Saharan African countries designated as *lesser-developed beneficiary* countries for AGOA purposes are listed in Chapter 98, subchapter XIX, U.S. Note 2(d), of the Harmonized Tariff Schedule. Countries that have established visa systems and can import textiles and apparel merchandise for purposes of AGOA are listed in Chapter 98, subchapter XIX, U.S. Note 1, of the Harmonized Tariff Schedule.

### **Eligible Items**

#### *Expanded GSP Treatment*

The Trade Act of 1974 authorizes the president to provide duty-free treatment under the GSP to ~~for~~ certain articles that would otherwise be excluded from such treatment. A variety of products have been designated as eligible for duty-free treatment for beneficiary sub-Saharan African countries, including:

- Some watches and clocks,
- Certain electronics,
- Certain steel and metals,
- Certain textiles and wearing apparel, and
- Certain semi-manufactured and manufactured glass products.

A complete listing of products eligible for duty-free treatment under AGOA is available on the Web at [www.agoa.gov](http://www.agoa.gov). The president may extend duty-free treatment to imports of essentially all products except textiles and apparel, as long as the products:

- Are the “growth, product or manufacture” of a beneficiary sub-Saharan African

country,

- Are imported directly from a beneficiary sub-Saharan African country into the customs territory of the U.S.,
- Meet a value-added requirement, and
- The president determines that the products are not import-sensitive in the context of imports from beneficiary sub-Saharan African countries. Sub-Saharan African beneficiary countries are also exempted from competitive-need limitations.

Sub-Saharan African beneficiary countries are also exempted from competitive-need limitations.

#### *Preferential Treatment for Certain Textile and Apparel Articles*

In order for textile or apparel articles to be eligible for preferential treatment, the beneficiary sub-Saharan African country must be designated as eligible for textile/apparel benefits. This designation requires that the United States determine whether the country has satisfied the requirements of AGOA regarding that country's procedures to protect against unlawful transshipments (including an effective visa system) and the implementation of procedures and requirements similar in all material respects to the relevant procedures and requirements under Chapter 5 of the NAFTA. The United States Trade Representative will publish a *Federal Register* notice when it designates a country as eligible for preferential treatment. This information will be available on the Web at [www.ustr.gov](http://www.ustr.gov) and at [www.agoa.gov](http://www.agoa.gov).

AGOA provides duty-free and quota-free benefits to imports of certain textile and apparel articles produced in eligible sub-Saharan African countries. In most instances, these benefits are available regardless of the total volume of apparel exported from eligible countries to the United States. The six broad categories of textile and apparel articles that may receive preferential treatment are listed in Chapter 98, subchapter XIX of the Harmonized Tariff Schedule.

#### **Additional sources of information**

The entire text of the AGOA agreement is available on the Web at [www.agoa.gov](http://www.agoa.gov).

CBP rules and regulations about AGOA are incorporated in sections 10.211-10.217 of the CBP Regulations. Additional regulations implementing the GSP provisions are incorporated in section 10.178 of the CBP Regulations. CBP regulations pertaining to AGOA are also available on the Web at [www.agoa.gov](http://www.agoa.gov).

For answers to specific questions or to request a ruling, send inquiries to:

Director  
National Commodity Specialist Division  
U.S. Customs and Border Protection  
One Penn Plaza, 11th Floor

New York, NY 10119

Further information regarding importing procedures is also available on the CBP Website, [cbp.gov/xp/cgov/import/international\\_agreements/](http://cbp.gov/xp/cgov/import/international_agreements/).

The Office of the United States Trade Representative has prepared an *African Growth and Opportunity Act Implementation Guide* available at the AGOA Website, [www.agoa.gov](http://www.agoa.gov). Questions about AGOA not covered in the guidebook may be directed to:

Office of African Affairs  
Office of the United States Trade Representative  
600 17<sup>th</sup> Street, NW  
Washington, DC 20508  
Tel. 202.395.9514  
Fax: 202.395.4505

Additional information on the GSP program is available at the United States Trade Representative Website, [www.ustr.gov](http://www.ustr.gov), and from the GSP Information Center, Office of the U.S. Trade Representative, at the above address, tel. 202.395.6971, and in Chapter 17 of this book.

Information on apparel cap, fabric and yarn not available in commercial quantities, and on hand-loomed, handmade and folklore articles is available from the Department of Commerce, Office of Textile and Apparel at [otexa.ita.doc.gov](http://otexa.ita.doc.gov).

#### **24. United States-Caribbean Basin Trade Partnership Act (CBTPA)**

The United States-Caribbean Basin Trade Partnership Act expands the trade benefits currently available to Caribbean and Central American countries under the Caribbean Basin Economic Recovery Act (CBERA; see Chapter 18.)

The CBTPA allows specific textile and apparel articles to enter the United States free of duty or restrictions on quantity, provided certain conditions are met. It also extends NAFTA standards of duty to non-textile articles that were previously excluded from duty-free treatment under the CBERA.

CBTPA's trade benefits apply during the transition period that began October 1, 2000, and ends either on September 30, 2008, or on the date on which a free-trade agreement enters into force between the United States and CBTPA beneficiary countries, whichever comes first. (See Title II of the Trade and Development Act of 2000 [P.L. 106-200, 114 Stat. 251], enacted May 18, 2000, for details.)

On August 6, 2002, the president signed into law the Trade Act of 2002, which made a number of changes to the textile and apparel provisions of paragraph (2)(A) of section 213(b) of the CBERA.



### **Beneficiary Countries**

The list of beneficiary countries may change over the life of the program. A current listing of countries eligible for designation as beneficiary countries can be found in General Note 17 of the Harmonized Tariff Schedule.

CBTPA's enhanced trade benefits are available to countries designated as CBTPA beneficiary countries. To receive these benefits, CBTPA countries must have satisfied the trade pact's requirements that the eligible country has implemented procedures and requirements that are similar in all material respects to the relevant procedures and requirements under Chapter Five of NAFTA.

### **Eligible Items**

#### *Preferential Treatment for Certain Textile and Apparel Articles*

Certain textile and apparel articles may enter the United States free of duty and restrictions on quantity. The textile and apparel articles eligible for preferential treatment are listed in Chapter 98 Sub Chapter XX of the Harmonized Tariff Schedule.

The CBP regulations that implement the CBTPA include specific documentary, procedural, and other requirements that must be met in order to obtain CBTPA benefits. The CBP regulations and General Note 17 of the HTS should be consulted *before* importing merchandise in order to ensure all requirements have been met.

### **NAFTA Parity**

Except for textile and apparel articles, the CBTPA allows NAFTA tariff treatment for goods previously excluded from the CBI program. Thus, imported footwear, canned tuna, petroleum and petroleum products, watches and watch parts, handbags, luggage, flat goods, work gloves and leather wearing apparel, *when qualifying as CBTPA originating goods*, are eligible for a reduction in duty equal to the rate given to Mexican products under the staged duty-rate reductions set forth in NAFTA.

### **Claims**

Articles that the president has designated as eligible for CBTPA treatment are those whose duty rate in the "Special" subcolumn is followed by the symbol "R" in Chapters 1 through 97 of the Harmonized Tariff Schedule. Whenever a rate of duty other than "free" appears in this subcolumn for any heading or subheading followed by the symbol "E" or "E\*," and a lower rate of duty followed by the symbol "R" also appears in the subcolumn, an eligible article will receive the lower rate of duty.

#### *Certain Beverages Made With Caribbean Rum*

The CBTPA provides duty-free treatment to certain liqueurs and spirituous beverages produced in the territory of Canada from rum that is the growth, product or manufacture of a CBTPA beneficiary country or of the U.S. Virgin Islands.

### Sources of Additional Information

CBP rules and regulations on the CBTPA are incorporated in Sections 10.221-10.228 and 10.231-10.237 of the CBP regulations. Additional information can be found on the CBP Website at [www.cbp.gov/xp/cgov/import/international\\_agreements/](http://www.cbp.gov/xp/cgov/import/international_agreements/) or at [http://www.cbp.gov/xp/cgov/import/international\\_agreements/](http://www.cbp.gov/xp/cgov/import/international_agreements/).

It is also necessary to consult General Note 17 of the Harmonized Tariff Schedule for specific requirements of CBTPA.

For answers to specific questions or to request a ruling, send inquiries to:

Director, National Commodity Specialist Division  
U.S. Customs and Border Protection  
One Penn Plaza, 10th Floor  
New York, NY 10019

Information on CBTPA may also be obtained from:

Office of the United States Trade Representative  
Office of the Western Hemisphere  
600 17th Street, NW  
Washington, DC 20508  
Tel: 202.395.5190  
Fax: 202.395.9675

Additional information on quantity limitations; fabric and yarn not available in commercial quantities; and hand-loomed, handmade, and folklore articles may be available at the Department of Commerce Office of Textile and Apparel Website at [otexa.ita.doc.gov](http://otexa.ita.doc.gov). The Department of Commerce also provides detailed information on the CBTPA at [www.mac.doc.gov/CBI/webmain/intro.htm](http://www.mac.doc.gov/CBI/webmain/intro.htm).

### 25. The U.S.-Chile Free Trade Agreement (US-CFTA)

The U.S.-Chile Free Trade Agreement (US-CFTA) took effect January 1, 2004, with the enactment of the US-CFTA Implementation Act (P. L. 108-77; 117 Stat. 909). (Presidential Proclamation 7746, the official announcement of US-CFTA, incorporates by reference Publication 3652 of the U.S. International Trade Commission. Publication 3652 amends the Harmonized Tariff Schedule by adding General Note 26, which implements the duty provisions of the US-CFTA. Title 19, Code of Federal Regulations is being amended to implement the US-CFTA.)

The US-CFTA eliminates duties on goods originating in Chile and the United States over a maximum transition period of 12 years. Under the schedule to eliminate duties, 85 percent of

Chilean goods received immediate duty-free status. Duties on the remaining goods will phase out in four-, eight-, 10- and 12-year stages, although Chile and the United States may later choose to accelerate these phase-outs.

### **Eligible Items**

According to the rules set forth in the Agreement and incorporated into our domestic legislation as General Note 26 of the Harmonized Tariff Schedule, merchandise that originates in Chile or the United States will receive a reduced or free rate of duty. Goods that originate elsewhere and are merely transhipped through Chile will not be entitled to these benefits.

*Originating* is a term used to describe goods that meet the requirements of Article 4.1 of the Agreement. Article 4.1 defines *originating* as goods that meet one of the following conditions:

- The good is wholly obtained or produced entirely in the territory of Chile or the United States,
- The good is produced in the territory of Chile or the United States and meets the rule specified in Annex 4.1, through either a tariff shift or tariff-shift-plus-regional-value content rules, or
- The good is produced entirely in the Chile or the United States exclusively from originating materials.

Originating goods that subsequently undergo any operation outside of the territories of Chile or the United States other than unloading, reloading, or other processes necessary to preserve the condition of the good, will lose their originating status. Goods that have undergone simple combining or packaging operations or mere dilution with water or other substances will not be considered originating.

### **Entry Procedures**

Importers may claim preferential duty treatment for commercial shipments requiring a formal entry by prefixing “CL” to the tariff classification number on the CF 7501 (Entry Summary).

Pursuant to Article 4.13(7) of the Agreement, the United States does not require a certificate of origin when the value of the originating goods is US \$2,500 or less.

### **Certification Of Origin**

The US-CFTA requires the importer to substantiate the validity of a claim for preferential treatment. At CBP’s request, an importer must submit a certification of origin or other supporting documentation to demonstrate that the imported goods “originate,” as defined by the Act.

A US-CFTA certification of origin is not an official form, as it is in other trade

agreements, and does not need to be in a prescribed format. The certification of origin may take many forms, such as a statement on company letterhead, a statement on a commercial invoice or supporting documentation. Whatever form or format is used, however, must contain the following data elements to demonstrate that the goods are US-CFTA originating goods:

- Name and address of the importer,
- Name and address of the exporter,
- Name and address of the producer,
- Description of good,
- Harmonized tariff classification number,
- Preference criterion,
- Commercial invoice number on single shipments,
- Identify the blanket period in “mm/dd/yyyy to mm/dd/yyyy” format (12-month maximum) for multiple shipments of identical goods,
- Authorized signature, company, title, telephone, fax, e-mail and certification date,
- Certification that the information is correct.

The certification of origin may cover a single entry or multiple entries in a period not to exceed 12 months. The importer must retain the certificate of origin and supporting documentation in the United States and must provide it to CBP upon request.

#### Sources Of Additional Information

CBP has drafted regulations that implement the provisions of the US-CFTA. These may be found in sections 10.401 through 10.490, CBP regulations. Also, information has been posted on the CBP Website at: [www.cbp.gov/xp/cgov/import/international\\_agreements/](http://www.cbp.gov/xp/cgov/import/international_agreements/)

#### 26. The U.S. – Singapore Free Trade Agreement (US-SFTA)

The provisions of the U.S.-Singapore Free Trade Agreement Implementation Act (Public Law 108-78; 117 Stat. 948; 19 USC 3805 note) took effect on January 1, 2004. Upon implementation, the Harmonized Tariff Schedule (HTS) was amended to include General Note 25, which contains specific information regarding the U.S.-Singapore Free Trade Agreement. The agreement provides for the immediate or staged elimination of duties and barriers to bilateral trade in goods and services originating in the United States and Singapore over a period of ten years. The Customs regulations are being updated to implement the provisions of this agreement.

According to Section 202 of the US-SFTA Implementation Act, in general, non-textile goods shall qualify for preferential tariff treatment as a “product of Singapore” if:

- The good is wholly obtained or produced entirely in Singapore, the U.S. or both;
- Each non-originating material used in the production of the good imported from Singapore either:
  1. Undergoes an applicable change in tariff classification (tariff shift)

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specified in General Note 25(o) of the Harmonized Tariff Schedule as a result of production occurring entirely in Singapore, the United States or both or

(2) The good otherwise satisfies the applicable regional value content or other requirements specified in General Note 25(o).

• The good, as imported, is enumerated in General Note 25(m) as imported from Singapore, a provision known as the Integrated Sourcing Initiative.

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A textile or apparel good must meet the terms of General Note 25 in order to receive the preferential tariff treatment under the US-SFTA.

### **Integrated Sourcing Initiative (ISI)**

Per Article 3.2(1) of the US-SFTA, certain information technology and medical products listed in General Note 25(m) may be considered originating goods for purposes of the Agreement when shipped between the United States and Singapore, regardless of whether they satisfy the applicable rule of origin. Singapore must be the country of export in order for ISI-eligible goods to receive benefits under the US-SFTA; however, the country of origin of the good may be any country. An ISI product does not qualify as “originating” simply by being imported into Singapore or the United States—shipment from one US-SFTA country to another is required to obtain originating status.

The ISI provision eliminates the requirement that these products must meet specific rules of origin under “tariff shift” or “regional value content” requirements. The only way an ISI material, component, or product would affect a regional-value-content calculation is if an ISI product is shipped from a non-FTA party (Malaysia, for example) to Singapore and then to the United States (and is held there without undergoing any processing) and then shipped back to Singapore where the ISI product is used as input for the manufacture of a non-ISI good.

Upon request, documents must be provided to CBP verifying that goods claiming preferential treatment under this ISI provision were exported directly from the country of Singapore. For purposes of ISI, the territory of Singapore is defined as its land territory, internal waters and territorial sea plus certain maritime zones. The goods must still be marked with the true country of origin—despite receiving originating status under US-SFTA.

### **Entry Procedures**

For commercial shipments requiring a formal entry, a claim for preferential tariff treatment may be filed at the time of entry summary by placing the symbol “SG” as a prefix to the Harmonized Tariff Schedule subheading for each good or line item for which treatment is being claimed. For non-originating apparel goods eligible for preferential treatment under a tariff-preference level (TPL), please refer to General Note 25 and Subchapter X of Chapter 99 of the Harmonized Tariff Schedule.

### **Customs Verification**

If CBP requests, the importer must submit a statement or supporting documentation containing informational data elements to demonstrate that the imported goods qualify for preferential tariff treatment. There is no official CBP form or required format for certification, and the statement may be submitted electronically.

Importers are required to maintain all records relating to the importation of US-SFTA goods for five years after the date of importation. These include, but are not limited to, records concerning the purchase of, cost of, value of and payment for the good, the purchase of, cost of, value of and payment for all materials used in the production of the good, and the production of the good in its exported form.

Further information on the U.S.-Singapore Free Trade Agreement is available at: [cbp.gov/xp/cgov/import/international\\_agreements/](http://cbp.gov/xp/cgov/import/international_agreements/).

## **27. Antidumping And Countervailing Duties**

Antidumping (AD) and countervailing (CVD) duties are additional duties that may be assessed on imported goods intended for sale in the United States at abnormally low prices. These low prices are the result of unfair foreign trade practices that give some imports an unearned advantage over competing U.S. goods.

Dumping is the practice of trying to sell products in the United States at lower prices than those same products would bring in the producer's home market. Dumping also includes trying to sell a product in the United States at a price lower than it cost to manufacture that item. Subsidizing is the practice by some governments of providing financial assistance to reduce manufacturers' costs in producing, manufacturing or exporting particular commodities. Countervailing duties may be assessed to "level the playing field" between domestic and subsidized imported goods. However, to meet the criteria for assessing antidumping or countervailing duties, the imported merchandise must, in addition to being subsidized or sold at less than fair value, also injure a U.S. industry. <sup>2</sup>

The Department of Commerce, the International Trade Commission (ITC), and U.S. Customs and Border Protection each have a role in administering and enforcing antidumping and countervailing duty laws. The Commerce Department is responsible for the general administration of these laws. Commerce determines whether the merchandise is being sold at less than fair value, whether it has been subsidized, and what percentage rate of duty will be assessed. The ITC determines whether the product poses an injury<sup>3</sup> to a particular U.S. industry.

<sup>2</sup> CVD cases apply only if the foreign country is a signatory to the World Trade Organization's Agreement on Subsidies and Countervailing Measures.

<sup>3</sup> . Section 771(7)(a) of the Tariff Act of 1930 defines material injury to a U.S. industry as "harm [that] is not inconsequential, immaterial, or unimportant."

CBP assesses the actual duties—the amount—based upon the rate set by the Commerce Department once the ITC has determined that the import injures a particular industry.

In general, the following processes must be completed before AD or CVD duties are established.

Antidumping and countervailing duty investigations are usually initiated by the Commerce Department through the petition process. A domestic industry or another interested party such as a trade union or industry association petitions the department, although occasionally the Commerce Department may also initiate an investigation. If the party seeking the investigation also wants the ITC to test for injury, that party must simultaneously—on the same day—file the petition with both the Commerce Department and with the ITC.

If the petition contains the necessary elements, the Commerce Department and the ITC will initiate separate investigations that will yield preliminary and final determinations. If appropriate, the Department of Commerce will issue either an antidumping or countervailing duty order and will assess whatever AD or CVD duties the investigation determines are appropriate.

If a test is required for injury to a domestic industry, the ITC will make the first, preliminary determination concerning the likelihood of injury. If that determination is negative, there will be no further investigation or action by the ITC. If it is affirmative, however, the Commerce Department will issue its preliminary determination regarding sales (antidumping) or subsidy (countervailing duty) issues.

After additional review by the Commerce Department and analysis of public comments received in the case, Commerce will issue its final duty determinations. If either determination (AD or CVD) is affirmative, Commerce will direct CBP to suspend liquidation of entries for the merchandise subject to the investigation and to require cash deposits or bonds equal to the amount of the estimated dumping margin (the differential between the fair market value and the U.S. price) or the net subsidy.

After this step, the ITC follows with its final injury determination. If this determination is also affirmative, Commerce will issue an antidumping or countervailing duty order. At that time, Commerce will also direct CBP to collect, with a very limited exception for new shippers, cash deposits of estimated duties.

A negative final determination either by Commerce or the ITC would terminate the investigations, and that termination would remain final for this particular inquiry. Both agencies announce their determinations, including orders and the results of the administration reviews (described below), in the Federal Register.

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Each year during the anniversary month of the AD or CVD order, interested parties may review the order with respect to the individual producers or resellers it covers. This review generally looks at the 12 months preceding the anniversary month, but the first review can also include any period for which the suspension of liquidations was directed prior to the normal 12-month period.

If no annual review is requested, Commerce will direct CBP to continue collecting deposits and assessing duties on the subject merchandise at the cash or bond rate in effect on the date of entry, and to continue requiring deposits at that rate for future entries of such merchandise. If a review is requested, Commerce will conduct a review similar to its original investigation, issue revised rates for duty assessment and deposits, and instruct CBP to collect duties and liquidate entries according to the results of its latest review.

#### **28. Drawback—Refunds Of Duties**

Drawback is a refund of monies—customs duties, certain internal revenue taxes and other fees—that were lawfully collected at the time of importation. The Continental Congress established drawback in 1789 to create jobs in the new United States and to encourage manufacturing and exporting.

For drawback to be paid, the imported merchandise must be exported or destroyed under CBP supervision after importation.

#### **Types Of Drawback**

Although Section 1313, Title 19, of the United States Code provides for several types of drawback, there are three primary types of drawback of interest to most importers:

- Manufacturing drawback,
- Unused-merchandise drawback, or
- Rejected-merchandise drawback.

*Manufacturing drawback* is a refund of duties paid on imported merchandise specifically designated for use in manufacturing articles that are subsequently exported or destroyed. For example: two-inch speakers are imported and are incorporated into a certain model clock radio. The speakers themselves are not altered, just used in the production of a new and different article.

Manufacturing operations to produce the new and different article must take place within three years receipt by the manufacturer or producer of the merchandise. The drawback product must be exported or destroyed within five years from the date of importation. Drawback can be paid on merchandise used to manufacture or produce a different article if it was not the merchandise imported but is commercially interchangeable, *i.e.*, of the same kind and quality, or if it falls under the same eight-digit Harmonized Tariff Schedule number as the merchandise to



which it is compared, and the party claiming drawback has had possession of it for three years. This is called “substitution.”

*Unused-merchandise drawback* is a refund of any duty, tax, or eligible fees paid on imported merchandise that is exported or destroyed without undergoing any manufacturing operations and that is never used in the United States. The imported merchandise must be exported within three years of the date it was imported.

*Rejected-merchandise drawback* is refund of duties on imported merchandise that is exported or destroyed because it:

- Did not conform to sample or specifications,
- Was shipped without the consignee’s consent, or
- Was defective at time of importation.

To qualify for rejected-merchandise drawback, the merchandise in question must be returned to CBP custody within three years of the date it was originally released from CBP custody.

Guidelines for completing drawback claims are provided in Title 19, Code of Federal Regulations, Part 191. Drawback claims can only be filed at one of the five CBP port offices that have drawback centers:

- Chicago, IL,
- Houston, TX,
- Los Angeles, CA,
- New York/Newark, N.J., and
- San Francisco, CA.

Rejected merchandise drawback was amended in 2004 to permit limited substitution of imported merchandise. The import merchandise on which drawback is claimed must be classified under the same 8-digit HTSUS subheading and have the same specific product indicator (such as a part number, product code or sku) as the merchandise that is exported or destroyed and must have been imported within one year of the export or destruction.

Additional questions about drawback should be addressed to:

Chief, Entry and Drawback Management  
Office of Field Operations  
U.S. Customs and Border Protection  
1300 Pennsylvania Avenue, NW  
Washington, DC 20229.

## CLASSIFICATION AND VALUE

### 29. Classification—Liquidation Classification

Classification, and, when ad valorem rates of duty are applicable, appraisement, are the two most important factors affecting dutiable status. Classification and valuation, whether or not they are pertinent because an ad valorem rate of duty applies, must be provided by commercial importers when an entry is filed. In addition, classifications under the statistical suffixes of the tariff schedules must also be furnished even though this information is not pertinent to dutiable status. Accordingly, classification is initially the responsibility of an importer, customs broker or other person preparing the entry papers. Section 637 of the Customs Modernization Act imposes the requirement that importers exercise reasonable care when classifying and appraising merchandise.

Familiarity with the organization of the Harmonized Tariff Schedule of the United States facilitates the classification process. (See Chapter 13 of this booklet relating to dutiable status.) The tariff schedule is divided into various sections and chapters dealing separately with merchandise in broad product categories. These categories cover animal products, vegetable products, products of various basic materials such as wood, textiles, plastics, rubber, and steel and other metal products in various stages of manufacture, for example. Other sections encompass chemicals, machinery and electrical equipment, and other specified or non-enumerated products. The last section, Section XXII, covers certain exceptions from duty and special statutory provisions.

In Sections I through XXI, products are classifiable (1) under items or descriptions which name them, known as an *eo nomine* provision; (2) under provisions of general description; (3) under provisions which identify them by component material; or (4) under provisions which encompass merchandise in accordance with its actual or principal use. When two or more provisions seem to cover the same merchandise, the prevailing provision is determined in accordance with the legal notes and the General Rules of Interpretation for the tariff schedule. Also applicable are tariff classification principles contained in administrative precedents or in the case law of the U.S. Court of International Trade (formerly the U.S. Customs Court) or the U.S. Court of Appeals for the Federal Circuit (formerly the U.S. Court of Customs and Patent Appeals).

### Liquidation

CBP officers at the port of entry or other officials acting on behalf of the port director review selected classifications and valuations, as well as other required import information, for correctness or as a proper basis for appraisement, as well as for agreement of the submitted data with the merchandise actually imported. The entry summary and documentation may be accepted as submitted without any changes. In this situation, the entry is liquidated as entered. Liquidation is the point at which CBP's ascertainment of the rate and amount of duty becomes final for most purposes.

Liquidation is accomplished by posting a notice on a public bulletin board at the customhouse. However, an importer may receive an advance notice on CBP Form 4333A "Courtesy Notice" stating when and in what amount duty will be liquidated. This form is not the liquidation, and protest rights do not accrue until the notice is posted. Time limits for protesting do not start until the date of posting, and a protest cannot be filed before liquidation is posted.

CBP may determine that an entry cannot be liquidated as entered for one reason or another. For example, the tariff classification may not be correct or may not be acceptable because it is not consistent with established and uniform classification practice. If the change required by this determination results in a rate of duty more favorable to an importer, the entry is liquidated accordingly and a refund is authorized for the applicable amount of the deposited estimated duties. On the other hand, a change may be necessary which imposes a higher rate of duty. For example, a claim for an exemption from duty under a free-rate provision or under a conditional exemption may be found to be insufficient for lack of the required supporting documentation. In this situation, the importer will be given an advance notice of the proposed duty rate increase and an opportunity to validate the claim for a free rate or more favorable rate of duty.

If the importer does not respond to the notice, or if the response is found to be without merit, entry is liquidated in accordance with the entry as corrected, and the importer is billed for the additional duty. The port may find that the importer's response raises issues of such complexity that resolution is warranted by a CBP Headquarters decision through the internal advice procedure. Internal advice from CBP Headquarters may be requested by local CBP officers on their own initiative or in response to a request by the importer.

### **Protests**

After liquidation, an importer may still pursue, on CBP Form 19 (19 CFR 174), any claims for an adjustment or refund, for entries filed before 12-18-06, by filing a protest within 90 days after liquidation. The protest period has been extended to 180 days for entries filed on or after 12-18-06. In order to apply for a Headquarters ruling, a request for further review must be filed with the protest. The same Form 19 can be used for this purpose. If filed separately, application for further review must still be filed within 90 days of liquidation. However, if a ruling on the question has previously been issued in response to a request for a decision on a prospective transaction or a request for internal advice, further review will ordinarily be denied. If a protest is denied, an importer has the right to litigate the matter by filing a summons with the U.S. Court of International Trade within 180 days after denial of the protest. The rules of the court and other applicable statutes and precedents determine the course of customs litigation.

While CBP's ascertainment of dutiable status is final for most purposes at the time of liquidation, a liquidation is not final until any protest which 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.

Entries must be liquidated within one year of the date of entry unless the liquidation needs to be extended for another one-year period not to exceed a total of four years from the date of entry. CBP will suspend liquidation of an entry when required by statute or court order. A suspension will remain in effect until the issue is resolved. Notifications of extensions and suspensions are given to importers, surety companies, and customs brokers who are parties to the transaction.

### **30. Conversion of Currency**

The conversion of foreign currency for customs purposes must be made in accordance with the provisions of 31 U.S.C. 5151. This section states that CBP is to use rates of exchange determined and certified by the Federal Reserve Bank of New York. These certified rates are based on the New York market buying rates for the foreign currencies involved.

In the case of widely used currencies, rates of exchange are certified each day.

The rates certified on the first business day of each calendar quarter are used throughout the quarter except on days when fluctuations of five percent or more occur, in which case the actual certified rates for those days are used. For infrequently used currencies, the Federal Reserve Bank of New York certifies rates of exchanges upon request by CBP. The rates certified are only for the currencies and dates requested.

For CBP purposes, the date of exportation of the goods is the date used to determine the applicable certified rate of exchange. This remains true even though a different rate may have been used in payment of the goods. Information as to the applicable rate of exchange in converting currency for customs purposes in the case of a given shipment may be obtained from a CBP port director.

### **31. Transaction Value**

The entry filer is responsible for using reasonable care to value imported merchandise and provide any other information necessary to enable the CBP officer to properly assess the duty and determine whether any other applicable legal requirement is met. The CBP officer is then responsible for fixing the value of the imported merchandise. The valuation provisions of the Tariff Act of 1930 are found in section 402, as amended by the Trade Agreements Act of 1979. Pertinent portions are reproduced in the appendix.

Generally, the customs value of all merchandise exported to the United States will

be the transaction value for the goods. If the transaction value cannot be used, then certain secondary bases are considered. The secondary bases of value, listed in order of precedence for use, are:

- Transaction value of identical merchandise,
- Transaction value of similar merchandise,
- Deductive value,
- Computed value.

The order of precedence of the last two values can be reversed if the importer so requests in writing at the time of filing the entry. These secondary bases are discussed in the next two chapters.

### **Transaction Value**

The transaction value of imported merchandise is the price actually paid or payable for the merchandise when sold for exportation to the United States, plus amounts for the following items if they are not included in the price:

- The packing costs incurred by the buyer,
- Any selling commission incurred by the buyer,
- The value of any assist,
- Any royalty or license fee that the buyer is required to pay as a condition of the sale,
- The proceeds, accruing to the seller, of any subsequent resale, disposal, or use of the imported merchandise.

The amounts for the above items are added only to the extent that each is not included in the price actually paid or payable and information is available to establish the accuracy of the amount. If sufficient information is not available, then the transaction value cannot be determined and the next basis of value, in order of precedence, must be considered for appraisement. A discussion of these added items follows:

Packing costs consist of the cost incurred by the buyer for all containers and coverings of whatever nature and for the labor and materials used in packing the imported merchandise so that it is ready for export.

Any selling commission incurred by the buyer with respect to the imported merchandise constitutes part of the transaction value. Buying commissions do not. A selling commission means any commission paid to the seller's agent, who is related to or controlled by, or works for or on behalf of, the manufacturer or the seller.

The apportioned value of any assist constitutes part of the transaction value of the imported merchandise. First the value of the assist is determined; then the value is prorated to the imported merchandise.

An assist is any of the items listed below that the buyer of imported merchandise provides directly or indirectly, free of charge or at a reduced cost, for use in the production or sale of merchandise for export to the United States.

- Materials, components, parts, and similar items incorporated in the imported merchandise,
- Tools, dies, molds, and similar items used in producing the imported merchandise,
- Merchandise consumed in producing the imported merchandise,
- Engineering, development, artwork, design work, and plans and sketches that are undertaken outside the United States.

“Engineering...” will not be treated as an assist if the service or work is:

- Performed by a person domiciled within the United States,
- Performed while that person is acting as an employee or agent of the buyer of the imported merchandise, and
- Incidental to other engineering, development, artwork, design work, or plans or sketches undertaken within the United States.

In determining the value of an assist, the following rules apply:

- The value is either: (a) the cost of acquiring the assist, if acquired by the importer from an unrelated seller, or (b) the cost of the assist, if produced by the importer or a person related to the importer.
- The value includes the cost of transporting the assist to the place of production.
- The value of assists used in producing the imported merchandise is adjusted to reflect use, repairs, modifications, or other factors affecting the value of the assists. Assists of this type include such items as tools, dies, and molds.

For example, if the importer previously used the assist, regardless of whether he acquired or produced it, the original cost of acquisition or of production must be decreased to reflect the use. Alternatively, repairs and modifications may result in the value of the assist having to be adjusted upward.

- In case of engineering, development, artwork, design work, and plans and sketches undertaken elsewhere than in the United States, the value is:
  1. The cost of obtaining copies of the assist, if the assist is available in the public domain,
  2. The cost of the purchase or lease, if the assist was bought or leased by the buyer from an unrelated person,
  3. The value added outside the United States, if the assist was reproduced in the United States and one or more foreign countries.

So far as possible, the buyer’s commercial record system will be used to determine the value of an assist, especially such assists as engineering, development, artwork, design work, and plans and sketches undertaken elsewhere than in the United States.

Having determined the value of an assist, the next step is to prorate that value to the imported merchandise. The apportionment is done in a reasonable manner appropriate to the circumstances and in accordance with generally accepted accounting principles. By

the latter is meant any generally recognized consensus or substantial authoritative support regarding the recording and measuring of assets and liabilities and changes, the disclosing of information, and the preparing of financial statements.

Royalty or license fees that a buyer must pay directly or indirectly as a condition of the sale of the imported merchandise for exportation to the United States will be included in the transaction value. Ultimately, whether a royalty or license fee is dutiable will depend on whether the buyer had to pay it as a condition of the sale and to whom and under what circumstances it was paid. The dutiable status will have to be decided on a case-by-case basis.

Charges for the right to reproduce the imported goods in the United States are not dutiable. This right applies only to the following types of merchandise:

- Originals or copies of artistic or scientific works,
- Originals or copies of models and industrial drawings,
- Model machines and prototypes,
- Plant and animal species.

Any proceeds resulting from the subsequent resale, disposal, or use of the imported merchandise that accrue, directly or indirectly, to the seller are dutiable. These proceeds are added to the price actually paid or payable if not otherwise included.

The price actually paid or payable for the imported merchandise is the total payment, excluding international freight, insurance, and other c.i.f. charges, that the buyer makes to the seller. This payment may be direct or indirect. Some examples of an indirect payment are when the buyer settles all or part of a debt owed by the seller, or when the seller reduces the price on a current importation to settle a debt he owes the buyer. Such indirect payments are part of the transaction value.

However, if a buyer performs an activity on his own account, other than those that may be included in the transaction value, then the activity is not considered an indirect payment to the seller and is not part of the transaction value. This applies even though the buyer's activity might be regarded as benefiting the seller; for example, advertising.

### **Exclusions**

The amounts to be excluded from transaction value are as follows:

- The cost, charges, or expenses incurred for transportation, insurance, and related services incident to the international shipment of the goods from the country of exportation to the place of importation in the United States.
- Any reasonable cost or charges incurred for:
  1. Constructing, erecting, assembling, maintaining, or providing technical



assistance with respect to the goods after importation into the United States, or

2. Transporting the goods after importation.

- The customs duties and other federal taxes, including any federal excise tax, for which sellers in the United States are ordinarily liable.

**NOTE:** Foreign inland freight and related charges in bullet 1 (see part 152, CBP Regulations), as well as bullets 2 and 3 above, must be identified separately.

### **Limitations**

The transaction value of imported merchandise is the appraised value of that merchandise, provided certain limitations do not exist. If any of these limitations are present, then transaction value cannot be used as the appraised value, and the next basis of value will be considered. The limitations can be divided into four groups:

- Restrictions on the disposition or use of the merchandise,
- Conditions for which a value cannot be determined,
- Proceeds of any subsequent resale, disposal or use of the merchandise, accruing to the seller, for which an appropriate adjustment to transaction value cannot be made,
- Related-party transactions where the transaction value is not acceptable.

The term “acceptable” means that the relationship between the buyer and seller did not influence the price actually paid or payable. Examining the circumstances of the sale will help make this determination.

Alternatively, “acceptable” can also mean that the transaction value of the imported merchandise closely approximates one of the following test values, provided these values relate to merchandise exported to the United States at or about the same time as the imported merchandise:

- The transaction value of identical merchandise or of similar merchandise in sales to unrelated buyers in the United States,
- The deductive value or computed value for identical merchandise or similar merchandise.

The test values are used for comparison only, they do not form a substitute basis of valuation. In determining whether the transaction value is close to one of the foregoing test values, an adjustment is made if the sales involved differ in:

- Commercial levels,
- Quantity levels,
- The costs, commission, values, fees, and proceeds added to the transaction

- value (price paid) if not included in the price,
- The costs incurred by the seller in sales in which he and the buyer are not related that are not incurred by the seller in sales in which he and the buyer are related.

As stated, the test values are alternatives to an examination of the circumstances of the sale. If one of the test values is met, it is not necessary to examine the circumstances of the sale to determine if the relationship influenced the price.

### **32. Transaction Value Of Identical Or Similar Merchandise**

When the transaction value cannot be determined, then an attempt will be made to appraise the imported goods under the transaction value of identical merchandise method. If merchandise identical to the imported goods cannot be found or an acceptable transaction value for such merchandise does not exist, then the next appraisement method is the transaction value of similar merchandise. In either case the value used would be a previously accepted customs value.

The identical or similar merchandise must have been exported to the United States at or about the same time that the merchandise being appraised is exported to the United States.

The transaction value of identical or similar merchandise must be based on sales of identical or similar merchandise, as applicable, at the same commercial level and in substantially the same quantity as the sale of the merchandise being appraised. If no such sale exists, then sales at either a different commercial level or in different quantities, or both, can be used but must be adjusted to take account of any such difference. Any adjustment must be based on sufficient information, that is, information establishing the reasonableness and accuracy of the adjustment.

The term “identical merchandise” means merchandise that is:

- Identical in all respects to the merchandise being appraised,
- Produced in the same country as the merchandise being appraised,
- Produced by the same person as the merchandise being appraised.

If merchandise meeting all three criteria cannot be found, then identical merchandise is merchandise satisfying the first two criteria but produced by a different person than the producer of merchandise being appraised.

**NOTE:** Merchandise can be identical to the merchandise being appraised and still show minor differences in appearance.

• *Exclusion:* Identical merchandise does not include merchandise that incorporates or reflects engineering, development, art work, design work, or plans and sketches provided free or at reduced cost by the buyer and undertaken in the United States.

The term “similar merchandise” means merchandise that is:

- Produced in the same country and by the same person as the merchandise being appraised,
- Like the merchandise being appraised in characteristics and component materials,
- Commercially interchangeable with the merchandise being appraised.

If merchandise meeting the foregoing criteria cannot be found, then similar merchandise is merchandise having the same country of production, like characteristics and component materials, and commercial interchangeability but produced by a different person.

In determining whether goods are similar, some of the factors to be considered are the quality of the goods, their reputation, and existence of a trademark.

• *Exclusion:* Similar merchandise does not include merchandise that incorporates or reflects engineering, development, art work, design work, and plans and sketches provided free or at reduced cost to the buyer and undertaken in the United States.

It is possible that two or more transaction values for identical or similar merchandise, as applicable, will be determined. In such a case the lowest value will be used as the appraised value of the imported merchandise.

### **33. Other Bases: Deductive And Computed Value Deductive Value**

If the transaction value of imported merchandise, of identical merchandise, or of similar merchandise cannot be determined, then deductive value is the next basis of appraisement. This method is used unless the importer designates computed value as the preferred appraisement method. If computed value was chosen and subsequently determined not to exist for customs valuation purposes, then the basis of appraisement reverts to deductive value.

Basically, deductive value is the resale price in the United States after importation of the goods, with deductions for certain items. In discussing deductive value, the term “merchandise concerned” is used. The term means the merchandise being appraised, identical merchandise, or similar merchandise. Generally, the deductive value is calculated by starting with a unit price and making certain additions to and deductions

from that price.

**Unit Price.** One of three prices constitutes the unit price in deductive value. The price used depends on when and in what condition the merchandise concerned is sold in the United States.

1. **Time and Condition:** The merchandise is *sold in the condition as imported at or about the date of importation of the merchandise being appraised.*

**Price:** The price used is the unit price at which the greatest aggregate quantity of the merchandise concerned is sold at or about the date of importation.

2. **Time and Condition:** The merchandise concerned is *sold in the condition as imported but not sold at or about the date of importation* of the merchandise being appraised.

**Price:** The price used is the unit price at which the greatest aggregate quantity of the merchandise concerned is sold after the date of importation of the merchandise being appraised but before the close of the 90th day after the date of importation.

3. **Time and Condition:** The merchandise concerned is *not sold in the condition as imported and not sold before the close of the 90th day* after the date of importation of the merchandise being appraised.

**Price:** The price used is the unit price at which the greatest aggregate quantity of the merchandise being appraised, after further processing, is sold before the 180th day after the date of importation.

This third price is also known as the “further processing price” or “superdeductive.”

The importer has the option to ask that deductive value be based on the further processing price.

Under the superdeductive method the merchandise concerned *is not sold in the condition as imported and not sold before the close of the 90th day* after the date of importation, but is sold before the 180th day after the date of importation.

Under this method, an amount equal to the value of the further processing must be deducted from the unit price in determining deductive value. The amount so deducted must be based on objective and quantifiable data concerning the cost of such work as well as any spoilage, waste or scrap derived from that work. Items such as accepted industry formulas, methods of construction, and industry practices could be used as a basis for

calculating the amount to be deducted.

Generally, the superdeductive method cannot be used if the further processing destroys the identity of the goods. Such situations will be decided on a case-by-case basis for the following reasons:

- Sometimes, even though the identity of the goods is lost, the value added by the processing can be determined accurately without unreasonable difficulty for importers or for CBP.
- In some cases, the imported goods still keep their identity after processing but form only a minor part of the goods sold in the United States. In such cases, using the superdeductive method to value the imported goods will not be justified.

The superdeductive method cannot be used if the merchandise concerned is sold in the condition as imported before the close of the 90th day after the date of importation of the merchandise being appraised.

**Additions.** Packing costs for the merchandise concerned are added to the price used for deductive value, provided these costs have not otherwise been included. These costs are added regardless of whether the importer or the buyer incurs the cost. "Packing costs" means the cost of:

- All containers and coverings of whatever nature, and
- Packing, whether for labor or materials, used in placing the merchandise in condition, packed ready for shipment to the United States.

**Deductions.** Certain items are not part of deductive value and must be deducted from the unit price. These items are as follows:

- Commissions or profit and general expenses. Any commission usually paid or agreed to be paid, or the addition usually made for profit and general expenses, applicable to sales in the United States of imported merchandise that is of the same class or kind as the merchandise concerned, regardless of the country of exportation.
- Transportation/insurance costs.
  - (a) The actual and associated costs of transportation and insurance incurred with respect to international shipments concerned from the country of exportation to the United States, and
  - (b) The usual and associated costs of transportation and insurance incurred with respect to shipments of such merchandise from the place of importation to the place of delivery in the United States, provided these costs are not included as a general expense under the preceding

item 1.

- Customs duties/federal taxes. The customs duties and other federal taxes payable on the merchandise concerned because of its importation plus any federal excise tax on, or measured by the value of, such merchandise for which sellers in the United States are ordinarily liable.
- Value of further processing. The value added by processing the merchandise after importation, provided that sufficient information exists concerning the cost of processing. The price determined for deductive value is reduced by the value of further processing only if the third unit price (the superdeductive) is used as deductive value.

For purposes of determining the deductive value of imported merchandise, any sale to a person who supplies any assist for use in connection with the production or sale for export of the merchandise shall be disregarded.

### **Computed Value**

The next basis of appraisement is computed value. If customs valuation cannot be based on any of the values previously discussed, then computed value is considered. This value is also the one the importer can select to precede deductive value as a basis of appraisement.

Computed value consists of the sum of the following items:

- The cost or value of the materials, fabrication, and other processing used in producing the imported merchandise,
- Profit and general expenses,
- Any assist, if not included in bullets 1 and 2,
- Packing costs.

**Materials, Fabrication, and Other Processing.** The cost or value of the materials, fabrication, and other processing of any kind used in producing the imported merchandise is based on (a) information provided by or on behalf of the producer, and (b) the commercial accounts of the producer if the accounts are consistent with generally accepted accounting principles applied in the country of production of the goods.

**NOTE:** If the country of exportation imposes an internal tax on the materials or their disposition and refunds the tax when merchandise produced from the materials is exported, then the amount of the internal tax is not included as part of the cost or value of the materials.

### **Profit and General Expenses**

- The amount is determined by information supplied by the producer and is based on his or her commercial accounts, provided such accounts are

consistent with generally accepted accounting principles in the country of production.

- The producer's profit and general expenses must be consistent with those usually reflected in sales of goods of the same class or kind as the imported merchandise that are made by producers in the country of exportation for export to the United States. If they are not consistent, then the amount for profit and general expenses is based on the usual profit and general expenses of such producers.
- The amount for profit and general expenses is taken as a whole.

Basically, a producer's profit could be low and his or her general expenses high, so that the total amount is consistent with that usually reflected in sales of goods of the same class or kind. In such a situation, a producer's actual profit figures, even if low, will be used provided he or she has valid commercial reasons to justify them and the pricing policy reflects usual pricing policies in the industry concerned.

Under computed value, "merchandise of the same class and kind" must be imported from the same country as the merchandise being appraised and must be within a group or range of goods produced by a particular industry or industry sector. Whether certain merchandise is of the same class or kind as other merchandise will be determined on a case-by-case basis.

In determining usual profit and general expenses, sales for export to the United States of the narrowest group or range of merchandise that includes the merchandise being appraised will be examined, providing the necessary information can be obtained.

If the value of an assist used in producing the merchandise is not included as part of the producer's materials, fabrication, other processing, or general expenses, then the prorated value of the assist will be included in computed value. It is important that the value of the assist not be included elsewhere because no component of computed value should be counted more than once in determining computed value.

**NOTE:** The value of any engineering, development, artwork, design work, and plans and sketches undertaken in the United States is included in computed value only to the extent that such value has been charged to the producer.

The cost of all containers and coverings of whatever nature, and of packing, whether for labor or material, used in placing merchandise in condition and packed ready for shipment to the United States is included in computed value.

#### **Value If Other Values Cannot Be Determined**

If none of the previous five values can be used to appraise the imported

merchandise, then the customs value must be based on a value derived from one of the five previous methods, reasonably adjusted as necessary. The value so determined should be based, to the greatest extent possible, on previously determined values. Some examples of how the other methods can be reasonably adjusted are:

**Identical Merchandise (or Similar Merchandise):**

1. The requirement that the identical merchandise (or similar merchandise) should be exported at or about the same time as the merchandise being appraised could be flexibly interpreted.
2. Identical imported merchandise (or similar imported merchandise) produced in a country other than the country of exportation of the merchandise being appraised could be the basis for customs valuation.
3. Customs values of identical imported merchandise (or similar imported merchandise) already determined on the basis of deductive value and computed value could be used.

**Deductive Method:** The 90-day requirement may be administered flexibly (19 CFR 152.107(c)).

**34. Rules of Origin**

The *origin* of merchandise that is imported into the customs territory of the United States can affect the rate of duty, entitlement for special programs, admissibility, quota, anti-dumping or countervailing duties, procurement by government agencies and marking requirements. In order to determine a product's country of origin, the importer should consult the applicable rules of origin.

There are two basic types of rules of origin: *non-preferential* and *preferential*. Non-preferential rules generally apply in the absence of bilateral or multilateral trade agreements. Preferential rules are applied to merchandise to determine its eligibility for special treatment under various trade agreements or special legislation such as the Generalized System of Preferences (GSP), the North American Free Trade Agreement (NAFTA), or the African Growth and Opportunity Act (AGOA). There are also rules of origin for textile and apparel articles; these are provided for by statute.

A more detailed discussion of these rules may be found in the publications *What Every Member of the Trade Community Should Know About: Rules of Origin* and *What Every Member of the Trade Community Should Know About: Textile & Apparel Rules of Origin*, which are available on the CBP Electronic Bulletin Board and the CBP Website, [www.cbp.gov](http://www.cbp.gov).



**MARKING****35. Country-Of-Origin Marking**

U.S. customs laws require that each article produced abroad and imported into the United States be marked with the English name of the country of origin to indicate to the ultimate purchaser in the United States what country the article was manufactured or produced in. These laws also require that marking be located in a conspicuous place as legibly, indelibly and permanently as the nature of the article permits. Articles that are otherwise specifically exempted from individual marking are also an exception to this rule. These exceptions are discussed below.

**Marking Required**

If the article—or its container, when the container and not the article must be marked—is not properly marked at the time of importation, a marking duty equal to 10 percent of the article's customs value will be assessed unless the article is exported, destroyed or properly marked under CBP supervision before the entry is liquidated.

Although it may not be possible to identify the ultimate purchaser in every transaction, broadly stated, the "ultimate purchaser" may be defined as the last person in the United States who will receive the article in the form in which it was imported. Generally speaking, when an article is imported into and used in the United States to manufacture another article with a different name, character or usage than the imported article, the manufacturer is the ultimate purchaser. If an article is to be sold at retail in its imported form, the retail customer is the ultimate purchaser. A person who subjects an imported article to a process that results in the article's substantial transformation is the ultimate purchaser, but if that process is only minor and leaves the identity of the imported article intact, the processor of the article will not be regarded as the ultimate purchaser.

When an article or its container is required to be marked with the country of origin, the marking is considered sufficiently permanent if it will remain on the article or container until it reaches the ultimate purchaser.

When an imported article is normally combined with another article after importation but before delivery to the ultimate purchaser, and the imported article's country of origin is located so that it is visible after combining, the marking must include, in addition to the country of origin, words or symbols clearly showing that the origin indicated is that of the imported article, and not of any other article with which it has been combined. For example, if marked bottles, drums, or other containers are imported empty to be filled in the United States, they shall be marked with such words as "Bottle (or drum or container) made in (name of country)." Labels and similar articles marked so that the name of the article's country of origin is visible after it is affixed to another article in this country shall be marked with additional descriptive words such as "label made (or printed) in (name of country)" or words of equivalent meaning.

In cases where the words “United States” or “American” or the letters “U.S.A.” or any variation of such words or letters, or the name of any city or locality in the United States, or the name of any foreign country or locality in which the article was not manufactured or produced, appear on an imported article or container, and those words, letters, or names may mislead or deceive the ultimate purchaser about the article’s actual country of the origin, there shall also appear, legibly, permanently and in close proximity to such words, letters or name, the name of the country of origin preceded by “made in,” “product of,” or other words of similar meaning.

If marked articles are to be repacked in the United States after release from CBP custody, importers must certify on entry that they will not obscure the marking on properly marked articles if the article is repacked, or that they will mark the repacked container. If an importer does not repack, but resells to a repacker, the importer must notify the repacker about marking requirements. Failure to comply with these certification requirements may subject importers to penalties and/or additional duties.

#### **Marking Not Required**

The following articles and classes or kinds of articles are not required to be marked to indicate country of origin, i.e., the country in which they were grown, manufactured, or produced. However, the outermost containers in which these articles ordinarily reach the ultimate purchaser in the United States must be marked to indicate the English name of the country of origin of the articles.

Art, works of,  
 Articles classified subheads 9810.00.15, 9810.00.25, 9810.00.40, and 9810.00.45, HTSUS,  
 Articles entered in good faith as antiques and rejected as unauthentic,  
 Bagging, waste,  
 Bags, jute,  
 Bands, steel,  
 Beads, unstrung,  
 Bearings, ball, 5/8-inch or less in diameter,  
 Blanks, metal, to be plated,  
 Bodies, harvest hat,  
 Bolts, nuts, and washers,  
 Briarwood, in blocks,  
 Briquettes, coal or coke,  
 Buckles, one inch or less in greatest dimension,  
 Burlap,  
 Buttons,  
 Cards, playing,  
 Cellophane and celluloid in sheets, bands, or strips,  
 Chemicals, drugs, medicinals, and similar substances, when imported in capsules, pills,

tablets, lozenges, or troches,  
Cigars and cigarettes,  
Covers, straw bottle,  
Dies, diamond wire, unmounted,  
Dowels, wooden,  
Effects, theatrical,  
Eggs,  
Feathers,  
Firewood,  
Flooring, not further manufactured than planed, tongued and grooved,  
Flowers, artificial, except bunches,  
Flowers, cut,  
Glass, cut to shape and size for use in clocks, hand, pocket, and purse mirrors, and other glass of similar shapes and size, not including lenses or watch crystals,  
Glides, furniture, except glides with prongs,  
Hairnets,  
Hides, raw,  
Hooks, fish (except snelled fish hooks),  
Hoops (wood), barrel,  
Laths,  
Livestock,  
Lumber, except finished,  
Lumber, sawed,  
Metal bars except concrete reinforcement bars, billets, blocks, blooms, ingots, pigs, plates, sheets, except galvanized sheets, shafting, slabs, and metal in similar forms,  
Mica not further manufactured than cut or stamped to dimension, shape, or form,  
Monuments,  
Nails, spikes, and staples,  
Natural products, such as vegetables, fruit, nuts, berries, and live or dead animals, fish and birds; all the foregoing which are in their natural state or not advanced in any manner further than is necessary for their safe transportation,  
Nets, bottle wire,  
Paper, newsprint,  
Paper, stencil,  
Paper, stock,  
Parchment and vellum,  
Parts, for machines imported from same country as parts,  
Pickets (wood),  
Pins, tuning,  
Plants, shrubs, and other nursery stock,  
Plugs, tie,  
Poles, bamboo,  
Posts (wood), fence,

Pulpwood,  
 Rags (including wiping rags),  
 Rails, joint bars, and tie plates of steel,  
 Ribbon,  
 Rivets,  
 Rope, including wire rope, cordage, cords, twines, threads, and yarns,  
 Scrap and waste,  
 Screws,  
 Shims, track,  
 Shingles (wood), bundles of, except bundles of red-cedar shingles,  
 Skins, fur, dressed or dyed,  
 Skins, raw fur,  
 Sponges,  
 Springs, watch,  
 Stamps, postage and revenue, and government-stamped envelopes and postal cards  
 bearing no printing other than the official imprint,  
 Staves (wood), barrel,  
 Steel, hoop,  
 Sugar, maple,  
 Ties (wood), railroad,  
 Tiles, not over one inch in greatest dimension,  
 Timbers, sawed,  
 Tips, penholder,  
 Trees, Christmas,  
 Weights, analytical and precision, in sets,  
 Wicking, candle,  
 Wire, except barbed.

Unless an article being shipped to the United States is specifically named in the foregoing list, it would be advisable for an exporter to obtain advice from CBP before concluding that it is exempted from marking. If articles on the foregoing list are repacked in the United States, the new packages must be labeled to indicate the country of origin of the articles they contain. Importers must certify on entry that if they repackage, they will properly mark the repackaged containers. If they do not package, but resell to repackagers, they must notify repackagers about these marking requirements. Failure to comply with these certification requirements may subject importers to penalties and marking duties.

#### **Other Exceptions**

The following classes of articles are also exempt from country-of-origin marking. (The usual container in which one of these articles is imported will also be exempt from marking.)

- An article imported for use by the importer and not intended for sale in its

imported or any other form.

- An article to be processed in the United States by the importer or for his account other than for the purpose of concealing the origin of the article and in such manner that any mark of origin would necessarily be obliterated, destroyed, or permanently concealed.
- An article that the ultimate purchaser in the United States, by reason of the article's character or the circumstances of its importation, must necessarily know the country of origin even though the article is not marked to indicate it. The clearest application of this exemption is when the contract between the ultimate purchaser in the United States and the supplier abroad insures that the order will be filled only with articles grown, manufactured, or produced in a named country.

The following classes of articles are also exempt from marking to indicate country of origin:

- Articles incapable of being marked,
- Articles that cannot be marked prior to shipment to the United States without injury,
- Articles that cannot be marked prior to shipment to the United States except at a cost economically prohibitive of their importation,
- Articles for which marking of the containers will reasonably indicate their country of origin,
- Crude substances,
- Articles produced more than 20 years prior to their importation into the United States,
- Articles entered or withdrawn from warehouse for immediate exportation or for transportation and exportation.

Although the articles themselves are exempted from marking to indicate country of origin, the outermost containers in which they ordinarily reach the ultimate purchaser in the United States must be marked to show the articles' country of origin.

When marking an article's container will reasonably indicate its country of origin, the article itself may be exempt from such marking. This exemption applies only when the article reaches the ultimate purchaser in an unopened container. For example, articles that reach the retail purchaser in sealed containers marked clearly to indicate the country of origin fall within this exception. Materials to be used in building or manufacture by the builder or manufacturer who will receive the materials in unopened cases also fall within the exemption. The following articles, as well as their containers, are exempt from country-of-origin marking:

- Products of American fisheries that are free of duty,

- Products of United States possessions,
- Products of the United States that are exported and returned,
- Articles valued at not more than \$200 (or \$100 for bona fide gifts) that are passed without entry.

**Goods processed in NAFTA countries are subject to special country-of-origin marking rules that can be found in 19 CFR 102 at [www.gpoaccess.gov/cfr/index.html](http://www.gpoaccess.gov/cfr/index.html). An overview of these rules can be found in *NAFTA: A Guide to Customs Procedures* available at <http://www.cbp.gov/nafta/docs/us/guidproc.html>**

### **36. Special Marking Requirements**

The country-of-origin marking requirements are separate and apart from any special marking or labeling required on specific products by other agencies. It is recommended that the specific agency be contacted for any special marking or labeling requirements.

Certain articles are subject to special country of origin marking requirements: Iron and steel pipe and pipe fittings; manhole rings, frames, or covers; and compressed gas cylinders must generally be marked by one of four methods: die-stamped, cast-in-mold lettering, etching (acid or electrolytic) or engraving. In addition, none of the exceptions from marking discussed above are applicable to iron and steel pipe and pipe fittings.

The following articles and parts thereof shall be marked legibly and conspicuously to indicate their origin by die-stamping, cast-in-the-mold lettering, etching (acid or electrolytic), engraving, or by means of metal plates that bear the prescribed marking and that are securely attached to the article in a conspicuous place by welding, screws, or rivets:

Knives, clippers, shears, safety razors, surgical instruments, scientific and laboratory instruments, pliers, pincers, and vacuum containers.

Watch movements are required to be marked on one or more of the bridges or top plates to show:

1. The name of the country of manufacture,
2. The name of the manufacturer or purchaser, and
3. In words, the number of jewels, if any, serving a mechanical purpose as frictional bearings.

Clock movements shall be marked on the most visible part of the front or back plate to show:

1. The name of the country of manufacture,

2. The name of the manufacturer or purchaser, and
3. The number of jewels, if any.

Watch cases shall be marked on the inside or outside of the back cover to show (1) the name of the country of manufacture, and (2) the name of the manufacturer or purchaser.

Clock cases and other cases provided for in Chapter 91, HTSUS, are required to be marked on the most visible part of the outside of the back to show the name of the country of manufacture.

The terms “watch movement” and “clock movement” refer to devices regulated by a balance wheel and hairspring, quartz crystal, or any other system capable of determining intervals of time, with a display or system to which a mechanical display can be incorporated. “Watch movements” include devices that do not exceed 12 mm in thickness and 50 mm in width, length, or diameter; “clock movements” include devices that do not meet the watch movement dimensional specifications. The term “cases” includes inner and outer cases, containers, and housings for movements, together with parts or pieces, such as, but not limited to, rings, feet, posts, bases, and outer frames, and any auxiliary or incidental features, which (with appropriate movements) serve to complete the watches, clocks, time switches, and other apparatus provided for in Chapter 91, HTSUS.

Articles required to be marked in accordance with the special marking requirements in Chapter 91 must be conspicuously and indelibly marked by cutting, die-sinking, engraving, stamping, or mold marking. Articles required to be so marked shall be denied entry unless marked in exact conformity with these requirements.

Movements with opto-electronic display only and cases designed for use therewith, whether entered as separate articles or as components of assembled watches or clocks, are not subject to the special marking requirements. These items need only be marked with the marking requirements of 19 U.S.C. 1304.

Parts of any of the foregoing not including those above mentioned.

In addition to the special marking requirements set forth above, all watches of foreign origin must comply with the usual country of origin marking requirements. CBP considers the country of origin of watches to be the country of manufacture of the watch movement. The name of this country should appear either on the outside back cover or on the face of the dial.

Title IV of the Tariff Suspension and Trade Act of 2000 (P.L. 106-476), also known as the Imported Cigarette Compliance Act of 2000, imposes special requirements

on the importation of cigarettes and other tobacco products. Importers of cigarettes or other tobacco products are urged to contact the United States port of entry at which their merchandise will arrive for information about the new requirements.

### **37. Marking—False Impression**

Section 42 of the Trademark Act of 1946 (15 U.S.C. 1124) provides, among other things, that no imported article of foreign origin which bears a name or mark calculated to induce the public to believe that it was manufactured in the United States, or in any foreign country or locality other than the country or locality in which it was actually manufactured, shall be admitted to entry at any customhouse in the United States.

In many cases, the words “United States,” the letters “U.S.A.,” or the name of any city or locality in the United States appearing on an imported article of foreign origin, or on the containers thereof, are considered to be calculated to induce the public to believe that the article was manufactured in the United States unless the name of the country of origin appears in close proximity to the name which indicates a domestic origin.

Merchandise discovered after conditional release to have been missing a required country of origin marking may be ordered redelivered to CBP custody. If such delivery is not promptly made, liquidated damages may be assessed against the CBP bond. (See 19 CFR 141.113[a]; cf., 19 CFR Part 172 and CBP Form 4647.)

An imported article bearing a name or mark prohibited by Section 42 of the Trademark Act is subject to seizure and forfeiture. However, upon the filing of a petition by the importer prior to final disposition of the article, the CBP port director may release it upon the condition that the prohibited marking be removed or obliterated or that the article and containers be properly marked; or the port director may permit the article to be exported or destroyed under CBP supervision and without expense to the government.

Section 43 of the Trademark Act of 1946 (15 U.S.C. 1125) prohibits the entry of goods marked or labeled with a false designation of origin or with any false description or representation, including words or other symbols tending to falsely describe or represent the same. Deliberate removal, obliteration, covering, or altering of required country-of-origin markings after release from CBP custody is also a crime punishable by fines and imprisonment (19 U.S.C. 1304[1]).

### **38. User Fees**

CBP user fees were established by the Consolidated Omnibus Budget Reconciliation Act of 1985. This legislation was expanded in 1986 to include a merchandise processing fee. Also in 1986, Congress enacted the Water Resources Development Act, which authorized the CBP Service to collect a harbor maintenance fee for the Army Corps of Engineers. Further legislation has extended the User Fee Program



until 2003.

The merchandise processing fee (MPF) is 0.21 percent ad valorem on formally-entered imported merchandise (generally entries valued over \$2,000), subject to a minimum fee of \$25 per entry and a maximum fee of \$485 per entry. On informal entries (those valued at less than \$2,000), the MPFs are: \$2 for automated entries, \$6 for manual entries not prepared by CBP, and \$9 for manual entries that are prepared by CBP.

Effective January 1, 1994, goods imported directly from Canada that qualify under NAFTA to be marked as goods originating in Canada are exempt from the MPF. This applies to all MPF fees: formal, informal, manually prepared, or automated. Goods that do not qualify under NAFTA are subject to all applicable MPFs.”

Similarly, effective June 30, 1999, goods imported directly from Mexico are exempt from the MPF if the goods qualify under the NAFTA to be marked as goods originating in Mexico.

The harbor maintenance fee is an ad valorem fee assessed on port use associated with imports, admissions into foreign trades zones, domestic shipments, and passenger transportations. The fee is assessed only at ports that benefit from the expenditure of funds by the Army Corps of Engineers for maintaining and improving the port trade zones. The fee is 0.125 percent of the value of the cargo and is paid quarterly, except for imports, which are paid at the time of entry. CBP deposits the harbor maintenance fee collections into the Harbor Maintenance Trust Fund. The funds are made available, subject to appropriation, to the Army Corps of Engineers for the improvement and maintenance of United States ports and harbors.

## SPECIAL REQUIREMENTS

### 39. Prohibitions, Restrictions, Other Agency Requirements

The importation of certain classes of merchandise may be prohibited or restricted to protect the economy and security of the United States, to safeguard consumer health and well-being, and to preserve domestic plant and animal life. Some commodities are also subject to an import quota or a restraint under bilateral trade agreements and arrangements.

In addition to CBP requirements, many of these prohibitions and restrictions on importations are subject to the laws and regulations administered by other United States government agencies with which CBP cooperates in enforcement. These laws and regulations may, for example, prohibit entry; limit entry to certain ports; restrict routing, storage, or use; or require treatment, labeling, or processing as a condition of release. CBP clearance is given only if these various additional requirements are met. This applies to all types of importations, including those made by mail and those placed in foreign trade zones.

The foreign exporter should make certain that the United States importer has been provided with proper information so the importer can:

- Submit the necessary information concerning packing, labeling, etc., and
- Make necessary arrangements for entry of the merchandise into the United States.

It is impractical to list each specific article; however, various classes of articles are discussed in this chapter. Foreign exporters and U.S. importers should consult the agency mentioned for detailed information and guidance, as well as for any changes to the laws and regulations under which the commodities are controlled. Addresses, phone numbers, and Websites for these agencies are listed in the appendix.

### Agricultural Commodities

**1. Cheese, Milk, and Dairy Products.** Cheese and cheese products are subject to requirements of the Food and Drug Administration and the Department of Agriculture (USDA). Most importations of cheese require an import license and are subject to quotas administered by the Department of Agriculture, Foreign Agricultural Service, Washington, DC 20250 (see Chapter 40).

The importation of milk and cream is subject to requirements of the Food, Drug and Cosmetic Act and the Import Milk Act. These products may be imported only by holders of permits from:

Department of Health and Human Services

Food and Drug Administration  
 Center for Food Safety and Applied Nutrition  
 Office of Food Labeling (HFS-156)  
 200 "C" Street, NW  
 Washington, DC 20204

and the Department of Agriculture.

**2. Fruits, Vegetables, and Nuts.** Certain agricultural commodities, including:

Fresh tomatoes	Cucumbers
Avocados	Eggplants
Mangoes	Dry onions
Limes	Processed dates
Oranges	Prunes
Grapefruit	Walnuts and filberts
Green peppers	Raisins, and
Irish potatoes	Olives in tins

must meet United States import requirements relating to grade, size, quality, and maturity (7 U.S.C. 608[e]). These commodities are inspected; an inspection certificate must be issued by USDA's Food Safety and Inspection Service to indicate import compliance. Inquiries on general requirements should be made to USDA's Agricultural Marketing Service, Washington, DC 20250. Additional restrictions may be imposed by the USDA's Animal and Plant Health Inspection Service, Washington, DC 20782, under the Plant Quarantine Act, and by the Food and Drug Administration, Division of Import Operations and Policy (HFC-170), 5600 Fishers Lane, Rockville, MD 20857, under the Federal Food, Drug and Cosmetic Act.

**3. Insects.** Insects in a live state that are injurious to cultivated crops (including vegetables, field crops, bush fruit, and orchard, forest, or shade trees) and the eggs, pupae, or larvae of such insects are prohibited from importation, except for scientific purposes, under regulations prescribed by the Secretary of Agriculture.

All packages containing live insects or their eggs, pupae, or larvae that are not injurious to crops or trees are permitted entry into the United States only if:

- They have a permit issued by the Animal and Plant Health Inspection Service of the Department of Agriculture, and
- They are not prohibited by the U.S. Fish and Wildlife Service.

**4. Livestock and Animals.** Inspection and quarantine requirements of the Animal and Plant Health Inspection Service (APHIS) must be met for the importation of:

- All cloven-hoofed animals (ruminants), such as cattle, sheep, deer, antelope, camels, giraffes;
- Swine including the various varieties of wild hogs and the meat from such animals;
- Horses, asses, mules, and zebras;
- All avian species including poultry and pet birds;
- Animal by-products, such as untanned hides, wool, hair, bones, bone meal, blood meal, animal casings, glands, organs, extracts, or secretions of ruminants and swine (if animal by-products for food, drugs, or cosmetics, they are also regulated by the Food and Drug Administration);
- Animal germ-plasm, including embryos and semen; and
- Hay and straw.

A permit for importation must be obtained from APHIS before shipping from the country of origin.

In addition, a veterinary health certificate must accompany all animal imports. Entry procedures for livestock and animals from Mexico and Canada (except for birds from Mexico) are not as rigorous as those for animals from other countries. Entry of animals is restricted to specific ports that have been designated as quarantine stations. All nondomesticated animals must meet the requirements of the Fish and Wildlife Service.

##### 5. Meat, Poultry and Egg Products.

**NOTE:** *The U.S. Department of Agriculture maintains a trade prohibition on the importation of poultry and unprocessed poultry products from countries where the H5N1 High Pathogen Avian Influenza strain has been detected. This list can be found on the Centers for Disease Control Website at <http://www.cdc.gov/flu/avian/outbreaks/embargo.htm>.*

*All imported live birds must be quarantined for 30 days at a USDA quarantine facility and tested for the avian influenza virus before entering the country. This requirement also applies to returning U.S.-origin pet birds from H5N1 HPAI affected countries.*

*Processed goods from H5N1 affected countries may enter the U.S. however; entry requires an Animal and Plant Health Inspection Service's (APHIS) Veterinary Services permit and certification that specified risk mitigation measures to eliminate the disease have been performed.*

All commercial shipments of meat and meat food products (derived from cattle, sheep, swine, goats, and horses) offered for entry into the United States are subject to USDA regulations and must be inspected by the Food Safety and Inspection Service (FSIS) of that department and by CBP's Agriculture Program and Liaison Office.

Meat products from other sources (including, but not limited to wild game) are subject to APHIS regulations; to the provisions of the Federal Food, Drug, and Cosmetic Act, which is enforced by the Food and Drug Administration; and the U.S. Fish and Wildlife Service. Poultry, live, dressed, or canned; eggs, including eggs for hatching; and egg products are subject to the requirements and regulations of the Animal and Plant Health Inspection Service and the Food Safety and Inspection Service of the Department of Agriculture. (See NOTE on page 106)

The term “poultry” is defined as any live or slaughtered domesticated bird, for example:

- Chickens
- Doves
- Ducks
- Ducks, non-migratory
- Geese
- Guinea fowl
- Partridges
- Pea fowl
- Pigeons
- Swans
- Turkeys

Other birds, for example:

- Commercial, domestic, or pen-raised grouse
- Pheasants
- Quail
- Migratory birds, and
- Certain egg products

are also subject to USDA’s trade prohibitions. When those prohibitions are lifted, the above birds are subject to APHIS regulations and to the provisions of the Federal Food, Drug, and Cosmetic Act, which is enforced by the Food and Drug Administration. Inquiry should also be made to the Fish and Wildlife Service, Washington, DC 20240, about their requirements, restrictions, and prohibitions.

Inspection certificates from the country of origin must accompany all imported meat, poultry, and egg products. These certificates must indicate the:

- Product name,
- Establishment number,
- Country of origin,
- Name and address of the manufacturer or distributor,
- Quantity and weight of contents,
- List of ingredients,

- Species of animals from which the product was derived,
- Identification marks.

The certificate must also bear the official seal of the government agency responsible for the inspection and the signature of an agency official. This certificate must be in both English and the language of the originating country.

An FSIS inspector will reinspect all meat and poultry upon arrival at a U.S. port of entry. Shipments that pass reinspection are then allowed to enter U.S. commerce and are treated as domestic product. Shipments from all countries except Canada are stamped with the official USDA mark of inspection. Canadian shipments carry the Canadian mark of inspection and an export stamp. Meat and poultry shipments remain under bond and subject to recall by CBP until the completion of a reinspection

6. **Plants and Plant Products.** The importation of plants and plant products is subject to regulations of the Department of Agriculture and may be restricted or prohibited. Plants and plant products include:

- Fruits,
- Vegetables,
- Plants,
- Nursery stock,
- Bulbs,
- Roots,
- Seeds,
- Certain fibers including cotton and broomcorn,
- Cut flowers,
- Sugarcane,
- Certain cereals,
- Elm logs, and
- Elm lumber with bark attached.

Import permits are required. Further information should be obtained from APHIS. Also, certain endangered species of plants may be prohibited or require permits or certificates. The Food and Drug Administration also regulates plant and plant products, particularly fruits and vegetables.

7. **Seeds.** The provisions of the Federal Seed Act of 1939 and regulations of the Agricultural Marketing Service, Department of Agriculture, govern the importation into the United States of agricultural and vegetable seeds and screenings. Shipments are detained pending the drawing and testing of samples.

**8. Wood Packing Materials.** On September 16, 2005, CBP began enforcing the U.S. Department of Agriculture's and Animal and Plant Health Inspection Service's import regulation for wood packaging material. The rule requires wood packing material such as:

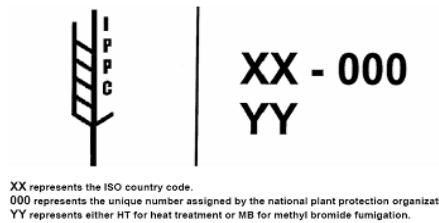
- Pallets,
- Crates,
- Boxes, and
- Dunnage used to support or brace cargo

to be treated and marked. In cases of noncompliance, the wood packing materials will be subject to immediate export along with the accompanying cargo.

The approved treatments for wood packaging material are:

- Heat treatment to a minimum wood core temperature of 56°C for a minimum of 30 minutes, or
- Fumigation with methyl bromide.

To certify treatment, the wood packing materials must be marked with the following International Plant Protection Convention (IPPC) logo. Paper certificates of treatment will not be accepted.



For further information, please see the APHIS Website at [www.aphis.usda.gov](http://www.aphis.usda.gov).

9. **Tobacco-Related Products.** Importers of commercial quantities of tobacco products must obtain an import permit from the Alcohol and Tobacco Tax and Trade Bureau (TTB) of the Department of the Treasury. Chapter 52 of the Internal Revenue Code of 1986 (26 U.S.C.) defines tobacco products as:

- Cigars,
- Cigarettes,
- Smokeless tobacco (snuff and chewing tobacco),
- Pipe tobacco,
- Roll-your-own tobacco.

Tobacco products and cigarette papers and tubes imported into the United States are subject to the payment of federal excise taxes under the Internal Revenue Code unless they qualify for an exemption under the Harmonized Tariff Schedule. For example, tobacco products and cigarette papers and tubes are exempt from tax when brought in by returning residents within the quantity limitations set by the Harmonized Tariff Schedule. Under Section 5704 of the Internal Revenue Code, imported tobacco products and cigarette papers and tubes may be transferred in-bond to the bonded premises of a manufacturer of tobacco products or to an export warehouse proprietor.

TTB regulations (27 CFR Part 41) require that tobacco products for sale or delivery to the consumer be put in packages that securely hold the product and that bear certain product description notices. These packages may also have to bear health-related notices required by laws administered by the Federal Trade Commission, Washington, DC 20580.

Tobacco products manufactured in the U.S. and only labeled for export may only be imported into the U.S. in accord with 26 U.S.C. § 5754 and 26 U.S.C. § 5704.

Information regarding importation of tobacco products and cigarette papers and tubes is available on the TTB Website, [www.ttb.gov](http://www.ttb.gov), or by telephone at 1.877.882.3277.

#### **Arms, Ammunition, And Radioactive Materials**

10. **Arms, Ammunition, Explosives, and Implements of War.** These items are prohibited importations except when a license is issued by the Bureau of Alcohol, Tobacco, Firearms and Explosives of the Department of Justice, Washington, DC 20226, Tel. 202.927.8320, or the importation is in compliance with the regulations of that department.

Imported firearms and ammunition are subject to the payment of an excise tax imposed under Chapter 32 of the Internal Revenue Code of 1986 (26 U.S.C. 4181). The Alcohol and Tobacco Tax and Trade Bureau of the Department of the Treasury administers this excise tax. Information regarding the tax is available on the TTB Website, [www.ttb.gov](http://www.ttb.gov), or by telephone at 1.877.882.3277.

The temporary importation, in-transit movement, and exportation of arms and ammunition listed on the U.S. Munitions List in 22 CFR part 121, is prohibited unless the Directorate of Defense Trade Controls, Department of State, Washington, DC 20520, issues a license, or unless a license exemption is available as set forth in 22 CFR 123.4 and other sections of 22 CFR. Questions about exporting shotguns should be referred to:



U.S. Department of Commerce  
Exporter Assistance Staff  
Washington, DC 20230.

**11. Radioactive Materials and Nuclear Reactors.** Many radioisotopes, all forms of uranium, thorium, and plutonium, and all nuclear reactors imported into the United States are subject to the regulations of the Nuclear Regulatory Commission in addition to import regulations imposed by any other agency of the United States government. Authority to import these commodities or articles containing these commodities requires a license from the Nuclear Regulatory Commission, Washington, DC 20555. (Refer to 10 CFR Part 110.)

Radioisotopes and radioactive sources intended for medical use are subject to the import restrictions set forth in 19 U.S.C. §1618a and the provisions of the Federal Food, Drug, and Cosmetic Act, enforced by the Food and Drug Administration.

In order to comply with the Nuclear Regulatory Commission requirements, the importer must be aware of the identity and amount of any NRC-controlled radioisotopes, or uranium, thorium and plutonium, and of any nuclear reactor being imported into the United States. The importer must demonstrate to CBP which Nuclear Regulatory Commission authority the controlled commodity is being imported under. The authority cited may be the number of a specific or general license, or the specific section of the Nuclear Regulatory Commission regulations that establishes a general license or grants an exemption to the regulations. The foreign exporter may save time for the prospective importer by furnishing the importer with complete information concerning the presence of NRC-controlled commodities in U.S. importations.

#### **Consumer Products—Energy Conservation**

**12. Household appliances.** The Energy Policy and Conservation Act, as amended, calls for energy standards for certain major household appliances, and for these appliances to be labeled to indicate expected energy consumption or efficiency. The Department of Energy, Office of Codes and Standards, Washington, DC 20585, is responsible for test procedures and energy performance standards. The Federal Trade Commission, Division of Enforcement, Washington, DC 20580, regulates the labeling of these appliances.

The Act covers the following household appliances:

- Refrigerators, refrigerator-freezers and freezers;
- Room air-conditioners;
- Central air-conditioners and central air-conditioning heat pumps;
- Water heaters;
- Furnaces;

- Dishwashers;
- Clothes washers;
- Clothes dryers;
- Direct heating equipment;
- Kitchen ranges and ovens;
- Pool heaters; and
- Fluorescent lamp ballasts.

**13. Commercial and industrial equipment.** The Energy Policy Act of 1992 (EPACT) calls for energy performance standards for certain commercial and industrial equipment. The Department of Energy, Office of Codes and Standards, Washington, DC 20585, is responsible for test procedures and energy performance standards. The EPACT covers the following equipment:

- Small and large commercial-package air-conditioning and heating equipment;
- Packaged terminal air-conditioners and heat pumps;
- Warm-air furnaces;
- Packaged boilers;
- Storage water heaters;
- Instantaneous water heaters;
- Unfired hot-water storage tanks;
- Large electric motors (one to 200 horsepower) whether shipped separately or as a part of a larger assembly;
- Four-foot medium bi-pin, two-foot U-shaped, eight-foot slimline, and eight-foot high-output fluorescent lamps; and
- Incandescent reflector lamps.

EPACT also calls for water conservation standards for the following plumbing products:

- Lavatory faucets,
- Lavatory replacement aerators,
- Kitchen faucets,
- Kitchen replacement faucets,
- Metering faucets,
- Gravity tank-type toilets,
- Flushometer tank toilets,
- Electromechanical hydraulic toilets,
- Blowout toilets, and
- Urinals.

Importation of these products must comply with the applicable Department of Energy and Federal Trade Commission requirements. Importers should contact these agencies for requirements in effect at the time of anticipated shipment. Be aware that not all appliances are covered by requirements of both agencies.

#### **Consumer Products—Safety**

*Any consumer product offered for importation will be refused admission and/or seized if the product fails to comply with an applicable product safety standard or regulation, a specified labeling or certification requirement, or if it is determined to present a substantial product hazard. The U.S. Consumer Product Safety Commission (CPSC), Washington, DC 20207, administers these requirements.*

**14. Toys and Children’s Articles.** Toys and other children’s articles cannot be imported into the United States unless they comply with applicable regulations issued under the Federal Hazardous Substances Act. CPSC’s regulations also contain tests used to define hazardous sharp edges and points on toys and other children’s articles.

Toys or other articles intended for children under the age of three cannot have small parts that present choking hazards. The Child Safety Protection Act (an amendment to the Federal Hazardous Substances Act) and its implementing regulations require warning labeling on toys and games designed for children between the ages of three and six, when these toys or games contain small parts that could present choking hazards. Similar regulations exist for balloons, small balls (small balls for children under age three are banned) and marbles. Electric toys, rattles, pacifiers, and cribs are subject to specific safety regulations. Lawn darts are banned.

**15. Lead In Paint.** Paint and other similar surface coating materials intended for consumer use are banned if they contain more than 0.06 percent lead by weight of the dried paint film. This ban also applies to furniture with paint that exceeds 0.06 percent lead and to toys or other articles intended for children if these toys/articles contain paint that exceeds 0.06 percent lead.

Such products cannot be admitted into the United States. Although this ban applies to “surface coatings,” CPSC can take action, under the Federal Hazardous Substances Act, against other lead-containing products if the lead content results in a substantial risk of injury or illness.

**16. Bicycles and Bicycle Helmets.** Bicycles cannot be admitted unless they meet regulations issued under the Federal Hazardous Substances Act. The CPSC also has mandatory safety standards for bicycle helmets; such helmets will not be admitted unless they meet CPSC’s Safety Standard for Bicycle Helmets and are accompanied by a Certificate of Compliance.

**17. Fireworks.** The fireworks regulations issued under the Federal Hazardous Substances Act set labeling requirements and technical specifications for consumer fireworks.

Large fireworks like cherry bombs and M-80s are banned for consumer use. Large reloadable mortar shell fireworks are also banned. Large multiple-tube mine and shell fireworks are subject to specific requirements to prevent tip-over. Fireworks not meeting these requirements cannot be imported into the United States.

**18. Flammable Fabrics.** Any article of wearing apparel, fabric or interior furnishing cannot be imported into the United States if it fails to conform to an applicable flammability standard issued under the Flammable Fabrics Act. These flammability standards cover:

- General wearing apparel,
- Children's sleepwear,
- Mattresses,
- Mattress pads, including futons;
- Carpets and rugs.

Certain products can be imported into the United States, as provided in Section 11(c) of the Act, in order to finish or process them to render these products less highly flammable and thus less dangerous when worn by individuals. In such cases, the exporter must state on the invoice or other paper relating to the shipment that the shipment is being made for that purpose.

**19. Art Materials.** Art materials cannot be imported into the United States unless they meet the Labeling of Hazardous Art Materials Act (LHAMA) of 1988. LHAMA requires that a toxicologist review art materials for their potential to produce adverse health effects. Art materials must bear appropriate chronic-hazard warnings in addition to any cautionary labeling required by the Federal Hazardous Substances Act.

The LHAMA mandated a voluntary standard, ASTM D-4236, with certain modifications, as a mandatory rule under Section 3(b) of the Federal Hazardous Substances Act. This standard also requires that an art material bear or be displayed with a label indicating that it has been reviewed in accordance with the standard, whether or not the product bears a chronic warning statement.

**20. Cigarette Lighters.** Disposable and novelty cigarette lighters cannot be admitted into the United States unless they meet the child-resistant safety standard; this standard is issued under the Consumer Product Safety Act. All nonrefillable lighters, and refillable lighters whose value is less than \$2.25 (subject to change in 2008) and that use gas as a fuel, are considered to be "disposable lighters" and are covered by this standard.

Novelty lighters are lighters using any type of fuel that have entertaining audio or visual effects or that depict articles commonly recognized as intended for use by children less than five years of age. Manufacturers and importers must test lighters, keep records and report the results to CPSC. A Certificate of Compliance must accompany each shipping unit of the product, or be furnished in another fashion to the distributor or retailer to whom the manufacturer, private labeler or importer delivers the product.

**21. Multi-purpose lighters.** A multi-purpose lighter, also known as grill lighter, fireplace lighter, utility lighter, micro-torch, or gas match, is a flame-producing product that operates on fuel (less than 10 oz.), incorporates an ignition mechanism, and is used by consumers to ignite items such as candles, fuel for fireplaces, charcoal or gas-fired grills, camp fires, camp stoves, lanterns, fuel-PSC has fired appliances or devices, or pilot lights, or for uses such as soldering or brazing.

Multi-purpose lighters cannot be admitted into the United States unless they meet a child-resistant safety standard issued under the Consumer Product Safety Act. All manufacturers and importers must test lighters, keep records and report the results to CPSC. A Certificate of Compliance must accompany each shipping unit of the product, or be furnished in another fashion to the distributor or retailer to whom the manufacturer, private labeler or importer delivers the product.

**22. Other Regulations and Standards.** CPSC has issued a number of other safety standards, regulations and bans. These have generally been of less interest to the importing community because fewer of these items are imported. These include:

- Architectural glazing,
- Matchbooks,
- CB and TV antennas,
- Walk-behind power lawn-mowers,
- Swimming-pool slides,
- Cellulose insulation,
- Garage-door operators,
- Unstable refuse bins,
- Flammable contact adhesives,
- Patching compounds with asbestos,
- Emberizing materials with asbestos,
- Household chemicals (hazardous household chemicals require labeling under the Federal Hazardous Substances Act),
- Refrigerator doors,
- Poison Prevention Packaging Act (certain cosmetics, drugs and household chemicals—the PPPA regulates 32 substances—require special child-resistant packaging),

- Bunk beds.

### Electronic Products

**23. Radiation- and Sonic Radiation-Producing Products.** The following products are subject to the Federal Food, Drug, and Cosmetic Act, Chapter V, Subchapter C—Electronic Product Radiation (formerly called the Radiation Control Health and Safety Act of 1968):

- Television products that incorporate a cathode-ray tube,
- Cold-cathode gas-discharge tubes,
- Microwave ovens,
- Cabinet and diagnostic x-ray equipment,
- Laser products,
- Ultrasound physical therapy equipment,
- Sunlamps,
- CD-ROMs,
- Cellular and cordless telephones,
- Other electronic products for which there are radiation-performance standards.

An electronic product: (a) for which there is a radiation performance standard, and (b) that is imported for sale or use in the United States may only be imported if a declaration (Form FDA 2877) is filed with each importer's entry. Form FDA 2877 is available from the Food and Drug Administration, Center for Devices and Radiological Health, Rockville, MD 20850.

The declaration must describe the product's compliance status. The importer must affirm that the product was:

- Not subject to a standard (e.g., manufactured prior to the effective date of the applicable federal standard); or
- Complies with the standard and has a label affixed by the manufacturer certifying compliance; or
- Does not comply with the standard but is being imported only for purposes of research, investigation, study, demonstration, or training; or
- Does not now comply with the standard, but will be brought into compliance.

The provisions of the Federal Food, Drug, and Cosmetic Act, Chapter V, Subchapter C—Electronic Product Radiation—apply to electronic products manufactured in the United States as well as to imported products.

**24. Radio Frequency Devices.** The following are subject to radio emission standards of the Federal Communications Commission, Washington, DC 20554, under the Communications Act of 1934, as amended:

- Radios,
- Tape recorders,
- Stereos,
- Televisions,
- Citizens-band radios or
- Combinations thereof
- Other radio frequency devices.

Importations of such products may be accompanied by an FCC declaration (FCC 740) certifying that the imported model or device is in conformity with, will be brought into conformity, or is exempt from, the Federal Communication Commission requirements.

**Foods, Drugs, Cosmetics, And Medical Devices**

The Public Health Security and Bio-Terrorism Preparedness and Response Act of 2002, or BTA, was implemented on December 12, 2003. All food imported or offered for import into the United States, both for human and animal consumption, is subject to the requirements of this Act.

The BTA's purpose is to ensure the security of food for human and animal consumption. "Food" is defined as:

- Articles used for food or drink for man or other animals,
- Chewing gum,
- Articles used for components or any such article.

The BTA's key elements require that manufacturers and shippers register the facilities from which they export food and food products to the U.S. with the Food and Drug Administration. Manufacturers and shippers must also provide the FDA with *prior notification* (PN) for any food shipment covered by BTA regulations. Failure to provide the PN will result in refusal of the food importation, which could cause the shipment to be:

- Held at the port of arrival,
- Moved to secured storage pending compliance with PN requirements,
- Exported, or
- Destroyed.

For more information on the BTA and its requirements, please visit the FDA's Website: [www.fda.gov](http://www.fda.gov).

**25. Foods, Cosmetics, etc.** The importation into the United States of food, drugs, devices, and cosmetics is governed by provisions of the Federal Food, Drug, and Cosmetic Act. The Food and Drug Administration of the Department of Health and Human Services, Rockville, MD 20857, administer this Act.

The Act prohibits the importation of articles that are adulterated or misbranded and products that are defective, unsafe, filthy, or produced under unsanitary conditions. The term *misbranded* includes statements, designs, or pictures in labeling that are false or misleading or that fail to provide the information required in labeling. The Act also prohibits the importation of pharmaceuticals that have not been approved by the FDA for admission into the United States.

Imported products regulated by the FDA are subject to inspection at the time of entry. Shipments found not to comply with its laws and regulations are subject to refusal; these shipments must be brought into compliance, destroyed, or re-exported. At the FDA's discretion, an importer may be permitted to bring a nonconforming importation into compliance if it is possible to do so. Any sorting, reprocessing, or relabeling must be supervised by the FDA at the importer's expense.

Some imported foods regulated by the FDA, such as confectionery, dairy products, poultry, eggs and egg products, meats, fruits, nuts and vegetables, are also subject to other agencies' requirements, as discussed in this book and elsewhere in this chapter. Certain aquatic species may also be subject to the requirements of the National Marine Fisheries Service of the National Oceanic and Atmosphere Administration of the Department of Commerce, 1335 East-West Highway, Silver Spring, MD 20910.

**26. Biological Drugs.** The manufacture and importation of biological products *for human consumption* are regulated under the Public Health Service Act. Domestic as well as foreign manufacturers of such products must obtain a U.S. license for both the manufacturing establishment and for the product intended to be produced or imported. Additional information may be obtained from the Food and Drug Administration, Department of Health and Human Services, Rockville, MD 20857, and from its Website: [www.fda.gov](http://www.fda.gov).

Biological drugs *for animals* are regulated under the Virus Serum Toxin Act, which is administered by the Department of Agriculture. The importation of viruses, serums, toxins and analogous products, and organisms and vectors for use in the treatment of domestic animals, is prohibited unless the importer holds a permit from the Department of Agriculture covering the specific product. These importations are also subject to special labeling requirements.



**27. Biological Materials and Vectors.** The importation into the United States for sale, trade or exchange of items such as the following, which are applicable to the prevention, treatment or cure of human diseases or injuries, is prohibited unless they have been propagated or prepared at an establishment with an unsuspended, unrevoked U.S. license for such manufacturing issued by the Secretary of the Department of Health and Human Services:

- Any virus,
- Therapeutic serum,
- Toxin, antitoxin or analogous products,
- Arsphenamine, its derivatives, or any other trivalent organic arsenic compound.

(This prohibition does not extend to materials to be used in research experiments; however, research materials are subject to other requirements.)

Samples of the U.S.-licensed product must accompany each importation so that the CBP port director at the port of entry can forward them to:

Director  
Center for Biologics Evaluation and Research  
1401 Rockville Pike  
Bethesda, MD 20852.

A permit from the U.S. Public Health Service, Centers for Disease Control and Prevention, Atlanta, GA 30333, is required for shipments of any etiological agent; any insect, animal or plant vector of human disease; or for any exotic living insect, animal, or plant capable of being a vector of human disease.

**28. Narcotic Drugs and Derivatives.** The importation of controlled substances including narcotics, marijuana and other dangerous drugs, is prohibited except when imported in compliance with regulations of the Drug Enforcement Administration of the Department of Justice, Arlington, VA 22202. Examples of some prohibited controlled substances are:

- Amphetamines,
- Barbiturates,
- Coca leaves and derivatives such as cocaine,
- Hallucinogenic substances such as LSD, mescaline, peyote, marijuana and other forms of cannabis,
- Opiates, including methadone,
- Opium, including opium derivatives such as morphine and heroin,
- Synthetic substitutes for narcotic drugs, and
- Anabolic steroids.

**29. Drug Paraphernalia.** Items of drug paraphernalia are prohibited from importation or exportation under Section 863, Title 21 of the United States Code.

Under the Controlled Substances Act (Title II of Public Law 91-513), the term *drug paraphernalia* means any equipment, product or material of any kind that is primarily intended or designed for use in manufacturing, compounding, converting, concealing, producing, processing, preparing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance whose possession is unlawful under this Act.

Items of drug paraphernalia include, but are not limited to, the following:

- Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes, with or without screens, permanent screens, hashish heads, or punctured metal bowls;
- Water pipes;
- Carburetion tubes and devices;
- Smoking and carburetion masks;
- Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;
- Miniature spoons with level capacities of one-tenth cubic centimeter or less;
- Chamber pipes;
- Carburetor pipes;
- Electric pipes;
- Air-driven pipes;
- Chillums;
- Bongs;
- Ice pipes or chillers;
- Wired cigarette papers; or
- Cocaine freebase kits.

### **CONFLICT DIAMONDS**

**30. Conflict Diamonds.** On April 25, 2003, the president signed the Clean Diamond Trade Act, H.R. 1584 (Pub L. 108-19), into law. This Act enables the United States to implement procedures developed by more than 50 countries to exclude rough (uncut or unpolished) *conflict diamonds* from international trade while promoting legitimate trade in diamonds. Conflict diamonds are rough diamonds sold by rebel groups in Africa or their allies for the specific purpose of financing uprisings against legitimate, internationally recognized governments.

Rebel, military, and terrorist groups in parts of Africa have used conflict diamonds to finance unlawful insurrections against legitimate governments. Conflict diamonds so called because of the atrocities committed on civilian populations during these insurrections. The United States played a key role in forging an international consensus to curb this trade and has therefore strongly supported the Kimberley Process.

The Kimberley Process Certification Scheme (KPCS) is an international initiative aimed at breaking the link between the legitimate diamond trade and trade in conflict diamonds by documenting and tracking all rough diamonds that enter participating KPCS countries and by shipping them in tamper-resistant containers.

The importation of rough diamonds into the United States requires a Kimberley Process Certificate and must be sealed in a tamper resistant container.

### **Gold, Silver, Currency, Stamps**

**31. Gold and Silver.** The provisions of the National Stamping Act, as amended (15 U.S.C. 291-300) are enforced in part by CBP and by the FBI. Articles made of gold or alloys thereof are prohibited importation into the United States if the gold content is one-half carat divergence below the indicated fineness. In the case of articles made of gold or gold alloy, including the solder and alloy of inferior fineness, a one-carat divergence below the indicated fineness is permitted.

Articles marked “sterling” or “sterling silver” must assay at least 0.925 of pure silver with a 0.004 divergence allowed. Other articles of silver or silver alloys must assay not less than 0.004 part below their indicated fineness. Articles marked “coin” or “coin silver” must contain at least 0.900 part pure silver, with an allowable divergence of 0.004 part below.

A person placing articles of gold or silver bearing a fineness or quality mark such as 14K, sterling, etc., in the mail or in interstate commerce must place his name or registered trademark next to the fineness mark in letters the same size as the fineness mark. Because the trademark or name is not required at the time of importation, CBP has no direct responsibility for enforcing this aspect of the law. Anyone seeking further advice or interpretation of the law should consult the Department of Justice.

Articles bearing the words *United States Assay* are prohibited importations.

Articles made wholly or in part of inferior metal and plated or filled with gold, silver or alloys thereof, and that are marked with the degree of fineness must also be marked to indicate the plated or filled content. In such cases, the use of the words *sterling* or *coin* is prohibited.

Restrictions on the purchase, holding, selling, or otherwise dealing in gold were removed as of December 31, 1974, and gold may be imported subject to the usual CBP entry requirements. Under the Hobby Protection Act, which is administered by the Bureau of Consumer Protection of the Federal Trade Commission, any imitation numismatic item must be plainly and permanently marked “copy”; items that do not comply with this marking requirement are subject to seizure and forfeiture.

Unofficial gold coin restrikes must be marked with the country of origin. It is advisable to obtain a copy of the legal proclamation under which the coins are issued, or, if the proclamation is unavailable, an affidavit of government sanction of coins should be secured from a responsible banking official.

**32. Counterfeit Articles.** Articles bearing facsimiles or replicas of coins or securities of the United States or of any foreign country cannot be imported. Counterfeits of coins in circulation in the United States; counterfeited, forged, or altered obligations or other securities of the United States or of any foreign government; plates, dies, or other apparatus which may be used in making any of the foregoing, are prohibited importations.

**33. Monetary Instruments.** Under the Currency and Foreign Transactions Reporting Act, 31 U.S.C. 5311 et seq., if a person knowingly transports, is about to transport, or has transported, more than \$10,000 in monetary instruments at one time to, through or from the United States, or if a person receives more than \$10,000 at one time from or through a place outside the United States, a report of the transportation (form FINCEN 105) must be filed with CBP. Monetary instruments include:

- U.S. or foreign coin,
- Currency,
- Traveler’s checks in any form,
- Personal and other checks, either in bearer-negotiable form or endorsed without restriction,
- Money orders, either in bearer-negotiable form or endorsed without restriction, and
- Securities or stocks in bearer form.

A bank check or money order made payable to a named person but not endorsed, or that bears a restrictive endorsement, is not considered to be a “monetary instrument.” Department of the Treasury regulations governing the report of monetary instruments are set forth at 31 CFR part 103.

#### **Pesticides, Toxic, And Hazardous Substances**

**34. Pesticides.** The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, 1988, provides the statutory authority governing the importation of pesticides and pesticide devices into the United States. Promulgated under Section 17(c) of this

authority, CBP regulations at 19 CFR Parts 12.112-117 describe the procedures governing these importations. Among other requirements, these regulations require importers to submit to CBP an EPA Notice of Arrival (EPA form 3540-1) that the EPA has reviewed and approved before the importation arrives in the United States.

Pesticides not registered in accordance with FIFRA Section 3 will be refused entry into the United States. Pesticide devices are not subject to product registration, but the labels of both pesticides and devices must bear the EPA registration number of the producing establishment.

Pesticides and devices will be refused entry if they are identified as adulterated or misbranded, if they violate FIFRA provisions in any other way, or if they are otherwise injurious to health or the environment.

**35. Toxic Substances.** The Toxic Substances Control Act (TSCA), effective January 1, 1977, regulates the manufacturing, importation, processing, commercial distribution, use or disposal of any chemical substances or mixtures broadly defined in Section 3 of TSCA. Section 3 specifies that certain substances be excluded from the definition of “chemical substance” based upon their use. These substances include, but are not limited to:

- Foods,
- Drugs,
- Cosmetics,
- Active ingredients in pesticides.

Importations will not be released from CBP custody unless proper certification is presented to CBP indicating that the import “complies with” or “is not subject to” TSCA requirements, or if it has already been identified as a food, drug, or active pesticide ingredient.

For further information from EPA, call the TSCA Assistance Information Service, Tel. 202.554.1404.

**36. Hazardous Substances.** The Hazardous Substance Act; the Caustic Poison Act; the Food, Drug and Cosmetic Act; and the Consumer Product Safety Act all regulate the importation into the United States of dangerous, caustic, corrosive and hazardous substances. Among the requirements is that such substances be shipped to the United States in packages suitable for household use 4.

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4 The FDA defines a container *suitable for household use* as any retail parcel, package or container that can be readily adapted for fast or convenient handling in places where people dwell. Please consult 21 CFR, Subchapter L, Part 1230, or visit the FDA’s Website at [www.fda.gov](http://www.fda.gov).

The Office of Hazardous Materials Transportation of the U.S. Department of Transportation, Washington, DC 20590, regulates the marking, labeling, packaging, and transportation of hazardous materials, substances, wastes, and their containers. Hazardous waste is a special sub-category of hazardous substances and is regulated by the Resource Recovery and Conservation Act. Such waste requires a special EPA manifest for both imports and exports.

CBP considers otherwise legitimate commodities that were produced with radiation-contaminated materials to be hazardous and therefore subject to seizure.

**37. Refrigerants.** The production, consumption and importation of refrigerants and other ozone-depleting substances are regulated by the Title VI of the Clean Air Act as amended in 1990. Please consult the appendix of this book for lists of the more common trade names of Class I and Class II ozone-depleting substances.

Class I includes chlorofluorocarbons (CFCs), methyl chloroform, carbon tetrachloride, halons, and methyl bromide. Class II includes hydrofluorocarbons (HCFCs). Both Class I and Class II substances are commonly used as refrigerants, solvents, and fire-suppression agents. The EPA regulates the importation of all Class I and Class II ozone-depleting substances.

### **Textile, Wool, and Fur Products**

**38. Textile Products.** All textile fiber products imported into the United States must be stamped, tagged, labeled, or otherwise marked with the following information, as required by the Textile Fiber Products Identification Act, unless exempted from marking under Section 12 of the Act:

- The generic names and percentages by weight of the constituent fibers present in the textile fiber product, exclusive of permissive ornamentation, in amounts greater than five percent.
- Constituent fibers must be listed in order of predominance by weight. Any fiber or fibers present in amounts of five percent or less must be designated as “other fiber” or “other fibers” and must appear last in this list.
- The name of the manufacturer, or the name or identification number issued by the Federal Trade Commission of the person(s) marketing or handling the textile fiber product. A word trademark, used as a house mark, that is registered with the United States Patent Office may be used on labels in lieu of the name otherwise required if the owner of such trademark furnishes a copy of the Patent Office registration to the Federal Trade Commission prior to use.
- The name of the country where the product was processed or manufactured.

A commercial invoice is required for each shipment of textile fiber products worth more than \$500. Commercial invoices for textile fiber products that are subject to the Act's labeling requirements must contain the information noted in Chapter 10 ("Commercial Invoices"), as well as the information normally required on invoices. Regulations and pamphlets containing the text of the Textile Fiber Products Identification Act may be obtained from the Federal Trade Commission, Washington, DC 20580.

Pursuant to Section 204 of the Agricultural Act of 1956, imported textiles and textile products may, in addition to labeling requirements, also be subject to quota, visa, export-license or other entry requirements, including declarations that identify the fabricated components.

**39. Wool.** The Wool Products Labeling Act of 1939 requires that any imported product containing woolen fiber—with the exception of carpet, rugs, mats, upholsteries and articles made more than 20 years prior to importation—be tagged, labeled, or otherwise clearly marked with the following information:

- The percentage of the wool product's total fiber weight, exclusive of ornamentation not exceeding five percent of the total fiber weight, of:
  1. Wool,
  2. Recycled wool,
  3. Every fiber other than wool if the percent by weight of such fiber is at least five percent, and
  4. The aggregate of all other fibers.
- The percent of the wool product's total weight composed of any nonfibrous loading, filling, or adulterating matter.
- The name of the manufacturer or importer. If the importer has a registered identification number issued by the Federal Trade Commission, that number may be used instead of the individual's name.

A commercial invoice is required for each shipment of wool products exceeding \$500 in value. Commercial invoices for wool products subject to the Act's labeling requirements must contain the information noted in Chapter 10 ("Commercial Invoices").

The provisions of the Wool Products Labeling Act apply to products manufactured in the United States as well as to imported products. Pamphlets containing the text of the Wool Products Labeling Act and regulations may be obtained from the Federal Trade Commission, Washington, DC 20580.

**40. Fur.** The Fur Products Labeling Act requires that any imported article of wearing apparel made in whole or in part of fur or used fur, with the exception of articles made of

new fur whose cost or manufacturer's selling price does not exceed \$7, be tagged, labeled, or otherwise clearly marked to show the following information:

- The name of the manufacturer or importer. If the importer has a registered identification number, that number may be used instead of the individual's name.
- The name(s) of the animal or animals that produced the fur, as set forth in the Fur Products Name Guide and as determined under the FTC's rules and regulations.
- That the fur product contains used or damaged fur when such is the fact.
- That the fur product is bleached, dyed, or otherwise artificially colored when such is the fact.
- That the fur product is composed in whole or in substantial part of paws, tails, bellies, or waste fur when such is the fact.
- The country of origin of any imported furs incorporated in the fur product.

A commercial invoice is required for each shipment of furs or fur products exceeding \$500 in value and must contain the information noted in Chapter 10 ("Commercial Invoices").

**Dog or cat fur.** The importation, exportation, transportation, distribution or sale of any product that consists or is composed in whole or in part of any dog fur, cat fur, or both, is prohibited. Any such product that is imported, exported, transported, distributed or sold will be seized and forfeited, and penalties may be imposed against any person who violates this law. Anyone found to have violated this prohibition may be barred from importing or exporting *any* fur product. This prohibition does not apply to the importation, exportation or transportation, for noncommercial purposes, of personal pets that are deceased, including pets preserved through taxidermy.

The provisions of the Fur Products Labeling Act apply to fur and fur products in the United States as well as to imported furs and fur products. Regulations and pamphlets containing the text of the Fur Products Labeling Act may be obtained from the Federal Trade Commission, Washington, DC 20580.

### **Trademarks, Trade Names, and Copyrights**

**41. Trademarks and Trade Names.** Articles bearing counterfeit trademarks are subject to seizure and forfeiture. A counterfeit trademark is defined as a spurious trademark that is identical with, or substantially indistinguishable from, a registered trademark. Articles with marks that copy or simulate a registered trademark that has been recorded with CBP are subject to detention and possible seizure and forfeiture. CBP may assess a civil penalty when merchandise is seized and forfeited under 19 U.S.C. § 1526(e). (See 19 U.S.C. § 1526(f))



CBP may also determine that a registered and recorded trademark should be granted protection against the importation of *parallel*, or *gray-market*, goods. These are goods bearing a legitimate trademark but that were not intended for sale in the United States. Should CBP determine that a registered and recorded trademark receive protection against the importation of gray-market goods, any attempted importation of such goods will subject them to detention and possible seizure and forfeiture.

A personal exemption for merchandise bearing an infringing mark is permitted for articles that accompany any person arriving in the United States *when such articles are for his or her personal use and not for sale*. Only one infringing item of each type bearing a registered trademark is permitted. An individual may take advantage of this exemption only once within a 30-day period (19 U.S.C. 1526 (d); 19 CFR 148.55).

**42. Copyrights.** Articles imported into the United States that are pirated (bootleg, counterfeit) copies of any registered copyright are subject to seizure and forfeiture.

#### **Wildlife and Pets**

**43. Wildlife and Pets.** The importation of live wildlife (i.e., game animals, birds, plants), any part or product made from them, and of birds' eggs, is subject to prohibitions, restrictions, permits and quarantine requirements administered by several government agencies.

Imports or exports of wildlife, their parts or products must be declared at designated ports of the U.S. Fish and Wildlife Service (FWS) unless an exception is granted prior to the time of import or export. The Assistant Regional Director of Law Enforcement for the FWS region in which the import or export will take place should be contacted for additional information or to request an exception to designated-port-permit requirement.

Any commercial importer or exporter (there are some exceptions for exporters) planning to import or export wildlife must first obtain a license from the Fish and Wildlife Service. Applications and further information may be obtained from the Fish and Wildlife Service, Assistant Regional Director for Law Enforcement, for the region in which the importer or exporter is located.

Endangered species of wildlife and certain species of animals and birds are generally prohibited from entering the United States. Such species can only be imported or exported under a permit granted by the Fish and Wildlife Service. Specific information concerning permit requirements should be obtained from the Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Arlington, VA 22203; or by calling 1.800.358.2104; or by visiting FWS's Website, [www.fws.gov](http://www.fws.gov).

Antique articles (articles that can be certified as being at least 100 years old) may

be exempt from certain requirements of the U.S. Endangered Species Act. The Fish and Wildlife Service, Office of Management Authority, should be contacted for details.

**Marine mammals.** The taking and importation of marine mammals and their products are subject to the requirements of the Marine Mammal Protection Act (MMPA) of 1972, as amended in 1994. The National Marine Fisheries Service and FWS both have jurisdiction under the MMPA for certain species and import activities. Additional requirements of the U.S. Endangered Species Act and the Convention on International Trade in Endangered Species (CITES) may also apply. Prior to importing, both agencies should be contacted to learn their exact import requirements. Other import requirements administered by the National Marine Fisheries Service may also apply for certain species covered by the International Commission for the Conservation of Atlantic Tunas, e.g., Atlantic blue fin tuna. See the agency's Website, [www.nmfs.noaa.gov](http://www.nmfs.noaa.gov), for more information.

Certain plants, mammals, reptiles, amphibians, fish, snails, clams, insects, crustaceans, mollusks, and other invertebrates may be prohibited from entering the United States unless the importer has a permit from either from the exporting nation's (i.e., the foreign) wildlife authority or from the Fish and Wildlife Service, Office of Management Authority, before the importation takes place.

The importation into the United States of any wildlife, their parts or products is prohibited if the wildlife was captured, taken, shipped, or possessed in any manner violating the laws of the foreign country in which it, or they, was/were taken.

The importation of the feathers or skins of any bird, other than for scientific or educational purposes, is prohibited except for the species noted in this paragraph. This prohibition does not apply to fully manufactured artificial flies used for fishing or to personally taken, noncommercial game birds. Feathers or skins of the following species are permitted entry under certain conditions:

- Chickens,
- Turkeys,
- Guinea fowl,
- Geese, ducks,
- Pigeons, ostriches,
- Rheas,
- English ring-necked pheasants,
- Pea fowl not taken from the wild.

On October 23, 1992, the Wild Bird Conservation Act became effective. This act focuses on the live species listed in the Appendices to the Convention on International Trade in Endangered Species (CITES). If you import live birds, you must meet the

requirements of this law in addition to the requirements of CITES, the Endangered Species Act, the Migratory Bird Treaty Act, and any other applicable regulations. Import permits must be obtained in advance from the Fish and Wildlife Service, Office of Management Authority.

Live birds, their parts and products that are protected under the Migratory Bird Treaty Act may be imported into the United States for scientific purposes or certain propagating purposes only under permits issued by the regional office of Fish and Wildlife Service, Office of Migratory Birds, in the region where the importation will occur or where the importer resides.

Imported birds (pets, migratory birds, falcons) are subject to the quarantine requirements of the USDA and Public Health Service. (Please see the **NOTE** on page 106 regarding The USDA's trade prohibition on the importation of poultry and unprocessed poultry products) Quarantine space must be reserved *before* importing. Health certificates must be obtained from the birds' country of origin prior to exportation. Inquiries should be addressed to the appropriate agency.

On June 9, 1989, the U.S. Fish and Wildlife Service announced a ban on the importation of most African elephant ivory and any products made from it. The ban covers all commercial and noncommercial shipments, including personal baggage accompanying a tourist. There are limited exceptions for antiques, trophies, and personal household effects. For further information, contact the U.S. Fish and Wildlife Service, Office of Management Authority, 4401 N. Fairfax Drive, Arlington, VA 22203, Tel. 1.800.358.2104.

The importation of the following is subject to the requirements of the Quarantine Division of the U.S. Public Health Service, Centers for Disease Control, Atlanta, GA 30333; the Veterinary Services of the Animal and Plant Health Inspection Service, Department of Agriculture, Hyattsville, MD 20782; and of the U.S. Fish and Wildlife Service:

- Birds,
- Cats,
- Dogs,
- Monkeys,
- Turtles.

A current rabies certificate must accompany each live imported dog. Importers of dogs without a rabies certificate must complete a copy of CDC Form 75.37, "Notice to Owners & Importers of Dogs," prior to obtaining the dog's release from CBP custody. The importer must send copies of this completed form to the local quarantine station of the Public Health Service, a list of which can be found on the CDC's Website,

[www.cdc.gov/ncidod/dq/quarantine\\_stations.htm](http://www.cdc.gov/ncidod/dq/quarantine_stations.htm). If the local quarantine station is unknown, importers may call 773.894.2960 (Chicago), 718.553.1685 (JFK-NY), or 310.215.2365 (LA) to learn the appropriate office for submitting this form.

The importation of live turtles, tortoises, and terrapins with a carapace length of less than four inches, and the viable eggs of turtles, tortoises and terrapins, is allowed by the U.S. Public Health Service only under strict requirements as to purpose and quantity. The U.S. Public Health Service does not allow the importation of live, non-human primates, including monkeys, as pets.

#### **Other Miscellaneous Prohibited or Restricted Merchandise**

**44. Matches, fireworks, knives.** The following are all prohibited importations:

- White or yellow phosphorus matches,
- Fireworks banned under federal or state restrictions,
- Pepper shells,
- Switchblade knives,

**45. Foreign Assets Control Restrictions.** The Office of Foreign Assets Control (OFAC) of the U.S. Treasury Department administers regulations and executive orders that impose a variety of sanctions, including import or export bans, on countries, companies, and individuals. Restrictions imposed by the sanctions vary, and in some instances, including bans, certain products may be permissible even when most others are prohibited. Contact your local port of entry for complete information.

Full or partial trade embargoes are currently in place for:

- Cuba,
- Iran,
- North Korea,
- Sudan,
- Syria, and
- Burma.

Travelers should be aware that travel restrictions may also apply to these countries. Because of strict enforcement of these prohibitions, anyone anticipating travel to any of the countries listed above is advised to contact OFAC, 202.622.2500, well in advance of planned travel, or to write to the Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220.

OFAC also administers sanctions involving targeted persons in:

- The Western Balkans,
- Burma (Myanmar),
- Iraq,
- Liberia,
- Libya,
- Zimbabwe.

In addition, OFAC administers sanctions involving individuals or entities generally identified as having been involved in:

- Illegal diamond trading,
- Terrorist activities,
- Narcotics trafficking,
- Proliferation of weapons of mass destruction,
- Acts of violence,
- Threatening international stabilization efforts,
- Crimes against humanity.

Import and export transactions involving these persons or entities are ordinarily prohibited. Detailed information can be found at OFAC's Website, [www.treas.gov/offices/enforcement/ofac/sanctions](http://www.treas.gov/offices/enforcement/ofac/sanctions) or by contacting OFAC's Licensing Division at 202.622.2480.

**46. Obscene, Immoral or Seditious Matter and Lottery Tickets.** Section 305, Tariff Act of 1930, as amended, prohibits the importation of any book, writing, advertisement, circular, or picture containing:

- Any matter advocating or urging treason or insurrection against the United States,
- Any matter advocating or urging forcible resistance to any law of the United States,
- Any threat to take the life of or inflict bodily harm upon any person in the United States.

It also prohibits the importation of:

- Any obscene book, writing, advertisement, circular, picture or other representation, figure, or image on or of paper or other material,
- Any instrument or other article that is obscene or immoral,
- Any drug or medicine for causing unlawful abortion that has not been approved by FDA.
- Any lottery ticket, unless printed in Canada for use in a U.S.—or in some

cases, other foreign—lottery.

**47. Petroleum and Petroleum Products.** Importations of petroleum and petroleum products are subject to the requirements of the Department of Energy. An import license is no longer required, but an import authorization may be needed. These importations may be subject to an oil-import license fee, which is collected and administered by the Department of Energy. Inquiries should be directed to the Department of Energy, Washington, DC 20585.

**48. Products of Convict or Forced Labor.** Merchandise produced, mined, or manufactured, wholly or in part by means of the use of convict labor, forced labor, or indentured labor under penal sanctions is prohibited from importation, provided that a finding has been published pursuant to section 12.42 of the CBP Regulations (19 CFR 12.42) that certain classes of merchandise from a particular country, produced by convict, forced, or indentured labor, either were being, or are likely to be, imported into the United States in violation of section 307 of the Tariff Act of 1930, as amended (19 U.S.C. 1307).

**49. Unfair Competition.** Section 337 of the Tariff Act, as amended, prohibits the importation of merchandise if the president finds that unfair methods of competition or unfair acts exist. This section is most commonly invoked in the case of patent violations, although a patent need not be at issue. The prohibition of entries of the merchandise in question is generally for the term of the patent, although a different term may be specified.

Following a Section 337 investigation, the International Trade Commission (ITC) may find that unfair methods of competition or unfair acts exist regarding the importation of particular merchandise. After the ITC has issued an order, the president is allowed 60 days to take action to communicate his approval or disapproval of the ITC's determination. Should the 60 days expire without presidential action, the order becomes final. During the 60-day period, or until the president acts, importation of the merchandise is allowed under a special bond. However, CBP must recall that merchandise if doing so becomes appropriate under the order's conditions once it becomes final. If the president determines that entry of the merchandise in question does not violate Section 337, the bond is canceled.

**50. Artifacts/Cultural Property.** A number of U.S. laws regulate the importation of cultural artifacts such as archaeological and ethnologic objects. For example, U.S. law prohibits the importation of pre-Columbian monumental and architectural sculpture and murals from countries in Central and South America without first obtaining export permits from the country of origin. CBP will not accept an export permit from a third country. Importers should also be aware that a treaty exists between the United States and Mexico regarding the recovery of cultural property.

Importations of certain archeological and ethnographic material from the following countries are specifically restricted from entering the United States unless an export certificate issued by the country of origin accompanies them:

- Bolivia,
- Cyprus,
- Cambodia,
- El Salvador,
- Guatemala,
- Honduras,
- Italy,
- Mali,
- Nicaragua,
- Peru.

Additionally, cultural property from Iraq is prohibited from entering the U.S. if it was illegally removed from Iraq after August 6, 1990.

All these restrictions are aimed at deterring the pillage of other countries' cultural heritage and at fostering opportunities for access to cultural objects for legitimate scientific, cultural, and educational purposes. CBP has published import restrictions on objects and artifacts of this nature in the *Federal Register*; these restrictions can also be found at the Website of the Bureau of Educational and Cultural Affairs, [www.exchanges.state.gov/culprop/](http://www.exchanges.state.gov/culprop/), of the U.S. Department of State.

Federal law also prohibits the importation of any article of cultural property stolen from museums or from religious or secular public monuments. Would-be buyers of such property should be aware that purchases of cultural objects, unlike purchases of customary tourist merchandise, do not confer ownership should the object be found to be stolen. The U.S. National Stolen Property Act may be applicable in such cases, particularly if the country of origin declares by law that it owns all cultural objects, known or unknown, within its present-day political boundaries.

Purveyors of merchandise described in this section have been known to offer fake export certificates. Prospective buyers should be aware that CBP officers are expert at spotting fraudulent export certificates that accompany cultural property. CBP officers will also examine import declaration forms to determine whether any false information has been entered because this also constitutes a violation.

For current information about countries for which the United States has issued specific import restrictions, contact the U.S. Department of State's Bureau of Educational and Cultural Affairs, Washington, DC 20547, or visit the agency's Website: [www.exchanges.state.gov/culprop/index.html](http://www.exchanges.state.gov/culprop/index.html). For information about how these

restrictions are enforced, visit CBP's Website, [www.cbp.gov](http://www.cbp.gov), and search on "cultural property."

**52. United States Trade Representative Actions.** As authorized by the Trade Act of 1974, the United States Trade Representative (USTR) administers Section 301 complaints against unfair foreign trade practices that harm U.S. exporters. USTR actions that may directly affect U.S. importers include the *suspension of concessions*. For example, the USTR may suspend the normal-trade-relations rate of duty and substitute a substantially higher duty rate on designated products from a foreign country found to be discriminating against U.S. products.

Importers and Internet shoppers should check the USTR Website, [www.ustr.gov](http://www.ustr.gov), on a regular basis to determine whether their products may become subject to a substituted rate of duty. The USTR will normally propose a list of products and provide a comment period for businesses that may be affected by a higher duty rate.

The International Trade Administration at the Department of Commerce has set up a notification system that will advise importers of USTR actions that may affect imported products. Importers who wish to receive such notification should sign up at the following site: [www.ita.doc.gov/td/industry/otea/301alert/form.html](http://www.ita.doc.gov/td/industry/otea/301alert/form.html). Importers are advised that once the USTR has taken a Section 301 action, CBP is responsible for implementing that action as directed by USTR.

Information on USTR actions that CBP is currently implementing can be found at: [www.cbp.gov/xp/cgov/import/commercial\\_enforcement/](http://www.cbp.gov/xp/cgov/import/commercial_enforcement/).

#### **40. Alcoholic Beverages**

Any person or firm wishing to engage in the business of importing into the United States distilled spirits, wines containing at least seven percent alcohol, or malt beverages must first obtain an importer's basic permit from the Alcohol and Tobacco Tax and Trade Bureau (TTB) of the U.S. Treasury Department. TTB is responsible for administering the Federal Alcohol Administration Act, 27 U.S.C. 201 et seq. and 27 CFR Subchapter A.

Under this act, TTB has the authority to:

- Prevent consumer deception,
- Require that labels on alcohol products provide consumers with "adequate information" regarding the identity and quality of the products, and
- Prohibit false or misleading statements.

Information on basic permits, labeling, and other importation issues is available on the TTB Website, [www.ttb.gov](http://www.ttb.gov), or from TTB's National Revenue Center,



1.877.882.3277.

Distilled spirits imported in bulk containers whose capacity is more than one gallon can be only withdrawn from CBP custody by individuals to whom it is lawful to sell, or otherwise dispose of, distilled spirits in bulk. A copy of a bill of lading or other document such as an invoice, showing the name of the consignee, the nature of the contents, and the quantity the shipment contains must, at the time of importation, accompany each bulk or bottled shipment of imported spirits or distilled or intoxicating liquors (18 U.S.C. 1263).

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*CBP will not release to any state an alcoholic beverage(s) whose use would violate its laws. The importation of alcoholic beverages in the mails is prohibited.*

The United States adopted the metric system of measurement with the enactment of the Metric Conversion Act of 1975. In general, imported wine must conform to metric standards of fill if bottled or packed on or after January 1, 1979. Imported distilled spirits, with some exceptions, must conform to metric standards of fill if bottled or packed on or after January 1, 1980. Distilled spirits or wines bottled or packed prior to the applicable date must be accompanied by a statement confirming that fact and signed by an authorized official of the appropriate foreign country. This statement may be a separate document or may be shown on the invoice. Wine containing less than seven percent alcohol by volume and malt beverages, including beer, are not subject to metric standards of fill.

Under the Internal Revenue Code of 1986, 26 U.S.C. Chapter 51, all beverages containing at least 0.5 percent (one half of one percent) alcohol by volume are subject to an excise tax. This tax applies to all alcoholic products that are fit for beverage use even if they are imported for industrial use. The excise tax also applies to imported denatured alcohol, including fuel alcohol, unless it is transferred directly from CBP custody to the bonded premises of a registered distilled spirits plant (or, in the case of fuel alcohol, to a registered alcohol-fuel plant).

Distilled spirits (Section 5232 of the Internal Revenue Code), wine (Section 5364), and beer (Section 5418) imported in bulk may be transferred in-bond from CBP custody to the bonded premises of a distilled spirits plant, winery, or brewery without having to pay the excise tax (see 27 CFR Part 27).

### **Marking**

Wines imported in bottles or other containers (except those containing less than seven percent alcohol by volume) must be packaged, marked, branded, and labeled in accordance with the regulations in 27 CFR Part 4. Wines with less than seven percent alcohol by volume are not subject to 27 CFR Part 4, but they must be marked in accordance with Food and Drug Administration rules. Imported malt beverages, including alcohol-free and nonalcoholic malt beverages, must be labeled in conformance with the regulations in 27 CFR Part 7. The labeling regulations governing imported distilled spirits can be found in 27 CFR Part 5.

Each bottle, cask or other immediate container of imported distilled spirits, wines, or malt beverages must be marked for CBP purposes to indicate the country of origin of its contents unless the shipment comes within one of the exceptions outlined in Chapter 32 (“Rules of Origin”) of this book.

#### **Health Warning Statement**

TTB regulations in 27 CFR Part 16 require the following health warning to appear on the labels of containers of alcoholic beverages bottled on or after Nov. 18, 1989:

**GOVERNMENT WARNING:** (1) *According to the Surgeon General, women should not drink alcoholic beverages during pregnancy because of the risk of birth defects.* (2) *Consumption of alcoholic beverages impairs your ability to drive a car or operate machinery and may cause health problems.*

#### **Certificate of Label Approval**

Labels affixed to bottles of imported distilled spirits, wine and malt beverages must be covered by certificates of label approval issued by TTB to the importer. Certificates of label approval or photostatic copies of these certificates must be filed with CBP before the goods can be released for sale in the United States. These requirements do not apply to wines containing less than seven percent alcohol, but they do apply to fermented malt beverages if the state in which the malt beverage is withdrawn for consumption imposes labeling requirements similar to federal requirements.

#### **Foreign Documentation**

Importers of wines and distilled spirits should consult TTB about certificates of origin, identity, age, and proper cellar treatment. Certain wines or distilled spirits require original certificates of origin as a condition of entry. Also, an importer of natural wine

must possess, at the time of importation, certification regarding proper cellar treatment, as provided in 27 CFR 27.140.

#### **Requirements of Other Agencies**

The importation of alcoholic beverages is also subject to the specific requirements of the Food and Drug Administration. Certain plant materials, when used in bottle jackets for wine or other liquids, are subject to special restrictions under plant quarantine regulations of the Animal and Plant Health Inspection Service. All bottle jackets made of dried or unmanufactured plant materials are subject to inspection upon arrival and are referred to the Department of Agriculture.

#### **41. Motor Vehicles And Boats Automobiles, Vehicles And Vehicle Equipment**

**Safety, Bumper, and Emission Requirements.** As a general rule, all imported motor vehicles less than 25 years old and items of motor vehicle equipment must comply with all applicable Federal Motor Vehicle Safety Standards (FMVSS) in effect when these vehicles or items were manufactured. A CBP inspection at the time of entry will determine such compliance, which is verified by the original manufacturer's certification permanently affixed to the vehicle or merchandise. An entry declaration form, HS-7, must be filed when motor vehicles or items of motor vehicle equipment are entered. The HS-7 can be obtained from customs brokers or ports of entry.

Certain temporary importations may be exempt from the requirements for conformance if written approval is obtained in advance from both the U.S. Department of Transportation and the Environmental Protection Agency. This includes vehicles brought in for research, demonstrations, investigation, studies, testing or competitive events. Also, EPA form 3520-1 and DOT form HS-7 must be submitted to CBP at the time entry for such vehicles is made.

Vehicles imported for temporary use by certain nonresidents or by members of foreign governments or foreign armed forces may not be required to comply with safety, bumper, emission, or theft-prevention standards. Nonconforming vehicles imported by nonresidents for personal use must be exported at the end of one year. Vehicles described in this paragraph may also require EPA and DOT declarations (forms 3520-1 and HS-7, respectively).

A DOT bond in the amount of 150 percent of the vehicle's dutiable value must be posted at the port of entry when a noncertified or nonconforming vehicle is imported for permanent use. The importer must also sign a contract with a DOT-registered importer, who will modify the vehicle to conform with all applicable safety and bumper standards and who can certify the modification(s). A copy of this contract must be furnished to CBP

with the HS-7 at the port of entry. Furthermore, the vehicle model and model year must be determined to be eligible for importation.

For additional information or details on these requirements, contact:

U.S. Department of Transportation  
National Highway Traffic Safety Administration  
Director of the Office of Vehicle Safety Compliance (NEF-32)  
400 Seventh Street, SW  
Washington, DC 20590  
Tel. 1.800.424.9393.

**The Clean Air Act**, as amended, prohibits the importation of any motor vehicle or motor vehicle engine not in conformity with emission requirements prescribed by the U.S. Environmental Protection Agency. This restriction applies whether the motor vehicle or motor-vehicle engine is new or used, and whether it was originally produced for sale and use in a foreign country or originally produced (or later modified) to conform to EPA requirements for sale or use in the United States. In addition to passenger cars, all trucks, multipurpose vehicles (e.g., all-terrain vehicles, campers), motorcycles, etc., that are capable of being registered by a state for use on public roads or that the EPA has deemed capable of being safely driven on public roads, are subject to these requirements. The term “vehicle” is used below to include all EPA-regulated vehicles and engines.

#### **Nonroad Engine Imports**

In accordance with the Clean Air Act and implementing regulations, 40 CFR Parts 89, 90 and 91, the Environmental Protection Agency began regulating certain nonroad diesel and gasoline engines, requiring that they meet federal emission standards beginning January 1, 1996.

*Nonroad*, also referred to as *off-road* or *off-highway*” is a term that covers a diverse group of engines and equipment. The nonroad category includes lawn and garden equipment, outdoor power equipment, recreational equipment, farm equipment, construction equipment, marine engines, and locomotives.

Prior to importation into the United States, regulated nonroad engines must be covered by an EPA-issued Certificate of Conformity. EPA issues the certificate to the engine manufacturer; the certificate declares that the engine family named on the certificate conforms with all applicable emissions standards and other requirements. It also permits the manufacturer to sell, offer for sale, introduce into commerce, or import into the United States, the named engine family. Certificates are issued for only one model year at a time. A label confirming that the engine meets emission standards must be affixed to the engine and readily visible.

Upon request, an importer must provide an EPA Form 3520-21 to CBP at the time

of entry into the United States. This form must contain the following information about the engine:

- Model,
- Model number,
- Serial number,
- Horsepower,
- Build date, and
- Manufacturer.

It must also include a description of the equipment or vehicle containing the engine, including:

- The equipment manufacturer,
- Equipment serial number,
- Location of the EPA emissions label, and
- Engine serial number.

For additional information and specific guidelines regarding the importation of nonroad engines subject to EPA emissions standards, please refer to the EPA's web page, "Importing Vehicles and Engines," at [www.epa.gov/otaq/imports/](http://www.epa.gov/otaq/imports/). To obtain the EPA Form 3520-21, please refer to EPA's Website, [www.epa.gov/otaq/imports/forms/3520-21.pdf](http://www.epa.gov/otaq/imports/forms/3520-21.pdf).

For technical assistance, please contact EPA's Office of Civil Enforcement, Air Enforcement Division, at 202.564.8673.

**U.S.-Version Vehicles:** Any person may import U.S.-version vehicles. *All such 1971 and later models are required to have a label in a readily visible position in the engine compartment stating that the vehicle conforms to U.S. requirements.* This label will read "Vehicle Emission Control Information" and will have a statement by the manufacturer that the vehicle meets EPA emission requirements at the time of manufacture. If this label is not present, the importer should obtain a letter of conformity from the manufacturer's United States representative—not from a dealership—prior to importation.

**Non-U.S.-Version Vehicles:** Individuals are not permitted to import non-U.S.-version vehicles (unless otherwise excluded or exempted; see next sections). These vehicles must be imported (entered) by an Independent Commercial Importer (ICI) having a currently valid qualifying certificate of conformity for each vehicle being imported. The ICI will be responsible for performing all necessary modifications, testing and labeling, as well as providing an emissions warranty identical to the emissions warranty required of new vehicles sold in the U.S.

A list of approved ICIs is available from the EPA. Vehicles at least 21 years old are exempt from these provisions and may be imported without modification.

**Words of Caution:**

- Not all nonconforming vehicles are eligible for importation, and ICIs are not required to accept vehicles for which they have qualifying certificates of conformity.
- EPA certification of ICIs does not guarantee the actions or work of the ICIs, nor does it regulate contractual agreements and working relationships with vehicle owners.
- EPA strongly recommends that prospective importers buy only U.S.-version (labeled) vehicles, because of the expense and potential difficulties involved with importing a non-U.S.-version vehicle.
- EPA strongly recommends that current owners of non-U.S.-version vehicles sell or otherwise dispose of them overseas rather than ship and import them into the U.S., because of the expense and potential difficulties involved with importing a non-U.S.-version vehicle.
- Before shipping a nonconforming vehicle for importation, EPA strongly recommends that the importer either make final arrangements with an ICI for modifications and testing or obtain EPA approval in writing for importation. Storage fees at the ports are costly, and the vehicle may not be eligible for importation.
- The EPA policy that permitted importers a one-time exemption for vehicles at least five years old has been eliminated.
- EPA considers a U.S.-version vehicle that has had modifications to its drive train or emission control system to be a non-U.S.-version vehicle, even though it may be labeled a U.S.-version vehicle.

**For Further Information:**

Environmental Protection Agency  
2000 Traverwood Drive  
Ann Arbor, Michigan 48105  
Attn: Imports Division  
Tel. 734.214.4100.

**Final Word of Caution.** *Modifications necessary to bring a nonconforming vehicle into conformity with safety, bumper, or emission standards may require extensive engineering, be impractical or impossible, or the labor and materials may be unduly expensive. It is highly recommended that these modifications be investigated before a vehicle is purchased for importation.*

**Boat Safety Standards**

Imported boats and associated equipment are subject to U.S. Coast Guard safety regulations or standards under the Federal Boat Safety Act of 1971. Products subject to standards must have a compliance certification label affixed to them. Certain hulls also require a hull identification number to be affixed. A U.S. Coast Guard import declaration is required to be filed with entries of nonconforming boats. Further information may be obtained from the Commandant, U.S. Coast Guard, Washington, DC 20593.

**Dutiability**

Vessels brought into the United States for use in trade or commerce are not dutiable. Yachts or pleasure boats brought into the United States by nonresidents for their own use in pleasure cruising are also not dutiable.

Yachts or pleasure boats owned by a resident or brought into the United States for sale or charter to a resident are dutiable. Further information may be found in CBP's pamphlet *Pleasure Boats*.

**Restrictions on Use**

Vessels that are foreign-built or of foreign registry may be used in the United States for pleasure purposes and in the foreign trade of the United States. However, federal law prohibits the use of such vessels in the coastwise trade, i.e., the transportation of passengers or merchandise between points in the United States, including carrying fishing parties for hire. Questions concerning the use of foreign-built or foreign-flag vessels should be addressed to:

Chief, Cargo Security  
Carriers and Immigration Branch  
Office of Regulations and Rulings  
U.S. Customs and Border Protection  
1300 Pennsylvania Avenue, NW, Mint Annex  
Washington, DC 20229

**42. Import Quotas**

An import quota is a quantity control on imported merchandise for a certain period of time. Quotas are established by legislation, by directives, and by proclamations issued under the authority contained in specific legislation. The majority of import quotas are administered by CBP. The Commissioner of CBP controls the importation of quota merchandise but has no authority to change or modify any quota.

United States import quotas may be divided into two types: absolute and tariff-rate. Under the North American Free Trade Agreement (NAFTA), there are tariff-preference levels, which are administered like tariff-rate quotas.

Tariff-rate quotas provide for the entry of a specified quantity of the quota product at a reduced rate of duty during a given period. There is no limitation on the amount of the product that may be entered during the quota period, but quantities entered in excess of the quota for the period are subject to higher duty rates. In most cases, products of Communist-controlled areas are not entitled to the benefits of tariff-rate quotas.

Absolute quotas are quantitative, that is, no more than the amount specified may be permitted entry during a quota period. Some absolute quotas are global, while others are allocated to specified foreign countries. Imports in excess of a specified quota may be held for the opening of the next quota period by placing it in a foreign trade zone or by entering it for warehouse, or it may be exported or destroyed under CBP supervision.

The usual CBP procedures generally applicable to other imports apply with respect to commodities subject to quota limitations.

The quota status of a commodity subject to a tariff-rate quota cannot be determined in advance of its entry. The quota rates of duty are ordinarily assessed on such commodities entered from the beginning of the quota period until such time in the period as it is determined that imports are nearing the quota level. CBP port directors are then instructed to require the deposit of estimated duties at the over-quota duty rate and to report the time of official presentation of each entry. A final determination is then made of the date and time when a quota is filled, and all port directors are advised accordingly.

Some of the absolute quotas are invariably filled at or shortly after the opening of the quota period. Each of these quotas is therefore officially opened at noon Eastern Standard Time, or the equivalent in other time zones, on the designated effective date. When the total quantity for these entries filed at the opening of the quota period exceeds the quota, the merchandise is released on a pro rata basis, the pro rata being the ratio between the quota quantity and the total quantity offered for entry. This assures an equitable distribution of the quota.

Merchandise is not regarded as presented for purposes of determining quota priority until an entry summary or withdrawal from warehouse for consumption has been submitted in proper form and the merchandise is located within the port limits.

#### **Commodities Subject To Quotas Administered By CBP**

As provided in the Harmonized Tariff Schedule of the United States, the commodities listed below are subject to quota limitations in effect as of the date of publication of this book. Local CBP officers can be consulted about any changes.

Information may also be obtained by contacting:

Quota Staff



U.S. Customs and Border Protection  
1300 Pennsylvania Avenue, NW  
Washington, DC 20229  
Tel. 202.927.5850.

### **Tariff-Rate Quotas**

- Anchovies,
- Brooms,
- Broom corn brooms,
- Ethyl alcohol,
- Lamb,
- Line pipe,
- Milk and cream,
- Olives,
- Satsumas (mandarins),
- Tuna,
- Upland cotton, and
- Wire rod.

### **NAFTA**

Presidential Proclamation 6641 implemented the North American Free Trade Agreement and established tariff-preference levels on the following qualifying imported goods:

#### **Imported from Mexico:**

- Chapter 99, Subchapter VI, U.S. Note 4 (99 USN 4)—Milk and cream,
- 99 USN 5—Dried milk and dried cream,
- 99 USN 6—Dried milk and dried cream,
- 99 USN 7—Milk and cream (condensed and evaporated),
- 99 USN 8—Cheese,
- 99 USN 9—Tomatoes,
- 99 USN 10—Tomatoes,
- 99 USN 11—Onions and shallots,
- 99 USN 12—Eggplants,
- 99 USN 13—Chili peppers,
- 99 USN 14—Squash,
- 99 USN 15—Watermelons,
- 99 USN 16—Peanuts,
- 99 USN 18—Sugars derived from sugar cane or sugar beets,
- 99 USN 19—Blended syrups,

- 99 USN 20—Sugars derived from sugar cane or sugar beets,
- 99 USN 21—Orange juice,
- 99 USN 22—Orange juice,
- 99 USN 25—Cotton,
- 9906.96.01—Brooms,
- Section XI Additional U.S. Notes—cotton or man-made fiber apparel, wool apparel, cotton or man-made fiber fabrics and made-ups and cotton or man-made fibers yarns.

**Imported from Canada:**

- Section XI Additional U.S. Notes—cotton or man-made fiber apparel, wool apparel, cotton or man-made fiber fabrics and made-ups and cotton or man-made fibers yarns.

**Tariff-Rate Quotas—GATT:**

Presidential Proclamation 6763 implemented the GATT Uruguay Round Agreements for the following tariff-rate commodities:

- Chapter 2, Additional U.S. Note 3 (2 AUSN 3)—Beef,
- 4 AUSN 5—Milk and cream,
- 4 AUSN 9—Dried milk and dried cream,
- 4 AUSN 10—Dairy products,
- 4 AUSN 11—Milk and cream (condensed or evaporated),
- 4 AUSN 12—Dried milk, dried cream, and dried whey (in excess of 224,981 kilograms),
- 4 AUSN 18—Canadian cheddar cheese,
- 12 AUSN 2—Peanuts,
- 17 AUSN 5—Sugar (including sugar cane),
- 17 AUSN 7—Articles containing more than 65 percent by dry weight of sugar described in 17 AUSN 2,
- 17 AUSN 8—Articles containing more than 10 percent by dry weight of sugar described in 17 AUSN 3,
- 17 AUSN 9—Blended syrups,
- 18 AUSN 1—Cocoa powder,
- 18 AUSN 2—Chocolate,
- 18 AUSN 3—Chocolate and low-fat chocolate crumb,
- 19 AUSN 2—Infant formula,
- 19 AUSN 3—Mixes and doughs,
- 20 AUSN 5—Peanut butter and paste,
- 21 AUSN 4—Mixed condiments and mixed seasonings,
- 21 AUSN 5—Ice cream,

- 23 AUSN 2—Animal feed,
- 24 ASUN 5—Tobacco,
- 52 AUSN 5—Cotton,
- 52 AUSN 6—Harsh or rough cotton,
- 52 AUSN 7—Cotton,
- 52 AUSN 8—Cotton,
- 52 AUSN 9—Card strips made from cotton,
- 52 AUSN 10—Fibers of cotton.

#### **Tariff-Rate Quotas: U.S.-Israel Agreement on Trade in Agricultural Products**

Presidential Proclamation 6962 implemented the U.S.-Israel agreement for the following agricultural products:

- Chapter 99, Subchapter VIII, U.S. Note 3—Butter, fresh or sour cream,
- Chapter 99, Subchapter VIII, U.S. Note 4—Dried milk,
- Chapter 99, Subchapter VIII, U.S. Note 5—Cheese and substitutes for cheese,
- Chapter 99, Subchapter VIII, U.S. Note 6—Peanuts,
- Chapter 99, Subchapter VIII, U.S. Note 7—Ice cream.

#### **Textile Articles**

CBP administers import controls on certain cotton, wool, man-made fiber, silk blend and other vegetable-fiber articles manufactured or produced in designated countries. CBP administers the Special Access Program and the Andean Trade Preference Act on certain products which are made of U.S.-formed-and-cut fabric. These controls are imposed on the basis of directives issued to the Commissioner of CBP by the Chairman of the Committee for the Implementation of Textile Agreements.

Information concerning specific import controls may be obtained from the Commissioner of CBP. Other information concerning the textile program may be obtained from:

Chairman  
Committee for the Implementation of Textile Agreements  
U.S. Department of Commerce  
Washington, DC 20230.

#### **Textile Visa and Export License Requirements**

A textile visa is an endorsement in the form of a stamp on an invoice or export control license that is executed by a foreign government. It is used to control the exportation of textiles and textile products to the United States and to prohibit the unauthorized entry of the merchandise into this country. A visa may cover either quota or

nonquota merchandise. Conversely, quota merchandise may or may not require a visa depending upon the country of origin. A visa does not guarantee entry of the merchandise into the United States. If the quota closes between the time the visa is issued in the foreign country and the shipment's arrival in the United States, the shipment will not be released to the importer until the quota opens again.

**Electronic Visa Information System (ELVIS)**

ELVIS is the electronic transmission of visa information for textile merchandise from a specific country to the U.S. CBP.

**Quotas Or Licenses Administered By Other Government Agencies**

**Watches and Watch Movements.** There are no licensing requirements or quotas on watches and watch movements entering the United States unless the watches and watch movements are produced in the insular possessions (U.S. Virgin Islands, American Samoa, Guam). The Departments of Commerce and the Interior administer a program that establishes an annual allocation for watches and watch movements assembled in the insular possessions to enter the United States free of duty under statistical notes (91/5) to Chapter 91 of the Harmonized Tariff Schedule. Licenses are issued only to established insular producers. Further information on the insular watch program may be obtained from:

Statutory Import Programs Staff  
 Import Administration  
 U.S. Department of Commerce  
 Washington, DC 20230

**Dairy Products.** Certain dairy products are subject to annual import quotas administered by the Department of Agriculture and may be imported at the in-quota rate only under import licenses issued by that department. Detailed information on the licensing of these products, or the conditions under which limited quantities of the products may be imported without licenses, may be obtained from:

Dairy Import Group  
 Foreign Agricultural Service  
 U.S. Department of Agriculture  
 Washington, DC 20250  
 Tel. 202.720.9439.

- Chapter 4, Additional U.S. Note 6 (4 AUSN 6)—Butter and fresh or sour cream,
- 4 AUSN 7—Dried milk,
- 4 AUSN 8—Dried milk or dried cream,

- 4 AUSN 12—Dried milk, dried cream or dried whey (up to 224,981 kilograms),
- 4 AUSN 14—Butter substitutes,
- 4 AUSN 16—Cheeses and substitutes for cheese,
- 4 AUSN 17—Blue-molded cheese,
- 4 AUSN 18—Cheddar cheese (except Canadian cheddar),
- 4 AUSN 19—American-type cheese,
- 4 AUSN 20—Edam and Gouda cheese,
- 4 AUSN 21—Italian-type cheese,
- 4 AUSN 22—Swiss or Emmentaler cheese,
- 4 AUSN 23—Cheese and substitutes for cheese,
- 4 AUSN 25—Swiss or Emmentaler cheese.

The above products may be imported at the over-quota rate without an import license.

## **FRAUD**

### **43. Civil and Criminal Enforcement Provisions**

Section 592 of the Tariff Act of 1930, as amended (19 U.S.C. 1592), generally provides that persons shall be subject to a monetary penalty if they enter, introduce or attempt to enter or introduce merchandise into the commerce of the United States by fraud, gross negligence or negligence; by using material and false electronically transmitted data; written or oral statement; or by document, act, or material omission. In limited circumstances, the merchandise of such individuals may be seized to insure payment of the penalty and forfeited if the penalty is not paid.

CBP has applied the civil fraud statute in cases where individuals and companies in the United States and abroad have negligently, gross negligently, or intentionally provided false information concerning importations into the United States. Individuals presenting false information to CBP officers may also be liable for sanctions under a criminal fraud statute. Title 18, United States Code, Section 542, provides a maximum of two years' imprisonment, a fine, or both, for each violation involving a fraudulent importation or attempted importation. Although Congress initially enacted the civil and criminal fraud statutes to discourage individuals from evading payment of lawful duties owed to the United States, these laws apply today regardless of whether the United States is deprived of lawful duties.

Under Section 596 of the Tariff Act of 1930, as amended (19 U.S.C. 1595a(c)), CBP is required to seize and forfeit all merchandise that is stolen, smuggled, or clandestinely imported or introduced. CBP is also required to seize and forfeit controlled substances, certain contraband articles, and plastic explosives that do not contain a detection agent.

Merchandise may also be seized and forfeited if:

- Its importation is restricted or prohibited because of a law relating to health, safety or conservation;
- The merchandise is lacking a federal license required for the importation;
- The merchandise or packaging is in violation of copyright, trademark, trade name, or trade dress protections;
- The merchandise is intentionally or repetitively marked in violation of country of origin marking requirements; or
- The imported merchandise is subject to quantitative restrictions requiring a visa or similar document from a foreign government, and the document presented with the entry is counterfeit.

Federal laws relating to criminal activities commonly known as money laundering (e.g., 18 U.S.C. 1956) created criminal and civil provisions that, along with fines and

imprisonment, enable the government to prosecute persons for, and seize and forfeit property involved in or traceable to, such violations. Criminal penalties include fines of not more than \$500,000 or twice the value of the property, funds, or monetary instruments involved in the violation, whichever is greater, or imprisonment for not more than twenty years, or both. There is also a civil penalty of not more than \$10,000 or the value of the property, funds or monetary instruments involved in the violation, whichever is greater.

Special agents from U.S. Immigration and Customs Enforcement, who operate throughout the United States and in the world's major trading centers, enforce the criminal fraud, civil fraud, and money laundering statutes. Suspected or known violations of any laws that involve importing merchandise into the United States can be reported toll-free and anonymously by calling 1-800-BE ALERT (1.800.232.5378). Rewards are applicable in many instances of reporting fraud.

## FOREIGN-TRADE ZONES

### FOREIGN-TRADE ZONES

#### 44. Foreign-Trade Zones

Foreign-trade zones are secure areas legally outside the customs territory of the United States. Their purpose is to attract and promote international trade and commerce. Subzones are special-purpose facilities for companies that cannot operate effectively at public zone sites.

Foreign-trade zones are usually located in or near CBP ports of entry, industrial parks or terminal warehouse facilities. These zones must be within 60 miles or 90 minutes' driving time from the port of entry limits, while subzones have no limit and are located in the zone user's private facility.

The Foreign-Trade Zones Board, which is under the Department of Commerce, authorizes operations within these zones based upon demonstrating that the intended operations are legal and not detrimental to the public interest. Created by the Foreign-Trade Zones Act of 1934, the Board reviews and approves applications to establish, operate and maintain foreign-trade zones.

CBP is responsible for activating foreign-trade zones, securing them, controlling dutiable merchandise moving in and out of them, protecting and collecting the revenue, assuring that there is no evasion or violation of U.S. laws and regulations governing imported and exported merchandise, and assuring that the zones program is free from terrorist activity. It is important to note that although foreign-trade zones are treated as being outside the customs territory of the United States for tariff and entry purposes, all other federal laws—the Federal Food, Drug, and Cosmetic Act, for example—are applicable to products and establishments within these zones.

Foreign exporters planning to open or expand new American outlets may forward their goods to a foreign-trade zone in the United States to be held for an unlimited period while awaiting a favorable market in the United States or nearby countries. During this time, their goods will not be subject to CBP entry requirements, payment of duty, tax or bond.

#### Treatment of Goods

Merchandise lawfully brought into these zones may be stored, sold, exhibited, broken up, repacked, assembled, distributed, sorted, tested, repaired, sampled, salvaged, relabeled, destroyed, processed, graded, cleaned, mixed with foreign or domestic merchandise, or otherwise manipulated or manufactured. Merchandise imported for use in the zone, such as construction materials or production equipment, may be admitted into



the zone and assembled prior to entry for consumption. Payment of duty would be deferred until such equipment goes into use as production equipment in a Board-authorized activity.

The Foreign-Trade Zones Board may at any time order any goods, process or treatment to be excluded from the zone if, in its judgment, they would be detrimental to the public interest, health or safety. Any resulting merchandise would thereafter have to be exported.

When foreign goods are admitted to a zone in privileged foreign status, the importer may choose to have the merchandise treated, for tariff purposes, in the same condition as it was at the time of admission to the zone. By choosing this status, the importer "freezes" the goods' rate of duty and tariff classification in their condition at the time of filing the application for privileged foreign status. The rate of duty in force when privileged foreign status was chosen will apply regardless of when the merchandise is entered into United States customs territory, even though its condition or form may have been changed by processing in the zone. By selecting nonprivileged foreign status, the importer chooses to have the merchandise treated, for tariff purposes, in its condition and quantity as it is constructively transferred from the zone into United States customs territory and entered for consumption.

In most instances the importer may choose the status of the merchandise when it is admitted to the zone. The Foreign-Trade Zones Board may require that certain commodities be placed in privileged foreign status because of certain trade requirements such as antidumping and countervailing-duty considerations. Merchandise may be considered exported, for customs or other purposes, upon its admission to a zone in zone-restricted status; however, the merchandise taken into a zone under zone-restricted status must be for the sole purpose of exportation, destruction (except destruction of distilled spirits, wines, and fermented malt liquors) or storage.

An important feature of foreign-trade zones for foreign merchants entering the American market is that the goods may be brought to the threshold of the market, making immediate delivery certain and avoiding possible cancellation of orders due to shipping delays.

Producing articles in zones through the combined use of domestic and foreign materials makes it unnecessary to send domestic materials abroad for manufacture or to pay duty or obtain a bond for foreign materials that have been imported for this purpose. Duty on foreign goods involved in such processing or manufacture are calculated only on the actual quantity of the foreign goods incorporated into the merchandise and transferred from a zone for entry into the commerce of the United States. Allowances are made for unrecoverable waste resulting from such manufacture or manipulation, thereby eliminating payment of duty except on the articles that are actually entered. Recoverable

waste will be placed in privileged foreign status and will be dutiable according to the condition it was in when it was admitted to the zone and according to the quantity entered into the commerce of the United States.

The Foreign-Trade Zones Act also allows exhibiting merchandise within a zone. Zone facilities may be utilized for the full exhibition of foreign merchandise for an unlimited length of time with no requirement for exportation or payment of duty. Merchandise exhibited in a zone would be held under the operator's bond. Thus, the owner of goods in a zone may display the goods where they are stored, establish his or her own showrooms, or join with other importers to display merchandise in a permanent exhibition. The importer may also sell from stock in a zone wholesale quantities. Retail trade is prohibited in zones.

Domestic merchandise may be taken into a zone and, providing its identity is maintained in accordance with regulations, may be returned to customs territory free of quotas, duty, or tax, even though while in the zone it may have been combined with or made part of other articles. However, domestic distilled spirits, wine, and beer, and a limited number of other kinds of merchandise generally may not be processed while in the zone.

#### **Advantages**

Manipulation and manufacture in a zone may produce cost savings. For example, many products shipped to a zone in bulk can be dried, sorted, graded, cleaned, bagged or packed, resulting in savings of duties and taxes on moisture taken from content or dirt removed and culls thrown out. Damaged packages or broken bottles can be removed from shipments of packaged or bottled goods. If evaporation results during shipment or while goods are stored in the zone, contents of barrels or other containers can be regauged and savings obtained, as duty is not payable on the portions lost or removed. In other words, the contents of barrels or other containers can be measured at the time of transfer to customs territory to insure that duty is not charged on any portion lost to evaporation, leakage, breakage, or otherwise. These operations may also be conducted in bonded warehouses.

Savings in shipping charges, duty, and taxes may also result from such operations as shipping unassembled or disassembled furniture, machinery, etc., to the zone and assembling or reassembling it there.

Merchandise otherwise up to standard may be re-marked or relabeled in the zone (or bonded warehouse) to conform to requirements for entry into the commerce of the United States. Re-marking or relabeling that is misleading is not permitted in the zone. Substandard foods and drugs may, in certain cases, be reconditioned to meet the requirements of the Food, Drug, and Cosmetic Act.

There is no time limit on how long foreign merchandise may be stored in a zone or when it must be entered into United States customs territory, re-exported, or destroyed.

### **Transfer of Goods in Bonded Warehouses**

Foreign merchandise in CBP bonded warehouses may be transferred to foreign-trade zones at any time before their retention date in the bonded warehouse expires, but such a transfer may only be made for the purpose of eventual exportation, destruction, or permanent storage.

When foreign merchandise is transferred to a zone from a CBP bonded warehouse, the bond is cancelled and all obligations regarding duty payment or when merchandise must be re-exported are terminated. Similarly, the owner of domestic merchandise stored in Internal Revenue bonded warehouses may transfer his or her goods to a zone and obtain cancellation of bonds. In addition, domestic goods moved into a zone under zone-restricted status are, upon entering the zone, considered exported for purposes of excise and internal revenue tax rebates. A manufacturer operating in U.S. customs territory using dutiable imported materials in his or her product may, upon transferring the product to the zone for export and complying with appropriate regulations, also obtain drawback of duties paid or cancellation of bond.

General information about United States foreign-trade zones and their locations may be obtained from:

Foreign-Trade Zones Board  
Department of Commerce  
Washington, DC 20330

Questions about the legal aspects of CBP responsibilities in regard to foreign-trade zones should be addressed to:

Chief, Cargo Control  
U.S. Customs and Border Protection  
Washington, DC 20229

Questions about the operational aspects of such responsibilities should be addressed to the appropriate CBP port director. The Foreign-Trade Zones Manual may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. When ordering, refer to CBP Publication No.0000-0559.

The Foreign-Trade Zones Manual may also be viewed at or downloaded from CBP's Website, [www.cbp.gov](http://www.cbp.gov).

**APPENDIX**

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## 1. INVOICES

### § 141.83 Type of invoice required.

(a)-(b) [Reserved]

(c) *Commercial invoice.* (1) A commercial invoice shall be filed for each shipment of merchandise not exempted by paragraph (d) of this section. The commercial invoice shall be prepared in the manner customary in the trade, contain the information required by Secs. 141.86 through 141.89, and substantiate the statistical information required by Sec. 141.61(e) to be given on the entry, entry summary, or withdrawal documentation.

(2) The port director may accept a copy of a required commercial invoice in place of the original. A copy, other than a photostatic or photographic copy, shall contain a declaration by the foreign seller, the shipper, or the importer that it is a true copy.

(d) *Commercial invoice not required.* A commercial invoice shall not be required in connection with the filing of the entry, entry summary, or withdrawal documentation for merchandise listed in this paragraph. The importer, however, shall present any invoice, memorandum invoice, or bill pertaining to the merchandise which may be in his possession or available to him. If no invoice or bill is available, a pro forma (or substitute) invoice, as provided for in Sec. 141.85, shall be filed, and shall contain information adequate for the examination of merchandise and the determination of duties, and information and documentation which verify the information required for statistical purposes by Sec. 141.61(e). The merchandise subject to the foregoing requirements is as follows:

(1) [Reserved]

(2) Merchandise not intended for sale or any commercial use in its imported condition or any other form, and not brought in on commission for any person other than the importer.

(3)-(4) [Reserved]

(5) Merchandise returned to the United States after having been exported for repairs or alteration under subheadings 9802.00.40 and 9802.00.60, Harmonized Tariff Schedule of the United States (19 U.S.C. 1202).

(6) Merchandise shipped abroad, not delivered to the consignee, and returned to the United States.

(7) Merchandise exported from continuous CBP custody within 6 months after the date of entry.

(8) Merchandise consigned to, or entered in the name of, any agency of the U.S. Government.

(9) Merchandise for which an appraisement entry is accepted.

(10) Merchandise entered temporarily into the customs territory of the United States under bond or for permanent exhibition under bond.

(11) Merchandise provided for in section 466, Tariff Act of 1930 (19 U.S.C. 1466), which pertain to certain equipment, repair parts, and supplies for vessels.

(12) Merchandise imported as supplies, stores, and equipment of the importing carrier

and subsequently made subject to entry pursuant to section 446, Tariff Act of 1930, as amended (19 U.S.C. 1446).

- (13) Ballast (not including cargo used for ballast) landed from a vessel and delivered for consumption.
- (14) Merchandise, whether privileged or nonprivileged, resulting from manipulation or manufacture in a foreign trade zone.
- (15) Screenings contained in bulk importations of grain or seeds.

[T.D. 73-175, 38 FR 17447, July 2, 1973, as amended by T.D. 78-53, 43 FR 6069, Feb. 13, 1978; T.D. 79-221, 44 FR 46820, Aug. 9, 1979; T.D. 82-224, 47 FR 53728, Nov. 29, 1982; T.D. 84-213, 49 FR 41184, Oct. 19, 1984; T.D. 85-39, 50 FR 9612, Mar. 11, 1985; T.D. 89-1, 53 FR 51256, Dec. 21, 1988; T.D. 93-66, 58 FR 44130, Aug. 19, 1993; T.D. 94-24, 59 FR 13200, Mar. 21, 1994; T.D. 97-82, 62 FR 51771, Oct. 3, 1997]

**NOTE:** *The Customs Service waived the requirement for a special invoice on March 1, 1982. However, it may still be used. If a commercial invoice is used, it must be signed by the seller and shipper or their agents.*

(PRO FORMA INVOICE HERE)

## 2. ADDITIONAL INFORMATION

### § 141.89 Additional Information for certain classes of merchandise.

(a) Invoices for the following classes of merchandise, classifiable under the Harmonized Tariff Schedule of the United States (HTSUS), shall set forth the additional information specified: [T.D. 75-42, 75-239, 78-53, 83-251, 84-149.]

**Aluminum and alloys of aluminum** classifiable under subheadings 7601.10.60, 7601.20.60, 7601.20.90, or 7602.00.00, HTSUS (T.D. 53092, 55977, 56143)—Statement of the percentages by weight of any metallic element contained in the article.

**Articles manufactured of textile materials**, Coated or laminated with plastics or rubber, classifiable in Chapter(s) 39, 40, and 42—Include a description indicating whether the fabric is coated or laminated on both sides, on the exterior surface or on the interior surface.

**Bags manufactured of plastic sheeting** and not of a reinforced or laminated construction, classified in Chapter 39 or in heading 4202—Indicate the gauge of the plastic sheeting.

**Ball or roller bearings** classifiable under subheading 8482.10.50 through 8482.80.00, HTSUS (T.D. 68-306)—(1) Type of bearing (i.e. whether a ball or roller bearing); (2) If a

roller bearing, whether a spherical, tapered, cylindrical, needled or other type; (3) Whether a combination bearing (i.e., a bearing containing both ball and roller bearings, etc.); and (4) If a ball bearing (not including ball bearing with integral shafts or parts of ball bearings), whether or not radial, the following: (a) outside diameter of each bearing; and (b) whether or not a radial bearing (the definition of radial bearing is, for customs purposes, an antifriction bearing primarily designed to support a load perpendicular to shaft axis).

**Beads** (T.D. 50088, 55977)—(1) The length of the string, if strung; (2) The size of the beads expressed in millimeters; (3) The material of which the beads are composed, i.e. ivory, glass, imitation pearl, etc.

**Bed Linen and Bedspreads**—Statement as to whether or not the article contains any embroidery, lace, braid, edging, trimming, piping or applique work.

**Chemicals**—Furnish the use and Chemical Abstracts Service number of chemical compounds classified in Chapters 27, 28 and 29, HTSUS.

**Colors, dyes, stains and related products** provided for under heading 3204, HTSUS—The following information is required: (1) Invoice name of product; (2) Trade name of product; (3) Identity and percent by weight of each component; (4) Color Index number (if none, so state); (5) Color Index generic name (if none so state); (6) Chemical Abstracts Service number of the active ingredient; (7) Class of merchandise (state whether acid type dye, basic dye, disperse dye, fluorescent brightener, soluble dye, vat dye, toner or other (describe)); (8) Material to which applied (name the material for which the color, dye, or toner is primarily designed).

**Copper** (T.D. 45878, 50158, 55977) articles classifiable under the provisions of Chapter 74, HTSUS—A statement of the weight of articles of copper, and a statement of percentage of copper content and all other elements—by weight—of articles classifiable according to copper content.

**Copper ores and concentrates** (T.D. 45878, 50158, 55977) classifiable in heading 2603, and subheadings 2620.19.60, 2620.20.00, 2620.30.00, and heading 7401—Statement of the percentage by weight of the copper content and any other metallic elements.

**Cotton fabrics** classifiable under the following HTSUS headings: 5208, 5209, 5210, 5211, and 5212—(1) Marks on shipping packages; (2) Numbers on shipping packages; (3) Customer's call number, if any; (4) Exact width of the merchandise; (5) Detailed description of the merchandise; trade name, if any; whether bleached, unbleached, printed, composed of yarns of different color, or dyed; if composed of cotton and other materials, state the percentage of each component material by weight; (6) Number of single threads per square centimeter (All ply yarns must be counted in accordance with

the number of single threads contained in the yarn; to illustrate: a cloth containing 100 two-ply yarns in one square centimeter must be reported as 200 single thread); (7) Exact weight per square meter in grams; (8) Average yarn number use this formula:

$$\frac{100 \times (\text{total single yarns per square centimeter})}{(\text{number of grams per square meter})}$$

(9) Yarn size or sizes in the warp; (10) Yarn size or sizes in the filling; (11) Specify whether the yarns are combed or carded; (12) Number of colors or kinds (different yarn sizes or materials) in the filling; (13) Specify whether the fabric is napped or not napped; and (14) Specify the type of weave, for example, plan, twill, sateen, oxford, etc., and (15) Specify the type of machine on which woven: if with Jacquard (Jacq), if with Swivel (Swiv), if with Lappet (Lpt.), if with Dobby (Dobby).

**Cotton raw** See § 151.82 of this chapter for additional information required on invoices.

**Cotton waste** (T.D. 50044)—(1) The name by which the cotton waste is known, such as “cotton card strips”; “cotton comber waste”; “cotton fly waste”; etc.; (2) Whether the length of the cotton staple forming any cotton card strips covered by the invoice is less than 3.016 centimeters (1 3/16 inches) or is 3.016 centimeters (1 3/16 inches) or more.

**Earthenware or crockeryware** composed of a nonvitrified absorbent body (including white granite and semiporcelain earthenware and cream-colored ware, stoneware, and terra cotta, but not including common brown, gray, red, or yellow earthenware), embossed or plain; common salt-glazed stoneware; stoneware or earthenware crucibles; Rockingham earthenware; china, porcelain, or other vitrified wares, composed of a vitrified nonabsorbent body which, when broken, shows a vitrified, vitreous, semi-vitrified, or semivitreous fracture; and bisque or Parian ware (T.D. 53236)—(1) If in sets, the kinds of articles in each set in the shipment and the quantity of each kind of article in each set in the shipment; (2) The exact maximum diameter, expressed in centimeters, of each size of all plates in the shipment; (3) The unit value for each style and size of plate, cup, saucer, or other separate piece in the shipment.

**Fish or fish livers** (T.D. 50724, 49640, 55977) imported in airtight containers classifiable under Chapter 3, HTSUS—(1) Statement whether the articles contain an oil, fat, or grease, (2) The name and quantity of any such oil, fat, or grease.

**Footwear**, classifiable in headings 6401 through 6405 of the HTSUS—

1. Manufacturer’s style number.
2. Importer’s style and/or stock number.
3. Percent by area of external surface area of upper (excluding reinforcements and accessories) which is:



- Leather a. \_\_\_\_\_%
- Composition leather b. \_\_\_\_\_%
- Rubber and/or plastics c. \_\_\_\_\_%
- Textile materials d. \_\_\_\_\_%
- Other e. \_\_\_\_\_%
- (give separate percent for each type of material) f. \_\_\_\_\_%

4. Percent by area of external surface area of outersole (excluding reinforcements and accessories) which is:

- Leather a. \_\_\_\_\_%
- Composition leather b. \_\_\_\_\_%
- Rubber and/or plastics c. \_\_\_\_\_%
- Textile materials d. \_\_\_\_\_%
- Other e. \_\_\_\_\_%
- (give separate percent for each type of material) f. \_\_\_\_\_%

You may skip this section if you choose to answer all questions A through Z below:

- I. If 3(a) is larger than any other percent in 3 and if 4(a) is larger than any other percent in 4, answer questions F, G, L, M, O, R, S, and X.
- II. If 3(a) is larger than any other percent in 3 and if 4(c) is larger than any other percent in 4, answer questions F, G, L, M, O, R, S, and X.
- III. If 3(a) plus 3(b) is larger than any single percent in 3 and 4(d), 4(e) or 4(f) is larger than any other percent in 4, stop.
- IV. If 3(c) is larger than any other percent in 3 and if 4(a) or 4(b) is larger than any other percent in 4, stop.
- V. If 3(c) is larger than any other percent in 3 and if 4(c) is larger than any other percent in 4, answer questions B, E, F, G, H, J, K, L, M, N, O, P, T and W.
- VI. If 3(d) is larger than any other percent in 3 and if 4(a) plus 4(b) is greater than any single percent in 4, answer questions C and D.
- VII. If 3(d) is larger than any other percent in 3 and if 4(c) is larger than any single percent in 4, answer questions A, C, J, K, M, N, P and T.
- VIII. If 3(d) is larger than any other percent in 3 and if 4(d) is larger than any other percent in 4, answer questions U, Y and Z.
- IX. If the article is made of paper, answer questions V and Z.

If the article does not meet any of the conditions I through IX above, answer all questions A through Z, below:

- A. Percent of external surface area of upper (including leather reinforcements and accessories).

- Which is leather \_\_\_\_\_%
- B. Percent by area of external surface area of upper (including all reinforcements and accessories).  
Which is rubber \_\_\_\_\_%  
and/or plastics \_\_\_\_\_%
- C. Percent by weight of rubber and/or plastics is \_\_\_\_\_%
- D. Percent by weight of textile materials plus rubber and/or plastics is \_\_\_\_\_%
- E. Is it waterproof?
- F. Does it have a protective metal toe cap?
- G. Will it cover the wearer's ankle bone?
- H. Will it cover the wearer's knee cap?
- I. [Reserved.]
- J. Is it designed to be a protection against water, oil, grease, or chemicals or cold or inclement weather?
- K. Is it a slip-on?
- L. Is it a downhill or cross-country ski boot?
- M. Is it serious sports footwear other than ski boots? (Chapter 64 subheading note defines sports footwear.)
- N. Is it a tennis, basketball, gym, or training shoe or the like?
- O. Is it made on a base or platform of wood?
- P. Does it have open toes or open heels?
- Q. Is it made by the (lipped insole) welt construction?
- R. Is it made by the turned construction?
- S. Is it worn exclusively by men, boys or youths?
- T. Is it made by an exclusively adhesive construction?
- U. Are the fibers of the upper, by weight, predominately vegetable fibers?
- V. Is it disposable, i.e., intended for one-time use?
- W. Is it a "Zori"?
- X. Is the leather in the upper pigskin?
- Y. Are the sole and supper made of wool felt?
- Z. Is there a line of demarcation between the outer sole and upper?

The information requested above may be furnished on CBPF 5523 or other appropriate format by the exporter, manufacturer or shipper.

Also, the following information must be furnished by the importer or his authorized agent if classification is claimed under one of the subheadings below, as follows:

If subheading 6401.99.80, 6402.19.10, 6402.30.30, 6402.91.40, 6402.99.15, 6402.99.30, 6404.11.40, 6404.11.60, 6404.19.35, 6404.19.40, or 6404.19.60 is claimed:

Does the shoe have a foxing or foxing-like band? If so, state its material(s).

Does the sole overlap the upper other than just at the front of the toe and/or at the back of the heel?

**Definitions** for some of the terms used in Question A to Z above: For the purpose of this section, the following terms have the approximate definitions below. If either a more complete definition or a decision as to its application to a particular article is needed, the marker or importer of record (or the agent of either) should contact CBP prior to entry of the article.

- a. In an exclusively adhesive construction, all of the pieces of the bottom would separate from the upper or from each other if all adhesives, cements, and glues were dissolved. It includes shoes in which the pieces of the upper are stitched to each other, but not to any part of the bottom. Examples include:
  1. Vulcanized construction footwear;
  2. Simultaneous molded construction footwear;
  3. Molded footwear in which the upper and the bottom is one piece of molded rubber or plastic, and
  4. Footwear in which staples, rivets, stitching, or any of the methods above are either primary or even just extra or auxiliary, even though adhesive is a major part of the reason the bottom will not separate from the upper.
- b. Composition leather is made by binding together leather fibers or small pieces of natural leather. It does not include imitation leathers not based on natural leather.
- c. Leather is the tanned skin of any animal from which the fur or hair has been removed. Tanned skins coated or laminated with rubber and/or plastics are "leather" only if leather gives the material its essential character.
- d. A Line of Demarcation exists if one can indicate where the sole ends and the upper begins. For example, knit booties do not normally have a line of demarcation.
- e. Men's, boy's and youth's sizes cover footwear of American youths size 11 and larger for males, and does not include footwear commonly worn by both sexes. If more than 4% of the shoes sold in a given size will be worn by females, that size is "commonly worn by both sexes."
- f. Footwear is designed to protect against water, oil or cold or inclement weather only if it is substantially more of a protection against those items than the usual shoes of that type. For example, a leather oxford will clearly keep your feet warmer and drier than going barefoot, but they are not a protection in this sense. On the other hand, the snow-jogger is the protective version of the nonprotective jogging shoe.
- g. Rubber and/or plastics includes any textile material visibly coated (or covered) externally with one or both of those materials.

- h. Slip-on includes:
  - 1. A boot which must be pulled on.
  - 2. Footwear with elastic cores which must be stretched to get it on, but not a separate piece of elasticized fabric which forms a full circle around the foot or ankle.
- i. Sports footwear includes only:
  - 1. Footwear which is designed for a sporting activity and has, or has provision for, the attachment of spikes, sprigs, cleats, stops, clips, bars or the like;
  - 2. Skating boots (without skates attached), ski boots and cross-country ski footwear, wrestling boots, boxing boots and cycling shoes.
- j. Tennis shoes, basketball shoes, gym shoes, training shoes and the like cover athletic footwear other than sports footwear, whether or not principally used for such athletic games or purposes.
- k. Textile materials are made from cotton, other vegetable fibers, wool, hair, silk or man-made fibers. Note: Cork, wood, cardboard and leather are not textile materials.
- l. In turned construction, the upper is stitched to the leather sole wrong side out and the shoe is then turned right side out.
- m. Vegetable fibers include cotton, flax and ramie, but does not include either rayon or plaiting materials such as rattan or wood strips.
- n. Waterproof footwear includes footwear designed to protect against penetration by water or other liquids, whether or not such footwear is primarily designed for such purposes.
- o. Welt footwear means footwear construction with a welt, which extends around the edge of the outer sole, and in which the welt and shoe upper are sewed to a lip on the surface of the insole, and the outer sole of which is sewed or cemented to the welt.
- p. A zori has an upper consisting only of straps or thongs of molded rubber or plastic. This upper is assembled to a formed rubber or plastic sole by means of plugs.

**Fur products and furs** (T.D. 53064)—(1) Name or names (as set forth in the Fur Products Name Guide (16 CFR 301.0) of the animal or animals that produced the fur, and such qualifying statements as may be required pursuant to § 7(c) of the Fur Products Labeling Act (15 U.S.C. 69e(c)); (2) A statement that the fur product contains or is composed of used fur, when such is the fact; (3) A statement that the fur product contains or is composed of bleached, dyed, or otherwise artificially colored fur, when such is the fact; (4) A statement that the fur product is composed in whole or in substantial part of paws, tails, bellies, or waste fur, when such is the fact; (5) Name and address of the manufacturer of the fur product; (6) Name of the country of origin of the furs or those contained in the fur product.

**Glassware and other glass products** (T.D. 53079, 55977)—Classifiable under Chapter 70, HTSUS—Statement of the separate value of each component article in the set.

**Gloves**—classifiable in subheadings 6116.10.20 and 6216.00.20—Statement as to whether or not the article has been covered with plastics on both sides. Grain or grain and screenings (T.D. 51284)—Statement on CBP invoices for cultivated grain or grain and screenings that no screenings are included with the grain, or, if there are screenings included, the percentage of the shipment which consists of screenings commingled with the principal grain.

**Handkerchiefs**—(1) State the exact dimensions (length and width) of the merchandise; (2) If of cotton indicate whether the handkerchief is hemmed and whether it contains lace or embroidery.

**Hats or headgear**—(1) If classifiable under subheading 6502.00.40 or 6502.00.60, HTSUS—Statement as to whether or not the article has been bleached or colored; (2) If classifiable under subheading 6502.00.20 through 6502.00.60 or 6504.00.30 through 6504.00.90, HTSUS—Statement as to whether or not the article is sewed or not sewed, exclusive of any ornamentation or trimming.

**Hosiery**—(1) Indicate whether a single yarn measures less than 67 decitex. (2) Indicate whether the hosiery is full length, knee length, or less than knee length. (3) Indicate whether it contains lace or net.

**Iron or Steel** classifiable in Chapter 72 or headings 7301 to 7307, HTSUS (T.D. 53092, 55977)—Statement of the percentages by weight of carbon and any metallic elements contained in the articles, in the form of a mill analysis or mill test certificate.

**Iron oxide** (T.D. 49989, 50107)—For iron oxide to which a reduced rate of duty is applicable, a statement of the method of preparation of the oxide, together with the patent number, if any.

**Machines, equipment and apparatus**—Chapters 84 and 85, HTSUS—A statement as to the use or method of operation of each type of machine.

**Machine parts** (T.D. 51616)—Statement specifying the kind of machine for which the parts are intended, or if this is not known to the shipper, the kinds of machines for which the parts are suitable.

**Machine tools:** (1) Heading 8456 through 8462—machine tools covered by these headings equipped with a CNC (Computer Numerical Control) or the facings (electrical interface) for a CNC must state so; (2) heading 8458 through 8463—machine tools

covered by these headings if used or rebuilt must state so; (3) subheading 8456.30.10—EDM: (Electrical Discharge Machines) if a Traveling Wire (Wire Cut) type must state so. Wire EDM's use a copper or brass wire for the electrode; (4) subheading 457.10.0010 through 8457.10.0050—Machining Centers. Must state whether or not they have an ATC (Automatic Tool Changer). Vertical spindle machine centers with an ATC must also indicate the Y-travel; (5) subheadings 8458.11.0030 through 8458.11.00.90—horizontal lathes: numerically controlled. Must indicate the rated HP (or KW rating) of the main spindle motor. Use the continuous rather than 30-minute rating.

**Madeira embroideries** (T.D. 49988)—(1) With respect to the materials used, furnish: (a) country of production; (b) width of the material in the piece; (c) name of the manufacturer; (d) kind of material, indicating manufacturer's quality number; (e) landed cost of the material used in each item; (f) date of the order; (g) date of the invoice; (h) invoice unit value in the currency of the purchase; (i) discount from purchase price allowed, if any, (2) with respect to the finished embroidered articles, furnish: (a) manufacturer's name, design number, and quality number; (b) importer's design number, if any; (c) finished size; (d) number of embroidery points per unit of quantity; (e) total for overhead and profit added in arriving at the price of value of the merchandise covered by the invoice.

**Motion-picture films**—(1) Statement of footage, title, and subject matter of each film; (2) declaration of shipper, cameraman, or other person with knowledge of the acts identifying the films with the invoice and stating that the basic films were to the best of his knowledge and belief exposed abroad and returned for use as newsreel; (3) declaration of importer that he believes the films entered by him are the ones covered by the preceding declaration and that the films are intended for use as newsreel.

**Paper** classifiable in Chapter 48—Invoices covering paper shall contain the following information, or will be accompanied by specification sheets containing such information: (1) weight of paper in grams per square meter; (2) thickness, in micrometers (microns); (3) if imported in rectangular sheets, length and width sheets, in cm; (4) if imported in strips, or rolls, the width, in cm. In the case of rolls, the diameter of rolls in cm; (5) whether the paper is coated or impregnated, and with what materials; (6) weight of coating, in grams per square meter; (7) percentage by weight of the total fiber content consisting of wood fibers contained by a mechanical process, chemical sulfate or soda process, chemical sulfite process, or semi-chemical process, as appropriate; (8) commercial designation, as "writing," "cover," "drawing," "Bristol," "newsprint," etc.; (9) ash content; (10) color; (11) glaze, or finish; (12) Mullen bursting strength, and Mullen index; (13) stretch factor, in machine direction and in cross direction; (14) tear and tensile readings; in machine direction, in cross direction, and in machine direction plus cross direction; (15) identification of fibers as "hardwood" where appropriate; (16) crush resistance; (17) brightness; (18) smoothness; (19) if bleached, whether bleached uniformly throughout the mass; (20) whether embossed, perforated, creped or crinkled.

**Plastic plates, sheets, film, foil and strip of headings** 3920 and 3921—(1) Statement as to whether the plastic is cellular or noncellular; (2) specification of the type of plastic; (3) indication of whether or not flexible and whether combined with textile or other material.

**Printed matter** classifiable in Chapter 49—Printed matter entered in the following headings shall have, on or with the invoices covering such matter, the following information: (1) Heading 4901—(a) whether the books are: dictionaries, encyclopedias, textbooks, bound newspapers or journals or periodicals, directories, bibles or other prayer books, technical, scientific or professional books, art or pictorial books, or “other” books; (b) if “other” books, whether hardbound or paperbound; (c) if “other” books, paperbound, other than “rack size”: number of pages (excluding covers). (2) Heading 4902—(a) whether the journal or periodical appears at least four times a week. If the journal or periodical appears other than at least four times a week, whether it is a newspaper supplement printed by a gravure process, is a newspaper, business or professional journal or periodical, or other than these; (3) Heading 4904—whether the printed or manuscript music is sheet music, not bound (except by stapling or folding); (4) Heading 4905—(a) whether globes, or not; (b) if not globes, whether in book form, or not; (c) in any case, whether or not in relief; (5) cards, greeting cards, or other; (7) Heading 4910—(a) whether or not printed on paper by a lithographic process; (b) if printed on paper by a lithographic process, the thickness of the paper, in mm; (8) Subheading not printed over 20 years at time of importation, whether suitable for use in the production of articles of heading 4902; (c) if not printed over 20 years at time of importation, and not suitable for use in the production of articles of heading 4901, whether the merchandise is lithographs on paper or paperboard; (d) if lithographs on paper or paperboard, under the terms of the immediately preceding description, thickness of the paper or paperboard, and whether or not posters; (e) in any case, whether or not posters; (f) in any case, whether or not photographic negatives or positives on transparent bases; (b) Subheading 4911.99—If not carnets, or parts thereof, in English or French, whether or not printed on paper in whole or in part by a lithographic process.

**Pulp** classifiable in Chapter 47—(1) Invoices covering chemical woodpulp, dissolving grades, in Heading 4702 shall state the insoluble fraction (as percentage) after one hour in a caustic soda solution containing 18 percent sodium hydroxide (NaOH) at 20° C; (2) Subheading 4702.00.0020—Pulp entered under this subheading shall in addition contain on or with the invoice the ash content as a percentage by weight.

**Refrigeration equipment** (1) Refrigerator-freezers classifiable under subheading 8418.10.00 and (2) refrigerators classifiable under 8418.21.00—(a) statement as to whether they are compression or absorption type; (b) statement of other refrigerated volume in liters; (3) freezers classifiable under subheading 8418.30.00 and 8418.40.00—statement as to whether they are chest or upright type; (4) liquid chilling refrigerating unless classifiable under subheading 8418.69.0045 through 8418.69.0060—statement as

to whether they are centrifugal open-type, centrifugal hermetic-type, absorption-type or reciprocating type.

**Rolling mills**—Subheading 8455.30.0005 through 8455.30.0085. Rolls for rolling mills: Indicate the composition of the roll—gray iron, cast steel or other—and the weight of each roll.

**Rubber Products** of Chapter 40—(1) Statement as to whether combined with textile or other material; (2) statement whether the rubber is cellular or noncellular, unvulcanized or vulcanized, and if vulcanized, whether hard rubber or other than hard rubber.

**Screenings or scalplings of grains or seeds** (T.D. 51096)—(1) Whether the commodity is the product of a screening process; (2) if so, whether any cultivated grains have been added to such commodity; (3) If any such grains have been added, the kind and percentage of each.

**Textile fiber products** (T.D. 55095)—(1) The constituent fiber or combination of fibers in the textile fiber product, designating with equal prominence each natural or manufactured fiber in the textile fiber product by its generic name in the order of predominance by the weight thereof if the weight of such fiber is 5 percent or more of the total fiber weight of the product; (2) percentage of each fiber present, by weight, in the total fiber content of the textile fiber product; (3) the name, or other identification issued and registered by the Federal Trade Commission, of the manufacturer of the product or one or more persons subject to § 3 of the Textile Fiber Products Identification Act (15 U.S.C. 70a) with respect to such product; (4) the name of the country where processed or manufactured. See also “Wearing Apparel” below.

**Tires and Tubes for tires, of rubber or plastics**—(1) Specify the kind of vehicle for which the tire is intended, i.e. airplane, bicycle, passenger car, on-the-highway light or heavy truck or bus, motorcycle; (2) if designed for tractors provided for in subheading 8701.90.10, or for agricultural or horticultural machinery or implements provided for in Chapter 84 or in subheading 8716.80.10, designate whether the tire is new, recapped, or used; pneumatic or solid; (3) indicate whether the tube is designed for tires provided for in subheading 4011.91.10, 4011.99.10, 4012.10.20, or 4012.20.20.

**Tobacco** (including tobacco in its natural state) (T.D. 44854, 45871)—(1) Specify in detail the character of the tobacco in each bale by giving (a) country and province of origin, (b) year of production, (c) grade or grades in each bale, (d) number of carrots or pounds of each grade if more than one grade is packed in a bale, (e) the time when, place where, and person from whom purchased, (f) price paid or to be paid for each bale or package, or price for the vega or lot is purchased in bulk, or if obtained otherwise than by purchase, state the actual market value per bale; (2) if an invoice covers or includes bales of tobacco which are part of a vega or lot purchased in bulk, the invoice must contain or



be accompanied by a full description of the vega or lot purchased; or if such description has been furnished with a previous importation, the date and identity of such shipment; (3) packages or bales containing only filler leaf shall be invoiced as filler; when containing filler and wrapper but not more than 35 percent of wrapper, they shall be invoiced as mixed; and when containing more than 35 percent of wrapper, they shall be invoiced as wrapper.

**Watches and watch movements** classifiable under Chapter 91 of the HTSUS—For all commercial shipments of such articles, there shall be required to be shown on the invoice, or on a separate sheet attached to and constituting a part of the invoice, such information as will reflect with respect to each group, type, or model, the following:

- (A) For watches, a thorough description of the composition of the watch cases, the bracelets, bands or straps, the commercial description (ebauche caliber number, ligne size and number of jewels) of the movements contained in the watches, and the type of battery (manufacturer's name and reference number), if the watch is battery operated.
- (B) For watch movements, the commercial description (ebauche caliber number, ligne size and number of jewels). If battery-operated, the type of battery (manufacturer's name and reference number).
- (C) The name of the manufacturer of the exported watch movements and the name of the country in which the movements were manufactured.

**Wearing apparel**—(a) All invoices for textile wearing apparel should indicate a component material breakdown in percentages by weight for all component fibers present in the entire garment, as well as separate breakdowns of the fibers in the (outer) shell (exclusive of linings, cuffs, waistbands, collars and other trimmings) and in the lining; (2) for garments which are constructed of more than one component or material (combination of knits and not knit fabric or combinations of knit and/or not knit fabric with leather, fur, plastic including vinyl, etc.), the invoice must show a fiber breakdown in percentages by weight for each separate textile material in the garment and a breakdown in percentages by weight for each nontextile material for the entire garment; (3) for woven garments, indicate whether the fabric is yarn dyed and whether there are "two or more colors in the warp and/or filling"; (4) for all-white T-shirts and singlets indicate whether or not the garment contains pockets, trim, or embroidery; (5) for mufflers-state the exact dimensions (length and width) of the merchandise.

**Wood products**—(1) Wood sawed or chipped lengthwise, sliced or peeled, whether or not planed, sanded, or finger-jointed, of a thickness exceeding 6 mm (lumber), classifiable under Chapter 44 heading 4407, HTSUS, and wood continuously shaped along any of its edges or faces, whether or not planed, sanded or finger-jointed; coniferous: Subheading 4409.10.90 and nonconiferous: Subheading 4409.20.90, HTSUS, and dutiable on the basis of cubic meters—Quantity in cubic meter (m) before dressing;

(2) fiberboard of wood or other ligneous materials whether or not bonded with resins or other organic substances, under Chapter 44, Heading 4411, HTSUS, and classifiable according to its density-density in grams per cubic centimeter (cm); (3) plywood consisting solely of sheets of wood, classifiable under Chapter 44, Subheading 4412.11,4412.12, and 4412.19, HTSUS, and classifiable according to the thickness of the wood sheets-thickness of each ply in millimeter (mm);

**Wool and hair**—See 151.62 of this chapter for additional information required on invoices.

**Wool products**, except carpets, rugs, mats, and upholsteries, and wool products made more than 20 years before importation (T.D. 50388, 51019) (1) The percentage of the total fiber weight of the wool product, exclusive of ornamentation not exceeding 5 per cent of said total fiber weight, of (a) wool; (b) reprocessed wool; (c) reused wool; (d) each fiber other than wool if said percentage by weight of such fiber is 5 per cent or more; and (e) the aggregate of all fibers; (2) the maximum percentage of the total weight of the wool product, of any nonfibrous loading, filling, or adulterating matter; and (3) the name of the manufacturer of the wool product, except when such product consists of mixed wastes, residues, and similar merchandise obtained from several suppliers or unknown sources.

**Woven fabric of man-made fibers** in headings 5407, 5408, 5512, 5513, 5514, 5515, 5516—

- (1) State the exact width of the fabric.
- (2) Provide a detailed description of the merchandise, (trade name, if any).
- (3) Indicate whether bleached, unbleached, dyed, or yarns of different colors and/or printed.
- (4) If composed of more than one material, list percentage by weight in each.
- (5) Identify the man-made fibers as artificial or synthetic, filament or staple, and state whether the yarns are high tenacity. Specify the number of turns per meter in each yarn.
- (6) Specify yarn sizes in warp and filling.
- (7) Specify how the fabric is woven (plain weave, twill, sateen, dobby, jacquard, swivel, lappet, etc.)
- (8) Indicate the number of single threads per square centimeter in both warp and filling.
- (9) Supply the weight per square meter in grams.
- (10) Provide the average yarn number using this formula:  

$$\frac{100 \times \text{number of single threads per square centimeter}}{\text{number of grams per square meter}}$$
- (11) For spun yarns, specify whether textured or not textured.
- (12) For filament yarns, specify whether textured or not textured.

**Yarns**—(1) All yarn invoices should show: (a) fiber content by weight; (b) whether single or plied; (c) whether or not put up for retail sale (See Section XI, Note 4, HTSUS); (d) whether or not intended for use as sewing thread.

- (2) If chief weight of silk, show whether spun or filament.
- (3) If chief weight of cotton, show:
  - (a) whether combed or uncombed
  - (b) metric number (mn)
  - (c) whether bleached and/or mercerized.
- (4) If chief weight of man-made fiber, show:
  - (a) whether filament, or spun, or a combination of filament and spun
  - (b) If a combination of filament and spun-give percent age of filament and spun by weight.
- (5) If chief weight of filament man-made fiber, show:
  - (a) whether high tenacity (See Section XI, note 6 HTSUS)
  - (b) whether monofilament, multifilament or strip
  - (c) whether texturized
  - (d) yarn number in decitex
  - (e) number of turns per meter
  - (f) for monofilaments-show cross-sectional dimension in millimeters
  - (g) for strips, show the width of the strip in millimeters (measure in folded or twisted condition if so imported)

*Items or classes of goods may be added to or removed from the list from time to time.*

### 3. CUSTOMS VALUATION

93 STAT. 194 PUBLIC LAW 96-39—JULY 26, 1979

#### TARIFF ACT OF 1930

“SEC. 402, VALUE. [19 U.S.C. 1401a]

“(a) IN GENERAL—(1) Except as otherwise specifically provided for in this Act, imported merchandise shall be appraised, for the purposes of this Act, on the basis of the following:

“(A) The transaction value provided for under subsection (b).

“(B) The transaction value of identical merchandise provided for under subsection (c), if the value referred to in subparagraph (A) cannot be determined, or can be determined but cannot be used by reason of subsection (b)(2).

“(C) The transaction value of similar merchandise provided or under subsection (c), if the value referred to in subparagraph (B) cannot be determined.

“(D) The deductive value provided for under subsection (d), if the value referred to in subparagraph (C) cannot be determined and if the importer does not request alternative valuation under Paragraph (2).

“(E) The computed value provided for under subsection (e), if the value referred to in subparagraph (D) cannot be determined.

“(F) The value provided for under subsection (f), if the value referred to in subparagraph (E) cannot be determined.

“(2) If the value referred to in paragraph (1)(C) cannot be determined with respect to imported merchandise, the merchandise shall be appraised on the basis of the computed value provided for under paragraph (1)(E), rather than the deductive value provided for under paragraph (1)(D), if the importer makes a request to that effect to the CBP officer concerned within such time as the Secretary shall prescribe. If the computed value of the merchandise cannot subsequently be determined, the merchandise may not be appraised on the basis of the value referred to in paragraph (1)(F) unless the deductive value of the merchandise cannot be determined under paragraph (1)(D).

“(3) Upon written request therefor by the importer of merchandise, and subject to provisions of law regarding the disclosure of information, the CBP officer concerned shall provide the importer with a written explanation of how the value of that merchandise was determined under this section.

“(b) TRANSACTION VALUE OF IMPORTED MERCHANDISE.--(1) The transaction value of imported merchandise is the price actually paid or payable for the merchandise when sold for exportation to the United States, plus amounts equal to—

“(A) The packing costs incurred by the buyer with respect to the imported merchandise;

“(B) Any selling commission incurred by the buyer with respect to the imported merchandise;

“(C) The value, apportioned as appropriate, of any assist;

“(D) Any royalty or license fee related to the imported merchandise that the buyer is required to pay directly or indirectly, as a condition of the sale of the imported merchandise for exportation to the United States; and

“(E) The proceeds of any subsequent resale, disposal, or use of the imported merchandise that accrue, directly or indirectly, to the seller.

The price actually paid or payable for imported merchandise shall be increased by the amounts attributable to the items (and no others) described in subparagraphs (A) through (E) only to the extent that each such amount (i) is not otherwise included within the price actually paid or payable; and (ii) is based on sufficient information. If sufficient information is not available, for any reason, with respect to any amount referred to in the preceding sentence, the transaction value of the imported merchandise concerned shall be treated, for purposes of this section, as one that cannot be determined.

“(2)(A) The transaction value of imported merchandise determined under paragraph (1) shall be the appraised value of that merchandise for the purposes of this Act only if—

“(i) there are no restrictions on the disposition or use of the imported merchandise

by the buyer other than restrictions that—

“(I) are imposed or required by law,

“(II) limit the geographical area in which the merchandise may be resold,

or

“(III) do not substantially affect the value of the merchandise;

“(ii) the sale of, or the price actually paid or payable for, the imported merchandise is not subject to any condition or consideration for which a value cannot be determined with respect to the imported merchandise;

“(iii) no part of the proceeds of any subsequent resale, disposal, or use of the imported merchandise by the buyer will accrue directly or indirectly to the seller, unless an appropriate adjustment therefor can be made under paragraph (1)(E); and

“(iv) the buyer and seller are not related, or the buyer and seller are related but the transaction value is acceptable, for purposes of this subsection, under subparagraph (B).

“(B) The transaction value between a related buyer and seller is acceptable for the purposes of this subsection if an examination of the circumstances of the sale of the imported merchandise indicates that the relationship between such buyer and seller did not influence the price actually paid or payable; or if the transaction value of the imported merchandise closely approximates—Amended by P.L. 96—490, effective 1/1/81:

“(i) the transaction value of identical merchandise, or of similar merchandise in sales to unrelated buyers in the United States; or

“(ii) the deductive value or computed value for identical merchandise or similar merchandise; but, only if each value referred to in clause (i) or (ii) that is used for comparison relates to merchandise that was exported to the United States at or about the same time as the imported merchandise

“(C) In applying the values used for comparison purposes under subparagraph (B), there shall be taken into account differences with respect to the sales involved (if such differences are based on sufficient information whether supplied by the buyer or otherwise available to the CBP officer concerned) in—

“(i) commercial levels;

“(ii) quantity levels;

“(iii) the costs, commissions, values, fees, and proceeds described in paragraph (1); and

“(iv) the costs incurred by the seller in sales in which he and the buyer are not related that are not incurred by the seller in sales in which he and the buyer are related.

“(3) The transaction value of imported merchandise does not include any of the following, if identified separately from the price actually paid or payable and from any cost or other item referred to in paragraph (1):

“(A) Any reasonable cost or charge that is incurred for—

“(i) the construction, erection, assembly, or maintenance of, or the technical assistance provided with respect to, the merchandise after its importation into the United States; or

“(ii) the transportation of the merchandise after such importation.

“(B) The customs duties and other Federal taxes currently payable on the imported merchandise by reason of its importation, and any Federal excise tax on, or measured by the value of, such merchandise for which vendors in the United States are ordinarily liable.

“(4) For purposes of this subsection—

Price Actually Paid or Payable:

“(A) The term ‘price actually paid or payable’ means the total payment (whether direct or indirect, and exclusive of any costs, charges, or expenses incurred for transportation, insurance, and related services incident to the international shipment of the merchandise from the country of exportation to the place of importation in the United States) made, or to be made, for imported merchandise by the buyer to, or for the benefit of, the seller.

“(B) Any rebate of, or other decrease in, the price actually paid or payable that is made or otherwise effected between the buyer and seller after the date of the importation of the merchandise into the United States shall be disregarded in determining the transaction value under paragraph (1).

“(C), transaction value of identical merchandise and similar merchandise—(1) The transaction value of identical merchandise, or of similar merchandise, is the transaction value (acceptable as the appraised value for purposes of this Act under subsection (b) but adjusted under paragraph (2) of this subsection) of imported merchandise that is—

“(A) with respect to the merchandise being appraised, either identical merchandise or similar merchandise, as the case may be; and

“(B) exported to the United States at or about the time that the merchandise being appraised is exported to the United States.

“(2) Transaction values determined under this subsection shall be based on sales of identical merchandise or similar merchandise, as the case may be, at the same commercial level and in substantially the same quantity as the sales of the merchandise being appraised. If no such sale is found, sales of identical merchandise or similar merchandise at either a different commercial level or in different quantities, or both, shall be used, but adjusted to take account of any such difference. Any adjustment made under this paragraph shall be based on sufficient information. If in applying this paragraph with respect to any imported merchandise, two or more transaction values for identical merchandise, or for similar merchandise, are determined, such imported merchandise shall be appraised on the basis of the lower or lowest of such values.

Merchandise concerned:

“(d) DEDUCTIVE VALUE—(1) For purposes of this subsection, the term ‘merchandise concerned’ means the merchandise being appraised, identical merchandise, or similar merchandise.

“(2)(A) The deductive value of the merchandise being appraised is whichever of the following prices (as adjusted under paragraph (3)) is appropriate depending upon when and in what condition the merchandise concerned is sold in the United States:

“(i) if the merchandise concerned is sold in the condition as imported at or

about the date of importation of the merchandise being appraised, the price is the unit price at which the merchandise concerned is sold in the greatest aggregate quantity at or about such date.

“(ii) If the merchandise concerned is sold in the condition as imported but not sold at or about the date of importation of the merchandise being appraised, the price is the unit price at which the merchandise concerned is sold in the greatest aggregate quantity after the date of importation of the merchandise being appraised but before the close of the 90th day after the date of such importation.

“(iii) If the merchandise concerned was not sold in the condition as imported and not sold before the close of the 90th day after the date of importation of the merchandise being appraised, the price is the unit price at which the merchandise being appraised, after further processing, is sold in the greatest aggregate quantity before the 180th day after the date of such importation. This clause shall apply to appraisement of merchandise only if the importer so elects and notifies the CBP officer concerned of that election within such time as shall be prescribed by the Secretary.

Unit Price:

“(B) For purposes of subparagraph (A), the unit price at which merchandise is sold in the greatest aggregate quantity is the unit price at which such merchandise is sold to unrelated persons, at the first commercial level after importation (in cases to which subparagraph (A)(iii) applies) at which such sales take place, in a total volume that is (i) greater than the total volume sold at any other unit price, and (ii) sufficient to establish the unit price.

“(3)(A) The vice determined under paragraph (2) shall be reduced by an amount equal to—

“(i) any commission usually paid or agreed to be paid, or the addition usually made for profit and general expenses, in connection with sales in the United States of imported merchandise that is of the same class or kind, regardless of the country of exportation as the merchandise concerned;

“(ii) the actual costs and associated costs of transportation and insurance incurred with respect to international shipments of the merchandise concerned from the country of exportation to the United States;

“(iii) the usual costs and associated costs of transportation and insurance incurred with respect to shipments of such merchandise from the place of importation to the place of delivery in the United States, if such costs are not included as a general expense under clause (i);

“(iv) the customs duties and other Federal taxes currently payable on the merchandise concerned by reason of its importation, and any Federal excise tax on, or measured by the value of, such merchandise for which vendors in the United States are ordinarily liable: and

“(v) (but only in the case of a price determined under paragraph (2)(A)(iii)) the value added by the processing of the merchandise after importation to the extent that the value is based on sufficient information relating to cost of such processing.

“(B) For purposes of applying paragraph (A)—

“(i) the deduction made for profits and general expenses shall be based upon the importer’s profits and general expenses, unless such profits and general expenses are inconsistent with those reflected in sales in the United States of imported merchandise of the same class or kind, in which case the deduction shall be based on the usual profit and general expenses reflected in such sales, as determined from sufficient information; and

“(ii) any State or local tax imposed on the importer with respect to the sale of imported merchandise shall be treated as a general expense.

“(C) The price determined under paragraph (2) shall be increased (but only to the extent that such costs are not otherwise included) by an amount equal to the packing costs incurred by the importer or the buyer, as the case may be, with respect to the merchandise concerned.

“(D) For purposes of determining the deductive value of imported merchandise, any sale to a person who supplies any assist for use in connection with the production or sale for export of the merchandise concerned shall be disregarded.

“(e) computed value.—(1) The computed value of imported merchandise is the sum of—

“(A) the cost or value of the materials and the fabrication and other processing of any kind employed in the production of the imported merchandise

“(B) an amount for profit and general expenses equal to that usually reflected in sales of merchandise of the same class or kind as the imported merchandise that are made by the producers in the country of exportation for export to the United States;

“(C) any assist, if its value is not included under subparagraph (A) or (B); and

“(D) the packing costs.

“(2) For purposes of paragraph (1) —

“(A) the cost or value of materials under paragraph (1)(A) shall not include the amount of any internal tax imposed by the country of exportation that is directly applicable to the materials or their disposition if the tax is remitted or refunded upon the exportation of the merchandise in the production of which the materials were used; and

“(B) the amount for profit and general expenses under paragraph (1)(B) shall be used upon the producer’s profits and expenses, unless the producer’s profits and expenses are inconsistent with those usually reflected in sales of merchandise of the same class or kind as the imported merchandise that are made by producers in the country of exportation for export to the United States, in which case the amount under paragraph (1)(B) shall be used on the usual profit and general expenses of such producers in such sales, as determined from sufficient information.

“(f) value if other values cannot be determined or used.—(1) If the value of imported merchandise cannot be determined, or otherwise used for the purposes of this Act, under subsections (b) through (e), the merchandise shall be appraised for the purposes of this Act on the basis of a value that is derived from the methods set forth in such subsections, with such methods being reasonably adjusted to the extent necessary to arrive at a value.

Imported Merchandise Appraisal:



“(2) Imported merchandise may not be appraised, for the purposes of this Act, on the basis of—

“(A) the selling price in the United States of merchandise produced in the United States;

“(B) a system that provides for the appraisal of imported merchandise at the higher of two alternative values

“(C) the price of merchandise in the domestic market of the country of exportation

“(D) a cost of production, other than a value determined under subsection (c) for merchandise that is identical merchandise or similar merchandise to the merchandise being appraised;

“(E) the price of merchandise for export to a country other than the United States;

“(F) minimum values for appraisal; or

“(G) arbitrary or fictitious values.

This paragraph shall not apply with respect to the ascertainment, determination, or estimation of foreign market value or United States price under title VII.

Ante, p. 150:

“(g) special rules—(1) for purposes of this section, the persons specified in any of the following subparagraphs shall be treated as persons who are related:

“(A) Members of the same family, including brothers and sisters (whether by whole or half blood), spouse, ancestors, and lineal descendants.

“(B) Any officer or director of an organization and such organization.

“(C) Any officer or director of an organization and an officer or director of another organization, if each such individual is also an officer or director in the other organization.

“(D) Partners.

“(E) Employer and employee.

“(F) Any person directly or indirectly owning, controlling, or holding with power to vote, 5 percent or more of the outstanding voting stock or shares of any organization and such organization.

“(G) Two or more persons directly or indirectly controlling, controlled by, or under common control with, any person.

“(2) For purposes of this section, merchandise (including, but not limited to, identical merchandise and similar merchandise) shall be treated as being of the same class or kind as other merchandise if it is within a group or range of merchandise produced by a particular industry or industry sector.

Generally Accepted Accounting Principles:

“(3) For purposes of this section, information that is submitted by an importer, buyer, or producer in regard to the appraisal of merchandise may not be rejected by the CBP officer concerned on the basis of the accounting method by which that information was prepared, if the preparation was in accordance with generally accepted accounting principles. The term generally accepted accounting principles’ refers to any generally recognized consensus or substantial authoritative support regarding—

“(A) which economic resources and obligations should be recorded as assets and

liabilities;

“(B) which changes in assets and liabilities should be recorded;

“(C) how the assets and liabilities and changes in them should be measured;

“(D) what information should be disclosed and how it should be disclosed; and

“(E) which financial statements should be prepared.

The applicability of a particular set of generally accepted accounting principles will depend upon the basis on which the value of the merchandise is sought to be established.

“(h) definitions.—As used in this section—

“(1)(A) The term ‘assist’ means any of the following if supplied directly or indirectly, and free of charge or at reduced cost, by the buyer of imported merchandise for use in connection with the production or the sale for export to the United States of the merchandise:

“(i) Materials, components, parts and similar items incorporated in the imported merchandise.

“(ii) Tools, dies, molds, and similar items used in the production of the imported merchandise.

“(iii) Merchandise consumed in the production of the imported merchandise.

“(iv) Engineering, development, artwork, design work, and plans and sketches that are undertaken elsewhere than in the United States and are necessary for the production of the imported merchandise.

“(B) No service or work to which subparagraph (A)(iv) applies shall be treated as an assist for purposes of this section if such service or work—

“(i) is performed by an individual who is domiciled with the United States;

“(ii) is performed by that individual while he is acting as an employee or agent of the buyer of the imported merchandise; and

“(iii) is incidental to other engineering, development, artwork, design work, or plans or sketches that are undertaken within the United States.

“(C) For purposes of this section, the following apply in determining the value of assists described in subparagraph (A)(iv):

“(i) The value of an assist that is available in the public domain is the cost of obtaining copies of the assist,

“(ii) If the production of an assist occurred in the United States and one or more foreign countries, the value of the assist is the value thereof that is added outside the United States.

“(2) The term ‘identical merchandise’ means—

“(A) merchandise that is identical in all respects to, and was produced in the same country and by the same person as, the merchandise being appraised; or

“(B) if merchandise meeting the requirements under subparagraph (A) cannot be found (or for purposes of applying subsection (b)(2)(B)(i), regardless of whether merchandise meeting such requirements can be found), merchandise that is identical in all respect to, and was produced in the same country as, but not produced by

the same person as, the merchandise being appraised.

Such term does not include merchandise that incorporates or reflect any engineering, development, artwork, design work, or plan or sketch that—

“(I) was supplied free or at reduced cost by the buyer or the merchandise for use in connection with the production or the sale for export to the United States of the merchandise; and

“(II) is not an assist because undertaken with the United States.

“(3) The term ‘packing costs’ means the cost of all containers and coverings of whether nature and of packing, whether for labor or materials, used in placing merchandise in condition, packed ready for shipment to the United States.

“(4) The term ‘similar merchandise’ means—

“(A) merchandise that—

“(i) was produced in the same country and by the same person as the merchandise being appraised,

“(ii) is like the merchandise being appraised in characteristics and component material, and

“(iii) is commercially interchangeable with the merchandise being appraised; or

“(B) if merchandise meeting the requirements under subparagraph (A) cannot be found (or for purposes of applying subsection (b)(2)(B)(i), regardless of whether merchandise meeting such requirements can be found), merchandise that—

“(i) was produced in the same country as, but not produced by the same person as, the merchandise being appraised, and

“(ii) meets the requirement set forth in subparagraph (A)(ii) and (iii).

Such term does not include merchandise that incorporates or reflects any engineering, development, artwork, design work, or plan or sketch that—

“(I) was supplied free or at reduced cost by the buyer of the merchandise for use in connection with the production or the sale for export to the United States of the merchandise; and

“(II) is not an assist because undertaken within the United States.

“(5) The term ‘sufficient information’, when required under this section for determining—

“(A) any amount—

“(i) added under subsection (b)(1) to the price actually paid or payable,

“(ii) deducted under subsection (d)(3) as profit or general expense or value from further processing, or

“(iii) added under subsection (e)(2) as profit or general expense;

“(B) any difference taken into account for purposes of subsection (b)(2)(C); or

“(C) any adjustment made under subsection (c)(2); means information that establishes the accuracy of such amount, difference, or adjustment.”

## 5. EPA-REGULATED REFRIGERANTS

## Class I

Chemical Name		CAS Number
CFC-11 (CCl3F) Trichlorofluoromethane	<u>Algofrene 11</u> - Ausimont SPA <u>Arcton 11</u> - INEOS Fluor <u>Asahifron R-11</u> - Asahi Glass Co. Ltd. <u>CFC-11</u> - Firefreeze International <u>CFC-11</u> - Chemicals and Plastics India Ltd. <u>CFC-11</u> - Gujarat Fluorochemicals Ltd. <u>CFC-11</u> - Hankook Shin Hwa <u>CFC-11</u> - Navin Fluorine Industries <u>CFC-11</u> - Roche Chemicals Inc. <u>CFC-11</u> - Spolek <u>CFC-11</u> - Changshu 3F Refrigerant Plant <u>CFC-11</u> - Jiangsu Meilan Electric Chemical Plant <u>CFC-11</u> - Suzhou Xinye Chemical Co. Ltd. <u>CFC-11</u> - Zhejiang Linhai Limin Chemical Plant <u>CFC-11</u> - Zhejiang Juhua Fluorochemical Co. Ltd. <u>CFC-11</u> - Chemical Industries of Northern Greece SA <u>Daiflon 11</u> - Daikin Industries Ltd. <u>Dional 11</u> - Solvay Fluor GMBH <u>Electro-CF 11</u> - Unknown <u>Eskimon 11</u> - Unknown <u>FCC-11</u> - Akzo Chemicals International B.V. <u>Flon Showa 11</u> - Showa Denko K.K. <u>Floron 11</u> - SRF Limited <u>Forane 11</u> - ARKEMA SA <u>Freon-11</u> - DuPont Fluoroproducts <u>Frigen 11</u> - Solvay Fluor GMBH <u>Genetron 11</u> - Honeywell (formerly Allied-Signal Inc.) <u>Genetron 11</u> - Quimobasicos s.a. de c.v. <u>ISCEON 11</u> - Rhodia <u>Isotron 11</u> - Unknown <u>Khaladon 11</u> - Unknown <u>Korfron 11</u> - Ulsan Chemical Co., Ltd. <u>Ledon 11</u> - Unknown <u>Mafron 11</u> - Navin Fluorine Industries <u>R11</u> - Protocol Resource Management Inc.	75-69-4

<p>CFC-12 (CCl2F2) Dichlorodifluoromethane</p>	<p><u>Algofrene 12</u> - Ausimont SPA  <u>Algofrene 12</u> - Montefluos S.P.A.  <u>Arcton 12</u> - INEOS Fluor  <u>Asahifron R-12</u> - Asahi Glass Co. Ltd.  <u>Asahifron R-500</u> - Asahi Glass Co. Ltd.  <u>CFC-12</u> - Zhejiang Juhua Fluorochemical Co. Ltd.  <u>CFC-12</u> - Chemicals and Plastics India Ltd.  <u>CFC-12</u> - Firefreeze International  <u>CFC-12</u> - Gujarat Fluorochemicals Ltd.  <u>CFC-12</u> - Hankook Shin Hwa  <u>CFC-12</u> - Navin Fluorine Industries  <u>CFC-12</u> - Roche Chemicals Inc.  <u>CFC-12</u> - SRF Limited  <u>CFC-12</u> - Changshu 3F Refrigerant Plant  <u>CFC-12</u> - Zhejiang Dongyang Chemical Plant  <u>CFC-12</u> - Jiangsu Meilan Electric Chemical Plant  <u>CFC-12</u> - Fujian Shaowu Fluorochemical Plant  <u>CFC-12</u> - Guangdong Zengcheng Xiangsheng  Chemical Co. Ltd.  <u>CFC-12</u> - Spolek  <u>Daiflon 12</u> - Daikin Industries Ltd.  <u>Daiflon 500</u> - Daikin Industries Ltd.  <u>Electro-CF 12</u> - Unknown  <u>Eskimon 12</u> - Unknown  <u>FCC-12</u> - Akzo Chemicals International B.V.  <u>Flon Showa 12</u> - Showa Denko K.K.  <u>Flon Showa 500</u> - Showa Denko K.K.  <u>Floron 12</u> - SRF Limited  <u>Forane 12</u> - ARKEMA SA  <u>Forane 500</u> - ARKEMA SA  <u>Freon-12</u> - DuPont Fluoroproducts  <u>Frigen 12</u> - Solvay Fluor GMBH  <u>Frigen 500</u> - Solvay Fluor GMBH  <u>Friogas 12</u> - Galco  <u>G12</u> - AlliedSignal Fluorochemicals Europe BV  <u>Genetron 12</u> - Quimobasicos s.a. de c.v.  <u>Genetron 500</u> - Quimobasicos s.a. de c.v.  <u>Genetron 500</u> - Honeywell (formerly Allied-Signal  Inc.)  <u>ISCEON 12</u> - Rhodia  <u>ISCEON 500</u> - Rhodia  <u>Isotron 12</u> - Unknown  <u>Korfron 12</u> - Ulsan Chemical Co., Ltd.  <u>Ledon 12</u> - Unknown  <u>Mafron 12</u> - Navin Fluorine Industries  <u>Oxyfume 12</u> - Honeywell (formerly Allied-Signal Inc.)  <u>R12</u> - Protocol Resource Management Inc.  R-500  R-501  R-505</p>	<p>75-71-8</p>
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AF-113 - Asahi Glass Co. Ltd.  
Algofrene 113 - Ausimont SPA  
Arklone AM - INEOS Fluor  
Arklone AMD - INEOS Fluor  
Arklone AS - INEOS Fluor  
Arklone EXT - INEOS Fluor  
Arklone K - INEOS Fluor  
Arklone L - INEOS Fluor  
Arklone P - INEOS Fluor  
Arklone PSM - INEOS Fluor  
Arklone W - INEOS Fluor  
Asahifron R-113 - Asahi Glass Co. Ltd.  
CFC-113 - Jiangsu Changshu Yudong Chemical Plant  
CFC-113 - Changshu 3F Refrigerant Plant  
CG Triflon - Central Glass Co. Ltd.  
CG Triflon A - Central Glass Co. Ltd.  
CG Triflon CI - Central Glass Co. Ltd.  
CG Triflon CP - Central Glass Co. Ltd.  
CG Triflon D3 - Central Glass Co. Ltd.  
CG Triflon DI - Central Glass Co. Ltd.  
CG Triflon E - Central Glass Co. Ltd.  
CG Triflon EC - Central Glass Co. Ltd.  
CG Triflon EE - Central Glass Co. Ltd.  
CG Triflon ES - Central Glass Co. Ltd.  
CG Triflon FD - Central Glass Co. Ltd.  
CG Triflon M - Central Glass Co. Ltd.  
CG Triflon MES - Central Glass Co. Ltd.  
CG Triflon P - Central Glass Co. Ltd.  
CG Triflon W1 - Central Glass Co. Ltd.  
Daiflon S3 - Daikin Industries Ltd.  
Daiflon S3-A - Daikin Industries Ltd.  
Daiflon S3-E - Daikin Industries Ltd.  
Daiflon S3-EN - Daikin Industries Ltd.  
Daiflon S3-ES - Daikin Industries Ltd.  
Daiflon S3-HN - Daikin Industries Ltd.  
Daiflon S3-MC - Daikin Industries Ltd.  
Daiflon S3-P35 - Daikin Industries Ltd.  
Daiflon S3-W6 - Daikin Industries Ltd.  
Delifrene 113 - Ausimont SPA  
Diflon S-3 - Unknown  
Dional 113 - Solvay Fluor GMBH  
F-113 - Tosoh  
Flon Showa FS-3 - Showa Denko K.K.  
Flon Showa FS-3A - Showa Denko K.K.  
Flon Showa FS-3D - Showa Denko K.K.  
Flon Showa FS-3E - Showa Denko K.K.  
Flon Showa FS-3ES - Showa Denko K.K.  
Flon Showa FS-3M - Showa Denko K.K.  
Flon Showa FS-3MS - Showa Denko K.K.  
Flon Showa FS-3P - Showa Denko K.K.

<p>CFC-114 (C<sub>2</sub>F<sub>4</sub>Cl<sub>2</sub>) Dichlorotetrafluoroethane</p>	<p><u>Algofrene 114</u> - Ausimont SPA  <u>Arcton 114</u> - INEOS Fluor  <u>Asahifron R-114</u> - Asahi Glass Co. Ltd.  <u>Daiflon 114</u> - Daikin Industries Ltd.  <u>Flon Showa 114</u> - Showa Denko K.K.  <u>Forane 114</u> - ARKEMA SA  <u>Freon-114</u> - DuPont Fluoroproducts  <u>Frigen 114</u> - Solvay Fluor GMBH  <u>Genetron 114</u> - Quimobasicos s.a. de c.v.  <u>Genetron 114</u> - Honeywell (formerly Allied-Signal Inc.)  <u>ISCEON 114</u> - Rhodia  <u>R114</u> - Protocol Resource Management Inc.  R-506</p>	<p>76-14-2</p>
<p>CFC-115 (C<sub>2</sub>F<sub>5</sub>Cl) Monochloropentafluoroethane</p>	<p><u>Algofrene 115</u> - Ausimont SPA  <u>Algofrene 502</u> - Ausimont SPA  <u>Arcton 115</u> - INEOS Fluor  <u>Arcton 502</u> - INEOS Fluor  <u>Asahifron R-115</u> - Asahi Glass Co. Ltd.  <u>Asahifron R-502</u> - Asahi Glass Co. Ltd.  CFC-115 - Zhejiang Chemical Research Institute  CFC-115 - Changshu 3F Refrigerant Plant  <u>Daiflon 115</u> - Daikin Industries Ltd.  <u>Daiflon 502</u> - Daikin Industries Ltd.  <u>Flon Showa 502</u> - Showa Denko K.K.  <u>Forane 115</u> - ARKEMA SA  <u>Forane 502</u> - ARKEMA SA  <u>Freon-115</u> - DuPont Fluoroproducts  <u>Freon-502</u> - DuPont Fluoroproducts  <u>Frigen 115</u> - Solvay Fluor GMBH  <u>Genetron 115</u> - Honeywell (formerly Allied-Signal Inc.)  <u>Genetron 502</u> - Quimobasicos s.a. de c.v.  <u>Genetron 502</u> - Honeywell (formerly Allied-Signal Inc.)  <u>ISCEON 115</u> - Rhodia  <u>ISCEON 502</u> - Rhodia  <u>R502</u> - Protocol Resource Management Inc.  R-504</p>	<p>76-15-3</p>

Halon 1211 (CF <sub>2</sub> ClBr) Bromochlorodifluoromethane	<u>Halon 1211</u> - Hanju Chemical Co. Ltd. <u>Halon-1211</u> - Jiangsu Wuxian Chemical Plant <u>Halon-1211</u> - Zhejiang Chemical Research Institute <u>Halon-1211</u> - Foshan Electral-Chemical General Plant <u>Halon-1211</u> - Shandong Shouguang Plant <u>Halon-1211</u> - Zhejiang Dongyang Chemical Plant <u>Halon-1211</u> - Navin Fluorine Industries <u>Halon-1211</u> - Dalian Fire Extinguishing Agent Plant	353-59-3
Halon 1301 (CF <sub>3</sub> Br) Bromotrifluoromethane	<u>Freon FE 1301</u> - Ansul Fire Protection <u>Freon FE 1301</u> - DuPont Fluoroproducts <u>Halon 1301</u> - Hanju Chemical Co. Ltd. <u>Halon-1301</u> - Zhejiang Chemical Industry Research Institute	75-63-8
Halon 2402 (C <sub>2</sub> F <sub>4</sub> Br <sub>2</sub> ) Dibromotetrafluoroethane		124-73-2
CFC-13 (CF <sub>3</sub> Cl) Chlorotrifluoromethane	<u>Arcton 13</u> - INEOS Fluor <u>Asahifron R-13</u> - Asahi Glass Co. Ltd. <u>Daiflon 13</u> - Daikin Industries Ltd. <u>FCC-13</u> - Akzo Chemicals International B.V. <u>Flon Showa 13</u> - Showa Denko K.K. <u>Forane 13</u> - ARKEMA SA <u>Freon-13</u> - DuPont Fluoroproducts <u>Frigen 13</u> - Solvay Fluor GMBH <u>Genetron 13</u> - Quimobasicos s.a. de c.v. <u>Genetron 13</u> - Honeywell (formerly Allied-Signal Inc.) <u>Genetron 503</u> - Quimobasicos s.a. de c.v. <u>Genetron 503</u> - Honeywell (formerly Allied-Signal Inc.) <u>ISCEON 13</u> - Rhodia R-503	75-72-9
CFC-111 (C <sub>2</sub> FCl <sub>5</sub> ) Pentachlorofluoroethane	R-111	354-56-3
CFC-112 (C <sub>2</sub> F <sub>2</sub> Cl <sub>4</sub> ) Tetrachlorodifluoroethane	R-112	76-12-0
CFC-211 (C <sub>3</sub> FCl <sub>7</sub> ) Heptachlorofluoropropane		422-78-6
CFC-212 (C <sub>3</sub> F <sub>2</sub> Cl <sub>6</sub> ) Hexachlorodifluoropropane		3182-26-1
CFC-213 (C <sub>3</sub> F <sub>3</sub> Cl <sub>5</sub> ) Pentachlorotrifluoropropane		2354-06-5



CFC-214 (C3F4Cl4) Tetrachlorotetrafluoropropane		29255-31-0
CFC-215 (C3F5Cl3) Trichloropentafluoropropane		4259-43-2
CFC-216 (C3F6Cl2) Dichlorohexafluoropropane		661-97-2
CFC-217 (C3F7Cl) Chloroheptafluoropropane		422-86-6
CCl4 Carbon tetrachloride	<u>Carbon tetrachloride</u> - Riedel de Haen AG. <u>Carbon Tetrachloride</u> - Mitsui Toatsu Chemicals Inc. <u>Carbon Tetrachloride</u> - Kureha Chemical Industry Co., Ltd. <u>Dowfume 75</u> - Dow AgroSciences LLC <u>Freon 10</u> - DuPont Fluoroproducts <u>Necatorina</u> - Unknown <u>Necatorine</u> - Unknown <u>Sienkatanso</u> - Kanto Denka Kogyo Co. <u>SIENKATANSO</u> - Kanto Denka Kogyo Co. <u>Tetrafinol</u> - Unknown <u>Tetraform</u> - Unknown <u>Tetrasol</u> - Unknown <u>Univerm</u> - Unknown <u>Vermoestricid</u> - Unknown <u>Volcan Formula 72</u> - Unknown	56-23-5

1,1,1-tri - Vulcan Chemicals  
111 Tri - Vulcan Chemicals  
A D Delco Fabric - Chem-Tek America  
Aerolex - National Chemsearch  
Aerothene (R) TA Solvent - Dow Chemical Co.  
Aerothene (R) TT Solvent (Aerosol Grade) - Dow Chemical Co.  
Alpha 1220 - Alpha Metals  
Aquadry 50 - Asahi Chemical Industry Co. Ltd.  
Ardrox - Chemetall Asia Pte. Ltd. (formerly Brent Asia)  
Ardrox D495A Developer - Chemetall Asia Pte. Ltd. (formerly Brent Asia)  
Ardrox K410C Remover - Chemetall Asia Pte. Ltd. (formerly Brent Asia)  
Arrow C190 LEC - Arrow Chemicals  
Asahitriethane ALS - Asahi Glass Co. Ltd.  
Asahitriethane BS - Asahi Glass Co. Ltd.  
Asahitriethane EC Grade - Asahi Glass Co. Ltd.  
Asahitriethane LS - Asahi Glass Co. Ltd.  
Asahitriethane UT - Asahi Glass Co. Ltd.  
Asahitriethane V5 - Asahi Glass Co. Ltd.  
Baltane - ARKEMA SA  
B-Lube - National Chemsearch  
C-60 - Sprayway, Inc.  
CG Triethane F - Central Glass Co. Ltd.  
CG Triethane N - Central Glass Co. Ltd.  
CG Triethane NN - Central Glass Co. Ltd.  
CG Triethane NNA - Central Glass Co. Ltd.  
Chemlok 252 - Lord Corp.  
Chem-Slich - National Chemsearch  
Chem-Slick - National Chemsearch  
Chlorothene (R) - Dow Chemical Co.  
Chlorothene (R) NU - Dow Chemical Co.  
Chlorothene (R) SL - Dow Chemical Co.  
Chlorothene (R) SM - Dow Chemical Co.  
Chlorothene (R) VG - Dow Chemical Co.  
Chlorothene (R) XL - Dow Chemical Co.  
CRC226 - CRC Industries Australia Pty Ltd.  
Dowclene (R) EC - Dow Chemical Co.  
Dowclene (R) EC-CS - Dow Chemical Co.  
Dowclene (R) LS - Dow Chemical Co.  
Electrosoly - Unitor Ships Service  
Ethana AL - Asahi Chemical Industry Co. Ltd.  
Ethana FXN - Asahi Chemical Industry Co. Ltd.  
Ethana HT - Asahi Chemical Industry Co. Ltd.  
Ethana IRN - Asahi Chemical Industry Co. Ltd.  
Ethana NU - Asahi Chemical Industry Co. Ltd.  
Ethana RD - Asahi Chemical Industry Co. Ltd.  
Ethana RS - Asahi Chemical Industry Co. Ltd.

50-50 Preplant Soil Fumigant - AmeriBrom, Inc.  
 (subsidiary of Dead Sea Bromine Group)  
57-43 Preplant Soil Fumigant - AmeriBrom, Inc.  
 (subsidiary of Dead Sea Bromine Group)  
67-33 - Great Lakes Chemical Corporation  
67-33 Preplant Soil Fumigation - AmeriBrom, Inc.  
 (subsidiary of Dead Sea Bromine Group)  
70-30 Preplant Soil Fumigation - AmeriBrom, Inc.  
 (subsidiary of Dead Sea Bromine Group)  
75-25 Preplant Soil Fumigation - AmeriBrom, Inc.  
 (subsidiary of Dead Sea Bromine Group)  
80-20 Preplant Soil Fumigation - AmeriBrom, Inc.  
 (subsidiary of Dead Sea Bromine Group)  
98-2 - Great Lakes Chemical Corporation  
98-2 - AmeriBrom, Inc. (subsidiary of Dead Sea  
 Bromine Group)  
Agrobromo 50 - Agroquimicos de Levante S.A.  
Agrobromo 98 - Agroquimicos de Levante S.A.  
Agro-O-Gas 50 - Cerexagri SA  
Ameribrom Methyl Bromide - Grain Fumigant -  
 AmeriBrom, Inc. (subsidiary of Dead Sea Bromine  
 Group)  
Bercema - Unknown  
BROM 70/30 - Soil Chemicals Corporation  
Brom O Gas - Cerexagri SA  
BROM-76 - Soil Chemicals Corporation  
BRO-MEAN C-2R - Reddick Fumigants Inc.  
BRO-MEAN C-33 - Reddick Fumigants Inc.  
BRO-MEAN C-O - Reddick Fumigants Inc.  
Bromocoop (with methyl bromide) - Vinexport S.A.  
Bromofifty - Bromine Compounds Ltd. (a subsidiary  
 of Dead Sea Bromine Company, Ltd.)  
Brom-O-Gas - Great Lakes Chemical Corporation  
Brom-O-Gas 0.25% - Great Lakes Chemical  
 Corporation  
Brom-O-Gas 0.5% - Great Lakes Chemical  
 Corporation  
Brom-O-Gas 2% - Great Lakes Chemical Corporation  
Brom-O-Gas R - Great Lakes Chemical Corporation  
Bromopic - Bromine Compounds Ltd. (a subsidiary of  
 Dead Sea Bromine Company, Ltd.)  
Brom-O-Sol - Great Lakes Chemical Corporation  
Brom-O-Sol 90 - Great Lakes Chemical Corporation  
Brozone Preplant Soil Fumigant - Dow AgroSciences  
 LLC  
Celfume - Unknown  
Curafume - Unknown  
Dowfume MC-2 soil fumigant - Unknown  
Dowfume MC-33 soil fumigant - Albemarle  
 Corporation

CHBr <sub>2</sub> Dibromofluoromethane		1868-53-7
HBFC-12B1 (CHF <sub>2</sub> Br) Bromodifluoromethane		1511-62-2
CH <sub>2</sub> FBr Bromofluoromethane		373-52-4
C <sub>2</sub> HFBr <sub>4</sub>		
C <sub>2</sub> HF <sub>2</sub> Br <sub>3</sub>		
C <sub>2</sub> HF <sub>3</sub> Br <sub>2</sub> 1,2-Dibromo-1,1,2-trifluoroethane	FC-123B2	354-04-1
C <sub>2</sub> HF <sub>4</sub> Br 1,1,1,2-Tetrafluoro-2-bromoethane 1-Bromo-1,1,2,2-tetrafluoroethane		124-72-1 354-07-4
C <sub>2</sub> H <sub>2</sub> FBr <sub>3</sub>		
C <sub>2</sub> H <sub>2</sub> F <sub>2</sub> Br <sub>2</sub> 1,1-Dibromo-2,2-difluoroethane 1,2-Dibromo-1,1-difluoroethane		359-19-3 75-82-1
C <sub>2</sub> H <sub>2</sub> F <sub>3</sub> Br		
C <sub>2</sub> H <sub>3</sub> FBr <sub>2</sub> 1,2-Dibromo-1-fluoroethane; 1,2-Dibromofluoroethane		358-97-4
C <sub>2</sub> H <sub>3</sub> F <sub>2</sub> Br 2-Bromo-1,1-difluoroethane 1-Bromo-1,1-difluoroethane		359-07-9 420-47-3
C <sub>2</sub> H <sub>4</sub> FBr 1-Bromo-2-fluoroethane; 2-Fluoroethyl bromide	FC-151B1	762-49-2
C <sub>3</sub> HFBr <sub>6</sub>		
C <sub>3</sub> HF <sub>2</sub> Br <sub>5</sub>		
C <sub>3</sub> HF <sub>3</sub> Br <sub>4</sub>		
C <sub>3</sub> HF <sub>4</sub> Br <sub>3</sub>		
C <sub>3</sub> HF <sub>5</sub> Br <sub>2</sub>		
C <sub>3</sub> HF <sub>6</sub> Br 1-Bromo-1,1,2,3,3,3-hexafluoropropane		2252-78-0
C <sub>3</sub> H <sub>2</sub> FBr <sub>5</sub>		

C3H2F2Br4		
C3H2F3Br3 1,2,2-Tribromo-3,3,3-trifluoropropane		
C3H2F4Br2 1,3-Dibromo-1,1,3,3-tetrafluoropropane		
C3H2F5Br		
C3H3FBr4		
C3H3F2Br3 1,2,3-Tribromo-3,3-difluoropropane		
C3H3F3Br2 1,2-Dibromo-3,3,3-trifluoropropane; 2,3-Dibromo-1,1,1-trifluoropropane		431-21-0
C3H3F4Br		
C3H4FBr3		
C3H4F2Br2 1,3-Dibromo-1,1-difluoropropane		460-25-3
C3H4F3Br 3-Bromo-1,1,1-trifluoropropane		460-32-2
C3H5FBr2		
C3H5F2Br		
C3H6FBr Propane, 1-bromo-2-fluoro- 1-Bromo-3-fluoropropane		1871-72-3 352-91-0
CH2BrCl Chlorobromomethane		74-97-5

Restricted blends	Free Zone Freeze 12 FRIGC FR-12 FX-10 FX-56 GHG-HP GHG-X4 GHG-X5 G2018C Hotshot HP-80 HP-81 Isceon 69-L MP-39 MP-52 MP-66 NARM-502 R-176 R-401A R-401B R-401C R-402A R-402B R-403B R-406A R-408A R-409A R-411A R-411B R-414A R-414B	
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## Class II

Chemical Name	Trade Names	CAS Number
HCFC-21 (CH <sub>2</sub> Cl <sub>2</sub> ) Dichlorofluoromethane	<u>Khladon Fluorocarbon R21</u> <u>Fluorodichloromethane - JSC "Halogen" Russia</u>	75-43-4

HCFC-22 (CHF<sub>2</sub>Cl)  
Monochlorodifluoromethane



Algofrene 22 - Montefluos S.P.A.  
Algofrene 22 - Ausimont SPA  
Algofrene 502 - Ausimont SPA  
Arcton 22 - INEOS Fluor  
Arcton 402A - INEOS Fluor  
Arcton 402B - INEOS Fluor  
Arcton 408A - INEOS Fluor  
Arcton 409A - INEOS Fluor  
Arcton 412A - INEOS Fluor  
Arcton 502 - INEOS Fluor  
Arcton 509 - INEOS Fluor  
Arcton TP5R - INEOS Fluor  
Arcton TP5R2 - INEOS Fluor  
Asahifron R-22 - Asahi Glass Co. Ltd.  
Asahifron R-502 - Asahi Glass Co. Ltd.  
Daiflon 22 - Daikin Industries Ltd.  
Daiflon 502 - Daikin Industries Ltd.  
Di 36 - Ausimont SPA  
Di 44 - Ausimont SPA  
Dymel 22 - DuPont-Mitsui Fluorochemicals Co. Ltd  
Flon Showa 22 - Showa Denko K.K.  
Flon Showa 502 - Showa Denko K.K.  
Floron 22 - SRF Limited  
Flugene 22 - Continental Industries  
Flugene 22 - Sicno Chemical Industries of Northern Greece  
Forane 22 - ARKEMA SA  
Forane 502 - ARKEMA SA  
Forane FX 10 - ARKEMA SA  
Forane FX 20 - ARKEMA SA  
Forane FX 55 - ARKEMA SA  
Forane FX 56 - ARKEMA SA  
Forane FX 57 - ARKEMA SA  
Formacel S - DuPont-Mitsui Fluorochemicals Co. Ltd  
Freon 22 - DuPont Fluoroproducts  
Freon-22 - DuPont Fluoroproducts  
Freon-502 - DuPont Fluoroproducts  
Frigen 22 - Solvay Fluor GMBH  
FX-56 - ARKEMA SA  
G2015 - Greencool  
G2018A - Greencool  
G2018B - Greencool  
G2018C - Greencool  
Genetron 22 - Quimobasicos s.a. de c.v.  
Genetron 22 - Honeywell (formerly Allied-Signal Inc.)  
Genetron 408A - Honeywell (formerly Allied-Signal Inc.)



HCFC-31 (CH <sub>2</sub> FCI) Monochlorofluoromethane		593-70-4
HCFC-121 (C <sub>2</sub> HFCI <sub>4</sub> ) Tetrachlorofluoroethane		354-14-3
HCFC-122 (C <sub>2</sub> HF <sub>2</sub> CI <sub>3</sub> ) Trichlorodifluoroethane		354-21-2
HCFC-123 (C <sub>2</sub> HF <sub>3</sub> CI <sub>2</sub> ) Dichlorotrifluoroethane	<u>Asahiklin AK-123</u> - Asahi Glass Co. Ltd. <u>Blitz III</u> - North American Fire Guardian <u>FE-232</u> - DuPont Fluoroproducts <u>Forane 123</u> - ARKEMA SA <u>Genesolv 2123</u> - Honeywell (formerly Allied-Signal Inc.) <u>Genesolv 2127</u> - Honeywell (formerly Allied-Signal Inc.) <u>Genetron 123</u> - Honeywell (formerly Allied-Signal Inc.) <u>Halotron 1</u> - North American Fire Guardian <u>Halotron I</u> - American Pacific Corporation/Halotron, Inc. <u>HCFC-123</u> - Especial Gas Inc. <u>HCFC-123 Generic</u> - Kanto Denka Kogyo Co. <u>Meforex 123</u> - Ausimont SPA <u>NAF P III</u> - Safety Hi-Tech srl <u>NAF P IV</u> - Safety Hi-Tech srl <u>NAF P-III</u> - North American Fire Guardian <u>NAF S III</u> - Safety Hi-Tech srl <u>NAF S-III</u> - North American Fire Guardian <u>R123</u> - Protocol Resource Management Inc. <u>R-123</u> - Foosung Tech Corporation <u>Solkane 123</u> - Solvay Fluor GMBH <u>Suva 123</u> - DuPont Fluoroproducts <u>Vertrel 423</u> - DuPont-Mitsui Fluorochemicals Co. Ltd	306-83-2

<p>HCFC-124 (C<sub>2</sub>H<sub>2</sub>F<sub>4</sub>Cl) Monochlorotetrafluoroethane</p>	<p><u>Arcton 409A</u> - INEOS Fluor <u>Asahiklin AK-124</u> - Asahi Glass Co. Ltd. <u>Di 24</u> - Ausimont SPA <u>Di 36</u> - Ausimont SPA <u>FE-241</u> - DuPont Fluoroproducts <u>Forane FX 56</u> - ARKEMA SA <u>Forane FX 57</u> - ARKEMA SA <u>FRIGC</u> - IGC Intermagnetics General <u>FRIGC FR-12</u> - Intermagnetics General <u>FRIGC FR-12</u> - CFC Refimax, LLC <u>FX-56</u> - ARKEMA SA <u>Genetron 124</u> - Honeywell (formerly Allied-Signal Inc.) <u>Genetron 409A</u> - Honeywell (formerly Allied-Signal Inc.) <u>Genetron MP39</u> - Honeywell (formerly Allied-Signal Inc.) <u>Genetron MP66</u> - Honeywell (formerly Allied-Signal Inc.) <u>GHG-X4</u> - People's Welding Supply <u>HCFC-124</u> - InterCool Energy Corporation <u>Hot Shot</u> - ICOR International (formerly Indianapolis Refrigeration Co. Inc.) <u>Meforex 124</u> - Ausimont SPA <u>NAF P III</u> - Safety Hi-Tech srl <u>NAF P-III</u> - North American Fire Guardian <u>NAF S III</u> - Safety Hi-Tech srl <u>NAF S-III</u> - North American Fire Guardian <u>Oxyfume 2000</u> - Honeywell (formerly Allied-Signal Inc.) <u>Oxyfume 2002</u> - Honeywell (formerly Allied-Signal Inc.) <u>Solkane 409A</u> - Solvay Fluor GMBH <u>Suva 124</u> - DuPont Fluoroproducts <u>Suva MP39</u> - DuPont Fluoroproducts <u>Suva MP52</u> - DuPont Fluoroproducts <u>Suva MP66</u> - DuPont Fluoroproducts</p>	<p>2837-89-0</p>
<p>HCFC-131 (C<sub>2</sub>H<sub>2</sub>FCI<sub>3</sub>) Trichlorofluoroethane</p>		<p>359-28-4</p>
<p>HCFC-132b (C<sub>2</sub>H<sub>2</sub>F<sub>2</sub>Cl<sub>2</sub>) Dichlorodifluoroethane</p>		<p>1649-08-7</p>

HCFC-133a (C <sub>2</sub> H <sub>2</sub> F <sub>3</sub> Cl) Monochlorotrifluoroethane		75-88-7
HCFC-141b (C <sub>2</sub> H <sub>3</sub> FCl <sub>2</sub> ) Dichlorofluoroethane	<u>Asahiklin AK-141b</u> - Asahi Glass Co. Ltd. <u>Forane 141b</u> - ARKEMA SA <u>Friogas 141b</u> - Galco <u>Genesolv 2000</u> - Honeywell (formerly Allied-Signal Inc.) <u>Genesolv 2004</u> - Honeywell (formerly Allied-Signal Inc.) <u>Genetron 141b</u> - Honeywell (formerly Allied-Signal Inc.) <u>HCFC-141b</u> - Roche Chemicals Inc. <u>HCFC-141b</u> - Central Glass Co. Ltd. <u>HCFC-141b</u> - Daikin Industries Ltd. <u>HCFC-141b MS</u> - Daikin Industries Ltd. <u>HyperClean Circuit Cleaner</u> - Micro Care Corp <u>Korfron 141b</u> - Ulsan Chemical Co., Ltd. <u>Meforex 141b</u> - Ausimont SPA <u>Polioi Poliuretano ICI</u> - INEOS Fluor <u>Solkane 141b</u> - Solvay Fluor GMBH <u>Solkane 141b CN</u> - Solvay Fluor GMBH <u>Solkane 141b DH</u> - Solvay Fluor GMBH <u>Solkane 141b MA</u> - Solvay Fluor GMBH <u>Solkane 141b WE</u> - Solvay Fluor GMBH	1717-00-6

<p>HCFC-142b (C<sub>2</sub>H<sub>3</sub>F<sub>2</sub>Cl) Monochlorodifluoroethane</p>	<p><u>Arcton 409A</u> - INEOS Fluor  <u>Arcton 412A</u> - INEOS Fluor  <u>Arcton TP5R</u> - INEOS Fluor  <u>Asahiklin AK-142b</u> - Asahi Glass Co. Ltd.  <u>Daiflon 142b</u> - Daikin Industries Ltd.  <u>Dymel 142b</u> - DuPont-Mitsui Fluorochemicals Co. Ltd  <u>Forane 142b</u> - ARKEMA SA  <u>Forane FX 55</u> - ARKEMA SA  <u>Forane FX 56</u> - ARKEMA SA  <u>Forane FX 57</u> - ARKEMA SA  <u>Free Zone RB-276</u> - Refrigerant Gases  <u>Freeze 12</u> - Technical Chemical Co.  <u>Freezone</u> - Freezone Inc. (formerly Patriot Consumer Products Inc.)  <u>FX-56</u> - ARKEMA SA  <u>G2015</u> - Greencool  <u>Genetron 142b</u> - Honeywell (formerly Allied-Signal Inc.)  <u>Genetron 409A</u> - Honeywell (formerly Allied-Signal Inc.)  <u>GHG</u> - Monroe Air Tech  <u>GHG12</u> - ICOR International (formerly Indianapolis Refrigeration Co. Inc.)  <u>GHG-HP</u> - People's Welding Supply  <u>GHG-X4</u> - People's Welding Supply  <u>GHG-X5</u> - People's Welding Supply  <u>HCFC-142b</u> - Daikin Industries Ltd.  <u>HCFC-142b</u> - Central Glass CO. Ltd.  <u>HCFC-142b</u> - Roche Chemicals Inc.  <u>Hot Shot</u> - ICOR International (formerly Indianapolis Refrigeration Co. Inc.)  <u>Korfron 142b</u> - Ulsan Chemical Co., Ltd.  <u>Mc Cool R-12</u> - McMullen Oil Products Inc.  <u>Meforex 142b</u> - Ausimont SPA  <u>Solkane 142b</u> - Solvay Fluor GMBH  <u>Solkane 22/142b blends</u> - Solvay Fluor GMBH  <u>Solkane 406A</u> - Solvay Fluor GMBH  <u>Solkane 409A</u> - Solvay Fluor GMBH</p>	<p>75-68-3</p>
<p>HCFC-221 (C<sub>3</sub>HFCI<sub>6</sub>) Hexachlorofluoropropane</p>		<p>422-26-4</p>

HCFC-222 (C <sub>3</sub> H <sub>2</sub> F <sub>2</sub> Cl <sub>5</sub> ) Pentachlorodifluoropropane		422-49-1
HCFC-223 (C <sub>3</sub> H <sub>2</sub> F <sub>3</sub> Cl <sub>4</sub> ) Tetrachlorotrifluoropropane		422-52-6
HCFC-224 (C <sub>3</sub> H <sub>2</sub> F <sub>4</sub> Cl <sub>3</sub> ) Trichlorotetrafluoropropane		422-54-8
HCFC-225ca (C <sub>3</sub> H <sub>2</sub> F <sub>5</sub> Cl <sub>2</sub> ) Dichloropentafluoropropane		422-56-0
HCFC-225cb (C <sub>3</sub> H <sub>2</sub> F <sub>5</sub> Cl <sub>2</sub> ) Dichloropentafluoropropane		507-55-1
HCFC-226 (C <sub>3</sub> H <sub>2</sub> F <sub>6</sub> Cl) Monochlorohexafluoropropane		431-87-8
HCFC-231 (C <sub>3</sub> H <sub>2</sub> FCl <sub>5</sub> ) Pentachlorofluoropropane		421-94-3
HCFC-232 (C <sub>3</sub> H <sub>2</sub> F <sub>2</sub> Cl <sub>4</sub> ) Tetrachlorodifluoropropane		460-89-9
HCFC-233 (C <sub>3</sub> H <sub>2</sub> F <sub>3</sub> Cl <sub>3</sub> ) Trichlorotrifluoropropane		7125-84-0
HCFC-234 (C <sub>3</sub> H <sub>2</sub> F <sub>4</sub> Cl <sub>2</sub> ) Dichlorotetrafluoropropane		425-94-5
HCFC-235 (C <sub>3</sub> H <sub>2</sub> F <sub>5</sub> Cl) Monochloropentafluoropropane		460-92-4
HCFC-241 (C <sub>3</sub> H <sub>3</sub> FCl <sub>4</sub> ) Tetrachlorofluoropropane		666-27-3
HCFC-242 (C <sub>3</sub> H <sub>3</sub> F <sub>2</sub> Cl <sub>3</sub> ) Trichlorodifluoropropane		460-63-9
HCFC-243 (C <sub>3</sub> H <sub>3</sub> F <sub>3</sub> Cl <sub>2</sub> ) Dichlorotrifluoropropane		460-69-5
HCFC-244 (C <sub>3</sub> H <sub>3</sub> F <sub>4</sub> Cl) Monochlorotetrafluoropropane		679-85-6
HCFC-251 (C <sub>3</sub> H <sub>4</sub> FCl <sub>3</sub> ) Trichlorofluoropropane		421-41-0
HCFC-252 (C <sub>3</sub> H <sub>4</sub> F <sub>2</sub> Cl <sub>2</sub> ) Dichlorodifluoropropane		819-00-1
HCFC-253 (C <sub>3</sub> H <sub>4</sub> F <sub>3</sub> Cl) Monochlorotrifluoropropane		460-35-5

HCFC-261 (C3H5FCI2) Dichlorofluoropropane		420-97-3
HCFC-262 (C3H5F2CI) Monochlorodifluoropropane		421-02-03
HCFC-271 (C3H6FCI) Monochlorofluoropropane		430-55-7

**6. GOVERNMENT CONTACTS (CHAPTERS 36, 37, 38)****U.S. Department of Agriculture***Agricultural Marketing Service*

Washington, DC 20250

Tel. 202.720.8998

[www.ams.usda.gov](http://www.ams.usda.gov)**Animal and Plant Health Inspection Service (APHIS)***Animals:*

USDA-APHIS-VS

Riverdale, MD 20737-1231

Tel. 301.734.7885

*Plants:*

USDA-APHIS-PPQ

Riverdale, MD 20737-1231

Tel. 301.734.8896

[www.aphis.usda.gov](http://www.aphis.usda.gov)*Food Safety and Inspection Service*

Import Inspection Division

Landmark Center

1299 Farnam, Suite 300

Omaha, NE 68102

Tel. 402.221.7400

*Foreign Agricultural Service*

Room 5531-S

Washington, D.C. 20250-1000

Tel. 202.720.2916

Fax 202.720.8076

[www.usda.gov](http://www.usda.gov)**U.S. Department of Commerce***Exporter Counseling Division*

14th Street &amp; Pennsylvania Ave., N.W.

Washington, DC 20230

Tel. 202.482.4811

[www.bxa.doc.gov](http://www.bxa.doc.gov)*National Marine Fisheries Service Headquarters*

*National Oceanic and Atmospheric Administration*  
1315 East-West Highway  
Silver Spring, MD 20910  
Tel. 301.713.2289

*NMFS Southwest Region*  
*Protected Species Management Division*  
501 West Ocean Blvd.  
Long Beach, CA 90802-4213  
Tel. 562.980.4019  
[www.kingfish.ssp.nms.gov](http://www.kingfish.ssp.nms.gov)

**Federal Communications Commission**

*Laboratory Division*  
7435 Oakland Mills Road  
Columbia, MD 21046  
Tel. 301.362.3000  
[www.fcc.gov](http://www.fcc.gov)

**U.S. Consumer Product Safety Commission**

*Office of Compliance*  
4330 East West Highway  
Bethesda, MD 20814  
Tel. 301.504.0608  
Fax 301.504.0359  
[www.cpsc.gov](http://www.cpsc.gov)

**Environmental Protection Agency**

*Hazardous Materials Hotline*  
1.800.424.9346

*TSCA Assistance Information Service*  
Tel. 202.554.1404

*Motor Vehicles Investigation/Imports Section*

2000 Traverwood Drive  
Ann Arbor, MI 48105  
Attn: Imports Division  
Tel. 734.214.4100

**U.S. Department of Health and Human Services**

*Food and Drug Administration*  
*Center for Biologics Evaluation and Research*



1401 Rockville Pike  
Suite 200 North  
Rockville, MD 20852  
Tel. 301.827.6201  
[www.fda.gov/cber](http://www.fda.gov/cber)

*Center for Drug Evaluation and Research*  
7520 Standish Place  
Rockville, MD 20855  
Tel. 301.594.3150  
[www.fda.gov/cber](http://www.fda.gov/cber)

*Center for Devices and Radiological Health*  
Rockville, MD 20850  
Tel. 301.594.4692  
[www.fda.gov/cber](http://www.fda.gov/cber)

*Division of Import Operations and Policy (HFC-170)*  
5600 Fishers Lane  
Rockville, MD 20857  
Tel. 301.443.6553  
Fax 301.594.0413  
[www.fda.gov/ora/import](http://www.fda.gov/ora/import)

### **Center for Food Safety and Applied Nutrition**

*Office of Food Labeling (HFS-156)*  
200 "C" St., NW  
Washington, DC 20204  
Tel. 202.205.4606  
<http://vm.cfsan.fda.gov>

*Office of Seafood*  
Washington, DC 20005  
Tel. 202.418.3150

**U.S. Public Health Service**  
*Centers for Disease Control and Prevention*  
Office of Health and Safety  
1600 Clifton Road  
Atlanta, Georgia 30333  
Tel. 404.639.3235  
[www.cdc.gov](http://www.cdc.gov)

**U.S. Department of Energy**  
*Office of Codes and Standards*  
Washington, DC 20585  
Tel. 202.586.9127  
[www.eren.doe.gov](http://www.eren.doe.gov)

**U.S. Department of Homeland Security**

**U.S. Coast Guard**  
*Office of Boating Safety*  
2100 Second Street, SW  
Washington, DC 20593-0001  
Tel. 202.267.1077

*National Vessel Documentation Center*  
792 T.J. Jackson Drive  
Falling Waters, W.Va. 25419-9502  
Tel. 304.271.2400  
Fax 304.271.2405

**U.S. Customs and Border Protection**  
*Office of Regulations and Rulings*  
1300 Pennsylvania Avenue NW  
Washington, DC 20229  
Tel. 202.572-8700

*National Commodity Specialist Division*  
One Penn Plaza  
11th Floor  
New York, NY 10119  
Tel. 201.443.0367  
Fax 201.443.0595

*Office of Field Operations*  
Trade Programs Division  
1300 Pennsylvania Ave. NW  
Washington, DC 20229  
Tel. 202.344.0300

**U.S. Department of the Interior**  
*Fish and Wildlife Service*  
Office of Management Authority

4401 N. Fairfax Drive  
Arlington, VA 22203  
Tel. 703.358.2093  
[www.fws.gov](http://www.fws.gov)

**U.S. Department of Justice**

*Bureau of Alcohol, Tobacco, Firearms and Explosives*

650 Massachusetts Avenue NW  
Washington, DC 20226  
Tel. 1.866.662.2750 (arms, ammunition, and explosives import licenses)

*Drug Enforcement Administration*

700 Army-Navy Drive  
Arlington VA 22202  
Tel. 202.307.7977  
[www.usdoj.gov/dea](http://www.usdoj.gov/dea)

**Nuclear Regulatory Commission**

*Office of International Programs*

One White Flint North  
11555 Rockville Pike  
Rockville, MD 20852  
Tel. 301.415.7000

**Federal Trade Commission**

*Bureau of Consumer Protection*

Washington, DC 20580  
Tel. 202.326.2996  
Division of Enforcement  
Washington, DC 20580  
Tel. 202.326.2996  
[www.ftc.gov](http://www.ftc.gov)

**International Trade Commission**

500 "E" Street, SW  
Washington, DC 20436  
Tel. 202.205.2000  
[www.usitc.gov](http://www.usitc.gov)

**U.S. Department of State**

*Office of Defense Trade Controls*

Bureau of Political/Military Affairs  
2401 "E" Street, NW

Washington, DC 20037  
Tel. 202.663.2700  
www.pmdtc.org

**U.S. Department of Transportation**

*National Highway Traffic Safety Administration*  
Office of Vehicle Safety Compliance (NEF-32)  
400 7th Street SW  
Washington, DC 20590  
Tel. 1-800-424-9393  
Fax 202.366.1024  
www.nhtsa.dot.gov

*Office of Hazardous Materials*  
400 7th Street SW  
Washington, DC 20590-0001  
Tel. 202.366.4488

**U.S. Department of the Treasury**

*Alcohol and Tobacco Tax and Trade Bureau*  
Washington, DC 20220  
Tel. 1.877.882.3277

Email: [ttbimport@ttb.gov](mailto:ttbimport@ttb.gov) (alcohol importer's basic permit, alcohol excise taxes)  
[alfd@ttb.gov](mailto:alfd@ttb.gov) (alcohol labeling, advertising, and formulation)  
[ttbtobacco@ttb.gov](mailto:ttbtobacco@ttb.gov) (tobacco products)  
[ttbfaet@ttb.gov](mailto:ttbfaet@ttb.gov) (firearms and ammunition excise tax)

Main Website: [www.ttb.gov](http://www.ttb.gov)

*Office of Foreign Assets Control*  
1500 Pennsylvania Avenue NW  
Washington, DC 20220  
Tel. 202.622.2500  
Fax 202.622.1657  
[www.treas.gov/offices/enforcement/ofac/index.shtml](http://www.treas.gov/offices/enforcement/ofac/index.shtml)

U.S. Customs and Border Protection  
Washington, D.C. 20229

Report Suspicious Behavior  
1-800-BE ALERT

CBP Publication No. 0000-0504

Revised November 2006