

Trade & Customs Law
February 24, 2010 ♦ Washington, DC

Customs 101

Importation Process Basics

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Exhibits

- Exhibit A: CBP's Informed Compliance Publication on "Reasonable Care"
- Exhibit B: CBP Form 7533 - Entry Manifest
- Exhibit C: CBP Form 3461 - Application and Special Permit for Immediate Delivery
- Exhibit D: Customs Form CF 7501 - Entry Summary
- Exhibit E: General Rules of Interpretation
- Exhibit F: Excerpt from Harmonized Tariff Schedule
- Exhibit G: CBP Form 19 - Protest

I. Introduction

U.S. Customs and Border Protection (CBP), now a part of the U.S. Department of Homeland Security (DHS), regulates the importation of goods into the United States. CBP is one of the oldest government agencies, dating back to the fifth act of Congress, in 1789. This act established an agency “to regulate the Collection of the Duties imposed by law on the tonnage of ships or vessels, and on goods, wares and merchandise imported into the United States.” In addition to collecting duties, CBP provides security for our borders and acts as the gatekeeper for over 100 different U.S. government agencies, enforcing other agency regulations such as those administered by the Department of Commerce, International Trade Commission, Food and Drug Administration, Environmental Protection Agency, Consumer Product Safety Commission, and Federal Trade Commission, to name a few.

One of the most important events in CBP’s long history occurred in 1994, when Congress passed the “Customs Modernization Act” or “Mod Act” as part of the same legislative package as the North American Free Trade Agreement (NAFTA).¹ The Mod Act established the legal requirement that parties exercise “reasonable care” when importing merchandise into the United States.² As a result of the establishment of this “reasonable care” requirement, every importer of record has a duty to provide CBP with accurate information regarding the admissibility, tariff classification, value, and origin of the imported goods. The importer is also responsible for providing any other documentation or information necessary to enable CBP to determine whether all legal requirements have been met. This includes the requirement that importers maintain and make available for CBP inspection all records relating to each importation for five years.

Customs regulations have become more complex as trade amongst countries has increased exponentially over the last 20 years. This document provides an overview of CBP’s regulatory regime and insight into how CBP interprets these regulations.

II. Who is CBP?

CBP has over 30,000 employees. Before addressing basic importing rules and regulations, it is important to understand the roles and responsibilities of the various CBP employees.

CBP Headquarters: Located in Washington, DC, CBP headquarters (HQ) is the nucleus of CBP, administering and enforcing CBP regulations by providing both policies and procedures to follow. CBP is headed by the Commissioner of Customs, who is appointed by the President and confirmed by the Senate. CBP HQ is made up of various departments, including the Office

¹ Pub. L. 103-182, 107 Stat. 2057.

² 19 U.S.C. § 1484 (2009).

of International Trade, Regulations and Rulings Unit, and Office of Field Operations, to name a few.

Ports of Entry: There are over 325 ports of entry located throughout the United States. Ports of entry include seaports, airports, and land border crossings that have been designated by DHS as locations in which CBP personnel are required to accept entries of merchandise, collect duties, enforce CBP regulations, and clear individuals traveling to and from the United States.

CBP Officers: These CBP personnel are located at the front line of every port that process and inspect both persons and cargo that enter and exit the United States.

Import Specialists: Located at each major port, import specialists are trained in classifying merchandise and are responsible for reviewing customs entries and documentation. They typically play a major role in import compliance reviews and enforcement actions.

Field Operations offices: There are 20 field offices located throughout the United States. These offices provide guidance to manage and oversee each U.S. port of entry.

Regulatory auditors: The regulatory auditors are often certified public accountants mandated with reviewing importer transactions from the finance and accounting perspectives. More generally, auditors review importer's compliance, controls, and record keeping. Regulatory auditors are located in the major ports or regional offices and frequently conduct Focused Assessment audits of an importer's operations.

Fines, Penalties, and Forfeitures (FP&F) officers: These officers handle civil enforcement actions (e.g., penalties and seizures) taken by CBP against importers who violate the regulations. They are located at most major ports and work closely with import specialists and officers at all Regional Field offices.

III. Informed Compliance Framework

To comply with CBP's laws and regulations, importers must understand CBP's overall compliance framework and how filing of documents with CBP to clear goods into the commerce of the United States fits within this structure.

First, as mentioned above, CBP requires that importers exercise "Reasonable Care" in the process of filing and making declarations to CBP. Determining whether the importer has exercised "Reasonable Care" is not always straight forward. Nonetheless, there are particular controls an importer can and should implement during and after entries are made that will go a long way toward satisfying the "Reasonable Care" standard. *See* CBP's Informed Compliance Publication on "Reasonable Care," attached as Exhibit A.

Second, as part of the Mod Act's reasonable care obligations imposed on importers, the Mod Act imposed upon CBP the obligation to inform importers of how they should comply with customs laws. To meet its obligation, CBP issues what are called "Informed Compliance"

publications.³ These publications exist to assist importers in evaluating the “Reasonable Care” requirements in various situations, and come in various forms including brochures and advisory opinions. These publications cover many issues from how to properly classify an item to advise to importers on how to value imported products. Importers are expected to consult these resources as part of their “Reasonable Care” obligations.

Within this compliance framework, importers must consider four core substantive legal requirements. The four pillars of importing are: (1) admissibility and the entry process; (2) tariff classification; (3) valuation; and (4) country of origin. When any good is imported into the United States it must be cleared or “entered” through one of the 325 CBP ports. In doing so, CBP requires that certain information be provided by importers to CBP to ensure compliance with each of these four areas. Below we address each of these four pillars of the import process, as well as record keeping requirements and administrative and judicial review of CBP decisions.

IV. The Entry Process

When a shipment reaches the United States, the party responsible for clearing the goods through CBP, known as the “importer of record,” must file an “entry package” for the goods in the port of entry. The term “entry” refers to the documents filed by the importer with CBP, and the process of “making entry” is the main connection between importers and CBP. The entry package will form CBP’s basis to evaluate the importer’s use of reasonable care and CBP’s assessment of legal liability related to the entry.

A. The Importer of Record and the Right to Make Entry

To file an entry and clear goods through CBP, the party, or importer of record, must have a legal right to make such filings.⁴ The importer of record may be the owner or purchaser of merchandise, or a licensed broker designated by the owner, purchaser, or consignee of the merchandise. In certain cases, a consignee (*i.e.*, a party who is receiving the goods but is not a purchaser or owner) also has the right to make entry. The general test used by CBP to confirm whether a party may be an importer of record, is whether or not that party has meaningful legal interest with respect to the transaction that brought the goods to the United States.

Parties who do not have such an interest may not be qualified to make entry. For example, where a sale is made between a foreign manufacturer and a U.S. customer, it is not unusual for the foreign manufacturer to request that a U.S. affiliate make entry. If the U.S. affiliate is taking possession of the goods (*e.g.*, to store in a warehouse or to ship to the customer), this is usually permitted. If the U.S. affiliate has no involvement other than processing the entry paperwork, however, CBP may conclude that the affiliate is simply a “nominal consignee” and may not allow it to make entry.

³ CBP’s Informed Compliance Publications are available at, http://www.cbp.gov/xp/cgov/trade/legal/informed_compliance_pubs/.

⁴ 19 C.F.R. § 141.11 (2009).

B. Import Bonds

All entries must be covered by an import bond to secure potential duties, taxes, and fees owed to CBP related to the imported goods.⁵ The bond must be filed on CBP Form 301 and is essentially a contract between the importer and CBP, under which CBP grants the importer the privilege to clear goods through CBP and the importer agrees to meet certain conditions such as producing required documentation and paying duties, taxes, and fees where applicable, etc. There are a number of surety companies who issue these bonds. Smaller and less frequent importers often use “single entry” bonds to cover individual entries. Larger and/or more frequent importers, by contrast, most often secure a “continuous” bond that covers all of their ongoing entries. The amount of the bond is based on established risk guidelines (*e.g.*, the importer’s historical yearly value and duties) set by CBP. As discussed, evidence of an import bond (usually a reference to a bond number) is required as part of the entry process.

C. Customs Brokers

Due to the complexity of clearing shipments through CBP ports of entry, the increased use of electronic filing has made the process much faster, but in no way simpler. Consequently, many importers either employ in-house licensed customs brokers to facilitate the import process or use outside customs brokerage service providers to handle the shipment clearance process. Customs regulations require that a customs broker hold a valid license to transact customs business on behalf of others.⁶ In order to conduct business on behalf of an importer, the customs broker must obtain a power of attorney from the importer.⁷ In most cases powers of attorney are unlimited until revoked, however, the duration of a power of attorney issued by a partnership may not exceed two years.⁸ Brokers can provide tremendous assistance on CBP regulations and requirements, but it’s important to note that the importer always retains ultimate liability for misstatements and mistakes in the entry process, no matter the cause.

D. Pre-Importation Importer Security Filing or “10+2”

Under the SAFE Port Act, CBP now requires importers to file certain data elements before cargo destined for the United States is laden on board a vessel at a foreign port. These pre-importation filing requirements are known as the Importer Security Filing (ISF) or “10+2.” Although these requirements affect both importers and carriers, the ISF rule has become more import compliance focused. The ISF rule mandates that the following data elements must be filed at least 24 hours prior to the loading of the cargo on an ocean vessel bound for the United States: (1) manufacturer (supplier) name/address; (2) seller name/address; (3) buyer name/address; (4) ship-to name/address; (5) importer of record number; (6) consignee number(s); (7) country of origin of goods; (8) commodity HTSUS number; (9) container stuffing location; and (10) consolidator (stuffer).⁹

⁵ 19 C.F.R. § 113.40.

⁶ 19 C.F.R. Part 111.

⁷ 19 C.F.R. §141.46.

⁸ 19 C.F.R. §141.34.

⁹ 19 C.F.R. Parts 4, 12, 18, *et al.*

Two elements will enjoy flexibility as to the timing of their submission: (1) the container stuffing location and (2) consolidator (stuffer) data elements. These two elements should be submitted as early as possible, but no later than 24 hours prior to arrival at a U.S. port. Four elements are subject to flexibility as to their content. These elements include the manufacturer (or supplier), ship to party, country of origin, and commodity HTS number. Although importers may provide a range of possible responses for each element based on the facts available at that time, the data must be submitted 24 hours prior to lading and updated or corrected no later than 24 hours prior to arrival at a U.S. port. For example, the importer may provide three possible manufacturers that are likely the manufacturer of the goods being shipped and amend the submission with the actual manufacturer 24 hours before arriving at a U.S. port.

The two data elements that carriers must file with CBP are as follows: (1) a vessel stow plan and (2) container status message. These data elements must be filed no later than 24 hours prior to the ship's arrival at the U.S. port of entry. Failure to supply complete ISF data in a timely fashion may result in CBP imposing liquidated damages against the importer up to \$5,000 per violation. Enforcement of the ISF rule took effect on January 26, 2010.

E. Entry Filing

Entering merchandise involves (1) providing CBP with enough information to “admit” and thereafter “release” the merchandise into the importer’s custody and (2) providing the agency with sufficient information so that it can determine the proper amount of duties, taxes, and fees to be paid by the importer. The process has become largely automated via the Automated Broker Interface (ABI) program of the Automated Commercial System (ACS) – virtually all import brokers use this portal.

The first step involves filing the entry documents to secure release of the imported goods. These documents must be filed within 15 calendar days after the imported merchandise arrives in the U.S., and they include:

- An Entry Manifest (CBP Form 7533, *see* Exhibit B) or Application and Special Permit for Immediate Delivery (CBP Form 3461, *see* Exhibit C) or other form of merchandise release required by the port director;
- Evidence of the right to make entry (*e.g.*, a properly endorsed bill of lading);
- Evidence of a bond (single entry or continuous);
- The commercial invoice, or *pro forma* invoice when the commercial invoice cannot be produced;
- A packing list (for CBP examination purposes); and
- Any other documents and other government agency (OGA) or Customs documents necessary to determine merchandise admissibility.

Often importers will file an entry (CBP Form 3461) before the goods arrive in the U.S., so that they may obtain immediate release of the goods upon arrival into the U.S.

F. Entry Summary/Entry Documentation

Following presentation of the entry and arrival of the goods into the United States, CBP has the right to examine the goods, though the agency waives this right in many cases. If the goods are released at the time of the filing of the entry or upon arrival, then the next step is the filing of the “Entry Summary.” This package consists of the previously filed entry package together with the actual Customs “Entry Summary” form (Customs Form 7501, or “CF 7501”). The CF 7501 is a key document for CBP’s purposes, and it includes the importer’s declarations as to the classification, origin, and value of the imported merchandise. Failure to use reasonable care in completing the CF 7501 may result in the assessment of penalties and/or delay in the release of the merchandise. A sample CF 7501 is attached as Exhibit D. The Entry Summary must be filed with the duty payment within 10 working days after entry, if filed separate from entry documentation. Importers often file the Entry Summary (and estimated import duties deposited) simultaneously with the entry.

G. Liquidation Process

Duties paid at the time of entry are referred to as duty “deposits,” because they are merely estimates and not considered to be CBP’s final assessment of duties owed. The entry remains open, or “unliquidated” for approximately 314 days (though this can be extended in certain circumstances) after the date of entry. During this period, either the importer or CBP can review the entry information and revise the entry information (value, classification, and origin, etc.). On or about day 314, the entry is finalized or “liquidated.”¹⁰ An entry is “deemed” liquidated by operation of law after one year, unless CBP extends such liquidation.¹¹ If changes were made during the liquidation cycle that impact the duties owed, CBP will issue a refund for overpayment or a bill for underpayment as appropriate. Liquidation is legally significant because it acts as CBP’s final assessment of the admissibility and calculation of duties owed with respect to the given entry. The date of liquidation triggers statutory time limits within which the importer or CBP must act if either party wishes to challenge or change CBP’s liquidation decision.¹² For example, if an importer wishes to challenge CBP’s assessment of duties (*e.g.*, value or classification) the importer must file a formal administrative “protest” of CBP’s liquidation of the entry within 180 days of the date of liquidation. If the importer does not file a timely protest, then it is bound by CBP’s liquidation decision. Protests are discussed further in Section IX.A below. CBP is similarly bound by its liquidation of an entry, unless there is some other violation of law (*e.g.*, the importer made false statements on the entry in violation of the CBP penalty statute).¹³ The purpose of the liquidation process is to provide importers certainty with respect to liability related to their import transaction.

¹⁰ See CBP Administrative Message 97-0532 (May 26, 1997).

¹¹ 19 U.S.C. § 1504(a).

¹² 19 U.S.C. § 1514.

¹³ See 19 U.S.C. § 1592.

V. Tariff Classification

Every good imported into the United States must be assigned a tariff classification under the Harmonized Tariff Schedule (HTS) of the United States. The HTS implements the terms of the Harmonized Commodity Description and Coding System (HS), which is used and has been implemented by nearly all trading nations and customs unions. The HS assigns a six-digit number to given product description, and provides rules for interpreting or classifying products under the system (General Rules of Interpretation). *See* General Rules of Interpretation, attached as Exhibit E.

The HTS tariff classification of a product will dictate the applicable rate of duty applied to that product upon importation into the United States. The classification of a product is also a key factor in determining whether it is subject to quotas, restraints, embargoes or other restrictions. Finally, HTS classification is used to determine if, and under what circumstances, a product may be entitled to special tariff preferences, such as duty free treatment under the Generalized System of Preferences (GSP), NAFTA, Dominican Republic-Central America-United States Free Trade Agreement (DR-CAFTA), or other tariff preference programs. Properly classifying an article is not only important for determining the correct duty rate, but it is also an obligation under CBP's "Reasonable Care" requirements.

The HTS consists of a Table of Contents, the General Rules of Interpretation (GRI), the Additional U.S. Rules of Interpretation, the General Notes, the General Statistical Notes, the Tariff Provisions, an Appendix, and an Index.¹⁴ The HTS is comprised of 22 sections (*e.g.*, Section XV – Base Metals and Articles of Base Metal), 99 chapters (*e.g.*, Chapter 72 – Iron and Steel), headings, and subheadings. Each section and chapter contains notes that provide clarification on what provisions do and do not include. The HTS is a progressive commodity identification system, describing live animals in the early chapters (Chapter 1), and more complex products in later chapters (*e.g.*, optical instruments in Chapter 90).

Because the HS has been implemented into U.S. law in the HTS, basic rules of statutory construction apply when determining the proper classification of merchandise. For example, GRI 1 requires that you first classify goods according to the terms of the four-digit headings and applicable section and chapter notes. Most headings describe the good by name (*eo nomine*), use or function. Ferroalloys are classified by name under HTS heading 7202. *See* an excerpt from the HTS, attached as Exhibit F. Once the appropriate four-digit HTS heading is identified, then you may proceed to classifying the product at the six-digit subheading level. After the appropriate six-digit subheading is found, then you may determine the correct eight-digit classification of the product, which will provide the applicable duty rate to be assessed upon the importation of that particular good into the United States. While most goods are classified using GRI 1, based on the terms of the heading and notes, if goods are *primaefacie* classifiable under more than one heading, or are unfinished or composite goods, then you may have to resort to classification based on GRIs 2 or 3.

¹⁴ The HTS is available at <http://www.usitc.gov/tata/hts/bychapter/index.htm>.

Each country that is a member of the World Customs Organization (WCO) has adopted the same six-digit numbers, corresponding terms and GRIs appearing in the HS. However, each country creates their own unique eight-to-ten-digit terms and assigns their national rate of duty corresponding to specific HS provisions based on the country's binding tariff commitments under the World Trade Organization (WTO) agreements. The goal of the HS is to ensure that all countries use the same system to classify products, and to ensure transparency of the HS classification process and WTO tariff bindings. Disputes between nations on HS classification may be handled at the WCO, which is comprised of members representing all signatory nations or customs unions to the HS, and is the international bureaucracy that oversees HS interpretation and implementation.

VI. Valuation

U.S. law sets forth the rules for valuing imported goods, which implement the WTO Valuation Agreement.¹⁵ Proper customs valuation is important because most duty rates are based on a percentage of the value of an imported product, and total duty payments are thus determined by multiplying the applicable duty rate by the product's customs value. As with HS classification, the WTO Valuation Agreement was intended to ensure that each country apply the same rules to value imported products and create certainty in the global trade process. However, differences on how countries interpret or apply the valuation agreement occur, and the WCO is the international bureaucracy that oversees interpretation and implementation of the valuation agreement.

Under customs valuation law, there are six methods of appraisal, which are applied in hierarchical order: (1) transaction value; (2) transaction value of identical merchandise; (3) transaction value of similar merchandise; (4) deductive value; (5) computed value; and (6) the "fallback" method.

A. Transaction Value

The preferred method of appraisal is "transaction value." This term is defined as the "price paid or payable" for the imported merchandise "when sold for export to the United States." Typically, this value is the sales price paid by the buyer to the seller for the imported product. Under the "transaction value method," the price paid or payable includes the following statutory additions:

- The packing costs incurred by the buyer;
- any selling commission incurred by the buyer;
- the value, apportioned as appropriate, of any "assist" (*i.e.*, tooling, parts, design work and the like supplied by the buyer to the seller free of charge);

¹⁵ Trade Agreements Act of 1979; 19 U.S.C. § 1401(a). For the U.S. regulations, *see* 19 C.F.R. Part 152.

- any royalty or license fee that the buyer is required to pay, directly or indirectly, as a condition of the sale; and
- the proceeds of any subsequent resale, disposal, or use of the imported merchandise that accrue, directly or indirectly, to the seller.

These amounts are only added to the price paid for the imported products if they are not already included in the price paid or payable for the imported products. Certain amounts, such as international freight and insurance, may be deducted from the customs value under the transaction value method. For example, if the price paid for imported goods includes international freight and insurance (*e.g.*, if the terms of sale and shipment were CIF, INCOTERMS), then you may separately itemize these actual costs on the invoice, and reduce the value declared to CBP accordingly. The goal of transaction value is to reach a complete arm's length FOB foreign port sales price.

Importers may not be able to use the transaction value method in certain circumstances. For example, if there was no "sale" for export (*e.g.*, consignment sale), or if the buyer and seller are related parties and cannot establish that a *bona fide* sale at an acceptable arm's length price occurred. If the transaction value method cannot be used as the basis of appraisal, then the importer must use an alternate method of valuation. Brief descriptions of these alternative methods follow in the order in which they are applied.

B. Alternative Methods

If transaction value cannot be determined then the importer must first determine whether value can be determined by the transaction value of identical merchandise. Transaction value of identical merchandise is usually a previously accepted customs value pursuant to another sale to either the same or a different purchaser. The sale must be "identical in all respects"¹⁶ except that "[m]inor differences in appearance will not preclude otherwise conforming merchandise from being considered 'identical.'"¹⁷ If an acceptable transaction value for identical merchandise is unavailable, then the next option is the transaction value of similar merchandise. Similar merchandise is merchandise that is "like the merchandise being appraised in characteristics and component material, and commercially interchangeable with the merchandise being appraised."¹⁸ Sales of identical or similar merchandise are typically difficult to find, and usually importers must look to the computed or deductive value method if they cannot use the transaction value method.

If there is no available transaction value for identical or similar merchandise, then the importer may select either the deductive or computed value methods. Deductive value is the resale price in the United States after importation of the goods, with deductions taken for a number of items including transportation costs, duties and taxes, value-added, commissions,

¹⁶ 19 C.F.R. § 152.102(d).

¹⁷ 19 C.F.R. § 152.104(b).

¹⁸ 19 C.F.R. § 152.102(i).

general expenses, and profit.¹⁹ The computed value method adds up all the costs and expenses incurred in producing the good, including cost of materials, labor, any assists, and profit.²⁰ To use computed value, the importer must declare it is using this method to CBP at the time of importation.

Finally, if none of the aforementioned methods are available, then CBP and the importer may use a reasonably adjusted version of one or more of the methods to derive a value. More specifically, the “fallback” method is a “value derived from the [preceding methods], reasonably adjusted to the extent necessary to arrive at a value.”²¹

C. Reconciliation

In instances where the value of imported merchandise is unknown at the time of import, importers may turn to CBP’s Reconciliation program. Reconciliation allows importers to file their entry summaries based on tentative values and electronically “flag” the entries so that when the actual value figures are known the corrected information can be filed within 21 months in the form of a reconciliation entry.²² While Reconciliation is most commonly used to correct customs valuation claims, it may also be used to correct other original entry claims such as: HTS heading 9802 (goods returned and improved abroad) claims; NAFTA claims; and claims made under the U.S.-Chile Free Trade Agreement or DR-CAFTA.

VII. Country of Origin Laws and Marking

A. Country of Origin Laws

The “Reasonable Care” obligation also requires importers to make accurate declarations as to the country of origin of imported merchandise. This determination can be complicated where goods include raw materials, parts and inputs sourced from multiple countries, and/or where such goods undergo manufacturing, processing, and assembly operations in several different countries. It is important to understand that there are different country of origin rules for determining the origin a product for purposes of confirming whether that product qualifies for reduced duties under a tariff preference program (*e.g.*, GSP, NAFTA, DR-CAFTA), and determining the origin of a product for purposes of confirming how that product must be marked upon importation into the United States.

¹⁹ 19 C.F.R. § 152.105.

²⁰ 19 C.F.R. § 152.106.

²¹ 19 C.F.R. § 152.107.

²² See *U.S. Customs and Border Protection, Automated Commercial System (ACS) Reconciliation Prototype, A Guide to Compliance*, Version 4.0 (Sept. 2004), available at http://www.cbp.gov/linkhandler/cgov/trade/trade_programs/reconciliation/reference_desk/acs_recon_guide.ctt/acs_recon_guide.pdf.

Each tariff preference program has its own unique rules that are used to determine whether a product qualifies for the specific preference claimed. Free trade agreements (FTAs), like NAFTA, have product specific rules based on the HS classification of the finished product, which require that non-originating component materials undergo a certain shift in HS tariff classification, or may require a certain amount of NAFTA content. The United States has FTAs with 17 different countries, and each agreement has unique rules of origin. In addition, the United States has unilateral tariff preference programs providing duty benefits to goods from lesser developed countries (LDCs) (*e.g.*, GSP). To determine whether goods qualify for unilateral tariff preferences under GSP and similar programs requires an examination of a product's LDC content by value, in addition to confirming the goods are LDC origin under country of origin marking laws. The rules for determining the "origin" of a product under a given FTA or unilateral trade preference law impose a higher standard (*e.g.*, preference laws require more processing and qualifying content) than the rules for determining the country of origin for customs marking purposes.

A full discussion of origin determinations for FTAs and other preference programs is beyond the scope of this paper. Below we focus on how importers should determine the country of origin of imported goods for customs marking purposes.

CBP regulations require a single origin determination be made for imported merchandise. Importers must declare the origin of each product entered into the United States on customs entry documentation (*e.g.*, CF 7501) based on CBP's country of origin marking regulations. In addition to imposing specific country of origin marking or labeling obligations, these regulations are used to establish the origin of a product to confirm whether it may be allowed to enter the United States (*e.g.*, sanctions laws), whether the good is subject to a tariff rate quotas (increased duties) or quota limitation, and whether the good may be eligible for Trade Agreements Act benefits related to sales to the U.S. government.

Generally, under the marking regulations, the country of origin of an imported article is "the country of manufacture, production, or growth" of the article.²³ Thus, if an imported product is wholly obtained or produced in a single country, then that country will be considered the country of origin. If the imported article contains material from, or was processed in more than one country, then origin is the country where the article last underwent a "substantial transformation."²⁴

To determine whether a substantial transformation occurred, CBP may consider the following:

- The name, character, and use of the imported article and component materials.
- The nature and manufacturing process that resulted in the finished article.

²³ 19 C.F.R. Part 134.

²⁴ *Id.*

- The nature of the manufacturing process used to produce the parts, components or materials in the article.
- The value that is added by the manufacturing process.
- The “essential character” of the finished article.
- The change in tariff classification that resulted from the manufacturing process.

B. Marking

U.S. law requires that all foreign goods be marked with their country of origin “in a conspicuous place as legibly, indelibly, and permanently as the nature of the article (or container) will permit.”²⁵ The purpose of this law is to prevent the possibility of misleading or deceiving the ultimate purchaser as to the origin of an article.²⁶ Customs regulations require that upon importation into the United States, the good itself, or the containers holding the good, be clearly marked with the name of the country of origin in English. If the articles are repacked or manipulated after importation, the new containers must be marked with the name of the country of origin.

When marking products, importers must ensure that the country of origin marking is readily visible by the consumer and that the name of the country of origin is legible by font, size, color, and placement of the text. Examples of specific wording that may be used include, “Product of X”, “Made in X”, or “Contents Made in X.” If the container or article bears a geographical reference that describes or suggests an origin different than the origin of the product (*e.g.*, an importer address that says “United States”), then name of the actual country of origin must be placed in “close proximity” and in comparable font and size as the other geographical reference.²⁷

In certain circumstances, CBP is authorized to exempt certain articles from the country of origin marking requirement.²⁸ The most significant of these exemptions are: (1) articles that are physically incapable of being marked or would be damaged by marking; (2) articles not worth over \$200; (3) articles named in notices published by the Secretary of Treasury in the late 1930s also known as the “J-list” exceptions that covers a broad list of products, including cigars, buttons, nuts, bolts, and bearings, etc; and (4) articles imported for use by the importer and not intended for sale in their imported or any other form.

Note that if an article is exempt from marking because it was substantially transformed in the United States before sale to the ultimate purchaser, then this does not mean the article can be

²⁵ 19 C.F.R. § 134.11.

²⁶ Customs defines the “ultimate purchaser” as “generally the last person in the U.S. who will receive the article in the form in which it was imported.” *See* 19 C.F.R. § 134.35.

²⁷ 19 C.F.R. § 134.22(c).

²⁸ 19 C.F.R. § 134.32.

marked “Made in the US.” CBP marking laws only apply to foreign articles, and the Federal Trade Commission (FTC) has jurisdiction over claims that a good is U.S.-origin. FTC “Made in USA” rules apply a higher standard (virtually all U.S. content) for making unqualified U.S.-origin claims. Also note, that there are separate country of origin marking rules for goods traded between NAFTA countries, which are different than the NAFTA origin tariff preference rules, and the substantial transformation marking rules applied for trade with other countries.²⁹

Failure to properly mark imported, foreign origin products may result in an automatic penalty or additional duty of 10 percent of the value of the imported product.³⁰

VIII. Record Keeping

U.S. laws require anyone whose activities are subject to CBP authority (*e.g.*, the importer, carrier, broker, etc.) to maintain all documentation that “pertain” to importing activity or to the information contained in the required records related to such importations and that are “normally kept in the ordinary course of business.”³¹ CBP, in particular, focuses on the maintenance of records listed under 19 U.S.C. § 1509(a)(1)(A) also known as the “(a)(1)(A) list.” The documents listed in the “(a)(1)(A) list” include, but are not limited to, the entry summary, bond information, correspondence, binding rulings, certificate of origin, commercial invoice or *pro forma* invoice, packing list, manifests, and bill of lading, etc.³² These records are required to be retained for five years after entry and all drawback record must be maintained for three years after payment. At any point CBP may request the provision of entry records and the documents must be provided to CBP “within a reasonable period of time after demand.”³³ CBP’s initial intent was to require the retention of original records in a manner capable of being retrieved upon demand by CBP. However, due to the trends toward paperless processing and electronic filing, should a record keeper choose to maintain documents in electronic form, the record keeper must notify CBP in writing at least 30 days in advance. The alternative record keeping method may be used if CBP approves of the alternative proposed.

IX. Administrative and Judicial Review

A. Administrative Review

Importers may wish to obtain certainty in their import transactions to ensure the classification, duty rate, value or origin claimed is correct. CBP has transparent procedures for importers, exporters and other interested parties to obtain binding rulings on CBP transactions.³⁴

²⁹ 19 C.F.R. Part 102.

³⁰ 19 U.S.C. § 1304(f).

³¹ 19 U.S.C. § 1509.

³² A comprehensive list of the documents required to be maintained may be found at 19 C.F.R. Part 163.

³³ 19 U.S.C. § 1509(a)(1)(A) and (B).

³⁴ 19 C.F.R. Part 177.

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Customs regulations set forth the information that must be provided in such ruling requests, including the name of the interested party, the anticipated U.S. ports of entry, and other material facts and applicable law necessary for CBP to review the matter and issue a binding ruling. Such rulings are obtained on prospective transactions.³⁵ CBP's review of current or pending transactions may be completed through a request for internal advice.³⁶ Once CBP issues a binding ruling, CBP and the importer (or requesting party) are bound by that decision based on the specific facts presented in the ruling request. If CBP wishes to revoke the binding ruling (or an importer or other interested party wishes to challenge the ruling), there are formal procedures that CBP must follow for any such ruling modification or revocation.³⁷ These procedures require publication of a proposed ruling change, submission and review of comments by interested parties, and a publication of a final notice of the change in practice. The final new ruling is not effective until 60 days after publication of the final notice.³⁸

When an importer does not agree with a decision made by CBP officials in the liquidation of an entry, it may file a formal protest challenging the CBP decision.³⁹ A protest must be filed within 180 days after the date of liquidation (*i.e.*, the date in which CBP's decision on an entry becomes final).⁴⁰ If a protest is filed after 180 days the protest will be denied on its face as untimely.

Formal protests are filed under 19 U.S.C. § 1514, and must challenge a specific CBP decision enumerated in this statutory provision, including:

- Entry or reconciliation liquidations or reliquidations, including: (a) appraised value; (b) tariff classification, duty rate, and duty amount; (c) country of origin marking duties; (d) applicability of special duty provisions; and (e) any other issues related to a CBP decision or modification.
- All charges and exactions (certain wrongful acts) within CBP's jurisdiction.
- Exclusion of merchandise from entry or delivery.
- Demand for redelivery
- Refusal to reliquidate⁴¹

³⁵ 19 C.F.R. § 177.1.

³⁶ 19 C.F.R. § 177.11.

³⁷ 19 C.F.R. § 177.12.

³⁸ 19 C.F.R. § 177.12(e).

³⁹ 19 C.F.R. § 177.11.

⁴⁰ See sample CBP Form 19 – Protest, attached as Exhibit G.

⁴¹ 19 U.S.C. § 1520(d).

- Refusal to pay drawback.

CBP does not accept protests against the following types of decision: notices of liquidated damages; customs penalty mitigation decisions;⁴² and demands for duty.⁴³ Protests are filed at the local port of entry and may cover more than one entry if the entries are subject to the same CBP decision being challenged. Under certain circumstances, the party filing the protest may request that the port forward the protest to CBP HQ, to be reviewed and decided by CBP attorneys in the Regulations and Ruling Unit. This is known as an Application for Further Review (AFR).⁴⁴ If CBP denies a protest, then the importer may further challenge the denial of such protest by filing a summons in the U.S. Court of International Trade (CIT), discussed below.

B. Judicial Review

The CIT, an Article III court located in New York, enjoys nationwide original jurisdiction over customs and international trade disputes enumerated by law. As an Article III court its powers in law and equity are the same as any U.S. district court. Under customs laws, importers have the right to challenge denied protests as well as other “unprotestable” CBP actions at the CIT.⁴⁵ Customs matters brought before the CIT against the United States are most often based on challenges to denied protests concerning valuation, classification, exclusions of imported goods, or other “charges and exactions” relating to imported goods.⁴⁶ Before an importer files an appeal to a denied protest, and to obtain jurisdiction in the CIT, the importer must pay all duties and fees owed and file a summons within 180 days of CBP’s denial of the protest.

Other jurisdictional grounds for appeal are available to importers. For example, an importer may request pre-importation review in cases where the importer received an adverse ruling and can demonstrate with “clear and convincing evidence” that it will suffer “irreparable harm” absent judicial review.⁴⁷ Specifically, an importer must prove that making entry, filing a protest, and appealing the denial of the protest will be insufficient relief. In addition, in instances where no other jurisdictional options are available, an importer may bring a challenge under the Residual/Catch-All CIT jurisdictional provision.⁴⁸ Also, CBP may bring actions in the CIT against importers and other parties to recover duties, penalties for unlawful entry, and liquidated damages claims for bond violations, etc.

The CIT applies a *de novo* standard of review in most cases, such as review of denied protests. In these actions, the parties conduct full discovery and the court makes its own factual

⁴² 19 U.S.C. § 1618.

⁴³ 19 U.S.C. § 1592(d).

⁴⁴ 19 C.F.R. §174.25.

⁴⁵ Note that for a protestable matter that was not protested timely (within 180 days of entry) there is no judicial remedy available.

⁴⁶ 28 U.S.C. § 1581(a).

⁴⁷ 28 U.S.C. § 1581(h).

⁴⁸ 28 U.S.C. § 1581(i).

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and legal conclusions (certain deference may be afforded CBP decisions⁴⁹). While some CIT cases maybe adjudicated by a jury,⁵⁰ most CIT cases related to CBP decisions involve bench trials.⁵¹ The U.S. Court of Appeals for the Federal Circuit, located in Washington, DC, has exclusive jurisdiction over all appeals of final decisions by the CIT.⁵²

⁴⁹ *United States v. Meade Corp.*, 533 U.S. 218 (2001).

⁵⁰ *United States v. Tri-State Hosp. Supply Corp.*, 74 F. Supp. 2d 1311 (Ct. Int'l Trade 1999), 232 F.2d 910 (Fed. Cir. 2000).

⁵¹ *Wash. Int'l Ins. v. United States*, 863 F.2d 877 (Fed. Cir. 1988).

⁵² 28 U.S.C. § 1295(a)(5).

Exhibit A

*What Every Member of the
Trade Community Should Know About:*

Reasonable Care

(A Checklist for Compliance)



AN INFORMED COMPLIANCE PUBLICATION

FEBRUARY 2004

U.S. CUSTOMS and BORDER PROTECTION

NOTICE:

This publication is intended to provide guidance and information to the trade community. It reflects the position on or interpretation of the applicable laws or regulations by U.S. Customs and Border Protection (CBP) as of the date of publication, which is shown on the front cover. It does not in any way replace or supersede those laws or regulations. Only the latest official version of the laws or regulations is authoritative.

Publication History

First Published January 1998
Revised February 2004

PRINTING NOTE:

This publication was designed for electronic distribution via the CBP website (<http://www.cbp.gov>) and is being distributed in a variety of formats. It was originally set up in Microsoft Word97[®]. Pagination and margins in downloaded versions may vary depending upon which word processor or printer you use. If you wish to maintain the original settings, you may wish to download the .pdf version, which can then be printed using the freely available Adobe Acrobat Reader[®].

PREFACE

On December 8, 1993, Title VI of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), also known as the Customs Modernization or “Mod” Act, became effective. These provisions amended many sections of the Tariff Act of 1930 and related laws.

Two new concepts that emerge from the Mod Act are “***informed compliance***” and “***shared responsibility***,” which are premised on the idea that in order to maximize voluntary compliance with laws and regulations of U.S. Customs and Border Protection, the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the Mod Act imposes a greater obligation on CBP to provide the public with improved information concerning the trade community’s rights and responsibilities under customs regulations and related laws. In addition, both the trade and U.S. Customs and Border Protection share responsibility for carrying out these requirements. For example, under Section 484 of the Tariff Act, as amended (19 U.S.C. 1484), the importer of record is responsible for using reasonable care to enter, classify and determine the value of imported merchandise and to provide any other information necessary to enable U.S. Customs and Border Protection to properly assess duties, collect accurate statistics, and determine whether other applicable legal requirements, if any, have been met. CBP is then responsible for fixing the final classification and value of the merchandise. An importer of record’s failure to exercise reasonable care could delay release of the merchandise and, in some cases, could result in the imposition of penalties.

The Office of Regulations and Rulings (ORR) has been given a major role in meeting the informed compliance responsibilities of U.S. Customs and Border Protection. In order to provide information to the public, CBP has issued a series of informed compliance publications, and videos, on new or revised requirements, regulations or procedures, and a variety of classification and valuation issues.

This publication, prepared by the International Trade Compliance Division, ORR, is a Reasonable Care checklist. “Reasonable Care (A Checklist for Compliance)” is part of a series of informed compliance publications advising the public of Customs regulations and procedures. We sincerely hope that this material, together with seminars and increased access to rulings of U.S. Customs and Border Protection, will help the trade community to improve voluntary compliance with customs laws and to understand the relevant administrative processes.

The material in this publication is provided for general information purposes only. Because many complicated factors can be involved in customs issues, an importer may wish to obtain a ruling under Regulations of U.S. Customs and Border Protection, 19 C.F.R. Part 177, or to obtain advice from an expert who specializes in customs matters, for example, a licensed customs broker, attorney or consultant.

Comments and suggestions are welcomed and should be addressed to the Assistant Commissioner at the Office of Regulations and Rulings, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW, (Mint Annex), Washington, D.C. 20229.

Michael T. Schmitz,
Assistant Commissioner
Office of Regulations and Rulings

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REASONABLE CARE CHECKLIST

INTRODUCTION

One of the most significant effects of the Customs Modernization Act is the establishment of the clear requirement that parties exercise reasonable care in importing into the United States. Section 484 of the Tariff Act, as amended, requires an importer of record using reasonable care to make entry by filing such information as is necessary to enable U.S. Customs and Border Protection to determine whether the merchandise may be released from Customs custody, and using reasonable care, complete the entry by filing with U.S. Customs and Border Protection the declared value, classification and rate of duty and such other documentation or information as is necessary to enable U.S. Customs and Border Protection to properly assess duties, collect accurate statistics, and determine whether any other applicable requirement of law is met. Despite the seemingly simple connotation of the term reasonable care, this explicit responsibility defies easy explanation. The facts and circumstances surrounding every import transaction differ--from the experience of the importer to the nature of the imported articles. Consequently, neither U.S. Customs and Border Protection nor the importing community can develop a foolproof reasonable care checklist which would cover every import transaction. On the other hand, in keeping with the Modernization Act's theme of informed compliance, U.S. Customs and Border Protection would like to take this opportunity to recommend that the importing community examine the list of questions below. In U.S. Customs and Border Protection's view, the list of questions may prompt or suggest a program, framework or methodology which importers may find useful in avoiding compliance problems and meeting reasonable care responsibilities.

Obviously, the questions below cannot be exhaustive or encyclopedic - ordinarily, every import transaction is different. For the same reason, it cannot be overemphasized that although the following information is provided to promote enhanced compliance with the Customs laws and regulations, it has no legal, binding or precedential effect on U.S. Customs and Border Protection or the importing community. In this regard, U.S. Customs and Border Protection notes that the checklist is not an attempt to create a presumption of negligence, but rather, an attempt to educate, inform and provide guidance to the importing community. Consequently, U.S. Customs and Border Protection believes that the following information may be helpful to the importing community and hopes that this document will facilitate and encourage importers to develop their own unique compliance measurement plans, reliable procedures and reasonable care programs.

As a convenience to the public, the checklist also includes the text of a checklist previously published in the Federal Register for use in certain textile and apparel importations. The full document was published in 62 FR 48340 (September 15, 1997).

As a final reminder, it should be noted that to further assist the importing community, U.S. Customs and Border Protection issues rulings and informed compliance publications on a variety of technical subjects and processes. It is strongly recommended that importers always make sure that they are using the latest versions of these publications.

**ASKING AND ANSWERING THE FOLLOWING QUESTIONS MAY BE
HELPFUL IN ASSISTING IMPORTERS IN THE EXERCISE OF
REASONABLE CARE:**

GENERAL QUESTIONS FOR ALL TRANSACTIONS:

1. If you have not retained an expert to assist you in complying with Customs requirements, do you have access to the Customs Regulations (Title 19 of the Code of Federal Regulations), the Harmonized Tariff Schedule of the United States, and the GPO publication Customs Bulletin and Decisions? Do you have access to the Customs Internet Website, Customs Bulletin Board or other research service to permit you to establish reliable procedures and facilitate compliance with Customs laws and regulations?
2. Has a responsible and knowledgeable individual within your organization reviewed the Customs documentation prepared by you or your expert to ensure that it is full, complete and accurate? If that documentation was prepared outside your own organization, do you have a reliable system in place to insure that you receive copies of the information as submitted to U.S. Customs and Border Protection; that it is reviewed for accuracy; and that U.S. Customs and Border Protection is timely apprised of any needed corrections?
3. If you use an expert to assist you in complying with Customs requirements, have you discussed your importations in advance with that person and have you provided that person with full, complete and accurate information about the import transactions?
4. Are identical transactions or merchandise handled differently at different ports or U.S. Customs and Border Protection offices within the same port? If so, have you brought this to the attention of the appropriate U.S. Customs and Border Protection officials?

QUESTIONS ARRANGED BY TOPIC:

Merchandise Description & Tariff Classification

Basic Question: Do you know or have you established a reliable procedure or program to ensure that you know what you ordered, where it was made and what it is made of?

1. Have you provided or established reliable procedures to ensure you provide a complete and accurate description of your merchandise to U.S. Customs and Border Protection 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 or established reliable procedures to ensure you provide a correct tariff classification of your merchandise to U.S. Customs and Border Protection in accordance with 19 U.S.C. 1484?

3. Have you obtained a Customs "ruling" regarding the description of the merchandise or its tariff classification (See 19 CFR Part 177), and if so, have you established reliable procedures to ensure that you have followed the ruling and brought it to U.S. Customs and Border Protection's attention?
4. Where merchandise description or tariff classification information is not immediately available, have you established a reliable procedure for providing that information, and is the procedure being followed?
5. Have you participated in a Customs pre-classification of your merchandise relating to proper merchandise description and classification?
6. Have you consulted the tariff schedules, Customs informed compliance publications, court cases and/or Customs rulings to assist you in describing and classifying the merchandise?
7. Have you consulted with a Customs "expert" (e.g., lawyer, Customs broker, accountant, or 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/provision for your merchandise (e.g., GSP, HTS Item 9802, NAFTA, etc.), How have you verified that the merchandise qualifies for such status? Have you obtained or developed reliable procedures to obtain any required or necessary documentation to support the claim? If making a NAFTA preference claim, do you already 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 suggested to assist in proper description and classification?
10. Have you developed a reliable program or procedure to maintain and produce any required Customs entry documentation and supporting information?

Valuation

Basic Questions: Do you know or have you established reliable procedures to 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, commissions or royalties paid? Are amounts actual or estimated? Are you and the supplier related parties?

1. Have you provided or established reliable procedures to provide U.S. Customs and Border Protection 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 Customs "ruling" regarding the valuation of the merchandise (See 19 CFR Part 177), and if so, have you established reliable procedures to ensure that you have followed the ruling and brought it to U.S. Customs and Border Protection attention?

3. Have you consulted the Customs valuation laws and regulations, Customs Valuation Encyclopedia, Customs informed compliance publications, court cases and Customs rulings to assist you in valuing merchandise?
4. Have you consulted with a Customs "expert" (e.g., lawyer, accountant, Customs broker, Customs consultant) to assist in the valuation of the merchandise?
5. If you purchased the merchandise from a "related" seller, have you established procedures to ensure that you have reported that fact upon entry and taken measures or established reliable procedures to ensure that value reported to U.S. Customs and Border Protection meets one of the "related party" tests?
6. Have you taken measures or established reliable procedures to ensure that all of the legally required costs or payments associated with the imported merchandise have been reported to U.S. Customs and Border Protection (e.g., assists, all commissions, indirect payments or rebates, royalties, etc.)?
7. If you are declaring a value based on 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?
8. If you are claiming a conditionally free or special tariff classification/provision for your merchandise (e.g., GSP, HTS Item 9802, NAFTA, etc.), have you established a reliable system or program to ensure that you reported the required value information and obtained any required or necessary documentation to support the claim?
9. Have you established a reliable program or procedure to produce any required entry documentation and supporting information?

Country of Origin/Marking/Quota

Basic Question: Have you taken reliable measures to ascertain the correct country of origin for the imported merchandise?

1. Have you established reliable procedures to ensure that you report the correct country of origin on Customs entry documents?
2. Have you established reliable procedures to verify or ensure 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 requirement (watches, gold, textile labeling, etc.)?
3. Have you obtained a Customs "ruling" regarding the proper marking and country of origin of the merchandise (See 19 CFR Part 177), and if so, have you established reliable procedures to

ensure that you followed the ruling and brought it to U.S. Customs and Border Protection's attention?

4. Have you consulted with a Customs "expert" (e.g., lawyer, accountant, Customs broker, Customs consultant) regarding the correct country of origin/proper marking of your merchandise?

5. Have you taken reliable and adequate measures to communicate Customs country of origin marking requirements to your foreign supplier 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 manufacturer's affidavits attesting to the production in the U.S.)?

7. If you are importing textiles or apparel, have you developed reliable procedures to ensure that you have ascertained the correct country of origin in accordance with 19 U.S.C. 3592 (Section 334, Pub. Law 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 checked with U.S. Customs and Border Protection and developed a reliable procedure or system to ensure that the quota category is correct?

10. Have you checked or developed reliable procedures to check the Status Report on Current Import Quotas (Restraint Levels) issued by U.S. Customs and Border Protection to determine if your goods are subject to a quota category which has part categories?

11. Have you taken reliable measures to ensure that you have obtained the correct visas for your goods if they are subject to visa categories?

12. In the case of textile articles, have you prepared or developed a reliable program to prepare the 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 produced into goods in a second)?

13. Have you established a reliable maintenance program or procedure to ensure you can produce any required entry documentation and supporting information, including any required certificates of origin?

Intellectual Property Rights

Basic Question: Have you determined or established a reliable procedure to permit you to determine whether your merchandise or its packaging bear or use any trademarks or copyrighted

matter or are patented and, if so, that you have a legal right to import those items into, and/or use those items in, the U.S.?

1. If you are importing goods or packaging bearing a trademark registered in the U.S., have you checked or established a reliable procedure to ensure that it is genuine and not restricted from importation under the gray-market or parallel import requirements of U.S. law (see 19 CFR 133.21), or that you have permission from the trademark holder to import such merchandise?
2. If you are importing goods or packaging which consist of, or contain registered copyrighted material, have you checked or established a reliable procedure to ensure that it is authorized and genuine? If you are importing sound recordings of live performances, were the recordings authorized?
3. Have you checked or developed a reliable procedure to see if your merchandise is subject to an International Trade Commission or court ordered exclusion order?
4. Have you established a reliable procedure to ensure that you maintain and can produce any required entry documentation and supporting information?

Miscellaneous Questions

1. Have you taken measures or developed reliable procedures to ensure that your merchandise complies with other agency requirements (e.g., FDA, EPA/DOT, CPSC, FTC, Agriculture, etc.) prior to or upon entry, including the procurement of any necessary licenses or permits?
2. Have you taken measures or developed reliable procedures to check to see if your goods are subject to a Commerce Department dumping or countervailing duty investigation or determination, and if so, have you complied or developed reliable procedures to ensure compliance with Customs reporting requirements upon entry (e.g., 19 CFR 141.61)?
3. Is your merchandise subject to quota/visa requirements, and if so, have you provided or developed a reliable procedure to provide a correct visa for the goods upon entry?
4. Have you taken reliable measures to ensure and verify that you are filing the correct type of Customs entry (e.g., TIB, T&E, consumption entry, mail entry, etc.), as well as ensure that you have the right to make entry under the Customs Regulations?

Additional Questions for Textile and Apparel Importers

Note: 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 who have been found to have violated 19 U.S.C. 1592 by using certain 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 entering, introducing, or attempting to introduce into the

commerce of the United States textile or apparel products that were either directly or indirectly produced, manufactured, supplied, sold, exported, or transported by such named person to show, to the satisfaction of the Secretary, that such importer has exercised reasonable care to ensure that the textile or apparel products are accompanied by documentation, packaging, and labeling that are accurate as to its origin. Under section 1592a, reliance solely upon information regarding the imported product from a person named on the list does not constitute the exercise of reasonable care. Textile and apparel importers who have some commercial relationship with one or more of the listed parties must exercise a degree of reasonable care in ensuring that the documentation covering the imported merchandise, as well as its packaging and labeling, is accurate as to the country of origin of the merchandise. This degree of reasonable care must rely on more than information supplied by the named party.

In meeting the reasonable care standard when importing textile or apparel products and when dealing with a party named on the list published pursuant to section 592A an importer should consider the following questions in attempting to ensure that the documentation, packaging, and labeling is accurate as to the country of origin of the imported merchandise. The list of questions is not exhaustive but is illustrative.

1. Has the importer had a prior relationship with the named party?
2. Has the importer had any detentions and/or seizures 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 and ascertained that the company 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 the required process?
5. Is the named party operating from the same country as is represented by that party on the documentation, packaging or labeling?
6. Have quotas for the imported merchandise closed or are they nearing closing from the main producer countries for this commodity?
7. What is the history of this country regarding this commodity?
8. Have you asked questions of your supplier regarding the origin of the product?

9. Where the importation is accompanied by a visa, permit, or license, has the importer verified with the supplier or manufacturer that the visa, permit, and/or license is both valid and accurate as to its origin? Has the importer scrutinized the visa, permit or license as to any irregularities that would call its authenticity into question?

ADDITIONAL INFORMATION

The Internet

The home page of U.S. Customs and Border Protection on the Internet's World Wide Web, provides the trade community with current, relevant information regarding CBP operations and items of special interest. The site posts information -- which includes proposed regulations, news releases, publications and notices, etc. -- that can be searched, read on-line, printed or downloaded to your personal computer. The web site was established as a trade-friendly mechanism to assist the importing and exporting community. The web site also links to the home pages of many other agencies whose importing or exporting regulations that U.S. Customs and Border Protection helps to enforce. The web site also contains a wealth of information of interest to a broader public than the trade community. For instance, on June 20, 2001, CBP launched the "Know Before You Go" publication and traveler awareness campaign designed to help educate international travelers.

The web address of U.S. Customs and Border Protection is <http://www.cbp.gov>

Customs Regulations

The current edition of *Customs Regulations of the United States* is a loose-leaf, subscription publication available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402; telephone (202) 512-1800. A bound, 2003 edition of Title 19, *Code of Federal Regulations*, which incorporates all changes to the Regulations as of April 1, 2003, is also available for sale from the same address. All proposed and final regulations are published in the *Federal Register*, which is published daily by the Office of the Federal Register, National Archives and Records Administration, and distributed by the Superintendent of Documents. Information about on-line access to the *Federal Register* may be obtained by calling (202) 512-1530 between 7 a.m. and 5 p.m. Eastern time. These notices are also published in the weekly *Customs Bulletin* described below.

Customs Bulletin

The *Customs Bulletin and Decisions* ("Customs Bulletin") is a weekly publication that contains decisions, rulings, regulatory proposals, notices and other information of interest to the trade community. It also contains decisions issued by the U.S. Court of International Trade, as well as customs-related decisions of the U.S. Court of Appeals for the Federal Circuit. Each year, the Government Printing Office publishes bound volumes of the *Customs Bulletin*. Subscriptions may be purchased from the Superintendent of Documents at the address and phone number listed above.

Importing Into the United States

This publication provides an overview of the importing process and contains general information about import requirements. The February 2002 edition of *Importing Into the United States* contains much new and revised material brought about pursuant to the Customs Modernization Act ("Mod Act"). The Mod Act has fundamentally altered the relationship between importers and U.S. Customs and Border Protection by shifting to the importer the legal responsibility for declaring the value, classification, and rate of duty applicable to entered merchandise.

The February 2002 edition contains a section entitled "Informed Compliance." A key component of informed compliance is the shared responsibility between U.S. Customs and Border Protection 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 accurate and timely data pertaining to his or her importation.

Single copies may be obtained from local offices of U.S. Customs and Border Protection, or from the Office of Public Affairs, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW, Washington, DC 20229. An on-line version is available at the CBP web site. *Importing Into the United States* is also available for sale, in single copies or bulk orders, from the Superintendent of Documents by calling (202) 512-1800, or by mail from the Superintendent of Documents, Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250-7054.

Informed Compliance Publications

U.S. Customs and Border Protection has prepared a number of Informed Compliance publications in the "*What Every Member of the Trade Community Should Know About:...*" series. Check the Internet web site <http://www.cbp.gov> for current publications.

Value Publications

Customs Valuation under the Trade Agreements Act of 1979 is a 96-page book containing a detailed narrative description of the customs valuation system, the customs valuation title of the Trade Agreements Act (§402 of the Tariff Act of 1930, as amended by the Trade Agreements Act of 1979 (19 U.S.C. §1401a)), the Statement of Administrative Action which was sent to the U.S. Congress in conjunction with the TAA, regulations (19 C.F.R. §§152.000-152.108) implementing the valuation system (a few sections of the regulations have been amended subsequent to the publication of the book) and questions and answers concerning the valuation system. A copy may be obtained from U.S. Customs and Border Protection, Office of Regulations and Rulings, Value Branch, 1300 Pennsylvania Avenue, NW, (Mint Annex), Washington, D.C. 20229.

Customs Valuation Encyclopedia (with updates) is comprised of relevant statutory provisions, CBP Regulations implementing the statute, portions of the Customs Valuation Code, judicial precedent, and administrative rulings involving application of valuation law. A copy may be purchased for a nominal charge from the Superintendent of Documents, Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250-7054. This publication is also available on the Internet web site of U.S. Customs and Border Protection.

The information provided in this publication is for general information purposes only. Recognizing that many complicated factors may be involved in customs issues, an importer may wish to obtain a ruling under CBP Regulations, 19 C.F.R. Part 177, or obtain advice from an expert (such as a licensed Customs Broker, attorney or consultant) who specializes in customs matters. Reliance solely on the general information in this pamphlet may not be considered reasonable care.

Additional information may also be obtained from U.S. Customs and Border Protection ports of entry. Please consult your telephone directory for an office near you. The listing will be found under U.S. Government, Department of Homeland Security.

“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 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).

REPORT SMUGGLING 1-800-BE-ALERT OR 1-800-NO-DROGA



Visit our Internet web site: <http://www.cbp.gov>

Exhibit B

Block No. 4

Insert the word "various" if more than one foreign port of lading is involved, and show the individual ports of lading by name immediately below the description of goods in vertical column number 3.

Column No. 3

If used as entry pursuant to Section 123.7, Customs Regulations, as amended, prepare form in duplicate and show name of shipper, value, and tariff item number immediately below description of goods in vertical column number 3.

Paperwork Reduction Act Statement: An agency may not conduct or sponsor an information collection and a person is not required to respond to this information unless it displays a current valid OMB control number and an expiration date. The control number for this collection is 1651-0001. The estimated average time to complete this application is 6 minutes. If you have any comments regarding the burden estimate you can write to U.S. Customs and Border Protection, Office of Regulations and Rulings, 799 9th Street, NW., Washington DC 20229.

Exhibit C

DEPARTMENT OF HOMELAND SECURITY
U.S. Customs and Border Protection

ENTRY/IMMEDIATE DELIVERY

19 CFR 142.3, 142.16, 142.22, 142.24

Form Approved
OMB No. 1651-0024
Exp. 01-31-2012

1. ARRIVAL DATE		2. ELECTED ENTRY DATE		3. ENTRY TYPE CODE/NAME		4. ENTRY NUMBER	
5. PORT		6. SINGLE TRANS. BOND		7. BROKER/IMPORTER FILE NUMBER			
		8. CONSIGNEE NUMBER				9. IMPORTER NUMBER	
10. ULTIMATE CONSIGNEE NAME				11. IMPORTER OF RECORD NAME			
12. CARRIER CODE		13. VOYAGE/FLIGHT/TRIP		14. LOCATION OF GOODS-CODE(S)/NAME(S)			
15. VESSEL CODE/NAME							
16. U.S. PORT OF UNLADING		17. MANIFEST NUMBER		18. G.O. NUMBER		19. TOTAL VALUE	

20. DESCRIPTION OF MERCHANDISE

21. IT/BL/AWB CODE	22. IT/BL/AWB NO.	23. MANIFEST QUANTITY	24. H.S. NUMBER	25. COUNTRY OF ORIGIN	26. MANUFACTURER NO.

27. CERTIFICATION

I hereby make application for entry/immediate delivery. I certify that the above information is accurate, the bond is sufficient, valid, and current, and that all requirements of 19 CFR Part 142 have been met.

SIGNATURE OF APPLICANT
X

PHONE NO. _____ DATE _____

29. BROKER OR OTHER GOVT. AGENCY USE

28. CBP USE ONLY

- OTHER AGENCY ACTION REQUIRED, NAMELY:
- CBP EXAMINATION REQUIRED.
- ENTRY REJECTED, BECAUSE:

DELIVERY AUTHORIZED:	SIGNATURE _____	DATE _____
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Paperwork Reduction Act Statement: An agency may not conduct or sponsor an information collection and a person is not required to respond to this information unless it displays a current valid OMB control number and an expiration date. The control number for this collection is 1651-0024. The estimated average time to complete this application is 15 minutes. If you have any comments regarding the burden estimate you can write to U.S. Customs and Border Protection, Office of Regulations and Rulings, 799 9th Street, NW., Washington DC 20229.

Exhibit D

DEPARTMENT OF HOMELAND SECURITY
U.S. Customs and Border Protection

ENTRY SUMMARY

1. Filer Code/Entry No.				2. Entry Type		3. Summary Date									
								4. Surety No.		5. Bond Type		6. Port Code		7. Entry Date	
8. Importing Carrier			9. Mode of Transport			10. Country of Origin			11. Import Date						
12. B/L or AWB No.			13. Manufacturer ID			14. Exporting Country			15. Export Date						
16. I.T. No.		17. I.T. Date		18. Missing Docs		19. Foreign Port of Lading			20. U.S. Port of Unlading						
21. Location of Goods/G.O. No.		22. Consignee No.				23. Importer No.			24. Reference No.						
25. Ultimate Consignee Name and Address City _____ State _____ Zip _____						26. Importer of Record Name and Address City _____ State _____ Zip _____									
27.	28. Description of Merchandise					32.		33.		34.					
Line No.	29.		30.		31.		A. Entered Value B. CHGS C. Relationship		A. HTSUS Rate B. ADA/CVD Rate C. IRC Rate D. Visa No.		Duty and I.R. Tax Dollars Cents				
	A. HTSUS No. B. ADA/CVD No.	A. Grossweight B. Manifest Qty.	Net Quantity in HTSUS Units												
Empty space for data entry															
Other Fee Summary for Block 39			35. Total Entered Value			CBP USE ONLY			TOTALS						
\$			Total Other Fees									A. LIQ CODE		B. Ascertained Duty	
\$			36. DECLARATION OF IMPORTER OF RECORD (OWNER OR PURCHASER) OR AUTHORIZED AGENT I declare that I am the <input type="checkbox"/> Importer of record and that the actual owner, purchaser, or consignee for CBP purposes is as shown above, OR <input type="checkbox"/> owner or purchaser or agent thereof. I further declare that the merchandise <input type="checkbox"/> was obtained pursuant to a purchase or agreement to purchase and that the prices set forth in the invoices are true, OR <input type="checkbox"/> was not obtained pursuant to a purchase or agreement to purchase and the statements in the invoices as to value or price are true to the best of my knowledge and belief. I also declare that the statements in the documents herein filed fully disclose to the best of my knowledge and belief the true prices, values, quantities, rebates, drawbacks, fees, commissions, and royalties and are true and correct, and that all goods or services provided to the seller of the merchandise either free or at reduced cost are fully disclosed. I will immediately furnish to the appropriate CBP officer any information showing a different statement of facts.			REASON CODE			C. Ascertained Tax		38. Tax				
D. Ascertained Other		39. Other													
E. Ascertained Total		40. Total													
41. DECLARANT NAME				TITLE				SIGNATURE				DATE			
42. Broker/Filer Information (Name, address, phone number)						43. Broker/Importer File No.									

1. Filer Code/Entry No.

27.	28. Description of Merchandise			32.	33.	34.	
Line No.	29. A. HTSUS No. B. ADA/CVD No.	30. A. Grossweight B. Manifest Qty.	31. Net Quantity in HTSUS Units	A. Entered Value B. CHGS C. Relationship	A. HTSUS Rate B. ADA/CVD Rate C. IRC Rate D. Visa No.	Duty and I.R. Tax Dollars	Cents

Exhibit E

GENERAL RULES OF INTERPRETATION

Classification of goods in the tariff schedule shall be governed by the following principles:

1. The table of contents, alphabetical index, and titles of sections, chapters and sub-chapters are provided for ease of reference only; for legal purposes, classification shall be determined according to the terms of the headings and any relative section or chapter notes and, provided such headings or notes do not otherwise require, according to the following provisions:
2. (a) Any reference in a heading to an article shall be taken to include a reference to that article incomplete or unfinished, provided that, as entered, the incomplete or unfinished article has the essential character of the complete or finished article. It shall also include a reference to that article complete or finished (or falling to be classified as complete or finished by virtue of this rule), entered unassembled or disassembled.
(b) Any reference in a heading to a material or substance shall be taken to include a reference to mixtures or combinations of that material or substance with other materials or substances. Any reference to goods of a given material or substance shall be taken to include a reference to goods consisting wholly or partly of such material or substance. The classification of goods consisting of more than one material or substance shall be according to the principles of rule 3.
3. When, by application of rule 2(b) or for any other reason, goods are, *prima facie*, classifiable under two or more headings, classification shall be effected as follows:
(a) The heading which provides the most specific description shall be preferred to headings providing a more general description. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods.
(b) Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to 3(a), shall be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.
(c) When goods cannot be classified by reference to 3(a) or 3(b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration.
4. Goods which cannot be classified in accordance with the above rules shall be classified under the heading appropriate to the goods to which they are most akin.
5. In addition to the foregoing provisions, the following rules shall apply in respect of the goods referred to therein:
(a) Camera cases, musical instrument cases, gun cases, drawing instrument cases, necklace cases and similar 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, shall be classified with such articles when of a kind normally sold therewith. This rule does not, however, apply to containers which give the whole its essential character;
(b) Subject to the provisions of rule 5(a) above, packing materials and packing containers entered with the goods therein shall be classified with the goods if they are of a kind normally used for packing such goods. However, this provision is not binding when such packing materials or packing containers are clearly suitable for repetitive use.
6. For legal purposes, the classification of goods in the subheadings of a heading shall be determined according to the terms of those subheadings and any related subheading notes and, *mutatis mutandis*, to the above rules, on the understanding that only subheadings at the same level are comparable. For the purposes of this rule, the relative section, chapter and subchapter notes also apply, unless the context otherwise requires.

Exhibit F

Harmonized Tariff Schedule of the United States (2010)

Annotated for Statistical Reporting Purposes

XV
72-10

Heading/ Subheading	Stat. Suf- fix	Article Description	Unit of Quantity	Rates of Duty		
				1		2
				General	Special	
7202 (con.)		Ferroalloys (con.):				
7202.60.00	00	Ferronickel	kg	Free		6.6¢/kg
			Ni kg			
7202.70.00	00	Ferromolybdenum	kg	4.5%	Free (A+,AU,BH, CA,CL,D,E,IL,J, JO,MX,OM,P, PE,SG) 1.9% (MA)	31.5%
			Mo kg			
7202.80.00	00	Ferrotungsten and ferrosilicon tungsten	kg	5.6%	Free (A,AU,BH,CA, CL,E,IL,J,JO,MA, MX,OM,P,PE, SG)	35%
			W kg			
		Other:				
7202.91.00	00	Ferrotitanium and ferrosilicon titanium	kg	3.7%	Free (A+,AU,BH, CA,CL,D,E,IL,J, JO,MX,OM,P, PE,SG) 1.6% (MA)	25%
7202.92.00	00	Ferrovandium	kg	4.2%	Free (A+,AU,BH, CA,CL,E,IL,J,JO, MX,OM,P,PE,SG) 1.8% (MA)	25%
			V kg			
7202.93		Ferroniobium:				
7202.93.40	00	Containing by weight less than 0.02 percent of phosphorus or sulfur or less than 0.4 percent of silicon	kg	5%	Free (A+,AU,BH, CA,CL,D,E,IL,J, JO,MX,OM,P, PE,SG) 2.2% (MA)	25%
7202.93.80	00	Other	kg	5%	Free (A*,AU,BH, CA,CL,D,E,IL,J, JO,MX,OM,P, PE,SG) 2.2% (MA)	25%
7202.99		Other:				
7202.99.10	00	Ferrozirconium	kg	4.2%	Free (A*,AU,BH, CA,CL,E,IL,J,JO, MA,MX,OM,P, PE,SG)	25%
7202.99.20	00	Calcium silicon	kg	5%	Free (A,AU,BH,CA, CL,D,E,IL,J, JO,MX,OM,P, PE,SG) 2.2% (MA)	25%
7202.99.80		Other		5%	Free (A+,AU,BH, CA,CL,D,E,IL,J, JO,MX,OM,P, PE,SG) 2.2% (MA)	25%
	20	Ferrophosphorus	kg			
	40	Other	kg			

Exhibit G

DEPARTMENT OF HOMELAND SECURITY
U.S. Customs and Border Protection

Approved OMB No. 1651-0017
Exp. 09-30-2009

PROTEST

Pursuant to Sections 514 & 514(a), Tariff Act of 1930 as amended, 19 CFR Part 174 et. seq.

NOTE: If your protest is denied, in whole or in part, and you wish to CONTEST the denial, you may do so by bringing a civil action in the U.S. Court of International Trade within 180 days after the date of mailing of Notice of Denial. You may obtain further information concerning the institution of an action by writing the Clerk of U.S. Court of International Trade, One Federal Plaza, New York NY 10007 (212-264-2800).

1. PROTEST NO. (Supplied by CBP)

2. DATE RECEIVED (CBP Use Only)

SECTION I - IMPORTER AND ENTRY IDENTIFICATION

3. PORT	4. IMPORTER NO.	5. ENTRY DETAILS					
6. NAME AND ADDRESS OF IMPORTER OR OTHER PROTESTING PARTY		PORT CODE	FILER CODE	ENTRY NO.	CHECK DIGIT	DATE OF ENTRY	DATE OF LIQUIDATION
		7. Is Accelerated Disposition being requested (19 CFR 174.22)? <input type="checkbox"/> Yes <input type="checkbox"/> No					

SECTION II - DETAILED REASONS FOR PROTEST

8. With respect to each category of merchandise, set forth, separately, (1) each decision protested, (2) the claim of the protesting party, and (3) the factual material and legal arguments which are believed to support the protest. All such material and arguments should be specific. General statements of conclusions are not sufficient.

(Attach Additional Sheets if necessary.)

SECTION III - REQUEST FOR DISPOSITION IN ACCORDANCE WITH ACTION ON PREVIOUSLY FILED PROTEST

Protesting party may request disposition in accordance with the action taken on a previously filed protest that is the subject of a pending application for further review and is alleged to involve the same merchandise and the same issues. (See 19 CFR 174.13(a)(7).) To request such disposition, enter in Blocks 8 and 9 the protest number and date of receipt of such previously filed protest.	9. PROTEST NO. OF PREVIOUSLY FILED PROTEST	10. DATE OF RECEIPT
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SECTION IV - SIGNATURE AND MAILING INSTRUCTIONS

11. NAME AND ADDRESS OF PERSON TO WHOM ANY NOTICE OF APPROVAL OR DENIAL SHOULD BE SENT	12. NAME, ADDRESS, AND CBP IDENTIFICATION NUMBER TO WHICH REFUND SHOULD BE SENT	13. IF FILING AS ATTORNEY OR AGENT, TYPE OR PRINT YOUR NAME, ADDRESS AND IMPORTER NUMBER, IF ANY
14. SIGNATURE X		DATE

(Optional) SECTION V - APPLICATION FOR FURTHER REVIEW (Fill in Item 1 above if this is a separate Application for Further Review.)

15. MARK BOX CORRESPONDING TO YOUR ANSWER TO EACH OF THE FOLLOWING QUESTIONS

YES	NO	
<input type="checkbox"/>	<input type="checkbox"/>	(A) Have you made prior request of a port director for a further review of the same claim with respect to the same substantially similar merchandise?
<input type="checkbox"/>	<input type="checkbox"/>	(B) Have you received a final adverse decision from the U.S. Court of International Trade on the same claim with respect to the same category of merchandise or do you have action involving such a claim pending before the U.S. Court of International Trade?
<input type="checkbox"/>	<input type="checkbox"/>	(C) Have you previously received an adverse administrative decision from the Commissioner of CBP or his designee or have you presently pending an application for an administrative decision on the same claim with respect to the same category of merchandise?

16. JUSTIFICATION FOR FURTHER REVIEW UNDER THE CRITERIA IN 19 CFR 174.24 AND 174.25 (Include Applicable Rulings)

(Attach Additional Sheets If Necessary.)

SECTION VI - DECISION (CBP USE ONLY)

17. APPLICATION FOR FURTHER REVIEW EXPLANATION: Approved* Denied for the reason checked: Untimely filed Does not meet criteria Other, namely

*When further review only is approved the decision on the protest is suspended, pending issuance of a protest review decision.

18. PROTEST EXPLANATION: Approved Rejected as non-protestable Denied in full for the reason checked: Denied in part for the reason checked: Untimely filed See attached protest review decision Other, namely

19. TITLE OF CBP OFFICER	20. SIGNATURE AND DATE
--------------------------	------------------------

Paperwork Reduction Act Notice: The Paperwork Reduction Act says we must tell you why we are collecting this information, how we will use it, and whether you have to give it to us. We ask for this information to carry out the Customs laws and regulations of the United States. The CBP requires the information in this form to ensure compliance with Customs laws, to identify documents and statements in order to allow or deny the protest, and to advise protestant. Your response is required to obtain a benefit. The estimated average burden associated with this collection of information is 1 hour and 3 minutes per respondent or recordkeeper depending on individual circumstances. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to U.S. Customs and Border Protection, Information Services Branch, Washington, DC 20229 and to the Office of Management and Budget, Paperwork Reduction Project (1651-0017) Washington, DC 20503.

INSTRUCTIONS

PLEASE REFER TO: Part 174, Customs Regulations

Definitions*

"Liquidation" means the final computation or ascertainment of the duties or drawback accruing on an entry.

"Protest" means the seeking of review of a decision of an appropriate CBP officer. Such a review may be conducted by CBP officers who participated directly in the underlying decision.

"Further Review" means a request for review of the protest to be performed by a CBP officer who did not participate directly in the protested decision, or by the Commissioner, or his designee as provided in the CBP Regulations. This request will only be acted upon in the event that the protest would have been denied at the initial level of review. If you are filing for further review, you must answer each question in Item 15 on CBP Form 19 and provide justification for further review in Item 16.

What matters may be protested?

1. The appraised value of merchandise;
2. The classification and rate and amount of duties chargeable;
3. All charges within the jurisdiction of the U.S. Department of Homeland Security;
4. Exclusion of merchandise from entry or delivery, or demand for redelivery;
5. The liquidation or reliquidation of an entry;
6. The refusal to pay a claim for drawback; and

Who may file a protest or application for further review?

1. The importer or consignee shown on the entry papers, or their sureties;
2. Any person paying any charge or exaction;
3. Any person seeking entry or delivery, or upon whom a demand for redelivery has been made;
4. Any person filing a claim for drawback; or
5. Any authorized agent of any of the persons described above.

Where to file protest:

With the port director whose decision is protested (at the port where entry was made).

When to file a protest:

Within 180 days after either: 1) the date of notice of liquidation or reliquidation; or 2) the date of the decision, involving neither a liquidation nor reliquidation, as to which the protest is made (e.g., the date of an exaction, the date of written notice excluding merchandise from entry or delivery or demand for redelivery); or 3) a surety may file within 180 days after the date of mailing of notice of demand for payment against its bond.

Contents of protest:

1. Name and address of the protestant;
2. The importer number of the protestant;
3. The number and date(s) of the entry(s);
4. The date of liquidation of the entry (or the date of a decision);
5. A specific description of the merchandise;
6. The nature of and justification for the objection set forth distinctly and specifically with respect to each category, claim, decision, or refusal;
7. The date of receipt and protest number of any protest previously filed that is the subject of a pending application for further review; and
8. If another party has not filed a timely protest, the surety's protest shall certify that the protest is not being filed collusively to extend another authorized person's time to protest.
9. Whether accelerated disposition is being requested.

NOTE: Under Item 5, Entry Details, "Check Digit" information is optional; however, CBP would appreciate receiving the information if you can provide it. All attachments to a protest (other than samples or similar exhibits) must be filed in triplicate.

CONTINUATION SHEET

SECTION II - DETAILED REASONS FOR PROTEST (Continuation)

8. With respect to each category of merchandise, set forth, separately, (1) each decision protested, (2) the claim of the protesting party, and (3) the factual material and legal arguments which are believed to support the protest. All such material and arguments should be specific. General statements of conclusions are not sufficient.

(Optional) SECTION V - APPLICATION FOR FURTHER REVIEW (Continuation)

16. JUSTIFICATION FOR FURTHER REVIEW UNDER THE CRITERIA IN 19 CFR 174.24 AND 174.25