



Customs Compliance Tool Box

A Collection of Best Practices Guides
from:

- Importer Self Assessments
- Focused Assessments
- Reasonable Care
- C-TPAT

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Introduction

Gonzalez Rolon Valdespino & Rodriguez, LLC, Attorneys (GRVR) compiled the following “best practices” templates or checklists that have been issued from the US Bureau of Customs and Border Protection (CBP). They are not all the checklists that CBP has issued. For example, there are separate or more detailed guidelines for drawback, Foreign-Trade Zones, and other specific programs. In addition, there are more detailed checklists under the Focused Assessment Program and helpful Informed Compliance publications. Still, the checklists compiled here provide excellent guidance on what CBP expects from importers and other companies over which the agency has jurisdiction.

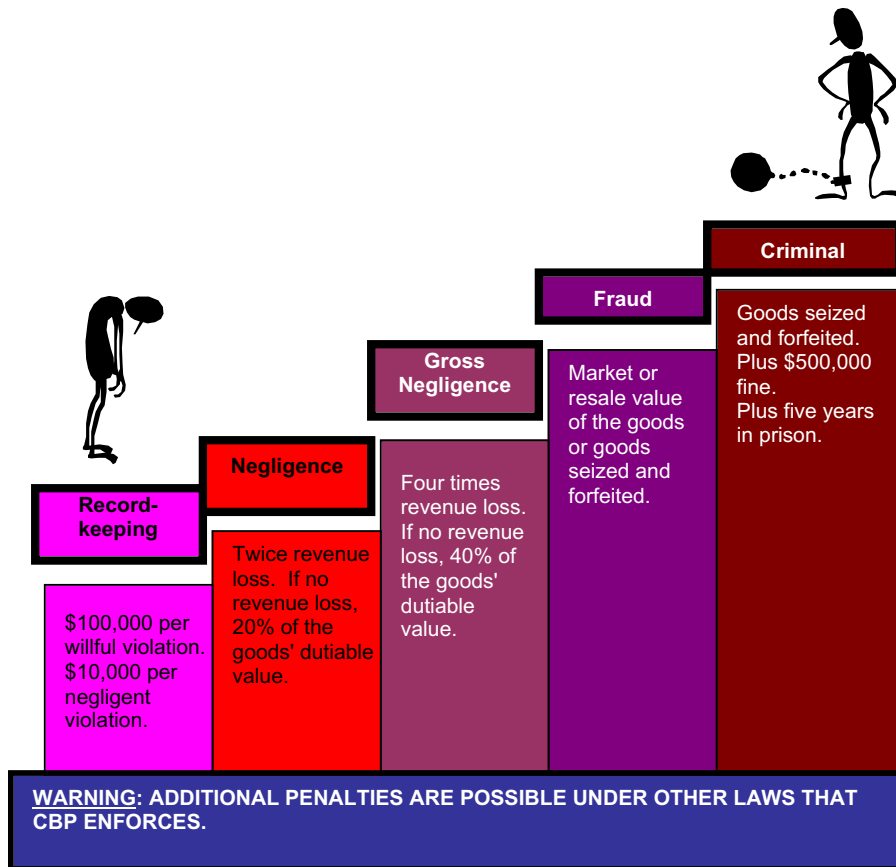
We also include a helpful guide on Customs enforcement and penalties in case your company ever wonders why customs compliance is crucial.

CBP’s recommendations and expectations are only half the story. Regulatory enforcement, not your company’s bottom line, is the agency’s paramount goal. Your company should also engage its own customs experts to ensure that the company’s interests are fully and legally accommodated. There are a select few law firms in the nation who offer the requisite expertise. Our law firm publishes a free guide called ***The 13 Commandments of Import/Export Compliance Programs***. The guide and many others can be found on our website: www.exportimportlaw.com.

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CUSTOMS ENFORCEMENT AND PENALTIES



US Bureau Customs and Border Protection (CPB) can fine violators (in amounts as high as the goods' entire resale value), impose liquidated damages, seize and keep goods, and restrict future shipments. CBP may also formally investigate an importer. The following are the most common, but not the only, penalties that CBP enforces.

CRIMINAL -- For criminal fraud, which requires the government to prove beyond a reasonable doubt that a person made a false statement or omission to the government, the maximum penalties include forfeiture of the goods, fines of up to \$500,000, and up to five years imprisonment.

CIVIL -- The burden of proof in civil penalty cases is lower than for criminal penalty cases. Civil penalties only require that the government make its case by a preponderance of the evidence. A "preponderance of the evidence" means that the government merely needs to prove that it is "more likely than not" that the person committed fraud. Civil enforcement measures include seizure, forfeiture, and penalties, depending on the reason for the violation. For violations caused by civil fraud, a violator can expect to forfeit the shipment or be fined up to the domestic (resale) value of the shipment.

NEGLIGENCE -- Gross negligence can result in penalties of up to four times the loss of revenue to CBP. If the violation did not result in a loss of revenue, the maximum penalty is 40% of the dutiable value of the goods. Simple negligence can result in penalties of up to two times the loss of revenue to Customs. If the violation did not result in a loss of revenue, the maximum penalty is 20% of the dutiable value of the goods.

RECORD KEEPING -- CBP may also assess penalties for failure to maintain records and produce those records upon request. For willful violations of this requirement, CBP may assess penalties of up to \$100,000 per violation. For negligence, the maximum penalty is \$10,000 per transaction. U.S. import laws risk a host of penalties. CBP can penalize companies, but may also hold individual employees and officers personally liable. More than one type of penalty can be assessed for the same violation. CBP can collect any duties, taxes, or fees lost. CBP can also penalize an importer even if there was no loss of duty. Violators can be penalized both criminally and civilly.

The importer remains ultimately liable for compliance with the import laws. If the importer does not carry out this burden, either because of negligence or intentional conduct, the importer can be penalized even if a broker or other agent assisted with or directed the shipment.

CBP develops and maintains a profile for all of importers into the U.S. The profile helps determine the level and intensity of CBP's scrutiny of an importer's shipments.

**U. S. Customs and Border Protection
Office of Strategic Trade
Regulatory Audit Division**



Internal Control Questionnaire for Focused Assessments

THE PURPOSE OF THE INTERNAL CONTROL QUESTIONNAIRE FOR FOCUSED ASSESSMENTS (FAS) IS TO OBTAIN INFORMATION ABOUT THE COMPANY'S ORGANIZATIONAL STRUCTURE AND INTERNAL CONTROLS RELATED TO CBP TRANSACTIONS. THE QUESTIONNAIRE IS DESIGNED TO GIVE THE AUDIT TEAM A GENERAL UNDERSTANDING OF THE COMPANY'S IMPORT OPERATIONS AND INTERNAL CONTROL STRUCTURE AS WELL AS TO INFORM THE AUDIT CANDIDATES OF THE AREAS ON WHICH THE ASSESSMENT MAY FOCUS. AS EACH COMPANY'S OPERATIONS ARE UNIQUE, THIS QUESTIONNAIRE MAY HAVE BEEN MODIFIED TO FIT THE CIRCUMSTANCES OF EACH AUDIT CANDIDATE.

Review Scope

WHEN THE IMPORTER RESPONDS TO THE QUESTIONNAIRE COMPLETELY AND COMPREHENSIVELY, THE PRE-ASSESSMENT SURVEY (PAS) TEAM CAN PLAN ITS APPROACH TO THE FOCUSED ASSESSMENT. THE RESULTS OF THE QUESTIONNAIRE, INTERVIEWS WITH COMPANY OFFICIALS AND CBP PERSONNEL, SURVEY OF COMPANY PROCEDURES, AND LIMITED TESTING WILL BE USED TO DETERMINE THE EFFECTIVENESS OF THE COMPANY'S INTERNAL CONTROL SYSTEM. A PAS OF THE COMPANY'S IMPORTING OPERATIONS AND INTERNAL CONTROLS WILL BE USED TO DETERMINE WHETHER MORE EXTENSIVE TESTING IS NECESSARY. ANY ADDITIONAL TESTING WILL BE DONE IN THE ASSESSMENT COMPLIANCE TESTING (ACT) PHASE OF THE FOCUSED ASSESSMENT.

Answering the questionnaire affords the company the opportunity to evaluate its own internal controls and operations pertaining to CBP activities. The company will also be more prepared for the Focused Assessment.

I. GENERAL

- A. Provide the name, title, and telephone number of the official(s) preparing information for this questionnaire.
- B. Provide the name, title, and telephone number of the person who will be the contact for CBP during the Focused Assessment.

II. CONTROL ENVIRONMENT

A. ORGANIZATIONAL STRUCTURE, POLICY AND PROCEDURES, ASSIGNMENT OF RESPONSIBILITIES

- 1. Provide a copy of the company's organizational chart and related department descriptions. Include the detail to show the location of the Import Department identified and any structure descriptions that are relevant.
- 2. Identify the key individuals in each office responsible for Customs compliance (may be included on the organization chart).
- 3. Provide the names and addresses of any related foreign and/or domestic companies, such as the company's parent, sister, subsidiaries, or joint ventures.

4. If the company has operating policies and procedures manuals for Customs operations, provide a copy of the manuals (preferably in electronic format).
5. If the policies and procedures have the support and approval of management, identify the individuals who approve the procedures.

B. Employee Awareness Training

1. What specialized Customs training is required for key personnel working in the Import Department? If available, provide copies of training logs or other records supporting training.
2. What Customs experience have key personnel involved in Customs-related activities had?
3. Who in other departments is responsible for reporting Customs-related activities to the Import Department?
4. What training is provided to personnel in other departments responsible for reporting Customs-related activities to the Import Department?
5. How does the company obtain current information on Customs requirements?
6. Does the company use the U.S. Customs and Border Protection Web site?
7. Does the company request and disseminate binding rulings?

III. Risk Assessment

How does the company identify, analyze, and manage risks related to Customs activities?

What risks related to Customs activities has the company identified, and what control mechanisms has it implemented?

IV. Control Procedures

- A. Using source records for support, provide a description and/or flowchart of the company's activities, including general ledger account numbers for recording the acquisition of foreign merchandise in the following areas:
 - Purchase of foreign merchandise
 - Receipt of foreign merchandise
 - Recording in inventory
 - Payments made to foreign vendor
 - Distribution to customers (e.g., drop shipments)
 - Export of merchandise (e.g., assists, Chapter 98)
- B. For each aspect of value listed below, respond to the following. Where procedures are documented, reference the applicable sections.
 1. What internal control procedures are used to assure accurate reporting to CBP?
 2. Who is the person assigned responsibility for accurate reporting?
 3. What records are maintained?
 - Basis of Appraisalment (19 CFR 152.101)
 - Price Actually Paid or Payable
 - Packing
 - Selling Commissions

- Assists (e.g., Materials/Component Parts, Tools, Dies, Molds, Merchandise Consumed, Engineering, Development, Art Work, Design Work, Plans)
- Royalties and License Fees
- Proceeds of Subsequent Resale
- Transportation Costs (e.g., International Freight, Foreign inland Freight, Transportation Rebates, Insurance)
- Retroactive Price Adjustments
- Price Increases
- Rebates
- Allowances
- Indirect Payments
- Payment of Seller's Debt by Buyer (e.g., quota)
- Price Reductions to Buyer to Settle debts (e.g., Reductions for Defective Merchandise)
- Purchases on Consignment
- Quota/Visa
- Currency Exchange Adjustments

C. For each of the following Customs-related activities, respond to the following. Where procedures are documented, reference the applicable sections.

1. What internal control procedures are used to assure accurate reporting to CBP?
2. Who is the person assigned responsibility for accurate reporting?
3. What records are maintained?

- Classification
- Quantity
- Reconciliation
- Trade Agreements
 - (1) Generalized System of Preferences (GSP)
 - (2) Caribbean Basin Economic Recovery Act (also known as Caribbean Basin Initiative(and Special Access Provision (SAP)
 - (3) Israel Free Trade
 - (4) Insular Possessions
 - (5) Andean Trade Preference
 - (6) Trade Development Act of 2000
 - i. African Growth and Opportunity Act (AGOA)
 - ii. Caribbean Basin Trade Partnership Act (CBTPA)
- Special Duty Provisions
 - (1) 9801.00.10
 - (2) 9802.00.40
 - (3) 9802.00.50
 - (4) 9802.00.60
 - (5) 9802.00.80
 - (6) 9802.00.90
- Antidumping/Countervailing Duties

V. Information and Communication

- A. Describe the procedures for the Import Department to disseminate relevant Customs information to other departments.

- B. Describe the procedures for other departments to communicate with the Import Department on matters affecting imported merchandise.
- C. Describe the procedures for the Import Department to participate in major planning processes involving importation activities.

VI. Monitoring

- A. What methods of oversight and monitoring does the Import Department management use to ensure compliance with Customs requirements?
- B. Provide information and/or reports on the review and evaluation of compliance with Customs requirements by other internal and external entities (e.g., internal audit department, financial statement auditors).
- C. What level of management are these self-reviews reported to for action?

VII. Miscellaneous

- A. Identify the account numbers in which costs for imported merchandise are recorded.

Bureau of Customs and Border Protection Best Practices of Compliant Companies

- 1. Have management's commitment.** – (*Control Environment*) Demonstrate management's commitment to compliance.
 - Establish a statement of corporate policy that addresses Customs and Border Protection (CBP) matters.
 - Solicit a statement from the Board of Directors that assigns authority and responsibility to the customs group.
- 2. State compliance and cost goals.** – (*Risk Assessment*) Identify and analyze relevant risk and develop internal goals to manage the risk.
 - Conduct post-entry reviews and compare these against established goals.
 - Determine how risk areas should be managed.
 - Resolve control weaknesses in a timely manner.
- 3. Develop formal policies.** – (*Control Activities*) Develop, implement and/or modify formal policies and procedures to ensure that management's goals and objectives are met.
 - Verify the accuracy of the Internal Control Manual to ensure processes and procedures achieve prescribed goals and objectives.
 - Modify controls that are ineffective or inefficient and report to management.
 - Define accountability and controls in job descriptions.
- 4. Establish training programs.** – (*Information & Communication*) Ensure that employees receive appropriate training and guidance to effectively discharge their responsibilities.
 - Convey pertinent information to the right people at the appropriate time.
 - Disseminate CBP information via company's communication system (i.e. intranet, bulletin board, mail).
- 5. Conduct internal control reviews.** – (*Monitoring*) Conduct periodic process reviews to assess the performance quality of the internal controls.
 - Use external or internal audit to periodically review each business unit to confirm that corporate policies are implemented and mandate corrective action when necessary.
 - Adjust testing in response to changing risk.
- 6. Create compliance group.** – (*Information & Communication*) Establish a customs group.
 - Foster open communication channels between all departments that may be involved in the CBP processes.
 - Establish control activities and self-testing processes to verify the accuracy of the company's internal control system since the quality of the information generated affects the ability of management to make decisions.
- 7. Access executives for needed resources.** – (*Control Environment*) Raises the importance of the Customs group and provides adequate authority for the group to interact with other departments as needed.
 - Organize the customs group so that it is visible to top level management. (e.g. attaching to tax or legal department/division)
 - Provide an awareness of supply chain structure. Many executives know their sales figures but do they know their key import statistics and suppliers?
- 8. Develop compliance requirements for suppliers.** – (*Control Activities*) Develop contract language on purchase agreements.
 - Develop and implement controls to help ensure that CBP transactions are valid, properly authorized and accurately processed.
 - Request suppliers provide regulatory reporting information when applicable (NAFTA, GSP, etc.).
 - Exercise reasonable care over operations performed by service providers.
- 9. Establish a record-keeping program.** – (*Control Activities*) Establish a record-keeping program.
 - Maintain a record keeping system that forms an audit trail from production control through payment to CBP entry.
 - Provide supporting documentation for CBP transactions in a timely manner.
- 10. Partner with Customs & Border Protection** (*Information & Communication*) Enhance partnership by:
 - Participating in voluntary CBP programs such as: C-TPAT, CSI, ISA, FAST, ACE, etc.

The Five Components of Effective Internal Controls

1. Control Environment

Internal controls are likely to function well if management believes that those controls are important and communicates that view to employees at all levels. If management views controls as unrelated to achieving its objectives, or even worse, as an obstacle, this attitude will also be communicated. Despite policies to the contrary, employees will then view internal controls as "red tape" to be "cut through" to get the job done. An effective internal control environment:

- Sets the tone of an organization influencing the control consciousness of its people
- Is an intangible factor that is the foundation for all other components of internal control, providing discipline and structure
- Describes "organizational culture"
- Includes a commitment to hire, train, and retain qualified staff
- Encompasses both technical competence and ethical commitment

2. Risk Assessment

A risk is anything that endangers the achievement of an objective. Always ask: *What can go wrong? What assets do we need to protect?*

- Risk assessment is the process used to identify, analyze, and manage the potential risks that could hinder or prevent an organization from achieving its objectives.
- Risk increases during a time of change, for example, turnover in personnel, rapid growth, or establishment of new services.
- Other potential high risk factors include complex programs or activities, duty liability, dependence on third party service providers, and prior problems.

3. Internal Control Activities

Organizations establish policies and procedures so that identified risks do not prevent the organization from reaching its objectives.

- Clearly identified activities minimize risk and enhance effectiveness.
- Internal control activities are nothing more than the policies, procedures, and organizational structure of an entity.
- Controls can be either preventive, for example, requiring supervisory approval, or detective, for example, reconciling reports.
- Avoid excessive controls, which are as harmful as excessive risk and result in increased bureaucracy and reduced productivity.

4. Information and Communication

To be useful, information must be reliable and it must be communicated to those who need it. For example, supervisors must communicate duties and responsibilities to the employees that report to them and employees must be able to alert management to potential problems.

- Information must be communicated both within the organization and to those outside, for example, vendors, and service providers.
- Communication must be ongoing both within and between various levels and activities of the organization.

5. MONITORING

After implementing internal controls, organizations must monitor their effectiveness periodically to ensure that controls continue to be adequate and continue to function properly. Management must also revisit previously identified problems to ensure that they are corrected.

REASONABLE CARE CHECKLIST INTRODUCTION

From

What Every Member of the Trade Community
Should Know About Reasonable
(CBP publication 1998)

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 the CPB to determine whether the merchandise may be released from customs custody," and using reasonable care-- "complete the entry by filing with CPB the declared value, classification and rate of duty" and "such other documentation ...or information as is necessary to enable CpB to....properly assess duties...collect accurate statistics...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 CBP 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," CBP would like to take this opportunity to recommend that the importing community examine the list of questions below. In Customs 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 Customs or the importing community. In this regard, Customs 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, Customs 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, Customs 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.

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 CBP in accordance with 19 U.S.C. 1481? (Also, see 19 CFR 141.87 and 19 CFR 141.89 for special merchandise description requirements.)
2. Have you provided or established reliable procedures to ensure you provide a correct tariff classification of your merchandise to CBP in accordance with 19 U.S.C. 1484?
3. Have you obtained a CBP "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 CBP 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 CBP pre-classification of your merchandise relating to proper merchandise

description and classification?

6. Have you consulted the tariff schedules, CBP informed compliance publications, court cases and/or CBP 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 CBP with a proper declared value for your merchandise in accordance with 19 U.S.C. 1484 and 19 U.S.C. 1401a?
2. Have you obtained a CBP "ruling" regarding 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 CBP attention?
3. Have you consulted the Customs valuation laws and regulations, Customs Valuation Encyclopedia, CBP informed compliance publications, court cases and CBP 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 CBP 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 CBP (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 CBP "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 CBP 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 CBP 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 CBP 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?

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?

Importer Security Recommendations for C-TPAT



Importers

Develop and implement a sound plan to enhance security procedures throughout your supply chain. Where an importer does not control a facility, conveyance or process subject to these recommendations, the importer agrees to make every reasonable effort to secure compliance by the responsible party. The following are general recommendations that should be followed on a case-by-case basis depending on the company's size and structure and may not be applicable to all.

Procedural Security: Procedures should be in place to protect against unmanifested material being introduced into the supply chain. Security controls should include the supervised introduction/removal of cargo, the proper marking, weighing, counting and documenting of cargo/cargo equipment verified against manifest documents, the detecting/reporting of shortages/overages, and procedures for verifying seals on containers, trailers, and railcars. The movement of incoming/outgoing goods should be monitored. Random, unannounced security assessments of areas in your company's control within the supply chain should be conducted. Procedures for notifying Customs and other law enforcement agencies in cases where anomalies or illegal activities are detected, or suspected, by the company should also be in place.

Physical Security: All buildings and rail yards should be constructed of materials, which resist unlawful entry and protect against outside intrusion. Physical security should include perimeter fences, locking devices on external and internal doors, windows, gates and fences, adequate lighting inside and outside the facility, and the segregation and marking of international, domestic, high-value, and dangerous goods cargo within the warehouse by a safe, caged or otherwise fenced-in area.

Access Controls: Unauthorized access to facilities and conveyances should be prohibited. Controls should include positive identification all employees, visitors, and vendors. Procedures should also include challenging unauthorized/unidentified persons.

Personnel Security: Companies should conduct employment screening and interviewing of prospective employees to include periodic background checks and application verifications.

Education and Training Awareness: A security awareness program should be provided to employees including the recognition of internal conspiracies, maintaining cargo integrity, and determining and addressing unauthorized access. These programs should offer incentives for active employee participation in security controls.

Manifest Procedures: Companies should ensure that manifests are complete, legible, accurate, and submitted in a timely manner to Customs.

Conveyance Security: Conveyance integrity should be maintained to protect against the introduction of unauthorized personnel and material. Security should include the physical search of all readily accessible areas, the securing of internal/external compartments and panels, and procedures for reporting cases in which unauthorized personnel, unmanifested materials, or signs of tampering, are discovered.

Required Documentation: Importers - C-TPAT Supply Chain Security Profile Questionnaire

1.) Provide an executive summary outlining the process elements of the security procedures you currently have in place. Your submission must include the importer of record number(s) which are covered by the security processes you describe. At minimum, address the following elements:

- **Security Program:**
 1. Facilities security.
 2. Theft prevention.
 3. Shipping and receiving controls.
 4. Information security controls - integrity of automated systems.

5. Internal controls - process established for reporting and correcting problems.
 - **Personnel Security:**
 1. Pre-employment screening & periodic background reviews.
 2. Employee training on security awareness and procedures.
 3. Internal codes of conduct.
 4. Internal controls - process established for reporting and managing problems related to personnel security.
 - **Service Provider Requirements - Product suppliers, Carriers, Forwarders:**
 1. Written standards for service providers' physical plant security.
 2. Quality controls on production processes to ensure system integrity.
 3. Financial assessment process to determine service provider's fiscal soundness and ability to deliver goods and services within contract parameters.
 4. Internal controls for the selection of service providers.
 5. Profiles of Tier 1 suppliers (i.e. those entities receiving and packing a finished commodity, for transportation to the final destination) maintained and available for review.
 6. Indicate if your service providers participate in Customs Industry Partnership Programs: the Customs-Trade Partnership Against Terrorism (C-TPAT), the Carrier Initiative Program (CIP), the Super Carrier Initiative Program (SCIP), the Business Anti-Smuggling Coalition (BASC).
- 2.)** Indicate that the specific detailed procedures noted above are available to Customs in a verifiable format at an identified location.
- Include an assessment of your security processes, as well as information on what changes you envision making to correct identified weaknesses.

Note: Identifying perceived weaknesses will not necessarily prohibit participation in C-TPAT. Customs is committed to working with you to identify effective corrections and adjustments to your processes that will result in a more secure supply chain operation. We have specific programs in place that can assist your company in meeting this objective. Our Carrier Initiative Program Coordinators can provide expert advice on establishing security programs throughout your supply chain. Program information will be provided upon request.

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