



LIVINGSTON

Advancing Cross-Border Trade



SHIPPING to the UNITED STATES

*Guide for Canadian Exporters
and U.S. Importers*

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An international sale to a company in the United States requires compliance with a variety of import regulations and procedures. All goods entering the U.S. commerce are subject to requirements by the U.S. Customs Service (Customs) and Participating Government Agencies (PGA). The parties involved in the import process must comply with these requirements.

■ About this Guide

This guide will assist Canadian companies who export to the U.S. or U.S. based companies who import from Canada. We will refer to the process of moving goods across the Canada — U.S. border as importing into the United States. The focus is on understanding of the regulations and procedures as they relate to the most complex part of the import process, customs clearance.

The guide is divided into six sections.

First, you will learn about the key players and their role in the import process.

Next, we will turn your attention to the key issues that should be considered by anyone interested in importing into the U.S.

Further, our focus will shift to the basics of customs clearance, including the processes and requirements.

Next, you will get acquainted with the basics of duty relief programs.

Finally, you will learn about the importance of customs compliance and the basics of document requirements.

You are encouraged to take advantage of embedded hyperlinks that will provide more detail on the issue in question. These are highlighted in blue in the text.

Livingston has an array of services that can help you with importing into the U.S. Please, refer to [Livingston website](#), to see what we have to offer.

KEY PLAYERS

■ Importer

The importer is a person or company who is responsible for the:

- payment of all duties and taxes to U.S. Customs
- accuracy of the information presented to U.S. Customs
- availability of all necessary export and import permits
- any fines or penalties resulting from missing or inaccurate information
- keeping records to substantiate what goods were imported into the U.S, that is, the quantities, the prices paid, and the origin of goods. These records must be kept in either paper or electronic format for five years after the goods entered the U.S.

To summarize, the importer is responsible for everything that is declared and filed with U.S. Customs. Therefore, the importer should secure all necessary information on the shipment/product from the exporter who usually has the best knowledge of the product.

■ Exporter

The exporter (in most cases the seller) arranges for transportation of goods and generally supplies the carrier with customs documentation needed to send the goods to the U.S.

Information provided in the documentation by the exporter includes:

- name and address of exporter
- name and address of producer, if different from exporter
- name, address and Internal Revenue Service (IRS) number of company where the shipment is to be delivered (consignee)
- name, address and Internal Revenue Service (IRS) number of company purchasing the product(s), if different than the consignee (referred to as the buyer)
- product/shipment information - complete description, value, quantity and packing, weight, currency of sale and country of origin
- depending on the type of product special data elements may be required

The document to convey this information is a standard U.S. Customs pro-forma invoice or a commercial invoice. More on documentation is covered in section 6 of this guide.



Livingston can help

**Insight Docs USA - document creation software
On-line Forms**

■ Carrier

The carrier is a person or company that transports goods. The carrier is responsible for reporting the shipment to U.S. Customs. When the shipment arrives at the Canada - U.S. border, the carrier submits the documentation to U.S. Customs and the U.S. customs broker.



Livingston can help

North American Transportation & Logistics

■ Customs Broker

Continual review of customs procedures, the enactment of new laws and regulations, and dealing with Customs offices at many ports create constant challenge for the importer. Therefore, importers hire U.S. customs brokers to act on their behalf in customs related issues. A customs broker is a company or individual who is licensed by U.S. Customs to act as an intermediary between the U.S. government and importer. The importer has to provide the customs broker with a legal document authorizing it to act as the importer's agent. This document is called the **U.S. Power of Attorney**.

Customs broker services include, but are not limited to:

- preparing and presenting the necessary customs release documents or data required by Customs and Participating Government Agencies
- obtaining release of goods from U.S. Customs custody
- filing entry (CF 7501) data/documents with U.S. Customs on behalf of the importer
- paying duties on behalf of the client (importer is Livingston client)
- paying carrier charges on the client's behalf



Livingston can help

Livingston is a U.S. licensed customs broker with offices at all northern border ports of entry.

■ U.S. Customs Service

The importer has obligations towards the U.S. government and must comply with the requirements set forward by U.S. Customs.

Among other responsibilities, **U.S. Customs**:

- assesses and collects customs duties, excise taxes, fees and penalties due on imported merchandise
- reserves the right to deny access, to search, to seize or to request additional information on all goods imported into the United States commerce
- maintains profiles on all U.S. importers (resident, non-resident). The profile will impact the importer's ability to participate in special U.S. Customs initiatives designed to either simplify or speed up customs clearance.
- prevents illegal trade practices, including provisions related to quotas and the marking of imported merchandise, the Anti-Dumping Act, patents and trademarks
- enforces import restrictions and prohibitions
- collects accurate import and export data for compilation of international trade statistics

THINGS TO CONSIDER WHEN IMPORTING INTO THE UNITED STATES

■ Customs Clearance

All goods coming into the United States must clear U.S. Customs and are subject to customs duty unless specifically exempted by law. Customs clearance involves a number of steps, specifically, *customs entry, inspection, appraisalment, classification and liquidation*. These steps are discussed in more detail in this section and in section 3 of this guide.

■ Participating Government Agency Requirements

U.S. Customs does not require an importer to have a license or permit. Participating Government Agencies (PGA), however, may require a permit, license, or other certification, depending on type of imported goods.

PGA's are the agencies of the U.S. government that are responsible to protect the citizens of the United States by regulating imports of certain goods. Provided that the importer's goods are subject to approval from PGA's, the importer must comply with the regulations set forth by these agencies in order to get the shipments released by U.S. Customs. Some of the agencies are Department of Transportation (DOT), Federal Communications Commission (FCC), Environmental Protection Agency (EPA), Federal Drug Administration (FDA). More information can be found in [PGA requirements and forms](#) and [PGA web links](#).

■ Shipment Valuation

The importer must declare *the dutiable value* of merchandise, that is, the value upon which the duties are determined. The transaction value serves as the primary basis of shipment valuation. Transaction value is the price actually paid or payable by the buyer to the seller for the goods imported. Other factors may also add to the dutiable value of merchandise, such as packing costs, selling commissions, assists, royalty or licensing fees, etc. The final appraisalment of the dutiable value is determined by U.S. Customs.

■ Classification and Duty Rates

All goods that enter the United States are categorized according to [Harmonized Tariff Schedule of the United States](#). Placing goods into the correct product category is called classification. The number used to identify that category is referred to as an H.S. code. The H.S. code consists of 10 numbers, the first six of which are on the international level used by member countries and the remaining four are U.S. specific. Classification is a very complex process requiring the application of the General Rules of Interpretation; the section, chapter and subheading notes; and the Explanatory Notes. Due to its complexity, many importers hire customs brokers to help them classify their goods.

The importer must pay estimated duties and processing fees when applicable. The duty rate of an item is tied to its classification number. The HTSUS provides several rates of duty for each item: general rates for countries with which U.S. maintains normal trade relations (NTR); special rates for special programs (free or lower than the rates currently accorded to NTR countries where the imported goods meet the requirements of the special program); and column 2 rates for imports not eligible for either general or special rates. Customs duties are generally assessed at a percentage of the dutiable value of the imported goods. Customs makes the final determination of the correct rate of duty.

**Livingston can help**

Livingston Consulting Group can help you with the regulatory complexities of importing into the United States

■ North American Free Trade Agreement (NAFTA)

NAFTA is a trilateral trade agreement among the U.S., Canada and Mexico. It is designed to encourage trade among the three countries by eliminating trade barriers, duties and some taxes. For qualifying products, all duties and user fees between Canada and the U.S. have been eliminated. To take advantage of NAFTA the importer's products must qualify under the rules of origin (Article 401 in the Agreement) and must be covered by a valid **NAFTA Certificate of Origin** at the time of import into the U.S. The exporter, who has the best knowledge of the product, provides the NAFTA Certificate of Origin, however, the importer should make certain that the valid Certificate is available as they have responsibility for claiming NAFTA on the products. Valid NAFTA Certificates are not required to accompany each shipment but should be kept on file so that they are available if and when requested by U.S. Customs. More on Certificate of Origin will be covered in section 6 of this guide.

■ Admissibility Requirements

It is the importer's responsibility to ensure that their goods meet admissibility requirements such as *proper marking or labeling, packaging, safety standards, etc.* Also, proper *permits, certificates and licenses* from applicable PGAs have to be obtained before the goods arrive in the U.S.

■ Country of Origin

All imported goods must meet the *country of origin* marking requirements that are separate from any special marking or labeling required on specific products by PGAs. Country of origin determination can be confusing; therefore, the importer's products should be researched well in advance of import. For instance, importing goods from Canada does not necessarily mean that the country of origin is Canada. Country of origin, for U.S. Customs, means the country of manufacture, production or growth.

■ Surety Bond

Surety bond is a guarantee to the United States government that the importer will faithfully abide by all laws and regulations governing the importation of merchandise into the United States. Specifically, the bond guarantees the payment of all applicable duties, fees, fines or penalties up to or specific dollar amount. Having a bond on file allows the receiving party to take possession of the merchandise before payment of duties, taxes and fees. The surety bond also designates the importer of record for U.S. Customs purposes.

Bonds can be obtained from a surety firm, which is usually an insurance company that has been authorized by the Treasury Department to write customs bonds. The surety company issuing the bond can be called on for payment only when an importer cannot or will not fulfill its obligations to the United States government. The surety company is entitled to full recovery of any loss from the importer. It is important to note that the surety bond *is not* designed or intended to protect the importer, nor does it relieve the importer of any obligations.

An importer may apply for either a single transaction customs bond or a continuous customs bond.

A single transaction bond covers only one shipment at a specific port of entry. A continuous bond covers multiple shipments for which an annual premium must be paid. The continuous customs bond also covers transactions at any U.S. Customs district or port. Because of the above advantages and the overall cost savings, continuous bonds are recommended in most instances.

In order for a broker to clear shipments on behalf of an importer, using the importer's own U.S. customs bond, the importer must provide the broker with a valid **U.S. Power of Attorney** and a copy of their **U.S. Customs Bond**.

WHAT IS CUSTOMS CLEARANCE?

All goods coming into the commerce of the United States must clear U.S. Customs. The following section will deal with the five parts of Customs clearance:

- customs entry
- inspection
- appraisement
- classification
- liquidation

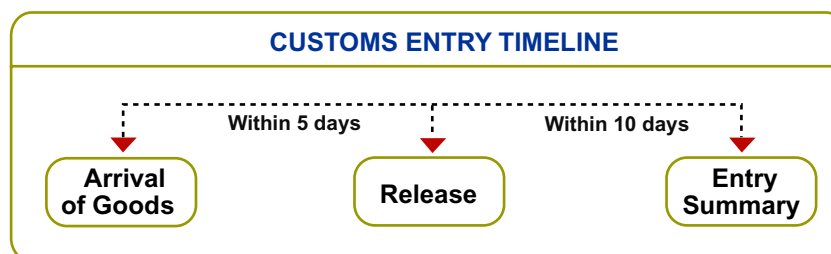
■ Customs Entry

The Customs entry is not merely an arrival of goods at the border, but it is the process of presenting documentation for clearing goods through Customs. Imported merchandise not entered through Customs in a timely manner (within five calendar days of arrival) is sent to a general order warehouse where it is held as unclaimed. The importer is responsible for paying storage charges while unclaimed merchandise is held at the warehouse. If the goods are unclaimed at the end of one year, the merchandise is sold at auction or destroyed.

Goods may be entered only by the owner of goods, purchaser or by a licensed broker.

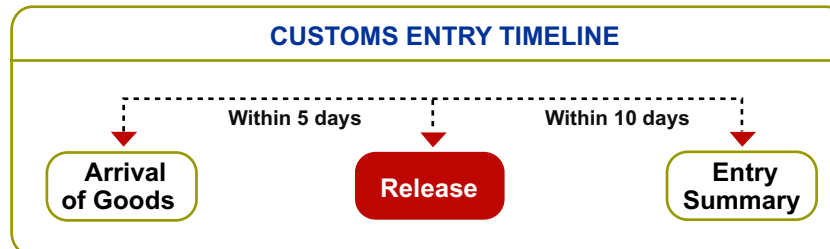
The Customs entry is usually a two-part process:

- Physical release of goods from U.S. Customs custody — RELEASE
- Accounting of goods to U.S. Customs - ENTRY SUMMARY



□ Release

The release is an authorization by U.S. Customs to deliver goods to the U.S. destination.



— □ Documentation Requirements for Release

By law, within five working days from the date of a shipment's arrival at the U.S. port, the release documents must be filed. Documents provided to the customs broker at the port of entry contain necessary information to secure the physical release of goods from Customs custody.

The information required includes:

- name and address of exporter
- name and address of producer, if different from exporter
- name, address and Internal Revenue Service (IRS) number of company where the shipment is to be delivered (referred to as consignee)
- name, address and Internal Revenue Service (IRS) number of company purchasing the product(s), if different than the consignee (referred to as the buyer)

- product/shipment information — complete description, value, quantity and packing, weight, currency of sale, country of origin
- other information required by Participating Government Agencies if applicable

The two basic documents to convey this information are the Inward Cargo Manifest (prepared by the carrier) and the U.S. Customs Invoice (provided to the carrier by the exporter). In lieu of the U.S. Customs Invoice the carrier can provide the required information by submitting either of the following documents or combination thereof: Bill of Lading, Airway Bill, Commercial Invoice, or Packing Lists. Importer may be required to provide other documents necessary to determine whether the merchandise may be admitted, e.g., licenses, certificates and permits. Read more on documents in section 6.

— Role of Customs Broker in Release

The customs broker performs the following actions to obtain the release of goods:

- is presented with all necessary information and documentation from the importer/exporter and carrier
- reviews the paperwork and contacts the relevant party to obtain missing information or clarify inaccuracies, e.g. missing import permits and/or certificates required by Participating Government Agencies
- submits a release package (paper or electronically) to U.S. Customs

— Release Methods

Truck shipments are released within minutes or hours of the arrival of the goods at the port of entry. Ocean shipments may take a few days, hence the five-day window for the release. There are three primary methods of having goods released with each having an impact on the speed of the release.

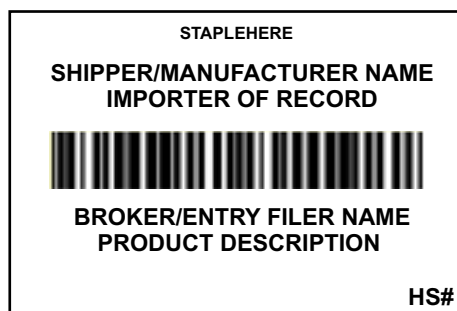
Border Cargo Selectivity (BCS)

BCS is the standard release method. The carrier presents an Inward Cargo Manifest (CF 7533) to U.S. Customs. Then the carrier submits the customs documentation given to him by the shipper/seller to the customs broker (Customs Invoice, other documents). The customs broker reviews the information and transmits the release package electronically to U.S. Customs. The customs broker gives the carrier a paper release package. The carrier then proceeds to the U.S. Customs office and presents the release package along with the Inward Cargo Manifest. U.S. Customs reviews the information transmitted by the customs broker and presented by the carrier and makes a decision to either release the shipment or subject it to a physical inspection. When released, the carrier is allowed to proceed to its U.S. destination.

Line Release (L/R)

Line release is an expedited release method. To have goods released on L/R, the importer, through their customs broker, must submit a L/R application to U.S. Customs for each different product they ship. Under L/R, the exporter attaches the L/R bar code label (C-4) to the top right of the Customs Invoices. The U.S. Customs officer wands the bar code(s) into Customs system and reviews the documentation. When released by Customs the carrier proceeds to the U.S. destination and the shipping documentation is forwarded to the broker.

Sample of Line Release Label



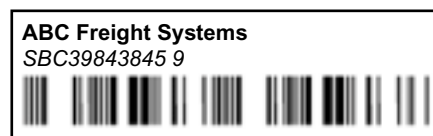
Pre-arrival Processing System (PAPS)

PAPS is a carrier driven U.S. Customs system designed to speed up clearances and reduce traffic congestion at commercial border crossings. It allows for advance customs clearance of truck shipments before the shipment physically crosses the border.

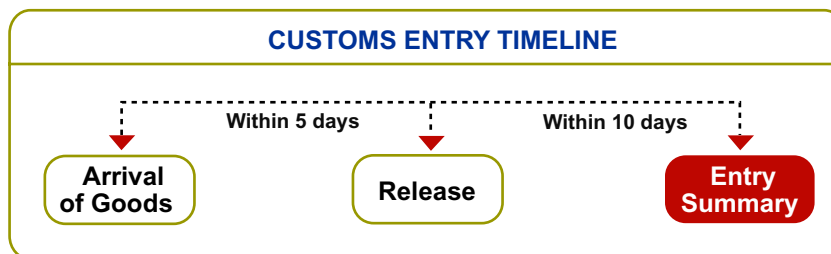
The process begins when the designated carrier or importer/exporter requests a PAPS release by forwarding the required documentation to the customs broker in advance of the physical arrival of the goods. A specially formatted pro-bill bar code must be attached to this documentation.

When the carrier arrives at the primary inspection booth, U.S. Customs will scan the pro-bill barcode(s) and verify that the broker has prepared the PAPS release. Upon review, and unless U.S. Customs requests a secondary inspection, the carrier and the cargo is formally released and is free to proceed to destination, bypassing any congestion or delay at secondary inspection.

Sample of PAPS pro-bill barcode



□ Entry Summary



The imported goods are not legally entered (registered) until the goods have been released by Customs and estimated duties and taxes have been paid. Entry summary (Customs form 7501) must be filed within 10 days from the date of release and estimated duties and taxes paid.

This estimate may be revised once the entry is finalized or liquidated. The filing consists of submitting data and/or documents that contain information for duty assessment and statistical purposes. The customs broker files the Entry summary on behalf of the importer of record. Importer of Record is indicated in Box 11 of the Entry Summary (see sample).

Sample of Entry Summary (CF 7501)

DEPARTMENT OF THE TREASURY UNITED STATES CUSTOMS SERVICE		ENTRY SUMMARY			Form Approved OMB No. 1515-0085		
Livingston International, Inc. Route 1A Champlain, New York 14203		300	1. Entry No. 1234567-8	2. Entry Type Code 01 ABWA	3. Entry Summary Date		
			4. Entry Date 08/30/2000	5. Port Code 0712			
			6. Bond No. 891	7. Bond Type Code 8	8. Broker/Importer File No. 0911 911567890 01		
9. Ultimate Consignee Name and Address General Manufacturers Inc. 2008 First Avenue Decatur, IL 67009		10. Consignee No. 323080-32309	11. Importer of Record Name and Address Blue Hill Mining Ltd. 4509 Swane Road Temiscaming, Quebec H4V 6Y8		12. Importer No. 52-736634100		
		IL State	13. Exporting Country CA	14. Import Date 08/21/2000			
			15. Country of Origin XQ	16. Shipping Document's			
			17. IT No.	18. IT Date			
19. SL or FVR No.		20. Mode of Transportation 30	21. Manufacturer I.D. XQABCGROU1000DRU		22. Reference No. 52-98855040		
23. Handling Code		24. Foreign Port of Loading	25. Location of Goods I.D. No.				
26. U.S. Port of Unloading 0712		27. Import Date 08/21/2000					
1. U.S. It.	2. T.S. U.S.A. No. E. ADA/CVD Case No.	3. Description of Merchandise		4. A. Entered Value B. CBVD C. Tariff Rate	5. T.S. U.S.A. Rate A. ADA/CVD Rate B. I.R.C. Rate C. Vrat No.	6. Duty and -H. Tax	
		7. Gross Weight Matched Qty.	8. Net Quantity in T.S. U.S.A. Units			Duties	Chgs
1	CA 7403.13.0000	43678lbs 19812	COPPER BILLETS, REFINED COPPER 19812kg	NOT-RELATED 44977	Free	0 00	
	L.V. - frt. chg - brk fee E.V.	45617.30 USD @ 1.000000 631.09 67.00 44919.21 as 44919					
Total Entered Value				44919			
9. Declaration of Importer of Record (Owner or Purchaser) or Authorized Agent				U.S. CUSTOMS USE		TOTALS	
<input type="checkbox"/> I declare that I am the importer of record and that the actual owner, purchaser, or consignee for customs purposes is as shown above. OR <input checked="" type="checkbox"/> I am the owner or purchaser or agent thereof.				A. Tar. Code	B. Assessed Duty	C. Duty	0 00
<input checked="" type="checkbox"/> I further declare that the merchandise was imported pursuant to a purchase or agreement to purchase and the statements in the invoice as to value or price are true to the best of my knowledge and belief. OR <input type="checkbox"/> was not obtained pursuant to a purchase or agreement to purchase and the statements in the invoice as to value or price are true to the best of my knowledge and belief.				C. Assessed Tax	D. Tax	0 00	
I also declare that the statements in the documents herein filed fully disclose to the best of my knowledge and belief the true price, value, quantity, nature, drawbacks, fees, commissions, and charges and are true and correct, and that all goods or services provided in the sale of the merchandise shown hereon or all received and are fully disclosed. I will immediately furnish to the appropriate customs officer any information showing a different value of goods.				D. Assessed Other	E. Other	0 00	
Notice required by Paperwork Reduction Act of 1995: This statement is needed to ensure that importers/exporters are complying with U.S. Customs laws. Do not use to compute and collect the right amount of money, to enforce other agency requirements, and to collect accurate statistical information on imports. Full response is mandatory. (Continued on back of form.)				E. Assessed Total	F. Total	0 00	
				10. Signature of Declarant, Title, and Date			

PART 1 - RECORD COPY

Customs Form 7501 (112295)

Types of Entries

The three main types of entries that differ based on the value or purpose of import are informal, consumption and temporary importation bond entries.

Informal (Consumption) Entry

Informal entries cover personal shipments, commercial shipments and mail shipments that are entered for consumption, that is, for use or sale. In most cases, informal entry can be used if the merchandise is valued at \$2,000 USD or less. Informal entry may be used for some U.S. goods returned valued up to \$10,000 USD. There are some exceptions such as textiles, certain types of footwear and other goods subject to quota/visa restrictions that cannot be entered under informal entry regardless of value.

Formal (Consumption) Entry

Formal entries are generally commercial shipments, that is, goods to be eventually used in the U.S. commerce. Shipments filed under formal entry have to be supported by a surety bond to ensure payment of duties and compliance with Customs requirements. When the entry is finalized or liquidated, U.S. Customs may revise the estimated duties. Surety bond guarantees these final duties.

Temporary Importation Bond Entry (TIB)

Products entering the U.S. temporarily including those entering for the purpose of repair, alteration, processing, and as tools of the trade, and trade show goods, may enter the U.S. without payment of duties. They may remain in the States for the period of one year. TIB can be extended for one more year twice. The goods entered under the TIB entry must be exported under U.S. Customs supervision to indicate that the goods were exported from the U.S. and duty is not applicable.

Adjustments to the Customs Entry

Post Entry

U.S. Customs may decide to review an entry before the entry is liquidated. The entry is usually liquidated 314 days after the entry summary has been filed. Customs brokers can greatly assist the importer with post entry issues as they possess the information trail for each entry filed. Prior to liquidation Customs may review HTS classification, shipment valuation, or other required import information.

Provided that U.S. Customs is not satisfied with the entry standing, it may take one of the following actions:

Notice of Redelivery

is issued by U.S. Customs as a demand for a shipment to be re-delivered to U.S. Customs custody after it has been released. Reasons for re-delivery may be a marking issue, FDA refusal of admission, etc.

Customs Form 28 (CF 28)

is the request by U.S. Customs for further information on an entry, e.g. NAFTA determination, commercial invoice, company financials/purchase orders, product description/literature, etc. Usually, the importer has 30 days to respond to the request.

Customs Form 29 (CF 29)

is the notice by U.S. Customs informing the importer about a change in how an entry will be liquidated. CF 29 usually follows the issuance of CF 28. CF 29 can involve penalties, fines, additional duties, taxes or even denial of NAFTA status for future imports into the U.S. Usually, the importer has 20 days to protest or dispute the charges proposed.

— **Recovery and Protest**

Within 90 days after the date of liquidation or other decision, an importer or consignee may protest the decision and receive an administrative review. The protest is filed with the port director whose decision is being protested. At the time the initial protest is filed, the importer or consignee must make a request for further review if one is desired and permitted by law under the relevant circumstances. Review of the port director's decision by the Customs Service Center or Headquarters is then automatic. Notice of the denial of all or part of the protest will be mailed to the person filing the protest or to his agent. Any person whose protest has been denied may contest the denial by filing a civil action in the United States Court of International Trade.

— **The Future of Post Entry**

Current developments suggest that the role of post entry will be reduced with increasing emphasis on proactive rather than reactive processes. Decrease in post entry verifications and increase in up front reviews of transactions will reduce the post entry activity.

■ Inspection

In order to confirm admissibility or compliance, U.S. Customs has the right to search and seize all goods imported into the United States commerce. Examination of goods may be necessary to determine:

- the value of the goods for Customs purposes and their dutiable status
- whether the shipment contains prohibited articles
- whether the requirements of other federal agencies have been met
- whether the amount of goods listed on the invoice is correct, and no shortage or overage exists
- country of origin marking

■ Appraisalment and Classification

Customs determines the final appraisalment of the dutiable value and correct rate of duty. The dutiable value of goods is the value on which the assessment of duties and taxes is based. The duty rate of an item is, in part, determined by its H.S. classification number, so the importer should ensure proper classification to avoid any unnecessary duty payments and penalties.

■ Liquidation

Liquidation is the final step in the entry process and refers to the finalization of the import transaction by U.S. Customs. When U.S. Customs is satisfied with the standing of the entry, e.g. payment of duties, the entry is liquidated. Usually, the formal entry is liquidated within 314 days after the entry was filed. Some entries are liquidated earlier. For instance, informal entries are liquidated within the 10-day window after the release.

DUTY RELIEF PROGRAMS

As the name suggests, Duty Relief Programs are programs that allow for partial or complete relief of duty payment. Importers are encouraged to inquiry whether their products qualify for any of the programs.

■ Drawback

Drawback is a refund of 99% of all ordinary Customs duties and Internal Revenue Service taxes. The object of this program is to promote U.S. commerce and manufacturing by permitting U.S. products to compete in international markets without the handicap of duty paid on imported merchandise. Various rules govern drawback including drawback rulings and record keeping.

There are three types of drawback:

- *manufacturing* - the export of articles that are manufactured or produced in the U.S. with the use of imported, duty paid merchandise
- *unused* - exported merchandise that has not been used in the U.S. prior to its exportation
- *rejected* - the export of duty paid merchandise that does not conform to sample or specifications, shipped without the consent of the consignee, or determined to be defective at the time of importation

■ Special Tariff Treatment Programs

These duty free or reduced duty programs normally deal with imported products that have been produced in a specific country; have content requirements and/or meet specific rules of origin; and must be shipped directly from these countries to the U.S.

The most visible countries/areas and programs include:

- North American Free Trade Agreement (NAFTA) — U.S., Canada, Mexico
- Caribbean Basin Economic Recovery Act (CBI)
- United States - Israel Free Trade Agreement
- Andean Trade preference Act (ATA) - Bolivia, Colombia, Ecuador, Peru
- Generalized System of Preferences (GSP) — various developing countries

■ Most Favored Nation (MFN) Rates of Duty

MFN rates are general rates of duty that are applicable to all products from most countries. Because of a number of recent international trade agreements, these rates have been significantly reduced over the past years.

■ U.S. Goods Returned

U.S. Goods returned are generally accorded duty relief in some form:

- U.S. Goods returned without having been advanced while abroad and originally exported from the U.S. without drawback will usually re-enter the U.S. duty free
- the value of U.S. fabricated components if exported and assembled abroad can normally be deducted from the full dutiable value of the imported article
- articles exported from the U.S. for repairs, alterations, or processing can be subject to duty only on the value of these operations when the article is returned to the U.S.
read more on [goods repaired in Canada and Mexico](#)

■ Temporary Importation Bonds (TIB)

Imported goods may be admitted under a TIB without the payment of duty under the following conditions:

- they are not for sale or sale on approval
- the imported merchandise is to be exported or destroyed. The one-year bond period may be extended not to exceed a total of three years and destruction is permitted in lieu of exportation
The penalty for failure to meet the bond conditions is normally 2x the normal duty.
- the goods meet certain conditions to include merchandise to be repaired, altered, or processed; models; testing; samples to be returned; racing cars; professional equipment items of special design to produce articles for export; etc.

■ Column 2 Rates

Products of the following countries, whether imported directly or indirectly, are subject to significantly higher rates of duty: Afghanistan, Laos, Cuba, and North Korea. The duty rates applied to products from these countries are generally referred to as "Column 2" rates.

CUSTOMS COMPLIANCE

Compliance with trade and Customs laws is the basis of being a successful importer. When importers *voluntarily* conduct import activities in compliance with all regulations and laws they are less likely to have their shipments examined and entries reviewed.

U.S. Customs and the importer have shared responsibilities to ensure compliance with these laws and regulations. The importers achieve a good status with Customs by exercising reasonable care in their importing operations and provide accurate and timely data to Customs. In order for importers to meet their responsibilities, Customs has to clearly and completely inform the importers of their legal obligations.

This relationship between importers and the U.S. Customs has been outlined in the Customs Modernization Act, passed in 1993. The Act introduced a shift from enforced to informed compliance. The enforced compliance includes Customs enforcement of laws by audits, examinations and verifications and focuses on import records, whereas, informed compliance focuses on education through seminars, outreach programs and trade publications.

***Every member of the import community
is expected to be familiar with***

Reasonable Care Checklist
Customs regulations
Administrative rulings
Transaction details
PGA requirements
Trade and customs publications
Record keeping requirements



Livingston can help

Livingston Consulting Group can help you with the regulatory complexities of importing into the U.S.

DOCUMENTATION BASICS

■ What are Customs Documents?

Customs documents are any documents required by U.S. Customs and Participating Government Agencies (PGA) to accurately and completely identify imported goods. The U.S., like every country, has its specific rules and regulations regarding the information and document required from the trade community.

Please note that, subject to Customs or PGA approval you can use varying document formats or combination of documents provided that you comply with the U.S. Customs information requirements. Any missing or incorrect information may cause you shipment delays and other import problems. Also, in the past few years U.S. Customs stepped up its efforts in the electronic data interchange (EDI). What this will mean for an importer in future is that electronic copies of the documents may be the only acceptable way to submit required information.



■ Basic Documents

□ U.S. Customs Invoice

The Customs Invoice (CI) is the basic document provided to the carrier, usually by the exporter. The CI is important in determining the classification of the goods, the value for duty, tax and duty rate and tariff treatment.

The information from the Invoice is crucial for the release of goods. An importer should take all measures to have the CI completed completely and accurately.

The following data elements are mandatory:

- name and address of exporter
- name and address of producer, if different from exporter
- name, address and Internal Revenue Service (IRS) number of company where the shipment is to be delivered (referred to as the consignee)
- name, address and Internal Revenue Service (IRS) number of company purchasing the product(s), if different than the consignee (referred to as the buyer)
- product/shipment information - complete description, value, quantity and packing, net weight, currency of sale, country of origin

See the CI and detailed instructions on completing it at [U.S. forms](#).

□ **Inward Cargo Manifest (CF 7533)**

A manifest is an itemized list of a shipment's contents to be provided to officials for customs clearance either in paper or electronic copy. The most commonly used and preferred manifest format is customs form 7533.

The carrier usually prepares the manifest based on the information provided by the shipper/exporter.

The carrier must provide the importer's designated customs broker with a manifest in order for them to obtain a release from U.S. Customs. A manifest has its own identifier called a Customs manifest/In Bond number.

Once submitted and accepted by Customs, the manifest and the number are monitored by Customs to ensure the proper clearance and closure of a shipment. See the manifest at [U.S. forms](#).

□ **Commercial Invoice**

A commercial invoice is the document on basis of which the buyer/importer pays the seller/exporter.

The commercial invoice generally serves a dual purpose for import shipments:

- to enable the exporter to collect his money and
- to assist the importer or their agent in clearing the goods through customs

The commercial invoice does not need to conform to a rigid format, as it is not an official customs form.

The exporter or manufacturer is free to format the information in any style they choose. A modified commercial invoice may be used in view of a customs invoice provided that the prescribed data elements found on the CI are included. Also, the modified invoice format must be pre-approved by U.S. Customs.

□ **Bill of Lading (B/L)**

The bill of lading is a document issued to a shipper/exporter by a carrier describing the goods to be shipped, acknowledging their receipt, and stating the terms of the contract for their carriage. The carrier provides a copy of the B/L to the exporter before departure as evidence of the transfer of goods from exporter to carrier. A copy of the B/L is also forwarded to the importer to arrange for the pick up of the goods. A third copy is kept for the carrier's records.

□ **Packing List**

The packing list is the detailed list of contents of the shipment, including quantities, items, model numbers, dimensions, net and gross weights. A packing list should specify per carton (or crate), the number/type of units of material inside. The shipper prepares the packing list at the time the shipment is prepared for shipping. Although not a required customs document, the packing list is often used by the customs broker to obtain additional shipment information. Equally, should Customs request examination a detailed packing list assists with the inspection.

■ **Additional Documents**

□ **NAFTA Certificate of Origin**

The North American Free Trade Agreement (NAFTA) is a preferential tariff program that allows decreased duties providing that products qualify under the provisions of the agreement. Not all products crossing the U.S.-Canada border qualify for NAFTA.

In order for an importer to take advantage of NAFTA, the manufacturer must supply an importer with a current NAFTA Certificate of Origin for all products that qualify for preferential tariff treatment under NAFTA.

The manufacturer must also supply the importer with an updated copy of this certificate upon renewal every 12 months, or sooner, depending on the degree of changes to the products manufacturing or sourcing processes.

Qualification of products for NAFTA requires a thorough determination process administered by someone within the manufacture's firm who is familiar with the agreement and its principles. Product knowledge, including components, origin of components, and the manufacturing process is also required for analysis of NAFTA qualification. There are some general considerations when reviewing a product's eligibility for NAFTA.

Goods will generally qualify for NAFTA when any or all of the following are true:

- the good is wholly produced or obtained in the territory
- the good meets the requirements of a specific rule of origin for the product
- the good is made up entirely of components and materials that qualify as originating goods
- the good qualifies under NAFTA article 401 (d)
- the good is automatic data processing equipment or parts that qualify under the provisions of Annex 308.1 of the Agreement

You can either apply blanket certificate that covers qualified shipments for the period of one year or you can have one-time certificate that applies only to the one specific shipment.

See [NAFTA Certificate of Origin and detailed instructions on completing it](#).

□ **Participating Government Agency Document Requirements**

Many goods that are subject to PGA requirements need special permits, certificates or other paperwork in addition to the standard release documentation. Also, in some cases, shipments may require examination by customs officers to verify marking or proper labeling. In other cases, qualified inspectors, working on behalf of the PGA in question, must review the documentation and/or examine the goods prior to release.

Often the data needed to satisfy PGA requirements is not normally provided with the shipment and, therefore, must be supplied by the importer to the customs broker at the time of release.

PGAs are becoming more stringent with regards to imports and are continually implementing new additional requirements. Your customs broker needs to be aware of, and ensure compliance with, an increasing number of regulations in order to process PGA shipments. It is advisable, therefore, to provide your customs broker with all shipment/product information ahead of time to avoid any import problems.

Key Participating Government Agencies

Department of Transportation (DOT)

Environmental Protection Agency (EPA)

Federal Communications Commission (FCC)

Food and Drug Administration (FDA)



Livingston can help

Insight Docs USA - document creation software
On-line Forms

U.S. Corporate Office

352 Sonwil Drive,
Buffalo, New York 14225
1-800-437-4324

Canadian Corporate Office

405 The West Mall,
Toronto, Ontario M9C 5K7
1-800-387-7582



Regional Release Offices

Buffalo, New York

Peace Bridge Plaza, Rm. 313A
Buffalo NY 14213
Phone: 716-883-1172
Fax: 716-883-1174

Champlain, New York

208 West Service Road
Champlain NY 12919-1218
Phone: 518-298-2704
Fax: 518-298-2852

Blaine, Washington

P.O. Box 164
Blaine, WA 98231
Phone: 360-332-0966
Fax: 360-332-1134

Detroit Bridge, Michigan

2810 West Fort St., Rm. 108
Detroit MI 48216
Phone : 313-965-3600
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