

## **Importing Into the U.S.**

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

### **MARKING REQUIRED**

If the article (or the container when the container and not the article must be marked) is not properly marked at the time of importation, a marking duty equal to 10 percent of the customs value of the article will be assessed unless the article is exported, destroyed, or properly marked under Customs supervision before the liquidation of the entry concerned.

It is not feasible to state who will be the "ultimate purchaser" in every circumstance. Broadly stated, an "ultimate purchaser" may be defined as the last person in the United States who will receive the article in the form in which it was imported. Generally, if an imported article will be used in the United States in manufacture that results in an article having a name, character or usage different from that of the imported article, the manufacturer is the ultimate purchaser. If an article is to be sold at retail in its imported form, the purchaser at retail is the ultimate purchaser. A person who subjects an imported article to a process which results in a substantial transformation of the article is the ultimate purchaser, but if the process is merely a minor one which leaves the identity of the imported article intact, the processor of the article will not be regarded as the ultimate purchaser.

When an article (or its container) is required to be marked to indicate its country of origin, the marking is sufficiently permanent if it will remain on the article (or its container) until it reaches the ultimate purchaser. When an article is of a kind which is usually combined with another article subsequent to importation but before delivery to an ultimate purchaser, and the name indicating the article's country of origin appears in a place on the article so that the name will be visible after such combining, the marking shall include, in addition to the name of the country of origin, words or symbols which clearly show that the origin indicated is that of the imported article only and not that of any other article with which the imported article may be combined after importation. For example, if marked bottles, drums, or other containers are imported empty, to be filled in the United States, they shall be marked with such words as "Bottle (or drum or container) made in (name of country)." Labels and similar articles so marked that the name of the article's country of origin is visible after it is affixed to another article in this country shall be marked with additional descriptive words such as "label made (or printed) in (name of country)" or words of similar import.

In any case in which the words "United States" or "American" or the letters "U.S.A." or any variation of such words or letters, or the name of any city or locality in the United States, or the name of any foreign country or locality in which the article was not manufactured or produced, appear on an imported article or container, there shall appear, legibly and permanently, in close proximity to such words, letters or name, the name of the country of origin preceded by "Made in," "Product of," or other words of similar meaning.

If marked articles are to be repacked in the United States after release from Customs custody, importers must certify on entry that they will not obscure the marking on properly marked articles if the article is repacked or that they will mark the repacked container. If the importers do not repack, but resell to repackers, importers must notify the repackers of the marking requirements.

Failure to comply with the certification requirements may subject importers to penalties and/or additional duties.

## **MARKING NOT REQUIRED**

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

Art, works of.

Articles classified subheads 9810.00.15, 9810.00.25, 9810.00.40, and 9810.00.45, HTSUS.

Articles entered in good faith as antiques and rejected as unauthentic.

Bagging, waste.

Bags, jute.

Bands, steel.

Beads, unstrung.

Bearings, ball, 5/8-inch or less in diameter.

Blanks, metal, to be plated.

Bodies, harvest hat.

Bolts, nuts, and washers.

Briarwood, in blocks.

Briquettes, coal or coke.

Buckles, 1 inch or less in greatest dimension.

Burlap.

Buttons.

Cards, playing.

Cellophane and celluloid in sheets, bands, or strips.

Chemicals, drugs, medicinals, and similar substances, when imported in capsules, pills, tablets, lozenges, or troches.

Cigars and cigarettes.

Covers, straw bottle.

Dies, diamond wire, unmounted.

Dowels, wooden.

Effects, theatrical.

Eggs.

Feathers.

Firewood.

Flooring, not further manufactured than planed, tongued and grooved.

Flowers, artificial, except bunches.

Flowers, cut.

Glass, cut to shape and size for use in clocks, hand, pocket, and purse mirrors, and other glass of similar shapes and size, not including lenses or watch crystals.

Glides, furniture, except glides with prongs.

Hairnets.

Hides, raw.

Hooks, fish (except snelled fish hooks).

Hoops (wood), barrel.

Lathes.  
Leather, except finished.  
Livestock.  
Lumber, except finished.  
Lumber, sawed.  
Metal bars except concrete reinforcement bars, billets, blocks, blooms, ingots, pigs, plates, sheets, except galvanized sheets, shafting, slabs, and metal in similar forms.  
Mica not further manufactured than cut or stamped to dimension, shape, or form.  
Monuments.  
Nails, spikes, and staples.  
Natural products, such as vegetables, fruit, nuts, berries, and live or dead animals, fish and birds; all the foregoing which are in their natural state or not advanced in any manner further than is necessary for their safe transportation.  
Nets, bottle wire.  
Paper, newsprint.  
Paper, stencil.  
Paper, stock.  
Parchment and vellum.  
Parts, for machines imported from same country as parts.  
Pickets (wood).  
Pins, tuning.  
Plants, shrubs, and other nursery stock.  
Plugs, tie.  
Poles, bamboo.  
Posts (wood), fence.  
Pulpwood.  
Rags (including wiping rags).  
Rails, joint bars, and tie plates of steel.  
Ribbon.  
Rivets.  
Rope, including wire rope, cordage, cords, twines, threads, and yarns.  
Scrap and waste.  
Screws.  
Shims, track.  
Shingles (wood), bundles of, except bundles of red-cedar shingles.  
Skins, fur, dressed or dyed.  
Skins, raw fur.  
Sponges.  
Springs, watch.  
Stamps, postage and revenue, and government-stamped envelopes and postal cards bearing no printing other than the official imprint thereon.  
Staves (wood), barrel.  
Steel, hoop.  
Sugar, maple.  
Ties (wood), railroad.  
Tiles, not over 1 inch in greatest dimension.  
Timbers, sawed.  
Tips, penholder.

Trees, Christmas.  
Weights, analytical and precision, in sets.  
Wicking, candle.  
Wire, except barbed.

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

## **OTHER EXCEPTIONS**

The following classes of articles are also excepted from marking to indicate the country of their origin. (The usual container in which one of these articles is imported will also be excepted from marking.):

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

The following classes of articles are also excepted from marking to indicate the country of their origin:

- Articles that are incapable of being marked.
- Articles that cannot be marked prior to shipment to the United States without injury.
- Articles that cannot be marked prior to shipment to the United States, except at an expense economically prohibitive of their importation.
- Articles for which the marking of the containers will reasonably indicate the origin of the articles.
- Crude substances.
- Articles produced more than 20 years prior to their importation into the United States.

- Articles entered or withdrawn from warehouse for immediate exportation or for transportation and exportation.

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

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

- Products of American fisheries that are free of duty.
- Products of possessions of the United States.
- Products of the United States exported and returned.
- Articles valued at not more than \$5 that are passed without entry.

**Special country-of-origin marking rules for goods of a NAFTA country are addressed in Customs publication No. 571, *NAFTA: A Guide to Customs Procedures*.**

### **Special Marking Requirements**

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

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

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

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

Watch movements are required to be marked on one or more of the bridges or top plates to show (1) the name of the country of manufacture, (2) the name of the manufacturer or purchaser, and (3) in words, the number of jewels, if any, serving a mechanical purpose as frictional bearings.

Clock movements shall be marked on the most visible part of the front or back plate to show (1) the name of the country of manufacture, (2) the name of the manufacturer or purchaser, and (3)

the number of jewels, if any.

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

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

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

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

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

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

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

### **Marking – False Impression**

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

In many cases, the words "United States," the letters "U.S.A.," or the name of any city or locality in the United States appearing on an imported article of foreign origin, or on the containers thereof, are considered to be calculated to induce the public to believe that the article was manufactured in the United States unless the name of the country of origin appears in close proximity to the name which indicates a domestic origin. Merchandise discovered after conditional release to have been missing a required country of origin marking may be ordered redelivered to Customs custody. If such delivery is not promptly made, liquidated damages may be assessed against the Customs bond. (See 19 CFR 141.113(a); cf., 19 CFR Part 172 and Customs Form 4647.)

An imported article bearing a name or mark prohibited by Section 42 of the Trade-Mark Act is subject to seizure and forfeiture. However, upon the filing of a petition by the importer prior to final

disposition of the article, the port director of Customs may release it upon the condition that the prohibited marking be removed or obliterated or that the article and containers be properly marked; or the port director may permit the article to be exported or destroyed under Customs supervision and without expense to the government.

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

## **User Fees**

Customs user fees were established by the Consolidated Omnibus Budget Reconciliation Act of 1985. This legislation was expanded in 1986 to include a merchandise processing fee. Also in 1986, Congress enacted the Water Resources Development Act, which authorized the Customs Service to collect a harbor maintenance fee for the Army Corps of Engineers. Further legislation has extended the User Fee Program until 2003.

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

The following changes in the MPF are effective for entries submitted on or after January 1, 1994:

- Goods imported directly from Canada that qualify under NAFTA for marking as goods of Canadian origin are not assessed the MPF. This applies to all MPF fees: formal, informal, manually prepared, or automated.
- The formula previously used to prorate mixed Canadian/non-Canadian goods is discontinued. All entries containing any goods which do not qualify under NAFTA will be assessed the appropriate MPF.

There is no immediate change to the MPF assessed on goods of Mexican origin. However, effective June 30, 1999, the MPF will cease to exist for goods which qualify to be marked as goods of Mexico under NAFTA.

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

## **Compliance**

Informed compliance is a shared responsibility between Customs and the import community wherein Customs effectively communicates its requirements to the trade, and the people and

businesses subject to those requirements conduct their regulated activities in accordance with U.S. laws and regulations. A key component of informed compliance is that the importer is expected to exercise reasonable care in his or her importing operations.

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

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

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

### **Reasonable Care**

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

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

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

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

#### General Questions for All Transactions:

1. If you have not retained an expert (e.g., lawyer, customs broker, accountant, or customs consultant) to assist you in complying with 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 Customs Bulletin and Decisions? (All three are available from the Superintendent of Documents, 202-512-1800.) Do you have access to the Customs Web site, Customs Electronic Bulletin Board, or other research service that provides the information to help you establish reliable procedures and facilitate compliance with Customs law and regulations?
2. Has a responsible, knowledgeable individual within your organization reviewed your customs documentation to assure that it is full, complete and accurate? If the documentation was prepared outside your organization, do you have a reliable method to assure that you receive copies of the information submitted to Customs, that it is reviewed for accuracy, and that Customs is apprised of needed corrections in a timely fashion?
3. If you use an expert to help you comply with Customs requirements, have you discussed your importations in advance with that person, and have you provided him or her with complete, accurate information about the import transaction(s)?

4. Are identical transactions or merchandise handled differently at different ports or Customs offices within the same port? If so, have you brought this fact to Customs officials' attention?

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

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

1. Have you provided a complete, accurate description of your merchandise to Customs 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 Customs with the correct tariff classification of your merchandise in accordance with 19 U.S.C. 1484?
3. Have you obtained a Customs ruling regarding the description of your merchandise or its tariff classification (see 19 CFR Part 177)? If so, have you followed the ruling and apprised appropriate Customs officials of those facts (i.e., of the ruling and your compliance with it)?
4. Where merchandise description or tariff classification information is not immediately available, have you established a reliable procedure for obtaining it and providing it to Customs?
5. Have you participated in a Customs preclassification of your merchandise in order to get it properly described and classified?
6. Have you consulted the tariff schedules, Customs informed compliance publications, court cases or Customs rulings to help you properly describe and classify the merchandise?
7. Have you consulted with an expert (lawyer, customs broker, accountant, customs consultant) to assist in the description and/or classification of the merchandise?
8. If you are claiming a conditionally free or special tariff classification or provision for your merchandise (e.g., GSP, HTS Item 9802, NAFTA), how have you verified that the merchandise qualifies for such status? Do you have the documentation necessary to support the claim? If making a NAFTA preference claim, do you have a NAFTA certificate of origin in your possession?
9. Is the nature of your merchandise such that a laboratory analysis or other specialized procedure is advised for proper description and classification?
10. Have you developed reliable procedures to maintain and produce the required entry documentation and supporting information?

#### Valuation

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

1. Have you provided Customs 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 valuation of the merchandise (see 19 CFR Part 177)? Can you establish that you followed the ruling reliably? Have you brought those facts to Customs' 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. If you purchased the merchandise from a "related" seller, have you reported that fact upon entry? Have you assured that the value reported to Customs meets one of the "related party" tests?

5. Have you assured that all legally required costs or payments associated with the imported merchandise (assists, commissions, indirect payments or rebates, royalties, etc.) have been reported to Customs?

6. If you are declaring a value based upon a transaction in which you were/are not the buyer, have you substantiated that the transaction is a bona fide "sale at arm's length" and that the merchandise was clearly destined to the United States at the time of sale?

7. If you are claiming a conditionally free or special tariff classification or provision for your merchandise (GSP, HTS Item 9802, NAFTA), have you reported the required value information and obtained the documentation necessary to support the claim?

8. Have you produced the required entry documentation and supporting information?

#### Country of Origin/Marking/Quota

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

1. Have you reported the correct country of origin on Customs entry documents?

2. Have you assured that the merchandise is properly marked upon entry with the correct country of origin (if required) in accordance with 19 U.S.C. 1304 and any other applicable special marking requirements (watches, gold, textile labeling, etc)?

3. Have you obtained a Customs ruling regarding the proper marking and country of origin of the merchandise (see 19 CFR Part 177)? If so, have you followed the ruling and brought that fact to Customs attention?

4. Have you consulted with a customs expert regarding the correct country of origin/proper marking of your merchandise?

5. Have you apprised your foreign supplier of Customs

country-of-origin marking requirements prior to importation of your merchandise? 6. If you are claiming a change in the origin of the merchandise or claiming that the goods are of U.S. origin, have you taken required measures to substantiate your claim (e.g., do you have U. S. milling certificates or manufacturers' affidavits attesting to production in the United States)?

7. If importing textiles or apparel, have you ascertained the correct country of origin in accordance with 19 U.S.C. 3592 (Section 334, P.L. 103-465) and assured yourself that no illegal transshipment or false or fraudulent practices were involved?

8. Do you know how your goods are made, from raw materials to finished goods, by whom and where?

9. Have you ensured that the quota category is correct?

10. Have you checked the Status Report on Current Import Quotas (Restraint Levels), issued by

Customs, to determine if your goods are subject to a quota category with "part" categories?

11. Have you obtained correct visas for those goods subject to visa categories?

12. For textile articles, have you prepared a proper country declaration for each entry, i. e., a single country declaration (if wholly obtained/produced) or a multi-country declaration (if raw materials from one country were transformed into goods in a second)?

13. Can you produce all entry documentation and supporting information, including certificates of origin, if Customs requires you to do so?

#### Intellectual Property Rights

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

1. If you are importing goods or packaging bearing a trademark registered in the United States, have you established that it is genuine and not restricted from importation under the "gray-market" or parallel-import requirements of United States law (see 198 CFR 133.21), or that you have permission from the trademark holder to import the merchandise?

2. If you are importing goods or packaging that contain registered copyrighted material, have you established that this material is authorized and genuine? If you are importing sound recordings of live performances, were the recordings authorized?

3. Is your merchandise subject to an International Trade Commission or court-ordered exclusion order?

4. Can you produce the required entry documentation and supporting information?

#### Miscellaneous

1. Have you assured that your merchandise complies with other agencies' requirements (e.g., FDA, EPA, DOT, CPSC, FTC, Agriculture, etc.) and obtained licenses or permits, if required, from them?

2. Are your goods subject to a Commerce Department dumping or countervailing-duty investigation or determination? If so, have you complied with Customs reporting requirements of this fact (e.g., 19 CFR 141.61)?

3. Is your merchandise subject to quota/visa requirements? If so, have you provided a correct visa for the goods upon entry?

4. Have you assured that you have the right to make entry under the Customs Regulations?

5. Have you filed the correct type of Customs entry (e. g., TIB, T&E, consumption entry, mail entry)?

#### Additional Questions for Textile and Apparel Importers

Section 333 of the Uruguay Round Implementation Act (19 U. S. C. 1592a) authorizes the Secretary of the Treasury to publish a list of foreign producers, manufacturers, suppliers, sellers, exporters, or other foreign persons found to have violated 19 U.S.C. 1592 by using false, fraudulent or counterfeit documentation, labeling, or prohibited transshipment practices in connection with textiles and apparel products. Section 1592a also requires any importer of record

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

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

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

### **Compliance Assessment/Compliance Measurement**

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

The assessment is conducted by an interdisciplinary team composed of a Customs auditor, import specialist, account manager, industry expert (highly knowledgeable of the electronics or auto parts or surgical equipment industries, for example), and possibly other Customs specialists (attorney, inspector, scientist). The compliance assessment utilizes professionally accepted statistical sampling and auditing techniques to review selected import transactions from the

company's previous fiscal year.

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

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

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

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

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

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

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

