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US Trade Guide

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US Trade Guide

Executive Summary

- All merchandise imported into the United States must be cleared or 'entered' through US Customs and Border Protection (CBP). Imports must also be accompanied by specified documentation sent by the owner, purchaser or someone authorised by them, and may be subject to further restrictions.
- Import duties are calculated on the basis of the product's *classification* (as listed in the Harmonized Tariff Schedule of the United States (HTSUS); *country of origin* (the US generally requires that each imported product is marked with the English name of the country of origin); or *customs value* (generally the 'transaction' value). Duty rates are listed in HTSUS and separated into three categories; ad valorem, specified and compound. The average duty rate is 4.8%.
- Duty free importation is implemented through 14 regional and 20 bilateral free trade agreements and statutory preference programs which nullify import duty from, for example, developing countries, non-developing sub-Saharan countries and the Caribbean Basin.
- Further 'user fees' may be charged to cover the cost of CBP clearance and inspections and, subject to the type of commodity, anti-dumping charges may be issued.
- All imports must adhere to their relevant conformity assessments and any further statutory requirements. If these are not met, the entry of certain classes of merchandise will be restricted or prohibited; for example, textiles and apparel which do not meet the requirements of the Flammable Fabrics Act, and jewellery and craft products which are made from, include or incorporate any parts of animals and plants.



Scope

This guide provides an overview of the principles, processes, and requirements for importing merchandise into the United States.

Entry Process

All merchandise imported into the United States must be cleared or “entered” through US Customs and Border Protection (CBP). Goods are imported and cleared at CBP ports of entry located throughout the United States. Currently there are more than 300 land, air or sea ports in the United States. Only certain individuals and businesses can enter goods into the United States. By law, only the owner or purchaser of imported merchandise or a licensed customs broker who has been appointed by the owner, purchaser, or consignee of the merchandise is permitted to make entry. Persons and entities that are not located within the United States may be allowed to enter merchandise, but must follow special procedures.

CBP requires documentation with all entries of goods. The filing of the required entry information is done electronically through CBP’s automated system called the Automated Commercial Environment (ACE). The required documentation includes an entry form, a commercial invoice, packing lists, and other documents necessary for CBP to determine that a product can be admitted into the United States. The person making the entry is responsible for providing this documentation. Exporters of merchandise often provide much of the information that is needed for the entry process.

Additional information on the entry process can be found on the CBP website here: <https://www.cbp.gov/document/publications/entry>.

Import Duties

Goods imported into the United States may be subject to an import duty, which is a tax collected on imports. Import duties are also referred to as customs duties, tariffs, import tariffs, or import taxes. The amount of import duty owed will depend on the type of product (its classification), where the product comes from (its country of origin), and its value (its customs value).

Classification: Goods imported into the United States are subject to duty or duty-free entry in accordance with their classification under the applicable items in the Harmonized Tariff Schedule of the United States (HSTUS). A product’s classification number must be provided on the entry documentation required for imports into the United States. The HSTUS classifies goods by their name, use, and material used for their construction. The HSTUS is based upon the Harmonized Commodity Description and Coding System (Harmonized System), an internationally standardized system of names and numbers to classify traded products administered by the World Customs Organization. The Harmonized System has about 5,000 product groups with each group being assigned a 6-digit number. The HSTUS further subdivides the product groups and assigns them 8-digit and 10-digit numbers. The 8-digit number provides the duty rate for a product. The



10-digit number is used by the US government to gather statistical information on imports into the country.

Additional information on tariff classification can be found on the CBP website here: <https://www.cbp.gov/document/publications/tariff-classification>.

Country of Origin: Rates of duty for imported merchandise may vary depending upon the country of origin of a product. For instance, special duty rates apply to certain products from developing countries or from countries that have a free trade agreement with the United States. There are two basic categories of rules used to determine a product's country of origin: "non-preferential" rules of origin and "preferential" rules of origin. "Non-preferential" rules generally apply to merchandise exported from countries with which the United States does not have a bilateral or multilateral free trade agreement. "Preferential" rules apply to merchandise to determine eligibility for special duty treatment under various trade agreements or duty preference programs. The United States has a separate set of rules of origin for textile and apparel products and for foreign products that the US government buys.

US "non-preferential" rules of origin use the "wholly obtained" or "substantial transformation" criteria to determine the origin of an imported product. A wholly obtained product is entirely grown, gathered, produced or manufactured in one country. The substantial transformation test is applied to goods that consist in whole or in part of materials from more than one country. Under this test, the country of origin of the imported product is the last country in which the product has been "substantially transformed" into a new and different article of commerce with a name, character or use distinct from the article or articles from which it was made.

US "preferential" rules of origin generally use the "wholly obtained" criterion or use a tariff shift method and/or local value-content method for goods that are not wholly obtained from a country eligible for preferential duty rates. Each trade agreement and duty preference program has its own set of origin criteria that must be met.

Customs Value: The customs value of a product is needed to calculate the duty rate for products subject to ad valorem or compound duty rates (see below). The customs value is usually the price actually paid or payable for imported merchandise when sold for exportation to the United States minus the costs for international shipment to the United States. This is referred to as the transaction value. In certain circumstances, adjustments must be made to the transaction value or other methods of valuation must be used.

Duty Rates: Duty rates in the United States can be ad valorem, specific, or compound. An ad valorem duty rate is based on a percentage of the customs value of the imported merchandise. The majority of products imported to the United States are subject to ad valorem rates. A specific rate is a specified amount per unit of weight or quantity. A compound rate is a combination of an ad valorem rate and a specific rate, such as 0.5



cents per kilo plus 2 percent ad valorem. Non-ad valorem duty rates are concentrated in the agriculture, fuels, textiles, and footwear sectors.

Duty rates for products are found in the HSTUS. The average duty rate is 4.8%. Almost 37% of the products in the HSTUS have a zero duty rate and 7.8% of the products are subject to duty rates of 2% or less. Agricultural products (notably dairy, tobacco, and vegetable products), footwear, and textiles typically have the highest duty rates.

Duty Reduction Programs

The United States provides duty-free or reduced duty status under several statutory programs or under US free trade agreements (FTAs).

Statutory Preference Programs: Statutory tariff preference programs provide duty-free entry to certain imports from eligible countries in order to provide trade and economic benefits to those markets. The list of eligible products and countries varies from program to program and can vary within each program over time. In order to qualify for duty-free benefits under these programs, importers will need to verify that the products meet the required rules of origin that set out how much content or processing must be acquired in the beneficiary country. Key US preference programs include:

- GSP: The Generalized System of Preferences (GSP) provides duty-free entry to a wide range of goods from developing countries.
- AGOA: The African Growth and Opportunity Act (AGOA) provides duty-free treatment for goods from sub-Saharan African countries that would normally be excluded from GSP provisions.
- CBI: The trade programs known collectively as the Caribbean Basin Initiative (CBI) provide duty-free access into the US for most goods imported from beneficiary countries in the Caribbean Basin.

FTAs: The United States has entered into 14 regional and bilateral FTAs with 20 countries. Originating goods, as defined under each FTA, either enter the US duty-free either immediately upon entry into force or have their duties phased out over a fixed transition period.

Detailed requirements for US statutory preference programs and FTAs, including eligible products and countries along with the specific rules of origin that must be met, can be found in the General Notes of the Harmonized Tariff Schedule of the United States (HTSUS).

Anti-dumping and Countervailing Duties

Certain products imported to the United States are subject to anti-dumping and/or countervailing duties in addition to import duties. These duties are applied to imported products that the US government has determined are being sold in the United States at unfair prices or that have received foreign government subsidies to lower their prices. The



US International Trade Commission maintains a list of anti-dumping and countervailing orders on its website here: https://www.usitc.gov/trade_remedy/trade_research_tools.

Other Import Fees and Excise Taxes

In addition to any tariffs that may be due, CBP also collects federal taxes and user fees on behalf of other federal agencies at the time of importation. Whether or not additional tax is required depends on the commodity being imported. For example, imports of alcoholic beverages and tobacco products are subject to federal excise tax. The Internal Revenue Service establishes the amount of this tax and CBP collects it on its behalf.

User fees are charged to offset the costs to the government of providing certain services (e.g., clearing or inspecting goods). The user fee and amount collected by CBP depends on the type of entry and mode of transportation used to bring the goods into the United States. The two most common user fees on imports are the merchandise processing fee (MPF) and harbor maintenance fee.

The 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. In many cases, US FTAs waive the MPF on imports that qualify for duty-free treatment.

The harbor maintenance fee is 0.126 percent of the value of imported cargo and is assessed and paid at the time of entry.

Certain agriculture products are also subject to user fees charged in conjunction with inspection.

Country of Origin Marking

The United States generally requires that each product imported into the United States be marked with the English name of the country of origin to let the ultimate purchaser in the United States know where the product was produced or manufactured. For purposes of marking, the country of origin is based on the non-preferential rules of origin discussed above under the "Import Duties" section. However, specific marking rules apply to products imported from Canada or Mexico.

The country of origin marking must be located in a conspicuous place as legibly, indelibly and permanently as the nature of the article permits. CBP regulations and rulings contain special marking rules for certain products such as metals, watches, and clocks. In addition, certain products are exempt from the country of origin marking requirement.



Regulatory Requirements

The importation of certain classes of merchandise may be prohibited or restricted to protect the economy and security of the United States, to safeguard consumer health and well-being, and to preserve domestic plant and animal life. In addition to CBP requirements, many of these prohibitions and restrictions on importations are subject to laws and regulations administered by other United States government agencies with which CBP cooperates in enforcement. These laws and regulations may, for example, prohibit entry; limit entry to certain ports; restrict routing, storage, or use; or require treatment, labeling, or processing as a condition of release of the goods into the United States. CBP clearance is only given if these various additional requirements are met. Some of the most common categories of goods subject to additional regulatory requirements are described below.

Agriculture Products: Imports of plant and animal products must meet inspection and quarantine requirements of the Animal and Plant Health Inspection Service (APHIS) and/or Food Safety and Inspection Service (FSIS). In addition, a veterinary health certificate must accompany all animal imports. Additional information on importing plant and animal products can be found on the US Food Safety and Inspection Service website here: <https://www.fsis.usda.gov/wps/portal/fsis/topics/international-affairs/importing-products/import-checklist> or from the Animal and Plant Health Inspection Service here:

https://www.aphis.usda.gov/publications/plant_health/2012/fs_imp_food_ppq.pdf.

Textiles and Apparel: Articles of wearing apparel, fabrics or interior furnishings must conform to an applicable flammability standard issued under the Flammable Fabrics Act. Textile and fur apparel products are subject to labeling requirements. Additional information on the Flammable Fabrics Act can be found on the Consumer Products Safety Council website here:

<https://www.cpsc.gov/Regulations-Laws--Standards/Statutes/Flammable-Fabrics-Act>. Information on labeling textile products can be found on the Federal Trade Commission website here: <https://www.ftc.gov/tips-advice/business-center/guidance/threading-your-way-through-labeling-requirements-under-textile> Information on labeling fur products also can be found on the FTC website: <https://www.ftc.gov/tips-advice/business-center/guidance/how-comply-fur-products-labeling-act>.



Chemicals and Hazardous Materials: Pesticides, toxic, and hazardous substances are subject to regulation under a number of statutes. Imports of chemicals require certification under the Toxic Substances Control Act (TSCA).

Food, Drugs, Medical Devices, and Cosmetics: The importation into the United States of food, drugs, medical devices, and cosmetics is governed by provisions of the Federal Food, Drug, and Cosmetic Act. The Act prohibits the importation of articles that are adulterated or misbranded and products that are defective, unsafe, filthy, or produced under unsanitary conditions. Imported products regulated by the Food and Drug Administration (FDA) are subject to inspection at the time of entry. Additional information importing these products can be found on the FDA website here:

<https://www.fda.gov/ForIndustry/ImportProgram/default.htm>. Specific requirements for cosmetics sold in the US can be found here:

<https://www.fda.gov/Cosmetics/UCM2005083>.

Jewellery and Craft Products: Jewellery and craft products imported into the United States may be subject to additional restrictions or requirements if they are made from, or include or incorporate any parts of, animals and plants. The importation of live wildlife (i.e., game animals, birds, plants and trees), and any part or product made from wildlife is subject to prohibitions, restrictions, permits and quarantine requirements administered by several government agencies. For example, additional requirements are applicable to imported products made with feathers, coral, mother of pearl, certain animal fur, reptilian leather, and certain woods. Additional information on importing wildlife products can be found on the US Fish and Wildlife Service website: <https://www.fws.gov/le/businesses.html>.

Fact sheets on importing jewelry made from wildlife can be found here:

<https://www.fws.gov/le/pdf/Wildlife-in-the-Jewelry-Trade.pdf> and

<https://www.fws.gov/le/pdf/Commercial-Wildlife-Jewelry.pdf>.

Conformity Assessment: Several categories of products must demonstrate compliance with specified performance standards to ensure protection of health and safety, or compliance with conservation requirements. The Consumer Products Safety Commission requires toys, games, and other products to meet certain standards for child safety. Many electronic products must comply with performance standards and are subject to documentation and labeling requirements.

Other Requirements: The Clean Diamond Trade Act enables the United States to implement procedures developed by more than 50 countries to exclude rough



(uncut or unpolished) conflict diamonds from international trade while promoting legitimate trade in diamonds. Documentation of compliance with the Kimberley Process Certification Scheme (KPCS) is required for rough diamonds into the United States. Additional information on the KPCS can be found on the CBP website here: <https://www.cbp.gov/trade/programs-administration/kimberley-diamonds-process-certification>.

Importers of commercial quantities of tobacco products must obtain an import permit from the Alcohol and Tobacco Tax and Trade Bureau (TTB) of the Department of the Treasury. TTB regulations require compliance with certain packaging and labeling requirements, including health-related notices required by laws administered by the FDA and Federal Trade Commission. Additional information on the requirements for tobacco imports can be found on the TTB website here: https://www.ttb.gov/tobacco/importer_products.shtml.



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