

Miscellaneous Comments on Importing
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The question I always ask my clients who want to import goods is, "if it isn't here already, why not?"

In almost all industries there are "scouts" from the major importers who are looking for things to add to their line(s). So, if they, who can buy in big quantities, ship container loads, and can get the best prices are not bringing it in, there has to be a reason, such as:

- * By the time it gets here and one puts the multiple onto "first cost" of between 7 and 12 times = possible retail price, the price is too high.
- * The sizes or styling are not to our tastes or uses or it would take too much to pioneer the new goods.

For someone not already importing, these factors come into play:

- * The client found something they wanted but could not find in the US so they want to "fill the hole."
- * The client does not see the difficulty they will have selling what they import (see rules & guidelines of buying in the business articles on my web site -- www.sellingselling.com)
- * Warehousing and US logistics costs for shipping west, south, and north may be too high.
- * The 80/20 rule -- 20% of the inventory or styles will be doing 80% of the sales, so what does someone do with the 80% that does only 20% of what was imported?
- * The importer has little or no experience in the industry their goods will be sold/used hence, does not understand how that "industry" works and how to reach potential buyers while many industries are not technical, all have their technicalities.
- * The importer cannot get into the right trade shows in some industries

I really hesitate to make recommendations in situations like this when it comes to importing where so little is known about the client. For example, these questions one has to ask to see what the situation is before giving any advice:

- * Does the client have importing experience?
- * Why does he believe these are "high quality _____"?
- * Against what measure is he making this claim?
- * When you say "is importing" does this mean the deal is a fait accompli or does this mean he wishes to sell first and import later?
- * What is his reorder ability?
- * How long will it take to bring in new goods?

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COMMENTS ON INTERNATIONAL TRADE

A. 10 EXPORTING FACTORS THAT AFFECT A BUSINESS PLAN

- 1a. The cost of getting a reliable, honest agent in the targeted market.
 - 1b. The cost due to not having a reliable, honest agent in the targeted market.
 2. Substantial management time to assist in start-up procedures and decisions.
 3. Key additional personnel possibly diverted from domestic responsibilities.
 4. Additional plant facilities may be necessary.
 5. Costs of preparing special materials (brochures) and packaging proper translations for different markets.
 6. Product modification to meet foreign market specifications.
 7. Extension of credit terms due to competition, local customers, and transit time.
 8. Dealing with claims due to the distance factor.
 9. Variations in pricing structure for different markets.
 10. Different distribution systems in different markets.
-

B. FACTORS IN EXPORTING NOT FOUND IN DOMESTIC TRADING

- | | | |
|---------------------------------|----------------------------------|----------------------------|
| 1. Customs of the country | 4. Unknown market potential | 8. Competition |
| 2. Different language | 5. Both governments’ regulations | 9. Financing |
| 3. Foreign currency and banking | 6. Political climate | 10. On-site representation |
| | 7. Distribution channels | |
-

C. VARIATIONS IN EXPORTING

1. US export laws and regulations.
 2. Import laws and regulations of country
 3. Their patent, copyright, and intellectual property laws and international agreements.
 4. Exchange rates and methods of money exchange.
 5. Costs, delivery time, and methods of logistics.
 6. Their methods of doing business, social and liability laws, and distribution practices.
 7. Their customs, protocol, culture and an attempt to know their language.
 8. Know as much as possible about what they have been using that your product or service will be replacing.
 9. Know and be able to relate when necessary information about the product or service (theirs and/or yours), what determines the levels of quality, and the relationships between quality, value, and cost.
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D. ADVISORY RESOURCES

1. PCC Business Development Center
2. Oregon Department of Economic Development
3. U.S. Small Business Administration Export Department
4. International attorney
5. International accountant
6. International banker
7. Customs broker or freight forwarder
8. International consultant

A. MOST COMMON REASONS FOR IMPORTING PRODUCTS

1. Got the idea while on foreign travel.
 2. Seeking new suppliers and products.
 3. Want to bypass the need to work through an importer.
 4. Saving money -- making more money.
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B. VARIATIONS IN IMPORTING

Importing has many variations. Most people think importing is limited to the type of program they have read/heard about or are interested or involved in. There are 8 variations to importing.

1. Foreign products/service into US.
2. Foreign products/services adapted for US market.
3. Making products for US market in foreign countries.
4. Bringing foreign firms to US to make products/services for US market.
5. Bringing foreign firms to US to make products/services for sale in foreign markets.
6. Bring in foreign products to be used in US made products.
7. Foreign firms investing in US business and property - wholly owned and/or joint ventures.
8. Foreign products into US for conversion and exporting finished products to foreign countries

(Import/export laws and regulations in most countries for finished products, component parts and value-added products/services (partial products or service added to another country's product/service) vary from situation to situation. Knowledge of import and exports laws and regulations for the country of the original components, country where the value-added services took place, and of the country of final destination are very important.)

C. JUSTIFICATION FOR IMPORTING

1. Using the facilities of foreign manufacturers to make products not available in the US
 2. Possible price and technology advantages.
 2. Increased profits through longer mark-ups.
 3. Gaining a competitive advantage buy having products not available to competitors.
 4. Increased sales by offering a variation in products not currently available to your market.
 5. Exciting travel experiences and making new business (and, possibly, personal) acquaintances
 6. Availability of "duty free" warehousing -- duty does not have to be paid until taken out -- freeing up cash.
-

D. 10 FACTORS FOR IMPORTING NOT FOUND IN DOMESTIC TRADING

1. Increased inventory due to logistic problems - shipping economies, delivery and replacement delays.
 2. Goods received not as ordered - incomplete, not same quality or design
 3. Claims problems
 4. Packaging irregularities.
 5. Products not designed for US usage.
 6. Infringement on US trademarks
 7. Limitation on certain products or materials.
 8. Excess unsaleable inventory -- 80/20 rule -- and need to get rid of the surplus
 9. Additional costs in investigating possible resources
 10. Difficulty in working with different rules, regulations, and cultures.
-

E. BUSINESS KNOWLEDGE NEEDED FOR SUCCESSFUL IMPORTING

1. Know as much as possible about the products being imported, how they are made or were developed, what determines the levels of quality, and the relationships between quality, value, and cost.
2. Know as much about what you are not buying as you do about what you are buying.
3. Know what is currently available in the US
4. Have a well defined market for selling the imports.
5. Know what is currently on the US market from that firm/industry/country/region: prices (their/US) /suppliers/ qualities.
 - A. If it isn't currently being imported into the US, know why.
 - B. Find at least one more supplier or firm that offers similar products/services for comparison purposes and as an additional/substitute resource.

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FACETS OF INTERNATIONAL MARKETING

IMPORTING

1. Foreign products/services into US
2. Foreign products/services adapted for US market
3. Making products for US market in foreign countries
4. Bringing foreign firms to US to make products/ services for sale in US markets
5. Bringing foreign firms to US to make products/services for sale in foreign markets
6. Foreign firms investing in US business & property–wholly owned and/or joint ventures
7. Foreign products into US for conversion and exporting to foreign countries *

EXPORTING

1. US products/services to foreign countries
 2. Adapting US products/services for foreign markets
 3. Producing products/services for foreign markets
 4. US firms establishing businesses in foreign countries for sales in those markets
 5. US firms establishing businesses in foreign countries for selling those products in the US
 6. US firms investing in foreign business & property – wholly owned or joint venture
 7. Sending US components to foreign countries and bringing finished products into the US or sending to a 3rd country *
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A PREREQUISITE FOR SUCCESS IN INTERNATIONAL TRADE

Know as much as possible about the product or service (theirs and/or ours), how they are made or developed, what determines the levels of quality, and the relationships between quality, value, service and cost as seen by the customer.

INFORMATION NEEDED FOR INTERNATIONAL MARKETING SUCCESS

In addition to knowledge about products/services and accepted marketing practices and techniques

IMPORTING

- A. Their export laws and regulations *
- B. US import laws and regulations *
- C. Their credit policies, exchange rates, methods of money exchange
- D. Costs, delivery time, methods of logistics
- E. Their customs, protocol, culture, language
- F. Their methods of doing business and distribution practices

EXPORTING

- A. US export laws and regulations *
 - B. Their import laws and regulations *
 - C. Exchange rates, methods of money exchange
 - D. Costs, delivery time, methods of logistics
 - E. Their customs, protocol, culture, language
 - F. Their methods of doing business, distribution practices
-

WESTERN (North American, Western Europe, Australia) WAY OF BUYING

Product/service first, firm second, individual third. Product/service first, individual second, firm third.
Short-term planning, relationships, returns

EASTERN (Eastern Europe, South/Central America, Africa, Orient) WAY OF BUYING

Individual first, firm second, product/service third. Firm first, individual second, product/service third.
Long-term planning, relationships, returns

* Import/export laws and regulations in most countries for finished products, component parts and value-added products/services (partial products or services added to another country’s products/services) vary from situation to situation. Knowledge of import or export laws and regulations in country of the original components, country where the added-value services took place, and the country of final destination are important.

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WORKING IMPORTING INTO A BUSINESS PLAN

The following outline was from a web site article by Citrus CC International Trade Program

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COST CONSIDERATIONS WHEN IMPORTING

- | | |
|--|--|
| * Costs For Credit Checks/ Contact Identification | * Packaging / Private Label |
| * Correspondence Costs (e.g., Long Distance Calls, Fax, Etc) | * Packaging Design / Artwork |
| * Overseas Travel / Entertainment / Gifts | * Warrantee / Owner's Manuals |
| * Molds, Dies For Customized Extrusion | * Documentation Fees |
| * Costs For Design Modifications / Alterations | * Labeling Costs (U.S. Customs Regulations) |
| * Costs Related To Standards / Registrations | * Packing For International Transport |
| * Product Costs (Consider Volume Discounts) | * Short Term Warehousing / Demurrage |
| * Minimum Order Quantities | * Freight Costs / Intermodalism / Insurance |
| * Sample Costs | * U.S. Regulatory Agency Requirements |
| * Spare Part Allocations | * Pre-Shipment Inspection Services/ Laboratory Testing |

IMPORT BUSINESS PLAN OUTLINE

ANALYZE MARKETING OPPORTUNITY

- * Present/Future Market Trends
- * Identify Key Market Segments
- * Import Restrictions/ Government Regulations
- * Identify Competitor Market Shares
- * Compare Competitor Products (Quality, Price, Reputation)
- * Type Of Competitor Support Facilities (Warehouse, Sales Branch, Distribution Hubs)
- * Identify Competitor Distribution Channels
- * Identify Competitor Problems/ Difficulties

- * Identify Competitor Credit Terms, Commissions, Or Other Incentives Used To Induce Sales
- * Identify Competitor Promotions And Determine Success
- * Identify Degree Of Competitor Pre-Sale And Post-Sale Service
- * Identify How Long Each Competitor Has Been Associated With Foreign Suppliers/ Determine Extent Of Relationship
- * Are U.S. Manufacturers Domestically Owned Or Is There Foreign Participation?
- * Identify Potential Advantages U.S. Manufacturers Have Over Importing Competitors

ASSESS PRODUCT POTENTIAL

- * Identify Product (Within A Line) Best Suited To U.S. Market
- * Determine If Product Is New To U.S. And Identify Most Likely Future Competition
- * Identify Product Competitive Strengths And Weaknesses
- * Identify The Needs The Product Fulfills
- * Identify Special Skills And Training Needed For Product Use
- * Identify Product Options And Accessories Currently Available
- * Identify Installation And Maintenance Requirements
- * Identify The Degree To Which The Product Needs Adaptation For The U.S. Market
- * Identify How Product Is Marketed Outside Of The U.S.
- * Assess Appropriateness Of Product Quality/ Price

MAKE A FIRM COMMITMENT

- * List Reasons For Interest In U.S. Market
- * Assess Existence Of Adequate Financial Base
- * Assess Ability To Maintain Continuing Support For Market Penetration
- * Determine If Using Market Share Or Profit Orientation
- * Determine Expected Payback Across Time
- * Is Company Basing Commitment On Unsolicited Orders Or A Precise Market Analysis?

ALLOCATE ADEQUATE RESOURCES

- * Establish Personnel Responsibilities And Roles
- * Estimate Personnel Time And Resources Needed
- * Devise Appropriate Organizational Structure To Develop And Serve The U.S. Market
- * Analyze How The Organizational Structure May Need To Change Over Time
- * Analyze Ability Of Current Production Capacity To Meet Current And Future Market Demand
- * Identify Fluctuations In Production/ Identify Causes
- * Identify Minimum Order Requirements (Present And Future)
- * Willingness To Adapt Products (Costs/Risks) For U.S. Market
- * Identify Capital Limitation For Handling Inventory
- * Ability To Cover Market Development Costs (Travel, Media)

IDENTIFY TECHNICAL ISSUES

- | | |
|--|----------------------------------|
| * Import Documentation/ Process Flow | * Product Classification Options |
| * Documents Required Buy U.S. Customers/Process Flow | * Duty Assessment |
| * Flexibility In Payment Methods | * Marking/ Labeling Requirements |
| * Legal Procedures | * Product Registrations |

DRAFT MARKETING PLAN

- | | |
|---------------------|---------------------------|
| * Executive Summary | * Statement Of Commitment |
| * Introduction | * Situation Analysis |

- * Market Opportunity
- * Target Market Segments
- * Competitive Analysis
- * Assessment Of Product Potential
- * Operational Strengths And Weaknesses
- * Resource Allocation
- * Organizational Structure
- * Marketing Plan
- * Marketing Goals
- * Product Analysis And Selection
- * Warranties And Services
- * Pricing And Terms Of Sale
- * Distribution Channels
- * Shipping And Transportation
- * Warehousing And Logistics
- * Information Systems
- * Advertising And Promotion
- * Budget And Pro-Forma Financial Statements
- * Implementation Schedule And Milestones
- * Procedures To Evaluate, Analyze, Monitor, And Control

IMPORTER'S READINESS QUESTIONNAIRE

Please answer the following questions:

YES NO

- * Have you selected a team of qualified trade advisors? (CPA, tax, attorney, freight forwarder, customs broker, banker)
- * Have you developed a master international business and marketing plan?
- * Long-term commitment by top management to overcome initial difficulties and financial requirements?
- * Does your firm have the necessary international expertise?
- * Do you have the production capacity to handle orders from new markets?
- * Have you thought about the impact additional production will have on your budget?
- * Have you carefully selected your overseas distribution/ supply channel?
- * Have you identified one or two geographic areas in which to concentrate your initial efforts?
- * Have you considered the international market potential for each of your products?
- * Do you intend to treat your international distributors on an equal basis with their domestic counterparts?
- * Have you considered each geographic market separately in designing your distribution techniques?
- * Are you willing to modify products to meet regulations or cultural preferences of other countries?
- * Will you print service, sale, and warranty messages in the our language(s)?
- * Are you prepared to provide readily available servicing for the product?
- * Do you understand the local laws, culture and business practices?
- * Have you carefully considered a global tax strategy?
- * Have you carefully considered a global logistics strategy?

QUESTIONS FOR THE IMPORT PROCESS

First call U.S. Customs at 310/514-6030 and ask for a commodity control specialist in charge of ...(state the product description). Ask the following questions:

- * **Classification Number** -- What is the HTS classification(s) for the product(s)?
- * **Quota**
 - * Is there a quota to bring these products in from (identify country/s of interest)?
 - * If there is a quota, what is the procedure for recording and the current percent filled?
- * **Duties**
 - * What is the duty or tariff on this product from the (identify country/s of interest)?
 - * Is preferential tariff treatment available for duty-free entry?
- * **Customs Regulations**
 - * What are the appropriate Customs regulations regarding labeling, packaging and marking for each type of product?
 - * What are the most common problems or mistakes people make when importing these types of goods,

regarding Customs regulations on labeling, packaging and marking?

* **Outside Agency Approvals**

* What outside agency approvals or certifications may be required? (ie. FCC, UL, FDA, DOT) Ask for the local contact person and telephone number for the appropriate agency, so contact may be made with them directly.

* What are the most common problems or mistakes people make, including documentation errors, when importing these types of goods, regarding outside agency approvals or certifications? (Ask of both U.S. Customs AND the specific agency referred)

* **Sampling Procedures**

* How does U.S. Customs define a sample of the product type? (ie. must have 4" hole)

* What documentation is required for samples?

* **Informal And Formal Entries**

* At what dollar value does a shipment require formal entry procedures (ie. \$1,250)

* At what point do duties begin to be levied? (ie. \$400)

* **Customs Clearance**

* Must I use a customs house broker to bring in products? (No, any consignee may clear the goods)

* How can one bring the products in themselves (Please send a direct entry information packet)?

It is suggested that you purchase a book published by the U.S. Treasury Department (U.S. Customs Service) entitled Importing Into The United States.

POTENTIAL RESPONSIBILITIES/ROLES OF AN AGENT

When choosing an independent agent, or developing an entrepreneurial independent agency you will need to focus on specific roles and responsibilities. Typically the roles and responsibilities between the principal and agent need to be negotiated. The agency status requires that you perform services for your principal(s).

Types Of Principal(s)

* Buyer (looking for purchasing agent)

* Foreign Buyer (looking for a purchasing agent)

* Supplier (looking for an sales agent).

* Foreign Supplier (looking for sales agent)

Potential Roles of Purchasing Agent

* Provision of Supplier Intelligence Reports with Analysis

* Pre-shipment Inspection Services

* Third-party quality control certifications

* Shipping Logistics

* Negotiation of Defective Goods and Spare Parts Policies

* Intellectual Property Rights Responsibilities

* Technical Assistance and Specific Industry Expertise

* Product Development Services

* Financial Responsibilities

* After-Sales Functions and Training Services

Potential Roles of Sales Agent

* Development of Marketing Strategies

* Third-party quality control certifications

* Outsourcing Components and Supplies

* Shipping Logistics

* Negotiation of Defective Goods and Spare Parts Policies

* Intellectual Property Rights Responsibilities

* Technical Assistance and Specific Industry Expertise

* Product Development Services

* Financial Responsibilities

* After-Sales Functions and Training Services

TERMS OF PAYMENT

* **Payment in advance (cash in advance, T.T., wire)**

* Common for Small or Sample Order

* Common for High Political Risk

* When Restrictive Central Bank Policies (for currency exchange conversion)

* **Letter of credit (L/C)**

- * An agreement between banks (not buyer and seller)
- * Contract from buyer to seller (not the other way around)
- * Payment contingent upon performance
- * Uses credit line, or requires escrow account (ties up cash flow)
- * Requires strict attention to detail
- * Requires proof of specific acts of performance
- * Can be payable at sight (immediate) or usance (time draft)
- * Credit may be transferred to second beneficiary (if specified)
- * Can be used to leverage finance
 - * May include special clauses (verbiage) for specific circumstances
 - * Red clause allows exporter to draw partial advance payment
 - * Exporter may specify that transshipments are allowed
 - * Partial shipments and payments may be allowed
- * **10 most common errors to avoid (according to Irving Trust Company)**
 - 1 Exporters present documents late, after the L/C has expired
 - 2 Exporters ship their goods later than the credit allows
 - 3 Exporter tries to draw more money than the L/C allows
 - 4 Exporters delay presenting documents for an undue period
 - * Must present within 21 days after goods are shipped
 - 5 Exporters make unallowed partial shipments
 - 6 Exporters present invoices that do not describe the merchandise exactly as it is described in their credits
- 7 Exporters do not supply all the documents called for in the L/C
- 8 Exporters do not have documents legalized
- 9 Exporters fail to obtain completed onboard bills of lading
- 10 Exporters fail to obtain insurance coverage soon enough
- * **Time delay for policy approval**
 - * **Documentary collections**
 - * Lower banking costs (can call it an international C.O.D. order)
 - * Documents against payment (D/P)
 - * Exporter (Payee) draws a sight draft (bill of exchange)
 - * Draws draft (check) on buyer against the sale
 - * When collecting bank is paid, documents are endorsed to buyer
 - * Exporter retains title until payment is made
 - * Buyer can refuse shipment (not irrevocable)
 - * Exporter may need to find another buyer or have shipment returned to domestic market
 - * **Documents against acceptance (D/A)**
 - * Importer signs a usance (time) draft known as Trade Acceptance
 - * Has future maturity date
 - * Bank does not guarantee collection (rely on buyer integrity)
 - * Do not confuse with Bankers Acceptance (bank credit)
 - * **Open account**
 - * Similar to domestic open account (usually reflects relationship)
 - * Higher collection risks than domestic
 - * Foreign credit insurance (Insured receivable)
 - * May allow buyer better cash flow position
 - * Standby Letter of Credit (Against non-payment) to be used after a certain number of days past due. Need to pay strict attention to conditions and expiry date

IMPORT FINANCING

- * **Vendor Credit** (open account terms obtained from the supplier) -- Perhaps the cheapest form of leveraging
- * **Bank Lenders**
 - * Find one that understands your business
 - * Build relationship with loan officers
 - * Typically adverse to risk (collateral-based)
 - * Credit insurance (create an importer's payable)
 - * Eliminates need for L/C terms
 - * Insures against non-payment of open account terms
- * **Option for supplier to finance (factor) your payable**
- * **Government Programs**
 - * Export-Import Bank of (the country of manufacture) may have Direct Loan program to finance your L/C

* **Non-Bank Lenders**

- * Factor Houses
- * Buy your receivables at a discount
- * Usually require factoring of all your accounts
- * May have high interest rates
- * May solve your cash flow problems
- * Purchase-order financing (bridge loans)
- * May insure purchase orders against non-payment
- * May choose to factor or not to factor the receivable

INTERNATIONAL LOGISTIC SKILLS

CLASSIFICATION -- Abilities Relative to:

- * Advantages / disadvantages in importing finished products vs. Components

CARRIER ASSIGNMENTS Abilities Relative to:

- * Conference vs. Non-conference carriers
- * Transit time
- * Frequency in departures
- * Rate negotiations

FOREIGN TRADE ZONES (FTZs) Abilities Relative to:

- * Outsourcing through FTZ
- * Cost vs. Flexibility vs. Effectiveness

DISTRIBUTION Abilities Relative to:

- * Location analysis
- * Utilization of distribution hubs
 - * Material handling
 - * Delivery cycles
 - * Inventory in transit
- * Outsourcing for distribution/ Third party logistics

ROUTING OPTIMIZATION Abilities Relative to:

- * Optimizing periodic deliveries
- * Minimize mileage paid to carriers
- * Optimize route sequencing
- * Prioritize scheduling needs
 - * Analyze cost differences
 - * Quality vs. Reliability

POOL SHIPPING Abilities Relative to:

- * Creation of pool distribution
- * Number and locations of warehousing
- * Leasing vs. Temporary warehousing
- * Quality vs. Reliability

CONSOLIDATION Abilities Relative to:

- * Optimizing freight consolidation
- * Optimizing LTL (Less than container load)

INTERMODALISM Abilities Relative to:

- * Rail, truck, carrier, or fleet combinations
- * Determine shipping objectives
- * How often to ship
- * Cost vs. Quality vs. Flexibility

TERMS OF SALE

In any sales agreement, it is important that a common understanding exists regarding the delivery terms. The terms in international business transactions often sound similar to those used in domestic business, but they frequently have very different meanings.

Confusion over terms of sale can result in a lost sale or a loss on a sale. For this reason, the exporter must know the terms before preparing a quotation or a pro forma invoice. A complete list of important terms and their definitions is contained in Incoterms 1990, a booklet issued by ICC Publishing Corp., Inc., 156 Fifth Ave., Suite 820, New York, N.Y. 10010; tel. (212) 206-1150. The cost is \$24.95 plus postage, handling, and sales tax if applicable. Guide to Incoterms 1990, also available from ICC (cost: \$69.95) uses illustrations and commentary to explain how buyer and seller divide risks and obligations (and therefore costs) in specific kinds of international transactions.

The following are a few of the more common terms used in international trade:

- * **CIF (cost, insurance, freight)** to a named overseas port of disembarkation (import). Under this term, the seller quotes a price for the goods (including insurance), all transportation, and

miscellaneous charges to the point of disembarkation from the vessel. (Typically used for ocean shipments only.)

- * **CFR (cost and freight)** to a named overseas port of disembarkation (import). Under this term, the seller quotes a price for the goods that includes the cost of transportation to the named point of disembarkation. The cost of insurance is left to the buyer's account. (Typically used for ocean shipments only.)
- * **CPT (carriage paid to)** and **CIP (carriage and insurance paid to)** a named place of destination. Used in place of CFR and CIF, respectively, for shipment by modes other than water.
- * **FOB (free on board)** at a named port of export. The seller quotes the buyer a price that covers all costs up to and including delivery of goods aboard an overseas vessel. (Typically used for ocean shipments only.)
- * **FCA (free carrier)** to a named place. This term replaces the former "FOB named inland port" to designate the seller's responsibility for the cost of loading goods at the named shipping point. It may be used for multi-modal transport, container stations, and any mode of transport, including air.
- * **FAS (free alongside ship)** at a named U.S. port of export. Under this term, the seller quotes a price for the goods that includes charges for delivery of the goods alongside a vessel at the port. The seller handles the cost of unloading and wharfage; loading, ocean transportation, and insurance are left to the buyer.
- * **EXW (ex works)** at a named point of origin (e.g., ex factory, ex mill, ex warehouse). Under this term, the price quoted applies only at the point of origin and the seller agrees to place the goods at the disposal of the buyer at the specified place on the date or within the period fixed. All other charges are for the account of the buyer.

When quoting a price, the exporter should make it meaningful to the prospective buyer. A price for industrial machinery quoted "EXW Saginaw, Michigan, not export packed" could be meaningless to most prospective foreign buyers. Such buyers would have difficulty determining the total cost and, therefore, would hesitate to place an order.

The exporter should quote CIF whenever possible, because it has meaning abroad. It shows the foreign buyer the cost of getting the product to a port in or near the desired country.

If assistance is needed in figuring the CIF price, an international freight forwarder can provide help to U.S. firms. The exporter should furnish the freight forwarder with a description of the product to be exported and its weight and cubic measurement when packed; the freight forwarder can then compute the CIF price.

FOREIGN TRADE ZONES (FTZ)

What is it? A secured area considered to be outside the customs territory of the U.S. Inventory is not subject to formal Customs entry and is also not subject to internal revenue, state, or local taxes until it leaves the FTZ for domestic consumption.

What do we do there? Without a formal customs entry, you can: assemble, re-package, re-label, store, test, clean, inspect, sample, display, salvage, repair, manipulate, mix, process, manufacture, destroy, and /or re-export.

How can an FTZ help me?

- * Eliminates Duty
- * If goods are re-exported, no duty is ever paid in U.S. Reduces Duty
- * If goods are modified at the FTZ site, so as to change classification, then goods may be entered at the new (lower) duty rate(s).
- * Postpones Duty As inventory is held in the FTZ, duty is postponed until such time as the goods "enter" the U.S. (Leave the site)

How can this help my Cash Flow?

- * Never have to wait for a refund on duties paid for re-exported goods (drawback)-with FTZ you never pay the duty at all for re-exported goods
- * If you bring in a part (duty at 8%), and assemble it to your product within the FTZ (duty at 2%), then "enter" the U.S. (leave the FTZ site) the duty on the part is now 2%
- * You never have to pre-pay duty on idle inventory-FTZ allows you to officially delay entry until it leaves the FTZ

CARGO LOSS CONTROL

*** Types of hazards per various transportation modes**

- * Ocean (Marine)
 - * Rolling, pitching, heaving, surging, swaying and yawing motions of vessel.
 - * Wave impact (water over the bow impacts on-deck stowage) or container during heavy weather
 - * Navigation exposures: sinking, stranding, or collisions
 - * Extreme temperatures resulting in heat or freeze damage
- * Rail
 - * Damage due to shifting during acceleration or deceleration
 - * Damage during car humping operations (coupling impact)
 - * Swaying during curves or turns
 - * Damage due to shock or strong vibrations
 - * Derailments
- * Air
 - * Changes in atmospheric pressure and temperature
- * Damage due to shifting during acceleration or deceleration
 - * Turbulence
- * Surface (Trucks)
 - * Sudden breaking and acceleration
 - * Damage during loading/unloading at loading docks
 - * Vehicular accidents (collision, overturn, jack-knife)
 - * Shock and vibrations
 - * Road and extreme weather conditions
- * Handling and Storage
 - * Improper forklift operations
 - * Pushing or dragging cargo
 - * Weight of superimposed packages
 - * Long-term storage resulting in crushing of shipping container
- * Theft and Pilferage
 - * Hijacking of entire container and cargo
 - * Security measures inadequate at loading, staging, storage, or discharge point
 - * Misrouting or non-delivery due to insufficient marks
- * Contamination
 - * Residual substances or odors from previous cargo
 - * Incompatible cargo stowed in same hold or container
 - * Smoke damage

PREVENTABLE CARGO LOSSES

Loss occurring from handling and storage, theft and water can be prevented if proper precautions are taken before shipment.

- * **Handling and Stowage** The transportation infrastructure (rough seas, turbulent air, sub-standard roads, or uneven rail track sections) subject cargo to every type of imaginable motion and impact. Packing to match conditions is vital.

- * Do not exceed the maximum rated capacity of boxing, crates, bags or other shipping containers
 - * Do not concentrate cargo weight in one or two places in container-use internal blocking and bracing
 - * Use cushioning to absorb shocks and vibrations
 - * Unitize, pelletize or assemble cargo into largest practical unit consistent with handling, weight or dimension limitations at transshipment point or destination.
 - * Use precautionary markings in English and the language of the country of destination
 - * Clear shipping marks should appear on at least three surfaces of the external package
- * **Theft and Pilferage**
- * Only use new, well-constructed packing. Exposure of contents invites theft.
 - * Use specifically patterned gummed sealing tapes, which enable quick detection of tampering
 - * Shrink-wrap, strap or band as appropriate
 - * Use blind or coded markings without trademarks, logos, or corporate names
 - * Unitizing or pelletizing multiple or non-uniform parcels will shipment together and decrease pilferage
 - * Report losses immediately, and perhaps you can recover
 - * Containerized shipments should have container sealed after loading
- * **Water Damage**
- * Apply preservatives, corrosion inhibitors or waterproof wrapping directly to cargo
 - * Provide waterproof linings on inside of outer packages
 - * Use waterproof shrouds to shield top and outsides of cargo, or place on skids, pallets or dunnage to elevate cargo above potentially poor drainage areas
 - * Be sure there are drain holes in crates or large containers
 - * Use indelible inks, paint and water-repellent labels

IMPORT DOCUMENTATION AND RECORD KEEPING

For the import process to flow smoothly, all documents must be both complete and accurate. Import documents are used to:

- * Determine that the goods are admissible into the United States
- * Assess liability to duties, taxes, fines, and penalties
- * Assure compliance to laws and regulations administered by U.S. Customs

Similarly, organizing and maintaining records of the import transaction is essential in preparing to respond to a future audit or questions about the shipment.

When a shipment reaches the United States, the importer of record (the owner, purchaser, or licensed customers broker designated by same) files entry documents for the goods with the district or port director at the port of entry.

To legally enter the country, imported goods must:

- * Arrive within the port of entry
- * Be authorized for delivery by Customs
- * Have the estimated duties paid

ENTRY OF MERCHANDISE

Prior to importing and entering merchandise into the commerce of the United States, arrange for an appointment with a Customs official. In general, the most important information from U.S. Customs regarding the importation of your product can be obtained by asking the following questions:

- * What is the tariff number of the product?
- * What is the rate of duty?
- * How should the product be marked?
- * Are there any other Federal Agency requirements? (FDA, DOT, EPA, ATF, etc...)
- * Any other useful information?

The term "entry" is defined as the documentation required to secure the release of imported merchandise from Customs. This documentation may be filed with Customs in the form of paper or electronically through the Automated Broker Interface (ABI).

Entry is required regardless of value and falls under two categories:

1. Formal entries supported by a bond and cover goods imported for resale or goods that will be used in business or profession. All formal entries require a valid importer identification number. Standard importer identifications include the Internal Revenue Service number, the importers Social Security number, or a Customs assigned number.
2. Informal entries NOT supported by a bond and are generally used to enter personal shipments or commercial shipments less than \$1250.00 with some exceptions.

Once the goods arrive in the United States, it is the responsibility of the importer to make entry. However, the importer may designate an authorized Customhouse broker to act as his agent by giving the Customs broker a power of attorney.

The entry process begins once the importer or his agent present to Customs documents which when processed will allow the owner to take possession of the goods.

Goods arrive at a port of entry, usually carried by a truck, railcar, vessel, or airplane. The carrier is required to present notice to Customs that the goods have arrived. That notice, which may be electronic or paper, is a manifest. The manifest then becomes a control document to help Customs ensure that all merchandise is entered properly. Customs Inspectors enforce the requirement that all goods be manifested. Failure to manifest is a serious violation, and is often referred to as smuggling.

Goods are considered imported into the United States when the carrier arrives within a Customs port or Customs Territory with the intent to discharge its cargo. Once goods are imported into the United States, the importer must file an entry within 5 working days, unless an extension is granted. If entry is not accomplished, goods will be transferred to a Customs bonded warehouse. Goods that are not entered by the end of six months are sold at public auction.

The entry of merchandise is a two part process, and involves filing documents which have two distinct purposes.

1. they are used to determine if goods can be released.
2. they are used by Customs and other agencies for duty assessment and statistical purposes.

Throughout the process, the importer has the sole responsibility to arrange for the examination and release of merchandise. As helpful as they will be, Customs personnel can only offer advice and limited assistance, and they certainly may not act as agents in any way for the importer. Consequently, shipments are only "entered" by the owner, purchaser, or customs broker.

To make entry, an importer may use: a duplicate bill of lading, a shipping receipt, or, in the case of an air shipment, an air waybill will work.

The documents that generally make up an entry package include:

- * Entry manifest, Customs form 7533
- * Application and Special Permit for Immediate Delivery (CF3461)
- * Commercial Invoice or a pro forma invoice

- * Packing lists
- * Proof of Power of Attorney (or CF 5291)
- * Surety bond
- * Specific permits and documents relevant to particular commodities

IMMEDIATE DELIVERY ENTRIES

It is possible for an importer to arrange for the immediate release of a shipment by applying for a "Special Permit for Immediate Delivery" (CF 3461)

- * Request this form prior to arrival of the shipment.
- * The Automated Manifest System allows participating importers to receive a "conditional release authorization" even after a shipment leaves a foreign country and up to five days before it arrives in the United States.

MAIL ENTRIES

For smaller shipments there are advantages to using the mail to import goods into the United States.

- * It is easy.
- * The letter carrier collects the duties on merchandise valued at \$1,250.00 or less.
- * Shipping charges on small, low value goods are less.
- * Entry is not required for duty-free merchandise valued at under the \$1,250.00 limit, and personal involvement is not necessary to clear these shipments.
- * Minimal documentation. A form C1 allows a package to be opened by Customs.

There are specific exceptions which require formal entry regardless of value, and there are other goods which have a limit of only \$250.00. Ask U.S. Customs or your customs broker for more details

COMMERCIAL INVOICING

The invoice is used by Customs to classify the goods and assess duties. An invoice is a bill, a charge for goods.

- * It summarizes the import transaction.
- * It describes the product sold.
- * It identifies the parties to the transaction
- * It defines the quantity, price, terms and conditions, and methods of payment.

An invoice should answer the following questions:

- * What? What is the imported merchandise? (description)
- * Who? Who is the seller and who is the buyer? (parties)
- * How? How much is being imported? (quantities)
- * How much is being paid? (price)
- * How is the merchandise sold? (terms and conditions)

Types of Invoices:

- * Commercial invoice-A business document. The bill issued by the seller to the buyer.
- * Pro Forma invoice-A substitute invoice. Takes the place of the commercial invoice when the commercial invoice is not available, does not exist, or is not required.
- * Special invoice-Some products require additional invoices/information.
- * Special Summary Steel invoice
- * Interim footwear invoice
- * Textile declaration

CLASSIFICATION

All goods that enter the United States are categorized according to the Harmonized Tariff Schedule (HTS). The act of placing the goods into the correct category is called classification. In discussing the tariff, we refer to a category as a tariff provision.

* **Classification is important for two reasons:**

- 1 each tariff provision has its own separate duty rate, so classification determines how much duty will be collected, and
- 2 the quantity of imports in each category is calculated and reported to the public in the form of trade statistics.

A tariff provision is denoted by a ten-digit number written in a particular format. An example is 1806.10.75.00. The first eight digits determine the duty rate.

There are four types of duty rates:

- 1 free - a rate of duty
- 2 advalorem - expressed as a percentage, such as 5%
- 3 specific - set dollar amount per unit of quantity- for example, \$.037/kilogram
- 4 compound - specific rate plus an ad valorem rate

Customs is very interested in making sure that imports are classified the same regardless of the port they enter. To assist in uniform classification, information is exchanged via computer and through the offices of the national import specialist located in New York City. The Pre-Importation Review Program (PIRP) and pre-classifications are Customs efforts to ensure uniformity from within and compliance from the importing community.

The Binding Rulings Program is another avenue for ensuring classification uniformity. The importing public may submit a request for a binding classification ruling under Chapters 1 through 97 of the Harmonized Tariff Schedule (HTS) to any Customs Port Director or to the U.S. Customs Service, New York Seaport, 6 World Trade Center, New York NY 10048. The rulings will be binding at all ports of entry unless revoked by Headquarters' Office of Regulations and Rulings.

The procedures under this program apply only to requests for classification rulings under the HTS. All such rulings will be issued within 30 calendar days of the date of receipt by the Customs Service. Rulings which require referral to Headquarters, Office of regulations and Rulings, will be issued within 120 days of receipt by the Customs Service.

The ruling request must concern prospective shipments and be in writing. Rulings will not be issued in response to oral requests. A copy of binding ruling must be included in the entry package to ensure classification uniformity.

APPRAISEMENT

The Tariff Act of 1930, the basic statute controlling Customs operations, requires that all imported merchandise be given a legally correct value upon entering the United States. The act of determining that value for imported goods is termed appraisement. Determining the value is important because most goods are assessed duties and taxes based on a percentage of their value.

The Customs value should be based on the actual price of the imported goods, the price actually paid or payable. This price, subject to certain adjustments, is known as the transaction value. It is based on the actual price of the imported goods plus any additions less any exclusions allowed by the law. The law allows for five additions:

- 1 Packing costs
 - 2 Selling commissions
 - 3 Assists
 - 4 Royalties
 - 5 Proceeds
- Exclusions might include international freight and insurance.

If transaction value cannot be used, the law provides four alternative methods of appraisal. These four methods are given in a hierarchical structure, meaning that they must be applied in the order given in the law:

- 1 Transaction Value of Identical or Similar Goods-sold at or about the same time as the goods being appraised.
- 2 Deductive Value-which is the selling price in the United States of imported goods or of identical or similar goods, at certain prescribed times, less allowable deductions.
- 3 Computed Value-is a value calculated from manufacturing costs such as materials, labor, general expenses and profit.
- 4 Fall-back Method-which provides for appraisal when all preceding methods are inapplicable.

CONTINUOUS/ SINGLE TRANSACTION BONDS

A bond is an insurance policy which is paid to Customs if a required act is not performed. The most common use of a bonds is that it allows importers to take possession of their goods before all Customs formalities are completed. Another common use allows a carrier to move goods which have not been entered from one place to another.

- * **A customs bond.** All parties that import merchandise into the United States for commercial purposes or transport imported merchandise through the United States must have a Customs bond. Generally there are three parties involved in a Customs bond:
 - 1 **the principal** - the subject of the transaction and can be the importer, broker, carrier, or warehouseman
 - 2 **the surety** - the company that agrees to pay the debt or obligation if the principal defaults. Normally the surety will be an insurance company that has been authorized by the Treasury Department to write Customs bonds
 - 3 **the creditor** - the party to whom the debt or obligation is owed. The U.S. Customs Service will always be the creditor.
- * **Continuous Bond** – Normally obtained by importers who have a large number of entries and/or import through several ports of entry during a given year. A continuous bond is valid until it is terminated by the surety or the principal. Therefore, Customs does not need to process a renewal for every bond each year.

The bond amount for continuous bonds is generally 10% of the total duties, taxes and fees paid the previous year with a \$50,000 minimum. If Customs feels these amounts are inadequate, a higher bond amount will be required.

- * **Single Transaction Bond** -- Normally obtained by importers with a single shipment or very few shipments over the course of a year. A single entry bond differs from a continuous bond in that it covers only the entry or transaction for which it is written.

The bond amount for a single transaction is generally the value, duties, taxes and fees. If the merchandise is subject to other federal agency requirements or is restricted merchandise, the bond amount may be set in the amount of three times the value. The minimum amount for a single transaction bond is \$100.00.

MARKING OF COUNTRY OF ORIGIN ON U.S. IMPORTS

Every article entering the United States must be legibly marked with English name of the country of origin unless an exception from marking is provided for in the law.

What is the purpose of marking? To inform the ultimate purchaser in the United States of the country in which the imported article was made.

Who is the ultimate purchaser? The ultimate purchaser is generally the last person in the United States who will receive the article in the form it was

imported. If the article is good of a NAFTA country (Mexico or Canada), the ultimate purchaser is the last person in the United States who purchased the good in the form it was imported.

- * If the article will be used in manufacture, the manufacturer or processor in the United States

converting or combining the imported article into a new and different article is the ultimate purchaser.

- * If the article is sold at retail in its imported form, the purchaser at retail is the ultimate purchaser.

What is meant by "country"? "Country" means the political entity known as a nation. Colonies, possessions, or protectorates outside the boundaries of the mother country are considered separate countries.

- * What is the "country of origin"? The country of manufacture, production, or growth of the article.
- * Does altering the article in a second country change the country of origin? Only if the further work or material added to an article in the second country constitutes a substantial transformation, or, for a good of a NAFTA country, only if under the NAFTA Marking Rules (19 CFR part 102) the second country is determined to be the country of origin of the good. A substantial transformation occurs if a new article with a different name, character, or use is created.
- * Is it necessary for the words "made in" or "product of" to precede the name of the country of origin? The phrase "made in" is required only in the case where the name of any locality other than the country or locality in which the article was manufactured appears on the article. The marking "made in (country)", product of "(country)", or other words of similar meaning must appear in close proximity to and in comparable size letters of the other locality to avoid possible confusion.
- * Should the marking be of a particular size? The marking must be legible. This means it must be of adequate size, and clear enough, to be read easily by a person of normal vision.
- * Where should the marking be located? In a conspicuous place. It need not be in the most conspicuous place, but it must be where it can be seen with a casual handling of the article. Markings must be in a position where they will not be covered or concealed by subsequent attachments or additions. The marking must be visible without disassembling the item or removing or changing the position of any parts.
- * How permanent must the marking be? The article should be marked as indelibly and permanently as the nature of the product will permit. However, any reasonable method of marking that will accomplish the purpose of the law is acceptable.

Abbreviations and Variant Spellings: Abbreviations

which unmistakably indicate the name of the country, such as "Gt. Britain" for Great Britain or "Luxemb" for Luxembourg, are acceptable. Variant spelling which clearly indicate the English name of the country of origin, such as, "Brasil" for Brazil and "Italie" for Italy, are acceptable.

- * What are acceptable forms of Marking? The best form of marking is one which becomes a part of the article itself, such as branding, stenciling, stamping, printing, molding, and similar methods.
- * Adhesive labels may be used, but this is not a recommended form of marking.
- * Tags may be used when attached in a conspicuous place and in a manner which assures that, unless deliberately removed, they will remain on the article until it reaches the ultimate purchaser.

What articles are excepted from marking by Section 304 of the Tariff Act?

- * Articles Not Requiring Marking:
 - * An article that is incapable of being marked.
 - * An article that cannot be marked prior to shipment to the United States without injury to the article.
 - * An article that cannot be marked prior to shipment to the United States except at an expense economically prohibitive to its importation.
 - * When the container of an article reasonably indicates the origin of the article; that is, the marked container reaches the ultimate purchaser unopened.
 - * The article is a crude substance.
 - * The article is imported for use by the importer and is not intended for sale in its imported or any other form.
 - * The article is to be processed in the United States by the importer, or for his account, in such a manner that any marking would be permanently concealed, obliterated, or destroyed.
 - * When the ultimate purchaser, by reason of the character of the article or by reason of the circumstances of its importation, necessarily must know, or in the case of a good of a NAFTA country, reasonably must know, the country of origin of such article even though it is not marked to indicate country of origin.
 - * The article was produced more than 20 years prior to its importation into the United States.

- * Articles of a class or kind imported in substantial quantities for a five-year period immediately preceding January 1, 1937, and which were not required to be marked. ("J" list)
- * The article cannot be marked after importation except at an expense that would be economically prohibitive.

Other articles not required to be marked with the country of origin:

- * Articles valued at not more than \$5 which are passed without the filing of a customs entry.
- * Articles brought into a foreign trade zone or a bonded warehouse for immediate exportation or for transportation and exportation.
- * Products of American fisheries which are free of duty.
- * Products of possessions of the United States.
- * Products of the United States exported and returned.
- * Bona fide gifts from persons in foreign countries; provided the aggregate value of articles received by one person on one day and exempted from the payment of duty shall not exceed \$50 retail value.

- * Goods of a NAFTA country which are original works of art.
- * Ceramic bricks, diodes, transistors and similar semiconductor devices; photosensitive semiconductor devices, electronic integrated circuits and micro assemblies which are goods of NAFTA country.

Sanction for not Marking:

- * Marking Duties -- Articles that are not marked with the English name of their country of origin at the time of their importation into the United States shall be subject to additional duties unless properly marked, exported, or destroyed under Customs supervision prior to liquidation of the entry.
- * Criminal Penalties for Removal of Markings – Any person who removes, destroys, alters, covers or obliterates with the intent of concealing the country of origin marking of an imported article could be subject to prosecution and criminal penalties.

IMPORT QUOTAS

An import quota is a quantity control on imported merchandise for a certain period of time. Quotas are established by legislation and Presidential proclamations issued pursuant to specific legislation, and provided for in the Harmonized Tariff Schedule of the United States (HTSUS).

Detailed information on quota quantities, quota periods, quota allocations for a particular commodity may be obtained from the U.S. Customs Service, Office of Trade Compliance, Quota, Washington, D.C. 20229.

United States import quotas may be divided into two types:

1 Absolute Quotas -- Absolute quotas limit the quantity of goods that may enter the commerce of the United States in a specific period. When an absolute quota is filled, further entries are prohibited during the remainder of the quota period. Some absolute quotas are global, while others are allocated to specific foreign countries.

Imports in excess of a specified quota may be exported or detained for entry during the next quota period. No importer may offer for entry a quantity in excess of the quota.

2 Tariff- Rate Quotas -- Tariff-rate quotas

permit a specified quantity of imported merchandise to be entered at a reduced rate of Customs duty during the quota period. There is no limitation on the amount of quota product that may be imported into the United States at any time, but quantities entered during the quota period in excess of the quota quantity for that period are subject to higher duty rates.

INTELLECTUAL PROPERTY RIGHTS

* **What is an Intellectual Property Right?**

- * Broadly defined, it is the exclusive ownership of an original product of the thought processes. The Federal Government registers four broad categories of intellectual property:
 - 1 Patents - is issued to protect novel and useful inventions. Patents are issued by the U.S. Patent and Trademark office, Department of Commerce, usually for a term of 20 years and are not renewable, except by special legislation.
 - 2 Trademarks - is a design, slogan, or brand name used to identify products or services as coming from a particular source. Once a trademark has been used in interstate commerce or other commerce regulated by Congress for the requisite time, it can be registered with the Patent and Trademark Office for a renewable term of 10 years and thus protected for as long as it remains in use.
 - 3 Copyrights - protects original creations of "authorship". Such as books, music, original paintings, sound recordings, motion pictures, sculptures, and computer programs. Copyrights may be registered with the Copyright Office, Library of Congress, for a non-renewable term consisting of the life of the author plus 50 years.
 4. Mask Works - A mask work is the design of an electrical circuit, the pattern of which is transferred and fixed in a semiconductor chip during the manufacturing process. Mask works may be registered with the Copyright Office for a non-renewable term of 10 years.

In addition, Federal law gives some recognition to trade names, which need not be registered. A trade name is a business name used by a manufacturer, merchant, or other party to identify its business or occupation. A trade name can be the name of a partnership, company, or other organization. Trade names simply identify the producers themselves.

* **How can I file a claim to an intellectual property right?**

- | | |
|---|---|
| <ul style="list-style-type: none"> * For patents and trademarks write:
 Patent and Trademark Office
 U.S. Department of Commerce
 Washington, D.C. 20231 | <ul style="list-style-type: none"> * For copyrights and mask works, write:
 U.S. Copyright Office
 Library of Congress
 Washington, D.C. 20559 |
|---|---|

If you want Customs to help protect any intellectual property for which the Federal Government provides registration and in which you have an interest, it is imperative that it first be registered with the proper agency.

- * **How can Customs help protect any intellectual property?** The action which the Customs Service can take to help protect intellectual property depends on the type of intellectual property involved.

Customs has no authority to prevent the importation of goods which violate a patent unless directed to do so by an exclusion order issued by the U.S. International Trade Commission. An exclusion order directs the Secretary of the Treasury to deny entry of imports in violation of the order. The Customs Service acts for Treasury in enforcing these orders.

Details on the procedures to be followed in obtaining an exclusion order can be obtained from the :
 U.S. International Trade Commission
 Washington, D.C. 20436

While Customs cannot enforce a patent on its own authority, it can assist patent owners in attempting to determine if imports of infringing goods are taking place. Customs will survey imports and advise the patent owner of the names and addresses of importers whose goods appear to infringe the patent. Customs charges a fee for this service, which may be of 2, 4, or 6 months' duration.

Owners of registered trademarks, copyrights, and trade names can record these rights with the Customs Service. Recordation is relatively inexpensive, and subjects imports of violative items to seizure and forfeiture as prescribed by Customs regulations.

Specific information concerning patent surveys, and trademark, trade name, and copyright recordation can be obtained from the Intellectual Property Rights Branch, U.S. Customs Service, Washington, D.C. 20229

U.S. CUSTOMS FREQUENTLY CALLED NUMBERS

ABI 202-927-1200	Drawback:
ACS 202-927-1200	Contracts 202-482-7040
AES 202-927-0280	Operational Questions 202-927-0197
Blood-Importing human 202-927-0370	Rulings and Disputes 202-482-7040
Bonds 202-927-0380	Duty Rates 202-482-7040
Broker's license 202-927-0380	Export Licenses 202-482-4811
Car importing 202-927-0771	Fax 202-482-3617
Cargo 202-927-0510	Harbor Maintenance fees 202-927-0034
Classification:	Importing Questions 202-927-0370
Food and Chemical 202-482-7020	Intellectual property Rights 202-482-6960
Metal and Machinery 202-482-7030	NAFTA Center 214-574-4061
Special Classifications 202-482-6980	Passengers-general travel 202-927-0530
Textile 202-482-6980	Public Affairs 202-927-1770
Confiscated goods 202-482-6920	Quota Branch 202-927-5850
Copyright 202-482-6960	Restricted Merchandise 202-482-6960
Country of Origin 202-482-7010	
Customs Bulletin 202-927-0519	Seized Property 202-927-5220
	Seizures and Penalties 202-927-0410
	User Fees 202-927-0609

The Customs Electronic Bulletin Board (CEBB) Provides the latest information and operating instructions pertaining to the trade and importation of goods. Are you an importer, a broker, or a law professional looking for up-to-date information, requirements, or operating instructions? Do you want to know about forthcoming meetings, changes in Customs procedures and/or new requirements, quota status, and changes to the Harmonized Tariff Schedule.

U.S. Customs home page: <http://www.customs.ustreas.gov>

CHECKLIST FOR FASTER IMPORT CLEARANCE

The following is a list of suggestions of ways importers and their suppliers can work together to speed up the clearance of shipments.

- * Include all information required on customs invoices
- * Prepare your invoices carefully, allowing adequate space for data. They must be clear and accurate in all respects!
- * Invoices should contain the information normally shown on an accurate packing list.
- * Mark and number each package to correspond with marks and numbers appearing on your invoice.
- * Give a detailed description on the invoice of each item in each individual package.
- * Clearly mark the goods with the name of the country of origin, unless they are specifically exempted, and with other markings as required by U.S. law.
- * Comply with special provisions in U.S. law that apply to your merchandise; food, drugs, animal life.
- * Ask U.S. Customs for help in developing packing standards for your merchandise.

- * Assure the security of your goods at all times (Do not allow your goods to become a hiding place for drugs or other illegal contraband)
- * Consider using a carrier who uses the Automated Manifest System and a customs broker who participates in ABI (Automated Broker Interface)

IMPORT RECORD KEEPING REQUIREMENTS

The Customs Modernization Act of 1994 signaled many changes in the ways Customs will conduct its operation. From the paper-intensive operation intent on physically inspecting "the goods," the agency is much more automated now and the emphasis is on "trade community outreach" to assess needs, compliance, and "the audit."

* **Generally, the Modernization Act makes two requirements of the importer.**

- 1 The importer must maintain business records and books in keeping with good business practice.
 - 2 In addition, these business records must support the classification value which the importer attaches to a particular product. This is much different than the way things were done in the past. Under the present concept of shared responsibility, the importer, not U.S. Customs, will be legally responsible for assigning value to goods and must use "reasonable care" in doing so.
- * To meet the "reasonable care" standard, an importer should:
- * ask Customs for binding rulings before goods are imported
 - * use qualified outside professionals who know customs procedures and laws.

If merchandise is misclassified or undervalued, the importer may be accused of lack of reasonable care in which case

Customs, which retains the authority to set final classification and appraisal values, may heavily fine the importer to ensure compliance.

ESTABLISHING A CUSTOMS COMPLIANCE PROGRAM

Under the Modernization Act, Customs has established a voluntary record keeping compliance program. The program certifies record keepers after they meet customs' requirements. To encourage importers' participation, Customs will only issue warnings, instead of heavy fines, to the certified record keepers (and, hence, their employers) who otherwise are in compliance and do not have a history of repeated violations or neglect.

Hence, it is to the importers advantage to establish a compliance program that is approved by Customs. Major elements of the program are:

- * Written procedures for handling Customs matters and documents, receiving merchandise, reporting overages/shortages and related incurred costs to customs
- * Documentation which identifies the employees whose activities interact with customs operations
- * Identification of where and how records which relate to the export of goods from the U.S. are organized
- * Written policies and procedures fully describing the record-keeping systems supporting customs-related import operations
- * A record of binding Customs rulings
- * Written procedures for complying with the requirements of Federal agencies other than Customs.
- * Classification procedures which show how a classification for particular merchandise was established as well as the sources used in the process.

IMPORT REGULATORY AUDIT -- A CHECKLIST

By way of gauging compliance, we suggest importers review the following list of documents required by the U.S. Customs Service Regulatory Audit:

- * Chart of Accounts
- * General ledger and trial balance
- * Disbursement records such as journals, bank statements, letters of credit, wire transfers, etc.

- * Accounts payable records
- * Customs entry documents and records
- * Correspondence files pertaining to imported merchandise
- * Contracts, purchase orders, bills of lading, commercial invoices, and receiving documents pertaining to imported merchandise
- * Imported merchandise listings including part number catalog with descriptions, part numbers, Harmonized Tariff Schedule number, and similar information
- * Audited financial statements and federal income tax returns
- * The most recent U.S. security and Exchange filings of Forms 10-K and 10-Q
- * Foreign seller contracts
- * Royalty and license fee contracts and/or agreements
- * Contracts and agreements establishing imported merchandise prices
- * Contracts and/or agreements for payments to foreign companies for expenses other than imported merchandise, such as management fees, research and development, tooling, etc
- * Invoices, payment records and documents supporting payments for assists, commissions, merchandise purchases, transportation costs, and all other payments associated with the imported goods
- * Any other documents directly or indirectly related to the importation of merchandise

General Import Record Keeping Guidelines -- Traders may also want to take the following steps to adjust to this new regulatory environment.

- * Continue to educate yourself on the ever-changing import process. This brochure is only one small step on a life-long journey.
- * Follow common industry bookkeeping/accounting practices
- * Work with your customs broker/freight forwarder to assign value to merchandise
- * Educate your suppliers about the new requirements. It may save you money later!
- * Your trade association may know how you are impacted by these changes. Ask for help!
- * When you call Customs or other government agencies, ask specific questions. Government agencies want to help, but are limited by how much usable information you give them.

REMEMBER: ALWAYS SUBSTANTIATE AND DOCUMENT how you arrived at the value of imported goods!

Find and use a good lawyer versed in international trade and your category. In the long run, a good lawyer will save you money.

Who Must Keep Import Records? The Modernization Act expands the number of parties who must now meet the import transaction record keeping requirements to include parties engaged in filing an entry or declaration, importing, storing, or transporting bonded merchandise, or who file drawback claims.

Interestingly, computer records are now an acceptable storage medium; however, there has been no ruling on whether hard copy, in addition to computer files, must be retained for the record keeping period.

How Long Do I Keep The Records? The legal requirements for how long you must maintain records for a transaction vary. Generally, 5 years from the date of entry is acceptable; drawback situations may require documentation dating 3 years from the date the claim is paid.

A Word of Advice on Import Record Keeping -- The point of the Modernization Act is to streamline Customs operations. There is a lot of flexibility built into the Act so that the trade community has the opportunity participation in shaping the process. The concept of "informed compliance," for example, directs Customs to help importers correctly classify and value merchandise. Importers, consequently, can expect more assistance from Customs. But Customs' new direction brings with it additional powers of enforcement. As a result, when it comes

to record keeping and associated processes, importers (both old and new) are strongly advised to thoroughly review their policies and procedures and, where they have questions, consult Customs.

DISTRIBUTION SYSTEMS

An integrated international distribution system (developed from within your firm) requires investment, and is costly to develop and maintain. It allows experience curve effects, increased flexibility to customer needs, and a direct feel for the market "pulse". Using an integrated distribution system tends to work well:

- * With specialized product lines
- * When a firm has high service level requirements
- * When a firm has highly differentiated products

Using independent distributors (outside of your firm) requires substantially less investment than developing your own distribution system. Using independent distributors tends to work well:

- * When there are limited resources
- * When there is limited experience
- * When there are tight profitability objectives
- * When products are in mature stage of life-cycle
- * As an initial entry mode into a new market

Try to describe the IDEAL distribution channel, according to selection criteria, and by answering the following questions:

- * What level of control within channel is needed?
- * What capital is required, and costs to be covered?
- * Will it give you adequate market coverage, given your strategy?
- * Is the channel member compatible with your firm?
- * Will your functions find continuity with your channel member?
- * What are the "distances" between you and the channel member?

There will often be a trade-off between multiple selection criteria.

SELECTION CRITERIA FOR DISTRIBUTION OPTIONS

- | | |
|---|--|
| <ul style="list-style-type: none"> * Customer Characteristics <ul style="list-style-type: none"> * How many customers in market? * Are customers concentrated? * Where are they located? * What is their purchasing power? * What are their specific needs? * What are their purchasing habits? * Intermediary Characteristics <ul style="list-style-type: none"> * Functions they provide * Physical handling (logistics) * Promotions and sales * Service functions * Finance functions * Management (includes negotiations) * Inspections | <ul style="list-style-type: none"> * Packaging <ul style="list-style-type: none"> * Channel Structure * Number of product lines carried * Number of levels and types of intermediaries (channel length) * Number of each type of intermediary (channel width) * Relationships with manufacturers * Identity of channel members <ul style="list-style-type: none"> * Government agencies involved (if any) * Networks * Channel ownership by competitors * Competitors' relationship to channel members * Your relationship to channel members * Government controlled access to certain channels * Established exclusive contracts with existing channel |
|---|--|

TRADE SHOWS

Trade shows are a mixture of direct selling and advertising. They are useful to importers in different ways. Trade

Shows assist importers to:

- * Recognize Product/ Service Needs
 - * Develop Product Specifications/ Demands
- * Search For And Qualify Potential Suppliers
- * Determine Specific Objectives For The Trade Show:
 - * Attracting Buyer Attention/Discovering New Suppliers (Relative To Competition)
 - * Pre-Show Promotion vs. Booth Size/ Attractiveness (trade off between pre-show promotion and booth size--both are recommended highly for new exhibitors)
 - * Sampling
 - * Giveaways
 - * Product Demonstrations
 - * Establishing New Contacts/Renewing Existing Contacts (Average Contact Lasts Only 3 To 5 Minutes)
 - * Ability To Quickly Separate "Lookers" From "Buyers"
- * Booth Personnel Training/ Responsiveness To Needs
 - * Number Of Personnel Working The Booth
 - * Converting Contacts Into Qualified Sales/Purchasing Leads
 - * Ability To Pre-qualify Contacts For Follow-Up
 - * Booth Presents Appropriate Image
 - * Booth Personnel Deliver Correct Sales Message

It is good practice to arrive a few days before the show and stay a few days after the show. A study has shown that better performing firms use fewer horizontal shows (broad-based end-user audience) and more vertical shows (narrow end-user audience). Show attendees in low-authority positions tend to use non-personal information sources (e.g., catalogs, brochures). Attendees from small firms tend to use personal in-exhibit information sources, while attendees from large firms tend to use personal out-of-exhibit (e.g., at hotel, client site) information sources.

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NOTE: While specific points may have changed since this was printed, we, in SCORE Chapter 11 use it to show the complexity of importing and the affect it can have on a business plan.

- * What are the sizes of these _____?
- * Does he know if the size(s) he has chosen are the fashion of the day?
- * Who does he think are his target customers? Large fashion oriented stores that sell high quality goods are not likely to choose his _____?
- * This leaves independent boutiques I would think.
- * Does he understand how to determine the retail price of his goods?
- * Has he done some comparative shopping?

Running a small ad in _____ is dicey. Maybe if he were offering a brand name or a low price he might have some success but I would think a savvy buyer looking for fashion-right goods is not likely to buy sight unseen.

This leaves two alternatives: trades shows and direct sales. The former is not an inexpensive venture and there is no guarantee that there will be a profitable outcome. (see www.tsnn.com) The latter requires shoe leather and the desire to schlep the samples from store to store in the hopes of a sale. Tough to do.

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With importing, it is not the importing part that clients need help on, it is all the other things about running a business that are important. More important, maybe, is that the counselor have some experience or knowledge of the industry or type of business.

There is very little difference between buying from a local supplier or importing other than the differences in cost, quantities to make shipping economical, and reorder delivery time. If a client does not know the differences or that there may be local/domestic resources, then saving money, which they think they'll be doing, is a myth. There is a cost of carrying extra inventory due to quantities needed until the goods are used or arrive that may make the savings moot. Shipping LCL is very expensive unless the items are expensive, weigh little and do not take up much space in the shipment. One pays for cubic space in importing so if one cannot fill up a full container, then they are asking a freight forwarder to consolidate it with other good to fill a container. Oh, but what port will it land at? If the port is close by, then the trucking costs are low ... but it may take time to find a container going to that port.

Now, we get into turnover or ROI and this is what most people going into new small businesses have no concept of. All they think of is that it can be bought cheap and sold for more or carry a bigger markup. Both are dreams of failure but they see it as dreams of success.