

Chapter 18

The Entry Process for Imports

All goods entering the United States are subject to certain customs procedures regardless of their value or dutiable status. Duties accrue upon the imported merchandise on arrival of the vessel within the customs port (or on arrival of the merchandise within U.S. Customs territory for other means of transport). The making of an entry is generally required within five working days after arrival of the importing vessel or aircraft. "Entry" is the act of filing the necessary documentation with the customs officer to secure the release of imported merchandise. If entry is not made within fifteen calendar days (after arrival of the goods), the goods are placed in a warehouse at the risk and expense of the importer. They may be sold at public auction if entry is not made within six months from the date of importation. Goods subject to depreciation (perishables) and explosive substances may be sold earlier (see International Perspective 18.1).

Goods may be entered by the owner, purchaser, his authorized regular employee, or by a licensed customs broker. When the goods are consigned to "order," the bill of lading, properly endorsed by the consignee, may serve as evidence of a right to make entry. An air waybill may be used for merchandise arriving by air. A nonresident consignee has the right to make entry but any bond taken in connection with the entry shall have a resident corporate surety (in the case of a carnet, a resident guaranteeing association). A foreign corporation in whose name a product is entered must have a resident agent at the place where the port of entry is located. In most cases, entry is made by a person (firm) certified by the carrier bringing the goods to the port of entry. The person (firm) entering the goods is considered the "owner" for customs purposes. The carrier issues a "carrier's certificate" stating that the consignee named in the document is the owner or consignee of the goods. In certain cases, entry may be made by means of a duplicate bill of lading or a shipping receipt (in the latter case, entry must be made by actual consignee

INTERNATIONAL PERSPECTIVE 18.1. Avoiding Errors in Invoicing

Any inaccurate or misleading representation or omission of required information in an invoice presented to customs pertaining to an entry may result in delays in release of merchandise or claims against the importer (unless he or she can establish due diligence). The invoice should reflect the real nature of the transaction. All invoices must include the following information:

- Description of port of entry and detailed description of merchandise, that is, grade, quality, quantity, marks, and numbers (for product and/or packages as the case may be) under which the product is sold.
- Description of the name of actual seller, importer, place, and date of sale. It should also include the purchase price in the currency of sale. In the event that the product is shipped other than in pursuance of a purchase agreement, the invoice must state the value which the owner or shipper would have received in the ordinary course of trade.
- All charges included in the invoice price including commissions, insurance etc. As well as any rebates or drawbacks allowed upon exportation of the merchandise. It should also state the value of any materials supplied by the importer.
- Any discounts as well as charges incurred by seller or consignee to deliver the merchandise to buyer and not just the FOB price.

or duly authorized agent). Where the goods are not imported by a common carrier, entry is made by importer who possesses the goods at the time of arrival (see International Perspective 18.2).

The importer or agent pays the estimated duty at the time of making entry even though customs has not yet liquidated the entry (i.e., final assessment of duty has not been made). Imported goods are not legally entered until after the shipment has arrived within the port of entry, delivery of merchandise has been authorized by customs, and estimated duties have been paid. It is the responsibility of the importer to arrange for examination and release of the goods. The required documentation can now be transmitted electronically to customs. U.S. Customs is in the process of moving toward a new paperless system in which importers can file their entries from a single location and clear shipments in hours instead of days.

U.S. Customs and Border Protection (CBP) processed twenty-nine million trade entries and collected about \$31.4 billion in tariffs, taxes, and user fees in 2005. Additional revenues accrue from confiscations of cash allegedly

INTERNATIONAL PERSPECTIVE 18.2. Types of Entry

Entry for Consumption: This is the most common type of entry. Merchandise that is not held for examination is released under bond. Even in cases where examination is required (e.g., to determine value, dutiable status, proper markings, or whether shipment contains prohibited articles), certain packages are designated for examination and the rest of the shipment is released under bond.

Entry for Warehouse: Imported goods may be placed in a customs bonded warehouse and payment of duties is deferred until the goods are removed for consumption. No duty is payable if they are re-exported or destroyed under customs supervision. Goods may be manipulated, sorted, or repackaged in the bonded warehouse for eventual consumption or export. In this case, the duty payable is for the manipulated or new product at the time of withdrawal. Goods may remain in a bonded warehouse up to five years from the date of importation.

Entry for Transportation in Bond: Merchandise may be entered for transportation in bond without appraisal to any other port of entry designated by the importer. Only an entry for consumption is accepted if more than a year has elapsed since the date of original importation Customs Form 7512.

Informal Entry: Under this category are commercial entries valued at under \$2,000 and household and personal effects, and tools of trade. It does not require the same formalities as consumption entry and is also liquidated at entry.

Mail Entry: Merchandise that is imported by mail. No entry is required on duty-free merchandise not exceeding \$2,000 in value. There is also no need to clear shipments for imports of under \$2,000 (e.g., parcel delivered by letter carrier). For merchandise whose value exceeds \$2,000, formal entry (consumption entry) is required. For mail entry of certain products such as furs, leather, footwear, the limit is \$250.

Temporary Importation Under Bond: Certain types of goods that are not imported for sale (or sale on approval) are admitted without payment of duty, under bond, for exportation within one year (could be extended up to three years upon application to the port director) from the date of importation. This generally includes merchandise imported for repair, articles used as models, samples, animals and poultry imported for breeding, etc. The ATA Carnet can be used for this purpose.

Drawback Entry: A refund of 99 percent of all customs duties is allowed under certain conditions: (1) if the imported material is exported in the same condition as when imported or when destroyed under customs supervision within three years of the date of importation, or (2) if the imported merchandise is used in the manufacturing process and exported within five years from the date of importation.

involved in money laundering, penalties for violations of import quotas, and so forth (Bovard, 1998). In addition to the U.S. Customs Service, importers should contact other agencies when questions regarding particular commodities arise. Questions with respect to imports of products regulated by the Food and Drug Administration (FDA), for example, should be forwarded to the nearest FDA district office. Similarly, the respective federal agencies should be consulted whenever an imported product is subject to their regulatory regimes.

THE ENTRY PROCESS

Filing Entry Papers

The entry process requires filing the necessary documents to enable customs to determine whether the merchandise may be released from its custody, as well as for duty assessment and statistical purposes. Both of these processes can be accomplished electronically via the Automatic Broker Interface program. What are entry documents? Entry documents generally consist of (1) an entry manifest (Form 7533) or application and special permit for immediate delivery (Form 3461), (2) a commercial invoice (or pro forma invoice when the commercial invoice cannot be produced), (3) a bill of lading, air waybill, or other evidence of right to make entry, (4) a packing list, if appropriate, and (5) other documents necessary to determine the admissibility of the merchandise. This may include information to determine whether the imported merchandise bears an infringing trademark. If the goods are to be released from customs on entry documents, an entry summary for consumption must be filed. An entry summary includes the entry package returned that allows for release of merchandise and other forms (Form 7501).

Release of Merchandise and Deposit of Estimated Duty

Once the complete entry is made by filing with customs (i.e., the declared value, classification, and rate of duty applicable to the merchandise as well as an entry summary for consumption), the product is released by customs and the estimated duty deposited. A bond must be posted before filing the entry summary to guarantee payment of duties or taxes upon the final assessment of duties or other fees by customs (liquidation of entry). Bonds are required for almost all formal entries, and may be required for some informal

entries and temporary importation under bond entries. There are also bonds covering the activities of warehouse proprietors, carriers etc.

If goods are to be released upon entry, an entry summary for consumption must be filed and estimated duties deposited at the port of entry within ten working days of the goods' entry. Immediate release of a shipment can be obtained through a special permit (Form 3461) prior to arrival of the goods. Carriers participating in the Automated Manifest System can receive conditional release authorizations after leaving the foreign country and up to five days before landing in the United States. Upon approval by customs, shipments are released expeditiously after arrival of the merchandise. However, entry summary must be filed and estimated duties deposited within ten working days after release. Immediate delivery release is allowed for certain types of goods: articles for a trade fair, shipment consigned to agency of U.S. government, tariff quota merchandise (in some cases, merchandise under absolute quota), or merchandise arriving from Canada or Mexico (when approved by bond director and bond is on file). In cases where articles subject to different rates of duty are packed together, the commingled articles shall be subject to the highest rate of duty applicable to any part of the commingled lot. However, the consignee or agent can segregate the merchandise to allow customs to ascertain the appropriate duty (within thirty days after notice by customs of such commingling).

A bond is different from a carnet because the latter serves as a customs entry document and as a customs bond. Carnets are ordinarily acceptable without posting further security. Institutions that issue carnets or guarantee the payment obligation under carnets must be approved by customs. In cases where a carnet is not used, a bond is usually required to secure a customs transaction. A single entry bond application is made by the importer or designated person to secure the entry of a single customs transaction, while a continuous bond application is made for multiple transactions. Such application is made to the port director. A single entry bond is generally for the value of the merchandise plus duties, taxes, and fees. Customs bonds (usually 10 percent of the duties, taxes, and fees paid by the importer during the previous thirteen months) are valid until canceled either by the importer or surety. In lieu of a bond, an importer may pledge cash, savings bonds, or treasury notes. Bonds and/or cash are held until one year after an importation is liquidated (or in the case of transportation under bond, the importer demonstrates that the merchandise was either exported or destroyed properly). Customs bonds can be terminated by sending a letter to the port where the bond was originally registered and takes effect ten days after the request is received (sureties are required to send a request to customs and principal and this takes effect thirty days after receipt).

Bonds may be secured through a resident U.S. surety company, a resident and citizen of the United States, or in the form of cash or other government obligations. The list of corporations authorized to act as sureties on bonds and the limits of their bonds is published by the Treasury Department. If individuals sign as sureties, customs often requires two sureties on a bond to protect the revenue and ensure compliance with the regulations. There are also other requirements that individuals have to meet in to act as sureties: U.S. residency and citizenship, evidence of solvency and financial responsibility, and ownership of property that could be used as security within the limits of the port where the contract of suretyship is approved. The current market value of the property, less any debts, and so on, must be equal to or greater than the amount of the bond. In the event of default by the importer, the surety and importer are liable to pay liquidated damages to customs (Serko, 1985) (see Table 18.1).

Liquidation, Protests, and Petitions

Liquidation is the final ascertainment of the duties and drawback accruing on an entry by customs. Liquidation is required for all entries of imported merchandise except the following: temporary importation bond entry, trans-

TABLE 18.1. Bond Requirements by U.S. Customs and Border Protection (CBP)

Type of Bond	Bond Requirements
<i>Single Transaction Bond</i>	
Basic single entry (for general goods)	Value + duty
Quota or visa entries	3 3 value
Temporary importation	2 3 value
Goods unconditionally free of duties	10 percent of value
Autos	3 3 value
Antidumping/countervailing duties	Established by CBP
<i>Continuous Bond</i>	
Basic entries	10 percent of annual estimated duties for the next calendar year and rounded up to the next 10,000 it shall not be less than \$50,000
Goods conditionally free of duties	10 percent of duty applicable if the merchandise were dutiable
Goods unconditionally free of duties	0.5 percent 3 annual estimated import value

portation in bond, and imports that are subject to immediate exportation. The liquidation procedure involves determination of the value of imports, ascertainment of their classification and applicable rate of duty, as well as computation of the final amount of duty to be paid. Customs will then establish whether any additional (excess) duty has to be paid (refunded) to the importer, as the case may be, and notify such liquidation to the importer, consignee, or agent by posting a public notice. A formal entry is liquidated when an entry appears on the bulletin notice of liquidation posted in customs.

It is also important to note the following:

- *Limitation on liquidation.* If imported merchandise is not liquidated within one year from the date of entry, it is considered liquidated at the rate and amount of duty stated at the time of entry.
- *Voluntary reliquidation by customs.* Customs could reliquidate any entry within ninety days from the date of notice of the original liquidation.
- *Liquidation for informal, mail, and baggage entries.* The effective date of liquidation for such entries is the date of payment of estimated duties upon entry of merchandise or the date of release by customs under free duty or permit for immediate delivery (Rossides, 1986).

Conversion of Currency

The date of exportation of the goods is the date used to determine the applicable rate of exchange for customs purposes. Liquidation is not final until any protest that has been filed against it has been decided. If an importer disagrees with the liquidation of an entry, a protest may be filed in writing within ninety days after the date of notice of liquidation. The protest could be with respect to any one or more of the following: the appraised value of the merchandise, classification, duties, and other charges, the exclusion of a product from entry, or the refusal to reliquidate an entry. If a protest is denied by the district director, the importer can appeal to the Court of International Trade. The parties have a right to further appeal to the Court of Appeals for the Federal Circuit and from there to the highest court in the country, the Supreme Court of the United States. An importer can also request for further review of the protest other than that provided by the district director. If the protest is denied by the latter, the matter is forwarded for review by the regional commissioner.

Any interested party could file a petition with the secretary of the treasury if the individual/group believes that the appraised value, classification, or rate of duty for an imported merchandise is not correct. The term interested party includes manufacturers, producers, wholesalers, or trade unions in the United States.

THE HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES

In 1988, the Harmonized Tariff Schedule of the United States (HTSUS) was adopted. This was a commodity description and coding system that is predominantly used by other nations. The Harmonized System was developed under the auspices of the Customs Cooperation Council, with the active participation of governments and private organizations. The major benefits of adopting the Harmonized System are as follows:

- The HTSUS will be in line with the tariff determination procedures of most countries of the world.
- It facilitates the shipment and documentation of merchandise into the United States and creates a uniform and familiar system for U.S. exporters shipping to other countries.
- Such uniformity in classification and coding across countries simplifies the conduct of international trade negotiations and increases the accuracy of international trade statistics.

The HTSUS classifies goods according to their “essential character” or, in the case of apparel, on the basis of the fiber of chief weight. It is a detailed classification system containing approximately 5,000 headings and subheadings organized into ninety-six chapters and twenty sections (see Table 18.2).

Goods imported are subject to duty or duty free status in accordance with their classification under the HTSUS. Duty free status, for example, is available under certain conditional exemptions provided in column 1 of the tariff schedule. Column 2 is intended for countries that do not qualify for the most-favored-nation (MFN) duty rate, and imports under this category are subject to the highest rate. In cases in which the correct classification is not certain or the product falls under more than one classification, it is important to resort to the body of interpretative rules provided under the HTSUS or to seek a binding tariff classification ruling from customs which can be relied on before placing or accepting orders. Although the average tariff rate in the United States is now around 5 percent, some imports are subject to high tariffs: watch parts (151.2 percent), some shoe imports (67 percent). In certain cases, it is also possible for customs to reverse its classification even after the product has been imported and used. The customs service reversed its decision on imports of muffin mix toppings in 1996 and informed the importer to pay \$750,000 penalty for violating the U.S. sugar quota (the decision was, however, reversed for the second time). In another case, imports of large antique red telephone booths were blocked on the grounds that the

TABLE 18.2. Harmonized Tariff Schedule of the U.S

Heading/ Sub- heading	Stat. Suffix	Article Description	Units of Quantity	Rates of Duty/ General Special 2		
				General	Special	2
4902		Newspapers, journals and periodicals, whether or not illustrated or containing advertised material: Appearing at least four times a week				
4902.10.00	00		Kg	free	free	free
4902.90		Other: Newspaper supplements				
4902.90.10	00	Printed by a granure process	No	1.6%	Free (A, CA, E, IL, 5, MX)	25%
4902.90.20	20	Other: Newspapers appearing less than four times a week	Kg	free		
	40	Other business and professional journals and periodicals	No			
	60	Other (including single issues tied together for shipping purposes	No			

Note: CA = Canada (import from Canada), A = GSP countries, MX = Mexico, E = Caribbean Basin countries, IL = Israel, J = Andean Preference Pact.

product was actually a steel product restricted by import quotas (Bovard, 1998). Thus, one cannot overemphasize the importance of obtaining expert opinion, seeking an advance ruling by customs, or establishing reliable procedures on the correct description and classification of a given merchandise before importation (see International Perspective 18.3 for automated services).

CUSTOMS VALUATION

In 1979, the United States adopted the customs valuation system that was the result of the Tokyo Round negotiations of the GATT. Valuation of

INTERNATIONAL PERSPECTIVE 18.3. Automated Services in the United States to Facilitate International Trade

- **Automated Broker Interface (ABI):** The Automated Broker Interface is a component of the U.S. Customs Service's Automated Commercial System that permits participants to electronically file required import data with customs. ABI participants include brokers, importers, carriers, port authorities, or independent service centers. Presently, over 96 percent of all entries are filed through ABI, which speeds up the release of merchandise. Entry summaries are electronically transmitted, validated, confirmed, corrected, and paid. Participants are also informed of current information. Participants can request quota status, visa requirements, entry, or entry summary status. It allows filers to pay for multiple entries with one payment transaction.
- **Automated Clearing House (ACH):** The Customs Automated Clearing House is an electronic payment option that allows participants to pay customs fees, duties, and taxes electronically. Participants' banks must belong to the National Clearinghouse Association. The accuracy and speed of ACH results in a higher volume of transactions.
- **Automated Export System (AES):** The Automated Export System is a joint undertaking between the Bureau of Export Administration, U.S. Customs, and other federal agencies intended to assure compliance with U.S. export regulations and improve trade statistics. Its objective also includes introduction of a paperless reporting system for export information by 2002.
- **Automated Information Systems Security policy (AIS):** This policy provides guidance for the protection of AIS resources by establishing uniform policies and procedures for the customs AIS Security program. It provides security for information that is collected, processed, stored, or transmitted.
- **Automated Manifest System (AMS):** This is a cargo inventory control and release notification system. This interfaces with other systems such as ABI to allow for faster identification and release of low risk shipments. It speeds the flow of cargo and entry processing and provides participants with electronic authorization of cargo release prior to arrival. It also facilitates the intermodal movement and delivery of cargo.
- **AMS paperless master in-bond participants:** This program is designed to take advantage of the detailed information available within the AMS to control the movement and disposition of master in-bond shipments from the custody of the ocean carrier at the port of unloading to the same carrier's custody at the port of destination. AMS tracks and records such merchandise.
- **Cargo Selectivity:** This system is used to sort high risk cargo from low risk cargo and to determine the type of examination required. It accepts data transmitted through ABI and compares it against established criteria.

a product is important because most imported products are subject to tariffs based on the percentage of the value of the import (ad valorem rate). It also helps countries to maintain accurate and comparable records of their international trade transactions.

Imported merchandise is appraised on the basis, and in the order, of the following:

1. Transaction value
2. Deductive value
3. Computed value

The Transaction Value

Transaction value is the invoice price of the goods as they enter the United States. In determining transaction value, the price actually paid or payable will be considered without regard to its method of derivation. The value includes various costs that enhance the good's value to the importer, such as packing costs, sales commissions, and royalties. It also includes any direct or indirect items provided by the buyer free of charge or at a reduced cost for use in the production or sale of merchandise for export to the United States. In short, the transaction value is the price actually paid or payable for imported merchandise, excluding international freight, insurance, and other CIF charges. Transaction value cannot be used in the following situations:

- In cases in which the transaction value cannot be determined (proceeds of subsequent sales, etc.), or is not acceptable (related-party transactions)
- In cases involving restrictions on the sale or use of the product

Example 1

A foreign shipper sold merchandise at \$1,500 to a U.S. buyer. The seller subsequently increased the price to \$1,650. The invoice price is \$1,500.00 because that was the price agreed to and actually paid by the importer. The merchandise should be appraised at \$1,500 because the latter was the price actually paid by the buyer—the transaction value.

Example 2

DM, Incorporated, a firm located in Miami, Florida, purchased 10,000 barrels of crude oil from a Venezuelan oil company, Soto, Incorporated, for \$250,000. The price consists of \$200,000 for the oil and \$50,000 for ocean freight and insurance. Soto would have charged \$210,000 for the oil. However, since it owes DM \$10,000, Soto charged DM only \$200,000 for

the oil. The transaction value is \$210,000, that is, the sum of \$200,000 + \$10,000, excluding CIF charges of \$50,000 for ocean freight and insurance.

If the transaction value cannot be determined, the transaction value of identical merchandise or, in the absence of that, the transaction value of similar merchandise (commercially interchangeable), will be used. The transaction value of identical and similar merchandise (ISM) will be used under the following circumstances:

- The products (ISM) must have been sold for export to the United States at or about the same time as the merchandise being appraised.
- Value must be based on sales of ISM at the same commercial level and substantially the same quantity as the sale of the merchandise being appraised.
- The ISM must be produced in the same country and by the same person (if not available, by a different person) as the merchandise being appraised.
- In cases involving two or more transaction values for ISM, the lowest value will be used as the appraised value of the imported merchandise.

Deductive Value

This method is used when the transaction value cannot be determined, such as sales between related parties. However, if the importer designates computed value as the preferred method of appraisal, the latter can be used as the next basis of determining value. Deductive value is essentially the resale price of an imported product, with deductions for commissions, profit, and general expenses, transportation and insurance costs (from the country of export to the United States), import duties and taxes, and any cost of further processing after importation. The deductive value is generally calculated by starting with the unit price and making additions to (such as packing costs), and deductions from, that price (see International Perspective 18.4).

Example 1

Merchandise is sold to an unrelated person from a price list which provides favorable unit prices for purchases in larger quantities:

Total Quantity Sold	Unit Price (\$)
65	90.00
50	95.00
60	100.00
25	105.00

INTERNATIONAL PERSPECTIVE 18.4. Unit Price in Deductive Value

One of three prices is used based on time and condition of sale:

- If the merchandise is sold in the condition as imported at or about the date of importation of the merchandise being appraised, the unit price used is the one at which the greatest quantity of the product is sold.
- If the merchandise is sold in the condition as imported, but not sold at or about the date of importation of the merchandise being appraised, the unit price used is the one at which the greatest quantity of the merchandise is sold before the ninetieth day after the date of importation.
- If the merchandise is not sold in the condition as imported and not sold before the close of the ninetieth day after the date of importation of the merchandise being appraised, the unit price used is the one at which the greatest quantity (after processing) is sold before the eightieth day after the date of importation. An amount equal to the value of the further processing is deducted from the unit price in arriving at the deductive value. This method cannot be used if the further processing destroys the identity of the merchandise.

In this example, the unit price used in determining deductive value is \$90.00 since the greatest quantity is sold at that price.

Example 2

A foreign parent company sells parts to its U.S. subsidiary in Texas. The product is not sold to unrelated parties and there is no similar or identical merchandise from the country of production. The U.S. subsidiary further processes the product and sells to an unrelated buyer in Florida within 180 days after importation.

In this example, the merchandise should be appraised under deductive value, with allowances for profit and general expenses, freight and insurance, duties and taxes, and the cost of processing.

Computed Value

The computed value starts with the costs of the materials, labor, and overhead in producing the imported goods. Customs then adds profits and general expenses incurred by the producer (based on average estimates for similar goods in the same country) as well as the prorated value of any materials

supplied by the buyer free of charge or at reduced price and packing costs (U.S. Department of Commerce, 2003).

Example

Suppose under the previous Example 2, the U.S. importer requested the shipment to be appraised under computed value. The merchandise is appraised using the company's profit and general expenses if not inconsistent with sales of merchandise of the same class or kind.

If none of the previous methods can be used to appraise the imported merchandise, the customs value is based on a value derived from one of these methods, reasonably adjusted or administered flexibly. If an identical or similar product, for example, is not available in the exporting country, customs could appraise an identical or similar product from a third country to determine value.

RULES OF ORIGIN AND OTHER MARKING REQUIREMENTS

Imported articles are to be marked with the name of the country of origin to indicate to the ultimate purchaser the name of the country in which the product was manufactured. The ultimate purchaser is generally the last person in the United States who will receive the article in the form in which it was imported.

Country-of-origin determination is important because imports are subject to selective tariffs and nontariff barriers depending on the origin of the merchandise. Country-of-origin is the country of manufacture, production, or growth of an article. Most imports, such as those from Canada and Mexico, enter duty free, whereas those from some other nations are subject to a higher tariff, a quota, or even an import ban (e.g., Cuba and North Korea). Customs uses the "substantial transformation test" to determine the country of origin of a product that is made up of components or materials from several different countries. The country of origin is determined to be the one where the product was substantially transformed into its current state (Buonafina and Haar, 1989).

Markings must be legible and located in a conspicuous place where they can be seen with a casual eye in the handling of the merchandise. They should be capable of remaining permanently on the article during transportation or handling. In the case of certain articles for which marking is not re-

quired, such as artworks, lumber, sugar, and so forth, their containers must be marked to indicate the English name of the country of origin. There are also special marking requirements for certain articles such as watches, surgical instruments, knives, razors, steel, pipes, and vacuum containers. However, marking is not required for imports not intended for sale (personal use items), products used for further processing, or crude substances, or for items that are incapable of being marked or cannot be marked without injury or prohibitive expense. Other articles not required to be marked with the country of origin include articles valued at no more than \$200 that are passed without the filing of a customs entry, articles brought into a foreign trade zone or a bonded warehouse for immediate exportation, and certain coffee, tea, and spice products, etc. Notwithstanding the exemption, the containers must be marked to show the country of origin of such articles (19 CFR 1304).

CHAPTER SUMMARY

Entry of Imports

Entry is the act of filing the necessary documentation with customs to secure release of imported merchandise.

Accrual of Duties on Imports

1. *On arrival of the vessel:* Upon arrival of vessel within the U.S. Customs territory
2. *Arrival of merchandise:* Upon arrival of merchandise within the U.S. Customs territory (for other means of transport)

Who May Enter the Goods

Owner, purchaser, authorized regular employee, or a licensed customs broker

Documentation Required to Enter Merchandise

Entry manifest, commercial invoice, pro forma invoice, packing list, and other necessary documents

Release of Merchandise

After complete entry is made, product is released by customs and estimated duty paid. A bond must be posted to guarantee payment of duty upon final assessment of duty. A bond may be secured through a resident surety company, resident, citizen, or posted in the form of cash or other government obligations.

Liquidation and Protests

1. *Liquidation*: This involves the final ascertainment of the duties and drawback accruing on an entry by customs.
2. *Protests*: If an importer disagrees with the liquidation of an entry, it is possible to file a protest in writing with the district director within ninety days after notice of liquidation. The decision can be appealed to the Court of International Trade, the Court of Appeals for the Federal circuit, and the Supreme Court of the United States.

Harmonized Tariff Schedule of the United States (HTSUS)

HTSUS is a commodity description and coding system that is used by many countries. It classifies goods according to their essential character.

Customs Valuation

Imported merchandise is appraised on the basis and in order of the following:

1. *The transaction value*: Invoice value of the goods as they enter customs
2. *The deductive value*: Resale price of imported merchandise with deductions for profit and general expenses
3. *The computed value*: Cost of materials, labor, and overhead in producing the imported product, plus profits and general expenses incurred by the producer and value of any items supplied by buyer

Rules of Origin and Other Marking Requirements

Marking requirements: Every imported article must be legibly marked with the English name of the country of origin unless otherwise indicated.

REVIEW QUESTIONS

1. When do duties accrue on imported merchandise?
2. What is entry of goods? Who may enter the goods?
3. Explain the difference between single entry bond and a continuous entry bond.
4. What happens to merchandise that is not liquidated within one year from the date of entry?
5. Discuss the advantages of HTSUS.
6. Briefly describe computed value.
7. Why do importing countries require certificates of origin?
8. Describe some of the automated services at U.S. Customs.
9. What is liquidation of entry?
10. Transaction value cannot be used in certain circumstances. Discuss.

Minicase 18.1

A U.S. makeup retailer imports lipstick from an unrelated Mexican company that uses the materials and incurs costs for materials in the assembly of one tube of lipstick, as indicated in the following list. In Mexico, the company assembles the materials into a finished product (a tube of lipstick packaged for retail sale). Upon the importation, the retailer, who is also the importer of record, intends to sell the lipstick for “cost + 20%.”

Part No.	Description	Cost (\$)	Country-of-Origin (PN)
1.	Plastic tube base	0.05	Mexico
2.	Plastic tube cover	0.05	Mexico
3.	Plastic swivel base	0.05	Canada
4.	Metal shell	0.05	China
5.	Metal collar	0.05	China
6.	Small round mirror that attaches to bottom of PN 1	0.05	United States
7.	Lipstick mass	0.55	France
8.	Packaging material	0.10	United States

1. What is the per unit entered value?
2. What is the country-of-origin for the retail package?

Minicase 18.2**COMMERCIAL INVOICE****DONGA MICHAEL INC.****Shipper/Exporter**Donga Michael Inc.
570, Freedom Road, Taeu
Seoul, Korea**No. and Date
of Invoice**US0001E Wednesday,
November 15, 2006**For Account and Risk of Messers**Tom Salves Stores
23 Furn Rd.
Ft. Lauderdale, Fl. 45682**No. and Date of L/C****Notify Party****L/C Issuing Bank****Port of Lading**

Kimpo, Korea

Final Destination

Seattle, WA

Remarks

P/O No.: IWUVU1

CarrierAircraft
United Parcel
Service**Departure on
or about**

November 18, 2006

*Marks and Numbers of
Pkgs.***Description
of Goods****Quantity****Unit
Price
(U.S. \$)****Amount
(U.S. \$)**1. Country of Origin: Korea
Men's 100%
Cotton Knit Polo Shirt
Stitch count of 12 stitches
per 2 cm in
each direction
PN: POKNSHRT

1,000pcs

1.50

1,500

2. Country of Origin: Japan
Women's Cotton Knit
Black Bras Containing
Lace
PN: AB40ZYI

1,200pcs

2.00

2,400

(2%, Net 15 Days)

TOTAL 2,200 pcs**3,900**

Master Bill: 001-63324833

House Bill: UPS56676406

Estimated Entry Date 11/19/06

1. What is the entered value at customs in Seattle? What is the port code?
2. In June 2006, the Department of Commerce published a countervailing duty order on women's undergarments from Japan (20 percent). It is to be effective from the first of June 2006. What amount is due for this shipment?

Minicase 18.3

1. What is the transaction value of a shipment invoiced at \$100,000 if the terms of sale are delivered duty paid (DDP), the ocean freight paid is \$6,000, the insurance paid is \$850, the duty rate is 6.5 percent, and harbor maintenance fee and merchandise processing fee are paid at 0.125 and 0.21 percent respectively?

2. Calculate the appraised value for a shipment of 10,000 computer monitors with a unit value of \$75 CIF, Los Angeles?

The seller received the cathode ray tubes used in the manufacture of these computer monitors free of charge from a third party that was satisfying a debt owed to the seller of the finished computer monitors.

The cathode ray tubes, including transportation and insurance, would have cost \$25 each.

There is no through bill of lading associated with this entry.

Foreign inland freight is \$1 each.

Ocean freight is \$2.50 each.

Marine insurance is \$0.50 each.

3. What is the dutiable value for the following transaction? The terms of sale are delivered, duty and fees paid, Chicago. The commercial invoice appears as follows:

12,000 dozen baseball caps, @ \$30 per dozen	\$360,000
International freight charges	\$2,500
International insurance	\$800
Brokerage charges	\$150
Total DDP Price	\$363,450

The caps are classified 6505.90.8090 @ \$0.187 per kg. 1 6.8 percent. The net weight of the shipment is 8,000 kg. The actual ocean freight charges were \$2,800. Transaction Value is the appropriate basis of appraisement.

4. ——— Is the price actually paid or payable for imported merchandise when sold for exportation to the United States?

CASE 18.1. DEEMED LIQUIDATION BY CUSTOMS

Koyo Corporation of USA (Koyo) imported roller and ball bearings for resale in the United States. At the time of entry, antidumping duty orders issued by Department of Commerce were in effect. The orders required duty deposits to cover estimated antidumping duties between 48 and 74 percent ad valorem. Liquidation of the entries was suspended due to the ensuing litigation. The importers (Koyo) were successful and the rates were substantially lowered.

In view of the successful outcome for Koyo in the litigation, Department of Commerce issued instructions to U.S. Customs to liquidate the entries at lower rates. Customs did not comply with Department of Commerce's instructions. When Koyo contacted customs (one year later) about the liquidation of its entries, customs found these entries to have been "deemed liquidated" at the original higher antidumping duty rate.

Koyo took the case to the U.S. Court of International Trade (CIT) protesting the liquidations (after its initial protest was denied by customs). The issue is whether the deemed liquidations claimed by customs were justified under existing rules. The requirements for deemed liquidation following antidumping proceedings are that: (1) the suspension of liquidation that was in place must have been removed; (2) customs must have received notice of the removal of the suspension; and (3) customs must not liquidate the entry at issue within six months of receiving such notice.

The "deemed liquidation" provision was added to the U.S. Customs law in 1978 to place a limit on the period within which importers would be subject to the prospect of liability for a customs entry and to terminate the government's cause of action for the entry in question.

The court stated that Congress intended to encourage prompt liquidation and did not intend customs not to obey its instructions and thereby retain funds to which it no longer had valid claim. It ordered customs to re-liquidate the entries at the appropriate duty rates, as instructed by Department of Commerce, and refund the duties owed with interest to Koyo (2004 U.S. App; Fed. Circ, 2004).

Questions

1. Do you agree with the decision on prompt liquidation?
2. Conduct Internet research to examine the reasons why Congress introduced the provision on "deemed liquidation."

CASE 18.2. PRODUCT CLASSIFICATION

Better Home Plastics Corp. (BHP) imported shower curtain sets which consisted of an outer textile curtain, inner plastic magnetic liner, and plastic hooks. While the textile curtain is semi-transparent and decorative, the inner liner also matches the curtain and adds to the set's decorative appearance. The sets are sold to retailers at prices ranging from \$5.00 to \$6.00.

U.S. Customs classified the merchandise under HTSUS 6303.92.0000 at a rate of duty of 12.8 percent ad valorem. BHP protested that classification stating that the merchandise should have been classified under HTSUS 3924.90.1010 (by the set's inner plastic liner) with a prescribed duty of 3.36 percent ad valorem. According to the General Rules of Interpretation, when goods are classifiable under two or more headings such as textile curtain and inner plastic liner, customs must classify the merchandise based on the heading which provides the most specific description (rule of relative specificity). This rule may not apply in cases where both headings are regarded as equally specific and that each refer only to part of the items within the set.

In cases where the rule of relative specificity does not apply, merchandise can be classified by the component that gives their essential character (the essential character test).

BHP contends that the essential character test must be applied to classify the merchandise on the basis of its inner plastic liner while customs believes that the essential character of the product is embodied in the textile curtain because (1) the liner is used for a short time when someone uses the shower while the curtain is employed throughout the day, (2) consumers buy the product because of the decorative function of the outer curtain rather than the inner plastic liner, and (3) the plastic liner is usually replaceable at one-quarter to one-third the price of the set.

Questions

1. Do you agree with the position of BHP? Why/why not?
2. What is the essential character test?

