

Frequently Asked Questions

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1. Why do import shipments have to be bonded?

With few exceptions, Customs Regulations require all shipments to be bonded. A single transaction bond (STB) on CF 301 can be submitted with each entry to satisfy this requirement for a smaller importer. For frequent importers, a continuous bond is preferable and less expensive.

2. Why do ocean shipments have to be insured under a marine policy?

Since truck, air, and ocean carriers have a very limited coverage and liability, we strongly recommend that all customers carry cargo insurance on all shipments. The cost of insurance is less than one-half percent (0.5%) of the total cost of goods. Without all risk insurance, ocean and air carriers have a limited liability which can be as little as \$50.00, and then **only** if you can prove that damage or loss is due to negligence of the carrier.

More importantly, under maritime law, if the vessel on which your goods are transported sinks or damaged, **you are liable for a portion of the cost to replace or repair the vessel. This is in addition to the loss or damage to your shipment!** If "general average" is declared, **your cargo cannot be released without a substantial cash deposit**, starting at several thousand dollars and conceivably going into six figures or more. Please also be aware that some unscrupulous foreign insurance companies routinely deny claims knowing that the importer may not be able or willing to come to their country and sue in their courts to recover losses. We are pleased to offer an excellent, low-cost policy with a major U.S. insurer.

3. *Why does it take Customs so long to examine shipments?*

Congress has mandated Customs to increase the number of physical examinations from less than two percent before 9/11 to at least eight percent. The double-digit growth in imports combined with the quadrupling of exams has caused frequent backlogs of examinations

4. *What does Customs look for when they examine shipments?*

Customs is looking for contraband, including drugs and pirated intellectual property rights, merchandise not invoiced or misclassified, and generally anything that should not be in the shipment.

5. *Why do some shipments from the same vendor take longer than others?*

Delays in manufacturing are the most common reason. Missing a ship, having your shipment “bumped”, faulty or incomplete shipping documents, weather delays in transit, and congestion at the ports and container yards comprise most of the remaining delays.

6. *Is the bill of lading (BOL) a contract?*

The bill of lading (BOL) is a legal contract of carriage between the shipper, the consignee/importer, and the carrier. The BOL is issued by a carrier acknowledging the specified goods have been received on board as cargo for conveyance to a named place of delivery. Most BOL’s have additional terms and conditions on the back, known as “boiler plate”, and many frequently reference their tariffs, which contain additional terms and conditions. Importers should be aware that ALL terms and conditions of the BOL form a legally binding contract.

7. *What is the difference between a “master” BOL and a “house” BOL?*

The bill of lading (BOL) will be either an ocean bill of lading (OBL) or an airway bill (AWB). In the case of a pure truck shipment, an I.T. serves as the BOL. An AWB will be either a master AWB (MAWB), indicating the shipment was made directly with the carrier, or a house AWB (HAWB) indicating the shipment was made by an airfreight consolidator, also known as an air freight forwarder. Sometimes, ocean shipments are consolidated by a non-vessel operating common carrier (NVOCC, usually shortened to “NVO”), and move on a type of OBL known as a forwarder's cargo receipt. In any case, the required document will be supplied by the carrier.

8. *What is the difference between “per diem”, “detention”, and “demurrage”?*

Per Diem

Steamship line container per diem - in addition to rail storage, a steamship line charges per diem on their containers after they become available for pick up. This can be at the Seaport or an inland destination. Normally you have 5 days from the time the freight is notified as available for pick up to return the empty to their designated point. The time period varies per carrier, as do the charges, check with your provider.

Detention

Trucking companies charge detention for driver wait time when the loading or unloading of a shipment takes longer than the allotted free time. Most truckers allow one to two hours for a live unload. The charges for detention vary greatly but are generally between \$65 to \$100 per hour.

Demurrage

Steamship companies and airlines allow only a few days free time for shipments to clear Customs and be dispatched from their cargo facility. Past the allowed free time, which is **usually** 5 days but is up to each individual warehouse, a daily storage rate known as demurrage is charged. These charges can accrue rapidly. Please advise us of pending shipments so that we can help you avoid this situation.

9. Who is responsible for delivery on a “door delivery” BOL shipment?

The bill of lading (BOL) is a legally binding contract of carriage between the shipper, the consignee/importer, and the carrier. When the BOL stipulates a “place of delivery” other than a container yard, the responsibility of routing the shipment to that place of delivery clearly rests with the parties named on the BOL. The broker is NOT a party to that contract and therefore is technically NOT responsible for issuing a delivery order. As a courtesy to our importers, we do routinely issue a “delivery advice”.

The broker’s responsibility ends, however, with the Customs release. We cannot be responsible for any problems on a door delivery arising after we have obtained Customs release. We have had several instances of carriers demanding demurrage charges for a broker not issuing a delivery order, or for not paying charges assessed the cargo by a port authority, or even for demurrage when the carrier cannot arrange for a trucker. These are issues between the parties to the BOL. Further, we are of the opinion that carriers have no legal right to assess demurrage on a door move if a Customs release has been timely effected.

10. What is “informed compliance”?

The concept of "informed compliance" is that importers must be informed of their responsibilities, and they must also comply with Customs requirements. Customs has an aggressive inspection and review program that identifies importers that are not compliant. Once identified, Customs seeks maximum penalties. For decades, Customs has put violations in three categories: simple negligence; gross negligence; and fraud. Penalties increase exponentially as the violation moves from simple negligence to fraud. Customs special agents have zealously sought fraud and gross negligence penalties where, until several years ago, most penalties were of the more benign simple negligence category. A major factor in determining if a violation is simple negligence or otherwise is whether the importer exercised reasonable care.

11. What is “reasonable care”?

An integral part of informed compliance is the exercise of "reasonable care." The Mod Act specifically requires that the importer of record "... shall, using reasonable care, ...complete the entry by filing the declared value, classification and rate of duty..." Customs published the "Reasonable Care Checklist" to help importers become both informed and compliant. While not exhaustive or "foolproof," this checklist is a fairly comprehensive aid for importers in exercising reasonable care. It should be incorporated into every import program, or the importer will be unnecessarily exposed to gross negligence or fraud penalties by Customs.

12. Where can I find the Reasonable Care Checklist?

The entire checklist should be carefully reviewed by every importer, noting the following central implications:

1. Customs clearly holds the importer responsible for the accuracy and completeness of the information relevant to the import. While using a customs broker is one aspect of reasonable care, the importer must give the broker "full, complete, and accurate information"; otherwise, it is not reasonable care.
2. The importer should have formal, written procedures in place. We HIGHLY recommend every importer prepare an **import procedures manual**.

3. The importer should have reliable safeguards in place to ensure that the procedures reflect the current operating environment and are followed. We HIGHLY recommend **annual pre-audit reviews** for every importer to insure compliance.

The complete checklist is eighteen pages, and it is posted on their website at

http://www.cbp.gov/linkhandler/cgov/toolbox/legal/informed_compliance_pubs/icp021.ctt/icp021.pdf

13. What are the minimum documents required for Customs entry?

At a minimum, a bill of lading and an invoice are required. For truck shipments, and in cases where your shipment arrives in the U.S. at another port and is forwarded to Atlanta, an in-transit document known as an "I.T." I.T.'s are discussed below.

14. Where can I find Customs invoice requirements?

A. Invoices are furnished by the seller or manufacturer. Section 141.86, Customs Regulations include the following requirements for invoices:

- 1) Name & address of invoicing party
(seller/manufacturer)
- 2) Name & address of purchaser
- 3) Detailed description of the merchandise:
 - a) Name by which each item is known
 - b) The grade or quality
 - c) The marks, numbers, and symbols under which it is sold and/or packaged
 - d) Quantities in appropriate weights and measures
 - e) Purchase price of each item in the currency of the transaction
 - f) All charges, assists, buying or selling commissions
 - g) All discounts
 - h) Country of origin

NOTE: A "detailed description" is one which enables an import specialist to properly classify imported merchandise in accordance with the HTSUS. The invoice must indicate any information which has a direct bearing on the proper classification and is not, in some instances, limited to the above list. It is the responsibility of the importer to comply with invoice sufficiency requirements.

- 4) In English, or an accompanying translation to English
- 5) Packing list

B. Section 142.6, Customs Regulations, additionally requires:

- 1) Quantities in units as required by HTSUS
- 2) Value of merchandise in the currency of the transaction
- 3) The correct HTSUS classification

Please note that this information MUST be furnished before release of merchandise will be authorized by Customs.

C. Additional Requirements for Textile Articles

- 1) Fiber content
- 2) Construction of fabric (knit vs. not knit)
 Note: Knit construction consists of interlocking loops, and includes crocheted articles.
- 3) Complete description (eg. men's knitted sweater, 60% wool/40% acrylic; girls' woven blouse, 100 % cotton)
- 4) A manufacturer's declaration in accordance with Section 12.130(f), Custom Regulations, if the articles are subject to Section 204, Agriculture Act of 1956, as amended. This is required regardless of country of origin.

15. What is a "Harmonized" number?

Each item on every invoice must be classified in accordance with the Harmonized Tariff Schedule of the United States. This schedule contains about 8,000 commodity descriptions, and classification is accomplished according to seven rules of interpretation. Classification, though usually simple, can frequently result in complex, detailed, and extensive analysis. An accurate classification is the first step in a smooth entry. Conversely, an inaccurate classification can result in frustration, costly delays, severe penalties, seizures, and even prosecution. If there is any question or controversy about the classification, we strongly recommend a binding ruling be obtained from Customs.

16. What is an "I.T."?

In-Transit Document ("I.T.")

Merchandise frequently moves from the port of unloading to a port where consumption or warehouse entry is made. Since the merchandise is still under Customs supervision (*i.e.*, duty has not been determined), the goods must move on a bonded carrier. The CF 7512 is the document the carrier files with Customs so that Customs can track the shipment from port to port to insure that an entry is ultimately made and duty paid.

17. Why must I sign a Customs power of attorney prior to the broker handling my shipment?

Customs regulations require a written Customs Power of Attorney (POA) **prior** to transacting any Customs business. This is usually accomplished by the importer signing a pre-printed form furnished by the broker. For corporations, including LLC's, the person signing the POA **must** be authorized to do so by the board of directors of the importer. Only officers of the corporation are presumed to be authorized without a written letter signed by the corporate secretary. For partnerships, including LLP's, a general partner must sign the Power of Attorney form.

18. Why does the broker use a different currency exchange rate that my bank?

Transaction value is the value used to determine duty, and is usually the "price paid or payable" on the FOB invoice value of the merchandise at the foreign port of exportation. If the transaction is in a foreign currency, the broker must use the official exchange rate, published by the New York Federal Reserve Bank, for the date of export, to compute transaction value. Under some circumstances, alternative valuation techniques must be used to determine transaction value.

19. What is a "Notice of Liquidation" and why is it important?

Notice of Liquidation

Customs is required to notify the importer and the broker when an entry liquidates. "Liquidation" means that Customs is completely satisfied with the particular entry and is closing their file. Although there are many exceptions, most entries liquidate after 314 days. You will receive a courtesy notice from Customs in the mail at the time of liquidation.

20. How can I improve my chances of avoiding delays in shipment?

[Advance Documents & C-TPAT]

Advance Documents

In January 2002, Customs launched the Container Security Initiative (CSI) to prevent global containerized cargo from being exploited by terrorists. One of the main components of CSI is the 24-hour advance manifest rule that requires shippers to provide full manifest information to Customs at least 24 hours in advance of departure from the origin country. With the advance manifest information on hand, Customs will determine whether or not they want to inspect goods prior to their lading on board the vessel. The non-vessel operating common carrier (NVOCC) or the master carrier is responsible for transmitting this information to Customs via EDI. However, it is imperative that your shippers have complete and accurate paperwork available in a timely fashion or your shipment may not be exported as quickly as you think.

Additionally, if we can receive complete and legible documents in advance of the arrival of your shipment, we can frequently make entry prior to the arrival of the vessel or aircraft. For ocean shipments, we can make entry no more than 5 days prior to vessel arrival. For air shipments, we must confirm the shipment is on board and the aircraft has taken off ("wheels up"). Documents from your vendors should always be sent by courier, and **never** mailed. It is wise to always have your vendors also fax or email copies of documents. Most shipments can be entered with these copies. We further suggest that you have your vendor list us as a "notify party" on the bill of lading or air waybill. These steps can reduce your entry release time possibly even to zero, and help avoid the costs of demurrage and G.O.

For additional information on commercial imports, we suggest you also refer to Customs website at <http://www.cbp.gov/nafta/cgov/pdf/iius.pdf> or contact our office at 404-361-1114. We look forward to serving your import needs.

Custom-Trade Partnership Against Terrorism (C-TPAT)

Customs – Trade Partnership Against Terrorism (C-TPAT) is a joint Government-business initiative designed to build cooperative relationships and strengthen supply chains so that weapons of mass destruction or other terrorism efforts do not enter the USA. Customs and Border Protection is asking businesses to ensure the integrity of their supply chain security practices and communicate their security requirements to all partners in their supply chains. Accordingly, Customs is asking all parties engaged in international trade, including importers, manufacturers, customs brokers, carriers, freight forwarders, etc. to participate in this program. The reasons importers should apply for this program include expedited processing through Customs, reduced inspections, and an improved supply chain. For example, in 2006, 1 in only 360 C-TPAT shipments were examined while 1 in 47 of non-C-TPAT shipments were examined. C-TPAT shipments were 7.5 times LESS likely to be examined, and this will only improve!

Most of the C-TPAT requirements for importers are recognized security standards already in existence such as credibility and credit checks on vendors, high security seals on containers, and restricted access to container yards, loading docks, IT systems, etc. We have found that most well-run companies already have 80-90 percent of C-TPAT security requirements in place, so compliance is not usually a problem. There is, however, an 8000 application backlog that will delay acceptance into the program, perhaps as much as a year. Application is online, but you must provide your security profile (eg., your security procedures and processes in a special format) at this time. Your security profile should which encompass procedural security, physical security, personnel security, education and awareness training, access control, manifest procedures and conveyance security issues We will gladly provide you a Power Point presentation we have prepared on C-TPAT and furnish you with a copy of our security profile. Our website has a link to C-TPAT information on Customs' website.

21. What is GSP?

Generalized System of Preference (GSP) is a duty preference program that offers most lesser developed countries (LDC's) duty-free or reduced duty treatment on all or most of their merchandise imported into the U.S. GSP expires periodically, and Congress has to date always reinstated it, usually retroactively. Please contact our office for the current status.