



IMPORTING AND YOUR LONG TERM STRATEGY

Benjamin L. England & Associates, LLC.

Performing a self-audit before importing into the United States is a highly recommended best practice.

Therefore, you should ask yourself the following set of questions:

1. From Where Do I Intend to Import?
2. What Type of Goods and/or Commodities Am I Intending to Import?
3. How Do I Intend To Transport My Goods Into the United States?
4. When Do I Need My Goods To Reach Their Final Destination?
5. How Many Government Agencies May Be Involved in the Importation of My Goods?
6. What Paperwork and Supporting Documentation Do I Need?
7. How Do I “Enter” the Goods Utilizing the Customs ACE System?
8. What Am I Trying to Avoid With Legal Assistance?



From Where Do I Intend to Import?

“THE COUNTRY OF ORIGIN”

The “Country of Origin” is one of the most important aspects in your pre-audit analysis. The country of origin of your imported product can control or impact the following:

- Availability of preferential tariff treatment under trade agreements ex. North American Free Trade Agreement (“NAFTA”).
- The applicability of antidumping and countervailing duties may also depend on country of origin determination.
- Trade Sanctions limiting trade between the US & foreign countries ex. N. Korea, Syria, Cuba, & Iran.
- Mode of transportation in which your product is shipped and packaged.
- Required documentation that will accompany your imported goods/commodities.
- Determine the resulting import duty rates.

From Where Do I Intend to Import?

“THE COUNTRY OF ORIGIN”

- Defining “Country of Origin” can be challenging because there are nuanced variations in CBP’s definition of “Country of Origin.”
- CBP also sets “Country of Origin” determinations, and product-specific rules have arisen through years of Customs rulings.
- A clear understanding of the meaning of “Country of Origin” in the context of your intended imported product is important because it may mean something different and/or require something different depending on the agency (i.e. CBP v. FDA).
- Also, trade agreements such as NAFTA, IFTA, etc. may set different requirements for “Country of Origin” than the country of origin rules set out in Customs regulations and rulings.
- Our law firm can help to differentiate between these nuances regarding “Country of Origin.”

What Type of Goods and/or Commodities Am I Intending to Import?

- ▶ A thorough understanding of the type of goods or commodities which you intend to import is the next step in your long term analysis.
- ▶ The type of goods will affect the following:
 - ▶ The classification selected;
 - ▶ The applicability of antidumping and/or countervailing duties;
 - ▶ The duties paid;
 - ▶ The mode of transportation;
 - ▶ The documentation you will require in order to get it out of your country;
 - ▶ The documentation required in order to import the goods into the United States.
- ▶ Our law firm can assist in researching the appropriate classification and valuation of your goods.



How Do I Intend To Transport My Goods Into the United States?

- Every shipment has special, individual characteristics to determine the route and mode of transportation into the United States.
- For example, do your goods have special handling or temperature requirements?
- These characteristics must be taken into account to determine which Port of Entry is to be utilized in entering the United States.
- Ports of Entry are officially designated areas at U.S. land borders, seaports, and airports which are approved by U.S. Customs and Border Protection (CBP). There are **328** official ports of entry in the U.S.



When Do I Need My Goods To Reach Their Final Destination?

- We understand things do not always go according to plan...some of the commercial aspects of importing do not allow for ample delivery time.
- Expediency is no longer a luxury...it is the standard! Timing is everything. The timing of your shipment will have an affect on your pricing, transportation methods, customer satisfaction, documentation, and your bottom line.
- Sometimes things may not go as planned when agencies such as Customs and/or FDA place holds or even detain goods for inspection and compliance purposes.
- Our law firm's practical understanding of the importing industry and government procedures will help streamline your planning and help in dealing with such governmental actions.

How Many Government Agencies May Be Involved in the Importation of My Goods?

- Based on the prior factors regarding the type of goods and mode of transportation, various American regulatory agencies may be involved in your shipment, including FDA, USDA, and NOAA.
- This is important factor to determine the review, inspection and release time in the United States.
- Entry must be filed using the Customs Automated Commercial Environment a/k/a ACE.
- American agencies, known as PGAs or “partner governmental agencies,” are on-line with ACE for the single window platform, in other words, all information across multiple agencies is to be entered in the single ACE window.
- Our law firm has been monitoring the U.S. government's roll out of the ACE system and working with our trade partners to better their understanding of its functions.



What Paperwork and Supporting Documentation Do I Need?

- ▶ Entry must be filed using the Customs ACE system.
- ▶ Filed individual or through a Customs broker.
- ▶ Accompanying / supporting documentation must be in English and accompany the entry in the Customs ACE system. Based on the type of goods / commodities could be end user certificates, hazardous materials certificates, country of origin certificates, etc.
- ▶ Our law firm has experience in assisting our clients in the audit, review and preparation of supporting documentation for imports.



How Do I “Enter” the Goods Utilizing the Customs ACE System?

- ▶ The filing of your information through the Customs Automated Commercial Exchange interfaces with most of the government PGAs.
- ▶ Its important to be aware that not all agencies that have authority over imports subscribe to the ACE system. For example, US F&WS.
- ▶ Our law firm has experience in dealing with most of the ACE PGAs.
- ▶ Also, our law firm has substantial experience in this area and we understand what certain delays in the ACE system may signify operationally and to the client.

What Am I Trying to Avoid With Legal Assistance?

- The new administration has put a renewed emphasis on the issues of trade, protecting U.S. industries, and protecting the revenue of the United States. As a result, we've seen a significant **increase in Customs enforcement** within the past year.
- Therefore, a preliminary self audit before importing, along with efficient long term planning, is essential, both because it may allow you to **cut off problems before they occur** and because it may **substantiate your good faith effort** to comply with all legal requirements in the event problems do occur.
- **“Before the Entry Process”** assessments are important efforts to help you avoid:
 - Governmental Holds
 - Governmental Detentions
 - Governmental Seizures
- **“After the Entry Process”** legal representation in connection with:
 - Governmental Audits
 - Governmental Investigations
 - Voluntary Disclosures
 - Monetary Fines

Questions? Need Help?

Benjamin L. England & Associates, LLC works with companies from all over the world to successfully import, distribute and market products in the United States that are regulated by FDA, USDA, NOAA, Fish and Wildlife and U.S. Customs and Border Protection.

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