

LESSON 2

- *U.S. Customs (Customs and Border Protection - CBP)*
- *Importation Duties, Fees and Charges*
- *Manifests*
- *Invoice Requirements and Documentation for Entry*
- *Surety Bonds*
- *Types of Entries, Consumption Entries, Quota Classes*
- *Tenth Day Filing, Duty Payment*
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- *Determination of Duty Rate in Effect*

INTRODUCTION

After export, the internationally moving cargo arrives within the U.S. Customs territory (The States, District of Columbia or Puerto Rico). Depending upon the nature of the cargo, the logistics plans of the importer and the government regulations for imports, many steps will be taken by the Customs broker to efficiently move the cargo from the Customs Security Area at the Port of Entry to its ultimate destination. The following lesson explains the history and structure of the U.S. Customs, and gives an overview of the different types of entries which may be used to process incoming cargo.

U.S. CUSTOMS – U.S. Customs & Border Protection (CBP)

The authority for tariff and trade regulations originated in the Congress under Article I of the U.S. Constitution, which states that:

1. Congress has the power to lay and collect taxes, duties and excises to pay the debts and provide for the common defense and general welfare of the United States

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2. All duties, imposts and excises are to be uniform throughout the United States.
3. No State shall lay any duties or excises on imports or exports on their own.

On July 4, 1789 the first Congress in its first session provided for the collection of duties on goods imported into the United States. On July 31, 1789, the Congress provided for the collection of these duties by designating collection districts and ports of entry in the 11 states that had ratified the Constitution. The administration of this system was completed with the establishment of the Department of Treasury, with a Secretary of the Treasury at its head who had the responsibility to “prepare plans for the improvement and management of the revenue” and to “superintend the collection of the revenue”

From 1789 until 1933 there was a steady rise in the tariffs of the United States and the rest of the world as the trading nations tried to obtain a competitive advantage over each other. This period culminated with the enactment of the Smoot-Hawley Tariff (the Tariff Act of 1930) that brought U.S. tariff rates to an all-time high level. It was the Depression that brought about the realization by the United States and abroad that expanding world trade cannot be met through high tariff barriers.

In 1934, the Trade Agreements Act of 1934 was passed, which provided authority to the President to negotiate agreements with foreign countries to halt the upward spiral of tariffs and to establish some rules for fair competitive trade. In 1947 the United States and eight major trading nations entered into the General Agreement on Tariffs and Trade (GATT). The effect of the agreement froze tariffs at their then-current levels and established new international trading rules including “the most favored nation” (MFN) principle. This principle grants that each GATT signatory country agrees to afford every other country under GATT the lowest tariff rate that it afforded to any other country. The Trade Expansion Act of 1962 increased the tariff negotiating authority of the President. Today almost all of the trading nations of the free world have adhered to GATT.

As the tariffs have been reduced to relatively low levels, this barrier to free flow of trade has been replaced generally by other non-tariff barriers tactics, such as antidumping and countervailing duties targetting unfair trade practices, administrative restrictions and quotas. In addition, numerous fees have been enacted to cover the cost of government services.

THE STRUCTURE OF U.S. CUSTOMS

U.S. Customs has established a large organization to assure that all imported articles are admissible, that all duties, taxes and fee are paid, and that the laws of the U.S. are enforced.

The President appoints the Commissioner of Customs, who acts under the President and Secretary of Homeland Security. The Commissioner appoints a Port Director to each of the Ports.

The Port operation includes:

- Ministerial (Administrative Staff) who collect funds, perform liquidation, monitor quota, review bonds, etc....
- Commodity Specialist Teams (CST) who review the entry summary documentation for correctness of classification and value (C&V), and Trade Enforcement Branch, which reviews importations and brokers for compliance.
- Customs Inspectors who determine if cargo needs to be examined (DAU - Delivery Authorization Unit) and then examines cargo when necessary (I&C - Inspection and Control). They are divided into regular inspectors, MET (Merchandise Enforcement Team, and CET (Contraband Enforcement Team). They examine cargo at Centralized Examination Stations (CES's).

The oversight of Customs employees within the port is managed by Customs Management Centers (CMC) which are headed by a CMC director.

IMPORTATION DUTIES, FEES AND CHARGES

Government Charges

For a normal transaction an importer must be ready to pay to the government the following:

1. Duties at the rate applicable for the imported commodity
2. Merchandise Processing Fee or User Fee in the amount of .3464% of entered value, with minimums and maximums.

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3. Harbor Maintenance (Waterways) Fee for merchandise discharged at U.S. ocean ports of arrival at a rate of .125% of entered value.
4. Antidumping or Countervailing Duties are assessed on commodities under investigation by the International Trade Commission (More info in Lesson 6).
5. Special Commodity Fees and Taxes may be assessed, for example: beef, sugar, liquor, tobacco, oil, cotton, and ozone depleting chemical tax.
6. Marking Duties - If merchandise is not properly marked, a 10% marking duty will be assessed.

Brokerage Fees

In addition to these government charges, an importer can expect to pay for the services of a Customs broker (usually \$25 to \$200 per entry) to properly administer and complete Customs clearance. Brokerage fees vary from port to port, and importer to importer. Typically, clearance fees are more costly at major east and west coast ports than clearances at contiguous border points (i.e. along the Mexico and Canadian borders) and in-land clearance points, due to overhead expense of the brokerage operations in respective locations. Brokers will also charge higher fees for commodities or clients that require additional services, such as documentation for other governmental agencies, special record-keeping or compliance administration, volume, and cash outlays.

Surety Premium

An importer will also be assessed a premium charge for a surety bond, by entry or transaction bond (known as a single entry or single transaction bond) or an annual premium for a renewable, annual bond (known as a continuous bond). A surety bond is a security required by Customs which protects the government against revenue loss in cases where the importer defaults on duties, taxes or penalties. The amount of the bond will depend on the type of commodity imported and on the value imported. The amount of the bond will determine the premium charge.

Collect Freight Charges

Any collect freight or port handling charges must be paid prior to the release of merchandise to the importer. Typically the broker will collect these fees from the importer and pay the carrier or forwarder.

Insurance Premium

Some brokerage houses also sell cargo insurance. Importers who want coverage must arrange in advance with the broker to cut a cargo insurance policy. Premiums are typically charged on a shipment by shipment basis.

THE MANIFEST

Each carrier must present a manifest of cargo by bill of lading to CBP (Ocean - 24 hours prior to lading at the foreign port; Air - 4 hours prior to arrival; Rail - 2 hours prior to arrival; Truck - 1/2 to 1 hour prior to arrival depending on report method). Steamship lines and airlines present their manifest data through the Automated Manifest System (AMS), a computer link with the CBP. The manifest includes such information as the port of entry, date of arrival of vessel, carrier name, where the cargo was laden, number of manifested pieces, type of packing (keg, case, bag, box, etc...), description of goods, marks and numbers, Bill of Lading Number, Container Number, shipper, consignee and seal number.

Within 15 days of arrival, an entry or declaration must be filed with U.S. Customs to clear the manifest. If an entry is not filed within 20 days of landing, the cargo will be declared General Order Merchandise (G.O.), and moved by Customs to a designated storage facility. All expenses for drayage and storage will be for the importer. If the cargo is not claimed within 6 months from date of importation, the cargo is subject to sale at a Custom auction (CR 127.4).

DOCUMENTS REQUIRED FOR ENTRY

Importers can prepare and file entries on their own behalf. However, most importers use the services of a broker. To prepare an entry, the following documents or electronic information must be available to the importer or to the broker:

1. Evidence of the right to make entry. Typically this is the bill of lading or a carrier's certificates (copy can be found in the Appendix to **Importing into the U.S.**)
2. Commercial Invoice or Proforma Invoice
3. Packing List
4. Any other special document required by the commodity or type of entry.

INVOICE REQUIREMENTS for CUSTOMS and CENSUS

1. Port of Entry
2. Time, Place and Name of Buyer and Seller
3. If not a sale, time and origin of shipment with names of shipper and receiver
4. Detailed Description of the Goods - must be sufficient to properly classify
5. Quantities in Weight and Measure as required by Tariff
6. Purchase Price in the Currency of the Sale.
7. If not sold, the value of each item.
8. The kind of currency.
9. All charges, itemized by name and amount - for example: freight, insurance, commissions, packing that is included
10. The country of origin
12. All goods, materials and services furnished for the production of the goods being imported, but not included in the purchase price.

More information regarding invoices and commodities that require special invoice information can be found in the Appendix to **Importing into the U.S.** A copy of a proforma invoice can also be found in this Appendix.

SURETY BONDS FOR IMPORTATIONS

A **surety bond** is a security required by Customs to provide for protection of government revenues, in case the importer defaults in the payment of duties, taxes or penalties. In lieu of a bond, Customs may accept U.S. money, U.S. bonds (except savings bonds), U.S. certificates of indebtedness, Treasury notes, or Treasury bills in an amount equal to the amount of a bond. A copy of a surety bond (CF 301) can be found in the Appendix to **Importing into the U.S.** or view on-line at:

<https://www.cbp.gov/document/forms/form-301-customs-bond>

Bonds are broken into twelve different activities. The bonds can be provided on a transaction by transaction basis (a single entry bond) or obtained for a period of time covering numerous transactions (a continuous bond). Basic Importation Bonds cover commodities which will be used in the U.S. Custodial Bonds cover bonded warehouses and bonded carriers (truckers, rail, steamship lines, freight forwarders, etc.). Foreign Trade Zone Bonds cover FTZ operations. Custodial and FTZ bonds must be executed as continuous bonds.

TYPES OF ENTRIES

Entries are broken into different types depending on whether a “surety bond” is required, and if a bond is required, what Customs activity will occur under that bond.

The most common types of entries are:

1. **Informal Entries** are generally used for the clearance of merchandise valued **not over \$2,500**, on which the Port Director **does not require a surety bond** for clearance. Once entered, goods are free to be distributed and consumed.

Other types of merchandise which can be cleared informally include US Goods Returned for Repair not valued over \$10,000; Household Goods; Personal Effects; Tools of Trade, Theatrical effects, and Sales Samples returning on CF4455; and courier and air express cargo not valued over \$2,500. An informal entry cannot be used for certain types of commodities valued at \$250 or more, including textiles, items subject to antidumping/countervailing duties and other restricted commodities.

2. **Formal Entries** require a Basic Importation & Entry Bond. Formal entry types include:
 - Consumption Entry - goods which will be used in the US
 - Warehouse Entry - goods to be stored in a bonded warehouse
 - Appraisalment Entry - goods which must be held for value appraisalment, such as salvaged treasure from the ocean floor
 - Drawback Entry - when the exporter desires an acceleration of duty refund

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- Vessel Repair
 - Permanent Exhibition (under CR 10.49)
3. **Transportation Entries** allow the cargo to move under a Carrier's Bond to another port for the filing of another type of entry or export.
 4. **Other Types of Clearance** that require a bond include: Temporary Importation Bonds (TIB), Foreign Trade Zone Admissions, Trade Fair Entries, and Carnets. Additional information on TIB's can be found in Lesson 4 of this manual.

CONSUMPTION ENTRIES

A consumption entry is used to clear cargo through U.S. Customs and enter the cargo into the commerce of the United States. Once cleared, the ultimate consignee can utilize the merchandise for manufacturing, wholesaling, retailing or other domestic use.

BOND REQUIREMENTS

To make a consumption entry, Customs requires a Basic Importation and Entry bond. The bond can be either a single entry bond or a continuous bond.

A Single Entry Bond (SEB) is good for one transaction. The face amount of the bond for a consumption entry will be one of the following:

1. Equal to the Customs entered value plus duty... OR
2. If restricted by another governmental agency, Equal to three (3) times the entered value.

A Continuous Bond is effective for all shipments, at all ports of entry, for the duration of the bond. The bonds are renewed annually by paying the premium bill. The bond value is usually set at 10% of the estimated annual duty to be paid, with a minimum face value of \$50,000.

ENTRY PROCESS

Generally, merchandise is cleared using a two step process:

1. Step One - Entry Process (ACE submission, or CF3461 for entry and clearance or delivery authorization) - To view a copy of the form go to:

<https://www.cbp.gov/document/guidance/cbp-form-3461-instructions>

2. Step Two - Entry Summary Filing (ACE submission or CF7501 for entry summary and payment of duty) - A copy of the form is available in the Appendix of **Importing into the U.S.**

At time of arrival, an entry (CF3461) is filed through the Automated Broker Interface (ABI) system. Customs reviews the entry data and determines if the cargo needs an examination. If the cargo needs an examination, it is moved to a Centralized Examination Station (CES). Once Customs releases, the cargo moves to its final destination. Generally, the day Customs releases either through the automated system or at the examination is the “date of entry”.

Within 10 working days from the “date of entry”, the entry summary (CF7501), commercial documents, and duty payment must be filed with Customs.

This 10 day payment cycle is a privilege, and Customs can revoke the privilege if an importer fails to file entry summary documentation, fails to pay duty when due or does not pay additional duties when billed by U.S. Customs. When this privilege is revoked, the importer is placed on the National Sanctions list. The importer must then use a one step process called “entry/entry summary” using Customs Form 7501, and CF3461 for delivery authorization. All documentation and duties must be filed prior to cargo clearance and release.

Customs also has the right to request the “entry/entry summary” process be used prior to release, if they believe the revenue of the U.S. government is in jeopardy or required for non-tariff protection.

Consumption entries can be filed for non-quota and for quota class merchandise.

QUOTA CLASS MERCHANDISE

Quota-class merchandise is any imported merchandise subject to limitations under an absolute or tariff-rate quota.

Absolute (or quantitative) quotas are those which permit a limited number of specified merchandise to be entered or withdrawn for consumption within a par-

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ticular period of time, and may be limited to a particular quantity from a particular country of origin.

Tariff-rate quotas permit a specified quantity of merchandise to be entered or withdrawn for consumption at a reduced rate during a specified period. The quantity set is commonly called a TPL or Tariff Preferential Level.

Absolute quota merchandise must be entered on an “entry/entry summary” (CF 7501 entry/entry summary with a CF3461 used as a delivery authorization document (DAD or DAU), which is used to determine examination status), with appropriate bond and estimated duties paid prior to release from Customs custody.

Tariff-rate quota merchandise may be entered on a CF3461; however, the rate of duty is determined by the date the entry summary is presented in proper format with duties attached. Near the close of the quota, it is sometimes required by Customs that CF7501 Entry/Entry Summary is filed to obtain release. In most cases, it is in the best interests of the importer to file CF7501 Entry/Entry Summary near the close, in order to assure the lowest possible duty rate.

DATE OF ENTRY FOR TENTH DAY CF7501 FILING

Under the “entry privilege” Custom allows the importer to receive release of cargo, with the understanding that the importer will file the entry summary with estimated duties within 10 working days from the “time of entry”. The “time of entry” depends on the time of filing of the CF3461 and the examination selectivity designation.

Customs allows the CF3461 Entry to be Prefiled (filed prior to the arrival of the carrier at the port of entry) if the cargo is not subject to an absolute quota, the importer is not on the national sanctions list, and the cargo is not arriving overland on a regular Immediate Transportation Entry (IT). Documentation for cargo moving on the Master In-Bond Program (MIB) may be prefiled. MIB is an in-bond program used by AMS carriers, who discharge cargo at a port of arrival and move large numbers of cargo containers to another port for entry.

Prefile may occur any time after exportation, as long as all information necessary for the electronic filing of the entry is available. The CF3461 Entry may also be filed anytime after arrival of the carrier and prior to cargo being moved to General Order (G.O.).

The date of entry (for tenth day entry summary - CF7501) filing is determined by the type of examination to be performed. The Customs computer will designate one of the following:

General Exam (aka Paperless):

This means the cargo upon arrival at the port of entry is released from Custom custody, without the filing of the CF3461. Time of entry is the date of arrival with intent to unlade. If a paperless designation occurs after arrival, time of entry is the date of the authorized release from the computer, which is usually the same time as the filing. Master In Bond (MIB) cargo, which is cargo moving in-bond on an intermodal rail move from a coastal port to another port, receives the date of arrival at the coastal port of discharge as the entry date.

General Exam with Document Review:

This means a CF3461 must be routed to the Customs select site, where Customs inspectors exam the documentation and make a manual designation of examination status (in a prefile mode, this happens prior to arrival of cargo). This manual designation means the documentation has been examined and a physical exam of the cargo is not necessary. The cargo is released upon arrival in the U.S. in the prefile mode. The date of this designation is also the date of entry if the cargo has already arrived. Master In Bond (MIB) cargo receives the date of arrival at the port of discharge from the vessel as the entry date.

Intensive Exam:

This manual designation means the cargo must be physically examined by a Custom officer. Upon arrival in the U.S., air cargo will be held for examination and ocean cargo must be moved to a Customs Examination Station or Centralized Examination Site (CES). After examination, the Customs inspector will date and sign the CF3461 for release from Customs custody. The date of release is the date of entry.

The Customs Regulations also allow importers to select "time of entry" in two ways by so electing or requesting in box #2 of the CF3461:

1. The time the documents are filed, if the cargo has arrived in the port and the importer has requested on the documentation (CF 3461 box #2), or
2. The date of arrival of the cargo, if requested on the CF3461 in box #2 and the documents are filed prior to the arrival of the cargo.

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Payment of duty is required at time of entry summary filing in the form of a check attached to the CF7501 or the Customs broker or the importer pays duties using summary payment via Automated Clearing House (ACH). If payment is made via ACH, duties are also be received by Customs within 10 working days from date of entry.

COMPUTATION OF THE TEN DAY ENTRY SUMMARY FILING and DUTY PAYMENT PERIOD

It is imperative that the importer or broker file the entry summary within the ten day period allowed by law. If the entry summary and duty are not submitted timely, the importer will be assessed a liquidated damage. If the importer fails to pay liquidated damage assessments or does not file entries summaries, Customs will revoke 10th day filing privileges and place the importer on the National Sanctions list.

The General 10th Day Rules are as follows:

1. Saturdays, Sundays and holidays are excluded from the ten day period.
2. In counting days, day one (1) is the first working day immediately following the date of entry, unless otherwise stipulated.
3. Days on which the documents are in the importer's possession and the date of initial submission of CF7501 to Customs will be counted against the 10-day filing requirement.
4. Days on which the documents are in the possession of Customs do not count against the 10-day filing period.
5. The day an entry summary is rejected by Customs does not count against the filing period, except in those cases of Customs rejection on the same day as the initial submission. The day of resubmission likewise is not counted. In addition, the next day after the day of rejection will no longer count against the filing period.

TRANSPORTATION ENTRIES (IN-BOND MOVEMENT)

Transportation entries allow cargo, on which duty has not been paid, to move under a carrier's bond from one port to another port for the filing of another type of

entry. The common carrier, contract carrier, freight forwarder or private carrier must obtain a surety bond.

In-bond entries are made on either Customs Forms 7512 or with the airway bill number in the automated manifest system (AMS). To view a CF7512, go to:

<https://www.cbp.gov/document/forms/form-7512-transportation-entry-and-manifest-goods-subject-cbp-inspection-and-permit>

The carrier or any other party with an interest in the cargo (such as the forwarder) will prepare. The bonded carrier or his agent must verify correctness of quantity received for transportation in bond and sign if using manually prepared forms. The CF7512 in duplicate and destination copy of the 7512C must accompany the in-bond conveyance. If more than one conveyance (truck/rail car/etc...) is required for the bonded move, the documents will move with the first conveyance, with 2 additional copies for each additional conveyance.

Within 5 days after presentation of a Transportation Entry for merchandise to move in bond, the forwarding carrier must take receipt. The in-bond carrier must promptly, but no more than 2 days after arrival of any portion of the in-bond shipment at the port of destination, surrender the in-bond entry to Customs as a notice of arrival of the cargo.

Importers may choose to use in-bond entries to avoid the filing of an entry and the payment of duty at the port of arrival. Reasons include:

1. To move cargo from ocean discharge point to another port for clearance.
2. To move cargo from one US point of entry to another for export to another country
3. To move cargo through a US port of entry for immediate export.

TYPES OF TRANSPORTATION ENTRIES

The following types of entries and withdrawals may be made for any merchandise, (except explosives and prohibited merchandise), upon arrival at a port of entry, and for merchandise in general-order warehouse at any time within one year from date of importation which is to be transported in bond:

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1. Entry for Immediate Transportation without Appraisalment (IT) - This type of transportation entry is used for cargo moving from one port to another in bond. The cargo is destined to another port, where another type of entry will be made. (For example: A shipment arrives in Los Angeles, moves in-bond on an I.T. for Customs entry (CF3461 filed) and duty payment (CF7501) in Chicago. Or, the cargo arrives in New York, moves to Philadelphia where it is placed in a bonded warehouse.) The Master In Bond (MIB) program is a large group of ocean containers moving in-bond via rail on one I.T. from the port of discharge to another port of entry.
2. Entry for Transportation and Exportation (TE or T&E) - When cargo is to move from the port of arrival in-bond to a port of exportation, a T&E entry is used. (For example: Cargo arrives in Buffalo, NY, for movement to New York City, where it will be laden on a vessel for shipment to Le Havre.)
3. Entry for Exportation (IE) - Occasionally cargo arrives in a port and for some reason will be exported from the port without entering the commerce of the United States. When this occurs, an I.E. is prepared and the cargo leaves the port in-bond via an international carrier. (For example: A shipment of rubber gloves arrives in San Francisco, but they fail Food & Drug scrutiny, and must be exported or destroyed under Customs supervision. In order to properly document Customs supervision and to cancel the original entry, an I.E. is prepared. An I.E. may also be used by an importer who has cargo that arrives in Detroit via air, but is destined for Windsor, Ontario, Canada. The cargo arrives in Detroit and is immediately exported to Canada.)
4. Warehouse or Rewarehouse Withdrawal for Transportation (WDT) - Cargo removed or withdrawn from a bonded warehouse which will move in bond to another Customs port, is withdrawn using a WDT. (For example: An importation of whiskey is placed in a bonded warehouse at the port of arrival to defer payment of duty and taxes until the whiskey is required for distribution. An order for the whiskey comes from the importer's Chicago division. The whiskey moves in-bond on a WDT to Chicago, where duty and tax are paid. The Chicago division may also decide to rewarehouse the whiskey in a bonded warehouse to defer payment of duty and tax for yet another extended period of time.)
5. Warehouse or Rewarehouse Withdrawal for Transportation and Exportation (WDTE) - Cargo is removed or withdrawn from a bonded warehouse facility for exportation. (For example: the same importer of whiskey (see example in 4 above) could have an order from a Canadian firm for this bonded warehoused

liquor. To withdraw the whiskey from the warehouse or from the rewarehouse, a WDTE in-bond entry would be prepared.)

WAREHOUSE ENTRY AND WITHDRAWALS

Cargo, which cannot be entered into the commerce of the United States because the importer wants to defer payment of duties and taxes, or because quotas are filled, or awaiting necessary documentation to make entry, may be placed in a Customs Bonded Warehouse. These warehouses are approved by the U.S. Customs under one of the classes outlined in CR 19.1. These warehouses are covered by a Custodial Bond (CR 113.63). Regulations governing the warehouse proprietors and the types of functions which may occur within the bonded facility are outlined in CR Part 19.

An importer makes entry into a bonded facility on Customs Form 7501, with applicable harbor maintenance fees. A Basic Importation Bond (in the amount of double the duty) is required for the warehouse entry. Duty and user fees are deferred until withdrawal. Merchandise, other than G.O. transferred merchandise, may stay within a bonded warehouse for **5 years** from date of **importation** (144.5).

To withdraw, a CF 7501 is used. The duty rate is set on the date of withdrawal. Duty and user fees are paid at withdrawal by to release of the merchandise from the warehouse. The merchandise must be removed in complete unit quantities (i.e. one box, drum, bag, etc...)(144.33). Merchandise may be move in-bond to another port for entry or re-warehousing without payment of duty when withdrawn. The merchandise may also be removed for export. In both cases a CF7512 in-bond document is prepared.

FOREIGN TRADE ZONES

Foreign Trade Zones (FTZ's) are areas within the Customs territory of the United States, which are considered to be outside the commerce of the United States. Zones are designated by the Foreign Trade Zone Board. Zones are operated as public utilities by states, political subdivisions or corporations chartered for that purpose. Charges are made for the use of the facilities. Subzones are special purpose facilities for companies unable to operate effectively at public zone sites. Foreign trade zones usually are located in or near customs ports of entry, at industrial parks or terminal warehouse facilities. Subzones are located in the zone user's private facility.

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Merchandise may be brought into the zone to be stored, repackaged, sold, exhibited, cleaned, sorted, tested, repaired, processed, assembled, or manufactured. The merchandise may remain in a zone for an indefinite period of time (note: bonded warehouses only allow goods to be held for 5 years from date of importation.)

Merchandise is admitted into a foreign trade zone using CF214 under one of the following status types:

Non-Privileged Foreign: With this status, the merchandise will be classified and duty paid at the rate applicable to the merchandise which is withdrawn from the zone. In other words, if an importer admits a radio (duty rate is 8%) into a zone and then assembles it into an automobile (duty rate of 2.5%), the automobile rate is applied to the original foreign transaction value of the radio at time of entry (CF3461) into the commerce. This status may be changed to Privileged Foreign anytime prior to manipulation of the original admitted article.

Privileged Foreign: This status may be given anytime prior to manipulation of the merchandise (i.e. either at time of admission into the zone or by changing the status from non-privileged to privileged after admission). When privileged status is designated, the duty rate in effect on that date for the article imported and admitted to the zone is the rate used when the merchandise is removed from the zone and entered (CF3461) into the commerce of the United States. Note: tariff rate quota merchandise given this status will be subject to the higher non-quota rate in effect at time of the application.

For example, the same importer admits a radio into the zone under non-privileged foreign status. It is then decided to assemble this 8% duty rate radio into a truck (25%). Prior to assembly, the importer changes the status of non-privileged foreign status to privileged and sets the duty rate at 8%. Upon removal of a truck from the zone, the value of the radio is declared under the classification of a radio with the duty rate in effect at the time privileged status was set.

Domestic Status: All merchandise made in the United States or which has been domesticated by the payment of duty, will be given domestic status. Domestic status merchandise may be admitted to a zone without admission documents. If the domestic status merchandise is fungible (commercially interchangeable) with some foreign status merchandise, a system to track the domestic items must be set-up. Otherwise, duties must be paid on the domestic merchandise removed from the zone. Foreign materials must be used in the inventory system, prior to

fungible domestic (Foreign FIFO, then domestic FIFO... FIFO means First In, First Out).

Zone Restricted Status: Merchandise may be placed in a zone restricted status in order to cancel a TIB or to meet other Customs demands for exportation of a particular product within a statutory period of time. Merchandise given this status may not enter the commerce of the United States, unless the FTZ Board approves. Zone restricted merchandise can only be exported or destroyed.

User and Harbor Maintenance Fees for FTZ Admissions

Harbor Maintenance Fees (HMF) are paid for FTZ admissions on a quarterly basis. Importers should be advised that quarterly reporting and payment is required.

User fees (MPF) are paid at time of entry summary filing (i.e. 10 working days after release on CF3461) for FTZ shipments.

To view a CF214, go to:

<https://www.cbp.gov/document/forms/form-214-application-foreign-trade-zone-admission-and-or-status-designation>

TEMPORARY IMPORTATION BOND (TIB)

Foreign importers who choose to use a TIB to temporarily enter goods into the United States must file either a Customs Form (CF) 3461, "Entry/Immediate Delivery," or 7501, "Entry Summary" to clear their shipment.

Merchandise qualifying under the TIB classifications listed in the Harmonized Tariff under Sub-Chapter XIII of US Chapter 98 requires a Basic Importation and Entry Bond. A bond for double the duties (200%) is generally required. However the amount is of the bond 110% of estimated duties in the case of merchandise entered as samples solely for taking orders, motion picture advertising films, and professional equipment, tools of trade and repair components.

Generally, merchandise imported under a TIB must be exported within 1 year from date of importation. Extensions in one year increments may be granted at the discretion of the Secretary of the Treasury. No more than two one-year extensions

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may be given. The total TIB period may not exceed 3 years from date of importation.

Automobiles entered for show purposes may only remain within the U.S. for 6 months from importation, and no extensions may be granted.

Vehicles and craft entered to take part in races or contest may not be required to put up a bond at the discretion of the Port Director.

To cancel the bond, the merchandise must be exported or destroyed within the appropriate time-frame granted. U.S. Customs supervised exportation may be waived; however, this is a Customs prerogative. When Customs examination is required and it takes place at a port which is not the port of export, a Transportation and Exportation Entry (CF7512 - T&E) must be completed to move the cargo under Customs supervision to the port of export.

ATA CARNETS

What is an ATA carnet?

The ATA Carnet is an international Customs document that a traveler may use temporarily to import certain goods into a country without having to engage in the Customs formalities usually required for the importation of goods, and without having to pay duty or value-added taxes on the goods.

The United States allows for the temporary importation of commercial samples, professional equipment and certain advertising materials by a nonresident individual.

Carnets are a security that participating countries accept as a guarantee against the payment of Customs duties that may become due on goods temporarily imported under a carnet and not exported as required. "ATA" stands for the combined French and English words "Admission Temporaire-Temporary Admission."

Why use an ATA carnet?

The ATA carnet simplifies the Customs formalities involved in temporarily importing goods into the U.S. and other countries. Without a carnet it would be necessary to go through the Customs procedures established in each country for the temporary admission of goods. The carnet allows the business traveler to use

a single document for clearing certain categories of goods through Customs in several different countries. It may be used for unlimited exits from and entries into the U.S. and participating foreign countries during the one-year period of validity. They are accepted as the entry document and satisfy the importer's obligation to post a security in more than 87 countries.

Why not use Temporary Importation under Bond?

Foreign importers who choose to use a TIB to temporarily enter goods into the United States must file either Customs Form (CF) 3461, "Entry/Immediate Delivery," or 7501, "Entry Summary" to clear their shipment. This usually necessitates leaving the passenger terminal and going to the Cargo Entry Branch office, or having a Customs broker do your legwork for you. The importer will also need to secure a bond from a licensed surety. No forms, other than the carnet, need to be filed for goods entered under an ATA carnet.

What are the Importer's Obligations?

A carnet holder is obligated to present the goods and carnet to Customs to prove exportation. Failure to prove exportation on either a TIB or a carnet subjects the importer to liquidated damages equal to 110 percent of the duty and import tax. Goods imported under either a TIB or a carnet may not be offered for sale.

Who issues ATA carnets?

Domestic associations in participating countries that are members of the International Bureau of Chambers of Commerce issue carnets to residents to be used abroad. The United States Council for International Business <http://www.uscib.org> (USCIB) has been designated by the U.S. Customs Service as the United States issuing and guaranteeing organization. A fee is charged by the Council for its service. The guaranteeing organization is held liable for the payment of liquidated damages if the carnet holder, such as the importer, fails to comply with Customs regulations.

How long is an ATA carnet valid for?

An ATA carnet is valid for one year from the date of its issuance. Merchandise listed on an ATA carnet can be imported to and exported from any of the member countries as many times as needed during the one-year life of the carnet.

What goods may be entered under an ATA carnet?

Commercial samples, professional equipment and advertising material can be imported into the United States by a nonresident.

- Other countries permit the use of a carnet to import the above materials and other categories of goods such as:

- Ordinary goods such as computers, tools, cameras and video equipment, industrial machinery, automobiles, gems and jewelry, and wearing apparel.

Extraordinary items, for example, Van Gogh's self-portrait, circus animals, jets, band instruments, satellites, human skulls, and the New York Philharmonic's equipment.

What does a ATA carnet not cover?

Merchandise not covered by the three above listed categories of goods are not eligible for importation into the U.S. by carnet. In addition, merchandise within those three categories intended for sale or sale on approval cannot be entered on a carnet – it must be entered as a regular Customs entry.

What happens if the goods are not exported?

If the holder of an ATA carnet sells, donates or otherwise disposes of any of the goods listed on the carnet, the issuing organization will be required to pay liquidated damages equal to 100 percent of the import duties and taxes. That organization in turn will attempt to collect these moneys from the holder of the carnet who violated the terms. In some cases, the country where the violation occurred will hold both the organization that issued the carnet and the importer equally responsible. The importer is liable to his/her issuing association (and, in some cases, to the Customs authorities of the country where this transpired) for all duties and/or taxes and other sums which would normally be charged on the importation of such goods, as well as the amount charged as liquidated damages. If the U.S. Customs Service finds that there was fraud involved in the importation, additional penalties may be assessed.

What happens when goods covered by a U.S.-issued ATA carnet are reimported into the U.S.?

If goods covered by a U.S.-issued carnet are brought back into the United States within the validity period of the carnet, the carnet serves as the Customs control registration document and must be presented on re-importation. Whether the

re-imported goods are subject to duty depends on exemption in the Harmonized Tariff Schedule <http://www.usitc.gov/taffairs.htm> and not on their status as carnet goods. See 19 CFR 141.4 for goods that are exempted from entry documentation requirements and 19 CFR 141.2 for goods exempted from duty on re-importation.

What if the ATA carnet has expired?

If the expiring ATA carnet is a U.S.-issued carnet there will be no penalties or duties assessed by the United States, however, there may be penalties assessed by a foreign government if the carnet expired before the U.S. merchandise was exported from that country.

If the carnet is foreign-issued then liquidated damages will be assessed by the U.S. Customs Service due to the carnet expiring before the merchandise could be exported out of the United States.

What is contained in an ATA carnet document?

The carnet document has a green cover page which provides the names of the carnet holder and issuing association, the carnet issue date, the carnet number, the countries in which the carnet may be used and a complete description of the goods covered. Two yellow sheets in the package are to be used upon exportation from and reimportation back into the issuing country. White sheets are used for the temporary importation into and reexportation from the second or additional countries. Blue sheets are used when transiting through countries.

Each sheet contains two parts – a counterfoil, which remains in the carnet and describes the actions taken by Customs officers each time goods enter or leave a country, and a detachable voucher, which contains a list of the goods covered by the carnet and serves as the required Customs document.

How is a U.S.-issued ATA carnet processed by Customs?

When leaving the United States, the holder of a U.S.-issued ATA carnet presents the carnet and the covered goods to a Customs officer. The carnet is reviewed for completeness and accuracy and the goods are examined to ensure that they match the carnet list. The officer then validates the carnet document and certifies the appropriate exportation counterfoil and voucher. The carnet and the U.S. Customs-certified export voucher are returned to the carnet holder who retains the voucher as the permanent record of the Customs transaction. (Note: The carnet does not affect export control requirements such as the filing of a shipper's export

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declaration or the requirement to obtain export licenses.) Upon return to the United States, the holder of a U.S.-issued carnet presents the carnet and covered goods to a Customs officer for examination. The officer certifies the appropriate reimportation counterfoil and voucher and returns the carnet to the holder for further use or surrender to the issuing association. (Note: On U.S.-issued carnets only, the vouchers of the yellow exportation/reimportation sheets will not be detached, but will remain with the document when departing or returning to the United States.)

It is the responsibility of the carnet holder to present the carnet to the Customs authorities when entering or leaving a country in order that the necessary verification and certification of the appropriate vouchers and counterfoils can take place. Failure to do so may result in a claim being made. A claim is a notice from a Customs authority of the country of import that a violation of the carnet system has occurred and payment of duties, taxes, and penalty are required.

How is a non-U.S.-issued ATA carnet processed?

When processing a foreign-issued carnet, Customs must create a record of the transaction in order to protect the revenue and domestic commerce. Therefore, the U.S. Customs officer responsible for clearing the temporary importation must ensure that the port of importation, dates of Customs activities, and any departure from the original list of articles, are clearly shown in the appropriate fields.

When the merchandise leaves the U.S. the Customs officer must ensure that the required exportation dates are complied with, that the original list of articles agrees with what is being exported, and that the appropriate voucher is detached and forwarded to the port of importation.

What countries use the ATA carnet?

Countries are Contracting Parties to the ATA convention that established the ATA carnet system. Countries are added to the ATA system periodically. Call the Council for International Business at (212) 354-4480 to determine if the country to which you are traveling accepts carnets. The United States acceded to the ATA Convention on December 3, 1968 and began issuing ATA carnets in late 1969.

Where may I obtain additional information on the ATA carnet?

The United States Council for International Business is located at 1212 Avenue of the Americans, New York, New York 10036-1689, telephone (212) 354-4480, fax

(212) 944-0012, and should be contacted for further details concerning the issuance of ATA carnets. The Internet address is <http://www.uscib.org>. The application form for the ATA carnet can also be downloaded from that website. Other questions may be referred to the U.S. Customs Service, 1300 Pennsylvania Avenue, NW, Washington, DC 20229. Attn: Office of Trade Programs, (202) 927-0300.

EXEMPTIONS FROM ENTRY

Numerous types of commodities are not subject to entry or the filing of a customs bond. To receive release from the carrier and Customs, a declaration document (invoice, CF 3311, or CF4455, with declarations) and right to make entry document (bill of lading, carrier's certificate) are presented with a CF3461. Once approved by Customs, the carrier is notified to clear the manifest and release the cargo to the owner of the goods. The CF3461 acts as a delivery authorization (DAD or DAU).

These special exemptions include:

1. Under the Harmonized Tariff - General Note 3(e) and 19 CFR 141.4(b)
 - a. Corpses, with Flowers & Coffin
 - b. Telecommunications Transmissions
 - c. Records, Diagrams & Data regarding Business
 - d. Articles returned from Space within Section 484a TA of 1930
 - e. articles returned within 45 days of export which did not leave the custody of a carrier
 - f. aircraft parts removed from US aircraft and returned within 45 days of removal
2. Under Harmonized Tariff - Chapter Notes
 - a. Electricity
 - b. Currency in use, other securities

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3. Under Section 321 of TA 1930 also known as 19 USC 1321 (see 19 CFR 145.31)
 - a. Articles valued not over \$800
4. Under Section 145.32 & 10.152 of the Regs
 - a. Bona-fide gifts not over \$100
5. Under Section 145.35 & 10.1 & 143.21 of the Regs
 - a. U.S. Goods Returned - valued not over \$2,500 (with some exceptions: \$10k)
6. Theatrical Effects, Tools of Trade etc... arriving from Canada with CF 4455

DATE OF ENTRY FOR DETERMINATION OF DUTY RATE

The duty rate to be used is generally the duty rate in effect on the date of entry, as outline above under consumption entry. Other dates which determine the effective duty rate are:

1. The date merchandise is withdrawn from a bonded warehouse.
2. The date non-privileged merchandise is transferred from a Foreign Trade Zone to the commerce of the U.S. determines duty rate.
3. The date privileged status is given to merchandise in a Foreign Trade Zone.
4. The date of presentation of 7501 for Quota class merchandise.

Merchandise moving to the port of entry on an Immediate Transportation Entry (IT), will be assessed the duty rate in effect on the date the IT was accepted (signed and dated) by the Customs officer at the port of origin (i.e. arrival).

6. When the entry summary (CF7501) serves simultaneously as the entry and the entry summary (entry/entry summary process), the time of entry shall be the time the entry summary is filed in proper format. (ex. National Sanctions)

The Customs Regulations also allow importers to select “time of entry” in two ways by so electing or requesting in box #2 of the CF3461:

1. The time the documents are filed, if the cargo has arrived in the port and the importer has requested on the documentation (CF 3461 box #2), or
2. The date of arrival of the cargo, if requested on the CF3461 in box #2 and the documents are filed prior to the arrival of the cargo.