

Apparel and Textile Sourcing Trade Show

May 21, 2018
Mana Wynwood Convention Center
by
Peter Quinter





Peter Quinter, Attorney

Customs & International Trade Law Group

GrayRobinson, P.A.

Mobile (954) 270-1864

Office (305) 416-6960

Peter.Quinter@Gray-Robinson.com

Skype: Peter.Quinter1

U.S. Customs and Imports of Textiles and Apparel

May 21, 2018

11:15 AM - 11:45 AM



Peter Quinter

Understanding how and why U.S. Customs and Border Protection conducts country of origin verifications for free trade agreement compliance, anti-dumping duty investigations, and tariff classification decisions.

Questions?



Potential Crises

- CBP Form 28 and 29
- Prior disclosure in 1592 cases
- Detentions
- Seizures
- Penalties
- Audits
- Investigations
- Advanced Rulings

REQUEST FOR INFORMATION

- Invoices for Raw Materials
- Processing Records
- Purchase Orders
- Transportation Documents
- Warehousing Documents
- Proof of Payment
- Photographs

CBP Form 28/29

- Importers are required to exercise reasonable care in filing documents
 - admissibility of merchandise, the correct classification, value, and compliance with all other laws and regulations.
 - Section 1592 provides that a party files a “false” entry when the required information is incorrect
 - enables CBP to collect past duties and civil penalties for shipments over the past five years.

CBP Form 28/29

- While 28s and 29s are routine – they typically precede a penalty or investigation
 - Should be taken seriously and given top priority
- A Form 28 is issued where there is insufficient information on the entry summary to determine admissibility, the appraised value, or the correct classification of the merchandise.


Request for Information CBP Form 28

DEPARTMENT OF HOMELAND SECURITY
U.S. Customs and Border Protection


OMB No. 1651-0023
Exp. 09-30-2019

REQUEST FOR INFORMATION

19 CFR 151.11

		1. Date of Request [REDACTED]	
		2. Date of Entry and Importation [REDACTED]	
3. Manufacturer/Seller/Shipper [REDACTED]		4. Carrier [REDACTED]	
5a. Invoice Description of Merchandise [REDACTED]		5b. Invoice No. [REDACTED]	6. HTSUS Item No. [REDACTED]
7. Country of Origin/Exportation [REDACTED]		8. CBP Broker and Reference or File No. [REDACTED]	
9. TO: [REDACTED]		10. FROM: [REDACTED]	
<p>Production of Documents and/or Information Required by Law: If you have provided the information requested on this form to U.S. Customs and Border Protection at other ports, please indicate the port of entry to which it was supplied, and furnish a copy of your reply to this office, if possible.</p>		 11a. Port [REDACTED]	11b. Date Information Furnished [REDACTED]

General Information and Instructions	
12. Please Answer Indicated Question(s)	13. Please Furnish Indicated Item(s)
<p><input type="checkbox"/> A. Are you related (see reverse) in any way to the seller of this merchandise? If you are related, please describe the relationship, and explain how this relationship affects the price paid or payable for the merchandise.</p> <p><input type="checkbox"/> B. Identify and give details of any additional costs/ expenses incurred in this transaction, such as:</p> <ul style="list-style-type: none"> <input type="checkbox"/> (1) packing <input type="checkbox"/> (2) commissions <input type="checkbox"/> (3) proceeds that accrue to the seller <input type="checkbox"/> (4) assists <input type="checkbox"/> (5) royalties and/or license fees 	<p><input type="checkbox"/> A. Copy of contract (or purchase order and seller's confirmation thereof) covering this transaction, and any revisions thereto.</p> <p><input type="checkbox"/> B. Descriptive or illustrative literature or information explaining what the merchandise is, where and how it is used, and exactly how it operates.</p> <p><input type="checkbox"/> C. Breakdown of components, materials, or ingredients by weight and the actual cost of the components at the time of assembly into the finished article.</p> <p><input type="checkbox"/> D. Submit samples: Article number and description _____ _____ from container _____ mark(s) and number _____ Samples consumed in analysis, and other samples whose return is not specifically requested, will not normally be returned.</p> <p><input type="checkbox"/> E. See item 14 below.</p>
14. CBP Officer Message	
15. Reply Message (Use additional sheets if more space is needed.)	

16. CERTIFICATION		It is required that an appropriate corporate/company official execute this certificate and/or endorse all correspondence in response to the information requested. (NOTE: NOT REQUIRED IF FOREIGN FIRM COMPLETES THIS FORM.)	
I hereby certify that the information furnished herewith or upon this form in response to this inquiry is true and correct, and that any samples provided were taken from the shipment covered by this entry.		16a. Name and Title/Position of Signer (Owner, Importer, or Corporate/Company Official)	16b. Signature
			16c. Telephone No.
17. CBP Official	18. Team Designation	19. Telephone No.	
20. Fax No.	21. Email		

CBP Form 28 (07/16)

CBP Forms 28 and 29

- Seek and follow the advice of your Customs Legal Counsel
- May want to discuss with CBP what triggered the inquiry to avoid similar issues in future
- Respond promptly and professionally
 - 30 days
 - Determine who will respond

CBP Form 28 and 29

- Form 29 has two uses:
 - That additional duties have been assessed
 - That additional duties are proposed
 - Have 20 days to respond
 - A failure to respond results in increased duties
- Where proposed – the same tips for addressing a CBP Form 28 also should be followed

DEPARTMENT OF HOMELAND SECURITY
U.S. Customs and Border Protection

NOTICE OF ACTION
19 CFR 152.2

This is NOT A Notice of Liquidation			1. DATE OF THIS NOTICE 03/26/2018
2. CARRIER [REDACTED]	3. DATE OF IMPORTATION	4. DATE OF ENTRY 05/09/2017	5. ENTRY NO. [REDACTED]
6. MFR/SELLER/SHIPPER [REDACTED]	7. COUNTRY CN	8. CBP BROKER AND FILE NO. [REDACTED]	
9. DESCRIPTION OF MERCHANDISE Wire Hangers			
10. TO [REDACTED]		11. FROM ▶ Mark Marrano U.S. Customs and Border Protection 1 E Bay St Savannah, GA 31401-1224 US	
12. THE FOLLOWING ACTION, WHICH WILL RESULT IN AN INCREASE IN DUTIES, --			
<input type="checkbox"/> IS PROPOSED			
▶ IF YOU DISAGREE WITH THIS PROPOSED ACTION, PLEASE FURNISH YOUR REASON IN WRITING TO THIS OFFICE WITHIN 20 DAYS FROM THE DATE OF THIS NOTICE. AFTER 20 DAYS, THE ENTRY WILL BE EITHER LIQUIDATED AS PROPOSED OR CHANGED AS PROPOSED.			
<input checked="" type="checkbox"/> HAS BEEN TAKEN			
▶ THE ENTRY IS IN THE LIQUIDATION PROCESS AND IS NOT AVAILABLE FOR REVIEW IN THIS OFFICE.			
TYPE OF ACTION A. <input checked="" type="checkbox"/> RATE ADVANCE B. <input type="checkbox"/> VALUE ADVANCE C. <input type="checkbox"/> EXCESS <input type="checkbox"/> WEIGHT <input type="checkbox"/> QUANTITY D. <input checked="" type="checkbox"/> OTHER (See below)			
13. EXPLANATION (REFER TO ACTION LETTER DESIGNATIONS ABOVE)			
This office has reviewed the response to the CBPF 2B, request for production records that was issued 12/20/2017. The information received was not sufficient to prove Sri Lanka as the origin of wire hangers. Therefore, this merchandise deemed subject to ACD case [REDACTED] wire garment hangers from China at the all other rate of 187.25%. The required entry type for this merchandise is "03" ADD entry, case [REDACTED] with the calculated ADD rate of 187.25%. For those entries where GSP has been claimed, consumption duties have been added. The following entries are subject to anti-dumping with deposit rate and require consumption duty for false GSP claim: [REDACTED]			
14. CBP OFFICIAL Mark Marrano <i>Mark Marrano</i>	15. TEAM DESIGNATION 055	16. TELEPHONE 912-447-9417	
17. FAX NUMBER	18. EMAIL mark.c.marrano@cbp.dhs.gov		

CBP Form 29 (05/14)

CBP Form 29

- CBP Form 29 may serve as commencement of a “formal investigation”
 - Does language state that CBP suspects a violation?
 - Communicate that CBP is looking beyond the cited entry?
- If the CBP Form 29 initiates a “formal investigation,” importer’s receipt creates presumption of knowledge

Prior Disclosure to CBP

- Make sure the disclosure meets the legal requirements to be valid
- File it before you have knowledge of the commencement of an investigation
- If CBP advises that you may want to consider filing a disclosure – contact customs lawyer ASAP

Detentions

- Customs has five days in which to release merchandise after arrival, after which it is considered to be “detained.”
 - Customs typically will detain the goods while it decides what course it wishes to pursue.
 - If Customs does not make a decision as to admissibility within 30 days of the detention, the law assumes that Customs has decided to exclude the merchandise from entry.
 - Importer can file a protest against the exclusion

Triggers – Detentions

- Where an importer receives a Notice of Detention- carefully review the the specific reason for the detention
- If there is a basis for asserting there has been no violation– contact Customs immediately to work towards release.

Triggers – Seizures

- If a violation does occur, the merchandise will be seized
- The Seizure Notice will identify what and where the cargo was seized, as well as the legal basis for the seizure
- Consider filing a Petition:
 - Timely file within 30 days
 - Identify arguments to persuade CBP to release the goods such as why a violation did not really occur, or mitigating factors in favor of releasing the cargo.

Penalties

- Penalties can be issued for a number of reasons but most frequently are issued to importers for a false statement under 19 USC 1592
- Typically penalties are proceeded by a CBP Form 28 or 29 or result from an Investigation or an Audit
- Sometimes the Importer is warned that they should consider filing a prior disclosure

Audits

- Anytime an Importer is audited it should ensure adequate preparation and should be represented by Legal Counsel
 - Avoid the notion that if you have an Attorney it means you have something to hide
 - Consider conducting some testing in advance of the audit entrance conference
 - If there are weaknesses that led to errors, file a prior disclosure before the entrance conference

Advanced Rulings

- Provide a transparent and efficient means of understanding how CBP will treat a prospective transaction.
- Ruling letters facilitate trade by enabling companies to make business decisions that are dependent on how their goods will be treated on importation.
- Fully describe the transaction(s), if there are various options dependent on facts, fully lay out all options.

Reasonable Care and Informed Compliance

- CBP Checklist:
 - Tariff classification
 - Customs valuation
 - Country of origin marking
 - Intellectual property rights
 - Free Trade Agreements
- Reasonable Care Checklist:
 - <http://www.cbp.gov/linkhandler/cgov/newsroom/publications/trade/ius.ctt/ius.pdf>



Country of Origin Marking

- Country of origin marking is used to clearly indicate to the ultimate purchaser of a product where it is made.
- Goods are processed in multiple countries using both domestic and foreign materials, thereby complicating the determination of the country of origin.



Free Trade Agreements

- The United States has free trade agreements in force with 17 countries. These are:
 - [Australia](#)
 - [Bahrain](#)
 - [Canada](#)
 - [Chile](#)
 - [Costa Rica](#)
 - [Dominican Republic](#)
 - [El Salvador](#)
 - [Guatemala](#)
 - [Honduras](#)
 - [Israel](#)
 - [Jordan](#)
 - [Mexico](#)
 - [Morocco](#)
 - [Nicaragua](#)
 - [Oman](#)
 - [Peru](#)
 - [Singapore](#)
- President Obama signed free trade agreements with [Colombia](#), [Korea](#), and [Panama](#) on October 21, 2011.



Intellectual Property Rights

- Is your merchandise or its packaging using any trademark, copyright or patent?
- If so, do you have the legal right to import those items into, and/or use those items in, the United States?
- Permission?
- License?

©Original Artist
Reproduction rights obtainable from
www.CartoonStock.com



"Need I remind you, Doctor, that you signed over intellectual property rights to the lab?"

Recordation With Customs

- Only \$190 –
 - CBP is YOUR POLICEMAN!!!!
- IPR Branch
- Copyright/Trademark Application Template



Trademark Recordation Application Template

- The names and principal business addresses of any business entities, foreign or domestic, who use the trademark and a description as to those use(s).
- Provide the name, address, telephone number, facsimile number, and email address of the contact person to whom BCBP should send inquires regarding potentially infringing merchandise and notices of detention and seizure pursuant to 19 CFR 133.24.

Customs – Trade Partnership Against Terrorism (C-TPAT)

- A Voluntary Customs – Trade Program designed to enhance global supply chain security and minimize the threat of terrorism in the U.S.
- **Benefits include:**
 - Reduced frequency and time in cargo secondary inspection lines.
 - Reduced time and cost of getting goods released.
 - Point of contact person assigned specifically to company (SCSS).
 - Reduced penalties.
 - Improved security for workforce.
 - Viewed as better citizen in the trade community (marketability and mutual recognition).



Apparel and Textile Sourcing Trade Show

May 21, 2018
Mana Wynwood Convention Center
by
Peter Quinter





Peter Quinter, Attorney

Customs & International Trade Law Group

GrayRobinson, P.A.

Mobile (954) 270-1864

Office (305) 416-6960

Peter.Quinter@Gray-Robinson.com

Skype: Peter.Quinter1