

U.S. Customs and Border Protection

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Footwear Distributors & Retailers of America
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Homeland
Security



U.S. Customs and
Border Protection

Outline

- Background (Mod Act)
- What is a Survey?
- Objective
- Best Practices
- Brief overview of TFTEA/EAPA/FORCED LABOR
- Resources



Customs Modernization Act

The Customs Modernization Act (Mod Act) in 1993 provided the framework for a partnership between the importing public and Customs.



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Customs Modernization Act

Reasonable Care

Care a prudent business person would exercise to ensure that transactions are in compliance with CBP laws and regulations.

Examples of Reasonable Care:

- Following CBP regulations and laws.
- Knowledgeable about their import transactions, including the terms of the transactions, description, and origin of merchandise.
- Establishing an internal control system over CBP transactions to ensure compliance with laws and regulations.

** Please see Informed Compliance Publication: “What Every Member of the Trade Community Should Know About: Reasonable Care” for more information.*



Who is Regulatory Audit?



Regulatory Audit's (RA's) mission is to conduct post-entry audits of importers and other private parties that interact with CBP and provide other professional services in order to:

- Ensure compliance with laws and regulations and protect government revenue
- Facilitate legitimate trade through partnerships and informed compliance activities
- Protect domestic industries from unfair trade practices related to intellectual property rights and anti-dumping and countervailing duties (AD/CVD)
- Support enforcement cases and court actions
- Protect U.S. consumers from unsafe goods



Types of Engagements

- RA engagements are generally categorized into four types:
 - Focused Assessment Audits
 - Referral Audits and Other Professional Services (formerly Quick Response Audits)
 - User Fee Audits
 - Importer Self-Assessment Evaluations



What's “New” in Auditing?

- Surveys
- Informed Compliance
- Questionnaires



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Survey Approach



- Onsite risk assessments conducted by teams of auditors and Import Specialists to more quickly obtain information about import activity relative to a specific trade area or issue without committing substantial time and resources
 - Request information about import activity and processes in advance via a questionnaire
 - Provide informed compliance presentations and materials to inform importers/brokers of their responsibilities
 - Conduct interviews and walkthroughs of selected entries to understand importing processes



Survey Approach (Con't)



- Results can be used to assist CBP in:
 - Segmenting higher versus lower risk companies and confirming assertions on high risk companies
 - Planning whether subsequent action is warranted (e.g., port validation activities, initiation of an audit, etc.)
- Results can be used to assist importers and brokers in:
 - Better understanding their responsibilities with regards to CBP compliance
 - Identify weaknesses or areas requiring improvement



Common Footwear Issues

- No sample of imported item – Pictures are not sufficient
- Classification
- Valuation
- Trade Programs involving COO need good recordkeeping
- Poor internal controls



How These Risks Translate to a Tariff Classification Audit – Red Flags



Control Environment

The Company maintains an environment that supports trade compliance, provides a clear corporate mandate for compliance, assigns competent personnel, uses proper organizational structure, and possesses adequate resources.

- The company has insufficiently documented, poorly defined, or no internal controls for accurately reporting classifications to Customs.
- The company does not monitor or interact with its customs broker.
- Company staff lacks knowledge of tariff classification rules and requirements.
- The company fails to cooperate or timely respond to Customs classification inquiries.
- The HTSUS provisions for the company's products are complex.
- The company imports a wide range of products but utilizes on a few tariff classifications.
- Heavy application of basket and part provisions.

Tariff Classification Audit – Best Practices



Control Environment

The Company maintains an environment that supports trade compliance, provides a clear corporate mandate for compliance, assigns competent personnel, uses proper organizational structure, and possesses adequate resources.

- Internal control for tariff classification are written and monitored and approved by management. *Control Activities*
- Personnel have adequate knowledge and training. *Control Environment*
- The company demonstrates good interdepartmental communication. *Information and Communication*
- The company conducts and documents periodic reviews and monitoring of its classification practices. *Risk Assessment and Monitoring*
- The company maintains a classification database. *Control Activities*
- The company provides written instructions to its customs broker(s) regarding tariff classification. *Information and Communication and Control Activities*

Tariff Classification Audit – Best Practices



Control Environment

The Company maintains an environment that supports trade compliance, provides a clear corporate mandate for compliance, assigns competent personnel, uses proper organizational structure, and possesses adequate resources.

- The company has qualified and training personnel, supported by management with a clear, written policy toward compliance, and management approval of written internal controls. *Control Environment*
- The company has procedures to ensure a complete and accurate invoice description is provided. *Information and Communication and Control Activities*
- Responsible individuals are provided with access to current HTSUS, ICP, Customs rulings, and other materials to properly classify product. *Control Environment and Control Activities*
- The company consults with a Customs “expert” to assist in the description and/or classification of the merchandise or review existing classification practices. *Monitoring and Control Activities*

Informed Compliance Letters

- What is it?
- Why are these being sent out?
- What does it mean if I receive a letter without the announcement of an engagement?
- What types of “informed compliance” might be included?



Questionnaires

- Purpose of Questionnaires
- Timing of Questionnaires
- Contents
- Response accuracy



Preparing for Regulatory Audit

	Focused Assessment	Audit	Survey
Questionnaire	Yes	Yes	Yes
# Areas Covered	Multiple	Single to Multiple*	Single to Multiple*
Walk throughs	Yes	Yes	Yes
Internal Control Evaluation	Yes	Extent Varies	Understand processes
Sample Testing	Yes (IC &/or compliance)	Yes	No
Communicating Results	Report	Report	Letter
Engagement Type	Audit	Audit	NonAudit

* Typically value and classification are reviewed for accuracy but may not be the primary focus of the audit; however, errors may impact the area (e.g. AD/CVD)



Advance Preparation

- Assess Risks of Noncompliance
- Ensure Control Procedures are Written & Detailed
- Periodically Assess Internal Control, Look for Strengths & Weaknesses, Make Adjustments
- Test Transactions for Accuracy & Make Corrections When Needed
- Control Procedures Performed are Documented & Verifiable
- Provide Sufficient Training/Resources to Staff
- Contact CBP for Further Guidance When Needed
- Self-Review & Prior Disclosure Before Audit Commencement



Conduct Walkthroughs & Interviews

- Be prepared to demonstrate:
 - Where procedures are documented
 - How control implementation is documented
 - What control procedures are used to assure accurate reporting to CBP
 - Who is responsible for accurate reporting
 - What information, records and electronic data are maintained



Resources

The CBP website contains resources with additional information, including suggested steps for obtaining a valid power of attorney. It also includes an Informed Compliance publication dated Jan. 2005 titled *What Every Member of the Trade Community Should Know About: Customs Brokers*.

- ▶ www.cbp.gov
- ▶ Trade
 - ▶ Key Trade Issues
 - ▶ Brokers
 - ▶ Rulings & Legal Decisions
 - ▶ Informed Compliance Publications
- <https://www.cbp.gov/trade/trade-enforcement/tftea>
- www.cbp.gov/trade/trade-enforcement/tftea/enforce-and-protect-act-eapa



Trade Facilitation and Trade Enforcement Act

TFTEA brings a sharp new focus to our Trade Enforcement Mission

- AD/CVD, IPR, & Import Safety
- IOR and Broker Risk Assessment Program
- Improve Collections & Bond Requirements
- Enforce and Protect Act (EAPA) AD/CVD
- Forced Labor

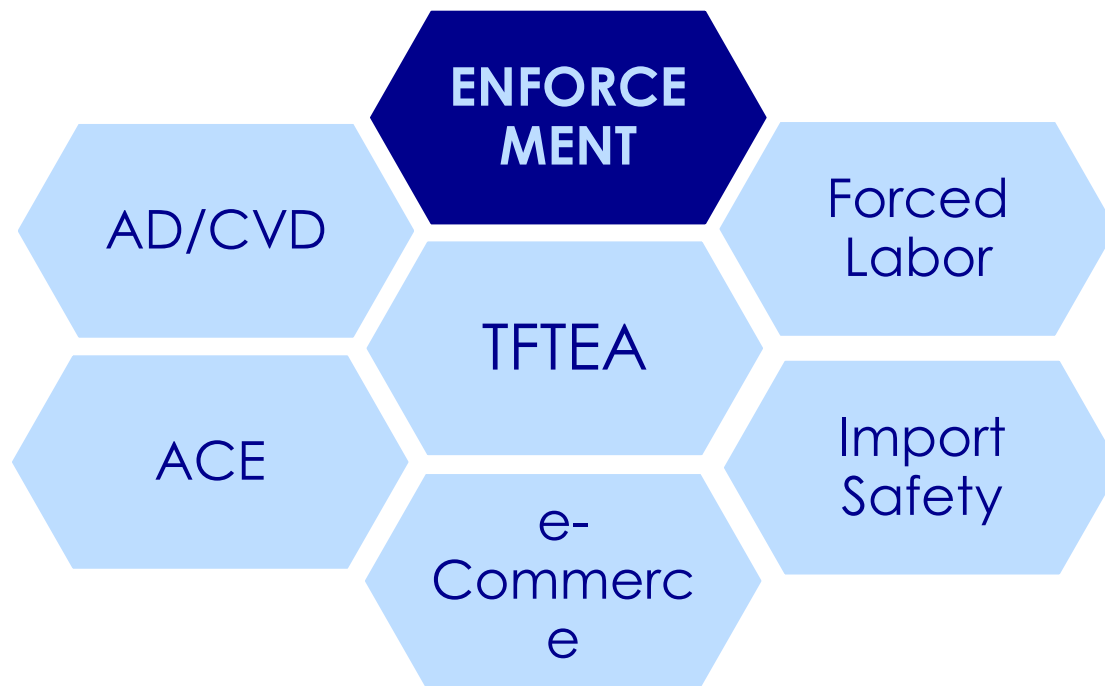




Office of Trade is leading numerous inter-agency and inter-governmental efforts by supporting field personnel to ensure proactive enforcement of new U.S. trade law in order to:

- Protect national economic security
- Facilitate legitimate trade
- Protect the health and safety of the American people
- Ensure a level playing field for U.S. industry**







New Part 165 describes the nature of EAPA investigations

- ❑ Investigations will be conducted by CBP's Trade Remedy Law Enforcement Directorate (TRLED) established as required by section 411 of EAPA
- ❑ CBP can investigate allegations by the public or requests by other Federal agencies with respect to the evasion of AD/CVD orders
- ❑ Any EAPA-related allegations as described in the IFR may be submitted to CBP via the following email address: eapallegations@cbp.dhs.gov





19 U.S.C. 1307 – Eliminates the consumptive demand exemption to import goods made by forced labor

- ❑ Merchandise not entitled to entry at any of the ports of the U.S.
 - Slave labor
 - Prison/convict labor
 - Forced child labor
 - Indentured labor under penal sanction



Questions?



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Our Mission

We are the guardians of our Nation's borders.

We are America's frontline.

We safeguard the American homeland at and beyond our borders.

We protect the American public against terrorists and the instruments of terror.

We steadfastly enforce the laws of the United States while fostering our nation's economic security through lawful international trade and travel.

We serve the American public with vigilance, integrity and professionalism.



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