

*The International
Trade Compliance
And Operations
Experts for
129 years!*

Unz & Co., Piscataway, NJ. 2008.
All rights reserved. No part of this
publication may be reproduced or
used in any form or by any means
– graphic, electronic, or
mechanical including
photocopying, recording, taping,
or information storage and
retrieval systems – without
permission of the publisher.

Reasonable Care Requires Knowledge of the U. S. Customs Regulation

As an importer of merchandise into the U.S. you are charged with the responsibility to accurately classify and value merchandise, and ensure that entry is properly filed with U.S. Customs & Border Protection (CBP). This “shared responsibility” concept was codified in the Customs Modernization & Informed Compliance Act (the “Mod” Act). CBP’s part of shared responsibility is to ensure that the importer’s entry was correctly filed and that the duty due was properly assessed and collected.

Additionally, the importer has other regulatory responsibilities that have been in effect for many years and pre-date the “Mod” Act. Country of Origin marking of imported merchandise and recordkeeping are two principle activities spoken to in the Customs Regulations. CBP enforces over 400 provisions of law for over forty other agencies of government. Depending on the nature of the imported merchandise an importer will have to meet the requirements of one or more additional agencies permitting CBP to make a determination that arriving merchandise is admissible into the U.S. and thus release it to the importer.

The Customs Regulations are codified in Title 19 Code of Federal Regulations Parts 1-199. These are the regulations promulgated by and directly enforced by CBP. These regulations speak to an importer’s fundamental requirements to properly declare and enter merchandise into the U.S. Customs Territory. The “Mod” Act also levied upon an importer the obligation to exercise Reasonable Care in the conduct of its business with CBP. Though not specifically defined, Reasonable Care is evidence of actions and activities that would reasonably lead to compliance with the Customs Regulations.

Having access to, understanding and then applying provisions of the Customs Regulations to your importing activity is one, but a substantial, exercise of reasonable care. If an importer does not know what the regulations require then how can one reasonable be assured that they are complying with them?

*The International
Trade Compliance
And Operations
Experts for
129 years!*

Unz & Co., Piscataway, NJ. 2008.
All rights reserved. No part of this
publication may be reproduced or
used in any form or by any means
– graphic, electronic, or
mechanical including
photocopying, recording, taping,
or information storage and
retrieval systems – without
permission of the publisher.

Too many importers will suggest that “their customs broker” does that for them. After all, aren’t customs brokers licensed professionals? The answer is yes, they are. However, it is critical that an importer understand its broker is an agent of the importer. The regulatory obligations imposed upon an importer cannot be delegated to another party. There is no one better than a customs broker to facilitate an import transaction with CBP. The importer must bear in mind that its broker is working with the information provided by the client/importer. In many situations the broker is using its best available guess as to information because the client/importer provided little or nothing. In this latter case, it is the importer who bears the ultimate regulatory responsibility.

As an importer, is the value declared to CBP for imported merchandise solely that which is shown on the foreign vendor’s commercial invoice? Or, do you know of and understand the statutory inclusions to value that must be declared either inclusive in the price paid or payable or once known, then declared subsequent to entry. The importer must understand the concepts of merchandise valuation as defined in Part 152. There are elements of value to be declared that a broker may never ever be aware of while facilitating an import transaction on your behalf.

In 2008, the Unz & Co. Customs Regulations subscription service was updated no less than 12 times. This is an indication of how an importer must stay attuned to changes that occur within these regulations in order to ensure its ongoing compliance. One major change in 2008 was the codification into regulation and incorporation in Title 19 Part 10 of the Dominican Republic-Central America Free Trade Agreement.

We look for many additional changes in the Customs Regulations for 2009. Very important will be the finalization and implementation of the Importer Security Filing requirement – known as the “10+2” rule. In its final form, this rule will have a significant impact on the way an importer prepares to conduct business with CBP. CBP has also proposed changing the manner in which importers make a determination as to country of origin for marking purposes. This may be codified into regulation in 2009.



UnzAlert

*The International
Trade Compliance
And Operations
Experts for
129 years!*

Your subscription to the Unz & Co. Customs Regulations will keep you up to date and informed. Remaining current with and understanding this ever changing regulation is essential to your ongoing compliance efforts. Avoid unnecessary delays in the release of imported goods and possible assessment of monetary penalties for non-compliance.

Unz & Co., Piscataway, NJ. 2008.
All rights reserved. No part of this publication may be reproduced or used in any form or by any means – graphic, electronic, or mechanical including photocopying, recording, taping, or information storage and retrieval systems – without permission of the publisher.

www.unzco.com * 800-631-3098