



BPE Global Hot Topic – October 2018

CBP is analyzing your data – Are you?

Last month my colleague, Julie Gibbs, wrote an article [“Keeping track of 301 tariffs on imports from China”](#) with an overview on what you need to know, and what you can do to understand the impact of these tariffs.

Her article pointed you in the right direction to begin assessing the full impact of the Section 301 tariffs and helped create a strategy to mitigate them. Now that you’ve had a chance to fully absorb the impact to your company’s bottom line, reclassified some of your products and perhaps taken some supply chain measures, the next step is to start doing something equally as engaging - auditing 100% of your import declarations!

If auditing is something you do sporadically or periodically, now is the time to shift gears, and dig deeper to understand exactly what is happening with shipments abroad into the U.S. from your supplier’s, contract manufacturers, and logistics providers - where you are the importer of record (IOR). Yes, it is time to stop, drop and roll – don’t wait a few months to find out your imports are being exported to the U.S. and subsequently declared on customs entries with the wrong country of origin, or wrong HTS number. We are already seeing foreign suppliers, who are aware of the new 10% and 25% tariffs on Chinese goods who are trying to be “helpful”, and avoid you, their customer, having to pay the new exorbitant tariff they have read about in the headline news. In being “helpful” they are perhaps claiming other COO’s or more common, tariff shopping for lower duty rates, and not understanding the consequence to you, as the importer of record.

Remember List 1 went into effect on July 6th, List 2 on August 23rd, and List 3 on September 24th, so these are the key dates to monitor for proper HTS classification and COO claims on your import entries.

As you know, audits conducted by Customs and Border Protection are no longer as random as they used to be. Now, with the advent of ACE you can be certain CBP is watching changes in HTS number post List 1-3 implementation, along with COO claims shifting from China to other countries.

With penalties for customs violations ranging from double the import duty loss for “negligence” (or 20% of the value of the goods if the violation did not affect the assessment of duties) up to the entire value of the imported merchandise in cases of “fraud”, importers should be motivated to point resources to conducting 100% customs entry audits for the short-term, until things stabilize.

Be assured, you are not alone in the fact that many companies are still wading through thousands of lines of product HTS classification reviews of existing classifications, which are being found to be inaccurate, and COO claims which haven’t been well scrutinized historically, along with looking for sourcing alternatives for China origin goods. The effort to do a 100% customs entry audit may not be what you want to do, but you really do need to do it!

Recommended steps:

- 1) Run an ACE import report covering entries starting July 6th (List 1 implementation date) through today, thus inclusive of List 3 implementation.



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- 2) Pull the full import packet – CBP Entry Form 7501, the commercial invoice, packing list, Airway Bill etc.
- 3) Compare the ACE report data fields to the entry paperwork, with a focus on the product, description, HTS (Field 29A) and COO (Field 10) accuracy.

Questions to ask yourself: Is my customs broker working off a product database feed or spreadsheet? How often is this information updated? Have I taken a deep dive into reviewing my HTS classifications and origin claims? (Or was it just precursory when the Section 301 announcements occurred?) What kinds of instructions does my broker have on processing entries under the currently evolving import environment? Is the COO truly the “country of origin”, or just the country the item was exported from? Bottom line: Make sure these fields correspond with what you assigned and directed your broker to use and make corrections asap.

In addition to ensuring that the correct HTS and COO are declared, consider the fact that you may have to do Post Summary Corrections (PSC) or a protest on items that you correctly reclassified.

Remember all of these steps are part of “Reasonable Care” for tariff classification and country of origin. If you haven’t recently looked at the CBP Informed Compliance publication on [Reasonable Care](#), we suggest you do so.

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