



H.R.644 - Trade Facilitation and Trade Enforcement Act of 2015
Public Law No: 114-125 effective February 24, 2016

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Title I : Trade Facilitation and Trade Enforcement

- Establishes importer risk assessment and importer of record programs.
- Requires Customs Brokers to identify importers to CBP and establishes penalties for Customs Brokers who fail to collect the required information
- Establishes the following priority trade enforcement issues:
 - Agriculture programs.
 - Antidumping and countervailing duties.
 - Import safety.
 - Intellectual property rights.
 - Revenue.
 - Textiles and wearing apparel.
 - Trade agreements and preference programs.

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A “first pass” at Information CBP Deems Important

Your Business History →

Your Bank →

Personal Information →

3F. List the names and Internal Revenue Service (IRS) employer identification, Social Security or CBP-assigned numbers for current or previous related business entities.

Related Business	Name of Business Entities	IRS/SSN/CBP Assigned Number
<input type="checkbox"/> Current <input type="checkbox"/> Previous		
<input type="checkbox"/> Current <input type="checkbox"/> Previous		
<input type="checkbox"/> Current <input type="checkbox"/> Previous		

3G. Primary Banking Institution: _____ (Name)
 _____ (Bank Routing Number) _____ (City) _____ (State) _____ (Country ISO Code)

3H. Certificate or Articles of Incorporation - (Locator I.D.) _____

3I. Certificate or Articles of Incorporation - (Reference Number) _____

3J. Business Structure/Company Officers - The officers listed in this section must have importing and financial business knowledge of the company listed in section 1 of this form and must have legal authority to make decisions on behalf of the company listed in section 1.

Company Position Title:		Name (First, Middle, Last):	
Direct Phone Number:		Direct Email:	
Social Security Number:	Passport Number:	Country of Issuance:	Passport Expiration Date:
Passport Type: <input type="checkbox"/> Regular <input type="checkbox"/> Official <input type="checkbox"/> Diplomatic <input type="checkbox"/> Passport Card			
Company Position Title:		Name (First, Middle, Last):	
Direct Phone Number:		Direct Email:	
Social Security Number:	Passport Number:	Country of Issuance:	Passport Expiration Date:
Passport Type: <input type="checkbox"/> Regular <input type="checkbox"/> Official <input type="checkbox"/> Diplomatic <input type="checkbox"/> Passport Card			

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Title III: Import-related Protection of Intellectual Property Rights

- When CBP *suspects* merchandise is in violation of an intellectual property right, CBP has the authority to provide samples of potentially infringing goods to owners of these rights for assistance in determining whether a violation has taken place.
- Gives CBP the additional authority to seize items designed to circumvent copyrights.
- Requires CBP to draft and implement new regulations that treat *applicants for a copyright* in the same manner as a holder of an existing copyright.
- The Act creates a new National IP Coordination Center for coordinating investigations, training and other activities.

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Title IV: Prevention of Evasion of Antidumping and Countervailing Duty Orders

Section 421:

Establishes New Procedures for CBP to Investigate Claims of “Evasion” of Antidumping and Countervailing Duties (AD/CVD) **Effective Date: August 23, 2016**

Evasion:

Generally refers to entering merchandise covered by an AD/CVD order that results in any amount of the duty being improperly reduced or not being applied.

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Title IV: Prevention of Evasion of Antidumping and Countervailing Duty Orders

Forms of Evasion:

Transshipping merchandise through 3rd countries for purposes of changing the country of origin.

Falsely labeling, misclassifying or falsely reporting the manufacturer/exporter.

Any other document or electronically transmitted data or information, written or oral statement, or act that is material and false, or any omission that is material and deemed not to be a clerical error.

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Title IV: Prevention of Evasion of Antidumping and Countervailing Duty Orders

Who may request that CBP investigate an allegation of evasion?

Any “interested party” which includes:

- Foreign manufacturer, producer, or exporter; U.S. importer; U.S. manufacturer, producer, or wholesaler; of covered merchandise.
- A certified union or recognized union or group of workers.
- A trade or business association a majority of the members of which are Foreign/U.S. producers, exporters, importers of such merchandise.

Any Federal agency, including the Department of Commerce or the United States International Trade Commission.

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Title IV: Prevention of Evasion of Antidumping and Countervailing Duty Orders

Procedures and Timing:

INITIATION:
CBP shall initiate an investigation within 15 business days of receiving information that “reasonably suggests” a person entered merchandise though evasion.

- After initiation CBP as the authority requests and collects additional information as is necessary including issuing questionnaires to any party.
- Failure to cooperate or comply with the requests for information may result in an **ADVERSE INFERENCE** applied to the non-cooperating party.

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Title IV: Prevention of Evasion of Antidumping and Countervailing Duty Orders

Procedures and Timing:

Interim Measures:

- Not later than 90 days after initiating an investigation CBP shall decide if there is a “reasonable suspicion” that the merchandise entered through evasion and, if so CBP shall suspend liquidation and take other necessary measures.

Determination

- CBP shall issue a determination 300 days after the date of initiation (CBP may request an additional 60 days if the case).

Notification:

- Not later than 5 business days after making a determination CBP.

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Title V: Small Business Trade Issues and State Trade Coordination

Small Business Trade Enhancement Act of 2015 or State Trade Coordination Act



- Requires the Small Business Administration (SBA) to solicit the views of small businesses in the manufacturing, services, and agriculture industries on the potential economic effects of trade agreements
- Directs the SBA's Office of International Trade to establish a State Trade Expansion Program to make grants to states for trade expansion programs for eligible small business concerns.

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Title VI: Additional Enforcement Provisions

Authorizes the USTR to take certain discretionary trade action against foreign countries that:

- Engage in unreasonable acts, policies, or practices that fail to enforce their commitments under trade agreements with the United States
- Including with respect to trade in goods and services, agriculture, foreign investment, intellectual property, and the environment.

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Title VIII: Matters Relating to U.S. Customs and Border Protection

U.S. Customs and Border Protection Authorization Act amends the Homeland Security Act of 2002 to establish formally, in DHS, the CBP (formerly the U.S. Customs Service), headed by the Commissioner of CBP.



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Title VIII: Matters Relating to U.S. Customs and Border Protection

Preclearance Authorization Act of 2015 authorizes DHS to establish CBP preclearance operations in a foreign country to:

Prevent terrorists, instruments of terrorism, and other security threats from entering the United States.

Prevent inadmissible persons from entering the United States.

Confirm merchandise destined for the United States complies with applicable U.S. customs laws.

Ensure the prompt processing of persons eligible to travel to the United States.

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Title IX: Miscellaneous Provisions

Sec. 901 – De Minimis Value

Amends the Tariff Act of 1930 to increase from \$200 to \$800 the general de minimis aggregate fair retail value in the country of shipment of duty-free articles imported by one person on one day.

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Title IX: Miscellaneous Provisions

Sec. 904 - HTSUS Chapter 98

- Modernizes the rules for goods imported under subheadings **9802.00.40** and **9802.00.50**, HTSUS by allowing fungible merchandise to be commingled and by providing that the origin, value and classification of such articles may be accounted for using an inventory management method if based on GAAP.
- Amends the article description for subheading **9801.00.10**, HTSUS to **include any other products when returned within three years after having been exported.**
- Creates a new heading **9801.00.11**, which provides duty-free treatment for certain U.S. government property returned to the United States either by the U.S. government or a U.S. government contractor.

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Title IX: Miscellaneous Provisions

Articles reimported without having been advanced in value or improved in condition by any process of manufacture or other means while abroad, exported from the United States without benefit of Drawback



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HTS 9801.00.10 Requirements (19 CFR Part 10)

- Cannot be exported with benefit of drawback.
- Must have proof of export, with supporting documentation.
- A declaration by the Foreign Shipper:
 - I, _____, declare that to the best of my knowledge and belief the articles herein specified were exported from the United States, from the port of _____ on or about _____, 20__, and that they are returned without having been advanced in value or improved in condition by any process of manufacture or other means.
- A declaration by the Importer
 - I, _____, declare that the (above) (attached) declaration by the foreign shipper is true and correct to the best of my knowledge and belief, that the articles were not manufactured or produced in the United States under subheading 9813.00.05, HTSUS, and that the articles were exported from the United States without benefit of drawback.

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Title IX: Miscellaneous Provisions

Sec. 906 - Drawback

Eight-Digit HTSUS Substitution Standard:

- substitute merchandise based on the same 8-digit HTSUS number rather than “of the same kind and quality” or “commercially interchangeable with” criteria

Five-Year Claim Deadline:

- expands the time frame from three years to five years from the date of importation.

Calculation of Drawback Refunds:

- authorizes the refund of additional taxes and fees paid in addition to duties paid on the imported merchandise.

Supporting Documentation:

- **Business Records in Lieu of Certificates:** records kept in the ordinary course of business
- **Bill of Materials or “Formula”:** to identify merchandise and quantity incorporate/d into exported goods

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Title IX: Miscellaneous Provisions

Sec. 906 - Drawback

Liability:

- The Act specifies that:
 - any person making a drawback claim is liable for the full amount of the claim and
 - any person claiming drawback and the importer are jointly and severally liable for the lesser of the amount of drawback claimed or the amount that the importer authorized the other person to claim.

Recordkeeping:

- The Act amends CBP's recordkeeping statute (19 U.S.C. § 1508) to require that records for drawback claims be maintained for three years from liquidation, versus the current date of payment of the claim.

Electronic Filing:

- The Act requires that all drawback claims filed two years after the date of enactment of the Act shall be filed electronically.

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