

CUSTOMS PROFESSIONAL'S TOOLKIT

# TRADE COMPLIANCE

Avoid penalties and delays. Invest in trade compliance.

# Trade Compliance

Accurate tariff classification and valuation, and the voluntary participation in trade security programs are key components of trade compliance. Are you doing all you can to ensure the effectiveness and security of your supply chain?

As global markets become more accessible, trade regulations become more complex. How familiar are you with these regulations?

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MANAGING COMPLIANCE AND RISK

# COMPLIANCE CHECKLIST

## Managing Compliance and Risk

# Compliance checklist

Respond to the following statements to gauge where your company stands with respect to a great compliance program. For statements where you score yourself “somewhat” or “no,” take the time to review and address potential gaps in your compliance program.

	Yes	Somewhat	No
1. We have clearly defined goals to achieve good compliance.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Management has committed the resources required for good compliance.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. We have a compliance group, not just a customs department.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. Other departments understand how they contribute to compliance.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. Any shipment can be tracked through the P2P cycle by a unique identifier.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. We have regular training to support our compliance efforts.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. We have internal standard operating procedures (SOPs).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8. We have SOPs for our suppliers and service providers.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9. We adjust our SOPs and update our processes, as required.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10. We have an up-to-date customs manual.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11. We monitor regulatory changes and communicate them internally.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
12. We use technology (e.g., EDI, imaging, online compliance documents).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
13. We regularly self-audit to test our compliance and documentation.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
14. We verify the information (e.g., origin, HTS) supporting our NAFTA or FTA claims.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
15. We have an audit trail to support NAFTA claims (whether receiving or issuing).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
16. Our HTS methodology is documented for existing and new products.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
17. We have an established post-entry process.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
18. We have addressed outstanding issues from previous customs audits.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
19. We have a record-keeping process and can pull documents on demand.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
20. We have addressed security in our supply chain (e.g., C-TPAT).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
21. We outsource for expertise or to assess our compliance.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

For a detailed guide on improving your compliance program, ask us for a copy of Livingston Consulting’s white paper, How to build a great compliance program for your US imports, And why you should.

## Contact Livingston

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MANAGING COMPLIANCE AND RISK

# HOW TO PREPARE FOR A CUSTOMS AUDIT

Make audit preparation part of  
your compliance program

## Managing Compliance and Risk

# How to prepare for a Customs audit

### Make audit preparation part of your compliance program

Customs agencies on both sides of the border have publically stated that, eventually, every importer will be audited.

So, it's not a matter of if you will be audited – but when. All across North America, Customs authorities are making changes to their approach that put you at risk of an audit, including the following:

- Increasing the number of audits they conduct.
- Increasing the use and amounts of penalties.
- Introducing smaller, more targeted and single-program audits, in addition to their full and comprehensive audit process.
- Conducting secondary audits, 12 to 18 months after an initial audit, to confirm that recommended changes have been implemented.

If you are audited, it can result in recommendations, duty adjustments going back four years, and financial penalties. Penalties are graduated, and match the severity and frequency of the contravention.

As an importer, you're ultimately responsible for any gaps or errors in your customs compliance process. Being diligent in your record keeping and having all the proper processes in place will go a long way in helping you be audit-ready.

**The results of a Customs** audit can include recommendations, duty adjustments going back four years and financial penalties.

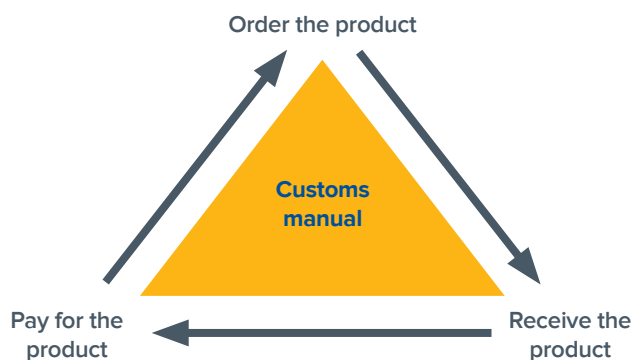


### Get audit-ready:

- Keep your customs manual up-to-date and ensure it's accurate – it's the first thing an auditor will want to see.
- Review your compliance process to confirm that you have appropriate systems and controls in place.
- Ensure that there are process and system linkages through each department.
- Check your financial links, and ensure that all financial statements and agreements are accessible.
- Ensure you have a documented methodology for your tariff classifications, supported by previous rulings, third-party opinions, specification sheets, or samples.
- Test a few of your typical transactions. If you're claiming NAFTA, or any other free trade agreement, verify that the information (classification, valuation, country of origin) is correct, and that you can retrieve all of the associated records to support your claim.
- Ensure you implement any recommended changes that resulted from a customs audit and address any outstanding issues, such as binding rulings, protests and petitions, duty relief claims, and voluntary disclosures.
- Consider a third-party audit to gauge your compliance level, and identify gaps before an auditor does.



## Ensure you are ready for a Customs audit



### Check documentation links

- Purchase orders
- Purchase order through to vendor payment
- Release documents
- Bills of lading
- Management/ royalty fees
- Proof of payment
- Certificates of Origin
- Receiving reports
- Supplier reports
- Import/ export permits

### Check financial links

- Buying/ selling commissions
- Management/ royalty fees
- Transfer pricing agreements
- Research and development costs

## Check department links

- Purchasing
- Transportation
- Customs
- Receiving/ distribution
- Finance

## Conduct a self-audit

One of the best ways to get ready for a Customs audit is to conduct a self-audit of your trading activities. Use an internal audit team or, where lacking expertise, an external service provider. Your self-audit should be performed at least once a year. Depending on changes in rules and regulations by Customs authorities, you may require a mid-year audit. Changes in your organization, the introduction of new products, or partners might also warrant the initiation of an audit.

Rather than take the chance that you'll never be audited, always assume that you will. While it might require a little extra investment of time on the part of your compliance team, it's worth the effort and money you'll save in the long run.

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TRADE CONSULTING

# VALUATION SERVICES

Learn how to bring ease and accuracy  
to managing customs valuation.



## Trade consulting

# Valuation Services

Customs valuation is complex for all importers, especially those with global supply chains.

Two of the primary customs valuation challenges companies face today are:

- Understanding appraisal methodologies required by valuation guidelines
- Managing human resources to handle the valuation process and documentation

To add to these challenges, regulatory authorities have been increasing their focus on compliance verification audits recently - and valuation is a key area they're targeting.

Now, more than ever, global companies need trusted, reliable solutions and support to keep up-to-date on valuation guidelines and maintain a team to manage the process accurately and efficiently. Otherwise, they're susceptible to crippling audits, costly fines, and lost time that inhibits their success and growth on a global scale.

### Never worry about appraisal methodologies or guidelines again

Many companies struggle with understanding and following the specific rules for assigning a value for duty, especially since customs valuation methods are different from other product valuations such as those used for corporate tax purposes. Our team stays current with the global customs valuation standards so that you don't have to - and you can be confident that all imported products are valued appropriately.

### Get the best global trade personnel on your team, without the overhead

Recruiting and managing an in-house team of personnel responsible for your global trade is time consuming and expensive. Our skilled, reliable global trade team acts as an extension of your business freeing up your valuable resources or filling in your resource gaps to efficiently manage your valuation documentation, policies and reporting.



### Top benefits of Livingston's Customs Valuation Consulting Services

- Validate and streamline your global valuation requirements
- Gain the necessary audit trail and documentation to support your valuations
- Recover duties paid on overvalued merchandise
- Reduce time spent on valuation prior to disclosures, post-entry filings and reconciliation
- Improve acceptability and reliability of your pricing strategies with global affiliates for all types of import transactions
- Determine if enrolling in reconciliation can benefit you

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IMPORTING AND EXPORTING

# VALUATION ALLOWABLE DEDUCTIONS WILL ADD TO YOUR BOTTOM LINE

Valuation of imported merchandise is the basis for duty calculation. Are you deducting all of the appropriate – and allowed – fees from your imported merchandise?

## Importing and Exporting

# Valuation Allowable deductions will add to your bottom line

Valuation of imported merchandise is the basis for duty calculation. Are you deducting all of the appropriate – and allowed – fees from your imported merchandise?

When importing into the United States, the importer of record must ensure that reasonable care was taken to enter, classify, and value the goods, as well as provide any other information needed for U.S. Customs to accurately collect statistics, assess duties, and determine that all legal requirements have been met. When determining the value of a good, there are some guidelines in place that let importers deduct from the value and thereby reduce the amount of duty to be paid.

### Allowable deductions

The U.S. Customs and Border Protection (CBP) allows a number of deductions to be applied to the value of a good. The following list identifies some of the charges that may be deducted from the entered value of a Free on Board (FOB) charge:

- 10+2 management fee, which helps the importer provide the required information to CBP;
- Carrier's booking agent fee, for booking services;
- Carrier fee, for issuing the bill of lading;
- Container Freight Station (CFS) receiving fee, for receiving and packing cargo into containers at the loading port;

**While duty rates remain the same,** charges can be deducted from the declared value, which reduces the amount of duty paid on the imported goods.



- Foreign customs clearance fee;
- Container Yard (CY) monitoring fee, for handling the cargo;
- Carrier fee, for equipment management;
- Documentation fee, for issuing the Freight Cargo Receipt (FCR) or the House Bill of Lading (HBL);
- LCL fee, for handling Less than Container Load (LCL) cargo;
- Port construction fee;
- Port security charge;
- Supply chain security fee;
- Terminal handling charge;
- Wharfage charge.

### Additions and subtractions to value amount

Importers need to understand and substantiate the value of goods according to Customs regulations. The imported value, commonly referred to as the "price actually paid" or "payable", is the value of the merchandise, as invoiced, plus any additions or subtractions permitted by law. Additions can include royalties, assists or a number of other charges that may need to be added.



The key point of interest is that charges can also be deducted from the declared value, which reduces the amount of duty paid on the imported goods.

### Trade terms and valuation

Incoterms, or International Commercial Terms, also play a significant role in the valuation of imported goods. For example, goods purchased under an EXW, or Ex-Factory, place the burden to contract all transportation and costs from the factory to the port of export on the buyer. What's important about EXW and the merchandise value at import is that these fees are not part of the price actually paid and do not need to be added to the declared value. Other common Incoterms are FOB (Free on Board), and FCA (Free Carrier), which make the inland freight and other export costs the responsibility of the seller rather than the buyer.

CBP Informed Compliance Publications (ICP049\_3), Rulings (H178135, H092560) and 19 CFR §152.103(a)(5) all allow deductions from the price actually paid as long as the charges are specifically identifiable.

### What does specifically identifiable mean?

The amounts must be based on actual charges, and not percentages or other fictitious values. This means that in the instance of goods purchased under FOB or FCA, the freight carrier must be able to substantiate the charges that were billed to the seller.

It's also important to note that specific conditions must be met to allow the deductions from the entered value. If another Incoterm is used, such as CPT (Carriage Paid To), or DAP (Delivered at Place), the costs won't necessarily be deducted from the entered value of the goods.

Determining the value of imported merchandise can be a complex and daunting task. However, establishing a comprehensive valuation program can result in significant savings.

### Compliance expertise

Partnering with Livingston for your valuation and trade compliance needs is an efficient and cost-effective way to help you stay ahead in today's international trade marketplace. We will put all of our best people and resources into ensuring your valuation and government requirements are met.

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IMPORTING AND EXPORTING

# IMPORTING INTO CANADA CLASSIFICATION AND TARIFF TREATMENTS

Knowing how tariff classification and preferential tariff treatments work can make a big difference to your bottom line.

## Importing and Exporting

# Importing into Canada Tariff classification and preferential tariff treatments

Knowing how tariff classification and preferential tariff treatments work can make a big difference to your bottom line.

As an importer, what you know about tariffs – including tariff classification and preferential tariff treatments – can make a big difference in keeping your shipping processes efficient and cost-effective.

## Understanding tariff classification and Harmonized System (HS) codes

When importing goods into Canada, the best way to ensure your shipments get through Customs quickly is to make sure they're classified with the correct Harmonized System (HS) codes. HS codes are 10-digit codes required for the reporting of goods imported into Canada. They also determine how much duty is applied, so it's important that they're accurate.

This is the same system used when importing goods into the U.S.; Canada is one of more than 200 countries around the world that uses this system of tariff classification, which was developed by the World Customs Organization.

The first six digits of the code represent the international portion of the classification number. They are used by all countries that have adopted the Harmonized System.

**Find out how** Livingston can help you develop tariff procedures that save you money and increase your efficiency.



The last four digits reflect Canadian tariff and statistical requirements.

## Taking advantage of preferential tariff treatments

As an importer, you could be entitled to preferential tariff treatments as a result of trade agreements, provided your goods meet the required criteria.

If your goods meet the criteria set out, you can take advantage of some or all of these Preferential Tariff Treatments:

- **Most-Favored-Nation** – The MFN rate is the rate extended to all imports into Canada from any country in the world.
- **North American Free Trade Agreement (NAFTA)** – NAFTA has reduced or eliminated the tariff rates applicable to goods that meet the origin requirements set forth in the agreement. Goods qualifying for preferred tariff treatment under NAFTA require a properly completed Certificate of Origin. This document can be prepared for each individual shipment, or a blanket certificate can be prepared on an annual basis and kept on file with the importer or their appointed customs broker or agent.
- **Other preferential tariff treatments** – Including General Preferential Tariff, Least Developed Developing Country, Caribbean Commonwealth Country Tariff Treatment, Canada Israel Agreement Tariff, and Chile Tariff.



Preferential tariff treatments (i.e. duty-free tariffs in many cases) are offered on the condition that certain direct shipment and proof of origin requirements will be satisfied. Depending on the commodity exported, additional documentation may be required. (It's best to check with your customs broker before exporting a new commodity or product line.)

### **Duty drawback**

Looking for ways to lower your bottom line? CBSA's duty drawback program allows companies to recover duty paid on certain imported goods, putting money back in your pocket. In 2009-2010, CBSA processed approximately \$85 million in drawback claims. Your customs provider can help you determine which imports are eligible and how much you can claim.

### **Could you be entitled to preferential tariff treatments or duty drawback?**

If you'd like to know if you're eligible for any preferential tariff treatments or duty drawback, your customs provider can help you identify any opportunities that will maximize your import potential.

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