

★ Import specialists are responsible for making sure that the correct duties are paid on all products that are imported into the U.S. During fiscal year 2012, more than \$168 million in revenue was collected because of the work of import specialists.

CBP's Behind-the-Scenes Trade Enforcers

How CBP's import specialists protect the U.S. economy

BY MARCY MASON

When Luba Reagan, a 20-year veteran of U.S. Customs and Border Protection, was starting her career as an import specialist at the port of Cleveland, she visited an importer with her supervisor and the two were asked if they were armed. Reagan quickly replied, “Only with our wits and our red pens.” But her clever retort was lost on the company’s receptionist who had no idea that Reagan was referring to the import specialist’s signature tool, a red pen. Nor



Photo by Nancy Messeri

★ Footwear has one of the highest duty rates and is also one of the most difficult commodities to classify. Barbara Weeks, a CBP senior import specialist at the Los Angeles-Long Beach seaport, classifies and appraises a shoe that was targeted during an agency sting operation.

did she realize the impact that an import specialist has on enforcing U.S. tariff and trade laws.

While few outside the trade community are aware of what import specialists do and the vital role they play in protecting Americans and the U.S. economy, their work is critically important to the health, safety and financial security of the nation. Their commodity expertise and innovative thinking are essential to making sure that imported goods are sold competitively at a fair market value and that the country's revenue is protected.

There's nothing simple about the import specialist's job. It's highly technical and complex, but in the most basic terms, import

specialists are responsible for making sure that the correct duties are paid on all products that are imported into the U.S. Their skill set runs the gamut and as far as technical expertise, import specialists are the lynchpin for CBP's trade functions. "I haven't found another discipline that has that all-encompassing view," said Ben Whitney, a program manager at the Los Angeles Field Office, who began his career as an inspector with the U.S. Customs Service, CBP's legacy agency, and then became an import specialist for several years.

"When I have a question, I go to the import specialists who handle the

commodities that I'm dealing with because they're the ones who will know," said Whitney. "They have a finger on everything that's going on within a particular industry. They know who's good, who's bad, who's compliant, who's not compliant, what the risk factors are, and how to evade CBP's enforcement efforts. I don't know any other discipline that can even attempt to do that," said Whitney.

The real art of the import specialist is the classification of imported goods for revenue collection purposes. Since 1989, the U.S. has used an intricate classification system called the Harmonized Tariff Schedule of the United States. The tariff



★ At the Los Angeles-Long Beach seaport, Senior Import Specialist Ken Price, right, examines footwear shipments with CBP Officer Stephanie Frost, to look for intellectual property infringements and lost revenue.

duty rates for footwear range from 6 to 48 percent, but we also have a compound duty rate, which is 37.5 percent plus 90 cents a pair. That equals about 67 percent, and you're going to see that mainly on tennis and athletic shoes."

"One of the biggest issues that we run into with footwear is misclassification," said Weeks. "We get a lot of misclassifications where the upper part of the shoe is not over 90 percent rubber or plastic. The manufacturer has added glass or wooden beads or other adornments such as textile embroidery

or metal ornaments. That will usually jump the duty from 6 percent to 37.5 percent or higher," said Weeks. Same holds true with the lining in rain boots. Polyvinyl chloride lined boots have a 4.6 percent duty. "But the majority that we see have textile linings and that raises the duty to 37.5 percent," she said.

And this can add up to a lot of money. "The additional revenue on one shipment could be \$10,000," said Weeks. "It could be more. It could be less. It just depends on the size of the invoice value."

Because footwear has such high duty rates, there's a lot of potential for fraud. One of the typical scams is to "misdescribe" goods and not declare them with correct descriptions to customs. For example, "if the duty rate on a shoe is 6 percent versus 48 percent on a \$100,000 shipment, that's a \$42,000 difference in duty," said Whitney, who was a senior import specialist on the shoe team for two years at the port of Los Angeles-Long Beach, the nation's largest

photo by Nancy Mason

schedule, which is approximately 12 inches thick and still growing, is published annually by the U.S.

International Trade Commission.

The schedule is based on an international, standardized system for classifying traded products known as the Harmonized Commodity Description and Coding System or the Harmonized System for short.

Approximately 5,000 commodity groups are included in the Harmonized System. Each is identified by a six-digit international code. CBP import specialists classify goods using a 10-digit code. More than 200 countries and economies use the Harmonized System, administered by the World Customs Organization in Brussels, as a basis for their customs tariffs.

Recovering lost revenue

CBP's import specialists recover a sizeable amount of revenue for the U.S. because of their finely honed skills. During fiscal year 2011, nearly \$96 million in revenue was collected because of the work of import specialists. The figure skyrocketed in 2012. More than \$168 million was collected during the fiscal year. This money, like all duties, was deposited into the U.S. Treasury's general fund, which is used to pay for core functions of the U.S. government.

Footwear has one of the highest duty rates and is also one of the most difficult commodities to classify. "There are a lot of different factors to consider when you're looking at footwear. It can get complicated," said Barbara Weeks, a CBP senior import specialist who has been classifying and appraising footwear for nearly 24 years at the Los Angeles-Long Beach seaport. "Normal

seaport where 43 percent of containerized shipments enter the country. “It’s not uncommon for us to identify a shipment that’s \$20,000, \$30,000, or \$40,000 off in duty,” he said.

Footwear sting operation

Realizing that there was a lot of potential for lost revenue, Whitney spearheaded a two-month sting operation during the summer of 2011. He knew that the port was already looking at specific cargo for trademark violations to protect intellectual property rights owners, so he thought: Why not also examine the cargo from a revenue standpoint? “I wanted to make sure that we weren’t losing any of the revenue that’s due to our nation,” said Whitney.

“CBP officers are generally the ones who are doing the physical exams for intellectual property and security reasons, but they don’t have the commodity expertise. That’s one of the roles of the import specialist,” he said. “Import specialists know each commodity—what’s normal and what’s not. They know about classification and duty rates and where the revenue pitfalls are.”

During the operation, 94 footwear shipments were examined and more than \$216,000 in potentially lost revenue was found. “That may not seem like a significant number,” said Whitney, “but it’s the result of only a two-month effort at a single port. If you break it down, that’s about \$100,000 a month, or \$1.2 million a year.”

On grander scale, the shoe team at the Los Angeles-Long Beach seaport identified nearly \$3.3 million in lost revenue last year. “That \$3.3 million is a product of six people examining

footwear, looking at classification,” said Whitney. “That’s a lot of revenue. It represents almost 2,100 shipments that were looked at during the fiscal year.”

Verifying trade agreements

Another way that import specialists protect the country’s revenue is by conducting free-trade agreement verifications to make sure that importers are allowed to claim duty-free treatment on goods. For example, in July, Steven Durschlag, an import specialist at the Los Angeles International Airport, suspected that a shipment of gold earrings with precious stones didn’t qualify for duty-free treatment. The earrings had been imported from Australia, but Durschlag wasn’t sure if the jewelry met the requirements of the Australian Free Trade Agreement. So he requested more detailed information from the importer.

Durschlag wanted to know how the earrings had been made and if all of the component parts were from Australia. Based on what he learned, Durschlag determined that the earrings were formed in Thailand and then shipped to Australia, where they

were embellished with precious stones and an Australian pearl. The pearl was the only part of the earrings that had originated from Australia. Durschlag knew that to qualify for the agreement only a small percentage of the item could be made of parts that did not originate from Australia or the U.S. Since the earrings were not truly a product of Australia, they weren’t exempt from duty.

The shipment was valued at \$2,034. However, the importer needed to pay the lost revenue on similar shipments for the entire year. As a result, the U.S. will collect more than \$266,000. “Our main objective is to make sure that any trade preference that is claimed is a legitimate claim. It’s important for the economic strength of the country,” said Christine Hogue, CBP’s acting assistant director for trade at the Los Angeles International Airport, who oversees 20 import specialists. “The work that import specialists do is vital because it makes sure that everyone is playing by the rules and that competitively no one has an unfair advantage.” During fiscal year 2011, more than

★ The expertise of import specialists is critical to the enforcement of trademarks, copyrights, and patents. CBP Import Specialist Stephen Banea and CBP Officer Brian Murphy inspect a shipment of DVDs at the Boston seaport to determine if the product is counterfeit.



Photo by Sean Smith



★ Import specialists protect the country's revenue by conducting free-trade agreement verifications on goods. Steven Durschlag, an import specialist at the Los Angeles International Airport, suspected that a shipment of earrings from Australia didn't qualify for duty-free treatment.

The last time I checked, the team was still in Indianapolis," said Toole.

The goods were seized and the caps were counted. "There were 21,000 baseball caps with a manufacturer's suggested retail price of \$600,000," said Toole. "It was one of my biggest counterfeit seizures to date."

Not all fake merchandise is so blatantly obvious. In June, Stephen Banea, an import specialist at the Boston seaport, uncovered a shipment of DVDs that appeared authentic. "We have DVD seizures up in Boston pretty regularly, but most of the time they're fairly obvious. Typically, the disks are poor quality and a prudent consumer would be able to tell right off the bat that he or she is buying something that's not genuine," said Banea.

But this shipment was different. The DVDs were professionally packaged and looked like they could be sold in a retail store. However, Banea wasn't convinced. He thought it was odd that the shipment was addressed to an individual rather than a distribution center for one of the big box stores. "It just looked kind of fishy," said Banea, who inspected the DVD intently. "I ended up finding a really small typographical error that was reproduced in a particular way that basically told me this was counterfeit, so we ended up seizing it."

The shipment had a manufacturer's suggested retail price of \$6,000. This year, as of August, more than 1,800 DVD shipments were seized by CBP nationwide with a manufacturer's suggested retail price of more than \$23 million.

"Counterfeiting is often seen as a victimless crime because it's been popularized by pirating movies and music," said Banea, "but now it's branched out to things like power strip outlets, electrical circuit breaker boxes, medication, and

\$16 million was collected for the U.S. because of issues associated with trade agreement programs that were reviewed by import specialists.

Finding fakes

Import specialists also protect the intellectual property rights of individuals and businesses. Their expertise is critical to the enforcement of trademarks, copyrights, and patents. They are the ones who determine if a product is counterfeit or not.

One of the key tools that import specialists use to find shipments they suspect are counterfeit or contain infringing merchandise is CBP's automated targeting system. "It's a live system that enables us to see any shipment from around the world

that comes into the U.S.," said Patrick Toole, an import specialist at Miami International Airport. "I narrow my searches to countries that usually have a high volume of counterfeit goods. Once I put my search parameters into the system, it alerts me when a shipment comes in. Then I place the cargo on hold until we've had a chance to examine it."

In July, Toole used the system to target a shipment of baseball caps from China that were transiting through the U.S. to Colombia. "When this shipment came through our targeting system, I thought there was a good chance that it could have some type of violation," said Toole. "So I zeroed in on it."

As it turned out, Toole's hunch was right. "I knew immediately that it was counterfeit," he said. "Some of the sports teams had the wrong cities sewn on the hats. The goofiest was a cap that said, 'Atlntn Dodgers LA.' Another had a logo for the 'Baltimore Colts.'

things that could really harm people if they don't know that it's fake."

Protecting the public

Case in point was a shipment of counterfeit laundry detergent that arrived at the Philadelphia seaport in July 2010. The import specialist conducting the exam saw that the shipment looked peculiar. "At a glance, I knew there was something wrong because the packing was not up to Procter & Gamble's standards. The printing and design on the packaging was a little fuzzy. It was a little off," said Desiree Nicholls, an import specialist at the port of Philadelphia.

Then Nicholls noticed something else that was strange. The outside of the shipping container was marked, "Made in China," but the boxes packed inside the container were marked, "Made in Mexico."

"You can't do that," said Nicholls. "The goods need to be clearly marked where they're made. They're either made in China or they're made in Mexico. The consumer has a right to know."

From the training that she had received from Procter & Gamble, Nicholls knew that Ariel, the brand of laundry detergent in the shipment, wasn't manufactured in China. "The product is only made in Latin America," said Nicholls. "P&G has certain labels that they put on their products and each label corresponds with a different manufacturing plant to distinguish where it's coming from."

Nicholls sent a sample of the detergent to the CBP laboratory in New York. She also sent a sample to Procter & Gamble to do its own testing. "We were able to conclude that the item was counterfeit and we seized it," said Nicholls.

"Had this shipment crossed the border into the U.S., unsuspecting consumers would have paid full price for a product that does not meet genuine Ariel standards," said DeeJay Smith, Procter & Gamble's brand protection manager for North America. "Upon testing the laundry soap, harsh abrasives were found that could easily cause damage to clothing." The lab tests also revealed that fragrances and chemicals were used in the counterfeit soap that are not found in the genuine product.

"Import specialists play a critical role in protecting the U.S. consumer from the harmful effects of counterfeit products," said Smith. "Each year P&G travels to various

ports to conduct training with import specialists on how to identify fake goods. We are grateful that import specialists at the port of Philadelphia and many other U.S. ports understand how to identify fake products."

Rigorous training

Currently, there are 990 import specialists, a mere fraction of the more than 21,000 uniformed CBP officers that comprise the agency. According to the Homeland Security Act of 2002, the number of import specialists cannot fall below 984. "Congress was very concerned that CBP's revenue functions would not get the same attention as our antiterrorism mission, so within the act it says that the agency's revenue positions cannot fall below the levels they were at on the day that the Department of Homeland Security was created," said JoAnne Colonnello, the branch chief of trade programs at the Field Operations Academy in Charleston, S.C., where CBP's import specialists are trained.

The training for import specialists is rigorous. The 33-day course, which runs approximately seven weeks, is held three to four times a year, depending upon attrition rates. "Many import specialists are promoted into other jobs within the agency," said Colonnello. The typical class size is 22-24 students, which translates to 75-96 graduates a year.

"We give them an overview of the trade process," said Colonnello. "They

learn what happens when goods enter the United States all the way through the examination process. We want legitimate trade to enter the country. We don't want illegitimate trade to enter," she said.

Then students undergo more intensified training. Twenty-six hours of the 218-hour curriculum are devoted to classifying goods. Forty-nine hours are dedicated to value and how to appraise merchandise. "It's very complicated. This is where we start to lose students," said Colonnello. "It's because of the math skills. You have to know what to add, what to deduct and how much," she said.

The training all leads to what's known as "liquidation," or the final assessment of duty and appraisal of the merchandise. "That's when we tell the importer, 'We've decided how much the value of your merchandise is and we agree or we disagree on how much duty you should pay,'" said Colonnello.

Uncovering fraud

Import specialists also play an integral role in finding fraud. For example, one import specialist discovered that a Toronto-based company that imported tea products into the U.S. wasn't appraising its merchandise correctly. "They were averaging the cost of all of their products rather than listing them at their individual unit prices," said Mark Wisniewski,

'We rely on the knowledge of import specialists. In a lot of good criminal investigations it's the import specialist who actually finds the illegitimate act.'

—James Klink, special agent, ICE/Homeland Security Investigations

'The work that import specialists do is vital because it makes sure that everyone is playing by the rules...'

—Christine Hogue, CBP acting assistant director for trade,
Los Angeles International Airport

a senior import specialist at the port of Buffalo, N.Y. “We found that the unit price of their tea kettles was \$24 instead of the \$15 that they had indicated. They were undervaluing their products to avoid paying additional duties.”

Wisniewski asked the company to correct its invoices.

“We gave them a list of all of their entries for the last five years and told them that we wanted corrected invoices,” he said, “but it’s been more than a year and they’ve refused to do so.”

As a consequence, Wisniewski issued the company a record keeping penalty. “That’s where it stands now,” he said. “They owe the U.S. government \$7.8 million.”

Protecting U.S. industry

Some fraud cases involve protecting U.S. domestic industry. For instance, last June, when a shipment of fructose syrup from China arrived at the port of Norfolk, Va., the import specialists on the port’s food team were suspicious. “We were aware of antidumping evasion schemes with honey that were happening at other ports,” said Donna Hart, the supervisory import specialist in charge of the team.

The evasion schemes were prompted by an additional duty that in 2001 the U.S. government had added to Chinese imported honey to protect the domestic honey industry. China had been “dumping” or shipping honey into the country at a value below market cost and American honey businesses couldn’t compete. Today, current dumping duty rates run as high as \$2.63 per

kilogram for imported Chinese honey. The high dumping rate has made it much more expensive to ship Chinese honey into the U.S., which has led to deceptive illegal trade practices including shipping honey through other countries, mislabeling shipments, and setting up shell corporations to avoid paying U.S. duties.

Hart’s team sent samples of the shipment to the CBP lab in Savannah, Ga., for testing. The results came back indicating that the shipment was 100 percent pure Chinese honey. The antidumping duties that were owed on the shipment were approximately \$244,000.

Nationwide effort

At that point, the team expanded the universe of their targeting efforts. “We wanted to see if there were additional shipments from the same importer going to other U.S. ports,” said Hart. The team found other shipments headed to Charleston, Savannah, and Miami, and contacted the ports to alert them.

In August 2011, Hart’s team found two other importers who were shipping fructose syrup from China. Again, samples were taken and sent to the CBP lab. The results came back as Chinese honey and nearly \$600,000 in duties were owed for the combined shipments. The Norfolk team expanded its search and found more shipments on their way to Baltimore, San Francisco, New Orleans, Mobile, Ala., and Jacksonville, Fla.

In October 2011, the Norfolk port learned that an investigation conducted by U.S. Immigration and Customs Enforcement’s Homeland Security Investigations, HSI, was underway in Jacksonville for a honey dumping scheme. Three people representing honey importers were arrested for misclassifying Chinese

honey as rice fructose to avoid paying more than \$1 million in duties. CBP and HSI agents worked together to seize or detain 123 containers of the misdescribed honey at 11 ports throughout the country. The loss of duty to the U.S. government on the containers was estimated at \$1.15 million.

“We rely on the knowledge of import specialists. They are critical to commercial fraud investigations that deal with commodity-specific information,” said James Klink, an HSI special agent and a national program manager at the National Intellectual Property Rights Coordination Center in Arlington, Va. “They’re the ones who are able to explain and show the special agent exactly how the laws were possibly broken and what the scheme might have been to get the merchandise into the country—whether duties were evaded or values were underreported or in higher quantities than what was actually declared,” he said.

“In a lot of good criminal investigations it’s the import specialist who actually finds the illegitimate act. They’re the ones who find the information and then our agents will do what they need to do for a criminal case. All the while they’re going back to the import specialist asking, ‘Hey, what about this? What about that?’ The agents need to learn and understand in great detail everything the import specialist knows because the agents need to testify in the case,” said Klink, who was a former import specialist himself. “I would not be nearly as effective as a special agent today if I didn’t have my import specialist background on commercial fraud.”

Despite the complexities of the job, many import specialists still find the work very appealing. For Stephen Banea, a first-year import specialist who recently graduated with a master’s degree in public administration and is part of the agency’s next generation, it was a career he wanted to pursue. “I wanted to work on the frontline and be in the field,” said Banea. “I wanted to make a difference and I believe I am.”

For Mark Wisniewski, who has been an import specialist for more than 22 years, the rewards have been great. “I love being an import specialist,” said Wisniewski. “American businesses are hurting and if we don’t do our job, we will lose these businesses to foreign competition. I want to do my part in helping to protect the economy of the United States.” ■