



TRADE COMPLIANCE

S E R V I C E S L L C

Trade Compliance Services LLC ("TCS"), as its name implies, is a consulting firm focused on advising clients in all aspects of Customs compliance and cost reducing strategies. Our philosophy is to identify potential issues before they become problems. In addition, we have particular expertise in successfully guiding clients involved in antidumping duty proceedings and have developed price monitoring programs to minimize antidumping liabilities.

TCS has built strong ties with other professionals and attorneys in related disciplines, including international tax accounting, duty drawback and customs brokering and freight forwarding. These partners allow TCS to provide expert advice in the full spectrum of Customs matters.

Customs Compliance

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Most import transactions fall under Customs and Border Protection (CBP), and since the Customs Modernization Act of 1994, CBP has required that importers show “reasonable care” when making entries. CBP has defined “reasonable care” to include having an expert in compliance review an import company’s overall internal control program or a discrete open question. This expert must be from an outside company and can be an attorney or other expert in the compliance field.

TCS professionals can manage any import compliance activity, which can range from the simplest, single compliance questions to the development of an import or export compliance program. In addition, we can handle the most complex prior disclosure of import violations or voluntary disclosures of export and sanctions violations. Most industry experts will agree that implementation of corrective actions requires counsel that is both sophisticated and nuanced. If necessary, we can advise on the best methods for corrective actions, which may include prior disclosure or voluntary disclosure.



We can collaborate with in-house staff to develop and promulgate the processes and procedures in a carefully drafted manual that is responsive to your legal obligations and attentive to your business priorities. For companies that know what course of action they want to follow, we can be a trusted business advisor who can help you meet your resource constraints and implement developed plans.

Tariff Classification

One of the most basic tasks in the customs clearance process is the assignment of the most appropriate tariff schedule description. Whether the entry is made in the United States or a foreign country, a tariff classification will be made in accordance with the Harmonized Tariff



System (HTS). The importer is responsible for selecting the most appropriate tariff provision for a specific imported item from among thousands of possible tariff classifications. The assigned tariff classification can have repercussions that extend beyond the duty rate assigned to that provision. Changes in tariff classification measured under a “tariff shift” test will determine eligibility for many free trade agreements, and many trade remedy laws and regulations, such as the Lacey Act, are applied and enforced on a tariff classification basis. TCS LLC can prepare a tariff classification database to apply to your

imports, and we can review the tariff classifications already assigned to your imports to determine their compliance status or identify opportunities that may arise from reclassifying your imports. When appropriated, TCS LLC can prepare and file a ruling request with CBP, or we can draft a classification request under the Export Administration Regulations (EAR) with BIS for export compliance.

Customs Valuation

The importer must declare the proper dutiable value of imported merchandise. Because the majority of items are assessed on an ad valorem basis, the importer faces a duty loss to the government from an underdeclared value, and this can expose the importer to a civil penalty and other sanctions. Unfortunately, some importers make unwitting mistakes such as failing to account for dutiable assists or other off-invoice payments. Most of these violations are unintentional, frequently due to a lack of understanding of the applicable regulation. TCS LLC professionals can simplify, clarify, and apply the proper principles in this complex area. We can recommend best practices to resolve past errors, implement the required corrective actions, and design a system of controls to prevent any recurrence. Just as important, we can synchronize this customs advice with the demands of transfer pricing and international tax.



Country Origin

The country of origin is one of the three core functions for the assessment of duty, along with tariff classification and valuation. The origin of a product determines its eligibility for NAFTA or other free trade agreements (FTAs) in addition to trade preference programs such as the Generalized System of Preferences (GSP) or other regional programs. In addition, the origin determines whether an imported product will be subject to antidumping or countervailing duty as well as eligibility for preferences in government procurement. Origin is critical to the application of labeling laws on imported products or their packaging. TCS can make the necessary calls when applying substantial transformation or tariff shift rules in determining the origin.



Recordkeeping

The customs laws require that all related records to an entry be kept for five years. In the case of duty drawback, records must be kept for three years from the date of any refunded duties, which effectively extends the period to ten years or more in many instances. The penalties for failing to maintain the necessary documents are severe. TCS professionals can build a recordkeeping that meets all compliance responsibilities and fits within your business model.

Compliance Audits

As with recordkeeping, the federal government requires that importers and exporters conduct their operations with the utmost diligence and in full compliance with a complex array of responsibilities. With our extensive experience in compliance, we understand that most



violations are unintended and result from a lack of awareness by the importer or exporter. In addition, we understand that many business partners such as brokers or freight forwarders commit violations that are attributed to the importers and exporters. TCS knows that if a responsibility cannot be measured, it cannot be managed. Taking this axiom one step further, if the means of meeting a responsibility cannot be reviewed and audited, then its effectiveness cannot be measured. This is especially true for compliance programs. Thus, it is critical for prudent importers to conduct periodic compliance reviews, either as a quick “health check” or a comprehensive audit to test the effectiveness of internal controls. Our reviews include the performance testing of key partners such as customs brokers and freight forwarders. Furthermore, TCS LLC can assist in the successful management of the audit process in the event of an agency audit.

NAFTA and Strategic Planning Programs

Customs duties are a significant cost of doing business for many companies. Many importers will vigorously pursue cost savings initiatives to lower expenses. Some of these initiatives include the following planning options:

Tariff engineering, which may be defined as the design and construction of imported articles or the placement of production steps calculated to gain the tariff classification with the lowest assigned duty rate.



NAFTA and other free trade agreements (FTAs), which allow importers to move goods between the US and selected partner countries enjoying FTA status on a largely duty-free basis. Tariff

preference programs such as the Generalized System of Preferences (GSP) and its regional variants which convey duty-free status to eligible articles.

Valuation planning, such as the unbundling of nondutiable elements from the invoice price, the use of interest on trade payables, the use of "middleman" strategies such as first sale for export (FSFE) and buying agent structures, and the use of royalty and license fees without triggering duty payments.

Duty Drawback is the oldest customs planning program on the statute books, and it may provide an opportunity for a refund of duties on previously imported products or materials used to make finished goods that are exported.

C-TPAT

The Customs-Trade Partnership Against Terrorism (C-TPAT) program is a voluntary initiative designed by U.S. Customs and Border Protection (CBP) that focuses on the development of cooperative relationships between Customs and the business community. The goal of this program is to strengthen the security of our borders as well as the security of the overall supply chain while facilitating the flow of legitimate trade. There are several benefits to becoming C-TPAT certifies, among them:



- A reduced number of inspections and reduced border wait times;
- Self-policing and self-monitoring of security activities;
- Certified C-TPAT importers are eligible for the Importer Self-Assessment Program (ISA);
- C-TPAT members will receive up to 50% penalty mitigation for (ISF) 10+2 penalties;
- Validated C-TPAT participants receive even fewer Customs inspections;

TCS professionals can perform the required security assessment and identify any corrective action necessary to ensure clients' certification into the C-TPAT program.

Antidumping Compliance & Consulting

The trade consultants at TCS LLC assist US importers, foreign producers and exporters and law firms at every stage of the antidumping proceedings, from the preparation and submission of questionnaire responses, the preparation and presentation of companies' data during Department of Commerce verifications, and the development and implementation of internal controls to monitor and minimize potential antidumping duty liabilities.

Preparing Data and Questionnaire Responses

TCS can assist respondents in antidumping duty (AD) proceedings and their law firms with technical analysis at every step in an antidumping action.



The Department of Commerce will issue comprehensive questionnaires related to transaction-specific pricing, and adjustment data represents one of the most crucial aspects of an antidumping proceeding. Companies involved in AD case will be required to provide detailed information regarding price adjustments, discounts, rebates, movement expenses and selling expenses - all on a transaction specific basis. Through analysis of a company's financial records, accounting systems, distribution networks, sales procedures, and pricing policies, TCS can assist in;

- Drafting the questionnaire responses;
- Determining the most appropriate and advantageous expense allocation methodologies;
- Preparing and submitting data in the required format

Analyzing the Cost of Production

All antidumping proceedings require data on the cost of production. This includes the calculation of product specific cost. TCS has experience in analyzing production processes and cost structures to develop cost calculation methodologies for companies that do not maintain product specific costs in the normal course of business. TCS can also analyze the cost and transfer prices of inputs sourced from affiliated parties and evaluate a company's accounting practices to determine if they align with the Department of Commerce's accepted cost reporting



policies. TCS has also prepared factors of production for those respondents in non-market economies.

Verification Support

The Department of Commerce will conduct on-site verifications, or audits, of the data submitted in an AD or countervailing investigation and the Department of Commerce staff will travel to the



respondent's facility and trace many of the reported sales, expense, and cost data to source documents and to financial statements. In anticipation of verification, TCS can compile a client's data and source documents during the response preparation stage of this proceeding. TCS will prepare and organize data prior to the arrival of the verifying team and assist in the presentation of the data during the verifications.

Estimating Current Antidumping Liability

A company involved in an AD investigation or review must know its potential AD liability to effectively plan future strategies. TCS always calculates clients' estimated AD liabilities prior to the submission of data and analyzes the results to identify potential errors in the reported data.

TCS uses the SAS software and programs that are currently used by the Department of Commerce to calculate AD margins and can analyze the results to identify sales that are contributing to the AD liability, such as sales of products to a customer or made during certain months. The AD duty margin analysis will include estimates based on various scenarios that will allow us to identify reporting strategies that will minimize the AD duty liability.

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U.S. SALES WHICH PROGRAM
DIP PRICE DETERMINATION
WILL BE TO REWIND AVERAGE MARGIN
BETWEEN THE SEVERAL ALTERNATIVE METHODS
DIFFERENTIATE POSITIVE COMPARISON RESULTS WITH NEGATIVES ONLY FOR SALES NOT PRESENT UNDER 2

COMPARISON TYPE	NUMBER OF U.S. SALES	TOTAL U.S. SALES VALUE (\$)	TOTAL U.S. QUANTITY (\$)	TOTAL POSITIVE COMPARISON RESULTS (\$)	TOTAL NEGATIVE COMPARISON RESULTS (\$)	TOTAL AMOUNT OF DUMPING (DIP PROGRAM)
A to A	28	4,580,108.20	10,780.95	180,478.92	176,484.20	187,274.71
A to T	138	16,840,816.14	69,430.80	600,800.73	108,188.84	888,800.73
	166	21,420,924.34	80,211.75	781,279.65	284,673.04	1,065,953.46

DIFFERENTIAL COMPARISON RESULTS (DIFFERENTIAL)	DIFFERENTIAL COMPARISON RESULTS (DIFFERENTIAL)	PERCENT OF SALES WITH POSITIVE COMPARISON RESULTS (P.A. X 100)	PERCENT OF SALES WITH POSITIVE COMPARISON RESULTS (P.A. X 100)
-3.71	30.20	5,982,676.73	5,980.68
-8.66	28.13	8,558,399.62	16,287.84
		8,071,676.20	21,288.32

TCS can also review the Department of Commerce programs for clerical or methodological errors and provide corrected code.

Antidumping Duty Monitoring Program

Astute companies must eliminate uncertainty, manage risks and control liabilities regarding antidumping duties – an area that can be managed. TCS can coordinate an effective AD Monitoring Program that would provide the required tools, expertise and analysis that would

enable clients to determine and minimize the AD ultimately assessed after an administrative review.

TCS's Antidumping Duty Management Program (“AD Monitoring Program”) consists of three primary elements: data extraction and allocations; duty margin analysis; and sales and pricing strategy development.



Data Extraction and Allocations

The first step in the AD Management Program is to review sales and cost allocations and accounting systems to allow clients to compile the necessary data more easily for an AD analysis and potentially reduce reported costs. TCS will:

- Assist in identifying an efficient and accurate process to extract its cost and sales data;
- Review and advise on sales expense and cost allocation methodologies;
- Receive sales and cost data and perform diagnostics on data received. Prepare diagnostic report including any questions, anomalies or inconsistencies and discuss corrective action. Make corrections and adjustments to data or request new data.

Duty Margin Analysis

Once a process is established to extract data on a regular basis, TCS will run the margin calculation to determine the AD liability at a given point in time and then run the margin with current data in established intervals to allow for remedial action on a timely basis. It is only through frequent and regular margin analysis that a client can proactively determine and limit its AD exposure. TCS will:

- Develop margin calculation program in SAS that replicates the program that the DOC will use to determine the margin for the administrative reviews. That program will be tailored to accommodate the client's circumstances;
- Run preliminary margin analysis and document results by product code, customer, sale month, and comparison type (identical, similar, CV).

Sales and Pricing Strategy Development

TCS will run diagnostic program analysis to determine the products, sales and type of sales that are contributing to the clients AD liability. Once the relevant data is identified, TCS will provide regular reports that may include minimum sales prices for certain products, amongst other data, and strategies to reduce the AD margin



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MICHAEL DIMINICH is an international trade consultant specializing in the development of monitoring programs to minimize duty liabilities and providing import compliance assessments and antidumping duty consulting.

During 23 years of consulting on antidumping issues, Mr. Diminich has assisted clients in the preparation and submission of questionnaire responses, the development of strategies to minimize clients' anti-dumping duty liabilities, and has prepared and led the presentation of companies' data during Department of Commerce verifications. He has also advised clients on the development and implementation of internal controls to monitor and minimize potential antidumping duty liabilities.

Mr. Diminich has evaluated import compliance efforts of clients and issued recommendations to improve import controls and compliance levels. He has performed Customs diagnostic reviews of client's import operations and procedures regarding: product classification; valuation; country of origin & marking; recordkeeping; quantity discrepancies; NAFTA eligibility and qualification; and staffing levels and expertise. He has identified areas of potential exposure, weaknesses in operational processes, or missed opportunities of cost saving. He has developed recommendations to improve importer compliance and provided standards to ensure uniformity and due process in Customs procedures.

Mr. Diminich has assessed export procedures of clients and developed recommendations to ensure compliance with export regulations. He has developed export management systems for clients whose exports may be subject to controls of the Department of Commerce, Department of State and Department of Treasury. Clients have included international leaders in the defense, specialty chemical, pharmaceutical and high-tech industries.

Prior to forming Trade Compliance Services LLC, Mr. Diminich was a manager in a Big Four Trade & Custom's Practice and was also employed in the Office of Antidumping Compliance within the Department of Commerce where he was the case analyst responsible for the disposition of numerous antidumping duty cases.

Mr. Diminich is a graduate of Cornell University (Bachelor of Science, Agricultural Economics, Business Management, 1985) and Boston University (Masters Degree, International Business Management, 1990.) He holds a United States Customs Broker License.