



Legal Alert

Canada-US
Cross Border
Business Affairs

Division Co-Leaders

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Canadian Companies as US Importers of Record Have You Assessed Your US Import Activity?

Many Canadian companies serve as non-resident importers of record for their US bound shipments. As such, they are required to be compliant with US Customs and Border Protection (CBP) laws and other import regulations as if they were US-resident companies. Arent Fox LLP has found that our Canadian clients realize the need to have accurate or current data on their US import compliance performance in order to gain a good sense regarding their exposure to possible Customs enforcement actions and other fiscal risk exposure.

In a nutshell, as the US marketplace grows more complex and as more imports from third countries arrive at US ports of entry, Canadian companies will want to keep their competitive edge by being smarter and best prepared for the years ahead.

We believe that a very useful starting point – and as a helpful tool to perform periodic internal checks – is to obtain information from CBP regarding the company's import activity for a certain period of time, usually the last five years. With a company's authorization, we can obtain on their behalf this information, known as the Importer Trade Activity (or ITRAC) database, from CBP HQ here in Washington, DC. This information is essentially a "snapshot" of the company's US import operations proprietary to that company. CBP uses this information in support of its compliance and enforcement efforts, including the scheduling of audits, requesting information on entries, and the assessment of fines and penalties.

What you get – This exercise is a snapshot of a company's import transactions from the eyes of CBP. The analysis Arent Fox provides would include identification of potential high risk areas, recommendation of opportunities for duty savings, a description of your company's import trends, and an analysis your service provider relationships, such as Customs brokers.



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In addition, although there would be no obligation to retain Arent Fox for any additional services, we have found that companies that utilize us for this initial service often seek our assistance in conducting a deeper dive into their US import operations. These deliverables have included the following activities:

- Requesting background information regarding the current organizational structure, relationships with service providers, and the company's expected import growth and direction.
- Participating in on-site meetings with relevant company personnel to discuss the company's US import operations and profile.
- Conducting a complete review of organizational materials and related information and follow-up with company personnel as necessary.
- Understanding how the company's import process currently works, including a basic review of the supply chain function and review of several "walk-through" entries.
- Providing the company with a more detailed assessment of the company's needs, along with recommendations for practical, cost effective measures to improve the company's overall risk posture.
- Measuring the company's current import program and procedures against "best practices" in the industry.
- Assisting with preparing the strategy for implementation.
- Assisting with additional implementation issues after the report is issued as they arise.

At the very least, we believe the initial assessment would be a very cost-effective and useful in-house exercise. At a very inexpensive cost, your company will have relevant up-to-date information on your import history that would be consolidated and analyzed in one place for internal use, reference and application.

Arent Fox – Smart in Your World.

