



Global intelligence that moves your business

U.S. Import Compliance Guidebook:

What every importer, customs broker, and trade professional needs to know about compliance





About our 2011 U.S. Import Compliance Guidebook:

As the most innovative and advanced U.S. trade intelligence provider, Zepol has created this report for importers, customs brokers, and trade professionals in all industries to better understand the compliance risks involved when importing products into the United States. Today's trade professional must not only be concerned with classifying products correctly, but also be aware of the duty and tariff rates, quotas, rulings, antidumping duties, and more. This guidebook was created to ensure your company avoids penalties for noncompliance.

This report contains detailed information about compliance statistics, audit triggers, potential penalties, ensuring compliance, and more. Compliance responsibility rests on the shoulders of the importer. Steps taken today to ensure compliance could save your company from potential troubles tomorrow. Zepol hopes the information in this report will be helpful in verifying that your company does not overlook critical steps in your compliance process.

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Report note:

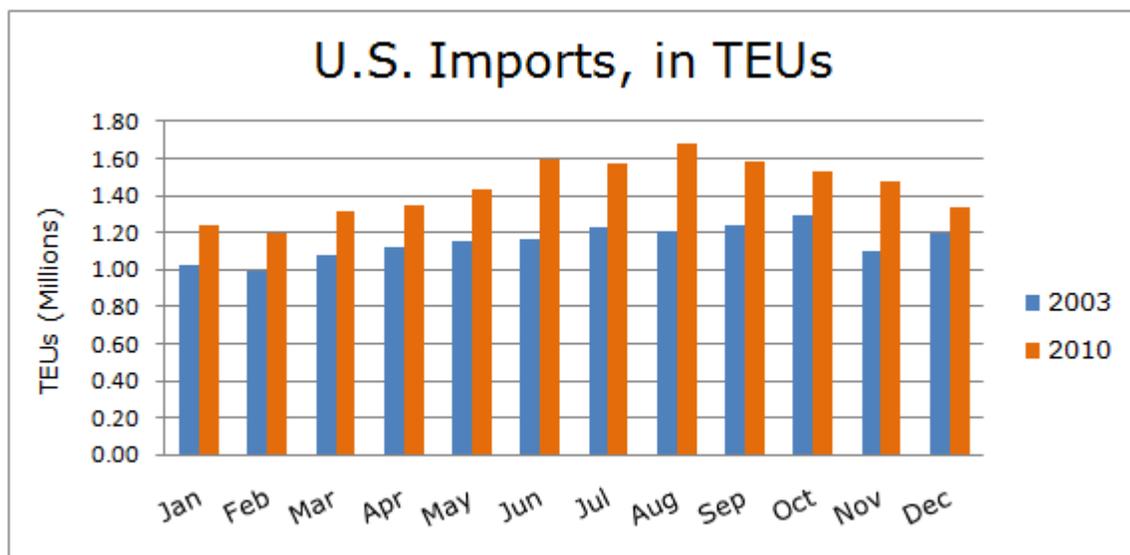
This report is based on data collected from the U.S. government and third party sources. This is not intended to be the only resource for ensuring import compliance nor does Zepol take legal responsibility for the content provided in this report.

Import Statistics:

We all know that the benefits of global business are vast, however, not all companies are aware of the potential risks that accompany global business; one such risk is import compliance. Some may be shocked to know that ignoring compliance regulations may result in numerous consequences, including supply chain disruption, lost customer sales, loss of trading privileges, contract suspension, debarment, damage to brand/reputation, restrictions to market access, fines and penalties, increased inventory costs, and more¹.

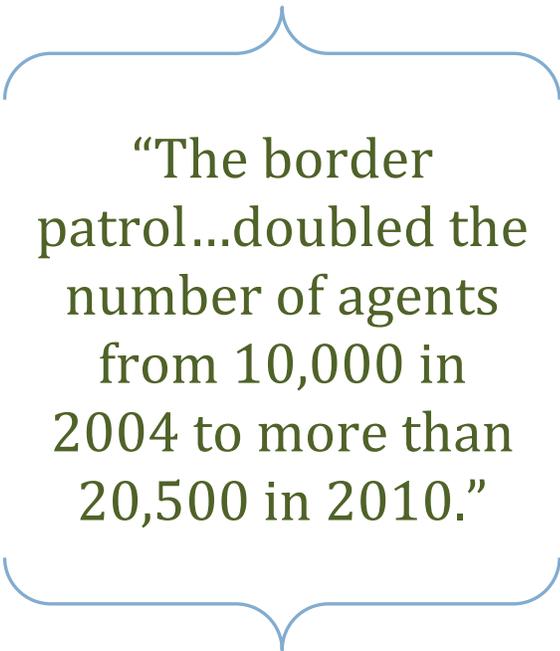
Along with the risks that accompany global business, the amount of global business being done has increased tremendously. This results in tighter rules and regulations being enforced by U.S. Customs and Border Protection (CBP). Zepol's bill of lading database, TradeIQ™, allows us to see this increase by comparing incoming Twenty-foot Equivalent Units (TEUs) back to 2003.

Below is a graph comparing imports by month from 2003 levels to 2010 levels. As shown, U.S. imports have displayed a tremendous increase with little indication of slowing down. Total TEUs have increased 25% from 2003 to 2010; TradeIQ™ shows 17.3 million TEUs imported in 2010, whereas 13.8 million were imported in 2003.



¹ James Blaeser, et al., "Import Operations and Compliance Benchmark Study: Risky Business," *American Shipper*, May 2011: 26.

As the above graph shows, the increasing amount of imports crossing the border leads to heightened risks for global businesses that, in turn, will face tighter security and more rigorous measures taken by the CBP. This calls for greater attention to compliance-related details and to the risks of conducting global business. During 2010, CBP has been successful in targeting operations, enhancing partnerships, and increasing staff and technology in order to more rigorously secure the border. The border patrol is better staffed now than at any time in its 86-year history, having doubled the number of agents from 10,000 in 2004 to more than 20,500 in 2010. The Department of Homeland Security currently has thousands of technology assets deployed along borders - including mobile surveillance units, thermal imaging systems, and large-and-small-scale non-intrusive inspection equipment². Security and compliance measures are tighter today than they have ever been in the past, which is yet another reason why importers should take the compliance process very seriously.

A decorative graphic consisting of two blue, curved brackets that frame a quote. The top bracket is on the left and the bottom bracket is on the right, both curving upwards and inwards to meet at the center.

“The border patrol...doubled the number of agents from 10,000 in 2004 to more than 20,500 in 2010.”

² “Securing America’s Borders: CBP Fiscal Year 2010 in Review Fact Sheet,” [CBP Overview](http://www.cbp.gov/xp/cgov/newsroom/fact_sheets/cbp_overview/fy2010_factsheet.xml), GBP.gov, 15 Mar. 2011, 26 Jul. 2011
<http://www.cbp.gov/xp/cgov/newsroom/fact_sheets/cbp_overview/fy2010_factsheet.xml>.

Audit Triggers:

An audit is a risk-based approach to assess compliance with important trade laws and regulations. The audit reviews provide a systematic approach to data collection and analysis of data to determine the likelihood of noncompliance, which includes reviewing corporate controls over trade compliance³. The CBP is responsible for detecting and investigating fraudulent activities set out to avoid payments of duties, taxes, fees, or otherwise evade legal requirements of international tariff and trade.

Although several parties may be involved in importing a good, the importer is the one solely responsible for the goods and ensuring that the goods are in compliance with regulations, thus there are several caveats an importer must be aware of. It is vital that the importer understands that responsibility falls under them and not another party such as a Customs broker. The importer is fully responsible for the work and any mistakes of the Customs broker. In addition, importers are required to keep all records and import-related documents for transactions dating back five years.

It should also be noted that the importer is responsible for inaccurate submissions to Customs, regardless of what the invoice or seller has recorded. In an audit, Customs looks at the importer's accounting records to see what payments were made to overseas suppliers and reconcile those with the amounts reported on the entries. There are no penalties against the supplier, who may have prepared the invoice, because CBP has little power outside of the United States.⁴ Therefore, the importer carries the risks.

Common Audit Triggers

- *Size of Importer*
- *History of Noncompliance*
- *Compliance Record of Related Companies*
- *Use of Special Duty Programs*
- *Growth and Change*
- *Focused Industry or Product*
- *Trading Partners*
- *Random Chance*

³ "Audits (Regulatory Audit)," [CBP Overview](http://www.cbp.gov/xp/cgov/trade/trade_programs/audits/), CBP.gov, 26 Jul. 2011 <http://www.cbp.gov/xp/cgov/trade/trade_programs/audits/>.

⁴ Jim Dickeson, "Unveiling the Myths of Import Compliance," [Supply Chain Management Review](#), 18 Mar. 2008.

Potential Penalties⁵:

When a violation of laws enforced by CBP is discovered, in addition to seizure and/or referral for criminal prosecution, CBP can assess a penalty against the party in violation. Certain violations require a pre-penalty notice, or a written notice that CBP is “contemplating” issuing a penalty to the violator. The recipient has 30 days to respond as to why no penalty should be given.

Penalties include and can be given for:

- **Fraud-Voluntarily and intentionally taking part in a violation**
 - Fine: domestic value of the merchandise

- **Gross Negligence- With actual knowledge or wanton disregard**
 - Fine: 40% of the appraised value of the merchandise OR four times the loss of revenue OR the domestic value of the merchandise, whichever is less.

- **Negligence- Fails to exercise reasonable care**
 - Fine: 20% of the appraised value of the merchandise OR two times the loss of revenue, whichever is less.

- **Drawback-** Customs may assess penalties on imports to and exports from the U.S. for false or negligent drawback claims and false NAFTA certificates of origin. This is usually considered a case of negligence.

- **Recordkeeping-** If a record keeper fails to produce a demanded entry record for a specific release, or fails to provide information by acceptable alternative means, CBP will issue a written notice in lieu of a penalty. Import-related records must be kept for a minimum of five years.

⁵ “U.S. Customs and Border Protection (CBP) Import Enforcement Process,” Unz & Co., Information Source, 26 Jul. 2011 <<http://www.unzco.com/infosource/iepe.htm>>.

The provision of law that governs penalties imposed by CBP penalizes any person who:

"By fraud, gross negligence, or negligence, enters or introduces (or attempts to introduce) any merchandise into the commerce of the United States by means of any document or electronically transmitted data or information, written or oral statement, or act which is material and false, or any omission which is material (i.e., the falsity has the potential to alter the classification, appraisement, or admissibility of merchandise)."

Source: "U.S. Customs and Border Protection (CBP) Import Enforcement Process," Unz & Co.

Most import penalties arise because the classification, valuation, or country of origin of the imported goods was improperly determined. Penalties can also be assessed for the importation for goods that are not invoiced or declared.

In addition, CBP will always require the payment of duties properly due that were underpaid or not paid at all as a result of the violation.

Any other type of violation will receive immediate issuance of penalties. Parties in violation will have 60 days to file a petition for relief by arguing why the penalty should not be imposed.

CBP may consider factors in mitigation of the above penalties as well as aggravating factors. The latter could lead to investigation by Immigration and Customs Enforcement (ICE) agents and possible referral to the office of the U.S. Attorney in the Department of Justice.

Compliance Statistics⁶:

Security measurements taken by CBP have increased significantly in 2010 when compared to recent years and will likely continue the upward trend:

- CBP initiated nearly 3,700 import safety seizures during 2010 (an increase of 34% over 2009).
- CBP processed \$1.99 trillion in import value and collected \$32.3 billion in duties, taxes, and fees (an increase of 15.8% and 9.5%, respectively, over 2009).
- CBP responded to 1,600 trade violations through e-Allegations- a web based system of public reporting (a 60% increase over 2009).
- CBP completed 379 audits of importers and related parties, resulting in the collection of nearly \$23 million in revenue.
- U.S. Customs completed 3,663 rulings in 2010, a 41% increase from 2009 (Data generated by Zepol).
- The number of quota changes to specific HTS codes in 2010 was 751, compared to just 103 in 2009 (Data generated by Zepol).

⁶ Unless otherwise stated, statistics are from: "Securing America's Borders: CBP Fiscal Year 2010 in Review Fact Sheet".



*Zepol's Compliance**Monitor**TM:*

Zepol strives to help trade professionals stay up-to-date on essential trade-compliance information by proactively alerting them when compliance data sources are updated. With import-compliance audits and penalties increasing, it is critical to be aware of the most recent compliance information to ensure that your company is not penalized.

Users subscribe to specific HTS Codes they wish to monitor and receive comprehensive 'Historical Reports' as well as 'Update Reports' each time the U.S. government releases new information. Lower penalty risk, save valuable time and money, and stay on top of your game with [ComplianceMonitorTM](#).

Compliance**Monitor**TM tracks six U.S. government compliance sources:

- U.S. Census Bureau import trade statistics
- U.S. Customs and Border Protection (CBP) rulings
- Antidumping (ADD) and countervailing duty (CVD) investigations
- ADD and CVD cases from the International Trade Administration (ITA)
- Tariff rate quota statuses from CBP
- Harmonized Tariff Schedule and tariff data from the International Trade Administration (ITA)

[Click here to view a free 'Historical Report'](#)

About Zepol

At Zepol, we provide innovative, online trade databases that generate real competitive advantages for businesses. With our products, **TradeIQ™**, **TradeView™**, and **ComplianceMonitor™**, subscribers have access to vital trade data, developed entirely from U.S. government sources that offer insights into the global supply chain. Trade professionals use our databases to create smarter business strategies, new sales leads, and tactical market advantages:

TradeIQ™ - See who is importing what products from where and whom they are importing from. Get access to up-to-date U.S. import shipments from over 200 countries, delivered via a user-friendly online database that makes finding the information you want easy.

TradeView™ - Access the most effective tool in the industry for analyzing U.S. imports and exports. Specify criteria by HTS code, U.S. port, country, transportation type, and more. Metrics include U.S. dollar values and weights, and can be easily downloaded for quick analysis.

ComplianceMonitor™ - Avoid steep tariff and duty penalties by monitoring essential U.S. import-compliance information. Search by HTS code and see U.S. Customs rulings, antidumping and countervailing actions, quotas, tariffs, and more. Ongoing alerts of the most recent information allow you to proactively make the right business decisions.

Zepol Corporation is a Minnesota-based company working to provide the most complete and up-to-date trade data to organizations around the world. Zepol provides industry-leading trade data tools for analyzing the United States trade marketplace.

Please visit www.zepol.com and request a demonstration or free trial to one of our tools.

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