GUIDE

HOW TO EXPORT TO THE USA

2020

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Summary

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Introduction

Various dialogue mechanisms were created in the last couple of years with the purpose of stimulating the bilateral agenda between countries. Here it is the most appropriate time for the business communities to take advantage of the opportunities that present themselves.

In this guide we will address, in a simplified and of an easy comprehension manner, the major points you need to know in order to export to the USA.

1. To whom export? The profile of the American consumer
2. How to Export? The access to the North American market
3. Regulation
4. Documentation and formalities
5. General Recommendations

Profile of the American Consumer

Profile of the American Consumer

The economic recession resultant of the 2008 economic crisis had a deep impact on the American consumer's behavior. The consumer got more demanding and restrained in their purchasing decisions. Nowadays, the consumer tends to search and compare prices in a higher frequency,also it looks up recommendations on social medias and other sources about the products or services, as well as about the companies which provide those.

The correlation between the product sold in the US and a social cause is often a determinant factor in the purchase decision. A recent research performed by the consulting firm Cone Communications revealed that this characteristic is particularly important to around 90% of the called "Millennials" (people who were born between 1980 and mid 2000s). More than two thirds of the consumers in this segment (66%) utilize social media to get informed on the subject.

The North American consumer market is becoming increasingly ethnically diverse. In 2015, around 120 million people composed this segment (38% of the total population). The US Census Service projects that, in 2044, the population will be composed by "majority of minorities", with predominance of hispanics and afro descendants.

The North American Government does not compile data about individuals consuming. The official statistics refer themselves to relative data on household consumption (consumer unit).According to U.S. Bureau of Labor Statistics data, the annual average consumption per household, in 2014, was of USD$ 53.495,00.

Access to the Market

1. Tariff System

Classification of Merchandise

No importation product will be introduced in the U.S. if it is not classified according to the U.S. customs table, titled "Harmonized Tariff Schedule of the United States (HTSUS)". It is up to the importer to certify upon the correct classification of the merchandise in the HTSUS. In case it is necessary, the North American customs has a service of assistance to importers for the purposes of tariff classification. To access it, a written solicitation must be sent to the American customs ("National Commodity Specialist Division – Classification Ruling Requests", in New York), with the aim of obtaining information regarding the correct classification ("binding ruling"). For this, products samples or detailed description and photos of the same must be forwarded to the referred body. The importer generally receives a NCSD reply in approximately 30 days from the date of solicitation, but this deadline can be extended to up to 90 days.

Tariff Structure

The US rates can be "ad valorem", as a proportion of the internalized value (example: cars classified under subheading 8703.21, with a 2.5% tariff); specific, as a function of the product's marketing unit (example: orange juice classified in tariff line 2106.90.48, with a tariff of 7.85 cents per liter) or mixed, as a combination of "ad valorem" and specific (example: footwear classified in the tariff line 6404.11.79, with a tariff of 90 cents per pair plus 37.5%).

The complete information about the rules of the American tariff system's interpretation can be found in the electronic address of USITC in the site https://hts.usitc.gov/current (section "General Notes"), where USHTS can also be consulted, in full version, or per chapter.

The table is presented in the following manner: classification of the product in up to ten digits; description of the product; product's unit of commercialization; and tariff treatment. The relative part of the tariff treatment is divided in two columns, the first column (column 1) includes information about general and special tariff. The indication of general tariff refers to the rate applicable to countries which dispose of preferential treatment on that tariff line (it is about the rate of most-favored-nations of the WTO).

Incidence base and calculation

For customs valuation purposes, the US Customs usually takes into account the amount paid for the merchandise in the country of origin. adding eventual expenses incurred by the buyer in regards to packaging, commissions, “royalties” or licensing fees and “assists” - assistance provided by the buyer to the seller, free of charge or at a reduced price, in the production of the goods (inputs, components, parts, specifications, drawing, etc.).

In case there is any disagreement about the merchandise valuation, the importer will be able to appeal against the decision of the customs authorities. On that, to do so, you will have to submit an application (Customs 19 Form - http://forms.cbp.gov/pdf/CBp_Form_19.pdf) the director of the port through which the goods were internalized, within 180 days from the date of the decision. If the solicitation was dismissed, the importer can still appeal to the United States Court of International Trade, in New York, within 180 days.

"Ad valorem" rate ranges of the general agenda

According to the report from WTO published in 2015, the average importation tariff applied in the United States, in 2014, was of 3,5%, being 3,2% to industrial goods and 5,1% to agricultural products. Please note that, withalthat, certain products receive a much higher tariff protection, superior than 50%. Examples of such are: tobacco, peanuts, some dairy products, sugars, some types of shoes.

The tariffs incident on tobacco importation reach up to 350%, in the equivalent “ad valorem”.

2. Generalized System of Preferences

All North-American importations of products which classify in the **GSP** are exempted of importation tariffs, but not all the products from developing countries qualify for the program. Some goods are prohibited of receiving treatment from the **GSP**, based on the “Trade act of 1974”. Among those which the vast majority of textiles, watches, shoes, bags, suitcases, similar leather goods, work gloves and other clothing products made from leather are found. Products considered “sensitive” to importation also do not have the right of treatment from the **GSP**. Examples of those, specifically cited in the **GSP** regulation, are steel, glass and electronics. Certain products may also have been excluded from the **GSP** by decision, in the context of an annual review by the **GSP** Subcommittee, or by exceeding the exclusion limits.

To receive preferential treatment within the GSP, the imported item must meet the following requirements:

1) Be included in the list of products included in the GSP;
2) Be from the country on the list of countries contracted for the GSP;
3) The country of origin is not excluded from the program by decision in the context of review by the GSP Subcommittee;
4) Comply with the provisions of the Rules of Origin in force;
5) Be imported directly from the qualified country of origin to the USA; and
6) Have the GSP tariff exemption requested to US Customs by the local importer by placing the Special Program Indicator (Special Program Indicator - SPI) at the beginning of the HTSUS number corresponding to the imported product.

The SPI is used for the identification of the products included within the GSP. To each of those goods, the HTSUS designates SPIs, utilizing the symbols A, A+ ou A*, which appear on the column "Special" from that publication, identifying the condition applicable to the product in the GSP for tariff exemption purposes.

Follows each symbols' definition: **A:** the product falls under the GSP if it comes from a country that is eligible for the program; **A+:** the product falls under the GSP if it comes from PMD; and **A*:** the product falls under the GSP if the country of origin has not been excluded from the program for that product.

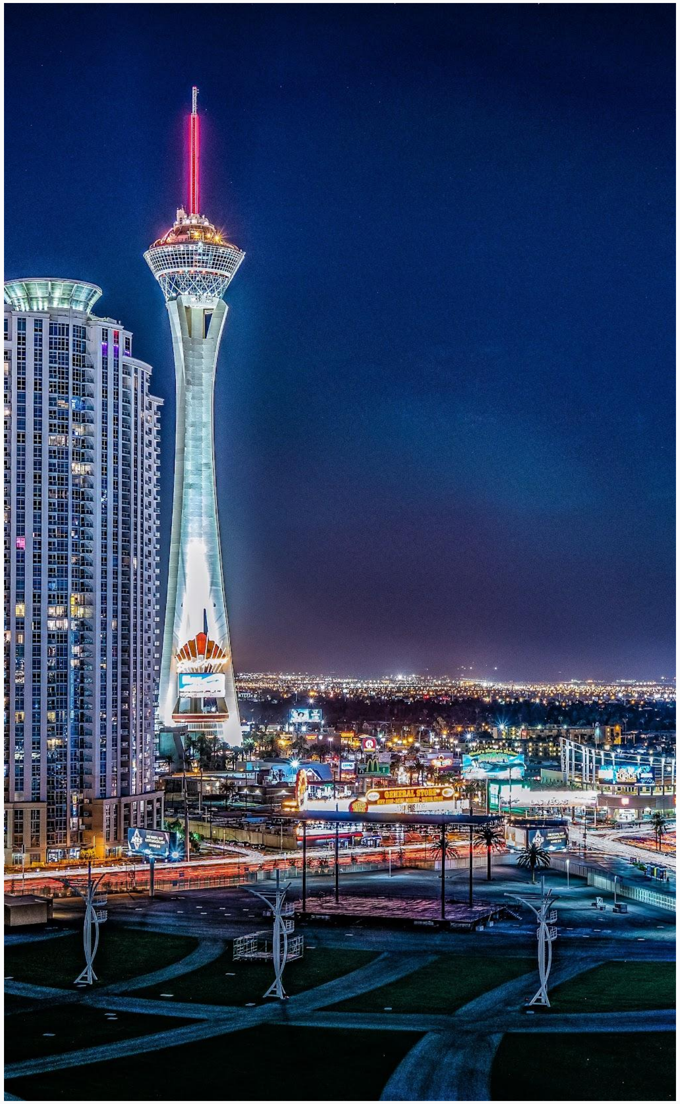
Currently, around **4.900 products** qualify for the GSP and can be imported in the U.S. free of taxes.

Other fees and charges on import

I) "Anti-dumping" rights - U.S. law determines that if any foreign goods are being sold in the US for less than the market value, the Secretary of Commerce will report the fact to the Tariff Committee, so that it can determine if there is an evident damage to any American industry already established or to be installed. If the response of the tariff committee is positive, the Secretary must publicly declare the existence of "dumping" and apply "anti-dumping duties" equal to the difference between the market price or "constituted" price and the purchase or export price ;

II) Compensatory duties – surcharges imposed by the US Government on the importation of goods subject to government subsidies in the country of origin and whose internment in the country is considered harmful to the competing domestic industry. Initial petitions can be filed by both industry and government. The determination of the subsidy margin is the responsibility of the International Trade administration of the Department of Commerce. Determination of damages rests with the US International Trade Commission; if positive, a compensatory tariff identical to the subsidy margin is established;

III) “Excise tax” – certain goods (gasoline, tobacco products, beverages, etc.) are subject to the “excise tax”, an indirect tax charged by the federal government, at the level of the manufacturer or importer, in varying percentages;
IV) “Harbor maintenance fee (HMF)” – port maintenance fee – equivalent to 0.125% of the value of the goods;
V) “Merchandise processing fee (MPF)” – merchandise processing fee whose minimum value is US$ 25.00 per shipment or 0.3464%, and the fee cannot exceed US$ 485.00;
VI) “Sales tax” – sales tax charged by most state and/or local administrations, which may reach approximately 10%.



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