



SCARBROUGH

## QUESTION/ANSWER FORUM: DUTY SAVINGS OPPORTUNITIES





# THE SCARBROUGH GROUP

Freight Forwarding &  
U.S. Customs Brokerage



1984

NVOCC Operations &  
Consolidation Services



2003

Freight Forwarding &  
Mexico Customs Brokerage



2015

1988



Regional Asset-Based Trucks

2014



North American Truck Brokerage

2018



Customs & Supply Chain Consulting



## SPEAKERS

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# AGENDA

## DUTY AVOIDANCE

- Temporary Importation under Bond
- ATA Carnet
- U.S. Goods Returned
- Foreign Trade Agreements
- Generalized System of Preferences
- Foreign Trade Zones
- First Sale Rule

## DUTY RECOVERY

- Duty Drawback

- Section 232
- Section 301



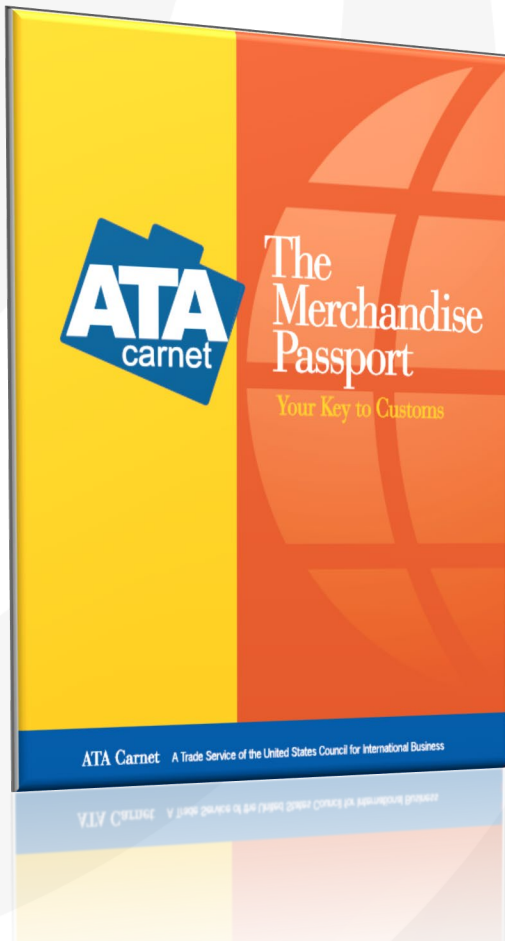
## TEMPORARY IMPORTATION UNDER BOND



- Articles not imported for sale or sale on approval
- Enter the U.S. temporarily free of duty under bond
- Must be exported or destroyed under Customs supervision within one year
- Failure to export or destroy within the bond period will result in liquidated damages of double the duty
- May not later be substituted for other types of entry
- Bond will be in an amount equal to double the (estimated) duty
- Articles may be exported from any port with proper notice



# WHAT IS AN ATA CARNET?



- Your Passport for Goods
- International development tool
- International customs document
- Allows **temporary** entry of items, duty-free and tax-free, whether shipped or hand-carried
- Established by international ATA convention

- Albania
- Algeria
- Andorra
- [Antarctica](#)
- Aruba
- Australia
- Austria\*
- Azores (Portugal)
- [Bahrain, Kingdom of](#)
- Balearic Islands (see Spain)
- Belarus
- [Belgium\\*](#)
- [Bosnia & Herzegovina](#)
- Botswana
- [Brazil](#)
- Bulgaria\*
- [Canada](#)
- Canary Islands
- Ceuta
- Chile
- [China](#)
- Corsica (France)
- Cote d'Ivoire
- [Croatia\\*](#)
- [Curacao](#)
- Cyprus\*
- Czech Republic\*
- Denmark\*
- Estonia\*
- European Union
- Faroe Islands (Denmark)
- Finland\*
- France\*
- French Guiana
- French Polynesia - Tahiti
- [Germany\\*](#)
- Gibraltar
- Greece\*
- Greenland (Denmark)
- Guadeloupe (France)
- Guam
- Guernsey (United Kingdom)
- Hong Kong
- Hungary\*
- Iceland
- [India](#)
- [Indonesia](#)
- Iran
- Ireland\*
- Isle of Man (United Kingdom)
- [Israel](#)
- [Italy\\*](#)
- Ivory Coast see Cote d'Ivoire
- Japan
- Jersey (United Kingdom)
- Kazakhstan
- Latvia\*
- Lebanon
- Lesotho (SACU)
- Liechtenstein (Admin by Switz.)
- Lithuania\*
- Luxembourg\*
- Macao, China
- Macedonia
- Madagascar
- Madeira (Portugal)
- Malaysia
- Malta\*
- Martinique
- Mauritius
- Mayotte (France)
- Melilla (Spain)
- [Mexico](#)
- Miquelon (France)
- [Moldova](#)
- Monaco (Admin by France)
- [Mongolia](#)
- Montenegro
- Morocco
- Namibia (SACU)
- Netherlands\*
- New Caledonia (France)
- New Zealand
- Norway
- Pakistan
- [Poland\\*](#)
- Portugal\*
- Puerto Rico (USA)
- [Qatar](#)
- Reunion Island (France)
- Romania\*
- [Russia](#)
- Senegal
- Serbia
- [Singapore](#)
- Slovakia\*
- Slovenia\*
- South Africa
- [South Korea](#)
- Spain\*
- [Sri Lanka](#)
- St. Barthelemy (France)
- [St. Martin/Sint Maarten](#)
- St. Pierre (France)
- Swaziland (SACU)
- Sweden\*
- Switzerland
- Tahiti (France)
- Taiwan
- Tasmania (Australia)
- [Thailand](#)
- Tunisia
- [Turkey](#)
- [Ukraine](#)
- [United Arab Emirates](#)
- [United Kingdom\\*](#)
- United States
- Wallis & Futuna (France)

# COUNTRIES THAT ACCEPT ATA CARNETS

APRIL 2019



## AMERICAN GOODS RETURNED

- American Goods Sent Abroad and Reimported
- Cannot also Claim Drawback
- Burden On Importer
- Allowable
  - Sorting
  - Grading
  - Repackaging







# U.S. FTA PARTNER COUNTRIES

USA has 14 FTAs with 20 countries

[Australia](#)

[Bahrain](#)

[Chile](#)

[Colombia](#)

[DR-CAFTA:](#)

Costa Rica, Dominican Republic,  
El Salvador, Guatemala, Honduras, & Nicaragua

[Israel](#)

[Jordan](#)

[Korea](#)

[Morocco](#)

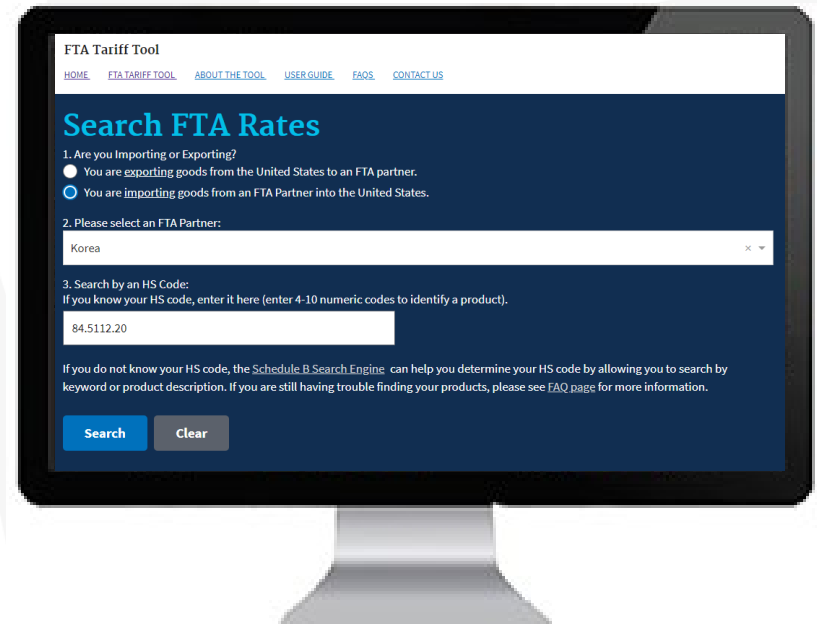
[NAFTA:](#) Canada & Mexico

[Oman](#)

[Panama](#)

[Peru](#)

[Singapore](#)



Click here for access to the  
FTA Tariff Tool



## TRADE TALKS

- China
- European Union
- Japan
- Philippines
- United Kingdom
- USMCA –  
United States-Mexico-Canada





# WHAT IS GSP?

## THE U.S. GENERALIZED SYSTEM OF PREFERENCES (GSP)

- a program designed to promote economic growth in the developing world
- provides preferential duty-free treatment for over 3,500 products
- from designated beneficiary countries (BDCs)
- including many least-developed beneficiary developing countries (LDBDCs)





## GSP ELIGIBILITY

To be eligible for duty-free treatment pursuant to GSP, an import must meet the following requirements:

1. It must be included in the list of GSP-eligible articles;
2. It must be imported directly from a BDC;
3. The BDC must be eligible for GSP treatment for that article;
4. The article must be the growth, product, or manufacture of a BDC and must meet the value added requirements;



## WHAT IS A FTZ?

A foreign-trade zone is a designated location in the United States where companies can use special procedures that help encourage U.S. activity and value added - in competition with foreign alternatives - by allowing delayed or reduced duty payments on foreign merchandise, as well as other savings.

A site which has been granted zone status may not be used for zone activity until the site has been separately approved for FTZ activation by local U.S. Customs and Border Protection (CBP) officials, and the zone activity remains under the supervision of CBP. FTZ sites and facilities remain within the jurisdiction of local, state or federal governments or agencies.

<http://enforcement.trade.gov/ftzpage/info/zone.html>



## WHAT IS THE DIFFERENCE?

	Bonded Warehouse	FTZ
Entry	An entry must be filed in order to admit goods into the warehouse	No Customs entry is required to enter goods into a FTZ
Permissible Cargo	Only foreign goods	Both foreign and domestic goods
Duties	Owed prior to release of goods from the bonded warehouse	Only upon entry into the U.S. for consumption
Inventory Tax	All goods are taxed	Goods are considered foreign, so not taxed
Storage Period	Not to exceed 5 years	Unlimited
Control of Goods	CBP has full control and requests must be made to CBP to do anything with the goods	FTZ has full control of goods



## WHAT IS THE DIFFERENCE? CONT.

	Bonded Warehouse	FTZ
Domestic Goods	May not be admitted	May be admitted
Permitted Activity	Cleaned, repacked, and sorted under CBP supervision	Cleaned, repacked, sorted, destroyed, graded, labeled, assembled, manufactured, exhibited, and co-mingled with other freight (foreign and domestic)
Manufacturing	Not permitted	Permitted
Waste	Must pay duties on all waste and damaged merchandise	Only pay duties on what is coming out of the FTZ for consumption



## FTZ OPPORTUNITY?

### SCENARIO:

Vacuum manufacturer imports motors for final assembly in the United States

- Motors are dutiable at 4%

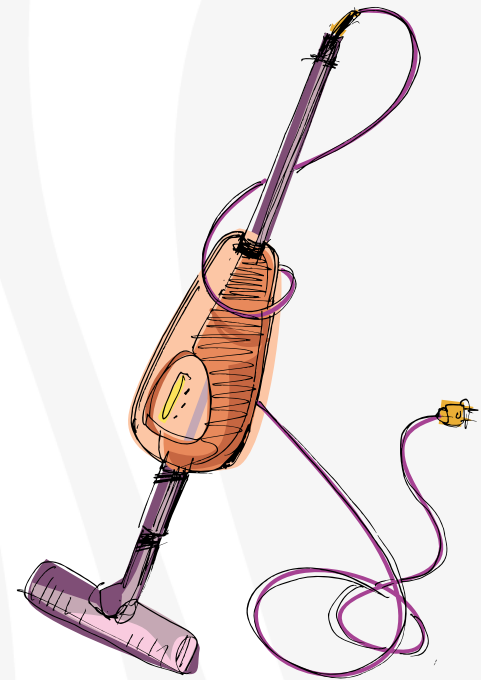
### PROBLEM:

I want to manufacture my vacuums in the USA

### SOLUTION:

Create an FTZ

- Vacuums are dutiable at 0%







## FTZ WORDS OF CAUTION

- Know your business!
- Be wary of the classic FTZ consultant pitch
  - Scenario
    - Importer files 1,000 entries annually = \$485,000 in MPF
    - FTZ is 52 entries annually = \$25,220
    - FTZ Savings = \$459,780
- Is your receiving process robust enough?
- Do you need new software?
- How is your inventory accuracy?





## FIRST SALE RULE

- Exists where the seller (middleman) subcontracts the actual production of the goods.
- The first sale principle allows customs duty to be paid on the pure cost of manufacturing, plus the cost of materials and a reasonable amount for profit at the factory level.
- Allows the U.S. importer to treat the middleman's profit and overhead as a non-dutiable expense.
- Does not reduce the amount paid by the importer to the seller for the merchandise.
- Can be implemented without any additional cost to the seller.



## FIRST SALE STRUCTURE

- ✓ It is very common for U.S. importers to place orders with overseas vendors who do not manufacture the goods, but instead outsource the production of the goods to related or unrelated factories.
- ✓ Generally importers will pay customs duties based on the price the importer pays to the middleman. This price is routinely higher, because it includes the middleman's markup and other administrative and related overheads.
- ✓ There may be multiple parties/sales in the transaction chain. An importer can use the earliest sale in the chain that qualifies for first sale appraisement.

Invoice #1

➔ \$80

Invoice #2

Traditional  
Customs  
Dutiable  
Value

➔ \$100

FACTORY

MIDDLEMAN

IMPORTER



# WHAT IS DUTY DRAWBACK?

- Duty drawback allows an organization to obtain a refund for paid Customs duties on imported products or U.S.-manufactured products with imported components
- that have been exported back out of the United States.
- Importers can receive up to 99% of their previously paid duties.
- Refund comes from U.S. Customs and Border Protection





## WHO QUALIFIES FOR DUTY DRAWBACK?

- An importer that knows it will be exporting a previously imported product
- A drawback right can be assigned in certain scenarios
- Example Industries that have used the program extensively over the years include chemicals, steel, tobacco, petrochemicals, pharmaceuticals, auto and electronics parts, textiles and apparel, wines, sugars, and citrus products





## CLAIM DRAWBACK RETROACTIVELY

- A shipper can claim drawback up to five retroactive years.
- If you've been exporting imported product and not claiming drawback, there is a one time provision that allows an importer to retroactively claim back up to 3 years of duty.





# WHEN IS DUTY DRAWBACK BENEFICIAL?

## When is duty drawback most beneficial?

When the duty refund from Duty Drawback is high enough to cover the costs of administering a duty drawback program.

## It will NOT be beneficial if:

- an importer is going to export one time only, unless the value is high
- an importer is importing a duty free product
- an importer is importing a product that qualifies for a Free Trade Agreement







## BE CAUTIOUS, IMPORTERS

### What should an importer be cautious of when pursuing Duty Drawback?

- There are certain administrative costs to get set up with a continuous duty drawback program. An importer will want to significantly outweigh those costs. If an importer plans on exporting an imported item, it helps to analyze the Duty Drawback program prior to pursuing.
- Moreover, unused merchandise requires a notice of intent signed by CBP before the goods are exported. A company that wants to export their imported goods must ensure they've taken these steps.
- Scarbrough can do this for you.



**CAUTION**





## DUTY DRAWBACK & SECTION 301 + 232

- Section 232, no drawback is allowed  
(Steel and Aluminum Tariffs)
- Section 301, drawback *is* allowed  
(China imports)





## SECTION 301 IMPORTS FROM CHINA

### List 1

Effective 7.6.2018

- Duty Rate = 25%
- \$34 Billion Value

### List 2

Effective 8.23.2018

- Duty Rate = 25%
- \$16 Billion Value

### List 3

Effective 9.24.2018

- Duty Rate = 10%
- \$200 Billion Value
- increase to 25%  
on June 15, 2019

### List 4

Effective TBD

- Duty rate = 25%
- Approx. \$300 Billion  
Value
- Almost all remaining  
Chinese products



# WHO QUALIFIES FOR PRODUCT EXCLUSIONS?

- How is your product different?
- What distinguishes your product from the 8-digit HTS subheading?

In making its determination on each request, USTR may consider:

- whether a product is available from another source
- whether the additional duties would cause severe economic harm to the requestor or other U.S. interests, and
- whether the particular product is strategically important or related to Chinese industrial programs including “Made in China 2025” for example



## PRODUCT EXCLUSIONS

- There is a process through the USTR & [regulations.gov](https://www.regulations.gov)
- Recommend outside counsel involvement

Step 1: Know your 8-digit HTS subheading

Step 2: Enter your subheading here: [USTR Section 301 Search](#)

Step 3: Submit a Comment or Exclusion request Based on your HTS Subheading

Step 4: Check on the Status (The Public has comment periods)

If the comment period or product exclusion request period is open for a tariff action, the due date will include a clickable hyperlink that will direct you to the relevant [regulations.gov](https://www.regulations.gov) electronic docket where a comment or product exclusion request may be submitted and the docket # will be included

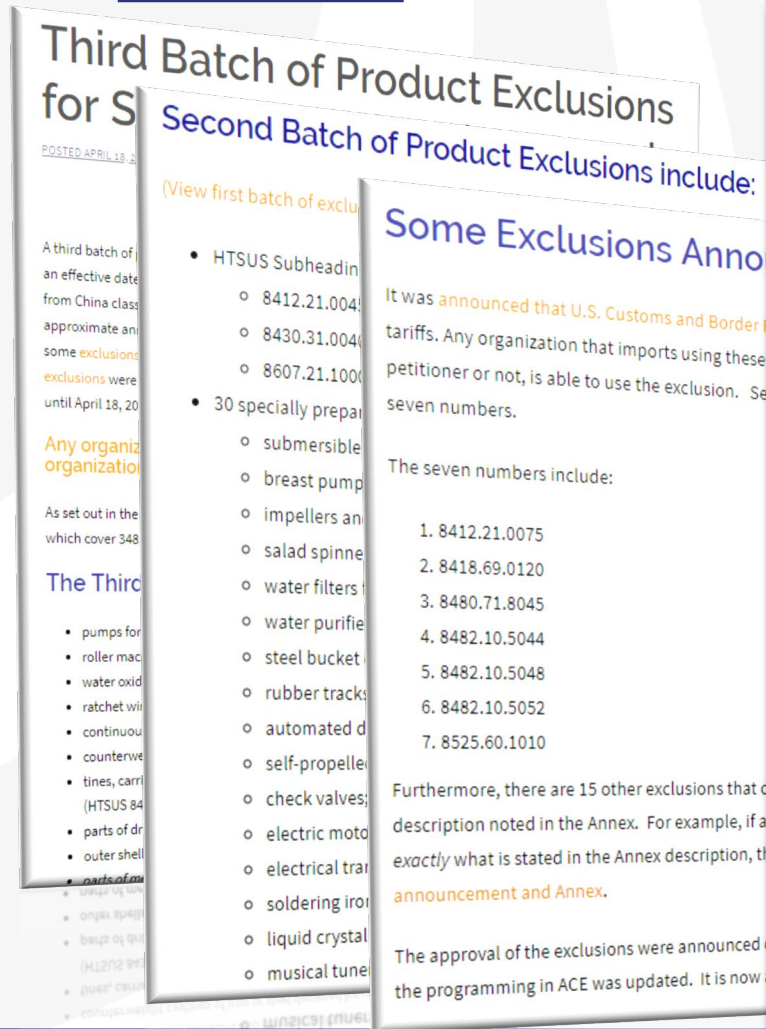


## PRODUCT EXCLUSIONS – SECTION 301

- List 1 – exclusion process is closed for petitioners Oct 2018.  
General exclusions continue to be released and accepted for *all* importers of the same goods regardless who petitioned the exclusion
- List 2 – exclusion process is closed for petitioners Dec 2018
- List 3 – exclusion process will open June 30, 2019 & Close September 30, 2019
- List 4 – Comments are open



# PRODUCT EXCLUSIONS – SECTION 301



**“List 1” General Exclusions for anyone:**

*any importer* that imports the specified products announced regardless if the importer is the petitioner or not can receive this exclusion benefit

5 batches of products in List 1 effective 2019

All retroactive to July 6, 2018

- Batch 1 will remain in place until December 28, 2019
- Batch 2 will remain in place until March 25, 2020
- Batch 3 will remain in place until April 18, 2020
- Batch 4 will remain in place until May 14, 2020
- Batch 5 will remain in place until June 4, 2020



## SECTION 232 IMPORTS

All imports of steel and aluminum are subject to additional duties.  
Certain countries are exempt although to different extents:

### STEEL IMPORTS:

- Duty rate of 25%
- Canada, Mexico, South Korea, Australia, Brazil and Argentina exempt
- All except Australia are subject to absolute quota

### ALUMINUM IMPORTS:

- Duty rate of 10%
- Canada, Mexico, Argentina and Australia exempt
- Argentina subject to absolute quota



# DUTY SAVINGS OPPORTUNITIES

## Q&A

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