

**Import/Export
Best Practices**

SUBJECT U.S. Trade Facilitation and Trade Enforcement Act - Tariff Act of 1930 Amendments		LAST UPDATE July 2019
APPLIES TO • Suppliers • Distributors	FOCUS ON Amendments to the Tariff Act of 1930 that affect the importation of goods into the U.S. that were produced by criminals, forced or indentured labor, or violate intellectual property or anti-dumping regulations.	
QUICK LINKS • PPAI Social Responsibility: http://ppai.org/corporate-responsibility/social-responsibility/ • UL Responsible Sourcing: http://industries.ul.com/responsible-sourcing • Fair Labor Association: www.fairlabor.org		Intended for Intermediate compliance programs

Italic grey text indicates a hyperlink listed in the Online Resources section of this document.

Trade legislation signed on February 24, 2016 amended The Tariff Act of 1930 for imported goods coming into the U.S. and closed a loophole that allowed for the importation of goods produced by forced labor.

Title I - Section 107 of the bill now requires increased interagency data sharing and cooperation. The Department of the Treasury (Treasury) is expected to work with the head of each agency participating in the International Trade Data System (ITDS) and the Interagency Steering Committee to counter terrorism efforts, improve economic competition through lawful trade actions, and improve border security.

Forced Labor

The bill closes a loophole in the Tariff Act of 1930 that allowed goods produced through forced labor into the U.S. if demand exceeded domestic production. In removing the loophole, the Trade Facilitation and Trade Enforcement Act opens the door for stricter enforcement of imported goods produced via forced labor.

Title I - Section 116:

“The Tariff Act of 1930 is amended to direct the Treasury to prescribe minimum standards to require customs brokers to implement, and importers (including nonresident importers) to comply with, reasonable procedures for collecting information to identify U.S. and non-resident importers seeking to import merchandise into the United States.”

The Customs and Border Protection (CBP) Commissioner shall report to Congress recommendations for:

- determining the most effective way to require foreign nationals to provide customs brokers with accurate information, comparable to that required of U.S. nationals,

on the identity of foreign nationals seeking to import merchandise into the United States; and

- establishing a system for such brokers and agencies to review information maintained by relevant federal agencies to verify the identity of importers, including nonresident importers, seeking to import merchandise into the United States.”

Investigations begin when Customs receives notice of evidence that shows “reasonably but not conclusively” that goods are produced through forced labor. Human rights groups are expected to draw from a list of 350 products including peanuts, carpets, seafood and gold, that are sometimes produced by forced or child labor in their initial petitions.

The U.S., Australia, and Canada are only a few of the countries that have laws in place to address importation of forced labor goods. The U.S. Department of Labor has been listing goods that are likely made by forced labor and has classified them by nation which will aid in the enforcement of the new law.

Intellectual Property

Counterfeit goods are manufactured goods normally of lesser quality that mimic or otherwise duplicate a brand-name good in appearance, brand name, and/or trademark details without the approval of the brand owner. Many goods that are imported into the United States are counterfeit.

Counterfeit goods are generally indistinguishable from patented, copyrighted, and/or trademarked goods in that they are sold under the brand name of the product being counterfeited. Many genuine and branded products may have patent, copyright,

and trademark protections, and counterfeit goods may be in violation of all of these intellectual property rights.

Title III - Section 302 amends The Tariff Act of 1930 by declaring, "... upon suspicion that merchandise is being imported into the United States in violation of U.S. trademark or copyright infringement laws, the CBP shall provide the trademark or copyright owner any information appearing on the merchandise and its packaging and labels, including any unredacted images of them, if testing by the owner would assist in determining a violation. The CBP shall not provide such information if it would compromise an ongoing law enforcement investigation or national security."

These changes give the CBP power to conduct an investigation when products are suspected of infringing on trademarks or copyrights. The CBP would work with "rights holders" while they conduct an examination and test of the products. Note that the coordination between the CBP and "rights holders" only applies to trademarks and copyrights that are recorded with the CBP.

Anti-Dumping And Countervailing Duties

The term dumping, when referring to international trade, is the practice of foreign producers selling products in the U.S. at prices below the cost to actually produce the products, or below the selling price for those products in their own country (the country of origin). The term anti-dumping (AD) is the practice of a domestic government imposing tariffs, countervailing duties (CVD) on foreign imports that meet the aforementioned criteria.

Title IV - Section 421 amends the Tariff Act of 1930 to prescribe procedures for the administering authority (the Department of Commerce, or any other U.S. officer responsible for carrying out the duties of the administering authority) to initiate an antidumping duty or countervailing duty investigation with respect to merchandise imported into the United States upon:

- its own initiation, or
- the filing of a petition by interested parties or referral by CBP.

The administering authority, in cases of an affirmative preliminary determination, shall instruct the CBP to:

- suspend liquidation of each entry of the merchandise(*), and
- require the posting of a cash deposit.

The administering authority, in cases of an affirmative final determination, shall instruct the CBP to:

- assess duties on the covered merchandise,
- reliquidate each entry of the merchandise(*), and
- reassess the importer's bond or other security."

**Note: Liquidation is the import entry process means that the entry review by CBP is considered complete with the final calculation of duties.*

This section allows for AD/CVD to be accurately assessed and collected at the border by the CBP. Reporting requirements and performance statistics will also require additional anti-dumping and countervailing duty issues by the CBP.

Code Of Conduct

PPAI's Code of Conduct addresses the principles of social compliance that companies adhere to and require their factories/suppliers to adhere to with regard to social responsibility. The code states, "We will not use any form of forced labor, including indentured, prison, bonded or slave labor. We will not use physical or verbal harassment or abuse to discipline employees." [Click here](#) to learn more about the PPAI Code of Conduct.

Online Resources:

H.R.1907 - Trade Facilitation and Trade Enforcement Act of 2015: <https://www.cbp.gov/trade/trade-enforcement/tftea>

PPAI Counterfeit Goods, Patent, Copyright and Trademark Infringement Best Practice: <http://www.ppai.org/media/1799/pr-bp-counterfeit-goods-patents-copyrights-trademarks.pdf>

Article: Slave-Labor Loophole Closed by U.S. Senate After 8 Decades: www.bloomberg.com/news/articles/2016-02-11/slavery-loophole-is-closed-by-u-s-senate-after-85-years

Article: With new law, U.S. takes on slavery by banning forced labor imports: www.reuters.com/article/us-usa-lawmaking-forcedlabor-idUSKCN0VX32A

ACE Entry Summary: http://apps.cbp.gov/csms/docs/18876_117841845/ACE_EntrySummaryBusinessProcess_TRADE_V3_3.pdf

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