

What Every Multinational Company Needs to Know About ... Criminal Enforcement of Trade, Import, and Tariff Rules: A Growing Risk for Businesses

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In less than 100 days, the Trump administration has implemented a dizzying array of new tariffs, significantly increasing costs and complexity for U.S. importers. The administration is keenly aware that companies operating in this high-tariff environment may attempt creative, or even fraudulent, strategies to minimize tariff payments. Consequently, enforcement agencies have been directed to closely monitor and vigorously prosecute efforts at improper tariff engineering and duty evasion.

Historically, U.S. Customs and Border Protection (CBP) has relied heavily on its administrative remedies to enforce the customs and tariff laws. The Department of Justice (DOJ), however, has been steadily escalating enforcement intensity, notably through the False Claims Act (FCA), leveraging its treble damages and civil penalties to pursue false statements about imports. For a more detailed explanation of how the FCA has been used in this area, please see our recent blog post, "[What Every Multinational Company Should Know About ... The Rising Risk of Customs False Claims Act Actions in the Trump Administration.](#)"

DOJ also has demonstrated a growing willingness to pursue criminal charges against companies and individuals involved in customs fraud schemes such as the purposeful misclassification of goods, falsifying country-of-origin declarations, and intentionally shipping goods through low-tariff countries. Importers of goods into the U.S. should expect criminal enforcement to accelerate in the coming months and years.

Potential Criminal Charges for Violating Customs Rules

DOJ has several available charging options in pursuing criminal cases against companies and individuals who violate customs rules by making false statements about customs requirements such as classification, country of origin, valuation, assists, and free trade preferences. Commonly used federal criminal statutes that could apply to tariff underpayments include:

- **Smuggling (18 U.S.C. § 545)**, which criminalizes knowingly and willfully importing merchandise into the U.S., contrary to law (e.g., misclassification or mislabeling to evade duties), and is typically used when importers intentionally misrepresent goods' classification or origin to avoid or lower tariffs, often proven through seized documents or intercepted communications. This provision already has been applied in *United States v. Esquijerosa*, where an importer was charged with routing Chinese-origin goods through third countries to avoid tariffs, resulting in a December 6, 2024, guilty plea under the general conspiracy statute.
- **False Claims (18 U.S.C. § 287)**, which criminalizes knowingly making false, fictitious, or fraudulent claims to federal authorities and is used where importers knowingly provide false documentation or declarations to CBP concerning country-of-origin, valuation, related parties, or classification while paying improperly low customs or anti-dumping duties.
- **False Statements (18 U.S.C. § 1001)**, which criminalizes knowingly making materially false, fictitious, or fraudulent statements or representations to federal authorities and is frequently applied where importers intentionally provide false documentation or declarations to CBP concerning country-of-origin, valuation, related parties, or classification.
- **Wire Fraud (18 U.S.C. §§ 1343 & 1349)**, which criminalizes schemes to defraud involving interstate or foreign wire communications (such as emails or wire transfers) and can be applied to customs violations due to the prevalent use of electronic communications and financial transfers in import transactions, providing prosecutors leverage in complex schemes.
- **International Emergency Economic Powers Act (IEEPA) (50 U.S.C. § 1701)**, which criminalizes the willful evasion or violation of regulations issued under national emergency declarations concerning international commerce and could apply where importers deliberately evade tariffs or restrictions enacted under presidential authority during declared emergencies, such as recent trade actions involving China.
- **Conspiracy (18 U.S.C. § 371)**, which criminalizes any agreement between two or more persons to commit any of the above crimes.

Examples of Past Customs-Related Criminal Cases Brought by DOJ

Criminal prosecutions based on violations of customs rules do not require DOJ to break new ground. Here are a few significant criminal trade cases:

- **Plywood Tariff Evasion Case (2024)**: A Florida couple was charged under the Lacey Act and received 57-month prison sentences for evading approximately \$42.4 million in customs duties. They fraudulently declared Chinese plywood as originating from Malaysia or Sri Lanka, avoiding anti-dumping duties exceeding 200%.[\[1\]](#)
- **Stargate Apparel (2019)**: DOJ filed criminal and civil charges against the CEO of a children's apparel company, Stargate Apparel, Inc. The CEO was charged with participating in a years-long scheme to defraud CBP by submitting invoices that falsely understated the true value of the goods imported by his company into the United States.[\[2\]](#)
- **Food Importation Fraud (2013)**: Several individuals and two food processing companies were criminally charged for illegally importing a Chinese-origin food product by intentionally

mis-declaring its origin and classification as Vietnamese. Through complex transshipment methods, the defendants sought to evade over \$180 million in anti-dumping duties.

- **Fentanyl Precursors (2025):** Indian chemical firms Raxuter Chemicals and Athos Chemicals faced criminal charges for smuggling precursor chemicals used in fentanyl production into the U.S. and Mexico, employing extensive false declarations to evade detection.[3]

How Customs Violations or Underpayments Come to DOJ's Attention

Customs violations can come to DOJ's attention through several channels:

- **CBP Referrals:** CBP's Automated Commercial Environment (ACE) uses sophisticated algorithms capable of identifying anomalies, suspicious patterns, or misrepresentations in import data. Fraudulent conduct will result in a referral by CBP to DOJ — similar to Health and Human Services' very successful data mining tools, which have led to numerous civil and criminal fraud cases.
- **Voluntary Disclosures:** Although CBP encourages self-reporting, prior voluntary disclosures can expose intentional misconduct, triggering criminal investigations.
- **Whistleblower Reports:** Claims filed by employees or competitors under the FCA or reports submitted via CBP's e-Allegations Program or the Enforce and Protect Act (EAPA) portal often reveal duty evasion schemes, prompting DOJ intervention. Several plaintiff-side FCA law firms are touting their experience in customs and trade cases, and we anticipate referral activity in this space to increase.

Navigating Increased Enforcement and Mitigating Risk

Criminal enforcement of CBP regulations presents significant risk for companies that serve as importers of record, who are responsible under CBP regulations for ensuring the complete and accurate submission of import data. In this new trade environment, there will be an increasing emphasis by CBP to detect importers attempting to make end-runs around higher tariffs, particularly from China.

Risk mitigation involves a thorough review of the company's ACE data to assess the company's importing patterns, focusing particularly on imports targeted for increased tariffs by the Trump administration. Companies also should evaluate the current state of their customs compliance to confirm consistent and robust procedures for classification, origin determination, valuation, and recordkeeping, to ensure that reasonable care is being used in import operations, and should consider preparing "reasonable care" memoranda to memorialize their treatment of how they are handling tariff-related obligations. Finally, importers should establish post-entry checks and reviews to ensure that they can correct any entry-related information submitted to Customs before it becomes final at liquidation. This is especially important in the context of a high-tariff environment, where potential penalties for underpayment of tariffs are vastly greater. Foley's international trade team has developed a six-step tariff risk management plan, accessible here: ["Managing Import and Tariff Risks During a Trade War."](#)

[1] U.S. Department of Justice (DOJ), *Florida Conspirators Sentenced to Nearly Five Years in Prison Each for Evading Over \$42 million in Duties when Illegally Importing and Selling Plywood*, (Feb. 15, 2024), <https://www.justice.gov/usao-sdfl/pr/florida-conspirators-sentenced-nearly-five-years-prison-each-evading-over-42-million>

[2] U.S. Department of Justice (DOJ), *Manhattan U.S. Attorney Announces Criminal And Civil Charges Against CEO Of Clothing Company For Million-Dollar Customs Fraud* (June 6, 2019), <https://www.justice.gov/usao-sdny/pr/manhattan-us-attorney-announces-criminal-and-civil-charges-against-ceo-clothing-company>.

[3] U.S. Department of Justice (DOJ), *Two Indian Chemical Companies and a Senior Executive Indicted for Distributing Fentanyl Precursor Chemicals* (Jan. 6, 2025), <https://www.justice.gov/usao-sdny/pr/manhattan-us-attorney-announces-criminal-and-civil-charges-against-ceo-clothing-company>; see also Associated Press, *2 Indian Companies Charged with Smuggling Chemicals Used in Making Fentanyl* (Jan. 6, 2025), <https://apnews.com/article/indian-chemical-companies-charged-fentanyl-opioid-smuggling-d2cfbc05f0742953e35a05cd0c889dc3>

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