

Commercial Customs Operations Advisory Committee (COAC) Government Issue Paper: Trade Facilitation and Trade Enforcement Act

August 2017



U.S. Customs and
Border Protection

Office of Trade
Trade Facilitation and Trade Enforcement Act
August 7, 2017

Action Required:

Informational

Background:

TFTEA was signed into law P.L. 114-125 on February 24, 2016. It is the first comprehensive authorization of CBP since the Department of Homeland Security was created in 2003. CBP is embracing a renewed approach to a fair and competitive trade environment by focusing on trade facilitation and enforcement in the areas of Automated Commercial Environment (ACE), Antidumping and Countervailing Duties (AD/CVD), Centers of Excellence and Expertise (Centers), De Minimis Value, Enforce and Protect Act of 2015 (EAPA), Forced Labor and Intellectual Property Rights (IPR).

Issue:

- The implementation of Trade Facilitation and Trade Enforcement Act of 2015 (TFTEA) is a priority in 2017 for U.S. Customs and Border Protection (CBP), as well as high-visibility initiative for Congress and the Trade.
- TFTEA enhances CBP enforcement of U.S. trade laws and regulations.

Current Status:

- As required by TFTEA, CBP has established the Trade Remedy Law Enforcement Division (TRLED) within the Office of Trade (OT). In addition, CBP established an E-Commerce branch to address recent trends in trade and concerns within TFTEA, with a specific focus on IPR and Import Safety concerns in this growing area of trade.
- Per Section 305 of TFTEA, CBP authorized a process for the enforcement of a copyright of an owner who has applied for registration of merchandise with the U.S. Copyright Office.
- In response to Section 311 of TFTEA, CBP/OT created an educational campaign to inform travelers entering or leaving the US about the legal, economic, and public health and safety implications of acquiring merchandise that infringes IPR. This campaign is in progress in airports across the nation and will run until the end of July 2017.
- CBP published an Interim Final Rule (IFR) in the Federal Register on August 22, 2016, satisfying the 180 day deadline set by Congress to publish regulations for Title IV of TFTEA, commonly referred to as EAPA. CBP/OT began accepting EAPA allegations this fiscal year.
- Conforming regulations were published in August of 2016 to increase the general de minimis value from \$200 to \$800.
- CBP has conducted significant work in combating forced labor. As required by TFTEA, CBP published a final rule implementing the elimination of consumptive demand exemptions for forced labor. In addition, in the past year CBP has issued Withhold Release Orders on merchandise produced by forced labor to prevent these goods from entering the U.S.

Next Steps:

- In FY 2018, CBP will continue to stand up new functions to support trade enforcement in response to TFTEA. For instance, TFTEA calls for a dedicated group for the targeting of evasion and requires that at least three CBP personnel be dedicated to the IPR Center.