



贸易新环境背景下美国海关调查 应对及合规

李吏
合伙人

lili@allbrightlaw.com

CONTENTS

01

美国海关介绍

02

美国海关执法事项

03

美国海关执法行动及
处罚

04

应对措施及合规

美国海关与边境保护局，CBP



U.S. Customs and
Border Protection

●是国土安全部的一部分

●职责：认为自己是一个“税收”组织

- 对进口产品征收关税、费用或惩罚金
- 禁止及没收违禁品
- 处理进入美国境内的人、行李、货物及信件
- 通过实施防止非法贸易行为的法律保护美国企业
- 收集进出口数据，编制国际贸易数据
- 通过实施进出口管制，保护美国的利益和安全

●入境口岸和全国“Centers for Excellence and Expertise”审查进口

●调查权

《1930年关税法》第509节授予了美国海关非常广泛的调查权，海关可以检查“任何记录、陈述、进口申报或其它文件.....只要其可能有关于”海关“为确认进口申报的正确性，为确定任何人应当负担的关税或税收责任，.....为确定罚款或罚金责任，或为确保美国法得到遵守的目的”而进行的调查或查询。

备案进口商责任, Record of Importer

- 进口清关时需要对合规负责的是进口商 (Importer of record) ,不是broker, 货代或者出口商。Broker协助进口, 但最终责任在进口商。
- 进口商有责任申报适当的税号、货值、原产国, 并支付适当的关税。
- 即使不是Importer of record也可能被追究责任, 如果在进口时涉及实质的虚假陈述或遗漏。

任何人如果通过虚假信息或重大遗漏将货物进口或企图进口到美国, 或协助和教唆他人从事上述行为, 则需要对违反海关规定承担责任。See 19 U.S.C. § 1592 (2006)

- 备案进口商的股东个人、雇员、中介通过虚假信息或重大遗漏将货物进口到美国。
- 与登记进口商相关联的公司。
- 中介或者第三方。

美国进口清关注意事项

●所有的进口商必须要有进口bond - 连续或单次进口保函

- 连续保函：期限最长为365天，过去12个月支付的10%的关税为基础，最低为5万美金。
- 单次保函：等于进口价值加上关税。

●申报系统及文件

- 进口商(通常通过broker)提交给CBP归档的进口清关文件，包括CF7501、商业发票、装箱单、提单和产品的具体要求(如工厂质检证书)。
- 文件都是broker在CBP的**ACE系统**里提交的。
- Broker的错误并不是抗辩的理由

●清关表格CF7501

ACE and Automated Systems



The Automated Commercial Environment (ACE) is the system through which the trade community reports imports and exports and the government determines admissibility. CBP applies expertise, technology, and automation to create streamlined and efficient processes to facilitate the global exchange of safe and legitimate goods.

ACE Portal Modernization is Underway!

CBP is transitioning ACE Portal functionality to a modernized platform.
For more information, please visit the [ACE Portal Modernization webpage!](#)

ACE Resources



How to Use ACE



**Get Started
with the
ACE Portal**



**ACE Training
Guides and Videos**

- **ACE是所有entry summary的记录系统。**
- **讲进口从基于纸张的系统转变为电子记录保存系统。**
- **ACE 为帐户持有人提供以下功能:**
 - 接收，回复和监测CBP表格CF28、29
 - AD/CVD税管理和信息数据库
 - 识别和评估合规问题
 - 审查并回复所提交的文件



ENTRY SUMMARY

1. Filer Code/Entry Number	2. Entry Type	3. Summary Date	4. Surety Number	5. Bond Type	6. Port Code	7. Entry Date
8. Importing Carrier		9. Mode of Transport		10. Country of Origin United States of America		11. Import Date
12. B/L or AWB Number		13. Manufacturer ID		14. Exporting Country United States of America		15. Export Date
16. I.T. Number		17. I.T. Date	18. Missing Docs	19. Foreign Port of Lading		20. U.S. Port of Unlading
21. Location of Goods/G.O. Number		22. Consignee Number		23. Importer Number		24. Reference Number
25. Ultimate Consignee Name (Last, First, M.I.) and Address Street City State Zip				26. Importer of Record Name (Last, First, M.I.) and Address Street City State Zip		
27. Line No.	28. Description of Merchandise			32. A. Entered Value B. CHGS C. Relationship		34. Duty and IR Tax Dollars Cents
	29. A. HTSUS No. B. AD/CVD No.	30. A. Gross Weight B. Manifest Qty.	31. Net Quantity in HTSUS Units	33. A. HTSUS Rate B. AD/CVD Rate C. IRC Rate D. Visa Number		
Other Fee Summary (for Block 39)		35. Total Entered Value \$		CBP USE ONLY		TOTALS
		Total Other Fees \$		A. LIQ Code	B. Ascertained Duty	37. Duty
36. Declaration of Importer of Record (Owner or Purchaser) or Authorized Agent				REASON CODE	C. Ascertained Tax	38. Tax
					D. Ascertained Other	39. Other
					E. Ascertained Total	40. Total
I declare that I am the ☐ Importer of record and that the actual owner, purchaser, or consignee for CBP purposes is as shown above, OR ☐ owner or purchaser or agent thereof. I further declare that the merchandise ☐ was obtained pursuant to a purchase or agreement to purchase and that the prices set forth in the invoices are true, OR ☐ was not obtained pursuant to a purchase or agreement to purchase and the statements in the invoices as to value or price are true to the best of my knowledge and belief. I also declare that the statements in the documents herein filed fully disclose to the best of my knowledge and belief the true prices, values, quantities, rebates, drawbacks, fees, commissions, and royalties and are true and correct, and that all goods or services provided to the seller of the merchandise either free or at reduced cost are fully disclosed. I will immediately furnish to the appropriate CBP officer any information showing a different statement of facts.						
41. Declarant Name (Last, First, M.I.)		Title		Signature		Date
42. Broker/Filer Information Name (Last, First, M.I.) and Phone Number		43. Broker/Importer File Number				

●Form7501 Entry Summary

●记录了这一票进口清关的所有信息。

●重要的信息包括：

- 备案进口商
- 商品的原产国/出口国
- 货值
- 海关编码
- AD/CVD和其他税费的适用情况
- 出口商/生产商及关联关系



DEPARTMENT OF HOMELAND SECURITY
U.S. Customs and Border Protection
REQUEST FOR INFORMATION
19 CFR 151.11

OMB APPROVAL NO. 1651-0023
EXPIRATION DATE: 09-30-2019
ESTIMATED BURDEN:

1. Date of Request (mm-dd-yyyy)		2. Date of Entry and Importation (mm-dd-yyyy)			
3. Manufacturer/Seller/Shipper		4. Carrier		5. Entry No.	
5a. Invoice Description of Merchandise		5b. Invoice No.		6. HTSUS Item No.	
7. Country of Origin/Exportation		8. CBP Broker and Reference or File No.			
9. TO:		10. FROM:			
Production of Documents and/or Information Required by Law: If you have provided the information requested on this form to U.S. Customs and Border Protection at other ports, please indicate the port of entry to which it was supplied, and furnish a copy of your reply to this office, if possible.		11a. Port		11b. Date Information Furnished (mm-dd-yyyy)	
General Information and Instructions					
12. Please Answer Indicated Question(s)			13. Please Furnish Indicated Item(s)		
☐ A. Are you related (see reverse) in any way to the seller of this merchandise? If you are related, please describe the relationship, and explain how this relationship affects the price paid or payable for the merchandise. ☐ B. Identify and give details of any additional costs/expenses incurred in this transaction, such as: ☐ (1) packing ☐ (2) commissions ☐ (3) proceeds that accrue to the seller ☐ (4) assists ☐ (5) royalties and/or license fees			☐ A. Copy of contract (or purchase order and seller's confirmation thereof) covering this transaction, and any revisions thereto. ☐ B. Descriptive or illustrative literature or information explaining what the merchandise is, where and how it is used, and exactly how it operates. ☐ C. Breakdown of components, materials, or ingredients by weight and the actual cost of the components at the time of assembly into the finished article. ☐ D. Submit samples: Article number: _____ Article description: _____ Number from container: _____ Mark(s) and number: _____ Samples consumed in analysis, and other samples whose return is not specifically requested, will not normally be returned. ☐ E. See item 14 below.		
14. CBP Officer Message					
15. Reply Message (Use additional sheets if more space is needed.)					
16. CERTIFICATION It is required that an appropriate corporate/company official execute this certificate and/or endorse all correspondence in response to the information requested. (NOTE: NOT REQUIRED IF FOREIGN FIRM COMPLETES THIS FORM.)					
I hereby certify that the information furnished herewith or upon this form in response to this inquiry is true and correct, and that any samples provided were taken from the shipment covered by this entry.		16a. Name and Title/Position of Signer (Owner, Importer, or Corporate/Company Official)		16b. Signature	
				16c. Telephone No.	
				16d. Date (mm-dd-yyyy)	
17. CBP Official		18. Team Designation		19. Telephone No.	
20. Fax No.		21. Email			

- CBP Form 28 Request for Information
- 美国海关询问关于某一笔或者几笔清关其他信息时用到的表格
- 通过ACE系统提交回复
- 从发出日期起的30天内提交，可以向CBP申请延期
- 主要内容：关联关系、附加成本、销售资料、关于产品的信息进行解释、成本要素分解、其他信息。

DEPARTMENT OF HOMELAND SECURITY CUSTOMS AND BORDER PROTECTION		NOTICE OF ACTION <i>This is NOT a Notice of Liquidation</i>		1. DATE OF THIS NOTICE	
19 CFR 152.2 2. CARRIER		3. DATE OF IMPORTATION		4. DATE OF ENTRY	
6. MFR/SELLER/SHIPPER		7. COUNTRY		8. CUSTOMS BROKER AND FILE NO.	
9. DESCRIPTION OF MERCHANDISE					
10. TO 				11. FROM	
12. THE FOLLOWING ACTION, WHICH WILL RESULT IN AN INCREASE IN DUTIES, —					
☐ IS PROPOSED ☐ HAS BEEN TAKEN IF YOU DISAGREE WITH THIS PROPOSED ACTION, PLEASE FURNISH YOUR REASONS IN WRITING TO THIS OFFICE WITHIN 20 DAYS FROM THE DATE OF THIS NOTICE. AFTER 20 DAYS THE ENTRY WILL BE LIQUIDATED AS PROPOSED. THE ENTRY IS IN THE LIQUIDATION PROCESS AND IS NOT AVAILABLE FOR REVIEW IN THIS OFFICE.					
TYPE OF ACTION					
A. ☐ RATE ADVANCE B. ☐ VALUE ADVANCE C. ☐ EXCESS ☐ WEIGHT ☐ QUANTITY D. ☐ OTHER (See below)					
13. EXPLANATION (Refer to Action letter designations above)					
14. CUSTOMS OFFICER (Print or Type)		15. TEAM DESIGNATION		16. TELEPHONE	

●CBP Form 29 Notice of Action

●可能会要求修改海关编码、修改进口商品的清关价值、修改原产国等，可能会导致税率变动。

●CBP会在CF 29上对采取的行动进行书面解释。

●如建议采取行动，进口商将有20天时间向表格上所列的CBP审查员作出答复。

●如果采取行动，进口商可以进行申诉 (protest) 。

海关归类

●U.S. Harmonized Tariff Schedule (HTSUS) , 《美国统一海关税则》 , 所有产品都有一个特定的HTS编码, 决定了进口时适用的税率。

- 税则的基础是世界海关组织 (WCO) 的《商品名称及编码协调制度》。
- HTSUS包括了大约5000种类的物品描述, 被分为21节99章。
- HTS可在美国国际贸易委员会网站(usitc.gov)查阅。
- 为了保证精确的海关归类, 还应当认真考虑总则注释、节注释、章注释, 以及美国海关做出的行政裁决和案例法。
- 美国海关已经通过现有的法令对如何适当的归类进行了指导, 这些法令公布在CROSS系统 (<https://rulings.cbp.gov/home>) 中。如果收到进口商请求, 美国海关可以做出关于适当商品归类的约束性法令。

海关归类（举例）



- 收到海关CF-28表格，怀疑弹簧芯适用反倾销税。
- 7320.20.5020./ 脚注5 See 9903.88.15.
- Parts of seats.
- 9401.99.9081/脚注2 See 9903.88.03.

7320.20.50		Other.....		3.9% ^{5/}
	10	Helical springs, of wire having a cross-sectional dimension of less than 5.1 mm:		
	20	Suitable for use in mattress supports and mattresses of heading 9404.....	kg	
		Other.....	kg	

9401.99.90	05	Other.....		Free ^{2/}
	21	For children's highchairs, booster seats and similar seats.....	No.	
	81	Other of textile material, cut to shape.....	No.	
		Other ^{5/}	No.	



About the Customs Rulings Online Search System (CROSS)

CROSS is a searchable database of CBP rulings that can be retrieved based on simple or complex search characteristics using keywords and Boolean operators. CROSS has the added functionality of CROSS referencing rulings from the initial search result set with their modified, revoked or referenced counterparts.

Rulings collections are separated into Headquarters and New York and span the years 1989 to present. Collections can be searched individually or collectively. For more information about features or how to use CROSS, please visit the [HELP](#) section.

What's New

CROSS was last updated Nov 18, 2022, 1:45 PM with 8 rulings, bringing the total number of searchable rulings to 211530. The most recent ruling is dated Nov 14, 2022.

All Latest Rulings

Includes NY and HQ rulings modified in the last 30 days.

[XML](#) [CSV](#)

Latest NY Rulings

Includes NY rulings 30 days or newer.

[XML](#) [CSV](#)

Latest HQ Rulings

Includes HQ rulings 30 days or newer.

[XML](#) [CSV](#)

Related Trade Information

[Trade related links](#) - Includes links to the Harmonized Tariff schedule, Customs Bulletins, Informed Compliance, Code of Federal Regulations, and more

[Customs Valuation Encyclopedia \(1980-2021\)](#) - Download the Customs Valuation Encyclopedia (1980-2021) from the CBP web site.

Informational Note

Please be aware that not all rulings issued by HQ and NY since 1989 are yet included in the database. They are still being collected and we hope to have 100% inclusion as soon as practicable.

Please submit any concerns related to CROSS to [CBP website questions](#).

原产国

●为什么要搞清楚原产国

原产国的确定与适用的关税税率相关，以及确认是否征收额外关税，例如反倾销、反补贴税、301条款关税等。

●什么是原产国

- 原产国通常是指“进入美国的外国商品的生产、制造或生长的国家。”
- 不一定是出口国，甚至也不一定是商品的最后的生产国。所以7501上面要申报出口国和原产国。
- 海关规则要求每一个进口到美国的，原产于其他国家的货物（或者它的集装箱）在进口时都应当在醒目的位置清晰地、不可磨损的、永久地方式做标记.....以此来告知美国境内的最终购买者该货物的原产国。

原产国

●确定原产国的法律原则

- “non-preferential” 规则：非优惠原产地规则
 - 完全在一个特定国家生长、制造的商品原产于该国。
 - 在其他国家的进一步加工，或对商品增添材料必须要构成 **“实质转变”**，才能使得后面的国家成为原产国。那么原产国就是最后一次进行实质转变的国家。
 - 简单的转口和/或组装不能实现改变产品原产地的目的。
- “preferential” 规则：优惠原产地规则
 - 适用于根据各种贸易协定来确定是否有资格获得特殊待遇（如USMCA美国-墨西哥-加拿大协定）或特别立法(GSP普惠制)。
- 中美之间贸易适用的是“非优惠原产地规则”

原产国

●实质转变

- 而美国尚无相关成文法，海关依赖一系列的法院判决、海关条例以及海关解释对货物原产地进行判定。
- **“成为具有独立名称、特征和用途的不同新物品”**时,即为发生了**“实质性变化”**。[案例：刹车盘]
- 其他因素：工艺、增值（成本、投资）、装配的难易程度等等。[案例：冰箱]
- 实质性转变规则十分复杂，并根据商品的不同发生变化。CBP靠主观意识进行自由裁量，有相当大的不确定性。
- 美国海关现有的法令对如何判断原产国做出了指导，法定公布在CROSS (<https://rulings.cbp.gov/home>) 系统中。
- **不确定性 → 确定性（预裁定）**

不确定性→确定性 海关预裁定

●在美国海关运用广泛，几乎包含所有的CBP执法事项（归类、估价、原产地）

- 门槛低：任何进口商、出口商、其他相关方或授权代理人都可以要求CBP做出具有约束力的裁决。
- 透明度高：裁决公开公布在海关裁定在线搜索系统(CROSS系统)。
- 有约束力：代表了CBP对其中所述特定交易或问题的官方立场，具有约束力。如果CBP确定该商品在所有实质性方面与裁决中描述的商品相同，则该裁决将适用。
- 效力稳定：大多数裁决从未被修改或撤销，并且无限期有效，没有固定的到期日。
- 对所有口岸适用
- 司法审查

●双刃剑

●供应链设计

海关估价

- **海关要求在进口时进行合理估价。通常进口清关的成交价格作为税款计算的基础。**
- **进口商与外国出口商没有关联 – 成交价格**
 - 根据19 U.S.C. 1401a(b)，成交价格是指 “实际支付的价格或者向美国出口货物时应当支付的价格”，通常是指发票价格。
 - 在成交价格基础上，通常还要做一些增减，比如扣减实际发生的运费和保险费，或者增加买方对卖方提供的例如工具和材料等辅助品费用、版税和间接付款等。
- **进口商与出口商有关联关系 – 证明交易价格公允（价值测试/销售情况测试）**
- **其他估价方法（相同/类似货物成交价格估价方法/倒扣价格估价方法/计算价格估价方法）**
- **首次销售原则**
 - 交易各方之间存在真实的销售交易
 - 中间商在向供应商购买商品时，该商品已明确无误注定将出口至美国
 - 符合独立交易原则要求（适用于买卖双方为关联企业时的情况）

UFLPA美国强迫劳动法案

●2021年12月23日，美国总统拜登签署所谓《维吾尔强迫劳动预防法案》

●2022年6月21日，正式生效

●可予以反驳的推定 – “有罪推定”

- 可予以反驳的推定：认为来自新疆以及强迫劳动实体清单生产的产品，都是强迫劳动产品，除非进口商能提供“明确且有说服力”的反证。
- 举证责任倒置，加强进口商责任，达到剥离新疆供应链的目的。

●全部或部分的产品—没有最低比例原则

- 法案规定，只要是全部产自或部分产自新疆的货物，或是由执法策略识别的实体所生产的货物，都是执法对象。

●强迫劳动实体清单、优先执法产业

- 优先重点执法的产业--服饰、棉花和棉花产品、硅基产品（包括多晶硅）和番茄及其下游产品

UFLPA美国强迫劳动法案 – 进口商指引

● 尽职调查

- 接触供应商和合作伙伴
- 描绘完整的供应链再逐步进行风险分析评估
- 规定行为准则或供应链标准，规定供应商合同义务
- 对供应链的沟通和培训
- 监督供应商合规
- 规定补救措施
- 第三方核查
- 对尽职调查的后续报告

● 完整的供应链追溯

- 描绘完整的供应链

● 供应链管理

- 要审查新供应商潜在风险，
- 在与供应商的合同中约定合同义务，包括改进措施，不改进的后果例如终止协议等
- 要求获取文件、人员和工人，以验证是否存在强迫劳动指标，包括在员工招聘阶段的文件

UFLPA美国强迫劳动法案 – 进口商指引

- 证明完整的供应链追溯所需的文件，包括：
 - 各级供应商的详细信息，包括名称、地址、参与的业务流程
 - 被调查产品的生产流程图，每道工序对应的各原材料、中间半成品
 - 发生在各级供应商之间的
 - 采购订单、发票、箱单
 - 物料清单
 - 原产地证
 - 付款记录
 - 买卖双方的库存记录
 - 发货和物流记录
 - 进出口报关记录
- 对于各采矿、生产和制造企业：
 - 采矿、生产和制造记录，产能证明文件
- 对于棉花、多晶硅料和番茄产业，有与产业相关的特定证据需求

UFLPA

调查程序



U.S. Customs and
Border Protection

检查, 扣留

- CBP检查货物的5天内决定是否扣留货物
- 进口商可以自CBP开始检查货物时30天内提交相关证据和信息
- 在排除进口或没收之前, 进口商可以选择再出口被扣留的货物

排除进口

- 进口商无法证明未违反该法案或该法案不适用, CBP可以决定排除进口
- 在收到排除进口通知的180天内, 进口商通过复议程序还可以继续提交相关证据和信息

没收

- CBP还可以没收违反强迫劳动法案的货物
- 进口商在收到没收通知的30天内继续提交相关证据和信息

**执法程序时间和节奏
明显快于CBP的
WRO调查程序**

CBP可能采取的行动

- CBP即使在商品放行后也可以要求对进口进行审查，期间是5年。**也就是说CBP可以对过去五年时间内的清关货物要求补税或罚款。
- CF 28(Request for Information):**
 - 大多数CBP的调查从CF-28开始，要求提供信息或发送调查信。
 - 必须迅速和充分地回答。不回答可能会导致全面调查。
 - 不回答可能带来海关审计。
 - 企业要自己把握跟CBP交流的主动权，不要依赖broker。
- CF29(Notice of Action, rate advance): 回应的机会。**
- 罚款通知 (Penalty Notice) : 有良好记录的公司有机会减轻处罚。**
- 海关审计 : 复杂不好应对。**
- 实物检验/抽样**

CBP可能采取的行动

- CBP直接与进口商联络(电话、上门)
- CBP访问外国供应商(与当地海关执法人员合作)
- 搜查/传票
- EAPA调查 – CBP对反规避的调查和执法权

- 美国2016年2月通过了《Trade Facilitation and Trade Enforcement Act of 2015 (TFTEA) 》，其中第四章的《Enforce and Protect Act of 2015 (EAPA)》引入了由海关来加强转口贸易反规避和征收关税执法的规则，目的是为了来规制在报关过程中规避征税的行为。
- 主要的规避行为包括通过伪造原产地通过第三国转口，海关税号申报为非涉双反税产品，以及不正确的申报为低税率的出口商名称等。
- EAPA是一项全新的，区别于传统双反调查的工具，是针对“规避”反倾销反补贴税的行为进行的海关调查。

CBP惩罚措施

●合理注意义务

- 美国进口商在向CBP准备和提交文件时应尽“合理注意义务”，以便CBP决定该产品是否可以放行，评估该产品准确的关税，收集准确的贸易数据，并确保该产品符合其他美国法律。
- 尽管合理注意是涉及CBP执法案件中一个抗辩理由，然而进口商必须能够证明他们已经采取某些具体措施以确定正确的海关归类或者估价，或者已经听从了解事实的海关专家的意见。

●补税及利息

●欺诈、重大过失或疏忽

- 最高可处以商品价值100%的罚款(欺诈)
- 4倍税款损失或40%应课税价值(重大过失)
- 2倍应税款损失或20%应课税价值(疏忽)

应对措施

- 先确定谁是备案进口商

- 提前披露 (prior disclosure)：将处罚降低至损失的税款

- 申诉 (Protest)

- 若是进口商在税款缴付以后对税率适用存有异议，根据美国法典第19卷第1514 (c) (3) 条，进口商可以自税款支付之日起180天内通过填报海关表格19来进行申诉。

- 诉讼

- 如果进口商如对海关做出的最终决定不服，可在最终决定做出后180天内向美国国际贸易法院 (Court Of International Trade) 提起诉讼。对国际贸易法院的判决不服的，还可向美国联邦巡回上诉法院提起上诉。

DEPARTMENT OF HOMELAND SECURITY
U.S. Customs and Border Protection

Exp. 07/31/2019

PROTEST

Pursuant to Sections 514 & 514(a), Tariff Act of 1930 as amended, 19 CFR Part 174 et. seq.

NOTE: If your protest is denied, in whole or in part, and you wish to CONTEST the denial, you may do so by bringing a civil action in the U.S. Court of International Trade within 180 days after the date of mailing of Notice of Denial. You may obtain further information concerning the institution of an action by writing the Clerk of U.S. Court of International Trade, One Federal Plaza, New York NY 10007 (212-264-2800).

1. PROTEST NO. (Supplied by CBP)

2. DATE RECEIVED (CBP Use Only)

SECTION I - IMPORTER AND ENTRY IDENTIFICATION

3. PORT	4. IMPORTER NO.	5. ENTRY DETAILS					
6. NAME AND ADDRESS OF IMPORTER OR OTHER PROTESTING PARTY		PORT CODE	FILER CODE	ENTRY NO.	CHECK DIGIT	DATE OF ENTRY	DATE OF LIQUIDATION
7. Is Accelerated Disposition being requested (19 CFR 174.22)? ☐ Yes ☐ No							

SECTION II - DETAILED REASONS FOR PROTEST

8. With respect to each category of merchandise, set forth, separately, (1) each decision protested, (2) the claim of the protesting party, and (3) the factual material and legal arguments which are believed to support the protest. All such material and arguments should be specific. General statements of conclusions are not sufficient.

(Attach Additional Sheets if necessary.)

SECTION III - REQUEST FOR DISPOSITION IN ACCORDANCE WITH ACTION ON PREVIOUSLY FILED PROTEST

Protesting party may request disposition in accordance with the action taken on a previously filed protest that is the subject of a pending application for further review and is alleged to involve the same merchandise and the same issues. (See 19 CFR 174.13(a)(7).) To request such disposition, enter in Blocks 8 and 9 the protest number and date of receipt of such previously filed protest.

9. PROTEST NO. OF PREVIOUSLY
FILED PROTEST

10. DATE OF RECEIPT

SECTION IV - SIGNATURE AND MAILING INSTRUCTIONS

11. NAME AND ADDRESS OF PERSON TO WHOM ANY NOTICE OF APPROVAL OR DENIAL SHOULD BE SENT	12. NAME, ADDRESS, AND CBP IDENTIFICATION NUMBER TO WHICH REFUND SHOULD BE SENT	13. IF FILING AS ATTORNEY OR AGENT, TYPE OR PRINT YOUR NAME, ADDRESS AND IMPORTER NUMBER, IF ANY
14. SIGNATURE X		DATE

(Optional) SECTION V - APPLICATION FOR FURTHER REVIEW (Fill in Item 1 above if this is a separate Application for Further Review.)

15. MARK BOX CORRESPONDING TO YOUR ANSWER TO EACH OF THE FOLLOWING QUESTIONS

- YES NO
- ☐ ☐ (A) Have you made prior request of a port director for a further review of the same claim with respect to the same substantially similar merchandise?
- ☐ ☐ (B) Have you received a final adverse decision from the U.S. Court of International Trade on the same claim with respect to the same category of merchandise or do you have action involving such a claim pending before the U.S. Court of International Trade?
- ☐ ☐ (C) Have you previously received an adverse administrative decision from the Commissioner of CBP or his designee or have you presently pending an application for an administrative decision on the same claim with respect to the same category of merchandise?

16. JUSTIFICATION FOR FURTHER REVIEW UNDER THE CRITERIA IN 19 CFR 174.24 AND 174.25 (Include Applicable Rulings)

(Attach Additional Sheets if Necessary.)

SECTION VI - DECISION (CBP USE ONLY)

17. APPLICATION FOR FURTHER REVIEW ☐ Approved* ☐ Denied for the reason checked: ☐ Untimely filed ☐ Does not meet criteria ☐ Other, namely

EXPLANATION:

*When further review only is approved the decision on the protest is suspended, pending issuance of a protest review decision.

18. PROTEST EXPLANATION: ☐ Approved ☐ Rejected as non-protestable ☐ Denied in full for the reason checked: ☐ Denied in part for the reason checked: ☐ Untimely filed ☐ See attached protest review decision ☐ Other, namely

19. TITLE OF CBP OFFICER

20. SIGNATURE AND DATE

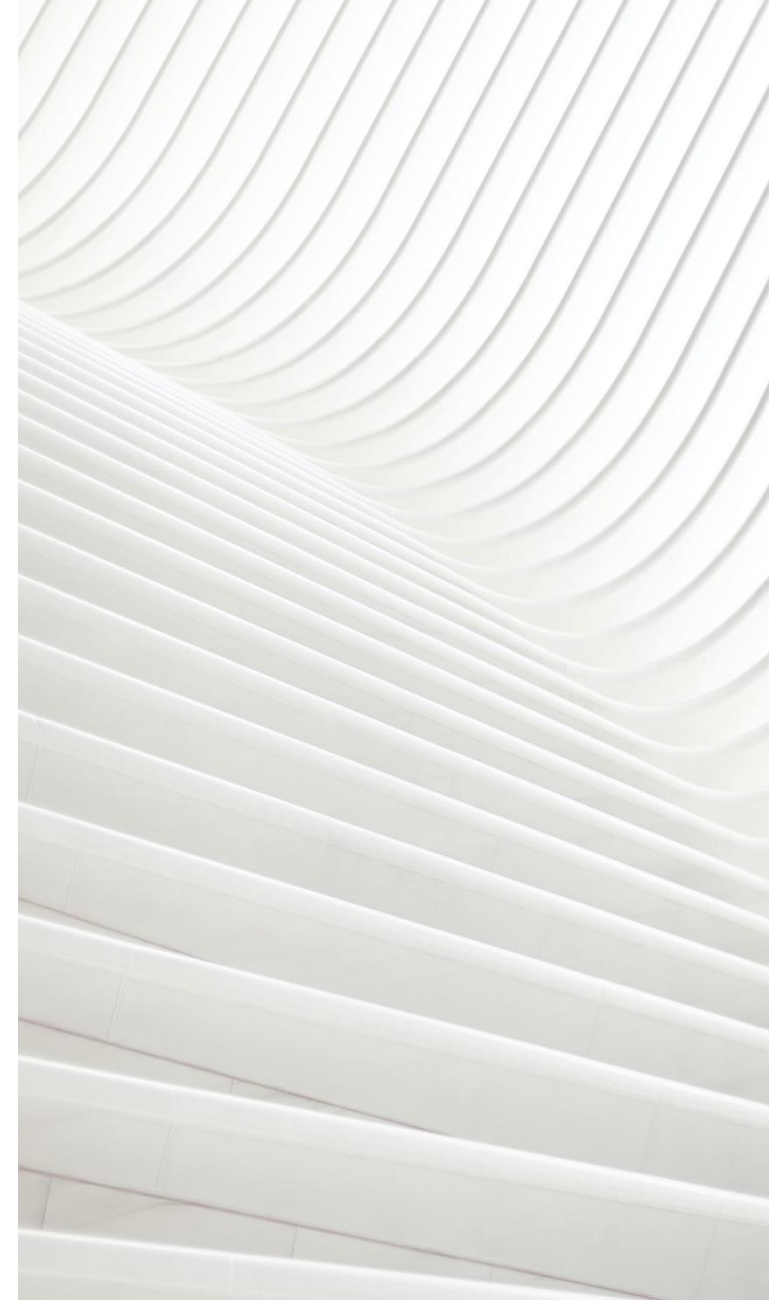
课后习题

- 我有几个与美国市场反倾销相关的问题咨询您一下。
- 背景是这样：我有个朋友的公司产品出口到美国，但是美国前两天对这个产品征收反倾销税，于是我朋友之前为了规避反倾销税，采用在东南亚转口贸易的方式（实质上就是贴牌），卖到美国，目前这个业务已经规范了，但是对过去已经发生可能的不规范情况，我朋友有以下几点问题：

- 1、美国如果主动要求追缴过去的反倾销税，最坏的处罚后果是什么？
- 2、除了补税是否可能会有罚款或者滞纳金？
- 3、是否有明确的关于处罚上限的法律规定？
- 4、一般情况下会进行什么样的处罚，有什么样的案例参考？
- 5、美国在对上述违规行为追缴的时候，是否有明确的追缴时效，超过时效即使发现了也无法追缴？

合规建议

- 评估风险
- 确保在第三国生产的产品，按照美国的原产地规则能够获得第三国的原产地。
- 向美国海关申请预裁定？
- 注意CBP要求的信息。未能作出回应可能会触发审计或其他执法行动。
- 海外公司作为进口商要保持独立性



合规建议 - 强迫劳动UFLPA

- **与美国客户的合同或约定**

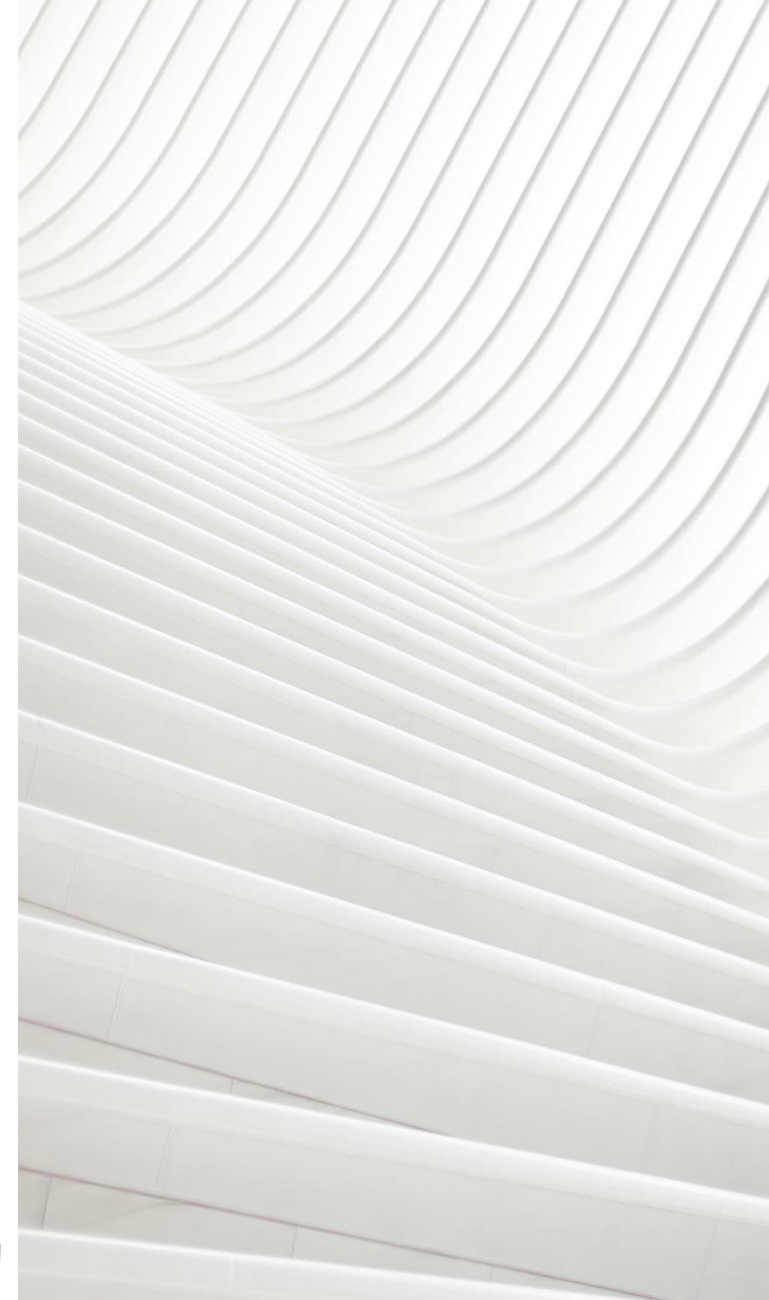
- 如果被扣留、排除或没收，不能构成违约
- 合规义务不能过重
- 关于声明、证言、承诺签署需要谨慎

- **供应链禁止强迫劳动的政策和落实**

- 更新企业社会责任的行为守则，并传达给供应商
- 和供应商签订关于企业社会责任的协议，或在采购合同中加入标准合规条款
- 供应商签署禁止强迫劳动的声明
- 完善供应商管理制度

- **全面了解直至初级原料的完整供应链**，通过访谈、问卷等方法

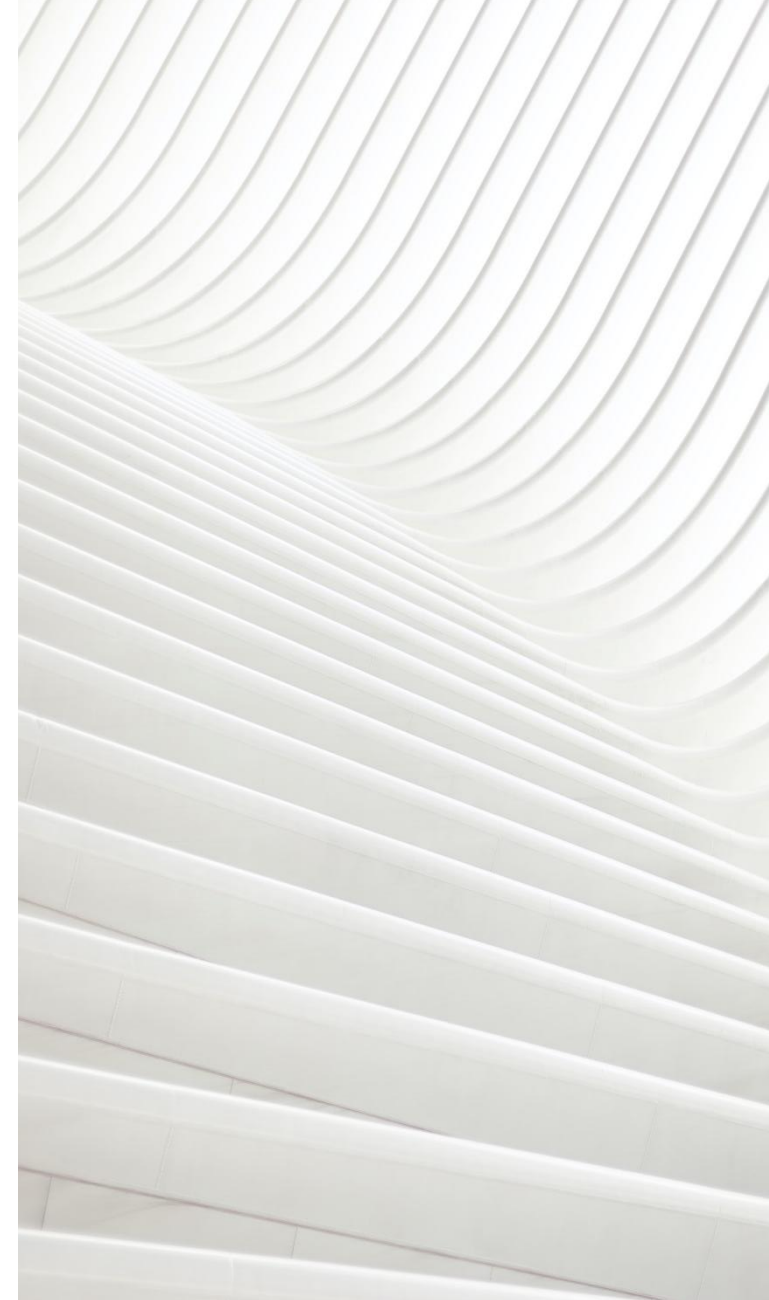
- 供应商名称，是否在强迫劳动实体清单上，是否在新疆有关联企业及主要活动
- 生产地点



合规建议 - 强迫劳动UFLPA

出口产品如果是重点执法范围

- 通过**完整产品和原料追溯**，对出口美国货物的供应链进行**闭环管理**来实现，此外还要特别注意：
 - 可能成为行业标准，例如光伏产品
 - 追溯需要文件管理，从进入美国货物通过销售文件、库存记录、生产记录逐级追溯到最初原料，非常精确的追溯
 - 出口美国产品的供应链中，不能有在强迫劳动实体清单上的供应商，避免在新疆大量业务的供应商
 - 出口美国产品的供应链中，供应商只能从新疆以外采购物资，否则会引起原材料混同、无法核实的问题



Thanks.

