

# Fall 2025 International Trade Webinar Blitz

- Session 1 | Tariffs & Customs Enforcement in the New International Trade Environment
- Session 2 | Customs Compliance in the New International Trade Environment
- Session 3 | Doing Business in Mexico and Latin America in the New International Trade Environment

■ HOUR 1

# Tariffs & Customs Enforcement in the New International Trade Environment

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FOLEY & LARDNER LLP

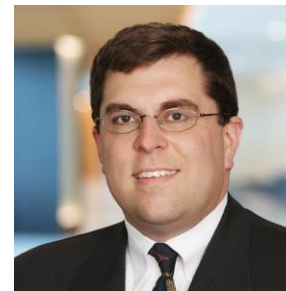




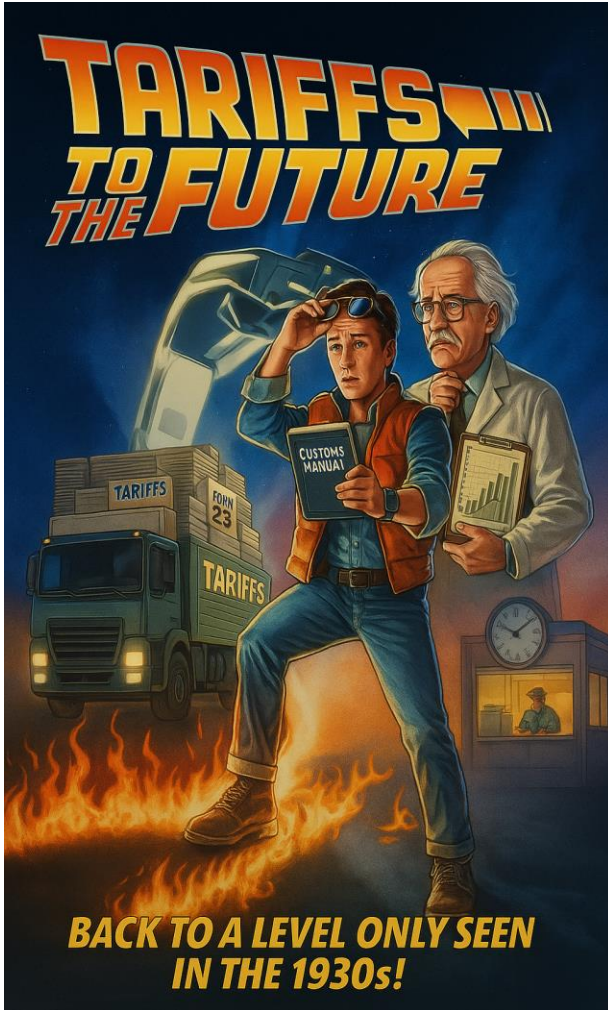


■ SESSION 1

# Trump Tariffs: Where Are We, and Where Are They Going?



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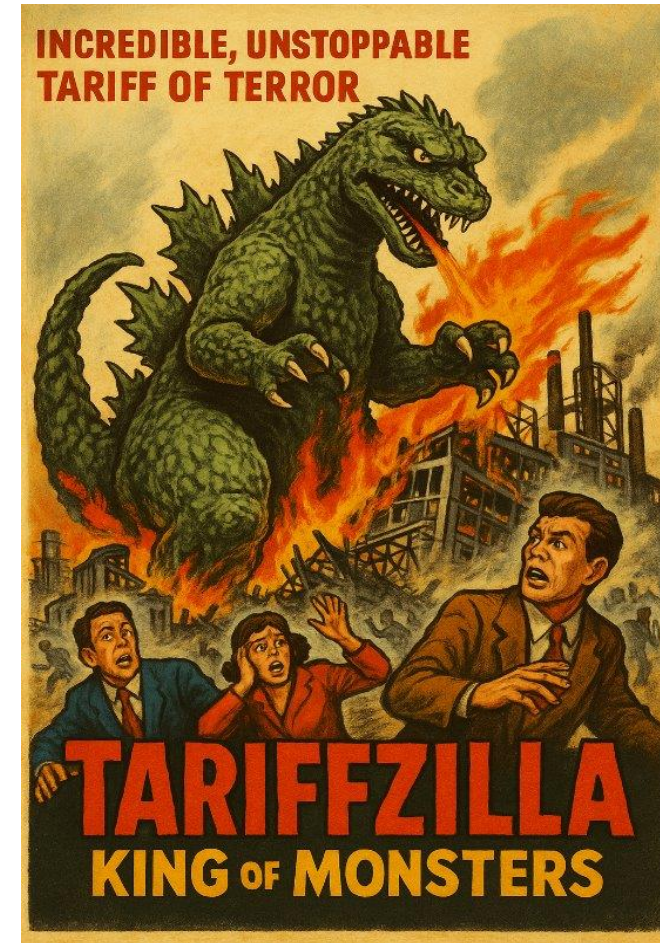
## Where Are We on Trump Tariffs, and Where Are They Going?

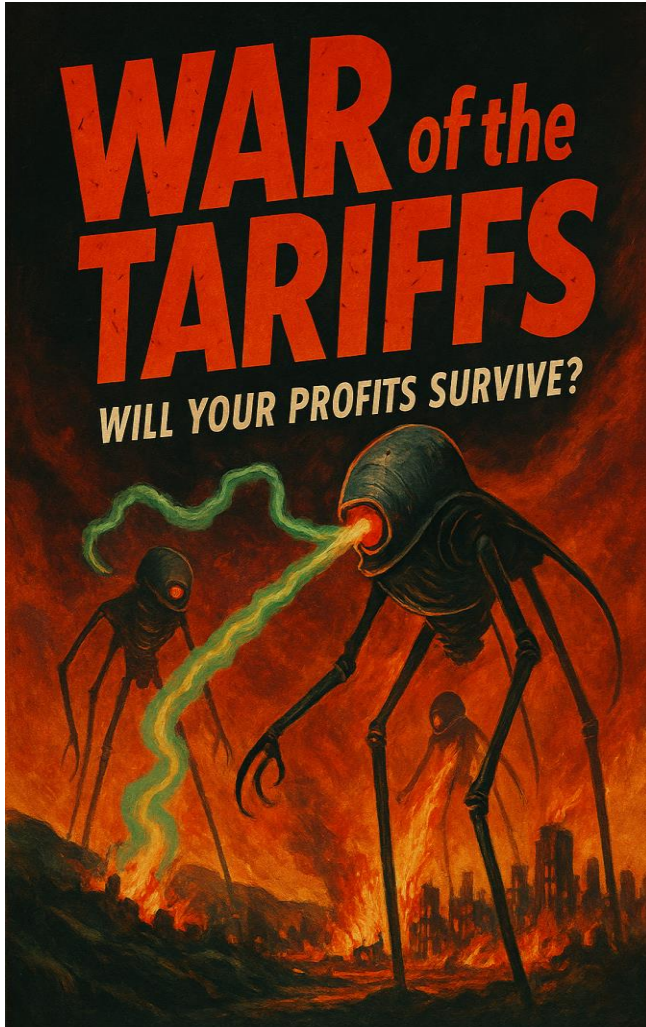
- **Bucket 1: Normal Chapter 1-97 Duties:** Still in Place (generally, 0-7%). Permanent.
- **Bucket 2: Global 10% Tariffs:** Not Negotiable – Revenue + “Price of Entry” to Sell to U.S.
- **Bucket 3: Reciprocal Tariffs (Up to 40%, after subtracting global 10% tariffs):** Paused for country-by-country negotiations. Permanent in some form — but look out for court challenges.



# Where Are We on Trump Tariffs, and Where Are They Going?

- **Bucket 4: China Tariffs (Why 55% is the new 170%):**  
Suspended and framework announced but not released.
  - **Global and Reciprocal Tariffs:** 125%; *but all but 10% suspended; China rate (without Section 301 tariffs) is currently 34% but suspended for many electronic products; framework announced.*
  - **IEEPA 20% Tariffs (fentanyl-based):** Not suspended. Appear permanent.
  - **Section 301 Tariffs (Up to 25%):** Been in place for 7 years; small subset of products, such as EVs, have been increased. Appears permanent.





## Where Are We on Trump Tariffs, and Where Are They Going?

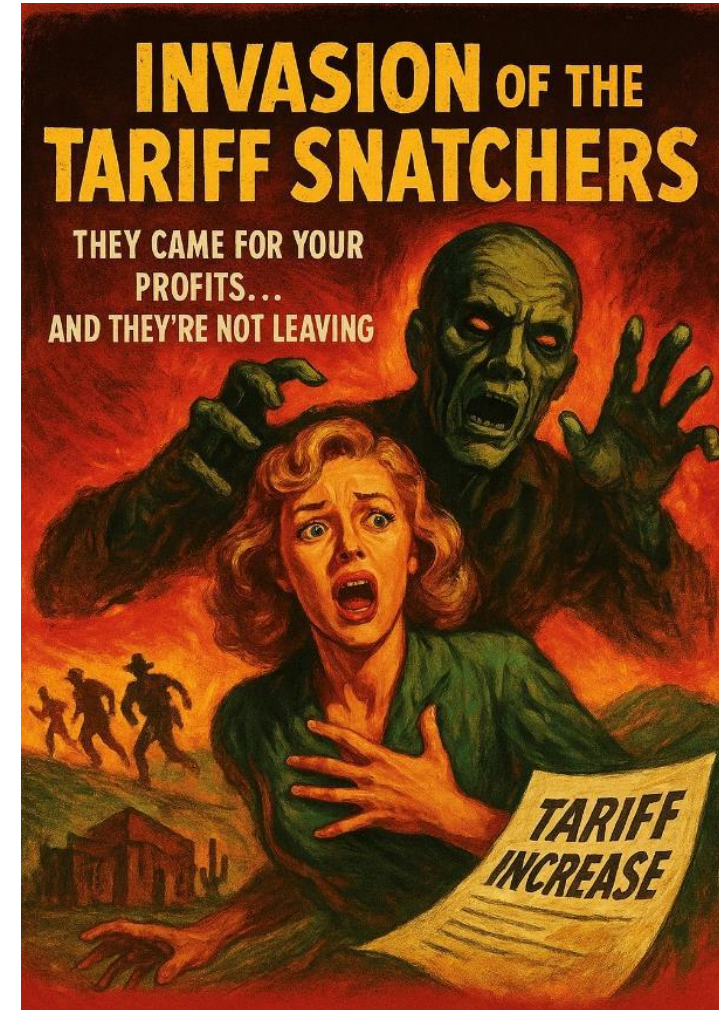
- **Bucket 5: Sectoral Section 232 tariffs**
  - **Steel, Aluminum, Copper & Lumber (50%).** Likely permanent; look for derivative product expansion. Pharmaceuticals could be up to 100%.
  - **Automotive (25%):** Expansion to heavy trucks. Suspended for USMCA-compliant goods. Will apply to non-U.S.-origin content.
  - **Lumber/Timber (25%, increase to 50%)**





# Where Are We on Trump Tariffs, and Where Are They Going?

- **Bucket 6: Canada & Mexico.**
  - **Canada (35%):** IEEPA (fentanyl) based. USMCA goods exempt. Increase from 25% effective August 1, 2025. 40% for goods rerouted via third countries.
  - **Mexico (25%):** USMCA goods exempt. Planned increase to 30% paused for 90 days as of July 31.
- **Bucket 7: “Negotiating Leverage” Tariffs**





# The Future: Section 232 Tariffs

- Now Cover More than 40% of U.S. Imports
  - Lumber
  - Autos
  - Trucks
  - Semiconductors
  - Pharmaceuticals
  - Critical minerals
  - Commercial aircraft and jet engines
  - Polysilicon
  - Unmanned aircraft systems
  - Wind turbines
  - Robotics and industrial machinery
  - Personal protective equipment
- Future Proofing Against Supreme Court Decision







■ SESSION 1

# New Developments in Customs Enforcement



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## What Is Driving Increased Customs Enforcement?

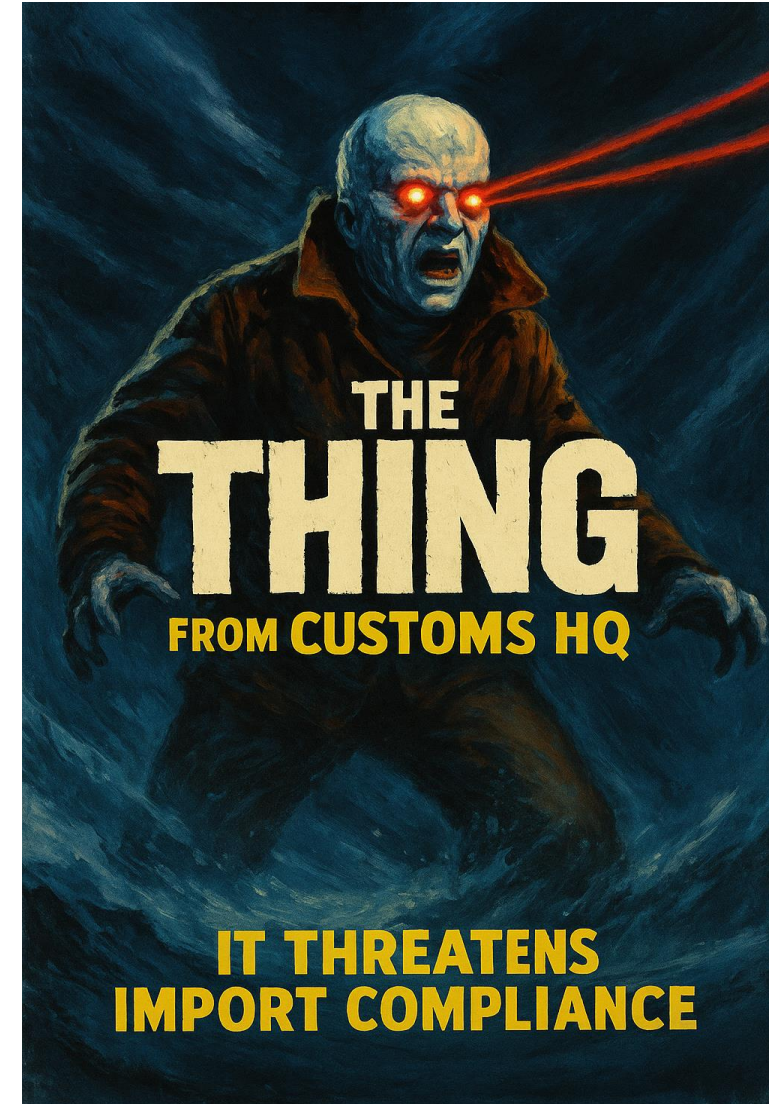
- **Tariffs everywhere.** Section 301, Section 232, and IEEPA are central to Administration's trade agenda
- **Really big tariffs.** Heightened incentives for importers to minimize duties
- **Limited exceptions.** Administration wants importers to pay what's owed
- **DOJ Prioritization.** See Matt Krueger
- **"Be Aggressive!"** CBP directed by Administration to enforce strictly





# Importers in the Crosshairs

- High tariffs = high incentives to minimize duties
- ACE = data advantage: patterns, anomalies, and outliers detected easily
- CF-28s (information requests) issued earlier and more often
- “Creative” workarounds often cross the line:
  - Unbundling costs or services
  - Seeking alternative HTS codes
  - Slight manufacturing changes for “substantial transformation”





## Issues CBP Is Investigating

- Misclassification (HTS codes, derivatives, components vs. finished goods)
- Under- or mis-valuation (particularly related-party transactions)
- Country of origin errors
- Forced labor/UFLPA violations
- Creative workarounds



# Emerging Theme: Report Competitors

- Companies watching competitors suspected of avoiding tariffs
- Reporting portals:
  - EAPA Portal: Antidumping/countervailing duties (not anonymous)
  - e-Allegations Portal: General trade violations (confidential submissions)
  - Forced Labor Allegation Portal: Pending (confidential submissions)





## Foreign Suppliers Offering Advice

- Some suppliers/manufacturers offering suggestions to retain business
- Examples of risky suggestions:
  - Recommend alternate HTS codes
  - Advise re-structuring invoices or shifting values/payments
  - Suggest vague product descriptions to avoid scrutiny
- **REMINDER:** Importer of Record ultimately responsible for providing accurate and complete information (not broker, not supplier)







■ SESSION 1

# New Developments in Customs Enforcement at the DOJ



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# "High Impact" Areas Prioritized for DOJ Criminal Prosecution

Fraud, waste, and abuse, including health care fraud and fraud based on other federal programs

Trade and customs fraud, including tariff evasion

Foreign companies that disadvantage American businesses or threaten national security

Fraud that manipulates market conditions, such as elder fraud, securities fraud, "pump and dump" schemes, Ponzi schemes, and investment fraud

Entities providing material support to cartels, transnational criminal organizations, and terrorists

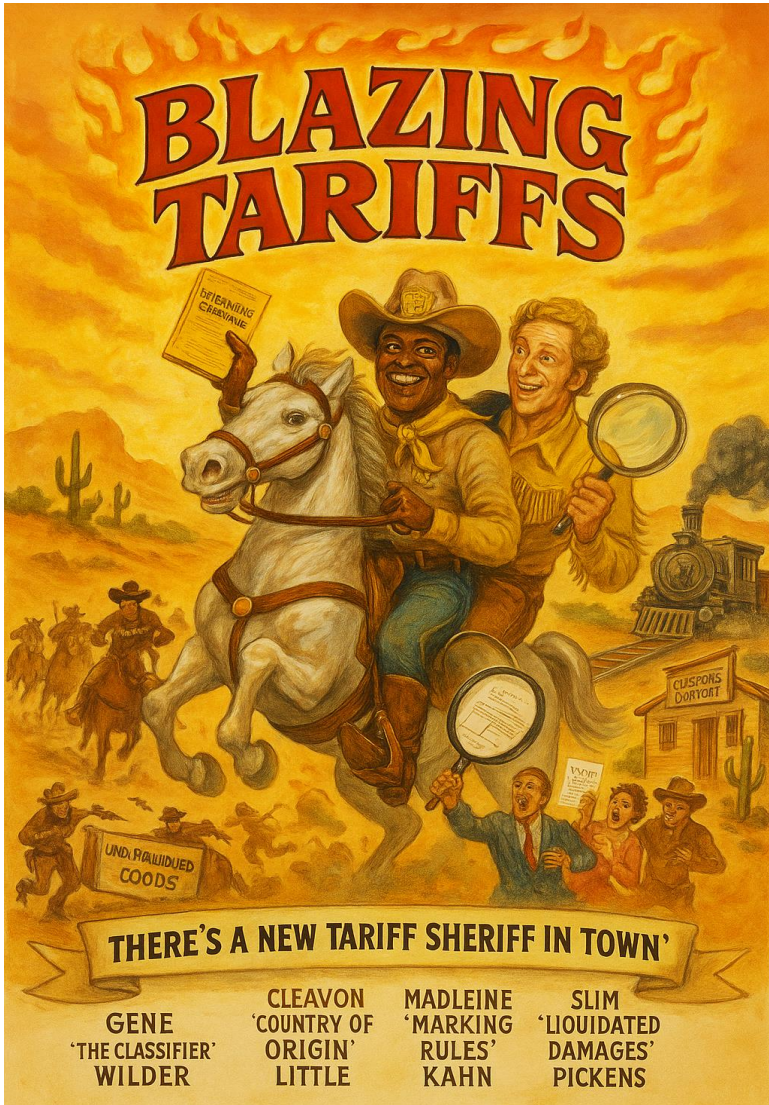
Violations of the Controlled Substances Act and the Federal Food, Drug, and Cosmetic Act, focusing on the distribution of fentanyl and the unlawful distribution of opioids

Bribery and money laundering that impact national security interests and involve foreign corruption

Digital asset cases of fraud or misappropriation, rather than technical regulatory violations







# Coordination Between CBP and DOJ

- **New Market, Government, and Consumer Fraud Unit** within Criminal Division's Fraud Section (July 10, 2025)
  - Added new focus on prosecuting tariff-evasion schemes
- **New Trade Fraud Task Force** formed (August 29, 2025)
  - CBP, DOJ, and Homeland Security (DHS)
- “The Task Force welcomes referrals and cooperation from domestic industries”
  - Referrals: [CorporateWhistleblower@usdoj.gov](mailto:CorporateWhistleblower@usdoj.gov)
  - “Utilize the qui tam provisions of the False Claims Act...”



# Criminal Enforcement Statutes

- 18 U.S.C. § 287 (false claims)
- 18 U.S.C. § 371 (conspiracy)
- 18 U.S.C. § 541 (false classification)
- 18 U.S.C. § 542 (false statements in import)
- 18 U.S.C. § 545 (smuggling)
- 18 U.S.C. § 1001 (false statements generally)
- 18 U.S.C. § 1341 (mail fraud)
- 18 U.S.C. § 1343 (wire fraud)
- 18 U.S.C. § 1349 (attempt/conspiracy to commit fraud)
- 18 U.S.C. § 1956/1957 (money laundering).





# Civil False Claims Act (FCA) 31 U.S.C. §§ 3729 - 3733

A federal law that allows individuals to sue on behalf of the U.S. government to recover funds lost due to fraud against the government.

It targets those who knowingly submit false claims for payment to the government, use false records to get a claim paid, or avoid obligations to pay the government.

Violations can result in significant penalties, including treble damages (three times the government's loss) and civil penalties.

The FCA also includes a "qui tam" provision, allowing whistleblowers to file lawsuits and receive a portion of the recovered funds.





## Civil FCA Example Cases

- August 19, 2025. Allied Stone Inc. (\$12.3 million)
  - Misclassified quartz products as marble to avoid AD/CVD duties
  - Whistleblower received \$2.1 million
- July 23, 2025. Global Plastics LLC and Marco Polo International LLC (\$6.8 million)
  - Declared incorrect country of origin and value of plastic resin products
- July 24, 2025. Grosfillex Inc. (\$4.9 million)
  - Failed to identify aluminum from China subject to AD/CVD orders
  - Whistleblower received \$962,662



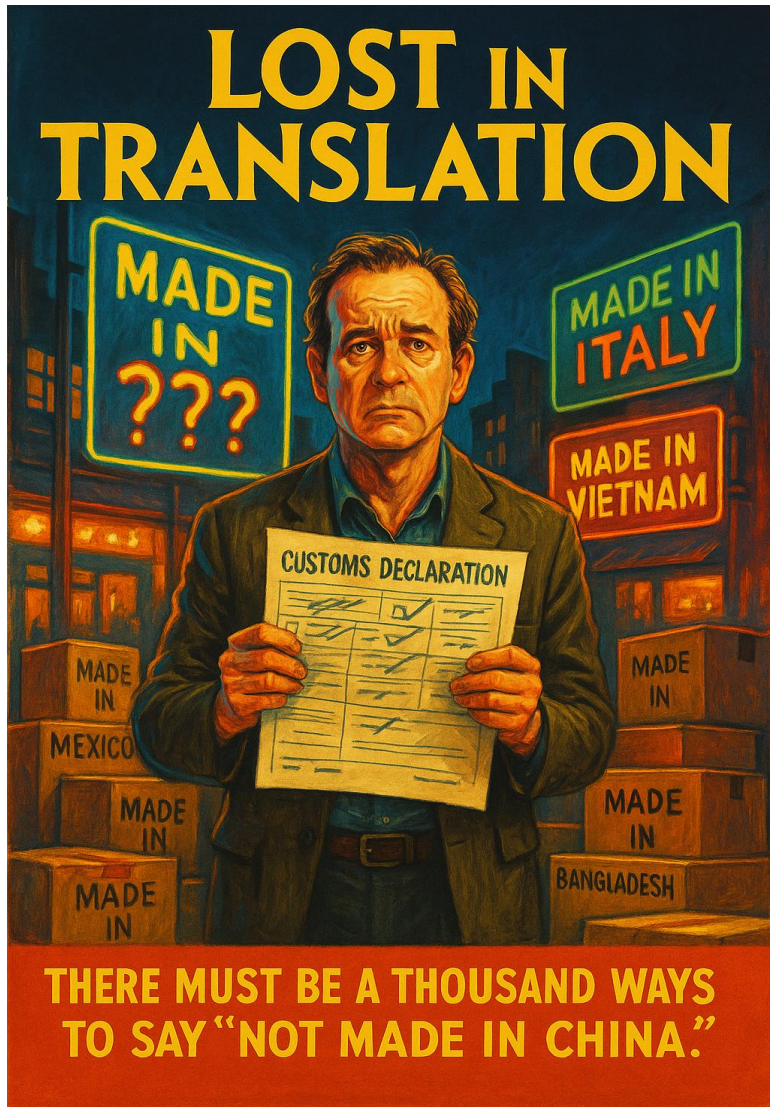


■ SESSION 1

# Top Ten Tips for Coping with Enhanced Customs Enforcement



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# Top Ten Tips for Coping with Enhanced Customs Enforcement

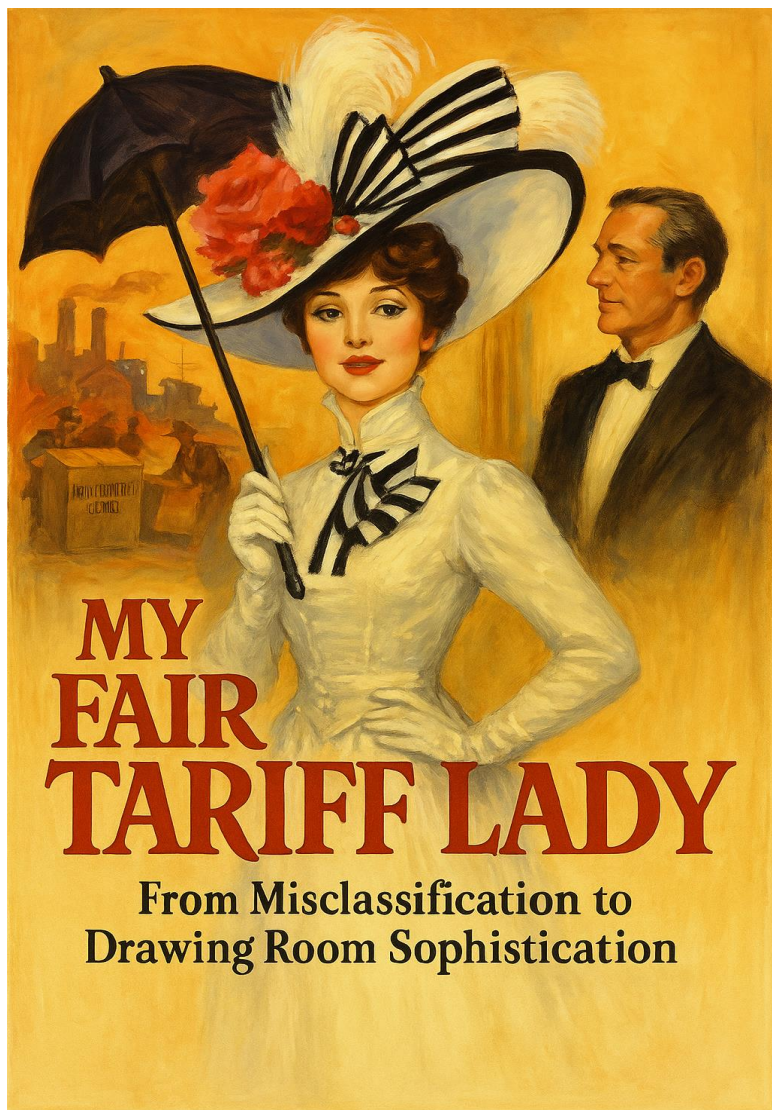
- **Tip 1: Record and Maintain Detailed Documentation.**
  - Importers must take responsibility for accurate classification, valuation, and origin reporting.
  - Simple missteps can result in penalties.
  - Record your decisions with justification and retain documentation for at least five years.



# Top Ten Tips for Coping with Enhanced Customs Enforcement

- **Tip 2: Obtain Reasonable Care Memorandums.**
  - Consider requesting Reasonable Care Memorandums from experienced customs counsel.
  - These memos document the importer's due diligence and compliance efforts and can serve as strong evidence of reasonable care if CBP questions import practices.





# Top Ten Tips for Coping with Enhanced Customs Enforcement

- **Tip 3: Always Use Correct HTS Classification & Product Descriptions**
  - Misclassification or vague descriptions can flag shipments for inspection or audit.
  - If in doubt as to HTS classification, consider obtaining a reasonable care memorandum.



# Top Ten Tips for Coping with Enhanced Customs Enforcement

- **Tip 4: Submit ISF and Entries Timely and via ACE**
  - File ISF (10+2) at least 24 hours before loading and submit entries promptly through ACE.





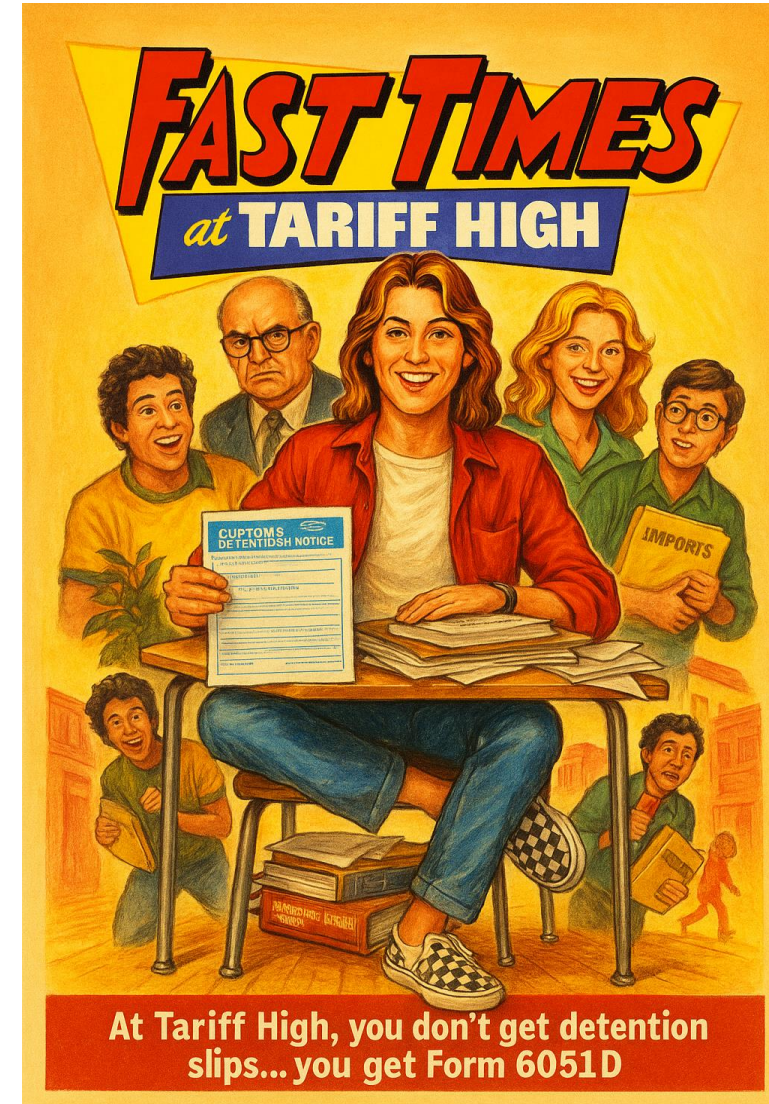
# Top Ten Tips for Coping with Enhanced Customs Enforcement

- **Tip 5: Vet Your Suppliers & Track Chain-of-Custody**
  - Ensure suppliers comply with regulations, especially around forced labor and origin reporting.

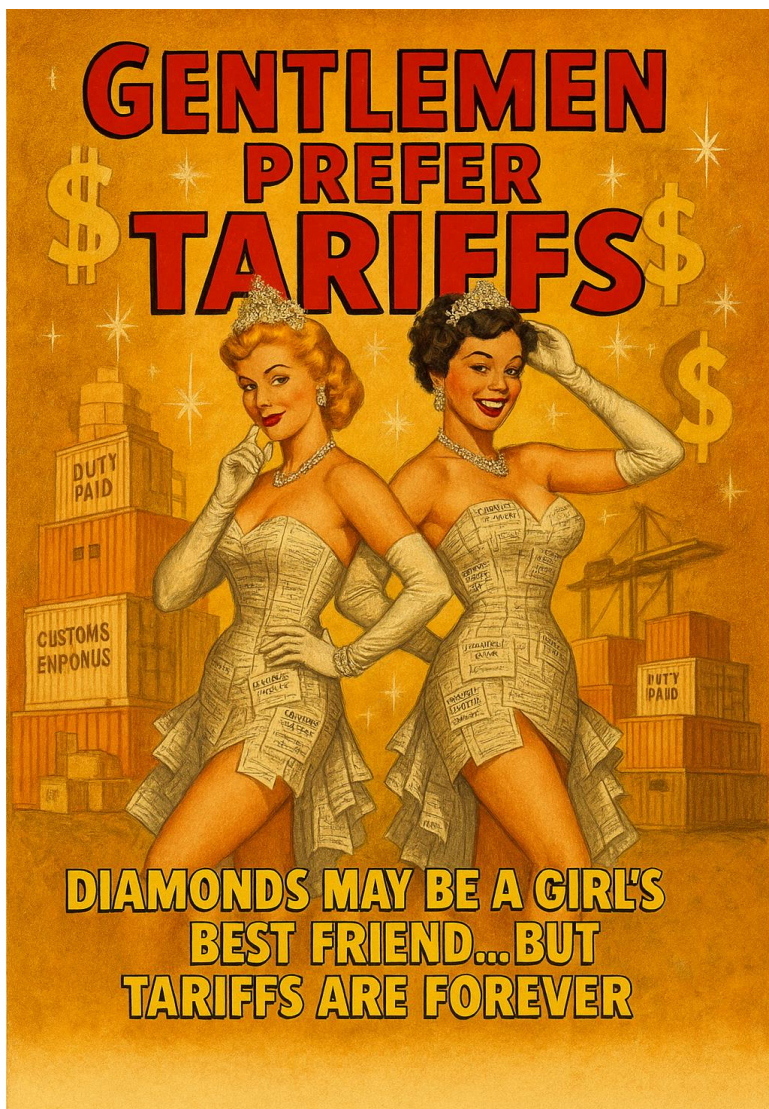


# Top Ten Tips for Coping with Enhanced Customs Enforcement

- **Tip 6: Stay Informed on Tariff Changes & Enforcement Trends**
- Monitor evolving tariffs (e.g., Section 301), de minimis changes, and priority enforcement areas.







# Top Ten Tips for Coping with Enhanced Customs Enforcement

- **Tip 7: Avoid Duty Evasion Practices**
  - Never misrepresent value, origin, or product type.
  - CBP is data mining through ACE and is aggressively pursuing violators.



# Top Ten Tips for Coping with Enhanced Customs Enforcement

- **Tip 8: Implement a Formal Written Import Compliance Program**
  - Establish policies, assign responsibility, and create defensible procedures.





# Top Ten Tips for Coping with Enhanced Customs Enforcement

- **Tip 9: Leverage Professional Expertise & Compliance Tech**
  - Use brokers, advisors, and technology tools to minimize errors and manage complex rules.
  - But remember: the duty to exercise reasonable care belongs to the importer or record, not the broker.





# Top Ten Tips for Coping with Enhanced Customs Enforcement

- **Tip 10: Stay Prepared for Audits and Enforcement Action**
  - Keep clean data and records, conduct internal reviews, and be audit-ready.
  - It is much easier to plan for these requirements continuously and preemptively rather than scrambling to respond after an issue arises.



# Questions?



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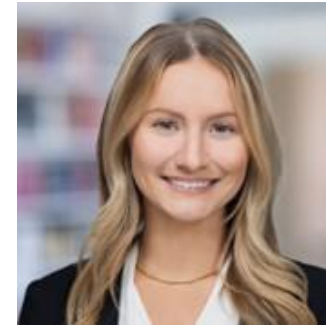
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■ SESSION 2

# Customs Compliance in the New International Trade Environment

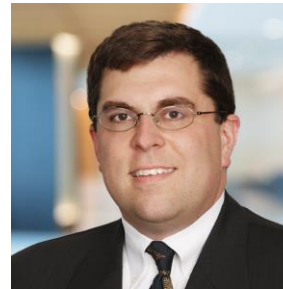
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- **Mary Cagle** | Former Customs Auditor





■ SESSION 2

# Coping with the New Customs Compliance Expectations



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# Six Steps: Coping with New Compliance Expectations

- **Step 1: Risk Planning — Understanding How to Add Flexibility to Your Supply Chain to Address Your Company's Import-Related Risk**
  - Setting up alternative and secondary suppliers
  - Dealing with qualification issues and concerns





## Six Steps: Coping with New Compliance Expectations

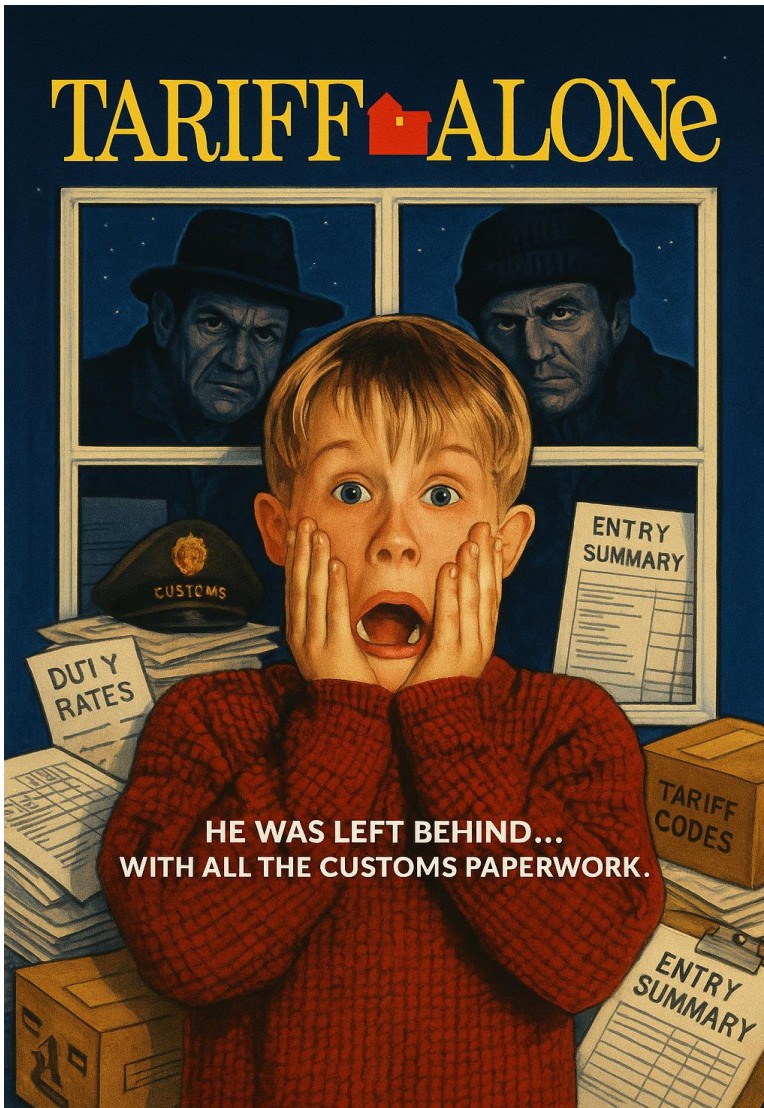
- **Step 2: Contractual Risk Management — Identifying Ways to Increase Your Company's Contractual Ability to Adapt to Unexpected Changes in the Importing Environment**
  - Review buy-/sell-side contracts for tariff exposure
  - Force majeure & impracticability offer limited protection (hard to prove, foreseeability issues, not intended for cost changes)
  - Prioritize precise drafting of risk-shifting and risk-sharing provisions
  - Explore risk-sharing options in new or renewing contracts, using commercial incentives



# Six Steps: Coping with New Compliance Expectations

- **Step 3: Risk Minimization — Ensuring Your Company's Customs Compliance Is in Order**
  - In a high-tariff environment, underpayments mount much more quickly, as do penalties
  - Focus on Customs enforcement priorities
    - Country of origin
    - Chinese parts and components/China +1 strategy
    - USMCA/FTA compliance
    - Antidumping/Countervailing duty order review
    - Classification
    - Assists & Valuation
  - Post-entry checks
  - Consider conducting an internal Customs audit





# Coping with the New Customs Compliance Expectations

- Key Elements
  - Tailored Customs manual
  - Customs Classification Index
  - System for tracking and attributing assists
  - Good system of Customs broker oversight & communication
  - Strong system of post-entry checks
  - Frequent use of post-summary corrections and protests against liquidation

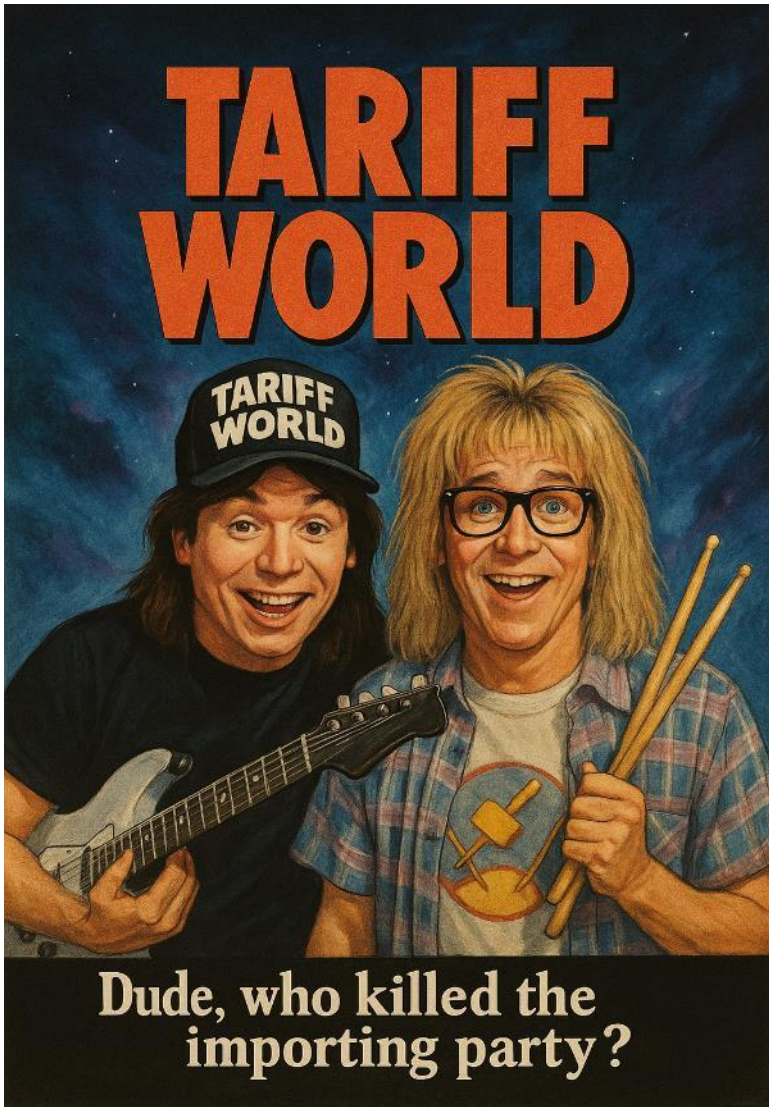


# Six Steps: Coping with New Compliance Expectations

- **Step 4: Protect Against Higher Penalties by Establishing Post-Entry Checks and Filing Post-Summary Corrections**
  - The Post Summary Corrections Process
  - Entire replacement of prior entry summary filing
  - Can fix most elements of 7501 entry summary form
  - 300 days from entry to complete
  - PSCs are reviewed by CBP
  - Always a recommended step but more critical than ever in a high-tariff, high-penalty environment







## Six Steps: Coping with New Compliance Expectations

- **Step 5: Prepare For Potential Penalty Claims By Preparing Reasonable Care Memoranda and Customs Rulings**
  - Importing is a privilege, not a right — importers must use reasonable care under U.S. law
  - Customs Rulings: Offer legal certainty, mitigate risk, establish precedent, and promote transparency with clients and shareholders
  - Reasonable Care Memoranda: Support internal compliance, document decision-making, guide training, and provide a foundation for voluntary disclosures or future rulings
  - Common focus areas include classification, country of origin, valuation, AD/CVD scope evasion, tariff applicability, and compliance with Partner Government Agencies (e.g., FDA, EPA, USDA)



# Six Steps: Coping with New Compliance Expectations

- **Step 6: Protect Against Penalties By Filing Prior Disclosures**
  - Customs has unprecedented visibility into import data through ACE
  - Tariff proclamations direct Customs to prioritize new tariff enforcement
  - Penalties to be imposed without taking into account mitigating factors
  - Voluntary self-disclosures are only way to lock in no penalty





■ SESSION 2

# What Every Customs Auditor Wishes Importers Knew



- Mary Cagle
  - Former Customs Auditor



# What Every Customs Auditor Wishes Importers Knew

- Customs has high visibility into importers' operations via ACE
- Being proactive is key in a high-tariff environment
- New tariffs trigger new compliance challenges
- Practice extreme caution with supplier-driven solutions for duty savings
- Prepare for increased enforcement from Customs

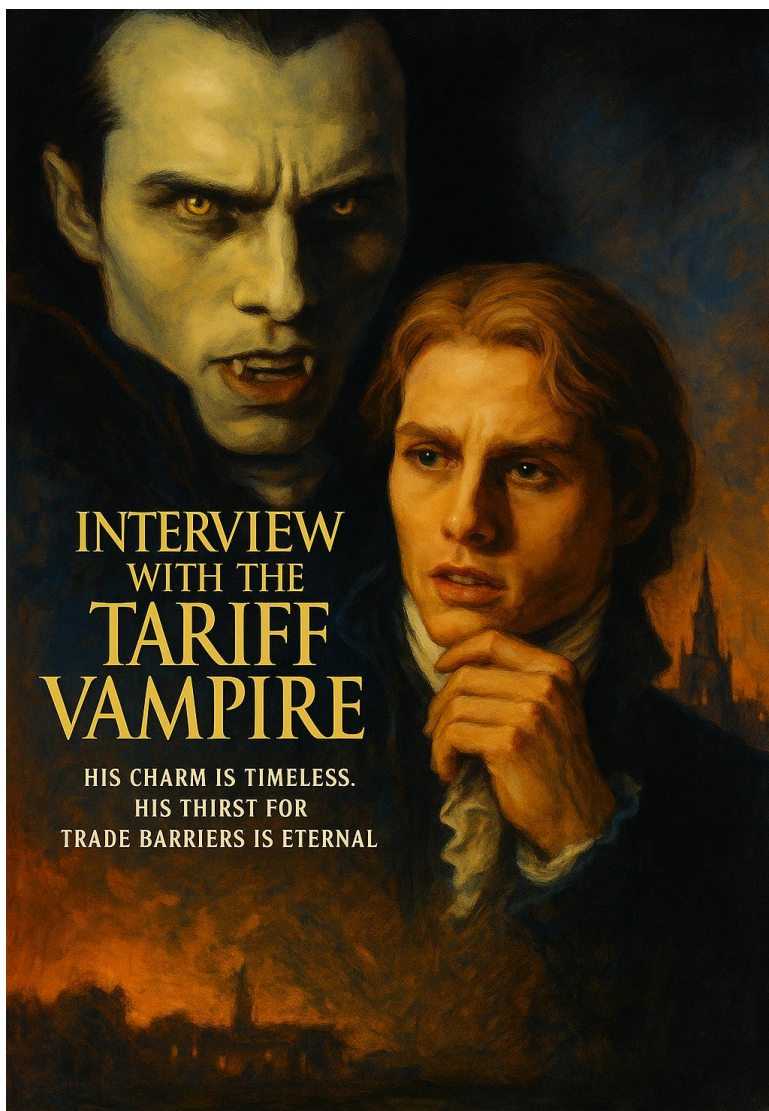


# High Visibility to Importer Operations

- ACE has full information on all elements relating to assessment of tariffs
- Automation through ACE leads to increasing CBP mining of import data
- We already are seeing sharply increased use of Form 28 Requests for Information and Form 29 Notices of Action
- We already are seeing the increased use of spot audits and Risk Analysis and Survey Assessments (RASAs)







# Being Proactive Has Never Been More Important

- Compliance should be front and center of any importer's operations
  - CF-28's and CF-29's are at a record high and timely responses are key
  - You should never rely just on the broker to submit a response to your CF-29. Consult a trade attorney or consultant to make sure there is a solid, defensible response that is submitted to the Customs official
  - "But, Why? I know my shipments and suppliers and I know the response. We do not need any additional expertise here....."



# Being Proactive Has Never Been More Important

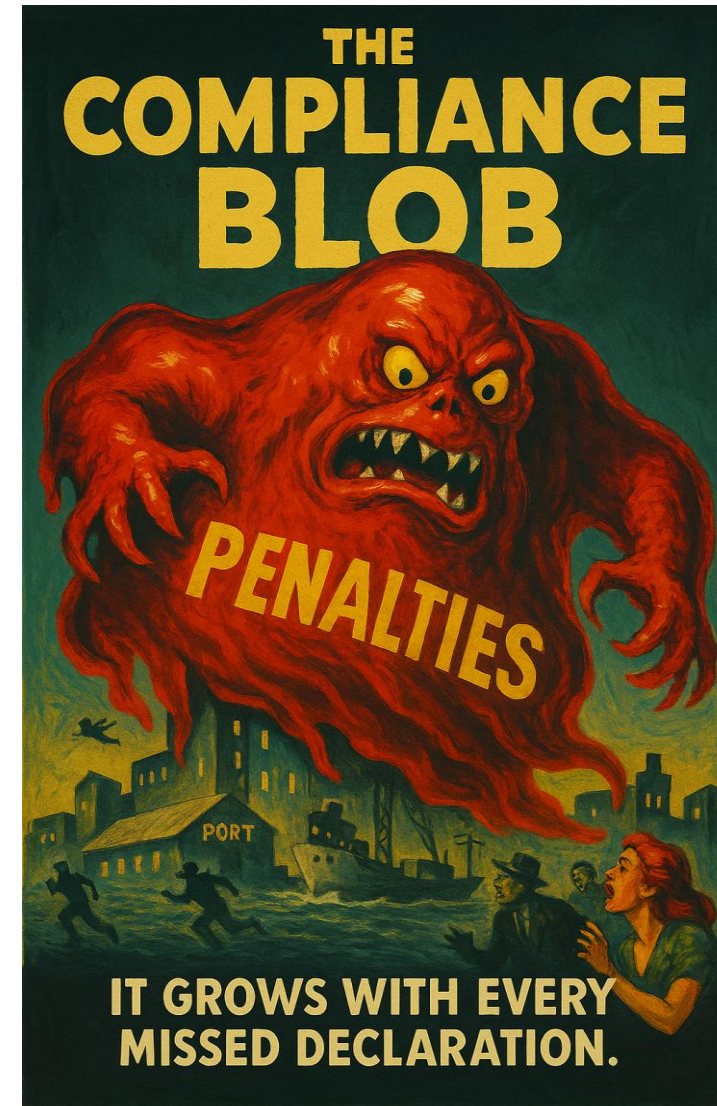
- Say farewell to a decentralized trade compliance program
  - Leaves too much room for error
  - Inconsistency occurs and Customs will spot it
  - Lack of standardization — different sites conducting different practices and interpretations of law
  - Team communication is not prioritized and does not allow for Trade Compliance team to operate more strategically





# New Tariffs Mean New Compliance Challenges

- Country of origin now the single greatest determinant of tariff amounts
- Third-party use of Chinese parts and components
- Misclassification to claim Section 232 tariff treatment
- Understanding the content of steel/aluminum/copper in your imported goods





## New Tariffs Mean New Compliance Challenges (cont.)

- False claims of USMCA Compliant Status/exemptions from Canada-Mexico tariffs
- Failure to include mandatory additions to entered value
- Incorrect offboarding of portion of entered value
- Meeting all required elements for First Sale Rule

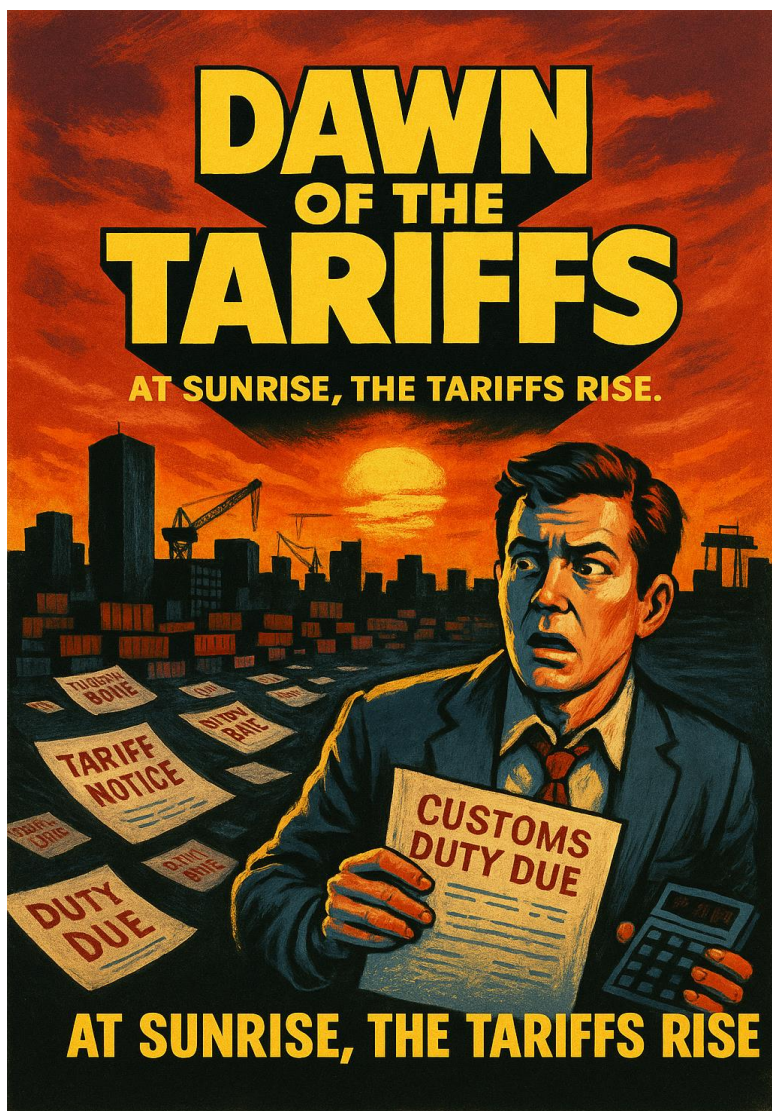


# Increased Enforcement from Customs

- CBP is employing enhanced technology, data analytics, and trade-monitoring systems (think ACE and AI) to detect patterns of non-compliance, tariff evasion, and transshipment schemes
- From January-August 2025, CBP identified over \$400M in duty evasion thanks to increased audits, entry summary review, and EAPA investigations
- CBP has collected higher numbers in duties, taxes, and fees owed by importers
- Examinations by Customs have also increased
- Trade Fraud Task Force to prioritize enforcement related to tariff evasion







## Where Do I Go From Here?

- Awareness is key — reflect
- Analyze your trade data
- Where do you have gaps?
- Where could you have gaps?
- What is unclear in your supply chain that you need to be aware of?
- Reach out to any of this team on the presentations today to discuss concerns
- Only your attorney or LCB can formally represent importers before CBP, and you want skilled trade counsel to advocate for your position during audits, protests, or investigations.



# Questions?



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■ SESSION 3

# Doing Business in Mexico and Latin America in the New International Trade Environment

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- **Alejandro Gomez-Strozzi** | Partner, Mexico City ES
- **Jose Sanchez** | Partner, Los Angeles
- **Olivia Singelmann** | Partner, Washington, D.C.





# Agenda & Introduction

1. Mexico: Foreign Trade and Customs Panorama
2. USMCA: Where Are We Headed?
3. Trump Administration 2.0 Enforcement Priorities and Practical Ways to Mitigate Risk





■ SESSION 3

# Mexico: Foreign Trade and Customs Panorama



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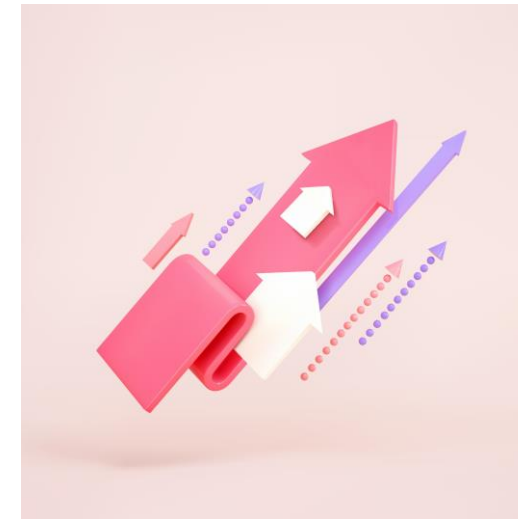
# Verification Activities

- **VERIFY** the timely return of temporarily imported goods (Main target: IMMEX Companies/Annex 24 – inventory controls).
- **VERIFY** compliance with Foreign Trade Authorizations. IMMEX and VAT Certification obligations.
- **VERIFY** correct Customs Valuation.
- **VERIFY** compliance with Free Trade Agreements (Rules of Origin).
- **VERIFY** legal importation of Fixed Assets and Inventory.



# Tariffs increase

- Mexico has increased its tariffs on textiles and clothing: finished products and raw materials used for the Production.
- The increase impacted not only textile and apparel industries but also automotive and furniture among others.
- Additional increases to tariffs aplicable to 1,463 HTS codes are expected to enter into effect.
- This increase will impact sectors such as: Textile and apparel; Footwear; Automotive and autoparts; Steel and aluminum; Electronics; Agroindustry; among others.
- FTA originating products remain exempted.





# Tariffs increase



Date	Tariff Percentage	Affected Sectors	Tariff Items
December 2024	35% / 15%	Textile and apparel	138 (apparel), 17 (textiles)
Expected	Up to 50%	Automotive, auto parts, 17 strategic sectors	1,463



# Regulatory

- **EXPECT MAJOR SCRUTINY** upon verification of compliance with requirements related to obtaining authorizations and import permits.
- **EXPECT DELAYS** in obtaining authorizations and import permits.
- **DIFFICULTY** establishing communication/dialogue with competent authorities.







■ SESSION 3

# USMCA: Where are we headed?



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# USMCA as Predictor of Future Trade Environment

- The trade environment as we know is changing in front of our eyes due to U.S. domestic measures, and the world is reacting through an apparent contradictory combination:
  - On one hand: adapting to changes by forging stronger trading blocs outside of U.S.-gravity center or creating new ones.
  - On the other: countries are interested/rushing to strike deals with the U.S.
- With 3+ years left of the Trump administration, the best way to anticipate what permanent U.S. policy changes may be on the way is to concentrate on predictions regarding the 2026 revision of the U.S-Mexico-Canada Agreement.





# USMCA: Background

- United States-Mexico-Canada Agreement (USMCA) entered into force on July 1, 2020.
- Took the place of the North America Free Trade Agreement (NAFTA).
- Per the Office of the US Trade Representative: the USMCA “creates more balanced, reciprocal trade supporting high-paying jobs for Americans and grow [sic] the North American economy.”



# Key USMCA Predictions

1. USMCA technically still in force, but the Trump administration has used the concept of “national security” to withdraw from its USMCA obligations.
2. “National security” not defined in USMCA, and every country is free to determine what constitutes a threat to such concept; would need to be validated by a USMCA dispute resolution Panel.
3. The U.S. administration has already stated that it will seek a full renegotiation of the USMCA.
4. The Trump administration will likely begin with an aggressive stance on the USMCA revision.





## Key USMCA Predictions (cont.)

5. The U.S. administration will potentially seek to influence the conditions applicable to manufacturing processes in Mexico through the 2026 revision process.
6. In terms of regional integration, USMCA has effectively created a three-country manufacturing hub; exporters need to present a USMCA-unified front.
7. Mexico/Canada have begun common external tariffs on non-Treaty partners (China and other Asian countries) to appease US.
8. Exporters can try to influence things like Rules of Origin by presenting a unified front through the domestic industries in the three member countries.



# Key USMCA Predictions cont.

- 9. U.S. tariffs have treated USMCA-originating goods in a somewhat better manner than the rest of the world's; exporters out of Mexico should strongly defend their current manufacturing footprint.
- 10. Regarding "Fortress North America": market will likely balance out its intentions to maintain abundant supply options.
- 11. Automotive, heavy manufacturing, and energy are expected to take the lion's share in incoming USMCA negotiations.





## Key USMCA Predictions (cont.)

- 12. Mexico and Canada will inevitably remain heavily dependent on the U.S. market though have begun to look at alternatives in Asia and the EU.
- 13. Post-Trump administration likely to keep some powers currently being exercised under USMCA.
- 14. Exporters out of Mexico are adjusting their strategies to navigate the current trade environment effectively by working with customers and suppliers to swiftly modify their contracts as per shifting regulatory and market trends.
- 15. To navigate the current regulatory challenges effectively, stay close to trilateral industry-wide efforts, to benefit from their best practices.



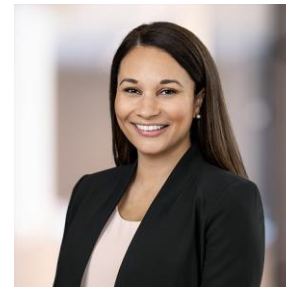


■ SESSION 3

# Trump Administration Enforcement Priorities Implicating Businesses Operating in Mexico and LatAm



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# Trump Administration's "America First" and "Total Elimination of Cartels" Focus

- Over the last 10 months, the Trump administration has rolled out a number of executive orders (EOs) and Memoranda solidifying its enforcement priorities of "America First" and within that, the "Total Elimination of Cartels."



- We will examine the key EOs and Memoranda, their implications, and proactive steps you can take to minimize U.S. government enforcement risk.



# Designating Cartels as FTOs/SDGTs Executive Order (Jan. 20, 2025)

- International cartels and other transnational criminal organizations will be designated as Foreign Terrorist Organizations or Specially Designated Global Terrorists.
- Payments made to cartels can now be considered material support to terrorists/lead to additional sanctions under OFAC; in terms of treatment under the law, cartels = Al- Qaeda.
- At least seven cartels operating in Mexico have already been designated Foreign Terrorist Organizations.





# Cartels AG Memo (Feb 5, 2025)



- *“Must harness the resources of the Department of Justice and empower federal prosecutors throughout the country to work urgently with the Department of Homeland Security and other parts of the government toward the goal of eliminating these threats to U.S. sovereignty.”*
- *“The Criminal Division's Foreign Corrupt Practices Act Unit shall prioritize investigations related to foreign bribery that facilitates the criminal operations of Cartels and TCOs, and shift focus away from investigations and cases that do not involve such a connection. Examples of such cases include bribery of foreign officials to facilitate human smuggling and the trafficking of narcotics and firearms.”*



# Executive Order Ensuring Accountability For All Agencies (Feb. 18, 2025)

- *“It shall be the policy of the executive branch to ensure Presidential supervision and control of the entire executive branch. Moreover, all executive departments and agencies, including so-called independent agencies, shall submit for review all proposed and final significant regulatory actions to the Office of Information and Regulatory Affairs (OIRA) within the Executive Office of the President before publication in the Federal Register.”*
- *“The Director of OMB shall, on an ongoing basis: (a) review independent regulatory agencies’ obligations for consistency with the President’s policies and priorities;”*
- *“No employee of the executive branch acting in their official capacity may advance an interpretation of the law as the position of the United States that contravenes the President or the Attorney General’s opinion on a matter of law, including but not limited to the issuance of regulations, guidance, and positions advanced in litigation, unless authorized to do so by the President or in writing by the Attorney General.”*





# DOJ Criminal Enforcement Priorities & Policies Memo (May 12, 2025)

- Criminal Division will prioritize investigating and prosecuting corporate crime in areas that will have the greatest impact in protecting American citizens and companies while promoting U.S. interests abroad.
- 10 enforcement priority “focus” areas, including:
  - Threats to U.S. financial system by gatekeepers, including sanctions violations and enabling cartels and TCOs
  - Material support to FTOs, including Cartels and TCOs
  - Complex money laundering (including drug-related schemes)
  - Violations of the Controlled Substances Act and FDCA
  - Bribery and money laundering impacting U.S. interests or aiding foreign corrupt officials
  - Digital asset crimes linked to cartels, TCOs, or sanctions evasion



# DOJ FCPA Guidance Memo (June 9, 2025)

- Following an initial February 2025 pause on all Foreign Corrupt Practices Act (FCPA) existing and new investigations, DOJ issued guidance for all FCPA DOJ matters going forward, consistent with Total Elimination of Cartels EO and AG memoranda, and “America First” priorities:
  - *“One primary consideration . . . is whether the alleged misconduct (1) is associated with the criminal operations of a Cartel or TCO; (2) utilizes money launderers or shell companies that engage in money laundering for Cartels or TCOs; or (3) is linked to employees of state-owned entities or other foreign officials who have received bribes from Cartels or TCOs.”*
  - *“. . . whether the alleged misconduct deprived specific and identifiable U.S. entities of fair access to compete and/or resulted in economic injury to specific and identifiable American companies or individuals. . . whether specific and identifiable U.S. entities or individuals have been harmed by foreign officials' demands for bribes.”*
  - *“. . . focus on the most urgent threats to U.S. national security resulting from the bribery of corrupt foreign officials involving key infrastructure or assets.”*





# SEC's Cross-Border Task Force to Combat Fraud

- **Objective:** To identify and prioritize investigations of fraud harming U.S. investors.
  - *“Task Force will leverage the Division of Enforcement’s resources and expertise”*
  - *“SEC divisions and offices [will] consider ... other actions that would better protect U.S. investors, including new disclosure guidance and any necessary rule changes”*
- **Targets:** Foreign-based companies and their gatekeepers, such as auditors and underwriters, which enable non-U.S. companies to access U.S. capital markets.
  - *“companies from foreign jurisdictions, such as China, where governmental control and other factors pose unique risks”*
  - *“bad actors – whether companies, intermediaries, gatekeepers, or exploitative traders – that attempt to use international borders to frustrate and avoid U.S. investor protections”*
- **Conduct:** U.S. securities law violations, such as market manipulation and financial fraud.

PRESS RELEASE

## SEC Announces Formation of Cross-Border Task Force to Combat Fraud

FOR IMMEDIATE RELEASE | 2025-113

Washington D.C., Sept. 5, 2025 — The Securities and Exchange Commission today announced the formation of a task force that will strengthen and enhance the Division of Enforcement’s efforts to identify and combat cross-border fraud harming U.S. investors.



# Risks created by Trump 2.0 Enforcement Policies and Priorities

- Well-resourced and unified executive branch priorities.
- Cartel activity in Mexico is pervasive; more likely than not to be operating in each state in Mexico. Operations in other parts of Latin America as well.
- Deep integration in the region's economy means more likely to have a touch point with your operations, supply chain, and financial activity.
- Though legal risk always existed, now heightened with designation of FTOs adding another layer of legal risk.
- Additionally, FCPA prosecution risk still very much alive.
- Implicated legal risk has a broad jurisdictional hook — any U.S. dollar denominated transaction.





# Risks created by Trump 2.0 Enforcement Policies and Priorities

- Beginning to see actual enforcement activity in these spaces:
  - May 2025 indictment alleges that two Utah individuals “conspired to provide material support” to a cartel in the form of U.S. currency. <https://www.dea.gov/press-releases/2025/05/30/father-and-son-indicted-for-providing-material-support-mexican-cartel>
  - First FCPA charges in Trump 2.0 (August 2025); alleged scheme involved PEMEX. <https://www.justice.gov/opa/pr/two-mexican-nationals-charged-bribing-state-owned-energy-officials>
  - Also, FinCEN designations of Mexican financial institutions as primary money laundering concerns. <https://www.fincen.gov/news/news-releases/treasury-issues-unprecedented-orders-under-powerful-new-authority-counter>.



# Proactive Steps to Reduce U.S. Government Enforcement Risks

- Evaluate U.S. regulator best practice recommendations and implement where appropriate.
- Assess your company's risk profile:
  - Economic Sector, e.g., implicating key U.S. economic, infrastructure, or national security interests?
  - Geographic location, e.g., foreign entity, or operating in a place with high corruption index and prevalence of cartel activity ?
  - Business structure, e.g., involves Foreign Public Issuer (FPI) or use of third parties?
  - Regulated entity/activities, e.g., capital-raising in U.S., importing/exporting, and cross-border financial or digital asset transactions?





# Proactive Steps to Reduce U.S. Government Enforcement Risks (cont.)

- Implement risk-based compliance program enhancements:
  - Adopt strong anti-money laundering and anti-corruption policies and other internal controls to counter the risk and perception of the alleged financing of terrorism.
  - Engage in counterparty due diligence and screen for red flags in FinCEN advisories.
  - Block direct/indirect links to FTOs or other sanctioned individuals/entities.
  - Establish mechanisms for responding to U.S. government agencies or other third parties, such as prime contractors and suppliers.
  - Foreign Public Issuers should review and enhance their disclosure and accounting controls.
  - Auditors, underwriters, and other professionals who help FPI's and other international actors access U.S. markets should review and enhance due diligence, client acceptance, and other compliance procedures for clients which operate in high-risk jurisdictions



# Questions?



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