

Compliance Check

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International Trade: Pressing issues

- **CBP Seeks to Expand Test of Advance Data Requirements for E-Commerce Shipments**

Section 321 feasibility of requiring advance data from different types of parties and requiring additional data.

- **U.S, Japan Announce Agreements on Trade in Agricultural, Industrial, Digital Goods**

2 new trade agreements focused on digital trade of goods and agricultural/alcoholic products

- **CBP looking at continuing educational requirement for brokers**

Dep. Com. Perez believes that continuing education will help strengthen the professionalism of the industry and strengthen the effectiveness

But let's be honest...

That's not what you **REALLY** want to talk about is it...



You've got something that is going on
that effects your company directly
right ~~meow~~ now...

It also effects your customers, vendors, competitors,
and all stakeholders



It's something that is causing massive panic at companies and is also making YOU the focus of a lot of attention

Hey, who knew... people do actually know that you exist!



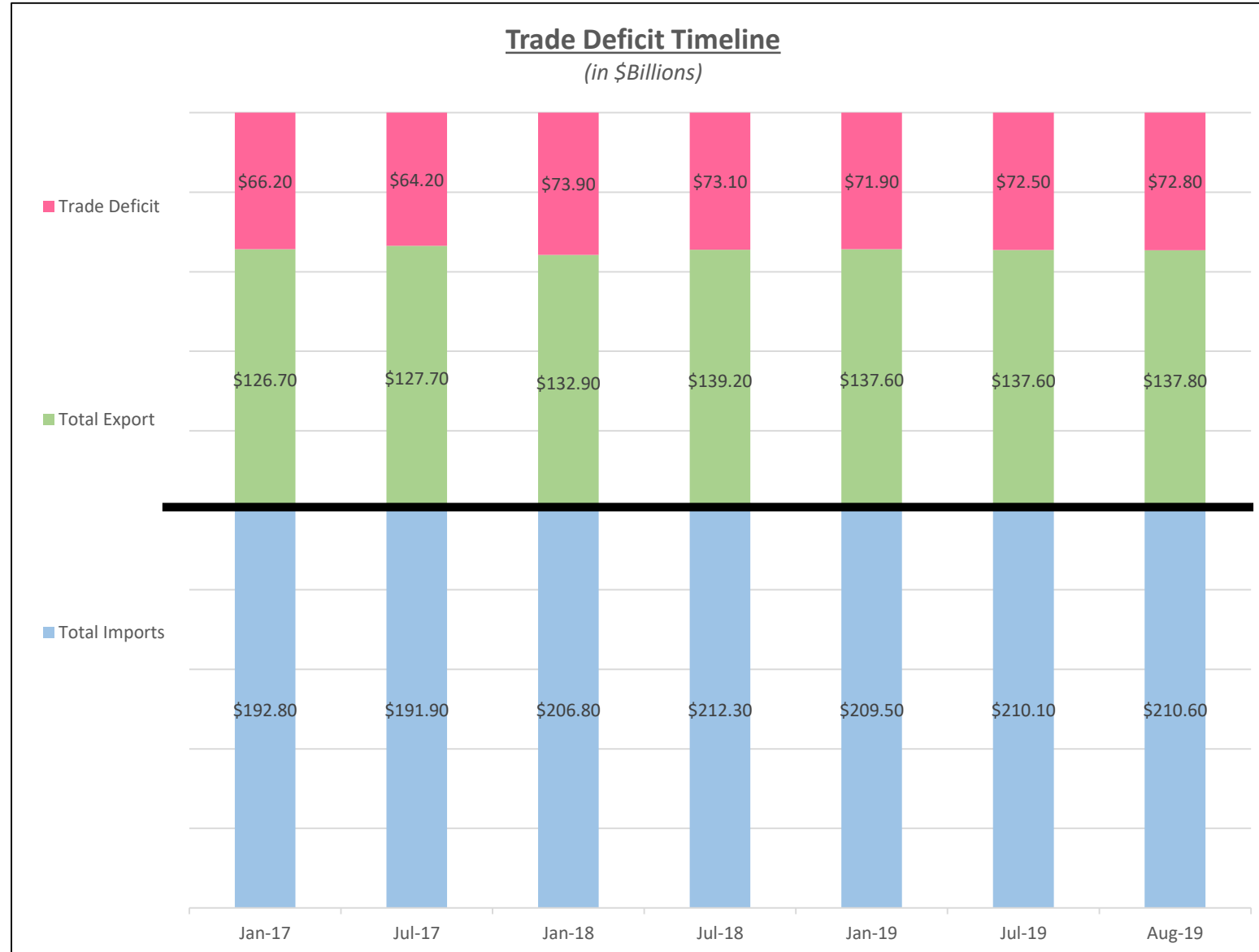


It's the Section 301 duties

Specifically those between China and the United States

Trade War Progress Report – What is the deficit?

- Import/Export growth between 8% - 9% from August 2019 as compared to January 2017.
- Growth rates in both imports and exports have slowed significantly in 2019, showing a reduction from July 2018.
- Import growth rate slightly higher than the exports growth rate in 2019.
- Trade deficit slightly improved in 2019 from 2018 but showing an upward trend.



Where are we in the process?



What is Congress doing?

S. 287/ HR940

Bicameral Congressional Trade Authority Act

- “... all tariffs imposed by the executive branch in the name of national security must first be approved by Congress”
- Allows 60 day window for both houses to review trade action unilaterally imposed by executive branch over the past 2 years as well as Section 232 going forward

House 01/31/2019 referred to Ways & Means Sub. Com. on Trade

Senate 01/31/2019 referred to Committee on Finance

S.899

Reclaiming Congressional Trade Authority Act of 2019

- “... implements a process for the President to recommend rate increases for national security purposes seeking a “Joint Resolution of Approval from Congress”

Senate 03/27/2019 referred to Committee on Finance

S.577/HR1452

Import Tax Relief Act of 2019

- Established a process for excluding articles imported from China under Section 301
- Includes articles not available outside of China

House 02/28/2019 referred to Ways & Means

Senate 02/27/2019 referred to Committee on Finance

S.1284

Global Trade Accountability Act of 2019

- Requires a joint resolution of approval for proposed trade actions

Senate 05/02/2019 referred to Committee on Finance

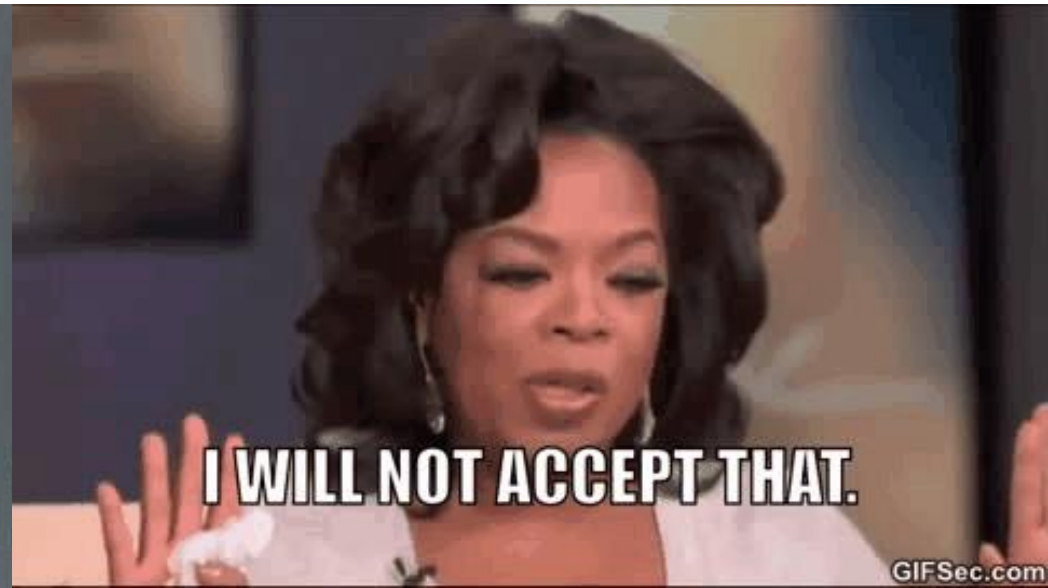
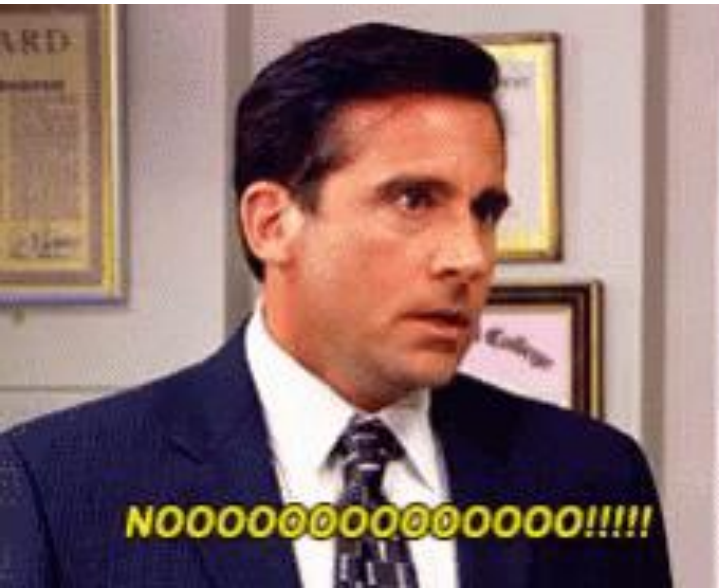
HR3673

Promoting Responsible and Free Trade Act of 2019

- Requires Congressional approval of certain trade remedies

House 07/10/2019 referred to both Ways & Means and Rules

And everyone at your company is saying:



So how can you add value, not cost to the conversation?

- Basics
 - Are your classifications actually correct?
 - Are you sure that the country of origin is actually China?
 - Are you rolling up items together that could be cheaper individually?
- Fundamentals
 - What are you doing with the goods when they get here?
 - Can you look at Tariff Engineering?
 - Can you move the product to a different country for manufacture?
- Advanced
 - Exclusions
 - First Sale
 - Legal Actions
- Other (i.e. MTB opportunities?). Regardless, be compliant.



The Basics

We know, you're fabulous at this – but let's just review for everyone else in the room

The Basics

- Are your classifications actually correct?
 - When was the last time you checked these?
 - Has a new use occurred that could change the classification?
 - Is there a new material that was added that could change the classification?
- Are you sure that the country of origin is actually China?
 - If you are not causing any actual change to the goods essential character, you may be showing it as the wrong country of origin.
- Are you rolling up items together that could be cheaper individually?
 - Many times we roll up, kit, bundle items together because that's the easiest way to get a 1 line classification, however – now that this impacts tariffs, it might be better to look at separating this out if possible.

WE'RE TALKING ABOUT FUNDAMENTALS HERE.



The Fundamentals

OK, you got the basics down, but have you thought about these?

The Fundamentals

- What are you doing with the goods when they get here?
 - Are they being stored and then re-exported? (TIB or bonded warehouse)
 - Are they undergoing further manufacturing and then exported (FTZ)
- Can you look at Tariff Engineering?
 - Is there a tweak you can now make to the product to change it's classification?
Additional cost vs duty rate reduction
 - If you do Tariff Engineering can you change the country of origin (see the basics)
- Can you move the product to a different country of origin?
 - The obvious answer, but it's not always that simple
 - Sometimes it is that simple, Chinese companies have been diversifying manufacturing and production for the past 10 years



Advanced Topics

You've checked your basics, the fundamentals are not going to move the needle, now we need to bring in outside help...

Advanced Topics

- Exclusions
 - Has anyone already filed one for the product?
 - Do you reasonably think that you can convince the USTR to grant you a specific exclusion for this product?
 - Consult with legal counsel to get their opinion
- First Sale
 - Will reduce cost of overall goods, will not eliminate Section 301 portion
 - Consult with trained expert
- Miscellaneous Trade Bill (MTB) filing (9902)
 - Petition Period is October 11 to December 10, 2019
 - Procedure to request reductions, repeals or temporary suspension of duties on certain imports
 - Revenue loss for US Government is > \$500K per each duty provision
 - No domestic production opposition
 - Needs to be enforceable and administrable by CBP
 - Not Controversial (i.e. political/policy reasons – China?)
 - The bill suspended or reduced tariffs through Dec. 31, 2020 on approximately 1,700 products

Previous Examples of Duty Suspensions (9902) include:

- Plasma Flat Panel Displays
- Golf Club Components
- Canned Artichokes
- Chemicals
- Reusable Grocery Bags
- Dyes
- Synthetic staple fibers
- Carded cashmere yarn
- Batteries
- Coffeemakers
- Grills
- Juice Extractors
- Christmas Tree Lamps
- Cathode Ray Tubes
- Snowmobile engines
- Oysters
- Bicycle Components
- Mechanical clock movements
- Glass Snow globes
- Footwear
- Electronic devices
- Bags
- Inflatable Swimming Pools
- Beverages
- Food Processors



There is one... last option...

But usually sourcing does not want us to talk about it....



Have you tried talking to your supplier to look at a rate reduction?

- Not always possible
- Suppliers will tend to try and keep the business they have rather than loose it
- Suppliers may agree to reduce cost of goods in good faith seeing the current situation
- Communication is the first step!



Final Word of Advice – Put Compliance First!

- Increased CBP Enforcement
 - Increase of 28's/29's from Northern & Southern Borders targeting origin from Canadian and Mexican imports. Could be NAFTA eligible but still have to pay Section 301 duties.
 - Increase in Audit Survey's and Audits for Section 201, Section 232 and Section 301 compliance. CBP Regulatory Audit Department is currently hiring more audit specialists.
 - If found to be non-compliant, loss of revenue/penalties result in much higher costs.
 - Compliance function is increasing in importance to importers of record.
 - Where \$1 in compliance cost previously protected \$5 (if 5% duty), it now protects \$35 (5% + 30%).
1. Look at valid cost reduction strategies
 2. Implement appropriate internal controls
 3. Discuss with trade professionals (customs brokers, attorneys, and your accounting department)

Now it's your turn...



Q&A Period

<https://www.youtube.com/watch?v=dt2W2uOyLGw>



Thank you,

