



The New Transshipment Penalty: What Importers Must Do Now

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TRADE COMPLIANCE

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By Sayari Analyst Team · Published September 2025

Executive Order 14326 imposes 40% penalties on transshipped goods. Learn how to detect illicit origin washing and protect your supply chain from CBP enforcement.

In August 2025, Executive Order 14326 introduced a 40% additional ad valorem duty on transshipped goods with no mitigation. Coupled with the Trade Fraud Task Force (TFTF) launch, the enforcement landscape shifted. Supplier affidavits and standard customs declarations are no longer sufficient proof of origin compliance. CBP uncovered significant EAPA findings in recent years through enforcement investigations. (Source: CBP EAPA Enforcement Page)

These penalties don't negotiate. Unlike historical tariff disputes, the new regime is zero-compromise: goods either satisfy the standard or face 40% landed cost penalties. Importers across automotive, electronics, textiles, and consumer goods scramble to understand "substantial transformation" at product level and prove it to CBP's standards.

Legal transshipment and illicit origin washing operate in the same gray zone. Both route goods through third countries-Vietnam, Malaysia, Cambodia, Thailand, Indonesia. The difference lies in whether a shipment undergoes sufficient transformation to earn new country of origin or merely passes through to obscure restricted origins. CBP is rewriting the rulebook, and current compliance programs aren't equipped to distinguish between the two at scale.

What Changed on August 29, 2025

The Trade Fraud Task Force launched as coordinated DOJ-DHS enforcement, signaling transshipment fraud is criminal trade fraud, not civil dispute. Executive Order 14326 established a 40% penalty structure-no graduated sanctions, waivers, or remission. A single transshipped shipment carries 40% liability of declared value, applied retroactively.

CBP's H1 2025 EAPA investigations identified significant EAPA enforcement activity based on pattern analysis and trade data correlation. The Department of Commerce and CBP are preparing a bi-annual list of high-risk countries and facilities, expected to clarify which flows face heightened scrutiny.

This enforcement aligns with legislative momentum toward ownership-based rules. Congress is moving away from country-of-origin tests toward tests examining facility ownership, parent company control, and ties to restricted jurisdictions. CBP intends to see deeper into supply chains than ever before, and historical documentation won't meet that standard.

The Definition Nobody Agrees On: Legal Transshipment Versus Origin Washing

"Transshipment" has no single trade law definition. The Harmonized Tariff Schedule assumes goods are transshipped when they move through intermediate points with no processing. "Origin washing" is not codified in statute—it's an enforcement concept CBP uses to describe transshipment deliberately misrepresenting true country of origin to avoid duties, quotas, or restrictions. Components from China passing through Malaysia for minor assembly constitute transshipment under some interpretations and origin washing under others, depending on whether assembly constitutes "substantial transformation."

Substantial transformation is the legal test courts have applied for decades: whether processing in the intermediate country creates a new product substantially different from raw materials, qualifying for new country of origin. A shoe upper stitched in Vietnam qualifies. Semiconductors sorted and repackaged in Malaysia do not. The test is highly fact-specific and now applied with unprecedented scrutiny. CBP examiners see a bill of lading, commercial invoice, and supplier affidavit stating "substantial transformation occurred in Vietnam." Without product-level sub-tier documentation proving what arrived, what processes occurred, and what value was added, CBP cannot independently verify the claim. As a result, CBP defaults to suspicion and the burden of proof shifts toward the importer. This standard is being applied retroactively to all entries made after August 2025, meaning historical imports face audit exposure even if documented years ago.

The Compliance Gap: From Supplier Statements to Supply Chain Transparency

Historical compliance relied on affidavits, bills of lading, and invoices. CBP's sparse sampling and penalty mitigation made this stable. That's inverted. CBP now expects facility-level transformation proof, not assertions.

Facilities on the pending high-risk list face presumptive scrutiny—affidavits become insufficient. You'll need transformation evidence, facility audits, or proof of supplier removal. Facilities not yet listed face post-entry EAPA audits requiring documentation reconstruction years after import. Without facility capacity, process flow, and input-output records, you cannot prove substantial transformation.

The second gap is ownership. As legislation shifts toward ownership-based rules, CBP applies ownership analysis in high-risk sectors. If a Vietnam facility is ultimately owned by a state-owned entity or foreign adversary-connected company, substantial transformation claims may not protect you. You must know ownership structure of ultimate parent entities. If the facility is flagged in prior EAPA investigations, that history colors CBP's assessment. Compliance programs must include corporate registry checks, ownership chain analysis, and facility assessment. CBP expects importers to map ownership, identify beneficial owners, flag red flags, and refresh data as structures change.

The Path Forward: From Screening to Substantiation

Expand supplier risk assessment beyond name-only screening. Layer corporate and trade data on government lists. Identify owners, trace ownership, flag ownership changes after EAPA investigations, and assess facility enforcement history.

Supplement affidavits with external data. Statements that "goods underwent transformation" are starting hypotheses, not proof. Validate against facility capacity, import records, workforce size, and facility age. If a facility claims specialized assembly but import records show daily finished goods receipt, the math fails. These mismatches flag risk justifying investigation before committing to suppliers.

Validate transformation claims with precision. Review bill of materials, waste streams, and confirm pre-assembled components aren't significant value portions. If 85% of value is pre-assembled and only 15% is added, substantial transformation hasn't occurred. CBP will

pursue that math-so should you.

Sayari's platform integrates corporate registries, trade data, ownership analysis, and facility risk scoring. Input a supplier name and instantly see corporate structure, recent EAPA investigations, flows, and red flags. That layer transforms compliance from reactive to proactive.

Affidavits and standard declarations are no longer sufficient. The Trade Fraud Task Force operates at scale with mature origin washing detection tools and non-negotiable penalties. Expand risk assessment to include ownership analysis, validate claims with external data, and map risk at facility level. Request a demo to see how the platform helps audit suppliers, validate transformation claims, and identify risk in real time.

Please visit sayari.com to learn more.

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