

Tariff Evasion through Customs Fraud and How to Counteract It

Research Project for Emerging Issues/Advanced Topics Course

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1. Executive Summary

Fraud is the use of intentional misrepresentation of facts and/or the deliberate omission of facts by the fraudster for the purposes of achieving a financial gain and/or having the victim suffer a financial loss. The fraudster is aware that their actions are illegal and they rely on the victim being deceived.

This research paper will focus on customs fraud in particular, which is the use of deception by businesses to evade paying tariffs on goods. It will explain the background and history behind tariffs and their stated purposes, as well as how tariffs may have a negative effect. This will be followed by an investigation into different techniques of tariff avoidance and evasion, as well as an examination of the fraudster's mindset when deciding to commit customs fraud.

This will be followed by an examination of several methods to prevent and detect customs fraud, and how an investigative and forensic accountant (IFA) may be involved in all stages of tariff enforcement, such as designing, preventing, and detecting tariffs. There will be a conclusion summarizing the design and effectiveness of tariffs and issues in enforcing them, and how it can be addressed.

The data sources for this paper primarily consist of government websites, law firm websites, and news articles for the purposes of collecting information on real-life examples of customs fraud.

This paper uses a few terms interchangeably, such as "tariffs", "import taxes", and "import duties", as well as "customs fraud" and "tariff evasion".

2. Introduction

As the world becomes further integrated, and as the economies of both developed and developing countries grow, international trade will continue to thrive. In 2024, global trade of goods and services reached a record amount of \$33 trillion U.S. dollars (USD), an increase of 3.7% over the previous year. Furthermore, the trade for developing countries rose 4% over the year.¹ However, along with any increase in trade, there will always be a corresponding increase in customs fraud.

Customs fraud occurs when importers use deception to try and evade paying taxes that are put in place on goods which they are importing into their country. It is a serious issue with major implications for industries, the economies of specific countries, and global trade as a whole. It results in unfair competition for other businesses in the importing country and can affect their growth. In addition, it deprives governments of income that they are owed, which can affect how much they are able to spend, possibly affecting their stability. Furthermore, it can cause disruption to international trade agreements and relationships, which can result in decreased trade between countries, causing a slowdown in the global economy.

A catalyst for increased customs fraud would be increased taxes on imports, also known as tariffs. Recently, the American government has been more aggressive in implementing tariffs on other countries. If companies are required to pay the government more to bring in goods from overseas, this will result in a greater incentive for importers to evade paying such fees.

¹ Siripurapu, Anshu and Noah Berman. (2025, April 1). What Are Tariffs? Retrieved from Council on Foreign Relations: <https://www.cfr.org/background/what-are-tariffs> Accessed April 26, 2025

My motivation for selecting this topic is that I feel it is very relevant and timely. While tariffs have a long history, it recently seems that new potential tariffs are increasingly being put in place or proposed by one country or another, not just on physical goods but even on non-tangible products such as films.² If this is not just a temporary trend, and if we are indeed moving from free trade towards more protectionism with greater tariffs being permanently being placed on goods, then I believe that we will see a corresponding increase in attempts to dodge these tariffs through fraud.

The first objective of my research is to come to a conclusion regarding the overall effectiveness of tariffs, and whether the objectives of the tariffs and design behind them are contributing to the fraud surrounding them and why, and if these tariffs are in fact accomplishing what governments set out to do when implementing them or if there are flaws that need to be addressed.

In addition, as the topic of tariffs and related fraud is timely, my second objective is to bring further awareness of this issue to a greater audience. Looking at it from an IFA's point of view in particular, I believe that it is especially important to be aware of current trends and developments in the area of customs fraud. As I believe customs fraud will continue to make an impact in today's economy, it will be necessary for IFAs to expand their field of knowledge to this area and be familiar with how to investigate it, and to have the required skills to address customs fraud should it come up in their line of work. By writing this paper, I hope to contribute to this particular field of knowledge.

² Corte, Robin Della. (2025, May 6). How potential U.S. film tariffs could impact Canada's film industry. Retrieved from CTV News: <https://www.ctvnews.ca/canada/article/new-us-film-tariffs-could-impact-canadian-film-industry/> Accessed May 12, 2025

3. Tariffs

Before discussing tariff evasion, it will be necessary to discuss exactly what tariffs are and how they work. This will provide us with a basic understand to help explain why customs fraud is being carried out and why it is important to counteract it. We will also discuss some of the history behind tariffs, to illustrate that this has been a standard economic practice for governments through many centuries.

3.1 What Are Tariffs?

A tariff, also known as an import tax, is a customs duty placed by a country on certain items that come from a foreign country or economy, and they are paid to the government by the business that is importing these goods from overseas.

There are three different types of tariffs which can be implemented. This includes:

- 1) Ad valorem, which are fixed percentages of the total value of the imports. This is similar to a sales tax such as Canada's goods and services tax (GST) or the harmonized sales tax (HST) used in several Canadian provinces. For example, if \$100 worth of imports are brought in from overseas, and there is a 20% tariff on these goods, then the importers would have to pay an extra \$20 in duties.
- 2) Specific tariffs, which are a fixed charge per individual unit of the goods being imported. For example, there may be a specific tariff of \$10 tariff per imported couch; if ten of these couches were imported, the business would have to pay \$100 total in duties.
- 3) Tariff-rate quotas, which either come into effect or rise after a certain value of imports is reached. For example, tariffs may come into effect if \$1000 or greater of a certain

product is imported, but if less than \$1000 worth of goods is in a shipment, the importer would not be subject to tariffs.³

3.2 Implementation of Tariffs

Tariffs are implemented by the customs territory of the national government of the country that is importing the goods. The tariffs can be placed on a wide variety of products, from fully-manufactured goods to raw materials (which may then be used by the importers to manufacture the end products in their home country). These can be targeted towards certain sectors (such as dairy or vehicles) or implemented as a blanket tax on all goods from a particular country.

Depending on the country, different branches of government may have the authority to implement the tariffs. For example, in Canada, the government can unilaterally impose tariffs without requiring a vote on it in the parliament. By comparison, in the United States, imposing tariffs normally requires the approval of both the House and Senate. However, over the past ninety years, more authority for raising or lowering tariffs has been delegated to the executive branch. Most significantly, the Trade Act of 1974 authorized the president to unilaterally enter trade deals with governments in other countries, and to give the president more authority in adjusting tariffs.⁴

The United States also has the International Economic Emergency Powers Act (IEEPA), in which the president can unilaterally declare a national economic emergency and

³ Mikolajczyk, Samantha. (2022, January 13). Basics of International Trade: Tariffs. Retrieved from The National Agricultural Law Center: <https://nationalaglawcenter.org/basics-of-international-trade-tariffs/> Accessed April 27, 2025

⁴ U.S. Congress. (n.d.). H.R.10710 - Trade Act of 1974. Retrieved from Congress.gov: <https://www.congress.gov/bill/93rd-congress/house-bill/10710> Accessed May 4, 2025

manage imports and tariffs without requiring strict proof that the tariffs are needed. This is the method by which President Donald Trump has considered implementing numerous tariffs during his second term.⁵

Once the tariffs are in place, they are collected by the country's respective customs authority. In Canada, the importer of record (who can be the buyer, seller, or designated agent) would pay the tariff to the Canada Border Services Agency (CBSA). The responsibility for paying the tariff would depend on the agreement in place between the buyer and the seller.⁶

To aid the customs authority, a universal code for assessing customs duty was developed in 1988 by the World Customs Organization (WCO). It is called the Harmonized Commodity Description and Coding System, better known as the Harmonized System (HS) code. It is used by over 200 countries and economies as the basis for tariff collection as well as the collection of stats regarding trade.⁷ It allows customs to quickly identify which goods are being imported.

Items being traded are organized by either the economic activity or the component of the goods. They are first classified into one of twenty-one different sections (e.g. Section XV (15) is "Base Metals and Articles of Base Metal"). These are further divided into

⁵ Tausche, Kayla. (2025, January 8). Trump is considering a national economic emergency declaration to allow for new tariff program, sources say. Retrieved from CNN: <https://www.cnn.com/2025/01/08/economy/trump-national-economic-emergency-tariffs/index.html> Accessed April 26, 2025

⁶ Redding, Susan. (2025, March 14). Tariffs 101: What are tariffs and how do they impact international trade? Retrieved from EDC: <https://www.edc.ca/en/article/how-tariffs-work-for-business.html> Accessed May 5, 2025

⁷ World Customs Organization. (n.d.). What is the Harmonized System (HS)? Retrieved from World Customs Organization: <https://www.wcoomd.org/en/topics/nomenclature/overview/what-is-the-harmonized-system.aspx> Accessed May 11, 2025

different chapters (e.g. Chapter 73 is “Articles of iron or steel”). Beyond this, the goods are divided into different headings (e.g. Heading 7307 is “Tube or pipe fittings (for example, couplings, elbows, sleeves), of iron or steel”). Finally, these headings may have further subheadings (e.g. 7307.11 is “Cast fitting of non-malleable cast iron”).⁸ The HS code consists of six digits, which from the examples given would be 7307.11, as it provides the chapter, heading, and subheading.

3.3 Justification for Tariffs

3.3.1 Protection against Dumping and Subsidizing of Goods

There are numerous reasons provided for implementing tariffs in the first place. One of them is to counteract dumping of certain products in the importing country. In international trade, “dumping” is the practice of exporting goods and merchandise into another country at prices well below fair market value. These prices are set below that of similar goods in the importing country, and often at less than the price that the exporters are selling these same goods at in their own country. The purpose of dumping can be to gain a competitive edge in the importing country (for example, as a way for a business to establish itself as a new company), but it can also be considered a predatory trading practice as these goods may even be sold at unprofitable levels for the purpose of decimating the domestic industry, whereupon the prices of the imported goods may then rise once the competition is eliminated.⁹

⁸ World Customs Organization. (n.d.). Harmonized System. Retrieved from World Customs Organization: <https://www.wcotradetools.org/en/harmonized-system> Accessed May 11, 2025

⁹ Canadian International Trade Tribunal. (n.d.). Anti-dumping and countervailing injury inquiries guide. Retrieved from Canadian International Trade Tribunal: <https://www.citt-tcce.gc.ca/en/anti-dumping-injury-inquiries/anti-dumping-and-countervailing-injury-inquiries-guide> Accessed May 12, 2025

Foreign goods may also be subsidized, where the exporters benefit from foreign government assistance in order to help reduce the costs of producing the goods. Many countries, including Canada, offer subsidies to support their industries and it can be considered a legitimate practice. However, subsidies can also be used to reduce manufacturing costs for a business to the extent that they can then export these goods overseas at very low prices.¹⁰

Both dumping and subsidizing can have a negative effect on Canadian producers, as they would be forced to either lower their own prices to stay competitive against the importer (which would result in lower revenue) or risk being undercut by the imported goods and end up with lower sales (which, again, would result in lower revenue). Therefore, in Canada, measures have been taken to address dumping and subsidizing of imported goods by applying anti-dumping and countervailing tariffs. These are administered by the CBSA and the Canadian International Trade Tribunal (CITT). If the CITT determines that the dumping or subsidizing of foreign goods is causing injury to Canadian business, it can impose an anti-dumping or countervailing duty which would in theory offset the price advantage of the imports.¹¹

In order to apply anti-dumping and countervailing tariffs, there must first be a complaint made by a Canadian producer that they are the victim of unfair trade and that injury has occurred to the business (in the context of Canadian business, injury is any negative financial impact such as lost sales, lost market share, negative impacts on employees,

¹⁰ Canadian International Trade Tribunal. (n.d.). Anti-dumping and countervailing injury inquiries guide. Retrieved from Canadian International Trade Tribunal: <https://www.citt-tcce.gc.ca/en/anti-dumping-injury-inquiries/anti-dumping-and-countervailing-injury-inquiries-guide> Accessed May 12, 2025

¹¹ Canada Border Services Agency. (2023, July 18). Overview of Canada's anti-dumping and countervailing investigative processes. Retrieved from Government of Canada: <https://www.cbsa-asfc.gc.ca/sima-lmsi/brochure-eng.html> Accessed May 6, 2025

etc.). Following this, a preliminary injury investigation is carried out by the CBSA and CITT, followed by a final investigation.¹² The CBSA may implement a provisional tariff following a preliminary decision that injury has occurred, which is for the purpose of protecting the Canadian producers in question from injury. During the final investigation, if the CITT confirms that injury is taking place, then the anti-dumping/countervailing tariffs are imposed for at least five years.¹³

3.3.2 Growth of Domestic Industries

However, tariffs do not necessarily need to be implemented solely for the purpose of counteracting the dumping or subsidizing of goods. Even if the price of imported goods is not set deliberately low by the exporter, governments may still put tariffs in place to help lessen the consumption of foreign goods by domestic customers, and to help grow and protect domestic industries, particularly ones that may have suffered from an expanding global trade business.

The reasoning behind this is if tariffs are placed on imported goods, the importer will likely have to raise their sales prices in order to earn the same amount of income. In theory, if the imported product's price is raised high enough, then the customer will instead select a domestic alternative that ends up being cheaper. To avoid losing out on sales, the foreign country will hopefully choose to relocate their production to the home country, which is also known as “reshoring”. The advantage of this is that they would no

¹² Canadian International Trade Tribunal. (n.d.). Anti-dumping and countervailing injury inquiries guide. Retrieved from Canadian International Trade Tribunal: <https://www.citt-tcce.gc.ca/en/anti-dumping-injury-inquiries/anti-dumping-and-countervailing-injury-inquiries-guide> Accessed May 12, 2025

¹³ Canada Border Services Agency. (2023, July 18). Overview of Canada's anti-dumping and countervailing investigative processes. Retrieved from Government of Canada: <https://www.cbsa-asfc.gc.ca/sima-lmsi/brochure-eng.html> Accessed May 6, 2025

longer have to pay tariffs, and the home country would benefit through the jobs that the company would create.

A recent example of this reasoning put into practice is regarding the American car industry. In 2025, President Donald Trump implemented 25% tariffs on cars that were imported into the United States. He implemented a further 25% import tax on engines, transmissions, and other key parts of vehicles that were manufactured in Canada and Mexico, with some exceptions. The president's stated hope is that to avoid these tariffs, carmakers would move their manufacturing solely to the United States and grow the industry domestically, rather than relying on the current supply chain between the North American countries.¹⁴

In addition to growing and protecting industries that had been well-established in their home country but have since weakened, they have also been implemented for the purpose of growing nascent industries, using the argument that they are unable to compete with older, more well-established companies from foreign countries. The United States' first treasury secretary, Alexander Hamilton, stated that they were a necessary, albeit temporary, measure to nourish "infant industries" until they were powerful enough to compete overseas.¹⁵

In addition to growing and protecting businesses in general, governments may also increase tariffs to nurture specific domestic industries that are believed to be necessary for national security, as they may be reluctant to rely on shipments from foreign

¹⁴ Sherman, Natalie. (2025, May 3). Tariffs on car parts entering the US come into force. Retrieved from BBC: <https://www.bbc.com/news/articles/c4grdke5r1jo> Accessed May 12, 2025

¹⁵ Siripurapu, Anshu and Noah Berman. (2025, April 1). What Are Tariffs? Retrieved from Council on Foreign Relations: <https://www.cfr.org/background/what-are-tariffs> Accessed April 26, 2025

governments in times of war or unrest. There are two lines of thought on this. Firstly, if the country overseas is having such issues, they may be unable to send these goods over as they may need them for their own use. Secondly, if the importing and exporting country eventually go to war with each other, any trade between them would be unlikely to continue.

For example, according to recent tariff orders placed by President Trump, material such as copper and lumber are vital to maintain the United States' military and infrastructure and it is therefore important that they are able to be developed domestically.¹⁶ Pending a national security investigation into U.S. imports of copper, a tariff of up to 25% may eventually be implemented on this resource, similar to that placed on aluminum and steel, which are other resources perceived to be important for security.¹⁷

3.3.3 Growth of Government Revenue

In addition to helping protect domestic industries and develop their growth, another stated purpose of tariffs is to increase government revenue and help finance government expenditures that may boost the country as a whole. The argument is that the tariffs placed on imported goods will be collected by the government and these import taxes will be used to help the national economy grow. In order for this to occur, domestic customers would still have to buy goods from overseas, in which case the tariffs need to be raised not so high that customers avoid the imported products entirely. It also relies on

¹⁶ Price, Michelle L. (2025, March 7). How Trump justifies his tariffs — from budget balancing to protecting 'the soul' of America. Retrieved from The Associated Press: <https://www.ap.org/news-highlights/spotlights/2025/how-trump-justifies-his-tariffs-from-budget-balancing-to-protecting-the-soul-of-america/> Accessed May 4, 2025

¹⁷ Grünberger, Florian. (2025, April 4). The US tariff landscape for aluminum, steel, and copper. Retrieved from Kpler: <https://www.kpler.com/blog/the-us-tariff-landscape-for-aluminum-steel-and-copper> Accessed May 12, 2025

producers continuing to import goods from countries that have these tariffs in place on them, rather than choosing to obtain products from countries that have lower or no tariffs. Using 2024 data on imports from Canada, Mexico, and China, one estimate has stated that if the United States implements their tariffs as planned, it could increase revenues by approximately \$300 million USD. However, this is dependent on the factors stated above that there would be no reduced demand and that producers would not look for substitutes to their imported goods.¹⁸

Another reason for raising government revenue through tariffs is that they may be used to offset tax cuts implemented by the government. It has even been suggested by President Trump that the revenue brought in by tariffs could eventually lead to the abolishment of income taxes for Americans.¹⁹ However, the likelihood of this succeeding seems questionable. For example, regarding a theoretical universal tariff placed by the United States, it was estimated that a 10% blanket tariff would raise \$2.2 trillion USD from 2025 through to 2034, and a 20% universal tariff would raise \$3.3 trillion. However, it is also estimated that they would not offset tax cuts implemented by the U.S. government in 2017.²⁰ In addition, \$700 billion in tax revenue is estimated for 2025, whereas the planned tariffs would only result in \$170 billion in revenue for the same year.²¹

¹⁸ Reid, Mike and Carrie Freestone. (2025, March 5). What is the impact of tariffs on the U.S. economy? Retrieved from Royal Bank of Canada: <https://www.rbc.com/en/thought-leadership/economics/featured-insights/what-is-the-impact-of-tariffs-on-the-us-economy/> Accessed May 13, 2025

¹⁹ Picchi, Aimee. (2025, May 1). Will Trump's tariffs really lower your taxes? Here's what tax experts say. Retrieved from CBS News: <https://www.cbsnews.com/news/trump-tariffs-tax-cut-below-200000-income-what-to-know/> Accessed May 13, 2025

²⁰ York, Erica. (2024, November 6). Revenue Estimates of Trump's Universal Baseline Tariffs. Retrieved from Tax Foundation: <https://taxfoundation.org/blog/trump-tariffs-revenue-estimates/> Accessed May 4, 2025

²¹ Ibid., 19

3.3.4 Pressure on International Trade Relationships

Another justification for implementing tariffs may be to attempt to obtain better trade deals with government from other countries, without necessarily putting the tariffs in place permanently. For example, they may be used in “trade wars” to eventually reach an end result where all tariffs are eventually dropped. If the government of one country has placed tariffs on another country for some reason, the second government may then place their own tariffs on the first country as a retaliatory measure. The purpose behind this could be to put pressure on the government of the first country to remove their import taxes, eventually leading towards a free trade deal between the two countries.

Governments may also perceive that they are not benefiting from a current trade deal with another nation (for example, the other nation may have import quotas on certain products). By unilaterally putting tariffs in place on the other country’s goods, they may hope to coerce the government in the other country to allow more goods from the first country in exchange for dropping the tariffs.

An example of this pressure being used successfully recently occurred between the United States and the United Kingdom. Prior to the trade deal negotiated between the two governments, a 25% tariff was implemented on British automobiles imported to the United States, as was a 25% tariff on British steel. Following the agreement, the steel tariffs were dropped and the 25% tariff on automobiles was lowered to 10%. In exchange,

the American government was allowed to export American agricultural products such as ethanol and beef to the U.K.²²

3.3.5 Non-Trade-Related Measures

In some instances, tariffs may be placed on another country for reasons unrelated to international trade. They may perceive that the other country's actions are injurious to the home country, or that their behavior regarding international relationships is unacceptable somehow. The tariffs may be used as a type of punishment to try and coerce the government of the country in question to alter their actions, upon which the government in the home country may lower or remove these tariffs as a reward.

An example of these types of punitive tariffs was placed by President Donald Trump on Canada and Mexico through the IEEPA. The reasoning was that an unacceptable amount of the drug fentanyl was entering the United States through both countries, and in order to try and persuade the governments of Canada and Mexico to help decrease the flow of fentanyl, tariffs of 25% would be placed on their goods unless stronger border measures were put in place. While Canada did announce counter-tariffs, they also announced a plan to strengthen the Canada-U.S. border, announced the appointment of a "fentanyl czar" to work with law enforcement agencies, and listed several criminal organizations involved in fentanyl production and transport as terrorist entities.²³

²² Anderson, Zac. (2025, May 8). Trump scores first big trade deal. What comes next? Here's what to expect. Retrieved from USA Today: <https://www.usatoday.com/story/news/politics/2025/05/08/trump-trade-deal-uk-whats-next-china-mexico-canada/83496170007/> Accessed May 13, 2025

²³ Department of Finance Canada. (2025, March 4.) Canada announces robust tariff package in response to unjustified U.S. tariffs. Retrieved from Government of Canada: <https://www.canada.ca/en/department-finance/news/2025/03/canada-announces-robust-tariff-package-in-response-to-unjustified-us-tariffs.html> Accessed May 14, 2025

However, this case also illustrates the potential misuse and abuse of presidential powers to implement tariffs. As data has shown that less than one percent of fentanyl that enters the United States is through Canada, and a U.S. report on the dangers of fentanyl also failed to include Canada,²⁴ it is possible that the American government may have ulterior motives in implementing tariffs, such as personal dislike of the Canadian government or economic coercion.

There may also be a public relations aspect to the implementation of some tariffs. Rather than having a purpose of genuinely benefiting the country, a government may use them to demonstrate that they are acting forcefully against another country that may have a poor reputation among the first country's citizens, or they are implementing them to fulfill a campaign promise. If placement of the tariffs is not wholly sincere, or if they are used for punitive purposes, this may affect how effectively they are implemented if there is not much desire to profit from them financially.

3.4 History of Tariffs

While the examples provided for tariff justifications are primarily recent cases, it must be emphasized that tariffs are not just a temporary concern that may disappear with a new administration. Tariffs have been used throughout history for numerous reasons, though the primary purposes have been to raise government revenue and to help grown newly-formed countries and industries.

One of the first instances of import taxes being placed on goods in order to raise government revenue occurred in ancient Greece. Back then, the Athenian port of Piraeus

²⁴ Previl, Sean. (2025, March 27). U.S. says fentanyl major threat to country, but doesn't mention Canada. Retrieved from Global News: <https://globalnews.ca/news/11098943/us-intelligence-fentanyl-threat-canada-omitted/> Accessed May 21, 2025

was a thriving commercial centre that dealt with significant amounts of trade. In order to fund the city-state, a 2% duty was placed on key goods (such as grain) arriving at this port. In ancient Rome, tariffs of 1-5% were placed on trade between Roman provinces, while luxury items from elsewhere, such as Asia, had a much higher tariff of 12-25% implemented on them.²⁵

As Great Britain started to develop into a global power in the 13th and 14th century, tariffs were used to help grow the country's nascent industries, such as the wool, leather, tin, and cheese industries. This had the effect of growing local businesses as well as providing the government with much-needed revenue. This protectionism continued well into the 18th century, as heavy tariffs (averaging 45% to 55%) were placed by the British government on foreign manufactured goods in order to help develop its own textile and metal industries while continuing to raise government revenue. This mercantilism was common through Europe, as governments attempted to maximize exports while minimizing imports to boost their revenue.²⁶

Similarly, following its birth as a country in 1776, the United States also required a method to raise much needed revenue, as there was no federal income tax yet and income sources were required to fund the government. Following the ratification of the United States constitution, the government implemented the Tariff Act of 1789.²⁷ This imposed a 6 cent/ton duty on goods imported by American ships, a 30 cent/ton duty on goods

²⁵ Hoffman, Carter. (2025, April 18). History of tariffs: From ancient times to the modern day. Retrieved from Trade Treasury Payments: <https://tradetreasurypayments.com/posts/history-of-tariffs-from-ancient-times-to-the-modern-day> Accessed May 14, 2025

²⁶ Ibid., 25

²⁷ Irwin, Richard. (2025, April 9). A Brief History of Tariffs: From Revenue Tool to Trade Weapon. Retrieved from Trinity Wealth Partners: <https://www.trinitywealthpartners.ca/blog/brief-history-tariffs-revenue-tool-trade-weapon> Accessed May 16, 2025

arriving on American-made but foreign-owned ships, and a 50 cent/ton duty on goods imported on wholly-foreign ships.²⁸

Following the teachings of Alexander Hamilton, the United States continued their protectionist tariff methods during the 19th century, as the average tariff on dutiable goods was within a range of 40% to 50% from the 1860s through to the end of the 19th century.²⁹ While other factors had an impact (such as the amount of natural resources a country may have had), industrial growth in protectionist countries such as the United States and Germany grew at about 4% to 5% per year during this period, while growth in Great Britain (which, after becoming a global power, gradually switched to free trade policies in the 19th century) during this time was only about 2%.³⁰

One of the last major instances of the United States significantly raising tariffs (until recently) occurred during the Great Depression, which began in 1929. During the early stages of the Depression, the main concern of the American government was to protect its agricultural workers and other economic sectors from foreign competitors. In response, Republican Senator Reed Smoot proposed raising tariffs to boost domestic employment and manufacturing. The resultant Smoot-Hawley Tariff Act (formally known as the Tariff Act of 1930) was signed into law by President Herbert Hoover under pressure from his

²⁸ The Avalon Project. (n.d.). An Act Imposing Duties on Tonnage. Retrieved from Lillian Goldman Law Library: https://avalon.law.yale.edu/18th_century/qw08.asp Accessed May 14, 2025

²⁹ Hoffman, Carter. (2025, April 18). History of tariffs: From ancient times to the modern day. Retrieved from Trade Treasury Payments: <https://tradetreasurypayments.com/posts/history-of-tariffs-from-ancient-times-to-the-modern-day> Accessed May 14, 2025

³⁰ Ibid., 29

Republican party and other business leaders. This resulted in an average tariff increase of 20% on imported goods.³¹

3.5 Detrimental Effects of Tariffs

However, regardless of the justifications behind implementing tariffs, there are often times where they have proven to be ineffective. The Smoot-Hawley Tariff Act stated above is one such example. When the tariffs were put into place, it led to a loss of confidence in the American economy, reflected on the stock market. Furthermore, foreign governments promptly retaliated against these import taxes by placing their own tariffs on American goods. This led to reduced U.S. imports from and exports to Europe, and caused overall global trade to decline by two-thirds between 1929 and 1932. In addition to being detrimental to trade, the tariffs also led to hostile feelings and decreased cooperation between governments. Overall, the end result was that the Smoot-Hawley tariffs may have deepened the effects of the Great Depression, rather than alleviating them.³²

In addition to tariffs leading to retaliatory tariffs resulting in reduced economic growth, tariffs can also lead to increased prices for certain goods and higher inflation overall. As tariffs are placed on imported goods, the importer may increase the price these goods are sold at to consumers (for example, in order to maintain the same profit margins as prior to having to pay an import tax). If non-tariffed substitute items are unable to be found or produced at a lower cost, this would result in higher prices overall for the product.

³¹ Smoot-Hawley Tariff Act. (2025, April 16). In Encyclopedia Britannica. Retrieved from <https://www.britannica.com/topic/Smoot-Hawley-Tariff-Act> Accessed May 14, 2025

³² Ibid., 31

Furthermore, even if there are non-tariffed substitutes available, the domestic businesses responsible for producing them may choose to raise the prices of their goods anyways if they see that the consumer has no other alternatives (however, the sales price would still likely be kept lower than that of the imported product).³³

If inflation increases without corresponding wage or salary increases for workers, this would have a negative effect on the country's economy as a whole. Essentially, if consumers have to spend more on certain products, this may have a detrimental effect on household budgets, resulting in them having less money to spend elsewhere. With less income available for consumer spending, this would result in lower revenue for businesses as a whole. This lower demand may result in decreased investment by these businesses in further expansion; worst-case, it may result in layoffs and companies going out of business.

Another impact of reduced global trade as a result of tariffs could be disrupted supply chains. This is dependent on whether importers are able to adjust to having to pay import taxes. If the tariffs are too high for them to be able to make a profit on their imported goods, then they may not choose to import them at all. Besides resulting in lower revenue and reduced operations for this particular company (as well as the possibility of going bankrupt), there would suddenly be none of this product available in the home country at all (so long as there are no substitutes). Consumers may therefore find it more difficult to purchase certain goods and services due to tariffs.

³³ Bank of Canada. (2025, January). Evaluating the potential impacts of US tariffs. Retrieved from Bank of Canada: <https://www.bankofcanada.ca/publications/mps/mps-2025-01-29/in-focus-1/> Accessed May 15, 2025

As shown in the above examples, it appears that tariffs do not often achieve the goals that the governments hope to accomplish. With some exceptions (such as helping to grow the economy and industries of a newly ascendant country), tariffs can be seen as detrimental to a nation and the global economy as a whole. In particular, businesses that are involved in importing goods affected by tariffs are often negatively affected. If it is a particularly small business, they may not even survive the implementation of import taxes. This, in turn, may lead to them trying to think of ways to not actually pay them, which will be our next focus.

4. Tariff Avoidance and Evasion

Regardless of the method used to calculate tariffs as well as the justification used by various governments in implementing them and the overall effectiveness in accomplishing their goals, the end result is that it will be the importers that most directly feel the impact of tariffs. They are the party that will have to pay the tariffs on imported goods, which naturally makes them more expensive for the initial importer (whether they are a finished good or if they are used to manufacture another product). Therefore, there is incentive for importers to try to evade and/or avoid these tariffs.

4.1 Techniques of Tariff Avoidance

We will first need to distinguish between tariff evasion and tariff avoidance. While this paper focuses on tariff evasion fraud, it is important that we are familiar with the concept of tariff avoidance as well should it be encountered during an investigation. Despite the terms seeming similar, tariff avoidance is the usage of legally acceptable strategies by importers to reduce or eliminate tariffs on products.

Some strategies to avoid tariffs are based on common sense and merely thinking strategically. This could involve a business importing goods before tariffs are set to occur and building a stockpile in their inventory, or a business looking for new sources of goods that are not subject to tariffs (for example, importing from a country that the home country has a free trade agreement with). However, tariffs can also be avoided through various types of loopholes that may not have been considered by the government during the initial design. While such techniques may be considered unethical, they are nevertheless deemed legal in the eyes of the law and would not result in financial

penalties or criminal charges. However, as the below tariff avoidance techniques illustrate, there is not always a clear distinction between it and outright fraud.

4.1.1 Tariff Engineering

One type of tariff avoidance is called tariff engineering. This strategy involves making certain design and manufacturing decisions regarding an imported product, modifying it to the extent that it can be considered a different product subject to lower tariffs. This requires ample knowledge of the tariff rates of different products. However, for tariff engineering to be legal and valid, the imported product must be a “commercial reality”, in that it can still be used by the end consumer.³⁴

One of the first cases of tariff engineering occurred in 1881, when the United States government had implemented different tariff rates for different grades of imported sugar, where the grade of the sugar was determined by its colour. For example, better-quality, highly refined sugar had a lighter colour and would be subject to higher import taxes. To avoid this, one of the importers decided to darken their sugar with molasses, which would result in a lower grade and consequently lower tariffs. While a chemical analysis determined the sugar was higher quality than was indicated by its colour, the Supreme Court held that since Congress used a “colour test” to determine the rate of sugar tariffs, and not a “chemical test”, preparing sugar with a dark colour to avoid tariffs was a permissible method.³⁵

³⁴ Friedman, Lawrence M. and Josh Levy. (2014). Tariff Engineering: Value-Added Compliance. Retrieved from Barnes Richardson: <https://www.barnesrichardson.com/4E8FDC/assets/files/News/tariff-engineering.pdf> Accessed May 15, 2025

³⁵ Ibid., 34

A more recent example of modifying a product to pay a lesser tariff is Converse Chuck Taylor All-Stars sneakers. At the time, in the United States, shoes imported from China (for example, footwear with rubber soles) had a tariff of 25% implemented on them, whereas imported slippers (defined as footwear with fabric on their soles) were only subjected to a 3% tariff. To avoid this, when the shoes are manufactured overseas, the soles were prepared with over 50% felt in them. This was claimed by Converse as a legitimate step in the processing to help their footwear retain their shape as well as to keep them quiet when in motion. However, this adjustment also allowed the shoes to qualify as a pair of bedroom slippers as opposed to athletic shoes. As there is a lower tariff on slippers compared to athletic shoes, the importer would pay less in taxes. Furthermore, this was considered legal as the end product can be used by the consumer (even though in reality the felt portion of the soles wears off very quickly, soon leaving only the rubber portion left).³⁶

While not so much a case of actually modifying a product, a further case of tariff avoidance involved Delta Airlines using a loophole to avoid paying 10% tariffs on European-made Airbus aircraft. Delta Airlines determined that these tariffs were only payable on new products instead of used ones (“new” being defined as aircraft that have not flown operational flights). Therefore, if a commercial aircraft is produced in Europe but operates a delivery flight to a different country outside of the European Union, and from there travels to the United States as its final destination, it is no longer considered a “new” import and subject to tariffs. This was performed by flying the aircraft first from

³⁶ Ortiz, Gerald and Evan Malachosky. (2024, March 9). The Real Reason Converse Chuck Taylors Have Fuzzy Soles Might Surprise You. Retrieved from Gear Patrol: <https://www.gearpatrol.com/footwear/converse-chuck-taylor-fuzzy-soles/> Accessed May 1, 2025

France to Japan, and then from Japan to the United States. It was expected that Delta would use a similar technique for Canadian-built Airbus airplanes (also subject to tariffs), through flying to an intermediate location in Mexico or the Caribbean first before going to the United States.³⁷

4.1.2 Bonded Warehouses

Another legal technique used to avoid paying tariffs is through the use of bonded warehouses, which involves converting normal storage places into ones that are tariff-exempt. According to U.S. Customs and Border Protection (CBP), a bonded warehouse is “a building or other secured area in which imported dutiable merchandise may be stored, manipulated, or undergo manufacturing operations without payment of duty for up to 5 years from the date of importation”.³⁸ It is the CBP that receives applications to allow these warehouse conversions.

Essentially, these imported goods can be stored without having to immediately pay any tariffs on them. It is only when the business starts pulling the goods out of the warehouse that they will have to pay import taxes. The advantage of this would be that if the goods have a long shelf life, the importers could hold on to the products in the hope that the tariffs are eventually decreased or eliminated. They can also pull out the goods in small amounts and pay smaller amounts of tariffs at a time. However, there is also the risk of

³⁷ Peters, Luke. (2025, April 29). Delta to use loophole to avoid Trump tariffs by re-routing A350 delivery flights. Retrieved from AeroTime: <https://www.aerotime.aero/articles/delta-to-use-loophole-to-avoid-trump-tariffs-by-re-routing-a350-delivery-flights> Accessed May 6, 2025

³⁸ U.S. Customs and Border Protection. (2024, August 28). What is a Customs Bonded Warehouse? Retrieved from U.S. Customs and Border Protection: https://www.help.cbp.gov/s/article/Article1853?language=en_US Accessed May 18, 2025

tariffs increasing during the time items are in the warehouse, making the use of this storage technique a calculated risk.

Recently, companies have been making more use of bonded warehouses in the United States. There are currently over 1,700 bonded warehouses in the country, and applications to the CBP to add more are increasing even further. This is due to the belief that some of the U.S. tariffs raised on goods will only be temporary. However, this has also resulted in rent for a bonded warehouse increasing to four times the amount of rent paid for non-bonded warehouses, which is another reason why using bonded warehouses is a calculated risk.³⁹

4.1.3 Tariff Carve-outs

Instead of manipulating the production and storage of goods, importers may attempt to lobby the government itself for an exemption from tariffs. This is also known as a “carve-out”, and it can be implemented if there are certain products from the exporting country that the importing country has need of, and it would therefore be detrimental to the economy as a whole if tariffs were placed on them (e.g. energy commodities).

However, these carve-outs can also be used as a form of reward or (if they are not granted) punishment for certain importers. For example, in 2018, during the first Trump administration, the United States government implemented Section 301 tariffs on China, essentially raising prices of goods imported from China by approximately 20%. The government also created a system where companies could request an exemption from

³⁹ Naidu, Richa and Arriana McLymore. (2025, May 21). US importers race to create bonded warehouses amid Trump tariffs. Retrieved from Reuters: <https://www.reuters.com/world/china/importers-race-turn-us-warehouses-into-tariff-free-zones-2025-05-21/> Accessed May 22, 2025

these tariffs. However, the exemptions were granted without any Congressional oversight. While only 14.5% of requests for exemptions were granted, it was found that an increase by the companies in contributions to Republicans raised the likelihood of approval by 3.94%, whereas those that contributed to Democrats found the likelihood of approval decreased by 3.4%. ⁴⁰

4.1.4 Summary of Tariff Avoidance

As we have illustrated in the above examples, while methods for tariff avoidance can sometimes be dubious, they are not considered illegal in the eyes of the law. Therefore, if the importer's actions are brought before the court on charges of fraud, they should be able to properly defend their tactics. However, it does require ample knowledge of what needs to be done to stay on the right side of the law, and it overall can be a grey area with minimal distinction between being legal and illegal.

Nevertheless, using tariff avoidance techniques has the same result for the importers as using illegal methods, which is that they will pay less in import duties or nothing at all, depriving the government of taxes. This may be a consequence of poorly and hastily implemented tariffs which, as mentioned, may have loopholes that were overlooked when the tariffs were designed. Indeed, the importer may not even need to resort to fraud if they can avoid them while staying within legal compliance.

It is therefore important for the IFA to be aware of the difference between the avoidance and evasion. If they are brought in to investigate a potential case of customs fraud, they

⁴⁰ Lehigh News. (2024, October 8). Politically Connected Corporations Received More Exemptions from U.S. Tariffs on Chinese Imports, Study Finds. Retrieved from Lehigh University: <https://news.lehigh.edu/politically-connected-corporations-received-more-exemptions-from-us-tariffs-on-chinese-imports> Accessed May 18, 2025

will need to be familiar with how the tariffs were placed on the goods in this case and determine if it is a case of tariff evasion or tariff avoidance. Again, while the methods of avoidance may be questionable, they are not technically illegal, and the IFA may need to argue that point in court if they are speaking on behalf of the defendant.

4.2 Techniques Used for Customs Fraud

In comparison to tariff avoidance, tariff evasion involves the use of unequivocally illegal and fraudulent methods in order to pay lower tariff duties or evade paying them at all.

Tariff evasion is carried out through customs fraud, and it can result in fines and penalties, as well as seizure of goods and possibly criminal charges and jail time. While the exact methods may change over time, there are several consistent strategies that fraudsters use to commit customs fraud.

4.2.1 Undervaluation/Overvaluation of Goods

One of the most common types of customs fraud, undervaluation occurs when importers declare a lower value for goods than their actual worth.⁴¹ When a business imports goods through legal channels, there will always be a declared value, which determines the amount of duty the importer must pay. If the declared value is lower than the actual value of the goods, then they will end up paying less in taxes for importing the product than they actually should pay.

Undervaluation fraud can be done by falsifying the value of the goods on import documentation by claiming a lower quantity or weight than actual, often through altering or falsifying any invoices or other shipping documentation related to the imported goods.

⁴¹ Mark A. Strauss Law (n.d.) Customs Fraud Whistleblower Attorney. Retrieved from Mark A. Strauss Law: <https://www.markastrausslaw.com/whistleblower-lawyer/customs-fraud/> Retrieved May 3, 2025

A hypothetical example of an undervaluation fraud would be if a 10% tariff is implemented on a certain product, which has a value of \$100/kg. In this case, 100 kg of this product would have a value of \$10,000, and a resultant tariff of \$1,000. However, if it is claimed that only 50 kg of this product is being imported, then it would only have a claimed value of \$5,000, and only \$500 in import duties would have to be paid.

In a real-life case example of undervaluation of goods, a clothing importer based in the United States, MOTIVES, conspired with foreign clothing wholesalers to underpay customs duties by falsely representing the value of the goods imported. This fraud went on for four year, from 2009 to 2013.⁴²

The specific technique used by MOTIVES was double invoicing. Collaborating with the overseas shippers, one set of invoices undervalued the garments and were presented to the U.S. CBP for purposes of calculating the supposed duty, and a second set was prepared that reflected the true value of the garments. As the first set had a lower value on the entry forms, this resulted in the U.S. government being defrauded out of millions of dollars in revenue. After being found guilty, MOTIVES had to pay \$13.375 million under the False Claims Act.⁴³

In some rare cases, importers may instead overstate the quantity or value of the goods they have, rather than understating it. The purpose of this is generally to claim a higher proportion of low-value items in the shipment, while hiding high-value items among

⁴² United States Attorney's Office, Southern District of New York. (2016, July 13). Manhattan U.S. Attorney Settles Civil Fraud Lawsuit Against Clothing Importer And Manufacturers For Evading Customs Duties. Retrieved from U.S. Department of Justice: <https://www.justice.gov/usao-sdny/pr/manhattan-us-attorney-settles-civil-fraud-lawsuit-against-clothing-importer-and> Accessed April 30, 2025

⁴³ Ibid., 42

them. The high-value items therefore may be overlooked, allowing the importers to evade higher tariffs.⁴⁴

4.2.2 Misclassification of Goods

Compared to the deliberate undervaluation of goods (which accurately states what the actual product is albeit claiming lower amounts of it being imported than actual), misclassification is the deliberate mislabeling of the imported goods. Essentially, importers will falsely describe or classify a product as one that would have a lower import tax on it compared to the actual product being imported, again through altered or falsified invoices.⁴⁵

In order to import goods into Canada, it is necessary to have a 10-digit tariff classification number, which is based on the WCO's HS code. If the imported good is classified to the correct number, it will result in the appropriate amount of duties and taxes being paid by the importers, as well as the accurate collection of data for import purposes.⁵ However, a duplicitous importer could deliberately enter the wrong number in the forms and claim they are importing a good that has lower or no tariffs on it. This can be used in cases where luxury goods that have high tariffs imposed on them are fraudulently described as basic goods with low tariffs on them. This technique can also be used for products which are subject to anti-dumping/countervailing tariffs.

⁴⁴ Kohn, Kohn & Colapinto. (2025, May 9). Customs and Tariffs Fraud. Retrieved from Kohn, Kohn & Colapinto: <https://kkc.com/frequently-asked-questions/customs-fraud-tariffs-fraud/> Accessed May 12, 2025

⁴⁵ Constantine Cannon. (n.d.). Customs Fraud. Retrieved from Constantine Cannon: <https://constantinecannon.com/practice/whistleblower/whistleblower-types/fraud-government-programs/customs-fraud-trade-whistleblower/> Accessed April 28, 2025

A hypothetical example of a misclassification fraud would be if product A has a tariff of 20% and product B has a tariff of only 5%. If the business claims they are importing only product B despite them actually importing product A, they would end up paying 15% less in import duties.

In a real-life example of misclassification of goods, an importer based in the United States evaded anti-dumping tariffs on goods through claiming that their goods were of a different kind that was not subject to anti-dumping regulations. From 2009 to 2012, the company imported fifteen separate shipments of small-diameter graphite electrodes (16 inches or less in diameter) from China, which are used as fuel in manufacturing products such as steel. ⁴⁶

However, these particular electrodes had been subject to antidumping duties since 2008. Therefore, in two separate cases in 2011, the company claimed they were larger graphite electrodes (with a diameter greater than 16 inches), which did not have any import taxes placed on them. As a result, they ended up defrauding the American government out of \$2,137,420 in anti-dumping duties. The importer was found guilty and agreed to pay \$3 million to settle a lawsuit under the False Claims Act. ⁴⁷

4.2.3 Misrepresenting the Country of Origin

This type of fraud does not involve false representation of the goods themselves, but rather, it involves the importer falsely declaring their goods are from a certain country

⁴⁶ U.S. Department of Justice. (2016, February 22). Four Pennsylvania-Based Companies and Two Individuals Agree to Pay \$3 Million to Settle False Claims Act Suit Alleging Evaded Customs Duties. Retrieved from U.S. Department of Justice: <https://www.justice.gov/archives/opa/pr/four-pennsylvania-based-companies-and-two-individuals-agree-pay-3-million-settle-false-claims> Accessed April 30, 2025

⁴⁷ Ibid., 46

while they were actually shipped from a completely different country. In general, the country of origin is where a product is primarily manufactured, produced, or grown. As not all countries necessarily have equivalent tariffs imposed on them, by claiming the shipment is from a nation with a lower or non-existent tariff placed on it, the importer would therefore pay less in import duties or none at all. It also can be used to evade anti-dumping/countervailing tariffs if the actual country of origin is subject to them.⁴⁸

Misrepresentation fraud can be done in a couple of ways. The simpler method would involve merely claiming a false country of origin on import documentation, or perhaps claiming the products were not imported at all, but rather produced domestically. This method could include the use of shell companies, to disguise from where the product was exported from by claiming it is located in a certain country with lower or no tariffs on it.

A more complicated method is transshipping. This fraud involves physically shipping a product from one country (that has a high tariff imposed on it) to an intermediate country (that would have a lower tariff imposed on it than the first country, or no tariffs at all). The goods are then shipped from the intermediate country to the importing country, and since the actual country of origin has been obfuscated, the importer will end up paying less in tariffs or even no tariffs at all.⁴⁹

A hypothetical example of misrepresentation fraud would be if country A has a tariff of 25% placed on any goods imported from it, and country B only has a tariff of 10% on its goods. If the importer (through transshipping or some other method) falsely claims the

⁴⁸ Constantine Cannon. (n.d.). Customs Fraud. Retrieved from Constantine Cannon: <https://constantinecannon.com/practice/whistleblower/whistleblower-types/fraud-government-programs/customs-fraud-trade-whistleblower/> Accessed April 28, 2025

⁴⁹ Ibid., 48

country of origin as country B, even though the goods are actually from country A, then the importer would pay 15% less in import taxes.

A real-life example of misrepresentation of the country of origin (by using transshipping) involved a scheme to evade customs duties on imports of aluminum extrusions from China to the United States. Three separate American companies were importing these goods, which are used in manufacturing end products such as shower doors and shower extensions. However, imports of Chinese-manufactured aluminum extrusions have been subject to anti-dumping and countervailing duties since 2010.⁵⁰

To evade these anti-dumping tariffs, the importers used a couple of methods. One involved having the goods shipped to the United States by way Malaysia, which does not have any anti-dumping duties on this product. In this way, they misrepresented the “country of origin” as Malaysia. Another method involved the companies purchasing extrusions imported by other domestic companies, which also served the purpose of declaring a false “country of origin”. Over \$3 million in total was paid by the three companies to settle this case.⁵¹

4.2.4 Splitting Shipments

As previously mentioned, one type of tariff that can be implemented is through a tariff-rate quota, in which import taxes are charged only if a certain value of imports is reached. To evade this, importers may resort to splitting a shipment (also known as structuring),

⁵⁰ U.S. Department of Justice. (2015, February 12). Three Importers to Pay Over \$3 Million to Settle False Claims Act Suit Alleging Evaded Customs Duties. Retrieved from U.S. Department of Justice: <https://www.justice.gov/archives/opa/pr/three-importers-pay-over-3-million-settle-false-claims-act-suit-alleging-evaded-customs> Accessed May 1, 2025

⁵¹ Ibid., 50

which involves breaking a particular shipment up into several different shipments.⁵²

While there are legitimate instances when a shipment may have to be imported through several deliveries (for example, in Canada, split shipments are allowed in certain cases such as the quantity of goods being too great for a single delivery or if individual shipments are going to different final destinations),⁵³ it can also be done deliberately to evade tariffs by ensuring each shipment falls under the value threshold that, if reached, would result in tariffs on the goods. Splitting shipments could also be used to lessen the possibility of triggering a more thorough customs investigation if the value of a single shipment would be suspiciously large.

For example, in Canada, under the Canada-United States-Mexico Agreement (CUSMA) free trade deal, goods with a fair market value of \$40 Canadian dollars (CDN) or less imported from the United States or Mexico will have all of their customs duties and taxes waived, and any goods between \$40 and \$150 CDN imported from these countries will have their customs duties (but not other taxes) waived.⁵⁴ A dishonest importer could take advantage of this *de minimis* exemption by importing numerous shipments of less than \$150 (as opposed to one large shipment greater than \$150) to evade these tariffs.

A real-life example of split shipping occurred in the United States, with a British retailer taking advantage of *de minimis* exemptions. At the time of the fraud in 2016, packages

⁵² Whistleblower Law Collaborative. (n.d.) Customs Fraud. Retrieved from Whistleblower Law Collaborative: <https://www.whistleblowerllc.com/what-we-do/financial-fraud/customs-fraud/> Accessed May 19, 2025

⁵³ Canada Border Services Agency. (2013, September 12). Memorandum D13-3-10. Retrieved from Government of Canada: <https://www.cbsa-asfc.gc.ca/publications/dm-md/d13/d13-3-10-eng.html> Accessed May 18, 2025

⁵⁴ Canada Border Services Agency. (2020, May 6). Implementation of the Canada-United States-Mexico Agreement (CUSMA) De Minimis Thresholds with Respect to Customs Duties and Taxes for Courier Imports. Retrieved from Government of Canada: <https://www.cbsa-asfc.gc.ca/publications/cn-ad/cn20-18-eng.html> Accessed May 5, 2025

valued at less than \$200 could be imported into the United States without paying any tariffs. This company took advantage of this by splitting single orders with a total value of over \$200 into multiple shipments, all of which were below the *de minimis* value. This fraud was caught and the retailer subject to a \$610,000 fine.⁵⁵

4.2.5 Smuggling

Lastly, while this paper will not focus on smuggling (as it is a criminal act that would belong more to the purview of law enforcement rather than that of IFAs), we will mention it in brief for the sake of comparison to other types of tariff evasion. Smuggling is where goods, substances, or even people are illegally transported from one location to another. This differs from the previous methods in that customs authorities are evaded entirely when the goods are being brought over. Furthermore, there are many different motivations for smugglers. While evasion of tariffs on legal goods may be one reason, smuggling is often used to bring in illegal goods such as certain drugs or weapons, or for trafficking people across borders.

A real-life case of smuggling being used to evade Canadian tariffs on goods (in this case, the goods in question can legally be brought into Canada) occurred in 2012, when cheese was smuggled from the United States. Due to higher dairy prices in Canada as a result of restrictions and heavy dairy tariffs on U.S. imports, prices of “brick” cheese (often used in pizza) were cheaper in the U.S. than in Canada. This resulted in a scam involving carloads of brick cheese being smuggled across the border, bypassing customs inspections, and resold to Canadian restaurants in the Niagara Falls region at a profit. On

⁵⁵ Whistleblower Law Collaborative. (n.d.) Selective Marketplace Ltd. — \$610,000. Retrieved from Whistleblower Law Collaborative: <https://www.whistleblowerllc.com/success/selective-marketplace-ltd-610000/> Accessed May 19, 2025

average, drivers were making \$1000 to \$2000 per trip, without having to pay any duty on the cheese.⁵⁶

4.3 The Fraud Triangle of Customs Fraud

Regardless of the method used to commit customs fraud, from the perspective of an IFA, it is important to understand the psychology of the fraudster, and to be able to grasp why a fraud was carried out as much as determining how the fraud was done. A traditional method for looking at the fraudster's mindset is the fraud triangle. This is a model first devised by Donald L. Cressey, and it is regularly used in auditing and forensic accounting to help determine why a certain individual would resort to fraud in any given situation. In general, there are three elements in the fraud triangle, all of which are required to commit fraud: actual or perceived pressure (or motivation), an opportunity to commit the fraud, and rationalization of the fraud.⁵⁷ Like any other type of fraud, the fraud triangle can be used to explain why importers may possibly commit customs fraud.

4.3.1 Pressure/Motivation

Naturally, not all importers commit customs fraud, either because they are involved in dealing with goods that do not have tariffs, or the tariffs are low enough that they do not materially affect their business. However, for the importers that do commit fraud, the main driver would be financial pressures.

⁵⁶ Nicol, John and Dave Seglins. (2012, September 24). Charges coming as Niagara cops add cheese to smuggling probe. Retrieved from CBC News: <https://www.cbc.ca/news/canada/charges-coming-as-niagara-cops-add-cheese-to-smuggling-probe-1.1159809> Accessed May 19, 2025

⁵⁷ AGA. (n.d.) Tools & Resources: The Fraud Triangle. Retrieved from AGA: <https://www.agacgfm.org/Resources/intergov/FraudPrevention/FraudMitigation/FraudTriangle.aspx> Accessed May 2, 2025

In any business that does international trade, there are numerous companies that are all competing for the same market. During robust economic periods, there may be more than enough customers with disposable income to spend on all businesses in a certain market. However, in times of slower growth or especially in cases of a recession or a depression, there may not be enough consumers for everyone, and some companies may end up suffering losses and eventually going bankrupt.

Therefore, in instances of weak economic times, importers may have to lower the prices that they sell their product at in order to maintain a significant market share. However, if tariffs are too high on the product that they are importing, then the profit margins would be miniscule or they would possibly be selling at a loss.

A simple hypothetical example would be a company importing a certain product which they sell for \$45 each. Prior to tariffs being implemented, it would cost \$40 to import each one, therefore making a profit of \$5 each. However, if a tariff level of 25% per item is implemented (resulting in a \$10 tax), it would now cost the importer \$50 to import each individual product. If the importer chooses to pay the tariff, they will either have to raise the sales price to \$55 to make up the difference (and risk losing customers) or keep it as is and sell the product at a loss. If possible, the importer may look for options to merely avoid the tariffs using legal methods. However, if this turns out to be unfeasible, the only option left is committing tariff evasion which would decrease the import taxes paid or possibly bypass them entirely.

Even during periods of greater economic growth, there will always be pressure on companies to cut costs and to increase sales and revenues, either by the company's

executives or by the shareholders. The upper management may believe that their jobs are at risk if they do not reach ever-increasing financial goals.

Another possible pressure could result from supply chain issues. For example, an importer may be able to obtain goods from an exporter at a low price, or from an exporter that does not have tariffs placed on its country. However, if there is a sudden disruption to this supply chain, the importer may have to resort to importing the goods from a different country that may have import taxes placed on their goods. This may motivate the business to evade these new tariffs to maintain the same profit margins as before.

On an individual employee level, there may be motivation to commit fraud if they feel that they are not earning enough money at their position and be more susceptible to bribes. There may also be fears of losing one's job if certain sales and profit figures are not met. These legitimate concerns could lead to a sense of desperation, making employees and even executives believe that they need to take risks to show their value to the business. This risk could involve resorting to tariff evasion to save money.

4.3.2 Opportunity

Even if the importers decide to try and commit customs fraud, it may still not be possible if there are no ways to actually carry it out. When it comes to opportunities to commit fraud, it generally comes about through a weak and inadequate control environment. In the importing business in particular, there may be numerous opportunities to commit customs fraud.

- Lack of oversight and monitoring of shipments

In Canada, all imported goods are subject to customs clearance regulations set by the Canadian Border Services Agency (CBSA). This involves submitting documentation including commercial invoices, the packing lists, bills of lading, and certificates of origin. There will also be physical inspection of the goods to ensure they comply with Canadian regulations.⁵⁸

During this clearance, lax enforcement of these duties can easily result in customs fraud occurring. For example, the documents may not be closely inspected and discrepancies may be missed, such as contradictory information on them (e.g. the bill of lading and certificate of origin may have different origin countries). It is also possible that the shipment is not properly inspected and passed through without noticing that the tangible product does not match what was stated on the invoice.

There may be various reasons for lax controls, such as insufficient staff available during customs clearance, staff being poorly trained and not being taught to watch out for possible fraud, or pressure to move goods in and out at a faster pace which could lead to obvious fraud being missed.

- Complexity in customs regulations

Another possible opportunity may arise from difficulty in working under complex customs laws and procedures. As previously mentioned, there are numerous classifications for different products, which can become confusing and possibly make it

⁵⁸ Orbit Customs Brokers. (n.d.). What is customs clearance? Retrieved from Orbit Customs Brokers: <https://www.orbitbrokers.ca/understanding-the-basics-of-customs-clearance-in-canada/> Accessed May 5, 2025

difficult to make careful distinctions (for example, whether a certain brand of coffee may be organic or non-organic, caffeinated or decaffeinated, etc.). While misunderstandings and misinterpretations of regulations could occur without malice, there is also an opportunity for fraudsters to intentionally take advantage of complexities in customs laws and regulations.

Another variable is the constant changes that seem to be occurring with tariffs being implemented and possibly removed and lowered, and then perhaps raised again. The continuously changing rates can also lead to confusion among customs officials, and importers could take advantage of this as well, by perhaps claiming rates are lower than they actually are.

- Corruption within customs

A further opportunity for customs fraud would be related to the individuals working at the CBSA itself, or at customs in any other country. Looking to evade tariffs, importers may decide they could persuade customs officers to overlook any fraud being carried out, such as ignoring obviously false documentation or pretending to examine goods being brought in.

There are a few ways corruption could be carried out during inspection. One method could involve the importers bribing customs officers, which may make them willing to overlook violations laws or to expedite paperwork. Another possibility is extortion on the part of the officers, where they would be the ones initiating the bribes to process the shipments. It is also possible that some customs officers may be hired on with the express intent of aiding a certain importer with tariff evasion.

4.3.3 Rationalization

Even if there is a motivation and an opportunity to commit fraud, many fraudsters will still try to consider their actions as morally acceptable. This leads into the third element of the fraud triangle - rationalization - where fraudsters justify their actions and behavior to themselves and others. While there may be some people that commit fraud just for the excitement of it or to deliberately hurt others, in many other cases, the fraudsters will attempt to minimize their impact of their actions. They may even reframe their fraud as being for the greater good. Some examples of rationalization in the area of customs fraud are as follows.

- Doing it for the greater good of the company and the employees

Fraudsters may justify customs fraud through an altruistic angle. They may tell themselves that if they do not reduce or evade tariffs, it would be detrimental to their business and could cause it to go bankrupt. Furthermore, they may also insist that by keeping their company operating, they are not doing it just for themselves, but also for the company's employees. If the importers go under, then it would affect a great many people, not just employees but their families as well.

- Minimizing the impact of evading tariffs

Another rationalization would be that even though they are not paying tariffs, the negative impact on the government is immaterial. The fraudsters may justify this by believing their goods are not valuable enough to collect tariffs, or that it would not make much of a difference for government revenues. Furthermore, any money that the company saves by evading tariffs would be put back into the economy anyways.

- Claiming that other companies are doing it

Customs fraudsters may justify their actions by telling themselves that their actions are no different than what other importers are likely doing, and that they too are using techniques to evade paying tariffs. By committing their own fraud, they are merely leveling the playing field.

- Claiming that the tariffs themselves are unjust and nonsensical

Fraudsters may also justify their actions by deciding that the tariffs that the government has placed on their goods are unfair and unjust. They may feel that they are the victim of a government acting irrationally and spitefully with their actions, and that they are ultimately detrimental to the economy as a whole.

- Claiming that they are not being paid their fair share

Fraudsters may also believe that they are not being properly compensated for their work, either through salary or benefits, and that committing customs fraud to earn some extra money is only fair for the job they perform.

4.4 Consequences of Customs Fraud

Regardless of the motivations and justifications that fraudsters may give for committing tariff evasion, when customs fraud is successfully carried out, it will have numerous negative effects on the economy and businesses of the importer's country.

- Revenue loss for the government

One of the main consequences of customs fraud is the deprivation of taxes for the government of the country that is importing the goods. As previously mentioned, tariffs

can be a major source of revenue for governments, which can then be used to grow the economy. Tariff evasion (as well as any other tax evasion) would negatively affect this growth, which could lead to social unrest if citizens are in turn affected.

An example of significant revenue loss through customs fraud was discovered in Pakistan. It was found that over ten thousand goods declaration forms (a document containing details about the importing companies, agents, the goods being imported, and the due taxes) had been tampered with. The main method was through manipulating the descriptions and quantities of goods, and this was done through collusion with a government-established company that handles trade-relating business. The end result was billions of Pakistani rupees in taxes were evaded.⁵⁹

- Undermining domestic businesses

Another consequence of customs fraud would be pressures placed on businesses in the country that the goods are being imported to. If the importers successfully carry out customs fraud on their goods, this would allow them to evade taxes and increase their net income. Furthermore, without paying extra for tariffs, that would also allow them to sell their goods to the domestic market cheaper than local competitors. This would result in their undermining these companies, resulting in them losing market share and perhaps eventually going out of business.

⁵⁹ Rana, Shahbaz. (2025, March 19). Customs fraud causes loss of billions. Retrieved from The Express Tribune: <https://tribune.com.pk/story/2535099/customs-fraud-causes-loss-of-billions> Accessed May 7, 2025

- Negative consequences for the importers

Finally, there is the possibility that if the customs fraud is eventually discovered by the authorities, it could have a negative impact on the importer itself. There are numerous consequences that could befall the importer, such as:

- Civil fines which can surpass the total fair market value of the goods
- Repaying the lost duties, which may stretch over a period of numerous years
- Asset seizure
- Criminal charges for the guilty party
- Damage to the company's reputation and loss of clients and sales
- Possibly more difficult relationships with regulators in the future ⁶⁰

⁶⁰ Sharma, Swasti. (2024, September 27). Whistleblower Unveils \$10M Customs Fraud: Key Lessons for Importers. Retrieved from tradePhlo: <https://www.tradephlo.com/post/whistleblower-unveils-10m-customs-fraud-key-lessons-for-importers> Accessed May 21, 2025

5. Prevention of Customs Fraud

Fighting customs fraud should start with preventing it before it actually happens rather than afterwards. Prevention can be considered a proactive technique which has its goal as deterring fraud from occurring in the first place. It involves putting measures in place to reduce risk of fraud and to create a more secure environment, and it will ideally reduce the time and cost required to respond to actual cases of fraud.

5.1 Addressing the Fraud Triangle

As previously mentioned, there are three different elements in the fraud triangle which, if present, increase the likelihood that an individual will resort to customs fraud. Therefore, in order to help counteract tariff evasion, the best approach would be to address these three elements.

5.1.1 Pressure/Motivation

Regardless of how well an importer is performing, there will always be a belief that they could be doing even better, and the temptation to try and gain a little extra income may be difficult to overcome. Similarly, in poor economic times, decreased sales may also lead to desperate measures. Essentially, there will always be some variables that are out of the control of the importer. Nevertheless, there are some measures that can be taken to decrease actual and perceived pressures and to counteract possible motivations to commit fraud.

One such method could be ensuring that employees working for the importers are fairly and properly compensated. If they receive what they consider a fair salary, then they

would be less tempted to commit fraud to earn some extra money (for example, being coerced into accepting a bribe from customs).

In addition to monetary compensation and benefits, it is important to promote ethical and honest behaviour among employees to ensure they understand the negatives of fraudulent behaviour. The tone also needs to be set “from the top” so there is no suspicions of hypocritical behaviour. Along with promoting proper behaviour, there also should be a system in place to prevent possible injustices at the company.

5.1.2 Opportunity

Even if pressures on the company and employees cannot be fully eliminated, we can lessen the risk of fraud occurring if we address the opportunities that may present themselves which could allow someone to commit fraudulent behaviour.

As mentioned, these gaps are usually found in the internal controls of a business, and therefore strengthening these controls may make someone reconsider committing customs fraud. Preventing opportunities for fraud is the first and most important part of the fraud triangle to deal with when it comes to customs fraud, as while it may be more difficult to change a fraudster’s mindset, making it more difficult to actually commit fraud involves tangible steps that can be taken. Examples of this include:

- Conducting regular audits

This can work as both a preventive and detective measure. Audits will help identify any suspicious actions that have taken place (for example, a decrease in import taxes paid from one quarter to another despite imports being stable or rising), but even the threat of

being subject to an audit may persuade potential fraudsters that the risk of being caught is not worth it.

Regular reviews are also important to constantly reassess due diligence for freight forwarders, customs brokers, and logistics providers. Red flags such as unexplained trans-shipping routes, sudden price shifts, or requests to under-invoice may also be identified through audits.

- Segregation of duties

Depending on how many staff there are at customs, one employee may end up needing to carry out multiple tasks. Having more employees involved in different roles increases the likelihood of fraud being identified. For example, if there is just one employee involved in both physically inspecting goods and inspecting the corresponding invoices, they could deliberately overlook the fact that the goods do not match what is stated on the invoices. Having different employees would make it less likely these errors (deliberate or not) are missed.

- Increased monitoring of shipments

It is important that a company's import and export activity, including the full chain of custody, is fully audited to identify any gaps and weak links. When shipments are made, it is also important to verify declared values, tariff codes, and country-of-origin statements. It may also be helpful to obtain third-party verification of customs declarations where possible, to decrease the possibility of collusion between employees at the importing business and the customs officers.

- Implementation of a hotline and whistleblower policy

While setting up an anonymous line to report possible fraud may primarily be for the detection of fraud after it has occurred, this could also be used as a deterrent if potential fraudsters are aware they may be reported on. A safe and anonymous channel will allow compliance concerns to be reported internally.

5.1.3 Rationalization

Finally, it is necessary to counteract any rationalizations that potential fraudsters may come up with to justify their actions. This could involve:

- Stronger emphasis on the consequences and penalties for fraud

If employees are better educated on what may possibly happen if any customs fraud is identified, and how fraud negatively affects the economy, it may help to convince them that it may end up not being for the greater good of the company as a whole.

- Train staff on trade risks

The procurement, legal, and finance teams can be properly educated on the compliance risks associated with customs false declarations. It can also be made clear that tariff evasion, unlike tax avoidance, is not a 'grey area' but rather tax fraud.

- Improve salaries and conditions for employees

If the employees at both the importing business and at customs are paid a fair wage and treated well at work, and provided with reasonable benefits, this may help remove the rationalization that they deserve more from the work that they do.

6. Detection of Customs Fraud

If the systems put in place to prevent customs fraud are inadequate (and indeed, it may be difficult to stop a determined individual from carrying out fraud regardless of the strength of internal controls), then it is necessary to have measures put into place to detect fraud.

Rather than proactive, this is a reactive technique used to catch customs fraud as it is occurring or afterwards. Having strong detective systems is important as it can still minimize tax evasion and prevent further losses from occurring.

6.1 Methods Used to Identify Customs Fraud

It would be preferable to detect customs fraud as soon as possible, and there have been numerous methods developed to hopefully catch tariff evasion at the point where the goods are being brought through customs.

- Use of automated analyses to examine documentation

As technology advances, there is increasing use of software in place of (or to supplement) manual inspections. Automated analyses can be used to inspect invoices, bills of lading, and other relevant documentation quicker than manual inspections can in order to identify contradictions and errors that may indicate fraud.

- Use of advanced technology to analyze goods and importers

In addition to physical inspection by customs officers, they can also use items such as scanners, scales, or radioactivity detectors to help determine which exactly which goods are being imported, as well as the quantity of said goods. Software for facial recognition could also be helpful in identifying people who have been guilty of fraud in the past.

6.2 Measures Put in Place to Report Fraud

No matter how strong any prevention and detection measures may be, it is inevitable that some customs fraud will nevertheless occur. Therefore, it is important that countries have strong systems put into place for whistleblowers to report fraud after it has taken place. Due to familiarity with the systems of Canada and the United States, the focus of this paper will be on the measures in these two countries.

6.2.1 Fraud Reporting Measures in Canada

- Canadian Anti-Fraud Centre (CAFC)

Created in 1993, the CAFC is a national police service responsible for gathering information on fraud across Canada. It helps businesses and citizens report fraud (either by phone or online), learn about and recognize fraud, and protect themselves from fraud. Its role is to assist police of jurisdiction, as well as the Canadian government and other governments, with prevention and enforcement efforts, particularly through the maintenance of a central information database.⁶¹

- Canada Border Services Agency (CBSA)

The CBSA is a national agency responsible for providing integrated border services, including controlling the border, enforcing immigration laws, and handling customs services in Canada, which involves the free flow of both persons and goods. Relevant to customs fraud in particular, the CBSA has set up a Border Watch Line that can be used to

⁶¹ Canadian Anti-Fraud Centre. (2023, June 30). About the Canadian Anti-fraud Centre. Retrieved from Government of Canada: <https://antifraudcentre-centreantifraude.ca/about-ausujet/index-eng.htm> Accessed May 7, 2025

report suspicious activities at the border. For ease of use, reporting can be done either by a toll-free phone line or by a secure online form.⁶²

The CBSA has been involved in investigating numerous cases of customs fraud. A recent example involved determining whether certain carbon and alloy steel wire originated in or was exported from numerous countries that have anti-dumping tariffs placed on the product. This investigation was initiated by a complaint from Canadian companies claiming financial injury. By working alongside CITT to enforce the company's import measures, the CBSA has helped to protect over 30,000 Canadian jobs and \$11.6 billion in Canadian production.⁶³

6.2.2 Fraud Reporting Measures in the United States

- Enforce and Protect Act (EAPA)

Put into place in 2016, the EAPA establishes procedures for any concerned party to allege that an importer is evading anti-dumping/countervailing duties, and any suspicions can be reported through an online portal called the e-Allegations program. This program can also be used to report undervalued merchandise, misclassified merchandise, and goods with the wrong country of origin, among other fraud.

⁶² Canada Border Services Agency. (2024, January 11). Contact the Border Watch Line. Retrieved from Government of Canada: <https://www.cbsa-asfc.gc.ca/security-securite/bwl-lsf-eng.html> Accessed May 7, 2025

⁶³ Canada Border Services Agency. (2025, April 22). The CBSA launches an investigation into the alleged dumping of certain carbon and alloy steel wire from the People's Republic of China, the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu, the Republic of India, the Italian Republic, the Federation of Malaysia, the Portuguese Republic, the Kingdom of Spain, the Kingdom of Thailand, the Republic of Türkiye, and the Socialist Republic of Vietnam. Retrieved from Government of Canada: <https://www.canada.ca/en/border-services-agency/news/2025/04/the-cbsa-launches-an-investigation-into-the-alleged-dumping-of-certain-carbon-and-alloy-steel-wire-from-the-peoples-republic-of-china-the-separate-.html> Accessed May 21, 2025

The U.S. CBP uses the EAPA to ensure that foreign companies pay the correct duties owed on imported goods. This act allows the CBP to pause final billing, conduct visits first-hand in foreign countries, ensure importers cooperation in tariff evasion investigations, and hold importers responsible for understand their supply chains. In 2020, \$287 million in possible tariff evasion by importers was prevented by the CBP through the use of EAPA ⁶⁴

- U.S. False Claims Act (FCA)

The U.S. FCA is a federal law that was originally enacted in 1863, in response to fraud during the American Civil War. It establishes liability for anyone who makes false claims to the government for payment, as well as in instances where they deliberately evade an obligation to make payments to the government, such as tariffs. They are liable for three times the government's damages, plus a penalty linked to inflation. ⁶⁵

It is the federal government's primary tool to allow it to pursue fraud on its own, but it also allows private citizens to file actions on behalf of the government against those they believe have defrauded the government, essentially being a form of whistleblowing. Anyone that successfully brings these actions through the FCA also may receive a portion of the government's recovery. In the 2024 fiscal year alone, the government brought in \$2.9 billion USD in settlements and judgments under the act. ⁶⁶

⁶⁴ U.S. Customs and Border Protection. (2025, April 8). Enforce and Protect Act (EAPA). Retrieved from U.S. Customs and Border Protection: <https://www.cbp.gov/trade/eapa> Accessed May 7, 2025

⁶⁵ U.S. Department of Justice. (2025, January 15). The False Claims Act. Retrieved from U.S. Department of Justice: <https://www.justice.gov/civil/false-claims-act> Accessed May 21, 2025

⁶⁶ Ibid., 65

7. Possible Role of IFAs in Dealing with Customs Fraud

Not all cases of customs fraud are similar, and an IFA's role in any given case may be minimal or extensive. Nevertheless, due to our special expertise in forensic accounting, there are many benefits that we as IFAs can bring when it comes to being involved in customs fraud investigations.

7.1 The Role of the IFA in Preventing Customs Fraud

As forensic accountants, we can use our knowledge and experience in dealing with fraud to help out importers and customs officials in implementing measures to help prevent customs fraud from occurring. Many IFAs have been used as consultants by organizations to help with preventing fraud and corruption. Our main priorities would be emphasizing the importance of educating companies regarding fraud and helping to design internal controls that would lessen the chances of fraud occurring.

7.1.1 Customs Fraud Education

It is important that employees and executives are fully aware of how fraudulent behaviour could occur at their companies, and that customs agents understand the different methods that can be used to commit fraud. As IFAs, we can use our education in the field of fraud to explain how this can be applied to customs evasion in particular.

We would also need to explain to importers the possible consequences of customs fraud and how it may have a negative effect not just on the government, but also on their own company and the possible financial and legal ramifications if it is identified. Financial considerations are likely the most important variable to convincing people to take fraud

seriously, and we can use our accounting and forensic knowledge to demonstrate the possible impact.

7.1.2 Planning of Customs Fraud Controls

As previously mentioned, opportunities to commit fraud is one of the three elements identified in the fraud triangle. Therefore, proper design of internal controls is one of the most important variables that needs to be addressed to decrease vulnerability to customs fraud.

As IFAs, we can use our accounting backgrounds in the field of auditing to identify weaknesses in any current systems (e.g. lack of segregation of duties) and make suggestions to deal with them. One possible issue is that companies may be reluctant to implement design modifications if they perceive cost to be an issue, but again, we can use our background to explain the cost-benefit of making such changes, and how it would ultimately be beneficial to companies and customs as a whole.

7.2 The Role of the IFA in Detecting Customs Fraud

Regardless of the strength of preventive measures, it is inevitable that some customs fraud may nevertheless occur. Again, as IFAs, we can use our credibility and experience to help investigate cases where customs fraud is believed to have occurred. Even if we are not particularly experienced in the field of customs fraud, our general knowledge would still prove valuable.

In any investigation, it is important to be objective and unbiased, and we would be able to bring a neutral perspective to any case, as we would be approaching this as an outside

party. We also are able to bring a high degree of professional skepticism to any case, which means we must not necessarily believe one party over another, and this can mean both suspecting fraud in cases where it looks like there may be none but also not necessarily assuming guilt in cases either. Some detection techniques where we can be useful in investigations are as follows.

7.2.1 Evidence Management and Evaluation

In cases where fraud has taken place, there will likely be some sort of evidence that it has occurred, though the location of said evidence may change from case to case. This is where we as IFAs can use our experience in managing and investigating evidence to ensure that nothing is overlooked.

Managing evidence involves collecting and retaining documentation that could be useful in a particular case. With regards to customs fraud, this may include paper documentation such as invoices and bills of lading, copies of cheques, and electronic documentation of the previously mentioned documents. Obtaining email and text communications between different employees may also be useful, as it could provide further proof of planning and carrying out of fraud. Regardless of the evidence collected, it is important that it is indexed and handled properly and stored in a secure location so it can be readily found. It is also vital that the IFA does not modify it in any way, as doing so may lessen the possibility that it is admitted into court.

Once collected, the evidence would need to be reviewed and evaluated to confirm if it is useful and may be persuasive. This would involve analyzing if the documents are authentic or if they have been modified or are fraudulent. For example, a paper and

electronic copy of an invoice may have different values, and it would be up to the IFA to confirm which, if either, is authentic.

7.2.2 Identification of Red Flags

As IFAs, when reviewing evidence, we would be able to use our backgrounds to identify possible red flags that may indicate risk factors and an increased likelihood of fraud occurring at the business. For example, this could include a thorough review of recent financial statements to check if there are any suspicious trends and values. A possible method would be percentage analysis of the statements, where a vertical analysis could reveal that taxes paid by the company are unusually low given the tariffs that have been implemented on them.

A checklist could also be used by an IFA to help determine fraud risk factors and the susceptibility of the company to potential fraud. For example, weak or negative income for the company could make it more likely that the importer would use fraud to try and boost the company's income (of course, this could also indicate that the importer is being honest and not resorting to fraud). Checklists could also be used to analyze motivations (e.g. is there pressure for the company to have high growth to meet shareholder expectations?), opportunities (e.g. how effective is monitoring of controls?), and rationalizations (e.g. does the company have a strong ethical tone or not?) for fraud at the business.

7.2.3 Interviewing Company Personnel

As part of an investigation, it is possible that there may be interviews conducted of certain employees at the business to help determine if fraud has been committed and by

whom, and to collect evidence against them. The experience of an IFA would be useful in these cases.

We would be able to bring our knowledge of how to properly conduct interviews to obtain the best results. This involves knowing how to ask the proper questions of potential suspects to obtain the answers we are looking for, as well as knowing which personnel to interview and in the proper order, and also how to properly set up the interview to make the interviewee feel at ease and more willing to answer our questions.

7.2.4 Providing Litigation Support Services

If a customs fraud investigation reaches the point where there may be a judicial or administrative proceeding, an attorney may choose to employ an IFA for a couple of different types of litigation services.

One such role is as a consultant. While they will not be asked to testify in court, an IFA may be asked to draw upon their expertise to help analyze evidence and provide advice about other matters, help expert witnesses prepare their cases, and provide their own interpretation about case facts.

Another role could be as an expert witness. In this case, the IFA would be asked to testify in a judicial or administrative proceeding and provide their opinion on the case. The IFA would need to demonstrate that they have the background and credibility to be a reliable expert witness, and so it is important that they are knowledgeable in a variety of fields, particularly customs fraud. They would need to demonstrate to the judges and attorneys that can be relied upon in their testimony.

7.3 The Role of the IFA in Designing Tariffs

Finally, as IFAs, we can provide our skills and knowledge in another way. We can be brought in as advisers not just after the tariffs are implemented, but even beforehand. Being familiar with the mindset of the fraudster, and the different ways tariffs can either be avoided or evaded, could help us identify weaknesses and possible loopholes in the design of these import taxes.

For example, in the field of tariff engineering, if it is observed that certain companies are able to find ways around paying their full share of import taxes by doing clever modifications of their product (while still operating within the law), we could attempt to close these loopholes at the planning stage.

However, it must be emphasized that the role of the IFA in such a position may be minimal. The politicians designing these tariffs may have their own goals and motives in mind, and may be reluctant to accept opinions that contradict their own. It may also depend on how sincere they are in their goals and to the extent that they care about having effective tariffs.

8. Conclusion

As demonstrated in the background information regarding tariffs and their history, they have long been an integral part of a greater economic system worldwide, and this will most likely continue. They also have shown to be genuinely useful in some circumstances, such as helping to grow nascent countries and economies. Unfortunately, whenever they are introduced, they can be seen as governments of countries trying to reinvent the established rules of commerce, which can lead to resentment and confusion between governments. This may happen especially if the tariffs are seen as arbitrary and unfair. Certainly, the way they have been implemented, readjusted, or removed recently leads credence to these negative perspectives on tariffs, and suspicions on what the goals of the government may be. Even if they have been placed in a sincere attempt to improve the economy, it may no longer be seen that way.

Where there is resentment and confusion concerning tariffs, it is unsurprising that proper enforcement of them by customs may also be lacking. This also can lead to an increase in fraud by businesses to evade these import taxes if they do not believe they are for the greater good of anybody, and are instead damaging to the business and country as a whole. Furthermore, if the tariffs were not implemented in a genuine effort to better the economy, and rather only for punitive, political, or self-promotional purposes, then there is a likelihood that the design (and therefore, the effectiveness) of them is also lacking, which could lead to even further fraud. In addition, the rapid changes that have been implemented in tariffs may also make it difficult for customs officers to keep up with all the changes, providing further opportunities for fraud.

The three elements of the fraud triangle are therefore quite prominent when it comes to customs fraud. The tariffs themselves lead to pressures on the importers, how they are implemented leads to more opportunities to commit fraud, and the arbitrary rationales behind them leads to more rationalizations to evade them. While it remains to be seen, I believe that the current discourse around tariffs and how they are conducted has negatively affected the way they are seen and carried out, and if businesses no longer take them seriously, these tariffs will be unsuccessful in accomplishing whatever the governments of countries would like them to do.

Nevertheless, the issue of customs fraud ultimately starts with the design of tariffs, regardless of their end goal. It is necessary to figure out how to design them so there are fewer opportunities to commit tariff evasion, as well as tariff avoidance if possible. As I have demonstrated, IFAs can use their knowledge of how to prevent and detect fraud in the initial stages. In short, when it comes to customs fraud, IFAs can be useful from the beginning to the end in overcoming the fraud triangle.

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