

considers appropriate, including by issuing questionnaires with respect to the entry or entries at issue to—

(A) a person who filed an allegation with respect to the covered merchandise;

(B) a person who is alleged to have entered the covered merchandise into the customs territory of the United States through evasion; or

(C) any other person who is determined to have information relevant to the allegation of entry of covered merchandise into the customs territory of the United States through evasion.

(b) Adverse inference

(1) Use of adverse inference

(A) In general

If the Secretary finds that a person described in subparagraph (B) has failed to cooperate by not acting to the best of the person's ability to comply with a request for information under subsection (a), the Secretary may, in making a determination whether an entry or entries of covered merchandise may constitute merchandise that is entered into the customs territory of the United States through evasion, use an inference that is adverse to the interests of that person in selecting from among the facts otherwise available to determine whether evasion has occurred.

(B) Person described

A person described in this subparagraph is—

(i) a person who filed an allegation with respect to covered merchandise;

(ii) a person alleged to have entered covered merchandise into the customs territory of the United States through evasion; or

(iii) a foreign producer or exporter of covered merchandise that is alleged to have entered into the customs territory of the United States through evasion.

(C) Application

An inference described in subparagraph (A) may be used under that subparagraph with respect to a person described in clause (ii) or (iii) of subparagraph (B) without regard to whether another person involved in the same transaction or transactions under examination has provided the information sought by the Secretary, such as import or export documentation.

(2) Adverse inference described

An adverse inference used under paragraph (1)(A) may include reliance on information derived from—

(A) the allegation of evasion of the trade remedy laws, if any, submitted to U.S. Customs and Border Protection;

(B) a determination by the Commissioner in another investigation, proceeding, or other action regarding evasion of the unfair trade laws; or

(C) any other available information.

(Pub. L. 114–125, title IV, §412, Feb. 24, 2016, 130 Stat. 158.)

§ 4373. Additional information

Notwithstanding any other provision of law, the Secretary is authorized to provide to the Secretary of Commerce or the United States International Trade Commission any information that is necessary to enable the Secretary of Commerce or the United States International Trade Commission to assist the Secretary to identify, through risk assessment targeting or otherwise, covered merchandise that is entered into the customs territory of the United States through evasion.

(Pub. L. 114–125, title IV, §413(b), Feb. 24, 2016, 130 Stat. 160.)

§ 4374. Cooperation with foreign countries on preventing evasion of trade remedy laws

(a) Bilateral agreements

(1) In general

The Secretary shall seek to negotiate and enter into bilateral agreements with the customs authorities or other appropriate authorities of foreign countries for purposes of cooperation on preventing evasion of the trade remedy laws of the United States and the trade remedy laws of the other country.

(2) Provisions and authorities

The Secretary shall seek to include in each such bilateral agreement the following provisions and authorities:

(A) On the request of the importing country, the exporting country shall provide, consistent with its laws, regulations, and procedures, production, trade, and transit documents and other information necessary to determine whether an entry or entries exported from the exporting country are subject to the importing country's trade remedy laws.

(B) On the written request of the importing country, the exporting country shall conduct a verification for purposes of enabling the importing country to make a determination described in subparagraph (A).

(C) The exporting country may allow the importing country to participate in a verification described in subparagraph (B), including through a site visit.

(D) If the exporting country does not allow participation of the importing country in a verification described in subparagraph (B), the importing country may take this fact into consideration in its trade enforcement and compliance assessment activities regarding the compliance of the exporting country's exports with the importing country's trade remedy laws.

(b) Consideration

The Commissioner is authorized to take into consideration whether a country is a signatory to a bilateral agreement described in subsection (a) or a party to the USMCA (as defined in section 4502 of this title) and the extent to which the country is cooperating under the bilateral agreement or the USMCA, as the case may be, for purposes of trade enforcement and compliance assessment activities of U.S. Customs and Border Protection that concern evasion by such country's exports.