

The Transshipment Conundrum

Part 2

The "China + One" Strategy Under Fire

For years, global manufacturers have pursued "China + One" strategies to diversify production and mitigate tariff risk. Vietnam, Thailand, and Malaysia became prime relocation targets. But now, these very countries are viewed with suspicion by CBP.

Vietnam negotiated a tariff reduction from 46% to 20% on most of its exports. However, any goods suspected of transshipment still face the 40% penalty.

No formal threshold exists for what qualifies as "suspect".

As a result, companies are now questioning the logic of supply chain relocation. The cost of reorganisation may no longer be offset by tariff avoidance.

The Burden on Importers: Guilty Until Proven Innocent

CBP no longer needs to prove wrongdoing. Instead, importers must now prove:

- Source of every significant component
- Location and ownership of factories
- Manufacturing processes and worker records
- Substantial transformation, if any inputs are foreign

This includes:

- Certificates of Origin
- Bills of Materials
- Utility bills
- Supplier declarations
- Chain-of-custody documentation

Even with this evidence, shipments may be detained, delayed, or rejected outright. In many cases, duties must be paid upfront with the hope of later recovery via protest.

This flips the legal standard from presumed compliance to presumed evasion.

A Global Shockwave: Trade Trust Undermined

This policy is sending tremors through Southeast Asia. Export-driven economies like Vietnam and Thailand face:

- Reduced investor confidence
- Export order cancellations
- Costly compliance retrofits

Simultaneously, the policy could add inflationary pressure in the U.S. As costs rise due to tariffs, documentation requirements, and shipment delays, importers may pass these on to consumers.

Practical Risk Scenarios

- **Identical Products:** A legitimate Thai or Indonesian product resembles a Chinese one and is flagged.

- **Shared Components:** Electronics or machinery use Chinese parts but are assembled locally.
- **Associated Facilities:** A Vietnamese exporter shares investors or branding with a Chinese firm.

Each case could lead to a 40% penalty, even if legal origin is unquestionable.

What to Watch Next

Definition Clarification: Will CBP define "trans-shipment" more clearly?

- **Published Watchlists:** Biannual facility lists could institutionalise suspicion.
- **FTA/WTO Disputes:** Legal action may take years and offer limited relief.
- **Realignment:** Some firms may pivot back to China for cost certainty or double down on localization.

The Stacking Compliance Burden: Why the 40% Tariff Hits Harder Than It Seems

For many businesses, the 40% transshipment tariff isn't just another cost, it's the straw that risks breaking the camel's back. Exporters and importers were already navigating one of the most complex compliance landscapes in modern trade. Now, this new penalty regime adds another layer of risk and documentation requirements.

What They're Already Managing

- Tariff Classification
- Correct application of the Harmonised System (HS) is critical, with misclassification leading to penalties, retroactive duty claims, or seizure.
- Export Controls
- Screening goods, technology, and end-users against multiple jurisdictional control lists.

- Customs Valuation & Transfer Pricing
- Aligning transaction values for customs with transfer pricing policies, and ensuring compliance with WTO Valuation Agreement rules.
- Rules of Origin
- Proving preferential origin under FTAs and non-preferential origin for general customs purposes, each with different tests and documentary requirements.
- Forced Labour Compliance
- Ensuring supply chains meet laws like the U.S. Uyghur Forced Labor Prevention Act (UFLPA), which can block entry of goods linked to forced labour anywhere in the chain.
- Cross-Border Data & Information Sharing
- Complying with increased customs-to-customs data exchanges, which can flag inconsistencies across jurisdictions.

Now Add the 40% Transshipment Tariff

This measure doesn't replace any of the above, it sits on top of them. For many companies, it means:

- Doubling origin documentation to withstand CBP scrutiny.
- More extensive supplier audits to pre-empt "looks-like-China" accusations.
- Greater alignment between trade compliance, legal, and finance teams to handle disputes or protests.

Why This Matters

The risk isn't just financial. It's operational:

- Delays in clearance disrupt delivery schedules.
- Cash flow strain from posting duties or bonds upfront.

- Market access decisions may hinge not on competitiveness, but on enforcement unpredictability.
- The 40% tariff is not just another duty. It's a compliance multiplier in an already overburdened system.

Strategic Alternatives: Is it time to rethink the U.S. market?

Some exporters are now asking a radical question: Should we walk away from the U.S. market?

Why BRICS+ May Be the Answer

- Lower Tariffs & Clearer Rules
- BRICS+ and Global South blocs often offer more predictable, rules-based trade
- Fewer politically-driven enforcement surprises
- Growing Consumer Base
- Over 45% of the world's population and a rapidly expanding middle class
- Strong demand in India, Brazil, Russia, and beyond
- Independent Trade Infrastructure
- Non-dollar settlement systems (e.g., BRICS Pay)
- Belt & Road-linked corridors with customs harmonisation
- Less Risk, More Stability
- No 40% blanket penalties
- Less reputational and legal risk at the border

The Hybrid Strategy

Some exporters are keeping:

- A limited, high-margin U.S. presence, backed by watertight compliance
- A volume strategy targeting BRICS+ and non-aligned markets

- This balanced approach avoids over-exposure to any one market and builds resilience.

Conclusion: Welcome to the Era of Presumed Evasion

The 40% transshipment tariff marks a fundamental departure from the rules-based trade system. It does not rewrite WTO or FTA law, but it overrides their reliability.

Goods that are perfectly legal in origin are now penalised based on suspicion. Importers are treated as guilty until proven otherwise. And exporters are rethinking the value of the U.S. market altogether.

Trade professionals, manufacturers, and policy advisors must respond by:

- Rethinking compliance frameworks
- Reassessing supply chain footprints
- Re-evaluating which markets truly offer sustainable, rules-based growth
- The age of origin has given way to the age of optics. And in this new game, only those prepared to prove the obvious will survive.

If your business is exposed to U.S. import risks, from tariff classification to rules of origin, valuation, forced labour compliance, or the new 40% transshipment penalty, now is the time to act.

We welcome you to reach out to discuss further on how we can help you, whether you are importers and/or exporters.

Author

Tony Kerr

Trade and Customs Consultant

tony.kerr@dfdl.com [LinkedIn](#)