

# The U.S.-China Trade Battle Spawns a New Era of Tariff Dodges

*Switching around the 18,927 codes that identify imported goods is an increasingly popular way some Chinese exporters are ducking American tariffs*

**By Chuin-Wei Yap**



**One day in June, seven months after the U.S. imposed stiff tariffs on plywood from China, a wood importer in Oregon got a call from a supplier asking if he would like to get some Chinese plywood tariff-free.**

**How would that work, asked importer David Visse. The products carry an identification code that is checked by U.S. Customs agents.**

**“Don’t worry about it,” Mr. Visse says the supplier told him. The plywood would be stripped of its Chinese markings, and “we’ll ship it under some other code.”**

Every product imported into the U.S. carries a 10-digit designation called an HTS code, of which there are 18,927 in all. Like a taxonomic version of Noah's Ark, the code provides a common language to bridge disparate markets and identify products in all their variety.

In a world of increasing tariffs, the code has another function: evading those levies. The business of code-fudging is expanding in step with tariff increases, undermining U.S. efforts to shield American business from foreign competition, according to importers, customs officials, trade attorneys and shipping brokers.

As trade conflict grows between the two largest economies, these professionals say, code misclassification is starting to compete with transshipment—the rerouting of goods through third countries—as a way to duck tariffs.

**Data on misclassification are scarce.** One indication it is growing can be seen in a surging number of U.S. Customs rulings on questionable export classifications originating from China. There were 146 rulings in July, nearly triple the number six months earlier.

U.S. Commerce Department investigations of possible dumping—selling abroad at below the cost of production at home—also are rising, up 60% last year.

**“What comes along with dumping orders is often a significant increase in the duty rate,** and anytime you have that, there is much more incentive to change classification,” said Brenda Smith, executive assistant commissioner for U.S. Customs and Border Protection. The number of U.S. tariff orders has grown 38% in the past two years, on products ranging from rubber bands to aluminum sheets.

**After President Trump in March ordered 25% levies on steel, Chinese steel plates were being imported coded as turbine parts,** said Timothy Brightbill, a trade partner at law firm Wiley Rein LLP, which often works on misclassification and trade-remedy cases. In the first six months of 2018, imports of steel plates fell 11%, year-over-year, while imports of “electric-generating sets,” a turbine classification, soared 121%.

Diamond saw blades imported from China are subject to 82% tariffs because of a past dumping ruling by the Commerce Department. In July, according to U.S. Customs, two California importers controlled by a Chinese manufacturer tried to dodge the tariff by coding diamond saw blades as grindstones.

The manufacturer, Danyang Like Tools Manufacturing Co., said it was independent of the California importers, Customs said, even though one of them told the agency Danyang was its owner. The California firms have disputed the charges. Danyang didn't respond to calls for comment.

In the freight-heavy seas south of China, a belt of smaller nations has become the center of a lively trade supporting alleged Chinese tariff evasion. Shipping hubs from Vietnam to Singapore, many of which now count China as their top trading partner, evolved to help Chinese exporters.

Freight brokers abound in Penang, an island off Malaysia's west coast, nestled among metal-roofed shophouses, high-rise offices and grimy industrial zones. One broker's phone number appeared on a redacted shipping invoice showcased online by a Chinese shipper as a successful example of its tariff evasion. The broker was situated in a small house near a church in a suburb of George Town, Penang's largest city.

In Malaysia, trade middlemen refer to tariff-dodging practices as "switching BL," meaning replacing shipping documents to disguise ports of origin, tariff codes or both. "BL" refers to the bill of lading, a cargo inventory provided by a carrier.

"I'm not going to say it doesn't happen," said Jalaluddin Harun, director-general of the Malaysian Timber Industry Board. "It may happen. But in Malaysia, that is one thing we try to regulate, and customs is quite sharp on this."

Malaysia would like to check all shipments but can't, said Paddy Halim, deputy director-general of the Royal Malaysian Customs Department. "You're not going to disturb the trade that way, no way. For a few guys, you stop 99% or even 95%? That's not how it works."

In China, exporters swap information about tariff codes on websites such as Yishanghuiyou—"Friends Through Commerce"—an offshoot of the wholesale platform 1688.com owned by Alibaba Group Holding Ltd.

"We want to export a batch of plywood trays," wrote someone using the name Zhang Liang on a Yishanghuiyou forum in January. "What's the tariff code for plywood that can make it avoid inspections?"

"Our company can help," replied another user, suggesting they get in touch. Neither user responded to requests for comment.

Misclassification of trade goods has a long pedigree. In 1879, trade attorneys say U.S. tariff collectors said an importer was coloring sugar with molasses to pass it off as a lower-tariff product.

**Which code to apply to a shipment is often a matter of discussion between a shipper and a U.S. import broker.** Chinese and other Asian middlemen say they develop code workarounds with U.S. import brokers, who help with the documentation and regulations.

Consultations with shippers about how to code products have tripled in recent months at Quicksilver Customs Brokers LLC in San Diego, said the import broker's owner, Alcides Silva. "Definitely we've been getting more misclassification inquiries," Mr. Silva said, adding that he doesn't cooperate with them.

"I've got a family to raise, so I'm not going to risk it if some Chinese shipper wants to bypass the rules," he said.

American officials estimate the U.S. loses at least \$550 million in customs revenue each year to tariff evasion. Customs says less than 5% of U.S. imports are physically opened for checks. And classification cases, when they develop, can be a minefield.

**The U.S. coding system called HTS—for Harmonized Tariff Schedule—contains 88 separate plywood codes, differentiating by types of wood and thickness variations down to the millimeter.**

An industry group called the Decorative Hardwoods Association has long said Chinese plywood imports crowd out thousands of American jobs and put mills out of business. The U.S. Commerce Department opened a dumping investigation in November 2016 relating to the most common type of plywood, called hardwood-faced.

Almost immediately, Chinese producers began to ship plywood under four other codes, from 4412.39.10.00 through 4412.39.50.00, attorneys say. These codes apply to softwood-faced plywood, which is slightly different and drew low tariffs ranging from zero to 8%.

U.S. imports of Chinese hardwood-faced plywood fell 20% in 2017. Imports coded as softwood-faced plywood soared 549%.

In November 2017, the U.S. imposed a 183.4% antidumping tariff on hardwood-faced plywood. Chinese shipments under the four softwood-faced plywood codes rocketed higher. They were up 983% in the first half of 2018 from a year earlier.

The Chinese government forbids false customs declarations. “China is closely monitoring the U.S. probe on Chinese plywood, and hopes the American side can carry out its investigation fairly,” the Chinese Ministry of Commerce said in an email. It didn’t comment on misclassification but has generally responded to U.S. trade criticisms by accusing the U.S. of protectionism.

U.S. customs authorities say they haven’t always received full cooperation from China. “The Chinese legal system and the ability to go after specific business entities in China are a challenge for us,” said Ms. Smith, the official at U.S. Customs and Border Protection.

The trade lawyer Mr. Brightbill, who represents American plywood producers, said some Chinese exporters had taken to coding hardwood-faced plywood sheets as parts of ready-to-assemble kitchen cabinets. Imports of such cabinet parts rose 18% in the first six months in 2018, customs data show. The Commerce Department in September moved to subject such parts to its antidumping order and agreed to a probe of Chinese softwood-faced plywood.

Mr. Visse, the Oregon importer, says he received the call offering him tariff-free Chinese plywood as the U.S. was intensifying its tariff threats and U.S. producers were asking for an expansion of the kinds of Chinese plywood subject to anti-dumping tariffs.

Plywood was included in \$200 billion of Chinese products on which the Trump administration levied additional 10% tariffs effective in September. That move came on top

**of tariffs the administration imposed in June on \$50 billion of Chinese imports. These weren't anti-dumping tariffs—the administration justified them based on a law allowing retaliation for alleged foreign discrimination against U.S. commerce.**

**Mr. Visse said he turned down the tariff-free-plywood offer, uncomfortable with the ethics of the proposition. His stance isn't necessarily shared by his competitors, he added.**

**“With this whole global trade war bubbling, I just don't think people understand how common it is to jerk with the system,” Mr. Visse said. “It's quite the growing cottage industry.”**