

## **Virtual Trade Week: Customs Trade Partnership Against Terrorism Frequently Asked Questions (FAQs)**

**Q: When does CBP anticipate publishing the new CTPAT Trade Compliance Handbook? Will it include guidance on admission into the program and best practices companies can follow to maintain compliance?**

The handbook is going to be published in coordination with the publication of the Federal Register Notice announcing the CTPAT Trade Compliance Program as an official program of CBP. We anticipate this publication occurring later this year.

The handbook will include guidance on admission, as well as provide the questions a company must be able to respond to as part of the admission process, for review prior to actually applying to the program. The handbook will also include a step-by-step walk through of the admission process and example guidance for the Annual Notification process. As for best practices, the handbook will provide importers with all necessary requirements to maintain membership with the program.

**Q: Rather than referring to open sources to compare risk levels, will CTPAT publish its own statistics by country/region? This will allow importers from a large number of counties to also rank its priorities and resources to align with CBP's perceived risks.**

CTPAT doesn't dictate to its partners where and with whom to conduct business; CTPAT provides the necessary tools and resources for its partners to conduct and mediate their unique identified risk based on their specific supply chain situation.

**Q. It was implied during the Forced Labor session that third party validations are not a reliable way for companies to ascertain and confirm compliance for their suppliers. Will CTPAT consider these types of validations as less reliable when companies provide them as support for program compliance?**

Importers have an obligation to exercise reasonable care when bringing goods into the United States to ensure compliance with U.S. law. The importer is the responsibly party to determine whether the supply chain used in the manufacturing of the imported goods, which includes the vetting of the various entities involved in the manufacturing, even if a third-party entity is used to validate the supply chain, does not include any forced labor practices at any point in the manufacturing process. As part of exercising reasonable care and due diligence to ensure that the supply chain for imported goods is free of forced labor, importers may have manufacturers' production processes evaluated for possible use of forced labor by a third-party entity. Importers must make sure the third-party entity being used is unbiased and credible.

An interested party, usually the foreign entity subject to a Withhold Release Order (WRO) or Finding, may petition CBP's Forced Labor Division for [modification or revocation of the WRO or Finding](#). In evaluating remediation of forced labor conditions pursuant to such a petition, the Forced Labor Division takes the documentation provided by the party on audits done on an unannounced basis by an independent third-party auditor seriously and recommends the party supply as much documentation from these audits as possible.

As such, the CTPAT Trade Compliance division will accept credible unbiased third-party audits and validations with the same amount of credibility as the Forced Labor Division when provided as proof of program compliance.

**Q: Most importers still want to visit/be present at the foreign site for virtual validation to enable the best response/to help facilitate information sharing - or even for language barrier issues. What flexibility will CBP have for sites that may be "accessible" virtually but not necessarily accessible from a safety or COVID restriction perspective?**

CTPAT always encourages its members' participation for the foreign site visit regardless of whether it's a physical or a virtual validation. CTPAT leverages its signed mutual recognition agreements (MRA) to ensure the program can also benefit from the visits conducted by the foreign Customs Administrations that have achieved an MRA with CBP. Furthermore, CTPAT will continue to evaluate the best possible path forward with regards to locations that have been unable to verify in person. As CTPAT has mentioned in the past, the program will evaluate companies based on risk prior to selection for validation.

**Q: Are there plans to utilize validation from the same factory (within a specific time frame), for a different importer – perhaps kept in a centralized database -- to avoid factory fatigue and reduce redundancy and cost?**

CTPAT uses prior validation within a specific timeframe to determine if a visit is warranted for the same location. At the same, CTPAT leverages on the signed MRA to avoid duplication of visit. However, there are certain situations when the risk dictates more frequent visit to a particular location.

**Q: When will CBP end the Trusted Trader Pilot and open it up to those long time CTPAT and Trade Compliance (previously ISA) partners. There are only about 350 from the prior ISA program, it seems they should finally be Trusted Traders instead of a pilot that only caters to 9 participants.**

There are currently more than 300 Importer Self Assessment (ISA) participant companies currently enrolled in the CTPAT Trade Compliance pilot program. All of these companies are considered Trusted Traders. A Federal Register Notice (FRN) is currently in progress to end this pilot, officially retire the ISA program, and officially announce the CTPAT Trade Compliance program. At the time of publication, CBP will expand the CTPAT Trade Compliance program

and allow all current U.S and Canadian based importers who are active Tier II and Tier III CTPAT Security members to apply to the Trade Compliance program. The FRN is intended to be announced this year.

**Q: Any news on when CTPAT Trade Compliance applications will be accepted? Are there plans to include exporters in CTPAT?**

The CTPAT Trade Compliance applications will be accepted as soon as the Federal Register Notice is published. The drafting of the Federal Register Notice is underway, and we anticipate the publication occurring this calendar year. CTPAT doesn't have any plans to include exporters into the Trade Compliance program at this time but may be revisited in the future once the program is fully implemented.

**Q: Will cargo mapping and origin determinations & components supply chain tracing become requirements for certified CTPAT members versus a recommendation and if so when do you see this happening? Is tracing just limited to the final manufacturing step (tier 1, where the final product is packaged/shipped) or should it include upstream manufacturers and suppliers? What is the role of Blockchain?**

Cargo mapping is always viewed as a strong recommendation to CTPAT partners. It provides an understanding and the required visibility of the entire supply chain. It is an opportunity for CTPAT members to evaluate the logistics operations from the initial request to when the product is finally delivered at the domestic distribution centers. CTPAT members should take this opportunity to make any necessary adjustments to their supply chain based on any identified risks. With regard to Blockchain, CTPAT continues to explore other innovative technology to enhance the process how the program evaluates its members supply chain and grant additional incentives, Blockchain and Distributed Ledger Technology being one of them.

**Q: Will we see another revamp of questions rolled out as part of the CTPAT Compliance Certification as there was with the 2020 certification?**

The CTPAT Trade Compliance program is looking to add validation questions surrounding forced labor and the importer's social compliance program. These questions will be published as soon as they are finalized and available to the trade. The CTPAT Trade Compliance handbook will be continuously updated with the most current information, including all application questions.

**Q: With the new minimum security criteria (MSC) there are some questions that are very similar. Will Trade Compliance help to avoid some of the redundancy with questions on Forced Labor (FL), Cybersecurity and Agriculture? Will MSC 5.9 be upgraded to a MUST at some point? And perhaps expand the verbiage of that MSC to reflect current FL trends.**

MSC 5.9 is already a must however, we feel the intent of this question is MSC 3.9 on Forced Labor and will respond to the question regarding MSC 3.9.

With respect to MSC 3.9, CTPAT is looking to change the criteria to a “must” as the Forced Labor requirements continue to be refined for the United States but particularly because the importation of products into the United States that are produced by forced or child labor is illegal and prohibited under the USMCA Trade Agreement. Once a decision is made, that decision will be communicated to the trade community and all of our existing CTPAT members.

The CTPAT Trade Compliance program does not include cybersecurity and agricultural requirements. The CPTAT Trade Compliance program will implement mandatory Forced Labor requirements in the near terms future and is working with the CTPAT Security team to ensure the requirements for both programs are aligned.

**Q: Are there specific procedures that brokers can implement for social compliance as it relates to forced labor? Can you provide examples?**

One of the main roles of a Customs Broker who is a CTPAT member is to educate and guide its business partners in the supply chain as to the regulations that govern trade as well as on the CTPAT program requirements and responsibilities. Currently, there are no special publications for brokers, but this is something CBP will evaluate.

In the meantime, the recommendation to brokers is to stay current with information that CBP publishes on forced labor and social compliance requirements to help educate your partners.

CBP regularly updates information available to the public at this website:

- <https://www.cbp.gov/trade/programs-administration/forced-labor>

Additional resources can be available at these links:

- Fact Sheet: OECD Due Diligence Guidance: <https://www.cbp.gov/trade/document/guidance/fact-sheet-oecd-due-diligence-guidance>
- Fact Sheet: Forced Labor – Due Diligence: <https://www.cbp.gov/document/fact-sheets/forced-labor-importer-due-diligence>
- Reasonable Care: <https://www.cbp.gov/document/publications/reasonable-care>