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New Anti-Counterfeiting Measures Represent Progress, But Congress Must Act to Address E-Waste Export Issue

Comprehensive Solution Needed to Address National Security, Public Safety

Washington, DC – New anti-counterfeiting policies represent progress in the fight against a wide range of fake goods but more action is needed to address the threat of counterfeit microchips that undermine national security, critical infrastructure and public safety, the Coalition for American Electronics Recycling (CAER) said today.

The new policies include measures in the U.S.-China phase 1 trade agreement that would impose tariffs unless China tightens enforcement against counterfeit products such as semiconductors, automotive parts, apparel, pharmaceuticals and more. In addition, a new initiative announced in late January, led by [U.S. Customs and Border Protection](#), imposes stiff penalties on e-commerce platforms that do not crack down on sales of counterfeit goods.

However, counterfeit microchips pose a unique challenge. Counterfeiters in China use electronic waste (e-waste), much of it exported from the U.S., as raw materials to create fake parts that are then sold as new. Difficult to detect, these counterfeits threaten the reliability of military technology as well as cars, airplanes, nuclear reactors, sensitive medical equipment and more. [As industry experts have noted](#), e-waste export policy is key to stopping counterfeit electronic parts and protecting military readiness.

Despite efforts to address this illicit trade, the problem persists – and grows, according to experts. For instance, in May 2019, a U.S.-based electronics distributor was sentenced to nearly four years in prison for selling counterfeit integrated circuits obtained from China. According to the [Department of Justice](#), some of these counterfeit microchips ended up in a classified weapons system. Additional parts were sold for use in the B-1 Lancer bomber.

The case illustrates the role of e-waste in counterfeiting. As outlined in the Department of Justice release, the perpetrator “knew that the integrated circuits he sold were old, used or discarded and that his Chinese suppliers had pulled the circuits off of discarded circuit boards in China, sanded off all of the markings, and then remarked them in a process commonly referred to as ‘blacktopping.’” The counterfeits were then sold as new parts made by manufacturers such as Xilinx, Analog Devices and Intel.

Given the ongoing concerns, the U.S. needs an all-of-the-above anti-counterfeiting strategy that includes swift passage of the [Secure E-Waste Export and Recycling Act](#) (SEERA). SEERA will restrict export of untested, non-working e-waste that provides feedstock for China’s microchip counterfeiters. The bill is sponsored in the House of Representatives (HR3559) by Rep. Adriano Espaillat (D-NY) and Rep. Paul Cook (R-CA) and in the Senate (S.2448) by Sen. Lamar Alexander (R-TN) and Sen. Sheldon Whitehouse (D-RI).

SEERA will create economic benefits beyond reducing counterfeits. By requiring domestic recycling of e-scrap, SEERA will increase high-value exports of refurbished computer equipment and commodity-grade material refined from used electronics. The export reforms will also enable U.S. recyclers to attract investment, expand capacity and create up to 42,000 quality jobs for Americans.

CAER is the voice of the emerging e-waste recycling industry on Capitol Hill with more than 150 companies and supporting members operating more than 300 facilities in 37 states as well as Puerto Rico and the District of Columbia.

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