



Antidumping and Countervailing Duty Liquidation Instructions

October 12, 2017

Fiscal Year 2017 Report to Congress



Homeland
Security

U.S. Customs and Border Protection

Message from the Acting Deputy Commissioner of CBP

October 12, 2017

I am pleased to present the following report, "Antidumping and Countervailing Duty Liquidation Instructions," prepared by U.S. Customs and Border Protection (CBP).

The report has been compiled pursuant to the language set forth in Senate Report 114-264, which accompanies the Fiscal Year (FY) 2017 Department of Homeland Security (DHS) Appropriations Act (P.L. 115-31). Senate Report 114-264 reaffirms the requirements in Senate Report 112-169, which accompanies the FY 2013 DHS Appropriations Act (P.L. 113-6). The report describes how the U.S. Department of Commerce (Commerce) and CBP can improve the timeliness, accuracy, and clarity of liquidation instructions sent to CBP.



Pursuant to congressional requirements, this report is being provided to the following Members of Congress:

The Honorable John R. Carter
Chairman, House Appropriations Subcommittee on Homeland Security

The Honorable Lucille Roybal-Allard
Ranking Member, House Appropriations Subcommittee on Homeland Security

The Honorable John Boozman
Chairman, Senate Appropriations Subcommittee on Homeland Security

The Honorable Jon Tester
Ranking Member, Senate Appropriations Subcommittee on Homeland Security

I would be pleased to respond to any questions you may have. Please do not hesitate to contact my office at (202) 344-2001 or the Department's Acting Chief Financial Officer, Stacy Marcott, at (202) 447-5751.

Sincerely,

A handwritten signature in black ink, appearing to read "Ronald Vitiello". The signature is stylized and fluid.

Ronald D. Vitiello
Acting Deputy Commissioner
U.S. Customs and Border Protection

Executive Summary

This report summarizes joint initiatives between CBP and Commerce in FY 2016 to improve the administration of antidumping and countervailing duty (AD/CVD) enforcement. CBP has a statutory responsibility to collect all revenue due to the U.S. Government, including AD/CVD resulting from the importation of subject goods into the United States. CBP and Commerce work cooperatively on the administration of AD/CVD enforcement. All AD/CVD case information resides in the Automated Commercial Environment (ACE). This is the system of record for all AD/CVD cases and instructions. Both agencies use the system daily to build and maintain case records and to review and publish AD/CVD instructions. ACE is used by CBP personnel at the ports of entry, Centers of Excellence and Expertise, and the trade community to research and verify AD/CVD messages including, but not limited to: initiation of new cases, orders, administrative review results, new shipper review results, scope rulings, and injunctions and liquidation instructions. In FY 2016, CBP processed 1,603 AD/CVD instruction messages issued by Commerce and liquidated more than 115,195 AD/CVD entries.

CBP and Commerce staffs meet biweekly and senior executives meet quarterly. These meetings are used to discuss a broad range of topics including the scope of new AD/CVD investigations and existing orders; the timeliness, clarity, and content of Commerce's messages; and various enforcement issues. CBP and Commerce will continue to collaborate closely to improve AD/CVD instructions and the enforcement of AD/CVD measures.



Antidumping and Countervailing Duty Liquidation Instructions

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I. Legislative Language

This document was compiled pursuant to the legislative language set forth in Senate Report 114-264, which accompanies the Fiscal Year (FY) 2017 Department of Homeland Security (DHS) Appropriations Act (P.L. 115-31), and Senate Report 112-169, which accompanied the FY 2013 DHS Appropriations Act (P.L. 113-6).

Senate Report 114-264 states:

The Committee directs CBP to continue submitting the reports on AD/CVD required in Senate Report 112-169 and the explanatory statement accompanying Public Law 113-6, including the same level of detail prescribed in such report and during the timelines prescribed for each report: AD/CVD Actions and Compliance Initiatives, AD/CVD Liquidation Instructions, AD/CVD Collection of Outstanding Claims (consistent with Public Law 103-182), and AD/CVD Collection New Shipper Single Entry Bonds. A version of each report shall be posted on CBP's Web site.

Senate Report 112-169 states:

The Committee further directs the Secretary to work with the Secretary of Commerce to identify opportunities for the Commerce Department to improve the timeliness, accuracy, and clarity of liquidation instructions sent to CBP. Increased attention and interagency coordination in these areas could help ensure that steps in the collection of duties are completed in a more expeditious manner.

II. Background on CBP's Antidumping/Countervailing Duty Enforcement

U.S. Customs and Border Protection (CBP) has a statutory responsibility to collect all revenue due to the U.S. Government, including antidumping/countervailing duties (AD/CVD), resulting from the importation of subject goods into the United States. AD/CVD long has been identified as a priority trade issue by CBP because of the inherent risks associated with motivation for corrupt entities to exploit the system intended to level the playing field for domestic producers. Further, the Trade Facilitation and Trade Enforcement Act of 2015 (P.L. 114-125) designated AD/CVD as a priority trade issue.

CBP is committed to ensuring that AD/CVD laws are enforced vigorously, and takes an agencywide approach to AD/CVD enforcement. CBP partners with the Department of Commerce (Commerce) on a wide range of AD/CVD issues related to enforcement responsibilities. CBP's agencywide coordination and partnerships with other U.S. Government agencies are essential to AD/CVD enforcement.

Commerce is responsible for administering the AD/CVD laws and for establishing the duty amounts that CBP collects from importers. CBP and Commerce share extensive information on AD/CVD cases. Commerce refers to CBP the allegations of fraud or evasion that it receives from the public, in addition to direct evidence of fraud or evasion discovered in the context of an ongoing AD/CVD proceeding. Commerce further supports CBP's efforts at countering evasion by reviewing, upon request, information obtained during CBP audits and by identifying discrepancies or claims that contradict information on Commerce's record of the underlying proceeding.

Antidumping/Countervailing Duty Administration

CBP continues to pursue modernization efforts to process AD/CVD entries and to facilitate legitimate trade. The administration of AD/CVD entries is currently a dual paper and electronic-based, labor-intensive, and time-consuming process involving multiple steps over a period of several years for each entry. When importers file AD/CVD entries upon import of merchandise into the United States, CBP's tasks include:

- searching and reviewing AD/CVD messages from Commerce;
- ensuring proper collection of the required cash deposit;
- reviewing entries for proper suspension codes and holding codes; and
- holding entries for several years until Commerce issues liquidation instructions related to the entries, pursuant to the statutory timelines governing Commerce's AD/CVD proceedings and judicial review of those proceedings.

Once Commerce issues liquidation instructions, CBP's tasks include:

- reviewing these complex instructions and determining which entries from previous years are subject to these instructions;
- manually applying the final duty rates and calculating the amount of final duties due;
- inputting the proper codes to liquidate each entry;
- implementing separate court-ordered injunctions to stop liquidations; and
- processing protests involving liquidation instructions and deemed liquidations.

Some of these steps are repeated multiple times for individual entries involving more than one AD/CVD case.

CBP is continuing efforts to centrally manage and oversee the liquidation and processing of AD/CVD entries nationally through the Centers of Excellence and Expertise (Centers). The Centers have national authority to process entry summaries, and by centralizing the AD/CVD processes in the Centers, CBP has reduced duplicative, redundant functions that were taking place at numerous ports of entry across the United States. It also will increase national oversight of AD/CVD entry processing and will improve the accuracy of CBP's AD/CVD processing.

In FY 2016, CBP piloted an AD/CVD centralization project that included analyzing all AD/CVD entry summaries nationally. The centralization project provided enhanced oversight of AD/CVD processing, increased revenue assessment, and increased efficiencies by centralizing certain AD/CVD processing functions. During FY 2017, CBP transitioned the centralization efforts to an industry-focused oversight of AD/CVD processing within the Centers. These efforts will be enhanced further with ACE functionality being deployed this year.

ACE AD/CVD Functionality

All AD/CVD case management information, Commerce message processing, and CBP field inquiries now are processed, managed, and stored in the Automated Commercial Environment (ACE) to give national visibility of the data to the CBP user, as well as to Commerce and the trade community. CBP has an integrated and automated process with Commerce, in which Commerce creates the AD/CVD case in ACE and updates the case information throughout the lifetime of the case.

Commerce creates and uploads into ACE all the messages with instructions to CBP. The AD/CVD case information interacts with CBP's Automated Commercial System (ACS) and ACE entry processing system, allowing importers and customs brokers to file AD/CVD entry information and CBP to liquidate the entries in ACS (during FY 2016, the liquidation capability remained in ACS).

During FY 2016, ACE began accepting all remaining AD/CVD entry types. As a result, all AD/CVD entries now can be filed in ACE.

Entry Administration Workload

In total, as of September 30, 2016, CBP was enforcing 363 AD/CVD orders. During FY 2016, Commerce issued 44 new AD/CVD orders (more than a 13-percent increase in the overall number of orders since FY 2015), and Commerce initiated 30 new AD/CVD investigations, which may result in new AD/CVD orders. Additionally, during the first quarter of FY 2017, Commerce issued 11 new AD/CVD orders and initiated 16 new AD/CVD investigations.

In FY 2016, CBP processed 1,603 AD/CVD instruction messages issued by Commerce. CBP staff at ports of entry and/or Centers used the ACE AD/CVD inquiry module to submit 468 inquiries on AD/CVD issues to CBP headquarters and Commerce. In addition, in FY 2016, CBP liquidated more than 115,195 AD/CVD entries.

III. Liquidation Instructions

CBP and Commerce work jointly to improve the timeliness, accuracy, and clarity of AD/CVD instructions. CBP port personnel communicate daily with Commerce on AD/CVD matters and questions related to specific entries through the AD/CVD Portal within ACE. CBP reviews every AD/CVD instruction drafted by Commerce and advises Commerce about any concerns with the content of the message. Commerce regularly reviews and edits its standard AD/CVD instructions to enhance clarity, and collaborates with CBP on the language of fact-specific instructions, which deviate from the standard.

CBP holds biweekly meetings at the working level and quarterly meetings at the executive level with Commerce to coordinate AD/CVD-related administration and enforcement activities. U.S. Immigration and Customs Enforcement (ICE), Homeland Security Investigations (HSI) also participates in the joint working level meetings with Commerce. Further, in addition to the regular interaction through ACE, CBP's AD/CVD Policy Branch and Commerce's Customs Liaison Unit are in daily contact through email or phone calls. This coordination helps to facilitate CBP's AD/CVD entry, liquidation, and collection processes on numerous case-specific issues throughout the year. CBP also meets, as needed, with Commerce, the Department of Treasury, and the U.S. Trade Representative to confer on AD/CVD issues.

In October 2016, CBP, Commerce, and ICE conducted a half-day joint AD/CVD training in the Washington, D.C., area. This training provided an opportunity for each agency's headquarters offices to present on their respective roles in the AD/CVD enforcement process, as well as facilitate interagency collaboration. Partnership activities such as this increase education and collaboration, helping to ensure that AD/CVD orders are administered properly and that all duties are collected.

Commerce also regularly provides training and webinars to CBP on complex AD/CVD orders. In FY 2016, Commerce staff participated and provided extensive input in the CBP Commercial Customs Operations Advisory Committee's AD/CVD working group, CBP/ICE HSI AD/CVD commercial fraud training, and steel industry seminars.

IV. Conclusion

CBP works diligently to ensure that it implements its statutory and regulatory AD/CVD responsibilities and that it adheres to current CBP and other government agency policies, in order to minimize loss of revenue. CBP will continue to prioritize enforcement actions and compliance initiatives in support of the AD/CVD laws. The cooperation between CBP and Commerce is strong, and together the agencies will pursue all available avenues to collect assessed duties, ensure importer compliance, and prevent loss of revenue.

V. Appendix. List of Acronyms

Acronym	Definition
ACE	Automated Commercial Environment
ACS	Automated Commercial System
AD/CVD	Antidumping/Countervailing Duty
CBP	U.S. Customs and Border Protection
Centers	Centers of Excellence and Expertise
Commerce	U.S. Department of Commerce
DHS	U.S. Department of Homeland Security
FY	Fiscal Year
HSI	Homeland Security Investigations
ICE	U.S. Immigration and Customs Enforcement