



Antidumping/Countervailing Duty Collection of New Shipper Single Entry Bonds

October 22, 2019

Fiscal Year 2019 Report to Congress



**Homeland
Security**

U.S. Customs and Border Protection

Message from the Deputy Commissioner of CBP

October 22, 2019

I am pleased to submit the following report, “Antidumping/ Countervailing Duty Collection of New Shipper Single Entry Bonds,” which has been prepared by U.S. Customs and Border Protection (CBP).

This report was compiled pursuant to language set forth in Senate Report 115-283, which accompanies the Fiscal Year (FY) 2019 Department of Homeland Security (DHS) Appropriations Act (P.L. 116-6). Senate Report 115-283 reaffirms the requirements in Senate Report 114-264, which accompanied the FY 2017 DHS Appropriations Act (P.L. 115-31).



This report provides information concerning each Antidumping/ Countervailing Duty (AD/CVD) order for which more than \$25 million in assessed AD/CVDs secured by single entry bonds (SEB) accepted by CBP pursuant to 19 U.S.C. § 1675(a)(2)(B)(iii) remains uncollected more than 2 years after the dates of liquidation of the secured entries.

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

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

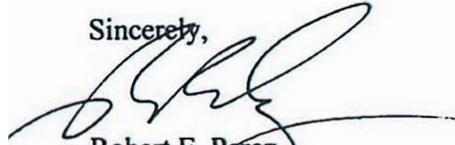
The Honorable Chuck Fleischmann
Ranking Member, House Appropriations Subcommittee on Homeland Security

The Honorable Shelley Moore Capito
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 that you may have. Please do not hesitate to contact my office at (202) 344-2001.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. Perez', with a long horizontal line extending to the right.

Robert E. Perez
Deputy Commissioner
U.S. Customs and Border Protection

Executive Summary

CBP has a statutory responsibility to collect all revenue due to the U.S. Government that arises from the importation of goods into the United States. CBP is committed to ensuring that AD/CVD laws are enforced vigorously. To this end, CBP's Office of Trade, Office of Field Operations, Office of Finance, and Office of Chief Counsel are engaged in efforts to ensure that AD/CVDs are collected successfully.

The collection of AD/CVD remains a complex challenge. Setting appropriate bonding levels for AD/CVD imports is a challenge because the final duty liability and payment risk are largely unknown by CBP at the time that the AD/CVD merchandise is imported. The New Shipper bonding privilege was statutory in nature, and is no longer in place. Title 19 U.S.C. § 1675(a)(2)(B)(iii) had allowed certain importers to post an SEB in the amount of the estimated AD/CVD at entry instead of paying the estimated AD/CVD in cash. The SEB that was posted for these New Shipper reviews was in addition to other security provided to cover the entry more generally. However, the New Shipper bonding privilege has been controversial, and Congress periodically has suspended or revoked it. For example, Congress temporarily suspended the New Shipper bonding privilege from April 1, 2006, through June 30, 2009 (see Pension Protection Act of 2006, Section 1632 of P.L. 109-280 (August 17, 2006)). More recently, Congress revoked the New Shipper bonding option in the Trade Facilitation and Trade Enforcement Act because of concerns regarding circumvention by new shippers (see Section 433 of P.L. 114-125 (February 24, 2016)).



Antidumping/Countervailing Duty Collection of New Shipper Single Entry Bonds

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I. Legislative Language

Senate Report 115-283, which accompanies the Fiscal Year (FY) 2019 Department of Homeland Security (DHS) Appropriations Act (P.L. 116-6), states:

Antidumping and Countervailing Duties.—The Committee directs CBP to continue reporting on antidumping and countervailing duties, as required in Senate Report 114–264.

Senate Report 114-264 states, in relevant part:

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 ... and AD/CVD Collection New Shipper Single Entry Bonds. A version of each report shall be posted on CBP’s Web site.

Congress first provided instructions for the “AD/CVD Collection New Shipper Single Entry Bonds” report in Senate Report 113-77 accompanying the FY 2014 DHS Appropriations Act (P.L. 113-76), which states:

The Committee further directs CBP to provide the Committee with a separate report that includes information concerning each AD/CVD order for which more than \$25,000,000 in assessed AD/CVD duties secured by single entry bonds accepted by CBP pursuant to 19 U.S.C. 1675(a)(2)(B)(iii) remains uncollected more than 2 years after the dates of liquidation of the secured entries. This report shall be submitted to the Committee not later than 180 days after the date of enactment of this act. For each relevant AD/CVD order, the report shall include the bond's identification number, the date of the entry secured by the bond, and the bond's face value. It shall also include the liquidation status of each entry, and if applicable, the date of liquidation, the amount of bond principal received by CBP, the amount of interest received by CBP, and the amount of any offer in compromise accepted by CBP. Further, the report shall include information about whether CBP has demanded performance on the bond or has withdrawn or abandoned its demand due to one or more defects in the bond, CBP's inability to locate the bond, or expiration of the applicable statute of limitations. For each relevant AD/CVD order for which CBP has demanded performance on the bond, the report shall detail whether CBP's demand for bond performance was protested, and if applicable, the date on which the protest was filed, whether CBP has issued a decision on the protest, whether a subsequent appeal has been filed by the protesting party, and if applicable, the status of the appeal including whether a court summons has been issued, the date on which the summons was issued, and the amount of funds being held by CBP pursuant to 28 U.S.C. 2637(a). The report shall also include a detailed strategy, including a specific series of actions and corresponding deadlines for completing those actions,

to collect under the bond the antidumping or countervailing duties that remain uncollected.

II. Results

U.S. Customs and Border Protection (CBP) has identified only one antidumping and countervailing duty (AD/CVD) order with more than \$25 million in assessed AD/CVDs that was secured by single entry bonds (SEB). This remains uncollected more than 2 years after the dates of liquidation of the secured entries. The antidumping order, A-570-831, is for fresh garlic from the People's Republic of China. A detailed listing of these debts is included in the data found in Appendix B.

CBP's analysis of the data has determined the following:

- Of the 149 bills listed in Appendix B, 84 of the bills (56 percent) currently are covered by a protest in suspended status.
- All of the entries (importations) of fresh garlic listed in Appendix B entered the United States more than 12 years ago.
- Only two of the bills listed in Appendix B never were protested.
- Ninety percent of the bills listed in Appendix B are currently more than 10 years old.
- Approximately three-quarters of the bills listed in Appendix B (by count, as well as by amount owed) are associated with a surety that has been ordered into liquidation by a state court. CBP has taken the appropriate action in the state court liquidation proceeding.

III. Conclusion

Many of the concerns specific to New Shipper SEBs are no longer an issue for newly filed AD/CVD entries because Congress revoked the New Shipper SEB option when Congress enacted the Trade Facilitation and Trade Enforcement Act on February 24, 2016 (see Section 433 of P.L. 114-125). Accordingly, importers no longer have an option to post an SEB in lieu of the cash deposit during New Shipper reviews.

CBP will continue to leverage its authority to require additional security in order to address risks and to maximize the collection of duties due to the U.S. Government for future entries. Although CBP uses all of its legal authority to collect secured AD/CVD debt from sureties, CBP faces significant legal challenges from sureties when attempting to collect on those bonds that secure AD/CVD bills. In some cases, sureties have refused to pay secured debts even after admitting to having no legal basis for nonpayment.

IV. Appendices

Appendix A: List of Terms/Acronyms

Term/Acronym	Definition
AD/CVD	Antidumping and Countervailing Duty
Application for Further Review (AFR) Requested	A "Y" indicates that the protesting party requested further review of the protest in the event that the center of excellence and expertise/port denies the protest in whole or in part.
AFR Request Date	The date that the AFR was requested
CBP	U.S. Customs and Border Protection
DHS	U.S. Department of Homeland Security
Entry Date	Date of entry of the merchandise covered by the bill
FOUO/LES	For Official Use Only/Law Enforcement Sensitive
FY	Fiscal Year
Liquidation Date	Date of liquidation of the entry associated with the bill
SEB	Single Entry Bond
SEB Amount	The dollar limit of potential liability for the surety for the single entry covered by the bond, as indicated by the Automated Commercial System
Protest Filing Date	The date that a protest was filed with CBP pursuant to 19 CFR Part 174
Protest Status	DN - protest denied; PD - protest partly denied; SP - protest suspended, a final decision is pending; AP - protest approved; OP - protest open, a final decision is pending
SEB	Single Entry Bond
Summons Date	The date indicated on the summons received from the court, if an action was filed in the U.S. Court of International Trade to dispute the denial of the protest
Summons Nbr	If a number appears in this field, the protestant has filed a summons in the U.S. Court of International Trade regarding the entry and protest in question.
Write-Off Schedule Nbr	The existence of a number in this field indicates that the debt is scheduled for termination of collection and write-off (however, the debt has not necessarily been discharged formally as of this time).

Appendix B: List of Open Bills

This information is For Official Use Only (FOUO)/Law Enforcement Sensitive (LES) and will be transmitted to the Committees in a manner pursuant to limitations placed upon the sharing of FOUO/LES information.