



# Antidumping and Countervailing Duty Liquidation Instructions (FY 2021)

*October 13, 2021*

Fiscal Year 2021 Report to Congress



Homeland  
Security

*U.S. Customs and Border Protection*

# Message from the Acting Deputy Commissioner of CBP

October 13, 2021

I am pleased to submit the following report, “Antidumping and Countervailing Duty Liquidation Instructions,” for Fiscal Year (FY) 2021, which has been prepared by U.S. Customs and Border Protection (CBP).



The report has been compiled pursuant to direction in the Joint Explanatory Statement that accompanies the FY 2021 Department of Homeland Security (DHS) Appropriations Act (P.L. 116-260). The Joint Explanatory Statement reaffirms Senate Report 115-283, which accompanies the FY 2019 DHS Appropriations Act (P.L. 116-6); Senate Report 114-264, which accompanies the FY 2017 DHS Appropriations Act (P.L. 115-31); and 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 provided to the following Members of Congress:

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

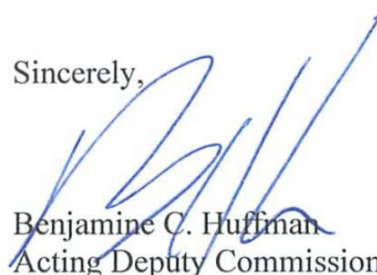
The Honorable Chuck Fleischmann  
Ranking Member, House Appropriations Subcommittee on Homeland Security

The Honorable Chris Murphy  
Chair, Senate Appropriations Subcommittee on Homeland Security

The Honorable Shelley Moore Capito  
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.

Sincerely,

  
Benjamin C. Huffman  
Acting Deputy Commissioner  
U.S. Customs and Border Protection

# Executive Summary

This report summarizes joint initiatives between CBP and Commerce in FY 2020 to improve the administration of antidumping (AD) and countervailing duty (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 goods into the United States. In FY 2020, \$18.2 billion of imported goods were subject to AD/CVD. CBP collected approximately \$1.77 billion in AD/CVD deposits.

At the end of FY 2020, 540 AD/CVD orders were in effect as compared to 503 orders at the conclusion of FY 2019. During FY 2020, Commerce issued 53 new AD/CVD orders and initiated 104 new AD/CVD investigations. During the first quarter of FY 2021, Commerce issued 2 new AD/CVD orders and initiated 20 new investigations.

CBP liquidates AD/CVD entries after receiving liquidation instructions from Commerce. When an entry is liquidated, it means that CBP has concluded the entry review process and that the final duties, taxes, fees, and other charges have been assessed on the entry. In FY 2020, CBP processed 1,851 AD/CVD instruction messages issued by Commerce and liquidated more than 242,143 AD/CVD entries. In the first quarter of FY 2021, CBP processed 454 AD/CVD instruction messages and liquidated 17,002 AD/CVD entries.

CBP and Commerce continue to improve the timeliness, accuracy, and clarity of liquidation instructions by regularly reviewing and editing standard AD/CVD instructions. CBP reviews every AD/CVD instruction drafted by Commerce and provides any concerns with the contents and implementation implications of the message. Commerce continues to enhance message clarity and collaborates with CBP on the language of fact-specific instructions deviating from the standard. CBP and Commerce continue ongoing collaboration to update the Automated Commercial Environment and work jointly to improve boilerplate instructions and the timing of liquidation instructions.



# Antidumping and Countervailing Duty Liquidation Instructions (FY 2021)

## Table of Contents

I.	Legislative Language.....	1
II.	Background on CBP’s AD/CVD Enforcement .....	2
	AD/CVD Administration.....	2
	Automated Commercial Environment (ACE) AD/CVD Functionality.....	3
	Liquidation Instructions.....	3
III.	Conclusion.....	5
	Appendix: List of Abbreviations .....	6

# I. Legislative Language

The report has been compiled pursuant to direction in the Joint Explanatory Statement that accompanies the Fiscal Year (FY) 2021 Department of Homeland Security (DHS) Appropriations Act (P.L. 116-260). The Joint Explanatory Statement reaffirms Senate Report 115-283, which accompanies the FY 2019 DHS Appropriations Act (P.L. 116-6); Senate Report 114-264, which accompanies the FY 2017 DHS Appropriations Act (P.L. 115-31); and Senate Report 112-169, which accompanies the FY 2013 DHS Appropriations Act (P.L. 113-6).

The Joint Explanatory Statement states:

*Antidumping and Countervailing Duties (AD/CVD).*—CBP is directed to continue reporting on AD/CVD, as required in Senate Report 114-264 and as expanded in Senate Report 115-283.

Senate Report 115-283 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:

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.

Congress first provided instructions for this report in Senate Report 112-169, which 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 AD/CVD Enforcement

U.S. Customs and Border Protection (CBP) has a statutory responsibility to collect revenue due to the U.S. Government resulting from the importation of subject goods into the United States, including AD/CVD. CBP long has identified AD/CVD as a priority trade issue because it helps to level the playing field for domestic producers injured by unfair competition. In fact, the Trade Facilitation and Trade Enforcement Act of 2015 (P.L. 114-125) designated AD/CVD as a priority trade issue or a high-risk area that can cause significant revenue loss, harm the U.S. economy, or threaten the health and safety of the American people.

CBP is committed to ensuring that AD/CVD laws are enforced and takes an agencywide approach to AD/CVD enforcement. CBP partners with the U.S. Department of Commerce (Commerce) on a wide range of AD/CVD issues related to enforcement responsibilities. Commerce administers AD/CVD laws and establishes the duty amounts that CBP collects from importers. CBP and Commerce share extensive information on AD/CVD cases. Commerce refers allegations of fraud or evasion that it receives from the public to CBP, in addition to direct evidence of fraud or evasion discovered in the context of an ongoing AD/CVD proceeding. Commerce 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. CBP's agencywide coordination and partnerships with other U.S. Government agencies are essential to AD/CVD enforcement.

### AD/CVD Administration

CBP pursues 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. Prior to July 23, 2016, importers submitted paper copies of all AD/CVD entries to CBP. As of March 2021, there were an estimated 500 paper entries still awaiting liquidation messages from Commerce, dating back to 1985.

When importers file AD/CVD entries upon importation 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 from liquidation; 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 the complex instructions and determining which entries from previous years are subject to these instructions;
- Updating entry summary records with the final duty rates to calculate the final duties due;
- Inputting required data to liquidate each entry properly;
- Implementing separate court-ordered injunctions to prevent inadvertent 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 centrally manages and oversees the liquidation and processing of AD/CVD entries nationally, by industry, through the Centers of Excellence and Expertise (Centers). The Centers have national authority to process entry summaries, providing national oversight and ensuring the accuracy of CBP's AD/CVD entry processing. This national processing enables CBP to maximize the accuracy and efficiency of AD/CVD revenue assessment.

CBP's AD/CVD Policy and Programs Division and Commerce's Customs Liaison Unit are in daily contact. This coordination helps to facilitate CBP's AD/CVD entry, liquidation, and collection processes on case-specific issues. CBP also meets with Commerce, the U.S. Department of the Treasury, and the U.S. Trade Representative to confer on AD/CVD issues.

CBP and U.S. Immigration and Customs Enforcement, Homeland Security Investigations participate in joint working-level meetings with Commerce. The meetings cover a broad range of topics, including the scope of new Commerce AD/CVD investigations and existing orders; the timeliness, clarity, and content of Commerce's messages; CBP Enforce and Protect Act<sup>1</sup> investigations; and various enforcement issues.

### **Automated Commercial Environment (ACE) AD/CVD Functionality**

AD/CVD case management information, Commerce message processing, and CBP field inquiries are processed, managed, and stored in ACE to give national visibility of the data to the CBP user. CBP and Commerce continue to improve and update ACE functionality to make messages and inquiries more user-friendly and easier to research.

### **Liquidation Instructions**

CBP and Commerce work jointly to improve the timeliness, accuracy, and clarity of AD/CVD instructions. 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 Centers' personnel

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<sup>1</sup> The Enforce and Protect Act of 2015 is part of the Trade Facilitation and Trade Enforcement Act of 2015 (P.L. 114-125; codified as 19 U.S.C. § 4321).

communicate daily with Commerce on AD/CVD matters and questions related to specific entries via ACE's AD/CVD Portal.

Once Commerce issues liquidation instructions, CBP determines which entry summaries from previous years are subject to these instructions. CBP manually applies the final duty rates and calculates the amount of final duties due. CBP inputs the proper codes electronically to liquidate each entry. When needed, CBP implements separate court-ordered injunctions to stop liquidations and to process protests involving liquidation instructions and deemed liquidations. In FY 2020, CBP processed 1,851 AD/CVD instruction messages issued by Commerce and liquidated more than 242,143 AD/CVD entries. In the first quarter of FY 2021, CBP processed 454 AD/CVD instruction messages and liquidated 17,002 AD/CVD entries.

CBP and Commerce continue ongoing collaboration to update ACE and work jointly to improve boilerplate instructions and the timing of liquidation instructions. On January 15, 2021, Commerce published in the *Federal Register* the "Notice of Discontinuation of Policy to Issue Liquidation Instructions After 15 Days in Applicable Antidumping and Countervailing Duty Administrative Proceedings" (see 86 FR 3995). CBP is working with Commerce on its new timeline for issuing liquidation instructions to ensure that CBP has sufficient time to carry out these instructions before entries are deemed liquidated by operation of law.



### III. Conclusion

CBP works to implement its statutory and regulatory AD/CVD responsibilities and adheres to current CBP and other government agency policies to minimize loss of revenue through the timely and accurate liquidation of AD/CVD entries. CBP continues to prioritize enforcement actions and compliance initiatives relating to AD/CVD. The cooperation between CBP and Commerce is strong, and together the agencies will pursue all available avenues to assess AD/CVD in a timely manner, to ensure importer compliance, and to collect the revenue.

## Appendix: List of Abbreviations

<b>Abbreviation</b>	<b>Definition</b>
ACE	Automated Commercial Environment
AD	Antidumping
CBP	U.S. Customs and Border Protection
Centers	Centers of Excellence and Expertise
Commerce	U.S. Department of Commerce
CVD	Countervailing Duty
DHS	Department of Homeland Security
FY	Fiscal Year