



Inventory of Single Transaction Bonds

June 23, 2017

Fiscal Year 2017 Report to Congress



Homeland
Security

U.S. Customs and Border Protection

Message from the Acting Deputy Commissioner of CBP

June 23, 2017

I am pleased to submit the following report, "Inventory of Single Transaction Bonds," which has been prepared by U.S. Customs and Border Protection (CBP).

This report was compiled pursuant to the language set forth in Senate Report 114-264 accompanying the Fiscal Year 2017 Department of Homeland Security Appropriations Act (P.L. 115-31). The report provides information related to 2,274 bills for which single transaction bond (STB) coverage likely existed, but for which payment had not been received as of May 2015.



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 Chief Financial Officer (Acting), Stacy Marcott, at (202) 447-5751.

Sincerely,

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

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

Executive Summary

CBP has received requests for information related to the status of STB coverage associated with four antidumping orders (honey, crawfish, fresh garlic, and canned mushrooms) from China. In a response dated May 27, 2015, CBP identified 2,274 open bills for which STB coverage did exist or was likely to have existed, and for which CBP had not collected from the STB surety.

This report provides updated information about those 2,274 bills, more than 20 percent of which since have been paid or otherwise closed.



Inventory of Single Transaction Bonds

Table of Contents

I.	Legislative Language.....	1
II.	Background.....	2
III.	Discussion.....	4
IV.	Conclusion.....	5
V.	Appendix. Acronyms.....	6

I. Legislative Language

This document has been compiled pursuant to the language set forth in Senate Report 114–264 accompanying the Fiscal Year 2017 Department of Homeland Security Appropriations Act (P.L. 115-31), which states:

CBP has yet to provide the Committee the requested bond-by-bond accounting for the STBs that secure duties on entries of honey, crawfish, fresh garlic, and canned mushrooms from China that arrived through Fiscal Year 2007. CBP had indicated to the Committee that producing such an inventory would be onerous, requiring CBP staff to inventory all STBs at POEs while diverting staff’s time away from collecting outstanding duties. The Committee is narrowing its request and directs CBP within 30 days of the date of enactment of this act to report on the total number and total face value of STBs that secure the payment of AD duties for the following: (1) the 2,274 open bills for which STB coverage likely exists, but for which payment has not been received; (2) the 943 open bills issued between March-October 2014 that are still subject to CBP’s standard collection process; (3) the 1,150 open bills CBP has referred to DOJ for potential collection lawsuits; and (4) the 181 open bills still under CBP review that may be referred to DOJ.

II. Background

U.S. Customs and Border Protection (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 levels the playing field for U.S. companies injured by unfair trade practices, including merchandise that is sold at less than fair value in the United States or where a foreign government subsidizes its exports.

The U.S. Department of Commerce (Commerce) is responsible for conducting antidumping and countervailing duty (AD/CVD) investigations and reviews to determine whether, and to what degree, merchandise imported into the United States is being sold at dumped prices, or benefits from countervailable subsidies. The U.S. AD/CVD system is designed to provide the most accurate assessment possible, based on actual sales. CBP's role in enforcing the AD/CVD laws is to collect the duties assessed against applicable imports.

The current "retrospective" AD/CVD system contains inherent risks of noncollection. These risks are the natural byproduct of a process that can result in large duty increases on imported merchandise that occur months, or years, after the goods are imported. The actual amount of dumping or subsidization is not known at the time of entry, which is the time when CBP most effectively can protect the revenue of the United States. Because Commerce's assessment methodology is retrospective, it is impossible to know the final duty amount at the time of importation. Only after receiving instructions from Commerce to liquidate entries can CBP assess the final duties on the entries. Thus, it is not possible at importation to know whether the bonds on those entries will be sufficient on the basis of Commerce's subsequent determination of the duties owed.

As CBP previously has advised, a major investment of resources would be required to provide additional details for all of the referenced 2,274 bills, including the total number and total face value of the single transaction bond (STB). This commitment would detract from ongoing collection efforts, as well as potentially affect operations at various ports of entry. These data cannot be compiled from our electronic databases. CBP would be required to retrieve and to review all 2,274 entry packages, protests (if applicable), and collection files individually.

An AD/CVD bill is created when an entry of imported merchandise, subject to CVDs under 19 U.S.C. § 1671 or AD duties under 19 U.S.C. § 1673, liquidates with an increase in duties. In many instances, AD/CVD bills are the result of instructions from Commerce to liquidate the entry with additional AD/CVD due. Bills also may result where an importer fails to indicate at the time of importation that merchandise is subject to AD/CVD and makes no cash deposits, or makes inadequate cash deposits on the basis of an incorrect rate. CBP notifies the importer of record at the time of initial billing and every 30 days after the due date until the bill is paid or otherwise closed. Approximately 60 days after the initial bill date, CBP will report outstanding bills on a Formal Demand on Surety for Payment of Delinquent Amounts Due (informally known as the "612 Report") and every month thereafter until the bill is paid or otherwise closed. CBP also provides an additional written demand informing the surety of the consequences of failing to cooperate with the agency to resolve the debt.

Ultimately, if CBP is unable to collect the applicable duties from either the principal or surety via administrative collection processes, the debt will be referred to CBP's Office of the Chief Counsel (OCC) for legal action if the principal amount is more than \$1,500. CBP OCC reviews each claim for legal sufficiency and makes demands on delinquent entities or refers matters to the U.S. Department of Justice (DOJ) for litigation, when appropriate. In limited circumstances, DOJ may accept referrals for legal action even if the principal amount owed is less than \$2,500 (see 31 C.F.R. § 904.4). When available surety bond coverage fails to result in full payment of a claim, OCC refers the bills back to the CBP Revenue Division for further research and/or to initiate termination of collection procedures.

When CBP has exhausted the above collection stages and claims remain unpaid, CBP will terminate collection action and discharge the indebtedness. CBP OCC's concurrence must be obtained to complete the termination of collection process.

III. Discussion

Of the 2,274 open bills for which STB coverage likely existed, but for which payment had not been received as of May 2015:

- 961 bills are awaiting further action.

This category would include (but is not limited to) bills covered by an open protest, bills awaiting referral to private collection agencies, and bills awaiting write-off or cancellation.

- 499 bills now are closed.

The overwhelming majority of these bills have been closed as a result of being partially paid, or paid in full.

- 806 bills reside with DOJ.

In May 2015, CBP indicated that 1,150 bills had been referred to DOJ. At this time, 806 bills reside with DOJ. Some of the bills currently with DOJ initially were referred *after* May 2015. When CBP is unable to collect the applicable duties from either the principal or surety via administrative collection processes, the debt is referred to CBP's OCC for legal action if the principal amount is more than \$1,500. OCC reviews each claim for legal sufficiency and makes demands on delinquent entities or refers matters to the DOJ for litigation, when appropriate.

- Eight bills are currently under review by CBP OCC.

In May 2015, CBP indicated that 181 bills open at that time were still under review for further action, and that these bills eventually might be referred to DOJ. Currently, eight open bills are under review by the CBP OCC. However, at this time, CBP cannot quantify the total number of bills that ultimately might be referred to DOJ until other administrative collection efforts have been exhausted.

Also, of the 943 bills issued from March to October of 2014; 442 bills now are closed (47 percent). The overwhelming majority of these bills have been closed as a result of being partially paid, or paid in full.

IV. Conclusion

The current status of the 2,274 bills is as follows:

- 499 bills are closed;
- 806 bills reside with DOJ;
- 8 bills are currently under review by CBP OCC; and
- 961 bills are awaiting further action.

V. Appendix. Acronyms

Acronym	Definition
AD/CVD	Antidumping and Countervailing Duty
CBP	U.S. Customs and Border Protection
Commerce	U.S. Department of Commerce
DOJ	U.S. Department of Justice
OCC	CBP Office of the Chief Counsel
STB	Single Transaction Bond