



Antidumping and Countervailing Duty Collection of Outstanding Claims

FY 2015 Report to Congress

October 27, 2015



Homeland
Security

U.S. Customs and Border Protection

Message from the Deputy Commissioner of CBP

October 27, 2015

I am pleased to submit the following report, “Antidumping and Countervailing Duty Collection of Outstanding Claims,” as prepared by U.S. Customs and Border Protection (CBP).



This report was compiled pursuant to legislative language set forth in Senate Report 113-198, which accompanies the *Fiscal Year (FY) 2015 Department of Homeland Security Appropriations Act (P.L. 114-4)*. It provides a detailed account of the current outstanding antidumping and countervailing duty (AD/CVD) claims, including the number of claims, the value of each claim, the stage of collection for each claim, and the date on which the claim was referred for further action to either the CBP Office of Chief Counsel or the U.S. Department of Justice.

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

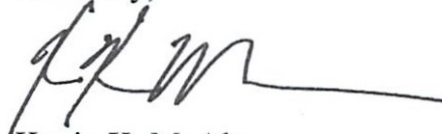
The Honorable Lucille Roybal-Allard
Ranking Member, House Appropriations Subcommittee on Homeland Security

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

The Honorable Jeanne Shaheen
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, Chip Fulghum, at (202) 447-5751.

Sincerely,

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

Kevin K. McAleenan
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. In FY 2014, CBP collected approximately \$48.1 billion. Importers deposited approximately \$532.5 million in AD/CVD, which represents 1.1 percent of the total collected in FY 2014.

The majority of importers involved in shipments of goods subject to AD/CVD orders lawfully pay the duties and fees due. CBP's principal challenges with regard to AD/CVD collections include the retrospective nature of the AD/CVD system and the inability of a bonding system based on suretyship to effectively secure AD/CVD debts. This report focuses on the AD/CVD collections process, and will not directly address the related but distinctive issue of AD/CVD evasion. AD/CVD evasion (any effort to circumvent the AD/CVD program, including AD/CVD collections) has been addressed in other CBP reports; most notably the "Antidumping and Countervailing Duty Enforcement Actions and Compliance Initiatives" annual report to Congress.

Outstanding AD/CVD claims are a very challenging matter. Uncollected AD/CVD debt is disproportionately concentrated among a handful of industries within a few countries (principally China). This subset is primarily characterized by final AD/CVD liquidation rates that are approximately 10 – 20 times greater than the initial AD/CVD deposit rates. CBP continues to explore a variety of avenues to address the challenge of uncollected AD/CVD debt.

The actual amount of dumping or subsidization is not known at the time of entry, which is the time when CBP has the best opportunity to enforce collection of the duties properly owed to the U.S. Government. Commerce is responsible for conducting 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. CBP's role in enforcing the AD/CVD laws is to collect the duties assessed against applicable imports. The U.S. AD/CVD system is designed to provide the most accurate assessment possible, based on actual sales. Because Commerce's assessment methodology is retrospective, it is impossible to know the duty amount at the time of import. Thus, under U.S. law and the World Trade Organization Agreements, importers make cash deposits at the time of import and parties have the right to request administrative reviews to calculate the actual amount of duties owed. Administrative reviews can take up to 18 months as Commerce collects updated information on pricing and subsidization, analyzes that information, and issues a notice of final results of review in the Federal Register.

Additionally, final assessment may be delayed when parties litigate the administering authorities' determinations. Such legal challenges can postpone the final duty assessment for several more years. Further, principals (importers) or sureties have the right to an additional 90- or 180-day period to file a protest. Protests provide parties the ability to challenge CBP's decisions on the final assessment of duties. The overwhelming majority of all protests were not approved, yet they serve to delay CBP's efforts to collect. Therefore, it is not unusual for more than 2 years to pass between the entry date and the date when CBP can begin its actual collection efforts. At any time during these stages, companies may go out of business, file for bankruptcy, or otherwise avoid duty collection efforts.

This report provides information about the outstanding AD/CVD claims currently due to the U.S. Government, and will allow for a greater understanding of these debts, the efforts undertaken by CBP to collect these monies, and the challenges that hinder collection. Despite these challenges, CBP actively pursues collection of all unpaid AD/CVD claims.



Antidumping and Countervailing Duty Collection Outstanding Claims

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I. Legislative Language

This report is presented in accordance with Senate Report 113-198, which accompanies the *Fiscal Year (FY) 2015 Department of Homeland Security (DHS) Appropriations Act (P.L. 114-4)*.

Senate Report 113-198 states:

Separately, CBP is directed to report to the Committee on collection of the outstanding \$1,079,000,000 in AD/CVD duties, including the number of claims, the value of each claim, the stage of collection for each claim and the date on which the claim was referred for further action to either the CBP Chief Counsel or Department of Justice. This report shall be submitted to the Committee not later than 180 days after the date of enactment of this act. This report will include the steps that have been taken to recover funds and will also include the challenges that prevent collection. CBP shall publish on its Web site a version of this report that provides appropriate privacy and trade sensitivity protections.

II. Background

CBP has a statutory responsibility to collect all revenue under the tariff laws of the United States. CBP plays a ministerial role in the U.S. Government's efforts to level 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 country subsidizes its exports. The majority of importers involved in shipments of goods subject to AD/CVD orders lawfully pay the duties due.

The laws governing AD/CVD collections are provided for in Title VII, Sections 701-783 of the *Tariff Act of 1930*, as amended, and updated in 1994 by the *Uruguay Round Agreements Act* (P.L. 103-465). These provisions are codified as Chapter IV of Title 19 of the United States Code (U.S.C.), sections 1671-1677n (19 U.S.C. §§ 1671-1677n). The AD/CVD provisions are also governed by the *North American Free Trade Agreement Implementation Act* (P.L. 103 -182), which amended Title 19 concerning trade between Mexico, Canada, and the United States. The U.S. Department of Commerce's (Commerce) regulations governing how to implement the AD/CVD provisions of the U.S.C. are laid out in Title 19, Part 351 of the Code of Federal Regulations (19 CFR Part 351). CBP's regulations concerning AD/CVD are laid out in 19 CFR §§ 159.41 and 159.47, which state that AD/CVD shall be assessed according to Commerce's regulations.

Commerce is responsible for conducting AD/CVD investigations and reviews to determine whether, and to what degree, merchandise is being sold at dumped prices, or benefits from countervailable subsidies. CBP's role in enforcing the AD/CVD laws is to collect the duty deposited at the time of entry and to assess the final duty amount at the close of an AD/CVD administrative review of applicable imports.

An AD/CVD bill is created when an entry of imported merchandise, subject to countervailing duties under 19 U.S.C. § 1671 or antidumping duties under 19 U.S.C. § 1673, liquidates with an increase in duties. Most AD/CVD bills are the direct result of instructions from Commerce to liquidate the entry with additional AD/CVD due. A small percentage of AD/CVD bills are the result of CBP attempting to collect deposits on AD/CVD entries where those deposits have been secured by a bond. CBP notifies the principal (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. If a surety bond has already been exhausted, CBP will not

make a demand on the surety for other open bills covered by that surety bond as the surety is no longer liable.

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 the Office of Chief Counsel (OCC) for legal action if the principal amount is over \$1,500. 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 CFR § 904.4).

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

III. Challenges to Collection

A. AD/CVD System

CBP's ability to fulfill its statutory responsibility with regard to AD/CVD is significantly impacted by the United States' retrospective AD/CVD system and the willingness and ability of importers to pay AD/CVD. In some cases, it is further hampered by these parties' exploitation of the review and due process requirements that are inherent in any World Trade Organization (WTO)-compliant AD/CVD system. The challenges posed by the current system have been well-documented in numerous CBP reports, as well as in at least three reports issued by the U.S. Government Accountability Office (GAO) dating back to 2008.¹ Moreover, the current U.S. AD/CVD system was the subject of a comprehensive analysis by Commerce provided to Congress in 2010.²

Under the U.S. system, CBP collects estimated AD/CVD at the time of entry either in the form of cash or a bond as security, but the final AD/CVD amount an importer is obligated to pay is not known until the conclusion of an administrative proceeding, that is, after Commerce conducts an annual review of the AD/CVD order, or after a final and conclusive court decision has been issued. Commerce usually completes an administrative review 1 to 2 years after entry has occurred.³ Commerce's findings may then be subject to judicial review by the U.S. Court of International Trade and the U.S. Court of Appeals for the Federal Circuit or, with respect to imports from Canada or Mexico, review by a bi-national panel. Therefore, final determination of the AD/CVD amount to be collected may not be settled until the conclusion of litigation, during which time CBP often is enjoined from liquidating subject entries. If the AD/CVD assessment rate established by Commerce's review is greater than the estimated AD/CVD paid at entry, CBP is required to liquidate the underlying entry in a timely manner and to issue a bill to the importer and any surety to collect the additional AD/CVD. When the bill is finally issued, an importer or surety that is not willing or does not have the financial ability to pay the duties affects CBP's ability to successfully collect these duties.

Due to the due process required of an AD/CVD system, it often results in the issuance of bills years after the importation of merchandise has occurred. For the original importers of the merchandise (who have almost always sold the goods long before they receive a bill for additional duties from CBP), many are unwilling, unable, or simply have no

¹ GAO-08-391; GAO-08-876R; and GAO-11-693T.

² "Relative Advantages and Disadvantages of Retrospective and Prospective Antidumping and Countervailing Duty Collection Systems," November, 2010.

³ If no review is requested, Commerce will issue automatic instructions requesting CBP to liquidate at the amount of the cash deposit or bonding rate.

intention of paying any increase in duties. The specific percentage of total uncollected duties attributable to each of these circumstances is impossible to determine.

B. Delays Related to Protests

In addition to the significant delay in issuing AD/CVD bills inherent in the U.S. retrospective system, other factors inherent in the duty collection process may further lengthen the period of time between importation of AD/CVD merchandise and active collection efforts. For example, 19 U.S.C. § 1514 permits an importer or surety to protest a decision, including the legality of all orders and findings entering into those decisions, made by CBP. A protest can lengthen the period of time between liquidation and CBP's efforts to actively collect on that bill. During a protest, these amounts remain due but, as a general rule, CBP will not sanction an importer solely on the grounds for failure to pay increased duties or additional duties on liquidation or re-liquidation until a decision is reached on the open or suspended protest. CBP is also less likely to demand a larger continuous bond from the debtor (i.e., more security on future importations) as a result of existing debt if that debt is covered by an open protest. Since 2004, the governing statute and CBP regulations have allowed for the filing of a protest up to 180 days after the date of notice of liquidation (which is also usually the initial bill date). Moreover, the protesting party may seek further administrative review of CBP's initial decisions to deny a protest. In short, debtors may often continue to import and operate 'business as usual' despite having a significant amount of open debt as long as the importer or surety has protested that debt.

C. Duty Avoidance

A significant majority of the debtors associated with uncollected AD/CVD debts have not evaded AD/CVD duty obligations in the sense that the associated import entries were accurately classified and correctly filed. Moreover, in most cases, these entities deposited the required amount of AD/CVD at the time of entry and fully complied with all CBP bonding requirements. These importers have not overtly evaded the AD/CVD entry process and are generally not culpable of negligence, gross negligence, or fraud.

However, these debtors share certain characteristics that strongly suggest they never intended to pay, or lacked the financial ability to ever pay, any significant increases in duties that might result from Commerce's review of unfair pricing practices or countervailable subsidization. Often referred to as "shell companies," they are characterized by having few assets and being lightly capitalized or undercapitalized. From the outset, these transitory entities lack the financial resources to pay large AD/CVD bills issued years after the imported goods have been imported and sold. Such entities are able to easily enter (and leave) markets for imported goods subject to AD/CVD. They tend to be in existence for a relatively short period of time, import only merchandise that is subject to AD/CVD, and typically disappear or dissolve before CBP

issues AD/CVD bills associated with their importations. In some instances, CBP analysis suggests that overseas manufacturers deliberately create such importing entities to secure access to the U.S. market while avoiding the payment of AD/CVD duties that accompany the imported goods.

Too frequently, by the time that CBP is able to take action to collect AD/CVD bills, these importers have gone out of business, entered bankruptcy, or simply disappeared, leaving few or no assets that could satisfy a bill or a judgment. Efforts are being made to identify these likely parties early in the process, and to require additional security where possible to help minimize the uncollected duty problem that results from the difference between a deposit amount and the actual final duties owed.

An example of the above is evident from looking at the timeline for one importer who is associated with 777 of the open AD/CVD bills.

- Importer was incorporated under state law in Month 1;
- Importer established a CBP importer record in Month 3;
- Importer filed first entry in Month 12;
- Importer filed last entry in Month 25;
- Importer entered approximately \$30 million of merchandise in just over 1 year;
- Importer officially dissolved in Month 25 (same month as date of last importation);
- Liquidation of the entries was suspended by operation of law while Commerce conducted its review of the AD/CVD order in order to determine the final AD/CVD rate;
- CBP timely issued the first bills for additional AD/CVD for this importer in Month 43;
- Importer currently owes CBP \$43.4 million; and
- The only money collected by CBP thus far in connection with the 777 AD/CVD bills issued to this importer was a \$50,000 payment from the continuous bond surety.

D. Surety Nonpayment and Litigation

CBP faces significant legal challenges from the sureties whose bonds secure the AD/CVD bills. OCC is in the midst of executing an overall litigation strategy on outstanding AD/CVD bills and has worked with DOJ to file more than 30 lawsuits against sureties in the U.S. Court of International Trade. In these collection cases initiated by DOJ, CBP is seeking to collect more than \$73 million under surety bonds securing imports of crawfish tail meat, potassium permanganate, wooden bedroom furniture, canned mushrooms, garlic, and honey. These cases are in various litigation phases, from pleading to appeal.

In addition, CBP is working with DOJ to actively defend about 325 lawsuits, the majority of which have been brought by a single surety, seeking refunds exceeding \$98 million of AD/CVD payments already made. Many of these cases center on legal issues such as liability and bond validity, in addition to other legal defenses.

OCC also is working with DOJ to seek the fullest recovery possible in the state insolvency proceedings of three former customs sureties. These proceedings have continued for almost 15 years, requiring an extensive commitment of resources by both OCC and DOJ.

In all of these matters, CBP is working with DOJ to aggressively pursue both equitable and statutory interest against sureties for failing to pay outstanding bond obligations upon lawful demand. This includes pressing for interest in excess of the bond amounts when CBP and DOJ are required to utilize their limited resources to file a collection action, often after years of nonpayment by the sureties, and in some cases even after the surety admits to having no legal basis for nonpayment. In this way, CBP seeks to establish a clear monetary incentive for sureties to make prompt payment upon demand, as well as a disincentive for future litigation based on spurious defenses. To that end, the Court of Appeals for the Federal Circuit recently awarded CBP a major victory by agreeing with CBP that sureties are liable for penalty interest under 19 U.S.C. § 580 on all types of customs bonds, including bonds securing regular duties and AD/CVD. See United States v. American Home Assurance Co., No. 2014-1292, slip op. (Fed. Cir. June 17, 2015). DOJ and CBP intend to build on this victory in cases still being litigated.

E. Inability of Current Suretyship Procedures to Guaranty Collections

As uncollected AD/CVD debt continues to grow despite CBP's numerous efforts to improve collections, it is becoming evident that the use of security (in terms of CBP's current surety bond process) cannot fully address the collection challenges presented by the retrospective AD/CVD process. Even if improved upon, the suretyship procedures are not a panacea. The surety nonpayment and litigation issues cited in the previous section are just one example of the inability of a surety/security approach to insure collections under a retrospective AD/CVD system.

Even if CBP were to require significant amounts of additional security for all merchandise subject to AD/CVD, and could collect on that security in a flawless and cost-effective manner, that additional security likely would offset only a small portion of the uncollected debt that results from final antidumping rates on imported goods as much as 10 to 20 times greater than the initial deposit rate. Moreover, the only way for bonding to effectively bridge the chasm between duties deposited at time of importation and final AD/CVD amounts due would be for security requirements to be so prohibitively high as to pose severe restrictions on any business importing merchandise subject to AD/CVD. Such bonding requirements likely would dramatically reduce importations of

the commodity, drive more parties to attempt to intentionally evade the AD/CVD order, and could face an immediate challenge in the U.S. Court of International Trade (“CIT”) or before the WTO.

As an example of surety bonds being unable to solve the challenge posed by AD/CVD collections, consider the case of another importer/debtor. AAA Imports Inc. (hereafter referred to as ‘AAA’) (a fictitious name but all of the details presented here factually correspond to an actual AD/CVD collection account) imported more than \$100 million of goods subject to an antidumping order over a 4-year period.

AAA entries of merchandise subject to antidumping were properly filed. The anti-dumping status of the merchandise was correctly declared at time of entry. AAA did not evade the CBP antidumping process; although it may be reasonable to suspect that AAA never intended to pay the additional duties associated with a final liquidation rate of over 200 percent. Along with the continuous bond security required, CBP also collected antidumping duty deposits of 15 – 30 percent of the merchandise value at the time of entry on the AAA importations of antidumping goods (according to cash deposits rates set by Commerce). AAA as a company did not have any history with CBP that would suggest that it was a payment or compliance risk.

The first bill to AAA for additional antidumping duties due was not issued until approximately 2 years after AAA’s last importation. By the time debt even started to accrue, AAA was no longer actively importing. CBP since has collected in full on all of the applicable continuous bond coverage, and the total amount of antidumping collections by CBP in connection with the AAA importations is \$16.8 million (roughly 15.6 percent of the *total value* of the subject merchandise entered by AAA). Still, AAA currently owes more than \$200 million in additional antidumping duties. Moreover, the total amount of this open debt continues to increase as interest accrues and likely will increase when additional AAA entries are liquidated. CBP is unlikely to recover any additional money from this importer.

Under the current AD/CVD process, CBP cannot practically rely on surety bonds to prevent this scenario from reoccurring to some degree. The clear need for CBP to demand even more security on AAA entries (whether via continuous bond or single transaction bond) was neither apparent nor justifiable at the time the goods were imported. Moreover, AAA was already posting an increased amount of security and depositing a significant amount of antidumping duties at the time the goods were originally entered. The bonding requirement and antidumping deposits created significant additional operating costs for this importer, and might have been unnecessary in retrospect if Commerce had issued a final liquidation rate of 0 percent.

F. Bankruptcy

In those instances where a debtor has filed for bankruptcy protection, CBP is hindered from collecting on any AD/CVD bill resulting from an entry made prior to the debtor's bankruptcy filing date. As a result, based on years of experience, CBP is likely to recover only a very small percentage of the debts covered by bankruptcy proceedings.

G. Overseas Debtors

Debtors domiciled overseas present unique collection challenges for CBP. These entities are more likely to have a limited and transitory U.S. presence, including fewer assets within the United States. The lack of reciprocal revenue agreements between the United States and the foreign countries in which these overseas debtors reside severely restricts the legal options available to CBP to collect on these debts. The consequences, financial or otherwise, of an overseas debtor refusing to pay an AD/CVD bill are virtually non-existent. The delinquent overseas entity can easily establish a new importer account using a different name and address, and resume importing goods into the United States without paying the debts accumulated under the previous identity.

IV. CBP Efforts to Improve Collections

Below is a list of some of the recent actions that CBP has taken to improve collections. While these initiatives improve the overall recovery rate on AD/CVD debts, the net effect of these measures is primarily to mitigate the downstream effects on collections under the current system rather than resolve the AD/CVD debt problem.

A. AD/CVD Collections Team

A key component of CBP's current strategy to improve collections on the AD/CVD debts identified in Appendix B involved the creation of a permanent team within the CBP Office of Administration dedicated solely to the collection of AD/CVD debts.

By creating a team focused solely on AD/CVD collections, CBP has started to realize the following gains:

- Enhanced technical expertise to deal with the unique complexities posed by the AD/CVD entry, suspension, liquidation, and collection processes.
- Earlier identification of importers unwilling or unable to pay outstanding AD/CVD bills.
- Added emphasis on leveraging CBP's bonding authority to require additional security on current AD/CVD importations where appropriate.

B. Liquidation & Statute of Limitation Efforts

In the past year, enhanced communication between CBP offices, as well as helpful information received from U.S. industry and Commerce, has resulted in improvements to the AD/CVD liquidation process. These liquidations, which result in the creation of the AD/CVD bills, are the cornerstone of the AD/CVD collections process. Through these collaborative efforts, CBP has improved its ability to timely liquidate AD/CVD entries after liquidation instructions are received from Commerce. Expanded analysis and communication have also helped to insure compliance with expiring statutes of limitations when making claims on the surety bond for AD/CVD debts.

C. Expanded Use of Single Transaction Bonds

CBP continues to utilize its legal authority to require additional security in the form of a single transaction bond (STB) to protect the revenue when CBP has reasonable evidence that a risk of revenue loss exists. These efforts to require additional security have been particularly effective at simultaneously protecting the revenue while facilitating compliance when utilized with regard to AD/CVD importations. CBP has partnered with Commerce in this effort to better utilize bonding as a means to improve collectability.

D. Diverted Refunds and Offset

CBP has had longstanding authority under 19 § CFR 24.72 to divert refunds under certain conditions and to apply those moneys to satisfy open, valid debts for the same account. The AD/CVD Collections Team currently reviews all refunds to identify opportunities for diversion, and has flagged more than \$500,000 in refunds for potential diversion in the past 2 years.

Pursuant to 26 U.S.C. § 6402(d) and 31 U.S.C. § 3720A, CBP may utilize tax refund offsets to pay certain AD/CVD debts owed by an account. Although not historically a very effective means of recovering duties, CBP is currently re-evaluating the efficacy of that process and has submitted a sampling of AD/CVD debtors to the Treasury Offset Program in 2015. The Treasury Offset Program is a centralized offset program, administered by the Bureau of the Fiscal Service's Debt Management Services, to collect delinquent debts owed to federal agencies.

V. Conclusion

The continued growth in the amount of uncollected AD/CVD despite CBP's efforts to improve collections is troubling. Since our report to Congress approximately 2 years ago, the number of open AD/CVD bills has increased by almost 50 percent. These data, coupled with the challenges described herein, strongly suggest that more must be done beyond simply improving our execution of existing processes under current regulations.

The actual amount of dumping or subsidization is not known at the time of entry, which is the time when CBP has the best opportunity to enforce collection of the duties properly owed to the U.S. Government. CBP's ability to fulfill its statutory responsibility with regard to AD/CVD is significantly impacted by the unwillingness and inability of importers to pay AD/CVD and in part due to the review and due process requirements that are inherent in any WTO-compliant AD/CVD system.

Under the U.S. system, CBP collects estimated AD/CVD at the time of entry either in cash or bond, but the final AD/CVD amount an importer is obligated to pay is often not known until the conclusion of an administrative proceeding, that is, after Commerce conducts an annual review of the AD/CVD order, or after a final and conclusive court decision has been issued. The nature of the U.S. AD/CVD process regularly results in a 2-year period between the entry date and the date when CBP can begin its collection efforts. Protests and legal challenges further delay CBP's collection efforts. At any time during these stages, debtors may go out of business, disappear, file for bankruptcy, or otherwise avoid AD/CVD collection efforts.

Importing entities with few assets or employees may easily establish an account with CBP, import millions of dollars of merchandise, and quickly disappear years before CBP even attempts to collect on the additional AD/CVD that is legally due.

A surety bond system that adequately secures future AD/CVD obligations in the current retrospective system would necessarily impose significant costs of doing business on many, if not all, importers of merchandise subject to ADCVD. While CBP will continue to leverage surety bonding as a means to effectively collect all duties due, it is impossible to completely secure AD/CVD importations under the present retrospective system.

CBP devotes a great deal of resources to collecting secured AD/CVD debt from sureties. CBP's reliance on surety bonds to secure AD/CVD transactions is not a panacea, as the increased volume and complexity of ongoing litigation attests. In some cases, sureties refuse to pay even after admitting to having no legal basis for nonpayment.

CBP will continue to review its processes to glean lessons learned from the AD/CVD bills that remain unpaid. Where possible, CBP will focus its attention on imports where a greater risk of nonpayment appears most likely. CBP takes its responsibility to collect AD/CVD bills seriously and will continue striving to improve its collections of AD/CVD. We also look forward to working with Congress, other federal agencies, and our partners in the Trade community to consider more substantive legal changes that will better serve the multifaceted goals of enhancing U.S. economic competitiveness, reducing costs for industry, and enforcing trade laws.

VI. Appendices

Appendix A: List of Acronyms/Terms

Acronym	Definition
ACS	Automated Commercial System
AD/CVD	Antidumping and Countervailing Duty
CBP	U.S. Customs and Border Protection
CFR	Code of Federal Regulations
Commerce	U.S. Department of Commerce
DHS	U.S. Department of Homeland Security
DOJ	U.S. Department of Justice
FY	Fiscal Year
GAO	U.S. Government Accountability Office
OCC	Office of Chief Counsel (within CBP)
STB	Single Transaction Bond
U.S.C.	United States Code
WTO	World Trade Organization