



Antidumping and Countervailing Duty Liquidation Instructions

August 5, 2016

Fiscal Year 2016 Report to Congress



**Homeland
Security**

U.S. Customs and Border Protection

Message from the Deputy Commissioner of CBP

August 5, 2016

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 114-68, which accompanies the *Fiscal Year (FY) 2016 Department of Homeland Security (DHS) Appropriations Act* (P.L. 114-113). Senate Report 114-68 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 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 Deputy Under Secretary for Management and Chief Financial Officer, Chip Fulghum, at (202) 447-5751.

Sincerely,

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

Kevin K. McAleenan
Deputy Commissioner
U.S. Customs and Border Protection

Executive Summary

This report summarizes joint initiatives between CBP and Commerce in FY 2015 to improve the administration of antidumping/countervailing duty (AD/CVD) enforcement. CBP has a statutory responsibility to collect all revenue due to the U.S. Government, including: AD/CVDs resulting from the importation of 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 staff at ports of entry and centers of excellence and expertise and by 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, injunctions, and liquidation instructions. In FY 2015, CBP processed 1,612 AD/CVD instruction messages issued by Commerce, and liquidated more than 166,483 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 liquidation instructions and the enforcement of AD/CVD measures.



Antidumping and Countervailing Duty Liquidation Instructions

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I. Legislative Language

This report has been compiled pursuant to the language set forth in Senate Report 114-68, which accompanies the *Fiscal Year (FY) 2016 Department of Homeland Security (DHS) Appropriations Act* (P.L. 114-113).

Senate Report 114-68 states:

The Committee directs CBP to continue submitting the following reports required in Senate Report 112–169 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, which accompanies the *FY 2013 DHS Appropriations Act* (P.L. 113-6), states:

ANTIDUMPING AND COUNTERVAILING DUTY ENFORCEMENT REPORTS

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 goods into the United States. CBP is committed to ensuring that AD/CVD laws are enforced vigorously, and takes an agency-wide 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 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.

A. Antidumping/Countervailing Duty Administration

CBP continues to pursue modernization efforts to process AD/CVD entries and facilitate legitimate trade. The administration of AD/CVD entries is currently a paper-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;
- Filing the 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
- Providing copies of all necessary documentation in order to make a valid claim on debts secured by a surety bond.

Once Commerce issues liquidation instructions, CBP's duties 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 electronically;
- 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 that involve more than one AD/CVD case.

CBP is continuing efforts to manage and oversee centrally the liquidation and processing of AD/CVD entries nationally. This national approach replaces many redundant functions that have taken place at numerous entry-processing locations 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. These efforts are continuing in FY 2016.

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 a collaborative partnership 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 systems, allowing importers and customs brokers to file AD/CVD entry information and CBP to liquidate the entries in ACS; the liquidation capability will remain in ACS until a liquidation module is developed in ACE.

In FY 2015, CBP processed 1,612 AD/CVD instruction messages issued by Commerce. CBP staff at ports of entry used the inquiry feature of the AD/CVD module of ACE to submit 177 inquiries on AD/CVD cases to CBP Headquarters and 357 inquiries to Commerce. In addition, in FY 2015, CBP liquidated more than 166,483 AD/CVD entries in ACS. CBP and Commerce continue to work together to identify enhancements to ACE that will facilitate AD/CVD administration and enforcement further.

III. Liquidation Instructions

On a daily basis, CBP and Commerce work jointly to identify opportunities to improve the timeliness, accuracy, and clarity of liquidation instructions sent to CBP. CBP reviews every AD/CVD instruction drafted by Commerce and advises Commerce with regard to any concerns with the message content. Commerce continues to review and edit its standard AD/CVD instructions regularly to ensure that they are current and clear, and collaborates with CBP on the language of fact-specific instructions that 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 began to participate in the joint working-level meetings with Commerce in FY 2015. 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.

Among their joint activities:

- Commerce staff participated in the CBP and ICE HSI field training on AD/CVD commercial fraud enforcement and steel seminars at CBP ports of entry organized by the American Iron and Steel Institute;
- Commerce staff also participated and provided extensive input in the AD/CVD working group of CBP's Commercial Operations Advisory Committee.

In general, CBP and Commerce interact daily at the working level on numerous technical issues. CBP and Commerce closely consult on the scope language of new AD/CVD investigations. Commerce regularly provides technical advice to CBP on the scope of existing AD/CVD orders and on the coverage of AD/CVD cash deposit and liquidation instructions.

IV. Conclusion

CBP continues to ensure that, as an agency, it implements its statutory and regulatory AD/CVD responsibilities and that it adheres to current CBP policy 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 continue to pursue all available avenues to improve the level of duty collection, 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
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