



Antidumping and Countervailing Duty Liquidation Instructions (FY 2020)

June 13, 2020

Fiscal Year 2020 Report to Congress



**Homeland
Security**

U.S. Customs and Border Protection

Message from the Deputy Commissioner of CBP

June 13, 2020

I am pleased to submit the following report, “Antidumping and Countervailing Duty Liquidation Instructions,” for Fiscal Year (FY) 2020, which has been prepared by U.S. Customs and Border Protection (CBP).

The report has been compiled pursuant to direction in Senate Report 116-125, which accompanies the FY 2020 Department of Homeland Security (DHS) Appropriations Act (P.L. 116-93).

Senate Report 116-125 reaffirms the direction 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 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 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". The signature is stylized and overlaps the printed name below it.

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

Executive Summary

This report summarizes joint initiatives between CBP and Commerce in FY 2019 to improve the administration of antidumping and 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. In FY 2019, \$19 billion of imported goods was subject to AD/CVD. CBP collected approximately \$1.9 billion in AD/CVD deposits.

At the end of FY 2019, 503 AD/CVD orders were in effect as compared to 469 orders at the conclusion of FY 2018. During FY 2019, Commerce issued 53 new AD/CVD orders and Commerce initiated 59 new AD/CVD investigations. During the first quarter of FY 2020, Commerce issued 14 new AD/CVD orders and initiated 58 new investigations.

In FY 2019, CBP processed 1,704 AD/CVD instruction messages issued by Commerce and liquidated more than 283,075 AD/CVD entries for \$1.65 billion in final AD/CVDs.

CBP and Commerce work cooperatively on the administration of AD/CVD enforcement. CBP reviews every AD/CVD instruction drafted by Commerce and weighs in with any concerns about 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 collaborate through the Automated Commercial Environment (ACE), the system of record for all AD/CVD cases and instructions, to build and maintain case records and to review and publish AD/CVD instructions. In a joint effort, Commerce and CBP created a newly redesigned AD/CVD case management module within ACE. The yearlong undertaking streamlined AD/CVD case information, messages, and inquiries, resulting in a more user-friendly navigation for Commerce, CBP, and the trade community. Commerce funded this effort and collaborated with CBP on the redesign of this module. This partnership helps CBP's AD/CVD entry, liquidation, and collection processes on case-specific issues throughout the year.

CBP imposed monetary penalties, under 19 U.S.C. § 1592, totaling more than \$80.5 million on importers for fraud, gross negligence, and negligence of AD/CVD requirements. CBP entry summary reviews during FY 2019 also resulted in recovery of more than \$121.8 million in AD/CVDs owed, nearly an 86-percent increase over the revenue recovered in FY 2018. Additionally, CBP audits identified approximately \$20.3 million in owed AD/CVDs with \$4.7 million collected to date. Finally, CBP and U.S. Immigration and Customs Enforcement seized shipments with a domestic value of more than \$131,000 for AD/CVD violations.

CBP and Commerce will continue to collaborate closely to improve liquidation instructions and the enforcement of AD/CVD.



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I. Senate Report Language

This document was compiled pursuant to direction in Senate Report 116-125, which accompanies the Fiscal Year (FY) 2020 Department of Homeland Security (DHS) Appropriations Act (P.L. 116-93). Senate Report 116-125 states:

Antidumping and Countervailing Duties.—The Committee directs CBP to continue reporting on AD/CVD, as required in Senate Report 114-264 and in Senate Report 115-283.

Senate Report 116-125 references Senate Report 114-264, which accompanies the FY 2017 DHS Appropriations Act (P.L. 115-31), and Senate Report 115-283, which accompanies the FY 2019 DHS Appropriations Act (P.L. 116-6).

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.

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.

Additionally, Senate Report 112-169, which accompanies the FY 2013 DHS Appropriations Act (P.L. 113-6) and referenced in Senate Report 114-264, 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 Antidumping/Countervailing Duty 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 antidumping and countervailing duty (AD/CVD) revenue. AD/CVD long has been identified as a priority trade issue by CBP because of the importance of leveling the playing field for domestic producers injured by unfair competition. Further, the Trade Facilitation and Trade Enforcement Act of 2015 (P.L. 114-125) designated AD/CVD as a priority trade issue.

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 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 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 to CBP paper copies of all AD/CVD entries. As of March 2020, 104,994 AD/CVD paper entries still are awaiting liquidation orders 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 (previously paper 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 amount of 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, which provides national oversight and 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 throughout the year. CBP also meets with Commerce, the U.S. Department of Treasury, and the U.S. Trade Representative to confer on AD/CVD issues.

CBP and U.S. Immigration and Customs Enforcement's 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 investigations; and various enforcement issues.

1. ACE AD/CVD Functionality

AD/CVD case management information, Commerce message processing, and CBP field inquiries are processed, managed, and stored in the Automated Commercial Environment (ACE) to give national visibility of the data to the CBP user. CBP has an integrated and automated process with Commerce, in which Commerce creates the AD/CVD case in ACE and updates the case information throughout the lifetime of the case. Commerce also creates and uploads the messages into ACE with instructions to CBP. The AD/CVD case information interacts with the ACE entry processing system, allowing importers and customs brokers to file AD/CVD entry information with CBP.

In FY 2018 and FY 2019, CBP collaborated with Commerce to update and redesign the AD/CVD section of ACE. This redesign allows for more efficient functionality of AD/CVD case management in ACE, including new screens in CBP's AD/CVD case management, messages, and inquiries modules. These new functionalities foster greater communication and

cooperation between CBP and Commerce while allowing CBP to enforce AD/CVD orders better and to protect lawful revenue.

2. Liquidation Instructions

CBP and Commerce work jointly to improve 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 that deviate from the standard. CBP Centers' personnel communicate daily with Commerce on AD/CVD matters and questions related to specific entries through the AD/CVD portal within ACE.

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 2019, CBP processed 1,704 AD/CVD instruction messages issued by Commerce and liquidated more than 283,075 AD/CVD entries for \$1.65 billion in final AD/CVDs.

III. Conclusion

CBP works to ensure that it implements its statutory and regulatory AD/CVD responsibilities and that it 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 in support of the AD/CVD laws. 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.

IV. List of Abbreviations

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