



Antidumping and Countervailing Duty Enforcement Actions and Compliance Initiatives: FY 2015

Fiscal Year 2016 Report (Public Version)



Homeland
Security

U.S. Customs and Border Protection

Message from the Deputy Commissioner of CBP

I am pleased to present the following report, “Antidumping and Countervailing Duty Enforcement Actions and Compliance Initiatives: FY 2015,” 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 accompanying the *Fiscal Year (FY) 2015 Department of Homeland Security Appropriations Act* (P.L. 114-113) and Section 691(a) of the *North American Free Trade Agreement Implementation Act* (P.L. 103-182). The report provides an annual update regarding the collection of duties imposed under the Antidumping and Countervailing Duty (AD/CVD) laws during Fiscal Year (FY) 2015. Additionally, the report summarizes CBP’s efforts to collect past due amounts and increase current collections.

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 at (202) 447-5751.

Sincerely,

A handwritten signature in black ink, appearing to read 'K. McAleenan', written over a light-colored rectangular background.

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

Executive Summary

CBP is committed to ensuring that AD/CVD laws are vigorously enforced. To this end, CBP has established key partnerships with U.S. Immigration and Customs Enforcement (ICE) Homeland Security Investigations (HSI), U.S. Department of Commerce (Commerce), U.S. Department of the Treasury, Office of the U.S. Trade Representative, and other partner agencies to provide comprehensive enforcement. With these effective collaborations in place, CBP has had success in identifying, penalizing, and disrupting efforts to evade the payment of AD/CVD. In Fiscal Year(FY) 2015, CBP levied 22 monetary penalties totaling over \$51 million on importers for fraud, gross negligence, and negligence for AD/CVD violations under 19 U.S.C. § 1592. CBP also conducted 92 audits of importers that identified \$69.3 million in AD/CVD discrepancies with \$7.1 million collected to date. CBP is continuing to pursue collections of all unpaid duties.

The collection of outstanding AD/CVD duties and enforcement actions relating to AD/CVD matters remains a complex enforcement challenge. CBP and partner agencies are working closely together to address collection and related bonding issues. Consistent with legal requirements, in FY 2015, CBP continued to require additional security in the form of a Single Transaction Bond to protect the revenue when CBP had reasonable evidence of a risk of revenue loss. These measures have been very effective in protecting the revenue and facilitating compliance with AD/CVD. CBP also pursues administrative or judicial processes to maximize the collection of AD/CVD.

The future of AD/CVD enforcement will continue to rely on key partnerships, specifically with ICE HSI and Commerce, to identify patterns of non-compliance and to collaborate on enforcement cases. Partnerships with the trade community are also critical to identify unfair trading practices. The trade community provides market intelligence and commodity expertise to identify unfair trading practices or illegal trading activity. CBP is also implementing trade transformation initiatives to integrate and harmonize trade practices with CBP's processes, to better facilitate trade.

CBP's 10 Centers of Excellence and Expertise (Centers) have a strong focus on commodity-based AD/CVD orders. The Centers are centralizing AD/CVD functions for the industries and importers covered by the respective Center. The Centers are helping to increase uniformity and expertise across CBP for administration of AD/CVD entries and AD/CVD enforcement. As described in this report, these initiatives underpin CBP's commitment to target the evasion of AD/CVD, protect the revenue of the U.S. Government, and ensure a level playing field for U.S. industry.



Antidumping and Countervailing Duty Enforcement Actions and Compliance Initiatives: FY 2015

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I. Statute and Committee Report

This report has been compiled pursuant to the language set forth in Senate Report 114-68 accompanying the *Fiscal Year (FY) 2016 Department of Homeland Security Appropriations Act* (P.L. 114-113) and Section 691(a) of the *North American Free Trade Agreement Implementation Act* (P.L. 103-182).

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.

Section 691(a) of P.L. 103-182 states:

(a) **ANTIDUMPING AND COUNTERVAILING DUTY COLLECTIONS.**—The Commissioner of Customs shall before the 60th day of each fiscal year after fiscal year 1994 submit to Congress a report regarding the collection during the preceding fiscal year of duties imposed under the antidumping and countervailing duty laws.

II. Background on CBP's AD/CVD Enforcement

U.S. Customs and Border Protection (CBP) has a statutory responsibility to collect all revenue due the U.S. Government, including Antidumping and Countervailing Duties (AD/CVD), resulting from the importation of goods into the United States. CBP has specifically designated AD/CVD enforcement as a Priority Trade Issue (PTI). PTIs are high-risk areas that can cause significant revenue loss, hurt the U.S. economy, or threaten the health and safety of the American people. The AD/CVD trade program was elevated to PTI status within CBP in Fiscal Year (FY) 2003 to ensure that a concerted, systematic approach was implemented to facilitate legitimate trade, detect and deter evasion of the AD/CVD laws, and liquidate transactions in a timely and accurate manner.

CBP is committed to ensuring that AD/CVD laws are vigorously enforced, and takes an agency-wide approach to AD/CVD enforcement. CBP collaborates with U.S. Immigration and Customs Enforcement (ICE) Homeland Security Investigations (HSI) to substantiate and act upon allegations of duty evasion and to support enforcement actions. CBP also partners with Commerce on a wide range of AD/CVD issues related to enforcement responsibilities. CBP's agency-wide coordination and partnerships with other government agencies are essential to its enforcement of AD/CVD laws.

In FY 2015, companies imported approximately \$2.4 trillion in goods, and deposited approximately \$35 billion in duties in the Treasury. Of the \$2.4 trillion in goods imported in FY 2015, approximately \$10.1 billion, or 0.4 percent, were subject to an AD/CVD order. Importers deposited approximately \$1.17 billion in AD/CVD duties, which represents approximately 2.6 percent of the total duties collected in FY 2015.

A. Enforcing AD/CVD Laws to Address Evasion

CBP takes all indications or allegations of evasion very seriously and employs all available methods in accordance with law to address these matters. The increasing complexity of the strategies employed by parties attempting to evade AD/CVD laws is a constant challenge.

CBP identifies potential evasion by working with U.S. industry, ICE HSI, Commerce, other U.S. Government agencies, and our international partners, including the Canada Border Services Agency, to develop new sources of information to identify AD/CVD evasion. CBP also takes a comprehensive and integrated view of security and trade enforcement and pursues all available avenues to identify and penalize efforts to evade AD/CVD. CBP is continually exploring options that will provide additional information and new and innovative tools to protect U.S. revenue and identify those who try to evade payment of AD/CVD.

CBP and ICE HSI have had success in identifying, penalizing, and disrupting efforts to evade the payment of AD/CVD. In FY 2015, CBP levied 22 monetary penalties totaling over \$51 million on importers for fraud, gross negligence, and negligence for AD/CVD violations under 19 U.S.C. § 1592. These penalties covered importers of AD/CVD commodities such as aluminum extrusions, bedroom furniture, cast iron flanges, citric acid and sodium citrate, laminated woven sacks, large diameter line pipe, pencils, petroleum wax candles, polyester staple fiber, polyethylene bags, R-134A refrigerant gas, seamless carbon and alloy steel, and tires. CBP and ICE HSI seized shipments of AD/CVD commodities with a domestic value of over \$5.1 million for violations of AD/CVD.

To target AD/CVD evasion, CBP utilizes significant national assets from across the agency to enforce AD/CVD laws. CBP employs many tools including import trade trend and valuation analysis, the use of targeted reviews and audits to address high-risk cases, lab testing, and special operations. In FY 2015, CBP carried out a total of 28,783 reviews of potential AD/CVD evasion, which were recorded in CBP's Validation Activity system.

CBP targets individual importers and uses industry-wide approaches to detect and deter AD/CVD evasion. For example, CBP conducts AD/CVD audits of individual importers, and conducts audit surveys to cover multiple importers of individual AD/CVD commodities. These AD/CVD audit surveys measure the risk of a sector of AD/CVD imports, determine the suitability of full audits, and provide informed compliance for future imports. In all, CBP completed 92 audits of importers of AD/CVD commodities (up from 78 AD/CVD audits in FY 2014), including activated carbon; aluminum extrusions, artist canvas; bearings; cookware; copper pipe; drawn steel sinks; glycine; hand tools, hand trucks; hangers; helical spring lock washers; laminated woven sacks; lawn groomers; non-malleable cast iron pipe fittings; multilayered wood flooring; pencils; petroleum wax candles; polyethylene terephthalate film; polyethylene bags; ribbons; shelving; solar cells; steel nails; steel threaded rod; tires; wire decking; and wooden bedroom furniture. These audits identified \$69.3 million in AD/CVD discrepancies (up from \$24.6 in FY 2014) with \$7.1 million collected to date. CBP is continuing to pursue collections of all unpaid duties.

CBP continues to protect the revenue in cases of suspected AD/CVD evasion by employing its legal authority to require additional security in the form of a Single Transaction Bond (STB) on AD/CVD imports to protect the revenue when CBP has reasonable evidence that a risk of revenue loss exists. In cases of AD/CVD evasion and noncompliance (and other identified financial risks), these measures have been very effective in protecting the revenue and facilitating compliance with AD/CVD orders.

CBP Laboratories and Scientific Services played a key supporting role in CBP's anti-

evasion efforts. CBP employs lab testing in multiple ways to enforce AD/CVD orders, including determining whether imports fall under the scope of AD/CVD Orders, and the country of origin of imports (as long as a laboratory test is available to do so). In FY 2015, this division handled 1,035 samples of over 32 different commodities relating to 294 entries of importations of suspect AD/CVD violations.

In addition to CBP's self-directed targeting of AD/CVD evasion, CBP also targets AD/CVD evasion based on allegations received from industry and partner government agencies. In FY 2015, CBP Headquarters received 84 allegations of AD/CVD evasion and noncompliance. These allegations were primarily provided to CBP through CBP's e-Allegations online trade violations reporting system available at (<https://apps.cbp.gov/eallegations>). CBP reviews and researches every allegation submitted through e-Allegations to determine the validity of the trade law violations being alleged. Some are reviewed and resolved internally within CBP, and some are referred to ICE HSI for further investigation

1. Enforcement Partnerships

Trade Partnerships

CBP's most valuable partner in AD/CVD enforcement is U.S. industry. CBP has effective working relationships with many U.S. industries and meets regularly with U.S. industry representatives to discuss AD/CVD evasion schemes. CBP's AD/CVD enforcement can only be successful when it is conducted in partnership with U.S. industry, trade associations, and importers. The trade provides critical insight to CBP on what is happening in the U.S. and international marketplace, and their perspectives help CBP interpret the vast amount of trade data available to CBP. The trade can help CBP identify unusual trading patterns, high-risk exporters and importers, and new products in the marketplace, and supplement CBP's own analyses of high-risk imports. They also provide CBP with technical commodity information. By working with the trade community, CBP deepens its understanding of the way business and industry operate in the ever-changing global marketplace and leverages that information for risk analysis and targeting.

CBP takes a proactive approach to AD/CVD enforcement, and works with industry to help prepare CBP to enforce new AD/CVD Orders. During the preliminary phases of Commerce's AD/CVD investigations, CBP meets with industry representatives to obtain market information and commodity expertise, and CBP provides technical advice to make the measures more enforceable. During FY 2015, CBP held in-depth discussions with industry representatives to prepare to enforce AD/CVD on numerous commodities.

After AD/CVD orders are issued, CBP works with U.S. industry to provide training necessary to enforce the orders. The U.S. industry provides national webinars to train

CBP field staff on product information, market trends, and indications of AD/CVD evasion. CBP also regularly meets with trade representatives on an ongoing basis about specific AD/CVD evasion issues. In FY 2015, CBP conducted seven webinars with U.S. industry representatives regarding such commodities as calcium hypochlorite from China, laminated woven sacks, monosodium glutamate, passenger vehicle and light truck tires, solar cell and panels, steel nails, and sugar from Mexico.

In FY 2015, CBP increased its commitment to working with the trade through field visits to industries across the United States. Multi-disciplinary groups of CBP staff visited U.S. producers of calcium hypochlorite, monosodium glutamate, solar cells, and steel in order to increase CBP's technical knowledge of these commodities subject to AD/CVD orders. Additional visits are planned for FY 2016 to other U.S. producers to continue this education process.

CBP is also collaborating with trade partners to develop and implement trade transformation initiatives to integrate and harmonize trade practices with CBP's processes to better facilitate trade. CBP continues to meet regularly with the AD/CVD Working Group of the Commercial Operations Advisory Committee to solicit advice and develop new initiatives with regard to CBP's enforcement and collections of AD/CVD.

As part of CBP's extensive collaboration with the trade community, CBP is improving its transparency on its AD/CVD evasion enforcement efforts. In FY 2015, CBP began to post monthly AD/CVD updates on CBP.gov to provide updates on its AD/CVD enforcement efforts. CBP also instituted standard procedures to increase communication with every party that provides allegations of AD/CVD evasion to CBP. CBP continues to seek ways to increase transparency that are consistent with the Trade Secrets Act, Privacy Act, and similar legislation.

Government Partnerships

Senate Report 112-198, as referenced by Senate Report 114-68 and P.L. 103-182, directs CBP to work with Commerce, U.S. Department of the Treasury (Treasury), and the Office of the U.S. Trade Representative, and all other relevant agencies to increase collections. In accordance with this requirement, CBP closely collaborates with ICE HSI at all levels to develop and coordinate civil and criminal enforcement of the AD/CVD laws. CBP and ICE HSI have opened joint Trade Enforcement Coordination Centers in Chicago, Detroit, Houston, Los Angeles, New Orleans, and New York, which support holistic enforcement in AD/CVD cases.

CBP and ICE HSI have also expanded cooperation at the port and Special-Agent-in-Charge levels. To this end, CBP and ICE HSI jointly trained field staff from both agencies in FY 2015 in Laredo, Texas and San Juan, Puerto Rico on collaborating on

AD/CVD commercial fraud enforcement to support early development of stronger cases for criminal prosecution and civil penalties.

Another valuable partner in AD/CVD enforcement is Commerce, which is responsible for administering the AD/CVD laws and establishing the duty amounts CBP collects from importers. CBP and Commerce share extensive information on AD/CVD. On a continuing basis, Commerce refers to CBP the allegations of fraud or evasion it receives from the public in addition to evidence it uncovers during the conduct of its own AD/CVD proceedings. Commerce also provides CBP with potential audit candidates on the basis of information received in the context of its AD/CVD proceedings. Commerce further supports CBP's efforts at countering evasion by reviewing, upon request, information obtained during CBP audits and identifying discrepancies or claims that contradict information on Commerce's record of the underlying proceeding. Commerce also regularly provides training and webinars to CBP on complex AD/CVD Orders. In FY 2015, Commerce staff also participated and provided extensive input in: the Commercial Operations Advisory Committee's AD/CVD working group, CBP/ICE HSI AD/CVD commercial fraud training, and steel industry seminars.

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. ICE 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. CBP also meets, as needed, with Commerce, Treasury, and the Office of the U.S. Trade Representative as a group to confer on AD/CVD issues.

2. Enforcement Results

CBP's AD/CVD targeting efforts, led by the AD/CVD National Targeting and Analysis Group (NTAG) in Miami, Florida, achieved notable results in FY 2015. In FY 2015, examples of CBP's successes from targeting in AD/CVD enforcement by the NTAG, ports of entry, and Centers of Excellence and Expertise (Centers) include:

- Import Specialists identified evasion of the AD/CVD orders on aluminum extrusions from China. At one port, approximately \$303,783 of AD/CVD duties were recovered. At the second port \$160,805 in revenue was identified.
- Import Specialists detected AD evasion on tires from China. Approximately, \$7,441,912 of AD/CVD duties were identified, \$346,959 was recovered, and CBP imposed 19 U.S.C. § 1592 penalties.
- The Electronics Center identified 40 entry summary discrepancies, 30 cargo discrepancies and identified \$56,276,000 in potential loss of revenue and

recovered \$7,966,000 in AD/CVD duties on shipments of solar cells, panels, and laminates from China and Taiwan.

- Import Specialists collected \$28,788 in antidumping duties after targeting innerspring units from China for possible AD violations.
- Import Specialists and CBP Officers targeted wheel hub units. Eight shipments were denied entry, and informed compliance was issued to two companies. Because of the reviews, the companies in question are now making formal entries and entering the applicable AD/CVD case numbers.
- Import Specialists from one port identified evasion of AD/CVD duties on Chinese tapered roller bearings. Approximately, \$439,072 in AD/CVD duties was identified, which consisted of \$86,706 for the entries targeted during the operation period and \$352,366 in the expanded universe.
- Several ports requested STBs on imports of magnesium from China and the shipments were all exported.
- Import Specialists discovered one broker who had failed to pay countervailing duties on certain passenger vehicle and light truck tires from China and recovered \$181,046 in duties. Efforts to collect CVD on other entries are ongoing.
- CBP determined that bearings from China were not eligible for a 0.00 percent rate. This created a potential liability of \$32 million in additional antidumping duties. Follow-up enforcement actions are being considered.

The examples listed in this section highlight just a few of the operations that are routinely conducted by CBP personnel. These efforts reflect the continued dedication of CBP to target the evasion of AD/CVD laws, protect the revenue of the U.S. Government, and ensure a level playing field for U.S. industry. CBP is continuing to pursue collections of all unpaid duties and penalties.

B. Legal Enforcement

CBP's Office of Chief Counsel (OCC), through the Associate Chief Counsel for Trade and Finance, the Associate Chief Counsel for Enforcement, and field offices, continues its vigorous engagement in both administrative and judicial actions related to the collection of outstanding AD/CVD and enforcement actions for customs law violations relating to AD/CVD matters.

In FY 2015, attorneys under the leadership of the Associate Chief Counsel for Trade and Finance continued carrying out OCC's strategic approach to AD/CVD collections litigation, which involves trying lead cases that will control outcomes in numerous other matters and pursuing interest in excess of bond amounts to deter future nonpayment by sureties. At the close of FY 2015, Trade and Finance attorneys were involved in ongoing litigation in over 30 offensive cases, over 325 defensive cases, bankruptcies, and state receivership and liquidation proceedings, together totaling more than \$313 million in AD/CVD at stake. During FY 2015, CBP achieved a few major victories in the courts to enforce and collect AD/CVD. For example, the Court of Appeals for the Federal Circuit

agreed with CBP that sureties are liable for penalty interest under 19 U.S.C. § 580 on all types of customs bonds, including bonds securing AD/CVD. See *United States v. American Home Assurance Co.*, No. 2015-1292, slip op. (Fed. Cir. June 17, 2015). The Court of International Trade also concluded that a single surety was liable to CBP for about \$16.5 million in delinquent AD/CVD and interest. See *United States v. American Home Assurance Co.*, No. 09-00403, slip op. (Ct. Int'l Trade Aug. 19, 2015); *United States v. American Home Assurance Co.*, No. 10-00185, slip op. (Ct. Int'l Trade Sept. 30, 2015). CBP intends to build on these victories in cases still being litigated.

In FY 2015, the U.S. Department of Justice on behalf of CBP, sought to recover AD/CVD and penalties levied by CBP in several cases, in the U.S. Court of International Trade, including imports of crawfish, polyethylene retail carrier bags, saccharin and other commodities. CBP is seeking to recover over \$100 million in AD/CVD duties and penalties.

C. AD/CVD Entry Administration

CBP continues to pursue modernization efforts to process AD/CVD entries and facilitate legitimate trade. The administration of AD/CVD entries is presently 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; and
- 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 judicial review of those proceedings.

Once Commerce issues liquidation instructions, CBP's tasks 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 electronically liquidate each entry;
- 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 involving more than one AD/CVD case.

CBP is continuing efforts to centrally manage and oversee the liquidation and processing of AD/CVD entries on a national basis. This national approach replaces many redundant functions that are taking place at numerous entry processing locations across the United States. It will also increase national oversight of AD/CVD entry processing and improve the accuracy of CBP's AD/CVD processing. These efforts are continuing in FY 2016.

ACE AD/CVD Functionality

All AD/CVD case management information, Commerce message processing, and CBP field inquiries are now processed, managed, and stored in the Automated Commercial Environment (ACE) to give national visibility of the data to the CBP user, as well as 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).

Entry Administration Workload

In FY 2015, CBP processed 1,612 AD/CVD instruction messages issued by Commerce. CBP staff at ports of entry used the ACE AD/CVD inquiry module to submit 534 inquiries on AD/CVD issues to CBP Headquarters and 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 further facilitate AD/CVD administration and enforcement.

CBP and Commerce also continue to work jointly to improve the timeliness, accuracy, and clarity of liquidation instructions. CBP port personnel communicate daily with Commerce on AD/CVD matters and questions related to specific entries through the AD/CVD Portal within ACE. CBP reviews every AD/CVD instruction drafted by Commerce and advises Commerce about any concerns with the content of the message. Commerce continues to regularly review and edit its standard AD/CVD instructions to enhance clarity, and collaborates with CBP on the language of fact-specific instructions, which deviate from the standard.

D. Trade Transformation

CBP is undergoing a rigorous transformation of how the agency processes trade. One of the results is the formation of CBP's 10 Center of Excellence and Expertise (Centers). The Centers are integrating and harmonizing trade practices with the goal of increasing uniformity of commodity-specific processing procedures across ports of entry, facilitating

timely resolution of trade compliance issues nationwide, and further strengthening crucial agency knowledge about key industry practices. CBP's Centers are leveraging "trade intelligence" from industry to enhance CBP's ability to stay one step ahead of industry trends, as well as to capture specific allegations of trade fraud. The Centers are enhancing CBP trade personnel's ability to specialize in commodities (including those subject to AD/CVD), building advanced knowledge in their respective industry, and increasing CBP's understanding of trade risks.

Centers are organized by commodity, and have a strong focus on commodity-based AD/CVD orders. For CBP's AD/CVD enforcement, the Centers are centralizing AD/CVD functions for the industries and importers covered by the respective Center. The Centers are increasing uniformity and expertise across CBP for administration of AD/CVD entries and AD/CVD enforcement. The Centers are already leading and carrying out operations to detect and deter AD/CVD evasion, and as AD/CVD enforcement in the Office of Field Operations fully shifts to the Centers, we expect to see a new focus on the AD/CVD commodities within the portfolio of each Center.

The Electronics, Pharmaceuticals, and Petroleum Centers were fully operational by the end of FY 2015, and the other Centers are continuing to ramp up their operations. CBP's 10 Centers are as follows:

- Agriculture and Prepared Products (Miami);
- Automotive and Aerospace (Detroit);
- Apparel, Footwear, and Textiles (San Francisco);
- Base Metals (Chicago);
- Consumer Products and Mass Merchandising (Atlanta);
- Electronics (Los Angeles);
- Industrial and Manufacturing Materials (Buffalo);
- Machinery (Laredo);
- Petroleum, Natural Gas, and Minerals (Houston); and
- Pharmaceuticals, Health, and Chemicals (New York).

III. AD/CVD Collections

A. Uncollected AD/CVD Duties

Pursuant to U.S. law, the AD/CVD regime operates on a retrospective basis. CBP collects estimated AD/CVD at the time of entry, but the actual AD/CVD that an importer should pay is not known until Commerce issues appropriate liquidation instructions. Commerce will conduct reviews only when a request is made. If no review is requested, Commerce will issue automatic instructions requesting CBP to liquidate at the amount of the cash deposit or bonding rate. If a review is conducted, Commerce will issue liquidation instructions following the completion of the review. Commerce reviews are usually completed within one to two years after entry has occurred. However, Commerce's findings also are subject to judicial review by the U.S. Court of International Trade, the U.S. Court of Appeals for the Federal Circuit, and possibly the U.S. Supreme Court; therefore, the final determination of the amount of AD/CVD due may not be known for several years. If the actual AD/CVD rate established by Commerce is greater than the estimated AD/CVD paid at entry, CBP is required to issue a bill to the importer to collect the additional duties. In many cases, and especially for AD/CVD orders covering imports from China, there is often a substantial difference between the estimated and final AD/CVD duty rates.

Pursuant to law and regulation, the importer of record, which could be a foreign-based company, in addition to the surety listed on the associated bond, are liable for the additional duties. Some importers are unwilling or unable to pay the actual duties, and some are no longer in business when CBP issues a bill, leading to uncollected AD/CVD. Undercapitalized importers with few assets, if still in business by the time bills for final AD/CVD are issued, often have difficulties in paying these bills. Other importers, often in the form of shell companies and foreign non-resident importers, never intend to pay the final duties, and disappear as soon as there is any indication that final duties may increase. This is especially true for AD/CVD orders covering imports from China, and Chinese agriculture/aquaculture imports in particular. In addition, some importers participate in schemes to intentionally evade AD/CVD laws by filing incorrect entries, leading to additional uncollected AD/CVD.

CBP faces significant challenges in collecting unpaid duties from importers who have no assets in the United States. In addition, CBP faces significant challenges in collecting debts from importers located in other countries. The United States does not have reciprocal revenue agreements with foreign countries; therefore, it is difficult for CBP to collect from foreign-based entities.

When CBP cannot collect from the importer, the amount of the bond is often insufficient

to cover the duties owed. In general, because the bond amount (set at entry) cannot be set to reflect the unknown final assessments, the amount of the bond is often insufficient to cover the differences between the cash deposit and the assessment rate. The problems surrounding unbonded retrospective assessments are exacerbated by CBP’s reliance on bond coverage by the lengthy delay that often occurs between importation and the conclusion of Commerce Department reviews and the final resolution of all applicable legal challenges.

There are approximately 45,967 unpaid AD/CVD bills from FY 2001 through FY 2015 totaling approximately \$2.6 billion, for which CBP is pursuing collection. Of this amount, \$189 million is under protest and \$122 million involves bankrupt debtors. Further amounts are owed by importers that have disappeared or dissolved without going through the bankruptcy process. Additionally, tens of millions of dollars are owed by sureties that are in rehabilitation or receivership.

In FY 2015, uncollected AD/CVD on imports from China continued to make up a significant portion of the uncollected duties. In total, imports from China account for 94 percent of the uncollected AD/CVD. The top six cases for uncollected AD/CVD, comprising \$2.0 billion (or approximately 77 percent) of the \$2.6 billion in unpaid duties, all involve imports from China. Four of the top six cases for uncollected AD/CVD cases involve imports of Chinese agriculture/aquaculture products as follows:

Fresh Garlic	(A-570-831)	\$549.1 million
Wooden Bedroom Furniture	(A-570-890)	\$500.9 million
Preserved Mushrooms	(A-570-851)	\$278.2 million
Freshwater Crawfish Tail Meat	(A-570-848)	\$330.8 million
Honey	(A-570-863)	\$168.4 million
Magnesium	(A-570-862)	\$166.1 million

In addition, imports from Chinese new shippers, which often surge after receiving low duty rates through new shipper reviews, constitute at least 40 percent of uncollected duties, according to past U.S. Government Accountability Office studies.¹

While certain AD/CVD cases account for a disproportionate share of all uncollected AD/CVD debts, any AD/CVD case (such as magnesium) with a large amount of importations, low cash deposit duty rates, and high final duty rate could result in significant uncollected duties due to the lack of security from the low initial cash deposit duty rate.

¹ See United States Government Accountability Office, *Antidumping and Countervailing Duties, Congress and Agencies Should Take Additional Steps to Reduce Substantial Shortfalls in Duty Collection*, GAO-08-391 (March 2008).

B. Debt Collection Process

CBP is actively pursuing collection of uncollected AD/CVD against delinquent importers and sureties. An AD/CVD bill is created when an entry of imported merchandise, subject to CVD under 19 U.S.C. § 1671 or AD under 19 U.S.C. § 1673, liquidates with an increase in duties. AD/CVD bills are the direct result of a specific order from Commerce to liquidate the entry with additional AD/CVD due. CBP notifies the principal (importer) 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. In accordance with 31 CFR § 901.2, CBP also provides an additional written demand informing the surety of the consequences of failing to cooperate with the agency to resolve the debt. CBP’s total process (importer demands and surety demands) for a given bill is 300 days, even before it is referred to CBP’s internal legal counsel. This period can be delayed if requested documents are not received.

Ultimately, if CBP is unable to collect the applicable duties from either the principal or surety via administrative collection processes and it is determined to be legally enforceable, the debt will be referred to CBP 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 for litigation, when appropriate (*see* the Legal Enforcement section of the report for more information). When available surety bond coverage fails to result in full payment of a claim, and the available evidence indicates that the importer may have gone out of business and left no assets that could satisfy a judgment, OCC refers the bills back to the Revenue Division for further investigation to determine the viability of the importer or to initiate termination of collection procedures.

The write-off period, or length of time it normally takes CBP to write off uncollected bills, varies by bill because of factors surrounding an importer, and the amount and nature of the debt. The time period also involves other factors such as protests, referral to CBP’s internal legal counsel, surety demands, and bankruptcy.

C. Measures to Increase Collections

CBP continues to explore alternatives that will help to alleviate these challenges. CBP’s analysis of uncollected duties is increasing CBP’s understanding of trade risks related to AD/CVD collection and is helping to focus the risk analysis and targeting of the problem areas to make the measures more enforceable. Understanding the source of the uncollected duties is helping CBP to focus its efforts in those areas where greater risk exists. Through these efforts and other bonding programs like Electronic Bond (E-

bond)(see below), CBP is working diligently to proactively address the potential loss of AD/CVD.

Consistent with legal requirements, CBP continued in FY 2015 to require additional security in the form of an STB to protect the revenue when CBP has reasonable evidence of a risk of revenue loss. When utilized in cases of AD/CVD evasion and noncompliance (and other identified financial risks), these measures have been very effective in protecting the revenue and facilitating compliance with AD/CVD. CBP is continuing to explore new ways to use STBs to protect the revenue from AD/CVD evasion. CBP also pursues administrative or judicial processes to maximize the collection of AD/CVD through the court system.

CBP is using E-Bond to provide more transparency for all trade participants in the bonding process. In January 2015, E-bond, a web based bond application became operational. E-Bond serves as the platform through which sureties provide single-transaction bonds. E-Bond centralizes CBP's management of STBs, and will help facilitate the collection of funds secured by STBs.

Further, a key component of the agency's strategy during FY 2015 to improve collections on AD/CVD debts involved the creation of a permanent team within CBP's Office of Administration dedicated solely to the collection of AD/CVD debts. In March 2015, the AD/CVD Collections Team consisting of four full-time members became operational. CBP personnel and their colleagues from other agencies are also working closely together to address collection issues in general. CBP will continue its dialogue with other agencies to jointly develop new ideas on bonding and other measures to increase AD/CVD collections.

IV. Conclusion

CBP continues to ensure that, as an agency, it implements statutory and regulatory authorities and adheres to current CBP policy to maximize the collection of revenue. CBP will continue to prioritize enforcement actions and compliance initiatives in support of the U.S. AD/CVD laws. The cooperation between CBP, ICE HSI, and Commerce is strong, and together we will continue to pursue all available avenues to improve the level of duty collection, ensure importer compliance, and prevent loss of revenue.

CBP is committed to working with other government agencies to quickly identify and resolve collection problems, while ensuring that all relevant stakeholders understand these issues and are engaged in developing solutions to facilitate legitimate trade and protect the U.S. industry. CBP will continue to work closely with U.S. industry to obtain the key trade intelligence that is critical to enforcing AD/CVD laws.

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
Centers	Center of Excellence and Expertise
CDSOA	Continued Dumping and Subsidy Offset Act
Commerce	U.S. Department of Commerce
E-bond	Electronic Bond
FY	Fiscal Year
HSI	Homeland Security Investigations (ICE)
ICE	U.S. Immigration and Customs Enforcement
NTAG	National Targeting and Analysis Group
OCC	Office of Chief Counsel (CBP)
PTI	Priority Trade Issue
STB	Single Transaction Bond
Treasury	U.S. Department of the Treasury