



## Understanding Critical Circumstances for Antidumping and Countervailing Duties

Critical circumstances is a provision in both the Antidumping and Countervailing Duty (AD/CVD) laws that allows for imposing limited retroactive duties if certain conditions are met.

**Importers should be aware that subject merchandise entries made after the Initiation of an AD/CVD investigation may retroactively be subject to AD/CVD.**

A critical circumstances finding is an important tool for the Department of Commerce (Commerce) and the U.S. International Trade Commission (ITC) to offset possible import surges during the early period of an AD/CVD investigation.

The petitioner in an AD/CVD investigation may allege critical circumstances during an investigation up to 21 days before the date of Commerce's final determination.

If Commerce determines that critical circumstances exist, it has the statutory authority to order the retroactive suspension of liquidation and posting of a cash deposit for entries made before a Preliminary and/or Final AD/CVD determination is issued.

Commerce's authority to suspend entries retroactively for AD/CVD is limited to entries made on or after the later of: (1) 90 days before the effective date the suspension of liquidation was first ordered, or (2) the date on which the determination to initiate the investigation is published in the [Federal Register](#). **In either case, AD/CVD cash deposits are due on entries subject to critical circumstances determinations.**

If, following a preliminary determination by Commerce that critical circumstances exist, both Commerce and the ITC reach a final affirmative determination of dumping or subsidization, but either agency makes a negative final determination of critical circumstances, Commerce will instruct CBP to lift suspension from the entries made during the 90 day critical circumstances period and refund cash deposits made with respect to those entries. Interest is **not** payable on refunds of cash deposits at this stage in the AD/CVD case.

Note: Interest is not paid on cash deposit refunds at this stage of the AD/CVD case.

For more information, see the Federal Register for Commerce and ITC critical circumstances determination and Commerce AD/CVD instructions to CBP in ACE and ADDCVD Search at <https://aceservices.cbp.dhs.gov/adcvdweb>.