

**Commercial Customs Operations
Advisory Committee (COAC)
Intelligent Enforcement Subcommittee**

AD/CVD Working Group Background Document
July 15, 2020

COAC

COMMERCIAL CUSTOMS OPERATIONS
ADVISORY COMMITTEE

COAC Anti-Dumping and Countervailing Duty (AD/CVD Working Group)

The AD/CVD Working Group has over 25 active members representing different industry sectors including U.S. manufacturers, domestic industry, importers, customs brokers, customs attorneys, sureties, and trade associations. Government participation from U.S. Customs & Border Protection (CBP) includes the Office of Trade, Office of Trade Relations, and representatives from the Department of Commerce (DOC), Customs Liaison Unit (CLU).

Since the COAC meeting on April 15, 2020, the AD/CVD Working Group had two (2) calls to discuss various topics including Trade Remedies and Exclusion Orders. This led to discussions on the delays the trade is experiencing to obtain duty refunds once Exclusion Orders are approved by the Department of Commerce (DOC). As a result, importers are losing out on millions of dollars in duty refunds worsened by the economic impact of COVID-19.

As a voice for the trade, the AD/CVD Working Group developed recommendations to address the challenges the trade is experiencing receiving refunds through the Exclusion Order process for Section 301 Trade Remedies:

- 1) **Presidential Executive Order:** COAC recommends that CBP evaluate whether the Presidential Executive Order (EO) issued on Regulatory Relief to Support Economic Recovery provides CBP with the authority to honor these refunds for Exclusion Orders even if they were issued beyond the period of time to request an extension of liquidation or file a protest. Currently, hundreds of importers are missing the opportunity to receive refunds on Exclusion Orders that are issued so late that no administrative relief is available to process the refund. During the COVID-19 pandemic, this is causing tremendous economic hardship, especially on small to medium-sized businesses.
- 2) **Future Considerations:** COAC recommends that CBP work with USTR, Congress and appropriate parties to provide authority for legislative changes that will modify the timeframe to file a refund request for Exclusion Orders and/or consider whether the Reconciliation Program could be a viable solution for future Trade Remedies. Doing so would provide importers with the opportunity to finalize their entry once the Exclusion Order is approved or have additional time to file a protest if the 180 days from liquidation has expired. There has been prior precedence for this under the Generalized System of Preferences, which gets reinstated after long periods of expiration because these entries are flagged in ACE to process once GSP is approved by Congress. Entries subject to Exclusion Orders could be flagged in a similar manner as Reconciliation Entries, which would eliminate the time-consuming process to file Post Summary Corrections (PSCs), extensions of liquidation, and/or protests.
- 3) **Protest Training:** COAC recommends that CBP conduct a webinar on best practices to file protests in ACE. Due to the large influx of protests that are being filed for Exclusion Orders, some protests are being denied for minor reasons or missing information. During a webinar, the trade would be able to ask questions about the challenges they are having providing information through the ACE portal and tips to ease the administrative burden on all parties. The AD/CVD Working Group has submitted a list of topics that could be covered during this webinar in Appendix C of our background paper.

AD/CVD Background Paper

Section 301 Trade Remedies

On July 6, 2018, the U.S. Trade Representative (USTR) imposed additional duties on certain goods of China as a part of the action in the Section 301 investigation. As a part of the determination, USTR established a product exclusion process (i.e., Exclusion Orders) for goods subject to the 25% duty assessed under the Section 301 investigation. Per the USTR Federal Register notices, the product exclusions are available for any product that meets the description in the annex to Federal Register notice, regardless of whether the importer filed an exclusion request. Further, the scope of each exclusion is governed by the scope of the 10-digit headings and product descriptions in the annex, and not by the product descriptions set out in any particular request for exclusion.

Because there was uncertainty on how long it would take for the Exclusion Orders to be approved by the Department of Commerce (DOC), CBP offered the following guidance:

- CSMS# 19-000260 - Section 301 Products Excluded from Duties - Liquidation Extension Request issued on 5/22/2019
- CSMS #42566154 - Section 232 and Section 301 – Extensions Requests, PSCs, and Protests issued on 5/1/2020
- Each CSMS notice can be found in Appendix A

The CSMS notices provide guidance from CBP on procedural processes to file Post-Summary Corrections (PSCs) to receive refunds prior to liquidation of an entry. Liquidation takes place one year from the date of entry or there is an option to extend liquidation of an entry for another one-year period up to three years. If the change to file a PSC or request extension of liquidation is missed, there is also an option to file a Protest within 180 days of liquidation. The action you take all depends on when the Exclusion Order was approved.

Because of the overwhelming number of Exclusion Orders that were received, some took close to two years to get approved. As a result, importers are losing millions of dollars in duty refunds because the Exclusion Orders are issued so late well beyond the opportunity to extend a liquidation of an entry (one year) or file a protest (180 days from liquidation). Below are 3 examples involving an Exclusion Order under HTS 9903.88.45 issued on 4/24/2020 per notice: https://ustr.gov/sites/default/files/enforcement/301Investigations/%24200_Billion_Exclusions_Granted_May.pdf

- An importer who enters road wheels under 9903.88.45 in September 2018 is eligible for a refund of tariffs under section 301 List 3 Exclusion Order granted on April 24, 2020. The importer is not able to get a refund of \$539,287.20 in tariffs because the Exclusion Order was not granted until after final liquidation of the entries and any allowable protest period.
- An importer who enters statues/figurines under 9903.88.45 in September 2018 is eligible for a refund of tariffs under section 301 List 3 Exclusion Order granted on April 24, 2020. The importer is not able to get a refund on \$15,739.00 in tariffs because the Exclusion Order was not granted until after final liquidation of the entries and any allowable protest period.
- An importer who enters marble under 9903.88.45 in September 2018 is eligible for a refund of tariffs under section 301 List 3 Exclusion Order granted on April 24, 2020. The importer is not able to get a refund on \$35,627 in tariffs because the Exclusion Order was not granted until after final liquidation of the entries and any allowable protest period.

Exclusion Orders

The USTR process of issuing trade remedy exclusions and the legal timeframe to request a refund of a granted exclusion are not congruent. This incompatibility creates scenarios where importers have lost their legal right to file for a refund of trade remedy duties. This is not a small problem. Customs Brokers are aware of millions of dollars in potential refunds for both small, medium, and large businesses that are currently incapable of being recovered. In certain circumstances an importer must forfeit future refunds in lieu of waiting for other pending grants of exclusions for liquidity. **Covid-19 has created a huge need to provide businesses with additional liquidity.** Many of the businesses getting “timed out” for legitimate refunds are small and medium businesses without the staff to keep up with the exclusion process daily.

The solution is a legal extension of the time to file the requests for refunds. We propose allowing importers the opportunity to Protest any entry, regardless of liquidation status for 180 days of the second anniversary of inception of duty deposits.

Initial Date	Trade Remedy	Proposed Deadline
23-Mar-18	Section 232 steel and aluminum	21-Sep-20
6-Jul-18	Section 301 List 1 China	4-Jan-21
23-Aug-18	Section 301 List 2 China	19-Feb-21
24-Sep-18	Section 301 List 3 China	23-Mar-21
1-Sep-19	Section 301 List 4 China	28-Feb-22

*A Protest is the final avenue for an importer to request a duty refund. The current legal timeline is 180 days from liquidation. Once that timeframe has passed an importer has lost their right to “protest” the assessment of duty and request a refund.

Precedence for this type of activity can be found when the Generalized System of Preferences gets reinstated after long periods of expiration. With the importers legally owed a refund of duties paid, the government should provide a mechanism to reclaim any duties owed regardless of when the exclusion was granted.

This also grants financial relief to companies in the current COVID environment that are suffering financial hardships. By following the retroactive refund precedent of the GSP refunds, this extension of the protest period, as described above, provides much needed relief to importers and customs brokers alike.

Additional Details: The exclusion approval process with its continuous cycle of approving and deploying exclusions creates redundant work and rework for CBP and Trade.

- Due to the 301 exclusions, trade has increased Post Entry staffing by up to 234% to handle the complex administration required due to the USTR process of approvals
- Many of the grants of exclusion have come after legal timeframes have expired or are so close to the end there is not enough time to file the proper paperwork
- CBP is struggling to process the huge increase in post entry activity and stretching the timeframe would help smooth workflow
- The current legal timeline for post entry prevents the flexibility of receiving refunds now while the waiting to file for further exclusions
- Approved exclusions have been altered later to include more products. Importers were not aware of the amendments until after legal timeframes expired.

Appendix A – CSMS Messages

CSMS# 19-000260 - Section 301 Products Excluded from Duties - Liquidation Extension Request 05/22/2019 03:18 PM EDT

BACKGROUND:

On July 6, 2018, the U.S. Trade Representative (USTR) imposed additional duties on certain goods of China as a part of the action in the Section 301 investigation of China's acts, policies, and practices related to technology transfer, intellectual property, and innovation. As a part of the determination, USTR established a product exclusion process for goods subject to the 25 percent duty assessed under the Section 301 investigation. All of the product exclusions issued so far apply as of the July 6, 2018 effective date of the imposition of additional duties under Section 301 and extend for one year after the publication of the exclusion notice in the Federal Register.

Per the USTR Federal Register notices, the product exclusions are available for any product that meets the description in the annex to Federal Register notice, regardless of whether the importer filed an exclusion request. Further, the scope of each exclusion is governed by the scope of the 10-digit headings and product descriptions in the annex, and not by the product descriptions set out in any particular request for exclusion.

The functionality for the acceptance of products excluded from Section 301 duties is available in the Automated Commercial Environment (ACE).

INSTRUCTIONS FOR FILING ENTRIES SUBJECT TO PRODUCT EXCLUSIONS:

CBP has issued instructions, via CSMS messages, on how to submit entries covering excluded products for each round of product exclusions granted so far by USTR. The relevant Federal Register notices and corresponding CSMS messages are below:

Section 301 HTS Federal Register Notice Published Message

- 1st Round 9903.88.05 83 FR 67463 12/28/2018 CSMS 19-000052
- 2nd Round 9903.88.06 84 FR 11152 03/25/2019 CSMS 19-000155
- 3rd Round 9903.88.07 84 FR 16310 04/18/2019 CSMS 19-000212
- 4th Round 9903.88.08 84 FR 21389 05/04/2019 CSMS 19-000244

Entries Covered by Granted Product Exclusions: Product exclusions granted by USTR so far are retroactive to July 6, 2018, for unliquidated entries or entries that are liquidated but not final. Once a product exclusion is granted by USTR, an Importer of Record (IOR) may request an administrative refund by filing a Post Summary Correction (PSC) for unliquidated entries that are covered by the exclusion. If an entry is liquidated prior to the filing of a PSC, a party may file a protest.

Entries Covered by Pending Product Exclusions Requests: As the IOR, if you have a pending product exclusion request with USTR, or are importing a product that is covered by such a pending exclusion request, and you are concerned that a corresponding entry may liquidate before USTR renders a decision on the exclusion request, you can:

(1) request an extension of the liquidation deadline, and file a PSC no later than 15 days before the extended date of liquidation; and/or

(2) file a protest within the 180-day period following liquidation. When filing a protest, the protestant should identify the pending product exclusion decision from USTR as a basis for the protest. Upon receiving USTR's decision on the product exclusion, the protestant should submit the exclusion information to CBP, as additional information pursuant to 19 C.F.R. 174.28.

If a protest is filed, CBP will postpone making a determination on protests that include a claim identifying a pending product exclusion. Once USTR completes the exclusion processing, CBP will process these protests pursuant to USTR's exclusion determination. That is, CBP will refrain from denying or granting a party's protest before the importer receives a final determination from USTR regarding its product exclusion request.

Questions from the importing community concerning extending liquidation and filing protests should be emailed to otentrysummary@cbp.dhs.gov. Questions related to Section 301 entry filing requirements should be emailed to Traderemedym@cbp.dhs.gov.

CSMS #42566154 - Section 232 and Section 301 – Extensions Requests, PSCs, and Protests issued on 5/1/2020

The purpose of this CSMS message is to update guidance issued via CSMS 19-000260. This guidance is to advise the trade community on the process for submitting retroactive claims for Section 232 and Section 301 product exclusions to CBP. Additionally, this guidance serves to provide information on the actions the Trade may take to preserve and/or extend the timeframes in which corrective action can be filed on entry summaries related to Section 232 and Section 301 product exclusion requests that have been submitted to the U.S. Department of Commerce (DOC) or the Office of the U.S. Trade Representative (USTR) and **a decision on the requested exclusion(s) has not yet been rendered.**

RETROACTIVE EXCLUSIONS

Section 232 and Section 301 product exclusions granted by the DOC and USTR, respectively, may be retroactive for unliquidated entries and for entries that are liquidated but where the liquidation is not final and the protest period has not expired.

If a product exclusion has been granted, an importer of record (IOR) may request a refund by filing a corrective action with CBP by filing a post summary correction (PSC) for unliquidated entries or file a protest for entries that have liquidated but where the liquidation is not final and the protest period has not expired.

When a product exclusion is granted, an importer may submit a PSC to request a refund on unliquidated entries up to 15 days prior to the scheduled liquidation date (generally within 300 days from the date of entry summary filing). If an entry summary is set to liquidate in less than 15 days or has already liquidated, the entry summary is beyond the PSC filing period. However, the importer may file a protest so long as the protest is filed within the 180-day period following liquidation of the impacted entry summary(ies).

REQUESTS FOR EXTENSION(S) OF LIQUIDATION FOR PENDING PRODUCT EXCLUSION REQUESTS

Given the potential retroactive application of Section 232 and Section 301 product exclusions, in situations where the importer has requested a product exclusion and the request is pending with the DOC or USTR, the importer or their licensed representative may submit a request to extend the liquidation of impacted unliquidated entry summaries to CBP. Importers/filers may choose to submit an extension request via paper or electronic format to the appropriate Center of Excellence and Expertise. Refer to the [ACE Entry Summary Business Process Document](#), Version 10.0, Section 10.3, for further guidance.

Approved requests extend the liquidation of an entry summary for one year. When a product exclusion is granted, an importer may submit a PSC to request a refund on the entry summary(ies). If a product exclusion is not approved, no further action is taken, and the entry summary will liquidate as entered one year later than the originally scheduled liquidation date. If necessary, the importer or their filer may request subsequent liquidation extensions for a total of not more than three years as mandated by 19 CFR 159.12.

Report ES-702, Official Notice of Extension, Suspension and Liquidation, is available in ACE for the Trade to monitor extension and suspension records.

STATUS OF TRADE REMEDY PRODUCT EXCLUSION REQUESTS

To check the status of a Trade Remedy Product Exclusion request:

- U.S. Department of Commerce Section 232 website and contact information:
<https://232app.azurewebsites.net/steelalum>
- USTR Section 301 website: <https://ustr.gov/issue-areas/enforcement/section-301-investigations/tariff-actions>

Section 232 exclusions, once approved by DOC, and activated by CBP in ACE, are posted at <https://www.cbp.gov/trade/programs-administration/trade-remedies/section-232-trade-remedies-aluminum-and-steel>

Appendix B – Presidential Executive Order

Executive Order on Regulatory Relief to Support Economic Recovery Issued 5/19/20

In December 2019, a novel coronavirus known as SARS-CoV-2 (“the virus”) was first detected in Wuhan, Hubei Province, People’s Republic of China, causing an outbreak of the disease COVID-19, which has now spread globally. The Secretary of Health and Human Services declared a public health emergency on January 31, 2020, under section 319 of the Public Health Service Act (42 U.S.C. 247d), in response to COVID-19. In Proclamation 9994 of March 13, 2020 (Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak), I declared that the COVID-19 outbreak in the United States constituted a national emergency, beginning March 1, 2020.

I have taken sweeping action to control the spread of the virus in the United States, including by suspending entry of certain foreign nationals who present a risk of transmitting the virus; implementing policies to accelerate acquisition of personal protective equipment and bring new diagnostic capabilities to laboratories; and pressing forward rapidly in the search for effective treatments and vaccines. Our States, tribes, territories, local communities, health authorities, hospitals, doctors and nurses, manufacturers, and critical infrastructure workers have all performed heroic service on the front lines battling COVID-19. Executive departments and agencies (agencies), under my leadership, have helped them by taking hundreds of administrative actions since March, many of which provided flexibility regarding burdensome requirements that stood in the way of implementing the most effective strategies to stop the virus’s spread.

The virus has attacked our Nation’s economy as well as its health. Many businesses and non-profits have been forced to close or lay off workers, and in the last 8 weeks, the Nation has seen more than 36 million new unemployment insurance claims. I have worked with the Congress to provide vital relief to small businesses to keep workers employed and to bring assistance to those who have lost their jobs. On April 16, 2020, I announced Guidelines for Opening Up America Again, a framework for safely re-opening the country and putting millions of Americans back to work.

Just as we continue to battle COVID-19 itself, so too must we now join together to overcome the effects the virus has had on our economy. Success will require the efforts not only of the Federal Government, but also of every State, tribe, territory, and locality; of businesses, non-profits, and houses of worship; and of the American people. To aid those efforts, agencies must continue to remove barriers to the greatest engine of economic prosperity the world has ever known: the innovation, initiative, and drive of the American people.

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. Policy. It is the policy of the United States to combat the economic consequences of COVID-19 with the same vigor and resourcefulness with which the fight against COVID-19 itself has been waged. Agencies should address this economic emergency by rescinding, modifying, waiving, or providing exemptions from regulations and other requirements that may inhibit economic recovery, consistent with applicable law and with protection of the public health and safety, with national and homeland security, and with budgetary priorities and operational feasibility. They should also give businesses, especially small businesses, the

confidence they need to re-open by providing guidance on what the law requires; by recognizing the efforts of businesses to comply with often-complex regulations in complicated and swiftly changing circumstances; and by committing to fairness in administrative enforcement and adjudication.

Sec. 2. Definitions.

- (a) “Emergency authorities” means any statutory or regulatory authorities or exceptions that authorize action in an emergency, in exigent circumstances, for good cause, or in similar situations.
- (b) “Agency” has the meaning given in section 3502 of title 44, United States Code.
- (c) “Administrative enforcement” includes investigations, assertions of statutory or regulatory violations, and adjudications by adjudicators as defined herein.
- (d) “Adjudicator” means an agency official who makes a determination that has legal consequence, as defined in section 2(d) of Executive Order 13892 of October 9, 2019 (Promoting the Rule of Law Through Transparency and Fairness in Civil Administrative Enforcement and Adjudication), for a person, except that it does not mean the head of an agency, a member of a multi-member board that heads an agency, or a Presidential appointee.
- (e) “Pre-enforcement ruling” has the meaning given it in section 2(f) of Executive Order 13892.
- (f) “Regulatory standard” includes any requirement imposed on the public by a Federal regulation, as defined in section 2(g) of Executive Order 13892, or any recommendation, best practice, standard, or other, similar provision of a Federal guidance document as defined in section 2(c) of Executive Order 13892.
- (g) “Unfair surprise” has the meaning given it in section 2(e) of Executive Order 13892.

Sec. 3. Federal Response. The heads of all agencies are directed to use, to the fullest extent possible and consistent with applicable law, any emergency authorities that I have previously invoked in response to the COVID-19 outbreak or that are otherwise available to them to support the economic response to the COVID-19 outbreak. The heads of all agencies are also encouraged to promote economic recovery through non-regulatory actions.

Sec. 4. Rescission and waiver of regulatory standards. The heads of all agencies shall identify regulatory standards that may inhibit economic recovery and shall consider taking appropriate action, consistent with applicable law, including by issuing proposed rules as necessary, to temporarily or permanently rescind, modify, waive, or exempt persons or entities from those requirements, and to consider exercising appropriate temporary enforcement discretion or appropriate temporary extensions of time as provided for in enforceable agreements with respect to those requirements, for the purpose of promoting job creation and economic growth, insofar as doing so is consistent with the law and with the policy considerations identified in section 1 of this order.

Sec. 5. Compliance assistance for regulated entities. (a) The heads of all agencies, excluding the Department of Justice, shall accelerate procedures by which a regulated person or entity may receive a pre-enforcement ruling under Executive Order 13892 with respect to whether proposed conduct in response to the COVID-19 outbreak, including any response to legislative or executive economic stimulus actions, is consistent with statutes and regulations administered by the agency, insofar as doing so is consistent with the law and with the policy considerations identified in section 1 of this order.

Pre-enforcement rulings under this subsection may be issued without regard to the requirements of section 6(a) of Executive Order 13892.

(b) The heads of all agencies shall consider whether to formulate, and make public, policies of enforcement discretion that, as permitted by law and as appropriate in the context of particular statutory and regulatory programs and the policy considerations identified in section 1 of this order, decline enforcement against persons and entities that have attempted in reasonable good faith to comply with applicable statutory and regulatory standards, including those persons and entities acting in conformity with a pre-enforcement ruling.

(c) As a result of the ongoing COVID-19 pandemic, the Department of Health and Human Services, including through the Centers for Disease Control and Prevention, and other agencies have issued, or plan to issue in the future, guidance on action suggested to stem the transmission and spread of that disease. In formulating any policies of enforcement discretion under subsection (b) of this section, an agency head should consider a situation in which a person or entity makes a reasonable attempt to comply with such guidance, which the person or entity reasonably deems applicable to its circumstances, to be a rationale for declining enforcement under subsection (b) of this section. Non-adherence to guidance shall not by itself form the basis for an enforcement action by a Federal agency.

Sec. 6. Fairness in Administrative Enforcement and Adjudication. The heads of all agencies shall consider the principles of fairness in administrative enforcement and adjudication listed below, and revise their procedures and practices in light of them, consistent with applicable law and as they deem appropriate in the context of particular statutory and regulatory programs and the policy considerations identified in section 1 of this order.

(a) The Government should bear the burden of proving an alleged violation of law; the subject of enforcement should not bear the burden of proving compliance.

(b) Administrative enforcement should be prompt and fair.

(c) Administrative adjudicators should be independent of enforcement staff.

(d) Consistent with any executive branch confidentiality interests, the Government should provide favorable relevant evidence in possession of the agency to the subject of an administrative enforcement action.

(e) All rules of evidence and procedure should be public, clear, and effective.

(f) Penalties should be proportionate, transparent, and imposed in adherence to consistent standards and only as authorized by law.

- (g) Administrative enforcement should be free of improper Government coercion.
- (h) Liability should be imposed only for violations of statutes or duly issued regulations, after notice and an opportunity to respond.
- (i) Administrative enforcement should be free of unfair surprise.
- (j) Agencies must be accountable for their administrative enforcement decisions.

Sec. 7. Review of Regulatory Response. The heads of all agencies shall review any regulatory standards they have temporarily rescinded, suspended, modified, or waived during the public health emergency, any such actions they take pursuant to section 4 of this order, and other regulatory flexibilities they have implemented in response to COVID-19, whether before or after issuance of this order, and determine which, if any, would promote economic recovery if made permanent, insofar as doing so is consistent with the policy considerations identified in section 1 of this order, and report the results of such review to the Director of the Office of Management and Budget, the Assistant to the President for Domestic Policy, and the Assistant to the President for Economic Policy.

Sec. 8. Implementation. The Director of the Office of Management and Budget, in consultation with the Assistant to the President for Domestic Policy and the Assistant to the President for Economic Policy, shall monitor compliance with this order and may also issue memoranda providing guidance for implementing this order, including by setting deadlines for the reviews and reports required under section 7 of this order.

Sec. 9. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) Notwithstanding any other provision in this order, nothing in this order shall apply to any action that pertains to foreign or military affairs, or to a national security or homeland security function of the United States (other than procurement actions and actions involving the import or export of non-defense articles and services).

(d) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

Appendix C – Protest Webinar

The AD/CVD Working Group has put together a list of topics that could be discussed during a Protest Webinar with the trade.

- 1. Protest Types:** Are there different document expectations based on type of protest?
- 2. Entry Summaries:** Should the original entry summary, corrected entry summary and commercial invoice, packing list always be included?
- 3. Documentation:** Sometimes the trade is asked to highlight items with changes on entry summaries and commercial invoices, but this is not consistent. Is there a standard that is preferred?
- 4. Purchase Orders:** Sometimes the trade is asked to upload purchase orders. When are purchase orders needed and why would they be needed for exclusion requests?
- 5. Product Literature:** The trade tries to provide descriptive literature from importers to support exclusion requests and receives pushback from CBP. Could there be written guidelines on what is acceptable for descriptive literature of products.
- 6. Descriptions:** On the eProtests in ACE, there is not much room for a description. Should the expectation still be to have a written protest statement to upload in addition to the small description box?
- 7. Application for Further Review:** When should this be used? If you select this, it requires justification. What constitutes justification and what information is CBP looking for here?
- 8. Protest Definitions:** Provide clearer definitions of Protest Filer Type vs. Protestant Type vs. Substitution Party Type.
Examples: A customs broker filing on behalf of the importer, how should this be completed? Is the customs broker the Protest Filer and the Protestant Type is the actual Importer? What happens when an importer asks one customs broker to file protests for entries that were filed by another customs broker? Would this customs broker show as the Protest Filer even they were not the original broker on the entry?
- 9. Refund C/O Number:** Trade needs a clearer explanation of this field.
- 10. Additional Arguments Tab:** Define and provide examples of when/how it is used.
- 11. Amending Protests:** Explain the ramifications of amending a protest that is already past the 180 days.
- 12. Upload Action Box:** Explain the different items in Action Box. A protest was denied because a supplemental spreadsheet was uploaded in the Action Box. When uploading, the Amend option was used to upload and protest was denied because it was past the 180 days. Would be good to explain when each of the Action items are used and what the results of using can mean to your protest.

13. Withdrawing Protests: Provide examples of when you should withdraw a protest and if you withdraw one entry is there any effect on the remaining entries.

14. Protest Denial: Comments are usually very vague and there are no contact details for anyone you can reach at CBP to discuss. How can the trade follow up on a denied protest if you do not agree with the outcome or CBP declines for missing information that could still be provided? Discuss best practices for handling protest denials.

15. Open Protests: Some protests are more than one to two years old. Discuss the best process for following up for status on these besides contacting the Centers.

The AD/CVD Working Group will continue to gather topics to discuss with CBP during our next calls to help finalize an agenda.