

**Commercial Customs Operations
Advisory Committee (COAC) Intelligent
Enforcement Subcommittee
AD/CVD Working Group Recommendations**

July 15, 2020



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.