

Antidumping and Countervailing Duty: WHAT EVERY IMPORTER SHOULD KNOW

Regulatory Audit and Agency Advisory Services
Office of Trade



U.S. Customs and Border Protection

Presentation Topics

- What is Antidumping and Countervailing Duty (AD/CVD)?
- What you should know about AD/CVD?
- Is AD/CVD important for U.S. Customs and Border Protection (CBP)?
 - AD/CVD – CBP Priority Trade Issue
 - ADD Proceedings
 - CVD Proceedings
 - AD/CVD Case Numbers
 - Scope of AD/CVD Orders
 - Designation of AD/CVD Rates
 - Manufacturer Identification Code (MID) Requirements
 - How to determine the duty rate?
- What should I do to ensure compliance with laws and regulations?
 - Binding Rulings
 - AD/CVD Petition Counseling and Analysis Unit
 - CBP sources



What is AD/CVD?

- AD/CVD are trade remedies that level the playing field for U.S. manufacturers against unfair foreign competition.
 - ***Anti-dumping (AD)*** occurs when a foreign manufacturer sell goods in the U.S. less than fair value, causing injury to the U.S. industry. AD cases are company specific; the duty is calculated to bridge the gap back to a fair market value.
 - ***Countervailing duties (CVD)*** cases are established when a foreign government provides assistance and subsidies, such as tax breaks to manufacturers that export goods to the U.S., enabling the manufacturers to sale the goods cheaper than domestic manufacturers. CVD cases are country specific, and the duties are calculated to duplicate the value of the subsidy.



AD/CVD – CBP Priority Trade Issue

- Priority Trade Issues (PTIs) represent high-risk areas that can cause significant revenue loss, harm the U.S. economy, or threaten the health and safety of the American people. They drive risk-informed investment of CBP resources and enforcement and facilitation efforts, including the selection of audit candidates, special enforcement operations, outreach, and regulatory initiatives.



ADD Proceedings

- ADD proceedings are designed to counter international price discrimination, commonly referred to as “dumping.”
 - “Dumping” occurs when a foreign producer sells its product at less than normal value (home market price or constructed value).
- AD/CVD proceedings initiate: petitions are filed by U.S. manufacturers or businesses with the International Trade Commission (ITC).
 - USITC performs investigations as well, according to https://usitc.gov/trade_remedy.htm.
 - USITC determines whether the U.S. industry is materially injured or threatened with material injury. Department of Commerce (DOC) determines whether the alleged dumping is occurring. If both USITC and DOC reach affirmative determinations, then DOC issue an ADD order and instructs the CBP to withhold liquidation of entries and collects ADD. The entries are not liquidated until the DOC submits liquidation instructions to CBP.



CVD Proceedings

- CVD proceedings are designed to counter unfair trade practices where a foreign government provides countervailable financial assistance to benefit the production, manufacture, or exportation of a good.
 - USITC determines whether the U.S. industry is materially injured or threatened with material injury. DOC determines whether the alleged countervailing is occurring. If both USITC and DOC reach affirmative determinations, then DOC will issue a CVD order to offset the subsidy and instructs the CBP to withhold liquidation of entries and collects CVD. The entries are not liquidated until the DOC submits liquidation instructions to CBP.



AD/CVD Case Numbers

- A-NNN-NNN-NNN or C-NNN-NNN-NNN
- Position 1: “A” or “C” to indicate either an AD or CV case.
- Position 2-4: “NNN” indicating the country in three (3) digits.
- Position 5 to 7: “NNN” indicating the commodity in three (3) digits.
- Position 8 to 10: “NNN” indicating the specific company case number assigned by DOC to identify the party to which the case applies. The numbers are assigned to the companies in sequential order as they are added to a case.
- **Note:** The company number “000” has a special meaning. It represents “all other companies” in the country that export the commodity that do not have an assigned number.



Scope of AD/CVD Orders

- Federal Register notices from the DOC, available at <http://ia.ita.doc.gov/frn/index.html>.
- Written instructions from DOC to CBP, available in CBP's Automated Commercial Environment (ACE) (for importers and customs brokers with ACE accounts), and on the Internet at <http://adcvd.cbp.dhs.gov/adcvdweb/>.
- The website of DOC's International Trade Administration, www.trade.gov/ia.
- Request a scope ruling from the International Trade Administration at <http://ia.ita.doc.gov/scope/Request-Scope-Ruling.html>.



Designation of AD/CVD Rates

- Cash deposit rate assigned to manufacturer and/or exporter
- Cash deposit rate assigned to exporter
- Cash deposit rate assigned to a manufacturer and exporter chain



Manufacturer Identification Code (MID) Requirements

- Title 19 Code of Federal Regulations (C.F.R.) § 102.23 and Appendix to Part 102 pertaining to MIDs:
 - Constructed from the name and address of the entity performing the origin-conferring operations.
 - Contained up to 15 characters in length, with no spaces or punctuations.
 - First 2 characters generally consists of the International Organization for Standardization (ISO) code for the country of origin (except for Canada).
 - Next group of characters generally consists of the first 3 characters in each of the first 2 "words" of the manufacturer's name.
 - Next group of characters consists of first 4 numbers in the largest number on the street address.
 - Last group of characters consists of the first 3 letters of the city name.
- If the MID is not properly constructed, the Center Director may reject the entry or take other appropriate action.
- If a port/Center has suspicions that a declared MID is not a manufacturer, the port/Center will pursue the correct information post-entry. Repetitive errors in the construction of MIDs for entries of textile or apparel products will result in the assessment of broker and importer penalties for failure to exercise reasonable care.



Manufacturer Identification Code (MID) Requirements

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- When a single entry is filed for products of more than one manufacturer, the products of each manufacturer must be separately identified. Trading companies, sellers other than manufacturers, etc. cannot be used to create MIDs. Entries and entry summaries in which the first two characters of the MID do not meet the country of origin ISO code, or are created from a company that is known to be a trading house or agent and not a manufacturer, will be rejected for failure to properly construct a MID.

How to determine the duty rate?

- The [Harmonized Tariff Schedule \(HTS\)](#) provides duty rates for virtually every item that exists.
- USITC- The [USITC Interactive Tariff and Trade DataWeb](#) provides U.S. international trade statistics and U.S. tariff data free of charge.
- CBP makes the final determination of what the correct rate of duty is, not the importer.
- For assistance with an HTS, contact your local CBP port, Center of Excellence and Expertise (Center), or request a binding ruling.



Binding Rulings

- CBP issues binding advance rulings and other legal decisions in connection with the importation of merchandise into the U.S. Advance rulings provides the international trade community with a transparent and efficient means of understanding how CBP will treat a prospective import or carrier transaction.



AD/CVD Petition Counseling and Analysis Unit

- AD/CVD Petition Counseling and Analysis Unit at the DOC has a dedicated staff of professionals who are available to assist U.S. companies in a myriad of ways with respect to the U.S. unfair trade laws. The staff, which is involved in all aspects of initiating AD/CVD investigations, brings a tremendous amount of experience which may be of assistance to your company. Some examples of how the AD/CVD Petition Counseling and Analysis Unit may be able to assist include:
 - Helping you to understand U.S. unfair trade laws dealing with dumping and unfair foreign government subsidies, and the process of filing a petition requesting the initiation of an investigation;
 - Providing guidance to potential petitioners to assist them in determining what types of information will be required in order to pursue action against an industry suspected of unfair trade practices;
 - Assisting potential petitioners in ensuring their petition is in compliance with statutory initiation standards; and,
 - Providing small businesses with publicly available tariff and trade data from the DOC, the U.S. Treasury, and the U.S. International Trade Commission.
- Email: Petition.Counseling@trade.gov or call (202) 482-1255,
- Website: <https://enforcement.trade.gov/petitioncounseling/>



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CBP Guidance on CBP.gov

- Customs Rulings On-Line Search System
- Customs Bulletin and Decisions
- Federal Register Notices
- CBP Directives and Handbooks
- Informed Compliance Publications
- Summary of laws enforced by CBP



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Example to determine duties and tariffs on steel products:

- Steel products may be subject to AD/CVD. .
- Written decisions regarding the scope of AD/CVD orders are issued by the Import Administration, DOC located at <http://www.trade.gov/ia/> (click on "Contact Us"). Duty rates are subject to change.
- Determining changes in rate, contact a CBP Import Specialist at the Center for base metals.
- To express concerns regarding the increase in steel tariffs, please contact the [U.S. Trade Administration](#) or the U.S. Trade Representatives at (202) 456-1414.
- Note: All steel mill imports into the U.S. require a license issued by the Steel Import Monitoring Analysis (SIMA) office.



Additional Duty on Steel and Aluminum Imports

- On March 8, 2018, the President issued Proclamations 9704 and 9705 on Adjusting Imports of Steel and Aluminum into the U.S., under Section 232 of the Trade Expansion Act of 1962, as amended (19 U.S.C. 1862), providing for additional import duties for steel mill and aluminum articles, effective March 23, 2018 (Federal Register, 83 FR 11619 and 83 FR 11625, March 15, 2018).
 - These duty requirements are effective with respect to goods entered or withdrawn from warehouse for consumption, on or after 12:01 a.m. EST on March 23, 2018. Refer to the DOC website (<https://www.commerce.gov/news/press-releases/2018/03/us-department-commerce-announces-steel-and-aluminum-tariff-exclusion>).
 - Commodities; Steel mill and aluminum articles, as specified in the Presidential Proclamations.
 - Countries of Origin Covered (March 23, 2018 through April 30, 2018): All countries of origin except Canada, Mexico, Australia, Argentina, South Korea, Brazil and member countries of the European Union (Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and the United Kingdom).
 - As of May 1, 2018: All countries of origin.



Additional Duty on Steel and Aluminum Imports (Con't)

- Entry Summary Filing Instructions;
 - Steel Products
 - In addition to reporting the regular Chapters 72 & 73 of the HTS classification for the imported merchandise, importers shall report the following HTS classification for imported merchandise subject to the additional Duty:
 - 9903.80.01 (25 percent ad valorem additional Duty for steel mill products)
 - Aluminum Products
 - In addition to reporting the regular Chapter 76 of the HTS classification for the imported merchandise, importers shall report the following HTS classification for imported merchandise subject to the additional Duty:
 - 9903.85.01 (10 percent ad valorem additional Duty for aluminum products)
- Importers and filers failing to submit the required Chapter 99 HTS classifications with the entry summary information for imports under the specified Chapter 72, 73, and 76 HTS classifications for the covered countries of origin will receive the following reject messages:
 - E1 IQ10 LINE SUBJECT TO QUOTA
 - E1 FQ09 QUOTA NOT ALLOWED FOR ENTRY TYPE
 - E1 FQ05 BANNED IMPORT
 - E1 RF998 TRANSACTION DATA REJECTED



Questions?



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