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Mastering AD/CVD Compliance Best Practices and Reducing Enforcement Risks: What's New for 2025?

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Agenda

AD/CVD Basics

Broadening Use of AD/CVD Expands What Imports Are at Risk

AD/CVD Enforcement Risks

What Importers Need to Know About AD/CVD Compliance

Questions?

AD/CVD Basics

Dumping and Subsidization Are Unfair Trade Practices

- “Dumping” and certain types of “subsidization” are considered “unfair” trade practices that distort free trade
- WTO rules permit countries to impose import duties on dumped or unfairly subsidized products to create a “**level playing field**”
- “Trade remedy” laws are used by many countries, including the U.S., E.U., Canada, Mexico, India, Brazil and China



What Are Antidumping and Countervailing Duties?

- **An antidumping duty (ADD)** is a tariff imposed to offset “dumping”
 - Dumping means selling a product in the U.S. at less than the home market price or less than the product’s cost of production

- **A countervailing duty (CVD)** is a tariff imposed to offset certain subsidies provided by a foreign government to a producer or exporter

How Do ADD or CVD Get Imposed?

- A U.S. domestic industry producing a like or competitive product may file AD/CVD petitions if the industry has suffered injury due to dumped and/or subsidized imports
- AD/CVD investigations are conducted by the U.S. Department of Commerce and the U.S. International Trade Commission
- Affirmative determinations by both agencies results in imposition of AD and/or CVD orders on product from a specific country or specific producers within the country (“subject merchandise”)

Every AD/CVD Order Has a “Scope”

- The U.S. Department of Commerce determines the scope of an AD or CVD order
- Every AD or CVD order lists the products and countries to which it applies
- Orders list HTSUS numbers at the 8 or 10-digit level most commonly associated with the subject imports, but these are only illustrative
- The “scope” that governs is the narrative description of the products covered by the order



Every AD or CVD Order Has a “Scope”

Truck and Bus Tires from Thailand A-549-848

“The scope of the order covers truck and bus tires. Truck and bus tires are new pneumatic tires, of rubber, with a truck or bus size designation. Truck and bus tires covered by the scope may be tube-type, tubeless, radial, or non-radial (also known as bias construction or bias-ply). Subject tires have, at the time of importation, the symbol “DOT” on the sidewall, certifying that the tire conforms to applicable motor vehicle safety standards. Subject tires may also have one of the following suffixes in their tire size designation, which also appear on the sidewall of the tire: TR—Identifies tires for service on trucks or buses to differentiate them from similarly sized passenger car and light truck tires; and HC—Identifies a 17.5 inch rim diameter code for use on low platform trailers. . . .”

Aluminum Lithographic Printing Plates from Japan and China A-588-881, A-570-156, C-570-157

“The merchandise covered by these orders are aluminum lithographic printing plates. Aluminum lithographic printing plates consist of a flat substrate containing at least 90 percent aluminum. The aluminum-containing substrate is generally treated using a mechanical, electrochemical, or chemical graining process, which is followed by one or more anodizing treatments that form a hydrophilic layer on the aluminum-containing substrate. . . . Aluminum lithographic printing plates within the scope of these orders include all aluminum lithographic printing plates, irrespective of the dimensions or thickness of the underlying aluminum substrate . . .”

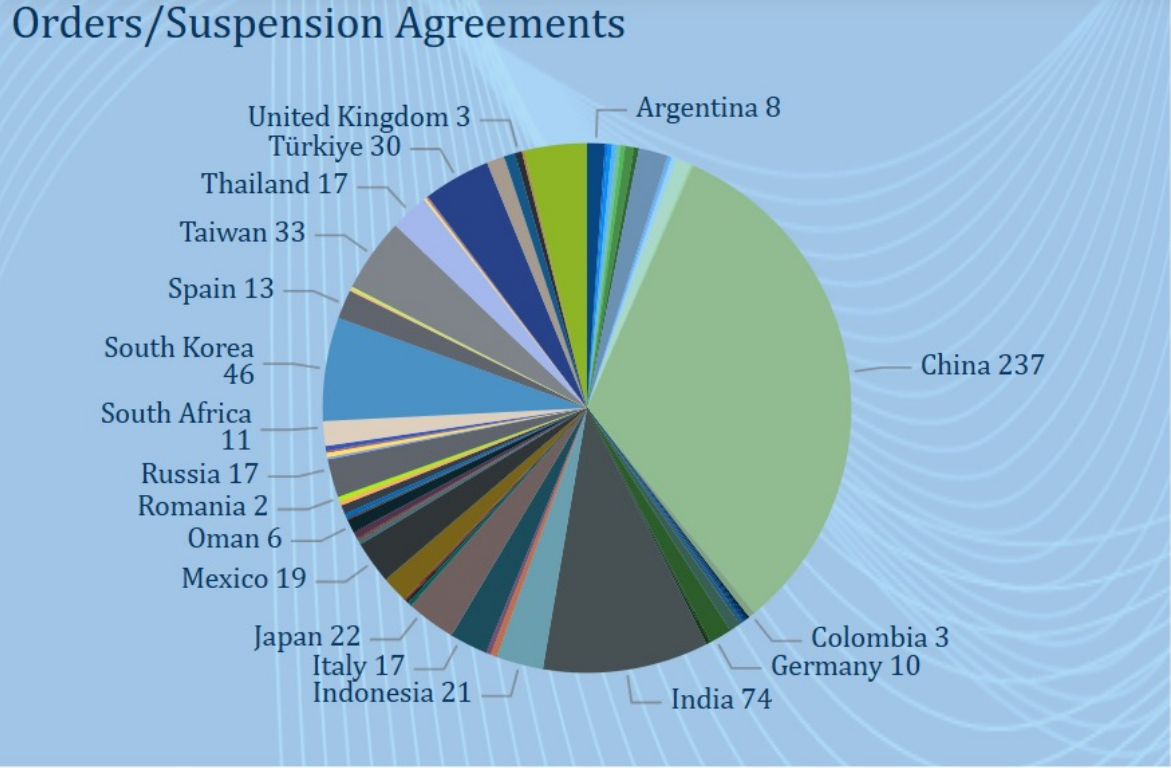


Broadening Use of AD/CVD Expands What Imports Are at Risk

AD/CVD Orders, by Commodity

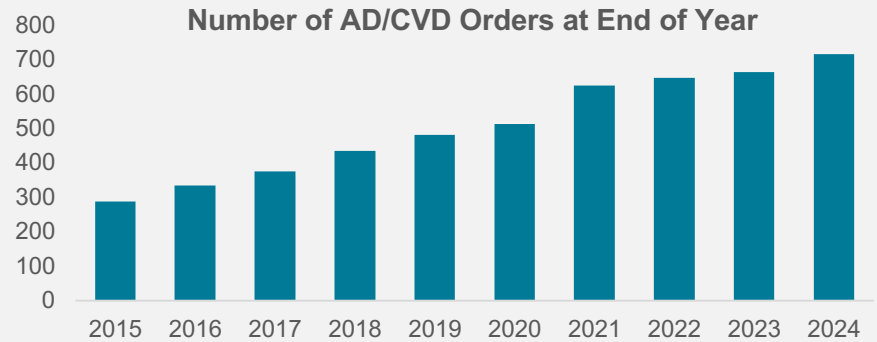


AD/CVD Orders, By Country

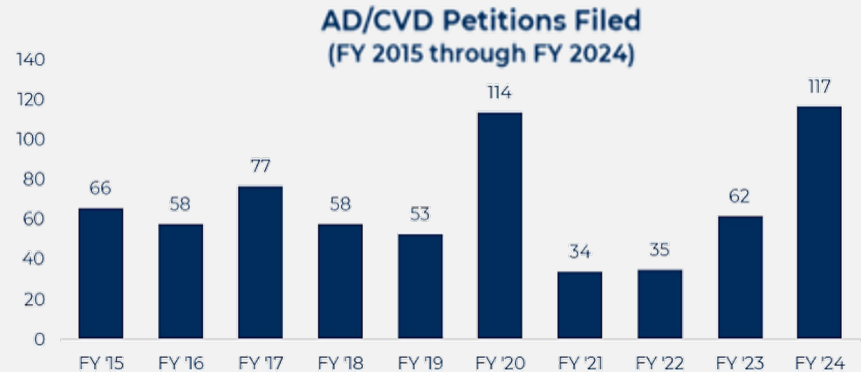


Outlook for 2025: More AD/CVD Tariffs Ahead

The number of AD/CVD orders has increased by over 30% between September 2020 and December 2024—and more are on the way.



AD/CVD petitions filed during FY 2024 (Oct – Sept) set a new record high at 117 and were nearly double the number filed during FY 2023.



What Explains These Trends?

- Bipartisan trade enforcement consensus over the last few administrations.
 - No political constituency for reigning in trade remedies.
- Relocation of production from China to SE Asia, Mexico, etc. leads to petitions against new source countries.
- Proliferation of AD/CVD, Section 301, and Section 232 duties on basic inputs (especially steel and aluminum).
 - U.S. producers of downstream products are at a disadvantage relative to imports that don't face these input costs—which encourages them to file AD/CVD cases of their own.
 - Leads to more investigations and orders on downstream and consumer products, like:
 - Thermoformed Molded Fiber Products from China and Vietnam
 - Disposable Aluminum Containers, Pans, and Trays from China
 - Epoxy Resins from 5 countries



AD/CVD Enforcement Risks

CBP Is Responsible For Collecting AD/CVD Duties

- CBP has a statutory responsibility to enforce U.S. trade laws and collect duties, including AD/CVD
 - Imports subject to AD or CV duties must be declared at entry, usually via a Type 03 entry
 - CBP collects estimated AD/CVD at the time of entry, but the final amount of AD/CVD an importer is required to pay is not known until Commerce issues appropriate liquidation instructions – possibly years later

- Billions of dollars in AD/CVD duties owed go uncollected
 - In 2021, CBP reported it was working to collect on nearly 79,000 unpaid AD/CVD bills from FY 1993 through FY 2020 totaling approximately \$5.4 billion

AD/CVD Enforcement is a CBP Priority Trade Issue

- Failure to accurately declare merchandise subject to AD/CVD, to post AD/CVD duty deposits, or to pay final liquidated duties owed are violations of 19 U.S.C. § 1592
 - In 2003, CBP designated AD/CVD enforcement a Priority Trade Issue (PTI). PTIs are high-risk areas threatening the U.S economy and the health and safety of the American people
 - In 2016, the enactment of the Trade Facilitation and Trade Enforcement Act of 2015 (TFTEA) (Pub. L. 114-125) statutorily designated AD/CVD as a PTI
- The total number of AD/CVD orders enforced by CBP has more than doubled since FY2016
 - As of December 31, 2024, 718 AD/CVD orders were in effect compared to 304 AD/CVD orders at the end of FY 2016



CBP Targets Importers Who Evade AD/CVD



- In FY2023, CBP collected approximately \$3.2 billion in AD/CVD deposits and levied monetary penalties totaling over **\$61.1 million** on importers for fraud, gross negligence and negligence related to AD/CVD requirements
- CBP entry summary reviews during FY2023 resulted in recovery of over **\$161.1 million** in AD/CVD duties owed
- CBP audit activities led to the collection of **\$114.5 million** in additional duties during FY2023.

Enforce and Protect Act of 2015 (“EAPA”)

- EAPA established formal procedures for industry to submit and for CBP to investigate alleged evasion of AD/CVD duties.
- The investigation is conducted by CBP’s Trade Remedy Law Enforcement Directorate (TRLED). The determination by TRLED can be requested for *de novo* review by Regulations & Rulings (ORR) at CBP. ORR’s decision can be appealed to the Court of International Trade.
- EAPA imposes a timeline and process requirements on CBP that do not exist under the e-allegations process and gives interested parties (limited) participation rights.



Enforce and Protect Act of 2015 (“EAPA”)

- Since 2016, CBP has launched **more than 300 investigations** under EAPA:
 - Conducted more than 45 distinct foreign on-site visits or verifications
 - Identified over **\$1 billion in AD/CVD duties** owed to U.S. Government
- During calendar year 2023 and 2024, CBP initiated 34 investigations and made 31 evasion determinations. Products investigated for evasion include mattresses, mobile access equipment, xanthan gum, quartz surface products, aluminum extrusions, thermal paper, steel grating, and cast iron soil pipe.
 - Examples of evasion include transshipment, misclassification, failure to pay AD/CVD duties, and using the wrong AD/CVD rate.
- While most EAPA investigations concluded with TRLED finding evasion, some parties had success before ORR and the CIT in overturning TRLED’s initial determination or ORR’s final administrative determination.

EAPA Violations: Recent Examples

U.S. Customs Finds Evasion by Thai Exporters of AD/CVD Duties on OCTG From China

NEWS PROVIDED BY
ACCESSWIRE
May 29, 2024, 9:00 PM ET

WASHINGTON, DC / ACCESSWIRE / May 29, 2024 / The U.S. OCTG Manufacturers Association ("USOMA") announces that U.S. Customs and Border Protection agency ("Customs") has determined that there is a reasonable suspicion of evasion of the antidumping ("AD") and countervailing ("CVD") duties on oil country tubular goods ("OCTG") from China by transshipment of OCTG through Thailand. In particular, on May 23, 2024, Customs found that two (2) Thai companies, Petroleum Equipment (Thailand) Co., Ltd. ("PET") and Thai Oil Pipe Co., Ltd. ("TOP"), have been transshipping OCTG produced in China to the United States while falsely declaring the merchandise to be of Thai origin. Moreover, Customs found that the following ten (10) U.S. importers were importing Chinese OCTG that had been transshipped through Thailand by PET and TOP:

EAPA Consolidated Case 7856: Various Importers (Notice of Determination as to Evasion, September 19, 2024)

EAPA Action: Notice of Determination as to Evasion for EAPA Consolidated Case 7856 – Mattresses

WASHINGTON— On September 19, 2024, CBP issued the notice of determination as to evasion for EAPA consolidated case 7856 filed by Zinus USA Inc., against U.S. importers Beanomy Inc., IYEE Nature Inc., Kelanch Inc., Wakodo Household Supply Inc., Xinshidian Trading Inc., Zevoky Inc., Kakaivy, Inc., Weekaly Inc., Heniddy Inc., Ryan James Engineering LLC, Sunwind Trading Inc., and Anlowo Inc. (collectively, the Importers), for evasion of AD/CVD orders A-570-092 and C-570-128 on mattresses from China. Specifically, evidence on the record indicates that the Importers transshipped Chinese-origin mattresses through South Korea. CBP has determined that there is substantial evidence of evasion of AD/CVD duties by the Importers and, therefore, CBP issued a formal notice of determination as to evasion and has taken enforcement actions.

1592 Penalties for Failure to Pay AD/CVD Duties

United States v. Lawrence Bivona (filed Oct. 24, 2024)

- Wooden Bedroom Furniture from China
- The Government alleges that LaJobi Inc. and Mr. Bivona committed fraudulent and/or grossly negligent violations of 19 U.S.C. § 1592 by misrepresenting the manufacturer and/or exporter of the wooden bedroom furniture and paying a much lower antidumping duty rate.
- The Government seeks \$7 million in loss of revenue and up to \$15 million in civil penalties.

PRESS RELEASE

United States Files Suit for Unpaid Duties and Penalties for Alleged Failure to Pay Duties on Imported Chinese Bedroom Furniture

Thursday, October 31, 2024

For Immediate Release
Office of Public Affairs

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United States v. Univar USA, Inc., (Ct. Int'l Trade 2019)

- Saccharine from China
- U.S. Government filed a complaint seeking nearly \$84 million in unpaid duties (plus interest) and penalties from Univar USA Inc.
- In 2019, Univar USA Inc. agreed to pay the United States \$62.5 million to settle the allegations

Univar To Pay \$62M To End Saccharin Duty Evasion Case

By Mike LaSusa

Law360 (April 9, 2019, 6:26 PM EDT) -- Univar Inc. has agreed to pay \$62 million to resolve allegations in the U.S. Court of International Trade that it illegally tried to avoid tens of millions of dollars in anti-dumping duties on Chinese-made saccharin by shipping it through Taiwan, prosecutors announced Tuesday.

AD/CVD Enforcement Includes Other Agencies



Audits, Investigations, Penalties,
Seizures and Forfeitures, EAPA



AD/CVD Scope Rulings
Anticircumvention
Referrals to CBP



False Claims Act
Criminal Prosecution

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False Claims Act Penalties for Failure to Pay AD/CVD

Blue Furniture Solutions, LLC

- U.S. Government alleged that Blue Furniture and others were importing wooden bedroom furniture into the U.S. without paying the required anti-dumping duties and other customs fees
- Settled FCA allegations with the DOJ in 2020 by agreeing to pay more than \$5.2 million

PRESS RELEASE

Importers to Pay more than \$5.2 Million to Resolve Allegations they Evaded Customs Duties in Violation of the False Claims Act

Yakima Products Inc.

- U.S. Government alleged that Yakima Products, an automobile accessory manufacturer, made false declarations to CBP to avoid paying AD/CVD on aluminum extrusions
- The company settled the FCA allegations with DOJ in 2024 by agreeing to pay \$3 million

PRESS RELEASE

Automobile accessory company Yakima Products Inc. settles allegations failed to pay duties on extruded aluminum from China



What Importers Need to Know About AD/CVD Compliance

What Importers Need to Know About AD/CVD Compliance

(1) How to correctly determine if a product is subject merchandise

(2) Identifying AD/CVD risks among your imports

(3) How to declare products subject to AD/CVD & make the right duty deposits

(4) Building a compliance program to fit your risk profile

(5) Defensive measures

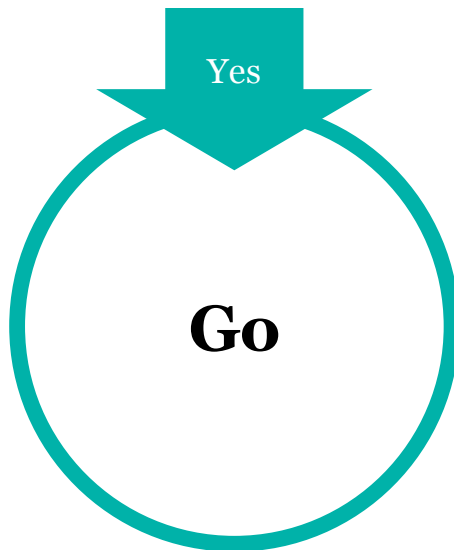
An aerial, top-down view of a warehouse floor. The floor is densely packed with numerous stacks of cardboard boxes. The boxes are arranged in a grid-like pattern, with some stacks being taller than others. The lighting is somewhat dim, and the overall color palette is dominated by the browns of the cardboard and the greys of the floor. A single, bright blue box is visible in the upper-middle section of the image, standing out from the rest of the stacks.

How to Correctly Determine if a Product is Subject Merchandise

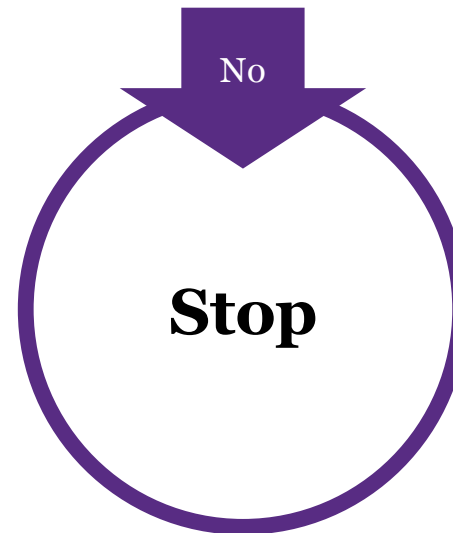
And Declare the Correct AD/CVD Duty Rate

STEP 1: Know Your Product

Do I know, with a high degree of confidence, the HTSUS classification and country of origin (COO) for this product?



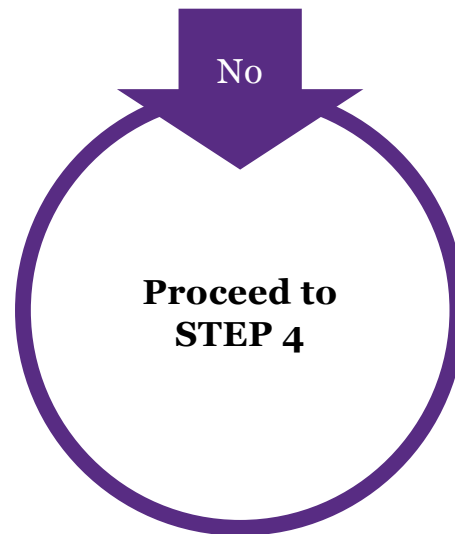
Proceed to STEP 2



Determine Correct Classification and COO

STEP 2: Review Orders in Force

Is this HTSUS/COO combination listed in one or more existing AD/CVD orders (or covered by a pending AD/CVD investigation in which liquidation is suspended)?



- All orders and suspensions listed in ACE by HTSUS # & COO
- CBP AD/CVD Search
Function:
<https://trade.cbp.dhs.gov/ace/adcvd/adcvd-public/#>
- Commerce AD/CVD Search
Function:
https://access.trade.gov/AD_CVD_Search.aspx

STEP 3: Carefully Read the Scope

Is this product within the scope of an AD or CVD order based on a review of the written scope description?



Remember: Every AD/CVD order says that HTSUS numbers are provided for convenience, but the written scope is what governs

STEP 3: Carefully Read the Scope (cont.)



- Scope may be limited by physical dimensions, chemistry, end use, etc. that exclude your product
 - Example: Order on “certain hot-rolled products of carbon steel and alloy steel, ***in coils***, of approximate ***round cross section, less than 19.00 mm*** in actual solid cross-sectional diameter.”
- Some orders expressly exclude specific products that nominally satisfy the scope language
 - Example: Order on “certain lined paper products,” specifically excluding, *e.g.*, “writing pads with a backing” and “index cards”

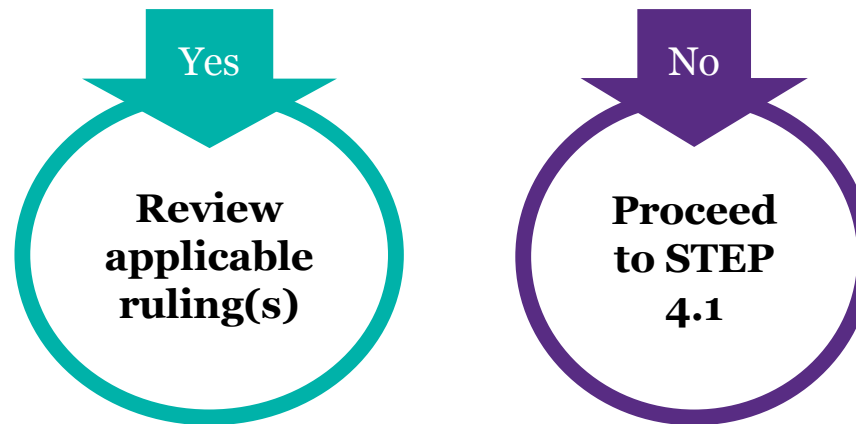
STEP 3: Carefully Read the Scope (cont.)



- Some HTS/COO combinations will flag under more than one AD or CVD order
 - Good news! Only one AD and one CVD order applies per product
 - Written scope will determine which orders apply
- If the written scope does not definitively place your merchandise in or out of scope, proceed to Step 4

STEP 4: Look for Scope Rulings

Are there any applicable Commerce scope rulings?



- The scope ruling process is a mechanism whereby Commerce determines whether a product is within the scope of an AD/CVD order
- Scope rulings can be found on the DOC's ACCESS system or through CBP's AD/CVD search function
- A scope ruling can clarify the existing scope, but cannot expand it

STEP 4.1: Consider Asking for a Scope Ruling

- If it is unclear whether a product falls within scope and there are no relevant scope rulings, a foreign producer/exporter, U.S. importer, or a U.S. producer may request that Commerce issue a scope ruling explaining whether specific products are within the scope of an order
- Commerce publishes quarterly notices summarizing all scope rulings
- 19 C.F.R. 351.225(l)(3) establishes how the rulings will affect collection of duties, making the rulings binding on CBP and other importers

STEP 5: Determine the Correct AD/CVD Rate(s)

Once you know what orders apply, determine the correct AD/CVD duty rate(s)

- Ensure you identify the current rate, as rates can change annually
 - Use ACE or FR notices, starting with most recent administrative review
 - Search for supplier, select active-duty rate
 - AD/CVD entries require both the name of the manufacturer and the exporter. The applicable AD/CVD rate can vary depending on the combination of manufacturers and exporters
 - If supplier has no active-duty rate, select the “all others” or “country-wide” rate

The background of the slide is a blue-tinted photograph. It shows a close-up of a metal chain, likely a fire escape or a similar industrial chain, with several links visible. The chain is attached to a vertical metal bar, possibly a door handle or a support structure. The lighting is soft, and the overall color palette is a range of blues, from light to dark. The text is overlaid on this background.

Identifying AD/CVD Risks Among Your Imports

ACE ADD/CVD Broker Entry Process Flag

HTS/COO combinations will flag in ACE **if** listed in an AD/CVD order or pending investigation for which liquidation is suspended.

However, HTS numbers may be modified over time and may not flag for AD/CVD once modified (*e.g.*, aluminum extrusions HTS codes).

File Edit View Actions Brokerage In-Bond Landed Costing Job Invoicing Documents Port Transport Help

DedARATION ⚠ Routing ⚠ Containers In-Bond ⚠ Packing Delivery Inv Groups Inv. Headers Inv. Lines Misc. Status Messages ⚠ Workflow & Tracking Landed Costing Billing Addresses Doc Data eDocs Notes ⚡ Logs

Entry/Line Nos.	Inv. # for Line	Goods Description	Tariff	Product Code	Prov/Prog. Tariff	Customs Qty	UQ	ORG	Manufacturer	Address	Line Price	ADD
▶ Not Merged	GS160302		9403.60.8081		9903.88.03	5,100.000000	NO	CN	SHELIASZX2	CNYJALIAS...	45,249.00	

* There are message errors on this row.
These message errors may be on another grid or fields that shows further information about this row.

- Case No: This invoice line may be subject to ADD. Please press F4 and use the search facility to review applicable ADD cases. If this line is not subject to ADD, please indicate this in the 'ADD N/A' field.
- Case No: This invoice line may be subject to CVD. Please press F4 and use the search facility to review applicable CVD cases. If this line is not subject to CVD, please indicate this in the 'CVD N/A' field.
- Lacey Indicator: Lacey Act Indicator is required when tariff is an Lacey Act tariff.
- TSCA Ind: TSCA Indicator is required when tariff is an TSCA tariff.
- APHIS Ind: APHIS Data May be required, no disclaim is required if APHIS does not apply

▪ Note: ADD may be required

Tariff Census Units and Value Information

1850.15 KG

Tariff	Description	SPI	Net Value	Value Adjustment	Adjustment Description	Dutiable Value
7610100010	ALUM STRUC; WINDOWS/WIN FRAMES		5062.92 USD			5,062.92 USD
Invoice Value		5,062.92 USD	5,062.92			

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ACE Flags for AD/CVD Warrant Investigation

- An ACE flag for AD/CVD is a warning that warrants investigation . . .
- . . . but it may not resolve the question of whether the order applies
- It is especially important to check for ACE flags for new products pre-importation

KEY TAKEAWAY: DISMISSING ACE FLAGS FOR AD/CVD WITHOUT INVESTIGATION IS NOT REASONABLE CARE!

Goods Classified Under GRI 3(b) or 3(c)

- GRI 3(b): Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale . . . Shall be classified as if they consisted of the material or component which gives them their essential character . . .
- GRI 3(c): When goods cannot be classified by reference to 3(a) or 3(b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration
- The HTSUS number that applies under GRI 3(b) or 3(c) may flag for AD/CVD, but only one part is actually subject
- The HTSUS number that applies under GRI 3(b) or 3(c) may not flag for AD/CVD, but a constituent part is covered by an AD/CVD order



Scopes that Cover Downstream Merchandise

Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules (Solar Panels) from China (AD/CVD Orders Published Dec. 7, 2012)

“Merchandise under consideration may be described at the time of importation as parts for final finished products that are assembled after importation, including, but not limited to, modules, laminates, panels, building-integrated modules, building-integrated panels, or other finished goods kits. Such parts that otherwise meet the definition of merchandise under consideration are included in the scope of this order. .”

Aluminum Extrusions from China (AD/CVD Orders Published May 26, 2011)

“Subject aluminum extrusions may be described at the time of importation as parts for final finished products that are assembled after importation, including, but not limited to, window frames, door frames, solar panels, curtain walls, or furniture. Such parts that otherwise meet the definition of aluminum extrusions are included in the scope. The scope includes the aluminum extrusion components that are attached (*e.g.*, by welding or fasteners) to form subassemblies, *i.e.*, partially assembled merchandise unless imported as part of the finished goods `kit' defined further below.”

Scopes That Cover Third Country Processing

Ferrosilicon from Russia (AD/CVD Orders published on Nov. 21, 2024)

“Subject merchandise includes material . . . that has been finished, packaged, or otherwise processed in a third country, including by performing any grinding or any other finishing, packaging, or processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the ferrosilicon.”

- Importers may file a request on Commerce’s filing system – ACCESS – for a third country case number if the product underwent processing in a third country but is still subject to the AD/CVD order. In cases where Commerce makes an affirmative circumvention determination, it often will create third country case numbers
 - Importers need to know all supply chain details to determine whether product from country B is subject to order on that product from country A

Commerce Can Expand Scope Based on Circumvention

- DOC can find circumvention of AD/CVD orders if product from a subject country is further assembled or processed in a 3rd country or in the U.S. 19 U.S.C. 1677j
 - DOC is not bound by the substantial transformation test re sufficiency of the third country processing to change COO
- Since 2022 DOC has initiated around 40 circumvention inquiries
- DOC may also self-initiate circumvention inquiries and has exercised this authority several times over the past few years (*e.g.*, aluminum wire & cable, oil country tubular goods, quartz surface products)

Commerce Can Expand Scope Based on Circumvention (cont.)

- If DOC finds circumvention, it can expand AD/CVD orders to merchandise finished outside the subject country
- DOC frequently applying circumvention determinations on a country-wide basis (vs. company-specific basis)
 - Example: Circular Welded Pipe (Standard Pipe) produced in Vietnam with intermediate steel inputs from South Korea found to be circumventing AD/CVD orders on Standard Pipe from South Korea
 - U.S. importers of Standard Pipe from Vietnam must certify to CBP that the pipe was not made with South Korean steel (**and be prepared to prove it**)



How to Find In-Scope Products that Don't Flag by HTSUS # & COO

- Identify “likely suspects” among your imports, such as:
 - Kits or sets made up of multiple items
 - Items classified under GRI 3(b) or 3(c)
 - Items classified in basket categories adjacent to in-scope HTSUS numbers
 - Anything that “sounds like” a product in the title of an AD/CVD order (classification database word search)
- Review BOMs and Query Production System (*e.g.*, extruded aluminum parts)
- Prepare a supplier survey for unrelated suppliers that identifies all of the components of the imported good.
- Run a sample of such items through Steps 1-4



The background of the slide is a dark teal color with a faint, semi-transparent image of a desk. On the desk, there is a chalkboard with the word 'COMPLIANCE' written on it in white chalk. To the right of the chalkboard is a round analog clock. In the bottom left corner, there is a pen and a small container. The title text is centered over the chalkboard area.

How to Declare Products Subject to AD/CVD & Make the Right Duty Deposits

Completing the Entry Summary for AD/CVD Entries

- AD/CVD Entry Types = **03** (consumption; most common); **07** (quota), **34** (warehouse withdrawal), **38** (warehouse withdrawal and quota)
- If the product undergoes some processing in a third country which does not remove it from the AD/CVD order, the importer should request from Commerce/CBP and use a different third country case number (e.g., C-201-845-001 if processing takes place in Mexico).

DEPARTMENT OF HOMELAND SECURITY
U.S. Customs and Border Protection

OMB APPROVAL NO. 1651-0022
EXPIRATION DATE 03/31/2025

ENTRY SUMMARY

1. Filer Code/Entry Number	2. Entry Type	3. Summary Date	4. Surety Number	5. Bond Type	6. Port Code	7. Entry Date	
8. Importing Carrier		9. Mode of Transport		10. Country of Origin United States of America		11. Import Date	
12. B/L or AWB Number		13. Manufacturer ID		14. Exporting Country United States of America		15. Export Date	
16. I.T. Number	17. I.T. Date	18. Missing Docs	19. Foreign Port of Lading		20. U.S. Port of Unlading		
21. Location of Goods/G.O. Number		22. Consignee Number		23. Importer Number		24. Reference Number	
25. Ultimate Consignee Name (Last, First, M.I.) and Address Street City State Zip				26. Importer of Record Name (Last, First, M.I.) and Address Street City State Zip			
27. Line No.	28. Description of Merchandise			32. A. Entered Value B. CHGS C. Relationship	33. A. HTSUS Rate B. AD/CVD Rate C. IRC Rate D. Visa Number		34. Duty and IR Tax Dollars Cents
	29. A. HTSUS No. B. AD/CVD No.	30. A. Gross Weight B. Manifest Qty.	31. Net Quantity in HTSUS Units				
	A-489-844-001 C-489-845-001					1.41% 1.15%	
Other Fee Summary (for Block 39)		35. Total Entered Value		CBP USE ONLY		TOTALS	
		\$		A. LIQ Code	B. Ascertained Duty	37. Duty	
		Total Other Fees		REASON CODE	C. Ascertained Tax	38. Tax	
		\$					

Applying AD/CVD at the Component Level (Special Case)

- Importers who fill out CF 7501 correctly only need to pay duties on the items actually subject to AD/CVD duties
 - See “Clarification – Correct Use of the ADD/CVD Special Value Fields, Multiple Entry Line and Set Provisions”
https://csms.cbp.gov/docs/23578_922344688/Special Value Memo Attachment.pdf
- Need to use “X and V” reporting in the special program field on CF 7501 to report components separately for AD/CVD purposes

Applying AD/CVD at the Component Level (Special Case)

Example 1: Votive candleholders packaged with tea-light candles are imported from China and classified as a set under GRI 3(b) at HTSUS 9405.50.4000 (non-electrical lamps and lighting fittings), but the candles would be separately classified at HTSUS 3406.00.0000 and are subject to order

28. Line No	29. Description of Merchandise			33 A. Entered Value B. CHCG C. Relationship	34 A. HTSUS Rate B. ADA/CVD Rate C. IRC Rate D. Visa No	35. Duty and IR Tax	
	30 A. HTSUS No. B. ADCVD Case No	31 A. Gross Weight B. Manifest Qty	32. Net Quantity in HTSUS Units			Dollars	Cents
001 CN	Non-Electric Lamps X9405.50.4000	13 KG	9 NO	\$109.00 C 2	6%	6	54
002 CN	Non-Electric Lamps V9505.50.4000	10 KG	9 NO	\$ 95.00 C 1			
003 CN	Candles, tapers and the like V3406.00.0000 A-570-504-XXX	3 KG	3 KG	\$ 14.00 C 1	108.3%	15	18

Use of "X and V" in special program field

Applying Duties at the Component Level (Special Case)

Example 2: Glass refrigerator shelf subassemblies classified at 8418.99.8060 contain aluminum extrusion components from China that are subject to AD/CVD orders

28. Line No	29. Description of Merchandise			33 A. Entered Value B. CHCG C. Relationship	34 A. HTSUS Rate B. ADCVD Rate C. IRC Rate D. Visa No.	35. Duty and IR Tax	
	30 A. HTSUS No. B. ADCVD Case No	31 A. Gross Weight B. Manifest Qty	32. Net Quantity HTSUS Units			Dollars	Cents
001 CN	Parts of Refrigerator 8418.99.8060 A570967000 C570968000	17673 KG	X	20000 (3500) (3500) 525 N	Free 85.96% 7.37%	0 3008 257	00 60 95

If a per unit AD/CVD cash deposit rate is in effect, declare AD/CVD quantities in addition to the HTSUS quantity.

The value in () equals the \$ value of the special value fields.



Build a Compliance Program to Fit Your Risk Profile

o. Avoid Simple Solutions Won't Work

Idea #1: Avoiding Certain Countries & Products

- Avoid AD/CVD duties by not buying from specific countries or products known to be subject to such duties

Why It Doesn't Work:

- AD/CVD orders apply to many countries and many products
- Covered products/countries/suppliers constantly change and new petition could be filed covering many more countries producing same product

Idea #2: Shift Liability to the Supplier

- Contractually shift responsibility to the supplier to identify merchandise subject to AD/CVD, or to provide only merchandise that is not subject to AD/CVD

Why It Doesn't Work:

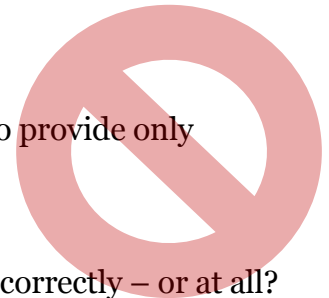
- IOR is legally responsible for the accuracy of information declared to CBP
- Do not trust if you cannot verify – How do you know the supplier has done the AD/CVD analysis correctly – or at all?

Idea #3: Adjust the Supply Chain

- Move some/all production from a country subject to AD/CVD duties to one that is not

Why It May Not Work:

- Costly short-term reprieve if petition is filed on the new country
- Moving only some production steps could result in a circumvention finding, expanding the scope of the AD/CVD order to the new country



1. Establish Internal Procedures For Handling AD/CVD Entries

- Adapt the 4 scope determination steps to your products and have written procedures for AD/CVD review
- Establish procedure for conducting AD/CVD review on any new product before it is imported for the first time (part of initial classification process)
- Develop decision trees or review logic to check new SKUs against AD/CVD orders presenting known risk
- For goods classified under GRI 3(b) and 3(c), scrutinize BOMs to identify in-scope components
 - Perform the same 4 step review at the component level

1. Establish Internal Procedures For Handling AD/CVD Entries (cont.)

- Issue surveys to suppliers to understand production process and sourcing of components
- Consult outside experts as needed
- Use the scope ruling process
- Maintain an auditable paper trail for all AD/CVD applicability determinations
- Do periodic self-audits and independent audits to ensure written controls are being followed

2. Establish Procedures With Broker(s) Prior To Importing AD/CVD Entries

The IOR should...

- ...issue written instructions to its broker(s) on what goods should be declared as subject to AD/CVD and how to handle
 - Letting the broker make these calls may not show reasonable care
 - Update instructions regularly

- ...have a consultation procedure in place for AD/CVD flag surprises
 - If a flag comes up not covered by your written instructions, instruct your broker to consult with you
 - Don't let your broker dismiss ACE flags without asking you

3. Prepare Non-Reimbursement Certificate For The AD/CVD Entry

- Can the foreign producer reimburse the importer for AD and CVD duties?
 - No. That doubles the duties
- IOR must file AD non-reimbursement certificate to avoid double duties
 - Required for CVD only if paired with AD order
 - Need one for each supplier
 - Must identify the commodity and country
 - Must “**contain the information necessary to link the certification to the relevant entry or entry line number(s)**”

----- DATE: _____

IMPORTER: _____

MANUFACTURER: _____

ANTIDUMPING CASE NUMBER: _____

I hereby certify that I have not entered into any agreement or understanding for the payment or for the refunding to me, by the manufacturer, producer, seller, or exporter of all or any part of the antidumping duties upon all shipments of:
COMMODITY _____ FROM
COUNTRY _____

Which have been and/or will be exported by this company.

This blanket applies to importations on or after MMDDCCYY through MMDDCCYY.¹ I further certify that U.S. Customs and Border Protection will be notified if there is any reimbursement of antidumping duties by the manufacturer, producer, seller, or exporter to the importing company at any time in the future.

INFORMATION REGARDING ANY REFUND OF ANTIDUMPING DUTIES MUST BE SENT IMMEDIATELY TO THE PORT DIRECTOR WHERE THIS CERTIFICATE IS FILED.

FAILURE TO FILE THIS CERTIFICATE PRIOR TO LIQUIDATION WILL RESULT IN THE PRESUMPTION OF REIMBURSEMENT AND THE ASSESSMENT OF DOUBLE ANTIDUMPING DUTIES.

SIGNATURE OF COMPANY OFFICIAL

PRINTED OR TYPED NAME OF ABOVE OFFICIAL

TITLE OF COMPANY OFFICIAL

NOTE: AN OFFICER OF THE IMPORTING COMPANY MUST SIGN THIS CERTIFICATE. IT MAY NOT BE SIGNED BY A CUSTOMHOUSE BROKER ON BEHALF OF THE CLIENT.

4. Stay Up To Date On Customs Bond Requirements

- AD/CVD payments at time of entry are **deposits** (“cash deposit”)
 - Final duty amounts likely to be unknown for several years
 - Could be higher (or lower) than the deposited amount

- Sureties must stand behind multiple years of unknown AD/CVD liability
 - Surety may do additional financial underwriting and/or require additional security from the bond principal

- CBP may require importers to increase their bond amount and may also require a single transaction bond to cover increased AD/CVD liability when it sees a revenue risk

5. Monitor Commerce's Instructions to CBP & Federal Register Notices

- Final AD/CVD duties are usually not known until the conclusion of an administrative review
 - If the final AD/CVD rate is less than the cash deposits deposited at the time of entry, the IOR will receive a refund of the difference plus interest. Conversely, if the final AD/CVD rate is more, then the IOR will owe the difference plus interest
- CBP posts Commerce's liquidation instructions (and other instructions) to <https://trade.cbp.dhs.gov/ace/adcvd/adcvd-public/#>, but it's also important to monitor the Federal Register for the publication of the Final Results from the administrative review
- For AD/CVD entries, deemed liquidation occurs within six months after CBP receives notice of the removal of suspension of liquidation
 - The courts have held that publication of the Final Results in the Federal Register constitutes such notice
 - If an entry for which an IOR is expecting an AD/CVD refund is deemed liquidated, the IOR must protest the deemed liquidation
 - Failure to protest will result in the IOR losing the refund (and interest)

Commerce's Instructions to CBP and What They Mean

- **Cash Deposit Instructions:** Sets the AD/CVD cash deposit rates for future entries after Preliminary/Final Determinations in an Investigation or Final Results in Administrative Review
- **Liquidation Instructions:** Sets the final AD/CVD rate for prior entries during a specific period; may be issued after an Administrative Review or subsequent litigation.
- **Rescission Instructions:** Notifies CBP that an AD/CVD Administrative Review has been rescinded and CBP should proceed to liquidate the entries during the period of review “as entered” (*i.e.*, cash deposits paid at time of entry will equal the final AD/CVD rate).
- **Gap Period Instructions:** Notifies CBP that entries during a certain period should not be subject to AD/CVD.
- **Termination Instructions:** Notifies CBP that an AD/CVD investigation has been terminated and instructs CBP to refund all AD/CVD cash deposits paid.



Defensive Measures

Strategies for Handling an Explosion of New AD/CVD Cases

- Request Vessel Manifest Confidentiality and Monitor Import Data

- Review contractual terms with foreign suppliers regarding who bears tariff risk
 - Foreign producer can act as non-resident IOR and provide merchandise to U.S. customers on DDP basis
 - Reduces enforcement and duty risk for importer and obviates need for non-reimbursement certificate

Strategies for Handling an Explosion of New AD/CVD Cases

- Create an Internal “Rapid Response Group” that would evaluate a new AD/CVD petition shortly after its filed.

- The Rapid Response Group should be comprised of personnel from across the business including
 - Import Compliance
 - Purchasing Department/Buyers
 - Legal

- **Main Goal**: Determine the impact of the new AD/CVD case on the business and evaluate whether it makes sense for your company to play a more active role in the proceeding.

Strategies for Handling an Explosion of New AD/CVD Cases (cont.)

- Potential questions for Rapid Response Group to consider:
 - How important financially is the case to the business?
 - How significant are the company's imports of this product?
 - How would the alleged AD/CVD rates, if imposed, impact the company's imports of this product?
 - Why is the company sourcing from the companies alleged to be dumping/receiving countervailable subsidies?
 - What is the relationship between the company and the foreign suppliers involved in the AD/CVD case? Does the company have a longstanding relationship with its foreign supplier such that it could put pressure on the supplier to cooperate in the AD/CVD proceedings?

Thank you!



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