



# The Bottom Line

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## RISK-BASED BONDING

### Summary

Customs and Border Protection is taking action to mitigate the risk of unpaid duty bills, in which the U.S. government loses a substantial amount of revenue and compromises its efforts to deter and remedy unfair and injurious trade practices.

### Background

Anti-dumping (AD) occurs when a foreign manufacturer sells goods in the United States for less than the fair market value, causing injury to U.S. industries. AD cases are company and country-specific. The duty is calculated to bridge the gap between the fair market value and the sale price of the goods.

Countervailing (CV) duties are imposed by an importing country to offset the advantage to producers/exporters derived from a subsidy their government offers for the production or export of the article taxed. Antidumping and countervailing duties are calculated independently of either standard duty rates or punitive China tariffs. It is possible for all four to be applicable to any one entry. The U.S. assesses AD duties on products imported at unfairly low prices (i.e., dumped) and CV duties on products subsidized by foreign governments. Nonpayment of AD/CV duties means the U.S. government has not fully remedied unfair trade practices and results in lost revenue.

In 2016, the Government Accounting Office (GAO) studied CBP's effectiveness at collecting AD/CV duties and recommended that Customs needed to track data, analyze risk, and then use the data and risk assessments to mitigate future risk.

### Current Status

GAO estimated that about \$2.3 billion in antidumping (AD) and countervailing (CV) duties owed to the U.S. government were uncollected as of mid-May 2015, based on its analysis of AD/CV duty bills for goods entering the United States in fiscal years 2001–2014. U.S. Customs and Border Protection (CBP) reported that it did not expect to collect most of that debt. GAO found that most AD/CV duty bills were paid, but that the collected funds only amounted to about 31% of the total. Unpaid bills were concentrated among a small number of importers, with 20 accounting for

about 50 percent of the \$2.3 billion uncollected. CBP data show that most of those importers stopped importing before receiving their first AD/CV bill. The AD/CV duty paid at the time of entry are cash deposits of estimated AD/CV duties. The final amount of duties owed is not determined until Commerce conducts an administrative review to establish the final AD/CV duty rates on past entries. In other words, the final duties are assessed retrospectively on prior entries. The final AD/CV duty amount may increase, decrease, or remain unchanged from the AD/CV cash deposit paid at the time of entry. After Commerce sends instructions to CBP on the final AD/CV duty rate for the entry, CBP will assess this final duty. CBP will issue a bill for any increase in duty plus interest or refund any overpayment plus interest as a result of a decrease of a duty. Interest is not applicable to entries made during the provisional measures period in the original AD/CV investigation. On average, this entire process, from the date of importation, takes approximately three years.

The current CBP proposal will use statistically significant risk factors to identify high-risk AD/CVD shipments that will require higher bonding rates, covered by either a re-calculated continuous bond, single-entry bond, or both. CBP will identify a 'new AD/CVD importer' as an importer who is importing merchandise subject to AD/CVD that has not yet had a AD/CVD entry liquidate (with final duty bill issued) at the time the entry is filed. All type 03 and 07 entries, imported by a 'new AD/CVD importer' (except for C-TPAT Tier 2 or 3 importers), will be required to present an additional AD/CVD Single Transaction Bond to CBP to obtain release of cargo.

### Impact

Customs has advised the new single transaction bond amount will equal the total import value or line value, if provided, multiplied by the total of any risk factor multipliers. This single transaction bond would be required in addition to any continuous bond on file for 'new' AD/CV importers. The revised risk assessments will also be used to determine the sufficiency of any established bond for experienced AD/CV product importers.

#### RESOURCES:

[CBP Action Needed to Reduce Duty Processing Errors](#) (GAO)  
[Commercial Customs Operations Advisory Committee](#) (CBP)  
[Antidumping and Countervailing Duties FAQ's](#) (CBP)  
[Antidumping and Countervailing Duties](#) (International Trade Admin)