

Advanced Topics in Customs Compliance – 2026

**Navigating the AD/CVD Minefield:
A Survival Guide for Trade Compliance
Professionals**

Presented by Will Planert and E.J. Thomas

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Taft/

Presentation Overview



Will Planert
Partner



E.J. Thomas
Senior Associate

- AD/CVD: Refresher
- AD/CVD: Scope
- AD/CVD: Statistics
- Common AD/CVD Issues faced by Customs Brokers and Importers
- New AD/CVD Issues for Customs Brokers and Importers
- Interplay between AD/CVD, Section 232, Section 301, and IEEPA Tariffs
- Strategies to Minimize AD/CVD Compliance Risk

AD/CVD: Refresher

What are antidumping duties?

Antidumping duties are imposed when a foreign producer is found to be selling its product in the United States at less than its home market price or less than the product's cost of production.

What are countervailing duties?

Countervailing duties are imposed when a foreign producer is found to receive subsidies that provide a financial contribution, are specific, and confer a benefit.

AD/CVD: Refresher (con't.)

U.S. Department of Commerce



- Determines AD/CVD duty rates
- Oversees AD/CVD scope rulings and circumvention proceedings
- Can refer evasion concerns to CBP

U.S. International Trade Commission



- Determines whether the U.S. industry at issue is materially injured by reason of subject imports

U.S. Customs and Border Protection



- Collects AD/CVD
- Enforces AD/CVD orders
- Conducts Enforce and Protect Act ("EAPA") AD/CVD evasion investigations

AD/CVD: Scope

- Every AD/CVD order has a “**scope**,” which Commerce administers
- Commerce typically defers to the wishes of the domestic industry when defining the scope
- Each AD/CVD order lists the **products** and **countries** to which it applies along with **HTSUS numbers** under which the product may be imported
 - Note that the HTSUS numbers are *not* definitive, as the scope language itself is dispositive.
- CBP often faces challenges **administering** scopes because Commerce writes the scope (but does not have to enforce it)



Recent Trend: Scopes are getting broader and encompassing more products

AD/CVD: Scope

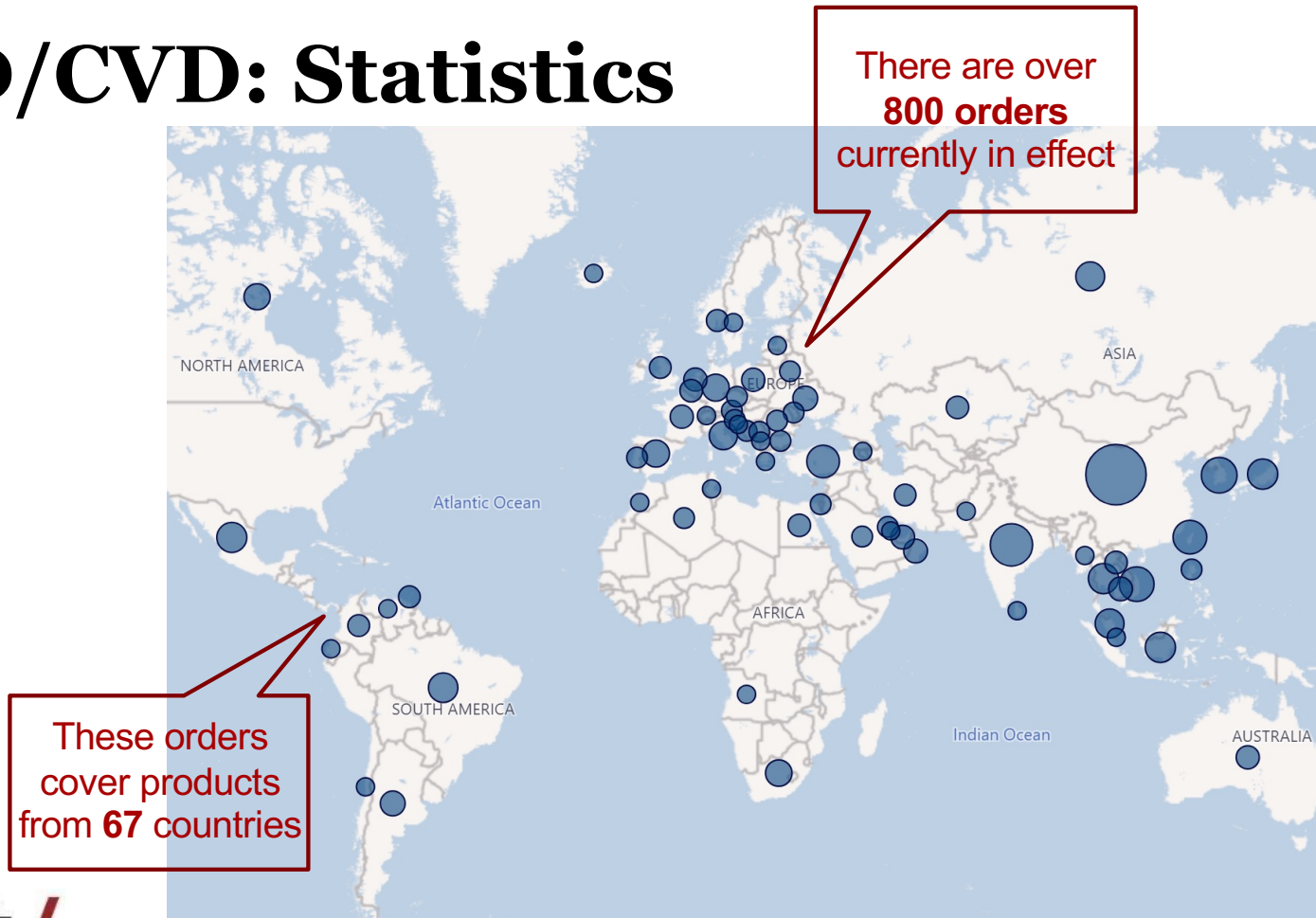
Active Anode Materials from China

“...Subject merchandise is covered regardless of whether it is mixed with silicon based active materials, e.g., silicon-oxide (SiO_x), silicon-carbon (SiC), or silicon, or additives such as carbon black or carbon nanotubes. Subject merchandise is covered regardless of the combination of compounds that comprise the graphite material. **Subject merchandise is covered regardless of whether it is imported independently, as part of a compound, in a battery, as a component of an anode slurry, or in a subassembly of a battery such as an electrode.** Only the anode grade graphite material is covered when entered as part of a mixture with silicon based active materials, as part of a compound, in a battery, as a component of an anode slurry, or in a subassembly of a battery such as an electrode.”

Mobile Access Equipment from China

“...The scope of this order covers mobile access equipment and subassemblies thereof **whether finished or unfinished, whether assembled or unassembled, and whether the equipment contains any additional features that provide for functions beyond the primary lifting function.** . . . Processing of finished and unfinished mobile access equipment and subassemblies such as trimming, cutting, grinding, notching, punching, slitting, drilling, welding, joining, bolting, bending, beveling, riveting, minor fabrication, galvanizing, painting, coating, finishing, assembly, or any other processing either in the country of manufacture of the in-scope product or in a third country does not remove the product from the scope. Inclusion of other components not identified as comprising the finished or unfinished mobile access equipment does not remove the product from the scope.”

AD/CVD: Statistics



AD/CVD: Statistics

Recently Imposed AD/CVD Orders

Overhead Door Counterbalance Torsion Springs from China | Paper File Folders from Sri Lanka | Low Speed Personal Transportation Vehicles (Golf Carts) from China | Corrosion-Resistant Steel from 10 countries | Tungsten Shot from China | Hexamine from Germany

Recently Initiated AD/CVD Investigations

Van-Type Trailers and Subassemblies from Canada, Mexico, and China | High Purity Dissolving Pulp from Brazil and Norway | Unwrought Palladium from Russia | Certain Chassis and Subassemblies from Thailand, Mexico, and Vietnam | Mushrooms from Canada

AD/CVD: Statistics



AD/CVD is a **priority trade issue** for CBP

January
20, 2025

*CBP assessed **\$2.6 billion** in AD/CVD*

December
15, 2025

January
20, 2025

*CBP uncovered **\$400 million** in unpaid AD/CVD*

August
8, 2025

AD/CVD: Statistics

- 20 EAPA investigations were initiated during 2025
- 18 final EAPA determinations were issued in 2025

Examples include:

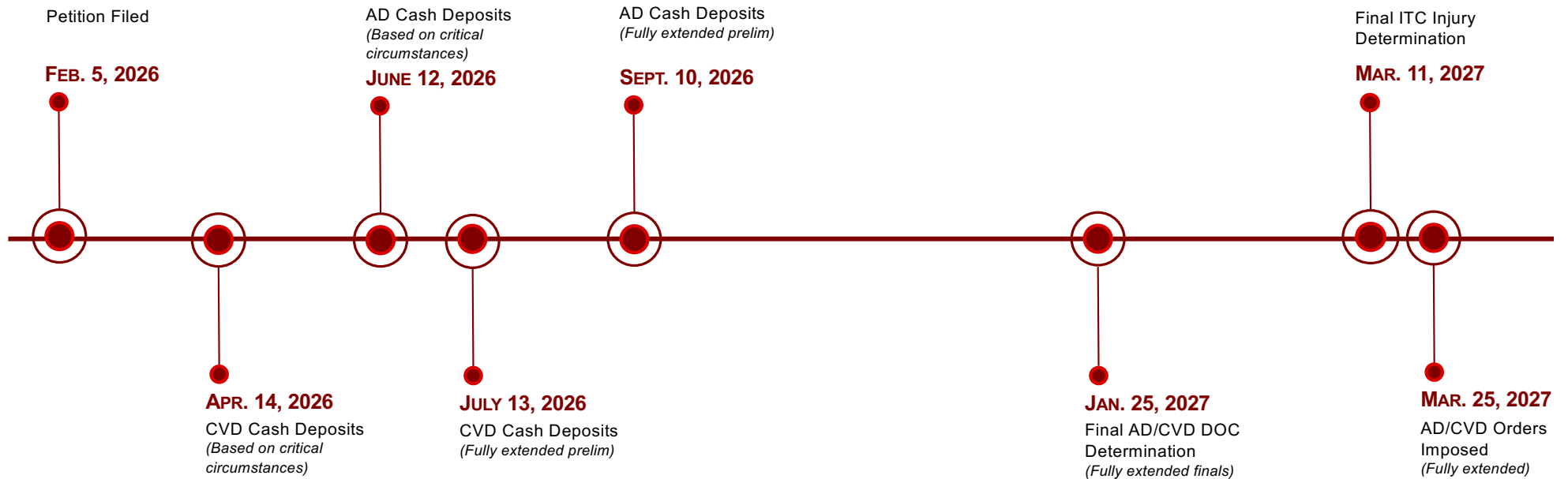
- Metal Lockers from China (*misclassification of merchandise*)
- Nails from China (*misclassification and transshipment through S. Korea*)
- Wooden Bedroom Furniture from China (*misclassification of merchandise*)
- Wooden Cabinets and Vanities from China (*transshipment through Taiwan*)
- Mobile Access Equipment from China (*incorrectly declared product as country of origin Poland*)
 - Magnesium Metal from China (*transshipment through Turkey*)
- Solar Panels from China, Cambodia, Malaysia, Thailand, and Vietnam (*incorrectly declared as product of India*)
- Freight rail couplers from Mexico and China (*failing to formally declare freight rail couplers on entry summary due to IIT/rail car exemption*)

Common Issues: Retroactivity

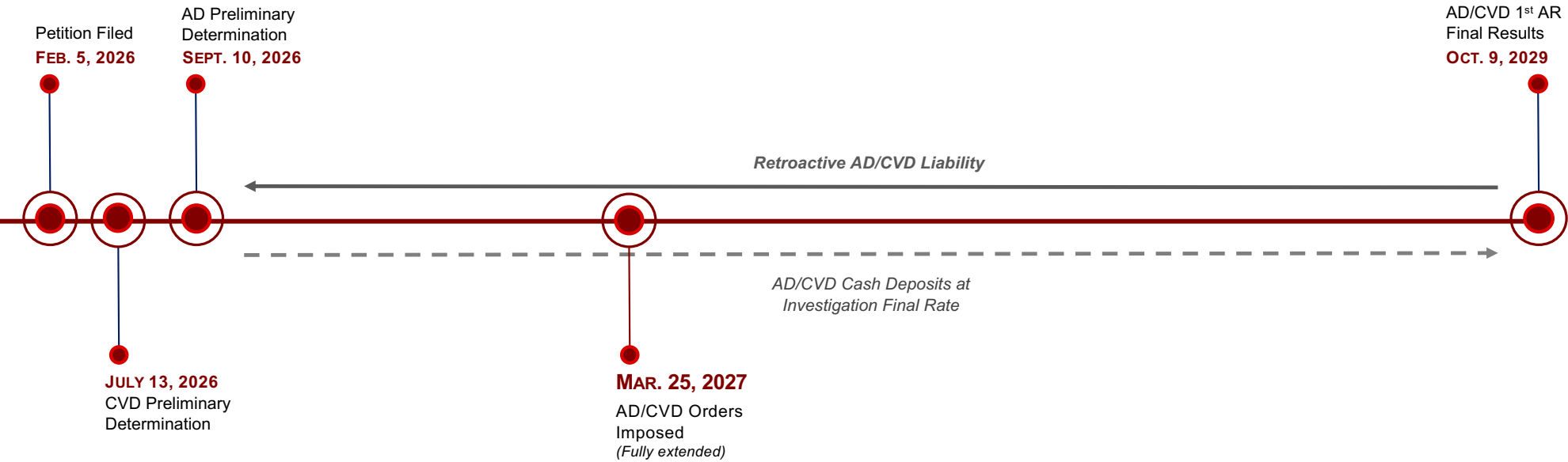
**The U.S. AD/CVD system is retrospective,
and duties can be imposed retroactively**

If the U.S. Department of Commerce and the U.S. International Trade Commission both determine that critical circumstances exist (*i.e.*, that there was a massive surge in imports after the petition is filed), then duties can be imposed retroactively up to 90 days before the preliminary determination

Common Issues: Retroactivity



Common Issues: Retroactivity



Common Issues: Liquidation Challenges

- Liquidation of AD/CVD entries often takes **at least two years**, or even longer if there is litigation involving the underlying entries
- AD/CVD rates **often change** from the cash deposit rates, resulting in refunds (with interest) or additional duties owed (plus interest)
- Tracking Commerce's liquidation instructions, actual liquidation of AD/CVD entries by CBP, and obtaining refunds can often prove difficult due to the **extended timelines**

Common Issues: Liquidation Challenges



Definitions

Cash Deposit Instructions: Sets the AD/CVD cash deposit rates for future entries after preliminary/final determinations in an investigation or Final Results in an 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

Common Issues: Liquidation Challenges

Deemed Liquidation

- 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)



Deemed liquidation is a shield and a sword depending on if you are owed a refund or if you owe additional duties; **keep a close watch if owed a refund!**

Common Issues: Non-Reimbursement Certificate

BLANKET STATEMENT OF NON-REIMBURSEMENT
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.

- Foreign producer/exporter **cannot** reimburse the importer for AD/CVD
 - If the foreign producer/exporter does this, or if the importer fails to provide non-reimbursement certificate, this can double the applicable AD/CVD owed
- IOR **must** file AD non-reimbursement certificate to avoid double duties
 - Required for CVD only if paired with an 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)”

Common Issues: AD/CVD ACE Flags

For Customs Brokers:

Always remember to confirm with the importer that the imported product is not subject to AD/CVD before dismissing a flag. Just because the importer previously imported this product when it was not subject to AD/CVD does not mean that it is not now subject to AD/CVD.

For Importers:

Make sure to timely respond to your Customs Broker and analyze the product at issue to confirm that it is not subject to an AD/CVD investigation or order. It is important to save your analysis and homework in case CBP issues requests for information. If there is any doubt, contact AD/CVD counsel.

Common Issues: Understanding What is in Scope/Subject to AD/CVD

AD/CVD scopes are▷

getting increasingly more complex with broader language to encompass “subassemblies,” “unfinished” products, and in-scope merchandise within downstream products (e.g., active anode materials within batteries, aluminum extrusions within numerous different products)

getting expanded via the scope ruling process, EAPA, and circumvention inquiries, so simply reviewing the scope language may not be enough

Common Issues: Understanding What is in Scope/Subject to AD/CVD (cont.)

Importers who fill out the entry summary correctly should only pay AD/CVD on the items actually subject to AD/CVD

- **CBP has provided guidance on how to use the special value fields via CSMS# 18-000379 for reporting AD/CVD for only part of the good imported**

Example: 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.

Common Issues: Understanding What is in Scope/Subject to AD/CVD

Practical Guidance from AD/CVD Practitioners

Review the product description and associated materials provided by the manufacturer/exporter.
Identify key characteristics of the product at issue.

Review the scope of the AD/CVD order (if investigation completed) or the proposed scope (if investigation still ongoing) to see whether the key characteristics of the product fall within the terms of the scope language.

Review the Petitioners' responses to any scope-related petition questions and all scope comments filed in the case to see whether Commerce or any other parties have previously discussed the product at issue

Analyze Commerce's scope determination from the investigation, prior scope rulings, and circumvention rulings.
Review prior EAPA determinations involving the same AD/CVD order.

If the product at issue is just slightly different from the scope of the AD/CVD order (e.g., 4.75 mm diameter vs. 5 mm diameter, an engine with 75 cc vs. 99 cc), consider whether there are circumvention concerns.

*If there are still unresolved questions,
consider pursuing a scope ruling at Commerce*

AD/CVD In the News

Commerce initially applied a punitive, "adverse facts available" AD rate

Italian Pasta Is Poised to Disappear From American Grocery Shelves

Trump administration is set to impose duties of 107% on Italian pasta imports, among most punitive of tariffs it has levied

Commerce's definition of "cooperate" is not the same as the commonly understood definition of "cooperate," and the consequences of Commerce finding that a company did not cooperate can impact meaningful portions of the U.S. economy.

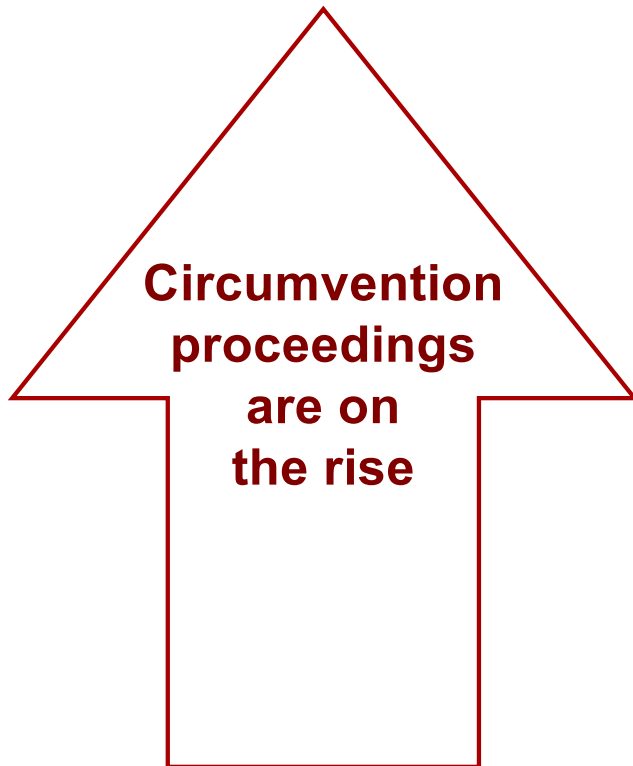
After extensive press coverage, along with pressure from the Italian government and other interested parties, Commerce revised the AD rates downward to 2.26% and 13.89%

New AD/CVD Issues: Expanded Scopes



- Commerce is **deferential** to the Petitioners and generally will adopt the scope as drafted by Petitioners
- Commerce does not have to deal with enforcement; that's **CBP's problem**
- But CBP will err on side of saying the product is subject to the AD/CVD order and **punt the issue** back to Commerce.
- More companies are being **forced to request scope rulings** at Commerce

New AD/CVD Issues: Circumvention



- Certain steel wheels 22.5-24.5 inches in diameter completed in Thailand or Vietnam **using steel manufactured in China**
- Mattress **components imported from Poland, Mexico, or Malaysia** and assembled into finished mattresses in the United States
- Compacted graphite iron (vermicular iron) brake drums from China
- Assembly or completion of steel wire garment hangers in Cambodia using **carbon wire imported from China and/or Vietnam**
- Paper plates completed or assembled in Malaysia or Cambodia **using equipment and inputs from China**
- Disposable aluminum containers, pans, trays and lids completed or assembled in Vietnam or Thailand from **aluminum foil jumbo rolls or thin gauge flat rolled aluminum sheet from China**

New AD/CVD Issues: Certification

Due to expanding AD/CVD scopes and circumvention determinations, Commerce is frequently imposing new certification requirements on importers

**Certification Example:
Corrosion-Resistant Steel**

Importer Certification

I hereby certify that:

“F. The corrosion resistant steel products covered by this certification were not manufactured using hot-rolled steel and/or cold-rolled steel substrate produced in China.”

New AD/CVD Issues: Certification

Certification Example: Low Speed Personal Transportation Vehicles (Golf Carts)

Importer Certification

I hereby certify that:

“F. I am importing Chinese-origin seat assemblies, steering column assemblies, suspension systems, plastic cowlings, or motors (regardless of whether electric or gas powered) that could be used to produce low speed personal transportation vehicles (LSPTVs) or subassemblies thereof.

(i) I certify that the parts (*i.e.*, Chinese-origin seat assemblies, steering column assemblies, suspension systems, plastic cowlings, or motors) that I am importing are not being imported together with subject subassemblies (*i.e.*, rolling chassis) or subject unfinished LSPTVs. Imported together means on the same bill of lading. Parts on the same bill of lading are considered to be imported together even if they are entered in different containers, separate entries, or on different invoices. A subassembly (*i.e.*, rolling chassis) is subject to the Order if it meets the definition of a rolling chassis as described by the scope of this order.

(ii) I also certify that neither my company nor a related entity will assemble these parts with a subject subassembly or a subject unfinished LSPTV to produce an LSPTV. For purposes of this certification, a related entity is any entity that has a connection to the importer, whether through ownership, control, contracts, or close supplier/customer relationship.”

New AD/CVD Issues: Certification

Certification Example:
Crystalline Silicon Photovoltaic Cells,
Whether or Not Assembled Into
Modules

Importer Certification

I hereby certify that:

“(F) If the imported products covered by this certification are solar cells that are not in solar modules or products that contain solar cells that are not in a solar module, then the importer certifies that the solar cells produced in {COUNTRY} that are covered by this certification were not manufactured using wafers produced in China, regardless of whether sourced directly from a Chinese producer or from a downstream supplier.

(G) If the imported products covered by this certification are solar modules or products that contain solar modules, then the importer certifies that the solar modules produced in {COUNTRY} that are covered by this certification were not manufactured using wafers produced in China, regardless of whether sourced directly from a Chinese producer or from a downstream supplier, or the solar modules produced in {COUNTRY} that are covered by this certification were manufactured using wafers produced in China but no more than two of the following inputs that were used to manufacture the solar modules were produced in China, regardless of whether sourced directly from a Chinese producer or from a Chinese downstream supplier:

a. Silver Paste; b. Aluminum Frames; c. Glass; d. Backsheets; e. Ethylene-Vinyl Acetate; f. Junction Boxes”

New AD/CVD Issues: Certification

Certification Example: Wire Rod

End-Use Certification

I hereby certify that:

“__ my company is the end-user of the imported product covered by this certification, Or

__ my company is not the end-user of the imported products covered by this certification, but I have contacted the end-user and advised them in writing of the end-use requirements for the imported product and an official of the end-user has signed a copy of this certification;

- This tire cord wire rod shall be used for tire cord applications, which require that the tire cord wire rod be drawn into wire with a diameter of 0.405 mm or less;
- This tire cord wire rod will not be drawn into wire with a diameter greater than 0.405 mm;
- I understand that {INSERT NAME OF IMPORTING COMPANY} is required to maintain a copy of this certification (including a copy signed by an end-user that is not the importer) and sufficient documentation supporting this certification for the later of (1) a period of five years from the date of entry or (2) a period of three years after the conclusion of any litigation in the United States courts regarding such entries;
- I understand that {INSERT NAME OF IMPORTING COMPANY} is required to provide this certification and supporting records, upon entry, to U.S. Customs and Border Protection (CBP);”

New AD/CVD Issues: Criminal Enforcement

- August 2025: DOJ and DHS announce the creation of a cross-agency **Trade Fraud Task Force** to bring criminal enforcement actions against importers and other who attempt to evade duties/tariffs, including AD/CVD and Section 301
- December 2025: The Trade Fraud Task Force indicted several individuals and companies on charges related to the evasion of more than **\$109 million** in AD/CVD on quartz surface products, wooden cabinets and vanities, and ceramic tiles from China.
- The companies indicted were previously involved in an EAPA investigation at CBP. Available information suggests that some of the evasion-related information was gathered during the EAPA proceeding.

Note the following statement at the conclusion of all CBP's EAPA determinations:
"None of the above actions precludes CBP or other agencies from **pursuing additional enforcement actions or penalties.**"

Interplay between AD/CVD and Section 232, Section 301, and IEEPA Tariffs

AD/CVD stacks on top of all these other duties – there is no unstacking provision for AD/CVD

These other duties lead to higher AD rates because Commerce deducts these other duties from the U.S. price of the goods when comparing to the price of the goods sold in the home market

Increased CBP scrutiny of entries has led to increased AD/CVD issues for importers

In the past year, we have experienced at least three situations where a CBP audit or CF-28 related to non-AD/CVD issues turned into an AD/CVD issue, and CBP requested that the importer request a scope ruling from Commerce

Strategies to Minimize AD/CVD Compliance Risk



Establish internal procedures for handling AD/CVD entries

- Include AD/CVD in the company's trade compliance manual
- Create AD/CVD review process for importation of new products
- For complicated scopes of products that may be frequently imported, consider creating a decision tree
- Collect and review bills of material in advance and review sourcing of key inputs
- Issue surveys to suppliers to understand production processes and sourcing of components
- Collect signed non-reimbursement certificates and other applicable AD/CVD order specific certifications
- Consult AD/CVD experts where there are questions
- Maintain auditable paper trail for AD/CVD related decisions
- Monitor Commerce's AD/CVD instructions to CBP and relevant Federal Register notices
- Create timelines with key dates for AD/CVD entries

Strategies to Minimize AD/CVD Compliance Risk



Establish clear procedures with Customs brokers prior to importing AD/CVD entries

- Do not dismiss ACE flags without discussing with the importer
- Make sure procedures include instructions related to non-reimbursement certificates and other applicable certifications that may be required for import of goods subject to AD/CVD
- Make sure applicable processes are established for CF-28s/29s or any other inquiries from Customs are sent on a timely basis to the importer
- Create and review weekly liquidation reports from ACE

Strategies to Minimize AD/CVD Compliance Risk

03

Request vessel manifest confidentiality

04

Monitor and stay updated on Customs bond requirements

- Final AD/CVD duty amounts likely to be unknown for several years
- Sureties must stand behind multiple years of unknown AD/CVD liability
- Sureties 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

Strategies to Minimize AD/CVD Compliance Risk

05

Monitor historical imports and market trends

- Are domestic competitors complaining about imports in public statements or press releases?
- Have your company's imports increased, or are they expected to increase?

06

Review contractual terms with foreign suppliers regarding who bears tariff risk

Strategies to Minimize AD/CVD Compliance Risk



Monitor AD/CVD Proceedings and Consider Certain Actions that Could Impact AD/CVD Rates

- Monitor for quantity and value questionnaires issued at Commerce and ensure that your foreign supplier completes the questionnaire
- File a separate rate application or assist your foreign supplier with their separate rate application
- Submit an affidavit to your foreign supplier certifying non-use of certain subsidy programs
- Request an AD or CVD administrative review and encourage your foreign supplier to hire experienced AD/CVD counsel to assist them with Commerce's questionnaires
- Complete an ITC questionnaire and urge your customers and foreign supplier(s) to do the same

Questions?



EMAIL

WPLANERT@TAFTLAW.COM
ETHOMAS@TAFTLAW.COM



PHONE

202-216-4819
202-216-4110



ADDRESS

1333 NEW HAMPSHIRE AVE NW
WASHINGTON DC, 20036