FINANCIAL MANAGEMENT:
Review of Controls Over Entry Summaries Subject to Antidumping or Countervailing Duty

OIG-01-063 April 20, 2001

Office of Inspector General

****

The Department of the Treasury

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

OFFICE OF
INSPECTOR GENERAL

APR 20 2001

MEMORANDUM FOR ACTING COMMISSIONER CHARLES W. WINWOOD
UNITED STATES CUSTOMS SERVICE

FROM: William H. Pugh *William H. Pugh*
Deputy Assistant Inspector General for Financial Management and Information Technology Audits

SUBJECT: Report on Review of Controls Over Entry Summaries Subject to Antidumping or Countervailing Duty

This memorandum transmits our report on *Review of Controls Over Entry Summaries Subject to Antidumping or Countervailing Duty*. The review was conducted as an addition to the Office of Inspector General's *Office of Audit Annual Plan for Fiscal Year 1999*, issued October 1, 1998. The objectives of the review were to determine whether (1) adequate internal controls existed over the processing of entry summaries subject to antidumping and countervailing (AD/CV) duty, and (2) Customs was in compliance with the applicable laws and regulations relating to the processing of AD/CV entry summaries.

Our review disclosed that Customs generally had adequate controls over entry summaries subject to antidumping or countervailing duty. However, we identified certain areas needing improvement relating to the processing of entry summaries subject to AD/CV duty.

Our review further disclosed that Customs did not always comply with liquidation laws and regulations. Specifically, we noted that Customs did not always liquidate AD/CV entry summaries within 6 months of the date of liquidation instructions per 19 USC Section 1504. Your staff reviewed these findings during our audit, and we have incorporated their comments. We have made recommendations, which are also incorporated in the report.

We appreciate the courtesies and cooperation provided to our staff during the review. Should you or your staff have any questions, you may contact me at (202) 927-5430, or Thomas A. Moschetto, Director, Financial Management Audits at (202) 927-5074.

Attachment

Contents

TRANSMITTAL MEMORANDUM

REPORT OF THE OFFICE OF INSPECTOR GENERAL

Overview 1

Background 2

Objectives, Scope, and Methodology 3

Audit Results 5

Appendices

Appendix 1: Abbreviations 9

Appendix 2: Major Contributors to the Report 10

Appendix 3: Report Distribution 11

Overview

This report presents the results of our audit of the controls over entry summaries subject to antidumping and countervailing (AD/CV) duties.

Antidumping duties are assessed when (1) merchandise is sold to purchasers in the United States (U.S.) at less than its fair value, or less than prices at which comparable goods are sold in the domestic market of the exporter, and (2) this results in material injury to a U.S. industry. Countervailing duties are assessed when grants (subsidies) are paid by a foreign country to the manufacturer, producer, or exporter of merchandise exported to the U.S. from that foreign country. The payment can be direct or indirect. It can take many forms such as direct cash benefits, credit against taxes, and loans with artificially low interest rates.

The U.S. Department of Commerce (Commerce) and the U.S. Court of International Trade (CIT) investigate whether dumping or subsidies exist and whether injury has occurred. The investigation is conducted in stages and within specific time periods. However, many of these issues take years to reach final resolution. AD/CV duty provisions are provided for in Title VII of the Tariff Act of 1930, as amended by the Trade Agreements Act of 1979 (TAA).

When Commerce issues a preliminary finding of dumping, Customs begins suspending liquidation (putting them on hold) of entry summaries for the problem merchandise, and requires the posting of bonds or other securities by the importer. This is also referred to as suspension orders. Entry types 03, 07, 34, and 38 are used to automatically suspend liquidation. If both Commerce and the CIT's final determination are affirmative, Commerce issues an Antidumping or Countervailing order requiring a cash deposit rather than bonds.

The entry summaries are then held until Commerce completes its annual reviews and provides liquidation instructions to Customs. Commerce issues these instructions to Customs via the Automated Commercial System (ACS) E-mail. Customs Headquarters forwards the liquidation instructions to the field through the ACS E-mail

Bulletin Board. The Bulletin Board instructions are very complex and often specify product, manufacturer, importing country, and other data. Once the liquidation instructions have been received by the ports, actions are taken to remove the liquidation hold and liquidate the entry summaries at the rate determined by Commerce. Liquidations may result in billings, refunds, or no change.

According to 19 USC 1504, "When suspension required by statute or court order is removed, the Customs Service shall liquidate the entry within 6 months after receiving notice of the removal from the Department of Commerce, another agency, or a court with jurisdiction over the entry. Any entry not liquidated by the Customs Service within 6 months after receiving such notice shall be treated as having been liquidated at the rate of duty, value, quantity, and amount of duty asserted at the time of entry by the importer of record." After 6 months, the entries should be "deemed liquidated" with no changes and entered, as such, by the import specialists. However, the importer is able to protest entries that are "deemed liquidated" that should have resulted in a refund.

Once the Commerce decision bulletin is posted in ACS, it is the import specialists' responsibility to review the bulletin and liquidate all applicable entries timely and accurately. The AD/CV entry summaries are filed and stored manually by the decision number and other data. Customs' officials can only access liquidated or outstanding AD/CV entries in ACS by entry number, i.e., not by case number.

This audit was in addition to the Office of Inspector General's Office of Audit Annual Plan For Fiscal Year (FY) 1999, issued on October 1, 1998.

Background

The Tariff Act of 1930, as amended by the TAA, provides in section 731 for the imposition of antidumping duties when the Commerce Department's International Trade Administration (ITA) determines that subject foreign merchandise is being sold in the U.S. at less than fair value, and the ITC determines that, as a result, an industry in the U.S. is materially injured or threatened with material injury, or that

the establishment of an industry is materially retarded by reason of the imported merchandise.

Section 701 of the TAA provides for the imposition of countervailing duties if Commerce determines that a country that is a signatory to the World Trade Organization's agreement on Subsidies and Countervailing Measures is providing a subsidy with respect to the manufacture, production, or exportation of subject merchandise imported into the U.S., and the ITC determines that such imports are causing the injury described above.

The AD/CV duty laws changed significantly as a result of the 1979 TAA. The TAA repealed the Antidumping Act of 1921 and consolidated the AD/CV duty provisions in a new Title VII of the Tariff Act of 1930, as amended. The revised regulations governing AD/CV duties are specified in Part 351, Title 19 of the Code of Federal Regulations (CFR).

The sensitivity of AD/CV issues makes the proper administration of AD/CV duty laws crucial. Customs initiated a review of the AD/CV duty process in June, 1999, because of the sensitive nature of the program and this audit. As a result of this review, Customs initiated implementation of many of the recommendations in this report. Our findings note the actions Customs has taken towards the implementation of our recommendations.

Objectives, Scope, and Methodology

The objectives of our audit were to determine whether: (1) adequate internal controls existed over the processing of entry summaries subject to AD/CV duties, and (2) Customs was in compliance with the applicable laws and regulations relating to the processing of AD/CV entry summaries.

The scope of our audit focused principally on (1) gaining an understanding of the entry summary process and related internal controls, (2) reviewing AD/CV cases, ACS reports, and other management reports, (3) following up on a prior OIG report, and (4) following up on Arthur Andersen's review of the antidumping module in ACS during FY 1997.

We conducted our fieldwork during June and July of 1999; however, we followed up with Customs' personnel and updated our report, where applicable, to reflect activity that occurred through January 2001. This report reflects the most recent activity that has occurred within the AD/CV program. We conducted our fieldwork at Customs' Headquarters (Headquarters) in Washington DC, and at Customs facilities in Chicago, New York City, Los Angeles and Atlanta.

To accomplish our review objectives, we: (1) met with Headquarters personnel to determine their role and responsibilities with regards to AD/CV duties, (2) reviewed reports and data queries used by Headquarters and field offices in AD/CV entry summary liquidations, (3) reviewed the AD/CV Duty Handbook for Import Specialists, issued in March 1998, (4) reviewed the procedures performed by the Office of Strategic Trade (OST) relating to AD/CV duty cases, and (5) conducted walk-throughs, at field sites, of Customs' controls over entry summaries subject to AD/CV duty.

We conducted our audit in accordance with *Government Auditing Standards*, issued by the Comptroller General of the United States.

Audit Results

Finding 1 Timely Liquidation Not Always Performed

Customs did not always liquidate AD/CV entry summaries within six months of the receipt of liquidation orders from Commerce. In accordance with Title 19 of the United States Code (USC), 1504, when a suspension required by a statute or court order is removed, the Customs Service shall liquidate the entry summary within six months after receiving notice of the removal from Commerce, another agency, or a court with jurisdiction over the entry summary. Any entry summary not liquidated by Customs within six months after receipt of such notice shall be treated as having been liquidated at the rate, value, quantity, and amount of duty asserted at the time of entry by the importer of record.

Customs Office of Field Operations (OFO) at Headquarters notifies the field office of liquidation orders for an AD/CV case received from Commerce through the AD/CV electronic bulletin board. However, until recently, there was no follow up by either supervisory import specialists (at the field offices) or OFO to ensure that the applicable entries had been liquidated. At field offices we visited, new procedures had been issued which require the import specialists' supervisors to run a report three to four months after receipt of the liquidated orders to verify that the applicable entries have been liquidated. Customs Headquarters personnel informed us that these reports are being run timely.

As part of Customs internal review, field offices have made considerable progress in this area. A national management oversight program called Self-Inspection Worksheets (SIW) is used to measure this progress. During the last SIW reporting period, an average of one to two AD/CV entry summaries were not liquidated timely and these were isolated to only six ports.

Recommendation

We recommend Customs ensure that the procedures requiring (1) supervisors to verify that applicable entries have been liquidated, and (2) OFO to follow up with field personnel on all unliquidated entry summaries open four months after liquidation instructions were provided, are properly implemented and effective.

Management Response and OIG Comment

To address this recommendation, Customs plans to issue a directive requiring the use of the newly revised A79 - AD/CV Duty Line Item Report, which is a proven comprehensive tool that identifies all affected entry summaries and provides users with detailed AD/CV Duty line item data. In addition, the Directive will include instructions to field supervisors regarding the use of this report as a management oversight tool to track the progress of the liquidation process. Issuance of the directive is planned for June 2001. As additional oversight, internal operating procedures will be developed for the Other Government Agencies Branch at Headquarters to monitor and report the status of the liquidation process for individual cases.

The OIG believes the above actions adequately address the recommendation.

Finding 2 Antidumping Countervailing Duty Orders Not Always Captured In The AD/CV Module

Customs did not always maintain a cumulative listing of AD/CV cases for which suspension orders and liquidation orders had been received. Information concerning AD/CV cases is disseminated to the field offices by Headquarters through Customs AD/CV electronic bulletin board. Within approximately 90 days of being posted on the bulletin board, the AD/CV case information is removed from the bulletin board and is posted to the AD/CV module. However, we identified instances where liquidation orders had not been posted to the AD/CV module. Thus, field personnel did not have the required

information to identify entries for liquidation. If the liquidation orders do not post to the AD/CV module the field offices may not have the necessary information to liquidate the entries.

In addition, since Headquarters did not require the field offices to provide any status reports on the liquidation of AD/CV entries, management could not be certain that the field offices had received all AD/CV liquidation orders that had been issued.

Customs informed us they developed and implemented a reporting mechanism that identifies all of the instructions issued by Commerce. By using a national scripting methodology, users in the field are able to access all Commerce issued instructions for whatever date parameter that they desire. The data is written to the users' hard drive in the form of a flat file.

Recommendation

Customs should provide its field offices, on a monthly basis, an updated comprehensive listing of AD/CV cases for which suspension and liquidation orders have been issued.

Management Response and OIG Comment

Customs agrees with the above recommendation and has taken action to begin addressing this issue. Specifically, Customs has developed a script entitled "AD/CVD ADIL Report." This report will provide a comprehensive listing of all Commerce-generated AD/CV Duty messages, thus enabling field personnel to identify and track the liquidation and suspension activity of AD/CV Duty cases. In addition, a "flat file" of the report data is automatically written to the user's computer hard drive to enable the user to upload the report data to another program such as MS Access or MS Excel, for data manipulation. Upon approval of the directive discussed in management's response to recommendation number 1 above, the script will be disseminated to all field offices for immediate implementation.

The OIG believes the above actions adequately address the recommendation.

Finding 3 Total Population of AD/CV Duty Cases by Entry Not Identified

Customs field offices were not able to provide a listing of all AD/CV cases and the number of entry summaries associated with each case. The field offices were able to provide a report which identifies the number of entries affected by all AD/CV cases by port, commodity team, and hold code; however, the report does not provide this information by specific AD/CV case.

With improved reporting capability, the field offices will be better able to manage the work-load associated with AD/CV entries for their commodity teams and to forecast future obligations.

We were informed that reporting capabilities were enhanced to include all line item AD/CV information that is resident in ACS.

Recommendation

Customs should develop procedures and produce reports that enable its field offices to identify and retrieve the AD/CV cases, associated number of entries, and dollar amounts associated with these cases at their ports to better forecast future obligations.

Management Response

Customs agrees with the above recommendation.

ABBREVIATIONS

AD/CV	Antidumping and Countervailing
U.S.	United States
Commerce	U.S. Department of Commerce
CIT	U.S. Court of International Trade
TAA	Trade Agreements Act of 1979
ITA	International Trade Administration
ITC	International Trade Commission
CFR	Code of Federal Regulations
ACS	Automated Commercial System
Headquarters	Customs Headquarters
OST	Office of Strategic Trade
USC	United States Code
OFO	Office of Field Operations
SIW	Self-Inspection Worksheets

MAJOR CONTRIBUTORS TO THE REPORT

U.S. Department of the Treasury

Office of Inspector General

William H. Pugh, Deputy Assistant Inspector General for Financial Management and Information Technology Audits
Thomas A. Moschetto, Director, Financial Management Audits
Robert M. Todero, Audit Manager
Ronda Richardson, Auditor

U.S. Customs Service

Betsy Durant, Director, Office of Field Operations
Paul Schwartz, Director, Office of Field Operations
Alfred Morawski, Chief – Other Government Agencies Branch

REPORT DISTRIBUTION

U.S. Department of the Treasury

Office of the Under Secretary of the Treasury for Enforcement
Assistant Secretary for Enforcement
Office of Organizational Improvement, Departmental Offices
Office of Strategic Planning, Departmental Offices
Office of Accounting and Internal Control, Departmental Offices

U.S. Customs Service

Commissioner
Deputy Commissioner
Assistant Commissioner, Office of Strategic Trade
Assistant Commissioner, Office of Field Operations
Chief Counsel, Office of Chief Counsel
Chief Financial Officer, Office of Finance
Director, Accounting Services Division, Office of Finance
Director, Office of Planning