

GAO

Report to the Honorable
John Heinz, U. S. Senate

September 1989

IMPORT DUTIES

Assessment of Duties on Unfairly Priced Imports Not Reviewed





United States
General Accounting Office
Washington, D.C. 20548

General Government Division

B-234055.2

September 29, 1989

The Honorable John Heinz
United States Senate

Dear Senator Heinz:

This report responds to your December 17, 1987, request concerning U.S. government enforcement of the antidumping and countervailing duty laws. It describes the procedures used to ensure that these duties are assessed, and makes recommendations to the Secretary of the Treasury and the Secretary of Commerce to enhance the administration of these laws.

We plan no further distribution of this report until 30 days after its date, unless you publicly release its contents earlier. After 30 days, we will send copies to the Secretary of Commerce, the Secretary of the Treasury, the Commissioner of Customs, and other interested parties.

The major contributors to this report are listed in appendix V. If you have any questions concerning the contents of this report, please call me at 275-8389.

Sincerely yours,

A handwritten signature in cursive script that reads 'Lowell Dodge'.

Lowell Dodge
Director, Administration
of Justice Issues

Commerce officials said that they have not used the report to review the interim assessment of these duties because Customs' report is inaccurate. GAO's tests showed, and Customs agreed, that Customs' report on the assessment of these duties contained inaccurate data. Customs has since begun implementing plans for improving data accuracy. GAO believes that the report can now be used to review these assessments.

Commerce officials also said that they had not used the report to review the accuracy of the amounts recomputed for final settlement because Customs' report does not contain all the data needed. Customs agrees that the existing report cannot be used for such purposes. However, it has not determined the feasibility of collecting and providing the needed data.

Principal Findings

Estimated Duties Assessed Not Reviewed

To ensure that U.S. industries are protected from unfairly priced imports, Customs is responsible for assessing estimated antidumping and countervailing duties established by Commerce's orders. In addition, Customs is responsible for providing Commerce with information on these duties assessed. Customs and Commerce agree that Commerce is responsible for determining whether the established amounts have been assessed. (See p. 16.)

Commerce officials said that they have not made such determinations because the Customs report contained inaccurate data. GAO's test analysis of a limited number of commodity entries and discussions with Customs officials confirmed that the data were inaccurate. Of the 169 commodity entries GAO reviewed, 50 (about 30 percent) had assessment and/or reporting discrepancies, such as errors in calculating duty rates and keying data from the entries to the report. However, because the commodity entries reviewed were not randomly selected from the universe of all entries, GAO cannot generalize about the results of the analyses. (See pp. 16 and 24.)

Improving Data on Duties Assessed

In 1987, Customs officials reviewed their system for tracking and reporting the assessment of antidumping and countervailing duties. They found that about 50 percent of the duties assessed were not included in the 1987 report primarily because of data entry problems.

so, Customs should implement existing plans, such as instituting computerized control checks, and test the reports' accuracy after these changes, to determine whether further improvements are needed.

- The Secretaries of Commerce and the Treasury should designate a team from their agencies to determine the feasibility of collecting additional data needed to review antidumping and countervailing duty settlements.
- The Secretary of Commerce should establish procedures for using Customs' reports, to the extent possible, to ensure that the established amount of estimated antidumping and countervailing duties are assessed.

Agency Comments

GAO obtained written comments on a draft of this report from Treasury and Commerce. Treasury officials said that the draft report was a fair and accurate assessment of the Customs' system for reporting information on antidumping and countervailing duty assessments to Commerce. Commerce officials agreed to give GAO's recommendations full consideration. However, Commerce officials also said that Customs alone must determine the feasibility of collecting additional data needed. GAO continues to believe that both agencies should work together to achieve this objective. (See p. 22 and apps. III and IV.)

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Abbreviations

AD	antidumping duty
CIE	Customs Information Exchange
CVD	countervailing duty
ITC	International Trade Commission

Preliminary Investigation—AD and CVD investigations are usually initiated as a result of petitions filed by affected U.S. industries alleging unfair competition from imported merchandise. Upon receipt of such petitions, Commerce is to make preliminary investigations of the merits of the allegations to determine whether dumping or foreign subsidization of imports has occurred. Concurrently, for all AD and most CVD cases, ITC is responsible for determining whether there is a reasonable indication that U.S. industries are, or are likely to be, harmed. Commerce publishes the results of the preliminary investigations in the Federal Register. Commerce is also responsible for calculating the approximate difference between prices at which the merchandise is being sold in the United States and its fair market value. On the basis of such calculations, Commerce is then responsible for directing Customs to (1) assess cash deposits or bonds on imports of the affected merchandise to cover any potential AD and CVD duty liability and (2) hold final processing of the entries until Commerce determines whether or not the cash deposit or bond is the correct amount.

Completing the Investigation—When Commerce and, where applicable, ITC investigations are completed, Commerce is responsible for establishing estimated duty rates. The estimated duty rates are to be published in the Federal Register, and Commerce is responsible for directing Customs to assess the duties. At this point in the process, bonds are no longer acceptable; payments are to be made in cash. However, the estimated duty rate, like the bond or cash deposit posted after a preliminary investigation, remains subject to change.

Administrative Review/Final Settlement—By law, once a year, beginning on the anniversary date the estimated AD or CVD rate was published in the Federal Register, Commerce is responsible for doing administrative reviews of AD and CVD cases at the request of interested parties. The purpose of the reviews is to determine whether the duty rates in effect for earlier periods are correct. Commerce is responsible for publishing the results in the Federal Register. Only after the 1-year anniversary, or completion of the administrative review, is Commerce responsible for directing Customs to do a final settlement on all affected merchandise entries. Customs is to do this by reviewing the merchandise entries and by making any refunds of, or assessing any duties due in addition to, the estimated duties that were initially assessed. At the completion of this step, unless the decision is appealed in court, no further adjustments are made to the assessed duties.

Table 1.1: Countries With the Greatest Number of AD and CVD Orders in Effect (October 1988)

Country	Number of AD and CVD orders
Japan	44
Canada	20
Mexico	16
Brazil	13
Taiwan	12
Italy	11
Argentina	10
Peoples Republic of China	10
Other ^a	105
Total	241

^aAll other countries whose exports are covered by AD and CVD orders.

AD and CVD Duties Are a Small but Growing Portion of Total Import Duties

Customs collects AD and CVD duties at ports of entry throughout the United States, Puerto Rico, and the Virgin Islands. The total amount of AD and CVD duties collected represented less than 1 percent of total Customs duties collected each year from fiscal years 1984 through 1988. However, the amount of these duties collected increased from \$37.1 million, or .3 percent, of total import duties collected in fiscal year 1984 to \$143.2 million, or .9 percent, of total import duties collected in fiscal year 1988. Figure 1.1 shows the amount of AD and CVD duties collected in fiscal years 1984 through 1988.

The number of entries of shipments that contained merchandise subject to AD and CVD orders—called AD and CVD entries—has also increased, though not as dramatically, over the same 5-year period. The number of these entries fluctuated from a low of 87,953 in fiscal year 1986 to a high of 126,257 in fiscal year 1987. The number of these entries decreased to 122,713 in fiscal year 1988.

Customs operates about 300 ports of entry within 45 districts. Two districts (Los Angeles and Chicago) accounted for 36 percent of AD and CVD duties collected nationwide during fiscal year 1988. Four districts (Miami, Florida; Laredo, Texas; and Los Angeles and San Diego, California) processed 60 percent of the entries containing merchandise subject to AD and CVD orders.

- Commerce and Customs, and to describe any problems with the current tracking system in ensuring that AD and CVD duties are assessed;
- provide aggregate data from Customs' fiscal year 1987 blue-line report on the total value and amount of AD and CVD duties assessed for 19 commodities selected by the requester, and do a more detailed analysis on 5 of these commodities to test the accuracy of the reporting system and whether established duties were assessed; and
 - describe the procedures Customs has in place or under consideration to proactively detect unlawful attempts to circumvent AD and CVD orders.

We did our work at Customs and Commerce headquarters in Washington, D.C., and at Customs district offices and ports of entry in Los Angeles, California; Seattle, Washington; and Baltimore, Maryland. We also visited a Baltimore data processing facility that is under contract to Customs to input data for the blue-line report. The purpose of our visit was to obtain information on the data entry process.

We selected the Los Angeles district because it collected the largest amount of AD and CVD duties of any Customs district. We selected Seattle because it had been involved in a pilot test automating some aspects of processing entries, including computer screening of AD and CVD entries for import specialist review. Because it was convenient to our Washington headquarters, we visited the Baltimore district in our initial survey to understand how entries are processed.

To obtain information on the procedures Customs has in place and planned for tracking the assessment of AD and CVD duties and ensuring established duties were assessed, we observed the handling of AD and CVD entry summary documents from the time they entered four ports of entry in the Los Angeles, Seattle, and Baltimore districts to the time the information on similar entries was prepared for reporting to Commerce. We started with the submission by importers or their brokers of entry summary documents listing commodities subject to AD and CVD duties and observed the handling of similar entries through the system, i.e., the blue-lining of reports by Customs import specialists to the inputting of blue-line reports at a contract facility in Baltimore. As part of this work, we examined applicable internal Customs communications and a memorandum between Customs and Commerce concerning the blue-line reporting system. We asked officials in both agencies about the completeness and accuracy of the data, the usefulness of the data to track AD and CVD entries and duties assessed, and any plans for changes to the system. We did not verify that the duties assessed were paid by the

three commodities that our preliminary analysis showed as having the largest discrepancies (from 39 to 50 percent) between the amount of duties reported and our multiplication of value times duty rate. These three commodities were brass sheet and strip from Italy, tapered roller bearings and parts from Italy, and photo albums from South Korea.

- Second, we wanted to review at least one commodity that had been assessed CVD duties. We selected pig iron from Brazil with a discrepancy rate of 5 percent between the amount of duties reported and our multiplication of value times duty rate. This was the largest discrepancy rate among the four CVD duty commodities with duty rates that did not vary according to manufacturer.
- Third, we randomly selected one commodity from the seven that were more complex for import specialists to calculate the rate of duty to be assessed because the rates varied by manufacturer. The commodity we selected was carbon steel butt-weld pipe fittings from Japan with a discrepancy rate of 34 percent.

Because the entries reviewed were not randomly selected from the universe of all entries, we cannot make a valid statistical estimate of the overall problem at Customs in assessing estimated AD and CVD duties nor about the overall quality of Customs' blue-line reports to Commerce.

We did our work during the period of April to December 1988 and in accordance with generally accepted government auditing standards. Responsible officials of the Departments of Commerce and the Treasury provided written comments on a draft of this report. Their comments on the recommendations are presented and evaluated in chapter 2. Their comment letters and our evaluations supplementing those in the report text are contained in appendixes III and IV. In addition, technical clarifications suggested by agency officials are incorporated in the report where appropriate.

data needed. Even though Customs is taking steps to improve the accuracy of data that is reported, Commerce has not established procedures for using the improved report to review estimated AD and CVD duties assessed on individual AD and CVD entries. In addition, neither Customs nor Commerce has determined the feasibility of collecting the data needed to review duties assessed at settlement.

Report Inaccuracies

Although Customs has given its reports to Commerce since 1980, neither agency made a study of the accuracy of the reports until 1987. Customs and Commerce officials said that they made an in-depth study of the 1987 blue-line report after receiving inquiries from representatives of the U.S. brass and copper industry. Representatives for the industry were concerned that sufficient data were not available to know whether or not AD and CVD duties were being collected on certain brass imports to the United States.

In attempting to address the industry's concerns, Customs officials reviewed the tracking system and found that about 50 percent of the 1987 blue-lined entry summaries were not included in its report. The contract data entry clerks said that they did not enter data from entry summaries if any of the six data elements was not underscored in blue felt pen, or if a Commerce case number was incomplete. Instead, they returned the rejected summaries to Customs headquarters with an explanation of why the data were not entered. No one at Customs headquarters reviewed the blue-lined entries prior to sending them to the contract data entry clerks, and no one looked at the forms that the data entry clerks rejected. The entries were allowed to accumulate, uncorrected and unreported, at Customs.

Customs officials corrected and resubmitted the rejected entries to the contract data entry firm and issued revised 1987 blue-line reports in August 1988. Two versions of the revised report—an edited version and an unedited version—were issued. Customs created the edited version by running data from the unedited version against a Commerce data tape of nine-digit case reference numbers. Customs and Commerce officials agreed that the edited version was the least accurate version of the report because it deleted many entries that were subject to AD and CVD duties but did not have correctly assigned case reference numbers. They said that most discrepancies occurred in the last three digits, which represented the manufacturer codes. Even though the unedited version was the more accurate version of the report, Customs officials agreed with our case study findings that the report contained reporting errors, such

Customs said that it is also automating the tracking system. Through automation, Customs' import specialists will periodically receive updated AD and CVD case instructions directly from Commerce. These instructions are to be used to check the accuracy of the AD and CVD duty data on the entry summaries.

While Customs is taking steps to improve the accuracy of the report, Commerce has not established procedures for reviewing the estimated AD and CVD duties assessed. On the basis of our use of the report data, we believe that the Customs report can now be used to help determine whether the established amounts of estimated AD and CVD duties are being assessed on individual AD and CVD entries. (See ch. 3.)

Needed Data Not in Report

Commerce officials said that the blue-line report has not provided all information needed to verify that the established duties were assessed at final settlement. To do so requires information on the amount of duties assessed by commodity, manufacturer, and country of origin for the time period the AD and CVD duty orders were in effect. Not all of this information was reported to Commerce. A Commerce official said that in correspondence with Customs officials, Commerce has expressed concerns about the completeness of the blue-line reports.

A Customs official agreed that while AD and CVD duty orders can remain in effect for many years, their blue-line report has not provided the data needed. The report has provided a line-item listing of estimated duties assessed by calendar year. When settlement is completed for an entry with a change in the amount of total duties assessed, the report has provided the amount to be refunded or amount due. Thus, the report has not provided the total amount of duties assessed that constitute final settlement. Moreover, when an entry is settled with no change in the amount of estimated duties assessed, import specialists are not required to submit blue-lined entry summaries to indicate that settlement has occurred. Thus, the blue-line report has not indicated whether or not these entries have been settled.

A Customs official said that Customs' manual tracking system could not do the calculations required to provide the data needed by Commerce. The official also said that it would be too time-consuming for import specialists to make copies and blue-line all entries on which commodities subject to AD and CVD duties are settled without change.

Customs Developing Computer Model to Enhance Investigative Efforts

Traditionally, Customs relies on physical examinations of imported merchandise as the primary means of ensuring compliance with trade laws. Not all shipments are physically examined. Customs has a cargo selectivity system¹ that assists inspectors in selecting shipments for physical examination. The system identifies high-risk shipments on the basis of the importer's reputation, the country of origin of the merchandise, the manufacturer of the commodity and the type of commodity being imported. However, Customs officials said that no special program exists for targeting inspection commodities that may be subject to AD or CVD duties.

To enhance the efforts to detect schemes to avoid these duties, Customs is also developing a model to identify statistical deviations to import trade patterns of products subject to AD or CVD duties. For example, deviations from normal shipping patterns for these commodities may indicate a transshipment scheme. When the model is operational, Customs plans to enhance its investigative efforts by initiating investigations on the basis of information generated from this model. As of September 1989, the model was being tested.

Conclusions

Commerce and Customs agreed that Commerce, the agency charged with administering AD and CVD laws, should determine whether the established AD and CVD duties are assessed. Without this determination, Commerce is not assured that U.S. industries are protected from these unfair trade practices.

Commerce officials said that because Customs' reports contained inaccurate data, they have not determined whether Customs is assessing the established amount of estimated duties on individual AD and CVD entries. Customs has recently taken steps to improve reporting of these estimated duties assessed; however, Commerce had not established procedures for using the improved report. In our opinion, the report can now be used to help determine whether the established amount of estimated duties are being assessed on individual AD and CVD entries.

In addition, Commerce officials said that they could not determine whether Customs has assessed the established amount of AD and CVD

¹For a discussion of how this system works, see GAO reports entitled *Customs Automation: Observations On Selected Automated Commercial System Modules* (GAO/IMTEC-89-4BR, Dec. 21, 1988) and *Customs Automation: Cargo Examinations Targeted By Automated Cargo Selectivity System* (GAO/IMTEC-89-59, June 27, 1989).

Chapter 2
Assessment of AD and CVD Duties Is Not
Being Fully Administered

While we understand Commerce's concerns over the accuracy of the report, we believe that it can be used in its present form to help determine whether established amounts of estimated AD and CVD duties are being assessed on individual commodity entries. Our belief is based on our analysis of Commerce's AD and CVD assessments for 169 individual commodity entries (see ch. 3).

The Assistant Secretary of the Treasury for Enforcement said that Customs has also taken some steps to assist Commerce with implementation of this recommendation. By providing Commerce access to computer data tapes, the official said that Customs is facilitating Commerce's use of the data to generate its own reports and compare them with other import statistics in a more meaningful way than can be done with hard-copy blue-line reports.

Discrepancies in Assessing and Reporting Estimated AD and CVD Duties

Assessment Errors

Of the 169 entries of the five commodities we reviewed, we found assessment errors for 19 entries (11 percent). Table 3.2 lists the assessment errors we observed.

**Table 3.2: Assessment Errors Observed
 in Reviewing 169 AD and CVD Entries**

Problem	Number of instances	Amount of under- (-) or overassessment (+) of AD and CVD duties
Import specialist applied incorrect duty rate	3	+\$1,764
	4	-49,234
Import specialist calculated estimated duty on the basis of an incorrect entry value	4	-305
Import specialist made multiplication error calculating estimated duty	3	-232
Import specialist incorrectly accepted bond in lieu of estimated duty after an issued AD or CVD order	5	-17,713
Total	19	-\$65,720

In these 19 instances, import specialists did not correctly implement Commerce's AD and CVD duty orders and did not assess the established amount of estimated duties from importers. In three instances, import specialists assessed estimated duties using incorrect duty rates because they had not received the latest communications from Commerce on the proper rate to charge. These instances and the steps being taken for Customs to deal with the problem are discussed later in this chapter. Although we could not readily determine the reasons import specialists made the other 16 assessment errors, Customs officials offered some possible explanations. They explained that communications breakdowns have occurred from time to time. For instance, AD and CVD instructions may not have been routed to the appropriate import specialist teams at the ports of entry, or import specialists may not have filed and referred to the most current instructions when reviewing AD and CVD entries.

Customs records show that for 6 of the 19 assessment errors, corrective action has been taken. In one instance in which an importer was overcharged \$873 in dumping duties, the importer noted the error and

line the correct information. However, a supervisor at the contract data processing facility said that all entries entered into the report are 100-percent verified for accuracy. To verify the information, one clerk types in the data and then another clerk keys in the same data to verify the first entry. According to the supervisor, if the second clerk keys something different than the first, the computer will lock until the discrepancy is resolved.

Customs Plans New Guidance to Import Specialists on Reviewing AD and CVD Entries

Customs headquarters officials said that they plan to establish a task force in 1989 to draft consolidated guidance for import specialists to use in reviewing AD and CVD entries. They believe that such guidance will enhance import specialists' performance in assessing and reporting AD and CVD duties. Currently, import specialists do not have comprehensive guidance on the policies and procedures they should follow. Instead, they must look to a variety of sources to get the information they need.

Customs Plans Changes to System for Communicating AD and CVD Duties

Commerce publishes AD and CVD orders in the Federal Register. Commerce also hand-delivers to Customs headquarters information on duties to assess in accordance with the orders. Customs then sends telexes to its district offices and follows these messages with written communications distributed through the Customs Information Exchange (CIE), a reproduction and distribution facility in New York. At the districts, the information is distributed to appropriate import specialist teams at the proper ports of entry. On the basis of information that they receive, the import specialists keep reference files for reviewing AD and CVD entries.

However, some import specialists and field managers expressed concerns about the reliability of the distribution system. For example, several import specialists said that telexes on AD and CVD rates are sometimes received late or not at all. In July 1988, the Los Angeles district director wrote about distribution problems to the area director, New York Seaport, who coordinates CIE issuances for headquarters. He said that the district was unhappy with the CIE practice of stapling disparate documents together, which occasionally resulted in district personnel overlooking a critical document in the middle of a set of documents.

Our case study of five commodities subject to AD or CVD duties showed how problems in communications can contribute to the incorrect assessment of duties. On March 6, 1987, Commerce published an AD order in

Conclusion

While Customs has taken a number of steps to improve the accuracy of the data in its blue-line report, our test analysis has shown that reporting and assessment errors remain. Customs continues its efforts to try to improve the report. Despite the remaining reporting problems, we have shown that the report can be used to determine whether the established amount of estimated AD and CVD duties were assessed on individual entries.

Countervailing Duties Reported on Selected Commodities (January to December 1987)

Commodity	Exporting country	Value of entries	Duty	Duty rate (Percent of entry value)
Bars and shapes	Mexico	\$89,885	\$1,703	2.0-104.5 ^a
Brass sheet and strip	Brazil	^b	^b	3.5
Brass sheet and strip	France	36,253	2,606	7.2
Certain carbon steel products	Sweden	846,136	74,205	8.8
Pig iron ^c	Brazil	10,876,061	534,269	4.7

^aDuty rate varies by manufacturer. The range presented is from lowest to highest rate assessed.

^bNot listed.

^cCommodity is also included in our case study analysis of entries by line item.

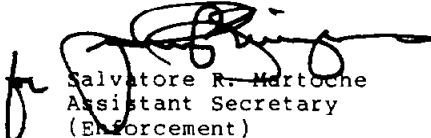
Appendix III
Comments From the Department of
the Treasury

-2-

We also advised Ms. Highsmith that we thought the GAO draft report was a fair and accurate assessment of the Customs Blue Line reporting system.

Thank you for the opportunity to comment on the report. If we can be of further assistance, please call upon us.

Sincerely,


Salvatore R. Martoche
Assistant Secretary
(Enforcement)

Mr. Richard L. Fogel
Assistant Comptroller General
United States General Accounting Office
Washington, D.C. 20548

Comments From the Department of Commerce

Note: GAO comments supplementing those in the report text appear at the end of this appendix.



UNITED STATES DEPARTMENT OF COMMERCE
The Assistant Secretary for Administration
Washington, D.C. 20230

AUG 18 1989


Mr. Richard L. Fogel
Assistant Comptroller General
General Government Division
U.S. General Accounting Office
Washington, D.C. 20548

Dear Mr. Fogel:

This is in reply to GAO's letter of July 3, 1989, requesting comments on the draft report entitled "Import Duties: Assessment of Duties on Unfairly Priced Imports Not Reviewed."

We have reviewed the enclosed comments of the Deputy Under Secretary for International Trade and believe they are responsive to the matters discussed in the report.

Sincerely,


Thomas J. Collamore
Assistant Secretary
for Administration

Enclosure

Appendix IV
Comments From the Department
of Commerce

-2-

We are also working closely with Customs to ensure that all current case information is put into the AD/CVD module. This too is agreed upon in the Memorandum of Understanding. We are able to edit the manufacturer or case-specific information in the module, which ensures that Customs Import Specialists in the field receive correct instructions quickly.

We have reviewed the recommendations made in the report and will give them full consideration, taking into account any guidance we receive from Congress. Our comments at this time are:

RECOMMENDATION

The Secretaries of Commerce and Treasury should designate a team from their agencies to determine the feasibility of collecting additional data needed to review antidumping and countervailing duty settlements.

Comment: The Customs Service has control of all information regarding entries, cash deposits collected, and final appraisement. Commerce has identified and informed Customs of the information necessary to review AD/CVD appraisement. Such information includes entries "liquidated" and duties collected on a "line-item" basis. However, Customs is the agency with the entry information and it must determine the feasibility of collecting the information.

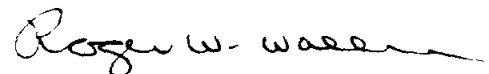
RECOMMENDATION

The Secretary of Commerce should establish procedures for using Customs' reports, to the extent practicable, to ensure the established amount of estimated antidumping and countervailing duties are assessed.

Comment: Commerce is evaluating the accuracy and usefulness of the Customs report. In addition, we will establish procedures to provide Customs with information regarding our findings. Such procedures should assist Customs in finding ways to make the report as accurate as possible.

We appreciate this opportunity to comment on the draft report. We look forward to receiving your final report, and we are ready to cooperate with the Legislative branch in its consideration of the report. Please let us know if any further comments are desired at this time.

Sincerely yours,



Roger W. Wallace

Appendix IV
Comments From the Department
of Commerce

-2-

See comment 11.

Between 1980 and 1987 Commerce management made numerous contacts with Customs regarding the accuracy of the report. Customs made Commerce aware of Customs' limitations in resource allocation which, according to Customs, precluded real improvement in quality of data. Thus, Commerce management was unwilling to rely on the data.

See comment 12.

We note that not all blame can be placed on Customs. Commerce officials did not proactively pursue the matter, rather, Commerce reacted to inquiries on a case-by-case basis.

Now on p. 18. See comment 13.

page 29

Commerce and Customs were aware of the problems in the report which affected the report's usefulness. Each time we received the report inaccuracies arose. We did not retain any pre-1987 reports because they did not include accurate information.

Now on p. 22.

page 30

We are in the process of evaluating the accuracy of the Blue Line report. As the accuracy improves we will establish a system to use the report.

While the GAO report states that the Blue Line report is now usable, it does not offer any recommendations on how it can be used.

Now on p. 26. See comment 14.

page 40

Bonds for AD and CVD duties may be posted only between the time of the preliminary determination in the AD or CVD investigation and the date of publication of the AD or CVD order.

**Appendix IV
Comments From the Department
of Commerce**

13. Report merely points out on page 18 that Customs reports were not retained.

14. Text changed on paged 26 to clarify when bonds may be posted.

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Thomas R. Colan, Assistant Director
Jacquelyn I. Highsmith, Evaluator-in-Charge
Deborah A. Knorr, Evaluator

The following are GAO's comments on the Department of Commerce's letter dated August 18, 1989.

GAO Comments

1. For ease in presentation to readers not familiar with the technical terms suggested, we have retained our wording. We use the term "assessment" because we did not verify that duties assessed on imports were, in fact, collected.
2. Commerce does not disagree with our delineation of its responsibilities as administrator of AD and CVD laws. For discussion of its efforts to work with Customs to develop a reporting system that meets its needs, see page 22.
3. Text updated to reflect Commerce's use of electronic mail system. See discussion on page 28.
4. See comment 1.
5. Sentence deleted on page 8.
6. Text revised as suggested.
7. Text revised on page 9 to clarify that final processing of the entries is delayed until Commerce determines whether or not the cash deposit or bond is the correct amount.
8. Phrase deleted on page 9.
9. Text revised on page 14 as suggested.
10. Text revised on page 16 as suggested.
11. Commerce was unable to provide documentation of its pre-1987 contacts with Customs regarding the blue-line report's accuracy. Moreover, officials from both Commerce and Customs agree that the first study of the blue-line report's accuracy was initiated in 1987. Accordingly, the text on p. 17 was changed to reflect this.
12. We have not placed all blame on Customs; therefore, no changes have been made.

Clarification of specific items of information

See comment 4.

page 1

The term "assessment" is a term of art, meaning the action taken by an Import Specialist to finally decide the amount of duties due. Use of the terms "collection of cash deposit" and "appraisement" more clearly identifies the distinction between estimated duties and final duties.

See comment 5.

The report refers to the margin as being a percentage of the U.S. price of the merchandise. More accurately, in AD cases Commerce calculates the cash deposit rate as a percentage of the dumping duty over the total U.S. value. In CVD cases the cash deposit rate is equal to the amount of subsidy found. In either case, Customs applies the percentage to the entered value of the merchandise. The cash deposit is only an estimate of the final duty. The final or assessed duty is determined in an administrative review. Commerce sends liquidation instructions ("master lists") to Customs which identify the actual amount of duty to be appraised on entries subject to review.

Now on p. 8. See comment 6.

page 11 and elsewhere

The report should refer to antidumping duties and countervailing duties.

Now on p. 9. See comment 7.

page 12

Change "investigation" to "administrative review" because only through review do final appraisement and liquidation take place.

See comment 8.

Note that the reference to establishment of duty rates after an investigation which will be applied to "all future imports" is not accurate. Rates change following administrative reviews.

Now on p. 14. See comment 9.

page 20

The reference that "the duties assessed were ultimately paid by foreign exporters" should read "the duties assessed were paid by the importer of record."

Now on p. 16. See comment 10.

page 24

Add underlined portion to this sentence: "Both Commerce and Customs agreed that Commerce, as administrator, is responsible, based on information provided to it by Customs, for determining whether the established amounts of AD and CVD duties are being assessed."

Now on p. 22.

page 26

Commerce is evaluating the usefulness of the Customs report and the appropriate method for using it.

In addition, Commerce cannot establish the feasibility of collection of data by Customs.

Appendix IV
Comments From the Department
of Commerce



UNITED STATES DEPARTMENT OF COMMERCE
The Deputy Under Secretary for
International Trade
Washington, D.C. 20230

AUG 18 1989

Mr. Richard L. Fogel
Assistant Comptroller General
U.S. General Accounting Office
General Government Division
Washington, D.C. 20548

Dear Mr. Fogel:

Thank you for your letter requesting the Department's comments on the draft General Accounting Office report entitled Import Duties: Assessment of Duties on Unfairly Priced Imports Not Reviewed. Before addressing the two recommendations directed to this Department, we have some general comments. In addition, we have provided specific factual corrections in an enclosure to this letter.

General comments

See comment 1.

We believe that the General Accounting Office's use of the terms "assessment" and "settlement" are misleading. In the report the term "assessment" refers to the collection of cash deposits of estimated AD/CVD duties. This is not the final action Customs takes on entries. Rather, "deposit of estimated duty" indicates more clearly the nature of our duty requirements upon entry of merchandise subject to AD/CVD orders. Similarly, the terms "appraisement" and "liquidation of entries" reflect more accurately than "settlement" the actions Customs takes when it implements our final instructions.

See comment 2.

We are concerned about the assertion in the Executive Summary Background regarding agreement between Customs and the Department that "Commerce, as administrator, is responsible for ensuring that the established amounts of antidumping and countervailing duties are assessed." While we accept our responsibility to establish duty deposit and assessment rates, instruct Customs on application of rates, and ultimately determine that Customs applied our instructions appropriately, we are working with Customs as it develops a reporting system which meets our needs.

See comment 3.

GAO noted delays between the time we issued instructions and Customs Import Specialists received those instructions. A Memorandum of Understanding (dated July 14, 1988) has been established between the two agencies, part of which addresses means of improving implementation of liquidation instructions. We have allocated human resources to participate in the electronic mail system Customs has introduced to its field offices and since January 1989 Commerce has been using the system to transmit instructions. This system is much faster and more efficient than the manual distribution system used by the Customs Information Exchange.



**Appendix III
Comments From the Department of
the Treasury**

The following are GAO's comments on the Department of the Treasury's letter dated August 14, 1989.

GAO Comments

1. Text revised, see page 13.
2. Text revised, see page 20.

Comments From the Department of the Treasury

Note: GAO comments supplementing those in the report text appear at the end of this appendix.



ASSISTANT SECRETARY

DEPARTMENT OF THE TREASURY
WASHINGTON

AUG 1 1989

Dear Mr. Fogel:

This is in response to your request for review and comment on the draft GAO report entitled: Import Duties: Assessment of Duties on Unfairly Priced Imports Not Reviewed, dated July 5, 1989.

Because of time constraints, the Office of Trade Operations, U.S. Customs Service, verbally contacted Ms. Jacquelyn Highsmith, the Evaluator-in-Charge of the GAO Report on July 24th with our comments. They were as follows:

Page 6, Recommendation 3:

The Customs Service has already implemented this recommendation. The Service is providing computer tapes of the raw data used to compile the Blue-Line Report to the Department of Commerce. They are able to generate their own reports and compare the data with that of the Bureau of Census in a much more meaningful way than can be done with a hard copy of the Report.

Page 19:

We advised GAO that the Seattle District was the pilot port for the Entry Summary Selectivity Module and has not been involved with the pilot for the AD/CVD Module. Champlain and Norfolk are the pilots for the AD/CVD Module.

Page 26:

We noted that the Report several times mentions that Customs is unable to provide complete data on AD/CVD duties finally assessed at settlement. We requested that the report state that to provide this information, Customs would have to liquidate entries by line item rather than by entry. This would be a major change in the way Customs processes entries.

Now on p. 13.
See comment 1.

Now on p. 20.
See comment 2.

Antidumping Duties Reported on Selected Commodities (January to December 1987)

Commodity	Exporting country	Value of entries	Duty	Duty rate (Percent of entry value)
Brass sheet and strip	Brazil	\$ ^a	\$ ^a	40.6
Brass sheet and strip	Canada	921,486	71,827	2.5-11.3
Brass sheet and strip	France	7,068	2,881	42.2
Brass sheet and strip ^c	Italy	1,937,972	115,469	9.7
Brass sheet and strip	Sweden	591,230	55,675	9.5
Brass sheet and strip	South Korea	662,237	45,211	7.2
Brass sheet and strip	West Germany	14,659,479	684,745	5.3-15.9
Carbon steel butt-weld pipe fittings ^c	Japan	489,058	235,946	30.8-82.8
Certain high-capacity papers	Japan	90	97	70.4-109.0
Crystalline sorbitol	France	0	-225,902 ^d	12.1
Fresh cut flowers	Mexico	1,047,996	51,655	4.0-29.4
Photo albums ^c	South Korea	390,716	126,895	64.8
Steel wire rope	Japan	2,583,215	153,760	0-29.8
Tapered roller bearings and parts ^c	Italy	104,148	68,871	124.0

^aNot listed.

^bDuty rate varies by manufacturer. The range presented is from lowest to highest rate assessed.

^cCommodity is also included in our case study analysis of entries by line item.

^dAmount reflects only adjustments made at settlement.

the Federal Register for brass sheet and strip from Italy, establishing the duty rate at 12.08 percent. On March 12, Customs notified its field locations of the order.

On April 8, 1987, Commerce published another notice in the Federal Register stating that the publication of the 12.08-percent rate was a clerical error and that the correct duty rate was 9.74 percent. Commerce did not advise Customs headquarters of the rate correction until July 23, 1987. The Commerce liaison to Customs on AD and CVD cases said that after reviewing the case file, she could not explain the reason for the delay.

Customs headquarters notified its field locations of the rate correction immediately upon receipt of the information. However, because of the late notification, import specialists assessed three entries received between April 8 and July 23 at the 12.08-percent rate rather than the 9.74-percent rate. As a result, three importers of brass sheet and strip from Italy were overcharged \$1,764.

Customs headquarters officials said that the cumbersome system for communicating information on AD and CVD cases will be eliminated when the information is automated. Under a July 1988 memorandum of understanding, which details Customs' and Commerce's specific responsibilities for this automated system, the agencies have agreed to make changes in the system for communicating AD and CVD information.

Commerce and Customs have replaced the telex communications with electronic mail. This change now allows import specialists to access communications directly on their computer terminals rather than having to depend on a manual distribution process. The manual process started with Commerce sending the communication to Customs' headquarters. From there, several messages were received, sorted, and distributed to the appropriate import specialist. At each point in the process, distribution error was a possibility. The officials believe that electronic mail is a faster, more efficient, and direct way to communicate with import specialists in the field.

Commerce plans to input AD and CVD case information directly into a computer as developments occur and to provide import specialists in the field with immediate computer terminal access to this information. When they review AD and CVD entries, they are to have the latest case information available regardless of whether or not they have received and retained appropriate hard-copy or electronic communications.

requested a refund. In five additional instances in which import specialists incorrectly accepted bonds, they returned them to the importers, who then paid the duties due. Bonds for AD and CVD duties may be posted only between the time of the preliminary determination in the AD or CVD investigation and the date of publication of the AD or CVD order. After that, payment is to be made in cash.

Import specialists have an opportunity to review the remaining incorrect entries at final settlement and adjust the amount of duties paid—either refunding excess duties assessed or assessing additional duties due. Generally, import specialists have no more than 30 days after an entry is submitted to determine, among other matters, whether the correct duties were assessed. Exceptions to this policy are to be made only in cases of blatant errors. Otherwise, corrections are handled at final settlement. Making such corrections, however, is dependent on the import specialist finding the errors on records of the AD and CVD entries that are to be maintained at his/her office.

Reporting Problems

In 31 of the 169 entries we reviewed (18 percent), the Customs blue-line report did not provide accurate information to Commerce on estimated AD and CVD duties assessed. Table 3.3 lists the reporting errors we observed.

Table 3.3: Reporting Errors Observed in Reviewing 169 AD and CVD Entries

Problem	Instances occurred	Under- (-) or overreporting (+) AD and CVD duties
Entries should not have been included because they did not occur in 1987	12	+\$256,802
Entries should not have been included because they occurred prior to issuance of an order	12	+ 67,281
Entry value and/or amount of estimated duty assessed was not accurately keyed from an entry summary	7	-1,488
Total	31	+\$322,595

According to a Customs headquarters official, wrong-year entries were included in the 1987 report because boxes of entry summaries were not screened at headquarters before being sent to the contract data entry clerks. He also said that the report included entries before the AD and CVD order was issued because import specialists did not follow instructions. Regarding the data inaccuracies, the official said that either data entry clerks made inputting mistakes or import specialists did not blue-

Analysis of the Assessment and Reporting of AD and CVD Duties for Selected Commodities

As requested, to test the accuracy of Customs' reporting system and whether established AD and CVD duties were assessed, we analyzed Customs' handling of estimated AD and CVD duties for 5 of 19 commodities selected by Senator Heinz. These commodities accounted for a total of \$1.1 million in AD and CVD duties assessed from 169 individual commodity entries nationwide during 1987. Of the 169 commodity entries reviewed, we found some assessment and/or reporting discrepancy for 50 (about 30 percent). This chapter discusses the types of discrepancies found and the steps being taken to address these problems. Because the entries reviewed were not randomly selected from the universe of all entries, we cannot make a valid statistical estimate of the overall problem at Customs in assessing estimated AD and CVD duties nor about the overall quality of Customs' blue-line reports to Commerce.

Senator Heinz also requested that we provide aggregate data on the total value of entries, AD and CVD duty rates, and amount of estimated AD and CVD duties assessed for 19 selected commodities. Appendixes I and II contain the aggregate information.

Commodities Selected for Review

We reviewed all 169 entries of five commodities identified in Customs' revised, unedited 1987 blue-line report to determine whether the estimated AD and CVD duties were assessed and reported correctly. According to Customs and Commerce officials, this version contained the most accurate data on 1987 AD and CVD duties assessed. The commodities we selected and the number of entries of each that we reviewed are shown in table 3.1.

Table 3.1: Summary of Entries Reviewed, by Commodity

Commodity	Number of entries
Brass sheet and strip from Italy	38
Tapered roller bearings and parts from Italy	13
Photo albums from South Korea	20
Carbon steel butt-weld pipe fittings from Japan	8
Pig iron from Brazil	90
Total	169

duties at settlement, because the existing blue-line report did not provide all information needed to verify the computation of the settlement amount. Neither Customs nor Commerce has determined the feasibility of collecting the additional data needed by Commerce.

Recommendations

To enhance the administration of AD and CVD laws, GAO recommends the following:

- The Secretary of the Treasury should direct the Commissioner of Customs to ensure that accurate reports are provided to Commerce. In doing so, Customs should implement existing plans, such as instituting computerized control checks, and test the reports' accuracy after these changes to determine whether further improvements are needed.
- The Secretaries of Commerce and the Treasury should designate a team from their agencies to determine the feasibility of collecting additional data needed to review AD and CVD duty settlements.
- The Secretary of Commerce should establish procedures for using the Customs' reports, to the extent possible, to ensure that the established amounts of estimated AD and CVD duties are assessed on individual entries.

Agency Comments and Our Evaluation

In commenting on a draft of this report, Treasury officials said that the draft report was a fair and accurate assessment of Customs' system for reporting information on antidumping and countervailing duty assessments to Commerce. Commerce officials said that the agency would give our recommendations full consideration. Commerce officials also said that they are working with Customs as it develops a reporting system that will meet Commerce's needs. In commenting on the second recommendation, however, Commerce officials said that Customs alone must determine the feasibility of collecting the additional data for reviewing settlements. Treasury was silent on this matter. The point of our recommendation is that Customs and Commerce should work together to produce the most useful data that are feasible to collect.

Commerce officials noted that Commerce is taking action in accordance with the third recommendation by evaluating the accuracy and usefulness of the Customs report. These officials said that Customs would be provided with information on the findings and that the Commerce evaluation would assist Customs in finding ways to make its reports as accurate as possible. Commerce officials said that a system to use the report would be established as the accuracy improved.

Customs officials said that their planned automated tracking system may not have the capability to provide Commerce with all information needed to monitor the assessment of AD and CVD duties. They noted that to compile data on total AD and CVD duties assessed at final settlement, they would need to make a major change in the way they process entries. They were uncertain when and whether such capabilities could be achieved. Currently, Customs' automated tracking system priority is to computerize the AD and CVD case instructions and entry summary verifications. Neither Customs nor Commerce has determined the feasibility of compiling all of the additional data needed by Commerce.

However, Customs is working on providing part of the additional information. Customs officials said that the automated system will identify AD and CVD entries that are settled with no change and will provide Commerce access to the computerized data.

Customs' Investigations of Circumvention of AD and CVD Duty Orders Triggered by Leads From Domestic Industry

One scheme used to evade payment of AD and CVD duties is called transshipment. In this scheme, a foreign manufacturer producing a commodity in a country that is subject to AD or CVD duties either ships the commodity to another country before importing it to the United States or claims a different country of origin on the Customs commodity entry summary. In either instance, the other country is not subject to AD or CVD duties for that commodity.

Customs' efforts to investigate such schemes to avoid the payment of these duties have been reactive. For the most part, Customs initiated investigations after a representative from a U.S. industry filed a complaint about suspected fraud. After receiving and reviewing the complaint, the Customs Fraud Center notified its field offices about the nature of the complaint and directed them to initiate an investigation. Investigations may also be initiated after Customs inspectors at ports of entry questioned some aspect, such as country of origin, of imports subject to these duties. Customs did not maintain data on the reason for initiating AD or CVD investigations.

as inclusion of entries that were not made in 1987 and entries that were made before the AD and CVD duty orders became effective.

Our independent test of the revised version of the 1987 blue-line report confirmed that substantive errors were present in the report. We tested the 1987 unedited version by comparing information on AD and CVD duties assessed on five commodities in the report with information contained in the entry summary documents and in AD and CVD duty orders published by Commerce. These commodities accounted for \$1.1 million in duties from 169 individual commodity entries nationwide during 1987. Of these 169 commodity entries, we found some assessing and/or reporting discrepancy for 50 (about 30 percent). For example, import specialists applied the incorrect duty rate on seven shipments resulting in an underassessment of about \$48,000. Chapter 3 discusses in greater detail the results of our tests and efforts made by Customs to improve the report's accuracy. The chapter also points out that while substantive errors were present in the blue-line report for commodity entries reviewed, we cannot make a valid statistical estimate of the overall problem at Customs in assessing estimated AD and CVD duties or about the overall quality of Customs' blue-line report.

Both Customs and Commerce officials said that the blue-line reports have always been a low priority. Before 1987, only one Commerce staff person received the blue-line report. She said that she has used it on rare occasions when domestic industries inquired about the amount of AD and CVD duties assessed. Accordingly, neither Customs nor Commerce attempted to determine the accuracy of the report before 1987, and no reports issued before 1987 were retained.

Improvements to the Report

Customs and Commerce said that they are taking steps to improve the tracking system, which they believe should provide the internal checks necessary to ensure more accurate reports. Customs has issued revised instructions to its import specialists stressing the importance of correctly blue-lining entry summaries. Customs has also issued revised instructions to the contract data processing firm for entering data from the blue-lined summaries. In addition, Commerce reviewed all of its AD and CVD case reference numbers to ensure that they were correct and complete. As a result of these improvements, a contract data entry supervisor said that her staff are entering at least 95 percent of all blue-line entry summaries they receive from Customs.

Assessment of AD and CVD Duties Is Not Being Fully Administered

The authority and responsibility to administer AD and CVD laws rests with the Department of Commerce. Both Commerce and Customs agreed that Commerce, as administrator, is responsible, using information provided to it by Customs, for determining whether the established amounts of AD and CVD duties are being assessed. Commerce, however, has been unable to do this because the Customs report has not provided Commerce with accurate and complete data on the assessment of duties. Without determining whether the established amount of AD and CVD duties are being assessed, Commerce does not have assurance that U.S. industries are afforded protection from these unfair foreign trade practices.

Administration of AD and CVD Duty Laws Transferred From Treasury to Commerce

Title VII of the Tariff Act of 1930 placed the authority and responsibility for the administration of AD and CVD laws with the Secretary of the Treasury. Effective January 2, 1980, the President's Reorganization Plan No. 3 of 1979 and Executive Order 2188 transferred the authority to administer these laws to the Secretary of Commerce.

Senate Report No. 96-402 on the reorganization plan cited several reasons for the transfer. These included (1) failure of the Department of the Treasury to administer AD and CVD laws in a fully effective manner and (2) alleged failure of Treasury to collect antidumping duties imposed. The report indicates that these deficiencies occurred because the administration of AD and CVD laws had to compete with a range of other responsibilities of Treasury.

The reorganization plan specified that Customs will continue to do certain ministerial functions for Commerce. These functions are to include (1) assessing such AD and CVD duties as established by the Secretary of Commerce and (2) providing Commerce with data on the assessment of AD and CVD duties needed to administer the AD and CVD laws.

Commerce Has Not Used Customs' Report to Review AD and CVD Duties Assessed

Customs provides Commerce with a blue-line report that contains data on its assessment of AD and CVD duties. Commerce and Customs agree that Commerce should review AD and CVD duties assessed to determine whether Customs is assessing the established amount of these duties. Commerce officials said that they have not reviewed estimated AD and CVD duties assessed because the Customs blue-line report contained inaccurate data. They also said that they have not reviewed AD and CVD duties assessed at settlement because the report has not contained all

importer of record because Customs' financial accounting system does not track the duty payments by line item entry.

We also independently tested the accuracy of the tracking system and whether the established AD and CVD duties were assessed by comparing information on five selected commodities reported on the fiscal year 1987 blue-line report with the information contained on the entry summary documents and AD and CVD orders published by Commerce. The selection of these commodities and limitations in using the results of the test are described later in this section. We completed this aspect of our work by interviewing import specialists and headquarters personnel about conditions that may have contributed to import specialist error in assessing AD and CVD duties and reporting accurate data.

To find out the extent to which Commerce and Customs coordinated their enforcement of the AD and CVD duty statutes, we interviewed responsible agency officials and reviewed applicable procedures, internal memos, and documentation in conjunction with data gathering for the other objectives.

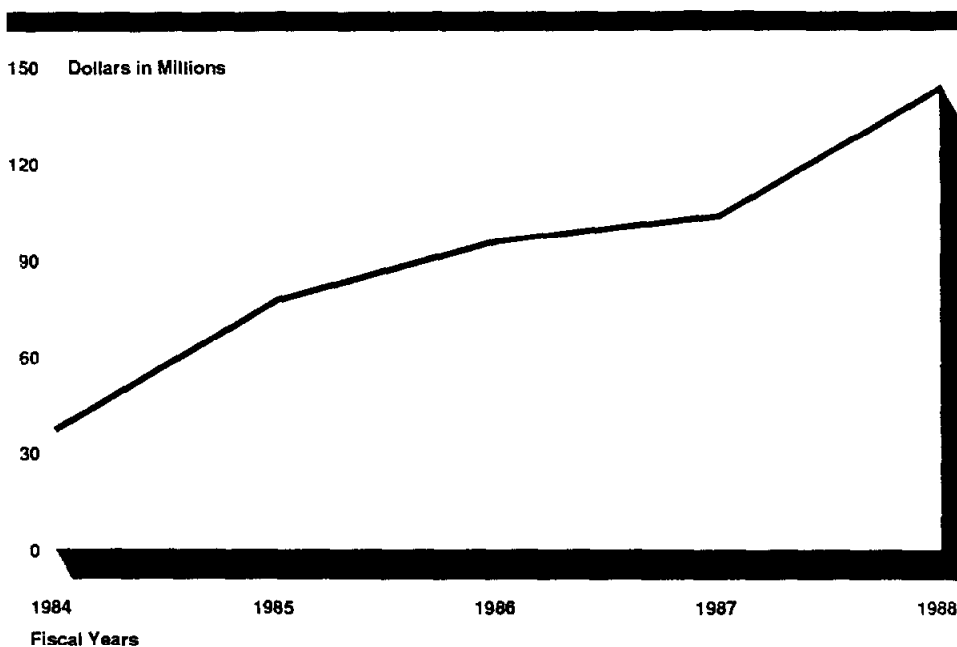
To find out what procedures are in place and planned to proactively detect unlawful attempts to circumvent AD and CVD laws, we interviewed Customs officials concerning their test of a model to identify statistical deviations from import trade patterns of products subject to AD and CVD duties.

From Customs' 1987 blue-line report, we collected aggregate data on the total value and amount of estimated AD and CVD duties reported on 19 commodities selected by Senator Heinz. These commodities included 14 assessed AD duties and 5 assessed CVD duties.

We selected 5 of these 19 commodities for our independent test of the accuracy of the reporting system and the appropriateness of the AD and CVD duties assessed. We selected the five commodities with the greatest possibility of error, including one commodity that was assessed CVD duties and one commodity for which it was complex to calculate the rate of duty. The three-step selection criteria we used are as follows:

- First, we multiplied the aggregate value of each AD commodity entry by the duty rate that should have been charged. We then compared this figure with the amount of duties assessed for the eight commodities that were subject to AD duties where this multiplication was straightforward because of nonvarying rates by manufacturer. We next selected the

Figure 1.1: AD and CVD Duties Collected, Fiscal Years 1984 Through 1988



Import Specialists Review AD and CVD Entries at Ports

Import specialists are the Customs personnel responsible for assessing the correct duties, including AD and CVD duties, on imported merchandise. They carry out these functions primarily by reviewing entry documents submitted from importers or their brokers. Generally, they work in teams organized according to the types of commodities reviewed. As of August 1988, Customs employed 1,020 import specialists.

With the significant increase in the volume of imported merchandise over the last 2 decades, import specialists no longer review all entries. A Customs official estimated that about 60 percent of entries were reviewed in fiscal year 1988. However, the official said that the criteria used for selecting entries to review requires that import specialists review all those subject to AD and CVD duties.

Objectives, Scope, and Methodology

Senator Heinz requested that we review U.S. government enforcement of the AD and CVD laws. More specifically, our review objectives were to

- identify the procedures Customs has in place and planned for tracking the assessment of AD and CVD duties, including the coordination between

Reporting on Duties Assessed—Customs is responsible for providing reports to Commerce on its assessments of AD and CVD duties so that Commerce can determine whether its orders are being implemented. In 1980, Customs developed a system for tracking and reporting the assessment of AD and CVD duties. The tracking begins at the point in the investigative process when Commerce and, where applicable, ITC investigations are completed and estimated duty rates are established. Customs' tracking system is called the "blue-line" system because its import specialists at ports of entry verify and underline in blue ink six data elements from entry summaries of imported merchandise submitted by importers or their brokers. These six data elements are (1) entry summary number, (2) merchandise entry date, (3) Customs region, district, and port code, (4) merchandise value, (5) Commerce case number, which identifies the commodity, country, and manufacturer, and (6) amount of duty assessed. The blue-lined summaries are then forwarded to Customs headquarters.

At headquarters, the entry summaries are boxed and sent to a contract data processing facility where the blue-lined data elements are keypunched for inclusion in Customs' report to Commerce. The report to Commerce consists of the six data elements organized by Commerce case number. The blue-line report is the only method Customs currently has to track the assessment of AD and CVD duties by entry, commodity, country, and manufacturer.¹

AD and CVD Orders Cover Wide Range of Countries and Commodities

As of October 1988, 241 AD and CVD duty orders were in effect. Of these, 166 involved AD orders on commodities from 39 countries and 75 involved CVD orders on commodities from 28 countries. Merchandise covered included agricultural products (rice, raspberries, and pistachios); textiles and industrial items (cotton yarn, pipe fittings, and pig iron); and electronics (cellular telephones). Table 1.1 shows the countries with the greatest number of AD and CVD orders on their exports to the United States as of October 1988.

¹Customs' financial accounting system captures aggregate information on AD and CVD duties as a breakout of total import duties.

Introduction

Antidumping duties (AD) and countervailing duties (CVD) are special assessments made on some imports into the United States. Customs levies these duties to help protect U.S. industries against certain unfair foreign trade practices.

AD duties are assessed when foreign manufacturers sell goods in the United States at prices lower than in their home markets. CVD duties are intended to counteract foreign government subsidies of the manufacture, production, or export of merchandise sent to the United States. These duties are assessed in addition to all regular duties.

Representatives of the U.S. copper and brass industry expressed concern to Senator John Heinz about the lack of information on AD and CVD assessments imposed on their foreign competitors' products. In response to the industry's concern, Senator Heinz asked us to review the tracking and enforcement of AD and CVD assessments.

Background

The Trade Agreements Act of 1979 (Public Law 96-39) added a new title to the Tariff Act of 1930, which authorized the imposition of AD and CVD duties and repealed the Antidumping Act of 1921. The 1979 act directed the President to propose a restructuring of the government's international trade functions. The proposal, the President's Reorganization Plan Number 3 of 1979, transferred responsibility for administering the AD and CVD statutes from the Department of the Treasury to the Commerce Department, effective January 1980.

Establishing and Assessing AD and CVD Duties

The process of establishing and assessing AD and CVD duties is carried out by the Department of Commerce, the International Trade Commission (ITC), and the Customs Service of the Treasury Department. Commerce is responsible for the overall administration of AD and CVD laws, including investigating allegations of dumping or foreign subsidization of imports and, if warranted by the investigation, establishing the duty to be imposed on the merchandise. ITC, an independent government agency, is responsible for determining whether injury has occurred or is likely to occur to a U.S. industry as a result of these allegations. Generally, such injury or the threat thereof must be established before AD and CVD duties can be assessed. Customs is responsible for assessing AD and CVD duties at the direction of Commerce.

The process of establishing and assessing these duties is as follows:

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Customs officials said that their reporting system had a low priority because Commerce rarely used it; Commerce officials said that the report was rarely used because it did not contain accurate data. Customs attempted to correct the errors in the 1987 report but inaccuracies—as confirmed by the GAO test analyses—remained in the revised version. (See p. 16.)

Customs officials said that they intend to continue to improve the accuracy of their report to Commerce. Through planned automation improvements, Customs field personnel will enter the duty assessment data into an automated system where it will be subject to computerized edit checks. For example, the computer can verify that the rates used to compute the duties are correct. In addition, Customs plans to establish a task force in 1989 to consolidate guidance on procedures Customs personnel should follow in reviewing and reporting duty information. GAO believes that the reports can now be used, to some extent, to review the estimated duties assessed because of (1) Customs' improvements to the data and (2) GAO's use of the data in its test analysis. (See pp. 18-19 and 27.)

Final Settlements Not Reviewed

Customs is also responsible for recomputing antidumping and countervailing duties at final settlement and providing Commerce with a report on these assessments. Customs and Commerce agree that Commerce is responsible for determining whether the established amounts of these duties are assessed at settlement. (See pp. 16-17.)

Commerce officials said that they are not making these determinations because Customs' report does not contain the data needed to verify computation of the settlement amounts. Customs was aware of Commerce's data needs and agreed that its report did not contain that data. However, Customs and Commerce have not resolved this issue, because neither agency has determined the feasibility of collecting the additional data needed. (See pp. 19-20.)

Recommendations

To enhance the administration of antidumping and countervailing duty laws, GAO recommends the following:

- The Secretary of the Treasury should direct the Commissioner of Customs to ensure that accurate reports are provided to Commerce. In doing

Executive Summary

Purpose

To protect U.S. industries from unfairly priced foreign imports, special import duties may be levied on selected merchandise imported into this country. These are referred to as "antidumping and countervailing duties." During fiscal year 1988, the Customs Service collected about \$143 million of these duties. However, representatives of the U.S. copper and brass industries have complained that the extent to which these duties protect them from below-market pricing by foreign importers is unknown.

Senator John Heinz, concerned about the Customs Service's and Commerce Department's administration of the antidumping and countervailing duty laws, requested that GAO determine whether or not procedures are in place to ensure those duties are assessed. (See pp. 12-13.)

Background

Antidumping laws address the selling of goods in the United States by foreign manufacturers at prices lower than in their home markets. Countervailing duty laws address subsidies foreign manufacturers receive from their governments for the manufacture, production, or export of merchandise.

By law, Commerce is responsible for the overall administration of these laws. Commerce investigates dumping allegations and determines whether dumping or foreign subsidization is occurring. If so, Commerce then sets the duty to be assessed. Customs helps Commerce administer these laws by assessing the established antidumping and countervailing duties and by providing Commerce with needed information on these assessments. Both Commerce and Customs agree that Commerce, as administrator, is responsible for ensuring that the established amounts of antidumping and countervailing duties are assessed. This can be a difficult task because antidumping and countervailing duties are often assessed for several years before legal appeals are exhausted and, when appropriate, duties are recomputed. Adjustments, either refunds or additional assessments, are made at a final settlement.

Results in Brief

Although Customs provides Commerce with a report covering the assessment of special duties, Commerce has not used the data to determine whether Customs has assessed the established amounts. Thus Commerce, the agency that must administer these trade laws, is unsure whether U.S. industries are appropriately protected from unfair foreign trade practices.

