

Commercial Customs Operations Advisory Committee (COAC) Trade Enforcement /Revenue SubCommittee / Bond Work Group

February 2018



U.S. Customs and
Border Protection



Trade Remedy Law Enforcement /Office of Trade
Bond Work Group
February 14, 2018

Action Required:

- Informational

Background:

- Section 115 of the Trade Facilitation and Trade Enforcement Act (TFTEA) requires CBP to develop importer risk assessment guidelines to adjust bond amounts.
- Validated Customs-Trade Partnership Against Terrorism (C-TPAT) Tier 2 and Tier 3 participants are excluded from this requirement.
- Statistically valid risk-based bonding scheme development began in July 2016 in response to two GAO recommendations.
- The Court of International Trade (CIT) has been clear in past rulings that adjustments to bond amounts must be based on an actual assessment of the importer's likelihood / ability to pay and not just raised because there is the mere possibility that deposit rates could change.
- 9.1 million records of AD/CVD modeling data has been standardized, merged, and loaded into the programming software.
- CBP will continuously refine and update risk-based models releasing sequential versions as additional datasets are loaded, with each version of the model to be statistically valid so as to limit litigation risk.
- Long-term enhancements will leverage social network analysis, spatial analysis, and interactive modeling to further segment risk.

Issue:

- Risk-based bonding was initiated by CBP in response to three items that call on CBP to develop and apply risk assessments to improve collections:
 - TFTEA, Section 115 (February 2016)
 - GAO Report (August 2016) - *AD/CVD: CBP Action Needed to Reduce Duty Processing Errors and Mitigate Nonpayment Risk*
 - Executive Order 13785 (March 2017) - *Establishing Enhanced Collection and Enforcement of AD/CVD and Violations of Trade and Customs Laws*
- CBP is currently in discussions with the COAC Trade Enforcement and Revenue Committee's Bond working group about the concept of a supplemental ADCVD bond.
- Three items have been discussed/reviewed with the working group:
 - The bond formula – Exposure rate * Base Rate * (Relevant Factors) = Bond amt.
 - Guidelines around the supplemental continuous bond
 - Developing a pilot to test the new formula between surities and CBP
- Based on lessons learned from that pilot, CBP will develop guidance for the surities and CBP on using the bond formula and move forward toward implementation.
- CBP is on track for finalizing the initial formula for AD/CVD and starting the pilot in late April.
- Sureties and the broader trade community will continue to play an important role throughout this process and CBP is grateful for their continued collaboration.

Next Steps:

- Develop criteria for bond pilot and initiate pilot for evaluation.
- Review of draft guidelines for supplemental continuous bond.
- Identify CBP automation requirements.

Submitted by: Troy Riley, Office of Trade, Trade Remedy Law Enforcement Directorate, Troy.P.Riley@cbp.dhs.gov, (202) 863-6548

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