

Why GAO Did This Study

The United States imposes AD/CV duties to remedy unfair foreign trade practices, such as unfairly low prices or subsidies that cause injury to domestic industries. Examples of products subject to AD/CV duties include honey from China and certain steel products from South Korea. Importers that seek to avoid paying appropriate AD/CV duties may employ methods of evasion such as illegally transshipping an import through a third country to disguise its true country of origin or falsifying the value of an import to reduce the amount of duties owed, among others. AD/CV duty evasion can harm U.S. companies and reduces U.S. revenues. CBP, within the Department of Homeland Security, leads efforts to detect and deter AD/CV duty evasion.

GAO was asked to examine (1) how CBP detects and deters AD/CV duty evasion, (2) factors that affect CBP's efforts, and (3) the extent to which CBP tracks and reports on its efforts. To address these objectives, GAO reviewed CBP data and documents; met with government and private sector representatives in Washington, D.C.; and conducted fieldwork at three domestic ports.

What GAO Recommends

To enhance CBP's efforts to address AD/CV duty evasion and facilitate oversight of these efforts, GAO makes several recommendations, including that CBP create a policy and a mechanism for information sharing among ports regarding the use of higher bond amounts and develop and implement a plan to track and report on these efforts. CBP and the Department of Commerce generally concurred with GAO's recommendations.

View [GAO-12-551](#). For more information, contact Alfredo Gomez at (202) 512-4101 or gomezj@gao.gov.

ANTIDUMPING AND COUNTERVAILING DUTIES

Management Enhancements Needed to Improve Efforts to Detect and Deter Duty Evasion

What GAO Found

U.S. Customs and Border Protection (CBP) detects and deters evasion of antidumping and countervailing (AD/CV) duties through a three-part process that involves (1) identifying potential cases of evasion, (2) attempting to verify if evasion is occurring, and (3) taking enforcement action. To identify potential cases of evasion, CBP targets suspicious import activity, analyzes trends in import data, and follows up on allegations from external sources. If CBP identifies a potential case of evasion, it can use various techniques to attempt to verify whether evasion is occurring, such as asking importers for further information, auditing the records of importers suspected of evasion, and inspecting shipments arriving at ports of entry. If CBP is able to verify evasion, its options for taking enforcement action include (1) pursuing the collection of evaded duties, (2) imposing civil penalties, (3) conducting seizures, and (4) referring cases for criminal investigation. For example, between fiscal years 2007 to 2011, CBP assessed civil penalties totaling about \$208 million against importers evading AD/CV duties.

Two types of factors affect CBP's efforts to detect and deter AD/CV duty evasion. First, CBP faces several external challenges in attempting to gather conclusive evidence of evasion and take enforcement action against parties evading duties. These challenges include (1) the inherent difficulty of verifying evasion conducted through clandestine means; (2) limited access to evidence of evasion located in foreign countries; (3) the highly specific and sometimes complex nature of products subject to AD/CV duties; (4) the ease of becoming an importer of record, which evaders can exploit; and (5) the limited circumstances under which CBP can seize goods evading AD/CV duties. Second, gaps in information sharing also affect CBP efforts. Although communication between CBP and the Department of Commerce (Commerce) has improved, CBP lacks information from Commerce that would enable it to better plan its workload and help mitigate the administrative burden it faces in processing AD/CV duties—an effort that diminishes its resources available to address evasion. Additionally, CBP has encouraged the use of larger bond amounts to protect AD/CV duty revenue from the risk of evasion, but CBP has neither a policy nor a mechanism in place for a port requiring a larger bond to share this information with other ports in case an importer withdraws its shipment and attempts to make entry at another port to avoid the higher bond amount.

While CBP has made some performance management improvements, it does not systematically track or report key outcome information that CBP leadership and Congress could use to assess and improve CBP's efforts to deter and detect AD/CV duty evasion. First, CBP cannot readily produce key data, such as the number of confirmed cases of evasion, which it could use to better inform and manage its efforts. Second, CBP does not consistently track or report on the outcomes of allegations of evasion it receives from third parties. As GAO reported in March 2011, the Government Performance and Results Modernization Act of 2010 underscores the importance of ensuring that performance information will be both useful and used in decision making. Without improved tracking and reporting, agency leadership, Congress, and industry stakeholders will continue to have little information with which to oversee and evaluate CBP's efforts to detect and deter evasion of AD/CV duties.