UNITED STATES DEPARTMENT OF COMMERCE
Office of Inspector General
Washington, D.C. 20230

February 28, 2017

MEMORANDUM FOR: Ronald K. Lorentzen
Acting Assistant Secretary for Enforcement and Compliance
International Trade Administration

FROM: Carol N. Rice
Assistant Inspector General for Economic
and Statistical Program Assessment

SUBJECT: *Enforcement and Compliance Needs to Update and Consistently Implement Its Quality Assurance Policies and Practices*
Final Report No. OIG-17-017-A

This final report provides the results of our audit of the International Trade Administration's (ITA's) Enforcement and Compliance's (E&C's) efforts to ensure timely and accurate preliminary and final determinations for antidumping duty (AD) and countervailing duty (CVD) proceedings, including investigations and administrative reviews, and the results of regulatory reviews.[1] We reviewed relevant policies and procedures, assessed documentation for a statistical sample of cases subject to both statutory and regulatory deadlines, and interviewed E&C staff responsible for managing E&C's caseload. See appendix A for details on our objective, scope, and methodology.

Background

E&C's mission is to safeguard U.S. industries and jobs against unfair trade by determining whether goods sold by foreign producers in the United States are (1) being sold at less than normal value in a practice known as "dumping" or (2) being subsidized by foreign governments. E&C administers the U.S. laws designed to remedy such unfair trade practices by imposing additional duties on these foreign goods. The Assistant Secretary for Enforcement and Compliance is delegated the authority for administering AD and CVD laws and issuing determinations based upon the results of AD and CVD trade remedy proceedings.[2]

AD/CVD Operations is the E&C operating unit responsible for conducting AD and CVD proceedings, the determinations of which are subject to statutory and/or regulatory deadlines.[3]

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[1] For the purpose of this report, these AD and CVD segments collectively are referred to as "cases."

[2] U.S. Department of Commerce, *Department Organization Order 40-1: International Trade Administration*, September 19, 2013, Section 6(b). See http://www.osec.doc.gov/opog/dmp/doos/doo40_1.html (accessed June 20, 2016).

[3] For the purpose of this report, the term "determination," which is used by AD/CVD Operations to describe decisions made during an investigation, also encompasses the term "results," which is normally used by AD/CVD Operations to describe decisions made during administrative reviews and other trade remedy cases.

An AD or CVD proceeding normally comprises an initial investigation and, if an AD or CVD order is issued, annual administrative reviews. As a result of the various statutory deadlines contained in the Tariff Act of 1930, as amended,[4] and regulatory deadlines contained in the Code of Federal Regulations (CFR),[5] the initial investigation and subsequent administrative reviews each take approximately 1 year to complete. AD/CVD Operations also conducts cases that are subject only to regulatory deadlines (see appendix B for statutory and regulatory deadlines). Analysts from AD/CVD Operations—previously comprised of seven enforcement offices[6]—collaborate with staff from E&C's Office of Policy and Negotiations (specifically, the Office of Policy and Office of Accounting) and the Office of the Chief Counsel for Trade Enforcement and Compliance, to complete cases. The office primarily uses two information systems to manage cases: (1) the Case Management Database that calculates and tracks deadlines and provides status updates on cases; and, (2) the relatively new E-concurrence system, which records and tracks supervisory approvals. A third system named ACCESS is the official system of record maintained by E&C that contains all information and arguments submitted by petitioners, respondents, other interested parties, and E&C analysts that are used to make determinations for AD and CVD proceedings.

Statutory cases. E&C conducts several types of cases with statutory deadlines that include, but are not limited to

- an *investigation* that is initiated on the basis of a petition filed on behalf of a U.S. industry by interested parties, such as U.S. manufacturers, labor unions, and trade associations (referred to as the petitioners) when dumping or subsidization is suspected,[7] and
- an *administrative review* of an order, which occurs when an interested party (usually either a domestic or foreign producer, or an importer) requests that E&C revisit an existing order's final duty margin based on sales and other data normally from the previous 12 months in an AD proceeding or most recently completed calendar year in a CVD proceeding. Administrative reviews can be requested 12 months after an order is issued, and subsequently on an annual basis unless and until the order is revoked.

A foreign producer or exporter who did not export subject merchandise to the United States during the period of investigation may also request a new shipper review in either the anniversary month or 6 months after the anniversary month of the order to receive a company-specific antidumping duty margin or countervailing subsidy rate. After an order has been in place for 5 years, E&C conducts a separate "sunset" review to determine whether to revoke the order or continue it for an additional 5 years.

[4] 19 U.S.C. § 1671–1677(n).

[5] 19 C.F.R. Part 351.

[6] During the audit, AD/CVD Operations added an enforcement office, bringing its current total to eight offices.

[7] Interested parties submit a single petition to E&C and the International Trade Commission (ITC), which both conduct independent investigations. E&C determines whether dumping or subsidization has occurred and calculates a duty margin or subsidy rate. ITC determines where the U.S. industry is being or may be "materially injured" by dumping or subsidization. Both E&C and ITC must reach an affirmative determination for a case to proceed.

In an investigation, to arrive at a preliminary determination on dumping or subsidization and calculate any cash deposits to be collected, E&C analysts send out questionnaires to select foreign companies that export the subject product and/or to governments—referred to as respondents—seeking detailed written submissions regarding sales, production costs, subsidies provided, and other information.[8] The resulting AD and CVD preliminary determinations indicate the cash deposit rates applicable to specific exporters and a catch-all rate for all other exporters from that country. After verifying the accuracy and completeness of information submitted for the case by respondents and providing an opportunity for comment by the petitioners, respondents, and other interested parties, E&C issues a final determination. If that determination is affirmative—and if the U.S. International Trade Commission subsequently determines that a U.S. industry is being materially injured or threatened with material injury—then, as a result of the unfairly traded imports, E&C will issue AD and/or CVD orders.

Regulatory cases. E&C conducts additional types of cases arising from AD or CVD proceedings: (1) a scope inquiry to clarify whether specific merchandise is within the scope of an AD or CVD order; (2) a changed circumstances review to determine whether changes to a foreign producer's business interests warrant a review of the rate from a prior AD or CVD order to which it is subject, or interested parties representing the U.S. industry in an AD or CVD order no longer have interest in certain products being subject to the order; and (3) an anti-circumvention inquiry to determine whether foreign producers are evading an order.

Quality assurance measures. E&C summarizes its procedures for making determinations in the *Enforcement and Compliance Antidumping Manual* (*AD Manual*)[9] and the *Import Administration Operations Handbook* (*Operations Handbook*).[10] Among the procedures used to ensure accurate AD and CVD duty margin calculations, some of the E&C officials interviewed cited the following as the most important:

- use of data integrity check and standard margin calculation programs for cases of AD proceedings that all analysts are required to use,
- calculation review panels for cases in both AD and CVD proceedings, and
- a formal concurrence process for preliminary and final determinations.

Before using respondent information to calculate duty margins in AD proceedings, E&C analysts perform a data integrity check, whereby they ensure the data supplied conforms to E&C requirements. The standard margin calculation for AD cases is performed using a statistical software template.[11] Analysts modify specific parameters within the software program (e.g. the

[8] E&C usually chooses as respondents those foreign producers that account for the largest volume of subject merchandise that can be reasonably examined. Foreign producers of the subject merchandise that are not selected are subject to an "all others" duty margin.

[9] International Trade Administration, March 16, 2015. *Enforcement and Compliance Antidumping Manual.* Washington, DC: ITA. See http://ia.ita.doc.gov/admanual/ (accessed November 14, 2016).

[10] ITA, April 2008. *Import Administration Operations Handbook*. Washington, DC: ITA. Import Administration was renamed Enforcement and Compliance on October 17, 2013, as part of a reorganization of ITA.

[11] E&C uses SAS, which is a software suite that can mine, alter, manage, and retrieve data from a variety of sources and perform statistical analyses on them.

names of datasets, exchange rates, measures, and other case-specific information), but the coding necessary to perform duty calculations is largely standardized and built into the program. Additional programming may be necessary based on the facts of the proceeding. Because foreign government subsidy programs vary greatly, respondent data for CVD proceedings are imported into an Excel spreadsheet, which may be customized to address any unique characteristics.

According to the *AD Manual* and *Operations Handbook*, every calculation must go through a calculation review panel.[12] These panels are designed to provide a review independent of the case team that generated the AD and CVD calculations. The objective is to ensure the accuracy of all dumping margin and subsidy rate calculations, and identify and correct ministerial (i.e., clerical) errors before E&C issues its determinations. E&C is required to correct any significant errors in a preliminary determination for an investigation and any errors in a final determination for an investigation or final results of a review. The *Operations Handbook* states that all calculations pertaining to AD and CVD cases must go through an internal panel review and then an external panel review. The *Operations Handbook* states that the only exceptions may be a final determination and final results of review in which no changes were made to the calculations after issuing the preliminary determination and results of review, respectively. In such a case, while no calculation review panel is required, analysts discuss with the office director whether a panel review may be appropriate.

Each determination or review result undergoes an internal concurrence process that includes the Office of Chief Counsel for Trade Enforcement and Compliance, E&C's Offices of Policy and Accounting (the latter if necessary), the AD/CVD Operations office director, the Office of the Deputy Assistant Secretary of AD/CVD Operations, and the Assistant Secretary. The concurrence process reflects checkpoints of agreement and approval from the beginning to the end of specific casework and is designed to ensure that decisions

- comport with laws and regulations,
- are consistent with case precedent and Department policy,
- are supported by the record, and
- are clearly reasoned and explained.

Signatures are gathered on a concurrence form to show agreement and/or approval. A determination or result is final upon the signature of the Assistant Secretary and—for most such determinations and results—takes effect when it is published soon afterwards in the *Federal Register*.

To ensure statutory deadlines and quality standards for determinations are met, E&C implements internal policies to manage AD and CVD proceedings. However, while AD/CVD Operations staffing from fiscal year (FY) 2013 to FY 2015 decreased from 145 to 140 analysts, the number of determinations for new investigations increased from 44 to 70 and the number

[12] See ITA, *Enforcement and Compliance Antidumping Manual*, Chap. 11, p. 7. See also ITA, *Import Administration Operations Handbook*, p. 74.

of determinations for all cases increased from 352 to 384 during the same period. Given the rise in case analysts' workload, it is important that E&C has effective quality control policies, practices, and processes to ensure the timeliness and accuracy of its preliminary and final determinations.

Findings and Recommendations

We found (1) ITA E&C's quality assurance policies are applied inconsistently for calculations, but E&C generally follows its concurrence process; and (2) E&C issues statutory determinations on time, but 22 percent of regulatory cases are completed after the original deadlines.

I. Quality Assurance Policies Were Applied Inconsistently for Calculations, but E&C Generally Followed Its Concurrence Process

To assess its efforts to ensure accurate determinations, OIG tested two aspects of E&C's quality assurance process: the use of calculation review panels and the extent of supervisory review. We found that E&C does not consistently comply with its policies regarding calculation review panels, such as not using the formal calculation review panel checklists, not maintaining records of its calculation reviews, or, in some instances, conducting the reviews themselves. Additionally, E&C did not maintain all records of supervisory review of preliminary and final determinations; however, where documentation was available, E&C nearly always complied with its concurrence policies.

A. Calculation Review Panels Are Not Consistently Carried Out in Accordance with E&C's Operations Handbook

E&C's *Operations Handbook* states that every calculation, both preliminary and final, must undergo a calculation review panel, whereby E&C analysts who did not work on the case provide an independent review.[13] The goal is to identify and correct any calculation errors before a determination is issued. To this end, the panel is divided into two parts: an internal review performed by an employee from the same office as the analysts assigned to the case, and an external review performed by an employee from a different AD/CVD office. An internal panel ensures that the case analysts used the appropriate data source for the calculations, while an external panel examines the SAS programs and other work for mathematical accuracy and ensures that the approach for the calculations matches the methodology described in the *Federal Register* notice and other relevant documents.

In completing calculation review panels, the *Operations Handbook* requires that all reviewers use a standardized checklist (specific to the type of case) that prescribes the information to be examined. Once the internal panel is finished, a partially completed checklist is passed on to the external panel. Once the review panel is finalized, the reviewer returns the checklist—along with any relevant comments—to the initial team

[13] ITA, *Import Administration Operations Handbook*, April 2008, pp. 74–79.

of analysts, the program manager, and the quality assurance team to resolve any errors and make adjustments. The appropriate calculation review panel members should review any changes before signing off. The program manager should review the results to determine whether the errors identified could be prevented in the future, and the quality assurance team synthesizes the results "to assess whether additional training, vigilance, or emphasis for calculation review panels may be necessary."[14]

To assess the extent to which analysts were complying with E&C policy to conduct panel reviews, OIG tested a random sample of 55 statutory cases that were closed during FYs 2013–2015, including AD and CVD investigations and administrative reviews, and new shipper reviews. According to E&C managers, of the cases we reviewed, 31 required a preliminary internal panel review, 32 required a preliminary external panel, 26 required a final internal panel, and 29 required a final external panel. Many cases in our sample included sunset reviews and a case where the petition was withdrawn. Since neither type involved new calculations, they did not require panel reviews.

For the cases that required panel reviews, E&C largely did not comply with its policies and procedures. E&C could only provide documentary support for the following determinations:

- 4 out of 31 preliminary determinations (13 percent) underwent an internal panel review,
- 4 out of 32 preliminary determinations (13 percent) underwent an external panel review,
- 2 out of 26 final determinations (8 percent) underwent an internal panel review, and
- 2 out of 29 final determinations (7 percent) underwent an external panel review.

Additionally, of the 12 panel reviews we were able to confirm took place through documentation, only 5 used a calculation review panel checklist.

For cases in our sample lacking a checklist, the program managers who supervised each case indicated whether the case underwent a calculation review.[15] Program managers stated that for the cases where they had records available, 7 out of 27 (26 percent) did not undergo internal panels and 7 out of 29 (24 percent) did not undergo external panels for preliminary determinations, while 7 out of 20 (35 percent) failed to complete internal panels and 5 out of 25 (20 percent) failed to complete external panels for final determinations (see table 1, column 5). However, program managers stated that at least one internal or external review took place for each case.

[14] Ibid., p. 76.

[15] Program managers are responsible for the day-to-day supervision of analysts and manage E&C's caseload in order to meet quality standards and deadlines.

Table 1. Completion of Required Calculation Review Panel Checklists by AD/CVD Offices

Type of Calculation Review Panel	Cases that Required Panel Reviews	Did a Calculation Review Panel Take Place?			
		Yes, per Documented Evidence[a]	Yes, per Manager Confirmation Only	No, per Manager Confirmation Only	Undetermined[b]
Preliminary Internal	31	4	16	7	4
Preliminary External	32	4	18	7	3
Final Internal	26	2	11	7	6
Final External	29	2	18	5	4

Source: OIG analysis of E&C records
[a] A checklist or similar document.
[b] For some cases, program managers were unsure whether a review took place.

We also interviewed the existing 13 program managers and just 3 stated that they required analysts to use panel review checklists. Instead of using the formal document, the majority relied on the expertise of their analysts to review cases as they saw fit, providing comments via email. Further, while just 1 program manager required reviewers to send an email confirming their completion of panel reviews, none actually received or reviewed the panel checklists, as required by the *Operations Handbook*. Six managers stated that the checklists—originally developed in 2008—were outdated and time-consuming to complete, but they were amenable to standardizing quality control procedures. Specifically, since analysts now use a standardized SAS template for their calculations (filling in numbers as needed), a streamlined checklist could reduce the workload while still ensuring that correct values are added to the template and therefore properly documented. Moreover, E&C does not have a quality assurance team that functions as described in the *Operations Handbook*; thus, no centralized group is able to review and assess the calculation review panel checklists. A quality assurance team would be able to recommend modifications to the checklist based on panelist feedback.

Finally, E&C was unable to provide documentation of panel reviews to show that external reviewers came from offices different than those of the original case analysts. Therefore, OIG asked that E&C identify the offices of the review panelists. According to E&C records, 78 percent of external reviewers came from external offices, while the other 22 percent came from the same office. During program manager interviews, 4 stated that they did not require external panels for their cases.

Although just 4 percent of cases from our period of review resulted in ministerial errors that required amending the duty rates, failure to adhere to documented quality assurance practices poses numerous risks. If managers do not monitor and track panel completion, analysts may perform cursory reviews or avoid them altogether, possibly resulting in lower quality reviews and increasing the risk of ministerial errors. Additionally, because procedures differ by program manager, the level of quality assurance may differ among cases. Since neither program managers nor a centralized group—such as the quality assurance team—analyze the results of panel reviews, analysts may repeat similar errors without receiving appropriate training to remediate such mistakes. Finally, although E&C management informed us that it does not require analysts to retain actual panel review checklists or other records documenting the paneling process, Department Administrative Order (DAO) 205-1 requires bureaus to retain documentation of decisions and essential transactions among other things. E&C's records retention schedule requires the retention of records developed during AD and CVD cases. Thus, when analysts complete checklists for AD and CVD cases, under DAO 205-1 and E&C's records retention schedule, they must also retain those records.

B. With Limited Exceptions, E&C Followed Its Concurrence Process for Preliminary and Final Determinations

In addition to calculation review panels, E&C relies on supervisory reviews to ensure that determinations are appropriately vetted prior to issuance. Before publishing a *Federal Register* notice, the following individuals must review and concur with a determination:

- the case program manager,
- AD/CVD office director,
- senior attorney from the Office of Chief Counsel for Enforcement and Compliance,
- senior analyst from the Office of Policy,
- senior accountant from the Office of Accounting (where applicable),
- Deputy Assistant Secretary for AD/CVD Operations, and
- Assistant Secretary.

During the scope of our audit, E&C transitioned from a paper-based concurrence record system to an electronic one called E-concurrence.[16] To assess this concurrence process, OIG used the aforementioned sample of 55 statutory cases and obtained a separate stratified random sample of 39 regulatory cases that included anti-circumvention, change of circumstances, and scope inquiries. For each case, we accessed

[16] The first E&C enforcement office started using E-concurrence in March 2010, and all enforcement offices used the system by October 2013.

records from E-concurrence or requested hard copies of any missing E-concurrence records from E&C management.

For both samples, we found that E&C maintained all concurrence records (both preliminary and final determinations where applicable) for 41 of 55 statutory cases and for 37 of 39 regulatory cases. As in our previous finding, DAO 205-1 and E&C's record retention schedule requires the maintenance of case-related documentation; therefore, when concurrence records are created, they must also be maintained. In some instances, concurrence documentation was available for either the preliminary or final determination, but not both, either because of missing documentation or because some cases require only a final determination and not a preliminary one. In cases where documentation was unavailable, we were unable to perform additional testing.

For cases where documentation was available, we performed two tests to determine whether (1) all of the required reviewers concurred and (2) the reviewers concurred before the determination was issued. For all statutory and regulatory cases, each determination was signed by the Assistant Secretary (or his designee) and done prior to it being issued. Of the statutory cases with documentation, we found that two were missing at least one required signature below the level of Assistant Secretary (see table 2). However, excluding those two cases, all reviewers signed before a determination was issued. Of the regulatory cases with documentation, two were missing at least one of the required signatures below the level of Assistant Secretary, and one signatory did not concur before the determination was issued. For the cases lacking signatures, only one signature was missing—that of either the senior attorney or the senior policy analyst. However, all of the cases showed legal and policy staff involvement.

Table 2. Concurrence Records for AD/CVD Offices

Case Type	Total Concurrence Records[a]	Missing Concurrence Documentation	Missing Required Signatures	Signatures Were Not Timely[b]
Statutory (55 Cases)	92	19	2	0
Regulatory (39 Cases)	48	3	2	1

Source: OIG analysis of E&C records
[a] Both preliminary and final where applicable.
[b] Excludes cases where a signature was missing.

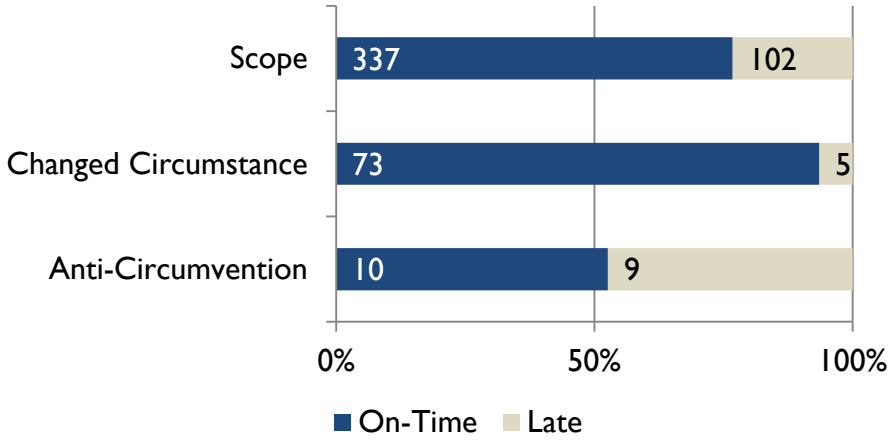
Thus, despite weaknesses in the application of the calculation review panel process, we found nearly all of E&C's preliminary and final determinations that we were able to review underwent supervisory approval and obtained the proper signatures before the determinations were issued. However, OIG was unable to review 22 of 140 records due to missing concurrence documentation.

II. E&C Issued Statutory Determinations on Time, but 22 Percent of Regulatory Cases Were Completed After the Deadlines Established by Internal Metrics

To assess E&C's efforts to ensure timely determinations, we reviewed the timeliness of both statutory and regulatory cases. OIG reviewed the source documentation in ACCESS for our sample of 55 statutory cases[17] to verify whether the source documents matched the dates entered in Case Management Database, which serves as the basis for managing E&C's case deadlines. We found that all the dates recorded in the database matched the source documentation, verifying that the cases in our sample were completed on time. However, for regulatory cases, OIG found that 22 percent were completed after the deadlines established by E&C's internal policies.

For regulatory cases, E&C is required to issue final anti-circumvention reviews normally within 300 days of initiation, changed circumstance reviews within 270 days of initiation, and other scope rulings normally within 120 days of initiation.[18] For internal timeliness metrics, E&C permits extensions of up to 45 days before considering a determination to be late. We used Case Management Database information to review all 536 regulatory cases that were completed during FYs 2013–2015 and found that E&C issued 116 (22 percent) determinations after the original deadlines (see figure 1).

Figure 1. Percent of Regulatory Cases Completed After the Original Deadlines Plus a 45-Day Extension



Source: OIG analysis of E&C data

On average, regulatory cases were 170 days late, including 25 that were over 300 days behind schedule. By contrast, all determinations from our sample of 55 statutory cases were completed on time. According to E&C management, staffing constraints compel it to extend

[17] Source documentation was available for all of these cases.

[18] 19 C.F.R. § 351.225(f)(5) and 351.216(e).

deadlines for regulatory cases in order to ensure that statutory cases are completed on time.

Recommendations

We recommend that the Assistant Secretary for Enforcement and Compliance do the following:

1. Update and implement standard quality assurance processes across AD/CVD Operations enforcement offices, and train analysts and supervisors on the revised quality assurance policies.
2. Update practices to ensure that records related to quality assurance processes are retained.
3. Develop a process to track and certify completion of quality assurance processes and provide case analysts with training to correct any errors discovered in calculation review panels as they arise.
4. Revise workplace processes, including those for assigning cases, to better meet or document adjusted deadlines for regulatory cases.

On February 6, 2017, OIG received ITA E&C's response to the draft report's findings and recommendations, which we include here as appendix C. E&C management concurred with all four recommendations and noted actions it would take to address our recommendations. This final memorandum report will be posted on OIG's website pursuant to sections 4 and 8M of the Inspector General Act of 1978 (5 U.S.C. App., §§ 4 & 8M), as amended.

In accordance with Department Administrative Order 213-5, please submit to us—within 60 calendar days of the date of this memorandum—an action plan that responds to the recommendations of this report.

We appreciate your cooperation and courtesies extended to us by your staff during our audit. If you have any questions or concerns about this report, please contact me at (202) 482-6020 or Eleazar Velazquez at (202) 482-0744.

Appendix A.
Objective, Scope, and Methodology

The objective of this audit was to assess E&C's efforts to ensure timely and accurate preliminary and final determinations for AD and CVD proceedings, including investigations and administrative reviews, and the results of regulatory reviews. Unless otherwise noted in the report, the scope of our audit covered activities from FY 2013 through FY 2015.

To accomplish our objective, we performed the following:

- reviewed E&C policies on timeliness and quality control processes
- interviewed AD/CVD office program managers to understand the quality assurance processes they carry out and how they are implemented
- obtained documentation to assess whether quality control processes were implemented for a sample of statutory and regulatory cases
- reviewed case documentation from ACCESS to attempt to validate the dates reported in Case Management Database for statutory and regulatory cases

To assess the timeliness and accuracy of preliminary and final determinations, we obtained documentation associated with a stratified random sample of cases that were completed from FYs 2013 to 2015 and were, as of May 6, 2016, completely closed. As part of our audit, we reviewed 55 statutory cases, including investigations, administrative reviews, and new shipper reviews, and 39 regulatory cases, including changed circumstances, anti-circumvention, and scope reviews. Based on the results of our sample testing, we produced estimates for the population with a 90 percent level of confidence. We estimate that there is documentary evidence to support internal panel reviews for between 4 percent and 22 percent of preliminary determinations, external panel reviews for between 3 percent and 22 percent of preliminary determinations, internal panel reviews for between 1 percent and 14 percent of final determinations, and external panel reviews for between 0 percent and 14 percent of final determinations. We also estimate that E&C maintained concurrence records for 65 percent to 84 percent of statutory cases and 89 percent to 100 percent of regulatory cases. Additionally, we used SAS, a statistical analysis program, to review the timeliness of all 536 regulatory cases that were completed from FYs 2013 to 2015 and were, as of May 6, 2016, completely closed.

Further, we gained an understanding of significant controls within the context of the audit objective by interviewing program managers from each of the E&C offices and reviewing documentation for evidence of an internal control. Based on this, we identified a weakness in tracking and verifying whether quality control procedures were completed. We also tested Case Management Database system data and found it sufficiently reliable for use in our audit. Finally, our work found no instances of fraud, illegal acts, or abuse. From these efforts, we believe the information we obtained is sufficiently reliable for this report.

We conducted this audit from March 2016 to October 2016 and performed fieldwork in Washington, DC. The audit was conducted under the authority of the Inspector General Act of 1978, as amended, and Department Organization Order 10-13, dated April 26, 2013. We

conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions, based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Appendix B.
Types of Enforcement and Compliance Cases

This appendix contains a general overview of the trade remedy cases conducted by E&C, their time limits for completion, and their regulatory authorities. 19 C.F.R. Part 351 is the codification of the general and permanent rules and regulations governing the administration of U.S. trade remedy laws and all citations in this Appendix relate to this part of the C.F.R. Most of the deadlines listed below are approximate. The actual deadline in any particular case (segment) of a proceeding may depend on the date of an earlier event or be established by the Assistant Secretary for Enforcement and Compliance.

Table B-1. Cases Subject to Statutory Deadlines[a]

Type	Event	Total Days	19 C.F.R.
Antidumping Investigation An investigation of foreign producers to determine whether dumping has occurred and, if so, to calculate the amount of dumping.	Preliminary determination	Normally not later than 140 days (Can be extended)	• § 351.205(b)(1) • § 351.205(b)(2) (Not later than 190 days at the petitioner's request or if the case is extraordinarily complicated)
	Final determination	Normally not later than 215 days (Can be extended)	• § 351.210(b)(1) (Normally not later than 75 days after the date of the preliminary determination) • § 351.210(b)(2) (Not later than 135 days after publication of the preliminary determination at the request of the (i) petitioner, if the preliminary determination was negative or (ii) exporters or producers who account for a significant proportion of the subject merchandise, if the preliminary determination was affirmative)
	Order issued	267 days	Annex III to Part 351 (Citing § 351.211(b))
Countervailing Duty Investigation An investigation of foreign producers and governments to determine whether subsidization has occurred	Preliminary determination	Normally not later than 65 days (Can be extended)	• § 351.205(b)(1) • § 351.205(b)(2) (Not later than 130 days at the petitioner's request or if the case is determined to be extraordinarily complicated)

Type	Event	Total Days	19 C.F.R.
and, if so, to calculate the amount of subsidies.	Final determination	140 days (Can be extended)	• § 351.210(b)(1) (Normally not later than 75 days after the date of the preliminary determination) • § 351.210(b)(3) (Not later than 165 days after the preliminary determination, if after the preliminary determination it is decided additional time is needed to investigate an upstream subsidy allegation) • § 351.210(b)(4) The same date as the date of the antidumping determination; if (i) the Secretary simultaneously initiated AD and CVD investigations on subject merchandise (from same or other countries), the petitioner requests the final determination be on the same date as the antidumping determination; and (ii) if the final countervailing duty determination is not due on a later date because of postponement due to an allegation of upstream subsidies under section 703(g) of the Tariff Act of 1930.
	Order issued	192 days	Annex I to Part 351

Type	Event	Total Days	19 C.F.R.
Antidumping and Countervailing Administrative Review A review conducted to determine the amount of antidumping or countervailing duties to assess on imports during a specific period of review and establish new deposit rates for future imports.	Request for review	0 days	§ 351.213(b) (The anniversary month of the publication of the order)
	Publication of initiation notice	30 days	Annexes II and IV to Part 351 (Citing § 351.221(c)(1)(i))
	Preliminary results of review	245 days (Can be extended)	• § 351.213(h)(1) • § 351.213(h)(2) (Can be extended to 365 days)
	Final results of review	372 days (Can be extended)	• § 351.213(h)(1) (Within 120 days after date of publication of preliminary results) • § 351.213(h)(2) (May be extended to 180 days)
New Shipper Review A review whereby so-called "new shippers" can obtain individual dumping or duty margins on an expedited basis. In general, a new shipper is an exporter or producer that did not export, and is not affiliated with an exporter or producer that exported to the United States during the period of investigation.	Preliminary results of review	180 days (Can be extended)	• § 351.214(i)(1) • § 351.214(i)(2) (Can be extended to 300 days)
	Final results of review	270 days (Can be extended)	• § 351.214(i)(1) (Within 90 days after the preliminary results) • § 351.214(i)(2) (Can be extended to 150 days)
Sunset Review A review conducted on the fifth anniversary of an antidumping or countervailing duty order to determine whether revoking the existing order would be likely to lead to a continuation or recurrence of the dumping or subsidy.	**90-Day Sunset Review**		
	Final determination revoking an order or terminating a suspended investigation where no domestic interested party files a notice of intent to participate in the sunset review	Not later than 90 days after the date of publication of Notice of Initiation	§ 351.218(d)(1)(iii)(B)(*3*) and § 351.222(i)(1)(i)

Type	Event	Total Days	19 C.F.R.
	Expedited Sunset Review		
	Final results of expedited sunset review where a foreign government fails to file a substantive response or respondent interested parties provide an inadequate response to the Notice of Initiation	Not later than 120 days after the date of publication of the Notice of Initiation	§ 351.218(e)(1)(ii)(B) and § 351.218(e)(1)(ii)(C)(2)
	Full Sunset Review		
	Preliminary results of full sunset review	Not later than 110 days after the date of publication of the Notice of Initiation	§ 351.218(f)(1)
	Final results of full sunset review	Not later than 240 days after the date of publication of the Notice of Initiation	§ 351.218(f)(3)(i)
	Final results of full sunset review if fully extended	330 days	§ 351.218(f)(3)(ii) (If full sunset review is extraordinarily complicated, period for issuing final results may be extended by not more than 90 days)

Source: 19 C.F.R. Part 351

[a] This table presents the statutory deadlines of the Tariff Act of 1930 as they are codified in the C.F.R.

Table B-2. Cases Subject to Regulatory Deadlines

Type	Event	Day	19 C.F.R.
Scope Determination A review performed to determine if merchandise is within the scope of an AD or CVD order.	Final determination	45 days (Issue a final ruling or initiate a scope inquiry)	§ 351.225(c)(2)
		120 days (From initiation of a scope inquiry)	§ 351.225(f)(5)
Changed Circumstances Review A review performed to determine whether changed circumstances exist under an AD or CVD order (e.g. whether a foreign producer's business interests have changed in a manner that impacts their AD or CVD rate.	Final determination	270 days (Or 45 days if all parties agree)	§ 351.216(e)
Anti-Circumvention Inquiry An inquiry conducted to determine whether imports are circumventing an antidumping or countervailing duty order.	Final determination	45 days (Issue a final ruling or initiate an inquiry)	§ 351.225(c)(2)
		300 days (From initiation of a scope inquiry)	§ 351.225(f)(5)

Source: 19 C.F.R. Part 351

Appendix C.
Agency Response

UNITED STATES DEPARTMENT OF COMMERCE
International Trade Administration
Washington, D.C. 20230

February 6, 2017

Carol N. Rice
Assistant Inspector General
Economic and Statistical Program Assessment

Dear Ms. Rice,

Thank you for the opportunity to comment on the Office of the Inspector General's draft audit report on the International Trade Administration's Enforcement and Compliance's efforts to ensure timely and accurate preliminary and final determinations for antidumping duty (AD) and countervailing (CVD) proceedings, including investigations and administrative reviews, and the results of regulatory reviews. We have carefully reviewed the draft report and have attached our comments on the findings and four recommendations.

If you have any questions, please contact Gary Taverman, Associate Deputy Assistant Secretary for AD/CVD Operations at (202) 482-0161.

Sincerely,

Ronald K. Lorentzen

Ronald K. Lorentzen, Acting

Attachment

Department of Commerce
International Trade
Administration Enforcement and
Compliance (E&C)
Comments to OIG Draft Audit Report Entitled
Enforcement and Compliance Needs to Update and Consistently Implement Its Quality Assurance Policies and Practices

General Comments

Enforcement and Compliance (E&C) appreciates the opportunity to review and comment on the Office on the Inspector General's (OIG's) draft audit report on our efforts to ensure timely and accurate preliminary and final determinations involving our statutory and regulatory proceedings. Both E&C management and staff understandably take great professional pride in the quality of their work and work products, so we have welcomed this opportunity for your office to provide us with objective and constructive feedback on how our business processes can be further improved.

That said, E&C believes it is important to put into context the findings of this audit vis-a-vis E&C's historic workload highs and staffing lows, which resulted in significant challenges to its operations. From FY 2013 to FY 2015, AD/CVD Operations had a low average staffing level of only 115 analysts, a trend which continued in FY 2016. Moreover, each new analyst faces an extremely steep learning curve typically requiring two years for the new analyst to become an independently contributing member of the staff. During that same period, the number of new investigations increased from 38 to 62, and the number of determinations for all cases increased from 352 to 384. In FY 2016, E&C issued approximately 400 determinations, many of which involved China and steel products, both being key to the enforcement trade agenda. In addition, there has been an increase in litigation both in domestic courts and at the World Trade Organization, further adding to the strain on AD/CVD Operations resources.

E&C finds use of the term "quality assurance" may encompass more than intended for the purposes of the report. Use of that term implies not only that there are issues with respect to review of the calculations, but also to the substantive analysis and conclusions included in E&C's AD/CVD decisions. The OIG report notes that E&C retained virtually all of its concurrence records, which the OIG correctly states reflects review and approval of the substantive decisions by AD/CVD Operations management, the Office of the Chief Counsel for Trade Enforcement and Compliance (OCCTEC), the Office of Policy, and finally by the Assistant Secretary for E&C. Accordingly, while E&C agrees with the OIG's findings regarding the full application of its calculation review panel policy, E&C respectfully suggests that the proper frame of reference is that particular element of its practice, rather than implicating "quality" as a whole.

E&C agrees with the OIG's finding that only four percent of E&C's AD/CVD calculations resulted in ministerial errors during the period of the OIG's review. E&C notes that its ministerial error rate was well within its performance metric of nine percent, and that it has been at similarly low levels for every year since the metric was introduced in 2010. E&C has also exceeded its timeliness metric every year since that was introduced in 2010. So, despite the inconsistent application of the procedures for reviewing calculations in the 2008 E&C

Antidumping Manual (AD Manual) and Operations Handbook, as noted by the OIG, E&C has, nevertheless, adhered to the underlying principle of carefully reviewing its calculations. This result is particularly noteworthy given as noted above the greatly increased workload faced by E&C in recent years, where E&C has faced the largest number of new investigations in almost 15 years at the same time it had historically low staffing levels. Moreover, applying the decisions reached in AD/CVD proceedings to computer analysis of sales, production costs, or subsidy programs is a complex and exacting process. These programs are often hundreds of lines of computer code long, further adding to the heavy workload faced by E&C staff.

In recent years, E&C has instituted a Simplification Task Force (STF) to help it address the historic workload level. Specifically, its goal is to identify constructive and creative ways to standardize, streamline, or modify documents, processes or other areas, that will help E&C staff be more effective and efficient in executing our agency goals and objectives. One of the STF's results has been reducing the number of formal signatories required on certain specified documents, serving to streamline the concurrence process. One such example is the pilot project regarding "One Block Concurrence" where OCCTEC and the Office of Policy signify approval with only one entry for the relevant office in the concurrence document.

With respect to the AD Manual, to which the OIG report cites as an authority regarding E&C's policies and practice, E&C notes that the AD Manual was meant to be, and is used as, an internal training tool, and is only updated periodically to reflect significant changes in methodology or procedures. As such, it is not a legal authority to be cited in the conduct of AD/CVD proceedings and, in fact, the introduction to the AD Manual instructs, accordingly, that parties are not to cite to it to establish DOC practice.

Bearing the above context in mind, E&C addresses the specific recommendations made by the OIG below:

E&C's Response to OIG Recommendations

Recommendation 1: Update and implement standard quality assurance processes across AD/CVD Operations enforcement officials, and train analysts and supervisors on the revised quality assurance policies.

E&C Response: We concur. E&C will update its standardized calculation review panel process and articulate it to E&C management and staff, and will implement the updated process with an accompanying mandatory training program that will ensure uniformity across AD/CVD Operations offices. We will also ensure that "internal" and "external" calculation review panels are conducted for all AD/CVD preliminary and final determinations, except when the circumstances of a particular case would indicate otherwise (e.g., when a rate is derived from the petition and no calculation is involved). We will also update our calculation review panel checklists and require that they be used by panelists.

Recommendation 2: Update practices to ensure that records related to quality assurance processes are retained.

E&C Response: We concur. E&C will update its calculation review panel process to ensure it retains relevant documentation across all AD/CVD Operations offices,

particularly the calculation review panel checklists.

Recommendation 3: Develop a process to track and certify completion of quality assurance processes and provide case analysts with training to correct any errors discovered in calculation review panels as they arise.

E&C Response: We concur. In addition to updating its calculation review panel process, E&C will also require written confirmation of the findings of the review panelists. E&C will also strengthen its follow up regarding errors identified during the calculation review panels so as to develop training to correct persistent or recurring errors that may occur in the calculation of AD margins and CVD subsidy rates.

Recommendation 4: Revise workplace processes, including those for assigning cases, to better meet or document adjusted deadlines for regulatory cases.

E&C Response: We concur. In spite of historic high workload and low staffing levels, we will revise our workplace processes to better meet and document adjusted deadlines for regulatory cases. We note that, over the past seven years, E&C has consistently exceeded its overall timeliness metric. It is our expectation that increased emphasis on meeting and tracking the adjusted deadlines will resolve the underlying issues noted in the draft OIG report.