

AD/CVD: Additional Certification Requirements



Within the world of antidumping and countervailing duties (AD/CVD) there is a subset of cases that have additional certification requirements as spelled out in case documentation by the Department of Commerce (DOC) - *note that these certification requirements are above and beyond the standard non-reimbursement certificates*. Additionally, these certifications may be required even if you have determined that your product is not in scope for the AD/CVD case.

As part of their role in enforcement of AD/CVD, U.S. Customs and Border Protection (CBP) is tasked with ensuring importers gather these certifications and can make them available in the time frame prescribed by DOC. The stakes are high if these certifications are not provided in the correct time frame and allow for CBP to apply country-wide duty rates.

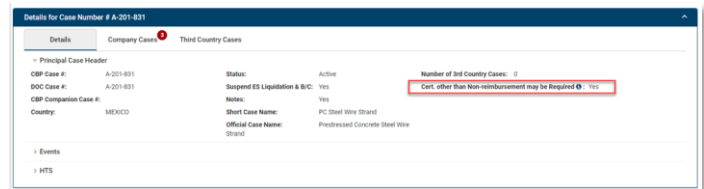
How do I know if an AD/CVD case has additional certification requirements?

The shortest answer is that you need to read the documentation that DOC publishes on a case. Note that these additional certification requirements are not listed consistently on any specific document or in any specific format which makes the task more difficult.

Since reading all AD/CVD documentation published is not a viable option, there are two data sets that CBP maintains that are critical to understand to help limit the amount of searching.

ACE Portal Indicators

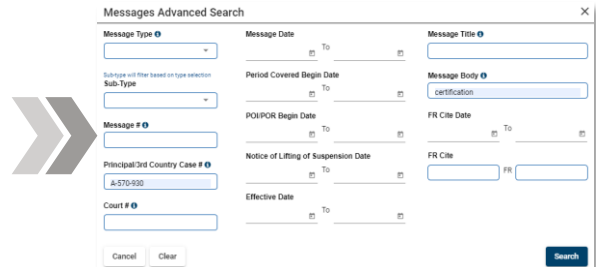
1. Navigate to the ACE Portal: <https://ace.cbp.gov>
2. Complete the login process
3. Under 'References' click 'AD/CVD'
4. Enter the case number in the 'Search' bar.
5. Under the 'Details' tab it will be indicated if additional certifications may be required.



NOTE: This field is also reportable in ACE Reports. Use the REF-002 report template and add the 'Principal Case Other Certificate Required Indicator' as a selector. This will provide all AD/CVD cases with this requirement.

CBP Public AD/CVD Message Repository

1. Navigate to: <https://trade.cbp.dhs.gov/ace/adcvd/adcvd-public/#>
2. Click 'Advanced Search' in the Search box and then enter the Case # and in the 'Message Body' put "certification".
 - If you are dealing with a 3rd Country Case, you will need to use the Principal Parent Case
3. The search results will now include only items that include the word 'certification', and you will need to click through the links looking for where the certification requirements are listed.
 - Look at the circumvention notices first



Why would the DOC require additional certification(s) for an AD/CVD case?

There are two scenarios when a certification may be required:

1. AD/CVD was not claimed and there is known AD/CVD case circumvention activity – certification seeks to confirm that circumvention is not occurring
2. AD/CVD was filed and paid, and a non-country wide AD/CVD case is applied – certification seeks to confirm that it was correct to apply the company specific case versus the country wide case and that any specific requirements for that producer/exporter/manufacturer were met

Example: For ADD case A351-842 (Uncoated Paper from Brazil) an importer needs to certify that the paper rolls being imported will not be converted into merchandise covered by the scope of the order. The certification is only needed where it was determined that the item was not in scope of the order and thus duties were not paid.

Who needs to create the certifications?

Of course you need to read the specific case requirements. But these are the parties that are generally asked to create certifications. Note that most of the notices spell out specifically that customs brokers cannot complete the certification on the importer's behalf.

- Producer or Manufacturer or Exporter
- Importer

Do the certifications need to be in a certain format or use certain verbiage?

Almost all the notices from DOC show a template in the Appendix that can be copied and followed. If multiple certifications are required, DOC will typically break out each one separately in the appendix.

What is the timing requirement of when the additional certification needs to be prepared?

Once again, you have to read the specific case requirements. Most cases require the certifications to be completed by time of entry. It would be a best practice to have these documents included in the document packet that is provided to your customs broker and supplemented with an importer-prepared certification if needed (similar to the non-reimbursement certificate process).

- Producer or Manufacturer or Exporter – “at time of shipment”
- Importer – “by the time of filing the entry summary”

What is the timing requirement of when the additional certification needs to be sent to CBP?

This will be spelled out in the specific case requirements. There are two options:

- *AT TIME OF ENTRY: This is where your customs broker must submit the certification to CBP as part of the entry process by uploading it into the document imaging system (DIS) in ACE and submit the electronic flag at time of filing.*
- *UPON REQUEST BY CBP: This means that you will need to maintain the physical certifications and supporting documentation until requested by CBP or DOC. Your customs broker will need to submit the electronic flag at time of filing.*

Why am I being asked to go back and collect these certifications after the entry has been filed?

We have seen it as a common practice that DOC lays out in their notice a retroactive period where they ask importers to go back and create/collect the certifications that were previously not required and align that date with the case effective date. Reading the notice from DOC will spell out exactly what entries will need certification and if post summary corrections are required.