

SPECIAL DUTIES:

ANTI-DUMPING AND COUNTERVAILING

Countervailing duty is a special duty imposed on certain imported articles to, in theory, offset the value of unfair subsidies provided to the foreign manufacturer or producer by their country's government.

Antidumping duty is a special duty imposed on certain imported articles to provide a remedy for price discrimination practiced by foreign suppliers. Antidumping involves selling articles destined for an importing country at a net price that is less than the price charged in the country of export. It does not matter if the selling prices are below the cost of production. The only issue that does matter is if the goods are sold at one price in the exporting country and at another, lower net price in the importing country.

The Department of Commerce (DOC), the International Trade Commission (ITC) and the U.S. Customs Service all play a part in enforcing Antidumping (AD) and Countervailing (CVD) duty laws. The DOC is responsible for the administration of AD and CVD laws and for investigating allegations of dumping or foreign subsidization of imports. If warranted by the investigation, the DOC also establishes the duty rate to be imposed on the articles. The ITC determines whether injury to industry has occurred or whether an industry may be hampered in its start-up efforts as a result of alleged dumping or subsidies. The Customs Service assesses Antidumping and Countervailing Special duties once the rates have been established and the ITC has made the necessary determination.

The narrative definitions of the 'scope' of special duty cases controls what articles are and what articles are not covered. Two articles classified under the same HTSUS number may not have the same Special Duty treatment. The DOC has sole responsibility to determine if certain goods fall within the 'scope' of the special duty case. Any interested party may request an administrative review of goods covered by in-force duty orders. Reviews are used to recalculate and finalize the amount of special duties due on entries during a period of time, usually the preceding 12 months. Entries are then liquidated. Any importer may also request an administrative review if he/she wishes to determine a manufacturer specific AD duty rate, if the specific manufacturer presently uses the 'all others rate' This does not apply to CVD duty, as CVD duty is *country* specific, not *company* specific. When it is judged that the imported good may not fall under the scope, you may seek a scope determination from the ITA on the specific product. This is important concerning possible protests in that scope issues can not be protested. Getting a scope ruling from ITA will provide an importer the opportunity to successfully protest the liquidation. Prior to the publication of a special duty order, an importer may pay the special duty in cash, post a single transaction bond, or obligate their continuous bond if the special duty is less than 5%. A single transaction bond must be used if the special duty is 5% or greater.

Special note: special duties cannot be refunded through drawback.