ANTIDUMPING DUTY

Importing goods that are subject to the Special duty called Antidumping are fraught with risk. An Antidumping duty assessment is the successful consequence of a complaint from a domestic industry alleging financial harm by an imported, similar product sold in the U.S. at a price lower than a foreign company charges in its own home market. Both the International Trade Commission (ITC) and the Department Of Commerce (DOC). Investigate the complaints. An investigation may result in a denial of the complaint. Or, finding that the complaint is valid, issue a Preliminary determination on all similar imported products from selected countries. Often specific manufacturers are issued separate Antidumping assessments.

PRELIMINARY DETERMINATION

The preliminary determination is conducted in two parts. In the first part, the ITC makes a preliminary determination concerning the likelihood of injury to the domestic industry. If this ITC determination is positive, the DOC then reviews the petition to determine whether the merchandise is being sold at less than fair value. If the DOC determination is also positive, then a Preliminary Duty Order (PDO) is issued. Once this PDO is issued, DOC will direct Customs to suspend liquidation of entries for merchandise subject to investigation and to require cash deposits or bonds equal to the amount of the ESTIMATED dumping margin (the difference between the fair market value and the U.S. price).

FINAL DETERMINATION

After the preliminary determination phase of the antidumping duty investigation is complete, the final determination stage begins. If the DOC final determination whether the merchandise is being sold at less than fair value is positive, the ITC then proceeds with its final determination. If the ITC agrees and finds the likelihood of injury to the domestic industry, a Final Duty Order (FDO) is issued. When the FDO is issued, the DOC instructs Customs CBP to require cash deposits of estimated antidumping duties. Keep in mind that the cash deposits made following the PDO and FDO are based on estimated antidumping duty rates only.

SCARY SCENARIO

A real case in point will illustrate the financially devastating effects that could result as a result of a large increase from the estimated antidumping duty rate to the final actual antidumping duty rate. In the case of wooden bedroom furniture from China subject to antidumping duties, one exporter received a PDO dumping margin of approximately 9%; however, this same exporter received an FDO dumping margin of approximately 198%. This ‘final’ Antidumping assessment would apply to all future imports and ALL Past imports since the date of the Preliminary determination!!!

The importer of record would be responsible for all increased duty bills issued by CBP. If an importer of this exporters product cleared merchandise in the amount of $2,000,000 subject to the 9% PDO dumping margin, the antidumping duty owed by the importer would initially be $180,000. If the final actual antidumping duty rate remains at 198%, then the additional antidumping duties owed by the importer on this $2,000,000 of merchandise would be $3,780,000 (198%-9%) x $2,000,000. So, an importer who thought he would only have to pay $180,000 in antidumping duties now has to pay an additional $3,780,000 in antidumping duties over one year later when these POR entries are liquidated.