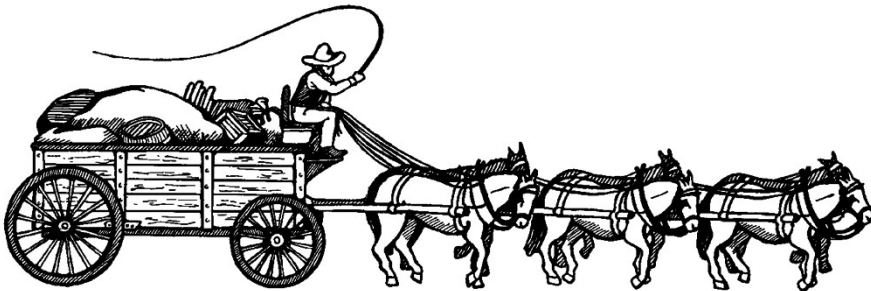WESCCON 2024

AD/CVD Best Practices

Moderator:
- Maria Bermejo, Branch Manager, A.N. Deringer

Panelists:

- Matt Zehner, VP of Surety Information and Analysis, Roanoke
- Erik D. Smithweiss, Partner, Grunfeld, Desiderio, Lebowitz, Silverman & Klestadt LLP
- Lenny Feldman, Managing Partner, Sandler, Travis & Rosenberg, P.A.

Saturday October 19, 2024

The Rules Are Stacked Against Importers

- Retrospective determination of liability
  - 18-30 months from entry to determine liquidation rate
    - First Admin Review
    - Litigation adds one year, minimum
    - + up to 6 months for CBP to liquidate
- 0% or low estimated rates are no guarantee of low rates at liquidation.
- ET 01 can turn into ET 03
  - EAPA/Circumvention/Scope
  - Extension or suspension of liquidation occurs earlier
  - Directive 3550-067A vs. a 2018 CSMS message
  - CBP can reject an entry summary up to 300 days
  - Retransmit and tender duties (by check) within 10 days

The Rules Are Stacked Against Importers

- Surety Concerns – a very high-risk bond
  - Length of time to liquidate
    - Liquidation is not really the "final" determination of calculation of duties, taxes, and fees.
    - 19 USC 1592 allows CBP to pursue liquidated entries
    - Pre-liquidation interest is added on
  - Continuous bonds often fully exposed
  - CBP wants additional bonding

    Higher duty deposits means a larger continuous bond

    (STB) in lieu of depositing cash when CBP suspects the ET 01 is ET 03
    - You MUST contact the surety before issuing this type of bond
  - Liability "stacks" each year a bond renews
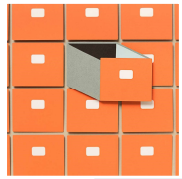 - Collateral requirements can delay bond approval and filing

AD/CVD Best Practices

- Scope, Circumvention, or Evasion – what does this all mean?

- Certification requirements – how are these created, and how do importers and brokers comply?

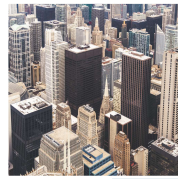- What are "3rd country case numbers" and when are they used?

Broker Challenges & Solutions

Case Reporting
- Wrong or missing case
- Exporter/ Producer vs MID
- Project Harvest
- CSMS 58721104
- HTSUS applicability
- Entry type 01 vs 03
- Entry rejection

Company Identification
- Role of parties to transaction (exporter/ producer/ combo)
- Cash deposit instructions
- Party hierarchy

Certification
- FRN as sole resource
- Not subject to scope or non-circumvention
- Retroactive certs
- ACE indicator
- Need better messaging

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Broker Challenges & Solutions (2)

3rd Country Cases

- Recognizing CBP origin change in third country, but AD/CVD initial country
- Obtain from CBP/ Commerce
- Consistent 3rd country case name/ description with AD/CVD order
- ACE search function
- CSMS 18-000421, 46031819

Special Value

- Aluminum extrusions!
- Identify allowance of special value on entry line (not separate line like pipe spools)
- Distinct from CBP appraised value
- HTS Sequencing
- 3rd party case number
- CSMS 18-000379

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Thank you