



## **THREE QUESTIONS FOR COMPANIES THAT IMPORT OR EXPORT**

### *Lowering costs and enhancing compliance in cross-border supply chains*

by Mark Ludwig\*

A 10% customs duty on \$50 million in imported merchandise is a significant hit to any company's bottom line, and usually a recurring one. If management simply views it as a cost of doing business globally, then it likely has chosen either to absorb the pain or pass it down to someone else in the chain of sales.

It does not have to be a zero-sum game, however. There may be opportunities where this recurring duty cost does not erode the company's profit margin or weaken its competitiveness in the marketplace. Customs valuation, product classification, free trade agreements, special customs programs and other planning strategies may all provide benefits that could reduce, defer or even eliminate duty and other indirect tax costs associated with cross-border trading activity.

First, however, company management should review and reflect on the three questions below that, when properly addressed, can help set the company on a path to lowering international supply chain costs while improving cross-border trade compliance.

#### ***1) What is our duty and indirect tax spend?***

Most corporate executives probably do not know what their company pays in customs duties and other transactional costs such as port and brokerage fees, excise taxes and value added taxes (VAT/GST). As "above-the-line" charges, customs duties, fees and other indirect taxes are oftentimes the hidden price of doing business internationally, buried in the costs of goods sold (COGS) with little visibility or perceived control. This usually means that they are unknown, unmanaged and thus, passed along to customers in the form of higher prices or simply absorbed by the company, reducing its gross profit margins.

Enter the old adage, "what gets measured gets done." This is sound advice for any company looking to reduce costs, increase competitiveness and drive profits by capturing and controlling the total duty and indirect tax spend. It all starts with knowing the actual spend. If duty payments are lumped together with freight and broker costs in a general ledger account, for example, find a way to



isolate and account for them. One way to start is to ask the broker to account for such costs separately in their invoices for services.

For a more comprehensive and arguably more precise accounting, obtain the company's trade data directly from the government. Through a simple request, many governments will release detailed transaction data to the importer and exporter, allowing a company to see the specific information that it has been submitting to the authorities for years. Whichever way the company collects its own trade data, in most cases it will discover long-hidden issues as well as possible savings opportunities related to its cross-border trading activities.

## ***2) We don't pay duties, so why should we care?***

Perhaps the imported goods are not subject to duties because they are zero-rated, or maybe the company uses a trade agreement or special customs/trade program to avoid duties. Both are good positions to be in from the cost and cash-flow perspectives, but the government still wants to know all the details of what the company is moving into (or out of) the country. Like corporate or personal income taxes, even if you don't owe, you must still file to prove and support that position – only in this case, each and every time product moves.

Why? Because both literally and figuratively, the government has a lot of ground (and sea) to cover. Like many of their counterparts throughout the world, the scope of authority of the U.S. Bureau of Customs and Border Protection (CBP) is wide and deep. Not only does CBP enforce its own import regulations, but also those of some 20-plus other U.S. Government departments, agencies and bureaus.

Add to this the export information reporting requirements of the U.S. Bureau of the Census, Department of Commerce, Department of State and others, and it's evident that U.S. importers and exporters must be forever chasing down data, even when they don't pay duties. Thus, just as with other types of tax returns, it's best to get the customs entries and export information filings right the first time, each and every time.



### ***3) The broker handles that, right?***

Customs brokers provide vital services to support a company's cross-border supply chain. They gather key information, assemble paperwork – yes, there's a surprising amount of paper used in the digital age – and file customs entries and export information on behalf of their clients. In some cases, usually for an extra fee, they provide value-added services such as tariff and commodity classification, offer bonded operations, and interact with the authorities to address occasional inquiries related to their clients' trade activities.

By regulation, brokers must have a Power of Attorney to act on a trader's behalf, which gives them a certain level of authority to represent and manage their clients' dealings with customs authorities. Considering that customs entries are, in effect, federal tax filings, some corporate executives may not be entirely comfortable with this level of control over their company's financial and legal obligations residing outside of their companies. After all, a company's tax accountants do not need a Power of Attorney to complete and file corporate tax returns for their clients. They sign filings only as preparers, not as *de facto* company management.

It is interesting, therefore, to see how readily some companies surrender significant control of their cross-border trade facilitation, tax preparation and regulatory filings to a customs broker. Not that most brokers are not up to the tremendous responsibility of representing their clients. Indeed, many maintain the highest standards of integrity. In the U.S. they have to be licensed, permitted and insured – similar requirements exist in many other countries.

The point is, allowing an external party to play such a critical role in facilitating the company's cross-border supply chain, filing its federal tax returns, having access to its funds, and representing it in daily interactions with revenue and law enforcement authorities should not be taken lightly. It's quite serious business and needs to be properly managed and regularly monitored – by the company itself. After all, good money is being spent for these services and the company is the party most at risk, since every filing is made in its name. It makes sense, then, to occasionally step back and consider who is doing what for whom, and how well. For over the years the company may have relinquished more control than it has realized, or otherwise wanted, to its broker(s).

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