Take Action to Optimize Your Duty

By John D. Goodrich
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Trade compliance professionals have long suffered from an inferiority complex. We often grumble about not getting the attention we think we deserve or that our employers don't allocate sufficient resources necessary to navigate international frontiers. "They just don't get it!" is the mantra of import and export managers throughout the land.

And then two years ago the trade policy winds shifted. The U.S. government withdrew from a multilateral trade agreement. It threatened the withdrawal from NAFTA and then renegotiated it. It expedited antidumping and countervailing duty investigations and unearthed arcane trade law imposing onerous safeguard duties. In retaliation U.S. trading partners imposed countervailing measures.

Our sleeping employers awoke and began searching for solutions to previously ignored international supply chain threats. And that's when you found yourself front and center at a conference table with the corporate executives who, here-to-fore, did not know your name or that your work station was in the subbasement next to the boiler.

From my observations most of you have acquitted yourselves quite well on the trade war battlefield. Your detailed spreadsheets rose to the challenge of analyzing the effects of shifting trade policies on your companies. You learned to file exclusion requests. You explored opportunities for reducing value and explored long-unused duty exemption programs. Well done!

The silver lining of the trade war is that your employer now knows who you are and understands the positive role you can play in the success of the company. The question is this. What are you going to do with this newly found street cred and authority?

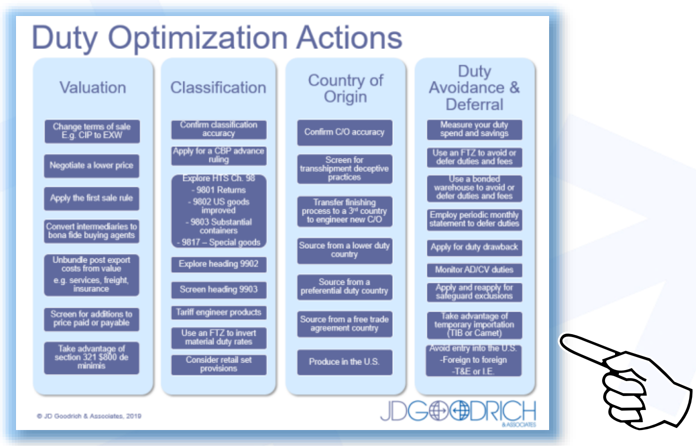
Are you going to treat this as your Warhol fifteen minutes of fame and return to your solitary life in the subbasement allowing things to return to the way they were before all of this hullabaloo began? I hope not! Now is your opportunity to step forward and use your newly expanded authority to do for your company what they should have been doing all along.

As an importer that means optimizing your duty spend. You should be attempting to reduce duty payments using all of the tools available to you. You'll note I refer to this process as duty optimization and not duty minimization. Some of the tools at your disposal may come with economic or compliance risk tradeoffs that outweigh duty savings. Have you pursued every action available to you to optimize your company's duty budget? Are you aware of all of the duty optimization tools at your disposal?

The chart below outlines over forty duty optimization actions you might take to affect your company. It organizes duty optimization actions into four categories

1. Valuation
2. Classification
3. Country of Origin and
4. Duty avoidance and deferral.

Some of the activities are closely related and could have fallen to multiple categories. The lists are not comprehensive rather are intended to prompt you to explore these actions further. Perhaps you have a few ideas you might add to the list.



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Valuation:

Most duties are assessed as a percent of value. Has your company done all it can to ensure it is reporting the absolute lowest legal entered value? There are a number of allowable deductions from value and techniques for eliminating intermediary markups from valuation. On the flip side you will need to ensure your company is including all required dutiable costs in the entered value.

Classification;

Are your product classifications accurate? Could you redesign your good to reclassify it under a lower duty classification? Could you bundle a higher duty rate item into a lower duty rate set? Would participation in a foreign trade zone allow you to tariff shift a higher duty material into a lower duty good? Importers should explore the numerous duty exemption and reduction programs available under classifications in chapters 98 and 99. Of course classification in heading 9903 indicates a safeguard duty obligation.

Country of Origin:

Are you certain of the country of origin of your good? Could you source from a lower duty country? Perhaps you could move final assembly operations from a higher duty country to a lower duty country to gain savings. Are you sourcing in countries subject to preferential duty programs or free trade agreements? Perhaps the changes in tariff policy make U.S. sources more appealing. Be aware, of course, of unscrupulous trading partners that might misrepresent the country of origin.

Duty Avoidance and Deferral

Use of foreign trade zones and bonded warehouses for goods subsequently exported avoids paying duty. At the very least it defers duty payments to a later date. Likewise the periodic monthly statement process defers duty payments helping manage a company's cash flow. Drawback refunds duties on imported goods that are subsequently exported. Those subject to safeguard duties have had opportunities to apply for exclusions. Once granted parties must reapply for safeguard exclusions annually. Temporary importation provisions are another method of avoiding duties. For global companies the most effective strategy is shipping directly between foreign locations or shipping in bond through the U.S. avoiding paying U.S. duties and fees.

Underscoring all of these actions is the assumption that you are measuring your import activities and have an understanding of the duties that you are paying but also the duties that you are avoiding through your optimization strategies.

Each of the listed actions has its place in a duty optimization strategy and can be used to manage normal duties as well as the more onerous AD/CV duties and safeguards. The action may or may not be effective for every company or for every type of duty. For example, safeguard duties from China were implemented in a way that undermines the foreign trade zone duty inversion process. Nevertheless, it is worthwhile exploring each option.

Your job? You have your company's attention. You have newly earned authority and credibility. There is no better time than now to take action to benefit your company.