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PROFESSIONAL CORPORATION

Canada-U.S. Blog

LEGAL DEVELOPMENTS AFFECTING CANADA-U.S. CROSS BORDER TRADE

China Would Like Canada To Accept It As A Market Economy

By Cyndee Todgham Cherniak on January 11th, 2016

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China would very much like Canada to accept that it is a market economy. This is relevant in the context of anti-dumping and countervailing duty cases. Currently, under the World Trade Organization rules, if a country is not a market economy, a WTO member may use surrogate or third party information when calculating margins of dumping and normal values. When the Canada Border Services Agency (“CBSA”) applies section 20 of the *Special Import Measures Act* and determines that China is not operating according to market economy principles with respect to the subject goods, it does not use the domestic sales price or cost information provided by the Chinese manufacturer of the subject goods. This results in prohibitively high anti-dumping duty rates and high normal values. The end result in the the Chinese goods no longer can enter Canada after and anti-dumping order is in place.

A provision in China’s WTO accession agreement that allows WTO Members to treat it as a non-market economy will expire in December 2016. As a result, the issue about market economy status will be a hot topic for 2016.

It is already starting to be a topic of discussion in Canada.

On December 16, 2015, Peter Mazereeuw wrote an article entitled “China wouldn’t push market economy in trade talks, says embassy” in Embassy Magazine concerning China’s desire to obtain market economy status. In this article, Peter Mazereeuw indicates that China’s Embassy in Canada says that China will pursue MES at the WTO rather than in bilateral trade negotiations with Canada. I am also quoted in this article.

I am a supporter of market economy treatment of China. Anti-dumping duties are about fair trade. Treating China as a non-market economy creates an unfair advantage for domestic industries in Canada and unfairly raises prices for Canadian consumers. Canadian consumers are always detrimentally affected by anti-dumping duties increasing the price of goods. Canadian consumers can understand the application of the provisions of the Special Import Measures Act to impose duties. What Canadian consumers have a problem with in paying more than what is necessary to level the playing field.

Tags: anti-dumping, China, countervailing duty, merket economy status

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