Reasons Not to Use DDP

by Robert Stein - Tuesday, August 27, 2013

When it comes to Incoterms, U.S. importers and exporters often choose DDP (Delivered Duty Paid) for their shipments because it's what they've always used. Until something goes wrong, most business are unaware of the negative consequences that can stem from using DDP.

Here are just a few examples of how a DDP shipment can do you wrong.

For U.S. Exporters

1. VAT (Value Added Tax)
DDP assigns the seller/exporter the responsibility of paying the VAT (although this can be changed with consent of buyer and seller). Value Added Tax can be expensive, sometimes 15-20% of the value of the goods plus duty. Ironically, in many cases and depending on what they do with the goods, the buyer may be eligible for a VAT refund. VAT refunds accrue to the buyer. This means that, at best, you have to absorb the VAT; or at worst, absorb the VAT while your customer gets a VAT refund.

2. Storage and Demurrage
Under DDP, the seller must absorb the costs associated with customs clearance. This includes any storage or demurrage charges incurred due to delays by customs authorities, other government agencies, delivery drivers, and air/ocean carriers. Since these are unanticipated costs, they can quickly eat into your profits or completely negate them.

3. Foreign Customs Compliance
The exporter or seller is responsible for clearing the goods through foreign Customs. This includes complying with the foreign country's import regulations and recordkeeping requirements. Do you know anything about import regulations in Brazil or Germany? Do you want to be held accountable with foreign Customs authorities if something goes wrong? If not, then stay away from DDP.

4. Legal Issues
DDP puts your business at greater legal risk if foreign bribery occurs. All it takes is one little bribe offered while trying to clear your goods through foreign customs (or any other agency abroad) and you could be facing severe legal consequences from the U.S. Department of Justice (DOJ) and the foreign country's government.

If your company is found violating the Foreign Corrupt Practices Act, you can expect a very expensive and public investigation courtesy of the DOJ. In addition to dealing with the DOJ back home, you can certainly expect the foreign government to capitalize on the opportunity to legally prosecute you for breaking the law in their country. Bribery is almost universally illegal.

For U.S. Importers

1. ISF penalties and fines
When goods are shipped DDP, the seller's forwarder arranges the transport. This arrangement has the unfortunate consequence of bypassing any controls your forwarder/broker has in place to prevent your ISF from being late or incorrect. Without these controls in place, your company is exposed to some pricey penalties?$5,000 per violation and up to $10,000 per shipment. In essence, DDP requires you, the importer, to be responsible for timely and accurate ISF filing but allows you zero control over the movement of the freight.

2. Supply Chain Visibility
Since the seller and their forwarder control the inbound transportation on a DDP shipment, you, the buyer/importer will have limited visibility and reporting, if any. Good luck trying to get any information from your seller's forwarder. They're beholden to their client, the seller, not you, the buyer.

3. Double Dip Pricing & Mark Ups
While the liability on a DDP shipment is technically for the seller, it's frequently and erroneously pushed on to the buyer/importer. This results in "double dip" pricing, where the seller has padded their price to cover clearance costs but never pays the duty and clearance fees.

DDP also makes it easier for the seller to mark up the freight bill. For these types of transactions, the buyer's clearance and delivery costs are included in the cost of the goods. These costs are typically marked up, in some cases very significantly. There have been documented cases of sellers marking up freight bills from $3,000 to $7,000. Once again, the buyer loses out.

4. Customs Exams
When DDP is handled properly, the seller's U.S. agent arranges clearance with the seller as the importer of record. While this removes most of the import liability from the buyer, it creates another problem: increased likelihood of a customs exam. U.S. Customs assigns a higher risk score to inbound shipments with foreign importers. The higher the shipment's risk score, the more likely Customs is to pull the shipment for an exam. It happens quite often and it's the buyer who loses out.

5. Delivery Delays
Even if you're lucky enough to do business with a seller that includes clearance and delivery at cost, you still have no guarantee that the seller has obtained the best price for the level of service required. To keep their costs down, many sellers will choose the lowest cost services for transportation and clearance. Cheaper transport/clearance for the seller usually translates to delivery delays for the buyer.

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