

Hogan
Lovells

EU customs and import compliance





Conducting trade across international boundaries has become increasingly complex and challenging for businesses. Efficiently managing diverse regulatory and customs-related procedures/requirements in multiple countries is a priority for many of our international clients.

We have significant experience helping clients with the full range of customs-related matters, including:

- 1 customs classification
- 2 customs valuation
- 3 customs litigation
- 4 customs tariff suspension
- 5 customs origin determination (both preferential and non-preferential)
- 6 internal customs compliance programs
- 7 labelling requirements

We also have significant experience representing clients before Member State customs authorities (who are responsible for both implementing and enforcing EU customs rules), which our large network of European offices in each of the major Member States allows us to do seamlessly.

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According to clients, “knowledge of the subject area and ability to connect the issues and provide complex guidance in a generally summarised fashion.”

Chambers Europe 2019

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Complementary regulatory breadth

We have one of the largest regulatory practices globally, permitting us to leverage that expertise in customs cases, which frequently involve highly regulated industries, such as food and agriculture, drug, and medical devices, chemicals, life science, retail, technology, telecommunications, aerospace and defence, manufacturing, distribution, logistics as well as automotive and energy. We work closely with our regulatory colleagues to develop complementary and mutually-reinforcing compliance strategies.

EU-wide coverage

With a wide network of Hogan Lovells offices across the EU (e.g., Belgium, France, Germany, Italy, Luxembourg, Poland, the Netherlands, the UK), we address issues in Member States based on our longstanding experience in advising on national-specific enforcement procedures and our strong relationships with competent customs authorities. Drawing on the same transnational resources, we assist clients in developing and implementing effective EU-wide import/export compliance programs that comply with all applicable EU and domestic laws.

Import and export compliance programs

We work closely with our clients to develop effective and reliable EU-wide import and export compliance programs, including the development and implementation of compliance procedures (in line with both EU and applicable Member State guidelines) and assistance in engaging and maintaining status within customs-related special programs such as the Authorized Economic Operator (“AEO”) status.

Export controls and economic sanctions

We assist clients in developing strategies to comply with EU export controls and/or economic sanctions. This includes: (1) identifying our clients’ activities potentially subject to EU export controls and/or economic sanctions; (2) identifying related enforcement risks at Member State level; and (3) designing and implementing mitigation strategies that may include alternative supply and manufacturing arrangements. We also routinely assist clients with export and EU-transfer restrictions applicable to military items and certain dual-use items by requesting and obtaining the required export/transfer licences at Member State level.



Preferential tariff and duty savings strategies

We provide clients with duty saving strategies through our deep expertise in: (1) duty suspension procedures; (2) special customs procedures (e.g., customs warehousing, temporary admission, end-use procedures, inward/outward processing); (3) preferential treatment under EU free trade agreements; and/or (4) binding tariff and binding origin information rulings. We also routinely identify, develop and implement alternative supply and manufacturing arrangements that affect origin, tariff classification, and valuation.

Intersection of trade remedies and customs enforcement

We assist clients with mitigating the impact of and maximising opportunities resulting from EU anti-dumping, anti-subsidy, and/or safeguards measures, be it through identifying creative supply-chain solutions, recourse to special EU customs procedures (e.g., customs warehousing, temporary admission, end-use procedures, inward/outward processing), and/or use of dedicated review mechanisms (e.g., interim review, new exporter reviews, expiry reviews, repayment procedures).

Audits

We assist clients in preparing for and cooperating with regulatory audits, including routine information requests as well as more protracted verification procedures concerning the proper implementation of EU preferential and non-preferential customs rules.

Customs litigation

We also represent our clients in litigation actions relating to import/export matters before competent domestic tribunals and the Court of Justice of the EU to challenge decisions made by customs authorities including – but not limited to – customs classification decisions, binding tariff information decisions, and valuation or origin determinations.

Representative experience



Pfizer

Successfully represented Pfizer in an action before the UK First tier Tribunal (“FTT”) relating to the customs classification of their Thermacare range of products, and, as a result, obtained a reference by the FTT to the Court of Justice of the EU. We also assisted Pfizer in the ongoing parallel civil and criminal proceedings before the French customs courts, which also concerned the proper classification of Pfizer’s Thermacare range of products.



Global pharmaceutical corporate

Advised a global pharmaceutical corporate with respect to the review of its customs valuation practices following the ruling of the Court of Justice of the EU in Hamamatsu (C-529/16). This ruling prohibited the use of the transaction value method, which is the standard means of determining the customs value, in cases where a company conducts retrospective adjustments of its intra-group transfer prices.



Global U.S. manufacturer

Successfully represented a global U.S. manufacturer of consumer products, in an appeal against a decision by UK Customs to classify our client’s composite goods made of wood and plastic resin, as plastic under tariff code 39220 20 20 00. The judgement did not uphold UK Customs’ argument that the plastic resin conferred the essential character to the final product. This resulted in the classification of the goods as wood products under tariff code 4421 99 99 99.



Global life sciences corporation

Assisted a global life sciences corporation in overturning an unfavourable customs classification by the Dutch customs authorities. The unfavourable customs classification required that our client classify separately all the components of a single pack of products used for surgical interventions instead of an unassembled product under General Rule of Interpretation (“GRI”) 2 or a set under GRI 3(b). This decision required our client to declare each of the components separately, which was extremely burdensome for their supply management system. On appeal, Dutch Customs agreed to reverse their decision and classified the pack as a set pursuant to GRI 3(b), which allowed our client to declare the pack as one single product.



Diversified global manufacturer

Provided a NYSE-listed diversified global manufacturer with legal advice tailored to the specific situations of its EU subsidiaries concerning all EU customs rules applicable to the importation and exportation of goods. This involved, for instance, supporting the group with the internal audit of the customs and export controls compliance of one of its EU-based subsidiary, designing a customs compliance manual based on applicable EU and UK rules and requirements for other subsidiaries of the group, and conducting trade compliance training for the group’s European subsidiaries on rules of origin, customs valuation and customs classification.



Pharmaceutical company

Advised a pharmaceutical company on trade law issues arising out of their Brexit contingency planning, including obtaining necessary import and exporting licenses in the EU/UK, and registration with HMRC no-deal customs facilitated procedures in the advance of a no-deal Brexit.



Leading energy conglomerate

Advised a leading energy conglomerate on the customs classification of certain products in the EU and Saudi Arabia and the potential risks involved with misclassification of the products under EU and Belgian customs laws.



Leading food manufacturer

Advised a leading food manufacturer in revising and implementing enhanced import compliance procedures.



EU importer

Assisted an EU importer in mitigating the impact of the EU safeguard measures on steel products through a creative approach to the EU rules specific to tariff-rate-quotas.



Fortune 500 company

Providing a Fortune 500 company with an advice regarding the EU customs rules on the valuation of assets.



Manufacturer of car safety parts

Assisted a manufacturer of car safety parts to resist an assessment from HMRC for under-declared customs duty and import VAT in respect of safety components imported into the UK for use in the motor industry and the application of end-use relief.



Leading medical devices company

Assisted a leading medical devices company in the context of a customs audit by the French Customs Authority which challenged the company's customs valuation method, in particular its use of the so-called first sale rule.

Key contacts



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