

# Tariff Classification\*

## An Overview

The liability of imported goods to customs duty and the rates of duty to which they are subject depends on their tariff classification (i.e. the particular heading or sub-heading of the tariff under which they fall). Classification is also used to determine liability to a variety of non-tariff measures such as import licensing and import quotas. The classification is made by way of numerical codings which are the subject of an international convention known as the Harmonised Commodity Description and Coding System (or HS as it is more commonly known).

### The harmonised commodity description and coding system (HS)

This Convention was adopted by the EU and most of its major trading partners, including the US and Japan. The HS provides over 5,000 descriptions of goods to which individual numerical codings are allocated. The HS has a pyramidal structure: goods are grouped into 21 Sections according to their principal characteristics (e.g. Section 1 comprises live animals, Section II vegetable products, etc). These Sections are sub-divided into one or more Chapters totalling (currently) 97 in all. Each description of goods identified under the HS has a six-digit numerical code, the first four of which are known as the "heading number".

### The EU development of HS

The EU has adopted the HS and expanded its subheadings for a number of purposes:

- To establish its Combined Nomenclature (CN), i.e. a combination of tariff and statistical subheadings, for the purpose of more closely identifying goods. It does this by breaking out the HS subheadings into more detailed subheadings. These subheadings are represented by two additional digits. Thus, each CN subheading has an 8 digit code.
- To establish the integrated tariff of the EU, known as "TARIC", based on the CN. This includes additional Community subdivisions, referred to as "TARIC" subheadings, to identify goods subject to particular EU tariff measures (e.g. preferential rates of duty, tariff suspensions, anti-dumping duty) and to certain measures under the Common Agricultural Policy (CAP).

These subheadings are generally denoted by a further 2 digits. The complete 10 digit number forms the TARIC code number. Exceptionally an additional TARIC code of 4 digits is provided for use where Community measures are not

coded or are incompletely coded at the 9th and 10th digit level.

An example of this is the Export Refund Nomenclature (ERN) for CAP purposes. The ERN code consists of a 12 digit code and determines the rates of export refund applicable to specific products.

### The CCT

The CN, schedules of duty rates and other charges (e.g. CAP), and certain tariff measures agreed at international level (such as INN, WTO quotas) taken together constitute the Common Customs Tariff (CCT) of the EU.

### Application of the CN and TARIC codes

In general, the CN's 8-digit code is used in respect of the internal trade of EU goods and for exports from the EU. The 10+ digit code is used in respect of imports into the EU from non-EU countries and for exports of CAP products eligible for export refunds.

### Example of Coding: classification of jet aircraft under the HS:

Section XVII covers "vehicles, aircraft, vessels and associated transport equipment".

Chapter 88 refers to aircraft, spacecraft and parts thereof.

Heading number 8802: other aircraft, (for example, helicopters, aeroplanes); spacecraft (including satellites) and sub-orbital and spacecraft launch vehicles.

HS Code 8802.40: aeroplanes and other aircraft, of an unladen weight exceeding 15,000 kg.

CN Code 8802 40 00: civil aircraft.

TARIC Code 8802 40 00 10: civil aircraft.

### Interpretative rules

There is a set of general rules for the interpretation of the HS. In most cases it is relatively straightforward to ascertain the correct tariff heading or sub-heading for particular goods. However, knowledge of those rules can sometimes be crucial to the correct classification of goods in order to avoid not only unwitting underpayments of duty, but also missed opportunities to minimise duty payments which can arise depending upon the form in which goods are imported. In addition to the interpretative rules, the EU introduced a

## Tariff Classification in the EU

### Customs and International Trade

Community-wide regime providing for the issue of Binding Tariff Information (BTI) in respect of the classification of goods in the CN. This system binds the issuing Customs authority (Member State) in a legal framework and guarantees the tariff code number applicable and the rate of duty chargeable on the imported goods which are the subject of the BTI. This regime is a very valuable service to importers.

### Disputes

Occasionally, disputes as to the correct classification of a product may arise with the national customs authority or customs authorities in different countries. Such disputes may be resolved in the following ways:

- Where a dispute arises with a national customs authority, a BTI may be requested;
- Where the resultant BTI is disputed, an appeal process to the national appeals tribunal may be initiated;
- Where the national appeals tribunal is unsure as to the applicability of Community law within a disputed issue, the case may be referred to the European Court of Justice (ECJ);
- Where a BTI, or other classification ruling, issued by one Member State is contested by another Member State, the matter may be referred by that State's customs authorities to the EU Commission's Nomenclature Committee. Consideration at this Committee can result in a Regulation being issued which is binding on all Member States. Should the initiator of the appeal disagree with such Regulation, it is possible in certain circumstances to challenge the Regulation directly in the European Court. The Court's judgements on classification are legally binding in all Member States;
- Where the dispute involves both EU and non-EU customs authorities, the issue may be referred to the Harmonised System Committee (HSC) of the World Customs Organisation for decision. This committee is made up of delegates from the customs authorities of most of the trading partners in the world and meets twice a year.

### Planning

The classification rules provide, for example, that in certain situations, where a number of different goods are imported as a set (e.g. a hi-fi system) for retail sale, they must all be accorded the classification which applies to the component which gives the set its "essential character". Articles imported as unassembled items consisting of a complete set of parts for assembly are accorded the same classification as would apply to the complete assembled article. Goods imported in an incomplete or unfinished state but which have the essential character of the finished article are classified at the heading applicable to the complete or finished goods. Thus, depending on the rates of duty which apply to the individual components and materials which go into the manufacture of the complete or finished goods, it may be possible to reduce the duty bill on the aggregate in several ways such as

- importing parts in separate consignments and assembling them after importation;
- putting together all the parts necessary to make a whole and importing them at the same time; or
- importing some of the parts and sourcing others in the EU.

### How we can help

Our Customs and International Trade team of experienced consultants can advise on all aspects of tariff classification planning and compliance, in particular:

- classification planning to reduce duty costs;
- the application for BTI's;
- assistance with the classification of products for Intrastat purposes;
- appeals to the national appeal authorities;
- appeals to the European Courts;
- lobbying of relevant Customs authorities and other bodies.

If you have any further queries relating to any of the items referred to in this document, please contact:



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