BDP International presents

imports [101] exports

Customs Tariff and classification

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Caroline Gubbi
Presented by Caroline Gubbi

Caroline is BDP’s Regulatory Compliance Executive for Europe and has been with BDP since September 2010.

Caroline is a 2010 graduate from the University of Antwerp with a degree in Law and Maritime Science.

Caroline is a member of BDP’s global Center of Excellence for Regulatory Compliance.

Caroline’s duties cover a wide range of important issues, starting from trade regulations, hazardous materials as well as security across all modes.

Caroline is the European compliance resource and provides training (internal & external) and assistance for the EU region on import and export regulatory issues.
Agenda

- Role of Customs
- The Customs Tariff
- Why is Classification Required?
- The HS Nomenclature
- The Combined Nomenclature
- TARIC (Integrated Tariff of European Communities)
- What And Who Needs To Classify
- Support With Classification
- BTI (Binding Tariff Information)
Role Of Customs

The most important control areas in which customs authorities have a control responsibility are:

- Controls of the nature and the amounts of duties applicable according to the correct description of commodity code, origin and customs value of goods.
- Controls of goods under customs supervision (goods in temporary storage and placed under certain customs procedures)
- Controls on commercial policy measures (objectives) and commercial traffic.
- Controls for security, safety and public health requirements
- Controls on compliance with environmental legislation.
- Controls on compliance with Common Agriculture Policy (CAP) rules.
- Controls on compliance with veterinary, phyto-sanitary, health and quality regulations.
The Customs Tariff

- The customs tariff schedule comprises two elements:
  - Goods nomenclature
  - List of tariff rates

- In order to determine tariff rates for different categories:
  - DEFINE the categories first!
    (= purpose nomenclature)
Why Is Classification Required?

- It determines the revenue to each country in the form of customs duty
- Provides information for statistical purposes
- The nomenclature facilitates trade:
  - Standardization of documents and interpretation
    (creating a common customs language)
  - Ensure simplification and certainty
The Goods Nomenclature

• The Goods Nomenclature is based on the Convention on the Harmonized Commodity Description and Coding System, commonly known as “HS Nomenclature”

• This nomenclature is international and created by the World Customs Organization

• It is the basis for international trade negotiations, and is applied by most trading nations

• 5000 commodity groups identified by a 6-digit code
The Combined Nomenclature (CN)

- When declared to customs in the *European Community*, goods must be classified according to the Combined Nomenclature.
- The CN is comprised of the HS Nomenclature with further Community Subdivisions.
- As there are a lot of changes, the nomenclature is an attachment of a regulation every year.
  - For 2012, the EU published Commission Regulation 1006/2011 on 28th of October, which contains the 2012 Combined Nomenclature. It contains the 8 digit tariff codes changes with effect from 1 January 2012.
Integrated Tariff of the European Communities (TARIC)

- This TARIC is the European database created to show the various rules applying to specific products when imported into the EU.
- These rules cover measures relating to tariff, commercial and agricultural import legislation.
- The TARIC database allows you to find the goods code for the item you are importing from outside the community to the required ten-digit level.
Integrated Tariff of the European Communities (TARIC)

- The Taric code is comprised of the CN code and with further subdivisions (such as tariff suspensions, tariff quotas and tariff preferences, which exists for the majority of the Community’s trading partners)

- The 10-digit taric code needs to be used in customs and statistical declarations
Integrated Tariff of the European Communities (TARIC)

Next to the code, the TARIC allows you to view

• Tariff measures:
  - The Third country duty,
  - Suspension of duties,
  - Tariff Quotas,
  - Tariff Preferences and
  - Anti-dumping measures
Integrated Tariff of the European Communities (TARIC)

- **Agricultural measures:**
  - Agricultural components
  - Additional duties on sugar and flour contents
  - Refunds for export of basic and processed agricultural products

- **Commercial measures**
  - Antidumping and countervailing duties measures
  - Measures relating to restriction of movements
  - Import and export prohibitions, restrictions and quantitative limits
Integrated Tariff of the European Communities (TARIC)

- By integrating and coding these measures, the TARIC secures their uniform application by all Member States
### Structure of the Taric code

<table>
<thead>
<tr>
<th>HS Chapter</th>
<th>HS Heading</th>
<th>HS Subheading</th>
<th>CN subheading</th>
<th>Taric code</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
</tr>
</tbody>
</table>
Example

| 3 | 9 | 0 | 1 | 9 | 0 | 9 | 0 | 1 | 0 |

Plastics and articles thereof

Polymers of ethylene in primary forms

Other (2 additional European Nomenclature figures)

Taric code which shows the measures applicable for cavity filing, for use in certain types of aircraft (For example: erga omnes, a third country duty of 6.5%)
National Level?

- Once you know the correct commodity code, there are national tools which cover the European measures as well as the measures that are applicable at national level (VAT rates per country, excise duties, environmental taxes). It will also tell you which import/export licenses are necessary etc.

  For example; In Belgium we have the TARBEL website in which you can find the:
  - Taric code
  - Description of the goods
  - VAT %
  - Etc.
Example

• Tariff code 7304 3120 20
• Country of Origin: Switzerland

➢ TARIC:

<table>
<thead>
<tr>
<th>Goods code</th>
<th>[Browse]</th>
<th>Country of origin/destination</th>
</tr>
</thead>
<tbody>
<tr>
<td>7304312020</td>
<td></td>
<td>Switzerland - CH</td>
</tr>
</tbody>
</table>

7304 31 20 20 ▼  -   -   -   - Of an external diameter not exceeding 406.4 mm and with a Carbon Equivalent Value (CEV) (TN079)

ERGA OMNES (ERGA OMNES)

→ Third country duty (01-01-2005 - ) : 0 %
→ Airworthiness tariff suspension (01-01-2008 - ) : 0 % (CD333)
   [Show conditions]
→ Anti-dumping/countervailing statistic (09-04-2009 -)
   Excluding: China (CN)

All third countries (ALLTC)

→ Entry into free circulation (prior surveillance) (22-08-2012 - 31-12-2012) (CD022) (TM560)
   [Show conditions]
Example

- **Tarbel**

  ![Tarbel Tool](image)

<table>
<thead>
<tr>
<th>Land/Groep</th>
<th>Type</th>
<th>Maatregel</th>
</tr>
</thead>
<tbody>
<tr>
<td>ADL</td>
<td>BTW/TVA</td>
<td>21%</td>
</tr>
</tbody>
</table>

What the Taric didn’t show was the VAT% when goods are imported from Switzerland into Belgium. There will need to be paid 21% VAT (what we can see in the national Tarbel tool)
What is required to properly classify goods?

- Questions to ask:
  - What is the product called?
  - What does it do?
  - How does it work?
  - How is it used?
  - In what industry is it used? (commercial, industrial, home)
  - Simple or complex?
What is required to properly classify goods?

- Information required to classify:
  - Detailed description of the product, plus samples, sketches, diagrams, illustrative materials, and brochures are useful
  - Breakdown by percent of component materials and respective quantities
  - Principle use of goods in the EU
  - Commercial, scientific, or common designation
  - Any all other pertinent information
  - Note: product name is not sufficient
Who Performs Classification?

- Importers or Exporters
- Customs (via Ruling requests)
- Customhouse Brokers
- Attorneys
- Consultants
Who Performs Classification?

- The legal liability lies with the importer or exporter (and also with an expert (BDP) that they may have relied upon) However, determination of any classification is only as good as the information received about the commodity.
Aid with classification

- Support is available from:
  - HS – convention on the Harmonized Commodity Description and Coding System (HS Nomenclature)
  - Customs
  - Customs Regulations
  - Explanatory Notes
  - Internet
Explanatory Notes

- An aid to interpret the scope of various headings can be find in the Explanatory Notes to the Combined Nomenclature

  - The explanatory notes were established by Council regulation EEC No 2658/87 on the tariff and statistical nomenclature and on the common customs tariff. The latest version can be find at following link:

Explanatory Notes

! The explanatory notes do not have a legally binding force !!!!
Warning

- Classification is an art, not a science
- It is subject to interpretation, court cases, and precedents
- Classification expertise is built over time
- Easy to have a “misclassification”
Binding Tariff Information (BTI)

- The Binding Tariff information (BTI) is a tool created by the European Community.

- The purpose of this tool is to assist you as an economic operator in obtaining the correct tariff classification for their goods.

- Binding Tariff Information is issued on request to economic operators by the customs authorities of the Member States. It is valid throughout the Community, regardless of the Member State which issued it.
**Binding Tariff Information (BTI)**

- **Advantages:**
  - Legal certainty with regard to your classification

- A BTI is valid for 6 years. Renewal for another 6 years is possible when needed.

- All BTI’s are entered into the European Binding Tariff Information Database. This database is run by the European Commission
Thank you !!!

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Contact information

Gubbi Caroline

- Phone: +32 3 234 59 32
- Mobile: +32 475 25 54 70
- Email: caroline.gubbi@bdpinternational.com

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