

## **The Importance of the Correct Custom Tariff Classification**

The custom tariff number is used to clearly identify goods, it facilitates the application of trade and tax rules, the compilation of external trade statistics and the determination of the applicable customs and tax rates.

The custom tariff number is structured in a way that its digits define the class of the product, the chapter within that class, the category within that chapter and the description of the product within that category. The custom tariff code shows the custom duties, taxes and related procedures, applicable trade rules, quotas and contingents. It indicates which products are prohibited for import or export, or in which cases a licence, official certificate or other special condition is required.

Incorrect classification may even result in incorrect payment of taxes and customs duties. If we do not pay attention to the correct classification of the product, we might fulfill an obligation that we should not have to, or we are not paying duties or taxes on a product that we should have paid. These kinds of mistakes may result in the payment of additional duties and even penalties.

Based on our experience, there may be differences in the tariff classification of products between countries. For example, a central tariff code applied by the parent company may not be correct in the country of the subsidiary, and the classification used by a business partner in a transaction should not be accepted without verification.

This risk can be relatively easily minimised if tariff classifications are periodically reviewed with the assistance of a professional.

The European Union adopted the Combined Nomenclature and the provisions for its application in Council Regulation 2658/87, but as the rules are constantly changing, an amendment to the Regulation is published every year. As the CN contains more than a thousand pages of tariffs and is subject to several changes throughout the year, there is an interface, named TARIC system, for the custom tariff numbers to facilitate their practical application. This is an online database of current custom tariff headings and their corresponding provisions. The database therefore not only lists and

names the custom tariff headings, but also contains the EU-wide customs, trade and agricultural rules for external trade in each tariff heading.

### **Custom Tariff Classification of Goods Consisting of Different Components, Substances**

Theoretically, it is easy to declare goods legally: you have to find out the custom tariff code and the duty rate, for example, free of charge via the German customs website or via the EU customs tariff (TARIC). But what to do if the goods are made of different elements, for example in cases where the goods consisted of half toys and half food (chocolate).

The customs tariff of the European Union is decisive for the classification of goods. The decisive criterion for the tariff classification of goods is generally to be found in their objective characteristics and properties, as defined in the wording of the headings and subheadings and in the notes to the sections or chapters of the Common Customs Tariff.

In addition, according to established case law, the explanatory notes drawn up by the Customs Cooperation Council on the Harmonized System (HS) and by the European Commission on the Combined Nomenclature (CN) are an important, non-binding aid in the interpretation of the individual tariff headings.

In the case of mixtures, goods consisting of different substances or components and sets put up for retail sale which cannot be classified under General Rule 3(a), they are classified according to the substance or component which gives them their essential character, if that substance or component can be determined.

Determining the essential character requires careful examination of the product in question, including for the purpose of delimitation: The characteristic that determines the character of a product varies according to the type of product. It may arise, for example, from the nature and composition of the substance or component, from its

volume, quantity, weight, value or from the importance of the substance in relation to the use of the goods.