



International Trade and Customs Practice Group Selected Matters

Hughes
Critical matters. Critical thinking.®
Hubbard

U.S. Export Controls, Foreign Assets Control, and Anti-boycott Regulations

We offer our clients in-depth experience on the full range of export control issues.

COMPLIANCE ADVICE

- Advise U.S. and foreign firms on Commerce Department and State Department export and re-export controls applicable to their products, technologies, and personnel, and assistance in obtaining any necessary export licenses.
- Help companies on export classification and commodity jurisdiction issues and assist in preparing any necessary requests.
- Advise U.S. and foreign clients on issues arising from U.S. “deemed export” and “deemed re-export rules” (which govern the export of technology to foreign nationals both in the U.S. and abroad) in the context of employment, presentations, plant visits, and electronic communications.
- Assist clients in navigating the complex world of defense trade controls, including drafting and obtaining approval of Technical Assistance Agreements and Manufacturing License Agreements, and advising on exceptions available under the International Traffic in Arms Regulations.
- Provide customized training and compliance materials, and assist in establishing internal company compliance programs.
- Advise companies on new regulatory developments and their impact on company operations.
- Assist companies in registering under the International Traffic in Arms Regulations.
- Help companies find ways to comply with U.S. export controls in ways that are consistent with foreign data privacy laws.
- Help companies draft compliance manuals and other compliance materials.
- Advise on Sarbanes-Oxley issues related to export controls.
- Assist clients in reporting export matters in SEC filings.

ENFORCEMENT ACTIVITIES

- Represent companies in enforcement matters, including investigations, disclosures, administrative and criminal enforcement proceedings.
- Conduct internal investigations and audits, prepare findings, and make recommendations with respect to disclosure obligations and corrective actions.
- Negotiate with government enforcement officials to minimize penalties and avoid suspension or debarment from government contracting opportunities, loss of export privileges, or other potential administrative, civil, or criminal penalties.
- Represent clients concerning criminal indictments, no-prosecution letters, and terms of probation.
- Assist clients in plea agreements and other settlement matters.
- Defend clients in court proceedings.
- Help clients comply with directed disclosures and government-mandated audits.

EXTRATERRITORIAL REACH OF U.S. EXPORT CONTROL LAWS

- Advise U.S. and non-U.S. companies, including foreign operations of U.S. companies, on global business implications of U.S. embargo and economic sanctions rules with respect to countries such as Iran, Cuba, and Syria, and with the terrorism and anti-narcotics trafficking sanctions. Provide expert legal opinions in foreign legal proceedings on implications of U.S. re-export control rules for non-U.S. business transactions.

ANTI-BOYCOTT REGULATIONS

- Advise major international firms on the anti-boycott implications of contemplated business activity.
- Represent companies in compliance and enforcement matters in both Commerce and Treasury Department anti-boycott control regimes, including identifying boycott issues, taking corrective action, making reports and disclosures, and negotiating settlements.

MISCELLANEOUS

- Advise U.S. and foreign companies on export control issues arising in proposed contracting with the United States Government.
- Assist companies with export control issues in connection with due diligence and obtain government approvals in connection with mergers and acquisitions.
- Provide strategic advice and advocacy on legislative and regulatory export controls initiatives.
- Advise companies on the multilateral regimes in the export controls field and assist in developing and implementing strategies for change.
- Advise clients on the applicability of the Helms-Burton law regarding sanctions on persons doing business in Cuba.

Antidumping / Countervailing Duty (AD/CVD)

We have extensive experience in handling the full range of antidumping and countervailing duty matters. This includes representing private and government clients in defending against such actions, advising domestic industries (U.S. and non-U.S.) in preparing and bringing trade actions, and preparing clients in advance for anticipated trade cases. Representation is at all forums – agencies, courts, bi-national panels (NAFTA), and WTO.

- Represented U.S., Canadian, Mexican, European, Thai, Japanese, Vietnamese, South African, Indian, and Brazilian companies in U.S. and non-U.S. antidumping investigations involving multiple industries, including softwood lumber, shrimp, bearings, polyvinyl alcohol, bio-diesel, catfish, color picture tubes, lighters, 3.5” micro-disks and media, potash, pharmaceuticals, ethanol, roller chain, ophthalmology lenses, various metals and minerals, pasta, pencils, lined paper, cement, and others.
- Represented U.S., Canadian, Brazilian, Thai, Korean, and Saudi Arabian companies and governments in U.S. countervailing duty investigations involving softwood lumber, wheat, live swine, laminated hardwood flooring, steel magnesium, rice, bearings, wire rod, pig iron, ethanol, wire nails, and others.
- Represented U.S., Japanese, Canadian, Thai, Brazilian, and Mexican companies and governments in dozens of antidumping, countervailing duty, and safeguards investigations and reviews of steel products.
- Advised on structuring overseas production and distribution facilities of numerous types of manufacturing companies to minimize antidumping, countervailing duty, and other U.S. trade liability.

- Advised foreign governments on drafting and implementing their antidumping, countervailing duty and safeguards laws, and on conforming their domestic laws to minimize exposure to U.S. countervailing duties.
- Advised U.S. and foreign companies on instituting safe-pricing programs that reduce U.S. antidumping duty exposure, and in structuring government program participation to reduce exposure to countervailing duty laws.
- Obtained many product exclusions from antidumping, countervailing duty and safeguards investigations.
- Developed and negotiated the first settlement involving shrimp antidumping order, which became the model for over 100 such settlements.
- Obtained the first revocation of a steel antidumping order under the Department of Commerce’s “three zeros” provision.
- Represented U.S. exporters in the natural resources and information services sectors in actions for trade relief under section 301 of the Trade Act of 1974.
- Litigated in domestic courts of appeals dozens of contested antidumping and countervailing duty decisions, represented the Government of Canada in NAFTA binational panels and Extraordinary Challenge Committees in litigation arising from U.S. countervailing duty measures, and represented U.S. trade association and Mexican producers in NAFTA binational panels.
- Confidentially advised multiple foreign governments regarding WTO panel and appellate body challenges, as well as bi-lateral and multi-lateral trade negotiations.

SELECTED ANTIDUMPING OR COUNTERVAILING DUTY CASES

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| • Aspheric Ophthalmoscopy Lenses from Japan | • DAS Chemistry from Germany |
| • Antifriction Bearings from Japan | • Disposable Lighters from Thailand, Mexico, and Indonesia |
| • Bicycles from Taiwan | • DRAMS from Korea |
| • Butt-Weld Pipe Fittings from Thailand | • Ethyl Alcohol from Brazil |
| • Candles from China | • Ferrosilicon from Brazil |
| • Canned Pineapple Fruit from Thailand | • Ferrovanadium from South Africa |
| • Carbon Steel Cold-Rolled Products from Canada, Japan, China, Thailand, and Brazil | • Film from Canada |
| • Carbon Steel Galvanized Sheet from Canada | • Fresh, Chilled, Frozen Pork from Canada |
| • Carbon Steel Wire Rod from Argentina, Brazil, Canada, Czechoslovakia, France, Japan, Mexico, Poland, Portugal, Saudi Arabia, Singapore, Spain, South Africa, Trinidad and Tobago, and Venezuela | • Forged Steel Crankshafts from Brazil and the United Kingdom |
| • Cement from Mexico | • Frozen and Canned Shrimp from Thailand, Vietnam, and India |
| • Cheese from Canada | • Frozen Concentrated Orange Juice from Brazil |
| • Color Picture Tubes from Japan | • Garlic from China |
| | • Gum Arabic from the United Kingdom |
| | • Honey from China |

- Hot-Rolled Steel from Brazil, Canada, Japan, and Thailand
- Iron Construction Castings from Canada
- Laminated Hardwood Flooring from Canada
- Large Diameter Pipe from Brazil, Japan, and Mexico
- Large Newspaper Printing Presses from Germany
- Light-Walled Rectangular Pipe from Mexico
- Lined Paper from India
- Live Cattle from Canada
- Live Swine from Canada
- Lumber from Canada
- Magnesium from Canada
- Mechanical Transfer Presses from Japan
- Microdisks (3.5”) and Media from Canada
- Mushrooms from China
- Mussels from Canada
- New Steel Rail from Canada
- Nitrocellulose from Germany
- Offshore Oil Well Platforms from Japan
- Oil Country Tubular Goods from Austria, Brazil, Israel, and Canada
- Paper Clips from China
- Pencils from China and Thailand
- Pig Iron from Brazil
- Pistachios from Iran
- Polyester Staple Fiber from Korea
- Polystyrene Resins from Korea
- Polyvinyl Alcohol from China and Japan
- Potash from Canada
- Processed Gum Arabic from the United Kingdom
- Rice from Thailand
- Roller Chain from Japan
- Shrimp from Canada
- Silicon Metal from Brazil
- Small Diameter Pipe from Brazil
- Softwood Lumber from Canada
- Stainless Steel Angle from Japan
- Stainless Steel Bars from Japan, Brazil, and the United Kingdom
- Stainless Steel Pipe from Malaysia
- Stainless Steel Sheet and Strip In Coil from Japan
- Stainless Steel Wire from Japan
- Stainless Steel Wire Rod from Brazil and Japan
- Steel Concrete Reinforcing Bar from Turkey
- Steel Pipe from India, Singapore, Thailand, Brazil, China, and Turkey
- Steel Plate from Mexico, Belgium, Canada, Japan, South Africa, and Brazil
- Steel Wire Nails from China, Korea, and Thailand
- Steel Wire Rope from India and Thailand
- Structural Steel Beams from South Africa
- Tapered Roller Bearings from Japan
- Textiles and Apparel from Thailand
- Thermoplug from Malaysia
- Tissue Paper from China
- Tubeless Steel Disc Wheels from Brazil
- UHT Milk from Canada
- Uranium from Germany, France, and the Netherlands
- Wheat from Canada
- X-Belted Steel Radial Tires from Canada
- Yarns from Thailand

Other Trade Remedies: Safeguards, Section 301, Section 232, Section 337

We have represented clients in safeguards, Section 301, Section 232, and Section 337 investigations.

SELECTED CASES

- Auto Parts
- Automobiles and Sports Utility Vehicles
- Bearings
- Beef
- Cameras
- Canned Fruit
- Extruded Rubber Thread
- Footwear
- Lamb Meat
- Oscillating Sprinklers, Sprinkler Components, and Nozzles
- Personal Watercraft and Components
- Purple Protective Gloves
- Rice
- Steel
- Shrimp

Non-U.S. National Forums AD/CVD/Safeguards

Trade litigation disputes are increasingly global, and we have represented clients in non-U.S. jurisdictions.

SELECTED CASES

- Biodiesel Fuels (EC)
- Disposable Lighters (Mexico, Indonesia, China, and EC)
- Plywood (Sweden)
- Sweetened Condensed Milk (New Zealand)
- Canned Tomatoes (Australia)

Advise Governments and Industries on Trade Negotiations and Market Access

We help our clients negotiate and benefit from U.S. bilateral and multilateral trade agreements.

- Advise U.S. companies on possible WTO remedies for third-country market access barriers and other unfair trade practices of foreign competitors in the goods and services sectors, including in conjunction with advice on Section 301 remedies.
- We help our clients negotiate and benefit from U.S. bilateral and multilateral trade agreements.
- Advise foreign governments and government-owned entities on designing domestic trade laws to comply with WTO requirements and on the limits of restrictive measures that governments may impose under various WTO agreements, including those on trade-related intellectual property and trade-related investment.
- Advise on NAFTA-related origin and other customs issues, and representation under NAFTA's dispute resolution mechanisms.

- Assist in understanding and taking advantage of various bilateral and regional free trade agreements.
- Help clients with market access issues, including issues related to standards, customs barriers, discriminatory regulations, and corruption.

SELECTED TRADE AGREEMENTS & ISSUES

We have expertise in the full range of completed and pending international trade agreements, including:

- WTO Accession, Doha Round, Drafting and Administering National AD/CVD/Safeguards Laws and Regulations
- North American Free Trade Agreement
- OECD Steel Negotiations
- U.S.-Vietnam Bilateral Trade Agreement
- U.S.-SACU Free Trade Agreement
- U.S. Thailand Free Trade Agreement
- WTO Consultations Regarding Stainless Steel Bar from the United Kingdom

WTO Dispute Settlement

We have advised and represented clients in WTO dispute resolution proceedings at the Panel and Appellate Body levels.

SELECTED CASES

- Thailand – Anti-Dumping Duties on Angles, Shapes, and Section of Iron or Non-Alloy Steel and H Beams from Poland (Thailand)
- United States – Anti-Dumping Measures on Certain Hot-Rolled Steel Products from Japan (Japan)
- United States – Continued Dumping and Subsidy Offset Act of 2000 (Byrd Amendment) (Thailand)
- United States – Countervailing Duty Investigation of DRAMS from Korea (United States)
- United States – Definitive Safeguard Measures on Imports of Certain Steel Products (Japan and Brazil)
- United States – Final Countervailing Duty Determination with Respect to Softwood Lumber from Canada (United States)
- United States – Preliminary Determination with Respect to Softwood Lumber from Canada (United States)
- United States – Safeguard Measures on Imports of Fresh, Chilled or Frozen Lamb Meat from New Zealand and Australia (Australia)
- United State – Antidumping Measures on Frozen Shrimp (Thailand)

Customs: Classification, Valuation (Transfer Pricing), Markings, Audits, Penalties, Liquidated Damages, Seizures, Drawback, Country of Origin Programs, Bonded Warehouses, FTZs, NAFTA, and Hazardous Materials

We offer our clients unparalleled expertise in a broad array of customs matters.

- Represent clients in internal reviews and prior disclosures.
- Advise and represent clients in obtaining rulings in the area of import classification, including classification of products.
- Advise and represent clients with respect to the valuation of imported merchandise, including issues related to the validity of transaction pricing in related party transfer, and the elements of transaction value (such as royalties, assists, and freight charges).
- Advise and represent clients in obtaining rulings on country of origin qualification and markings under general and FTA- (e.g., NAFTA, AGOA) specific rules.
- Advise clients on structuring transactions to take advantage of special tariff reduction provisions under U.S. law, including Foreign Trade Zones, processing abroad of American origin goods, the Generalized System of Preferences, NAFTA for North American-originating products, the Caribbean Basin Initiative, the U.S.-Israel Free Trade Agreement, and other trade preference agreements.
- Assist clients in obtaining accelerated reduction of tariffs for U.S. and Canadian manufacturing concerns under NAFTA, and challenging the constitutionality and obtaining fee refunds of the Harbor Maintenance Fee.
- Advise on establishing internal company customs compliance programs, including drafting and revising company compliance manuals.
- Represent companies in Customs and Border Protection administrative proceedings, including in the filing of protests, application for rulings, requests for voluntary reliquidations, and penalty/liquidated damages proceedings.
- Represent companies in Customs and Border Protection enforcement proceedings at the administrative level and in appeals before the Court of International Trade, including section 592 customs fraud investigations.

SELECTED INDUSTRIES

- Agricultural Machinery
- Agricultural Products
- Autos and Auto Parts
- Aviation
- Chemicals
- Computers
- Electronics
- Ethanol
- Food Products
- Golf Cars
- Line Paper
- Lumber
- Manganese Metal Flake and Metal Powder from South Africa (GSP)
- Metals
- Minerals
- Natural Gas
- Pharmaceuticals
- Plastics
- Power Tools
- Steel Products

- Telecommunications
- Tobacco
- Toys
- Water Vehicles

International Government Procurement

We have counseled clients on international government procurement issues.

- Advised on U.S. and local procurement and “Buy America” regulations applicable to a proposal to supply equipment under a municipal public works contract.
- Advised U.S. companies on issues arising in proposed sales to foreign governments, including foreign “Buy National” laws, use of sales agents, U.S. export controls, Foreign Military Sales requirements, Foreign Corrupt Practices Act, and rights under WTO agreements.

Foreign Corrupt Practices Act (FCPA)

We have extensive experience in handling the full range of FCPA issues.

- Assist companies in structuring business transactions to comply with the FCPA.
- Represent companies in internal investigations and U.S. Department of Justice inquiries.
- Counsel companies on the legality of proposed conduct under the FCPA.
- Assist companies in developing compliance programs and audit procedures.

For more information on Hughes Hubbard’s International Trade and Customs Practice or on the Firm’s overall capabilities, please contact Amanda DeBusk at (202) 721-4790 at debusk@hugheshubbard.com, or Kenneth J. Pierce at (202) 721-4690 or piercek@hugheshubbard.com.

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