Commercial law in Germany

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Customs, Regulations and Standards in Germany

Trade Barriers

Germany's regulations and bureaucratic procedures can be a difficult hurdle for companies wishing to enter the market and require close attention by U.S. exporters. Complex safety standards, not normally discriminatory but sometimes zealously applied, complicate access to the market for many U.S. products. U.S. suppliers are well advised to do their homework thoroughly and make sure they know precisely which standards apply to their product and that they obtain timely testing and certification.

Import Tariff

When products enter the EU, they need to be declared to customs according to their classification in the Combined Nomenclature (CN). The CN document is updated and published every year.

U.S. exporters should consult "The Integrated Tariff of the Community", referred to as TARIC (Tarif Intégré de la Communauté), to identify the various rules which apply to specific products being imported into the customs territory of the EU. To determine if a license is required for a particular product, check the TARIC.

The TARIC can be searched by country of origin, Harmonized System (HS) Code, and product description on the interactive website of the Directorate-General for Taxation and the Customs Union. The online TARIC is updated daily.

Import Requirements & Documentation

The Single Administrative Document

The official model for written declarations to customs is the Single Administrative Document (SAD). The SAD describes goods and their movement around the world and is essential for trade outside the EU, or for non-EU goods. Goods brought into the EU customs territory are, from the time of their entry, subject to customs supervision until customs formalities are completed. Goods are covered by a Summary Declaration, which is filed once the items have been presented to customs officials. The customs authorities may, however, allow a period for filing the Declaration, which cannot be extended beyond the first working day following the day on which the goods are presented to customs.

The Summary Declaration is filed by:

The person who brought the goods into the customs territory of the Community or by any person who assumes responsibility for carriage of the goods following such entry; or

The person in whose name the person referred to above acted.

The Summary Declaration can be made on a form provided by the customs authorities. However, customs authorities may also allow the use of any commercial or official document that contains the specific information required to identify the goods. The SAD serves as the EU importer's declaration. It encompasses both customs duties and VAT and is valid in all EU Member States. The declaration is made by whoever is clearing the goods, normally the importer of record or his/her agent.

European Free Trade Association (EFTA) countries including Norway, Iceland, Switzerland, and Liechtenstein also use the SAD. Information on import/export forms is contained in Commission Delegated Regulation (EU) No. 2015/2446.

EU Customs Code

The Union Customs Code (UCC) was adopted in 2013 and its substantive provisions went into effect on 1 May 2016. It has replaced the Community Customs Code (CCC). In addition to the UCC, the European Commission published delegated and implementing regulations on the actual procedural changes.

Economic Operator Registration and Identification (EORI)

Since July 1, 2009, all companies established outside of the EU are required to have an EORI number if they wish to lodge a customs declaration or an Entry/Exit Summary declaration. All U.S. companies should use this number for their customs clearances. An EORI number must be formally requested from the customs authorities of the specific member state to which the company first exports. Member state customs authorities may request additional documents to be submitted alongside a formal request for an EORI number. Once a company has received an EORI number, it can use it for exports to any of the 28 EU Member States. There is no single format for the EORI number. Once an operator holds an EORI number s/he can request the Authorized Economic Operator (AEO: see below under "MRA") status, which can give quicker access to certain simplified customs procedures.

U.S. – EU Mutual Recognition Arrangement (MRA)

Since 1997, the United States and the EU have had a Customs Mutual Assistance Agreement (CMAA) on customs cooperation for matters relating to the application of customs laws.

In 2012, the United States and the EU signed a Decision recognizing the compatibility of AEO (Authorized Economic Operator) and C-TPAT (Customs-Trade Partnership against Terrorism), thereby facilitating faster and more secure trade between U.S. and EU operators. The World Customs Organization (WCO) SAFE Framework of Standards provides the global standard for AEO. AEO certification is issued by a national customs authority and is recognized by all Member States' customs agencies. As of April 17, 2017, an AEO can consist of two different types of authorization: "customs simplification" or "security and safety." The former allows AN AEO to benefit from simplification related to customs legislation, while the latter allows for facilitation through security and safety procedures. Shipping to a trader with AEO status could facilitate an exporter's trade as its benefits include expedited processing of shipments, reduced theft/losses, reduced data requirements, lower inspection costs, and enhanced loyalty and recognition. Under the revised Union Customs Code, in order for an operator to make use of certain customs simplifications, the authorization of AEO becomes mandatory.

The United States and the EU recognize each other's security certified operators and will take the respective membership status of certified trusted traders favorably into account to the extent possible. The favorable treatment provided by the Decision will result in lower costs, simplified procedures and greater predictability for transatlantic business activities. It officially recognizes the compatibility of AEO and C-TPAT programs, thereby facilitating faster and more secure trade between U.S. and EU operators. The Decision was originally signed in May 2012 and was implemented in two phases. The first commenced in July 2012 with U.S. Customs and Border Protection (CBP) placing shipments coming from EU AEO members into a lower risk category. The second

phase took place in early 2013, with the EU re-classifying shipments coming from C-TPAT members into a lower risk category. CBP identification numbers for foreign manufacturers (MID) are therefore recognized by customs authorities in the EU, as per Commission Delegated Regulation 2015/2446 (see above).

Labeling/Marking Requirements

Summary

There is a broad array of EU legislation pertaining to the marking, labeling and packaging of products, with neither an "umbrella" law covering all goods nor any central directory containing information on marking, labeling and packaging requirements. This overview is meant to provide the reader with a general introduction to the multitude of marking, labeling and packaging requirements or marketing tools to be found in the EU.

Introduction

The first step in investigating the marking, labeling and packaging legislation that might apply to a product entering the EU is to draw a distinction between what is mandatory and what is voluntary. Decisions related to mandatory marking, labeling and/or packaging requirements might sometimes be left to individual Member States. Furthermore, voluntary marks and/or labels are used as marketing tools in some EU Member States. This report is focused primarily on the mandatory marks and labels seen most often on consumer products and packaging, which are typically related to public safety, health and/or environmental concerns. It also includes a brief overview of a few mandatory packaging requirements, as well as more common voluntary marks and/or labels used in EU markets.

It is also important to distinguish between marks and labels. A mark is a symbol and/or pictogram that appears on a product or its respective packaging. These range in scope from signs of danger to indications of methods of proper recycling and disposal. The intention of such marks is to provide market surveillance authorities, importers, distributors and end-users with information concerning safety, health, energy efficiency and/or environmental issues relating to a product. Labels, on the other hand, appear in the form of written text or numerical statements, which may be required but are not necessarily universally recognizable. Labels typically indicate more specific information about a product, such as measurements, or an indication of materials that may be found in the product (such as in textiles or batteries).

Temporary Entry

Specific information on the ATA Carnet Customs procedure used for temporary importation, transit and temporary admission of goods designed for specific purposes, duty-free and tax-free (such as professional equipment for presentations or trade fairs).

Prohibited & Restricted Imports

The Tarif Intégré de la Communauté (TARIC) is designed to show various rules applying to specific products being imported into the customs territory of the EU or, in some cases, when exported from it. To determine if a product is prohibited or subject to restriction, check the TARIC for the following codes:

CITES Convention on International Trade of Endangered Species

PROHI Import Suspension

RSTR Import Restriction

For information on how to access the TARIC, see the Import Requirements and Documentation Section.

Customs Regulations

The following provides information on major regulatory efforts of the EC Taxation and Customs Union Directorate:

The Union Customs Code (UCC) was adopted in 2013 and its substantive provisions apply from 1 May 2016. It replaces the Community Customs Code (CCC). In addition to the UCC, the European Commission has published delegated and implementing regulations on the actual procedural changes. These are included in Delegated Regulation (EU) 2015/2446, Delegated Regulation (EU) 2016/341 and the Implementing Regulation (EU) 2015/2447.

There are a number of changes in the revised customs policy which also require an integrated IT system from the customs authorities. In April 2016, the European Commission published an implementing decision (number: 2016/578) on the work program relating to the development and deployment of the electronic systems of the UCC. The EC continues to evaluate the timeline by which the EU-wide integration of the customs IT system can be implemented

Customs Valuation – Most customs duties and value added tax (VAT) are expressed as a percentage of the value of goods being declared for importation. Thus, it is necessary to dispose of a standard set of rules for establishing the goods' value, which will then serve for calculating the customs duty.

Given the magnitude of EU imports every year, it is important that the value of such commerce is accurately measured for the purposes of:

economic and commercial policy analysis;

application of commercial policy measures;

proper collection of import duties and taxes; and

Import and export statistics.

These objectives are met using a single instrument – the rules on customs value.

The EU applies an internationally accepted concept of 'customs value'.

The value of imported goods is one of three 'elements of taxation' that provides the basis for assessment of the customs debt, which is the technical term for the amount of duty that has to be paid, the other ones being the origin of the goods and the customs tariff.

European Union CE Marking and Standards

Prior to exporting, U.S. manufacturers have to consider certification for the EU market. Certification is about conformity assessment in order to declare compliance with EU regulatory requirements. For the majority of exported products, compliance is visibly testified by the manufacturer through the use of CE marking. Use of standards is part of the process.

Bearing in mind that testing and certification for the U.S. market are not sufficient for exporting to the EU, manufacturers will need to start from scratch in order to determine what it takes to comply with EU requirements. Since EU legislation harmonizes mandatory requirements for product safety throughout the European Union, a manufacturer only needs to go through the process once and can then export to all 28 EU member states (and beyond). With appropriate certification, goods travel freely within the borders of the Single Market.

Standards for Trade

Overview

Products tested and certified in the United States to U.S. regulations and standards are likely to have to be retested and re-certified to EU requirements as a result of the EU's different approach to the protection of the health and safety of consumers and the environment. Where products are not regulated by specific EU technical legislation, they are always subject to the EU's General Product Safety Directive as well as to possible additional national requirements.

European Union legislation and standards created under the so-called New Approach are harmonized across the Member States and European Economic Area countries to allow for the free flow of goods. New approach laws require the use by the manufacturer of CE marking.

The concept of New Approach legislation is slowly disappearing as the New Legislative Framework (NLF), which entered into force in January 2010, was put in place to serve as a blueprint for existing and future CE marking legislation. Existing legislation has been reviewed to bring them in line with the NLF concepts, which means that, since 2016, new requirements are being addressed and new reference numbers are to be used on declarations of conformity. For more information about the NLF.

While harmonization of EU legislation can facilitate access to the EU Single Market, manufacturers should be aware that regulations (mandatory) and technical standards (voluntary) might function as barriers to trade if U.S. standards are different from those of the European Union.

Licensing Requirements for Professional Services

The recognition of skills and qualifications acquired by EU citizens in EU Member States, including the corresponding recognition procedures and charges are, based on article 165 of the TFEU, the responsibility of Member States. Similarly, recognition of skills and qualification earned in third countries is also a national responsibility.

However, the European Commission takes initiative to facilitate recognition procedures. For example:

Recognition of professional qualifications obtained in one Member State for the purposes of access and pursuit of regulated professions in another Member State is subject to Directive 2005/36.

Recognition of qualifications for academic purposes in the higher education sector, including school-leaving certificates is subject to the Lisbon Recognition Convention. The ENIC-NARIC networkprovides advice on (cross-border) recognition of these qualifications.

Recognition in other cases is assessed and granted (or denied) by the receiving educational provider or employer. For them to be able to recognize skills and qualifications an understanding of the level, content and quality is needed. The Commission currently explores the possibilities on how to better support these recognition decisions.

Source:

https://2016.export.gov