PRACTICE AREAS

Trade Policy

Importers Bracing as U.S. Ramps Up Trade Tensions with EU

July 21, 2020
Sandler, Travis & Rosenberg Trade Report

U.S. importers are preparing for another round of tariff increases on European Union goods as Washington continues to ramp up trade tensions with its transatlantic trade partner. ST&R will be hosting a webinar Aug. 6 to review current developments and identify ways companies can prepare.

In October 2019, in response to the EU's failure to fully comply with a World Trade Organization ruling against subsidies it provided to aircraft manufacturer Airbus, the U.S. levied additional tariffs of 25 percent on more than 150 products from EU countries. Affected products included cheese and citrus from the EU or the United Kingdom; single-malt Irish and Scotch whiskies from the UK; sweaters, pullovers, sweatshirts, performance outerwear, suits, pajamas, swimwear, blankets, and bed linen from the UK; axes, tweezers, pliers, metal cutting shears, pipe cutters, screwdrivers, knives, hand tools, and welding equipment from Germany; printed books, lithographs, and pictures from Germany or the UK; self-propelled machinery from Germany or the UK; and olives and wine from France, Germany, Spain, or the UK. The U.S. also imposed an additional 10 percent tariff on new civil aircraft from France, Germany, Spain, and the UK that was later increased to 15 percent.

In June 2020 the Office of the U.S. Trade Representative said it was considering modifying the list of EU goods subject to these tariffs. One change under consideration is to expand the list to include products such as fish, coffee, chocolate, olives, olive oil, beer, vodka, sparkling wine, polyester staple fiber, high tenacity polyester yarn, cotton twill fabric, carpets and other textile floor coverings, laminated fabrics, knitted ski-suits other than of manmade fibers, ceramic products, glassware, glass fiber yarn, table knives, wall clocks, and lifting machinery. USTR is also considering increasing the tariff on affected goods from 25 percent to 100 percent.

Also in June USTR announced a new Section 301 investigation of digital service taxes adopted or under consideration by the EU and a number of its member countries. A similar investigation of intellectual property rights protections in China resulted in a 25 percent tariff on hundreds of billions of dollars' worth of imports from that country, and the DST investigation could result in additional tariffs or other restrictions on imports from EU countries if consultations do not yield a successful resolution. The U.S. is already moving in that direction in a separate investigation of a DST imposed by France, announcing recently plans to hit soap, cosmetics, and handbags from that country with an additional 25 percent tariff beginning in January 2021.

However, importers of goods from the EU can utilize a number of proven, legitimate strategies to prepare for and mitigate the effects of these tariffs.

- tariff engineering, where products are imported in unfinished or embellished forms to take advantage of classification provisions carrying a lower or free rate of duty

- special HTSUS Chapter 98 provisions, which cover numerous types of products used for specific purposes as well as specific production or sourcing scenarios involving U.S. or previously imported components

- operational engineering, or changing the product's country of origin by shifting the country in which a substantial transformation is achieved

- first sale valuation, where duty is paid on the price a trading company pays the manufacturer instead of the higher price the importer pays the trading company

- excluding certain amounts typically included in the price, such as buying commissions, shipping-related charges, inspection fees, and post-importation assembly charges, from dutiable value

- bonded facilities, such as foreign-trade zones and warehouses, and temporary importation bonds

ST&R's Aug. 6 webinar will review the tariffs that have been and may be imposed on EU products as well as these and other strategies importers can use to ease the burden those tariffs may cause.

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