

# European Customs & Trade Communiqué



Edition 31, February 2009

Welcome to the thirty first edition of our Newsletter on Customs and Trade issues. We have included topical articles on Customs and Trade matters from throughout our European network of PwC firms. This edition specifically covers updates on duty suspension, introduction of EU EORI numbers, excise update, recent court rulings, classification and anti-dumping measures, among others.

## In this month's Bulletin:

- EU Duty Suspension Scheme – Deadline for applications 15 March
- EORI number to replace existing Customs identification numbers as of July 2009
- An amendment to the Implementing Regulation to the Community Customs Code
- Judgment of the European Court of Justice relating to classification of LCD monitors
- Judgment of the Court of First Instance concerning the application for remission and repayment of import duties because of a special situation based on a retroactive opening of tariff quotas
- Unilateral implementation of the Interim Agreement between Serbia and the EU – latest changes in the approach
- An update of the principles for trading in dual-use items
- An increase in the level of the security deposit in respect of excise duty on tobacco products in Poland
- Recent Classification Regulations
- Provisional anti-dumping duty on imports of wire rod originating in China and the Republic of Moldova
- Other Anti-Dumping Updates
- Wider Network News

If any of the articles in this month's edition are of interest and you would like further details, please contact the author or your local PwC contact - their details are listed at the back of this Communiqué.

## Network Leadership Team



**Ruud Tusveld**, PwC Rotterdam  
ruud.tusveld@nl.pwc.com



**Hubert Jadrzyk**, PwC Warsaw  
hubert.jadrzyk@pl.pwc.com



**Tamas Locsei**, PwC Budapest  
tamas.locsei@hu.pwc.com

## Editor



**Damian McCarthy**, PwC Dublin (Editor)  
damian.mccarthy@ie.pwc.com

### EU Duty Suspension Scheme – Deadline for applications 15 March

An opportunity exists for EU manufacturers to significantly reduce their customs duty bill and save money by availing of the EU duty suspension scheme.

- Do you manufacture in the EU?
- Do you find it impossible to source EU manufactured components?
- Are you paying more than €20,000 a year in import duty?

If you can answer yes to all of these questions, you may be able to apply for duty suspensions which would enable you to import some or all of your raw materials duty free.

Member States must submit applications to the European Commission by 15 March 2009 for introduction in January 2010.

**Emma Ormond**, PwC UK  
(emma.ormond@uk.pwc.com)

**Anne Williams**, PwC Ireland  
(anne.c.williams@ie.pwc.com)

### EORI number to replace existing Customs identification numbers as of July 2009

As a measure to enhance the effectiveness of its security program, the European Commission has proposed the introduction of a unique identification number for each economic operator within the EU, the so-called 'Economic Operators Registration and Identification' (EORI) number. Having to use this unique identification number in all the electronic communication with Customs and / or other government departments and agencies, will enable the EU authorities to recognise / identify economic operators and their activities throughout the EU.

The EORI number is intended to be obligatory as of **1 July 2009**.

The structure of the EORI number will be such that it starts with a 2 digit prefix identifying the country in which the economic operator is established or registered, followed by a 15 digit alpha/numeric number. These 15 digit numbers will be determined by the member states:

*For instance in the UK, the EORI number will start with the letters 'GB' followed by a number based on the economic operator's VAT ID-number. In the Netherlands, the economic operator's fiscal (current 'customs') ID-number will be used (preceded by the prefix 'NL').*

### Who will need to use an EORI number?

Any person involved in the import, export or movement of goods (under a transit procedure) will need an EORI number.

As stated above, the EORI number is to be used in all electronic communication with Customs and also other government departments / agencies involved in the movement of goods. The EORI number therefore will be valid in all EU member states and it will replace all currently applied customs-identification numbers including the TIN (Traders Identification Number), as currently used in NCTS (transit) and ECS (export).

### How to obtain an EORI number

Economic operators involved in customs activities that are established in the EU, shall be registered in the EU member state in which they are established.

Economic operators not established in the EU will need to obtain an EORI number from the authorities in one of the EU member states in which they operate.

Please note that branches and/or divisions of a company cannot obtain an EORI number, as only the head office of the company can be registered. Branches / divisions that are currently holding a separate customs authorisation will be informed by Customs (during April) that these authorisations will be withdrawn and will be replaced by authorisations issued in the name of the company's head office. However, individual electronic communication (i.e. filing customs declarations) between these branches / divisions and the authorities should remain possible.

Although not all details regarding the issuance of the EORI numbers are fully known at present, it is the authorities' intention to either automatically issue numbers for EU economic operators who have performed customs activities in the last two years or to provide them with application forms. However, 'inactive', new and non-EU based economic operators are likely to have to actively apply for an EORI number.

Some member states have already provided warnings to economic operators indicating that the application / registration process might make take a significant amount of time (on the side of Customs) and advise economic operators to apply / register as soon as possible. This application / registration process is expected to open from 1 April 2009.

For assistance in the application / registration process or for further information regarding this topic, please contact your local PwC contact or the author of this article.

**Annemieke de Groot**, PwC Netherlands  
([annemieke.de.groot@nl.pwc.com](mailto:annemieke.de.groot@nl.pwc.com))

## An amendment to the Implementing Regulation to the Community Customs Code

The amendment to the implementing regulation to the Community Customs Code (CCC) has introduced changes which are significant from the perspective of entities involved in foreign trade activities. Amongst others, they provide a legal basis for implementing a single authorisation for simplified procedure (SASP).

On 6 December 2008, a Commission Regulation modifying the principles of application of the CCC was published in the Official Journal of the EU.

The amendment has established a legal basis for implementing SASP. This solution enables an entity which conducts import or export activities in the territory of numerous Member States to obtain a single authorisation for simplified procedure in all of these countries. However, obtaining such authorisation is dependent on the existence of an appropriate agreement between the customs administrations of the countries in which the entity operates. A company which has been granted such an authorisation will be entitled to file a customs declaration and

maintain customs documentation for all transactions in one country despite the fact that the physical presentation of goods will take place in other Member States.

In connection with the new regulations, the overall method to be used for issuing authorisations for simplified procedures is also being changed. The amended regulation has introduced a standard request form and a standard authorisation for simplified procedure which are the same throughout the EU. The criteria for granting an authorisation for simplified procedures will also be modified, and the procedure for verifying them will be the same as in the case of granting the status of an Authorized Economic Operator (AEO). Due to the criteria for granting authorisations for simplified procedures being changed, from 1 January 2009 the customs authorities will verify the authorisations granted to date to check whether the entities which hold such authorisations meet the new requirements. One should take into account that, as a result of an inspection, the customs authorities may withdraw an authorisation which has been granted previously on the basis of the existing criteria.

The change in the regulations is also a reflection of the gradual implementation of electronic data processing techniques in customs administration proceedings. The use of electronic databases and communication systems is being introduced for procedures for filing requests and issuing authorisations for simplified procedures. By virtue of the amended secondary legislation,

electronic communication and electronic data processing should also become a standard approach in following the transit procedure and performing TIR operations.

The changes introduced by the amendment will start to be applied on various dates: 1 January 2009, 1 July 2009 or even 1 January 2011. Certain new regulations, in particular those relating to the transit procedure, have already been applied since 1 July 2008.

**Cezary Sowiński**, PwC Poland  
([cezary.sowinski@pl.pwc.com](mailto:cezary.sowinski@pl.pwc.com))

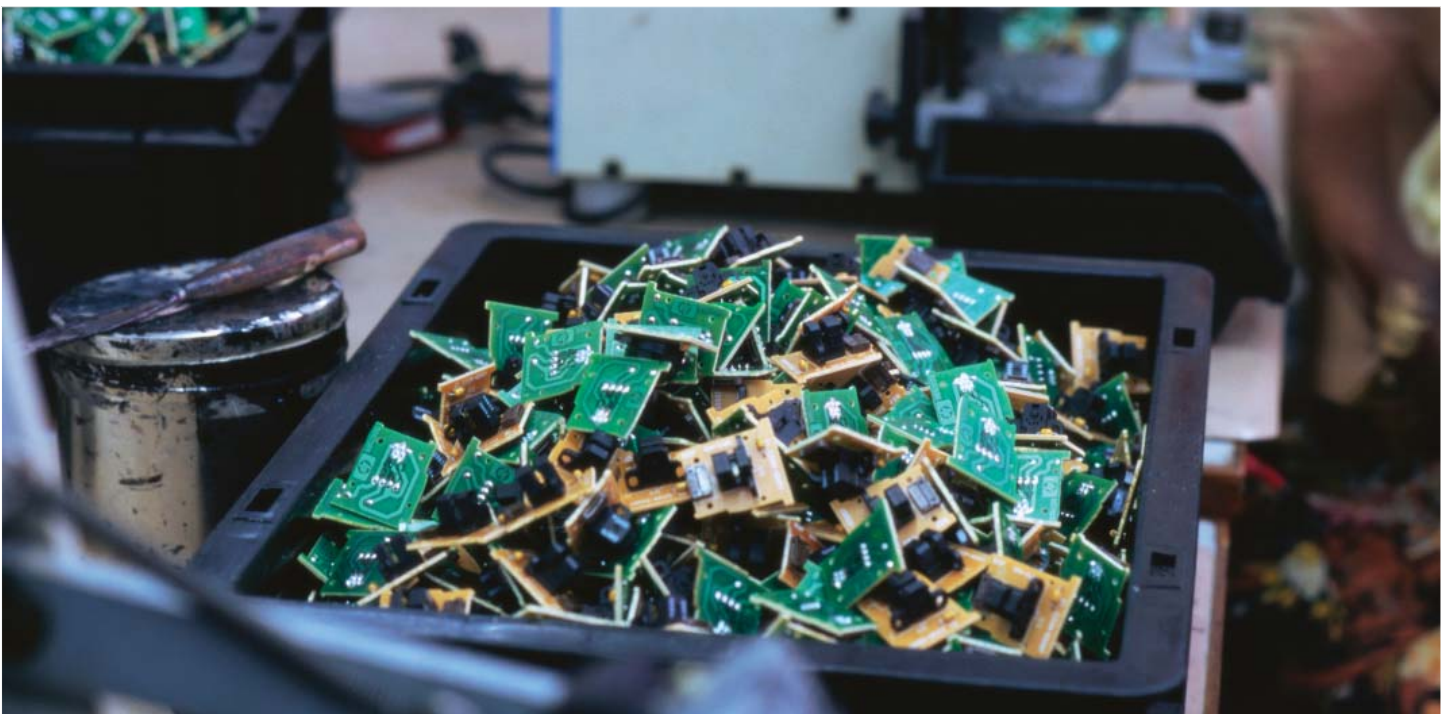
**Sylwester Witalis**, PwC Poland  
([sylwester.witalis@pl.pwc.com](mailto:sylwester.witalis@pl.pwc.com))

## Judgment of the European Court of Justice relating to classification of LCD monitors

**Case 376/07 - Staatssecretaris van Financien v Kamino International Logistics ("Kamino")**

### Background of Case

Kamino imported into the Netherlands a consignment of LCD colour monitors with video connectors (D-Sub; DVI-D; USB; S-video and composite-video). The monitors were classified at import at 8528 21 90 (14% duty rate) as video monitors. However, Kamino appealed, arguing that these were computer monitors classifiable at 8471 60 90 (0% duty rate) on the grounds that they were of a kind solely or principally used in an automatic data-processing ("ADP") machine.



The Amsterdam Court of Appeal accepted the appeal. It was of the view that the characteristics of the monitors were such that they were suitable for use by designers and graphic artists – and, in particular for being viewed close up. However, this decision was appealed by Dutch Customs to the Dutch Supreme Court which referred the following three questions to the European Court of Justice (“ECJ”).

1. “Must Note 5 to Chapter 84 of the... CN...be interpreted as meaning that a colour monitor which can display both signals from an ADP machine as referred to in heading 8471...and from other sources is excluded from classification under heading 8471...?”
2. “If classification in heading 8471...of the...monitor referred to in the first question is not excluded, on the basis of which criteria must it then be determined whether it is a unit of the kind that is solely or principally used in an ADP machine?”
3. “Does the scope of application of Regulation...754/2004...extend to the monitors at issue and, if so, in light of the answers to the first and second questions, is that regulation valid?”

### Summary of Decision

The ECJ ruled that...

1. The fact that a monitor can display signals from other sources as well as from an ADP machine does not exclude it from heading 8471 – 0% duty rate - under Note 5(E) nor under Note 5(B) to Chapter 84. In particular, re Note 5(B): to exclude such monitors would render ineffective the part of Note 5(B) referring to units “of a kind...**principally** used in an ADP machine”
2. To determine if a monitor is indeed of a kind **principally** used in an ADP machine, the national authorities, including national courts, must refer to the criteria listed in the Harmonised System Explanatory Notes (“HSENs”) relating to the display units of ADP machines.
3. Commission Regulation 754/2004 classifying certain plasma monitors at heading 8528 is not applicable to the LCD monitors in question. The LCD monitors are neither identical nor sufficiently similar to be classified by analogy with the products in Regulation 754/2004.

### Classification of LCDs

This decision is extremely important regarding the issue of the classification of LCD monitors that can display signals from both an ADP machine and other sources.

It confirms that the ability of a monitor to display signals from other sources as well as from an ADP machine does not exclude it from classification under heading 8471 either by virtue of Note 5(B) or Note 5(E) to Chapter 84.

According to the ECJ, the interpretation of Note 5(B) applied by the Dutch Authorities and the Commission (and based on the HSENs and CNENs) completely excluded the possibility of a monitor that is of a kind “principally” used in an ADP machine being classified at heading 8471. This interpretation is clearly incompatible with the wording of Note 5(B) and so cannot be applied (as explanatory notes are not legally binding).

The Court stated that the criteria for determining whether a monitor is “principally” used in an ADP machine are not confined to the type of sockets with which the monitor is equipped. One must also look at other technical characteristics and do so in the light of the monitors’ capability to perform a number of functions and the standard of performance of those functions.

According to the ECJ, this should be done by referring to the criteria set out in the HSENs to heading 8471; in particular the ECJ stated that, for monitors to qualify as being principally used in ADP machines of heading 8471:

- they should be intended to be viewed close up;
- they cannot display television signals;
- they have low magnetic field emissions;
- their display pitch starts at 0.41mm for medium resolution and gets smaller as the resolution increases;
- their bandwidth is 15MHz or greater;
- the dimension of the pixels on the screen is smaller than for video monitors whereas the convergence is greater.

### Classification by Analogy

In answering question 3 (see above), the ECJ clarified further the cases where a classification regulation can be applied by analogy to goods similar to those covered by that regulation. While such application by analogy allows for a coherent interpretation of the CN, the ECJ stated

that, in such cases, the goods in question must be “sufficiently similar” to the goods covered by the regulation for classification by analogy to apply.

In Kamino, the regulation at issue classified plasma (rather than LCD) monitors with different screen sizes and pixel dimensions to the Kamino monitors. Thus, in the Court’s view, the Kamino monitors were neither identical nor “sufficiently analogous” to the goods in the regulation for that regulation to apply to them.

### Implications

If you are importing monitors which are capable of displaying signals from both an ADP machine and other sources and which meet the criteria set out in the bullet points above, this case is of interest to you. There may be an opportunity on the basis of this ruling to argue that your goods should be liable to a 0% duty rate at import. Moreover, there may be an opportunity to claim a refund for any customs duty paid on such imports for the last three years.

We anticipate that the EU Commission, together with the Customs Authorities of the Member States, will be reviewing the impact of this judgment. It is possible that, as a result of this review, guidelines will be published on how this decision should be interpreted by the Member States. We will update you further on any developments in future issues.

**Paul Rodgers**, PwC Ireland  
([paul.rodgers@ie.pwc.com](mailto:paul.rodgers@ie.pwc.com))

### Judgment of the Court of First Instance concerning the application for remission and repayment of import duties because of a special situation based on a retroactive opening of tariff quotas

#### Parties:

Nortrail Transport GmbH (Germany) versus the Commission of the European Communities.

#### Background:

Nortrail Transport GmbH (Nortrail) is a German freight forwarder and customs agent.

Since July 1995, Nortrail continuously imported consignments of various fishery products from Norway on behalf of its clients. From 1 July 1995, the goods were



eligible for release for free circulation duty free under the tariff quotas provided for in Council Decision 95/312/EC of 24 July 1995 on the conclusion of an Additional Protocol to the Agreement between the European Economic Community and the Kingdom of Norway consequent on the accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden to the European Union. The tariff quotas were opened by Council Regulation (EC) No 3061/95 of 22 December 1995 amending Regulation (EC) No 992/95 opening and providing for the administration of Community tariff quotas for certain agricultural and fishery products originating in Norway. German customs offices were informed of the opening of tariff quotas with effect from 1 September 1995 by a note from the German Federal Ministry of Finance on 31 August 1995. On 4 October 1995, however, German customs offices were notified that those quotas had in fact been opened retrospectively with effect from 1 July 1995. In this context, Nortrail applied for the duty-free release of the goods for free circulation with effect from 1 September 1995. The competent customs office determined that the customs exemption which Nortrail had applied for could not be granted in respect of a certain number of imports, and that the standard tariff rate applied. On that basis, the relevant customs office demanded that Nortrail pay import duties for the release for free circulation of the goods concerned. Nortrail paid part of the import duties.

Nortrail applied for remission and repayment of those duties. After the competent customs office had rejected the application and Nortrail appealed against this decision in various ways, the Bundesfinanzhof (German

Federal Finance Court) considered that the dossier should be sent to the Commission to be examined under Article 239 of the Community Customs Code (CCC) and the repayment / remission regulations of the Implementing Regulation (IR), as the circumstances of the case might constitute a special situation. On the request of the German authorities, the Commission decided that the remission/repayment of those duties was not justified (REM 15/02). Hereafter, Nortrail asked the Court of First Instance (CFI) for an annulment of the decision of the Commission dated 1 October 2004 (REM 15/02).

#### Findings:

The CFI dismissed the action and decided that the circumstances referred to by Nortrail do not represent a special situation within the meaning of Article 239 of the CCC.

The CFI stressed that as far as Nortrail argued that there was no reason for the retrospective opening of the tariff quotas, Nortrail did contest the lawfulness of the retrospective opening of the tariff quotas.

Moreover, the retrospective opening of tariff quotas is not unusual. According to Council Decision 95/312/EC, the reason for the retrospective opening was the accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden to the European Union (EU). According to the Commission, the retrospective opening of tariff quotas has often been established, especially when new member states have accessed the EU. The CFI also pointed out that without Council Regulation (EC) No 3061/95, the tariff quotas would not have been opened at all, with the result that nobody could have engaged them.

Regarding the argument that the German authorities informed traders later than the authorities of other Member States, the CFI recalled that the only text authorising drawing on the tariff quotas was the regulation opening them. Furthermore, a dossier submitted by the German authorities showed that the applicant knew already in June 1995, before Decision 95/312/EC had even been published, that a tariff quota would be opened.

According to the court, Article 308a of the IR is not violated, because the Commission did not draw on quotas prior to the time which was determined by the decisive regulation. Besides, the aforementioned article had not been incorporated into the IR at the time in question.

The CFI also stated that the Regulation was not “structurally deficient”, as Nortrail had claimed. Nortrail submitted that the measure adopted was inadequate and misleading, and that the discrepancy between the date the Community measure was published and the opening date of the tariff quotas which the measure regulates and which takes effect retrospectively, was misleading. This made it possible for national customs authorities to interpret the opening date of the tariff quotas differently, which infringed the principle of non-discrimination.

In this context the CFI reasoned that problems of interpretation of Customs regulations cannot cause a special situation for an importer in comparison with other importers in the same situation. This is in reference to the consistently taken view of ECJ that the provisions of Article 239 of the CCC and the repayment / remission regulations of the IR represent a general principle of equity designed to cover a special situation in which an operator, which would not otherwise have incurred the costs associated with post-clearance entry in the accounts of customs duties, might find itself in compared with other operators carrying out the same activity.

The CFI pointed out that Member States could submit their drawing requests up to 5 February 1996, on which date the tariff quotas were allocated. Therefore, no Member State could grant access to the quotas before that date.

The German authorities showed diligence in ensuring that the Customs declarations submitted by Nortrail during July and August 1995, for which no application for access to the quota was made, nevertheless did gain allocations where the applicant could provide the necessary documents. Contrary to Nortrail’s opinion,

this was no act of equity, but a consistent act concerning the retrospective opening of tariff quotas.

Nortrail also argued that if it had known that the quotas were open from 1 July 1995, it would have carried out a greater number of imports from that date, applying for the preferential tariff. In this context the CFI assessed that Nortrail could have asked his clients to provide the documentary evidence needed to apply to draw on the quotas despite the contradictory information of the German authorities because of knowledge obtained from other sources, but Nortrail had not done so.

Moreover, the CFI stressed that for the tariff quotas in question, the competent German authorities submitted applications for allocations representing on average half of all the applications. German applicants accessed the tariff quotas extensively, especially in July and August 1995. Therefore, the administrative practice of the competent authorities did not prevent Nortrail from applying in time for allocations from tariff quotas.

The CFI determined that the German authorities took all necessary actions to ensure the applicants access to tariff quota, although they informed German traders that the tariff quotas were open from 1 July 1995, well after the authorities in other Member States had informed their traders about this fact.

The CFI ruled that the German authorities had not been in the position to diagnose the time of the exhaustion of the tariff quotas until 5 February 1996; before that day they were not forced to project the time of exhaustion of the tariff quotas. Nortrail was informed about the opening of the tariff quotas on 6 October 1995 at the latest. Nevertheless, Nortrail applied for the duty-free release of the goods for free circulation until 30 November 1995.

Furthermore, the CFI stated that if German authorities applied the Regulation more strictly than the customs authorities in certain other Member States, this would also not constitute a special situation within the meaning of Article 239 of the CCC as long as the German authorities implemented the Regulation correctly.

As far as Nortrail claimed that it was discriminated against other importers who applied for a tariff quota, the opening date of which had been known before, the CFI ruled that the principle of non-discrimination is not infringed because the factual backgrounds are not similar.

The CFI reiterated that the argumentation of Nortrail applies to an indefinite number of other operators carrying out the same activity in the same branch, so it cannot establish a special circumstance according to Article 239 of the CCC and the repayment / remission regulations of the IR.

### Implications

The decision of the CFI demonstrates again that the conditions for a special circumstance within the sense of Article 239 of the CCC and the repayment / remission regulations of the IR are very difficult to meet.

Similarly, the individual responsibility of an importer for knowing and interpreting regulations is also stressed in line with the previous case law of the European Court of Justice.

**Martin Michaelis**, PwC Germany  
([martin.michaelis@de.pwc.com](mailto:martin.michaelis@de.pwc.com))

## Unilateral implementation of the Interim Agreement between Serbia and the EU – latest changes in the approach

One of the concerns associated with the unilateral implementation of the Interim Agreement by Serbia was how EU exporters would determine and prove EU preferential origin under the rules laid down in the Interim Agreement, given that this agreement has not entered into force in the EU.

In an effort to overcome this challenge, the Serbian Government has adopted some amendments to the Decree on Customs-Permitted Handling of Goods (the Decree). These amendments entered into force on 7 February 2009, and they were followed by an updated Instruction issued by the Customs Administration.

The amendments deal with the differences that existed in the applicable rules of preferential origin that were included in the Interim Agreement and in the relevant EU Commission Regulation. These differences had made the effective unilateral implementation of the Interim Agreement impossible.

Broadly, the amendments provide that for determining preferential origin both for Serbian and EU goods, the Serbian Customs should use the set of origin rules prescribed by the Decree rather than those set in the Interim Agreement. Origin rules in the Decree are in line with those set by the relevant EU Implementing Regulations.

Finally, Serbian Customs are of the view that the no-draw back rule should not apply under the Interim Agreement, because this is not part of the EU regulations relevant for the unilateral application of the Interim Agreement. This means that Serbian manufacturers will not be liable to pay customs duties on non-originating materials used in the production of originating products for the purpose of exporting them in the EU.

**Nebojsa Jovanovic**, PwC Serbia  
([nebojsa.jovanovic@rs.pwc.com](mailto:nebojsa.jovanovic@rs.pwc.com))

## An update of the principles for trading in dual-use items

At the beginning of 2009, there was a change in the principles for trading in dual-use goods. Amongst others, the list of dual-use items whose exports require authorisation was changed.

On 3 December 2008, Council Regulation (EC) No 1167/2008 amending and updating the existing Community regime for the control of exports of dual-use items and technology was published in the Official Journal of the European Union. The amendments came into force on 2 January 2009.

The regulation is an update of the existing regulations and is the result of aligning them with the amendments in the regulations on trading in dual-use goods introduced on international forums. In particular, the changes introduced by the current update relate to the lists of dual-use items which are subject to restrictions in trade. Thus, the list of dual-use items the export of which requires an authorisation is being changed. The said list is presented in Annex I to the regulation. Modifications have also been made to Annex IV to the regulation. Part I of Annex IV contains a list of dual-use goods with regard to which, in the event of an intra-Community transfer, an authorisation is required. Part II of Annex IV is a list of dual-use items which may not be subject to general national authorisation.

**Andrzej Milczarczyk**, PwC Poland  
([andrzej.milczarczyk@pl.pwc.com](mailto:andrzej.milczarczyk@pl.pwc.com))

**Dorota Wal**, PwC Poland  
([dorota.wal@pl.pwc.com](mailto:dorota.wal@pl.pwc.com))

## An increase in the level of the security deposit in respect of excise duty on tobacco products in Poland

Effective 1 March 2009, i.e. as of the date of the Polish Excise Duty Act of 6 December 2008 (“the new act”) coming into force, the method used for calculating the level of the security deposit in respect of excise duty connected with the movement (under the excise duty suspension regime) of tobacco products not marked with a maximum retail price (intended for markets in other countries) will be changed.

On the grounds of the Excise Duty Act of 23 January 2004, which is still in force, there are no precise regulations governing the method to be used for calculating the level of the said security deposit. Therefore, as practice shows, the interested businesses agree the method to be used for calculating the level of the security deposit in respect of excise duty with the relevant tax authorities.

The new act clearly regulates the method to be used for calculating the level of the security deposit in respect of excise duty. In accordance with the new regulations, the excise duty rates for tobacco products not marked with a retail price will be as follows: for cigarettes – PLN 300 per 1,000 cigarettes, and for smoking tobacco – PLN 200 per kilogram.

At the same time, the Minister of Finance, by virtue of Art. 66, clause 2, item 3 of the new act, has gained the right to specify instances in which the level of the security deposit in respect of excise duty may be lower than the one specified in the act. However, the draft decree on this matter, presented on the website of the Ministry of Finance, does not contain a provision enabling the level of the security deposit for tobacco products to be lowered. Thus, while calculating the level of the security deposit, businesses which dispatch tobacco products to other countries will be obliged to take into account the excise duty rates specified in the act. This means that after 1 March 2009 the level of the security deposit which should be provided for the purposes of movement of tobacco products under the excise duty suspension regime may increase significantly.

**Michał Krzewinski**, PwC Poland  
([michal.krzewinski@pl.pwc.com](mailto:michal.krzewinski@pl.pwc.com))

**Radosław Piekarczyk**, PwC Poland  
([radoslaw.piekarczyk@pl.pwc.com](mailto:radoslaw.piekarczyk@pl.pwc.com))

## Recent Classification Regulations

- A Regulation classifying a bedspread at heading 9404, which attracts duty at a rate of 3.7%, was published on 22 January 2009.

Heading 9404 covers, inter alia, “articles of bedding and similar furnishing (for example, mattresses, quilts, eiderdowns, cushions, pouffes and pillows) fitted with springs or stuffed or internally fitted with any material or of cellular rubber or plastics, whether or not covered”.

The product in question consists of a quilted rectangular article, measuring approx. 260 cm × 240 cm, consisting of three layers. The two outer layers are made of woven cotton fabric, the middle layer is synthetic wadding which constitutes the internal fitting and the upper layer has a sewn-on border, approx. 30 cm wide, of a contrasting colour. The layers are held together by decorative stitching. Section XI, which includes Chapter 63, excludes articles of Chapter 94 (furniture, bedding etc.)

Classification in heading 6304 (“Other furnishing articles, excluding those of heading 9404”) is therefore excluded.

Moreover, as seen above, heading 6304 specifically excludes furnishing articles of heading 9404, such as bedspreads.

Classification in heading 6304 would have attracted a duty rate of 12%.

- A Regulation classifying a container similar to a shopping bag at CN code 4202 92 19, which attracts a duty rate of 9.7%, was published on 23 January 2009. The product is not regarded as a plastic bag but as a reusable bag for continued use.

The bag is made of fabric woven from a polypropylene strip. It is cuboid in shape and has two handles sewn all the way along the side and underneath the bag. The bag is visibly coated with plastic sheeting on both surfaces, there are no compartments inside, and it can be closed on the top with a zip fastener. The edges are reinforced with a sewn-on band.

The bag’s shape, reinforced handles and design for prolonged use (plastic sheeting, zip fastener and reinforced border) are considered to give it the objective characteristics of ‘a container similar to a shopping bag’.



As Chapter 39 excludes containers of 4202, the product cannot be classified in heading 3923. This would have attracted a duty rate of 6.5%.

As the outer surface of the article is covered with plastic sheeting visible to the naked eye, the product meets the criteria of Additional Note 1 to Chapter 42 and therefore subheading 4202 92 19 is applicable.

- The EU has also published an amendment to the Combined Nomenclature Explanatory notes relating to vegetable oil. The amendment states that vegetable oils of subheading 1517 90 91 also include mixtures of chemically modified vegetable oils. The duty rate for this subheading is 9.6%.

**Deirdre Jennings**, PwC Ireland  
([deirdre.jennings@ie.pwc.com](mailto:deirdre.jennings@ie.pwc.com))

### Provisional anti-dumping duty on imports of wire rod originating in China and the Republic of Moldova

On 8 February 2009, a regulation of the Council of the European Communities imposing a provisional anti-dumping duty on imports of wire rod originating in the People's Republic of China and the Republic of Moldova came into force.

Wire rod (i.e. bars and rods, hot-rolled, in irregularly wound coils, of iron, non-alloy steel or alloy steel) is mainly used for welded mesh in the construction industry (pre- or post-stressing wires and wire strands used for reinforcement of concrete), and has many other uses after been drawn into wire, including in the tyre industry (tyre cord), in the nut and bolt industry (fasteners), fencing products, supermarket trolleys, steel cord, electrodes, cables, bed springs, suspension springs and welding wire.

Provisional anti-dumping duty was introduced in connection with the European Commission anti-dumping proceedings, concerning imports of wire rod originating in China, Moldova and Turkey into the Community on 8 May 2008. The proceedings were initiated as a result of a complaint lodged by EUROFER on behalf of producers representing 25% of the total Community production of wire rod. The product subject to the proceedings does not include stainless steel wire rod.

The rate of provisional anti-dumping duty on wire rod from China amounts to 24.6%, except for the Valin Group for which it amounts to 8.6%. For products from the Republic of Moldova, the duty rate has been set at 3.7% for all enterprises. The said duty will apply for a period of six months.

**Andrzej Milczarczyk**, PwC Poland  
([andrzej.milczarczyk@pl.pwc.com](mailto:andrzej.milczarczyk@pl.pwc.com))

**Agnieszka Kasperek**, PwC Poland  
([agnieszka.kasperek@pl.pwc.com](mailto:agnieszka.kasperek@pl.pwc.com))

### Other Anti-Dumping Updates

- Council Regulation of 26 January 2009 imposing a definitive anti-dumping duty on imports of certain iron or steel fasteners originating in the People's Republic of China
- Impending expiry of anti-dumping/ countervailing measures on graphite electrode systems originating in India (9 September 2009 - unless a review is initiated).
- Commission Decision of 6 February 2009 terminating the anti-dumping proceeding concerning imports of certain hot-dipped metallic-coated iron or steel flat-rolled products originating in the People's Republic of China

**Deirdre Jennings**, PwC Ireland  
([deirdre.jennings@ie.pwc.com](mailto:deirdre.jennings@ie.pwc.com))

## Wider Network News

### Asia Pacific Indirect Tax Conference

PricewaterhouseCoopers - Tax Executives Institute Asia Pacific Indirect Tax Conference will take place in Singapore on **Tuesday, 10 March 2009**. This conference will feature:

- Updates and insights on the developments in indirect taxes around the Asia Pacific region;
- Current issues such as the implications of transfer pricing and indirect taxes;
- Country-specific workshops on China, India and Indo-China;
- Avoid VAT/GST and customs pitfalls and exploit opportunities in supply chain structuring;
- Re-examine strategies to manage your indirect taxes in the economic downturn.

Further details can be obtained by opening the following link:

[www.pwc.com/sg/2009ITXconference](http://www.pwc.com/sg/2009ITXconference)

### China: Customs & International Trade News Bulletin, January 2009

- China's 2009 Tariff Changes & completion of China's commitments for accession into the WTO

Please email the editor if you require a copy of this bulletin.

([damian.mccarthy@ie.pwc.com](mailto:damian.mccarthy@ie.pwc.com))

## European Contact Details

Country	Name	E-mail	Telephone
Austria	Christine Weinzierl	<a href="mailto:christine.weinzierl@at.pwc.com">christine.weinzierl@at.pwc.com</a>	(43) 1 501 88 3605
Albania	Loreta Peci	<a href="mailto:loreta.peci@al.pwc.com">loreta.peci@al.pwc.com</a>	(355) 4 242 254
Azerbaijan	Movlan Pashayev	<a href="mailto:movlan.pashayev@az.pwc.com">movlan.pashayev@az.pwc.com</a>	99412) 497 74 05
Belgium	Dirk Aerts	<a href="mailto:dirk.aerts@pwc.be">dirk.aerts@pwc.be</a>	(32) 3 259 3214
Bulgaria	Tania Pavlova	<a href="mailto:tania.pavlova@bg.pwc.com">tania.pavlova@bg.pwc.com</a>	(359) 2 91 003
Croatia	Iain McGuire	<a href="mailto:iain.mcguire@hr.pwc.com">iain.mcguire@hr.pwc.com</a>	(385) 1 6328 807
Cyprus	Chrysilios Pelekanos	<a href="mailto:chrysilios.pelekanos@cy.pwc.com">chrysilios.pelekanos@cy.pwc.com</a>	(357) 22 555280
Czech Republic	Nora Grymova	<a href="mailto:nora.grymova@cz.pwc.com">nora.grymova@cz.pwc.com</a>	(420) 251 152 629
Denmark	Winni Nielsen	<a href="mailto:winni.nielsen@dk.pwc.com">winni.nielsen@dk.pwc.com</a>	(45) 3945 9454
Estonia	Ain Veide	<a href="mailto:ain.veide@ee.pwc.com">ain.veide@ee.pwc.com</a>	(372) 614 1978
Finland	Juha Laitinen	<a href="mailto:juha.laitinen@fi.pwc.com">juha.laitinen@fi.pwc.com</a>	(358) 9 2280 1409
France	Guy Le Gall	<a href="mailto:guy.le.gall@fr.landwellglobal.com">guy.le.gall@fr.landwellglobal.com</a>	(33) 1 56 57 44 22
Germany	Götz Neuhahn	<a href="mailto:goetz.neuhahn@de.pwc.com">goetz.neuhahn@de.pwc.com</a>	(49) 30 2636 5445
Greece	Panagiotis Tsouramanis	<a href="mailto:panagiotis.tsouramanis@gr.pwc.com">panagiotis.tsouramanis@gr.pwc.com</a>	(30) 210 6874 547
Hungary	Tamás Locsei*	<a href="mailto:tamas.locsei@hu.pwc.com">tamas.locsei@hu.pwc.com</a>	(36) 1 461 9358
Ireland	Damian McCarthy	<a href="mailto:damian.mccarthy@ie.pwc.com">damian.mccarthy@ie.pwc.com</a>	(353) 1 792 6203
Israel	Shay Shalhevet	<a href="mailto:shay.shalhevet@il.pwc.com">shay.shalhevet@il.pwc.com</a>	(972) 3 7954811
Italy	Luca Lavazza	<a href="mailto:luca.lavazza@it.pwc.com">luca.lavazza@it.pwc.com</a>	(39) 02 9160 5701
Kazakhstan	Kristina Kriščiunaite-Bartuseviciene	<a href="mailto:kristina.bartuseviciene@lt.pwc.com">kristina.bartuseviciene@lt.pwc.com</a>	(7) 327 298 06 19
Latvia	Ina Spridzane	<a href="mailto:ina.spridzane@lv.pwc.com">ina.spridzane@lv.pwc.com</a>	(371) 709 4513
Lithuania	Kristina Kriščiunaite-Bartuseviciene	<a href="mailto:kristina.bartuseviciene@lt.pwc.com">kristina.bartuseviciene@lt.pwc.com</a>	(370) 5 2392 365
Luxembourg	Anne Murrath	<a href="mailto:a.murrath@lu.pwc.com">a.murrath@lu.pwc.com</a>	(352) 49 48 48 3120
Macedonia	Katerina Carceva	<a href="mailto:katerina.carceva@mk.pwc.com">katerina.carceva@mk.pwc.com</a>	(389) 02 3111 012
Malta	Neville Gatt	<a href="mailto:neville.gatt@mt.pwc.com">neville.gatt@mt.pwc.com</a>	(356) 2564 6719

## European Contact Details

Country	Name	E-mail	Telephone
The Netherlands	Ruud GA Tusveld*	<a href="mailto:ruud.tusveld@nl.pwc.com">ruud.tusveld@nl.pwc.com</a>	(31) 10 4075 669
Norway	Yngvar Engelstad Solheim	<a href="mailto:yngvar.engelstad.solheim@no.pwcglobal.com">yngvar.engelstad.solheim@no.pwcglobal.com</a>	(47) 95 26 06 57
Poland	Hubert Jadrzyk*	<a href="mailto:hubert.jadrzyk@pl.pwc.com">hubert.jadrzyk@pl.pwc.com</a>	(48) 2 25 234 837
Portugal	Mario Braz	<a href="mailto:mario.braz@pt.pwc.com">mario.braz@pt.pwc.com</a>	351 21 3599624
Romania	Daniel Anghel	<a href="mailto:daniel.anghel@ro.pwc.com">daniel.anghel@ro.pwc.com</a>	(40) 21 202 8688
Russia	Marina Volkova	<a href="mailto:marina.volkova@ru.pwc.com">marina.volkova@ru.pwc.com</a>	(7) 495 967 6223
Serbia and Montenegro	Veljko Vukovic	<a href="mailto:veljko.vukovic@yu.pwc.com">veljko.vukovic@yu.pwc.com</a>	(381) 11 3302 160
Slovakia	Eva Fricová	<a href="mailto:eva.fricova@sk.pwc.com">eva.fricova@sk.pwc.com</a>	(421) 2 59 350 613
Slovenia	Marijana Ristevski	<a href="mailto:marijana.ristevski@si.pwc.com">marijana.ristevski@si.pwc.com</a>	(386) 1 58 36 019
South Africa	Gerard Soverall	<a href="mailto:gerard.soverall@za.pwc.com">gerard.soverall@za.pwc.com</a>	(27) 11 797 5004
Spain	Pilar Salinas	<a href="mailto:pilar.salinas@es.landwellglobal.com">pilar.salinas@es.landwellglobal.com</a>	(34) 91 568 45 35
Sweden	Kajsa Boqvist	<a href="mailto:kajsa.boqvist@se.pwc.com">kajsa.boqvist@se.pwc.com</a>	(46) 8 555 338 24
Switzerland	Michaela Merz	<a href="mailto:michaela.merz@ch.pwc.com">michaela.merz@ch.pwc.com</a>	(41) 58 792 44 29
Turkey	Cenk Ulu	<a href="mailto:cenk.uldu@tr.pwc.com">cenk.uldu@tr.pwc.com</a>	(90) 212 326 64 24
United Kingdom	Emma Ormond	<a href="mailto:emma.ormond@uk.pwc.com">emma.ormond@uk.pwc.com</a>	(44) 207 804 51 35
Ukraine	Igor Dankov	<a href="mailto:igor.dankov@ua.pwc.com">igor.dankov@ua.pwc.com</a>	(380) 44 490 67 77
Uzbekistan	Abdulhamid Muminov	<a href="mailto:abdulhamid.muminov@uz.pwc.com">abdulhamid.muminov@uz.pwc.com</a>	(998) 71 120 4879

## Global Contact Details

Country	Name	E-mail	Telephone
Americas	Domenick Gambardella	<a href="mailto:domenick.gambardella@us.pwc.com">domenick.gambardella@us.pwc.com</a>	(1) 646 471 3791
Asia	John Robinson	<a href="mailto:john.robinson@sg.pwc.com">john.robinson@sg.pwc.com</a>	(65) 6236 7318

[www.pwc.com/ie](http://www.pwc.com/ie)

© 2009 PricewaterhouseCoopers. All rights reserved.  
“PricewaterhouseCoopers” refers to the network of member firms of PricewaterhouseCoopers International Limited, each of which is a separate and independent legal entity. PricewaterhouseCoopers, One Spencer Dock, North Wall Quay, Dublin 1 is authorised by the Institute of Chartered Accountants in Ireland to carry on investment business. Designed by PwC Design Studio (00084)