

## Customs & Import Trade

Richard A. Mojica

PRACTICE LEAD

Miller & Chevalier's Customs and Import Trade Practice advises on import-related requirements enforced by U.S. Customs and Border Protection (CBP) and customs administrations worldwide. Our team is led by a former CBP headquarters attorney and our clients span a broad range of industries. Our experience includes advising on the following areas:

- **Compliance Counseling.** We offer practical advice on the full range of import-related matters spanning from the "nuts and bolts" (including tariff classification, valuation, country-of-origin marking, and preference program-eligibility determinations) to developing industry-leading compliance programs. We can also advise clients on foreign customs matters, if the need arises.
- **Customs Enforcement.** We defend companies in customs enforcement proceedings, including civil and criminal penalty actions, import/export seizures, and free trade agreement verifications. When a company independently discovers an error in its import transactions, we advise and assist in evaluating the matter and in preparing voluntary (prior) disclosures to CBP and the U.S. Department of Commerce, greatly reducing or eliminating monetary penalties for such violations.
- **Tariff Mitigation.** In response to the tariffs imposed pursuant to Section 232 of the Trade Expansion Act of 1962 and Sections 201 and 301 of the Trade Act of 1974, we have helped numerous companies implement strategies to mitigate the impact of the additional duties within the confines of the law.
- **Audits.** When a client is targeted for an audit, we assist by both managing the audit process and by developing compliance resources that mitigate the clients' risk of non-compliance with the customs laws.
- **Duty-Saving Programs.** We counsel clients on how to minimize the cost of importing merchandise by utilizing duty-savings programs and other forms of strategic customs planning, including free trade agreements, duty drawback, foreign trade zones (FTZs), the "First Sale" rule in customs valuation, and temporary duty-suspension legislation.
- **Anti-Dumping and Countervailing Duty (ADD/CVD) Orders.** We handle a variety of issues relating to the imposition and enforcement of ADD/CVD orders, including evaluating scope issues, requesting scope rulings, determining proper cash deposit rates, and managing any related enforcement actions.
- **Customs Litigation.** As duty rates have declined and litigation costs have increased, we often counsel clients not to litigate classification and value issues. However, when litigation has been a reasonable option, our team has a track record of success before the Court of International Trade and the Court of Appeals for the Federal Circuit in litigating import-related disputes.
- **Voluntary Partnership Programs.** We help companies prepare for membership and comply with the eligibility requirements of voluntary partnership programs with CBP, such as the Importer Self-Assessment (ISA) program, the Customs-Trade Partnership Against Terrorism (C-TPAT), the Trusted Trader Program, and the Centers of Excellence and Expertise (CEEs).
- **U.S. Trade Legislation and Regulations.** We keep our clients ahead of the curve with our advocacy efforts on trade-related regulatory issues before the executive branch and Congress, including U.S. trade and investment agreements. We provide the full range of government affairs services.

## Representative Engagements

- Designing and assisting with the implementation of internal customs compliance programs for U.S.-based multinational companies.
- Representing a major importer of natural oils in litigation before the U.S. Court of International Trade in a tariff classification matter resulting in a significant duty refund.
- Assisting companies in the electronics, petroleum refining and automotive sectors with their applications, review by CBP, acceptance, and continued participation in the C-TPAT and the ISA program.
- Conducting an internal compliance assessment on the FTZ operations of a major auto parts importer.
- Investigating potential customs violations and preparing significant prior disclosures for clients in the consumer products, railway, petroleum, high-tech, machine tools, healthcare, and manufacturing sectors.
- Advising and representing a major air courier with respect to liquidated damage claims and in obtaining a major legislative change affecting user fees.
- Advising and representing petroleum, chemical, and wine importers before CBP and TTB with respect to obtaining drawback and the recently enacted legislation that simplified the drawback law.
- Representing a major camera and optical goods company in establishing its right to use the “first sale” rule with respect to goods imported from a related company.
- Successfully petitioning for tariff relief under the Miscellaneous Tariff Bill (MTB) for products imported by a kitchen appliance company and a major camera and optical goods company.
- Assisting a Japanese electric utility company obtain an extension of time to re-export fuel assemblies covered by an AD/CVD order pursuant to Changed Circumstances Review.
- Conducting import-focused due diligence in the context of mergers and acquisitions for companies in the healthcare, defense and pharmaceutical industries.
- Counseling a medical device company on the rules of origin applicable to government procurement contracts under the Buy American Act (BAA), the Trade Agreements Act (TAA), and the American Recovery and Reinvestment Act (ARRA).
- Serving as customs counsel to major trade associations.

## Government Experience

- General Counsel, U.S. Department of Commerce
- Counselor to the Secretary, U.S. Department of Commerce
- Deputy General Counsel, U.S. Department of Commerce
- Trial Attorney, Counterintelligence and Export Controls Section, National Security Division, U.S. Department of Justice
- Counsel, Assistant Attorney General for National Security, U.S. Department of Justice

- Attorney-Advisor, Office of International Trade - Regulations & Rulings, U.S. Customs and Border Protection

## **Rankings and Recognition**

- *Chambers Global*: International Trade (United States), 2005 - 2015
- *Chambers USA*: International Trade (Nationwide), 2005 - 2014
- *Latinvex*: Top 10 Latin American FCPA & Fraud Firm, 2015 - 2021
- *Legal 500*: Dispute Resolution: International Trade (U.S.), 2011, 2013 - 2021
- *U.S. News - Best Lawyers*<sup>®</sup> "Best Law Firms": International Trade and Finance Law (National), 2011 - 2021
- *U.S. News - Best Lawyers*<sup>®</sup> "Best Law Firms": International Trade and Finance Law (District of Columbia), 2011 - 2021