

## Trade Policy

### A Complex Trade Environment

Exporting, importing, and investing in the global market are a necessity for successful businesses and a national economic priority for governments around the world. Actions in Washington, Geneva, Tokyo, and Brussels are felt in Beijing, Brasilia, and Delhi and vice versa. The rules of the World Trade Organization (WTO) and other trade and investment agreements, combined with individual countries' domestic laws, regulations, and policies, significantly affect, and often determine, the success of efforts by companies, industries, and governments to attain their objectives around the world. International organizations, including financial institutions and standard-setting bodies, add a further layer of complexity to global commerce. These organizations interact with government policies and significantly impact corporate growth strategies, as well as the trade and economic agendas of governments.

To be fully effective in the global marketplace, private entities and governments must comprehend and profit from the nexus of global, regional, and bilateral rules of commerce and investment; domestic laws, regulations, and policies; and the influence of international institutions. Our team understands these complex sets of rules, policies, and interests. We bring our multidisciplinary experience in economics, politics, and cross-cultural communication in order to help our clients effectively navigate the global market, where the competition is fierce and the stakes are high.

Our Trade Policy and Market Access group provides legal and policy advice, negotiation and litigation strategies and representation, and foreign and domestic government affairs and stakeholder advocacy to clients that aggressively pursue their positions in the global market. Whether our client is a company seeking to expand its market presence in the United States or other countries; a government negotiating or implementing a trade, investment, or international economic agreement; or a corporation, industry, or government embroiled in a trade dispute or trade-related litigation, Miller & Chevalier offers creative strategies and solutions to secure favorable results.

### Broad Trade Policy Experience

Members of Miller & Chevalier's Trade Policy and Market Access practice have broad-based experience representing corporations, trade associations, non-governmental organizations, and governments. We offer substantial depth and breadth in the full range of trade policy matters, including:

- Bilateral and regional trade and investment agreement negotiations;
- WTO negotiations;
- International trade litigation, including WTO, NAFTA, and other bilateral disputes, and U.S. trade remedy proceedings;
- Market strategies in the U.S. and other key markets; and
- Advice regarding U.S. legislation and regulation.

In addition, to help clients identify and advance their international trade and investment objectives, the Trade Policy and Market Access practice is integrated with other relevant practice areas of the firm, including:

- Antidumping, countervailing duty, and safeguard remedies;
- Global customs and import compliance;
- Export controls, economic sanctions, and national security related investment reviews;

- Foreign Corrupt Practice Act (FCPA) and related compliance issues;
- International and domestic taxation; and
- Litigation.

Due to our breadth and overall reputation for excellence, Miller & Chevalier has been continually ranked among the top international trade practices by *Chambers USA* and *Chambers Global*. Our team includes a veteran group of skilled professionals who draw on their [senior government](#) and private practice experience to achieve clients' objectives.

Members of the Trade Policy and Market Access practice combine decades of government service with experience developed in private practice to provide unequalled service to clients. Our knowledge and experience allow us to achieve client objectives in five core areas:

### **Foreign and U.S. Market Strategies**

Our primary focus is helping clients develop and implement strategies to compete in target markets. While in positions with the government, members of our team were closely involved in numerous market access initiatives on behalf of the United States. These included industry sector initiatives, FTAs and preference programs, and multilateral trade agreements. In private practice, we have drawn on this experience to develop and implement market expansion strategies in the United States and other markets for companies and industries, in addition to advising foreign governments. We help clients better understand the legal, regulatory, and policy environment of target markets. In situations in which a client already has entered a market, we work to enhance the conditions of competition or the environment for investment and trade. We counsel and advocate regarding relevant trade and investment agreements and negotiations; programs, policies, and standards of international institutions; and laws, regulations, and policies of the United States and other relevant governments. If litigation cannot be avoided, we aggressively pursue client interests in the proper forum, be it domestic or international. Where advisable, we team with local law firms and other experts to enhance client service.

### **U.S. Legislation and Regulation**

Our Trade Policy and Market Access practice includes seasoned government affairs professionals with substantial experience in developing and implementing legislative and regulatory strategies to help clients meet their objectives in the United States and around the world. We provide the full range of government affairs services, including drafting legislation, influencing Congressional decision-making, representing clients in Executive Branch rulemaking and policy development, and coordinating the Executive Branch's response to foreign government actions that are adverse to client interests in the United States or abroad.

### **World Trade Organization (WTO) Affairs**

Miller & Chevalier has extensive experience in the affairs of the WTO. Members of the Trade Policy, and Market Access practice have been involved with agreements under WTO auspices on behalf of governments, industries, and companies. The group's experience has been developed through decades of service in government and private practice. Our experience extends to various major negotiations over the past twenty years, including:

- The Uruguay Round agreements that created the WTO and its dispute settlement mechanism;
- The Information Technology Agreement under the WTO;
- Negotiations occurring under the WTO Doha Development Agenda; and
- The accessions to the WTO of China and Taiwan.

### **Bilateral and Regional Trade and Investment Agreements**

Members of our Trade Policy and Market Access practice have deep experience regarding free trade agreements (FTAs) and other bilateral trade and investment agreements. Our experience includes the following bilateral and multilateral agreements:

- The U.S. - Canada FTA;
- The U.S. - Chile FTA;
- The U.S. - Jordan FTA;
- The U.S. - Colombia FTA;
- The U.S. - Israel FTA;
- The U.S. - Morocco FTA;
- The U.S. - South Korea FTA;
- The U.S. - CAFTA-DR FTA; and
- The North American Free Trade Agreement (NAFTA).

Furthermore, we have negotiated or been directly involved in numerous bilateral sectoral and product-specific trade agreements, including:

- The U.S. - Japan Insurance Agreement;
- The U.S. - Japan Semiconductor Agreement;
- The U.S. - Canada Softwood Lumber Agreements; and
- The U.S. - Canada Agreement on Magazines/Periodicals.

Our team has also been directly involved in negotiating other types of agreements, including bilateral investment treaties, standards, and government procurement-related agreements. Our experience across the spectrum of international trade allows us to provide guidance on most issues that may arise during negotiations. Our professionals have represented corporations; industries, including agriculture, services, and manufacturers; and governments, including Canada, Japan, Morocco, and Taiwan.

## **International Trade Disputes**

Miller & Chevalier has litigated many international trade and investment disputes, including many of the largest and most significant disputes to date. Our efforts have helped clients achieve their goals in the United States and around the world. We have opened markets for clients' products and helped them obtain relief from anti-competitive practices.

Members of our practice have represented governments and private interests in disputes before various international fora, including:

- WTO dispute settlement panels and the WTO Appellate Body (and, before the creation of the WTO, GATT panels);
- NAFTA panels and Extraordinary Challenge Committees; and
- International Centre for Settlement of Investment Disputes (ICSID) arbitral tribunals.

Our team has extensive WTO and bilateral treaty dispute settlement experience, extending to a wide range of sectors -- including agriculture, intellectual property, and services.

## Representative Engagements

### Foreign and U.S. Market Strategies

- Successfully representing a U.S. company in a case involving the U.S. Generalized System of Preferences that preserved the company's ability to import component parts duty-free for integration into a manufactured product.
- Developing and implementing a tariff and tariff-rate quota market access strategy in Asia, Europe, and Latin America for the U.S. dairy processing industry.
- Advising a large foreign direct investor facing aggressive and illegal foreign government tactics and actions in a key country in Asia.
- Developing and implementing an effort to reduce antidumping duties in Brazil for a chemical company.
- Advising an energy company on developments in U.S. foreign and trade policy and international financial institution programs as they relate to the economic and political conditions of countries in Central Asia, the Middle East, Africa, Latin America, and Asia.
- Advising a business organization on appropriate strategies to advance a bilateral trade, investment and tax agenda involving the United States and a major trading partner.
- Advising a foreign government on strategies for dealing with the U.S. government on bilateral, regional, and multilateral trade and investment issues.
- Developing a trade and related domestic policy strategy for a multinational food and nutritional ingredients company facing tariff and other regulatory barriers in the U.S. and in key foreign markets.

### U.S. Legislation and Regulation

- Working with a coalition of companies to pursue and obtain passage of the Miscellaneous Tariff Bill.
- Developing tax legislation to replace the Foreign Sales Corporation Tax with a WTO-compliant provision of law.
- Coordinating a coalition of companies and developing legislative language to ensure that implementation of federal law pertaining to an agriculture product market promotion program complies with U.S. international trade obligations.
- Representing an industry association before the Office of the U.S. Trade Representative, U.S. Department of Agriculture, and the Congress on trade and agriculture policy issues.
- Representing companies involved in antidumping proceedings successfully and providing the requisite strategic government affairs support.
- Coordinating a coalition of companies interested in proposed tariff legislation.
- Developing legislative language for certain antidumping and countervailing duty provisions and providing Congress the U.S. Government's position on proposed legislative changes.

## Government Experience

- General Counsel, U.S. Department of Commerce

- Chief Counsel, U.S. Customs Service (now U.S. Customs and Border Protection)
- General Counsel, U.S. Nuclear Regulatory Commission
- Counselor to the Secretary, U.S. Department of Commerce
- Deputy General Counsel, U.S. Department of Commerce
- Deputy Chief Counsel, U.S. Customs Service (now U.S. Customs and Border Protection)
- Assistant Chief Counsel, U.S. Customs Service (now U.S. Customs and Border Protection)
- Legislative Director, U.S. Senator
- 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*: Latin America's Top 10 FCPA & Fraud Firm, 2015 - 2021
- *Legal 500*: Dispute Resolution: International Trade (U.S.), 2011, 2013 - 2022
- *Legal 500*: Government: Government Relations (U.S.), 2015 - 2022
- *U.S. News - Best Lawyers*<sup>®</sup> "Best Law Firms": International Trade and Finance Law (National), 2011 - 2022
- *U.S. News - Best Lawyers*<sup>®</sup> "Best Law Firms": International Trade and Finance Law (District of Columbia), 2011 - 2022