

## MMTA TRADE AND LOBBY COMMITTEE'S NEWSLETTER

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### CUSTOMS CLASSIFICATION OF GOODS: LOWER IMPORT DUTIES BY USING THE CLASSIFICATION RULES

#### 1. The importance of the classification of minor metals

The classification of goods, including minor metals, determines the level of customs duty upon import. Changing the classification can therefore change the duty level. Technically, every imported good falls under a certain customs classification code. The import duty and other trade measures, like quotas, are applied by reference to these codes.

#### 2. The legal system for classification

202 countries in the world apply the same basic six-digit code structure to classify goods, the so-called Harmonized System ("HS" codes). Each country has the right to make further subdivisions under this six-digit code structure. The EU, for instance, makes further divisions at an eight-digit level (known as CN codes), and up to a 12-digit level known as TARIC codes. In the EU, ordinary import duties are based on the eight-digit CN codes.

#### 3. Possibilities to change the classification (thereby lowering your duties)

The HS codes (six-digit level) are revised every five or six years. The CN codes (eight-digit level) are updated every year. This offers a regular opportunity to request changes to the classification codes, which clearly could impact the customs duties that are due.

Take the **example of silicon**. The EU allows duty-free entry for very pure silicon that is used in the electronics industry and levies a 5.5% duty for silicon that is used in the aluminium, metallurgical and chemical industry (and a 49% anti-dumping duty if this non-electronic silicon originates in China).

Duties could be removed or reduced by adding subdivisions as illustrated in two examples below. The first example distinguishes between silicon purity levels and the second example adds an additional purity requirement.

Current CN codes in the EU		
CN Code	Description: Silicon	Duty rate
2804 61 00	Containing by weight not less than 99.99% of silicon	Free
2804 69 00	Other (containing 99.98% and below)	5,5%
<b>Example 1</b>		
2804 61 10	Containing by weight not less than 97% of silicon	?
2804 69 00	Other (containing less than 97% of silicon)	5,5%
<b>Example 2</b>		
2804 61 10	Containing by weight not less than 99.98% and a maximum calcium	?

	<i>content of 0.02%</i>	
2804 69 00	Other	5,5%

#### 4. What should you do

Companies should check what import duties apply to the metals they import and review the possibilities of making tariff savings through a modification of existing codes or the adoption of a new classification code. Further, for better business certainty, importers can ask for binding customs rulings on what code – and thus also the duty level – that applies to their products.

Please contact the [MMTA](#) or [Arnoud Willems](#) at Sidley Austin for more information.

