

Customs valuation - A new approach

This week the World Customs Organisation (WCO) discussed in detail a new approach towards interpreting the WTO valuation agreement with regards the treatment of trademark royalties. This is coupled with new guidance issued by the European Commission on the same issue. As a consequence, the majority of trademark royalties are likely to be treated as dutiable (as the trademark royalty will be regarded as part of the customs value of the imported product) regardless of when and to whom the royalty is paid.

Companies with trademarks in consumer goods (e.g. fashion, beverage, electronic and foodstuffs sectors) are among those most likely to be affected.

Businesses affected by this change in interpretation of the customs rules will almost certainly face significant annual duty increases amounting, in some cases, to several tens of millions of pounds on a global level, together with knock-on increases in import VAT, guarantees and the level of indirect tax risk. It is also possible that customs authorities will seek to apply this guidance retrospectively.

Action will be needed by affected businesses. Existing structures will need to be reviewed to assess the impact of the changes and consideration given to what may be done to mitigate the effect. This will be a global issue for many businesses, requiring a global solution.