

# Customs & Trade in Israel

## A Legal Newsletter

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### It's Time to Establish the Rulings Database

Adv. Gill Nadel

The matter in question is quite simple: why is there no Customs rulings database regarding classification, valuation and origin in Israel? We may only gaze with envy upon the amazing American database, or its comprehensive (if less detailed) EU classification compatriot, the Canadian equivalent and others. These databases include custom authorities' rulings on classification of goods, origin status under trade agreements, goods' valuation for customs purposes, and more.

Truth be told - there is no good reason such a database was not established. Following a proceeding we held against the Customs Authority over a decade ago (!!!), in February 2010 the State of Israel committed to establishing a rulings database in the wake of being pressured on the subject by the Supreme Court. Below is a quote from the Supreme Court's protocol:

**"Following our comments, we have been informed that there is an intent to act in order to publicly publish advanced rulings regarding the classification of goods. In this manner, the transparency of the Customs conduct will increase regarding the classification of goods, importers will be able to plan in advance according to validated information, and the concern of discrimination will be decreased. We would add that we are aware that publicizing advanced rulings is also a complex matter. For example, it may be possible that an importer who is interested in importing a certain product will be concerned that his business competitors will discover his intent by the publication of the specific product's classification. Either way, it is the State's view that an amendment to the law is required prior to the publication of such advanced rulings becoming possible, as per the confidentiality provisions. One can hope that the required actions will indeed be taken, so that it will be possible to increase the transparency in the matter of classification of goods for the purpose of duty and purchase tax."** [LA, 10144/06 The State of Israel V. Pharma Guri Ltd.]

These are indeed strong words supporting free trade, transparency and equality - everything we believe in - but no practical action has been taken since.

November 9, 2017 should have been celebrated as a breakthrough in the subject. On that celebratory day the Israeli Government and Minister Committee were presented with an offer to approve the World Trade Organization's (WTO) Trade Facilitation Agreement (TFA). According to WTO estimates, simplifying bureaucratic proceedings can reduce trade costs by up to 14.3% (!), and a significant portion of the TFA addresses the matter at hand - the importance of early access to Customs Authority information.



Section 3 of the FTA states that the Customs Authority must answer a preliminary request within a limited time period. It also states that the Customs Authority must publicize the information required for submitting a preliminary request, the decision period and the validity of the decision, as well as attempt to publicize decisions of significant interest to other parties, considering the circumstances, including protection of confidential information. Its wording is crystal clear:

"Each Member shall endeavour to make publicly available any information on advance rulings which it considers to be of significant interest to other interested parties, taking into account the need to protect commercially confidential information."

While the State of Israel did indeed decide to assign the task of implementing the simplification of trade processes to the Minister of Economy and Industry, the Minister of Finance and other related government ministries, no practical action was taken, and the Customs Authority continues to drag its feet. Whereas it is true that this requires a legislative process and certain consideration for confidentiality matters (though foreign authorities do not shy from such matters), and that the Customs Authority focused its attention on the 'Global Gate' system for an extensive period of time, and so on and so forth - in the end result, the Customs Authority failed to advance the matter despite its declaration before the Supreme Court. There is no true justification for this failure.

It is time for change. Establish the rulings database at once!

**The above review is a summary. The information presented is for informative purposes only, and does not constitute legal advice.**

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