SCHLAG NEWSLETTER BAUM

Dear valued readers,

It’s hard to believe, but the year is already heading into the home stretch. While many of you are busy planning budgets and wrapping up projects, customs and foreign trade law is already gearing up for 2027, with a number of changes you should be aware of.

To make sure you don’t miss anything important in the hustle and bustle of the final weeks of the year, we have put together what we consider the most relevant developments for you:

Design costs in the customs value – Advocate General’s Opinion: In case T-28/25, the Advocate General at the General Court argues that design costs incurred in the Union should be included in the customs value if they are used to produce an assist in a third country.

New requirements for customs representatives and customs departments since 1 September

Our Upcoming Seminars

Schlagbaum Express: Early Bird - What´s new in 2027?

12. November 2026, 09-13 Uhr
Online

More Information

Seminar · Jahresupdate 2026/2027

Find the annual update near you!

Stay up to date: Dr. Ulrich Möllenhoff will brief you on the latest changes in customs and foreign trade for 2026/2027

Select a date in your city now:

· Arnsberg
· Bamberg
· Bayreuth
· Bielefeld
· Bremen
· Darmstadt
· Flensburg
· Hamburg
· Koblenz
· Münster
· Wuppertal

2026: The amended German Tax Advisory Act (Steuerberatungsgesetz) redefines who may advise and represent in customs matters and expressly requires adequate staffing, material and financial resources, the absence of which may be attributed to management as organisational fault.

EU handling fee for distance sales: Since 1 November 2026, distance sales consignments from third countries have been subject to a handling fee of EUR 2 per item, which applies regardless of value and, for consignments up to EUR 150, is charged in addition to the flat-rate customs duty of EUR 3 per item.

From GwG to GwBG – the draft bill is out: According to the draft bill of the German Federal Ministry of Finance, the Money Laundering Act (GwG) is to be replaced by a new Anti-Money Laundering Act (GwBG) as of 10 July 2027.

Trouser buttons and training aircraft – new developments on the definition of dual-use items: In CJEU case C-538/25 concerning aircraft used for pilot training, the Advocate General argues for such a broad interpretation of the term “dual-use” that mere suitability for training military pilots would suffice.

How quickly a single judgment can put an entire industry under pressure is illustrated by a recent



To the Seminar Overview

decision of the General Court of the European Union (case T-529/25): according to this ruling, e-bike parts imported separately from China may be treated as complete e-bikes, which are subject to anti-dumping duties of up to 70 percent. Our partner Dr Ulrich Möllenhoff considers the judgment highly questionable and sees e-bike assembly in the EU as seriously at risk. He explains why in an interview with Manager Magazin (in German): **Warum ein Urteil die E-Bike-Montage in Europa gefährdet**

In our weekly Schlagbaum Podcast, we take a relaxed, conversational look at every aspect of the new Union Customs Code (UCC). We also look ahead: what will companies face from 2027 onwards? Tune in and stay informed!
👉 **Listen now!**

The version of the EU customs tariff applicable from 1 January 2027, known as the Combined Nomenclature, was published in the Official Journal of the EU on 30 October 2026 (**Regulation (EU) 2026/2136**). We will cover this and other changes in our online seminar “Schlagbaum Early Bird – What’s new in 2027?”. On 12 November 2026, from 9:00 a.m. to 1:00 p.m., you will receive a comprehensive online overview of

the changes at the turn of the year in the areas of customs, export control and sanctions, origin of goods and preferences, sustainability (CBAM, German Supply Chain Act, EUDR, packaging), VAT and compliance. A key focus will be the new UCC. To round things off, we will look at developments already emerging for the coming year.

👉 **Register now**

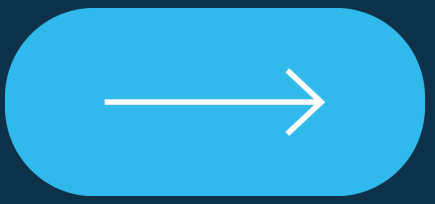
We look forward to your participation and hope you enjoy reading!

Our Topics

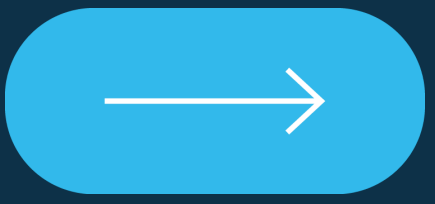
Design Costs Included in the Customs Value - Opinion of the Advocate General

New Requirements for Customs Representatives and Customs Departments since 1 September 2026

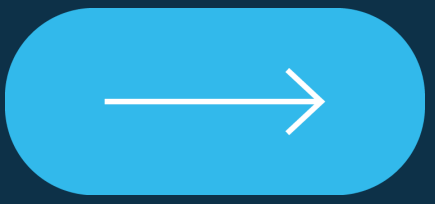
EU Processing Fee for Distance Sales



The Money Laundering Act (GWG) is being replaced by the Anti-Money Laundering Act (GwBG) - the draft bill has been released



Pants Buttons and Training Aircraft—Latest Developments on the Classification of Dual-Use Goods





Find out more about our seminars now!

Learn More

Design Costs in the Customs Value – Opinion of the Advocate General

On 21 October 2026, the Advocate General at the General Court of the European Union (EGC) delivered his opinion on whether design costs are to be included in the customs value of goods (**Case T-28/25**). Whether and how the costs of design development are to be taken into account in the customs value of imported goods affects many companies. The question has occupied the German finance courts for several years and the General Court since last year.

The situation itself is easy to explain and is an everyday occurrence in modern production processes. A German company has a designer in Germany develop a design. The design is used in producing the imported goods in China and is sent to the third country as a PDF file for that purpose. In the case at hand, the design was made into a decal in China and provided to the manufacturer of the imported goods, a porcelain mug, for production purposes. The design was applied to the mug when it was fired. So far, everything is clear!
Things become unclear and disputed when it comes to determining the customs value. Article 71(1)(b)(iv) UCC provides that “intellectual services” developed in the Union are not to be included in the customs value of the imported goods. The legislator wanted to privilege development work for so-called intellectual, i.e. intangible, services in the Union. This, too, still seems clear: the development costs for intellectual services in the Union are not

supposed to increase the customs value!

From the perspective of the German customs administration, however, it is not that clear. In its view, the costs must be reflected in the customs value in a constellation like this one, where an assist within the meaning of Article 71(1)(b)(i) UCC (here the decal) is first produced for manufacturing purposes. The finance court upheld this view (Düsseldorf Finance Court, judgment of 11 August 2021, 4 K 818/20 Z). In the subsequent appeal on points of law (case VII R 28/21), the German Federal Fiscal Court (BFH) referred this question, among others, to the Court of Justice (CJEU), which assigned it to the General Court.

The Advocate General acknowledged that it may seem difficult to understand why the addition of such costs should depend on whether they relate to the production of assists that are incorporated in the imported goods or are necessary for producing them (para. 48). He found this all the harder to accept where the imported goods are not a plain porcelain mug but a decorated porcelain mug with its own visual identity (para. 50). Nevertheless, the Advocate General did not conclude that the costs are to be excluded from the customs value under point (iv). Instead, referring to CJEU case law, he interpreted point (i) very broadly. Citing a commentary on point (ii), Commentary 18.1 on the Customs Valuation Agreement, he took the view that the provision on assists in the form of materials must cover the value of design work as acquisition or production costs (paras. 53 and 54).

It is regrettable that the Advocate General recognised the contradiction created by adding design costs where an assist is produced, yet did not distance himself from outdated case law and commentary. In our view, such a broad interpretation of the provision on assists in the form of materials is not supported by the intention of the legislator. It remains to be seen how the Court will ultimately decide. The judges are not bound to follow the Advocate General’s opinion.

The Author



Almuth Barkam
Rechtsanwältin

Please feel free
to contact me!

info@ra-moellenhoff.de
+49 251 85713 0

New Requirements for Customs Representatives and Customs Departments since 1 September 2026

With effect from 1 September 2026, the legislator has introduced new requirements for customs representatives and also for customs departments. In Germany, these are governed by the Tax Advisory Act (Steuerberatungsgesetz, StBerG). Why? Because not everyone is allowed to offer advice and representation in customs matters. Only the professionals proper, namely tax advisers, auditors and lawyers, are authorised to provide so-called assistance in tax matters, which includes customs advice and representation. So-called “legal services” may even be provided only by lawyers. Legal services also include advice on the entire field of foreign trade law, sanctions law and export control law.
The Act extends this principle for certain professional groups. The new section 4d permits “freight forwarders” to carry out all procedural acts in import and export matters and in the excise treatment of goods traded with EU Member States. “Freight forwarders” in this sense are businesses that arrange for the dispatch of goods (section 453 of the German Commercial Code, HGB). Beyond that, “other customs representatives” are permitted to advise in import and export matters. Compared with the authorisation of freight forwarders, this does not include advice and representation in matters of consumption taxes (Verbrauchsteuern).

Since import VAT is also a consumption tax (section 21 of the German VAT Act, UStG), this type of charge is covered for freight forwarders. Whether the fact that this charge is not

mentioned for “other customs representatives” means that their advisory authorisation does not extend to it must be left open, because import VAT is also an import duty within the meaning of section 1 of the Customs Administration Act (ZollVG). The Act is unclear on this point. At least the other consumption taxes are presumably not covered here. Advice and representation on all questions of foreign trade, export control and sanctions are ruled out unless the person is authorised to provide legal services.

This finding matters because the work of advisers and representatives should be covered by appropriate professional liability insurance. If the activity in which the error occurred was not covered by the advisory authorisation, insurance cover will also be lost.

The requirements for the internal organisation of representatives are also new. Adequate resources in terms of staff, equipment and finances are required. This means a sufficient number of adequately qualified staff and sufficient work equipment (IT), training and insurance. Strictly speaking, this already applied under compliance law. Now, however, the legislator has expressly included it in the Act (section 4b StBerG). As a result, missing or inadequate resources will now be regarded as organisational fault on the part of management. This can lead to fines and personal liability if it is considered to be the cause of any errors.

These rules also apply accordingly to the customs departments of companies. Here, too, attention should be paid to adequate resources in terms of staff, expertise and finances.
In addition, within groups of companies, the tasks that departments perform for other group companies should be defined and clarified in a contractual agreement. Perhaps more on this in a future article.

We will be happy to support you in assessing and optimising any internal organisational measures. We can also help you put internal arrangements and rules within your group in writing where departments carry out such activities for other group companies, which is privileged within a group at least as far as legal services are concerned.
Please feel free to contact us.

The Author



Dr. Ulrich Möllenhoff
Rechtsanwalt

Please feel free
to contact me!

info@ra-moellenhoff.de
+49 251 85713 0

EU Handling Fee for Distance Sales

Since 1 November 2026, the customs authorities of all Member States have been levying a Union handling fee of EUR 2 per goods item on goods from distance sales. It comes on top of the flat-rate customs duty of EUR 3 that has applied since 1 July 2026. Unlike that duty, the fee has no value threshold.

In our article New Union Customs Code published we pointed out that the amount of the fee still had to be set by a delegated act of the Commission. This has now been done with Delegated Regulation (EU) 2026/2152.

1. Legal basis

Article 20 of Regulation (EU) 2026/2108 (new Union Customs Code, “nUCC”) provides that the fee is levied. Its amount is set by Commission Delegated Regulation (EU) 2026/2152 of 21 September 2026, which is based on Article 20(10) nUCC.

The Union handling fee is introduced as a fixed amount per goods item (Article 20(2) nUCC). It is payable for processing a declaration for release for free circulation where the goods are sold by way of distance sale to a purchaser in the customs territory of the Union. Under Article 20(6) nUCC it is non-refundable.

The amount of the fee is linked to the approximate costs of processing by the customs authorities. These include data checks, risk analyses, controls and infrastructure, including the services of the EU Customs Authority (EUCA) (Article 20(3) nUCC).

2. Amount, calculation and scope

The fee is EUR 2 per goods item. It is a fixed amount and applies regardless of the value of the consignment. Unlike the EUR 3 duty, it is not time-limited.

Under Article 5(78) nUCC, a goods item means one or more goods in a consignment that have the same tariff classification, the same description of goods and, where it must be stated in the declaration, the same origin. Since 1 July 2026, Article 1(61) UCC-DA (inserted by Delegated Regulation (EU) 2026/1022) has defined the term “item” in the same way. According to the Commission’s guidance, technical limitations of the IT systems mean that in practice the fee is charged per declaration item, however many units it covers.

The chosen dataset can therefore affect the number of items. Since 1 July 2026, the H7 dataset has been available for all distance sales up to EUR 150 that are not subject to prohibitions or restrictions (Article 143a UCC-DA, new version). The H6 dataset is available to postal operators up to EUR 1,000 (Article 144 UCC-DA, new version). In H7, only the six-digit HS code is declared, without origin. In H6, the CN code is declared, without origin. In H1, by contrast, the ten-digit TARIC code is declared together with origin.

The Commission gives the example of three women’s suits made of different materials. The H7 declaration results in one item (EUR 3 duty + EUR 2 fee). The H1 declaration results in three items (EUR 9 duty + EUR 6 fee), because the distinction is made solely on the basis of the commodity code declared in each case.

3. Relationship to the EUR 3 flat-rate duty

Both charges are levied side by side and calculated using the same item logic. Where the EUR 3 duty applies, EUR 5 is therefore payable per item, plus import VAT.

Legally, however, the two differ significantly. Since Article 1(24) UCC-DA was amended by Delegated Regulation (EU) 2026/1022, the concept of “goods in postal consignments” no longer depends on carriage by a postal operator. It covers all distance-sale goods in consignments up to EUR 150, except IOSS goods and goods receiving preferential treatment. Apart from Article 2(a) of Regulation (EU) 2026/382, the EUR 3 duty therefore applies to almost all distance sales up to EUR 150.

Under Article 3(1) of Regulation (EU) 2026/382, the Commission was to examine by 1 October 2026, and monthly thereafter, whether trade diversion is occurring. If so, it will propose extending the EUR 3 duty to all goods in consignments up to EUR 150. No result of the review under Article 3(1) of Regulation (EU) 2026/382 has been published so far.

4. Information in the customs declaration

Since 1 November 2026, the TARIC code Y126 must be entered in data element 12 04 002 000 for distance sales in H1, H6 and H7 declarations, and this triggers the fee. The decisive point in time is importation. Goods ordered before 1 November are therefore also covered if they are imported after that date.

On the same date, the voluntary phase for product identifiers ended. These could be provided from 1 July 2026 onwards (Article 2(3) Delegated Regulation (EU) 2026/1022; definitions in Article 1(57) to (60) UCC-DA). The following must be entered in data element 12 03 000 000 for each goods item:

- C127: the trader's or platform's product identifier (e.g. article number)
- C128: non-standardised manufacturer identifier (e.g. model number)
- C129: standardised manufacturer identifier (e.g. EAN, ISBN), where available; otherwise code Y081 in data element 12 04

Where an item covers several products, the identifiers must be provided for each product. German Customs provides information on this in ATLAS-Info 0984/26.
There is currently some uncertainty about the scope. According to the wording of Annex B UCC-DA (note on DE 12 03 000 000), the obligation applies to every item in a distance sale with no value threshold, which in the H1 dataset would include items above EUR 150. In point 8.2 of its guidance, the Commission announces a clarification that only consignments up to EUR 150 are meant to be covered.

What does this mean for your business?

1. **Clearly identify distance sales.** Check your flows of goods to see whether a distance sale is involved. The decisive questions are whether the goods are supplied to non-taxable persons and whether the supplier is involved in the dispatch, even only indirectly. Pure B2B imports are not affected. However, since 1 July 2026 they have been subject to the regular customs tariff up to EUR 150.
2. **Recalculate costs.** Calculate per declaration item, not per parcel or per unit. Keep in mind that an H1 declaration can generate more items than H6 or H7 because of the ten-digit classification and the origin information. A tariff preference may reduce the customs duty, but it does not reduce the fee.
3. **Review contracts with service providers.** Anyone declaring as an indirect representative owes the fee themselves, alongside the person represented. Expressly agree who bears the costs, indemnification and the supply of data, and review the reference amount of your comprehensive guarantee.
4. **Factor in returns.** The fee is charged for the processing. It is not refunded in the case of return shipments, non-release after acceptance of the declaration, or subsequent invalidation.
5. **Obtain the data.** The trader, manufacturer and, where applicable, EAN identifiers must reach the declarant. Incorrect or incomplete information is a compliance risk.

The Author



Maximilian Pohl
Rechtsanwalt

Please feel free
to contact me!

info@ra-moellenhoff.de
+49 251 85713 0

Anti-Money Laundering Act (GWG) Becomes Money Laundering Combating Act

On 28 October 2026, the Federal Ministry of Finance published the **draft bill** on the new anti-money laundering law. The draft largely corresponds to the requirements of the **6th EU Anti-Money Laundering Directive (Directive (EU) 2024/1640)**, which must be transposed by 10 July 2027. The current Anti-Money Laundering Act (Geldwäschegesetz) is to be repealed and will in future be called the Money Laundering Combating Act (Geldwäschebekämpfungsgesetz).

The following key changes are planned:

- Traders in goods will no longer be among the obliged entities. The exceptions are traders in precious stones, precious metals and cultural goods, which are now exhaustively defined in the Directive.
- Payment agents, e-money agents and issuers of asset-referenced tokens, among others, will no longer be obliged entities.
- New obliged entities will include crowdfunding service providers, non-financial mixed holding companies, mortgage and consumer credit intermediaries, professional football clubs (only from 2029) and businesses that carry out currency exchange only as a side activity (hotels, travel agencies, etc.).

A cash payment limit of EUR 10,000 for commercial transactions will also be introduced. Breaches will be subject to fines.

The stricter rules come with more authorities and powers. A Central Coordination Office for AML Supervision will be set up at BaFin to coordinate the roughly 250 supervisory bodies. The FIU will receive more resources and powers, such as account monitoring and penalty payments, and must therefore appoint a so-called fundamental rights officer. The Transparency Register will require more mandatory information and may in future be inspected on site. In addition, obliged entities will have to register with their competent supervisory authority, which is also to be empowered to impose penalty payments.

Please note that, under section 45(1), second sentence, GwG, “privileged” traders in goods are obliged to register with the FIU via the **goAML** portal by 1 January 2027.
The draft may still be amended up to 10 July 2027. Until then, the current legal situation applies. You should monitor these developments and adapt your compliance system. We will be happy to support you or train you on your new obligations.

The Author



Julia Gnielinski
Rechtsanwältin

Please feel free
to contact me!

info@ra-moellenhoff.de
+49 251 85713 0

Trouser Buttons and Training Aircraft – New Developments on Distinguishing Dual-Use Items from Civilian and Military Goods

In Case C-538/25, the Advocate General at the CJEU set out a comprehensive interpretation of the term “dual-use items” in Article 2(1) of Regulation (EU) 2021/821 in her Opinion. She opened with Nikita Khrushchev’s anecdote that trouser buttons are dual-use goods, because a soldier who had to hold up his trousers would only have one hand free to shoot. The anecdote illustrates how blurred the line between civilian and military goods is.

Facts

The applicant is an Austrian manufacturer of a training aircraft designed for pilot training in general aviation and for aerobatics. According to the findings of the referring Austrian court, the aircraft is neither specially designed for military purposes nor equipped with military components. Nor is it listed in Annex I to Regulation (EU) 2021/821.

The applicant applied for an export authorisation for several of these aircraft, which were to be delivered to a civilian trading company in Myanmar. According to the application, the end user was the Myanmar Air Force. The competent authority prohibited the export on the grounds that the goods would be used to train military pilots and could technically be converted for reconnaissance or surveillance flights. The applicant essentially argues that the aircraft was not designed for military purposes and that military conversion is impossible.

The authority based the prohibition on human rights considerations, which under Article 9 of the Regulation may be taken into account for non-listed dual-use items.

The CJEU must clarify the following questionas:

The interpretation of the term “dual-use items” in Article 2(1) of the Regulation, in particular the criteria for identifying such items, namely that an item “can also be used for military purposes”.

Part (a) asks whether the item must contribute significantly to the capabilities of the armed forces, or whether it is sufficient that it serves to train military personnel where the basic training does not differ from that for civilian personnel.

Part (b) asks whether the military capabilities of the end user or consignee, the situation in the third country, the possibility of conversion and the risk of diversion must be taken into account, or whether only the condition of the item at the time of export matters.

Interpretation of the term “dual-use items”

The starting point is the definition in Article 2(1) of Regulation (EU) 2021/821, according to which dual-use items are items, including software and technology, which can be used for both civil and military purposes.

The Advocate General finds that the term “also for military purposes” must be interpreted broadly, even though the Regulation thereby constitutes an exception to the common principle of free exports. This is because the recitals of the Regulation place security concerns on an equal footing with free trade. Only a broad concept makes it possible to

respond flexibly to changing strategic developments. The risk of unlimited controls is contained by the fact that restrictions under Article 9 are only permissible on grounds of security or human rights.

For part (a) of the question, it follows that an item does not have to contribute significantly to the capabilities of the armed forces. The Regulation sets no threshold. Any connection between the potential uses of the item and the armed forces of the third country is therefore sufficient. On that basis, suitability for the basic training of military pilots is enough, even if that training is the same as the training of civilian pilots.
For part (b), what matters is solely the objective suitability of the item based on its physical characteristics at the time of export. This follows from the wording (“can be used”), which does not require proof of the actual user or the specific use. The relevant characteristics include the objective possibility of conversion, but not the design intention or the intended use. The military capabilities of the end user and consignee, the situation in the third country, conversion and the risk of diversion are irrelevant to classifying an item as dual-use.

They only become relevant in a second step, when it comes to whether an authorisation can be required under Article 9 of Regulation (EU) 2021/821.

According to the Advocate General, the Court should therefore answer the first question referred as follows. For an item to be classified as usable “also for military purposes”, its suitability for training military pilots is sufficient, without any requirement of a significant contribution to the capabilities of the armed forces. What matters is solely the objective suitability of the item based on its physical characteristics at the time of export.
The judgment is still pending and is expected within the next six months. We will keep you informed of further developments in the proceedings.
Follow our newsletter or visit our annual update events!

The Author



Julia Gnielinski
Rechtsanwältin

Please feel free
to contact me!

info@ra-moellenhoff.de
+49 251 85713 0