

ADVANT Beiten



FOREIGN TRADE LAW

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ADVANT AT A GLANCE

ADVANT is an association of European law firms with the strategic positioning and international network that allows it to reliably guide clients through Europe's complex legal landscape.

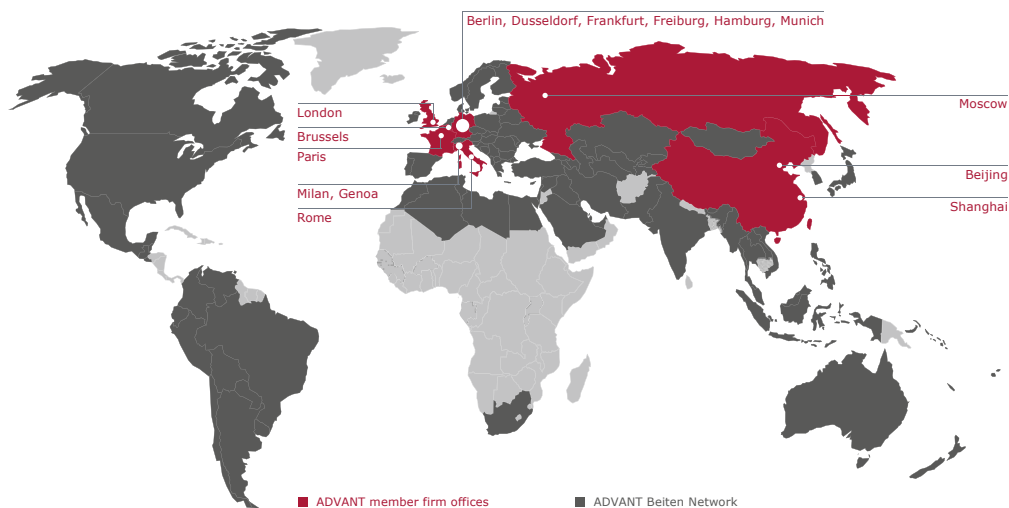
ADVANT was launched in 2021 by three founding members: Beiten Burkhardt in Germany, Altana in France, and Nctm in Italy. Each **ADVANT** member is a leading commercial law firm in its respective jurisdiction.

ADVANT Beiten

Founded in 1990 as Beiten Burkhardt, **ADVANT Beiten** is an independent law firm with around 260 lawyers, tax advisors and auditors working from six German offices as well as offices in Brussels, Moscow and Beijing.

We advise medium-sized companies, large corporations, banks, foundations, and public sector organisations on German and international commercial law. We work seamlessly with the **ADVANT** member firms and our worldwide network of top-tier firms to advise, support and represent our clients in all legal matters, both in Germany and around the world.

Our firm has consistently been ranked as one of the leading firms by legal directories, including Chambers Europe, Legal 500, Who's Who Legal, JUVE, and Wirtschaftswoche.





OUR EXPERTISE

Foreign trade law has become increasingly important with the rise of antagonisms in the global economy and accompanying surge in protectionist measures. We have assisted our industrial clients with their international projects since 1990, including with all foreign trade law issues. We advise on matters of **export control, trade embargoes** and **sanctions**, as well as anti-dumping and subsidy proceedings, questions of **international payment transactions** and all aspects of the ever more complex **investment control law**.

With a track record spanning more than 25 years, we have amassed extensive foreign trade law expertise – at a European level with our own office in Brussels, as well as in bilateral German-Russian and German-Chinese economic relations through our offices in Beijing and Moscow. This experience directly benefits our clients.

OUR EXPERTISE

- Investment control
- Embargoes and sanctions
- Export and import control, customs
- International payments

INVESTMENT CONTROL

Foreign trade law plays an ever-increasing role in cross-border transactions. Our team assesses whether transactions in Germany and other countries are subject to filing requirements under foreign direct investment law regimes. We prepare the filings and coordinate with lawyers from other jurisdictions as necessary.

- Providing strategic advice to foreign investors on foreign trade acquisitions and carve-out transactions
- Preparing legal due diligence assessments and providing support before and during investment reviews in the context of company acquisitions
- Assisting with and representing investors and vendors in negotiations with the relevant authorities
- Preparing applications for clearance certificates or corporate approvals
- Negotiating contracts or conditions with the German Federal Ministry of Economic Affairs and Climate Action in the context of investment control procedures



Recent cases

- Assisting a company listed on the NYSE with the application for clearance certificates regarding the acquisition of companies active in the cable and wire industry and the cable, communications and medical technology sectors
- Providing foreign trade law advice to an engineering company and applying for a clearance certificate in connection with the acquisition of an industrial energy service provider
- Advising a European defence equipment manufacturer on foreign trade law issues and representing the client in negotiations with the German Federal Ministry for Economic Affairs and Climate Action in relation to the necessary approvals for a joint venture with a US defence equipment supplier
- Providing support to a foreign investor on the investment in a German company active in the field of satellite-based communication services
- Advising a foreign investor on the application for a clearance certificate and drafting and negotiating a public law contract for the acquisition of a German company active in the development of optical measurement and inspection solutions for the semiconductor and microelectronics industry
- Providing foreign trade law advice to a provider of cloud and data centre services as part of a merger with a data centre operator
- Advising a foreign investor on obtaining a clearance certificate and drafting and negotiating a public law contract in connection with the acquisition of a German company active in the field of vacuum coating
- Representing a foreign investor in the acquisition of a German company active in the field of rare metals recycling and advising the client on the investment control procedures for the acquisition of the business premises and assets following the insolvency of the target company

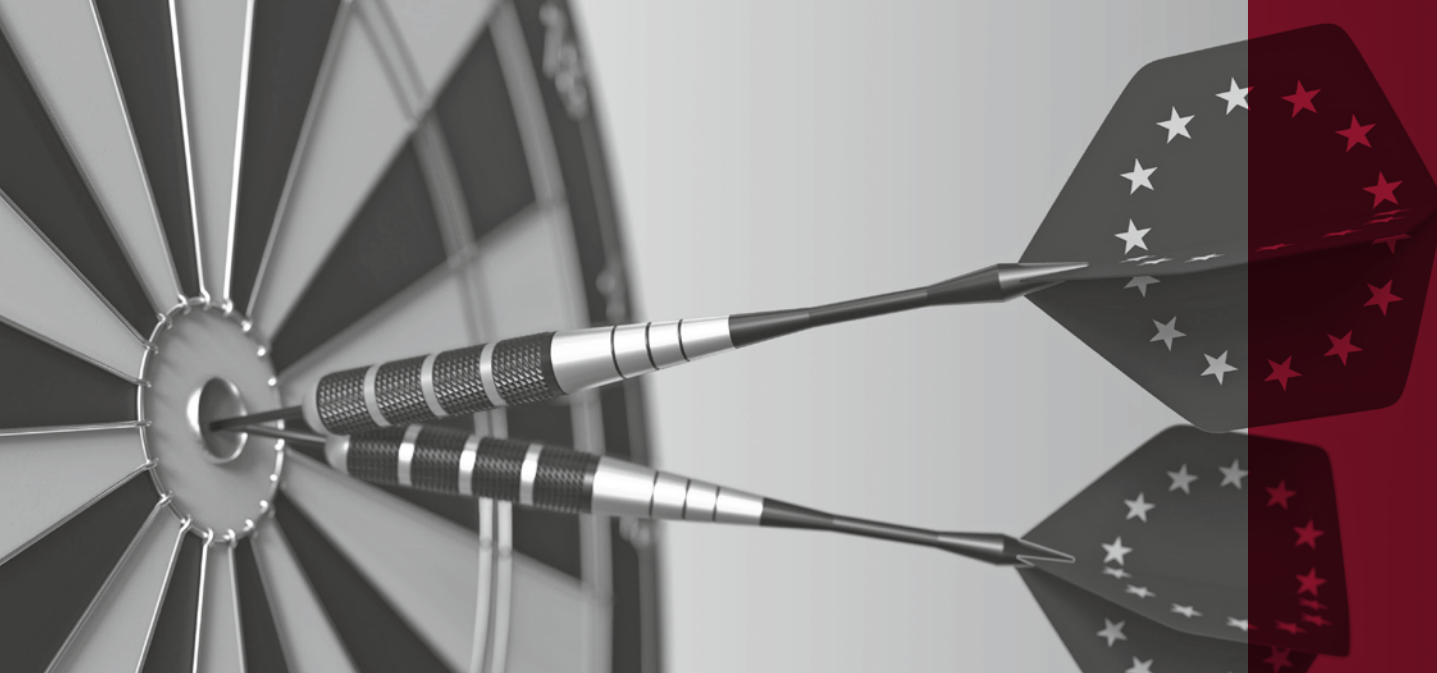
EMBARGOES AND SANCTIONS

The European Union and key trading partners have enacted a variety of embargoes and sanctions that affect supplies, services, and financial transactions. Our experts work closely with lawyers from other affected jurisdictions to review contracts and their implementation under national and European law. We make the necessary filings with the competent authorities and represent clients in administrative proceedings.

- Providing advice on embargo and sanctions law issues applicable to the client's foreign business in affected countries (e.g. Russia, Iran, Libya, etc.) or with affected individuals
- Assessing the compliance of individual contracts and transactions with sanctions
- Advising on the sale and delivery of certain goods to countries affected by sanctions or to affected individuals
- Assisting with financial transactions involving sanctioned countries or affected individuals
- Providing advice on the inclusion of certain individuals and companies in the list of persons affected by sanctions, including providing representation in administrative proceedings and before the European courts

Recent cases

- Examining the agreement for the provision of services to a subsidiary of a Libyan holding affected by several sanctions and advising on the structuring of services and the provision of hardware and software in the telecommunications sector
- Advising a German agricultural group on the impact of sanctions law on the refinancing of the group's Russian business and existing EU financial sanctions



- Providing compliance advice to a manufacturer of profiles on its supply chain structure, the fulfilment of government orders in Russia, and existing EU sanctions
- Negotiating with a German major bank on behalf of a European manufacturer of industrial plants and providing a legal opinion based on the bank's rejection of a guarantee due to sanctions
- Establishing a legal help desk for individual questions concerning sanctions law, supplier screening and compliance procedures under sanctions law for a European industrial group

EXPORT AND IMPORT CONTROL, CUSTOMS

Many goods are subject to national and European import and export controls and the payment of customs duties. Our experts advise on the design and implementation of supply agreements under national and European law. We represent clients before the competent authorities in administrative and legal proceedings.

- Designing and assisting with the implementation of cross-border import and export transactions
- Advising on export trade, especially on export licences and export control law issues
- Assisting with applications for import and export licences, documentation, and certificates of conformity
- Providing support and assistance with negotiations and communications with customs authorities, the Federal Office of Economics and Export Control and the Foreign and Economic Ministries
- Increasing the awareness of executives and employees regarding trade restrictions imposed by embargoes and the related liability risks
- Advising on the classification of goods and providing representation before the customs authorities and institutions of the European Union
- Obtaining binding tariff and origin information
- Advising on the removal of trade barriers in third countries
- Preparing applications and representing clients in actions against damaging dumped and subsidised imports from third countries

Recent cases

- Representation in customs proceedings concerning duty-free treatment of imports of protective masks
- Advising a German automotive supplier on the structure of the supply chain and manufacturing parts of vehicles, which are subject to control when exported from Germany but not from other countries

- Advising and representing European producers of a wide range of products against injurious imports of dumped or subsidised products from non-EU countries and the imposition of anti-dumping and countervailing duties
- Representing European manufacturers of certain metal products before the EU institutions and committees of national experts to successfully seek the reduction of customs duties
- Providing advice to European manufacturers of fabrics on achieving changes to the submission of goods under the international classification system in order to optimise it for the benefit of manufacturers
- Providing advice and representation to European importers and manufacturers of products on achieving or defending against the imposition of quotas to import at zero duty rates
- Advising a German medical device manufacturer on a strategy to best address US trade barriers
- Representing European Union institutions in foreign trade law proceedings before the European Court of Justice in Luxembourg



INTERNATIONAL PAYMENTS

Reporting obligations for companies and private individuals, such as for foreign payment transactions, also fall within the remit of our foreign trade law team. Companies are often unaware of such requirements, frequently because of the field of business, size, or experience of the company. Various legal implementation issues arise for imports into the customs territory of the European Union. Our team helps clients implement the applicable reporting procedures and communicates with the relevant authorities.

- Advising companies on ongoing compliance with reporting obligations under the German foreign trade and payments regime
- Providing legal support for voluntary disclosures regarding violations of reporting obligations
- Providing representation in the event of violations of reporting obligations

Recent cases

- Assisting a start-up company in the energy sector with the establishment and implementation of an internal compliance structure for monitoring payment transactions that might be subject to reporting obligations, as well as advising on the implementation of the requirements to report foreign sales to the German Federal Bank in the future
- Advising an IT start-up on making voluntary disclosures to the German Federal Bank and the responsible customs office in relation to violations of the reporting obligations for foreign sales
- Advising a purchasing group in the healthcare sector on the implementation of an internal compliance structure to monitor the payment transactions subject to reporting requirements; this included complex trustee arrangements
- Representing and advising individuals in relation to reporting violations and the release of seized funds



YOUR CONTACTS



Prof. Dr Rainer Bierwagen

Partner | Rechtsanwalt
Brussels, Belgium
Hamburg, Germany
Rainer.Bierwagen@advant-beiten.com
T: +32 2 6390000
T: +49 40 688745-0

Prof. Dr Rainer M. Bierwagen is a Partner based in the **ADVANT Beiten** offices in Brussels and Hamburg and is a member of our Competition practice group. He advises national and international clients on competition law, state aid rules, and international trade law. He is recognised as an expert in EU law and represents clients before the EU Courts.

Languages: German, English, French



Gábor Báthory

Partner | Rechtsanwalt
Brussels, Belgium
Gabor.Bathory@advant-beiten.com
T: +32 2 6390000

Gábor Báthory is Partner at **ADVANT Beiten's** Brussels office and member of the Competition practice group. His area of expertise comprises all aspects of EU Law, in particular internal market law, competition law, trade law, as well as fundamental rights and freedoms under the EU Charter of Fundamental Rights and the European Convention on Human Rights. He advises national and international clients on remedies under EU Law and under the European Convention on Human Rights against national measures.

Sprachen: German, English, French, Dutch, Spanish, Russian, Hungarian



Benjamin Knorr

Partner | Rechtsanwalt | LL.M. Eur.
Licensed Specialist for Commercial and Corporate Law
Berlin, Deutschland
Benjamin.Knorr@advant-beiten.com
T: +49 30 26471-262

Benjamin Knorr is Partner at **ADVANT Beiten's** Berlin office and member of the Corporate/M&A and Tax practice groups. His area of activity includes corporate law, mergers & acquisitions, the law governing groups, transformation law as well as the related tax law issues. He advises his national and international clients in particular on corporate transactions and restructuring, especially in the healthcare sector. In addition, he specialises in commercial and corporate law issues and the associated tax implications as well as corporate succession planning.

Languages: German, English



Lelu Li

Senior Associate | Rechtsanwältin
Berlin, Germany
Lelu.Li@advant-beiten.com
T: +49 30 26471-351

Lelu Li is Senior Associate at **ADVANT Beiten's** Berlin office and member of the Corporate/M&A practice group and the China Practice. Her area of expertise comprises mergers & acquisitions, corporate law, as well as foreign direct investment reviews. She particularly advises national and international clients on transactions, restructuring, greenfield projects as well as commercial law.

Languages: German, English, Chinese



Stephan Rechten

Partner | Rechtsanwalt
Berlin, Germany
Stephan.Rechten@advant-beiten.com
T: +49 30 26471-219

Stephan Rechten is Partner at **ADVANT Beiten's** Berlin office and Co-Head of the Public Sector practice group. He provides procurement law advice and assistance to both contracting authorities and awarders of utility contracts on German and Europe-wide award procedures. He has particular expertise in the defence, energy, IT and healthcare sectors.

Languages: German, English, French



Dr Christian von Wistinghausen

Partner | Rechtsanwalt | LL.M.
Berlin, Germany
Christian.Wistinghausen@advant-beiten.com
T: +49 30 26471-351

Dr Christian von Wistinghausen is Partner at **ADVANT Beiten's** Berlin office and Member of the Corporate/M&A practice group. He advises on M&A, private equity, and alternative investments, as well as foreign direct investment laws. He advises national and international clients on cross-border M&A business acquisitions and joint ventures.

Languages: German, English, French, Russian

Our Offices

BEIJING

Suite 3130 | 31st floor
South Office Tower
Beijing Kerry Centre
1 Guang Hua Road
Chao Yang District
100020 Beijing, China
beijing@advant-beiten.com
T: +86 10 85298110

DUSSELDORF

Cecilienallee 7
40474 Dusseldorf
Germany
dusseldorf@advant-beiten.com
T: +49 211 518989-0

HAMBURG

Neuer Wall 72
20354 Hamburg
Germany
hamburg@advant-beiten.com
T: +49 40 688745-0

BERLIN

Luetzowplatz 10
10785 Berlin
Germany
berlin@advant-beiten.com
T: +49 30 26471-0

FRANKFURT

Mainzer Landstrasse 36
60325 Frankfurt am Main
Germany
frankfurt@advant-beiten.com
T: +49 69 756095-0

MOSCOW

Turchaninov Per.6/2
119034 Moscow
Russia
moscow@advant-beiten.com
T: +7 495 2329635

BRUSSELS

Avenue Louise 489
1050 Brussels
Belgium
brussels@advant-beiten.com
T: +32 2 6390000

FREIBURG

Heinrich-von-Stephan-Strasse 25
79100 Freiburg im Breisgau
Germany
freiburg@advant-beiten.com
T: +49 761 150984-0

MUNICH

Ganghoferstrasse 33
80339 Munich
Germany
munich@advant-beiten.com
T: +49 89 35065-0



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EDITOR IN CHARGE:

Dr Christian von Wistinghausen
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ADVANT member firm offices: BEIJING | BERLIN | BRUSSELS | DUSSELDORF | FRANKFURT
FREIBURG | GENOA | HAMBURG | LONDON | MILAN | MOSCOW | MUNICH | PARIS | ROME | SHANGHAI