

Quid Dicere? Say What?

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In high school I had the opportunity to take Spanish classes. (Gracias Sra. Schneider-Marver!) It was no small irony that when I won a study abroad scholarship I was sent to the Arctic Circle in Northern Sweden. My limited Spanish was about as useful as a pair of Bermuda shorts. Even though Swedes learn English at an early age it was still incumbent upon me to learn the Swedish language. My then young and nimble mind (oh how times have changed) was able to achieve a basic conversational level of the language in about six weeks. That blossomed into a more functional use of the language through the year.

In college I tackled another language. This time it was German. Still being young and open to new ideas I quickly became proficient in the language. It was fascinating to learn that everything I knew had a different word and that sometimes a similar word I knew in English had a different meaning in German. Also intriguing was discovering that some ideas expressed in a single word might take a paragraph to express in English. The word *gemütlich* comes to mind. (The Swedes call it *hygglig*.) It takes the English words comfortable, quaint, lovely, nice, fine, genial, pleasant and cozy to even begin to understand the meaning.

When I began my career in the world of international trade it was like unlocking another language. My mind was already hardwired to solve any code that was put in front of me. If ever there was a complex code devised, it is the U.S. export and import laws and regulations. And wouldn't you know it! The law often borrows from foreign language to express itself. This time it is Latin.

Some Latin words we use in trade are commonly used in English. They are so common that we do not even consider them to be Latin. For example, when we hear the word *percent*, we do not have to translate it as one hundredth of something. Percent means, well, percent!

Expressions like affidavit, bona fide and pro rata are also commonly used in English and would send few in search of a dictionary.

There are other Latin expressions we encounter in trade that do not immediately resonate and may cause us to pause before their meaning sinks in. And then there are those Latin terms we encounter that make no sense at all or perhaps they have a specific meaning in context of the law.

Following are some the more common and uncommon Latin expressions we encounter in trade.

Ad Valorem - "According to value."

Most duties in the U.S. are paid according to a percentage of their value.

Affidavit - "He has sworn."

An affidavit is a formal statement of fact. Producers that are not exporters frequently provide an affidavit to their customers in lieu of an official NAFTA certificate of origin.

Bona Fide – "In good faith. Genuine"

When used in trade the term usually takes on the second definition of genuine. Bona fide gifts of limited value may enter free of duty. Also a bona fide import buying agent's fee is not subject to duty.

De minimis – "Of minimal things. Trivial."

Don't sweat the small stuff, might be another way of expressing de minimis. Free trade agreements use this term to allow for exceptions to rules of origination up to a value. Within classification the courts have determined that general rule of interpretation 2(b) contains an assumption of de minimis that allows the classifier to ignore trivial amounts of a material in a mixture or a combination.

De novo - "Anew or as new."

The use of this term within regulation is obscure but refers to situations where a party's status has expired. Any new application will be processed as if new.

Eo nomine - "By that name."

Harmonized classification under general rule of interpretation 1 often relies on assigning a code eo nomine. In other words, the good is provided for in the tariff specifically by name.

Et Seq. – "And the following ones."

This term is an abbreviation of et sequens, meaning "and the following ones". It too is an obscure term used in the regulations to indicate that the cited portion extends to the pages following the cited page.

Mutatis Mutandis – "With the necessary changes,"

General rule of interpretation 6 of the Harmonized System uses this expression. It instructs the classifier to return to the beginning of the general rules and change the word heading as necessary and assign the appropriate subheading.

Prima facie – "At first sight or Superficially"

General rule of interpretation 3 of the Harmonized System uses this expression and describes how to select the proper classification when, upon primary review, a good appears to fall to two or more classifications.

Pro forma - "As a matter of formality."

The term frequently refers to a substitute invoice that is used for perfunctory or formal matters when the transactional commercial invoice is not available.

Pro rata – “From the rate.”

This expression has the same general meaning as its English descendant prorated. It is used to describe allocation of costs proportionally.

In addition to Latin phrases, regulations are organized using Latin numbers. We know them as Roman numerals. (Need I remind you, those sneaky Romans spoke Latin?) VI is not the affectionate name you use to address your Aunt Violet, rather it represents the number 6. If you want to be able to read regulations you need to understand the most rudimentary elements of this arcane numbering system. As a side benefit, you’ll be able to impress your friends by informing them that Super Bowl LIV to be played in 2020 does not mean that it is going to played live, it means it is the 54th Super Bowl. But of course it is going to be played live but, you understand my meaning.

Reading regulations can be a humbling experience. Don’t be proud. There is no shame in not knowing the definition of a word. Just look it up and move on. After all, your job as a trade compliance professional is to translate the regulations into actions that make sense for your company. That starts by understanding them yourself.

Suos cultores scientia coronat!

(Knowledge crowns all who seek it!)