

משרד הכלכלה והתעשייה
ועדת המכרזים

פרוטוקול מס' 1713/11 מישיבה בתאריך 16.12.2020

השתתפו: סימה דאי, יו"ר הוועדה
עופרה הררי ליברמן, סגנית בכירה לחשב
עו"ד מורן הרשקוביץ, נציגת היועצת המשפטית
גיל ארז, יועץ מנכ"ל
יפה עסיס, מרכזת הוועדה
הוזמן: אופיר יוספי

בחירת זוכה בהליך תיחור עבור קבלת שירותי ייעוץ משפטי לנספחות בושינגטון דיסי, ארה"ב

רקע

ועדת המכרזים בישיבתה מיום 11.11.2020, פרוטוקול 1705/3, אישרה פנייה לקבלת הצעות מחיר על פי רשימת הספקים אשר צורפה במסגרת בקשה לקבלת הצעות מחיר עבור שירותי ייעוץ משפטי בושינגטון דיסי, ארה"ב.

בקשה נוכחית

בפני הוועדה הונח מכתבו מיום 10.12.2020 (השלמות התקבלו ביום 13.12.20), של מר אוהד כהן – מנהל מינהל סחר חוץ, בבקשה לבחירת זוכה בהליך לפניית הצעות עבור קבלת שירותי ייעוץ משפטי בנספחות בושינגטון דיסי, ארה"ב, כדלהלן:

בהמשך למכתבי מיום 14.9.2020 ולאישור הוועדה מיום 11.11.2020, פנינו לשלושת משרדי עו"ד הבאים לקבלת הצעת מחיר:

- Hogan Lovells US LLP
- Arnold & Porter
- Sidley Austin LLP

להלן סיכום של הצעות המחיר שהתקבלו ממשרדים אלו וכן המחיר הממוצע עבור כל משרד עפ"י המשקולות שנקבע ואושרו ע"י הוועדה:

משקל לחישוב	Sidley Austin	& Arnold Porter	Hogan Lovells	דרגת המומחה
20%	850 \$	460 \$	695 \$	יועץ
40%	\$1,000	730 \$	895 \$	עורך דין
40%	1,200 \$	760 \$	995 \$	שותף

מחיר ממוצע לשעה (לאחר שקלול)

1,050 \$	688 \$	895 \$
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ניתן לראות בטבלת הסיכום כי ההצעה הזולה ביותר התקבלה ממשרד Arnold & Porter.

להלן פרטי ההתקשרות כפי שאושרו ע"י הוועדה:
 היקף ההתקשרות: עד 180,000 דולר לשנה כדלהלן:
 10,000 דולר בממוצע לחודש כפול 12 חודשים
 60,000 דולר לצורך הרחבת ההתקשרות במידת הצורך

תקנה תקציבית: 38400401

תקופת ההתקשרות: ממועד חתימת ההסכם ע"י מורשי החתימה של המשרד, ולמשך 12 חודשים. למשרד בלבד שמורה האופציה להארכת ההתקשרות בשנה אחת נוספת.

אבקש את אישור הוועדה להתקשרות עם משרד Arnold & Porter עפ"י התנאים המפורטים לעיל.

הצעות המחיר המלאות אשר הוגשו ע"י המשרדים מצורפים כנספחים לפרוטוקול.

החלטת הוועדה

ועדת המכרזים בחנה את הצעות המחיר אשר הוגשו על-ידי החברות, שלושת המציעים הוכיחו את יכולתם לתת את השירות הנדרש, אך הצעתה של חברת Arnold & Porter הינה ההצעה הזולה ביותר.

לאור האמור לעיל, מאשרת הוועדה התקשרות עם חברת Arnold & Porter, על פי הפירוט כדלהלן:

היקף ההתקשרות: עד 180,000 דולר לשנה, כדלהלן:

10,000 דולר בממוצע לחודש כפול 12 חודשים.

60,000 דולר לצורך הרחבת ההתקשרות במידת הצורך. יודגש כי המשרד רשאי להגדיל את היקף ההתקשרות בסכום נוסף של 60,000\$ בשנה עבור פעילויות נוספות ובהתאם לצרכי המשרד וזאת במסגרת מימוש אופציה.

להלן התעריפים שיושלמו לזוכה:

דרגת המומחה	& Arnold Porter
יועץ	460 \$
עורך דין	730 \$
שותף	760 \$

תקנה תקציבית : 38400401

תקופת ההתקשרות : ממועד חתימת ההסכם ע"י מורשי החתימה של המשרד, ולמשך 12 חודשים. למשרד בלבד שמורה האופציה להארכת ההתקשרות בשנה אחת נוספת.

סיווג ההחלטה : תקנה 3(31)ב לתקנות חובת המכרזים.

מאחר והתעריף השעתי חורג מהתעריפים הקבועים בהוראת התכ"ם מס' 13.9.0.2 בדבר התקשרות עם נותני שירותים חיצוניים מחו"ל, יפנה המשרד לחטיבת שכר, תנאי שירות וגמלאות באגף החשב הכללי במשרד האוצר, לאישור ההתקשרות בתעריף חריג. יובהר כי אישור ועדת המכרזים כפוף לקבלת האישור כאמור לעיל.

בהתאם לתקנה 10א(ב) לתקנות חובת המכרזים, החלטה של ועדת המכרזים על מתן פטור ממכרז בנוגע להתקשרות אשר שוויה עולה על 150,000 ₪ טעונה אישור ועדת הפטור המשרדית. לפיכך, תובא החלטת הוועדה לאישור ועדת הפטור המשרדית.

יובהר כי, בהתאם להנחית היועץ המשפטי לממשלה מס' 9.1001 "רכישת שירותים משפטיים חיצוניים על ידי משרדי הממשלה" אישור ההתקשרות שבנדון כפוף לקבלת אישורה של הוועדה להעסקת יועצים משפטיים חיצוניים במשרדי הממשלה.

החלטה כפופה לאמור בהנחיות החשב הכללי לביצוע התקצוב בשנת 2020. ככל שלא יהיה מקור תקציבי בשנת 2020 להתקשרות זו, ההתקשרות תאושר בכפוף לקיום מקור תקציבי בשנת 2021 ועפ"י הוראת החשב הכללי באותה עת.

הערה

מודגש, כי חל אישור להזמין שירות או סחורה מספק, בטרם חתימת הסכם או הזמנת עבודה ע"י מורשי החתימה של המשרד. הזמנת שירות או סחורה מספק, ללא הסכם או הזמנת עבודה שנחתמו ע"י מורשי החתימה של המשרד, מהווה עבירה על חוק נכסי המדינה ומהווה עבירת משמעת ע"פ התקשי"ר.


גיל ארזי

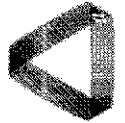

עו"ד מורן הרשקוביץ


עופרה הררי ליברמן


יפה עסיס
מרכזת הוועדה


סימה זאי
יו"ר הוועדה

תפוצה : סמנכ"ל בכיר למינהל ומשאבי אנוש
חשב המשרד
עו"ד אורית שרפי
משה פבריס און - אחראי ביטוחים
אוהד כהן
אופיר יוספי



כד' כסלו תשפ"א
10 בדצמבר 2020

אל: ועדת המכרזים
מאת: אוהד כהן, מנהל המינהל לסחר חוץ

הנדון: בחירת משרד יעוץ משפטי בושינגטון די.סי, ארה"ב

שלום רב,

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40%	1,200 \$	760 \$	995 \$	שותף

מחיר ממוצע לשעה (לאחר שקלול) 895 \$ 688 \$ 1,050 \$

ניתן לראות בטבלת הסיכום כי ההצעה הזולה ביותר התקבלה ממשרד Arnold & Porter.



להלן פרטי ההתקשרות כפי שאושרו ע"י הוועדה:
היקף ההתקשרות: עד 180,000 דולר לשנה כדלהלן:
10,000 דולר במוצע לחודש כפול 12 חודשים
60,000 דולר לצורך הרחבת ההתקשרות במידת הצורך
תקנה תקציבית: 38400401

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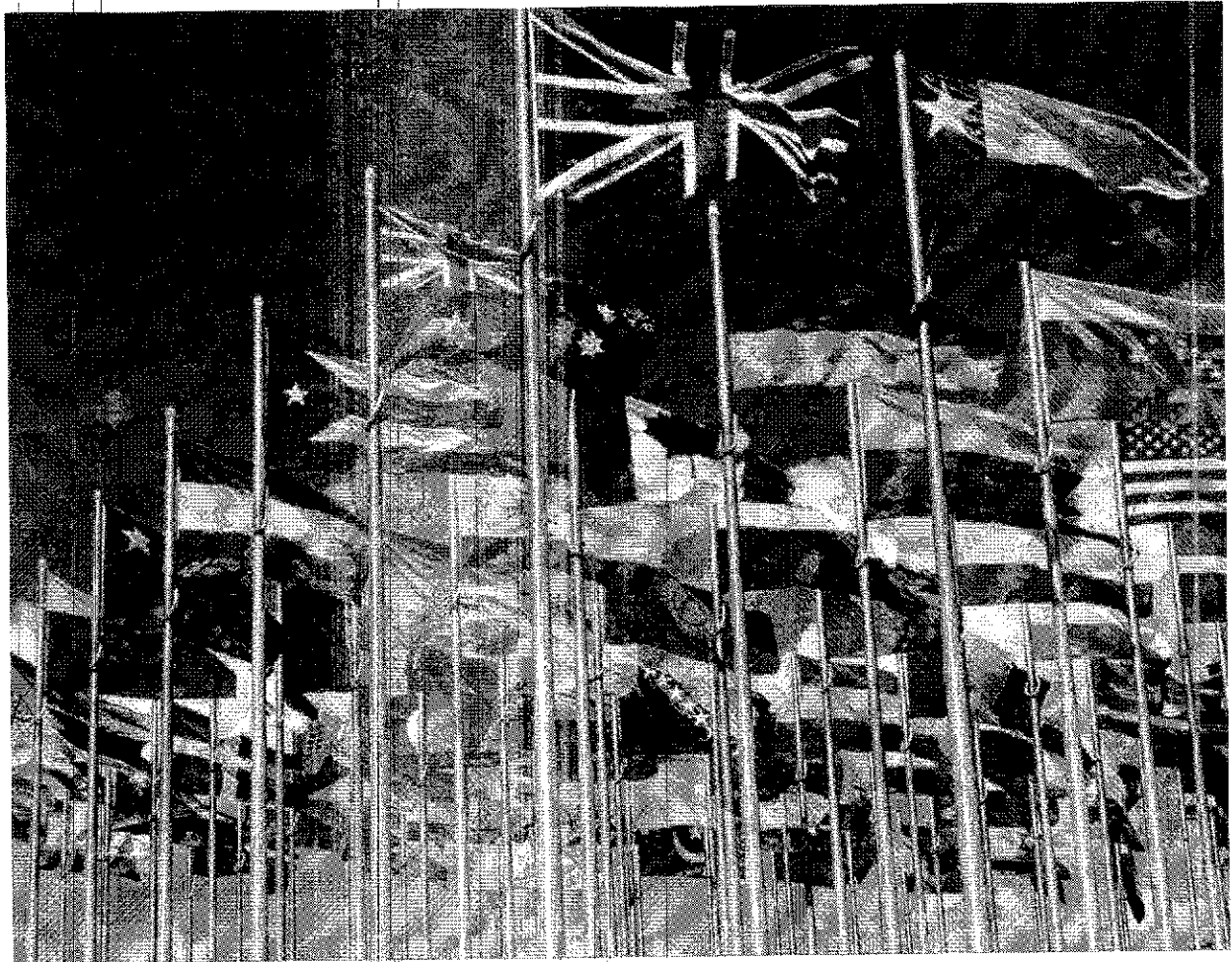
מצ"ב הצעות המחיר המלאות אשר הוגשו ע"י המשרדים הנ"ל.

בברכה,

אוהד כהן

מנהל המינהל לסחר חוץ

RESPONSE TO RFP FOR LEGAL SERVICES: PREPARED FOR THE ECONOMIC AND TRADE MISSION



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1. Introduction, Firm Overview, and Team

Introduction

Thank you for this opportunity to present the Economic and Trade Mission at the Embassy of Israel to the United States (the Trade Mission) with this proposal to support the Trade Mission in its work related to trade and industry relations between Israel and the US. We have been honored to work with Israel on a range of issues over many decades, including international trade matters, extending back to providing support for Israel in negotiating the historic Israel -US Free Trade Agreement in the 1980's and continuing to the present. Our longstanding work for Israel on matters outside of trade, including advice with respect to public international law issues, economic and financial matters, US legislation on foreign aid, energy cooperation, and tax and US litigation also has given us important perspective on Israel's geopolitical context.

We believe that Arnold & Porter is uniquely positioned to provide Israel with comprehensive international trade support by bringing to bear our decades of historical knowledge of Israeli issues, and our parallel awareness of US positions on key matters, combined with our trade team's extensive expertise and direct government trade experience, our legislative team's experience navigating the US federal government from Congress to the Executive Branch, and our firm's deep and wide ranging substantive knowledge in other areas, ranging from government procurement to industrial regulations affecting Israeli exporters. The specifics demonstrating our ability to meet Israel's requirements in the international trade area can be found in **Section 2**.

Firm Overview

Firm At a Glance

- **Firmwide:** 929 attorneys and 860 non-attorneys in 14 offices around the world, including Brussels, London, Shanghai, Seoul, Frankfurt, Washington, D.C., New York, Chicago, Los Angeles.
- **DC Office:** 402 attorneys and 412 non-attorneys
- Our lawyers practice in more than 40 practice areas across the litigation, regulatory and transactional spectrum to help clients with complex needs.
- **International Trade Team:** 16 attorneys & non-attorneys
- **Legislative and Public Policy Team:** 23 attorneys & non-attorneys

Rankings – Recognition Across a Broad Spectrum

- *The National Law Journal's* Appellate Hot List (2010, 2013-2019)
- *The American Lawyer's* "A-List" recognized the firm nine times since 2003, including in 2020
- *Chambers USA* 2020 ranked 92 attorneys as "Leading Individuals"
- *Chambers UK* 2020 ranked 16 attorneys as "Leading Individuals"
- *Chambers Global* 2020 ranked 35 attorneys

Arnold & Porter is one of the world's foremost law firms. We are a leader in the Washington legal and policy community, with one of the world's most active and successful international practices. As a US

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law firm with a global reach, nearly 1,000 lawyers practice in 14 offices in the United States, Europe, and Asia. Our practice encompasses complex counseling, litigation, regulatory proceedings, transactions, and public policy and legislative matters across a broad range of legal areas. We are proud to have nearly 100 professionals who have held senior positions in US and European governments and international organizations.

Arnold & Porter's International Trade and Legislative and Public Policy groups regularly collaborate to serve a major client base. We advise clients ranging from foreign sovereigns and embassies to foreign trade associations, importers and other major global stakeholders on a broad range of trade and investment policy matters, including providing advice on emerging trade and investment policies, such as US trade law changes, import regulation by Customs and other authorities, rules of origin, export controls, trade remedies, sanctions, CFIUS and other national security issues, as well as domestic regulatory rules and policies with international implications, legislative initiatives, and international trade negotiations.

Our teams specialize in helping clients facing complex matters that encompass legal, regulatory, and legislative and political challenges. Our practice stems from our role as trusted advisors with a deep understanding of the intersection of law, business and policy, gained from decades of experience. Our team is also backed by the full interdisciplinary resources of our firm, including the Health Sciences; Environmental; Government Contracts; Corporate; Finance; Litigation; Antitrust/Competition; National Security; Tax; Consumer Product Safety and Intellectual Property practice groups, which include attorneys with extensive experience in policy matters, a number of whom have served in senior leadership positions in government.

For example, Arnold & Porter has --

- A deep bench of former US government trade officials, including former officials and attorneys from the US Department of Commerce ("DOC"), the Office of the US Trade Representative ("USTR"), US Customs and Border Protection ("CBP"), and the US Court of International Trade ("CIT").
- A distinguished legislative and public policy group including Senator Chris Dodd, a highly respected federal legislator and member of President-Elect Biden's 4-person vice president selection committee, as well as key former staffers on the major Congressional trade committees, the Senate Finance Committee and the House Ways & Means Committee.
- Major former senior officials from the State Department, the White House and national security agencies, including the former Under Secretary of State for Political Affairs, the third highest ranking position at the State Department, Legal Adviser to the Department of State, Senior Associate Counsel to the President, and Legal Adviser to the National Security Council.
- A large number of former federal regulators in finance, health sciences, antitrust and other key federal agencies.

Our Proposed Core Team

Our proposed core team for Israel international trade work is shown in the table below. Many of these professionals have previously performed work for Israel. We would also draw on other Arnold & Porter trade law experts, as well as experts from other disciplines as needed for any matters in a particular

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area of interest, such as those related to FDA, HHS, or EPA, for example. Further details on key team members are provided at the end of Section 2 below.

Name	Position	Comments
Claire E. Reade	Senior Counsel	Lead contact; former AUSTR and Chief Counsel, USTR; more than 30 years of trade and Customs experience, including representing Israel for decades.
Lynn Fischer Fox	Partner	Former Deputy Assistant Secretary, Trade Policy & Negotiations, Commerce Dept, more than 20 years of trade and Customs experience representing sovereign and private clients, including Israel.
John Barker	Partner	Former Deputy Assistant Secretary, Export Controls, State Department, more than 30 years of CFIUS, sanctions, export controls experience representing sovereign and private including Israel.
Kristen Ittig	Partner	Deep experience in government procurement and domestic preference laws, including the Buy American Act and the Trade Agreements Act.
Christopher Yukins	Counsel	Decades of experience in public procurement law; also, George Washington University Law School professor, in one of the world's leading government procurement programs
Brian Bombassaro	Senior Associate	Former International Trade Counsel for the US Senate Finance Committee
David Skillman	Senior Associate	Former Deputy Chief of Staff and Counsel to Congressman Earl Blumenauer, Chairman of the Trade Subcommittee of the Committee on Ways and Means.
Grace Kim	Associate	Former Attorney-Advisor at US Customs and Border Protection and International Trade Counsel for the US Senate Finance Committee.
Tom McSorley	Senior Associate	Significant industry experience in export controls, trade sanctions and CFIUS experience including as the export control attorney in-house for SpaceX
Peter Schmidt	Associate	Served as a law clerk on the U.S. Court of Appeals for the Second Circuit; was Harvard Law Review Executive Editor.

2. Demonstrate Ability to Fulfill RFP Requirements

We believe we meet all the requirements set forth in the RFP, and would be honored to continue our work with the Trade Mission on international trade and investment matters. We have deep experience and have provided extensive services to Israel and other clients over the years in every area of trade and investment expertise listed in the RFP. Discussion of our trade expertise and experience, as well as brief context regarding our broader work for Israel, follows below.

Wide Range of Work for Israel Deepens our Understanding of Israel's Geopolitical Environment

Arnold & Porter has a long-standing relationship with the State of Israel, having represented Israel for over 40 years. During the course of our work, we have gained a deep understanding of Israel's unique interests and objectives. We have worked closely with senior officials in many Israeli ministries and agencies, including the Prime Minister's Office, the National Security Council, the Ministry of Justice, the Ministry of Foreign Affairs, the Ministry of Defense, the Ministry of Finance, and the Israel Defense Forces, in addition to the Ministry of Economy and Industry. We have represented the Prime Minister, numerous senior officials, and many ministries and agencies in more than twenty lawsuits in federal and state courts in the United States challenging Israeli actions and have won every case. We have advised and assisted Israeli ministries on numerous sensitive national security matters.

Our diverse Israel practice for non-governmental clients includes transactional, litigation and US regulatory work. We are active in public offerings, mergers and acquisitions, private equity financing, technology licensing, intellectual property matters, and corporate transactions for Israeli and US high-technology, medical device, biotechnology, and other start-up companies. We have also worked with US foundations and charities in making grants and operating charitable programs in Israel and throughout the Middle East. We have represented a number of Israeli companies in trade-related matters, including export licensing, customs, import relief matters, free trade area matters, and government procurement matters. We have also represented Israeli clients in matters before the US Departments of State and Defense, as well as the Government Accountability Office.

Examples of the range of our work for the government include the following:

- In the mid-1980's, we helped Israel negotiate the Israel-US Free Trade Agreement, and since that time, have provided periodic counseling on further negotiations and issues as they have arisen, including regarding subsequent agreements on agriculture matters.
- We have advised Israeli ministries on export controls and international arbitration matters.
- We have assisted the Ministry of Finance with bond offerings, capital markets transactions and other financings.
- The firm is registered as a foreign agent for Israel under the Foreign Agents Registration Act.
- We have helped Israel draft detailed public reports explaining the legal basis for Operation Cast Lead, Operation Protective Edge, and the Gaza Flotilla operation.
- We have assisted the government of Israel with respect to its multi-year agreements relating to foreign military sales financing.

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- We have represented some of Israel's leading financial institutions, including Bank Hapoalim, Mizrahi Tefahot Bank, and Industrial Development Bank of Israel in financing transactions and regulatory matters.

Our International Trade Expertise

Our International Trade group has decades of experience assisting clients, including sovereigns, international organizations, trade associations, nongovernmental organizations, individual investors and other stakeholders, in virtually all aspects of international trade and investment. Brief biographies of key members of our Core Team are presented at the end of this section.

International Trade Agreement Negotiation and Counseling

Our Core Team includes members that have led our work counseling Israel as well as other sovereigns in their negotiation and implementation of major trade agreements with the United States, from the 1980's to the present. This experience both allows us to assist clients in ongoing or new negotiations and also provides invaluable perspective on interpreting agreements and anticipating likely US reactions and positions as issues arise.

Representative FTA and other trade negotiation matters include:

- Advice on negotiation of many free trade agreements: Members of the Core Team were involved in the original Israel - US FTA negotiations, the US-Canada FTA, the original NAFTA negotiations and the updated USMCA negotiations. Our professionals have both government and private sector experience with the negotiation of subsequent bilateral and multilateral trade agreements, including the Central America-Dominican Republic Free Trade Agreement ("CAFTA-DR"), the US-Korea Free Trade Agreement, US-Chile FTA, US- Panama FTA, Trans-Pacific Partnership ("TPP"), Transatlantic Trade and Investment Partnership between the US and the EU ("T-TIP"), and both the US-EU and US-UK insurance prudential Covered Agreements.
- For both sovereigns and private sector clients, our services have included developing negotiating strategies and proposals, as well as evaluating both the economic impact and legal ramifications of proposals. In addition, we have advised sovereigns and private sector entities on both impact and strategy related to negotiations involving other parties.

Representative counseling matters on trade agreement interpretation and compliance include:

- In depth analysis and seminar presentation on GATS financial services issues to multiple Israeli ministries.
- As requested Trade Mission and Israel Ministry of Economy and Industry, many in depth analyses of WTO and Israel - US FTA issues related to domestic policies or measures under consideration, including agriculture, subsidies, services, rules of origin, textiles, standards, import policies, government procurement, product restrictions, Customs rules, including substantial transformation, among others.
- In depth analysis for a client of key GATS requirements and advice on US parallel obligations in various international agreements.

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- Analysis and advice to clients on consistency of government actions with the GATT, the Subsidies and Countervailing Measures (SCM) Agreement, the GATS, the TBT Agreement, the SPS Agreement, and the Agreement on Import Licensing Procedures.
- Analysis of consistency of a number of sovereign clients' policies or proposed policies with WTO subsidy and non-discrimination rules and evaluation of WTO litigation risks.

US Trade Policy Counseling

Arnold & Porter advises clients on a broad range of US trade policy matters, including emerging trade policies, legislative initiatives and regulatory and other Executive Branch developments. We work with clients facing complex matters that encompass legal, regulatory, legislative, and political challenges. We devise practical and politically viable policy solutions tailored to each client's needs. Our bipartisan legislative policy team collaborates with Trade Group colleagues to work directly and strategically with relevant congressional committees, individual members of Congress, executive branch officials, as well as coalitions. Our ability to navigate the federal government, combined with our deep experience and understanding of complex trade issues, uniquely positions us to provide clients comprehensive support.

Representative experience includes:

- Counseling clients on Special 301 (IP) proceedings at USTR.
- Counseling clients on 337 unfair competition investigations at the ITC, as well as related Congressional concerns.
- Counseling clients facing possible trade remedy actions.
- Representing a broad range of sophisticated companies in enforcement proceedings implicating multiple government agencies, including US Customs and Border Protection, the US Food and Drug Administration, the US Consumer Product Safety Commission, the Environmental Protection Agency, and other federal agencies involved in the international trade of goods.
- Providing comprehensive compliance advice and training, including on supply chain issues related to trade.
- Representing major global steel producers in navigating changes to rules of origin for automobiles and auto parts as a result of the US-Mexico-Canada Agreement.
- Representing sophisticated global market players in engaging with the executive and legislative branches to navigate complex trade policy matters.
- Counseling clients regarding likely US trade policy actions and attitudes regarding particular trading partners.
- Monitoring emerging US policy developments and advising sovereign and private sector clients on key matters relevant to their trade and investment interests.

Customs & Import Compliance

Our Customs & Import Compliance team has deep experience advising clients on the full spectrum of import-related issues, including regulatory and compliance matters before US Customs and Border Protection (CBP), trade remedy proceedings, and civil and criminal enforcement actions. We cover all customs issues, including tariff classification, valuation, marking, and duty preferences under free

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trade agreements and unilateral US programs. The team handles complex and rapidly evolving issues, such as country-of-origin issues arising in the context of free trade agreements and US government procurement. We assist clients in preparing internal customs compliance procedures. The team also has considerable expertise related to import detentions, seizures and other enforcement and compliance issues arising from asserted violations of laws administered by other federal agencies, including the US Food and Drug Administration (FDA), the US Consumer Product Safety Commission (CPSC) and the US Department of Energy (DOE).

Representative experience includes:

- Periodic advice to Israel on rule of origin issues, including textile rules and substantial transformation.
- Representing major pharmaceutical companies in navigating complex customs rules of origin and labeling requirements at the intersection of customs and FDA compliance.
- Representing multiple importers in sensitive, high-stakes, customs-related civil penalty and criminal investigations.
- Representing broad range of companies in preparing ruling requests, prior disclosures, responses to requests for information and notices of proposed action, protests, and handling audits.
- Representing steel producers with respect to the CBP's and US Department of Commerce's joint administration of Section 232 national security tariffs and quotas, and exclusions from those measures.
- Representing multiple clients with global supply chains on strategic temporary import bonds, and use of bonded warehouses and foreign trade zones for servicing global demand.

National Security

Our National Security practice is one of the largest and most experienced in Washington. It is anchored by numerous former senior US government officials with decades of experience in national security legal positions, including former Deputy Assistant Secretary of State for Export Controls, John Barker, who is also an expert on sanctions and CFIUS, the Committee on Foreign Investment in the United States. Our professionals also include former General Counsels of the Central Intelligence Agency, the National Security Agency, the Army and the Air Force, the former Legal Adviser to the Department of State and the Legal Adviser to the National Security Council at the White House, and former Counselor for National Security to the Attorney General, as well as former senior national security officials at the Departments of Treasury and Homeland Security.

Investment Protection (CFIUS)

Our attorneys have extensive experience assisting both US and foreign companies in transactions subject to review by the Committee on Foreign Investment in the United States (CFIUS) pursuant to the 1988 Exon-Florio statute, as amended by the Foreign Investment and National Security Act of 2007 (FISIA). A number of our lawyers have worked on CFIUS matters as senior officials in the US government, including the White House and the Departments of Defense, State, and Justice. They bring insight and experience to the review process. When a decision to seek a CFIUS review is made, we assist in preparing submissions to and working with CFIUS and its member departments and

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agencies. In addition, we work with clients in educating Members of Congress, and, when appropriate, the media, about the benefits of the transaction. We have taken numerous transactions through successful CFIUS reviews, both for foreign and domestic clients, in a variety of industries. We also assist clients in coordinating Exon-Florio reviews with antitrust, export control, securities, and other regulatory processes.

Representative experience includes:

- *Sonaca Group*, a global aerostructures company headquartered in Belgium, in its \$191 million acquisition of LMI Aerospace, Inc., a leading supplier of structural assemblies, kits and components and provider of engineering services to the commercial, business and regional, and military aerospace markets.
- *SafeNet, Inc.* in its sale to Gemalto, Inc., a US wholly-owned subsidiary of Gemalto N.V.
- *Acuity Technologies Holding Company* in its acquisition of Owl Computing Technologies.
- *Phase One Consulting Group* in its acquisition by Accenture Federal Systems.
- *Pan Am International Flight Academy* in its acquisition by ANA Holdings.

Export Control and Sanctions

Our Export Control and Sanctions practice regularly counsels more than 160 sovereign governments, companies, financial institutions, non-profit organizations, and individuals on compliance with the US Department of State's International Traffic in Arms Regulations (ITAR), the US Department of Commerce's Export Administration Regulations (EAR), and sanctions laws administered by the US Department of the Treasury's Office of Foreign Assets Control (OFAC). On behalf of our clients, we conduct internal investigations, make voluntary disclosures when appropriate, secure licenses and authorizations from the relevant governmental agencies, and defend clients in the face of civil enforcement actions and criminal prosecutions. We also represent clients who seek to be removed from the various lists maintained by the government, such as OFAC's list of Specially Designated Nationals (SDN). Because of the depth of our practice, we can bring benchmarking experience to our advice that few firms can match. We have represented a wide range of clients, including ten of the top 15 US defense and aerospace concerns, as well as key US allies and major research universities.

We leverage our lawyers' deep prior experience from government service to provide real-world, practical advice for our clients—something especially critical in an area where the government's practice and interpretation can be as important as the text of the applicable statute or regulation.

Representative experience includes:

- *United Technologies Corp.* in an export compliance audit related to the company's exports of military software to PRC.
- *Airbus* in the largest worldwide settlement of anti-corruption and export control matters.
- *L3Harris* in settlement of alleged export control violations.
- *BAE Systems plc* in settlement of alleged export control violations.
- *Aeroflex* in settlement of alleged export control violations.
- *More than 125 companies, organizations and embassies* annually in compliance with export controls and trade sanctions.

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Dispute Settlement

US Trade Law Proceedings

Our top-ranked international Trade practice has handled more than 80 anti-dumping and countervailing duty (AD/CVD) cases before the US Department of Commerce (DOC) and the US International Trade Commission (ITC), as well as appeals to US courts, binational panels and the World Trade Organization (WTO). The team specializes in complex cases, developing cutting-edge strategies tailored to our clients' business objectives to achieve favorable results.

Additionally, the team assists clients with respect to less common US trade remedy measures, such as Section 201 global safeguards investigations before the ITC and the interagency, led by USTR; Section 232 national security investigations before DOC; and Section 301 proceedings before USTR and the interagency.

Representative experience includes:

- *Representing Israel* in the Magnesium Countervailing Duty Investigation and advising on possible suspension agreement. Investigation resulted in a negative injury finding by the ITC in January 2020.
- *Representing private companies and other foreign governments* in numerous other high-profile antidumping and countervailing duty cases, as well as global safeguard (Section 201) cases before the US Department of Commerce, the ITC and USTR across diverse products and countries.
- *Representing myriad trade remedies clients* in landmark appeals of trade remedies cases before the US Court of International Trade, the US Court of Appeals for the Federal Circuit, binational panels, and the World Trade Organization.
- *Representing and counseling major companies* in Section 232 proceedings that restrict imports on national security grounds, imposing tariffs or quotas, and in Section 301 proceedings and appeals related to imported goods from China.

World Trade Organization (WTO) Disputes

Our International Trade team has a broad range of experience in both challenging other countries' actions and defending government policies since the establishment of the WTO in 1995.

Our team represents sovereign states and nonstate actors at the World Trade Organization (WTO) in all stages of dispute settlement proceedings, including consultations, panel proceedings, Appellate Body proceedings, implementation arbitration, and compliance proceedings. Our professionals have assisted both developed and developing nations as complainants, respondents and third parties in disputes involving goods and services under all of the major WTO-covered agreements, including the GATT, GATS, TRIPS, and the WTO-covered agreements on agriculture, anti-dumping, subsidies and countervailing measures, safeguards, sanitary and phytosanitary measures, technical barriers to trade, import licensing, standards reporting, and rules of origin. We have also advised WTO members and other stakeholders on WTO jurisprudence, strategy and negotiations.

Our core team includes former senior government officials who were involved in the development of policy as well as litigation of multiple disputes, both challenging other countries' actions and

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defending government policies.

Representative experience includes:

- *China*—Measures Related to the Exportation of Rare Earths, Tungsten and Molybdenum (WT/DS431)
- *China*—Grants, Loans, and Other Incentives (WT/DS387); Certain Measures Granting Refunds, Reductions, or Exemptions from Taxes and Other Payments (WT/DS358)
- *European Communities*—Export Subsidies on Sugar (WT/DS266); Conditions for the Granting of Tariff Preferences to Developing Countries (WT/DS246).
- *United States*—Continued Dumping and Subsidy Offset Act of 2000 (WT/DS217, 234).
- *China*—Measures Concerning Wind Power Equipment (WT/DS419); Measures Affecting Imports of Automobile Parts (WT/DS340).
- *United States*—Anti-Dumping Measures on Certain Oil Country Tubular Goods from Korea (WT/DS488).
- *China*—Certain Measures Affecting Electronic Payment Services (WT/DS413).
- *China*—Measures Affecting Financial Information Services and Foreign Financial Information Suppliers (WT/DS373); Measures Affecting Trading Rights and Distribution Services for Certain Publications and Audiovisual Entertainment Products (WT/DS363).
- *China*—Measures Affecting the Protection and Enforcement of Intellectual Property Rights (WT/DS362).
- *Brazil*—Measures Affecting Imports of Retreaded Tyres (WT/DS332).
- *Dominican Republic*—Measures Affecting the Importation and Internal Sale of Cigarettes (WT/DS302).
- *European Communities*—Regime for the Importation, Sale and Distribution of Bananas (WT/DS27/AB/R).

International Government Procurement

Arnold & Porter's lawyers have represented Israel and Israeli firms on government procurement matters since before Israel entered into a free trade agreement with the United States – one of the first bilateral trade agreements to open markets in government procurement. Arnold & Porter's international procurement experts have decades of experience in this specialized field and work closely with the firm's WTO and international trade experts to address difficult issues of US domestic preference law and its intersections with WTO and FTA rules.

The incoming Biden administration is committed to an enhanced "Buy American" policy in US federal spending, but is also more likely to work within the boundaries set by the United States' existing trade commitments. This tension between US domestic-content requirements and the United States' trade obligations is likely to be an important issue in the coming years, as the Biden administration hopes to apply expanded "Buy American" requirements to enormous US spending on infrastructure and development. Our government procurement team, which has decades of experience in addressing Israel's concerns in this area, is ideally suited to support the needs of Israel and its business community.

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US Laws and Legislative Process

The highly respected Legislative and Public Policy Group at Arnold & Porter operates at the intersection of public policy and law, helping clients find solutions to complex problems that involve interacting with the federal government. As mentioned, our International Trade and Legislative and Public Policy teams collaborate to advise clients on a broad range of trade policy matters, including advice on emerging trade policies, legislative initiatives, and international trade negotiations. The fact that we represent a cross-section of the world's most recognizable companies, associations, and organizations gives us a wide perspective and strong current insights into the workings of the legislative system.

Our practice group includes more than 20 attorneys and policy professionals who bring a sophisticated understanding of the pivotal relationship between government and business to our clients. Senator Christopher J. Dodd (D-CT), a powerful voice in Congress on many key issues, joined our Legislative and Public Policy practice as Senior Counsel where he advises on various public policy issues, including data privacy, the economy, financial services, and national security. Senator Dodd was a co-chair of the committee that vetted President-Elect Joe Biden's potential running mates, and the Senator remains active in the ongoing transition process.

In the international trade field, our teams advise clients facing complex matters that encompass legal, regulatory, and legislative and political challenges. By combining the expertise and experience of both our International Trade and our Legislative and Public Policy practices, Arnold & Porter is able to help our clients seamlessly navigate an increasingly complicated trade climate. Indeed, our teams have been engaged in both the legal and legislative elements of virtually every significant trade policy issue since the beginning of the Trump Administration. Our bipartisan advocacy team works directly and strategically with congressional committees, individual members of Congress, and agency officials.

Representative experience that can be disclosed in this context includes:

- During the early days of the COVID-19 crisis, helping advise Israeli Embassy on the potential pathways and outcomes of Congressional responses to the pandemic.
- Engaging Members of Congress to weigh in when Administration trade remedies policies produced biased results.
- Convincing Members of Congress to engage with the Department of Commerce on Section 232 (national security) decisions related to reducing tariff burdens.
- Providing legal counsel and political advice to clients that resulted in ameliorating the impact of the USTR Section 301 investigation on their interests, resulting in millions of dollars of savings.
- Leading an outreach strategy to Congress which resulted in US Customs and Border Protection (CBP) issuing clarifying guidance and new procedures to protect importers from denial of their rights.

Managing US Regulatory Changes

Arnold & Porter has some of the deepest regulatory practices in the US, so is well positioned to assist Israel regarding regulatory changes by US government authorities that could affect Israeli exporters. Many of our professionals are former high-ranking officials who have worked closely on regulatory

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issues through positions in the executive branch of the federal government. Their insider perspectives are integral to understanding the legal and policy frameworks in which complex business and legal issues arise, and how best to overcome regulatory challenges.

US Commerce Department

Our capabilities regarding the Commerce Department's trade regulations are discussed above in the trade related topics, and extend to the full range of import and export regulations. We also are deeply familiar with the Department's export and investment promotion programs, standards issues dealt with by NIST, privacy regulation, as well as the intellectual property issues handled by the Patent and Trademark Office, among other topics handled by the Department. We would be pleased to provide more details on these areas if desired.

US Food & Drug Administration

Arnold & Porter is renowned for working with drug, biologic, medical device, diagnostic, food, dietary supplement, cosmetic, and other FDA-regulated companies to determine how their products will be regulated, design product development strategies to minimize review time and assist in optimal presentation of evidence to gain FDA approval or clearance. We have decades of experience representing clients in shaping and challenging regulatory agency policies and responding to enforcement. We have extensive experience with the FDA dispute resolution processes, and have initiated litigation proceedings against the FDA to reverse improper agency decisions. Our capabilities also include counseling on labeling and safety issues, seeking designations for orphan status or expedited approval, advising on post-market obligations, and dealing with Customs and other import regulation, among many regulatory topics.

US Environmental Protection Agency

Our attorneys regularly advise clients concerning their US regulatory compliance obligations and defend them in enforcement proceedings under the full range of US environmental laws, including Clean Air Act, Clean Water Act, Oil Pollution Act, Endangered Species Act, CERCLA, RCRA, TSCA, FIFRA, EPCRA, HMTA, NEPA, MPRSA, OSHA, and SMCRA, as well as many comparable state regulatory programs. Clients frequently turn to us when the most difficult, interpretive, novel, or costly regulatory questions confront them. Our regulatory experience covers: hazardous wastes; clean air and clean water issues; commercial and consumer use chemical products including antimicrobials and pesticides; groundwater protection and drinking water concerns; hazard communication, and various "right-to-know" disclosure duties; and financial or release reporting issues.

US Health and Human Services (HHS)

With respect to the US Department of Health and Human Services (HHS), our attorneys have a long history of working with healthcare professionals, outpatient ancillary service providers and institutions, as well as many of the medical societies and professional associations that represent healthcare providers and suppliers. We work with clients across the country in matters involving fraud and abuse compliance; government civil and criminal investigations, defense of False Claims Act cases, transactions of all types; development of clinically integrated delivery systems, independent physician associations and financial relationships between referral sources; and government, commercial payer and fraud contractor audits and appeals. Our regulatory and defense attorneys have years of

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experience working together to provide integrated advice on strategies for meeting enforcement challenges.

Details on Key Members of Proposed Core Team



Claire E. Reade

Senior Counsel
Washington, DC

Claire Reade provides clients strategic assistance with major governmental issues in international trade and investment, including trade negotiations, trade litigation, and dispute settlement under the World Trade Organization (WTO). She has almost four decades of experience handling international trade matters.

Ms. Reade returned to the firm in 2015 after serving at the Office of the United States Trade Representative (USTR), as Chief Counsel for China Trade Enforcement (2006-2010), leading litigations at the WTO, and the Assistant US Trade Representative for China Affairs (2010-2014). Prior to joining USTR, at Arnold & Porter, Ms. Reade counseled US and foreign companies and industries, as well as foreign governments on international market access issues and trade agreement negotiations, including NAFTA and other U.S. free trade agreements. She also litigated trade disputes in diverse US agency proceedings, court appeals, and international dispute settlement fora.



Lynn Fischer Fox

Partner
Washington, DC

Lynn Fischer Fox, a former Deputy Assistant Secretary with the US Department of Commerce, advises clients on international trade policy and litigation matters. Her practice focuses on U.S. government trade policy, counseling companies on trade agreements and trade negotiations, and on trade remedy actions, including antidumping, countervailing duty, Section 301, Section 232 and safeguard actions. She brings a wealth of government experience and skills to her practice, including a deep understanding of how to help clients navigate new and existing trade policies and regulations.

During her time in government, Ms. Fischer Fox coordinated the formulation and implementation of policies governing trade agreement compliance and the administration of trade remedy laws. This included monitoring foreign government compliance with trade agreements. In addition, she worked on World Trade Organization (WTO) matters, including negotiations and disputes involving trade remedy matters.



John P. Barker

Partner
Washington, DC

John Barker's practice focuses on national security matters including export controls and trade sanctions administered by the Office of Foreign Assets Control at the US Department of the Treasury (OFAC), and compliance with the Foreign Corrupt Practices Act (FCPA).

In his most recent position at the State Department, Mr. Barker supervised the development and implementation of US policy on multilateral nonproliferation and security regimes, and nonproliferation sanctions. As the Deputy Assistant Secretary for Export Controls, he supervised the US munitions licensing and defense trade compliance under the International Traffic in Arms Regulations (ITAR) including imposing sanctions on companies for violation of US export control law. He led US negotiating teams to more than 20 countries, supervised audits of defense trade manufacturing facilities, and oversaw the US government's nonproliferation review of dual-use exports subject to the Export Administration Regulations (EAR).



Kristen E. Ittig

Partner
Washington, DC

Kristen Ittig counsels and represents large and small clients in government contracts matters, including compliance counseling, bid protests, investigations, audits and self-disclosures, claims and disputes, terminations, and other issues impacting government contractors and federal grantees. Ms. Ittig has substantial experience in domestic preference law, including the Buy American Act and the Trade Agreements Act.



Christopher R. Yukins

Counsel
Washington, DC

Chris Yukins has several decades of experience in public procurement law. He is currently counsel at Arnold & Porter, a professor of government contract law at the George Washington University Law School, and a co-director of the law school's government procurement law program, one of the leading programs of its kind in the world. He focuses especially on emerging public policy questions in US procurement.



Brian Bombassaro

Senior Associate
Washington, DC

Brian Bombassaro advises on legal and policy matters encompassing international trade, investment, and finance. In 2020, Mr. Bombassaro returned to Arnold & Porter after serving as International Trade Counsel to the United States Senate Committee on Finance. From 2017 to 2019, he advised the Chairman of the US Senate Finance Committee on legal and political aspects of international trade issues, including US-China trade relations, tariffs imposed under national security laws, and trade agreement negotiations. Previously, he interned with the Office of the US Trade Representative (USTR) and US International Trade Commission (USITC).



David J.M. Skillman

Senior Associate
Washington, DC

David Skillman brings to his practice a deep understanding of the federal legislative and regulatory environment, having served for more than a decade as Deputy Chief of Staff and Counsel to Congressman Earl Blumenauer, Chairman of the Trade Subcommittee of the Committee on Ways and Means.

Mr. Skillman led Chairman Blumenauer's negotiations for the House Democrats' Trade Working Group, as it sought changes necessary for Congressional approval of the United States-Mexico-Canada Agreement. He also authored portions of the Trade Facilitation and Trade Enforcement Act of 2015 and played a key role in the enactment of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015.



Grace Kim

Associate
Washington, DC

Grace Kim's practice focuses on customs and import compliance matters. Ms. Kim also advises clients on trade policy and trade negotiations.

Prior to joining the firm, Ms. Kim was detailed from U.S. Customs and Border Protection (CBP) to the U.S. Senate, where she served as International Trade Counsel to Senator Grassley, Chairman of the U.S. Senate Committee on Finance. Ms. Kim negotiated and authored the customs provisions of the United States-Mexico-Canada Agreement Implementation Act, including the automotive rules of origin and the alternative staging regime.

Ms. Kim previously served as an attorney with the Office of Trade, Regulations and Rulings Directorate of CBP. Her duties included advising U.S. government agencies, foreign governments, and industry associations

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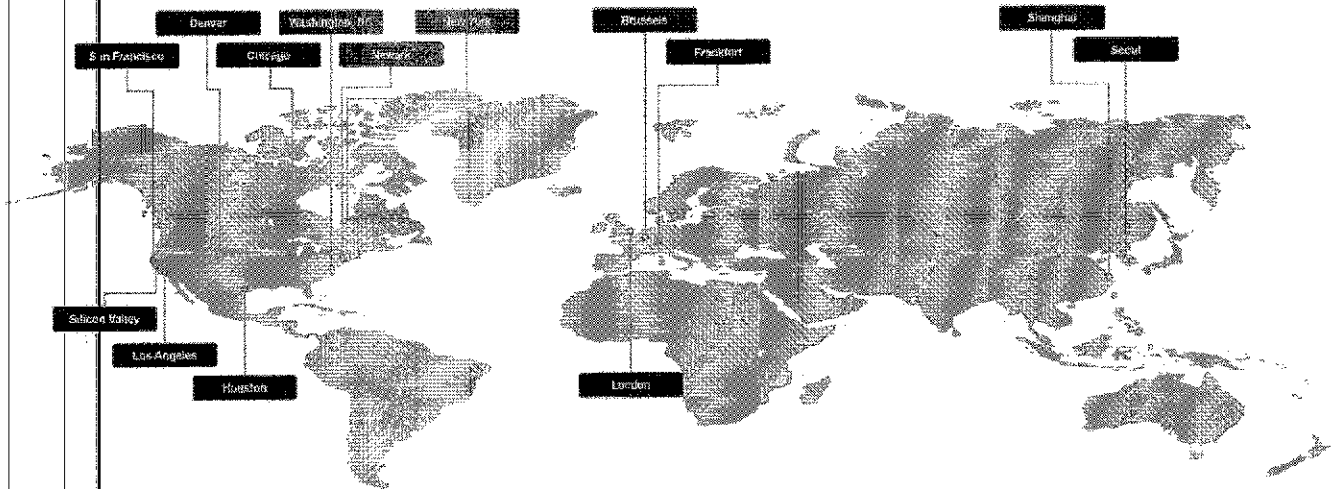
on a variety of customs laws and regulations, involving advance rulings, rules of origin, valuation methodology, and free trade agreement negotiations. She was the subject matter expert on textiles rules of origin during the re-negotiation of the North American Free Trade Agreement (NAFTA). Ms. Kim has authored numerous binding administrative decisions concerning tariff classification, country of origin, valuation, and eligibility for preferential treatment under U.S. trade agreements and programs.

3. Pricing proposal/hours rates

Level of Seniority	Hourly Rate Proposed
Associate	460
Counsel	730
Partner	760

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4. Office Locations



Arnold & Porter's offices are at the following locations:

- Brussels
- Chicago, IL
- Denver, CO
- Frankfurt
- Houston, TX
- London
- Los Angeles, CA
- Newark, NJ
- New York, NY
- San Francisco, CA
- Seoul
- Shanghai
- Silicon Valley, CA,
- Washington, DC

5. Major Areas of Strength

Strengths of our practice include:

Institutional Memory Regarding Israel-Specific Issues: Our firm has assisted Israel on trade matters since the 1980's. This history of engagement enables us to draw on a deep institutional memory of both Israel's positions on key issues over time and the United States' reactions and views. This enhanced perspective allows more sophisticated and effective advice on the complex issues Israel faces.

First-Hand Government Experience: We can offer decades of experience from our roster of former officials at federal agencies with jurisdiction over trade and other areas of concern to Israel, including the US Department of Commerce, Office of the US Trade Representative, US Customs and Border Protection, the State Department, the White House and national security agencies. Likewise, our legislative team includes a prominent former Senator close to President-Elect Joe Biden and former staff members of key Congressional committees, including trade committees.

Strategic Relationships with Key Government Actors: Arnold & Porter's strategic relationships with Members of Congress and senior Executive Branch officials combined with our active work with both Congress and the Administration give our team the ability to provide enhanced insights into legislative and Administration developments that may affect US trade and investment relations.

Wide Substantive Expertise and Innovative Multidisciplinary Approach: We leverage the wealth of the firm's thought leadership in multiple practice groups and routinely work across disciplines to handle complex matters in a highly effective fashion. Our extensive international trade and investment practice means we are deeply engaged across many current issues, which allows us to rapidly identify new trends in the administration of US trade law and develop sophisticated and timely advice.

Proven Track Record of Success on Complex Matters: We have an established track record of providing cogent, sophisticated advice that serves our clients well, securing favorable outcomes in sensitive and high-profile matters.

6. Other Information

Ranking organizations have recognized Arnold & Porter as among the leading law firms in the world in the fields of International Trade and Legislative and Public Policy. As indicated below, our practices regularly receive acclaim from respected industry publications such as *Chambers Global*, *Chambers Asia Pacific*, *Chambers USA*, and *The Legal 500 US*. Our International Trade and Legislative groups have been recognized repeatedly for our substantive expertise, track records of success and high levels of client service.

Chambers Global

- International Trade: Export Controls & Economic Sanctions (USA) (2020)
- International Trade: Trade Remedies & Trade Policy (USA) (2020)
- International Trade: CFIUS Experts (USA) (2018)

Chambers USA

- International Trade: Trade Remedies & Trade Policy (Nationwide) (2020)
- International Trade: Export Controls & Economic Sanctions (Nationwide) (2020)
- Legislative and Public Policy: Government Relations (Nationwide) (2020)

The Legal 500 US

- International Trade (2020)
- Legislative and Public Policy: Government Relations (Nationwide) (2020)

Chambers Asia-Pacific

- International Trade: World Trade Organizations (Asia-Pacific Region) (2020)