

ISSUE 8

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ISSUE 8 ONLINE

# CUSTOMS COMPLIANCE & RISK MANAGEMENT

JOURNAL FOR PRACTITIONERS IN EUROPE

## LEGAL NEWS

EU law news: May 2021

EU law news: April 2021

## KNOWLEDGE

Customs news in our countries. How do we stay on top of them?

Global Trade and Customs Journal for practitioners around the world

Customs Digital - online magazine for digitization of customs

## A COFFEE BREAK WITH...

A coffee break with... Mette Werdelin Azzam

## OVERVIEWS AND COMMENTS

Customs law and the international context

Managing customs risk and compliance: an integrated approach

Managing the cost of making customs declarations: are software solutions the future?

Trade agreements: the direct transport rule

An introduction to Binding Origin Information

Alternative proof of ending transit procedure

Customs tariff in simple terms: "mechanical and electric appliances" of chapters 84 and 85

Mexican tariff code: the fifth pair of digits

What's wrong with customs valuation in Ukraine?

After Brexit – the new trading reality in Ireland

A chance for businesses to reduce their post-Brexit customs duty bill – UK tariff suspensions

Klaipeda FEZ: benefits of free zones for business, activity standards

## CASE LAW (EU)

CJEU: DAF transaction price and actual transport costs that exceed it

Classification of solution for cats against ticks

Office machine or checking instrument?

# CONTENT

## LEGAL NEWS

EU law news: May 2021	<a href="#">4</a>
EU law news: April 2021	<a href="#">8</a>

## KNOWLEDGE

Customs news in our countries. How do we stay on top of them?	<a href="#">9</a>
Global Trade and Customs Journal for practitioners around the world	<a href="#">14</a>
Customs Digital - online magazine for digitization of customs	<a href="#">16</a>

## A COFFEE BREAK WITH...

A coffee break with... Mette Werdelin Azzam	<a href="#">18</a>
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## OVERVIEWS AND COMMENTS

Customs law and the international context	<a href="#">21</a>
Managing customs risk and compliance: an integrated approach	<a href="#">22</a>
Managing the cost of making customs declarations: are software solutions the future?	<a href="#">23</a>
Trade agreements: the direct transport rule	<a href="#">25</a>
An introduction to Binding Origin Information	<a href="#">26</a>
Alternative proof of ending transit procedure	<a href="#">27</a>
Customs tariff in simple terms: “mechanical and electric appliances” of chapters 84 and 85	<a href="#">28</a>
Mexican tariff code: the fifth pair of digits	<a href="#">31</a>
What’s wrong with customs valuation in Ukraine?	<a href="#">32</a>
After Brexit – the new trading reality in Ireland	<a href="#">33</a>
A chance for businesses to reduce their post-Brexit customs duty bill – UK tariff suspensions	<a href="#">34</a>
Klaipeda FEZ: benefits of free zones for business, activity standards	<a href="#">35</a>

## CASE LAW (EU)

CJEU: DAF transaction price and actual transport costs that exceed it	<a href="#">36</a>
Classification of solution for cats against ticks	<a href="#">37</a>
Office machine or checking instrument?	<a href="#">38</a>



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& RISK MANAGEMENT  
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## MEET CUSTOMS SPECIALISTS FROM AROUND THE WORLD!

Contribute an article to the CCRM journal and be invited to participate in bimonthly Authors' Meetings!

More information:  
[www.community.customsclearance.net/authors-meetings](http://www.community.customsclearance.net/authors-meetings)

Contact us: [info@lcpa.lt](mailto:info@lcpa.lt)



Editorial

Dear Readers,

Welcome to the 8<sup>th</sup> edition of the Journal of Customs Compliance and Risk Management (“CCRM”).

I’d like to take this opportunity to thank our existing readers for supporting CCRM and also our authors who have contributed their time to share knowledge for everyone’s benefit. Knowledge is power, without which customs professionals cannot function to their best ability. We are always keen to welcome new authors to make insightful and original contributions. Authors are invited to authors’ meetings that offer opportunities to network and exchange ideas. In the last meeting, we discussed how authors stay on top of customs updates, you can read a summary of their tips in this edition. The next meeting will take place in June. Please visit the [landing page for the authors’ meeting](#) for further information.

In this edition, you will find plenty of articles on the three pillars of customs: classification, origin and valuation. There are four articles on classification covering products from mechanical and electric appliances, solutions for cats against ticks, to office machines. For readers interested in the complexities of the Mexican Tariff, the article on the fifth pair of digits is for you. Origin continues to be a topical issue. There are three articles that analyse the basic principles of origin, specifically: Binding Origin Information, long-term supplier declaration, and the direct transport rule. Existing readers will notice a new section of CCRM, introducing the “A coffee break with…” series. In these articles, we interview a thought leader on a particular topic. Our first guest is Mette Azzam, who was the Senior Technical Officer focusing on origin at the World Customs Organization. The two articles on valuation are excellent reads. One focuses on the recent CJEU case on the DAF transaction price and actual transport costs that exceed it, the other discusses what sets Ukraine apart from other countries when it comes to customs valuation. Other EU updates are covered in our regular monthly EU law articles.

As you are aware, this journal is aimed at customs professionals. For those in the customs brokerage field, we have a practical article on alternative proof of ending the transit procedure based on recent experience. For in-house customs practitioners, the two articles on managing costs are important reads. One deals with whether making customs declarations in-house is a good idea. The other informs businesses of the opportunity to reduce their post-Brexit customs duty bill in the UK by applying for a tariff suspension in June/July 2021. Speaking of Brexit, we also have an article on the new trading reality in Ireland. For readers considering utilising free zones, we secured an interview with the General Director of the Klaipėda Free Economic Zone Management Company to talk about the potential benefits.

This journal has been working hard behind the scenes to collaborate with other customs journals following on from our event in April on global customs journals. You can read interviews with two editors in this edition. One with Jeffrey L. Snyder of the Global Trade and Customs Journal (“GTCJ”) and another one with Janine Lamprecht of Customs Digital.

Whilst CCRM’s focus is predominately on the EU, we are expanding the breadth of our coverage to include more global topics. Such as the article on customs in the international context, as well as the article by Dr. David Widdowson (President, International Network of Customs Universities) on Managing customs risk and compliance: an integrated approach.

Our authors enjoy engaging with the readers because, after all, a journal is not and should not be a one-way street. So, if you enjoyed reading a particular article or if you would like to share your thoughts and feedback, please leave your comment below the article, or email us at [info@lcpa.lt](mailto:info@lcpa.lt). We look forward to hearing from you.

Enjoy reading!

[Jessica Yang](#)

Member of the Editorial Board





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LEGAL NEWS

## EU law news: May 2021

*Overview of customs-related legal acts, case-law, notices published in the Official Journal of the EU and information published by the European Commission and the World Customs Organization. Updated weekly!*

News in week 21. WCO: two new instruments adopted by the Technical Committee on Customs Valuation concerning royalties and licence fees; note on the cross-border movement of vaccines; the 5th Global AEO Conference. EU: exclusion of imports of products originating in the United Kingdom from tariff quotas; representative prices in the poultrymeat and egg sectors; anti-dumping and anti-subsidy measures on imports of various goods; relief from import duties and VAT exemption granted for goods imported to assist to deal with the migration crisis.

### OFFICIAL JOURNAL

#### Tariff classification

10.05.2021 L 182 [Case C-941/19](#): Judgment of the Court of 10 March 2021 Samohýl group a.s. v Generální ředitelství cel regarding the tariff classification (headings 3004 and 3808) of **spot-on solution for cats** against infestations of fleas and ticks. Operative part of the judgment: the Combined Nomenclature set out in Annex I to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff, in the version resulting from Commission Implementing Regulation (EU) No 1101/2014 of 16 October 2014, must be interpreted as meaning that a product consisting of a solution intended for cats, which must be applied by local cutaneous route (spot-on) by means of pipettes (0,5 ml) and which contains the active substance fipronil (50 mg per pipette), and excipients, such as butylated hydroxyanisole E 320, butylated hydroxytoluene E 321, benzyl alcohol and diethylene glycol monoethyl ether, comes within tariff heading 3808 of the CN, as an 'insecticide', subject to the assessment by the referring court of all the facts at its disposal.

#### Origin of goods

12.5.2021 L 167 [Commission Implementing Regulation \(EU\) 2021/775](#) of 11 May 2021 laying down the rules for the application of Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards derogations from the 'originating products' rules laid down in the Trade and Cooperation Agreement between the European Union and the United Kingdom of Great Britain and Northern Ireland. Article 3 of the Regulation: 'To benefit from the quotas

set out in the Annex, where the preferential [tariff] treatment is claimed on the basis of a statement on origin, that statement on origin shall be drawn up in accordance with Article ORIG.19 of the Agreement and contain the following additional statement in English: '**Origin quotas – Product originating in accordance with Annex ORIG-2A**'.

10.5.2021 L 164 [Decision No 1/2021](#) of the EU-Jordan Association Council of 15 April 2021 amending the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Hashemite Kingdom of Jordan, of the other part, by replacing Protocol 3 thereto concerning the definition of the concept of 'originating products' and methods of administrative cooperation [2021/742]. Protocol 3 is replaced by the text set out in the Annex to this Decision. It shall apply from 1 September 2021.

### Customs procedures and formalities

3.5.2021 L 152 [Decision No 1/2021](#) of the Eu-Switzerland Joint Committee of 12 March 2021 amending Chapter III of, and Annexes I and II to, the Agreement between the European Community and the Swiss Confederation on the simplification of inspections and formalities in respect of the carriage of goods and on customs security measures. Changes are related to declarations prior to the entry and exit of goods, authorised economic operator, security and safety-related customs controls and security and safety-related risk management, etc.

3.5.2021 C 163 [Judgment of the Court](#) in Case C-7/20 VS v Hauptzollamt Münster regarding **temporary importation**, place where the customs debt is incurred, value added tax (VAT). Operative part of the judgment: The second subparagraph of Article 71(1) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax must be interpreted as meaning that import VAT on goods subject to customs duties arises in the Member State in which it is established that an obligation imposed by EU customs legislation has not been complied with, where the goods in question, even if they have been physically introduced into the customs territory of the Union in another Member State, entered the economic network of the Union in the Member State where that finding was made.

### Duty; anti-dumping and countervailing duty; other related measures

28.5.2021 L 188 [Commission Implementing Regulation \(EU\) 2021/854](#) of 27 May 2021 imposing a provisional anti-dumping duty on imports of **stainless steel cold-rolled flat products** originating in India and Indonesia.

28.5.2021 L 188 [Commission Implementing Regulation \(EU\) 2021/852](#) of 27 May 2021 amending Council Regulation (EC) No 32/2000 and Commission Regulation (EC) No 847/2006 as regards the exclusion of imports of products originating in the United Kingdom from **tariff quotas**.

28.5.2021 L 188 [Commission Implementing Regulation \(EU\) 2021/851](#) of 26 May 2021 amending Regulation (EC) No 1484/95 as regards fixing representative prices in the **poultrymeat and egg** sectors and for egg albumin.

27.5.2021 C 199 [Notice concerning](#) a partial reopening of the investigations leading to the anti-dumping and anti-subsidy measures on imports of certain **woven and/or stitched glass fibre fabrics** originating in the People's Republic of China and Egypt.

27.5.2021 L 186 [Commission Implementing Decision \(EU\) 2021/844](#) of 26 May 2021 terminating the anti-subsidy proceeding concerning imports of certain **hot-rolled flat products of iron**, non-alloy or other alloy steel originating in Turkey.

25.5.2021 L 184 [Commission Decision \(EU\) 2021/826](#) of 17 May 2021 on **relief from import duties and VAT** exemption granted for goods imported by Belgium as response to the assistance requested by Greece in order to deal with the migration crisis.

25.5.2021 L 183 [Commission Implementing Regulation \(EU\) 2021/823](#) of 20 May 2021 imposing a definitive countervailing duty on imports of certain **rainbow trout** originating in Turkey following an expiry review pursuant to Article 18 of Regulation (EU) 2016/1037 of the European Parliament and of the Council.

21.5.2021 L 181 [Council Decision \(EU\) 2021/803](#). The Agreement in the form of an Exchange of Letters between the European Union and the Kingdom of Norway pursuant to Article XXVIII of the General Agreement on Tariffs and Trade (GATT) 1994 relating to the modification of concessions on all the **tariff-rate quotas** included in the EU Schedule CLXXV as a consequence of the United Kingdom's withdrawal from the European Union is hereby approved on behalf of the Union.

21.5.2021 L 181 The [Agreement in the form of an Exchange of Letters](#) between the European Union and the Kingdom of Norway pursuant to Article XXVIII of the General Agreement on Tariffs and Trade (GATT) 1994 relating to the modification of concessions on all the **tariff-rate quotas** included in the EU Schedule CLXXV as a consequence of the United Kingdom's withdrawal from the European Union.

17.5.2021 C 187 [Communication from the Commission](#) on the body authorised to issue certificates of authenticity under Implementing Regulation (EU) No 2020/1988. Commission Implementing Regulation (EU) No 481/2012 of 7 June 2012 providing for the administration of an import **tariff quota for high-quality beef** was repealed by Commission Delegated Regulation (EU) 2020/1987 and replaced by Commission Implementing Regulation (EU) No 2020/1988. Under Article 25 of Implementing Regulation (EU) No 2020/1988, the release into free circulation of goods imported under the quota bearing the orders numbers 09.2201, 09.2202 and 09.2203, is subject to the presentation of a certificate of authenticity.

11.5.2021 C 183 [Notice](#) of initiation of an expiry review of the anti-dumping measures applicable to imports of certain **ring binder mechanisms** originating in the People's Republic of China and extended to Vietnam and Lao People's Democratic Republic.

10.5.2021 L 162 [Commission Implementing Regulation \(EU\) 2021/760](#) of 7 May 2021 amending Implementing Regulations (EU) 2020/761 and (EU) 2020/1988 as regards the management system of some **tariff quotas with licenses** and repealing Implementing Regulation (EU) 2020/991. One of the amendments: 'The authenticity certificate, issued by a competent body of Vietnam listed in Annex III, stating that the rice belongs to one of the specific varieties of fragrant rice set out for tariff quota with order number 09.4731 shall be drawn up on a form in accordance with the specimen laid down in Annex XIV.2 RICE – Part D. Origin Vietnam. The forms shall be printed and completed in English.'

6.5.2021 C 170 [Notice](#) of the impending expiry of certain anti-dumping measures. Product **sodium gluconate**, CN code ex 2918 16 00, country of origin China.

5.5.2021 C 168 [Notice](#) of the impending expiry of certain anti-dumping measures. Product certain **stainless steel tube and pipe butt-welding fittings**, whether or not finished, CN codes ex 7307 23 10 and ex 7307 23 90, countries of origin China and Taiwan.

3.5.2021 C 161 [Notice](#) of the impending expiry of certain anti-dumping measures. Product **aluminum road wheels**, CN codes ex 8708 70 10 and ex 8708 70 50, country of origin China.

#### Non-tariff measures

12.5.2021 C 187 [List of customs offices](#) empowered to handle formalities for the exportation of **cultural goods**, published in accordance with Article 5(2) of Council Regulation (EC) No 116/2009.

6.5.2021 L 158 [Commission Implementing Regulation \(EU\) 2021/734](#) of 5 May 2021 amending Implementing Regulation (EU) 2021/521 making specific arrangements to the mechanism making certain products (COVID-19 **vaccines** as well as active substances) subject to the production of an export authorisation. Changes are related to certain countries and territories, and application terms.

#### EUROPEAN COMMISSION

3.5.2021 [New Learning Portal for tax and customs professionals](#). The **CusTax EU Learning Portal** provides users with customs and taxation training and people development measures to establish a competitive performance

advantage across Europe.

## WORLD CUSTOMS ORGANIZATION

28.5.2021 [The WCO Secretariat Note](#) on the cross-border movement of **vaccines** enhanced with further guidance and good practices.

27.5.2021 [Two New Instruments](#) Adopted by the Technical Committee on Customs Valuation to Support Customs and Economic Operators. At its 52nd Session, held from 17 to 19 May 2021, the Technical Committee on Customs Valuation adopted two instruments (Advisory Opinions 4.18 and 24.1) concerning **royalties and licence fees** under Article 8.1 (c) of the WTO Customs Valuation Agreement (Agreement) and the Customs valuation treatment of imported goods bearing the buyer's own trademark, respectively.

25.5.2021 [The 5th WCO Global AEO Conference](#) "AEO 2.0: advancing towards new horizons for sustainable and secure trade" opens in Dubai.

12.5.2021 [Following Jamaica's accession](#), the **Revised Kyoto Convention** now has 128 Contracting Parties.

12.5.2021 [Successful conclusion](#) of the 67th Session of the **Harmonized System** Committee. the primary focus of the meeting was to finalise the amendments to the HS 2022 Explanatory Notes in order to be published in time for the implementation of the seventh edition of the HS on 1/1/2022.

11.5.2021 [Over 56,400 cultural goods](#) seized and 67 arrests made in action involving 31 countries.

E-LEARNING FOR PRACTITIONERS  
**CUSTOMS CLEARANCE MADE CLEAR**

Video  
**Antidumping: the "lesser duty" pitfalls**

Prepared by: © customsclearance.net



In the companies you have seen, there is a Chinese company Weifang. The antidumping duty rate set on imports from this company is 33,8%. German importer J&J purchased from Weifang 360 tonnes of citric acid and wanted to release into free circulation.

 [www.customsclearance.net](http://www.customsclearance.net)
**~5 min**





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LEGAL NEWS

## EU law news: April 2021

*Overview of customs-related legal acts, case-law, notices published in the Official Journal of the EU and information published by the European Commission. Updated weekly!*

News in week 17: Trade and Cooperation Agreement between the EU and the UK enters into force on 1 May 2021; additional customs duties on imports of certain products originating in the USA; Commission public consultation on the Union Customs Code; read for more news.

### OFFICIAL JOURNAL

30.4.2021 L 149 [Notice concerning](#) the **entry into force of the Trade and Cooperation Agreement (TCA)** between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part, and of the Agreement between the European Union and the United Kingdom of Great Britain and Northern Ireland concerning security procedures for exchanging and protecting classified information. The TCA will enter into force on 1 May 2021.

30.4.2021 L 149 [Trade and Cooperation Agreement](#) between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part.

### TARIFF CLASSIFICATION

19.4.2021 C 138 [Case C-772/19](#): Judgment of the Court of Justice of the EU *Bartosch Airport Supply Services GmbH v Zollamt Wien*. Operative part of the judgment: The Combined Nomenclature set out in Annex I to Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff, as amended by Commission Implementing Regulation (EU) No 2016/1821 of 6 October 2016, must be interpreted as meaning that heading 8705 of that nomenclature does not cover vehicles designed to tow and push aircraft, referred to as 'aircraft tractors', since those aircraft tractors fall within heading 8701 of that nomenclature. Read an overview of the judgement [here](#).

14.4.2021 L 127 Commission Implementing Regulation (EU) 2021/600 of 7 April 2021 concerning the classification of certain goods in the Combined Nomenclature. The goods: rods of tungsten alloy designed to be chamfered and

[Read continuation on Customs Clearance](#)





KNOWLEDGE

## Customs news in our countries. How do we stay on top of them?

To stay compliant means to keep up with regulatory changes. How do we stay on top of customs-related legal changes and other news? What are the most preferred communication channels?

In this article, we summarise what authors of the CCRM journal shared during the 5<sup>th</sup> Authors' Meeting on 22 April 2021: the enormous volume of statutory instruments due to Brexit, the convenience of the U.S. federal register, the importance of support bubbles, useful news alerts from social media, and much more!

### **BREXIT: WE HAVE A MOUNTAIN TO CLIMB**

*By Catherine Truel, CEO of Alegrant Ltd., the UK/ France*

Alegrant.com is the platform for global trade and customs compliance connecting traders with customs experts worldwide. Alegrant helps businesses trade globally in a safe, compliant and profitable manner so up-to-date legal knowledge is a must in this work. How to get it, especially in the fast-changing Brexit times?

In her work, Catherine and her colleagues follow legal research methodology and use primary and secondary sources. The primary source is legislation. Here subscriptions to some legal publications are of help as well as the government legislations. The secondary sources are government publications and academic journals. Then, the grey literature, which is the subscription to magazines and newspapers.

The UK customs legislation is published in its original form on the legislation.gov.uk website. The rules are also reproduced in an explanatory form on the UK customs website (Her Majesty's Revenue and Customs (HMRC)). Alegrant uses the legislation as a primary source of information and the HMRC explanatory notes as a secondary source. Because of the way they are studying the law, Alegrant notices when there is a difference between these two types of sources. Post-Brexit, they increasingly notice a divergence which can become confusing for traders having to apply the rules.

For Alegrant, the divergence is coming from the sheer volume of new regulations replacing pre-Brexit rules. Furthermore, the change of legislation is not just affecting customs rules, this is affecting a wide body of laws. Overall, the volume of the statutory instruments being published is enormous creating a serious concern among legal scholars.

The extent of the primary sources is obvious from the picture below. There are 95 implementing regulations of the UK Customs Code so far and they are coming out very fast! The slide shows the way Catherine works on structuring the Customs Code, which helps her advise the clients.

## Primary Sources: UK Customs Code Statutory Instruments 95 Regulations so far...

Overview of UK Customs Statutory Instruments (Implementing Regulations) landscape

This gap is also noticed by the trade specialists, as Alegrant's clients, especially large companies who have a legal department or inside counsel, are reporting errors on the HMRC website. But the website is not necessarily wrong. Often, it is a question of timing between the legislation being published and the HMRC website being issued.

### NEUTRAL SOURCES – MORE TRUST

*By Jessica Yang, director of JY XBorder Consulting Ltd, the UK*

Jessica has been tackling an ongoing issue with HMRC's guidance, which is important in her advisory work. The guidance is regularly updated. Whilst there is a tracker of when the information was updated, replaced information no longer exists. This means if a link is saved one day, the content may not be the same when someone revisits the webpage later. Therefore, she always prints the page to pdf to save that particular version, because the advice she gives is based on the information available at that particular time.

Jessica gets information and updates through emails from HMRC and trusted sources compiled by the private sector, such as TradeWatch published by EY and updates compiled by customs clearance.net. She strongly believes that it is essential for an advisor to read the primary sources themselves, to arrive at their own interpretation.

She enjoys reading documents from the EU's Expert Groups meetings. Last year, one of the most interesting meeting minutes came from the valuation committee meetings, when they were updating the EU's valuation guidance.

Another source that Jessica subscribes to is the UK parliament's weekly Future Relationship Digest. The email informs the reader of what is happening in the House of Lords and the House of Commons that week.

Overall, Jessica prefers to receive official public updates, because they are often impartial. She is also an avid reader of comprehensive updates that contain links to the original source collated by private sector firms, such as the Big4, as these updates usually cover a wide range of topics as well as geography. She refrains relying solely on information shared on social media by individuals, as posts on social media will inevitably be influenced by the platforms' innate design to generate views and clicks through popular posts, which may not offer an impartial view. As such, she thinks advisors should rely on a wide range of neutral sources that will allow them to formulate their own interpretations through untainted lens.

### **THE FEDERAL REGISTER IN THE U.S. – VERY CONVENIENT**

*By Samuel Draginich, global trade compliance specialist, INTRAL Corporation, the U.S./ Vietnam*

Samuel advised to use for U.S.-specific updates the U.S. federal register. It is one of the main portals of the U.S. federal government. It is extensive and involves every part of the government. One can subscribe to, for example, customs and border protection that will give you all the updates to the legal information on customs. A person can subscribe to anti-dumping or Section 301 updates, which are key components of the ongoing trade wars. By entering this website, a person can search the topic of interest and subscribe to them accordingly. Then, every single morning an email will arrive with a collection of relevant topics. The federal register is very convenient and free of charge to anyone in any country.

One issue is that the federal register is incredibly extensive and it can be difficult to zoom in on the news and topics of interest. Sometimes one ends up getting information that is not relevant, and other times receives information that is not of interest. Samuel believes if the federal register could make it easier for users to narrow down the wealth of information into specific topics more easily it would become a far more effective and useful source of information.

Samuel also uses a blog that is mainly focused on the U.S., but it also has a focus on many other countries. Baker McKenzie, a large law firm in the U.S., has a very significant division devoted to trading compliance, runs that blog [internationaltradecomplianceupdate.com](http://internationaltradecomplianceupdate.com).

### **THE UPDATED WEBSITE OF THE STATE CUSTOMS SERVICE IN UKRAINE**

*Dr. Ilona Mishchenko, Associate Professor of the Maritime and Customs Law Department, National University "Odessa Law Academy", Ukraine*

Ilona has noticed many changes in the customs system and customs legislation in Ukraine over the last few years under the influence of various factors. European integration processes in the country are the main reason for these changes. That is why customs news are published very quickly and sometimes can be difficult to follow as a result. There were cases when a particular act was issued and then canceled before it came into force. Therefore, providing reliable customs information to Ukrainian and foreign practitioners, theorists, and all interested persons is a rather pressing problem.

The main source of customs news is the official website of the State Customs Service of Ukraine. It was radically updated a few years ago. Many new useful options were added for users including interactive tools. There is a version for people with visual impairments.

Despite all the advantages of this resource, it has two significant disadvantages.

The first one concerns the English version of the site. Unfortunately, it only contains section titles in English. All content is in Ukrainian. It is not a problem for Ukrainian readers. However, foreign tourists, travelers and other persons entering the customs territory of Ukraine do not have the opportunity to get acquainted with the customs rules of Ukraine.

The second significant disadvantage is related to the choice of social media through which official customs information is delivered to the reader. The State Customs Service of Ukraine has chosen Twitter and Telegram which are unpopular



in Ukraine. According to statistics, the most common social media in our country is Facebook which covers 14 million users. This is more than a third of the population of Ukraine. The audience of the Customs Service on Twitter is only a little more than one and a half thousand readers, on the Telegram - a little more than two thousand subscribers. It remains nebulous why the State Customs Service of Ukraine ignores the biggest media platform in the country.

Ilona considers that the solution of these two issues is urgent for the establishment of communication between customs and business and individuals. It will increase the knowledge of these subjects about the customs rules and nuances of customs clearance and other customs formalities and reduce possible violations related to crossing the customs border of Ukraine.

### **EXERCISE OF CHECKING THE WEBSITES OF COURTS**

*By Monika Bielskienė, attorney-at-law, law firm WALLESS, Lithuania*

Monika mainly works in the fields of customs valuation and indirect taxation. As an attorney, she has to be up-to-date with the news to understand what kind of current issues there are. For her updates, she does three things. She reads weekly and monthly updates provided in the journals on customs. The second action is building a network on LinkedIn to follow people who are publishing useful information.

And, of course, she does the exercise of checking the websites of the European Court of Justice and National courts for new cases, since it is relevant to her job. Monika notices that in the EU, the decisions of the European Court of Justice are available online, but it is not easy to find the position of, for example, the European Commission on a separate case. Some of them are public but only if one asks or somebody has asked some time ago. The access is not as open as one might think.

### **USEFUL NEWS ALERTS FROM TWITTER**

*By Dr. David Savage, Ireland*

David is an expert in the classification of chemicals. To stay up-to-date, he keeps an eye on the EU's Official Journal and the minutes of the meetings of the committees of the European Commission. There are many disputes in those meetings. The minutes that are provided for public digestion are not as comprehensive as the ones that you would get if you were participating in the meeting, but you get enough to understand what is going on and which arguments lead one way or another.

David also follows news from certain Directorate-General (DG) of the European Commission on Twitter. He notices that there is a technique using Twitter. If you activate the right notifications then, whenever a relevant tweet comes through, you get an alert to your phone. Additionally, there is a group known as Trade Twitter. It is always good, lively discussion happening here. There are many people to follow providing a wealth of free and useful information.

### **THE SUPPORT BUBBLE – INPUTS FROM PEOPLE WHO KNOW WHAT YOU ARE DOING**

*By Mette Werdelin Azzam, independent customs and trade agreement specialist*

Mette is getting her information from official public sources. She agrees that there are specific accounts on Twitter or LinkedIn that one can follow. There, people often provide links to the official source.

Also, she gets her information from the World Customs Organization (WCO). Via the EU Commission website, it is possible to get reports from the technical Customs Code Committee meetings. The WCO also publishes reports from all their meetings – technical or more political meetings. There you can get information on a worldwide global level. Mette also gets emails from lexology.com every morning. There they have a lot of different information on upcoming legislation. The information is grouped by country, so the same information can be posted several times if it applies to several countries. She also has subscriptions to different public sources such as HMRC, European Commission websites, etc.

Of great importance might be the support bubble creation with colleagues because one can get inputs on specific topics from people you know and who know you and what you are doing.

## **THINGS IN THEORY DO NOT ALWAYS TRANSLATE TO HOW THEY ARE DONE IN PRACTICE**

*By Toby Spink, director of BKR Consultants Limited, the UK*

The company BKR consultants is part of the George Baker Group, which is the largest independent customs brokerage company in the UK. Therefore, Toby is approaching customs matters from the front-line. Toby is using email notifications and is also reading primary sources.

One of the great sources he mentioned is networking and the experience of other people. From the practical front-line side of the industry, he sees how things in theory do not translate to how they are done in practice. There is a misalignment between how HMRC guidance is written and the direction it points to versus how customs brokers actually have to operate.

Currently, many guidances have not been written yet, or are not relevant anymore. So, speaking to people who have experience and are specializing in certain areas is incredibly valuable. It is not always reliable due to several reasons: the idea is taken from an unreliable source, or that the experience may not be fundamentally correct. However, it still has great value, especially when interpreting it to a practical solution and using alongside primary source guidance.

## **THE MOST PREFERRED COMMUNICATION CHANNEL**

*By Erika Naujoke, director of customs brokerage company UAB Muita, Lithuania*

The most confusing fact for Erika is that news about newly released or updated guidelines is... tweeted by the DG TAXUD on Twitter instead of being announced on the website of the European Commission. She also shared that in Lithuania, the legal news should be checked manually on the official website e-tar.lt

As there are many communication channels, the question she raised: What would be the most convenient communication channel to learn the customs-related legal changes and news? A poll was started, the participants were invited to choose one answer from these:

1. newsletter subscription on customs topic in general,
2. newsletter subscription on specific customs topics,
3. news published on a website,
4. news published on social media.

Most participants selected the first option – newsletter subscription on customs topic in general. The second choice was a newsletter subscription on specific customs topics.

Erika hopes that the article will be read by decision-makers in various institutions, who are in charge to provide information on legal changes and other news. The communication channel in the form of a newsletter subscription (similar to the solution of the U.S. federal register) would be highly appreciated by many practitioners in the countries where there is no such option (e.g., EU and Lithuania).



**Jeffrey L. Snyder**

Partner, attorney  
Crowell & Moring LLP

[About the author](#)

KNOWLEDGE

## Global Trade and Customs Journal for practitioners around the world

Global Trade and Customs Journal (GTCJ) is a journal for practitioners around the world. It started 16 years ago. How was the idea born? What are the main topics covered in the GTCJ? What are the most challenging and rewarding aspects of being on the editorial board of the journal? The general editor Jeffrey L. Snyder kindly agreed to answer these and other interview questions.

Learn more about the GTCJ by reading the interview with Jeffrey and watching a video record of his talk (9 minutes) during the [webinar 'Journals on Customs'](#).

### HOW WAS THE IDEA TO START THE JOURNAL BORN?

My predecessor, [Edwin Vermulst, of VVGB in Brussels](#), a preeminent international trade lawyer, conceived of the GTCJ to fill the need for current (monthly) practical advice on trade issues. As the Journal grew and Edwin expanded other publications (he now edits the [Journal of World Trade, JWT](#)), he kindly sought my interest.

### PLEASE TELL US MORE ABOUT THE GLOBAL TRADE AND CUSTOMS JOURNAL.

The Journal is 16 years old and is published monthly. There are two double issues July-August and November-December. Each issue is from 40 to 60 printed pages.

The Journal keeps me very busy because of the monthly publication schedule. Each Issue represents many hours of work by authors and editors, who not only review the submissions but are actively seeking out authors. We focus on practitioners and the motto is 'for practitioners by practitioners'. The editors of GTCJ are very interested in diverse content, especially in geographic and gender diversity. There are special issues for "Women in Trade", "Next Generation in Trade", and regional focus issues, for instance, the upcoming year-end Issue, "Trade in Africa".

The Journal is published in the English language, but also there is an initiative together with translators to bring book reviews and other items to an English-speaking audience.

Typically, the articles are from 4000 to 7000 words, while, and in addition, columns are published - case notes, opinions, interviews with practitioners and notable representatives involved in customs work, and also webinar transcripts. There is a wide range of formats. Blogs are only 1000 words, and they turn around from the acceptance of the blog post to publication in a matter of days or less ([Regulating for Globalization Trade, Labor and EU Law Perspectives](#)).

The editorial board is involved in selecting, reviewing, and editing contributions; we try to make a quick decision, whether the submission fits the journal; and whether to publish it. Once accepted and scheduled for publication, the



whole cycle takes about 90 days. Authors receive the pdf copy and the printed copy of the journal by the mail.

### **WHAT TOPICS ARE COVERED IN THE CURRENT ISSUE OF THE GTCJ? WHAT TOPICS ARE PLANNED FOR THE FUTURE?**

Right now, the editors are working on and completing the July/August special issue on Sustainable Trade; it has contributions from WTO authors, ambassadors, and a wide range of contributors on how sustainable trade is affecting international business.

Next, for the September special issue, we will focus on fighting corruption in customs. The October special issue will be from the advisory committee on WTO Law, a long-time partner of the Journal. For 2022, there are several interesting topics. One that continues to come up is the role of Trade and Development and the promotion of trade instruments and trade agreements that are aimed at enhancing economic development around the world. Another look is at the technological competition as a form of trade; this is having a major impact on trade, and there is growing conflict over technology access and sharing. The most interesting issues are in the area of forced labor and the role of the corporation in promoting human rights; how can they be integrated into the trade to promote business goals. Another perennial topic we will address is customs value and tax interplay in transfer pricing between related parties. This topic continues to drive a lot of what international business must consider under customs law.

[See the latest edition online.](#)

### **WHAT IS YOUR FAVORITE CUSTOMS-RELATED TOPIC AND WHY?**

I enjoy the practical side of Customs – how can global companies keep pace with the demands of business and comply with complex laws at the same time? Advising companies on these issues means learning about new business constantly, identifying any risk of non-compliance, preparing a method to comply, and over time developing procedures to keep it right. Integrating business processes with customs compliance is a challenge but is always interesting.

### **WHAT ARE THE MOST CHALLENGING AND REWARDING ASPECTS OF BEING ON THE EDITORIAL BOARD OF THE JOURNAL?**

It is quite difficult to find qualified authors who are practitioners and can write about the practical aspects of this work. Many qualified individuals have no time, and after all, it is not their job, and they are not paid for it. They have a lack of time due to their practitioners' jobs each day. There is much work to cultivate and nurture the relationships with authors to identify authors who would make a meaningful contribution and work with them over time. They may not be able to now, but maybe next month or next year. It is a long game and one that builds strong relationships.

I also enjoy and value the collaboration with the editorial board of the Journal and the exceptional professionals at Kluwer Law International. Working with these teams brings inspiration and is always a joy.

### **WHAT WOULD BE YOUR ADVICE FOR THE READER WHO HAS AN IDEA TO START A JOURNAL ON CUSTOMS IN HIS OR HER COUNTRY?**

I would become a part of this community. The Lithuanian Customs Practitioners Association provides much information about the journals that are out there, the focus of each, and what may be missing - if you can see a niche, that may be the direction. Next, I would consider whether you know or can access a network of authors; like starting any business, you need an assured source of content for several months or a year until the journal can gain a reputation and begin to attract submissions.



**Janine Lamprecht**

Partner and managing director  
Grenzlotsen GmbH

[About the author](#)



**Erika Naujokė**

Director  
Muita UAB

[About the author](#)

## Customs Digital - online magazine for digitization of customs

Customs Digital is a newly launched magazine for customs practitioners in Europe. The editor Janine Lamprecht says: “We want to explain things simply, pragmatically, and clearly, and to generate interest in the digitization of customs. Our vision - to revolutionize the customs world and make IT easy to understand for customs practitioners”.

Learn more about the magazine by reading the interview with Janine and watching a video record of a talk (11 minutes) during the webinar ‘Journals on Customs’.

**Enrika: Janine, how was the idea to start the magazine born?**

**Janine:** I remember how we met at an event organized by the German customs practitioners association Aussenwirtschaftsrunde e.V. Afterwards, you shared with me the idea of starting a magazine. It was the moment when I thought: “I would love to!”

**Enrika: Indeed, the events create invaluable opportunities to expand ones professional network and to exchange ideas! Please tell us more about Customs Digital.**

**Janine:** Digitization and IT does not always have to sound like science fiction. We want to explain things simply, pragmatically, and clearly, and to generate interest in customs digitization. With articles on the basics of the IT world, explanations of terminology, and best practice projects, we aim to provide customs practitioners with knowledge of the digital customs of tomorrow.

Our vision - to revolutionize the customs world and make IT easy to understand for customs practitioners.

**Enrika: What are the main topics covered in the current (first) issue of Customs Digital?**

**Janine:** We want to explain technologies in an easy way and to show what is possible so that customs practitioners get ideas on how to bring digitization into the customs processes of their companies. Examples of the topics of published articles: “Determining Customs Tariff Numbers from Images: Science Fiction or Soon Reality?”, “Digitalisation versus the Four-eyes Principle – Data Analytics in ICS”, “Automated Random Sampling Control of Data Sets”.

Currently, we are looking for customs practitioners who would share their digitalization experience and insights in an article.

**Enrika: What aspects of customs digitalization do you find most exciting? And what current developments - the most challenging?**

**Janine:** For us and our own innovation processes, the operational customs clearance process is the most exciting. Answering the second question, I think, the e-commerce business is growing and needs to have an easier and more digital way to clear customs, especially in the B2C sector.

**Enrika: As we talk about challenges, what are the most challenging and the most rewarding aspects of being an editor of the magazine?**

**Janine:** The most challenging is to explain your own projects in a valuable way for other customs practitioners to use these insights in their projects. The rewarding aspect is to meet other digitalization passionate people and to learn their insights shared in the articles.

**Enrika: What would be your advice for the reader, who has an idea to start a journal (magazine) on customs?**

**Janine:** I would advise, first of all, to talk to you, as you are a great supporter, and then just do it! I think all new topics need development and we will see what the way for Customs Digital is.

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**Mette Werdelin Azzam**

Independent Customs and  
Trade Agreement Specialist

[About the author](#)



**Jessica Yang**

Director  
JY XBorder Consulting Ltd

[About the author](#)

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A COFFEE BREAK WITH...

## A coffee break with... Mette Werdelin Azzam

This is the first “coffee break” article in our new series featuring thought leaders in the field of customs.

Our guest is Mette Werdelin Azzam, a rules of origin geek who spent a decade at the World Customs Organization (WCO) as the Senior Technical Officer focusing on origin. She is now working as an independent Customs and Trade Agreement Specialist with rules of origin as her main expertise and passion.

**Jessica: Mette, thank you for being our first guest. You are well known in the circle of origin geeks, but for the people who have not had the pleasure of meeting you yet, can you describe what you do?**

**Mette:** Thanks a lot for inviting me – it is always a pleasure to have opportunities to talk about origin. Rules of origin are really a niche in Customs and Trade and, indeed, not many people know what it is all about. Countries negotiate free trade agreements with other countries in order to boost trade between them and thereby create more jobs and work towards a sustainable development. For the importing country, customs duties are relieved – and rules of origin in these trade deals make sure only goods originating in the partner countries can cross the border without paying duties.

My job is to assist Customs administrations, businesses and other stakeholders build capacity so that they can implement and apply rules of origin correctly and thereby benefit from the free trade agreements.

**Jessica: An important job, you must be very busy! Since you are based in the EU, I want to talk about one of the biggest changes in the customs world over the last year, namely the UK’s departure from the customs union. How are businesses adapting to the new world since January 2021?**

**Mette:** Indeed, UK leaving the EU has brought a lot of changes for trade – going from free circulation to a trade deal has a huge impact as goods must be originating in the UK or the EU to be imported without payment of customs duties. Many companies have never imported/exported, so they must learn the whole process with customs declarations etc from scratch. They didn’t change anything, but everything changed around them.

Businesses were told to “be ready” for the new situation – but ready for what? The trade deal was finalised very late, making the new situation even more difficult.

Especially distribution companies are heavily impacted, and even more so as they made sure to fill their stocks before 1 January to avoid queues etc at the border. Now they find themselves with goods that are not fulfilling the origin

provisions and therefore will be subject to customs duties when distributed (back) to the EU.

But they are getting there – in general the questions I receive now are much more specific and complex than in January.

**Jessica: It is great to hear that the business community is learning fast. Now let's zoom out and look at some other trade agreements around the world. In your view, are there any that are revolutionary in terms of their approach to rules of origin?**

**Mette:** A WCO study shows that despite the so-called spaghetti bowl of rules of origin there are definitions, provisions, procedures etc that are found in all FTAs around the world, and none of the agreements are actually breaking away from the traditional approach to rules of origin.

One new trend that we see in many agreements, is that they are moving towards self-certification. This means that exporters, manufacturers, importers can certify the origin of the goods themselves – via a declaration on the invoice, other commercial documents or the import declaration – without the direct involvement of authorities. This is of course facilitating trade and reducing costs for traders – but it also leads to more uncertainty especially for importers due to the duty liability.

One revolutionary trade deal would be the African Continental Free Trade Agreement (AfCFTA) – not necessarily because of its rules of origin as such, but because of its scope, coverage and potential impact on sustainable development for an entire continent. When finalised - and if utilised - it will definitely lead to economic growth, job creation and regional integration in Africa.

**Jessica: The good old spaghetti bowl analogy! Do I remember correctly there was also a lasagne analogy? At the recent WCO Global Origin Conference, you mentioned trade agreements are used more where the customs authorities promote and support traders. What else can be done to reduce the cost of using trade agreements so that more businesses can benefit?**

**Mette:** A WTO study some years back showed that preferential trade across the globe was only 16 % of total global trade. In countries where the agreements are heavily promoted and where Customs administrations support traders, the utilisation of the agreements is over 90%.

As a part of negotiating trade deals, governments calculate the economic benefit of these deals. If they are not used, businesses do not benefit from all the advantages both on the import and export side – and thereby the country itself doesn't benefit fully.

There are features in an FTA that can save costs for traders, including self-certification, flexible rules of origin which give more flexibility in the choice of suppliers and make compliance with the rules easier. Less strict transport/shipment provisions can also save costs and make life easier for traders.

**Jessica: Of the topical discussions that have emerged over the last few years, which ones do you think are here to stay? For example: 3D printing and origin, using rules of origin to improve labour standards (e.g. minimum wage requirement), free trade agreements and sustainability, etc.**

**Mette:** E-commerce as part of digital trade has been discussed over the last years in relation to customs. E-commerce itself is of course topical now as VAT rules have changed in the UK from 1 January 2021 and will change for the EU on 1 July this year too, but e-commerce as such is not treated differently by customs as any other kind of border crossing trade – it has no impact on rules of origin, HS codes or customs valuation how you ordered your goods.

Another part of digital trade – and which in my opinion is closer to actual digital trade than just ordering your goods online – is 3D printing. This new kind of trade is also closely linked to origin on services. It is being discussed at the international level, in the WCO, in the WTO etc, but for now customs duties only apply to physical goods crossing a border and not to services. 3D printing is on the edge of this as you start by ordering a service online but end up with a physical good.

In general, FTAs are used for a lot of other stuff than free trade, including child labour, environmental issues, human rights etc.

Another important topic that is here to stay is how to ensure quality in the origin information and origin determination and how to make sure that this quality information is then kept in a secure system where it is immutable and impossible to alter.

**Jessica: Plenty of food for thought then. Finally, what advice would you give to someone looking to grow their career in customs and trade?**

**Mette:** I would advise them to build a network, there is a lot of information “out there” for those who are interested. And of course, to reach out to the geeks – we are more than happy to engage and to discuss our favourite topics.



**E-LEARNING FOR PRACTITIONERS**  
**CUSTOMS CLEARANCE MADE CLEAR**

Video  
**The devil is in the details of preferential origin (in the... exporters archive)**  
Prepared by: © customsclearance.net

**THE DEVIL IS IN THE DETAILS!  
PREFERENTIAL ORIGIN**

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**Monika Bielskienė**

Attorney at Law  
Law firm WALLESS

[About the author](#)



**Milda Stravinskė**

Project Manager  
AB Lietuvos paštas (Lithuania Post)

[About the author](#)



## Customs law and the international context

We, Milda Stravinskė and Monika Bielskienė, met to discuss the broader international context of our day-to-day customs activities. First and foremost, customs law is a ‘companion’ to international trade, so the international context and cooperation, common rules, agreements, and approaches, are inevitable. No importer or customs authority operates in isolation. The need to reconcile many spheres and interests leads to an abundance of international agreements and requirements. While preparing the courses for customs brokers, we both saw the need to disclose this context to our future colleagues. The easiest way to do this is by sharing personal experiences. So we talked about it.

**Monika: Milda, I know you work at the International Business Department of the Lithuania Post. What specific international requirements, legislation, or agreements do you encounter in your work?**

**Milda:** Lithuanian Post is a universal postal service provider (designated postal operator) capable of providing international services following the Universal Postal Convention and importing, exporting, and transiting postal items in the Republic of Lithuania using documents in the form established by the Universal Postal Union. Therefore, not only the above-mentioned Convention is relevant to us, but also other Regulations of the Universal Postal Union, such as the Letter Post Regulations and the Parcel Post Regulations.

The provisions of the Universal Postal Convention are also taken into account while preparing European Union legislations - for example, the Union Customs Code and its implementing legislations contain several provisions adapted to the postal specificities, which are compatible with global requirements. For example, in accordance with the provisions of the Universal Postal Union Convention, goods carried by post are subject to different requirements for transit formalities, other forms of documents, and special labels indicating the status of the goods.

The relevant national legislations are also based on principles embedded in international law. For example, the Postal Law of the Republic of Lithuania that is relevant to us is, of course, also compatible with the requirements established by the Universal Postal Union at the international level. After all, within the Lithuania Post, my colleagues and I are always looking for compatibility with the above-mentioned international legislation when interpreting specific work issues, looking for certain practical solutions in activities, or approving various procedures within the company.

Monika: The requirements you mentioned are inherent to a fairly specific postal industry. How often do you have to

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**Dr. David Widdowson**

President, International Network of  
Customs Universities

[About the author](#)

OVERVIEWS AND COMMENTS

## Managing customs risk and compliance: an integrated approach

This article introduces a contemporary framework for managing compliance in the customs context that fully integrates the principal elements of customs risk and compliance management. In doing so, it explores the manifold resources that have been developed by the World Customs Organization (WCO) and other parties that may be used by administrations to support implementation of the framework.

The integrated model draws together the author's contribution to the literature over several years and provides practitioners with a logical and inclusive methodology for managing compliance at a strategic or operational level.

*The article is published in the [World Customs Journal Volume 14](#), Number 2, September 2020. Thank you to Professor David Widdowson for the right to republish it.*

[Read the article in PDF](#)



**Jessica Yang**

Director  
JY XBorder Consulting Ltd

[About the author](#)



**Toby Spink**

Director  
BKR Consultants Limited

[About the author](#)

## OVERVIEWS AND COMMENTS

# Managing the cost of making customs declarations: are software solutions the future?

How much does it cost? When goods cross a border, customs formalities must be completed. Customs brokers help businesses complete these formalities. In the UK, £32.50 per declaration is HMRC's estimated cost of this service, but in reality the price tag can be as high as £150 per declaration. For businesses trading between the UK and the EU, this is an additional cost of Brexit.

Unlike customs duties, this cost cannot be reduced by using the EU–UK Trade and Cooperation Agreement. Many businesses are considering completing customs declarations in-house with the help of software solutions. But is this the right option for everyone?

### TOP 5 REASONS WHY SOFTWARE SOLUTIONS ARE AN ATTRACTIVE ALTERNATIVE

#### #1 Price

Using a software solution might be cheaper than paying a customs broker, but the cost-benefit assessment can be complex to calculate. The cost of software solutions depends on many factors, such as the number of declarations made per year, number of users, capability of the solution to interface with existing ERP system, etc. The pricing model varies vastly depending on the software supplier. As such, a cost vs benefit analysis is not straightforward to complete.

#### #2 Control

Most customs brokers in the UK act as direct representatives. This means they follow the instructions of the business on what should be declared on the customs declaration. Using a software solution would allow a business to bypass the messenger and submit the data directly to HMRC. This gives the business full control over what is declared to HMRC.

However, control comes with responsibilities. Businesses need the knowledge to declare their goods to HMRC accurately. Having robust internal processes and controls to manage the responsibilities of a customs declarant will help.

#### #3 Compliance

Data is power. Using a software solution to make customs declarations can offer better visibility in real time on what is being declared and what the associated costs are. Mistakes can be spotted and corrected in a timely manner, savings opportunities can also be identified. However, the business has to be self-sufficient as they no longer have the support of a customs broker who is often performing their own due diligence on the data you provide and acting

as an extra safety net before declaring your goods to HMRC.

#### #4 Automation

Software solutions can be used to automate processes to significantly reduce time spent on tracking the flow of goods and documents. This is particularly helpful for businesses that are using customs special procedures. Using a software solution often means the business can take advantage of some of the additional useful modules, personalising preferences to suit the business needs. For example, combining the filing of customs declarations in-house with managing customs special procedures can improve efficiency and compliance.

#### #5 Customs Declaration Service (CDS)

It is anticipated that CDS will be more user-friendly and could potentially reduce the cost that is currently paid to Community Systems Providers (CSPs).

Unlike in some EU Member States, although a declarant does not need authorization in the UK, the complex commercial set-up in the UK can be a barrier to bringing customs fully in-house. The introduction of CDS has the potential to change this.

#### WHAT TO CONSIDER BEFORE SAYING GOODBYE TO YOUR CUSTOMS BROKER

For some businesses, the struggle to find a customs broker in the first instance may have forced them to make their own declaration using software from the start of 2021. However, for businesses with a choice, choose wisely.

- **Understand that software solutions are tools with limitations.** The user must have sufficient customs knowledge to be able to handle customs formalities in-house. The Incoterms rules agreed with customers/suppliers could also restrict the option to bring customs clearance in-house. Furthermore, for businesses moving a wide range of goods, the expertise required to complete customs declarations should not be underestimated. The business must invest in training throughout the company and not just consider it as a single person's role. The customs brokers have insurance covering client losses due to mistakes made when customs declarations are submitted. This type of insurance is not available to businesses. Customs training is essential.
- **Once a software solution is implemented, there is still a need for ongoing support beyond what the software developer can provide.** As such, there is a need for the businesses to establish a good working relationship with customs advisors, to stay on top of not just updates relating to the declaration system, but also customs technical updates. In other words, by bringing customs activities in-house, the business is also inheriting the responsibility to stay up to date with HMRC policy and technical guidance. Learning how to do a customs declaration is an evolving process and is a skill that has to be maintained.

Software solutions may be an attractive alternative, but they will not replace customs brokers overnight. Nevertheless, businesses with a particular profile could be missing out if they are not at least contemplating this option.





## OVERVIEWS AND COMMENTS

# Trade agreements: the direct transport rule

One of the conditions of a trade agreement is that goods must travel directly between the signatory countries. For example, country X and country Y have a free trade agreement. A shipment of goods originating in X is shipped to Y. However, on the way, the goods are unloaded and stored in a customs warehouse in a transit country Z. When the goods arrive in the country of destination (country Y), Customs may ask to prove that the originating goods were not altered.

It is known as the direct transport rule, but it can also be referred to as direct consignment, trans-shipment, transit and transshipment, non-manipulation, non-alteration, depending on the trade agreement.

How is the direct transport rule enforced in practice? This article provides an overview of the answers based on the experience of local practitioners, where the country of transit (Z) or the country of import (Y) is: Lithuania, the United Kingdom, Switzerland, Ukraine, Mexico, and Vietnam.

## LITHUANIA

*By Enrika Naujoke, director of Lithuanian Customs Practitioners Association*

The order of Director-general of Customs department No. 1B-103, 6.2.2019 sets out the Procedure for Issuance of a Certificate of Non-Manipulation that proves the direct transport of goods that may benefit from preferential tariff measures in the Union or in other countries. The form of the certificate of non-manipulation is also set out in the order.

How to get the certificate of non-manipulation? Customs issue the certificate after the goods leave the customs warehouse (most often customs warehousing is the case in Lithuania). The authorized person (usually the representative of the customs warehouse or of the freight forwarder) fills out the form of the certificate and submits it to the supervising Customs office. If no discrepancies are detected, Customs sign and stamp the certificate, usually on the same day, but no later than the next day. One important note – the authorized person is responsible for the

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**Mette Werdelin Azzam**

Independent Customs and Trade Agreement Specialist

[About the author](#)

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OVERVIEWS AND COMMENTS

## An introduction to Binding Origin Information

### WHAT IS A BINDING ORIGIN INFORMATION (BOI) DECISION?

If an importer or exporter is unsure about the origin of their goods, or simply wants legal certainty, they can apply for a Binding Origin Information decision (BOI).

A BOI, also referred to as an advance ruling on origin, is a written decision on the origin of the good, issued by Customs to a company prior to an importation or exportation. The decision can cover preferential or non-preferential origin.

### WHAT ARE THE BENEFITS?

Knowing prior to the actual import or export transaction how Customs will treat the goods contributes to facilitating international trade and allows business to assess future duty liabilities. This gives the importer ample time to plan production or sales and is in general very helpful for financial planning purposes.

At the same time, advance rulings allow Customs to monitor and improve compliance through risk assessment and thereby contribute to reducing clearance time at the entry stage.

### WHO CAN APPLY FOR A BOI, AND HOW LONG DOES IT TAKE?

An importer, exporter, producer or his/her representative can apply for a BOI. The application is made in writing. Many countries have standardized forms for the application to facilitate the application and make sure all necessary information is included.

The competent authority responsible for the issuance of BOIs is most often the Customs administration who will issue the decision in “a reasonable, time bound manner”, which according to the WTO Agreement on Rules of Origin is “as soon as possible but no later than 150 days” after receiving the application.

### WHAT HAPPENS AFTER A BOI DECISION IS ISSUED?

The WTO Trade Facilitation Agreement includes provisions on publication of advance rulings as they may be of significant interest to other interested parties; confidential information shall of course not be disclosed without specific permission. In the EU, information on BOIs issued can be found here: [Circabc \(europa.eu\)](http://circabc.europa.eu)

The BOI is binding on the Customs authority, and in some countries - including in the EU - also binding on the holder of the decision. A business must be the holder of the decision in order to rely on a BOI. A BOI issued in the EU is binding on all EU Customs authorities. According to the WTO Agreement on Rules of Origin and the WTO Trade

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**Enrika Naujokė**

Director  
Muita UAB

[About the author](#)

## OVERVIEWS AND COMMENTS

# Alternative proof of ending transit procedure

In this article, we outline issues that holders of the procedure (who provide a guarantee to cover the amount of potential debt) might face in case the [Union transit procedure](#) or [common transit procedure](#) is not properly ended in the electronic customs systems. A real case, when the T1 transit procedure was not ended in Germany, and the goods were shipped to Russia, is provided as an example of an issue.

### SITUATION

Goods under the T1 transit procedure were shipped via Hamburg port in Germany to Russia. The T1 procedure was not properly ended in the electronic system of German customs. Although there was no dispute that the goods were delivered to the port of Hamburg and from there shipped to Russia, German customs asked the holder of the transit procedure (hereinafter - the Holder) to present an original (or certified as being true copy) import declaration from customs in Russia as an alternative proof. Otherwise, the Holder had to pay import duties and taxes amounting to more than 80 000 Eur.

When solving the issue the Holder raised these questions: What documents may be provided to customs as alternative proof? May a document certified by the customs authority of the EU Member State of destination be issued retrospectively? Why do German customs not issue a document that establishes that the goods have physically left the customs territory of the Union? What is the way to receive alternative proof from customs in Russia? What about customs' practice in similar situations in other countries? Here are the answers that the Holder found out.

### WHAT DOCUMENTS MAY BE PROVIDED TO CUSTOMS AS ALTERNATIVE PROOF?

The provisions regarding alternative proof of ending the transit procedure are set out in Article 312 of the Implementing Regulation of the Union Customs Code (Regulation No (EU) 2015/2447) and Article 51 of the Convention on a Common transit procedure (the Convention).

The transit procedure shall be considered as having been ended correctly where the holder of the procedure presents, to the satisfaction of the customs authority of the Member State of departure, one of the following documents identifying the goods:

1. a document certified by the customs authority of the Member State (MS) of destination which identifies the goods and establishes that the goods have been presented at the customs office of destination or have been delivered to an authorised consignee;
2. a document or a customs record, certified by the customs authority of a Member State which establishes that the

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**Thomas Woodtli**

Customs Expert  
Eugster / Frismag AG

[About the author](#)

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OVERVIEWS AND COMMENTS

## Customs tariff in simple terms: “mechanical and electric appliances” of chapters 84 and 85

The mechanical engineering industry has a problem. Or more specifically the customs specialists at the respective companies. The departments of these companies can cooperate so well with each other and provide each other with important information for everyday work, but the customs tariff is and remains a sticking point. Simply because there is little background knowledge about it and also the limited offer of further education often focuses on the customs tariff in general. This is also one of the reasons why ERP master data around foreign trade is often not correctly maintained.

Even during my training as a Swiss customs officer in 2006, the two most important customs tariff chapters for mechanical engineering, [chapters 84 and 85](#), were rather neglected. Simply because there is often a lack of in-depth technical know-how. Of course, I do not just bring that with me. I acquired it especially during my activities in the private sector. And today it is still a constant learning process.

In this article, I try to offer an overview and selective deepening in these two chapters.

### CLARIFICATION OF THE TERM “MACHINERY”

What exactly does the customs tariff mean by machinery? It is simple. Under [HS note 5 to section XVI](#), I learn that the tariff defines “machinery” as it is described in the wordings under the first 4 digits (also named “HS heading”) of the customs tariff number in terms of its function.

For example, for a “diaphragm pump” I first look for the appropriate functional description in chapters 84 and 85 at the 4-digit tariff number level.

I search for it using the search function of my web browser. I first call up chapter 84 and enter the word “pump”.

8412	Other engines and motors:
8413	<b>Pumps</b> for liquids, whether or not fitted with a measuring device; liquid elevators:
8414	Air or vacuum <b>pumps</b> , air or other gas compressors and fans; ventilating or recycling hoods incorporating a fan, whether or not fitted with filters:
8415	Air conditioning machines, comprising a motor-driven fan and elements for changing the temperature and humidity, including those machines in which the humidity cannot be separately regulated:

I find the word “pump” in heading “8413 - Pumps for liquids, whether or not fitted with a measuring device; liquid elevators”. Even if the diaphragm pump is not mentioned there one-to-one, it still represents a “pump for liquids”.

Next I check if there are any exclusions from this chapter. For this, I call up the [notes to section XVI](#).



## MACHINES WITH DIFFERENT FUNCTIONS: WHAT NOW?



Using the diaphragm pump as an example, I ask myself the following: what happens now if this diaphragm pump is equipped with all kinds of components such as valves or an electric motor? Valves are mentioned for example in HS heading 8481, the electric motor in HS heading 8501. Which heading do I choose in this case?

This is explained in [note 3 to section XVI](#). In the case of machines composed of various components that form a whole and for which there are separate headings in the customs tariff, I must determine the main function of these machines. When I look at the diaphragm pump, it is clear to me that the main function of the diaphragm pump is clearly covered by the tariff text at 8413 “Pumps for liquids (...)”. The other components are just parts of the whole pump.

If the valves and/ or electric motor are separately sold as spare parts and shipped loose later than the machine itself, they are of course also classified under their intended headings.

The heart of chapters 84 as well as 85 are the (exclusion) notes to section XVI.

Before I take a closer look at the headings of chapters 84 and 85, I ask myself: does the machine/ spare part even belong in one of those two chapters?

The [very first note of section XVI](#), to which both chapters 84 and 85 belong, as well as the first notes to both chapters are dedicated to spare parts, which are not classified in these chapters. The following exclusions may be relevant to the mechanical engineering industry:

- conveyor belts and transmission belts made of plastics (3926), rubber (4010) or textiles (5910)
- seals made of plastics (3926) or rubber (4016)
- machine parts made exclusively of EPDM, NBR, SBR (4016)
- pipe fittings made mainly of steel (7307) or plastics (3917)
- simple pipes made of plastics (3917) or steel (7303-7306), not manufactured as an assembly
- steel chains (7315)
- bolts, nuts, cotter-pins, washers of steel (7318) or plastics (3926)
- steel (helical) springs (7320)
- interchangeable tools for machines (8207)
- non-electric hand tools with working part of steel, for example grease guns (chapter 82)
- flexible tubing made of metal (8307)
- measuring instruments such as flow meters or pressure gauges generally belong in chapter 90
- ceramic machine parts (6909)
- brushes as machine parts (9603)

## CLASSIFICATION OF OTHER MACHINE PARTS

After looking at the exclusion notes according to the above chapter, the question remains as to what else should be considered machine parts or spare parts. [Note 2 to section XVI](#) describes these, but in such a complex way that I almost fail to understand. Therefore, here it is in simple terms.

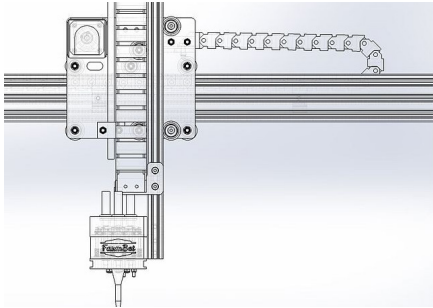
## CLASSIFICATION IN OWN HS HEADING OF CHAPTER 84, 85 OR 90: COMPONENTS PURCHASED FROM A SUPPLIER WITH “OWN” FUNCTIONALITIES



If a machine part is mentioned by a heading in chapter 84 or 85, I classify it there and not in the (sub)heading (at the 6-digit level) of the manufactured machine. For example, valves of a coffee machine do not belong to subheading 8516.90, but to heading 8481.

I recommend going through all headings once and crossing out for yourself what is relevant. Often you can also say that if you buy electrical parts or components with

“own intelligence” or functionalities from a supplier who is specialized in this field, you will usually find them under a specific heading in chapters 84, 85 or 90.



### **CLASSIFICATION IN THE CORRESPONDING (SUB)HEADING OF MACHINE PARTS: COMPONENTS MANUFACTURED ACCORDING TO CAD DRAWING**

What remains then? Mostly stamped parts or injection-molded parts, which are purchased from a corresponding supplier according to CAD drawing. These then only fit into the particular machine for which they are intended. These parts must be classified in the appropriate “part (sub)headings”. For example, an injection-molded housing part of a coffee machine belongs in subheading 8516.90, while the finished appliance itself belongs in subheading 8516.71.

### **CLASSIFICATION IN THE APPROPRIATE MATERIAL CHAPTER: GENERAL, REGULAR GEOMETRICAL STAMPED AND INJECTION MOLDED PARTS**

Stamped as well as injection-molded parts with regular shapes such as rectangles, profiles, roundels and the like are not considered “suitable for use solely or principally with a particular kind of machine”, even if they were manufactured according to drawings. I classify these parts in the corresponding material chapter.

- chapter 39: plastics
- chapter 40: rubber
- chapter 73: steel

As a rule of thumb, a well-informed layperson should be able to tell without much research whether or not a machine part is considered suitable for use solely or principally with a particular kind of machine.

### **WHICH TECHNICAL DATA OF MACHINES ARE NEEDED FOR A PROPER CLASSIFICATION?**

When I found a heading for the machines in chapters 84 and 85, I still have to determine the remaining local digits of the customs tariff number, i.e. the so-called subheadings. It is worthwhile to know the technical characteristics of the machine exactly. This may not be easy, especially with machines from suppliers, if data sheets are missing in the ERP system (I can tell you a thing or two about it).

Besides the functionality of the machine, which I need to know for almost every number, these parameters are required for the following numbers:

- steam turbines (8406): power in MW
- internal combustion engines (8407): cylinder capacity in cm<sup>3</sup>
- hydraulic turbines (8410): power in kW
- turbojet engines (8411): thrust in kN, power in kW
- electric motors (8501): output in W and kVA
- electric generating sets (8502): output in kVA
- electric transformers (8504): power handling capacity in kVA
- electric resistors (8533): power handling capacity in W
- Electrical apparatus for switching or protecting electrical circuits, or for making connections to or in electrical circuits: voltage in V
- electric incandescent lamps and discharge lamps, LED lamps (8539): power in W, voltage in V
- electric cables (8544): voltage in V



**Coral Rocha**

International Trade Advisor, EHD  
Strategists Servicios de Asesoría  
Integral y Asociados, S.C.

[About the author](#)

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OVERVIEWS AND COMMENTS

## Mexican tariff code: the fifth pair of digits

In the Mexican United States, the tariff code is found in the law called “Law of General Import and Export Taxes” (“Ley de los Impuestos Generales de Importación y de Exportación”). The law had significant modifications recently, which were published on July 1st, 2020 to come into effect on December 28th of the same year.

According to the Mexican authorities, the Mexican Tariff Code was complex, extensive, and partially outdated, which caused different problems. Therefore, the decision was taken to eliminate the tariff codes that were no longer used or were used marginally, to put together all the tariff codes that have been created with different purposes other than the differentiated tariff codes, and to create a fifth pair of digits of the tariff code.

The Harmonized System used by the countries that belong to the World Customs Organization (WCO) is built up by a numeric code made of six digits at an international level; in Mexico, it was extended to eight digits, which were used until a few months ago. Since December 28th, 2020 the tariff code has added another pair of digits named “Commercial Identification Number” (NICo - for its acronym in Spanish) having as an objective:

- to have statistic data more accurate;
- to separate the commercial and statistical intelligence function from the regulatory function (duty vs non-tariff regulations and restrictions).

It is important to clarify that at the eight-digit level (“tariff code”), the duty and non-tariff regulations and restrictions are determined.

### “TARIFF OF THE IMPORTS AND EXPORTS GENERAL TAXES”

The official name of the Mexican Tariff Code is “Tarifa de los Impuestos Generales de Importación y de Exportación” (TIGIE - for its acronym in Spanish). It has currently 7,857 tariff codes (8 digits) and 11,076 Commercial Identification Numbers (10 digits), approximately.

For example, the “Mezcal” (spirit beverage with the designation of origin in Mexico) is classified under the heading 2208 (undenatured ethyl alcohol of an alcoholic strength by alcohol volume of less than 80% vol: spirits, liquors, and other spirituous beverages) and belongs to the tariff code 2208.90.99.

It allows us to determine the tariff to pay when importing and exporting. In this case, the export tariff is exempt, and the import tariff is 20%.

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**Dr. Ilona Mishchenko**

Associate Professor of the Maritime and Customs Law Department, National University "Odessa Law Academy"

[About the author](#)

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OVERVIEWS AND COMMENTS

## What's wrong with customs valuation in Ukraine?

Customs valuation of goods imported into Ukraine is one of the most challenging stages of cross-border trade operations. It is relatively easy to determine the customs value of goods; however, it is almost impossible to convince the customs that the value is accurate and based on the actual price.

Hence, there are many court appeals against customs decisions to adjust the customs value. After all, there is no other way to import goods at customs value based on the transaction value of imported goods. The statistics of court proceedings on such cases are not in favour of customs. Thus, **in cases involving Ukrainian customs, 80% (2330 out of 2917 considered over 11 months of 2020) of court decisions were made in favour of plaintiffs (importers, declarants, etc.)**. The appeals against the customs value adjusted by the customs authority, this figure is even higher - 85.2% (1888 of 2215) decisions made in favour of the importer.

Logically, the question arises, what are the reasons for such distrust from customs to importers and their customs valuation? Why do customs doubt the customs value determined by the declarants so often while court statistics prove that the customs value was determined correctly in most cases? Let us try to find answers to these questions. First, it is worth having a retrospective look back.

### THE RETROSPECTIVE LOOK BACK

From the beginning of its recent history, the Ukrainian customs system was formed without a reasonable historical basis – based on the legacy of the former USSR with its administrative and planned economic system. It was challenging to adjust to the conditions of a market economy immediately. The cancellation of the state monopoly on foreign trade, the opening of borders, and other previously unknown things set new challenges and tasks for the legislator. Consequently, the solutions were often sought randomly. Therefore, the customs legislation was formed unsystematically, in fragments, regulating the chosen legal relations.

It is clear that in conditions of an urgent need to fill the state budget, the primary attention was paid to customs duty rates and other taxes and fees levied when crossing the customs border. Procedural aspects, particularly the procedure for determining the customs value, were not a matter of priority. The customs authorities were empowered to determine the customs value themselves if they had doubts about the correctness of the customs valuation by the importer. They realized this right very actively. For a long time, this situation formed a specific habit of the relationships between customs and business. The first had almost unlimited rights, while the second had numerous

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**Dr. David Savage**

[About the author](#)

OVERVIEWS AND COMMENTS

## After Brexit – the new trading reality in Ireland

It has often been said that a cast-iron rule of international trade is that we tend to trade most with the countries in our immediate vicinity. This is very much true of Ireland’s trading relationship with the United Kingdom.

It was very well flagged by the authorities that Ireland’s trading relationship with the UK would change utterly on the 1st of January 2021. It was not until the 24th of December 2020 before anyone knew what the exact nature of that new relationship would be. Most traders were relieved that they would not now be locked out of the lucrative UK market as the trade agreement provided for zero tariffs and zero quotas for goods being traded between the EU and the UK. However, the lack of time between the announcement of the agreement and its implementation meant traders had very little time to implement the changes

This article looks at some of the main aspects of the new trading environment that Irish companies have to contend with.

### **BORDER FORMALITIES**

At 23:00hrs GMT on the 31st December, because of the United Kingdom’s decision to leave the EU, Ireland, like the rest of the EU immediately applied full border formalities to goods arriving from the island of Great Britain.

The Irish Customs Authority had gone to great lengths to explain their new procedures for RORO traffic arriving in Dublin Port. Just like the UK and French Customs Authorities, Irish Customs had introduced a virtual envelope system which was designed to prevent trucks arriving in Dublin port without the required documentation.

The Pre-boarding Notification (PBN) system required importers to lodge their documentation prior to boarding the Dublin bound ferry in Wales. If there was any issue with the documentation, permission to board the ferry would not be granted. This fate befell many truckers who were stuck in North Wales for days on end before the correct paperwork could be issued. Lodging the safety and security declaration (ENS) was particularly troublesome for many hauliers. Eventually, the Revenue Commissioners issued a general code to allow traders and hauliers lodging their ENS to circumvent this requirement and to allow them to move goods on ferries from Britain.

The problems at the border did not stop there. When food products such as products of animal origin arrive in Dublin port, 6% of the trade volume is channelled through the Border Inspection Post for physical inspection. For products of animal origin to enter the EU’s single market, an export health certificate must be produced. Without this

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**Jessica Yang**

Director  
JY XBorder Consulting Ltd

[About the author](#)



**Toby Spink**

Director  
BKR Consultants Limited

[About the author](#)

## OVERVIEWS AND COMMENTS

# A chance for businesses to reduce their post-Brexit customs duty bill – UK tariff suspensions

Exactly a year following the publication of the UK's Global Tariff, the UK government announced on 20 May 2021 that the UK will launch its own tariff suspension scheme, tailored to the needs of UK businesses. This means legible goods will benefit from paying no customs duties upon import into the UK. As a UK business paying customs duties currently, this is a window of opportunity to apply for a tariff suspension to reduce your future customs duty bill.

### WHAT DOES THIS MEAN IN PRACTICE, AND WHO CAN APPLY FOR THIS BENEFIT?

#### Background

When goods cross a border to enter another customs territory, they attract Most Favoured Nation (MFN, sometimes referred to as the WTO rate) customs duty rate set by the customs authorities of the importing country. Depending on their preferential origin, they may be able to benefit from preferential treatments set out in the relevant agreements that customs territory has with other countries.

Prior to Brexit, the UK applied the EU's Common Customs Tariff ("CCT"). So goods entering the EU via the UK or France would attract the same customs duty rate. This is because countries in the same customs union apply the same external tariff rates.

Leaving the EU meant that the UK can set its own customs duty rates for goods arriving in its own customs territory. In preparation for the end of the Brexit transition period, the UK published its own tariff on 19 May 2020. It is called the UK Global Tariff (UKGT).

At the same time as the UKGT's publication in May 2020, the UK also published its draft trade agreement with the EU. The UKGT was believed to have political significance, as it signaled to the EU that unless there is a trade agreement, EU exports will be subject to the UK's MFN rates.

The UKGT has been through minor amendments since its initial publication. It can be accessed online [here](#).

### WHAT ARE TARIFF SUSPENSIONS AND QUOTAS?

Businesses source goods from other countries for a wide range of reasons. One of which may be that the material they need cannot be sourced in the quality or quantity needed. So, these businesses have no choice but to pay the customs duty charged on such material which is unavailable in the domestic market. Tariff suspension and quotas can

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### Eimantas Kiudulas

General Director,  
Klaipėda Free Economic Zone  
Management Company

[About the author](#)

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OVERVIEWS AND COMMENTS

## Klaipeda FEZ: benefits of free zones for business, activity standards

We are talking to Eimantas Kiudulas, the General Director of Klaipėda Free Economic Zone Management Company, about the benefits of free zones for businesses, the differences and similarities of these zones in various countries, membership in international organizations, and the importance of compliance with international standards.

### ABOUT KLAIPEDA FEZ

Klaipeda FEZ is the oldest and largest free economic zone in Lithuania, where 45 companies with investor's status generate around 1,2B EUR in turnover and more than 0,5B EUR in exports per year – this amounts to nearly 3% of Lithuania's total GDP and exports. Klaipeda FEZ hosts a broad array of companies – from NEO GROUP, one of the largest PET producers in Europe, to Dancer, the makers of Lithuania's first fully electric bus. At the same time, Klaipeda FEZ is home to several successful transport and logistics companies, such as AD REM, Vingės Logistika, Autoveršlas and others.

Since its establishment in 2002, Klaipeda FEZ has seen a major transformation: what initially was a traditional manufacturing territory is now increasingly an ecosystem of innovation, R&D and product development. At the same time, the efforts by Klaipeda FEZ management company and its customers in the areas of environment and sustainability have resulted in a Sustainability award from FDI Intelligence – the first of a kind in Lithuania. More information [www.fez.lt](http://www.fez.lt)

### WHAT ARE THE BENEFITS OF FREE ZONES FOR BUSINESSES? ARE THERE ANY BENEFITS IN TERMS OF CUSTOMS FORMALITIES?

Historically, free zones have been established around the world to promote the economic development of a specific geographical territory. In exchange for tax incentives and/or prepared infrastructure, investors were invited (encouraged) to invest in the specific geographically defined location - the free economic zone.

This factor was also important in establishing free zones in Lithuania and in "inviting" investors to establish both in specific zones and our country in general. During this time, however, we are seeing a change in the very concept of a free economic zone. In our assessment, tax benefits are no longer the most significant factor attracting investors to Klaipeda FEZ. Above all, we are an active, knowledge-sharing, collaborative business ecosystem with more than 100 companies and over 6,000 employees. Many Klaipeda FEZ companies are customers, business, or research partners of each other. It is significant for investors, especially as Klaipėda is increasingly focused on high and higher

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**Monika Bielskienė**

Attorney at Law  
Law firm WALLESS

[About the author](#)

EN LI

CASE LAW (EU)

## CJEU: DAF transaction price and actual transport costs that exceed it

The Court of Justice of the European Union (CJEU) examined a Lithuanian case of UAB Lifosa (Case C-75/20) regarding the determination of the customs value of imported goods (technical sulfuric acid). The question was raised whether Customs authorities were entitled to add transport costs to the transaction price if, under the Incoterms DAF terms agreed between the parties, the transport costs were already included in the transaction price but actually exceeded it.

The CJEU has clarified that there is no reason to add these transport costs if the terms of the transaction correspond to the commercial reality between the buyer and the seller.

### ACTUAL CIRCUMSTANCES

Lifosa is a fertilizer manufacturer. For this activity, during the period from 2014 until 2016, it constantly purchased and imported technical sulphuric acid produced by the Belarusian producer Naftan JSC from an intermediary Transchema UAB. For each transaction, a supplementary contract was concluded that stipulated a specific price and stated that the contract was to be performed in accordance with the Incoterm 'Delivered at Frontier' (DAF). Under DAF all the costs of transporting the imported goods are borne by the producer up to the agreed place of delivery at the border.

The customs value of the goods declared by the importer was the amounts actually paid to the seller Transchema UAB as set out on the invoices issued by the intermediary.

When Kaunas Customs Office (Kaunas TC) carried out an audit, it found that the declared customs value of the imported goods was lower than the costs actually incurred by the producer for their transport by rail to the border crossing point. Lifosa explained that the sale price of the imported goods reflects their real value because, first, the producer is unable to process or store them and, second, recycling them gives rise to very high costs (including the amount of the ecological tax which would exceed the sum of the declared customs value and the transport costs). Accordingly, although it does not cover all the transport costs incurred by the producer, that price is still justified and economically advantageous for the producer.

The Kaunas TC's point of view was that the transaction value has to be adjusted by adding the transport costs incurred by the producer so that the customs value would include all the obligatory elements of economic value. Therefore, Kaunas TC adjusted the customs value of Lifosa's imported goods and calculated additional import taxes.

Lifosa contested that decision of Kaunas TC before the Supreme Administrative Court of Lithuania (SACL)

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### Eglė Pučkuvienė

Chief Specialist, Customs Policy  
Division, Customs Department under  
the Ministry of Finance, Lithuania

[About the author](#)

EN LI

CASE LAW (EU)

## Classification of solution for cats against ticks

In this article, we review the judgment of the Court of Justice of the European Union (CJEU) of March 10, 2020, in Case C-941/19, in which the goods relevant at this time of year are examined, namely tariff classification of spot-on solution for cats against fleas and ticks. It is clear from this judgment that permission to place a product on the market as a veterinary medicinal product does not mean that it should be classified as a medicinal product in the Combined Nomenclature (CN).

### THE SITUATION

Between the company Samohýl group a. s. (Samohýl) and the General Customs Directorate of the Czech Republic (the Czech customs authorities) arose a dispute over the Binding Tariff Information issued for the product **Bob Martin Clear 50 mg - a spot-on solution for cats (hereinafter - the product at issue)**.

Samohýl took the position that the product at issue was a medicinal product and attributable to the subheading 3004 90 00 of the CN, which provided for exemption from customs duty. This product has been authorized for placing on the market as a veterinary medicinal product. It is intended for cats, is applied to the skin, and is intended to treat infestations with fleas, which are eliminated within 24 hours of application, and ticks, which are eliminated within 48 hours or within the week in which it was applied. It is supplied in pipettes of 0.5ml, each containing 50 mg of the active substance fipronilum (fipronil) and the excipients butylated hydroxyanisole E320, butylated hydroxytoluene E321, benzyl alcohol, and diethylene glycol monoethyl ether.

According to the document entitled 'Summary of product characteristics', the product at issue comes within the pharmacotherapeutic group 'Ectoparasiticides for topical use'. In this document, fipronil is described there as an insecticide (flea insecticide) and an acaricide (tick insecticide).

Samohýl stated that when the Czech customs authorities had been asked to classify Moxiclear 400 + 100 mg, a product comparable to the product at issue, intended for dogs with or exposed to the risk of mixed parasitic infestations, the latter had been classified under tariff subheading 3004 90 00 of the CN.

The Czech customs authorities classified the product at issue under tariff subheading 3808 91 90 of the CN as an insecticide, applying, by analogy, Regulation No 455/2007. The customs authorities decided that the product at issue could not be classified under subheading 3004 90 00 of the CN since it is not a medicinal product within the meaning of CN tariff heading 3004.

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**Evelina Liaubaitė**

Associate, Law firm "AAA Law"

[About the author](#)

EN LT

CASE LAW (EU)

## Office machine or checking instrument?

Is the banknote validator classified as an office machine or as a measuring or checking instrument? The situation is interesting in that two Binding Tariff Information (hereinafter – BTI) decisions have been taken on identical goods. According to one of them, this product falls in CN heading 8472 (office machines), while according to the second decision, it is CN heading 9031 (measuring or checking instruments). The Commission classified the product under heading 8472 of the CN by means of an Implementing Regulation. Is such classification correct and valid? The Court of Justice of the European Union (hereinafter – CJEU) answered the question and provided clarification.

In its Judgement in Case C-760/19, the CJEU answered the question referred for a preliminary ruling on whether Commission Implementing Regulation (EU) 2016/1760 of 28-09-2016 concerning the classification of certain goods in the Combined Nomenclature (hereinafter – Implementing Regulation 2016/1760) shall not apply, to the extent that, pursuant to this Regulation, CN code 8472 90 70, and not CN code 9031 49 90, is assigned to the banknote validator and cash boxes referred to therein (hereinafter – Decision).

The 04-02-2021 Decision assesses whether Implementing Regulation 2016/1760 unreasonably restricts the scope of heading 9031, while unduly extending the scope of heading 8472, as well as the obligation to state reasons for the adoption of EU legislation on the classification of certain goods by means of chapter and section comments. The Decision also assesses the main differences between headings 8472 and 9031, and addresses the scope of the concept of 'office machine'.

### THE PRODUCT OF DISPUTE

The dispute in the main proceedings concerns the classification of the product named iPRO-RC. The National Court describes the product as an instrument for checking and returning banknotes to circulation, which is designed to be built into the main unit, e.g., self-checkout, vending machine, slot machine but not suitable for use in banking (as an ATM).

The product is made of three components in a frame, precisely, the elements of inspection, return and storage. The complete product is placed in the main unit housing and connects to it via electrical wires; only one part of the product is visible to the consumer (the one that accepts money). Despite the fact that the product itself supports several functions, iPRO-RC cannot operate separately from the main unit.

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