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CUSTOMS COMPLIANCE & RISK MANAGEMENT

JOURNAL FOR PRACTITIONERS IN EUROPE

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CONTENT

Editorial

Dear Readers,

Welcome to the 12th issue of CCRM Journal. As this is December/January issue, I would like to congratulate you on the 2022 International Customs Day on behalf of our Editorial Board and wish you all the best in all your endeavours!

As you may know, the WCO has dedicated this year to scaling up Customs Digital Transformation by Embracing a Data Culture and Building a Data Ecosystem. From the WCO perspective, recent developments of customs IT systems have enhanced the issues relating to data ethics, such as privacy, commercial secrecy, and regulations for data processing by authorities. At the same time, the building of a customs data ecosystem goes far beyond mere standardisation and intra-organisational data management, embracing transparency and interactions with other public and private actors.

From this point, I would like to draw your attention to the article *Customs valuation IS: rules and practice of using the data* written by Enrika Naujokė, where she presents insight into the usage of data stored in the Lithuanian national customs valuation information system and related importers rights in cases of valuation disputes. The usage of customs valuation databases has proved to be a sensitive issue, apparently due to different approaches of customs and traders regarding whether there are grounds for reasonable doubts in declared value. Eventually, there is a very narrow margin between utilising such databases as a risk assessment tool and making decisions on value adjustments.

Continuing the digital transformation topic, Dr Momchil Antov describes advantages and possibilities for applying e-CMR within the frameworks of different customs procedures, given the experience of countries already implementing respective Protocol to the CMR Convention. At the same time, Peter Mitchell provides a detailed overview of online resources available for customs brokers and traders in Canada for tariff classification, adjustments to transaction value, the origin of goods, commercial invoice, customs accounting declaration, calculation of duties, and GST.

In addition, this issue offers two articles reviewing practical aspects of filling out customs declarations regarding the correlation between SAD boxes and data elements of electronic customs declarations and peculiarities of procedure codes utilisation while filling out SAD box 37.

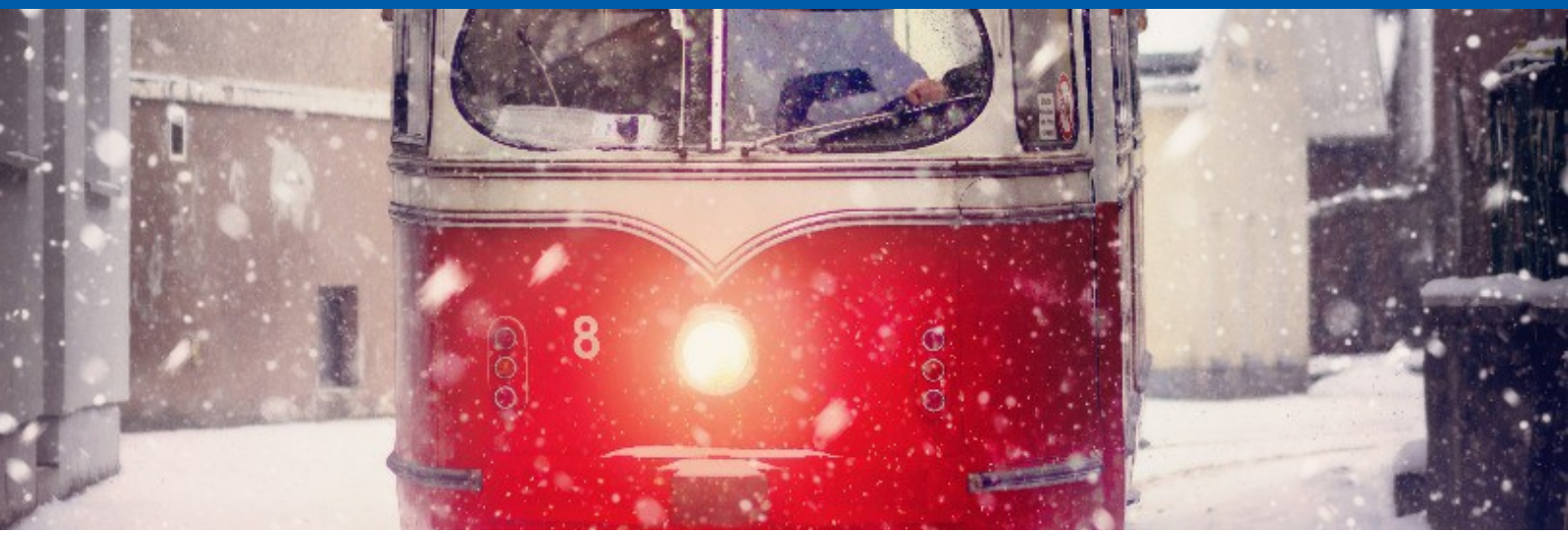
Another important January 'event' for all customs practitioners is, obviously, the introduction of the 2022 revision of Harmonised System and the respective new version of the EU Combined Nomenclature, which is addressed in the article *Combined Nomenclature 2022* by Eglė Pučkuvienė and Virginija Dordzikienė. Also, Jonas Sakalauskas analyses the CJEU decision answering the question of how a subsequent change in the tariff classification of a product affects the imposed anti-dumping measures.

The latter reminds us that current international trade faces a growing number of non-tariff barriers and trade restrictions of different forms, which requires traders to make additional efforts on compliance. The present CCRM issue provides you with a number of fresh insights into the field. Lourdes Catrain and Eleni Theodoropoulou review the recent court rulings on the EU 'Blocking Regulation' alongside some practical considerations on its further application. The issue may become even more topical as the present political tensions in Europe and beyond may soon result in additional sanctions and restrictions. At the same time, Jovita Dobrovalskienė points out that it is essential to know the active trade defence instruments applied and to be aware of ongoing anti-dumping and anti-subsidy investigations, which may reduce compliance costs and risks of unintended non-compliance in the future.

The knowledge section of the issue is devoted to the 2nd global webinar 'Books on Customs' held by CustomsClear on December 16, 2021, which has become an outstanding event gathering most influencing authors writing on customs-related topics. The section opens with an interview with the leading trade facilitation expert Prof Andrew Grainger on his new book *Cross-Border Logistics Operations Effective Trade Facilitation and Border Management*, which focuses on a better understanding of international logistics operational and legal aspects given the current demands of globalisation. It is then recommended to read insights by Prof Hans-Michael Wolffgang, the author of an absolute classic of customs literature, *Textbook of European Customs Law*, the first edition of which was published 30 years ago and for now has 10 editions. Last but not least, Dr Momchil Antov, the author of the fascinating book *Customs Representation*, discusses the recent developments in Bulgarian customs affairs.

I sincerely hope you enjoy this CCRM issue.

Prof Dr Borys Kormych
Member of the Editorial Board



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EU LAW

EU law news: December 21/January 22

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

News in week 4 (24-27 Jan): International Customs Day 2022; UCC Work Programme Progress Report 2021 on progress in developing electronic systems; EU refers China to WTO following its trade restrictions on Lithuania; EU challenges Egyptian import restrictions at the WTO; anti-dumping duty on imports of acesulfame potassium, and certain tube and pipe fittings, of iron or steel; and more news!

EU-UK trade

In the UK, full customs controls start on 1 January 2022, some of the changes:

- Ports and other border locations will be required to control goods moving Great Britain and the EU. This means that unless your goods have a valid declaration and have received customs clearance, they will not be able to be released into circulation, and in most cases will not be able to leave the port, except from in Ireland.
- Throughout 2021, UK traders have been allowed to export goods to the EU using tariff preference and get supplier declarations afterwards, from 1 January 2022 you must have supplier declarations (where required) at the time you export your goods. Note: EU traders enjoyed the same simplification, which ends on 1 January 2022.

OFFICIAL JOURNAL

Customs procedures

22.12.2021 L 459 Amendments to the Customs Convention on the International Transport of goods under cover of **TIR carnets** (TIR Convention 1975).

13.12.2021 C 502 Judgment of the Court of Justice of the European Union in the case C-825/19 concerning

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EU LAW

Combined Nomenclature 2022

The new version of the Combined Nomenclature, applicable as of 1 January 2022, was adopted by the Commission Implementing Regulation (EU) 2021/1832 of 21 October 2021. We review the most important amendments, of which there are many.

HARMONISED SYSTEM (HS) NOMENCLATURE

The Harmonised System (HS) Nomenclature, set out in the Annex to the International Convention on the Harmonized Commodity Description and Coding System is a commodity coding system with a six-digit numerical code used for the classification of goods almost worldwide. The HS is one of the most successful instruments administered by the World Customs Organisation (WCO) to facilitate international trade. Currently, there are 160 Contracting Parties, including the European Union (EU), to the Convention, and the HS is applied by more than 200 countries and customs or economic unions. The HS is updated by five-year review cycles. Currently, the EU is applying the 2017 edition of the HS, and the next edition of the HS (commonly referred to as HS 2022) will be applied from 1 January 2022.

THE HS 2022 AMENDMENTS

The 2022 edition of the HS includes **351 sets of amendments.**

First of all, the amendments are due to **technological progress,** changes in **trade patterns and volume**, as well as for **clarification or simplification** of certain HS provisions. In order to clarify the classification of such goods, or for the purposes of trade statistics, new subheadings and, often, notes are created and sometimes deleted. For example, in the HS 2022, new subheadings have been added for 3D printers, smartphones, and drones.

Another group of amendments is those made to assist countries in their work under the Basel Convention or other **environment protection** agreements. For example, a separate code for electrical and electronic waste and scrap has been introduced. On the one hand, this code was introduced for environmental purposes, but on the other, because of the high value of trade.

Another group of amendments concerns the fight against **terrorism and** the monitoring and control over the movement of dual-use goods, which has led to the creation of a number of new subheadings for dual-use goods in the HS 2022.

Also, because of the current pandemic situation, the classification of certain goods related to public health and safety has been changed: it includes simplification of the classification of diagnostic test kits, new provisions for placebo and

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CASE LAW

Anti-dumping duties. Is the tariff classification of goods still important?

In recent case law, the Court of Justice of the European Union (CJEU) clarified what determines the application of anti-dumping duties on specific goods, such as tariff classification of goods or other criteria. Although different criteria are preferred in practice, for the first time, a step has been taken to separate the tariff classification from the characteristics of the product subject to trade regulation measures.

CLASSIFICATION ISSUE: THE SUBHEADING DOES NOT PROVIDE THE CHARACTERISTICS OF THE PRODUCT

Regulations imposing anti-dumping duties on certain products, also indicate the CN and TARIC codes to which these trade regulatory measures apply. This article will answer the question of whether the tariff classification code is a decisive factor in determining whether an imported product will be subject to the anti-dumping duty.

Such a question becomes particularly relevant where the subheading of the product classification referred to in a regulation does not provide a precise description of the product from which the essential characteristics of the product can be determined, enabling one to conclude whether it is subject to additional duties.

In the judgment of 15 July 2021 in case C-362/20, the CJEU clarified the meaning of the tariff classification of goods and the indication of CN (TARIC) codes in the regulation imposing anti-dumping measures.

The case concerned a situation in which, following the imposition of anti-dumping measures, a subsequent judgment of the CJEU in another case ruled on the classification of certain products. It was set out in the judgment that a particular product should be classified under a subheading different from that of the past. Accordingly, the question arose as to whether the regulations imposing anti-dumping duties, which explicitly referred to this subheading of the classification, could continue to apply to imported products, regardless of the change in the tariff classification of the products concerned.

IMPORTANCE OF THE ESSENTIAL CHARACTERISTICS OF THE PRODUCT

According to the interpretation provided by the CJEU and Article 14(1) of the regulation governing the procedures of anti-dumping measures (currently, Regulation No 2016/1036), anti-dumping duties are imposed by regulation; anti-dumping duties shall be collected in the EU Member States in the form and at the rate specified and according to the other criteria laid down in the regulation imposing these duties. In addition, such duties shall be collected

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CASE LAW

Blocking Regulation: the first step towards solving the conflict of laws between EU and US sanctions

The Court of Justice of the EU has interpreted for the first time the Blocking Regulation. The ruling confirms that it is possible to terminate contracts with a US designated person without providing reasons. However, in civil proceedings it is for the EU party to prove that, when it sought to terminate a contract, it did not seek to comply with US sanctions in the absence of an authorisation by the European Commission.

The Blocking Regulation does not preclude the annulment of the termination of a contract, provided the annulment does not have disproportionate economic losses for the EU person concerned. EU companies will keep facing challenges to comply with the US sanctions on Cuba or Iran whilst being prohibited from doing so under the Blocking Regulation and should consider appropriate ways to maintain evidence about the motivations behind termination of contracts with Specially Designated Nationals and Blocked Persons ("**SDNs**") List.

INTRODUCTION

On 21 December 2021, the Grand Chamber of the Court of Justice of the EU ("Court") rendered its judgment in case C-124/20, on a request by the Higher Regional Court of Hamburg ("**referring court**") for a preliminary ruling on the interpretation of Council Regulation (EC) No 2271/96 of 22 November 1996 protecting against the effects of the extra-territorial application of legislation adopted by a third country, and actions based thereon or resulting therefrom ("Blocking Regulation"), made in proceedings between Bank Melli Iran ("**BMI**") and Telekom Deutschland GmbH ("**Telekom**"). Under the preliminary ruling procedure, national courts of Member States can refer a question on the interpretation or application of EU law to the Court. The Court is competent to provide an answer to the questions asked, but not to rule on the underlying dispute before the referring court.

LEGAL BACKGROUND

The Blocking Regulation was adopted in 1996 and aims to protect EU parties from the extra-territorial application of non-EU countries' laws, listed in an Annex thereto ("**Listed Laws**"). Listed Laws include certain US sanctions measures on Iran. Article 5 of the EU Blocking Regulation ("**Article 5**") prohibits EU persons from, among others, complying, directly or through a subsidiary or other intermediary, actively or by deliberate omission, with Listed Laws, unless authorised by the European Commission ("Commission").

Following the reinstatement of US sanctions on Iran, the EU amended the Blocking Regulation in August 2018 to include certain US sanctions legislation on Iran under the Listed Laws. Among other restrictions, these sanctions

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JOURNAL FOR PRACTITIONERS IN EUROPE

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FILLING OUT THE CUSTOMS DECLARATION

Customs declaration and the rules for filling it out in EU

As future specialists start learning how to fill in the customs declaration, several questions often arise: are the 'customs declaration' and the 'Single Administrative Document' (SAD) two names for the same declaration? Why do they have to learn to fill in both the SAD boxes and the data elements? How do they relate to each other? Let us answer those questions.

CUSTOMS DECLARATION AND SINGLE ADMINISTRATIVE DOCUMENT

It is set out in the Union Customs Code that all goods intended to be placed under a customs procedure, except for the free zone procedure, shall be covered by a customs declaration appropriate for the particular procedure.

Customs declaration means the act whereby a person indicates, in the prescribed form and manner, a wish to place goods under a given customs procedure. There are four ways to lodge a customs declaration: by electronic means, in writing, orally or through action (e.g. when a person goes through the green channel at an airport, this action proclaims to customs that the person has no goods to declare). When goods are declared in writing (in cases when electronic systems do not work), the prescribed form of the **Single Administrative Document** is used for this purpose, see the form in pdf below (available for download). However, the most common way to lodge a customs declaration is by using electronic systems, and businesses declare goods for the customs procedure of their choice by submitting **electronic customs declarations.**

The answer to the first question, are the 'customs declaration' and the 'SAD' two names of the same declaration, is that the customs declaration covers all four ways of lodging it. Only in cases when the electronic systems do not work might the goods be declared in writing on a paper form called an SAD. It is noteworthy that the knowledge of SAD completion remains relevant for other reasons as well. For example, in Lithuania, the customs brokers' exam is held by filling out an SAD, some software solutions for completing customs declarations have resembled an SAD, and customs declarations that are saved for the archives after customs clearance is conducted often have an SAD form, etc.

DATA ELEMENTS OF THE ELECTRONIC CUSTOMS DECLARATION AND BOXES OF THE SAD

When declarants fill in the SAD, they use numbered boxes (boxes marked with letters are for customs purposes). When they fill in the electronic declaration, they use the data elements. Please note that in any case, the information provided in both the electronic and the written customs declaration is the same. That is, SAD boxes have equivalents

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JOURNAL FOR PRACTITIONERS IN EUROPE

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FILLING OUT THE CUSTOMS DECLARATION

Filling out the SAD box 37 'Procedure'

Customs declaration is defined as an act whereby a person indicates a wish to place goods under a given customs procedure. The data you need to provide to customs depends on the customs procedure you choose. Therefore, it is appropriate to start analysing the completion of the declaration from the customs procedure.

This is the data element ‘1/1 Procedure’ of the electronic declaration or box 37 'Procedure' of the paper-based declaration, that is, the Single Administrative Document (SAD). In the future, the data element ‘1/1 Procedure’ will be replaced by two ten-digit data element codes: ‘1109001000 Requested procedure’ and ‘1109002000 Previous procedure’.[1]

FOUR-DIGIT PROCEDURE CODE

The customs procedure code consists of a four-digit code, which is composed of two-digit codes set out in **Appendix D1 ‘Codes to be used’ of Annex 9 of the Commission Delegated Regulation (EU) 2016/341** of 17 December 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards transitional rules for certain provisions of the Union Customs Code where the relevant electronic systems are not yet operational and amending Delegated Regulation (EU) 2015/2446.

The first two-digit code represents the procedure requested; the second two-digit code represents the previous procedure. ‘Previous procedure’ refers to the procedure under which the goods were placed before being placed under the procedure requested.

Some two-digit codes from the Appendix D1 part to box 37:

- 00. This code is used to indicate that there is no previous procedure
- 10. Permanent export
- 31. Re-export
- 40. Simultaneous release for free circulation and home use of goods that are not the subject of a VAT-exempt supply.
- 51. Inward processing procedure.

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CUSTOMS COMPLIANCE & RISK MANAGEMENT
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ONLINE TOOLS AND RESOURCES

Possibilities for application of e-CMR

The article highlights the trends in Europe regarding the application of electronic CMR consignment notes (e-CMR). Which countries use the e-CMR? Why other countries do not? What are the benefits of using e-CMR for import, export and transit of goods?

INTRODUCTION

A CMR consignment note **(CMR)**, introduced by the Convention on the Contract for the International Carriage of Goods by Road **(CMR Convention)** of 19 May 1956, is one of the most important documents for both economic operators and controlling authorities. It can be defined as a tripartite contract, the parties to which are the consignor, carrier and consignee of the goods. From a customs point of view, the CMR is an important source of information on individual parameters of the transport operation.

The digitalisation of cross-border road transport is an inevitable phenomenon that encourages the process of moving from a paper to an electronic version of the CMR, with more and more countries joining this initiative.

PROTOCOL CONCERNING E-CMR

The rules for the international carriage of goods are covered by the CMR Convention, which has been ratified by most European countries and by several other countries around the world. Until recently, CMR was only on paper and business stakeholders and governments are pushing for a transition to an electronic format of this document. The Additional Protocol to the CMR Convention concerning the electronic consignment note (**Protocol**) is of fundamental importance in this regard.

This Protocol has been ratified by 30 states[1], representing more than half of the 56 member states of the CMR Convention. However, only 6 of these countries (Spain, France, Estonia, Finland, the Netherlands and Luxembourg) actually use the e-CMR, which shows a rather limited geographical scope and a relatively small volume of cargo. The reasons for this:

- the still small number of countries that have ratified the e-CMR Protocol;
- the need to build the relevant electronic platforms;
- the lack of universal recognition of the legal equivalence of electronic documents by the competent state authorities;

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ONLINE TOOLS AND RESOURCES

Customs valuation IS: rules and practice of using the data

Importer's questions: Does an importer have the possibility to learn the transaction values of identical or similar goods imported by other EU importers? How do customs apply those values at the time of customs clearance? In order to answer these questions, let's take a look at a customs information system (IS) of an EU member state, where the customs valuation-related data are stored, and at the rules and the practice of using the data.

Lithuanian Customs use data stored in the national customs valuation information system, PREMI IS, for verification purposes of the declared transaction value of imported goods to identify the **potential risk of illicit reduction or increase of customs value** and for other purposes, for example, the application of secondary customs valuation methods.

The rules of how PREMI IS should be used are set out in order No 1B-431 (28.04.2004) on the **control of customs value of imported goods**, issued by the director-general of the Customs Department under the Ministry of Finance of the Republic of Lithuania.

Therefore, upon importation, when deciding whether to verify the customs value of goods, customs check, inter alia, if the declared transaction value differs significantly from the transaction values of identical or similar goods of other importers accumulated in PREMI IS. It must be noted that the difference might be the reason for customs to verify the declared transaction value and for the importer to provide all the evidence at their disposal regarding the valuation respectively; however, it does not automatically mean that the transaction value will be not accepted by customs.

So, what is the process of selection of data from PREMI IS in order to compare it with the transaction value of goods at the time of their customs clearance?

PROCESS OF SELECTION OF DATA

Customs official shall, first of all, select from PREMI IS those transactions that meet the requirements for **identical or similar goods**. Then the following shall then be assessed:

- Are the **transactions relevant**, i.e., concluded recently? In the absence of a transaction in the month in progress, the data for the previous month or year shall be reviewed.
- Are the selected transactions made for approximately the same **quantity of goods?** In the absence of a

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Ronnie Van Rooyen

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About the author

OVERVIEWS AND COMMENTS

Point of view on some aspects of trade, customs and career

Point of view on these aspects of trade, customs and career: Don't just trade, provide global service. As a trader, respond positively to the role Customs plays within global trade. Six points to consider when planning your career as a customs advisor.

DON'T JUST TRADE, PROVIDE GLOBAL SERVICE

When you export goods, don't just sell - service. What do I mean by this?

It is my view that when you are in the business of exporting it is important to sell goods and provide a global service. If you are able to go beyond the interest of your own territory where the goods are manufactured and sold, and you extend yourself by getting involved in the territory of the importer, then your global trade service fuses with the goods you are exporting.

Now, obviously, I am not suggesting that you take on the tax and Customs liabilities of a foreign jurisdiction. Rather, I am suggesting that you negotiate a sales contract that sells the goods on, for example, a CPT or CIP Incoterms® 2020 basis. The 'C' Incoterm suite allows the exporter to minimise its risk obligations but extend its costs to, for example, deliver the goods to the 'door' of the importer. To achieve this, you will need to develop good relations with your freight forwarder since you will have to instruct and rely on the freight forwarder to be your service agent.

Competition is good, but it can also be tough should your global competitor take away your business. I have always maintained that if an importer receives quality goods combined with quality service from a specific exporter, the importer may be hesitant to switch to a competitor's commodities even if those goods are superior and cheaper. Why? Because your product includes not only a commodity but also a personalised service. The service you offer to the importer should also look beyond your own interests. What I mean by this is, put yourself in the shoes of the importer and prepare and provide export documents that will assist the importer when he/she has to, for example, do the import Customs clearance.

Steve Jobs once said that you've got to start with the customer experience and work back toward the technology, not the other way around. I believe exports require the same business plan, that is, you have to start with the importer experience and work back toward the goods to be manufactured, sold and exported.

AS A TRADER, RESPOND POSITIVELY TO THE ROLE CUSTOMS PLAYS WITHIN GLOBAL TRADE

It is my view that the basics of Customs should be about nurturing the local trader to allow for global trade, which

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OVERVIEWS AND COMMENTS

Do we have time to prepare for the introduction of trade defence measures?

The article 'Trade defence instruments: what importers and exporters need to know' written by Enrika Naujoke in September, 2021, expressed the thought that EU importers, especially small and medium-sized enterprises (SMEs), are often unaware of trade defence instruments (TDIs) and face the consequences of newly introduced measures unprepared, thereby incurring unforeseen costs. Is it possible to prepare for this and, therefore, albeit partially, manage the risks associated with the introduction of TDIs? One means to manage such risks would be regular monitoring of the regulatory environment. Of course, this requires resources, but it is equally important to know the process and deadlines for setting the TDI, as well as why different sizes of measures apply to the same product imported from the same non-EU country and where to find the necessary information. Therefore, this will be discussed in this article.

EU TRADE DEFENCE INSTRUMENTS AND THEIR PURPOSE

To ensure fair, free trade procedures and fair competition between domestic and foreign producers, the EU applies TDIs in accordance with World Trade Organization rules, along with a number of extra conditions. The following types of TDIs are applicable: anti-dumping, anti-subsidy, and safeguards. Briefly about each type of instrument.

A non-EU company 'dumps' a product when it exports it to the EU below its normal value. The normal value is either the product's price as sold on the home market of the non-EU company, or a price based on the cost of production and profit. An **anti-dumping measure** may be imposed on any product imported into the EU where the seller/exporter is found to be selling it into the EU at a dumped price. The purpose of the anti-dumping measure is to eliminate the injury caused or likely to be caused to the EU producers by the dumped imports. Anti-dumping measures are normally in the form of an 'ad valorem' duty, but a fixed or specific duty may be imposed. In some cases, anti-dumping duties may be replaced by a minimum import price where the exporter agrees not to sell products in the EU below a minimum amount. In this case, no anti-dumping duties are collected on those imports. It should be noted that the European Commission is not obliged to accept an offer of an undertaking and, to avoid any restrictions on fairness in competition, the content of such undertakings is not made public.

Anti-subsidy measures against subsidised imports are introduced to offset a benefit of a subsidy granted by a government of a country of origin of the imported product, or by a public body, or an intermediate government of a country from which the product is exported to the Union where the release for free circulation in the EU affects the

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OVERVIEWS AND COMMENTS

India - UK FTA: opportunities for businesses

India has more than 20 Free Trade Agreements (FTAs) in place and is negotiating FTAs with many new trade partners. One of the important ongoing negotiations is the India-UK Enhanced Trade Partnership (ETP). What opportunities do FTAs open for businesses and what could be expected from the India-UK ETP?

TRADE BARRIERS AND THE ROLE OF FTAs

There are three types of globally recognised trade barriers in international trade: natural barriers, tariff barriers, and non-tariff barriers. Natural barriers can be either physical or cultural barriers such as different languages or geographic distance. Tariff barriers discourage international trade, making imported goods costlier than domestic goods. Non-tariff barriers provide special privileges to domestic manufacturers and retailers as they set restrictions such as import quotas, embargoes, and exchange controls, etc.

A Free Trade Agreement is an accord between two or more countries by which the countries agree on certain obligations that effect the trade of goods and services. FTA provides various benefits to contracting countries, such as reduction in duty tariff, protection for investors and intellectual property rights, reduction or elimination of trade barriers to trade across international borders, standardisation of products, and supply of services. It facilitates trade between contracting countries and increases investment and trade flows within integrated economies.

Therefore, FTAs can construct an economic framework within which the businesses and governments can operate. A well-designed and comprehensive FTA can provide multiple benefits, including access to the global market, preferential tariffs, and new business opportunities to overcome the international trade barriers. It can be a supportive policy framework for supply chains formed by global multinational corporations and for developing production networks.

INDIA'S FTAs

Presently, India has more than 20 FTAs in place with different countries. Some of the FTAs are: the Comprehensive Economic Partnership Agreement (CEPA) with the Republic of Korea, the ASEAN-India Free Trade Area (AIFTA), the India-Sri Lanka Free Trade Agreement (ISFTA), the India-South Asia Free Trade Agreement (SAFTA) and the India-Singapore CECA (ISCECA).

India is negotiating FTAs with many new trade partners. Some of the negotiations are: the India-UK Enhanced Trade Partnership (ETP), and the India-EU ETP, which was blocked since it was proposed in 2007, but resumed formal

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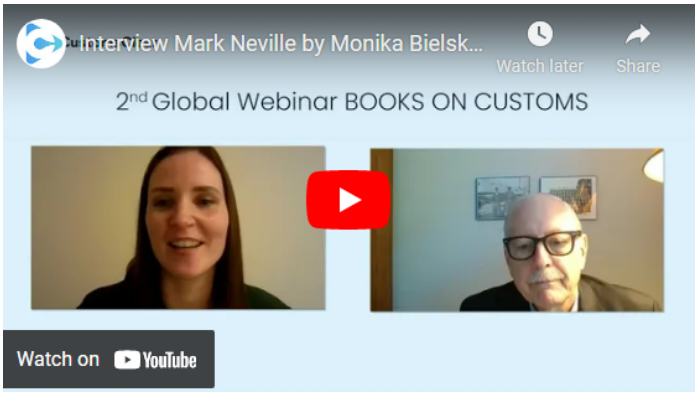
KNOWLEDGE

Customs valuation: interview with the book author of the book

Mark Neville is the author of a book on International Trade Laws of the US and is working on a new book on customs valuation. In an interview, Mark kindly shares information about the books and his philosophy of writing a book or an article.

The interview took place during the 2nd global webinar Books on Customs, on 16 December 2021. We invite you to read the interview and/ or to watch the video record.



Monika Bielskienė: I am a big fan of Mark Neville as an author of outstanding articles on customs and thus it was an honor to have an interview with him at the 2nd Global Webinar Books on Customs held by CustomsClear. Mark is an author of a book on International Trade Laws of the US and is now working on a new book on customs valuation. I asked him to talk more about both.

Mark Neville. The book “International Trade Laws of the United States: Statutes and Strategies” was first published in 2012. At least in the US most of the trade law publications at the academic level are on public international law. Their focus is on WTO, Trade Agreements and there is very little if any focus on the national or implementing legislation, which is the real world. As we say, customs is where actual goods cross actual borders, where the rubber meets the road. Even though I have an academic background, I feel an academic disquisition is sterile and I have sought a greater “real world” relevance.

Read continuation on Customs Clearance

Prof Dr Andrew Grainger

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About the author

Anthony Buckley

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About the author

KNOWLEDGE

Cross-Border Logistics Operations: interview with the auhor of the book

The newly released book 'Cross-Border Logistics Operations: Effective trade facilitation and border management' discusses the role of customs and other border agencies within the wider context of logistics and supply chain management.

We invite you to read an excerpt from the book[1] on extensive compliance requirements and to watch the interview with the author Prof Dr Andrew Grainger. The interview took place during the 2nd global webinar Books on Customs, on 16 December 2021.

The regulatory requirements that apply to the trade in goods between countries can be extensive. The World Trade Organization (WTO), however, sets two fundamental principles that apply to all of its members - which at more than 160 member states encompasses all of the world's largest markets - to make sure that trade is fair:

- The first is the Most Favoured Nation (MFN) principle for the trade in goods. It holds that countries cannot normally discriminate between their trading partners (GATT, 1947, Article 1). Any favours granted to one partner must be extended to all other WTO members - they are as such all 'most favoured'. But exceptions within the framework of more comprehensive preferential trade agreements (including free trade agreements, FTAs) are allowable (Trebilcock et al,2013); and with another 300 of them in place, they are a key feature in today's global business environment (WTO, 2020).

The second principle is 'national treatment', where any imported and locally produced goods should be treated

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About the author

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About the author

KNOWLEDGE

Textbook of European Customs Law: interview with the co-author of the book

The first edition of the 'Textbook of European Customs Law' was published 30 years ago. This year, the 10th edition was released. We talk to co-author Prof Dr Hans-Michael Wolffgang about the book, studies and why businesses should invest in the customs education of their employees.

The interview took place during the 2nd global webinar Books on Customs, on 16 December 2021. We also invite you to watch the video record.

Professor Wolffgang, thank you for accepting the invitation to interview. The book is in German. Do you have plans to translate it into English?

Yes, there are plans to adapt the book for the EU reader and to translate it into English.

The 10th edition of the 'Textbook of European Customs Law' has been released in September this year. It is an anniversary edition; 30 years have passed since the first one was released in 1991. Back then, the CCC, which codified Community customs law, was about to enter into force. Was this fact the source of inspiration to write the book?

Prof. Witte and I had been professors at the Customs Academy of the German Customs Administration since 1986.

Read continuation on Customs Clearance

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About the author

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About the author

KNOWLEDGE

A book about customs representation: interview with the author

Customs agents (brokers) play a significant role as intermediaries between importers/exporters and customs. Dr Momchil Antov wrote a book on the topic of customs representation. We talk to Mr Antov about the book, customs developments in Bulgaria and what aspects should traders consider when hiring a customs broker.

The interview took place during the 2nd global webinar Books on Customs, on 16 December 2021. We also invite you to watch the video record.

CAN YOU TELL US A LITTLE BIT ABOUT YOUR PROFESSIONAL LIFE AND EXPERIENCE?

I have been working in the field of customs representation for 20 years, and since 2010 I have been a lecturer at the Academy of Economics in Svishtov, Bulgaria, where I have the opportunity to train future professionals on the specifics of customs. Along with teaching, I am currently working as the director of the Bulgarian National Freight Forwarding Association and I am the chairman of the National Organization of Customs Agents. I think that combining practice with theory allows me to have a different view of customs so that I can be even more useful to both my students and colleagues in practice.

BULGARIA HAS BORDERS WITH ROMANIA AND GREECE IN THE EU AND WITH TURKEY, SERBIA, AND NORTH MACEDONIA. CUSTOMS CONTROL IS AN EVERYDAY PART OF LIFE FOR MANY

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CUSTOMS COMPLIANCE & RISK MANAGEMENT
JOURNAL FOR PRACTITIONERS IN EUROPE

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COUNTRY-SPECIFIC

Ukraine news: December 2021/ January 2022

News in international trade at a glance: the duty-free limit for parcels has been raised to 150 Eur; the government announced an ambitious plan - five new FTAs; imports of some kinds of cheese subject to safeguard investigation; anti-dumping duty on imports of potato starch, wood panels and thermal insulation materials; abolition of excise stamps on certain types of alcoholic beverages.

UKRAINE HAS RAISED THE DUTY-FREE LIMIT FOR PARCELS TO 150 EUR

On the 25th of January 2022, the Parliament of Ukraine has adopted a law that sets a higher limit on the cost of international parcels that can be obtained without paying taxes - up to 150 Eur.

In 2019, a limit of 100 Eur was set. Statistics showed that such a low limit harmed the number of imports to Ukraine, revenues from international postal and international express carriers, and the intensification of "grey" schemes for importing goods across the border.

THE UKRAINIAN GOVERNMENT ANNOUNCED AN AMBITIOUS PLAN - FIVE NEW FREE TRADE AGREEMENTS

At the beginning of 2022, the Prime Minister of Ukraine announced that they have the ambition plan - working under five new (or updated) free trade agreements (FTAs) with the following countries: Turkey, Tunisia, Canada, Jordan and USA.

The free trading zone with USA and Canada will give Ukraine big new possibilities for export Ukrainian goods with lower customs duties.

Given that Turkey is a part of the Regional PEM Convention, the new FTA will allow Ukraine to use diagonal cumulation with Turkey and the EU. In addition, in mid-2022, Ukraine is expected to join and apply transitional PEM rules, which opens more business opportunities.

NEW SAFEGUARD INVESTIGATION

The end of the year was an active period in the trade defence sphere. The Interdepartmental Commission on International Trade opened a new safeguard investigation on the 24th of December.

The subject of such investigation is the import of some kinds of cheese (HS codes: 0403 10 11 00, 0403 10 13

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CUSTOMS COMPLIANCE & RISK MANAGEMENT
JOURNAL FOR PRACTITIONERS IN EUROPE

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COUNTRY SPECIFIC

Requirements for labelling of vaping products (vapes) on the territory of Russia

E-cigarette or vaping products are known by many different names and come in many shapes, sizes and device types, for example, e-cigarettes, vapes, pod systems (pre-filled or refillable), disposable vapes, etc.[1]

Until recently, e-cigarettes and their accessories were not subject to precise, unambiguous regulation under Russian law, including requirements on packaging labelling. As a matter of practice, until recently, some market players were attempting to mitigate compliance risks stemming from the aforementioned legislative gap as to labelling of the products in question by adhering to regulations applicable to tobacco products.

Nevertheless, recently, quite substantial changes were made to legislation governing products containing nicotine, including e-cigarettes[2]. The idea of the new law is to treat vapes in a similar manner as traditional tobacco products and to give direct clarifications to such notions of 'nicotine-containing products', 'nicotine-containing liquids', and 'devices for the use of nicotine-containing products'. The new law introduces such worldwide known concepts as a ban on the sale of e-cigarettes to minors, prohibition of advertising and promotion of nicotine-containing products, and also decreases the maximum nicotine concentration to 20 mg per 1 ml in liquids. At the same time, the manufacture and sale of e-cigarettes and e-liquids are still not subject to licensing.

Even though the described amendments have come into force, there are still legal gaps in the regulation of the e-cigarette market. In order to resolve this issue, the Eurasian Economic Commission recently decided to establish common mandatory requirements for nicotine-containing products circulating in the EEU. The Republic of Armenia is now preparing a relevant technical regulation and it should be finalised by the year 2023. Based on public information, the draft of the technical regulation has already been developed and is currently being considered by other member states.

Once the special technical regulation enters into force, nicotine-containing products and liquids not meeting the requirements of the technical regulation shall be withdrawn from the market according to the established terms. So, the forthcoming amendments need to be monitored carefully.

WHAT TO BE GUIDED BY IN THE ABSENCE OF SPECIAL TECHNICAL REQUIREMENTS?

First of all, for all nicotine-containing devices and e-liquids, the provisions of the Russian Law on Protection of Consumer Rights[3] shall be observed, which establishes the general requirements applicable to all consumer products on the market.

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CUSTOMS COMPLIANCE & RISK MANAGEMENT
JOURNAL FOR PRACTITIONERS IN EUROPE

Peter Mitchell

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About the author

COUNTRY SPECIFIC

Customs-related online resources in Canada

To provide proper customs information, an importer needs knowledge. Online resources make acquiring it easier than it used to be. We overview online resources available in Canada for tariff classification, adjustments to transaction value, the origin of goods, commercial invoice, customs accounting declaration, calculation of duties and GST.[1] This information is also useful for European (and other) exporters who sell their goods to Canada and want to know more about the import requirements of the country of destination.

Importing goods can be intimidating. The customs rules are complex and inflexible, and the forms full of details and coding that appear undecipherable. That is why we have customs brokers. Many importers assume that, once they hire a broker, they do not need to invest time and energy in understanding customs and trade concepts. That can be a risky approach. Good customs brokers have a lot of knowledge. However, they can put it to good use only if the importer provides them with complete and correct information.

Customs brokers are not paid to ask a lot of probing questions. They operate in a volume business where the main task is to obtain release at the border. Insufficient or inaccurate information from the importer may result in the goods being misclassified, over- or under-valued, or the wrong country of origin being declared. This can cause delays in release and/or duty and penalty costs.

To provide proper customs information, an importer needs knowledge. Online resources make acquiring it easier than it used to be. Drafting and submitting your own customs entry documents is becoming easier and more convenient, and provides an excellent way to learn. The broker is always available to answer questions and review the final product.

The importer is responsible for two key documents: (a) the commercial invoice and (b) the customs accounting declaration. The main customs and trade disclosures - tariff classification, valuation and origin – are made on both.

TARIFF CLASSIFICATION

A useful online tool for tariff classification is the Canada Tariff Finder developed by Global Affairs Canada and two other federal government agencies. Its purpose is to allow one to compare rates of duty for specific goods among countries with whom Canada has a free trade agreement. However, it is also helpful as a place to begin researching the tariff classification of a good. Let's say you want to classify a bicycle. Under "Find tariff information", you click on

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ABOUT THE JOURNAL

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