

CUSTOMS COMPLIANCE & RISK MANAGEMENT

JOURNAL FOR PRACTITIONERS IN EUROPE

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- EU law news May 2024
- EU law news April 2024
- UK news April/May 2024
- Ukraine customs and trade updates: April/May 2024

PERSPECTIVE

- CBAM: Practical challenges of implementing novel legislation

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CASE LAW

- BTOM Phase 2: The Common User Charge



Editorial

Dear Reader,

At the time of writing, European elections are underway. A new Parliament will likely result in shifts in policies and priorities with customs likely being one of the affected areas. The EU customs reform is still in the proposal stage and it remains to be seen how the upcoming changes will influence the debate. This issue continues to explore the details of the EU proposal with two articles on the reform.

As trade policy attempts to address an increasing and constantly evolving range of geopolitical challenges, borders continue to be the natural place to implement, control and enforce a wide variety of measures. In addition to the core topics of classification, valuation and origin, this issue includes three articles on trade policy measures with a strong border element and customs implications. CBAM continues to be an important topic for all affected EU importers as well as for their suppliers worldwide. We invite you to read the article and if you are interested in the topic to also register for our [webinar](#) on 19 June. The EU General Product Safety Regulation will replace its older version, the General Product Safety Directive, towards the end of the year. Finally, in the UK, the second phase of the post-Brexit inbound sanitary and phytosanitary controls was introduced towards the end of April. As you may expect, the implementation has not been without a few hiccups.

Winston S. Churchill said that to improve is to change and to be perfect is to change often. CustomsClear is always looking for ways to improve. With this in mind, we've decided to review the way we categorise articles published in the CCRM journal. We hope it will help you, our readers, to better understand what type of content to expect and to easily find the type of content that you are looking for.

- 1) News updates are a short overview of recent developments in a given region such as the EU, UK or Ukraine.
- 2) Topic spotlights are an in-depth analysis of a given topic based on a recent development.
- 3) Case law articles summarise a customs-related legal case and outline to implications for practitioners and industry.
- 4) Country updates are topical articles about recent changes, trends or legislation in a given country.
- 5) Perspectives are interviews, opinions or position pieces that express the views of the author or an organisation.
- 6) Explainers are educational texts that cover a specific topic or an element of a topic either as a beginner's guide or a deep dive.

Enjoy reading this issue!

Dr Anna Jerzewska

Member of the Editorial Board



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NEWS UPDATE

EU law news April 2024

Overview of customs-related legal acts, case law, notices published in the EU Official Journal; information published by the Court of Justice of the EU (CJEU), European Commission, Customs of some EU member states and EU trading partners, World Customs Organization (WCO) and World Trade Organization (WTO). Updated weekly, every Monday/ first working day.

WEEK 17 (22-28 APR)

News at a glance: 20th anniversary of the 2004 EU enlargement; directive on criminal penalties for the violation of

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Customs Knowledge Institute



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Anthony Buckley



Enrika Naujokė

More information: www.offers.customsclearance.net/event/monthly-eu-law-news-overview-june-2024/



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Dr Anna Jerzewska

Chief Content Officer, CustomsClear,
Portugal/ the United Kingdom

[About the author](#)

NEWS UPDATE

UK news April/May 2024

News at a glance: Duty suspension window for 2024; proposed changes to the current customs legislation; deadline for switching to CDS for exports; new inbound border checks and a Common User Charge for SPS goods introduced; updated notice - bicycle parts relief under end-use; maps of the Forth Green Freeport tax site; excise duty hydrocarbon oils rates for road fuel gasses; temporary removal of tariffs for cut flowers; Belarus import sanctions; further sanctions on Iran; UK Government public consultation on CBAM; data tables on the number of customs declarants and declarations in 2023; AEO status holders - 1222 companies currently on the list; updated guidance on attending the Sevington inland border facility.

Customs legislation

Proposed changes to the current customs legislation

[On 22 May, the Customs \(Miscellaneous Amendments\) \(No. 2\) Regulations 2024](#) — customs rules policy paper was published. This document contains several proposed changes to the current customs legislation. They are likely to enter into force on the 12th of June 2024.

The changes affect a number of areas including rules concerning eligibility for relief, remission or repayment of customs duty. Other changes apply to goods being transported under the customs transit procedure. The changes in this measure will ensure that HMRC can examine goods arriving under this procedure, and concern the form in which the information about these goods must be provided to HMRC.

In terms of the remission of duty, an application for duty repayment must be refused by HMRC where the lower rate of duty in question is no longer available at the time that the application is made. This relates to claims made for duty chargeable in relation to dumping, foreign subsidies and increases in imports.

IT systems

Deadline for switching to CDS for exports

[The UK legacy customs system, CHIEF](#) will be switched off for export declarations on 4th June 2024. From that day, UK exporters will need to use the [Customs Declaration Service, CDS](#). This is the final stage of a transition process for import and export declarations which started in 2018. Following the 4th of June, HMRC will allow exporters to use CHIEF for an additional four weeks but only in exceptional cases, for example, due to technical difficulties with HMRC

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Dr Ilona Mishchenko

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



Khristyna Zhytniak

Student, Mykolas Romeris University, Ukraine/ Lithuania

NEWS UPDATE

Ukraine customs and trade updates: April/ May 2024

News at a glance: Phase 5 of the Common Transit Procedure has been successfully launched; progress in the transposition of certain provisions of the Union Customs Code into the Customs Code of Ukraine; customs authorities have resumed documentary inspections for customs compliance, which have been suspended since 24 February 2022; a new version of the automated customs risk analysis system based on artificial intelligence has been launched.

Common Transit Procedure

Ukraine has successfully launched the application of the NCTS Phase 5

[Ukraine has fulfilled its commitment](#) to accede to the Convention on the Common Transit Procedure in 2022 and transitioned to the updated version of the IT system underlying this Convention - New Computerised Transit System (NCTS) Phase 5.

The State Customs Service has published [guidelines](#) (in Ukrainian) for filling in customs declarations for goods placed under the customs transit regime in accordance with the Convention on the Common Transit Procedure using the new Trader's Portal.

Results of the application of the Common Transit Procedure in the first quarter of 2024

The [first quarter of 2024](#) was the most successful in terms of the number of transit movements since the application of the Common Transit Procedure in Ukraine, on 1 October 2022.

One-third of the total number of transit declarations under the common transit procedure were made in January-March 2024 - 23.5 thousand out of more than 65 thousand.

More than 19,000 movements initiated by the customs authorities of Ukraine were successfully completed in one of the parties to the Convention on the Common Transit Procedure. At the same time, almost 4.5 thousand of the movements initiated in other parties were successfully completed in Ukraine.

Compared to the same period in the previous year, i.e. the first quarter of 2023, the number of successfully completed movements initiated in Ukraine increased 13 times, while the number of movements initiated in other parties and completed in Ukraine increased 9 times.

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Dr David Savage

Senior Manager - Customs and International Trade Services, BDO Ireland

[About the author](#)



Svitlana Siurik

Global Trade Compliance Expert, Belgium

PERSPECTIVE

CBAM: Practical challenges of implementing novel legislation

Authors of the article speak about their personal experiences regarding the early days of the EU Carbon Border Adjustment Mechanism. David Savage, based in Ireland, discusses the challenges encountered by importers in the small and medium enterprise (SME) sector, while Svitlana Siurik as a trade compliance professional, based in Belgium, recounts her experiences from the perspective of a large multinational company.

INTRODUCTION

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The New Frontier for Customs



Dr Anna Jerzewska



Gabriel Rozenberg

 19 June

 16:00–17:00 CEST

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Anthony Buckley

CEO, Anthony Buckley Consulting Ltd.,
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[About the author](#)

TOPIC SPOTLIGHT


New General Product Safety Regulation: What should economic operators expect?


Every year since 2003, the European Commission has published its annual report on Safety Gate, the European Rapid Alert System for dangerous non-food products. The reports cover the alerts identified during the year and the measures taken by countries to eliminate or minimise the risks. It is worth noting that this system covers not only EU Member States, but also Norway, Iceland and Liechtenstein. In March, the annual report was published for 2023, with a record number of notifications, which emphasises the need to further mobilise efforts and improve tools to improve the safety of goods entering the European market. An important new tool – The General Product Safety Regulation – is discussed in this article.

WHAT IS SAFETY GATE?

Safety Gate is the European Rapid Alert System for dangerous non-foods products. It is a network of 30 countries

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25 min.

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New General Product Safety Regulation

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More information: www.customsclearance.net/en/courses/product-safety-new-general-product-safety-regulation



Dr Anna Jerzewska

Chief Content Officer, CustomsClear,
Portugal/ the United Kingdom

[About the author](#)

TOPIC SPOTLIGHT

Six months until the new PEM rules of origin enter into force

The new, revised Pan European Mediterranean (PEM) rules of origin will enter into force on 1 January 2025 for all parties of the PEM Convention. Traders importing and exporting within the PEM origin cumulation zone will be able to use the new, more business-friendly and flexible rules. Even when trading with countries that have not opted to use transitional rules.

FROM TRANSITIONAL RULES TO THE REVISED CONVENTION

The PEM zone was implemented in 2005 in order to create a cumulation zone between Europe and its neighbours and to encourage intra-regional integration by promoting trade and cooperation. The current parties to the Convention are: the European Union, Iceland, Liechtenstein, Norway, Switzerland, Faroe Islands, Türkiye, Morocco, Algeria, Tunisia, Egypt, Israel, Jordan, Lebanon, Palestine Georgia, the Republic of Moldova, Ukraine, Albania, Bosnia and Herzegovina, North Macedonia, Montenegro, Serbia and Kosovo.

In 2019, the European Commission submitted a package of proposals to modernise the convention

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New PEM rules of origin

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More information: www.customsclearance.net/en/courses/new-pem-rules-of-origin



Ingrida Sakalienė

Tariff Classification Expert,
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[About the author](#)


TOPIC SPOTLIGHT


Overview of the latest EU communication on tariff classification

The EU communication on tariff classification is of interest to anyone using or considering using Binding Tariff Information (BTI) decisions, as well as anyone interested in the correct classification of goods. Let's take a look at some of the international measures published in the latest communication that concern the classification of smartwatches, robots, food supplements, dental products, festive articles, parts and accessories and a conservatory (a garden room).

The purpose of the communication and the reasons why it is important have been described in previous issues of this journal (see '[Communication \(EU\): Recent changes in the classification of goods](#)' (2023)). I would just like to remind you that it is set out in the communication that customs authorities shall revoke decisions relating to binding information from this day if they become incompatible with the interpretation of the customs nomenclature as a result of the following international tariff measures: Classification Decisions, Classification Opinions or amendments to the Explanatory Notes of the Nomenclature of the Harmonised Commodity Description and Coding System (HS), adopted by the World Customs Organization (WCO). The recent communication, see C/2024/2685, was published on 15 May 2024.

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What is a 'communication on BTI' in the EU?

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More information: www.customsclearance.net/en/courses/what-is-a-communication-on-bti-in-the-eu



Michael Lux

Attorney, Michael Lux BV, Belgium

[About the author](#)

TOPIC SPOTLIGHT

EU Customs Reform: What will change in the import process?

This article continues the overview of certain aspects of the EU Customs Reform. In a previous article, the author described why and how the Commission intends to impose the obligations for importing goods on a single person, the importer in three variants: the regular importer, the deemed importer (for e-commerce) and the indirect customs representative representing both types of importers [1]. In this article, the author focuses on the proposed import procedure, which consists of several consecutive steps.

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Michael Lux

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[About the author](#)

TOPIC SPOTLIGHT

EU Customs Reform: Who is the 'importer' and what are their responsibilities?

Continuing a series of articles on the main legal aspects of the proposed EU customs reform, the author focuses on a key player in the import process: the importer. The Commission proposal is based on a new vision of this actor and his responsibilities. This article describes and analyses the three variants under this concept: the basic rules for importers, the special rules for deemed importers, and the rules for indirect customs representatives who are treated as the (deemed) importer. Furthermore, it addresses the question of what happens when the wrong person has been named as an importer by an actor in the supply chain or a customs representative.

INTRODUCTION

At the moment, there is no single person responsible for a specific import consignment. Instead, the Union Customs Code (UCC) contains provisions for many different actors which can be involved in customs processes. For example, the UCC allows or obliges different actors to provide information at each step of the import process.

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Georgi Goranov

Attorney at Law, Georgi Goranov law office
and Unitax Consult Ltd., Bulgaria

[About the author](#)

EXPLAINER

The special features of the customs valuation of imported fruit and vegetables

This article is the first, introductory part of the article based on the judgment of the European Court of Justice (ECJ) [1]. This judgment concerns the customs valuation of certain types of fruit and vegetables in the EU, which has its own peculiarities compared to the valuation of other goods. Therefore, in this article, the author explains these peculiarities of the customs valuation mechanism and in the second part [2], the judgment itself is reviewed.

Customs valuation is always a difficult issue for any importer. However, when it comes to valuing goods such as fruit and vegetables, the issue becomes even more difficult. The difficulty here is that the importer must not only identify

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Michael Lux

Attorney, Michael Lux BV, Belgium

[About the author](#)

EXPLAINER

Can a direct customs representative amend what he has declared, if he erroneously indicated the wrong person instead of the actual importer who empowered him?

Human beings are prone to making mistakes. Mistakes in customs declarations are no exception. Customs law allows them to be corrected. But it is not that simple. Does it apply to all mistakes and to all people who make them? Read the details in the article below.

WHAT THE UCC SAYS ABOUT AMENDING A CUSTOMS DECLARATION


Article 15 UCC (extract)

(2) The lodging of a customs declaration [...] by a person to the customs authorities [...] shall render the person concerned responsible for [...] the accuracy and completeness of the information given in the declaration ...

Where the declaration [...] is lodged [...] by a customs representative of the person concerned [...] that customs representative shall also be bound by the obligations set out in the first subparagraph of this paragraph.

Article 173 UCC (extract)

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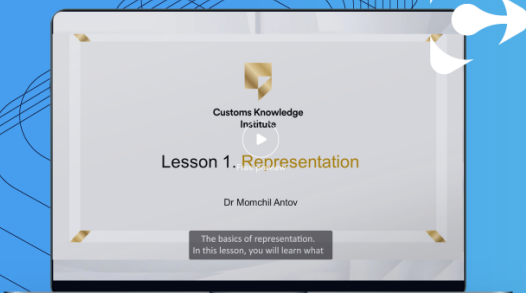
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Omer Wagner

Advocate, Israel

[About the author](#)

EXPLAINER

Technology to Customs: Catch me, if you can

The World Trade Organisation (WTO) and the World Customs Organisation (WCO) are probably two of the most important players in the international trade sector. These organisations are making their best efforts to facilitate imports, exports and related issues, among other things by holding international conventions.

The WCO's Harmonised System (HS) convention is probably one of the most successful international conventions and aims to harmonise tariff codes for goods worldwide.

The WTO also has successful conventions, including the 1996 [Information Technology Agreement](#) (ITA), which aims

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Omer Wagner

Advocate, Israel

[About the author](#)

CASE LAW


Customs classification: The grass is always greener on the other side


An Israeli magistrate court ("Court") recently ruled on the classification of industrial robots used to lift goods in logistics warehouses. The Court rejected the customs' position and ruled in favour of the importer [1]. Both parties submitted decisions from foreign customs authorities and WCO decisions supporting their position and the Court found the importer's references more convincing. In this context, the question arises as to whether or not the decisions of foreign customs authorities are relevant in court.

THE STORY

In 2020-2021, a company imported industrial robots to Israel used to transport and lift goods in warehouses. The robots are part of a complex system designed to optimise delivery processes in logistics warehouses. The system includes robots, storage units, picking stations, electric chargers for the robots, barcode stickers and a computer system that controls all other systems and manages the transport and collection processes in the warehouse. The

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Tariff classification of goods: Where AI can help you?

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More information: www.customsclearance.net/en/courses/tariff-classification-of-goods-where-ai-can-help-you



Dr Aistė Medelienė

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[About the author](#)

CASE LAW


Is payment of customs duties suspended if a dispute is brought before a court?

Did you know that customs duties are one of the European Union's own resources? Therefore, when you challenge customs decisions to calculate customs duties, you are essentially challenging EU revenue. In this overview of a recent judgement by the Court of Justice of the European Union, we answer the question of whether, in the event of a dispute with customs, the collection of import duties (customs duties and VAT) is suspended until the outcome of the proceedings is known.

EU - PROVISIONS OF THE UNION CUSTOMS CODE

Any EU Member State sets in its national laws the procedures and consequences of disputes with customs. However, certain requirements relating to the payment of customs duties during the customs disputes are established by the Union Customs Code (UCC). For example, Article 45 of the UCC establishes the right of any person to lodge an appeal against any customs decision directly and personally applicable to him or her relating to the application of customs legislation, which can be exercised in at least two stages:

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Khrystyna Zhytniak

Student, Mykolas Romeris
University, Ukraine/Lithuania

CASE LAW

If the debtor is not liable to pay the customs debt, must the guarantor pay it?

Last year, the European Court of Justice (ECJ) has issued a judgment on interpreting and clarifying the provisions of the Community Customs Code. This article seeks to explore the particular field of customs law within the EU, focusing on the rulings of the ECJ on customs debt, debtors' obligations and notification procedures. Through an examination of the case and its implications, the author's aim is to provide insights into the practical implications of the case for businesses and regulators alike operating under the current legislation.

On 18 March 2023, the ECJ delivered its judgment in Case [C-358/22](#). The Court's judgment provided important guidance by emphasising the importance of lawful notification of duties to debtors before recovery action is taken against guarantors. The judgment concerns the provisions of the Community Customs Code (CCC), which is no longer in force. It has been replaced by the Union Customs Code (UCC), applicable from 2016. However, the judgment not only clarifies the obligations of the parties involved, but also sets precedents for navigating the customs regulations within the European Union, including those currently in force.

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CASE LAW

Law and case law news: What shouldn't a customs professional miss?

Customs law is the rules of the game for everyone involved in customs and international trade. These rules are not always clear and unambiguous, do not always meet the expectations of those involved and are sometimes even imprecise. This leads to difficulties in their application and forces the courts to intervene. This review contains some interesting insights and exceptional examples of legislation and court cases from Europe and around the world (Belgium, Lithuania, Bulgaria,

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Georgi Goranov

Attorney at Law, Georgi Goranov law office
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[About the author](#)

CASE LAW

The resale of fruit and vegetables at a loss does not automatically means fraudulent manipulation of the customs value. What is needed more?

The previous [article](#) discussed the legal basis for the customs valuation of certain types of fruit and vegetables and the verification of the accuracy of such valuation. This article will focus on a specific case considered by the Bulgarian courts and subsequently referred to the Court of Justice of the EU (CJEU). The CJEU has issued a preliminary ruling, which should bring more clarity for the procedures related to customs valuation of fruit and vegetables imported into the EU.

CONTEXT

The case concerned fresh courgettes originating in Turkey and imported into the EU. In this case, the declared transaction value was above EUR 69.2 and excluded the application of the additional duty. At the time of importation, the standard import value (SIV) [1] was below EUR 63.7, which corresponded to the highest additional duty the date of import. The duty rates at the date of importation were distributed as follows:

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Customs valuation in the EU

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Value of 10 units of Turkey	Customs Duty	Standard
EUR 100	10%	EUR 10
EUR 101	10%	EUR 10
EUR 1000	10%	EUR 100

More information: www.customsclearance.net/en/courses/customs-valuation-in-eu



Mark Rowbotham

Customs, Excise & VAT Consultant,
PORTCULLIS ISC, the United Kingdom

[About the author](#)

COUNTRY UPDATE

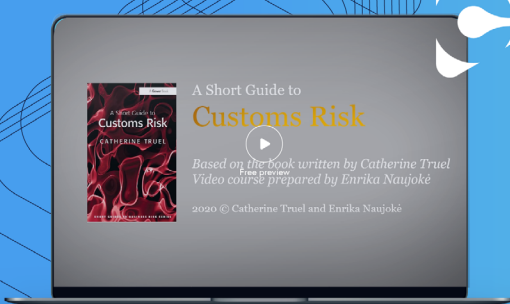
BTOM Phase 2: The Common User Charge


On the 30th of April 2024, the UK Government introduced the second phase of Border Target Operating Model (BTOM) checks on goods entering the UK. The government has released details on the charges that will be levied for food and drink goods entering the UK from abroad, raising concerns from trade experts about the likely effect on smaller businesses and the UK's post-Brexit trade.

The changes of checks on goods include:

- The introduction of documentary and risk-based identity and physical checks on medium risk animal products, plants, plant products and high-risk food and feed of non-animal origin from the EU;
- Existing inspections of high-risk plants/plant products from the EU, Switzerland and Lichtenstein will move from destination to border control posts (BCPs);
- The beginning of the simplification of imports from non-EU countries. This includes the removal of health certification and routine checks on low-risk animal products, plants, plant products from non-EU countries as

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Customs risk management guide

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ZOLLWÄRTS

27. Juni 2024 | 10:00 Uhr | Stuttgart

DER KONGRESS FÜR INNOVATION UND PRAXIS IN ZOLL UND EXPORTKONTROLLE

Tausche Dich mit über **150 Branchenexperten** in Stuttgart beim Zollwärts Event aus. Ob Zollorganisation der Zukunft, der Kampf gegen den Stammdatenwust oder die Kunst, sich in anderen Abteilungen zu präsentieren – hier erwartet dich ein Mix aus Fachthemen und Softskills. Versprochen: Du gehst mit mehr Energie und Inspiration nach Hause.

WORKSHOPS

1.1 Zollabteilung der Zukunft: welche Kompetenzen, Strukturen und Schnittstellen brauchen wir künftig als Zollabteilung?

2.1. Exportkontrolle der Zukunft: Quanten, KI und weitere Technologien? Praktische Lösungen finden von der Klassifizierung über die Kontrolle.

3.1. Wie verkaufe ich Zoll gewinnbringend an meine Kollegen aus Einkauf, Vertrieb und Co.? (Präsentieren, Storytelling usw.)

1.2. Stammdaten, Plastiksteuer, CBAM und Russlandsanktionen: wie werden wir des Datenwahnsinns noch Herr?

2.2 Es muss nicht immer das gesamte ERP oder die ATLAS Software getauscht werden. Wie und wo kann man Quick Wins umsetzen ?

3.2. Führen in digitalen Zeiten – mit Remote Teams und neuen Generationen (Führung, Motivation, Selbstmanagement)



INTERVIEW

Aktuelle Herausforderungen:
wie blicken wir in die Zukunft?

Janine Lampprecht & Prof. Dr. Hans
Michael Wolffgang

PANEL DISKUSSION

Weiterbildung in der
Zollbranche in Zukunft

Janine Lampprecht, Ralf Schmitt, Patrick
Nieveler, Enrika Naujoké, Thomas Glanzer

KEYNOTE

Alles, was recht ist!
Zukunftssicher durch Compliance

Volker Römermann

EXPERTEN

Enrika Naujoké, Prof. Dr. Hans Michael Wolffgang,
Janine Lampprecht, Thomas Glanzer, Lars Gemppe,
Werner Pechmann, Tobias Wawrzynczak, Annika Vollmer,
Patrick Nieveler, Prof. Dr. Volker Römermann, uvm.



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7. Excise related to export and import
8. Customs duty, debt and its payment
9. Tariff classification of goods
10. Value
11. Origin

Customs procedures

12. Customs declaration
13. Goods brought into the Union customs territory
14. Release for free circulation
15. Special procedures
16. Transit
17. Goods taken out of the Union customs territory

Compliance

18. Customs decisions and authorisations
19. Export control and sanctions
20. Risk management
21. Customs IT systems

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Meet some of the lecturers



Anthony Buckley
CEO of Anthony Buckley
Consulting Ltd., former
Head of Irish Customs, Ireland



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Customs & Trade Compliance
Specialist at Takeda,
Switzerland/the United Kingdom



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Tax at BMW, Founder & CEO of
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Academy of Economics, Bulgaria



Inessa Platonova
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at Mykolas Romeris University, Lithuania

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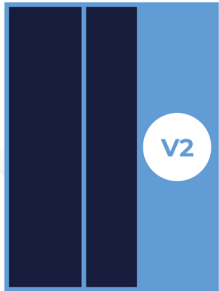

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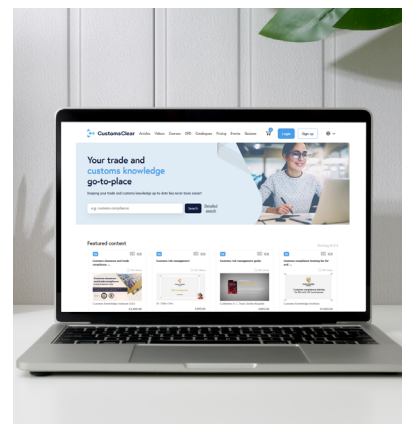
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