

CCRM ISSUE 27

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CCRM ISSUE 27 ONLINE

# CUSTOMS COMPLIANCE & RISK MANAGEMENT

JOURNAL FOR PRACTITIONERS IN EUROPE

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EU and U.S. additional tariffs on imports of Chinese electric vehicles

The latest AI-related regulatory developments in the EU and implications for customs

Tariff classification of goods in the light of the latest technological developments

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Editorial

Dear Reader,

**The “chain reaction” triggered by a regulation** could be a good aspect to start with considering the latest legal developments. For example, who is affected by the new EU’s directive on sustainability due diligence? At first glance, only large companies. However, at a closer look, it becomes clear that the company’s entire supply chain will be affected, as suppliers, regardless of size, are required to disclose information about human rights and environmental compliance throughout their supply chain. Importers dealing with CBAM, already have the experience of related challenges. More requirements affecting more companies are to come soon.

**How to manage compliance? ‘All eyes on AI-based technologies’** is no overstatement. Even if it is a buzzword, the power and potential of it is obvious: in an unusually hot summer, we benefit from an AI-based app that suggests a shady cycling route; at work, a generative AI assistant writes the code for a tool that simplifies customs compliance. "It saves me a lot of energy and time - I don't have to write the code from scratch, just check it" shares my colleague. This CCRM issue includes several articles related to tariff classification tools. We also invite you to read about the work being done in the EU to promote AI-related innovation and, at the same time, regulate the field taking into account potential risks.

**‘But what could affect my work today?’** – we often hear this from practitioners. In each CCRM issue, we respond to this need. For example, some of the news may have an immediate impact on your day-to-day business (e. g. the introduction of tariff quotas or anti-dumping measures). Articles on court disputes between customs and companies are another invaluable source of practical information. Don't think they're boring! These are real-life stories that reveal the thinking of all parties involved, the pitfalls to watch out for and the mistakes of others to learn from. You will also benefit from the knowledge and views that the authors share in the articles on the latest news (e.g. the tariffs on Chinese BEVs) and developments (e.g. EU Customs Reform), and situations from their daily practice (e.g. Incoterms).

**I believe that humans will not outsource thinking to AI**, but will use it as an assistive technology. Given the increasing legal complexity, continuous learning is therefore the key to securing future-proof skills and competencies.

Enjoy reading this issue!

Enrika Naujoke  
Member of the Editorial Board  
CEO at CustomsClear





## NEWS UPDATE

# EU customs and trade news: June 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 26 (24-30 JUNE)

News at a glance: Regulation on 'ecodesign' and digital product passport, also to be used for customs control purposes; legal acts comprising the EU's 14th package of sanctions; additional restrictive measures against Belarus; increased tariffs on imports of certain agricultural products from Belarus and Russia; amended list of sanctioned persons in respect of actions undermining independence of Ukraine; additional sanctions against Iran persons supplying drones to Russia; amendment of tariff quotas for certain agricultural and industrial products; prolongation of the safeguard measure on imports of certain steel products and repayment of duties in certain cases; corrections related to the temporary trade-liberalisation measures applicable to Ukrainian products; EU gains US market access for certain plants; updated Transitional CBAM Registry user manual for Declarants.

### Restrictive measures against Russia and Belarus

#### Additional restrictive measures against Belarus

30.6.2024 [Council Regulation \(EU\) 2024/1865](#) of 29 June 2024 amending Regulation (EC) No 765/2006 concerning restrictive measures in view of the situation in Belarus and the involvement of Belarus in the Russian aggression against Ukraine. Some of the provisions:

- The following article is inserted: 'Article 1bb 1. It shall be prohibited to sell, supply, transfer or export, directly or indirectly, goods which could contribute in particular to the enhancement of Belarusian industrial capacities, whether or not originating in the Union, as listed in Annex XVIII, to any natural or legal person, entity or body in Belarus or for use in Belarus.'

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Pexels Chris Schippers

NEWS UPDATE

## UK customs and trade news: July 2024

New Labour Government announces free trade negotiations strategy. UK joins global digital trade agreement. Animal Welfare Act. Economic Interest Test. Registration of imports of suspension poly (vinyl chloride) from the United States of America. The Trade Remedies Authority review into polyethylene terephthalate from India.

### NEW LABOUR GOVERNMENT ANNOUNCES FREE TRADE NEGOTIATIONS STRATEGY

On 29 July, the new Labour Secretary of State for the Department of Business and Trade, Jonathan Reynolds, announced the new UK government's free trade agreements negotiations programme. In addition to implementing the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) which should enter into force towards the end of 2024, the government listed the following countries as priorities: Gulf Co-operation Council, India, Israel, Republic of Korea, Switzerland and Türkiye. These are either new trade agreements (e.g. India) or renegotiations of existing treaties (e.g. Republic of Korea or Türkiye). Find out more [here](#).

### UK JOINS GLOBAL DIGITAL TRADE AGREEMENT

On July 26 the WTO issued a statement confirming that after five years of negotiations on the Joint Statement Initiative on E-commerce, 91 WTO Members (including the UK) achieved an agreed version of the text. The text of the Agreement on Electronic Commerce was published [here](#). The agreement represents the first global set of rules on digital trade. It aims to:

- facilitate cross-border electronic transactions,
- reduce barriers to digital trade,
- and promote innovation in e-commerce.

Amongst other provisions, the agreement permanently bans customs duties on digital content (electronic transmissions). UK press release is available [here](#).

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NEWS UPDATE

## UK customs and trade news: June 2024

UK's steel safeguard measures and suspensions for Ukraine have been extended for two years. Interim guidance for exports from Great Britain as merchandise in baggage or small vehicle has been published. Further details have been provided on moving processed or repaired goods into free circulation or re-exporting them. HMRC's guidance is being updated to remove references to CHIEF while the log of CDS known errors and workarounds has been updated. There are a number of issues currently affecting the New Computerised Transit System (NCTS) Phase 5 movements.

### Extension of UK's steel safeguard measures

On 26 June, the Department for Business and Trade issued a statement on the future of the UK's steel safeguard measures. The measures in 15 categories along with suspensions for Ukraine have been extended for two years until 30 June 2026.

On 4 September 2023, the UK's Trade Remedies Authority (TRA) initiated an extension review of the steel safeguard measures to determine if removing the measure would lead to a recurrence of serious injury to UK steel producers. The decision was made based on the results of this investigation. The measures will be renewed from 1 July 2024.

Read more [here](#).

### Closing of the duty suspensions and autonomous tariff quotas window

The new suspension window for 2024 closed on the 3 July. The guidance has been updated to reflect that. HMRC will issue updates in due course on the duty suspensions and tariff quota page available [here](#).

Interim guidance for exports from Great Britain as merchandise in baggage or small vehicle

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**Iryna Pavlenko**

Associate, attorney at law, First Chair Legal, Ukraine



**Oleg Kyrivskyi**

Managing partner, attorney at law, First Chair Legal, Ukraine

## Ukraine customs and trade news: June/July 2024

News at a glance: exemption from customs duties and VAT on imports of energy and demining equipment was approved; illegal imports and exports of goods of significant value (smuggling) is now a criminal offence instead of being subject to administrative penalties; updated Canada-Ukraine Free Trade Agreement entered into force; EU-Ukraine duty-free trade was extended; changes were made to the list of agricultural products where exports are subject to licensing; inward processing procedure was allowed for some vehicles and their bodies; the State Electronic Export Control System was launched as a pilot; progress was made on the development of the AEO programme in Ukraine.

### Import taxes

#### **Exemption from duties and VAT on imports of energy equipment and equipment for mechanised demining machines**

On 27 July, two laws amending the [Customs](#) and [Tax](#) codes of Ukraine came into force. They exempt the import of energy equipment and components for some military equipment from import VAT and customs duties. In particular, the laws provide for the possibility of applying duties and VAT exemptions for the import of energy equipment into Ukraine:

- Equipment for electricity generation
- Equipment for wind and solar power generation
- Batteries (except for low-power batteries).

The decision aims to increase energy efficiency and self-resilience and will contribute to the recovery of the country's economy. It will also make it much easier for individuals and businesses to become self-sufficient and use alternative energy sources. The list of goods exempted from import duties and VAT also includes equipment for the production of counter-measures against technical intelligence and/or for the repair of mechanised mine clearance equipment. The above exemptions apply until the end of martial law in Ukraine.

### Duty-free trade, FTAs

Canada-Ukraine Free Trade Agreement has been updated

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**Dr Anna Jerzewska**

Chief Content Officer, CustomsClear,  
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[About the author](#)

NEWS UPDATE

# Car wars: the EU announced additional tariffs on imports of Chinese battery electric vehicles

China is facing increasing pressure over exports of battery electric vehicles (BEVs) as a number of countries contemplate applying measures to protect domestic markets from what they consider to be unfair and market-distorting subsidisation by the Chinese government. On 12 June 2024, the European Commission pre-disclosed new tariffs as a result of an anti-subsidy investigation launched towards the end of 2023. This follows 100% tariff applied on Chinese BEVs introduced by the US in May 2024 and a 40% tariff on conventional and hybrid vehicle imports from China

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**Ira Reese**

Chief Technology Officer and Director,  
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[About the author](#)

TOPIC SPOTLIGHT

# U.S. tariffs on Chinese electric vehicles and their effects

On 14 May, U.S. President Joe Biden placed a 100% tariff duty rate on imports of Chinese Electric Vehicles (EVs). The reasoning was that the low cost of Chinese EVs needs to be counterbalanced by tariffs so that domestic manufacturers can compete fairly against Chinese imports. Editors' note: For developments in the EU, see '[EU law news June 2024](#)'.

As expected, the announcement from U.S. President Joe Biden that the Administration would be placing a 100% tariff duty rate on imports of Chinese Electric Vehicles (EVs) has drawn both derision and applause from different sectors of American and European industry. The immediate factor in the President's reasoning is that the low cost of Chinese EVs needs to be counterbalanced by tariffs so that domestic manufacturers can compete fairly against Chinese imports.

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**Dr Ramūnas Šablinskas**

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[About the author](#)

TOPIC SPOTLIGHT

# The latest AI-related regulatory developments in the EU and implications for customs

Developments in the field of artificial intelligence (AI) are the latest buzzword. However, the majority of people do not understand the technology behind it as well as its potential implications for our lives and, more specifically, the field of customs and border management. In this article, we will give a short overview of the operational principles of AI tools and will provide insights into EU regulatory attempts to tame this disruptor of multiple areas of the world as we know and understand it.

## CLARIFICATION OF THE TERM ‘AI’

The term Artificial Intelligence (AI) requires some clarification. Since modern computers were invented (devices, which can store data and which can execute a series of instructions to manipulate this data), programmers have been working relentlessly to produce and perfect computer code. This was the dominating model until a new paradigm

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**Tariff classification of goods: Where AI can help you?**

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[About the author](#)

TOPIC SPOTLIGHT

# DAP Incoterm and imports

[Incoterms](#) are standardized delivery terms for use in international or domestic trade of goods. They describe the division of obligations, costs and risks in transactions between buyer and seller. They were first published in 1936 by the International Chamber of Commerce (ICC) and updated every ten years. The latest version is 2020, with eleven “terms” and three-letter abbreviations followed by an agreed place of delivery.

The Incoterms book addresses in the introduction the situation where the two most extreme cases, EXW and DDP, may not be the best choice. The reason is that the buyer or seller has

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**Prof. Dr Andrew Grainger**

Director, Trade Facilitation  
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[About the author](#)

TOPIC SPOTLIGHT

# Customs tariff classification and the use of assistive technologies

Tariff classification is one of the most complicated things about customs. Not surprisingly, there are many tools available to make the process easier and more automated. This article provides an overview of the main technologies and solutions available to assist classification, particularly those found online. This article is an abridged version of the [full article](#) published in the World Customs Journal, 18(1), 3-31. The abridged version of the article is published with the permission of the WCJ.

## INTRODUCTION

It is hard to imagine customs controls without commodity codes. This is because there are all sorts of goods with differing characteristics – including shape, form, use, composition, and production stage. Categorisation into codes helps make customs controls and reporting more manageable.

Tariff classification of goods is an integral part of customs processes, the starting point for preferential origin rules,

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TOPIC SPOTLIGHT

## Tariff classification of goods in the light of the latest technological developments

The technological advances we have witnessed in recent times affect all areas of our lives. Customs is no exception. On the one hand, there are a large number of new products equipped with advanced technologies, including AI, that need to be classified, cleared and taxed upon import. On the other hand, customs authorities and private sector customs professionals are using the latest technologies for their professional purposes, in particular for tariff classification. How does this technology boom affect both sides of the customs industry? Does it make life easier for customs professionals or does it create new headaches? Experts from around the world tried to find answers to these complex questions during the 22nd Authors' Meeting. Below is an overview of the main points provided by experts from some of the EU Member States, the UK, Switzerland, the USA, Canada, Brazil and Israel.

### AI WILL SOON BE CONTROLLING AI; CUSTOMS CONTROL ON INTANGIBLE PRODUCTS

**Enrika Naujoke, CEO at CustomsClear, Lithuania**

Technology affects all areas of our lives, from smart watches that only work when paired with smartphones to the existential threat of out-of-control artificial intelligence (AI). In this context, Enrika mentioned the new EU regulation laying down harmonised rules on artificial intelligence. The European Council points out [in its press release](#): "The flagship legislation follows a 'risk-based' approach, which means the higher the risk to cause harm to society, the stricter the rules. It is the first of its kind in the world and can set a global standard for AI regulation."

Enrika referred to an [article](#) by Dr Ramūnas Šablinskas, where the author considers that the AI developments introduce additional concerns and risks in international trade as the ordinary physical items, coupled with AI software could become powerful tools to be used against people, organizations and even countries. So, the category of "dual use" items has expanded to be encompassed by AI. A further expansion of this definition is necessary for the AI software that

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**Michael Lux**

Attorney, Michael Lux BV, Belgium

[About the author](#)

## Replacement of the AEO by the "Trust and Check Trader": what would be the practical changes for AEOs and non-AEOs under the EU Commission's UCC Reform Proposal?

The replacement of the AEO with a new designation of "Trust and Check Trader" (T&C), as proposed under the EU customs reform, is not just a change of name. The European Commission is introducing with this concept both additional requirements and new restrictions in comparison to the current AEO facilitations, as well as removing almost all existing facilitations for non-AEOs. Since under the EU Customs Reform proposal all responsibility for fiscal and nonfiscal compliance will lie with importers and exporters, AEOs who currently benefit from customs simplifications but are not importers or exporters (indirect customs representatives will be treated as such), but rather carriers, warehouse keepers or direct customs representatives, will lose their privileged status as trustworthy economic operator. In this article, the author explains the proposed rules for T&C and the negative consequences for economic operators who will lose this status, as well as the loss of facilitations currently available for economic operators without AEO status.

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**Segba Jean Soro**

Customs Officer, Directorate General of Customs of Côte d'Ivoire

[About the author](#)

COUNTRY UPDATE

# Introduction of advance rulings system in Côte d'Ivoire

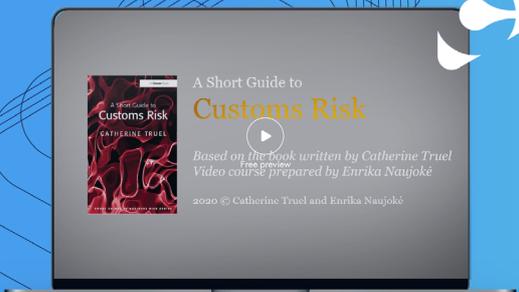
In 2023, Côte d'Ivoire introduced a new and modern system of advance customs rulings. This development followed two workshops organised in Côte d'Ivoire in May 2023 with the German Alliance for Trade Facilitation and under the aegis of the EU-WCO Programme for the Harmonized System in Africa funded by the EU. The workshops were part of a wider capacity-building programme to support Côte d'Ivoire in meeting its WTO Trade Facilitation Agreement (TFA) obligations - in particular, Article 3 of the TFA which requires signatory parties to provide an option to apply advance rulings on origin and classification.

## INTRODUCTION

Advance rulings help to facilitate trade by allowing to speed up border formalities, clarifying the position of national customs authorities on origin and classification questions and preventing disputes. They provide an official interpretation of the customs legislation applicable to a specific situation. They are written and binding decisions issued by customs administration at the request of the applicant prior to importation. They can relate to tariff classification,

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**Omer Wagner**

Advocate,  
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COUNTRY UPDATE

# The impact of the Turkish-Israeli trade crisis on the region

Recently, trade relations between Türkiye and Israel have been shaky. Although Türkiye and Israel have had a free trade agreement for many years, Türkiye announced that it would stop all trade with Israel, to which Israel responded that it intended to abolish the free trade agreement (FTA) and also impose additional 100% tariffs on imports from Türkiye. This crisis will not only affect the two parties, but possibly also EU traders.

## THE LEGAL FRAMEWORK

Turkey and Israel signed an FTA in 1996, which came into force in 1997. The FTA provides for duty-free access for industrial goods and facilitation for agricultural products [1]. The objectives of the free trade agreement are stated in the agreement itself:

- "To promote, through the expansion of reciprocal trade in goods and services, the harmonious development of the economic relations between Israel and Türkiye".
- "To contribute in this way, by removal of barriers to trade, to the harmonious development and expansion of

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CASE LAW

## Breaking into customs safe box: court rules on classification and sides with the importer

An Israeli court recently ruled in favour of an importer's claim against the Israeli customs authority. The court found that the classification of a protective safe used to prevent the theft of vehicle computers was in line with the importer's proposal. At the same time, the court dismissed part of the claim due to the statute of limitations [1].

### THE STORY

The company imported a device into Israel, which was built like a safe and was designed to protect the vehicle computer from hacker attacks or theft. The device was made of aluminium, was installed on the vehicle computer attached to the vehicle body and looked like a safe. The device contained the vehicle computer with sides connected with special steel screws. The screws were attached in such a way as to make it impossible to remove the device. The device could be opened with a special tool that was only available from the importer. The device was patented

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**Dr David Savage**

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CASE LAW

# Importing chemicals: CJEU rules who bears the burden of administrative work

Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) regulation is the EU’s main instrument to protect human health and the environment from the risks that can be posed by chemicals. The legislation places a registration obligation on the importer. However, the definitions of the importer and import under the REACH legislation do not align with the customs terminology. The article demonstrates what happens when discrepancies arise.

**INTRODUCTION**

This article summarises the European Court of Justice (CJEU) case [C-654/22](#). This case arose because of a dispute between a national competent authority in Belgium and two companies involved in the import of urea from outside of the EU. The issue was which party to the transaction should make the registration required by the REACH legislation.

Furthermore, the CJEU was asked to rule upon whether goods which enter into the territory of the EU but are placed

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CASE LAW

# Harley-Davidson v. Commission update: relocating production to avoid retaliatory tariffs is economically justified for the determination of non-preferential origin

On May 30, 2024, the Advocate General (AG) of the Court of Justice of the European Union (CJEU) issued a very interesting opinion in the case Harley-Davidson v. Commission (C-297/23 P). This case, currently awaiting a final decision by the CJEU, holds substantial implications for importers needing to determine the non-preferential origin of goods within the EU.

## WHY IS THIS RELEVANT?

Non-preferential origin rules are essential for establishing the country of origin for various trade measures such as the most-favoured-nation (MFN) treatment, anti-dumping duties, trade embargoes, origin marking, and the EU Carbon Border Adjustment Mechanism (CBAM).

When multiple countries are involved in production, Article 60(2) of the Union Customs Code (UCC) applies, requiring

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**Holly Piggott**

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[About the author](#)

EXPLAINER

# An overview of the Cost, Insurance, Freight (CIF) Incoterm

Incoterms are international trade terms published by the International Chamber of Commerce [1] and widely acknowledged on a global basis. In the United Kingdom, there is a legal obligation to submit the Incoterms relating to all imports to His Majesty’s Revenue and Customs (HMRC) from 30 September 2022. This article will provide an overview of the obligations related to the Cost Insurance Freight (CIF) Incoterm.

Used in combination with a specified location and a specified version (e.g. CIF London Gateway Incoterms 2020), Incoterms identify the obligations of the consignor (seller) and the consignee (buyer), concerning which party is responsible for the transport costs and provision of customs and transit documents at export and import, port charges, insurance of the goods, the transfer of risk of loss or damage to the goods, and where the delivery will take place. Cost, insurance, freight (CIF) and Cost and freight (CFR) are two closely related Incoterms which cover

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More information: [www.customsclearance.net/it/courses/export-basics-incoterms-2020](http://www.customsclearance.net/it/courses/export-basics-incoterms-2020)



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# Course content: 21 modules

## Basics

1. Business understanding of customs
2. Supply chain operations
3. Customs legislation and regulation
4. Customs representation

## Tariff and non-tariff measures

5. Non-tariff regulation
6. VAT related to export and import
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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CEO of Anthony Buckley  
Consulting Ltd., former  
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Customs & Trade Compliance  
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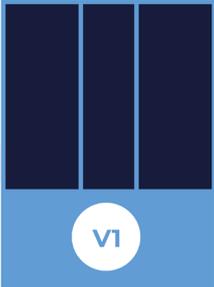
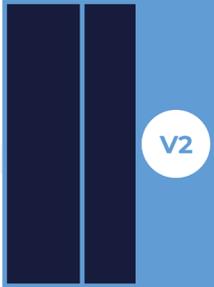
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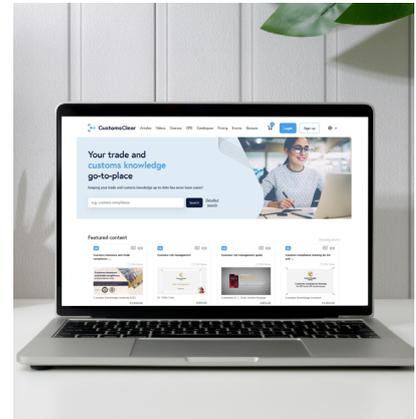
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