

CCRM ISSUE 28

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CCRM ISSUE 28 ONLINE

CUSTOMS COMPLIANCE & RISK MANAGEMENT

JOURNAL FOR PRACTITIONERS IN EUROPE

Customs and trade news: EU, UK, Ukraine

Customs compliance and awareness amongst traders

Ecodesign for Product Sustainability Regulation: what should economic operators expect?

The proposed UCC reform: changes in placing goods under a customs procedure

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Editorial

Dear Readers,

Each issue of the CCRM journal strives to provide the most relevant and up-to-date information in the field of customs and trade compliance. The current issue is particularly rich in articles on the recent developments in the field of innovation: whether it's a new process or system introduced into the customs practice or new regulation. This is not surprising as global trade and customs are complex and dynamic environment with different challenges. Meeting these challenges is not easy, and the number of new customs and customs-related regulations aimed at solving new problems sometimes adds to their complexity. This issue of CCRM includes a range of articles on this topic.

This issue continues with the ongoing coverage of the proposed reform of the EU Union Customs Code. This time the focus is on placing goods under a customs procedure and the main changes expected compared to the current Code.

The Bulgarian Green Corridors project is an exciting new proposal that will provide simplifications for customs clearance procedures for Authorised Economic Operators and Trust & Check traders once the proposed EU customs reform comes into force.

We also provide an overview of some of the latest developments, such as the new Ecodesign for Product Sustainability Regulation. Although the first phase of the implementation is scheduled for July 2026, it is worth getting acquainted with the scope and purpose of the legislation as that impact on businesses is likely to be significant.

Innovation is also important in the private sector. We offer an overview of the International Chamber of Commerce's new origin tool Genesis as well as a fairly exotic topic of cybernetics.

Furthermore, the issue provides updates on core customs topics. For example, a detailed overview of the Council's updated "Best Practices on Sanctions" clarifies when persons not on EU sanctions lists should be treated as sanctioned. The analysis of the updated Customs Valuation Compendium clarifies when buying commissions can be treated as such and therefore excluded from customs value. Our bi-monthly authors' meeting covered the topic of customs compliance. We are delighted to share a summary of that meeting.

The issue would not be complete without an article on tariff classification and country updates. The Case Law section includes an article on binding tariff information and we also provide an interesting example around restrictions from Israel and e-commerce changes in Türkiye.

There are many articles worth reading and I hope you enjoy this issue of the CCRM journal.

Dr Ilona Mishchenko,
Member of the Editorial Board

Pexels

NEWS UPDATE

UK customs and trade news: September 2024

UK-Ukraine Digital Trade Agreement. Suspension of 30 arms export licenses to Israel. Moving the “Rest of World” sheepmeat, poultry and beef to Northern Ireland. Important updates on the implementation of the Windsor Framework, the TSS system and the 'Not for EU' labelling for retail products across Great Britain. New TRA anti-dumping investigation on Chinese tin mill. New trade sanctions against Iran. Launch of the ‘Apply for a SIEL’ service (LITE) public beta.

UK-Ukraine Digital Trade Agreement enters into force

On 1 September, the UK-Ukraine Digital Trade Agreement (DTA) has entered into force. The digital agreement is one of the first of its kind and opens the door to wider shifts to digital trading systems. Find out more [here](#).

Suspension of 30 arms export licences to Israel

On 2 September, the UK suspended licenses for certain arms sales to Israel due to concerns over International Humanitarian Law. Over 30 licenses out of 350 granted have been suspended. Further details are available [here](#) and [here](#). As a result, a number of pieces of guidance have been updated to reflect this change. For example: [Notice to exporters 2024/20: suspension of licences for Israel](#), [Open general export licence PCBs and components for military goods](#) and [Open general export licence software and source code for military goods](#).

Moving the “Rest of World” sheepmeat, poultry and beef to Northern Ireland

From 30 September 2024, new arrangements were introduced for moving sheepmeat, poultry and beef from certain countries outside the UK and EU to Northern Ireland. As a result, new guidance was published on using tariff rate quotas to import sheepmeat, poultry and beef into Northern Ireland from outside the UK and EU. Find out more [here](#)

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NEWS UPDATE

UK customs and trade news: August 2024

UK Trade Remedies Authority initiates review into bicycles and bicycle parts from China, proposes an increase to the steel imports quota, recommends increasing duties on bus and lorry tyres. UK to join CPTPP by 15 December 2024. Alcohol duty: new digital service. Open general licence (AUKUS nations). August notices to exporters. Tariff classification notices. Guidance updates.

TRA initiates review into bicycles and bicycle parts from China

UK Trade Remedies Authority (TRA) has initiated a transition review into an anti-dumping measure on bicycles and certain bicycle parts from China. These bicycles are being imported from China and consigned from Cambodia, Indonesia, Malaysia, Pakistan, the Philippines, Sri Lanka, and Tunisia. The review will decide whether these measures inherited from the EU are still appropriate. Find out more [here](#).

TRA proposes an increase to the Category 1 steel imports quota

Due to a reduction in UK production of Category 1 steel, the TRA proposes that the quota on imports be varied and increased to a total of 2.9 million tonnes. Changes in circumstance, including the recent closure of a blast furnace at Tata Steel UK's Port Talbot works as part of a transition to an electric arc furnace, have impacted the UK's domestic production of Category 1 steel. This has led to an increase in imports consistently exhausting part of the quota for Category 1 steel (hot rolled flat steel products) across four consecutive quarters. This in turn has driven up the cost of these products for the UK market. Find out more [here](#).

TRA recommends increasing duties on bus and lorry tyres

On 27 August, the Trade Remedies Authority recommended raising duties on bus and lorry tyres from China to protect the UK's tyre retreading industry from injury. This follows an anti-dumping and countervailing measures

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NEWS UPDATE

Ukraine customs and trade news: August/September 2024

News at a glance: significant amendments to the Ukrainian Customs Code; introduction of a new automated customs clearance system at all road checkpoints on the national border; clarification of the customs classification of goods for the generation and storage of electricity; permission to export bio-methane from Ukraine; gradual annual increases in excise duties on fuels.

EU-Ukraine Customs Codes

Update of the Ukrainian Customs Code

On 22 August, the [Ukrainian Parliament adopted](#) a law introducing significant changes to the current Customs Code of Ukraine. In effect, this constitutes a reform of the domestic Customs Code.

The amendments bring Ukraine closer to EU customs legislation and effectively complete the transposition of the bulk of EU customs regulations into Ukrainian law. The new law will allow domestic businesses to adapt to updated rules in international trade and customs areas making a "soft" transition to European approaches and standards in these areas.

The main changes introduced by the the new law are as follows:

- Introduction of the concept of customs representation similar to that in the EU, including the division into direct and indirect; separation of duties and responsibilities of the economic operator and their customs representative;
- Gradual, 18 month transition of companies involved in global trade to the authorisation system similar to that of the EU (introduction of a unified system of criteria and conditions for all customs authorisations for customs brokers, holders of customs warehouse facilities, temporary storage facilities and others);
- Introduction of a European system of customs warehouses and extending the range of services offered;
- Alignment of the procedure for proving the financial solvency of the AEOs with the requirements of the UCC;
- Bringing the provisions of the Customs Code of Ukraine on delivery, presentation of goods and their storage

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TOPIC SPOTLIGHT

Ecodesign for Product Sustainability Regulation: what should economic operators expect?

In June 2024, the EU took another step towards building a climate-neutral and circular economy and a greener environment. This is the adoption of the new [Regulation \(EU\) 2024/1781](#) of the European Parliament and of the Council of 13 June 2024 - Ecodesign for Product Sustainability Regulation. The purpose of these innovations is declared to be quite noble - to increase product durability, reliability, maintainability, modernisation, reusability and recyclability, as well as to reduce waste generation and generally negative environmental impacts. Time will tell whether these goals will be achieved, as the first phase of implementation of these innovations is scheduled for July 2026. This article will help you understand what manufacturers, importers and other stakeholders can expect in the near future and the role customs will play in monitoring compliance with the new requirements.

WHAT IS THE NEW ECODESIGN INITIATIVE ABOUT?

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TOPIC SPOTLIGHT

The proposed UCC reform: placing goods under a customs procedure - Title V R-UCC

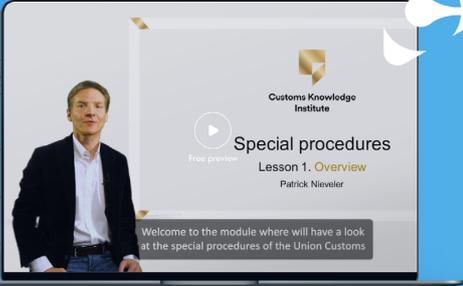
What are the important practical changes compared to Title V UCC?

In this article, the author explains the changes to Title V of the [proposal for a reformed Union Customs Code \(R-UCC\)](#) in comparison with the current Title V UCC and also addresses provisions that have been shifted to other Titles (in particular Title IV). The explanatory notes preceding the legislative proposal summarise the main changes in this Title as follows:

'Title V contains the different customs procedures that allow a trader to temporarily store the goods, or to release them for free circulation on the EU Single Market. In principle, the customs authorities continue to be responsible for releasing the goods and for placing the goods in a customs procedure. Authorised Trust and Check traders will be able to release their goods without active customs intervention, where the information is available in advance and where the goods have not been selected for controls. The title also includes clear rules on the process and legal consequences when customs authorities need to consult other competent authorities before releasing the goods,

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TOPIC SPOTLIGHT

Update of the Council's Sanctions Best Practices: when should persons not listed on EU sanctions lists nonetheless be treated as sanctioned?

Editorial note: Sanctions are one of the examples of growing number of border restrictions and prohibitions. This is impacting a number of companies involved in global trade. The nature of sanctions is becoming more diverse and the list of sanctioned persons is growing. As a result, importers, exporters and other actors have no choice but to be more careful in choosing who they work with. Especially in light of the recent updates by the Council of the European Union on the understanding of who is a sanctioned person.

Executive Summary – In July 2024, the Council of the European Union updated its Best Practices for the effective implementation of restrictive measures which reflect the common understanding of the EU Member States. The update focuses on the topical issues of when persons that are not designated on EU sanctions lists should nonetheless be treated as subject to asset freeze measures due to their “ownership” or “control” by a designated person. The new approach outlined by the Council of the European Union should be thoroughly considered by businesses seeking

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TOPIC SPOTLIGHT

Buying commission: should it or should it not be included in the customs value?

This year, the European Commission published an updated [Compendium of customs valuation](#) (Compendium 2024) with several important updates that promise to have a significant impact on the customs valuation process. While its aim is to harmonise the application of legislation and minimise disputes between businesses and customs, it is likely that some of these updates will actually increase the already high number of disputes in this area. This article examines the new Comment No 19 on the buying commission and its implications for enforcement.

It is well known, and is provided for in Articles 71(1)(a)(i) and 72(e) of the UCC, that when the customs value of imported goods is determined on the basis of the transaction value method, the commission paid by the buyer to the intermediary for assistance in the purchase of goods is not included in the customs value. Does it mean that if a buyer has an agent and pays them a fee for assistance in purchasing goods, this fee is fully excluded from the customs

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EUR 500	30%	EUR 150
EUR 1000	30%	EUR 300

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TOPIC SPOTLIGHT

The EU autonomous suspensions and quotas scheme: a glimpse behind the curtain of (an esoteric) Brussels trade committee

Article 28 of the Treaty of Rome provides for the [temporary suspension of duties](#) under the Common Customs Tariff on imports of raw materials and components for further processing. This is possible where it is established that the EU-based companies are unable to obtain supplies of the product or suitable substitutes. This article aims to describe the process for successfully applying for an autonomous suspension or quota from the initial completion of the prescribed form to the discussions in the Committee rooms in the European Commission in Brussels.

WHAT PROBLEM DO AUTONOMOUS SUSPENSIONS/QUOTAS SOLVE?

Many of the materials that European industries require have to be imported from third countries because they are unavailable in the EU. In spite of the fact that these goods cannot be sourced within the EU, they are still liable for customs duty where applicable.

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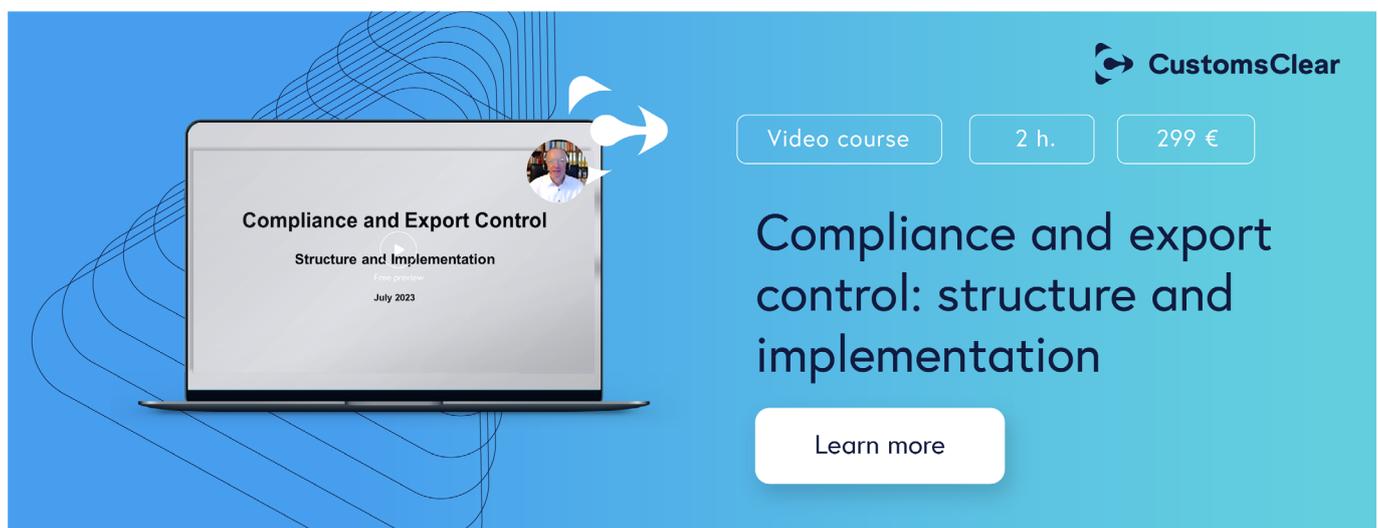
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TOPIC SPOTLIGHT

Customs compliance and awareness amongst traders

It would seem that customs compliance is one of the most complex and pressing issues for all companies and individuals involved in global trade. But is this really the case? Is there a widespread understanding of how important it is to be aware of customs legislation and regulations and to keep up to date with the frequent changes and innovations? This question was discussed by experts from the EU, the UK, Brazil, Israel, Pakistan and Côte d'Ivoire at the [23rd Author's Meeting](#). The discussion revealed that many problems hindering customs compliance are similar in many countries. We invite you to read an overview of this discussion below.

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PERSPECTIVE

Top five challenges for European customs

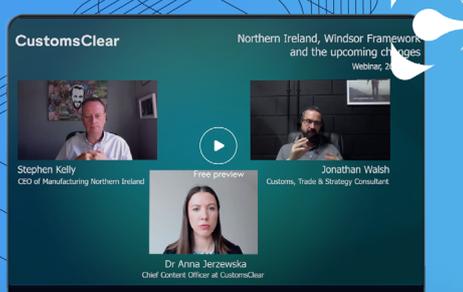
Someone recently asked me what are the current top challenges for customs in Europe. The article is an attempt to summarise the answer to this question. These are the five issues that, in my opinion, are likely to impact the customs industry in the upcoming months and years. Some are more across-the-board and some are a bit more niche and local. The article comes from the author's personal experience of working in the industry and across the private and public sectors and is therefore a personal perspective. By no means an exhaustive list.

INTRODUCTION

Customs has been through a number of changes in recent years. About two years ago I had the pleasure of participating in a panel on the EU customs reform organised by the American Chambers in Brussels. In his keynote speech, a Belgian Customs representative talked about how customs in the EU has been in a perpetual state of

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PERSPECTIVE

ICC Genesis: a new approach to origin certification?

The International Chamber of Commerce (ICC) has recently, after several pilots (amongst others in the Netherlands), launched an [online tool](#) for the verification of preferential origin statements. The tool is named Genesis, after the ancient Greek word for origin, which is also the name of the first book of the Holy Bible and one of the world's most popular progressive rock bands. So the obvious questions are: how progressive is this tool and does it rock?

ICC'S GENESIS

Genesis is an online platform where exporters can upload their invoice together with the origin statement, to have it certified by their local Chamber of Commerce (CoC). The CoC will verify the origin statement. The trader is required to submit a copy of the invoice, the names and address of the exporter and importer, the agreement they wish to use and "supporting documents", which are not further defined. Once the origin statement is approved, the Chambers will

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PERSPECTIVE

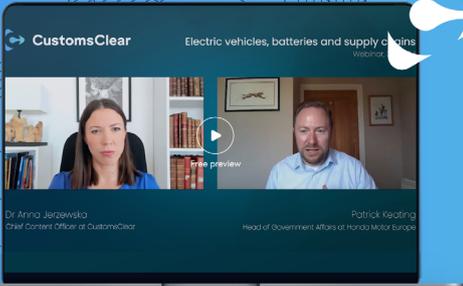
Customs controls and frontier management: a cybernetic approach to analysis of the EU problem

In the light of present-day security concerns, customs controls are an area of significant importance as a means of national security as well as the economic defence and security of the nation-state or supranational blocks. Although this is a general issue of complex systems, in this article, the problem of control in EU, specifically indicated in [Special Report](#) of the European Court of Auditors, is addressed. The problem is being ignored for several years already [1]. This unaddressed problem indicates another issue, even more important – the defective control mechanism in EU, which fails to recognize critical issues and fails to initiate the corrective actions by taking responsibility and by claiming the ownership of the problem.

It has become evident that not all borders are properly controlled for Customs and immigration purposes, especially within and around the EU. Some of this can be attributed to electronic controls, where cross-border activities are carried out using electronic means. However, the absence of physical borders, especially between Northern Ireland and the Republic of Ireland, means that there are free flows of traffic without any form of cross-border controls (we

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COUNTRY UPDATE

Fur coat? Not in Israel

Israel's wildlife fur compliance regime

The import of furs of wildlife into the State of Israel is under a strict supervision of the Nature and Parks Authority (Nature Authority), which is department of the Israeli Ministry of Environmental Protection. This is part of a larger issue of importing animals or parts of them, but in this article we will focus on the import of furs into Israel. It's an interesting example, which we believe is not common elsewhere, due to a very specific piece of Israeli law. This law forbids importing wildlife fur, unless they meet the conditions of one of a very few exceptions. One of the key exceptions is fur for religious purposes.

The Israeli Customs Authority, which is authorised to supervise imports, serves as the Nature Authority long arm to check the compliance of imports when a shipment containing animal fur arrives in Israel.

CITES CONVENTION - GENERAL

The Israeli law and regulations apply (with certain changes) the [Convention on International Trade in Endangered Species of Wild Fauna and Flora](#) (known as CITES), signed in the USA in 1973. Most of the countries of the world are members of the convention - including Israel, which signed in 1979. The [EU signed](#) in 2015.

The Convention divides wildlife into three groups, which are distributed across three Appendices to the Convention [1]:

- Appendix 1: species threatened with extinction. Trade in these goods must be strictly regulated and such must be allowed only in exceptional circumstances. This appendix includes, for example, gorilla, chimpanzee, tiger, jaguar, cheetah, Asian elephant, rhinoceros, and more;
- Appendix 2: species that are not currently threatened with extinction but trade in them may lead to such outcome. This appendix includes, for example: giraffe, types of wolves, parrots;
- Appendix 3: species where trade needs to be regulated in order to prevent exploitation. This appendix includes, for example: dog, buffalo, types of elk, and more.

Some wildlife species are not listed in any of the appendices of the Convention. There are also certain concessions for personal/ non-commercial importation of animals.

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COUNTRY UPDATE

NOCA's Bulgarian Green Corridors project

Editorial note: the article refers to the Bulgarian Green Corridors project that has not yet been officially launched. The information contained in the article comes from the authors' work and conversations with the project team and is shared with the team's permission.

INTRODUCTION

The rapid crossing of land borders for imported and exported goods (including for intra-EU movements) would help to take the operation of international supply chains to a new level. Timely delivery of goods is much more than a fulfilment of trade commitments in order to build fair and long-term business partnerships. The COVID-19 health crisis and the still-unfolding war in Ukraine serve as reminders that timely delivery of goods can be vital for people's lives and health. Furthermore, delays at borders resulting from a number of customs and non-customs checks are an administrative burden.

After the beginning of the global Covid-19 pandemic in 2020, the Bulgarian government established [temporary Green Corridors](#) at its main land borders with neighbouring countries (Romania, Greece, North Macedonia, Serbia and Turkey) for all types of goods. The time for customs and non-customs checks per truck was no more than 15 minutes. This facilitation was available until the end of the pandemic, after which standard procedures at border crossing points came back into force. This resulted in a resumption of heavy traffic, queues at borders and increased checks, which in turn led to:

- goods being more expensive;
- an impact on the natural environment (carbon emissions);
- delayed deliveries and affected production processes, etc.

On 21 February 2017, the European Commission adopted a [ministerial resolution](#) calling for improved land transport connectivity between Europe and Asia by building models for facilitating the crossing of national borders when transporting goods. This would modernise the sector. Active participation in this endeavour is also envisaged for the EC Customs Working Group, as its cooperation is crucial for the implementation of such an innovative project. Taking into account the above, the National Organisation of Customs Agents in the Republic of Bulgaria (NOCA) has prepared a project for the establishment of permanent Green Corridors at the Bulgarian borders with all its neighbouring countries, which would greatly facilitate the future steps towards the implementation of the adopted

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COUNTRY UPDATE

Changes to e-commerce legislation in Türkiye

The new [Decision](#) published on August 6 in Türkiye states that the de minimis of EUR 150 applied to non-commercial goods shipped from abroad to an individual -in Türkiye through mail or fast cargo transport, will be lowered to EUR 30. According to the Decision, a fixed rate of duty will be collected at the rate of 30% of the value of goods if they come directly from EU countries and 60% if they come from other countries. This will apply to all goods coming to a natural person through mail or fast cargo transport below EUR 30 as well as medicines below EUR 1500. This Decree will enter into force 15 days after the decision is published: on 21 August.

WHAT WERE THE PREVIOUS LIMITS AND TAX RATES?

Changes to de-minimis for e-commerce have been gradually introduced in recent years. A Decree published in October 2009 introduced a de minimis threshold for goods below EUR 150 and not in commercial quantity.

With the subsequent amendments, a tax rate of 18% for products coming from the EU and 20% for products coming from other countries was introduced. These rates were increased to 20% for the EU and 30% for other countries in 2022. It's also important to remember that cosmetic products cannot be imported to Türkiye by fast cargo transport.

However, there is another type of tax that is often overlooked in the legislation. With the amendment made in 2019, a clause was added to the same article which meant that an additional 20% tax would be applied to the above rates in case of the goods included in the Annex (IV) to the [Special Consumption Tax Law \(SCT\)](#). In terms of context, there is an excise tax-like Special Consumption Tax application in Türkiye. For products listed in four lists, a separate tax is levied at certain proportional or lump sum rates. For imported products, this tax is levied during customs procedures and this amount is also included in the base value for VAT (meaning the tax is taxed again). List IV, on the other hand, includes products that are called luxury goods but are actually everyday products (e.g. refrigerators, washing/ drying/ dishwashers, vacuum cleaners, telephones, cameras, etc.).

WHY DID THIS CHANGE ATTRACT MORE ATTENTION THAN THE PREVIOUS ONES?

Recently, a high number of goods have been imported from sites such as Amazon, Temu, Aliexpress etc. This

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CASE LAW

Binding Tariff Information: for one or for all?

Can companies rely on Binding Tariff Information (BTI) issued for their competitors' goods for the classification of their own products? This question was examined in the European Court of Justice (ECJ) in its recent ruling, which raised the issue of the classification of optical fibre cables under Combined Nomenclature (CN) subheadings 8544 70 00 and 9001 10 90. The case also considered the principles of legal certainty and legitimate expectations that businesses increasingly need to rely upon to justify various decisions.

FACTUAL SITUATION

From 6 July to 21 December 2018, Prysmian Cabluri și Sisteme SA (Prysmian) imported into Romania optical fibre cables separately coated with a two-layer coating without a protective sheath (Products), classified under CN subheading 8544 70 00 'fibre optic cables', which were subject to an import duty rate of 0%.

On 1 July 2019, Prysmian informed customs that, considering the changes made in the 2019 EU explanations regarding CN 8544 70 00 compared to the 2007 explanations, the Products are now classified under CN subheading

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More information: www.customsclearance.net/en/courses/business-understanding-of-customs



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EXPLAINER

Customs as the gateway to sustainability

The customs industry, together with all the stakeholders such as policymakers, customs authorities, customs brokers, logistics, and trading companies, is becoming increasingly intertwined with sustainability policies aiming to mitigate the impact of climate change. These policies include the carbon border adjustment mechanism (CBAM), deforestation, new corporate sustainability regulations, etc., but also e-customs and aspects of the proposed EU customs reform.

This creates new practical challenges that companies need to face. The first set of such challenges was introduced with the obligation to submit CBAM reports. Many questions have been raised about the EU Customs Data Hub and answers have yet to be provided. These questions are for example, around obtaining real-time data, risk management, and the responsibility of economic operators. With the European Green Deal, new changes for the international trade of waste, food, textiles, etc arise. In the initial stages of implementation, in the next few years, all of the policies are likely to hinder some companies from doing

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4. Customs representation

Tariff and non-tariff measures

5. Non-tariff regulation
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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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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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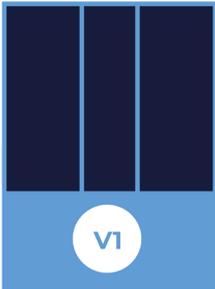
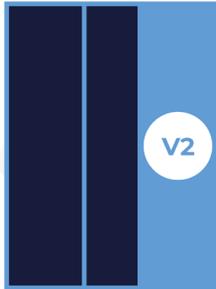
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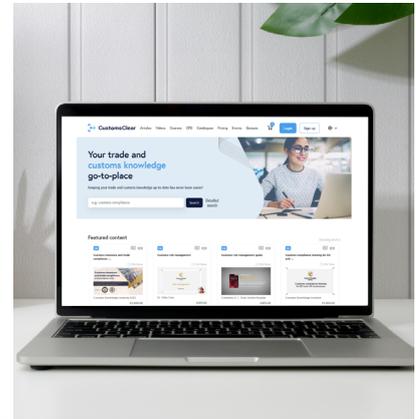
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