

Table of Contents

Preface	XIII
Foreward	XV
Introduction	XIX
List of Abbreviations	XXI
1. A current perspective on customs law. Sources of law	1
1.1 Current and future perspective of customs law	1
1.2 International customs regulations	7
1.2.1 <i>The WTO</i>	7
1.2.2 <i>WTO principles in customs matters</i>	10
1.2.3 <i>TFA: basic principles</i>	15
1.2.4 <i>The mandatory nature of WTO rules</i>	16
1.2.5 <i>WCO: functions and areas of intervention</i>	19
1.3 EU customs regulations	21
1.3.1 <i>European legislation</i>	21
1.3.2 <i>The Union Customs Code</i>	25
1.3.3 <i>European and national customs regulations</i>	30
1.4 Customs unions, free-trade areas and international agreements	34
2. Customs duties	39
2.1 Customs taxation	39

2.2 Customs duties	41
2.3 The nature of VAT on imports	45
2.4 The concept of 'goods'	47
2.5 Other duties and charges on imports	51
2.6 Safeguard measures	55
2.7 Antidumping duties	58
2.8 Customs duties as EU's own resources	63

3. Customs relationship, declaration and customs representation

67

3.1 Levying authority: functions and role of customs	67
3.1.1 <i>Evolution of customs controls</i>	67
3.1.2 <i>The new role of customs</i>	68
3.1.3 <i>Degree of integration of customs in the EU</i>	71
3.2 Customs declaration	73
3.2.1 <i>Customs territory and free zones</i>	73
3.2.2 <i>Presentation of goods and customs declaration</i>	76
3.2.3 <i>Standard customs declaration</i>	79
3.2.4 <i>Simplifications</i>	81
3.2.4.1 Simplified declaration	82
3.2.4.2 Goods falling under different tariff subheadings	83
3.2.4.3 Centralised clearance and other simplifications	83
3.2.4.4 Entry in the declarant's records	85
3.2.4.5 Self-assessment	86
3.3 Controls	86
3.3.1 <i>Verifications and selectivity of controls</i>	86
3.3.2 <i>Authorised economic operator</i>	88
3.3.2.1 Initial considerations	88
3.3.2.2 The advantages of AEO authorisation	90
3.3.2.3 The criteria for granting AEO status	92
3.4 Customs debt notification	94
3.5 Representation in customs	96
3.5.1 <i>Overview</i>	96
3.5.2 <i>Indirect representation</i>	98
3.5.3 <i>Direct representation</i>	99

4. Incurrence of customs debt and persons liable for the payment	101
4.1 Customs debt	101
4.1.1 <i>Incurrence of customs debt</i>	103
4.1.2 <i>Standard cases</i>	106
4.1.3 <i>Customs debt incurred through non-compliance</i>	107
4.1.4 <i>Extinguishment of customs debt in the event of non-fulfilment or non-compliance</i>	110
4.2 Persons liable for payment of customs debt	112
4.2.1 <i>Standard cases</i>	113
4.2.2 <i>Customs debt incurred through non-compliance</i>	114
4.3 The time and place of the customs declaration	118
5. Customs debt extinguishment, remission and guarantees	121
5.1 Overview of cases leading to extinguishment of customs debt	121
5.1.1 <i>Compliance and deferment</i>	122
5.1.2 <i>Destruction and loss of goods</i>	124
5.1.3 <i>Time limit for customs assessment</i>	125
5.1.4 <i>Insolvency of debtor</i>	127
5.1.5 <i>Invalidation of customs declaration</i>	128
5.1.6 <i>Seizure and confiscation</i>	128
5.2 Repayment and remission of customs duties	129
5.2.1 <i>Duties paid in excess and defective goods</i>	131
5.2.2 <i>Protection of operator's legitimate expectations: errors by authorities</i>	131
5.2.3 <i>Equity</i>	136
5.2.4 <i>Procedure for repayment and remission of customs duties</i>	138
5.3 Guarantees for amount payable	140
5.3.1 <i>Individual guarantee and comprehensive guarantee</i>	142
5.3.2 <i>Reference amount</i>	143
5.3.3 <i>Reduction and guarantee waiver</i>	144

6. Customs procedures	145
6.1 Overview	145
6.2 Placement of goods under customs procedure	147
6.3 Customs procedures	147
6.3.1 <i>Release for free circulation and final importation</i>	148
6.3.2 <i>Export</i>	150
6.4 Special procedures	152
6.4.1 <i>Rules applicable to special procedures</i>	152
6.4.2 <i>Equivalent goods</i>	154
6.4.3 <i>Customs warehousing</i>	155
6.4.3.1 Authorisation and requirements	157
6.4.3.2 Free zones	157
6.4.4 <i>Inward processing</i>	158
6.4.5 <i>Outward processing</i>	160
6.4.6 <i>Specific use</i>	161
6.4.6.1 Temporary admission	161
6.4.6.2 End use	162
6.4.7 <i>Transit</i>	162
6.4.7.1 New Computerised Transit System (NCTS)	165
6.4.7.2 Common rules	166
 7. Classification	 169
7.1 Classification	169
7.2 WCO harmonised system	170
7.3 Combined Nomenclature and Integrated Tariff of the European Community	173
7.3.1 <i>Structure and function</i>	174
7.3.2 <i>Explanatory notes and classification rules</i>	176
7.3.3 <i>Exemptions and reductions</i>	177
7.4 Binding tariff information (BTI)	178
7.5 Interpretation by the European Court of Justice	182
 8. Value of goods	 185
8.1 Customs value of goods	185
8.2 Transaction value method	187

8.2.1 <i>Valuation ruling</i>	192
8.2.2 <i>Exclusion of price method</i>	194
8.3 <i>Alternative methods</i>	195
8.3.1 <i>Unreliability of value declared. Related parties</i>	195
8.3.2 <i>Right to be heard</i>	196
8.3.3 <i>Rectification of customs value</i>	197
8.3.4 <i>Transaction value of identical and similar goods</i>	198
8.3.5 <i>Deductive method and value calculated</i>	199
8.3.6 <i>Residual criterion</i>	200
8.3.7 <i>Disallowed methods</i>	201
8.4 <i>Increases and decreases in the assessment base</i>	201
8.4.1 <i>Commissions and brokerage</i>	203
8.4.2 <i>Royalties</i>	207
8.4.3 <i>Transport costs</i>	215
8.5 <i>Customs value and transfer pricing</i>	217
 9. Origin of goods	 223
9.1 <i>Function of origin of goods</i>	223
9.2 <i>Origin of goods</i>	226
9.3 <i>Non-preferential origin</i>	228
9.3.1 <i>Substantial processing</i>	229
9.3.2 <i>Rules governing substantial processing</i>	231
9.3.3 <i>New anti-tax avoidance provision</i>	233
9.4 <i>Preferential origin</i>	234
9.4.1 <i>International agreements</i>	235
9.4.2 <i>Unilateral preferences and GSP</i>	237
9.4.3 <i>Principle of territoriality, direct transport and 'no drawback'</i>	240
9.4.4 <i>Cumulation of origin</i>	241
9.5 <i>Proof of origin</i>	243
9.5.1 <i>Proof of non-preferential origin</i>	244
9.5.2 <i>Proof of preferential origin</i>	245
9.5.2.1 <i>International agreements</i>	245
9.5.2.2 <i>EU unilateral preferences</i>	246
9.5.2.3 <i>GSP: REX database</i>	248

9.5.2.4 Transitional rules for GSP countries	250
9.5.2.5 Supplier's declaration	251
9.6 Binding origin information (BOI)	252
9.7 Consequences of erroneous or false declarations of preferential origin	255
9.7.1 <i>Responsibility of importer and safeguards</i>	255
9.7.2 <i>Responsibility of exporter</i>	261
10. Customs verification	263
10.1 Sources of law	263
10.2 Verification	265
10.2.1 <i>Examination and analysis of goods</i>	266
10.2.2 <i>Request for information and documents</i>	268
10.2.3 <i>Access to operator's premises</i>	269
10.3 Customs cooperation in the European Union	270
10.3.1 <i>Sharing of information</i>	271
10.3.2 <i>Assistance provided spontaneously and upon request</i>	273
10.3.3 <i>Combating unlawful acts and fraud</i>	274
10.3.4 <i>OLAF (European Anti-fraud Office)</i>	275
10.4 Customs cooperation with third countries	278
10.5 Notification of the customs debt	280
10.5.1 <i>Right to be heard</i>	282
10.5.2 <i>Limitation period</i>	283
10.5.3 <i>Competence</i>	284
10.5.4 <i>Cases in which no notification is forthcoming</i>	284
10.5.5 <i>Statement of grounds</i>	285
10.5.6 <i>Entry in the accounts</i>	286
10.5.7 <i>Other mandatory information</i>	287
10.5.8 <i>Enforceability of assessment</i>	287
10.6 Revision of assessment requested by the operator	287
10.6.1 <i>Amendment and invalidation</i>	288
10.6.2 <i>Revision at the request of the operator</i>	289
10.6.3 <i>Repayment</i>	290

11. Sanctions	293
11.1 International principles	293
11.2 European panorama and the proposal for a directive	296
11.3 ECJ interpretive guidance	298
11.4 The provisions of the UCC	300
12. Rights and safeguards for operators	303
12.1 International and EU provisions	303
12.2 Rights and safeguards in administrative dealings	303
12.2.1 <i>New rules governing decisions taken by customs authorities</i>	303
12.2.2 <i>Right to be heard</i>	305
12.2.3 <i>Content and entry into force of decisions</i>	307
12.2.4 <i>Right to information</i>	309
12.2.5 <i>Advance ruling</i>	311
12.3 Rights and safeguards in judicial proceedings	314
12.3.1 <i>Right to a fair trial</i>	314
12.3.2 <i>Effectiveness of legal protection</i>	317
12.3.3 <i>Duration of judicial proceedings</i>	318
12.3.4 <i>Uniform application of EU law</i>	318
12.4 Right of appeal against decisions taken by customs authorities	320
12.5 Administrative suspension of implementation	321
12.6 Violation of European customs regulations	323
12.7 Violation of WTO rules	324
Bibliography	329