## **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 The WTO	7
1.2.2 WTO principles in customs matters	10
1.2.3 TFA: basic principles	15
1.2.4 The mandatory nature of WTO rules	16
1.2.5 WCO: functions and areas of intervention	19
1.3 EU customs regulations	21
1.3.1 European legislation	21
1.3.2 The Union Customs Code	25
1.3.3 European and national customs regulations	30
1.4 Customs unions, free-trade areas and international	
agreements	34
2. Customs duties	39
2.1 Customs taxation	39

VI EU CUSTOMS CODE

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 Evolution of customs controls	67
3.1.2 The new role of customs	68
3.1.3 Degree of integration of customs in the EU	71
3.2 Customs declaration	73
3.2.1 Customs territory and free zones	73
3.2.2 Presentation of goods and customs declaration	76
3.2.3 Standard customs declaration	79
3.2.4 Simplifications	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 Verifications and selectivity of controls	86
3.3.2 Authorised economic operator	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 Overview	96
3.5.2 Indirect representation	98
3.5.3 Direct representation	99

Table of Contents VII

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

VIII EU CUSTOMS CODE

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 Release for free circulation and final importation	148 150 152
6.3.2 Export	
6.4 Special procedures	
6.4.1 Rules applicable to special procedures	152
6.4.2 Equivalent goods	154
6.4.3 Customs warehousing	155
6.4.3.1 Authorisation and requirements	157
6.4.3.2 Free zones	157
6.4.4 Inward processing	158
6.4.5 Outward processing	160 161 161 162
6.4.6 Specific use	
6.4.6.1 Temporary admission 6.4.6.2 End use	
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 Structure and function	174
7.3.2 Explanatory notes and classification rules	176
7.3.3 Exemptions and reductions	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

Table of Contents IX

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

X EU CUSTOMS CODE

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 Responsibility of importer and safeguards	255
9.7.2 Responsibility of exporter	261
10. Customs verification	263
10.1 Sources of law	263
10.2 Verification	265
10.2.1 Examination and analysis of goods	266
10.2.2 Request for information and documents	268
10.2.3 Access to operator's premises	269
10.3 Customs cooperation in the European Union	270
10.3.1 Sharing of information	271
10.3.2 Assistance provided spontaneously	
and upon request	273
10.3.3 Combating unlawful acts and fraud	274
10.3.4 OLAF (European Anti-fraud Office)	275
10.4 Customs cooperation with third countries	278
10.5 Notification of the customs debt	280
10.5.1 Right to be heard	282
10.5.2 Limitation period	283
10.5.3 Competence	284
10.5.4 Cases in which no notification is forthcoming	284
10.5.5 Statement of grounds	285
10.5.6 Entry in the accounts	286
10.5.7 Other mandatory information	287
10.5.8 Enforceability of assessment	287
10.6 Revision of assessment requested by the operator	287
10.6.1 Amendment and invalidation	288
10.6.2 Revision at the request of the operator	289
10.6.3 Repayment	29o

Table of Contents XI

11. Sanctions	<b>293</b>		
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 New rules governing decisions taken by customs			
authorities 12.2.2 Right to be heard 12.2.3 Content and entry into force of decisions 12.2.4 Right to information 12.2.5 Advance ruling	303 305 307 309 311		
		12.3 Rights and safeguards in judicial proceedings	314
		12.3.1 Right to a fair trial	314
		12.3.2 Effectiveness of legal protection	317
		12.3.3 Duration of judicial proceedings	318
12.3.4 Uniform application of EU law	318		
12.4 Right of appeal against decisions taken			
by customs authorities	320		
12.5 Administrative suspension of implementation	321 323 324		
12.6 Violation of European customs regulations 12.7 Violation of WTO rules			
		Bibliography	329