

Reflections on the 50th Anniversary of the EU Customs Union

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1 The EU Customs Union

The EU Customs Union is considered one of the greatest achievements of the European Union and is one of the fundamental pillars of the European Union (EU).¹ The EU Customs Union acts as a single trading area and supports and protects the EU's Single Market. The countries involved are the EU member states, which use a common set of rules in the area of customs law and apply a uniform system for handling the import, export and transit of goods. There are no customs duties at the borders of EU member states and a common external customs tariff applies to goods imported into the EU Customs Union.

In the wake of World War II, the idea to establish an EU Customs Union began to flourish. As part of the Marshall Plan for aid to Europe, the 'Study Group for the European Customs Union' was set up to explore possibilities to strengthen economic integration in Europe through the creation of a customs union. The Treaty of Rome, signed on 25 March 1957 by Belgium, France, Italy, Luxembourg, the Netherlands and West Germany, lays the foundation of what is now the EU Customs Union. It provided for the progressive reduction of customs duties and the establishment of a customs union.

Since the completion of the EU Customs Union on 1 July 1968 by the six members of the European Economic Community, the European Union succeeded the European Economic Community, obtained stronger competences and expanded from six to twenty-seven member states.² Additionally, the common set of customs laws has been developed and adapted since then, the introduction of the Union Customs Code on 1 May 2016 being the last major modification.

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1. Celebrating the Customs Union: the world's largest trading bloc turns 50, press release of 30 June 2018 (https://ec.europa.eu/commission/presscorner/detail/en/IP_18_4265).

2. Until 31 January 2020 the United Kingdom was one of the EU member states and therefore part of the EU Customs Union.

After the creation of the EU Customs Union, globalization hugely impacted the traditional trade environment. Since that time the volumes of international trade flows are increasing quite rapidly, traditional relationships between trading partners are subject to alterations and the set of EU legislation and regulation in the area of trade and customs is getting much more complex, not in the least by wider international influences. From a political point of view, protectionism has dwindled over the past fifty years, although political trends suggest a retreat into protectionism, an example being Brexit and trade policy developments in the United States leading to worldwide trade tension.

The 50th anniversary of the EU Customs Union in 2018 has been seized as an opportunity to reflect on the developments concerning the legal aspects of the EU Customs Union in this special issue of Erasmus Law Review.

2 Structure of this Issue of Erasmus Law Review

In five contributions, this special issue reflects from various angles on how the EU Customs Union functions in this era of contradictory developments of ongoing globalization and simultaneous retreat of worldwide trade tension after reaching the age of 50.

The first contribution is written by Stefan Enchelmaier and is dedicated to the provisions of the Treaty creating a free trade area and customs union between the EU member states (Articles 28-31 TFEU). He provides a comprehensive overview of relevant court cases of the European Court of Justice and discusses how these became overshadowed by more spectacular developments in case law on the free movement of goods, persons, and services. He then shows there is renewed interest in the provisions that create a free trade area and customs union because of Brexit.³

Walter de Wit has written the second contribution of this special issue which is about the United Kingdom (UK) leaving the EU ('Brexit') and the future relationship between the EU Customs Union and the UK.⁴ The focus of the article is not on a future trade agreement between the EU and the UK, which is currently under

3. The manuscript of this article is closed on 9 August 2019.

4. The manuscript of this article is closed on 25 March 2020.

negotiation, but on the arrangement to keep the border between Ireland and Northern Ireland open. This arrangement is also meant to protect the integrity of the internal market of the EU, but the execution and management is in the hands of the UK authorities. As the article shows, this is a unique arrangement which will be difficult to implement.

Achim Rogmann is the third author that contributed to this special issue.⁵ His contribution focuses on the influence of wider international law on the autonomy of EU Customs Law to set its own standards.

The fourth contribution of Ricardo Caichiolo explains how the Mercado Común del Sur (MERCOSUR, a customs union between a few South American countries), functions and explores how this customs union differs from the EU Customs Union as well as discussing the current and future relationship between the EU Customs Union and MERCOSUR.⁶

The fifth and last contribution appears posthumously, as the author, the late Ben Terra, passed away in 2019.⁷ His contribution deals with the ordeal of Value Added Tax (VAT) Harmonisation in the EU and in particular the changes to the EU VAT legislation resulting from the Action Plan on VAT of the European Commission.

3 In Memoriam – prof. dr. dr. h.c. Ben J.M. Terra

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Ben Terra's (2 September 1947–30 June 2019) academic and professional working life was completely dedicated to European Tax Law and in particular VAT. He wrote numerous articles and books on the subject and is considered a leading academic in VAT, the conscience of the CJEU in VAT cases and founding father of VAT in many other parts of the world. Ben Terra's contribution in this special issue is entitled 'The ordeal of VAT harmonization in the EU' and is about the latest value added tax developments in the EU Customs Union. We have updated some parts of Ben's contribution, as it was already completed in February 2019. We are grateful that we can share his last contribution with the world in this special issue.

4 Acknowledgement

We thank all authors and peer reviewers for their contributions to this special issue and for their patience. A special thank you also to Frank Weerman for guiding us through the process and to Thomas Potma for providing assistance to update Ben Terra's contribution of this special issue on the EU Customs Union. We wish you a good read!

5. The manuscript of this article is closed on 29 March 2019.

6. The manuscript of this article is closed on 2 October 2019.

7. The manuscript of this article is closed on 1 February 2019.