



EUROPEAN COMMISSION

Budget

Own Resources and financial programming

Control of traditional own resources and assistance to the candidate countries

Category:6.03.01.04

File: 01.05.02.19

Working paper

Document ACOR-TOR/2014-12/agenda-05-en

Control of Traditional Own Resources

Entry of goods into the EU

Thematic report of the Directorate-General for Budget

Results of the inspections carried out in Member States in 2013

EXECUTIVE SUMMARY

In 2013 Commission inspections of traditional own resources (TOR) *inter alia* covered the treatment of goods from their entry into the customs territory of the EU until their assignment to a customs-approved treatment or use. The aim of these inspections was to establish if the customs authorities comply with the relevant EU Regulations, how they monitor and control the entry of goods into the customs territory, their presentation to Customs, their storage (temporary storage) and their assignment to a customs-approved treatment or use. If applicable, traditional own resources should have been properly calculated, established and accounted for. The inspections focused on the protection of the financial interests of the EU.

The EU legal framework allows for a considerable flexibility when defining the national procedural setup.

Goods in temporary storage need not be covered by any guarantee as, according to EU rules, the guarantee for the temporary storage is only optional. Therefore, in case of fraud or irregularity there is an increased risk of customs debts being entered in the B accounts and having to be recovered by way of enforced recovery.

In order to assess the Member States systems five objectives were defined beforehand covering 1) presentation of goods to Customs, 2) definition, coverage and accuracy of summary declarations for temporary storage, 3) authorisations for temporary storage facilities, 4) monitoring of goods in temporary storage and 5) timely and correct duty establishment. Whereas the majority of these objectives in the 8 Member States were qualified as satisfactory and the global situation as generally acceptable, the Commission's authorised agents saw room for improvement in various sectors and concerning all of the aforementioned objectives.

This thematic report consolidates the results of the Commission inspections carried out by the Commission services (DG Budget in close cooperation with DG Taxation and Customs Union) during 2013 in 8 Member States. The report describes the findings made during the inspections and the follow-up to the findings as put to the attention of the Member States in two Advisory Committee meetings for Traditional Own Resources (Article 21 of Regulation 1150/2000) on 3 July and 4 December 2014.

The organisational setup of summary declarations for temporary storage in two Member States did not sufficiently prevent circumvention, partially aggravated by a too limited number of checks in view of an entirely manual and therefore much more risky procedure. The information contained in the summary declaration for temporary storage was not always made accessible to the subsequent holders of the temporary storage. In few Member States the authorisation process for temporary storage facilities lacked necessary checks and the later monitoring of the respect of the defined conditions was not ensured. Finally, in 6 Member States there were issues as regards the monitoring of goods in temporary storage and the timely and complete identification of all customs debts incurred including in 1 Member State the determination of the responsible debtors and the establishment of the duties.

Taking into account the time past since the inspections, it is considered positive that Member States have already implemented actions or have planned to take appropriate actions on 40% of the 28 findings. Only three findings have been contested by one and

the same Member State and this not as regards the facts but as to the need to take and in the positive which remedial action.

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Introduction

The inspection topic concerned the treatment of goods from their entry in the EU until their assignment to a customs-approved treatment or use (hereafter: entry in the EU).

All goods brought into the customs territory of the EU must be presented to customs and must be unloaded or transhipped from the means of transport carrying them solely with the permission of the customs authorities in places designated or approved by those customs authorities.

The goods must have been equally covered by an entry summary declaration for reasons of safety and security to be lodged normally at the customs office of entry and must later be covered while there are exceptions (for instance EU goods) by a summary declaration for temporary storage.

These goods are subject, from the time of their entry into the customs territory of the EU, to customs supervision. They remain under such supervision for as long as necessary to determine their customs status and in the case of non-EU goods until their customs status is changed, they enter a free zone or free warehouse or they are re-exported destroyed or abandoned to the State.

All non-EU goods which are covered by a summary declaration for temporary storage must be assigned to a customs-approved treatment or use within 20 or (if they have been carried by sea) 45 days upon their arrival.

It is essential that the Member States make sure that all non-EU goods are presented to customs when they enter the customs territory of the EU. The correct functioning of the procedures put in place in the customs offices from the entry of the goods until the final assignment to a customs-approved treatment or use and the surveillance/monitoring thereof are therefore fundamental elements for the protection of the financial interests of the EU.

Goods in temporary storage need not be covered by any guarantee as, according to EU rules, the guarantee for the temporary storage is only optional. Therefore in case of fraud or irregularity there is an increased risk of customs debts being entered in the B accounts and having to be recovered by way of enforced recovery.

No previous DG Budget inspections have been targeted solely at this area although it had been partly come to attention in previous inspections carried out, such as those regarding control strategy (2009), local clearance procedures (2011) and EU external transit (2012).

In September 2012 Members of the European Parliament's Budgetary Control Committee (CONT) carried out a fact-finding mission *inter alia* assessing the situation linked to the monitoring of goods in temporary storage and customs controls on import of goods in Antwerp and Rotterdam. They concluded that a simplification of procedures applied by Customs should not lead to less effective control systems at the European harbours and that the legitimate aim to facilitate business should not be achieved by reducing or compromising controls. The mission demonstrates the importance allocated to this topic on political level.

This thematic report consolidates the findings of the Commission inspections. In addition the report also highlights Member States' actions already taken or underway in order to address the findings and takes into consideration Member States' remarks to the respective Member State related inspection report.

Legal Framework

The following legislation was to be respected at the timeframe covered by the inspections:

Council Regulation No 2913/92 establishing the EU Customs Code, as last amended by Council Regulation (EC) No 1791/2006 of 20 November 2006, denoted by the abbreviation CC, in particular Articles 36a to 57.

Commission Regulation No 2454/93 laying down provisions for the implementation of Council Regulation No 2913/92 establishing the EU Customs Code, as last amended by Commission Implementing Regulation (EU) No 756/2012 of 20 August 2012, denoted by the abbreviation CCIP, in particular Articles 181 to 189, 314b to 336, Annexes 30A, 37 and 38.

Council Regulation No 1150/2000 implementing Decision 2000/597/EC, Euratom on the system of the Communities' own resources, as last amended by Council Regulation No 105/2009 (in particular Articles 2, 6, 10 and 11 thereof).

Objectives and approach of the inspection

1.1 Introduction

During the inspections the authorised agents checked whether the procedures in place were considered to be compliant with the EU law. They examined how the customs authorities monitor and control the entry of goods into the customs territory, their presentation to Customs, their storage (temporary storage) and their assignment to a customs-approved treatment or use. They verified what tools (either computerised or not) were used to ensure that all the goods which entered the customs territory of the EU have been presented to customs and have been assigned within the time limits to a customs-approved treatment or use.

In addition, the authorised agents also checked how the temporary storage is monitored and how the Member States ensure that all goods in temporary storage are assigned to a customs-approved treatment or use and no loss of own resources has occurred.

In this respect, the authorised agents assessed the quality of the Member State's systems and in particular whether following objectives were met:

1. All goods arriving at an EU border are presented to customs which can identify and keep track of all "non-EU goods" based on procedures compliant with EU law so to be able to ensure complete customs supervision.
2. Accurate summary declarations for temporary storage are received by customs for all goods for which neither an EU status has been established already nor are covered by a prior customs declaration.

3. Goods are kept in temporary storage under customs supervision in line with the legal provisions by eligible persons who fulfil the conditions to operate temporary storage facilities or to keep goods under temporary storage.
4. Goods are sufficiently monitored by customs to make sure that a customs-approved treatment or use is timely attributed, that temporary storage is ended on the basis of customs declarations corresponding to the respective summary declarations and that goods are not altered or despatched before release/re-export.
5. Duties have been correctly calculated and have been entered in the accounts and have been made available within the time limits both if a customs debt is incurred according to Articles 203 and 204 CC and in case a customs declaration was accepted (Article 201 CC).

In 2013 this topic has been chosen for a reduced number of Member States: Belgium, Germany, France, Italy, the Netherlands, Sweden, Romania and the United Kingdom. As ports are usually the biggest entry points in the customs territory, this topic was mainly inspected in big ports of these countries.

1.2 Methods of inspection

Each year, on the basis of risk analysis criteria, DG Budget/B/3 selects the subjects of the controls to be carried out in the Member States. As always the inspections were considered limited reviews, carried out on the basis of a checklist. The checklist comprised a brief description of the subject, the legislative background; a listing of control objectives and key control points was prepared together with a test programme in advance of the inspections.

The checklist (without the test programme) was sent in advance to the national authorities to facilitate a better understanding of the inspection purposes by the national authorities. Also, in advance of the inspection the national authorities received a questionnaire in order to collect data necessary to prepare a decision by the authorised agents on which offices to select for the inspection visit.

Evaluation of the objectives

1.3 Method of evaluation of the objectives

This thematic report is a consolidation of the results of the inspections in the 8 Member States. The report focuses on certain key control aspects for each of the five objectives listed above.




The evaluation of the objectives is based on a general examination of the Member States' systems and procedures in place on the basis of a limited testing of declarations and authorisations during the five-day inspections. Consequently, the results of these inspections can only be considered as a preliminary assessment of Member States' procedures in place ensuring the systems and procedures relating to the entry of goods in the EU are compliant with the relevant EU legislation.

The evaluations of each objective are based on the inspection results. In exceptional cases, the evaluation may differ from that in the inspection report, in order to ensure

consistency and harmonisation. In addition, the Member States' progress in follow-up is highlighted.

The findings mentioned in this report can consist of contravention of legal provisions, weaknesses in the control systems or recommendations to improve the systems. They can be systematic or one-off and occasionally may have direct financial consequences for the EU budget. The references of the inspection reports are maintained, but the findings have been re-phrased and re-organised for this report to ensure a consistent method of presentation.

An overall overview of the evaluation can be found in annex 1 to this report. RAG (Red-Amber-Green) analysis has been used as a nomenclature for the evaluations made in this thematic report as follows:

	Satisfactory	<i>No findings were identified or these were considered one-off or marginal or recommendations for improvements.</i>
	Partly satisfactory	<i>Systematic shortcomings or weaknesses were identified with limited impact on the effectiveness of the control aspect evaluated.</i>
	Not satisfactory	<i>Systematic shortcomings or weaknesses were identified that made the control aspect evaluated not sufficiently effective.</i>

1.4 Evaluation per objective

Objective 1: Presentation of goods to Customs

All goods arriving at an EU border are presented to customs which can identify and keep track of all "non-EU goods" based on procedures compliant with EU law so to be able to ensure complete customs supervision.

Facts

When the means of transport arrives at the customs office of entry, the operator (or his representative) of the active means of transport entering the customs territory of the EU lodges a notification of arrival with the first customs office of entry. This notification of arrival shall contain the data elements necessary for the identification of the entry summary declarations (ENS) lodged in respect of all goods carried on that means of transport.

The notification of arrival is used to make the customs office of entry aware of the arrival of the means of transport, to enable it to check the results of the previously carried out safety and security risk analysis and, where appropriate, to initiate the appropriate controls. The notification of arrival is to be implemented by the Member States. The legislation allows national customs authorities to use existing national systems (Article 184g CCIP).

Goods which, pursuant to Article 38 (1) (a) of the CC, arrive at the customs office or other place designated or approved by the customs authorities shall be presented to customs by the person who brought the goods into the customs territory of the EU or, if appropriate, by the person who assumes responsibility for carriage of the goods following such entry (Article 40 CC). For sea and air transport, goods remaining on-board are declared at the place of unloading or transshipment.

Measures and controls should be in place to detect potential cases of incomplete presentation or unloading of goods without knowledge by the customs authorities such as in ports without permanent customs presence (smuggling).

Overall evaluation

BE	DE	FR	IT	NL	RO	SE	UK

In general, the procedures put in place by the customs authorities make sure that all goods arriving at an EU border are presented to customs and can be subjected to customs supervision. The best practice characterises an automatic electronic data comparison and interchange between the port systems recording the arrival of each ship, the unloading records, the ships manifests and the summary declarations for temporary storage if they are not already electronically established using the carriers manifest data.

It has to be noted that in all Member States risk analysis for physical checks in terms of presented goods is almost exclusively carried out in the framework of dealing with ENS and using the respective non-fiscal criteria concerning safety and security.

The authorised agents qualified the situation as satisfactory in DE, FR, IT, NL and UK.

In BE there is no reference to the ENS in the summary declaration for temporary storage which is also a legal requirement. This restricts the traceability of the goods to those that are effectively unloaded. Though there are no harmonised requirements for summary declarations for temporary storage and a lot of discretion is given to the Member States, Article 186(2) CCIP states that the summary declaration for temporary storage must include a reference to any entry summary declaration for the goods concerned (the MRNs or the Entry Key).

In SE there is no permanently maintained interface whatsoever neither electronic nor manual between the port data of ships having arrived, reports on unloading of goods, carrier manifests and summary declarations for temporary storage. Ships manifests serve as Summary Declarations for temporary storage. While the prior ENS are to be sent electronically to the same address, these are to be sent by telefax countrywide to Arlanda (Stockholm) customs office that also allows unloading. A countercheck with port authority systems is not part of the procedure. Subsequently, the manifest information is entered by the Malmö customs office in an Excel database with very limited query functions and - since manually - not always correctly. Having been neither informed directly about arrival of goods nor that the goods have been entered in temporary storage, the Gothenburg or other supervisory customs offices can - if at all - just use this database in order to monitor if the goods were removed from temporary storage timely. There is equally no link or alignment to any records of the temporary storage holders.

In RO the situation is regarded to be similar as in SE but with the variation that the various registers for entries of goods were well kept (using EXCEL) and that, thanks to the numerous cross references contained in them, they enabled goods to be monitored properly from their arrival until they were assigned a customs-approved treatment. In addition, local responsibilities are not delegated to central departments and the customs authorities have access to a computer application of the Constanța port authorities that provides information on ships entering the port, estimated loading and unloading times and the goods loaded or unloaded.

Efficiency, but also effectiveness as well as internal control would need to be improved by the creation of entirely integrated and on national level standardised electronic systems in both Member States.

Objective 2: Summary declaration for temporary storage

Accurate summary declarations for temporary storage are received by customs for all goods for which neither an EU status has been established already nor are covered by a prior customs declaration.

Facts

If the goods are to be unloaded and stored at the customs office of entry (primarily air and maritime transport), the person presenting the goods lodges a summary declaration for temporary storage with the customs office of entry. The way of lodging, the format and to a certain extent the data of the summary declaration for temporary storage are to be defined and implemented by the Member States.

The purpose of summary declarations for temporary storage is to facilitate customs supervision with respect to the obligation to assign non-EU goods a customs-approved treatment or use (Articles 4(15) and 48 CC in conjunction with Article 186 CCIP), and to ensure that customs duties are collected where a customs debt is incurred (see Articles 202 - 205 CC). To this end, the summary declarations must be accurate and complete. The subsequent potential data and goods transfer between the person lodging a summary declaration (the carrier) and the temporary storage holder must support identification of discrepancies and the establishment at which moment a potential customs debt has been incurred for instance through unlawful removal from customs supervision.

Overall evaluation

BE	DE	FR	IT	NL	RO	SE	UK

It was found that this requirement has been complied with in a satisfactory manner and without calling for particular remarks in BE, DE, FR, RO, and UK.

In IT at the latest on arrival of the means of transport, the carrier must send to the customs authorities electronically the arrivals manifest (MMA): once processed it constitutes the notification of arrival, the presentation notification of goods and the summary declaration for temporary storage and is available via the AIDA application.

The administrators of the temporary storage facilities must in practice interface with AIDA in order to be informed of the batches of goods for transfer to their own storage facility, check that the list of batches corresponds to the goods which actually enter the facility; inform customs of any discrepancies and be informed of the batches for which the time limit for assignment to a customs-approved treatment has expired. However while all the temporary storage facilities have the connection available, only 3 of them are using it. The remaining ones are operating based on the information received from the carriers and inform customs of discrepancies on a non-automated basis.

In contrast to the described procedure in IT, in NL summary declaration data are not transferred to temporary storage holders or accessible electronically for them. The respective future temporary storage holder is not indicated in the summary declarations for temporary storage but only the quay so that formally Customs would have no knowledge where the declared goods are. In most cases the goods are however directly unloaded onto the authorised terminal area of the temporary storage holder. While any further constant customs supervision and deadline monitoring are managed by the Customs systems, Customs has electronic access to the records of the temporary storage holder to make case by case comparisons on container level but not on batch level. This means that the single batches within one or more containers are not known to the temporary storage holders. Due to the entirely missing link between the summary declaration data and the storage holder records, there is no monitoring of the takeover of responsibility for a potentially incurred customs debt by different handlers on the basis of electronic systems (check of missing quantities below container level) contrary to Article 186 CCIP (see also objective 5).

Moreover, in NL goods with alleged EU status are included in the summary declarations for temporary storage but the status is as a rule not verified before an immediate discharge of the batch, except if the ship came from a non-EU port. In the opinion of the Commission the rate of customs status verification (Article 4(6)(7) & (8) CC) should be also at the moment that the status is already known and indicated by the carrier always 100%, as long as no simplifications explicitly allowed by the CCIP apply.

In SE, the procedure described under objective 1, combined with an entire lack of checks concerning the completeness and accuracy of the summary declarations for temporary storage or of the correspondence (data integrity) between manifests, goods unloaded and records of the temporary storage holder makes the control aspect evaluated not sufficiently effective.

Objective 3: Temporary storage holder's authorisation

Goods are kept in temporary storage under customs supervision in line with the legal provisions by eligible persons who fulfil the conditions to operate temporary storage facilities or to keep goods under temporary storage.

Facts

The notification of arrival and the summary declaration for temporary storage are with respect to non-EU goods intermediate actions, which normally have to lead to a customs-approved treatment or use for the goods within 20 days - or 45 days for goods carried by sea (Articles 48, 49 CC) - during which the goods are in temporary storage.

In order not to jeopardise customs supervision, goods may not be unloaded, transhipped or removed from their original position without the permission of the customs authorities, except in the event of an immediate danger, such as a fire (Articles 46, 47 CC). Goods are however normally not stored at the customs office. Instead, the procedure of temporary storage (Articles 50 - 53 CC) allows the removal of the goods from the customs office or from any other place designated or approved by those authorities to the place of temporary storage (see Article 38 CC). A security may be required (Article 51 (2) in conjunction with Article 189 CC). A customs warehouse may also be used for temporary storage (Article 530 (2) CCIP).

Overall evaluation

BE	DE	FR	IT	NL	RO	SE	UK

In general customs authorities assess appropriately if the applicants meet the conditions for these authorisations and stipulate properly the conditions that must be fulfilled and the operator's obligations including an assessment whether and if yes what security needs to be required. The requirements comprised in this objective have been complied with in a satisfactory manner and without calling for particular remarks in BE, DE and UK.

It has been decided to evaluate the situation in IT and NL as satisfactory despite of the fact that remedial action as regards the findings described under objective 2 may include modifying the future content of the authorisations for temporary storage.

In FR the content of the authorisations or the initial authorisation process did not give rise to any remarks. It was however considered that while there were reviews of the issued authorisations, these did not follow a clear methodology and there was no clear policy on follow-up audits (frequency and conditions).

In RO, at Constanța, no prior general formal authorisations were required for temporary storage facilities. The place of temporary storage is indicated on an ad hoc basis in the summary declarations and acceptance of these declarations serves as authorisation of the place of storage. The stock record of the operator at the place of temporary storage is approved orally.

The SE customs authorities have a standardised form for applications and authorisations with quite limited information. There are no visits to the operators' premises and keeping of records is discussed only on phone. In March 2013 a checklist was prepared for the case handlers to be filled in before issuing the authorisation. However, this checklist was not used so far and there was no other evidence for the checks carried out. Finally, there was only limited internal control on the granting of these authorisations, as only refusals are seen by the hierarchical superior. After delivery of the authorisations the ongoing existence of the authorisation conditions was never verified not even as regards one authorisation issued in 1996.

Objective 4: Monitoring of goods in temporary storage

Goods are sufficiently monitored by customs to make sure that a customs-approved treatment or use is timely attributed, that temporary storage is ended on the basis of customs declarations corresponding to the respective summary declarations and that goods are not altered or despatched before release/re-export.

Facts

Customs supervision starts once goods have entered the customs territory and this irrespective of their customs status as EU or non-EU goods (Article 37 (1) CC) in order to ensure that duties are collected and other provisions relating to external trade are applied.

The term customs supervision is defined as action taken in general by customs authorities with a view to ensuring that customs rules and, where appropriate, other provisions applicable to goods subject to customs supervision (such as import or export restrictions) are observed (Article 4 (13) CC). Customs supervision on goods entering or leaving the EU is supplemented but cannot be replaced by general provisions enabling customs authorities to carry out all controls they deem necessary to ensure that customs legislation is correctly applied (such as the audit of an importer's bookkeeping). Monitoring of goods in temporary storage up to the goods 'discharge' from customs supervision is an ongoing permanent and non-negotiable process, comparable with the monitoring of transit operations.

Goods presented to customs subsequently need to be assigned a customs-approved treatment or use, which depends not on the lodging of a customs declaration but on the release by customs to such treatment or use.

Verifying the conformity between the summary declarations for temporary storage (potentially including the records of the temporary storage holder) with the subsequent customs declaration for a customs-approved treatment or use should ideally be part of the checks on acceptance of such declaration. The task is troubled by the fact that the holder of the authorisation for a temporary storage facility in a big port or airport will normally not be the person lodging the summary declaration for temporary storage but the cargo holder (carrier), whereas the customs declaration 'discharging' a part of, or the whole or several summary declarations for temporary storage is normally made by a third stakeholder the customs agent or declarant. Thus, in case the level of information at each stage is different, the danger of mismatches is eminent.

Overall evaluation

BE	DE	FR	IT	NL	RO	SE	UK
Yellow	Green	Yellow	Green	Red	Yellow	Red	Yellow

It was found that this requirement has been complied with in a satisfactory manner by DE and IT. For example, DE (Hamburg) checked from 1/01/2013 up to 11/12/2013 randomly 891 summary declarations for temporary storage (items). These checks were done on the basis of comparison of the data in the customs system ATLAS with documents such as

bill of lading actually available in the records of the companies. It was checked if the goods were really present and a physical check of the goods was carried out.

In BE unloaded goods can only exit the port on the basis of a release document (pursuant to a declaration for a customs-approved treatment or use, a T1 document or T2L document proving the EU status of the goods) which is checked on exit from the port by Customs (100% documentary control). Goods are in general also sufficiently monitored by Customs to make sure that a customs-approved treatment or use is timely attributed, that temporary storage is ended on the basis of customs declarations corresponding to the respective summary declarations. However, at present, mainly due to lack of resources, there are no physical controls of single consignments in temporary storage, no actual controls on the terminal holder's stock records, though Customs has via intranet direct access to these stock records.

In FR the operators of temporary storage facilities are responsible for monitoring the time limit for temporary storage of goods. During their compliance checks (checks on the stock records of temporary storage operators), the customs authorities normally check whether the time limits for temporary storage of the goods have been complied with. Any possible check in the local AP+ port IT system, concerning the status of specific goods/containers takes a long time, and cannot be conducted systematically and regularly. No overall list of items that had exceeded the 45-day limit can be generated either.

In addition, in FR unaddressed shortcomings in the keeping of stock records by three temporary storage facility operators were found.

In NL various issues with ending customs supervision for goods in temporary storage were found. Related to goods to be cleared by normal declarations follow-up was only ensured for about 15-20 summary declaration items per day of daily up to 200 still open ones for which the 45 day time-limits had expired and which were fully or partially uncovered by subsequent customs declarations. The remaining summary declarations for temporary storage are simply **regularised** on customs own initiative and without any check.

The interface between the electronic systems for the summary declaration for temporary storage (DMF-NFV) and the customs declaration system DSI is entirely automated, which results in permanently about 22,000 instances where, due to incompatible weight, item number or BL-number, existing NCTS or DSI customs declarations do not tally with any summary declaration item so that a link cannot be established automatically. Lacking a proper interface or access to DMF-NFV, the customs officials in theory responsible for checking the customs declaration cannot compare the customs declaration in DSI or NCTS with the summary declaration mentioned in box 40 of the SAD in order to immediately clarify deviations or compare the goods description. The customs declarations are automatically accepted, the goods released (timers run) and the item closed in the records of the temporary storage holder which lifts an electronic blockade for leaving the terminal area and creates a release document for the driver to show at the gate. This process is only interrupted if a goods or operator related risk profile is hit.

In case of local clearance procedures for warehousing or free circulation there is no electronic or other check ensuring coherence between summary declaration and subsequent declaration for a customs procedure. The terminal operators can lift

independently in their systems any otherwise electronic blocking of the container for departure by indicating the codes DIN/DEN.

Dutch customs can use monthly information obtained by means of an 'auditfile' to identify the containers which are more than 45 days in temporary storage. The query made on request during the inspection showed together 327 containers in the records in 5 of the 13 temporary storage holders in Rotterdam for which it could not be demonstrated that the goods have been timely entered in the in parallel authorised customs warehouse, have been placed under a customs procedure respecting the interval of 45 days, have obtained a prolongation of temporary storage or have been seized including the respective date.

The fact that there are no or very few physical checks of actual consignments in temporary storage in NL has not been qualified as a finding in itself. The same applies for the possible but rarely carried out post-clearance checks on temporary storage holders.

In case of manual discharge of items in the summary declaration system, the acting official can be later identified but any item can be discharged without an audit trail as to the individual proof of EU status (T2L) or the subsequent customs-approved treatment or use.

When in RO the goods are assigned a customs-approved treatment (release for free circulation, transit, etc.), the registers are manually case-by-case cleared by the customs authorities and a reference is made in them to the declaration of release for free circulation or of transit. This is a thorough way of doing it but is time-consuming and prevents customs officials from more targeted control activities. According to the instruction the inward and outward registers of goods (stock records) kept by operators of temporary storage facilities and storage facilities in the free zone are to be monitored. However, out of a total of 22 operators of temporary storage facilities and 129 operators of storage facilities in the free zone, the local customs authorities had only carried out 12 controls of these registers in 2012 and 2013 (4 in 2012 and 8 in 2013). Finally, the examination of certain entries in the stock record of one storage facility operator in the free zone during the inspection revealed errors.

In SE it is the responsibility of the temporary storage holder alone to supervise the 45 days deadline. After the authorisation to operate a temporary storage facility is issued, the supervisory customs office of Gothenburg carries out continuous controls. These are carried out manually on reports received by fax from the temporary storage facility holders. The operators prepare reports on the basis of each manifest indicating manually the reference to T2L document or subsequent customs procedure and annexing documents if applicable.

The Gothenburg or other supervisory customs offices can in principle use the Excel spreadsheet established in Malmö (see objective 1) but cannot filter entries to identify goods with EU status and 3rd country goods either stored under temporary storage or removed from temporary storage. The traceability of the goods from the presentation of the goods and summary declaration if communicated to Customs to the customs declaration is only possible at this very moment, whereas lacking a respective register with cross-references systematic or broader traceability checks from the subsequent customs declaration to the summary declaration for temporary storage are excluded. Such

traceability could be only ensured by introducing a proper interface between the summary declaration for temporary storage and the electronic declaration system.

There are no specific customs controls, either risk based or random neither decided at the authorisation moment, nor afterwards (for example partial inventory controls or controls of compliance of records). The temporary storage facilities' holders are obliged to carry out themselves an inventory control at least once a year and to communicate the results to the supervisory customs office.

While during the inspection the procedures for monitoring in place in the UK in particular as regards number and frequency of local control visits as well as the way of centrally controlling overtime goods could not be clarified. Also, statistics as regards documentary and physical examination of goods where customs declarations have been presented in 2010, 2011 and 2012 for goods in temporary storage in the port of Tilbury could not be presented. The transfer of goods from port to external approved transit sheds remained to be equally clarified. Such doubts have led to the conclusion to qualify the objective only as partly satisfactory for the time being.

Objective 5: Timely and correct duty establishment

Duties have been correctly calculated and have been entered in the accounts and been made available within the time limits, both if a customs debt is incurred according to Articles 203 and 204 CC and in case a customs declaration was accepted (Article 201 CC).

Facts

Customs administrations must make sure that the customs declaration for such a customs-approved treatment or use match as far as quantity and goods description is concerned with the goods in temporary storage, respectively the corresponding summary declarations for temporary storage. Both data sources should be linked in such manner that plausibility checks either way remain always possible.

Where the rules governing entry into or exit from the customs territory are not complied with, a customs debt is normally incurred if the goods are liable to duties (Articles 203, 204 CC). Although this maybe is not always easy to distinguish in practice, but it is the holder of the temporary storage facility who becomes customs debtor in case a customs debt is incurred under Article 203 CC¹, potentially together with other debtors (e.g. thief, truck driver).

Amounts related to goods in temporary storage removed from customs supervision may be entered in the A or the B account in relation to the existence of a guarantee which may be required under Article 51 CC at a level fixed by the customs authorities between 0% and 100% of the duty, depending on the authorities' evaluation of the inherent risks. Before goods are assigned to a customs-approved treatment or use, the security can always be used to cover any customs debt which may be incurred. That being the case, the Member State concerned is financially liable for the unrecovered customs debt which is not guaranteed. In case of no security: Member States are financially liable for the

¹ See ECJ ruling in case C-140/04 *United Antwerp Maritime Agencies NV*

entire customs debt. In case that there is a security covering the whole customs debt or an insufficient security: The security must be made available to the Commission by the first working day after the 19th of the second month from the date of establishment or, in the case of an appeal, from the date the final ruling was given. Member States are financially liable for the part of the customs debt not guaranteed. If the security was released before assignment to a customs-approved treatment or use, the Member States are financially liable for the entire customs debt.

Overall evaluation

BE	DE	FR	IT	NL	RO	SE	UK

It was assessed that this requirement has been complied with in a satisfactory manner in BE, DE, FR, IT, RO, and UK.

In NL, potentially contrary to relevant ruling of the European Court of Justice referred to above, temporary storage holders were not charged with EU duties but the carriers (shipping companies) that lodged the summary declarations for temporary storage. Remissions pursuant to initial establishment of duties as well as the financial follow-up of some other open items that had at least been followed up remained unclear as well.

Moreover, in view of the shortcomings described under objective 4, there are doubts as to whether due to the mentioned incomplete actions as regards customs supervision in the Rotterdam harbour all customs debts incurred have been established.

In SE, the procedures described under objective 1 and 4, combined with a lack of checks concerning the completeness and accuracy of the summary declarations for temporary storage or of the correspondence (data integrity) between manifests, goods unloaded and records of the temporary storage holder makes the control aspect evaluated not fully effective and do not allow qualifying the fulfilment of this objective as being more than partly satisfactory.

Follow-up to the findings

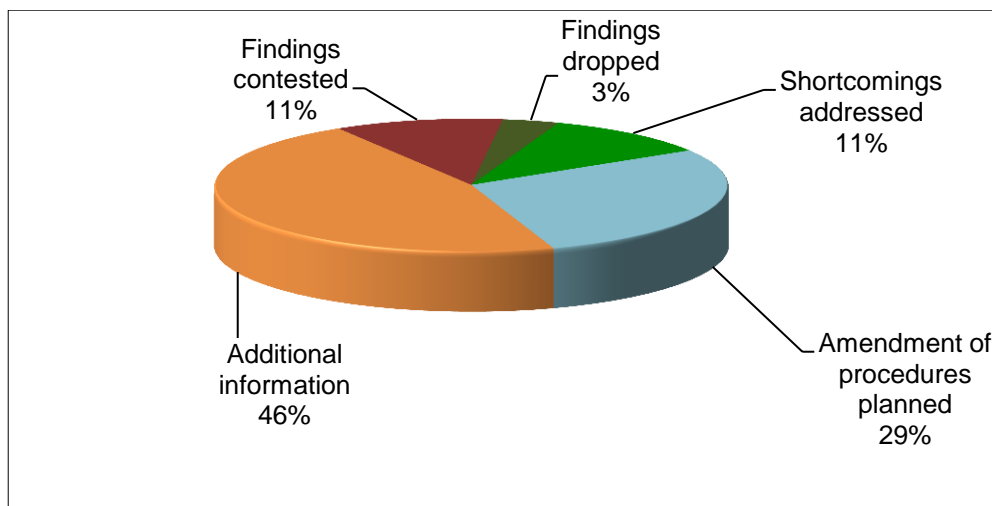
1.5 Introduction

The Commission communicated 28 findings² to Member States in the framework of the inspections. For reasons of comparability the results of the follow-up to the findings are presented as put to the attention of the Member States in two Advisory Committee meetings for Traditional Own Resources (Article 21 of Regulation 1150/2000) on 3 July and 4 December 2014.

Out of the 28 findings communicated, Member States have planned actions to address the shortcomings found for 9 findings (29%). They already have addressed 3 findings (11%). Further 3 findings (11%) have been contested or no action seemed necessary for the Member State concerned and one finding has been dropped (3%). For 13 findings (46%)

² Annex 2 contains a register of findings. In the interest of harmonisation the number counts sub-points as much as possible as points in their own right.

further information has or will be requested by the Commission services in the light of Member States' explanations. For those findings where the Member States have indicated that they plan to address the shortcomings found, the Commission services have requested or will request to be informed on the actual implementation and/or further details of the planned action. These figures seem to be coherent taking into account the limited follow-up time so far.



1.6 Follow-up to findings concerning objective 1

Regarding the shortcomings found in the setting up of the control system for summary declarations for temporary storage all three Member States concerned envisage an amendment/improvement of their procedures. In BE the change will be incorporated in the IT plan for the Multiannual Strategic Programme (MASP) for 2013-2020 and streamlined with the full application of the Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (UCC) on 1 May 2016. In the interim, manual plausibility checks comparing the IMO number both in the ENS and the summary declaration for temporary storage will be enhanced. RO announces to computerise its procedure but without providing further details or a timetable. In SE remedial action has started in the form of initiation of a new project bringing the national systems in line with automated systems in other Member States but seems to be at the beginning, so that the situation and any mitigating actions in the meantime will be further followed-up, as in the other two Member States. Internal control has been strengthened regarding the EXCEL sheet.

1.7 Follow-up to findings concerning objective 2

Concerning the shortcomings in the check of data integrity and responsibility transfer from persons lodging summary declarations for temporary storage and temporary storage holders, IT has taken appropriate action by including the time limit for temporary storage holders to report inconsistencies and the mandatory use of the connection to customs systems in their authorisations.

Additional information has been requested from NL as to the outcome of ongoing internal discussions how to improve the situation.

In SE remedial action has started in the form of initiation of a new project bringing the national systems in line with automated systems in other Member States including integration of or an interface to the national port systems. The situation and any mitigating actions in the meantime will be further followed-up and questions have been asked concerning an interim solution for the information of the supervising office of ships arriving.

As to the shortcomings concerning checks of accuracy of summary declarations for temporary storage NL will enhance checks on the EU-status but only on a random basis, which is not considered sufficient so that the Member State has again been requested to indicate when the checked population is complete. SE will during 2014 increase the number of physical checks with the aim of ensuring correct levying and will to this end provide additional training for over 400 border protection personnel in customs matters. Further information as to the concrete impact of these measures and the reporting to the supervising office will still need to be supplied.

1.8 Follow-up to findings concerning objective 3

Concerning the lack of monitoring of the conditions for an authorisation for temporary storage, FR plans an amendment of the procedures by issuing a new instruction defining common objectives and methodology of auditing temporary storage authorisation holders.

In RO formal authorisations should be issued, in particular for operators who regularly operate temporary storage facilities including approval and description in writing of the stock records and the conditions thereof should be reviewed using a specific methodology with some degree of regularity. These checks should be documented. RO indicated that the establishment of rules for formally authorising temporary storage including monitoring of the conditions would be prepared. This will be followed-up by the Commission services.

Concerning the monitoring of the conditions, the content and the actual checks during the authorisation process for temporary storage facilities, SE will pursuant to a risk assessment, make a decision if the company should be visited or not and will start to update and improve the authorisation including the checklist already in place. Moreover, improvements of internal control are considered and procedures for ex-post inspections on the conditions for the authorisations have been established. The Commission services have asked for additional information.

1.9 Follow-up to findings concerning objective 4

Findings were made concerning insufficient check of stock records and physical checks of temporary storage goods.

BE referred insofar to the recruitment of almost 300 new officials to tighten supervision in ports and explained the updated position that summary declarations for temporary storage and authorisations for temporary storage will have from 2015 onwards in the risk analysis. A function is also envisaged to use existing import risk profiles on summary declarations for temporary storage. Additional information is needed including the numbers of such checks they proposed that were in fact carried out in 2014.

FR addressed the shortcomings found in the keeping of stock records by three temporary storage facility operators in a satisfactory manner by ensuring through additional checks compliance in one case, by modifying the conditions in another case and by carrying out a final audit concerning one operator who has decided to cease activities.

RO plans to address the shortcomings so far existing as regards the need to inspect the operators regularly in order to check that they keep their registers properly by means of an updated instruction taking into account the mentioned requirements. This is of particular importance given the absence of computerised procedures in RO both at the customs office and at operators, and the lack of automated interfaces.

The SE authorities referred as regards their absence of checks of stock records or physical checks of goods despite of the absence of computerised procedures to a new detailed control strategy for temporary storage facility holders in preparation. Additional information to this end has been requested.

The UK authorities supplied after the inspection information concerning the system of temporary storage applied and a list of controls for the port of Tilbury for the period July to December 2012 and explained the transfer to external approved transit sheds, so that this point could be dropped.

On the aspect of insufficient supervision of the time limit for temporary storage and incorrect or not auditable ending of customs supervision FR followed the recommendation and modified the AP+ port IT system.

NL contested the need to change their procedures. The authorised agents considered this however necessary in view of the findings made concerning the discharge of summary declarations for temporary storage without sufficient evidence of a matching subsequent customs-approved treatment or use, either in a normal or local clearance procedure. The dispute is on-going. Additional information has been requested concerning the missing cross-references to underlying documents in the summary declaration database and to the number of post clearance audits referred to in the NL reply.

The situation in SE needs to be further monitored and additional information has been requested. The same applies to the UK where a further complement of information has been requested to be able to approve the existing procedures as being fully satisfactory.

1.10 Follow-up to findings concerning objective 5

On the issues with the establishment of duties NL contested to have established duties towards the wrong person and could not yet sufficiently explain the cases, in which duties were remitted or not established, so that both aspects are still to be followed up.

Concerning the finding that potentially not all duties due were established for goods exceeding the time limits in the databases additional information has been requested from NL.

Furthermore SE has still not demonstrated that a new system of checks now makes it less likely than in the past that due to insufficient checks duties may have not been established for goods having exceeded the time limit or having never been registered by the SE authorities. Additional information is thus needed at this stage.

Conclusions

The inspections have shown that the majority of the defined objectives are properly adhered to in the Member States visited. All in all out of 40 objectives 23 have been qualified as satisfactory and the global situation can be regarded as generally acceptable. As to this assessment, it has to be noted that it always represents the state of play based on the findings of the authorised agents during their limited review of at maximum five consecutive working days in one Member State and to a certain extent also their appreciation of the situation and the accessible information.

The organisational setup of summary declarations for temporary storage in two Member States did not sufficiently prevent circumvention, partially aggravated by a too limited number of checks in view of an entirely manual and therefore much more risky procedure.

The information contained in the summary declaration for temporary storage was not always made accessible to the subsequent holders of the temporary storage.

In few Member States the authorisation process for temporary storage facilities lacked necessary checks and the later monitoring of the respect of the defined conditions was not ensured.

Finally, in 6 Member States there were issues as regards the monitoring of goods in temporary storage and the timely and complete identification of all customs debts incurred including in 1 Member State the determination of the responsible debtors and the establishment of the duties.

Concerning the follow-up, taking into account the time past since the inspections it is considered positive that Member States have already implemented actions or have planned to take appropriate actions on 40% of the 28 findings. Only three findings have been contested by one and the same Member State and this not as regards the facts but as to the need to take and in the positive which remedial action.

Further action is still required in some Member States in particular in view of

- Improving the number and the kind of checks to be carried out on completeness and data integrity and this on arrival, during temporary storage before ending customs supervision and if need be timely after the end of customs supervision
- Taking thereby into account the in-built internal control environment and the degree of automation (i.e. the more (manual) interfaces and the more need of manual update the more need for checks of correspondence),
- Automating procedures on entry in the EU including integrated plausibility and data integrity checks allowing customs to detect and to focus on such instances, where there is implausibility, including the necessary interfaces to port authority data (ships arrival and unloading) and stock records of authorised temporary storage holders;
- Keeping permanently track of those goods still in temporary storage
- Ensuring a proper audit trail with cross-references and possibility to check easily coherence "top-down" and "bottom-up" between summary declarations for temporary storage, stock records and declarations to a customs-approved treatment or use preferably by overlapping corresponding electronic databases;
- Taking timely, comprehensive and complete action with regard to the correct customs debtors in case customs-approved treatment or use has not been attributed to

the entire goods population in temporary storage within the legal deadline irrespective of the potential financial risk;

- Only excluding goods from customs supervision because of their alleged EU status on the basis of a documented documentary check or based on an authorisation granted by the EU legislation;
- Defining in a written authorisation after adequate checks of the compliance history, the financial situation, the premises, the foreseen stock records and their interface to customs data and the transfer of responsibility the conditions to be respected by the holder of a temporary storage facility.

Member States bear entire responsibility for their national approach and setup, as unlike for various customs procedures there is no mandatory administrative setup for authorisation or handling of summary declarations for temporary storage.

The legal framework and the need to protect the financial interests of the EU require to establish or to maintain a system of tight and rigorous customs supervision ensuring that all goods are registered and without exception monitored during their temporary storage until the release by Customs to a subsequent customs-approved treatment or use. Concentration on most risky or financially most relevant transactions is not an option for the Member States. Risk analysis applies to customs control and not to the 'discharge' from customs supervision.

Measures to be taken in the interest of safety and security such as prior Entry Summary Declarations (ENS) have found to be an independent requirement not influencing the need for complete customs supervision in the interest of the protection of the EU financial interests.

Annex 1 Overall evaluation of the objectives

	BE	DE	FR	IT	NL	RO	SE	UK
Objective 1: All goods arriving at an EU border are presented to customs which can identify and keep track of all "non-EU goods" based on procedures compliant with EU law so to be able to ensure complete customs supervision.	Yellow	Green	Green	Green	Green	Yellow	Red	Green
Objective 2: Accurate summary declarations for temporary storage are received by customs for all goods for which neither an EU status has been established already nor are covered by a prior customs declaration.	Green	Green	Green	Yellow	Yellow	Green	Red	Green
Objective 3: Goods are kept in temporary storage under customs supervision in line with the legal provisions by eligible persons who fulfil the conditions to operate temporary storage facilities or to keep goods under temporary storage.	Green	Green	Yellow	Green	Green	Yellow	Yellow	Green
Objective 4: Goods are sufficiently monitored by customs to make sure that a customs-approved treatment or use is timely attributed, that temporary storage is ended on the basis of customs declarations corresponding to the respective summary declarations and that goods are not altered or despatched before release/re-export.	Yellow	Green	Yellow	Green	Red	Yellow	Red	Yellow
Objective 5: Duties have been correctly calculated and have been entered in the accounts and been made available within the time limits, both if a customs debt is incurred according to Articles 203 and 204 CC and in case a customs declaration was accepted (Article 201 CC).	Green	Green	Green	Green	Red	Green	Yellow	Green

Annex 2 Register of findings

Objective 1: All goods arriving at an EU border are presented to customs which can identify and keep track of all "non-EU goods" based on procedures compliant with EU law so to be able to ensure complete customs supervision.					
General Finding	MS	Report	Finding	Description	Follow-up status
Shortcomings in the setting up of the control system for summary declarations for temporary storage	BE	13-0-2	3.1	Summary declaration for temporary storage not linked to Entry Summary Declaration	Amendment of procedures planned
	RO	13-27-1	3.1	Manual system with the possibility of manual completeness and plausibility checks	Amendment of procedures planned
	SE	13-15-1	3.1, 3.3	Manual system without the possibility of immediate completeness and plausibility checks and insufficient availability of data and internal cooperation	Amendment of procedures planned

Objective 2: Accurate summary declarations for temporary storage are received by customs for all goods for which neither an EU status has been established already nor are covered by a prior customs declaration.					
General Finding	MS	Report	Finding	Description	Follow-up status
Shortcomings in the check of data integrity and responsibility transfer from persons lodging summary declarations for temporary storage and temporary storage holders	IT	13-7-1	3.1	No time limit for temporary storage holders to report inconsistencies and use of connection to customs systems not obligatory	Shortcoming adressed
	NL	13-9-1	3.1.D	No data integration between summary declarations for temporary storage and records of storage holder.	Additional information
	SE	13-15-1	3.1, 3.3	No data integration between summary declarations for temporary storage and records of storage holder and no correspondence checks whatsoever.	Amendment of procedures planned
Shortcomings concerning checks of accuracy of summary declarations for temporary storage	NL	13-9-1	3.1.C	No systematic check of EU status already indicated in the manifest (and summary declaration for temporary storage) before discharge.	Additional information
	SE	13-15-1	3.1, 3.3	There are no physical checks of the goods or plausibility checks with port systems ensuring the accuracy or completeness of summary declarations for temporary storage.	Additional information

Objective 3: Goods are kept in temporary storage under customs supervision in line with the legal provisions by eligible persons who fulfil the conditions to operate temporary storage facilities or to keep goods under temporary storage.					
General Finding	MS	Report	Finding	Description	Follow-up status
Monitoring of conditions for authorisation flawed	FR	13-5-1	3.2	The continuing existence of the conditions under which the authorisation was granted was not regularly or consistently monitored.	Amendment of procedures planned
	RO	13-27-1	3.2	There is no such monitoring system for the conditions of an authorisation, as in the normal case the authorisation is granted ad hoc and consignment by consignment.	Amendment of procedures planned
	SE	13-15-1	3.2	The continuing existence of the conditions under which the authorisation was granted was not regularly or consistently monitored.	Additional information
Shortcomings concerning the authorisation process	RO	13-27-1	3.2	In the normal case the authorisation is granted ad hoc and consignment by consignment.	Amendment of procedures planned
	SE	13-15-1	3.2	There were shortcomings as regards content and prior verifications of authorisations for temporary storage.	Additional information

Objective 4: Goods are sufficiently monitored by customs to make sure that a customs-approved treatment or use is timely attributed, that temporary storage is ended on the basis of customs declarations corresponding to the respective summary declarations and that goods are not altered or despatched before release/re-export.					
General Finding	MS	Report	Finding	Description	Follow-up status
Insufficient check of stock records and physical checks of temporary storage goods	BE	13-0-2	3.2	Recommendation to carry out as well physical checks of goods in temporary storage or checks of stock records	Amendment of procedures planned
	FR	13-5-1	3.1	Unaddressed shortcomings found in the keeping of stock records by three temporary storage facility operators	Shortcoming addressed
	RO	13-27-1	3.3	Not enough checks of stock records given the absence of computerised procedures	Amendment of procedures planned
	SE	13-15-1	3.3	No checks of stock records or physical checks of goods despite of the absence of computerised procedures	Additional information
	UK	13-11-1	3.1	No check of goods in temporary storage or of stock records	Finding dropped

Objective 4: Goods are sufficiently monitored by customs to make sure that a customs-approved treatment or use is timely attributed, that temporary storage is ended on the basis of customs declarations corresponding to the respective summary declarations and that goods are not altered or despatched before release/re-export.

General Finding	MS	Report	Finding	Description	Follow-up status
Insufficient supervision of the time limit for temporary storage and incorrect or intransparent ending of customs supervision	FR	13-5-2	3.1	Recommendation to improve the AP+ port IT system	Shortcoming addressed
	NL	13-9-1	3.1.A	Summary declarations mostly discharged in case of inconsistencies or of goods unaccounted for when deadline expired and insufficient crosscheck possibilities	Finding contested
	NL	13-9-1	3.1.B	No comparison or crosscheck to customs declaration within local clearance	Finding contested
	NL	13-9-1	3.1.D.3	Lack of cross-references to EU-status or subsequent customs-approved treatment or use in summary declaration system	Additional information
	SE	13-15-1	3.3	No comparison or crosscheck to customs declaration due to manual procedure, no timely supervision of the time-limits	Additional information
	UK	13-11-1	3.2	Insufficient evidence as to the way the interface to a customs-approved treatment of use is monitored	Additional information

Objective 5: Duties have been correctly calculated and have been entered in the accounts and been made available within the time limits, both if a customs debt is incurred according to Articles 203 and 204 CC and in case a customs declaration was accepted (Article 201 CC).

General Finding	MS	Report	Finding	Description	Follow-up status
Issues with the establishment of duties	NL	13-9-2	3.2	Potentially the wrong customs debtor was charged in cases of removal from customs supervision.	Finding contested
	NL	13-9-1	3.2	Ending of the follow-up or remission in a number of cases of alleged removal from customs supervision could not be explained.	Additional information
Potentially not all amounts of duty due established	NL	13-9-1	3.1, 3.2, 3.3	Not all goods exceeding in the databases the time-limits were followed-up in view of duty establishment.	Additional information
	SE	13-15-1	3.1, 3.3	Due to lack of checks in all phases of the process not all cases may have been detected in which a customs debt was incurred.	Additional information