



How can Dutch Customs improve supervision on e-fulfillment import declarations



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1 Executive summary

This thesis is about Dutch Customs and e-fulfillment. The main research question is:

“How can Dutch Customs improve supervision on e-fulfillment import declarations?”

To answer the main research question, the following sub questions needed to be answered:

1. What are the key drivers and major trends of e-fulfillment in the global economy and within the EU?
2. Which WCO and UCC provisions (DA and IA) are applicable and critical for Customs declarations of e-fulfillment importation declarations in the EU?
3. What are the key challenges and major risks for the Dutch Customs Organization (CAN) with regard to registering and handling e-fulfillment import declarations within the Netherlands?
4. What are the major issues for Customs brokers in the Netherlands with regard to registering and handling e-fulfillment import declarations under the UCC?
5. How are the CAN declaration systems (AGS and VENUE) functioning with regard to registering and handling of e-fulfillment import declarations from postal and courier services?
6. In what way can the CAN ensure registering and handling of e-fulfillment import and how can declarations be effected in line with applicable UCC provisions?

During the interviews it was clear that there is expertise about e-commerce and e-fulfillment in the CAN. However, only a few people have an overall understanding about these subjects especially how to improve supervision on e-fulfillment import declarations.

The 3 pillars of the Executive Master in Customs and Supply Chain Compliance were covered in this thesis:

1. Customs Regulations: Relevant Customs legislation (WCO, Union and national Dutch law) with regard to registering & handling of import declarations – with focus on import –was investigated and outlined. Also trends in new proposals with regard to thresholds from the European Commission were taken into account, consumer behavior, shifts in logistics.

2. Supply Chain Management (SCM): From a SCM point of view, the main issues of registering & handling of import declarations by declarers (key actors), including the background of Authorized Economic Operator (AEO), trends like a possible shift in means of transport but only changes in the type of suppliers were investigated and outlined.

3. Information and Compliance: The working of the AGS and VENUE (CAN declaration systems) was described. The compliance part from a Customs point of view is described especially in the chapter about the Enforcement Vision.



This thesis has the following structure. The problem definition is clarified in Chapter 6. After interviews with experts and study of the relevant legislation it was found appropriate to focus on how CAN can improve supervision on stock movement, resulting in import declarations in AGS.

In Chapter 7 definitions of e-fulfillment are given in which the common denominator in e-fulfillment definitions is the logistic process of delivering goods from supplier to customer, all in light of e-commerce. To gain understanding what e-commerce is, and especially e-fulfillment, Chapter 7 focuses on definitions and the business models of globally the largest fulfillment companies. In this Chapter 7 a trend analysis based upon interviews and literature review can be found. The reason for the use of trend analysis is that not much research of literature with foresights was found. Most literature just extrapolate current figures.¹ Also, CAN was reluctant to provide and publish the exact internal figures of import declarations, the exact number of physical checks and the outcome of the several types of checks.

After describing the role of GATT, WTO and WCO in Chapter 8 this thesis will focus more on the rules and regulations of the EU, especially on the rules and regulations regarding import of goods into the EU. After focusing on the current rules and legislation several future developments in legislation and vision are discussed.

In Chapter 9 a brief history of the Customs Union is given followed by the importance and size of the amounts of Customs duties. The mission of CAN is described including the so-called Enforcement Vision. An overview of the main legal obligations, which includes an explanation how EU handles valuation rules and several future legal developments are discussed in this Chapter also. To gain understanding about the background how CAN works, and what legal obligations are for business in view of the declaring goods for free circulation, a summary has been given about the main legal procedures with regards to the import of goods into the EU in Chapter 11.

Theoretical solutions for the improvement of enforcement on e-fulfillment import declarations are described in Chapter 13 while more practical options are presented in Chapter 15.

In Chapter 16 proposals for communication toward the private sector are made. Profiling of Big Data to discover statistical outliers in valuation of import declaration is discussed. The hiring and training of staff not just in light of the big DTCA reorganization of 2016 is mentioned but also how to be future-proof and how to build a knowledge base for internal reference regarding e-fulfillment.

To conclude this thesis the benefits and disadvantages of possible solutions are discussed in Chapter 16.7.

To summarize the possible solutions for mitigating the e-fulfillment risks and therefor enhance the supervision of e-fulfillment import declarations the following options are presented to CAN:

- Find out who the e-fulfillment parties are and make optimal use of enforcement communication to improve knowledge about Customs legislation and mitigate Custom related risks.
- Make use of the fair price list to detect statistical outliers
- Establish an up-to date database with knowledge about e-fulfillment companies
- A proposal is made how to monitor Customs performance
- Adapt Customs Handbooks with the findings of this thesis
- Make use of diversification in valuation to mitigate risks

¹ H. Terbeck, Master Thesis E-commerce 2025 Delphi based scenario & trend analysis for the future of digital commerce, University of Twente December 30th 2014

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Thank you.

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3 List of abbreviations

AEO	Authorized Economic Operator
AGS	AanGifte Systeem, the CAN single system for declarations
B2B	Business to business, a situation where one business makes a commercial transaction with another business
B2C	Business to consumer, business or transactions conducted directly between a company and consumers who are the end-users of its products or services.
CAN	The Customs Administration of The Netherlands
C2C	Consumer to consumer which is a business model that facilitates an environment, usually online, where customers can trade with each other.
DTCA	Dutch Tax and Customs Administration
EU	European Union
Eurostat	EU Statistical office
GATT	General Agreement on Tariffs and Trade
HHP 2017	Dutch Customs Enforcement plan 2017
OECD	Organization for Economic Co-operation and Development
SAFE	The WCO Framework of Standards to Secure and Facilitate global trade
UCC	Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code
VENUE	Dutch Customs simplified declaration system
WCO	World Customs Organization
WTO	World Trade Organization

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5 Introduction

5.1 Background information about thesis research

5.1.1 *Profession as Customs officer*

As of 1997 I work for DTCA. During these, almost 20, years I worked in several locations such as Amsterdam, Schiphol Airport, Hoofddorp, Utrecht and back in Amsterdam again. I had various jobs, ranging from client manager to auditor for risks regarding import duties as well as excises and risk analyst. In every part of my job I was always interested in more than just the straight figures or facts, namely the background of this kind of data hence my interest in gaining more knowledge about Customs related topics.

5.1.2 *My logistic experience in the nineties*

Before I started working for DTCA I worked as a controller and in the logistics department for a trading company in household goods. This was during the mid nineties of the previous century. The business model was quite simple. Both the director of the company as the commercial managers looked for suppliers of household goods and kept close contact with the potential buyers of Dutch companies in the retail business.

The suppliers were based in the UK, Germany, France and Austria. Stock was kept at several warehouses of so called third party logistic providers (3PL), offering services like receipt of goods, handling, storage, transportation, making the transport documents like CMR. In other words, we used a bundled service by a 3PL provider rather than just making use of transport or warehousing functions as described by V. Rattanawiboonsom.² The company received orders by fax messages. Those messages were put into our computer system by hand. Then we faxed the order to the 3PL. After receiving confirmation that the goods were delivered (another fax message) we invoiced our client with a printed invoice. There were often differences in the kind of articles send to the retailers and numbers were not conform the order. These types of errors needed investigation to clarify the mistakes which was time consuming.

The entire process was very time-consuming with a lot of people interacting with each other to get the goods from our 3PL to our buyers. Because of hardly any automated procedures a lot of different people were communicating in different ways like typing or writing and using phone so a lot of mistakes were made. To solve the mistakes, a lot of interactions between people of was needed. To summarize, a lot of work was done by hand with chances of mistakes. A big difference with the era we are in now, where handwork is being done because a lot of data is digitalized. With less human interference, fewer mistakes should be made. As a project manager for CAN mentioned in my interview with him, now we are entering the automation era.³

5.1.3 *Student Rotterdam School of Management-Integration Project*

Part of the Master in Customs and Supply Chain Compliance of the Rotterdam School of Management, Erasmus University meant to participate in a so-called Integration Project.⁴ The Integration Project was based upon and using the threefold pillar of knowledge, namely in the field of:

- (a) Customs,
- (b) Supply Chain Compliance
- (c) Information Technology.

² V Rattanawiboonsom, Effective Criteria for Selecting Third-Party logistics Providers The Case of Thai Automotive Industry *World Review of Business Research* Vol. 4. No. 2. July 2014 Issue. Pp. 196 – 205

³ See interview Mr. L.B. Appendix 18.2

⁴ Jacqueline Daalmans, Erwin van Houten, Enrico Rafaele, Sasank Mohanty "E-commerce import declarations in the Dutch Customs System for postal and courier services under the UCC", 8th of September 2016

The Integration Project had as main research question *“How can the Dutch Customs Organization enable the registering and handling of E-commerce import declarations from postal and courier services in the Dutch Declaration System, in line with the actual applicable UCC provisions?”*

Part of the data collection to answer this research question was to conduct interviews with several stakeholders from DTCA, Couriers and the Dutch interest group of couriers called FENEX.

5.1.4 Decision to research the impact of e-fulfillment on Customs

During interviews with several Dutch Customs officials working for the department which treats the declarations but also the National Customs Tactical Center the term e-fulfillment was mentioned. Both Mr. P.N. as mr. T.Z. of Customs at Amsterdam Schiphol Airport explained that they encountered a relative new phenomenon in their work called “fulfillment”. As I questioned further they had encountered the term FBA ⁵ several times in the field of handling import declarations. The term FBA was relative unknown to them. More recent interviews with other stakeholders within Customs showed a diversity of knowledge about fulfillment. That triggered my curiosity about risks regarding fulfillment in such a way that I decided to use this as the main topic for my thesis.

5.2 Scope and delineation

The scope of this thesis is narrowed down to the import declarations for free circulation with fulfillment as critical factor.

To narrow down the scope and although linked to this thesis the following subjects were left out of scope:

- ✚ Focus only on the Dutch declaration systems, not systems of other EU countries;
- ✚ Compliance checks for postal and courier services organization (assuming they have AEO status, whereby compliance is monitored by both the organizations themselves and Customs);
- ✚ E-commerce export declarations, and return flows of e-commerce goods to outside Union;
- ✚ Low value B2C shipments with a value below 22 euro.

5.3 Focus of data discussion

5.3.1 Stakeholder analysis

To conduct a thorough stakeholder analysis I made use of several academic publications about this subject. A definition for stakeholders was given by R. Edward Freeman: *“any group or individual who can affect or is affected by the achievement of the organization’s objectives”*. ⁶

The relevance to conduct a stakeholder analysis is that any public problem can affect people and organizations. As Bryson mentions *“in this shared-power world, no one is fully in charge but many individuals and organizations are involved or affected and have the responsibility to act.”*⁷

⁵ Fulfillment by Amazon

⁶ John. M. Bryson, What to do when stakeholders matter stakeholder identification and analysis techniques-Public management Review vol 6 issue 1 21-53 (2004)

⁷ John. M. Bryson, What to do when stakeholders matter stakeholder identification and analysis techniques-Public management Review vol 6 issue 1 21-53 (2004)

5.4 Who are the stakeholders outside the Dutch Customs Organization

The world surrounding Customs can be divided into an inside and an outside environment. In this Chapter I will explain the different stakeholders in the world around Customs. In chapter 5.5 I will describe the internal environment of Customs.⁸

The external environment can be divided into macro-environment and direct environment.

5.4.1 Macro-environment

The economic world is very dynamic. Directly or indirectly, political as economical and technological developments all have an impact on Customs Organizations. There is no clear view how the world economy will develop, so it is hard to develop scenarios about growth. What we do know is that the number of travellers will grow, having an impact on border controls. What we see is a yearly growth of e-commerce shipments.

There is no clear view how liberalisation of world trade will develop in the near future. There are initiatives to reduce trade barriers. But on the other side, since the election of Mr. D. Trump as president of the United States of America the TTIP⁹ between the USA and EU is put in the fridge. There is a growing chance of trade barriers between USA and parts of the rest of the world.

It is not clear what the Brexit will mean for trade between the United Kingdom and the EU. The only Customs related certainty to think of thusfar with the Brexit is the end of the free flow of goods between the EU and UK, meaning more import and export declarations and controls on those good flows. This will definitely have an impact on Customs in the Netherlands and the rest of the EU.

Further elaboration on these subjects is found in Chapter 7.

To protect parts of our own EU industry, several antidumping measures are still in place (for example on solar panels from China or bio-diesel from USA) and new measures are under investigation. At the moment of writing this thesis there are about 80 of these EU measures in place and about eight under investigation.

Technological developments will most certainly have an impact on our daily work. Working with so-called smart seals, the development of 3D printing and blockchain technology will have an impact on the development of markets and logistical chains.

The same can be said about e-commerce. There are certain possibilities to enhance Customs supervision, for example as explained in the Enforcement Vision¹⁰ with the autodetection in flows of goods and data.

⁸ Handhavingsplan Douane 2017

⁹ Transatlantic Trade and Investment Partnership

¹⁰ Enforcement Vision see Chapter 9.6

5.4.2 Stakeholders direct-external environment

EU Stakeholders are among other the supervising partners, the private sector and science. There have been several major developments impacting all stakeholders. For example the stakeholder EU. As of May 1st 2016 the UCC ¹¹ has replaced the CCC. ¹²

Part of the background of the UCC was to establish more modern ways of possibilities to communicate. In the end, all communication between Customs and external parties must be through electronic ways instead of paperwork. Because of new regulations, all Customs authorisations must be evaluated (Article 39 UCC) and the evaluation this will have a tremendous impact on the process of Klantmanagement (Client management in control of authorisations).

The EU has proposed a layered strategy to enhance supervision.¹³ Important part of this layered strategy is to answer questions for example which member state has to cover which risk, where and when. The general assumption is that there will be more centralized control of risks coming from EU instead of national initiatives.

Stakeholders among other:

- ✚ Douane laboratorium
- ✚ EVO
- ✚ FENEX
- ✚ FIOD
- ✚ Koninklijke Marechaussee (Military Police)
- ✚ NVWA
- ✚ EVO
- ✚ Overleg Douane Bedrijfsleven (ODB)
- ✚ OBAM
- ✚ Tax consultants (PWC, EY etc)
- ✚ GATT
- ✚ WCO
- ✚ WTO
- ✚ Science for example the program “neutraal logistiek informatieplatform” to facilitate common sharing of data but also cooperation with the Rotterdam School of Management and Fontys to develop both master, minor and bachelor programs for Customs and Logistics.

5.5 Stakeholders inside the CAN

Stakeholders are for example Customs staff. There have been recent developments with impact on daily routines:

- ✚ One centralized unit (DLTC)
- ✚ New structure to enhance the connection between policy and work field
- ✚ From centralized knowledge back to regional expertise
- ✚ Establishing a team Business Analytics to initiate policy in the field of data analytics and Big Data
- ✚ LEAN projects have been started to improve quality and efficiency of Customs processes.
- ✚ Developing educational programs for both new staff as more experienced colleagues for example the modules for the new UCC being taught through e-learning.
- ✚ Involvement of other Ministries besides Finance, of which DTCA is part, on Customs risk focus (for example the Ministry of Economic Affairs or the Ministry of Health, Welfare and Sport).

¹¹ Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code

¹² Community Customs Code

¹³ Mededeling 2014/527

6 Problem definition

The title of this thesis, and also the problem definition, is

“How can Dutch Customs improve supervision on e-fulfillment import declarations?”

As a result of the interviews and research literature, the main problem arising from e-fulfillment is how to mitigate the risks of import declarations involving stock displacement.

Another issue being mentioned by several interviewees is how to establish the value for Customs in light of B2C transactions. This subject had been delineated as mentioned in Chapter 5.2.

Therefor the main problem to be tackled in light of supervision in e-fulfillment import declarations can be described as *how can Dutch Customs improve supervision on stock movement resulting in import declarations in AGS?*



7 Review of research literature e-commerce

7.1 Definitions within e-commerce and e-fulfillment

To gain a thorough understanding of the topics in this thesis several definitions are presented what is meant by the terms e-commerce and e-fulfillment. Business models are described to gain an understanding how the largest e-fulfillment companies operate. The reason to use data from German and UK sources is that these countries are comparable with the Netherlands regarding income and social comparability.

This chapter concludes with a new definition of e-fulfillment in light of Customs as contribution to scientific literature.

7.1.1 Definitions of e-commerce

For e-commerce there are many definitions found in literature. Literally e-commerce stands for electronic commerce. For example, Thole and Dekhuijzen have a very narrow definition namely *“just the online purchase and sales.”*¹⁴

However as Poong¹⁵ and Braem¹⁶ mention that e-commerce has a different meaning for different people. Therefore just a narrow definition does not justify a narrow description of e-commerce.

OECD

The OECD definition of e-commerce transactions is as follows: *“an e-commerce transaction is the sale or purchase of goods or services, conducted over computer networks by methods specifically designed for the purpose of receiving or placing of orders. The goods or services are ordered by those methods, but the payment and the ultimate delivery of the goods or services do not have to be conducted online. An e-commerce transaction can be between enterprises, households, individuals, governments, and other public or private organizations. The type is defined by the method of placing the order. To be excluded are orders made by telephone calls, facsimile or manually typed mail.”*¹⁷

This is a far more elaborate and broad definition than those made by Poong and Braem.

CAN

The definition used by CAN is a more compact than the OECD definition:

“e-commerce are all transactions created electronically through a computer network (for example Internet) and which results in physical flows of goods, subject to Customs formalities.”^{18 19} So in this definition it is not just about ordering a cover for a cell phone on some Chinese internet site like aliexpress.com²⁰, but also the ordering a ship full of grain from Egypt with an e-mail (besides of course all international legal obligations regarding contracts which still require a lot of paperwork)²¹, or ordering a couple of boxes of champagne from madame Drémont in the nice town of Pavant in the heart of the Champagne region in France with delivery to my home address.

¹⁴ Thole, E. P., & Dekhuijzen, A. E. (2001). *50 vragen over ecommerce*. Kluwer.

¹⁵ Poong, Y., Zaman, K.-U., & Talha, M. (2006). E-commerce today and tomorrow: a truly generalized and active framework for the definition of electronic commerce. *ICEC '06 Proceedings of the 8th international conference on Electronic commerce: The new e-commerce: innovations for conquering current barriers, obstacles and limitations to conducting successful business on the internet* (pp. 553-557). New York, USA: ACM.

¹⁶ C. Braem, Order Fulfillment in e-commerce market: A research on the logistics for e-commerce in Belgium p. 20, University of Gent 2015

¹⁷ <https://stats.oecd.org/glossary/detail.asp?ID=4721>

¹⁸ Customs Administration of the Netherlands, Tax and Customs Administration, 18 May 2016, E-commerce on the Move, JNG Bosch

¹⁹ Presentation for Air Cargo Netherlands Schiphol 1 november 2016: https://www.youtube.com/watch?v=_jPswNvJTY

²⁰ <https://www.aliexpress.com/w/wholesale-china-cell-phone-cases.html>

²¹ http://www.gasc.gov.eg/wheat%20bids_en.htm

Customs formalities are not just in place for the import or export of goods in EU since within the Dutch definition of e-commerce also the intra EU transactions of excise goods fall within the definition as long a computer network is being used.

7.1.2 E-commerce business models

Shelby Larson describes three types of e-commerce business models namely

- ✚ drop-shipping
- ✚ wholesaling and warehousing
- ✚ white labeling and manufacturing ²²

“Drop-shipping is when you sell items on your website that are manufactured, fulfilled, and shipped to your customers by someone else. Generally, these relationships are established between you and a manufacturer or a wholesaler who has a warehouse full of the items you’d like to sell. Once the proper agreements are in place, the manufacturer or wholesaler will send you images of the products you wish to sell along with pricing. You’ll then place those items for sale in your ecommerce store. Your job is to sell the items, and the manufacturer or wholesaler will fulfill the orders and ship them to your customers.”

“Wholesaling and warehousing

This model is when you buy products in bulk and store them in a warehouse somewhere. Usually people who prefer this model are selling product in volume. People most commonly use this in a B2B market as opposed to a B2C model.”

“White Labeling and Manufacturing

Manufacturing is when you’re actually paying to have the items created for you. In white labeling, you aren’t manufacturing the product, but your licensing contract allows you to put your name or brand on it as if you are the manufacturer. So with this scenario, you are either manufacturing products overseas or importing them from overseas and putting your brand on them. You’re the top of the product chain at this point.”

Conclusion:

In view of these above mentioned definitions the question who is, at what moment, owner of the goods being sold. This is of importance when seller, buyer and type of transaction need to be named in the import declaration. This is one of the four topics which were mentioned in the letter to declarers by CAN of January 31st 2017. ²³ This letter aims to improve overall quality of import declarations.

7.1.3 Definitions of e-fulfillment

Background information about e-fulfillment as part of e-commerce is presented in this Chapter. The distribution process has become a part of the supply chain. Also distribution has become a marketing element. Evans and Wurster (1999) believe that internet retailers can offer more products than the traditional brick and mortar shops and at the same time provide more detailed product information. ²⁴ This can be a huge competitive benefit for e-commerce companies compared to traditional shops. The downside is that e-commerce companies need to develop an distribution network capable of delivering high quality service to satisfy or fulfill customer needs.

One of the big differences between regular shops selling goods to consumers and e-commerce is for example the number of orders. While shops will buy their goods in relative large amounts to sell with a certain predictability, e-fulfillment often handles individual orders with larger orders entering warehouses but with less predictability in sales.

²² Shelby Larson abstract “Moonlighting on the internet” 2nd edition (Entrepreneur Press, March 2016).

²³ CAN, letter to declarers to improve quality of declarations, 2017-KDA-1

²⁴ Evans, P., & Wurster, T. Getting Real about virtual Commerce. *Harvard Business Review*. (1999)

So instead of a stable flow of goods there is an important factor of unpredictability which is of enormous impact in logistics. Companies with the best logistics will win the consumer battle. According to Mr. L.B. the companies with best IT will win.²⁵ Mr. R.B. mentioned the growing possibilities in IT and internet as an important driver.²⁶

Also there is the aspect of where the goods are sold and where the goods are taken out of the shop by the buyer. Some goods are too large or inconvenient to take home by yourself. Just think about a large master bed, or a refrigerator, or washing machine. Contrary to shop sales, almost all e-commerce sales mean delivery at individual homes (B2C).

As with the definition of e-commerce, several definitions on e-fulfillment in research literature were found. A short and simple definition is given by Agatz c.s.: *"E-fulfillment is the delivering physical goods to the customer"*.²⁷

S.J. van der Meulen and Ir. M.R.J. Kindt established the following definition *"The complete process from the entry of the order to the final delivery of the product to the customer. In fact, e-fulfillment nothing more than ensuring that online ordered products actually reach the consumer. Within e-fulfillment are three main activities; e-warehousing, e-services and the distribution of goods ordered online."*²⁸

More elaborate is the definition and explanation by WSSN:

"Processing of goods after a transaction over the internet: receipt and storage, collection, packing and shipping of goods to the specified address." e-fulfillment includes the following activities and tasks:

- Receipt of goods
- Storage of goods
- Return Processing of returned products
- Collection of goods per order
- Wrapping up the entire order
- Metering for shipping
- Transfer to carrier
- Electronic feedback to shop
- Reporting of processed orders and stock

E-fulfillment is concerned with the logistics of a shop. Therefore, it does not include the management of the shop itself. Think about:

- Making deals
- Purchasing products
- Promotion of the website / social media
- Development of the website
- Customer service

However, these tasks can also be outsourced to e-fulfillment companies.²⁹

During the interviews with experts, most of them mentioned the movement of goods as the most important aspect of e-fulfillment.

Conclusion:

The common denominator in e-fulfillment definitions is the logistic process of delivering goods from supplier to customer, all in light of e-commerce.

²⁵ Interview with Mr. L.B. see Appendix 18.2

²⁶ Interview with Mr. R.B see Appendix 18.5

²⁷ Niels A.H. Agatz, Moritz Fleischmann *, Jo A.E.E. van Nunen, E-fulfillment and multi-channel distribution – A review European Journal of Operational Research 187 (2008) 339–356 Elsevier science direct

²⁸ S.J. van der Meulen Ir. M.R.J. Kindt, Fulfilment van online verkoop, Oktober 2013 Panteia

²⁹ <http://www.wssn.nl/e-fulfillment-betekenis/s>

7.2 Understanding different types of e-fulfillment business models

According to Harrison Dromgoole of Ordoro there are three types of e-fulfillment models used by e-tailers:

- ✚ In-house fulfillment
- ✚ Outsourced
- ✚ Dropshipping ³⁰

One of the Dutch e-commerce experts mentioned about 75%-80% of all e-commerce business worldwide went through three large parties namely Amazon, Alibaba and e-Bay. The following three chapters include a description of these three parties and concludes with a matrix showing similarities and differences.³¹ The reason to describe these three large parties is to show similarities and differences in e-commerce for a better understanding of the different business models.

7.2.1 *The Amazon business model*

Amazon was founded in the late nineties of the previous century. It all began in a garage with own stock, like books, being stored in a small space to be packaged and send. Nowadays Amazon has huge warehouses filled with products which are sold directly to online customers. The bulk of the goods are still shipped from Amazon's own warehouses but the ownership belongs to other parties namely retailers. Amazon still sells goods directly. In addition to direct sales, Amazon provides a platform for other parties to sell products to consumers. These products are often less common items, or higher priced. This way Amazon avoids having a lot of slow moving inventory, the risk of that inventory is for the other retailers. The fee Amazon receives is not to list items for sale but part of the sales price is paid to Amazon as commission. Another way of earning money for Amazon is a subscription-based business model called Amazon prime. Customers pay an annual fixed fee to ensure shiing within a certain time frame. Also there is an electronics productline to have access to streaming media (music, movies). Amazon makes money through the selling of e-reader, the Kindle, and its e-books. The bulk of Amazon sales are for the Northern American market.

Doing business through Amazon is highly automated, compared to for example e-Bay where most features are not automated and require more human handling.

7.2.2 *The Alibaba business model*

The Chinese e-commerce market is dominated by Alibaba. The core business of Alibaba resembles the e-Bay business model. Alibaba is a company that facilitates the sale of goods by acting as a middleman between buyers and sellers. This facilitation works through an extensive network of websites. The largest site of Alibaba is Taobao which operates as a fee-free marketplace. The active sellers only pay a fee to rank higher on the sites search engine, so the earnings for Alibaba are made by generating advertising revenue. Most sellers on Taobao are smaller merchants. But just like Amazon, Alibaba has a dedicated space for larger retailers with well known brands. For those larger sellers, the revenue is generated from deposits, annual user fees and sales commission.

Next to being a facilitator through e-commerce sites, Alibaba has become part of the Chinese financial system. Buyers in e-commerce can have concerns about security and validity of transactions, especially when sellers can deliver or refuse to deliver goods for which payment already is made. This platform resembles Paypal. By partnering with an independent online payment platform (Alipay), Alibaba.com provides payment security to both buyers and suppliers.

Next to this service, Alibaba generates turnover by money lending to small borrowers.

³⁰ <http://blog.justuno.com/the-top-three-fulfillment-models-in-ecommerce>

³¹ Interview with Mr. H.B. see Appendix 18.7

Under the Alibaba name there are many companies. For the market outside of China the internet platform is called Ali express.



Figure 1: Alibaba.com buyers and sellers overview

7.2.3 The e-Bay business model

e-Bay is basically a wholesaler, while Amazon is a retailer. The difference is that a retailer sells products to a wide customer base at reasonable prices while wholesalers sell goods at the lowest possible price and usually to retailers:

Wholesaler > Retailer > Customer

The business model for e-Bay is different from Amazon's since the fee structures of these two companies are entirely different. e-Bay charges a monthly rate for listings, while Amazon.com can let you list for free, but takes a percentage of sales value.

The exception on e-Bay can be that a limited amount of listings can be free of charge depending on listing format and category. You might say e-Bay is more like an online auction house.

Payment of sales to the owner of the goods is very different. e-Bay pays out directly for example when customers use PayPal. Amazon first makes out their fee and put the money two weeks on hold before paying out, to be more certain there are no refunds or returns.



7.2.4 Overall view of business models Customs perspective

After explaining how the three largest parties in e-commerce work, the three most plausible scenarios for e-commerce goods entering the Union are described:

1. Ordered goods on website, which are labeled with information about shipper, contents and data about the receiver with its address is then shipped to Union, directly followed by import declaration for free circulation on behalf of consignee.
Value: transaction value based upon 70 UCC jo 128 (1) IA.
2. Transport of goods to Union without sale, storage in a bonded (Customs) warehouse. Order on a website, then labeled and delivered to consignee after import declaration for free circulation.
Value: based upon of 70 UCC jo 128 (2) IA. Goods sold for export to Customs territory of Union while placed in temporary storage or another special procedure except internal transit, end-use or outward processing then transaction value will be determined on the basis of that sale.
3. As above scenario 2 so transport of goods to Union without sale but storage in a free warehouse. So after storage there must be a declaration for free circulation before delivery to a consignee (like for example FBA, so stock movement). Reason of this movement of stock is to have goods as near to potential customers as possible. This decreases delivery time by at least the transport of outside EU to warehouse since the goods are already in EU.
Value: based on art 74 (1) and 74 (2) UCC, so value based on transaction value of identical goods, similar goods, unit price or computed value or 74 (3) UCC, fallback procedure is possible but after request and research a permission needed from Dutch Customs valuation team (LWT).

Conclusion and summary of business models:

Amazon serves a massmarket for customers, e-Bay serves smaller and more specialized markets and Alibaba is in between serving both markets. In all cases these three parties are in almost all transactions, not the owner of the goods, but serve as a platform in such a way that other parties can conduct business with each other.

Organization	Main earnings	Bulk flow of goods or individual	Payment	Main customer markets
Amazon	Wholesaler and Logistic services	Bulk	Amazon Payments	USA Europe
Alibaba	Advertising	Both	Alipay	China Europe
e-Bay	Retailers	Individual	PayPal	USA Europe

7.3 Reverse logistics

One cannot describe e-fulfillment and e-commerce without the mentioning of reverse logistics. For some companies the phenomenon of reverse logistics are a burden, for others part of the way they do business. In this chapter I will discuss what reverse logistics are and what the impact is on Customs.

7.3.1 Definition and impact of reverse logistics

Reverse logistics involves all logistical operations regarding reuse of products, goods and materials. This may also include both remanufacturing and refurbishing.

An important observation was made by De Brito namely the difference between reverse logistics and what she calls waste management.³² This chapter will focus on the points of reverse logistics regarding consumer goods, so the delineation is about waste management.

In today's marketplace, many retailers treat merchandise returns as individual, disjointed transactions. As described by Tarn, in e-fulfillment the trade does not stop when the goods are delivered.³³ Reverse logistics has been around for some time but only recently there has been the evolution of logistics linked to e-commerce. For example, especially with internet sales, there is a significant chance that goods will be send back to the retailer. For example, a 2003 study by Nairn already mentions 30% over non-perishable goods were send back. Zalando business in 2013 mentions a percentage of about 50% of all goods being send back from customer to Zalando.³⁴ Wehkamp in 2013 mentions a percentage of 40% of all fashion goods being send back.

According to a survey at a large German warehouse the goods being send back are mostly:

Type of goods	Percentage send back
Women fashion	59
Sport clothing	48
Men fashion	45
Child fashion	35
Electronics	16
Furniture	10

Source: <https://www.paazl.com/nl/retourpercentages-eeen-overzicht>

Reverse logistics have an enormous impact on the logistical chain for companies. The returned goods must be received, checked, repacked and redistributed.

7.3.2 Impact on Customs

Govindan conducted a research on reverse logistics and closed-loop supply chain.³⁵ A total of 382 papers published between January 2007 and March 2013 were selected and reviewed by Govindan. In none of those publications Govindan found it of enough interest to mention Customs or import or export. Also in the interviews with experts none found reverse logistics interesting enough to mention.

Conclusion:

In both research literature and interviews with stakeholders there is no proof found that good flows involving reverse logistics have a significant impact on Customs.

³² MARISA P. DE BRITO Managing Reverse Logistics or Reversing Logistics Management? ERIM PhD Series Research in Management, 35 Erasmus Research Institute of Management (ERIM) Erasmus University Rotterdam, 2003

³³ E-fulfillment: the strategy and operational requirements, J. Michael Tarn Muhammad A. Razi H. Joseph Wen and Angel A. Perez Jr, Logistics Information Management Volume 16 · Number 5 · 2003 · pp. 350-362

³⁴ <http://www.emerce.nl/nieuws/zalando-50-procent-bestellingen-komt-retour>

³⁵ Reverse logistics and closed-loop supply chain: A comprehensive review to explore the future Kannan Govindan a,†, Hamed Soleimani b, Devika Kannan c European Journal of Operational Research Juli 2014

7.3.3 Addition to science

While searching for scientific articles about reverse logistics a review was found in the European Journal of Operational research by Fleischmann et al.³⁶ This thesis describes that consumer goods like copiers and refrigerators can be part of reverse logistics in case of recovery. There is a major distinction between material recovery (also called recycling) and added value recovery like repair or remanufacturing. Now, with e-commerce, there is a different form of reuse of goods namely the refurbishing of consumer goods being send back to the fulfillment center or another warehouse in the logistical chain. The summary states that recent advances in IT technology may contribute to a better control of systems. I would state this fact not so careful as Fleischmann et al mention but emphasize the fact that those parties in the market with the best IT have a competitive advantage.³⁷

7.4 Trend analysis for e-commerce

7.4.1 Short term (1-3 years)

In the interview with Mr. P.N., a risk-analyst working for CAN, a yearly growth percentage of 15% was mentioned as expected growth in e-commerce in number of shipments and transactions. He compares the growth of internet sales to EU *“like a tsunami, growing almost every day”*.³⁸

In a report from E-commerce Europe a growth percentage of about 13%, in value for the year 2015 compared to 2014 was mentioned for Western and Central Europe.³⁹ For relatively short term measures this might be an acceptable sounding percentage. The hard part however is how to distinguish in import declarations which shipments are e-commerce shipments. Reason for this is that the Dutch AGS system has no feature to distinguish e-commerce. So to mitigate risks which are particular for e-commerce CAN has a hard time analyzing import declarations. This risk mitigating process involves both post clearance audits and also profiling of shipments in advance or the verification by Customs of import declarations.

³⁶ Fleischmann M. et al, Quantitative models for reverse logistics: a review, 1997 Elsevier Science European Journal of Operational research 103 p 1-17

³⁷ Interview with Mr. L.B. see Appendix 18.2

³⁸ Interview with Mr. P.N. see Appendix 18.6

³⁹ European B2C E-commerce Report 2015. *Facts, Figures, Infographics & Trends of 2014 and the 2015 Forecast of the European B2C E-commerce Market of Goods and Services*. E-commerce Europe, 2016

A UK survey shows that growth of B2C e-commerce is slowing down during the period 2012-2016, but still grows by at least 10,5%. ⁴⁰

B2C E-COMMERCE TURNOVER AND GROWTH RATE

Total online sales of goods and services, in millions of euros, 2012-2016



Source: IMRG, Capgemini and Ecommerce Foundation, 2016

Figure 2: Growth of B2C in UK 2012-2016

Conclusions:

In the next couple of years (2017-2019) the increase of import shipments and therefor declarations regarding e-commerce shipments by a percentage of 10% to 15% seems realistic. Beyond the next couple of years or the so-called near future, the predictions will become less foreseeable as future periods get longer and predictions will become less reliable.

Possible solutions are Customs needs to invest in both people and systems to mitigate e-commerce related risks. Another option would be to diversify the number of physical checks making use of thresholds in Customs value so the more important shipments have a bigger chance of selection. This in combination with possible lost revenue (Customs duties and VAT). This can only be achieved when declared Customs value is found to be correct.

7.4.2 Near future (3-8 years, 2019-2025)

For supervision one cannot just take historic or current figures into the equation. Also the near future needs to be forecasted. For a look into the near future (2019-2025), there needs to be a scientific explanation about possible scenarios. Terbeck developed 4 plausible scenarios based on desk research, expert interviews and Delphi-survey rounds with industry experts. These 4 scenarios describe what the e-commerce world in 2025 could look like. ⁴¹ Most experts agree that e-commerce will replace traditional commerce step by step, so an increase in the flow of goods being imported into EU is to be expected. Experts mostly agree that 3D printing and cross-channel data technologies will have an impact on the retail industry, but by which degree is not quantifiable yet.

⁴⁰ <https://ecommercenews.eu/ecommerce-uk-reach-e174-billion-2016/>

⁴¹ H. Terbeck, Master Thesis E-commerce 2025 Delphi based scenario & trend analysis for the future of digital commerce, University of Twente December 30th 2014

So on the one hand there are indications consumers will order more consumer goods online from outside EU, on the other hand with emerging 3D technology this could mean production will be growing in EU. The implications of 3D printing could be, when production is done in EU, less small import shipments in numbers since production in EU replaces imports. On the other hand this could mean an increase of import of raw materials needed for 3D printing.

Conclusions:

There is no quantifiable answer to the question what the impact of 3D printing will be in the near future on the number of import declarations.

The flow of goods will rise more and more with the expected growth of e-commerce. In view of growing flow of e-commerce shipments from outside EU into EU, an increase of import declarations is to be expected.

7.4.3 Consumer wishes

It is hard to predict consumer reactions to new and virtual offers.⁴² What is seen at this moment is that customers want products that fulfill their needs, in the timeframe they want to receive the goods, while also demanding transparency in prices and at the same time lower prices. As Sundarajan mentions *"This reengineering of consumption is a natural consequence of the ongoing consumerization of digital technologies."*⁴³ Experts do agree that the bargaining power of consumers is on the rise with the spread of internet the prices are very transparent for similar products. This means that traditional retailers will lose their old position in the market, making consumers even more interested in e-commerce since the availability of real brick stores will become less and less. You might see a shift in consumer behaviour. For example, you used go into town to buy a shirt and after visiting several shops to fulfill your shopping need you might sit down in a bar to have a cup of coffee. Nowadays consumers go into town for a coffee and besides that as a secondary objective look at shirts and then make a decision to buy it at a shop or order it online for example by making use of their smartphone (think M-commerce).

In a survey conducted by Dutch Consumerguide in 2017, 1.666 people were asked to share their experiences regarding buying at Chinese webshops.⁴⁴ 75% Of all the purchases done by respondents were below 22 euro, in which case no Customs duties and VAT are due. The outcome of the survey was more positive than first expected by Consumerguide. Over 80% of respondents would probably buy again on Chinese webshops, only 8% would never do it again while the rest was neutral. Respondents encountered several issues regarding quality (broken or damaged) or delivery (wrong color, other articles than ordered). About 25% of respondents had these issues. This percentage is substantially higher than issues with online purchases in the Netherlands in the same period, namely 9% domestic purchases with issues. About 60% of purchases was delivered in the promised time frame, which of course is a longer period than purchases in Dutch webshops. According to the survey the solutions offered on shipments with issues was good on average. Fast communication was mentioned as positive, although sometimes quite a lot of emails were needed to solve problems.

⁴² Burt, S. and Sparks, L. E-commerce and the retail process: a review, Institute for Retail Studies, University of Stirling, Stirling FK9 4LA, UK Journal of Retailing and Consumer Services 10 (2003) p 275

⁴³ Sundarajan, A. From Zipcar to the Sharing Economy JANUARY 03, 2013 Harvard Business review

⁴⁴ Consumentengids maart 2017 p 54-59.

The overall conclusion from the survey by Consumerguide is that consumers sometimes need a lot of time and effort to get their products for a lower price out of China than from suppliers based in the Netherlands.

Zhou mentions personalized online environments may positively have an effect on customers' experiences and may increase their loyalty.⁴⁵

The development of automation makes this personalization easier therefor increasing positive feelings making internet even more attractive to use as platform for buying.

A lot of e-commerce trade is conducted between buyers in EU and sellers in China. Since there are no current plans for free trade agreement between EU and China, the import duty rates will most probable not be lowered significantly and supervision on the correctness of import declarations in both classification as valuation and origin will stay of importance. Bear in mind that VAT rates are in almost all cases higher than import duty rates.

Conclusions:

Despite the general feeling of interviewees, consumers seem to have less need of speedy delivery than was expected beforehand as the survey by Consumeguide shows. In general, low prices in a transparent market and service seem to be of more importance than speed of delivery.

However, when the option is given, speed is a determining factor among homogenous goods with small price differences. Satisfied customers come back to buy again.

7.4.4 TTIP

The same about future uncertainty can be said about the impact of political decisions. As of mid-term 2016 a possible free trade agreement between EU and USA, the TTIP or TTP ⁴⁶ was almost a reality but with the election of Mr. D. Trump as President of the USA there will be a higher chance of more trade barriers than free trade. The block of EU and USA together represents approximately 60% of global GDP, 33% of world trade in goods and 42% of global world trade (figures 2012). ⁴⁷ There have been a number of trade conflicts between the EU and USA but both blocks depend on each other's economic markets. Had the TTIP been established this would have been the largest free trade agreement in the worlds history. Free trade would have meant less tax related checks by Customs.

7.4.5 Brexit

A future development will be the so-called Brexit. There is a lot of trade between EU, specifically the Netherlands, and UK. By declining trade, the loss for the Netherlands because of Brexit, can be up to 1.2 percent of gross domestic product by 2030 (10 billion euro), as calculated by the Dutch Central Planning Bureau (CPB).

In a scenario where less trade also leads to less innovation, this amount is possible even up to 16.5 billion euro, as calculated by CPB.

According to an article in NRC newspaper, the food processing industry would be hit hardest. ⁴⁸ Since the Treaty of Maastricht (1992), goods when crossing internal borders of the EU, is no longer subject to controls and the EU form a single territory. The abolishment of Customs duties within the EU is beneficial for their trade in the EU member states. The free movement of goods is one of the four essential pillars of the EU internal market. When the UK leaves the EU this automatically will mean no more free movement of goods between EU and UK. ⁴⁹

⁴⁵ Zhou, L., Dai, L., & Zhang, D. (2007). Online shopping acceptance model - a critical survey of consumer factors in online shopping. *Journal of Electronic Commerce Research*, 8(1), 41–62.

⁴⁶ Transatlantic Trade and Investment Partnership (TTP)

⁴⁷ "Nominal 2012 GDP for the world and the European Union (EU)". *World Economic Outlook Database*, October 2013. *International Monetary Fund*.

⁴⁸ NRC, 24th of June 2016

⁴⁹ https://www.europa-nu.nl/id/vh7douva6mo0/vrij_verkeer_van_goederen

And when there is no free flow of goods this means certain custom formalities will be in place, no matter if there is a free trade agreement or not. It will be like trade with any other non-EU countries.

According to the Dutch Central Bureau of Statistics (CBS) trade with UK was in 2015:
Export to UK 38 billion euro, most important products: ⁵⁰

	billion
Telecommunication devices	€ 3,5
Office equipment	€ 2,5
Pharmaceutical	€ 2,3
Vegetables and fruit	€ 1,9

Import from UK 20,9 billion euro, most important products:

	billion
Pharmaceutical	€ 2,0
Chemicals	€ 1,1
Road transport, cars	€ 0,8

Despite thorough research these figures were not quantifiable in number of transports. Therefor the impact of needed declarations for import and export are subject to further investigation. The expectation that the British Pound will fall by about 20% will have an impact on both import and export. Furthermore, the United Kingdom would have to negotiate trade agreements because otherwise no preferences will be possible. ⁵¹

The impact of Brexit on the Dutch enforcement vision is unknown and needs further investigation. A big question will be what EU will do with UK companies who currently have AEO status but as result of Brexit will lose that status. Will they be seen as yellow, green or blue? ⁵² Another question is, how will CAN enforce? Customs would need to calculate how much capacity is needed not just for goods transport entering or leaving EU territory but also travellers entering and leaving EU. Although the United Kingdom is not part of the Schengen treaty and continue to operate the Common Travel Area systematic border controls with other EU member states, the impact should be examined.



Conclusion:

An impact calculation regarding consequences of Brexit on CAN needs to be made. Main questions to be answered are how many import and export declarations plus transit movements are expected when UK leaves the EU. Also an impact analysis need to be made about custom duties, therefor the questions about valuation and which HS codes are being imported and exported need to be taken in the inquiry. The number of passengers will be taken into account also since Customs staff needs to be allocated for passenger checks, no matter by sea or air (land seems of less impact). These questions do not fall into the scope of this thesis but will most certainly be subject of future research.

⁵⁰ <http://www.rvo.nl/onderwerpen/internationaal-ondernemen/landeninformatie/verenigd-koninkrijk/handel-en-economie>

⁵¹ <https://www.pwc.nl/nl/assets/documents/pwc-brexit-leaflet.pdf>

⁵² For explanation about these colors see Chapter 9.6 about Enforcement Vision

7.4.6 *Trend payment systems*

According to a survey by Keira McDermott in 2015, there has been a fundamental shift in cross-border e-commerce: cross-border payments are becoming cleaner and this shift was not driven solely by increased consumer demand, but mostly by merchants.⁵³ By making cross-border transactions easier and also saver, the incentive to shop online only becomes bigger for consumers. Another factor is the (often easy) way to get a refund when goods are for some reason not satisfactory enough and do not meet consumers demands or expectations.

7.4.7 *Trend smaller traders*

A trend that has been hardly noticed, is the fact that more and more sellers in e-commerce are small business, so-called marginal participants, in trade or small traders. Reason for the apparent succes of these small traders is that e-commerce trade drastically can lower costs compared to brick-and- mortar shops. By way of internet small traders can be very visible and it is easy to interact with potential buyers all around the world. Smaller traders have less capacity to meet the sometimes difficult trade regulations. Customs will have a harder time to monitor shipments being send by smaller traders. Customs is better equipped to monitor trade volumes for large and medium-sized parties. This absolutely has a negative impact on the background of the Enforcement Vision.

Therefor a new Customs framework is needed to tackle these risks from so-called small business which is becoming an increasing part of import.

Mitigate risks from small traders:

Kati Suominen is, among other, adjunct professor at UCLA Anderson School of Management. She has the following ideas how to mitigate risks in this trend about smaller traders:

- ✚ Make use of Big Data for online trade. This will give insight in for example new parties in trade. With Big Data anomalies should be better detectable and selections could be used to target the most striking shipments and companies to examine and allow less impact on the logistics of legitimate (or less suspicious) trade. A public-private partnership with the big online platforms like e-Bay, Alibaba and similar parties in the logistical chain could give Customs better opportunities to make predictive analytics in e-commerce and better risk-targeting.
- ✚ Make life easier for small companies to file trade compliance data. For example, less fields to fill and only those relevant for for example tariff code, value, sources buyer and seller.
- ✚ Make use of a customer complaint site where problems and delays can be reported to Customs.
- ✚ Modern de-minimis rules which would free up Customs resources to focus more on indentifying threats like terrorism, counterfeit merchandise, drugs and other safety related matters.
- ✚ Collaborate with trade partners around the world like the Asia-Pacific Economic Cooperation, the NAFTA region and the transatlantic market USA-Europe.⁵⁴

In one of the interviews a Customs analyst mentioned that about 50% of imports at location Amsterdam Schiphol Airport was below the 22 euro threshold. This does not automatically mean these shipments come from small traders but does mean a large number of small shipments.

⁵³ McDermott K., Key business drivers and opportunities in cross border e-commerce, 2016

⁵⁴ <http://www.brinknews.com/rise-of-ecommerce-creates-new-risk-scenarios-for-customs-agencies/>

7.4.8 Silk Road- Trend of train transport

Silk Road was the name first used for the silk route from the eastern part of Asia to the Mediterranean beginning during the Han dynasty (200 BC) until the Middle Ages. Transport was over land. Because of the development of sea transport the land transport modality decreased. Now, with the renewed interest in rail transport, there is a new Silk Road. The reason for the renewed interest is the fact that transport by train can be up to three times cheaper than by ship and also is faster. It takes a ship 30 to 45 days to sail from China to The Netherlands. By train this journey would take 15 days.⁵⁵ After arrival of the train further transport is needed which could be a way of making optimal use of the synchromodality theory of Behdani et al.⁵⁶

According to the train manager of CAN, the first entry of the train into EU territory would be in Poland where first checks would take place. That would mean no impact on supervision upon entry for Dutch Customs. However there are other Customs formalities in place like the obligations after entry and filing of import declarations as described under Chapter 11.4 and 11.5.

Early indications are that, because of lower transport costs and faster delivery times, train transport could become a larger workflow for Dutch Customs. If train transport grows this will have an impact on transports by ship to, for example the port of Rotterdam. This topic was not further investigated but could be a topic for another research.

7.5 Consequences of trends for Customs Supervision

The boom in online shopping has been, and most certainly will continue to be, of enormous impact on goods entering the Union.

- ✚ A continuous growth of shipments is expected in the near future.
- ✚ More smaller shipments, sent to consumers directly, with low value and sent by unknown traders are to be expected.
- ✚ The impact of 3D technology on the growth in numbers of shipments seems to be negligible, or at least of minor impact at the moment of writing this thesis.
- ✚ The Brexit will mean more non-Union goods entering and leaving EU. Since there is no preferential trade treaty foreseeable in the near future import declarations will still need checks regarding the correctness of Customs duties.
- ✚ The Brexit will mean more non-Union persons entering and leaving EU meaning extra work for staff working at borders (both road, sea, air).
- ✚ Train transport is expected to grow. The first Customs physical checks will probably be made at point of first entry into EU, most probably Poland or other EU states at the Eastern border of EU. This could mean less trade in the port of Rotterdam coming with less Customs checks also.
- ✚ Though not seen as trend, abolishing the VENUE and 22 euro threshold are discussed under Chapter 11.8 Legal developments.

⁵⁵ <https://www.tilburg.nl/actueel/nieuws/item/treinverbinding-tussen-chengdu-en-tilburg/> 4-11-2016

⁵⁶ Behdani B., Fan Y., Wiegman B., Zuidwijk R. (2014). Multimodal Schedule Design for Synchromodal Freight Transport Systems.

8 About GATT, WTO, WCO, SAFE and AEO

For a thorough understanding how EU and CAN work this Chapter 8 describes which international organizations have an impact on EU and CAN related issues and legislation.

8.1 GATT and WTO

The growth of global trade and increasing security threats to the international movement of goods have forced Customs administrations to shift their focus more and more to securing the international trade flow and away from the traditional task of collecting Customs duties. The World Trade Organization is an intergovernmental organization which aim is to regulate and liberalizing international trade. A number of 123 nations signed the Marrakesh Agreement to start the WTO and thereby replacing the former General Agreement on Tariffs and Trade which was in place since 1948. The WTO has drawn up the establishment of the Customs value based on the "Agreement of Article VII of the General Agreement on Tariffs" (GATT). The GATT is still in effect as part of the WTO framework. This valuation agreement includes all the basic rules regarding the determination of Customs value.⁵⁷ All countries which are member of WTO must respect these basic rules. The intention is to achieve a uniform application of Customs valuation in the world. But in practice the valuation agreement is open to different interpretations especially in the chain of transactions.

8.2 WCO and SAFE

In a historical perspective, Customs organizations have seen the following developments:

- ✚ Revenue collection of import taxes (excise and duties)
- ✚ Protection of the domestic industry and economic interests
- ✚ Protection of society (safety, health, environment)
- ✚ Economic development (including trade facilitation)
- ✚ Security vs. terrorism, shifting focus not just on import or exports but focus on the entire supply chain.
- ✚ Framework of standards.⁵⁸

The role of the World Customs Organization (WCO) is primarily to enhance the effectiveness and efficiency of Customs organizations. Recognizing the developments in the growth of global trade and increasing security threats, the WCO, drafted the WCO Framework of Standards to Secure and Facilitate global trade (SAFE). In this framework, several standards are included that can assist Customs administrations in meeting these new challenges. Developing an Authorized Economic Operator (AEO) programme is a core part of SAFE.

8.3 AEO

Economic operators in the EU can apply for an AEO status either to have easier access to Customs simplifications or to be in a more favorable position to comply with security requirements. Under the security framework, which has been applicable since July 1st 2009, economic operators have to submit pre-arrival and pre-departure information on goods entering or leaving the EU. The legal basis of AEO are European Council Regulation 648/2005 and European Commission Regulation 1875/2006.

⁵⁷ S. Kruijkemeijer, master thesis Douanewaarde the First Sale for Export , Rotterdam Erasmus University (2010) p.5

⁵⁸ Introduction of the WCO Presentation WCO (april 2009)

8.3.1 AEO in EU context

The AEO concept is based on the Customs-to-Business partnership introduced by the WCO. Traders who voluntarily meet a wide range of criteria work in close cooperation with Customs authorities to assure the common objective of supply chain security and are entitled to enjoy benefits throughout the EU. The EU established its AEO concept based on the internationally recognised standards, creating a legal basis for it in 2008 through the 'security amendments' to the "Community Customs Code" (CCC) ⁵⁹ and its implementing provisions.

The programme, which aims to enhance international supply chain security and to facilitate legitimate trade, is open to all supply chain actors in the Customs territory of the EU being part of the international supply chain and being involved in Custom related operations.

It covers economic operators authorised for Customs simplification (AEO-C), security and safety (AEO-S) or a combination of these two.

Since May 1st 2016 the UCC ⁶⁰ is in effect. On basis of Article 39 of this UCC, the AEO status can be granted to any economic operator meeting the following common criteria:

Conditions and criteria	AEO-C	AEO-S
1. Compliance with Customs legislation, taxation rules and no criminal offences related to economic activities	X	X
2. Appropriate record keeping	X	X
3. Financial solvency	X	X
4. Proven standards of competence or professional qualifications	X	
5. Appropriate security and safety measures		X

The AEO status granted by one EU Member State is mutually recognised by the Customs authorities in all EU Member States (Article 38 (4) UCC).

⁵⁹ Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code

⁶⁰ Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013

8.3.2 Benefits of EU-AEO status

The benefits of AEO are an integral part of the EU legislation. Depending on which type of AEO has been granted, the benefits are:

Benefits	AEO-C	AEO-S
1. Easier admittance to Customs simplifications	X	
2. Less physical and document based controles Related to safety & security Related to other Customs legislation	X	X
3. Prior notification of safety and security related selection for physical custom control		X
4. Prior notification of other Customs legislation related selection for custom control	X	
5. Priority treatment if selected for control compared to non-AEO	X	X
6. Specific place possible for Customs controls	X	X
7. Several indirect benefits like recognition as secure and safe business partner and improved relationship with Customs and other authorities etc.	X	X
8. Mutual recognition with third countries		X

8.3.3 Mutual recognition of world wide similar AEO programs

A chain is as strong as its weakest link. The same saying goes for supply chains which can be very complex in today's world. Globalization has made logistics and production even more complex. Many different parties can be involved in supply chains. All these parties in the supply chain can be vulnerable to some degree to illegal practices for example theft, smuggling, human trafficking, piggy-backing or even the exploitation by terrorists. To mitigate these risks one cannot only focus on individual parts of supply chains, but you have to look at supply chains as a whole.

The security type of AEO certificate and its combined counterpart allow their holders to benefit from facilitations with regard to the Customs controls relating to security. They also allow their holders to benefit from Mutual Recognition Agreements (MRA) with countries outside the EU. Examples of countries with similar AEO programs are

- ✚ South-Korea
- ✚ China
- ✚ Malaysia
- ✚ Singapore
- ✚ New Zealand
- ✚ Canada
- ✚ United States of America
- ✚ Japan

8.4 Conclusions AEO

AEO status has benefits but also disadvantages for companies. The benefits for companies can be financial (less or no financial guarantees, less burden of Customs checks) and non-financial like showing that a company is economically reliable and trustworthy. By following AEO and its standards, companies could be better protected against theft, have a more responsible employee policy and improve work processes by being more in control.



The disadvantages can be that companies must make investments to meet AEO criteria for example setting up a management program and/or invest into safety procedures. Another disadvantage can be, after getting AEO authorisation, companies must continue investing to keep up to standard with the obligations set in AEO criteria.

For Customs, benefits can be found in having more companies to trust, meaning the efforts to mitigate risks could be focused more on the less trustworthy companies. This is part of the Enforcement Vision as explained in the following Chapter 9.6.

9 Customs Union foundation of the EU

9.1 Single EU market and UCC

The only way the single market can function properly is when the common rules at the external borders are commonly applied. To achieve this all 28 national Customs administrations of the EU act as though they were one Customs administration.⁶¹

These common rules are applicable, for example for its common tariff and touches all aspects of trade policy among other:

- ✚ Preferential trade
- ✚ Controles on health en environment
- ✚ Common policies for the agricultural and fishing sector
- ✚ Protection of EU economic interests
- ✚ External relations policy measures

Besides trade policy aspects the Customs authorities also carry out the ever increasing non-fiscal tasks to improve the internal EU security. Especially since the attack of 9-11 and more recently in the EU on cities like London, Madrid, Brussels and Paris we have come to realize that crime and terrorism does not stop at the border of a nation. On one hand the Customs authorities must protect safety and security and on the other hand there must be a smooth flow of goods while still applying controls.

To find the correct balance between all these demands both Customs legal procedures, legislation and the control methods plus co-operation between different services had to be reinforced. Therefore the UCC was laid down as per May 1st 2016. One of the emphasis of this UCC is to achieve 100% electronic communication between trade and the Customs authorities.

However details about EU-wide IT systems still need to be developed. This program is called MASP⁶² which is a “*management and planning tool drawn up by the European Commission in partnership with Member States in accordance with Article 8(2) of the e-Customs decision*”⁶³. *The MASP ensures effective and coherent management of IT projects by setting down both a strategic framework and milestones. It is to be endorsed by Member States in the Customs Policy Group (CPG). Endorsement takes place based on expert advice provided by the Electronic Customs Coordination Group (ECCG) and consultations with trade at the Trade Contact Group (TCG).*”

⁶¹ http://ec.europa.eu/taxation_customs/general-information-customs/eu-customs-strategy_en

⁶² Electronic Customs Multi-Annual Strategic Plan 2016 REVISION MASP Rev. 2016 Version 1.3, Taxud.a.3(2016)3384892, European Commission

⁶³ Decision No 70/2008/EC of the European Parliament and of the Council of 15 January 2008 on a paperless customs environment for customs and trade, OJ 2008, N° L23, p. 21.



Figure 3: The 28 EU Member States year 2017

9.2 Size of EU trade compared to world trade

"In 2014 the value of the entire world trade amounted to 21.5 trillion euro. The EU is one of the main players in the global arena, concerning trade and supply chain logistics, alongside the United States and China, having a share of 16% in the world total trade. " (Eurostat)⁶⁴

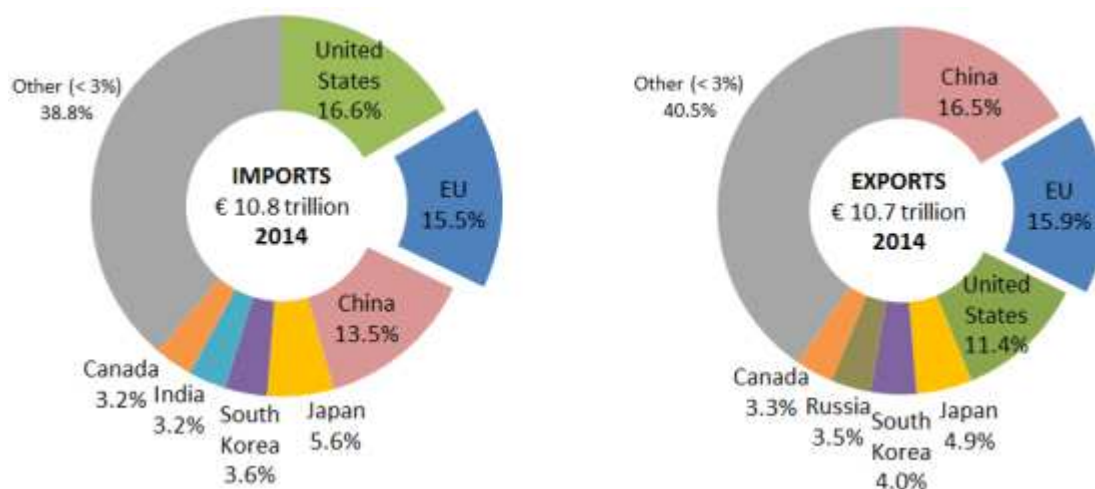


Figure 4: World trade Imports and Exports 2014 compared

⁶⁴ Source: Eurostat, https://ec.europa.eu/taxation_customs/facts-figures/eu-customs-union-unique-world_en

9.3 Customs duties collected in EU

In 2015 Customs authorities in the EU collected 23.3 billion euro of which 18.6 billion euro was transferred to EU budget (source: Eurostat and DG Taxation and Customs Union).

The chart below shows the structure of the own resources of the EU budget as well as the share of Customs duties in the total budget for 2015.

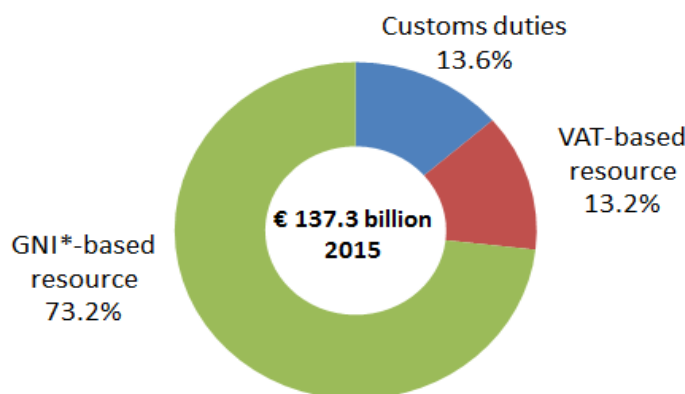


Figure 5: Share of Customs duties in own resource of EU budget 2015

9.4 CAN facts and figures

According to the Dutch Rijksverslag 2015 the amount of collected Customs duties is expected to be 3,0 billion euro of which 25% is kept in the Netherlands and 75% has to be donated to Brussels.⁶⁵ For 2016 this amount of import duties is expected to be 3,2 billion euro.⁶⁶

9.5 Organization of CAN

In the Netherlands, the department of Customs falls under the DTCA which is part of the Ministry of Finance.⁶⁷ Customs monitors the import, export and transit of goods, ensures the levying and collection of domestic excise and import into the European Union and also checks whether the products meet requirements in terms of safety, health, economy and environment.⁶⁸ Hereunder the mission of CAN is described followed by the strategic goals.

9.5.1 Mission

CAN checks and promotes safety and (tax) integrity of goods across external borders and takes care of charging and collecting of domestic excise and import duties laid down in the European Union's context.

They monitor the incoming and outgoing flow of goods in trade with countries outside the European Union. This together with the non-tax related prohibitions and restrictions in the area of safety, health, economy and environment and protection of tax and other financial interests. The strategic objective of the enforcement by CAN is to promote voluntary compliance with laws and regulations by businesses and citizens. The action of the service is based on trust in the customer. Where trust is justified, businesses and citizens are enabled to conduct business as convenient as possible. Where trust is violated supervision is strengthened.

⁶⁵ <https://www.rijksoverheid.nl/onderwerpen/verantwoordingsdag/inhoud/verantwoording>

⁶⁶ <https://www.rijksoverheid.nl/onderwerpen/prinsjesdag/inhoud/miljoenennota-rijksbegroting-en-troonrede/huishoudboekje>

⁶⁷ <https://www.rijksoverheid.nl/ministeries/ministerie-van-financien/inhoud/organisatie/organogram>

⁶⁸ <https://belastingdienst-in-beeld.nl/over-de-belastingdienst/hoe-zijn-we-georganiseerd/>

9.5.2 Strategic goals CAN

CAN has the following three strategic objectives:

✚ Remittance

Tax returns are as complete as possible. This means that the duties and excises which are due are levied and collected. The amounts collected are paid to either the National Treasury and partly to the European Union.

✚ Protection

Ensure that society is protected as much as possible from unsafe and / or unwanted goods entering or leaving the EU. These are the areas of Safety, Health, Economy and Environment.

✚ Competitiveness

Make a contribution to strengthen the competitiveness of the EU and the Netherlands. CAN contributes to strengthening the competitiveness on one hand to ensure compliance with EU measures including the fight against counterfeit goods and the levying of anti-dumping duties. Alternatively, CAN promotes rapid and proper Customs clearance, resulting in less administrative and physical burden, in particular for bona fide businesses. The AEO programs are a good example of this.

These three goals are achieved by maintaining innovative, smart and targeted effect, whereby the administrative and supervisory burden is as low as possible. This requires a lot of adaptability of the organization and her employees. The dynamics in the world of international trade and logistics chains is substantial and the national and EU policy context is changing constantly.

To achieve optimal compliance, a range of instruments and services, is used to monitor and detect. Customs informs citizens and businesses about their obligations, provide help and give explanations. In the implementation and accountability of these tasks the organization is highly dependent on automated systems. Both the continuity of existing and the development and implementation of new systems demand a lot of attention in staff and financial investments.⁶⁹

⁶⁹ <http://douanenet.belastingdienst.nl/Organisatie/OverdeDouane.aspx>

9.6 Enforcement vision CAN explained

To understand the enforcement vision of CAN the following figure is explained.

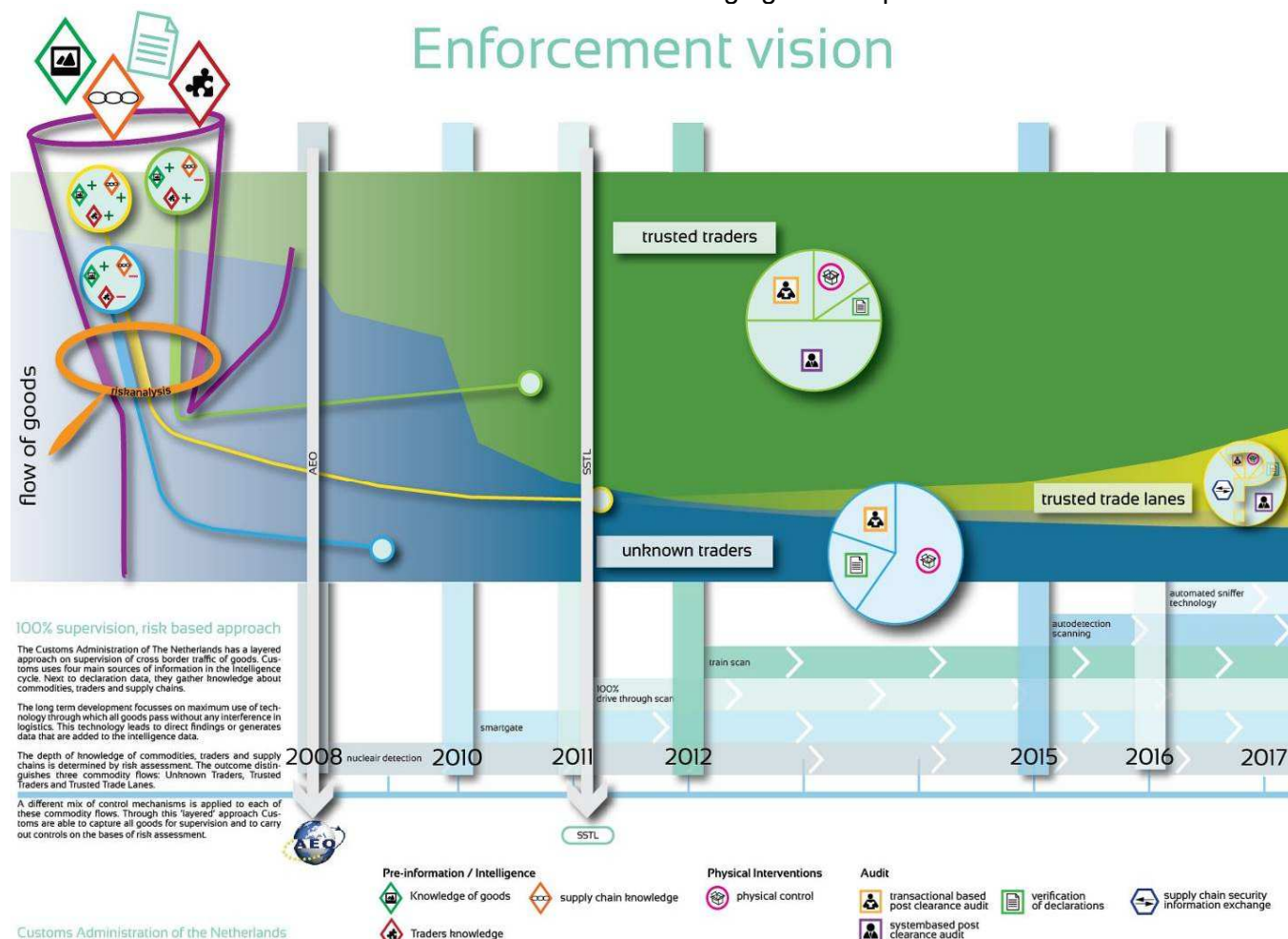


Figure 6: Dutch Customs enforcement vision

In 2015 CAN helped organizing the 5th bi-annual WCO Technology and innovation forum in Rotterdam, the Netherlands. Under the header “Pushing boundaries”⁷⁰ several enforcements concepts were explained. Key aspect of the vision is that Customs must supervise all transports and goods that cross the Dutch EU-external borders so both goods entering as leaving. Not all transports are physically checked, but the required notifications and declarations are checked mostly through automated systems and upon selection by humans.

In the near future CAN foresees:

- ✚ Scanning and detection in the flow of goods
- ✚ Autodetection in the flow of data
- ✚ More grip on the flow of goods through the blue channel
- ✚ Development of the flow of goods through the green channel
- ✚ Development of the flow of goods through the yellow channel

⁷⁰ <https://www.youtube.com/watch?v=iiNKKIBO99k> and Whitepaper: Pushing Boundaries: The Customs Administration of The Netherlands' point on the horizon for the enforcement on continuously increasing flows of goods (June 2014)

Explanation of the colors

*“The **Green** traders are the so-called Trusted Traders. Traders are classified to the **Green** lane based on the risk analysis and the knowledge about those traders. These traders are known to the Customs organization and are AEO Certified.*

*Traders in the **Yellow** lane are trusted traders just like the Green traders but they form a chain of trusted traders in a whole supply chain or lead the whole global supply chain. They take a pro-active approach towards compliance by leading or support various research projects (supply chain visibility, high quality data exchange etc.), and they actively work together with government agencies or invest in technological solutions for data-exchange.*

*The **Blue** traders are the so-called “Unknown Traders”. These unknown traders are not AEO certified, don’t have a known pro-active approach to compliance and/or are in that sense unknown to government agencies. This enforcement vision enables Customs to focus more on the goods and traders that have a higher risk of incompliance.”⁷¹*

Conclusion:

The overall picture seems to indicate a fall in unknown traders while trusted traders and trusted trade lanes will be the trend for the future. However, the number of **Blue** traders is on the rise as is described in Chapters 7.4 (trend analysis for e-commerce) and 13.1 (AS IS analysis).

So-called faceless traders have become market players more and more. These traders are not known and therefor not trusted as defined under **Green** or **Yellow**.



⁷¹ Network Trade Compliance: The Basis For A Trusted Supply Chain Whitepaper December 2014

10 Methodology of data collection

For the collection of data a combination of methods was used such as interviews, reading and studying legislation, thesis and publications about the subjects of legal, logistics and Customs and (less reliable) internet open sources and newspapers articles.

10.1 Interviews

After conducting the stakeholder analysis I made a list of possible candidates for interviews. Most interviews were done in a live setting. On several occasions the interview was held by telephone. The interviewees ranged from:

- ✦ staff from primary Customs processes being involved in client management, supervisor in
- ✦ the declaration department handling import declarations
- ✦ risk analysts general risks
- ✦ risk analyst e-commerce
- ✦ project manager for improvement of declarations
- ✦ project leader e-commerce
- ✦ management of import declaration department
- ✦ management of risk analysts DLTC
- ✦ Customs client manager rail
- ✦ FIOD ECD analyst rail
- ✦ experts on e-commerce
- ✦ auditors CAN involved in post clearance audits
- ✦ policy maker for non fiscal aspects of import and export

10.2 Legislation

The legal basis for import declarations lies in both EU legislation as in national legislation: Regulation (EU) no 952/2013 of the European Parliament and of the Council of October 9th 2013 laying down the Union Customs Code (UCC):

- ✦ Commission Delegated Regulation (EU) 2015/2446 of July 28th 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code.
- ✦ Commission implementing regulation (EU) 2015/2447 of November 24th 2015 laying down detailed rules for implementing certain provisions of regulation (EU) no 952/2013 of The European Parliament and of the council laying down the Union Customs Code-IA.
- ✦ Council Regulation (EC) No 1186/2009 of November 16th 2009 setting up a Community system of reliefs from Customs duty.

VAT:

The sixth VAT Directive introduces the fixed establishment.⁷²

VAT Implementing regulations providing definitions of fixed establishment.⁷³ The conclusion of Schippers and Boender in “VAT and fixed establishments: mysteries solved?” is that it is still unclear in EU whether transactions between a head office and a fixed establishment are taxable or not.⁷⁴

Dutch national Customs legislation among other Algemene douanewet, Algemene Douaneregeling, Algemeen Douanebesluit.

⁷² Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes – Common system of value added tax: uniform basis of assessment, *Official Journal* 1977, L 145.

⁷³ Council Implementing Regulation (EU) No. 282/2011 of 15 Mar. 2011 laying down implementing measures for Directive 2006/112/EC on the common system of value added tax, *Official Journal* 2011, L 77, as amended most recently on 26 Oct. 2013, *Official Journal* 2013, L 284.

⁷⁴ Martijn Schippers Mark Boender *Intertax* 2015 nr. 11 november 2015. - p. 709-723

10.3 Thesis

There are many thesis and academic papers found about the subjects of Customs, logistics and the topic of fulfillment. A full list of the thesis and papers which were used for this thesis is listed in Chapter 17 with the list of references.

10.4 Trends

For trends I used several interviews with Customs experts and a thesis by Terbeck.⁷⁵ Unfortunately, it was not allowed to use precise internal Customs data on import into the Netherlands to use for trend analysis and publish them. Instead figures were used based upon impressions during interviews, open sources and from open Customs publications like webinars and public management reports.

10.4.1 Delineation internal figures

As mentioned before, “Data en Modellen” is the Dutch team where detailed data can be obtained. They were reluctant to share data because of secrecy. Therefore I had to look for data regarding import in other ways namely by making use of open sources and also figures mentioned in interviews. These figures might not be 100% correct but give sufficient insight.

In Dutch HHP a percentage of 1,5-1,7% physical checks is mentioned, 50.000 to 70.000 expected checks mean approximately 3,3-4,1 million AGS import declarations. In Venue a number of 3 million declarationlines has been mentioned.⁷⁶ A yearly growth of 10-15% is mentioned by experts. Another trend is that Venue will be phased out by 2020. The same goes for the Automated Monthly Declarations with about 25 times the number of declarations lines as in AGS. So roughly speaking the expectation of the number of declarations lines in 2020 could be anywhere between 100 million to 150 million. With a fixed percentage and the same number of staff, the number of lines selected for physical inspection would be in the millions which is almost impossible to check, let alone the tremendous impact in logistics. The question is whether CAN could technically manage these data flows.

10.5 Summary of conclusions and recommendations of data collection

During the interviews and examining data the conclusion can be made that there will be a growing number of import declarations in the near future. To physically check a fixed percentage of declarations will be near impossible in view of numbers and current staff. Therefore it is recommended to invest in both staff as in automated systems to improve risk selection and risk mitigation. Not just to select possible faulty declarations but also not to hinder logistics for relatively meaningless checks. Also there should be more emphasis on the learning circle, what to do with the outcome of a check or audit. One of the remarks by interviewees was that too much knowledge was not written down for colleagues to use but remains inside peoples minds. Knowledge has been lost as result of the large reorganization in 2016 of DTCA, of which CAN is a part.

⁷⁵ Terbeck H., Master Thesis E-commerce 2025 Delphi based scenario & trend analysis for the future of digital commerce, University of Twente December 30th 2014

⁷⁶ https://www.youtube.com/watch?v=I_jPswVjTY Presentation for Air Cargo Netherlands Schiphol 1 November 2016

11 Legal obligations

11.1 Introduction EU Customs law

In this chapter Customs formalities when goods enter the EU customs territory are discussed. In general, CAN has both national as international laws to work with. These laws can be divided into two main groups. One group concerning the systems on levying and the other group includes Customs formalities and supervision.

11.2 EU Link to VAT and Excise

De Lange ⁷⁷ mentions the link to VAT and excises:

“In EU Directive 2006/112/EC (called the sixth directive) the tax area for the VAT (value added tax) shall be assimilated to the Customs territory with the exception of certain specified areas.

Article 2 of EU Directive 2008/118/EC contains almost the same provisions for excise goods. The objective of these directives is to safeguard and harmonise the levy of turnover tax (VAT) and excise duty in the trade between EU member states.

The content of these directives is transformed in the Netherlands in the Wet op de Omzetbelasting (Law on VAT) and the Wet op de Accijns (Law on excise duties).”

11.2.1 VAT and import-article 23 Wet op de omzetbelasting 1968

11.2.1.1 Import scenarios

As for foreign, non-Union companies the rules for VAT in the Netherlands are as follows. ⁷⁸ On import, VAT is basically payable immediately. However, article 23 makes it possible that importers are not required to do so. This VAT can be paid when the VAT return is filed. This is called the reverse-charge mechanism. However, foreign companies are not able to apply this Article 23 themselves, they need a tax representative for this purpose. This tax representative can apply for the so-called Article 23 permit a foreign company needs. The tax representative will declare VAT on returns for a certain period. The VAT payable on import is deducted as input tax on the same VAT return. Because of this system, companies are not required to pay VAT in advance when importing goods.

11.2.1.2 Selling goods in the Netherlands

Several scenarios are possible when selling goods by a foreign company:

- ✚ Sale to companies established in the Netherlands. Use of reverse-charging VAT, no specification of VAT on invoice, only state VAT reverse-charged on invoice and the clients VAT identification number.
- ✚ Sale to private individual or other foreign companies in the Netherlands. VAT must be charged, so a VAT return must be filed. To do so, a company must register with DTCA.

Also there are more sources of Community Customs law like international agreements with non-EU countries or international organizations.

⁷⁷ Erik de Lange MA, A brief look at Customs in the 21st century, 2015

⁷⁸

https://belastingdienst.nl/wps/wcm/connect/blCANntentnl/belastingdienst/zakelijk/internationaal/btw_voor_buitenlandse_ondernemers/goederen/importeren_vanuit_niet_eu_landen_naar_nederland/verleggingsregeling_bij_import_uit_niet_eu_landen

11.3 Obligations of entry of goods into EU

The Netherlands has a rich tradition of being a distribution country. Having large ports, both sea and air, with natural connections to the hinterland is a major benefit compared to other nearby countries. Crossing borders can mean delays since checks need to be carried out. Especially for a distribution country like the Netherlands it is of huge importance to find the right balance between breaking into the logistical chain as little as possible and still be able to stay in control. To stay in control Customs needs to carry out checks, both to ensure risk goods do not enter the EU and also check declarations. So to answer the question whether the goods been declared correctly.

11.3.1 *Douane Manifest*

The role of Douane Manifest (hereafter Customs Manifest) system is to minimize delays in logistics. This electronic system receives and exchanges information about the goods entering the EU and also about modalities used for transport. To use this electronic system parties must have an Electronic Messaging Permit for Customs Manifest from Customs.

11.3.2 *Entry Summary Declaration*

Before all goods are put on a transport modality there are several procedures to be followed. This is because Customs needs to know what is on board.

Custom formalities:

- ✘ electronic pre notification of means of transport at least 2 hours prior to arrival;
- ✘ ENS ⁷⁹ filed for goods before entering first seaport or airport in EU territory;
- ✘ also the ship must be in declared, an IMO/FAL 1;
- ✘ for goods designated to be unloaded there must be a summary declaration for temporary storage filed;
- ✘ IMO/FAL 3 for provisions on board;
- ✘ IMO/FAL 4 for crew's possessions should be on board.

The IMO/FAL documents are just for ships not for aeroplanes.

The ENS is filed in ICS ⁸⁰ to help the protection of import movements into EU. Multiple filing, the situation in which multiple persons can file an ENS, will not be possible until at least October 2020. ⁸¹

11.3.3 *Risk analysis and control before entry*

Based upon information in the ENS, the Customs office of entry shall perform an appropriate risk analysis for security and safety purposes. This procedure needs to take place before arrival of the goods in the Customs territory. In the Netherlands the risk analysis is based upon a "one stop shop" principle so other enforcement agencies can be informed about the results of the analysis, for example NVWA.⁸²

By having details about goods at an early stage, Customs can analyse in an early stage which makes it possible to select certain risk shipments in time. By selecting in time there is more speed in both processes of selection and inspection. In the EU there is a Common Risk Management System (CRMS). Because of this system the Entry Customs Office can exchange information to other member states before the goods arrive by either sea or air.

⁷⁹ ENS is the entry summary declaration see Article 127 Commission Implementing Regulation (EU) 2015/2447

⁸⁰ ICS is the abbreviation for Import Control System

⁸¹ www.belastingdienst.nl

⁸² Nederlandse Voedsel en Waren Autoriteit, the Dutch Food and Consumer product safety authority

Depending of the outcome of the risk analysis there are several scenarios:

- ✚ DO NOT LOAD advice
- ✚ Inspection of goods at port of arrival
- ✚ Inspection of goods at port of unloading
- ✚ No inspection needed

11.4 Obligations after entry

After all these obligations about the entry of goods there are custom procedures for storage, transport, free circulation. I will briefly discuss the legal obligations after entry of the goods for storage and transport. The import declarations in AGS will be discussed in more detail in Chapter 11.5 “Specific obligations for the import declaration”. Since the use of thresholds and exemptions have a substantial impact on CAN, in Chapter 11.8 is a description of the legal playing field about these thresholds and also discussion about future developments and their possible impact.

11.5 Specific obligations for the import declaration-free circulation

11.5.1 Possibilities of single import declarations

Since May 1st 2016 there are three possibilities for single import declarations:

1. Standard declaration in regular system AGS
2. Declaration in advance in regular system AGS
3. Declaration via separate automated tool VENUE, which was already used by express carriers and Post.NL but now after authorisation from CAN also possible for other companies, files are pre-formatted and encrypted but authorisation needed.

Differences AGS and VENUE:

Topic	AGS	VENUE
Declaration in advance	yes	yes
Additional declaration	no	< € 22 no > € 22 yes ⁸³
Response time by Customs	several seconds	can be 20 minutes
Message control selection	with AEO before arrival	always before arrival
GN code needed for supervision	yes	not mandatory, specific goods description is enough
Duration-life span	endless	until 2019 Q3 (current idea is replacement by AGS)

The three main pillars of the levy of Customs duties are:

- ✚ Classification of the goods
- ✚ Origin
- ✚ Customs value

For some classifications the weight of imported goods, or the number of imported items, is the basis for the calculation of Customs duties. Article 23 of the EC Treaty stipulates free circulation for Community goods throughout the European Community (EC). This principle applies to both goods made in the Community and also to imported goods after they have been released for free circulation. This means after payment of the import duties. After the release for free circulation the imported goods can be sold on the Community market like any product made in the EC.

⁸³ In The Netherlands when Customs value is below 22 euro no VAT or import duties are due based upon art 7 (27) Adr

After this release for free circulation the former non-Community goods achieve the status of Community goods. 201 UCC clarifies that release for free circulation entails that:

Article 201

Scope and effect

1. Non-Union goods intended to be put on the Union market or intended for private use or consumption within the Customs territory of the Union shall be placed under release for free circulation.

2. Release for free circulation shall entail the following:

(a) the collection of any import duty due;

(b) the collection, as appropriate, of other charges, as provided for under relevant provisions in force relating to the collection of those charges;

(c) the application of commercial policy measures and prohibitions and restrictions insofar as they do not have to be applied at an earlier stage; and

*(d) completion of the other formalities laid down in respect of the import of the goods.*⁸⁴

Imported goods are entered for the procedure by means of a Customs declaration.

The time of acceptance of the Customs declaration for release for free circulation (Articles 67, 201 (2), 214 UCC) determines, in principle, the date to be taken into account for calculating the amount of import duties if the goods are liable to duties (as well as value added tax and, if applicable, excise duty). This applies both to the nature, Customs value and quantity of the goods as well as the duty or tax rate to be applied.

For certain cases in which goods have been placed under another Customs-approved treatment or use before being released for free circulation, an earlier date may be taken into account.

11.5.2 Classification rules

The Union has one common “outer” Customs tariff. This means that no matter in which Union country the goods are released for free circulation in the Union in each Union country the same duty rate applies for goods classified under a specific tariff heading.

Duty rates are the same in each of the 28 Union members states. To determine the correct duty rate the goods will have to be classified in the so-called tariff. The EU tariff is based upon the Harmonized System of the WTO. The codes for certain goods are referred to as HS-codes. To establish a certain HS code there is a set of classification rules.

The classification rules are as follows, to be applied in the following order:

- 1.** The main headings which goods are classed under.
- 2.** Incomplete or unfinished articles and articles of mixed materials or substances.
- 3.** Goods which can be classified under more than one description, composite goods of different materials and sets for retail.
- 4.** Goods which can't be classified using the first 3 rules.
- 5.** Packaging items that come with the goods.
- 6.** Subheadings which goods are classed under.

Conclusion: Since the HS codes have different rates of import duty, the wrong classification could lead to the risk that not enough import duties are paid.

⁸⁴ Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code

Role of BTI

It is possible to ask for Binding Tariff Information which is valid for three years. A BTI ensures that all 28 member states are bound by that BTI for that specific importer.⁸⁵

11.5.3 Origin

Like many jurisdictions in the world the EU knows a system of preferential duty rates. The reason for the use of these preferential duty rates is to support less developed and developing countries and also to increase the trade with specific other countries (bilateral agreements). This system is called the generalized system of preferences or specific agreements with other countries. Goods originating from these countries will be taxed against a zero or lower duty rate. For use of this system there has to be proof that these goods meet certain origin requirements which are set in regulations.

According to the internet site of the European Commission There are three main variants (arrangements) of the GSP Scheme:⁸⁶

- *"the standard/general GSP arrangement, which offers generous tariff reductions to developing countries. Practically, this means partial or entire removal of tariffs on two thirds of all product categories.*
- *the "GSP+" enhanced preferences mean full removal of tariffs on essentially the same product categories as those covered by the general arrangement. These are granted to countries which ratify and implement core international conventions relating to human and labour rights, environment and good governance;*
- *"Everything but Arms" (EBA) arrangement for least developed countries (LDCs), which grants duty-free quota-free access to all products, except for arms and ammunitions. "*

Risks:

Fraud with documents showing incorrect country of origin.

Trend:

To fight fraud a new system of registered exporters is established called REX. This REX system is based on the principle that economic operators will issue statements of origin by themselves. This economic operator, who will become a registered exporter, needs to be registered in a database by the competent authorities. The current system with certificates of origin will stay applicable unless arrangements are changed. The rules regarding the modification of REX data are laid down in art 68, art 80 and art 89 of Commission Implementing Regulation (EU) 2015/2447.⁸⁷

11.5.4 Customs value

For the determination of the Customs value the UCC describes different methods. This section describes the six different methods for determining the Customs value.

11.5.4.1 Method 1

It is called the 'transaction value' based on article 70 UCC jo. Art 128 (1) IA. According to HRMC Customs this is the normal method of valuation which applies to over 90% of importations liable to ad valorem Customs Duty.⁸⁸ This transaction value is the price paid or payable by the buyer to the seller for the goods when sold for export to the EC adjusted in accordance with specific rules. If there is no sale, you can't use method 1 and one must try Method 2.

⁸⁵ See Article 33 Regulation (EU) No 952/2013 of the European Parliament and of the Council

⁸⁶ <http://ec.europa.eu/trade/policy/countries-and-regions/development/generalised-scheme-of-preferences/>

⁸⁷ Commission implementing regulation (eu) 2015/2447 of 24 november 2015 laying down detailed rules for implementing certain provisions of regulation (eu) no 952/2013 of The european parliament and of the council laying down the union customs code

⁸⁸ Notice 252 of HRMC p.5

Note: The fact that buyer and seller are related to each other does not mean that Method 1 cannot be used. The price paid or payable is still acceptable unless as a result of the relationship you get a reduced price.

If not possible to use method 1, art 74 (2) UCC names the possibilities to use the methods of

- ✚ Identical goods
- ✚ Similar goods
- ✚ Unit price or resale minus
- ✚ Computed value or cost plus

11.5.4.2 Method 2

The second method is based on the Customs value of identical goods exported to the EU at or about the same time as the goods to be valued. The goods must be produced in the same country as those being valued. In all respects they must be the same goods, like physical characteristics and quality. It is allowed to show minor differences in appearance. If the producer of the Method 2 goods does not produce Method 1 goods, another producer's goods may be used for comparison. If there are no identical goods you must use method 3, the method of similar goods.

11.5.4.3 Method 3

The third method is based on the Customs value of similar goods exported to the EU at or about the same time as the goods to be valued. Similar goods differ in some aspects from the goods being valued but production is in the same country, can do the same (have the same function) and are commercially interchangeable. If there are no similar goods you must use method 4 or 5.

11.5.4.4 Method 4

The fourth method or resale minus method can be used when methods 1 till 3 fail and can be divided in a method 4a and a method 4b. Method 4 can be switched with method 5. The Customs value is based on the unit price of each item of the imported goods, or identical imported goods or similar imported goods which are sold in the EU in the condition as imported to customers unrelated to the seller. The unit price must relate to sales in the greatest aggregate quantity at or about the time of the importation of the goods to be valued. If sales are not to unrelated persons in EU then you cannot use this method 4 and you must try method 5.

11.5.4.5 Method 5

This fifth method or cost plus method is based upon the cost to produce the imported goods. Most of the time this method 5 is used when importer and supplier are related. Methods 5 and 4 can be switched. The Customs value is summed up based upon the following factors:

- the cost or value of materials and fabrication or other processing used in producing the imported goods;
- an amount for the producer's profit and general expense
- the cost of transport, insurance and loading or handling connected with delivering the goods to the EC border

11.5.4.6 Method 6

When the valuation methods 1 to 5 of art 70 and 74 UCC can't be applied then there is the final option of 74 (3) UCC, this method is also called fall-back method. The Customs value is established by using reasonable means consistent with the WTO Valuation principles. You do this where possible by adapting methods 1 to 5 flexibly to fit unusual circumstances. One of the current used methods is the use of internet prices on the day the goods are declared for free circulation for e-commerce B2C. Primarily these goods will be sold with the condition DDP⁸⁹ so several elements should be deducted from the price to come to Customs value, for example Customs duties, VAT etc. In the Netherlands this only can be done after an

⁸⁹ Delivered Duty paid

authorisation by Dutch LWT.⁹⁰ Note that with DDP shipments the exemption of 22 euro (no VAT and no Customs duties) is not applicable since at the moment of import the owner of the goods is still the seller and not the buyer. In other words, determine the Customs value on basis of data available in the Customs territory of the Union using reasonable means.

Main risks with undervaluation:

- ✚ Not enough import duties paid
- ✚ Not enough VAT on import paid
- ✚ Because of undervaluation chance of falsely using thresholds therefor not paying enough import duties and / or VAT
- ✚ By declaring a low Customs value, there is a possibility that shipments are not hit by certain risk profiles in Dutch import declaration systems for example when a profile is based upon a certain value.

Trend:

During interviews with risk analysts and auditors of CAN the impression has arisen that, in view of the growth of e-commerce, more and more transactions seem to be having a low value. There is the risk that the goods are undervalued in import declarations for free circulation. Because of large numbers of declarations, cost reduction in declarations, and the price competition between declarers there appears to be less time for declarers to fill in declarations correctly or do a thorough research regarding the correct Customs value.

11.6 Representation

Two forms of representation are laid down in the art 5 CCC namely indirect representation and direct representation

- ✚ Indirect representation means that the representative acts and declares in his own name, but on behalf of the person represented (in Dutch: “in eigen naam en voor rekening van”). In case of indirect representation when the goods are released for free circulation both the represented person (principal) and the representative (declarant) are jointly liable.
- ✚ Direct representation means that the representative acts and declares in the name of the person he represents (the principal) – in Dutch: “voor naam en rekening van”. In this case, only the principal is responsible, since he is also the declarant.

So if a Customs shipping agent makes a declaration as a direct representative (so in the name and behalf of the principal), then he is in principle not responsible for Customs debt, unless he is involved in irregularities that lead to a Customs debt. Basically the shipping agent is in this case really nothing more than an agent. This model is preferred by Customs agents and logistical service providers as the liability then rests completely with their principal. However, the declarant has to be established in the EU.

⁹⁰ See meeting and interview with LWT Appendix 18.4

11.7 Relief of Customs duty

The International Convention on the Simplification and Harmonization of Customs procedures (Kyoto Convention) entered into force in 1974. It was revised and updated to reflect the current demands of governments and international trade. The WCO Council adopted the revised Kyoto Convention in June 1999 that aimed towards modern and efficient Customs procedures in the 21st century. The following standards of the Revised Kyoto Convention are especially relevant for E-commerce and thresholds for therefor relief of Customs duties namely Transitional Standard 4.13 of the General Annex (De Minimis): specify a minimum value and/or a minimum amount of duties and taxes below which no duties and taxes will be collected.

Exemptions such as those used in international, community, Benelux and national regulatory measures aimed goods subject to certain specified conditions on release for free circulation exempt from import duties and taxes associated with the nature or destination of the goods. Also the role of VENUE is explained in this chapter.

The exemptions are created on the basis of various, sometimes very different considerations, such as economic, social, humanitarian, idealistic, diplomatic and military. However, not every measure, such as a preference or suspension leading import a bearing or zero rate is an exemption.⁹¹

The regulation for setting up this relief system from Customs duties is Regulation (EC) No 1186/2009 which is setting up a Community system of reliefs from Customs duty.⁹²

This regulation is a renewed version of Council Regulation (EEC) No 918/83 of 28 March 1983 setting up a Community system of reliefs from Customs duty, which had been substantially amended several times so in the interests of clarity and rationality the said Regulation was codified. In this regulation (EC) No 1186/2009 there are the following thresholds which are of importance for import declarations:

The 150 euro threshold is arranged in Chapter V “Consignments of negligible value”, Article 23:

1. Subject to Article 24, any consignments made up of goods of negligible value dispatched direct from a third country to a consignee in the Community shall be admitted free of import duties.

2. For the purposes of paragraph 1, ‘goods of negligible value’ means goods the intrinsic value of which does not exceed a total of EUR 150 per consignment.

According to article 24 this relief does not apply for the following:

- (a) alcoholic products;*
- (b) perfumes and toilet waters;*
- (c) tobacco or tobacco products.*

The 45 euro threshold is arranged in Chapter VI “Consignments sent by one private individual to another”, Article 25:

1. Subject to Articles 26 and 27, goods contained in consignments sent from a third country by a private individual to another private individual living in the Customs territory of the Community shall be admitted free of import duties, provided that such importations are not of a commercial nature. The relief provided for under this paragraph shall not apply to goods in consignments sent from the island of Heligoland.

2. For the purposes of paragraph 1, imported consignments are ‘not of a commercial nature’ if they:

- (a) are of an occasional nature;*
- (b) contain goods exclusively for the personal use of the consignee or his family, which do not, by their nature or quantity, reflect any commercial intent;*
- (c) are sent to the consignee by the consignor free of payment of any kind.*

Article 26

1. The relief referred to in Article 25(1) shall apply to a value of EUR 45 per consignment, including the value of goods referred to in Article 27.

2. Where the total value per consignment of two or more items exceeds the amount referred to in paragraph 1, relief up to that amount shall be granted for such of the items as would, if imported separately, have been granted relief, it being understood that the value of an individual item cannot be split up.

⁹¹ <https://www.belastingdienst.nl/bibliotheek/handboeken/html/boeken/HD/douanevrijstellingen-inleiding.html>

⁹² Council Regulation (EC) No 1186/2009 of 16 November 2009 setting up a Community system of reliefs from customs duty

EU “de-minimis thresholds” for tax-free shipments

E-commerce has led to an increase in smaller consignment shipments. From the Customs perspective the universe of small consignments is highly relevant, since it involves an increasingly large number of shipments, representing a significant workload and yet for a limited amount of duty and VAT revenues collected. This issue has been mediated, mainly for Customs duties, by the stipulations of international agreements and conventions such as the WCO Revised Kyoto Convention, WCO Immediate Release Guidelines, and WTO Bali Agreement. In the EU, goods with a total intrinsic value equal to or less than 150 euro are exempt from import duties, and goods having a total value equal to or less than 10 euro should be exempt from VAT on importation. Member States may also grant an exemption on VAT for imported goods which have a minimum total value between 1 euro and 22 euro.⁹³ Thus, unlike import duties, the VAT de-minimis threshold is not harmonized and can significantly vary across the EU but within the aforementioned range. However, the upper limit of 22 euro is typically applied by most Member States. In the Netherlands this threshold is set at 22 euro see art 7 (27) Algemene Douane Regeling (Adr).

Threshold	VAT	Custom duties	Legal base	notes
<€ 22	no	no	7 (27) Adr	Direct shipment Intrinsic value
<€ 45	no	no	25 jo 26 1186/2009	Only C2C Not commercial Direct shipment
<€ 150	yes	no	23 1186/2009	Intrinsic value

The term about direct shipment was clarified in C 7/08 Har Vaessen Douane Service B.V. vs. the Dutch secretary of Finance. The exemption can only be used in case of direct shipment. In case of consol shipments the Custom duties can be exempted for packages that are individually addressed.

EU Action plan on VAT and the de-minimis threshold -2014

In the context of e-commerce, a brief elaboration on the EU Action Plan on VAT is required. This Action plan sets out the pathway to the creation of a single EU VAT area. A VAT area that can support a deeper and fairer single market, and help to boost jobs, growth, investment and competitiveness. One of its aims is to combat the growing risk of fraud: the “VAT gap” between expected revenue actually collected is estimated at 170 billion euro, while cross border fraud alone accounts for 50 billion euro of revenue loss each year. In addition, the VAT system should be adapted to the digital economy and needs of SMEs.⁹⁴ Changing VAT de-minimis levels will have a positive impact on all parties involved in the e-commerce chain:

- European consumers and small enterprises as well as E-commerce companies supplying EU consumers will benefit most.
- The logistics sector currently carries an unnecessary administrative burden, which could be lifted.
- Customs administrations are swamped under the massive E-commerce workload, which would be relieved.
- Competition effects of a de-minimis regime are debatable, with the existence of various de-minimis thresholds across the globe.

However, another EU plan is about abolishing the 22 euro threshold (see Chapter 11.8).

⁹³ Council Directive 2009/132/EC of 19 October 2009 determining the scope of Art. 143(b) and (c) of Directive 2006/112/EC as regards exemption from value added tax on the final importation of certain goods

⁹⁴ Cross-border Research Association, 2014. The import VAT and duty de-minimis in the European Union. Where should they be and what will be the impact? Final Report, (October 2014)

11.8 Legal developments

11.8.1 Abolishing the 22 euro threshold-2021?

Before the rise of internet and internet sales the European Commission had plans to reduce administrative burdens, reduce workload for both Customs and the logistics sector and give benefit to European customers and SME's by simply working with thresholds to not pay, or lower taxes for certain low amounts of value. As described in Chapter 11.7 up to 2016 this was the EU actionplan. However, with the current boom in cross-border sales, the European Commission has come to new insights:

- ✚ There needs to be a level playing field for business, now there is lack of this. All parties should pay the same level of taxes and
- ✚ Complexity and cost of VAT obligations.

The exemption of the 22 euro threshold would be abolished as from January 1st 2021.

The exemptions, especially those of the 22 euro and 150 euro thresholds are open to fraud and abuse. According to a survey by Copenhagen economics current revenue losses for EU are estimated at 1.3 billion euro per year.⁹⁵ Another survey estimates revenue losses at 5 billion euro per year.⁹⁶ These estimated losses are quite a large amount compared to the revenues collected (see Chapter 9.3). Therefore the European Commission is of the opinion that the removal of this particular exemption of VAT for imports of small consignments from outside the EU that have a value less than 22 euro will tackle unfair competition and distortion for EU companies.

The 45 euro threshold seems to have less impact since this threshold is for C2C shipments only.⁹⁷

For suppliers from third countries, the VAT exemption to supplies of goods to European consumers applies with a value of up to 22 euro. With the elimination of this exemption a level playing field is created, as EU sales no longer be disadvantaged because they had to pay VAT for goods with a value below 22 euro. For failing to facilitate EU entrepreneurs VAT remittance, being them the opportunity to use the MOSS in distance selling from outside the EU goods worth up to 150 euro. To prevent double taxation, imports by giving a valid VAT number or not liable to VAT. For goods that are not used to these regulations simplification proposals for the reporting and payment of VAT on import done.⁹⁸

Impact on implementation and enforcement

First analyses show that the Commission proposal will have a significant impact on the implementation and enforcement by the tax authorities. Taking into account the current situation it is necessary to assess the enforceability further and do more exact research into the effects of the proposed changes.

For example, it is important that after the removal of the VAT exemption there still can be a tendency to present the value of shipments in declarations lower than the actual Customs value, both for VAT as import duties. In addition, there will be an increase in the number of declarations and consequences for the performance by the Customs administrations.

MOSS:

The main simplification is to improve and expand the current Mini One-Stop-Shop (MOSS). This MOSS per January 1st 2015 introduced digital services and enables entrepreneurs Business-to-Consumer (B2C) digital services (Telecommunications, broadcasting and

⁹⁵ <http://www.copenhageneconomics.com/publications/publication/e-commerce-imports-into-europe-vat-and-customs-treatment>

⁹⁶ <https://www.taxjournal.com/articles/european-commission-s-proposals-reform-e-commerce-09022017>

⁹⁷ C2C is the abbreviation for Consumer to Consumer, so from one private person to another (mostly gifts)

⁹⁸ Fiche 3: Richtlijn en verordening Modernisering van de btw voor grensoverschrijdende e-commerce

electronic services) provide to European consumers, possible to qualify for the VAT in just one Member State to register.

The Netherlands is a country with not just Dutch companies but also many foreign (EU and non-EU) companies who will use MOSS, as evidenced by the recently acquired experience with the current MOSS B2C digital services. It is therefore expected that the proposals on the administrative supervision will have a significant impact on the current enforcement process of DTCA. Through these proposals the enforcement capacity of the tax authorities may have to be used more on request from other EU Member States. With a view to strengthening cooperation and achieve better compliance, it is proposed by the European Commission to introduce a permanent mechanism, which costs should be compensated by the Member States for the identification.

Trend:

More workload for EU Custom authorities and DTCA is to be expected when thresholds are abolished. The reason is the fact that all goods with a lower value than 22 euro will need to be declared in AGS. But the impact on the risks of fulfillment seem to be negligible. In fulfillment there is no direct shipment but stock movement.

“The EC has outlined three main drivers for these proposals.

- ✚ *First, many small businesses refuse to engage, or claim they are unable to engage, in cross-border e-commerce due to the complexity of the current VAT obligations. This effectively means there is a block on cross-border trading which needs to be addressed.*
- ✚ *Second, many non-EU businesses are making VAT-free supplies into the EU, putting EU traders at a disadvantage, particularly where EU VAT rates can be as high as 27%. The proposal aims to level the playing field.*
- ✚ *Third, member states are losing tax revenues as a result of non-compliance (due to the complexity of the rules) and the current VAT exemption for the importation of small consignments of goods.”*⁹⁹

Conclusion

Practically the 22 euro threshold itself has no impact on fulfillment shipments since this threshold should only be used in case of direct shipment while fulfillment is about stock movement.

11.8.2 Impact of abolishing VENUE

The estimate of the number of declarations currently being made in VENUE in 2015 is approximately 3,4 million. About 46.000 physical checks are made in VENUE. Planning is to abolish VENUE in the third quarter of 2019. This would mean, in view of current growth of 10-15% per year in e-commerce, an estimate of total 5,5 to 7 million extra declarations in AGS by 2020 is not an excessive estimation. In interviews with experts, no problems are expected regarding the handling and filing of the growth in the number of declarations. However more import declarations would mean, especially in light of staff not growing in the same percentages as the growth of declarations, that better risk selection is needed to keep supervision at an acceptable level.

11.9 Non fiscal risks

In this thesis, the emphasis has been on fiscal risks at import. However, another important task of Customs supervision is how to mitigate risks that have no fiscal impact. These are the so called non fiscal risks (VGEM).¹⁰⁰

⁹⁹ <https://www.taxjournal.com/articles/european-commission-s-proposals-reform-e-commerce-09022017>

¹⁰⁰ VGEM is abbreviation for Veiligheid, Gezondheid, Economie en Milieu meaning Safety, Health, Economy and Environment

Different rules prescribe that import and / or export and / or transit of certain goods in the Netherlands and / or the European Union is prohibited or permitted only if strict conditions are met or if the goods meet certain requirements.

11.9.1 Overview per cluster of related non fiscal risks:

Safety	Drug precursors
	Medicines
	Opium legislation
	Sanctions
	Vehicle crime
	Weapons and ammunition
	Liquid assets
	Precursors for explosives
Health	Agriculture
	Veterinary drugs
	Flora and fauna
	Fish
	Veterinary
	Pet animals
	Food safety
Economy	Cultural goods
	Intellectual property rights
	Strategic goods
	Torture tools
	Transport of hazardous substances
Environment	Nuclear energy legislation
	Environmetally hazardous substances
	Transport of waste

11.9.2 Current situation of non fiscal risk mitigation

The Dutch HHP 2017 mentions the following prioritized non fiscal enforcement areas: ¹⁰¹

- ✚ Narcotics smuggling
- ✚ Sanctions
- ✚ Strategic goods
- ✚ Weapons and ammunition
- ✚ Liquid assets
- ✚ Anti-dumping duties

11.9.3 Non fiscal risks in relation to e-fulfillment

According to Mr. R.G. the risks for non-fiscal are the same for all declaration systems, whether this is AGS, or EPD or VENUE. All risk profiles are the same. Since it is impossible to check all risks, policy makers weigh risks and propose a certain type of measure for risk mitigation.

The main non fiscal risks are emphasized in Dutch HHP. He questions the quality of the delivered data for example a shipment containing “*1 pallet with 1.256 packages amazon.com*”. *It is near impossible to make a good analyzis based on this type of information.* ¹⁰²

¹⁰¹ Enforcement plan Customs 2017, p. 40

¹⁰² See interview Mr. R.G. Appendix 18.11

12 Research methods

12.1 Interviews

After stakeholder analysis, interviews were held. The used technique was semi-structured. Start of the interview was a set of questions after which open discussion was conducted. During the interviews, insight was developed and new interviewees were approached for several subjects like VGEM, train transport and Customs value.

12.2 Documentary

To gather information to gain knowledge about the subjects of this thesis different kinds of documents were gathered and examined about among other:

- ✚ About OECD, EU, WTO, WCO
- ✚ AEO, both Union as similar programs outside Union
- ✚ Brexit
- ✚ Concept of Big Data and data pipeline
- ✚ Enforcement vision and supervision strategies DTCA
- ✚ Fair price list
- ✚ Fulfillment and e-commerce
- ✚ Business models large e-commerce companies like Alibaba, Amazon and e-Bay
- ✚ Logistic systems like Synchronicity and Silk Road

12.3 Legal

Since the problem definition touches a legal subject, applicable legislation was collected and researched. Jurisprudence about low Customs value was examined. Future developments among other abolishment of the exemption threshold of 22 euro and the possible impact on Customs supervision were discussed.

13 Case description

13.1 AS IS analysis

There is a knowledge gap among Customs officers about e-fulfillment.¹⁰³ This knowledge gap is one of the reasons for me to write this thesis. More specific, the knowledge gap can be found:

- ✚ Among analysts.
- ✚ Among Customs officers verifying import declarations.
- ✚ Among auditors executing post clearance audits.
- ✚ Among professional parties like declarers, Customs brokers, importers.

During the interviews, the knowledge level of declarers, about fulfillment and the role of their clients who are parties in the logistical chain, was questioned. This goes specifically about knowing what kind of transactions are being done by their clients. The same can be said about the knowledge level of importers as was found out during one of the meetings.¹⁰⁴

Can Dutch systems handle data stream, what is current status of data stream. How about the near future with growing data streams when for example the periodic monthly declaration will be in AGS. An estimate of 25 times more data exchange than at the moment of writing this thesis was mentioned during one of the interviews as a possible number of transactions.

Increase in fulfillment organizations: problem of establishing / determining the right Customs value, which holds the risk for governments to lose duties and VAT payments.

Knowing all traders and supervise them properly by Customs is becoming more difficult with the rise of the number of small E-commerce shipments by so-called faceless traders.

The lack of information, so the data as background behind declarations. How to enhance information also the quality of the data,

13.2 TO BE analysis

Perfect declarations, in view of this thesis primarily about the right transaction codes for sale, valuation, classification and origin. Perfect declarations mean less risk of losing import duties and VAT. In a perfect situation less checks on the good stream of declarations and more time for less trustworthy stream.

Thorough understanding of e-fulfillment for those parties concerned, both with Customs as the relevant stakeholders. Role of communication to inform parties how to work with for example internet sites, road shows like being held lately about e-commerce, use of for example Youtube channels for future reference.

Adaptation of relevant knowledge in Customs handbooks to keep those up to date.

Risk profiles should be up to date and more dynamic. By doing so less chance of increase of burden in logistical chain for trustworthy parties and more chance of a “hit” or a correction.

Regular monitoring (when needed) on behaviour of parties in logistical chain among other the declarants, importers, companies with Customs authorisations.

¹⁰³ Daalmans, J. , van Houten, E.R., Rafaele, E. Sasank, M. “E-commerce import declarations in the Dutch Customs System for postal and courier services under the UCC”, (mini thesis – integration project for Rotterdam School of Management 8th of September 2016)

¹⁰⁴ See meeting and interview with LWT Appendix 18.4

13.3 Solutions

The proposed solutions are clustered in the following topics:

- ✚ Information
- ✚ Profiling in Big Data - fair price list
- ✚ Fair price list how to cope with jurisprudence
- ✚ Knowledge and staff
- ✚ Data pipeline no solution yet
- ✚ How to recognize e-fulfillment
- ✚ Legal solutions
- ✚ Monitoring of Customs performance and effect measurement

13.3.1 Information

13.3.1.1 Enforcement communication declarers

The role of custom declarers making declarations is very important since they play a significant role in international trade. They are the professional party regarding declarations and should, as service, enter correct declarations in for example the Dutch AGS system especially for SME's. Part of their work is to ensure trade compliance by entering correct declarations and in this way help to protect the financial interests of both the EU and also the individual Member States.

An example to communicate and inform these declarers is the letter send by CAN about improving the quality of declarations. This way of communication with the emphasis on how to handle e-fulfillment should be taken into account. To recognize these parties, information systems need to be developed. Special staff, skilled in data analytics, need to be trained or hired, for profiling and detecting parties involved.

As put down in Management Information DTCA Commission MIBB:

"Central for DTCA is risk selection. The Tax Administration tries to improve the compliance in different ways. Depending on the behavior, the instrument is chosen. As key tools to achieve the main objective (optimal compliance) two important different sets of tools are used:

- A. Simplification of legislation and declaring for citizens and businesses,*
- B. Information-based monitoring, meaning no longer manual control of declarations that are selected based on years of experience, but risk-oriented control."*¹⁰⁵

Communication about possible sanctions

De Graaf did a survey among managers about motivational effects of normative and deterring communication.¹⁰⁶ The most optimal way to communicate about possible sanctions would be among other include:

- ✚ Information in short messages about penalty height.
- ✚ Only state "high" fines, so the perception what a high fine is for a certain target group should be examined.
- ✚ Avoid information about the control chance, at least if this chance is already very high perceived.

However, a condition for the effect of communication is that checks are actually taking place because otherwise the perceived package of sanctions will only increase temporarily at best.

¹⁰⁷

¹⁰⁵ Management Informatie Belastingdienst Commissie MIBB, May 12th 2015 p.11

¹⁰⁶ De Graaf D. et al, Het motiverende effect van normatieve en afschrikwekkende boodschappen, BoomLemma 2011, voor Handhaving en Gedrag & WODC, Ministerie van Veiligheid en Justitie, p. 73

¹⁰⁷ De Graaf D. et al, Het motiverende effect van normatieve en afschrikwekkende boodschappen, BoomLemma 2011, voor Handhaving en Gedrag & WODC, Ministerie van Veiligheid en Justitie, p. 16

13.3.2 Profiling in Big Data-fair price list

An interesting development is called profiling in Big Data. First an explanation what these terms Big Data and profiling mean.

Big Data

Laudon et al see Big Data as one of three interrelated changes in the technology area, together with the growth in cloud computing and the widespread adoption of mobile computing platforms. ¹⁰⁸ Laudon defines Big Data as *“huge volumed datasets, often unstructured or semi-structured”*. ¹⁰⁹

Profiling

Is the process of construction and application of user profiles generated by computerized data analysis. ¹¹⁰ A definition was given by Hildebrandt: *“Profiling occurs in a diversity of contexts, from criminal investigation to marketing research, from mathematics to computer engineering.... Looking into different domains the term profiling is used here to refer to a set of technologies, which share at least one common characteristic: the use of algorithms or other techniques to create, discover or construct knowledge from huge sets of data.”* ¹¹¹

13.3.3 Fair price list-JRC and jurisprudence

An excellent example of how using Big Data and profiling can help to mitigate risks regarding Customs value is the use of a Fair price list. Three of the interviewees mentioned this method which is not used often yet.

The European Commission has an in-house science service called the Joint Research Centre (hereafter JRC). *“The JRC develops and applies innovative statistical methods needed by the European Anti-fraud Office and its partners in the EU Member States for the protection of the financial interests of the European Union. JRC's work focuses on several Customs commercial fraud-control problems.”* ¹¹²

In 2015 a report was published by JRC about how a fair price list is established. This scientific report shows how datasets could be used to detect so-called price outliers. These price outliers can be subject to a posteriori controls done by Customs to guarantee correct calculation and payment of import duties. Also, by making use of this statistical techniques, unwarranted controls on valuation at the moment of filing an import declaration can be avoided.

Basically, data is collected from import databases into EU in a certain time period:

Column heading are:

Product	GN code 8 figure
Origin	Country of origin
Destination	Country of destination
Estimated fair price	Average estimated fair price
Estimated fair price interval	Number of observations
Goodness of fit	Outlyers detected

¹⁰⁸ Laudon K.C. et al, Management information systems, Pearson 2016 14th edition p. 39

¹⁰⁹ Laudon K.C. et al, Management information systems, Pearson 2016 14th edition p. 637

¹¹⁰ [https://en.wikipedia.org/wiki/Profiling_\(information_science\)](https://en.wikipedia.org/wiki/Profiling_(information_science))

¹¹¹ Hildebrandt M. et al, profiling the European Citizen Cross-disciplinary perspectives, Springer Science + Business Media BV 2008 p. 17

¹¹² Arsenis S. et al, The estimation of fair prices of traded goods from outlier-free trade data, 2015 p. 6

After filling a database with this data, a graphical figure can be produced showing the statistical outliers. These outliers would be the lines with “suspicious” data. Of course before making conclusions, using this method, data needs to be checked on incomplete, incorrect, inaccurate or irrelevant parts of data. This process is best performed by software and automated systems especially when working with large data files such as Big Data.

Jurisprudence

Nonetheless, there are limitations using a fair-price list. One cannot just use the list to make adjustments on used Customs value in declarations. This was clarified by the Dutch Gerechtshof Amsterdam on September 15th 2016 in the joined cases 15/00260 and 15/00261.

The Inspector of CAN wished to use article 181bis Commission Regulation (EC) No 2454/93 to deviate from the transaction values indicated on the declaration due to reasonable doubt to the accuracy of the values. Gerechtshof Amsterdam considered that the use of article 181 bis Commission Regulation (EC) No 2454/93 failed because this article relates only to a situation as referred to in article 68 CCC ¹¹³ (verification phase of declarations) and not a situation as intended in article 78 CCC which is used for a post-clearance check. ¹¹⁴

Conclusion on use of fair-price list:

Making use of a fair-price list seems a good way to detect possible undervaluation, which is one of the main risks in fulfillment. However, one cannot simply adjust valuations based upon pricelists from databases. A thorough post-clearance audit is still the optimal way for more certainty about the correctness of valuation.

13.3.4 Knowledge and staff

In 2016 a large reorganization was started by DTCA, firstly excluding CAN and FIOD. The idea was that by 2020, approximately 5,100 of the total, nearly 30,000 employees would have left DTCA and would be replaced by 1,500 new and higher IT skilled employees. But instead of a scheme for the lower skilled employees, all DTCA staff including CAN and FIOD employees could sign up. The approximately 5.000 employees, almost everyone over the age of 60, who used the scheme each receive 75.000 euros or an annual salary with a salary of over 75.000 euros. A stray, which caused the reorganization to cost 66 million euros more than the budgeted 714 million euros. ¹¹⁵ Also a lot of knowledge was lost when experienced staff left the organization within a short time frame.

The good thing however, is that the organization now is forced to hire new staff. Staff which is younger and better educated in data analysis techniques for example.

A lot of knowledge about valuation is available at LWT. Plans at LWT are to visit Customs offices to with presentations about recent developments in value legislation, as there is with new UCC.

¹¹³ Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code, the predecessor of the current UCC

¹¹⁴ Het Gerechtshof Amsterdam, 15 september 2016, joint cases 15/00260 and 15/00261

¹¹⁵ <http://www.hpdetijd.nl/2017-02-02/belastingdienst-brengt-wiebes-in-nauw/>

13.3.5 Data pipeline as solution?

During the Global Trade Facilitation Conference 2011 Connecting International Trade, the concept of a data pipeline was presented.¹¹⁶ The idea behind the use of a data pipeline, which is a web-based IT infrastructure, is to integrate seamlessly all data elements from all different sources, or parties, in a supply chain. The aim of the use of all necessary data is to enable improvements in the following four areas:

- ✚ By sharing knowledge between buyer, seller and all relevant parties, costs in supply chains could be reduced efficiently and by better sharing real time data traceability could be improved;
- ✚ The use of synchro-modality would make transportation more timely, efficient and also, because of less usage of trucks, more environmental friendly. Also because of less trucks there would be less use of the roads near large ports like Rotterdam, resulting in lesser traffic jams and better lead times.
- ✚ Better use of AEO status for trusted traders because by using more and better data risk management would improve.
- ✚ Coordination of border management by authorities plus working in partnership with business would have tremendous benefits from data in datapipeline. For example use of piggybacking by parties in logistical chain.

In order to make appropriate use of a data pipeline all parties involved, should see the benefits of sharing certain types of data. However, as some interviewees mentioned, sharing data would also mean checking data. And checking data is only possible when parties are either obligatory to help in audits (Union States and countries with Mutual Assistance agreements). Sharing data without a control mechanism makes that data less reliable. This means risk management will become harder.

Another concept about the correctness of data is the so-called “what is in the box principle”. As pointed out by Hesketh and Heijmann¹¹⁷ in the concept on data pipeline, two parties are certain what the goods in the shipped box are namely the sender and the receiver. Their information is vital for risk management.

Conclusion on data pipeline:

In view of data pipeline one can say the theory sounds promising when all parties are willing to share correct data but this only can work when all data can be checked by authorities also.

13.3.6 Model for recognizing e-fulfillment importers

There are some logical steps in recognizing e-fulfillment imports:

- ✚ Recognise VAT numbers names, addresses, warehouses, locations etc who are fulfillment companies by making use of a database for improved profiling and improved supervision.
- ✚ In case of foreign importers, the VAT number most probably will be the VAT number of the fiscal representative. In that case recognizing the real importer through box 44 of the Single Administrative Document.

¹¹⁶ van Stijn E., Hesketh D., Yao-Hua Tan, Klievink B., Overbeek S., Heijmann F., Pikart M., Butterly T. 2011 This paper results from the CASSANDRA project, which is supported by funding 7th Framework Programme of the European Commission (FP7; SEC-2010.3.2-1) under grant agreement no. 261795.

¹¹⁷ van Stijn E., Hesketh D., Yao-Hua Tan, Klievink B., Overbeek S., Heijmann F., Pikart M., Butterly T. 2011 This paper results from the CASSANDRA project, which is supported by funding 7th Framework Programme of the European Commission (FP7; SEC-2010.3.2-1) under grant agreement no. 261795.

- ✚ After permission of LWT make use of value method 6 (see Chapter 11.5.4) for establishing Customs value, including naming the LWT permission number in AGS Single Administrative Document box number 44. Box 44 is the open box where free text can be entered.¹¹⁸
- ✚ Share knowledge EU wide in a database about e-fulfillment importers and declarers.
- ✚ Correct use of transaction codes as mentioned in Toelichting Enig Document chapter A22 in import declarations: when there is a transaction with fulfillment always use “9” instead of “1” or other codes.
- ✚ Make use of local expertise in Custom office, local Customs contactpersons are called first and second line. If these local contactpersons don't know a valid solution, the next in line to answer is LWT.

Knowledge

With the human capacity being an important point of consideration (and possible bottleneck) to take into account when the number of import declarations continue to grow, availability and smart allocation of the appropriate resources at CAN is a must. Customs officials should have the appropriate (IT) skills – like process mining and data mining – next to legal knowledge needed in the enforcement area in the playing field of e-commerce and e-fulfillment. Adaptions about e-fulfillment in Dutch Handboek Douane are suggested for future reference (see Chapter 15.1.1).

13.3.7 Legal solutions

Legal

- ✚ A level playing field is needed which is there in legislation but now in practice since countries can interpret value thresholds differently and also the level of checks is not the same in each country. For example the Dutch level of physically checking import declarations might be a percentage of approximately 1,5 % but other countries could have much higher percentages. This way a EU broad level playing field is not reached for all EU parties.
- ✚ Try to make EU legislation in such a way that relative meaningless declarations like low value shipments are not obligatory to declare or very simplified to enter into declaration systems, for example when Customs value is below 1.000 euro. This has to be same way in the entire EU to handle declarations to achieve a EU broad level playing field. Certainty about the correctness of value is needed for this method. This way staff and other resources can be allocated to more meaningful checks. This solution was mentioned in several interviews and found in literature by Kati Suominen (see Chapter 7.4.7).
- ✚ Autorisation Dutch LWT streamlined into legislation.
- ✚ Fixed price system like currently in fruit and vegetables will most certainly be hard to use for other goods than fruit and vegetables consider given the greater differences in price and quality of other goods.

¹¹⁸ Appendix VI Algemene Douaneregeling, toelichting enig document
https://www.belastingdienst.nl/wps/wcm/connect/blCANtntentnl/belastingdienst/douane_voor_bedrijven/naslagwerken_en_overig_e_informatie/andere_onderwerpen/toelichting_enig_document/

13.3.8 Monitoring of Customs performance and effect measurement

A possible model for measuring and monitoring Customs performance was explained by Dr. Juha Hintsa from CBRA (Cross Border Research Association, a Lausanne based independent research institute which focuses among other on supply chain security, prevention of crime and trade facilitation).

To monitor a certain performance during a time interval, regularly data has to be collected to compare periods with each other. The outcome of this monitoring can be used to evaluate policies and the effect of measures. For example, one can calculate the Customs True Society Protection Performance (CTSP) percentage for a country. The following parameters in a certain time period is given as a starting point:

Total number of containers imported	2.000.000
Random inspections with say 2% of 2 Million	40.000
Targeted inspections with say 8% of 2 Million	160.000
Total containers checked is 40.000 plus 160.000 makes	200.000
4% hit rate with random inspections of 40.000 makes	1.600 bad containers
14% hit rate with targeted inspections of 160.000 makes	22.400 bad containers
Total seizures with all inspections	24.000 bad containers

Bad container percentage of those inspected:

$24.000/200.000 \times 100\%$ is equal to 12,0% with the assumption that random inspection hit rate represents the whole population. This leads to the following number of total estimated bad containers: $(2.000.000 \times 4\%)$ is 80.000 bad or illicit containers.

Final index for Customs performance is (bad containers found/total estimated bad containers) $\times 100\%$ makes $(24.000/80.000) \times 100\%$ is **30%**, which is the **CTSPP**. This rate then can be compared to other rates with the same parameters but during another period.

It is up to Governments to establish a certain desired level of compliance with the thought that 100% compliance will most probably never be achieved. So the wish could be to optimize the total cost of supply chain security: minimize crime prevention + crime damage costs. Optimization then can be influenced not just by money, but also by social desires and needs.



Several other parameters could be added like:

- What is the amount of extra Customs duties, VAT, excises received with more checks both targeted as random? You make a similar CTSPP by not just making use of numbers but also build in a tax aka money component. This should show the benefits of good analysis of risks and monitor the outcome of the targeted checks.
- What are the extra costs of generating more checks compared to more duties received. So you would need the outcome of the extra tax parameter and compare it with the cost of the extra checks. Other way around is, with less checks government saves money but what are consequences for taxes and related crime costs.
- Another parameter could be to use the AEO and non-AEO status of companies weighing the outcome of the checks. So parameters could be different percentages of inspection rate, not just random and targeted but also AEO and non-AEO. In the perfect world there should be less inspections for AEO companies and hopefully less hits with these checks. To put this statement upside down, the expectancy of meaningful hits should be higher with both targeted as random non-AEO containers than for AEO companies.
- Check the outcome of the checks and post clearance audits after all possible legal appeals. Suppose a judge reverses a Customs decision this could have impact on the outcome of monitoring and the CTSPP.

13.3.8.1 *A practical workflow model for Customs clearance*

Basis for clearance is always an import declaration to start. In AGS and supporting systems parameters can be build in. A certain declaration can be selected based upon certain risk profiles, for example profiles based upon certain Customs value, classification, VAT number, etc. After selection the import dossier with an invoice then is checked by a Customs specialist who then decides whether the declaration is acceptable or not. If not further investigation is needed. This risk signal then is entered into the Dutch Customs Risk Database for future reference. When the declaration has e-commerce implications the importer and or declarer is invited for a meeting, not just for that single declaration but also to make agreements for future declarations.

When in doubt about value or classification, there are several options:

-  shipment is not cleared, goods stay under Customs supervision
-  shipment is free to follow its course after a Customs deposit has been set. ¹¹⁹

¹¹⁹ Information obtained from Mr. R.V. CAN Schiphol

14 Contributions for research

14.1 New definition of e-fulfillment for Customs

In view of this thesis, one of the contributions is a new definition for e-fulfillment which can be used by both Customs authorities as parties in the logistical chain and other stakeholders. The new definition is as follows:

“The legal framework of e-fulfillment for CAN and Customs stakeholders can be described as the whole of legal obligations regarding the physical flow of stock movement, created electronically through a computer network, which have to meet European Union rules and legislation”.

14.2 Fill knowledge gap within Customs

With this thesis, a thorough compilation has been made about the risks of e-fulfillment and import into EU. Proposals have been made how to spread and maintain knowledge and how to keep knowledge accessible in Handbook Douane.

The legal implications have been explored and examined. Proposals have been made how to mitigate risks. Whether these proposals will be implemented is open for further discussion in CAN. This is not part of the scope of this thesis.

As mentioned in this thesis, there is not just a knowledge gap but also an information gap. This information gap can be subject for future research.

14.3 Scientific addition to reverse logistics papers

As described in Chapter 7.3.2, papers have been discussing reverse logistics before. As scientific addition this thesis describes how reverse logistics is essential to relative new business models.

However, no proof was found that reverse logistics have a significant impact on CAN supervision. Therefore, potential risks in reverse logistics seem to be negligible for Customs supervision.

15 Contributions for practice

15.1 Suggestions for broad knowledge base about e-fulfillment

15.1.1 Internal environment - Customs Handbook

A suggestion to spread and maintain knowledge within CAN is to add the main conclusions of this thesis to Customs Handbooks among other:

9.00.00 Customs value (Douane waarde van goederen)

13.00.00 Free circulation (Het in het vrije verkeer brengen)

32.00.00 Appeal (Bezwaar en beroep)

As reference the term e-fulfillment is proposed.

15.1.2 External environment – declarers, e-fulfillment companies

Part of DTCA supervision is to have open communication with external stakeholders. In Dutch this is called “Handhavingscommunicatie” or enforcement communication. One of the most recent examples of enforcement supervision is the letter send to declarers by CAN on January 31st 2017.¹²⁰

The main conclusions of this thesis are adviced to share among other with declarers and companies, who deal with e-fulfillment. This could be done making use of supervision communication.

¹²⁰ Interview with Mr. L.B. see Appendix 18.2

15.2 Make a BPMN model showing how to mitigate risks

The business process how to mitigate the risk is shown in a Business Process Modelling Notation. The boxes mentioned in this model are boxes from SAD and relevant for:

Box 8 EORI number addressed (country code plus fiscal number) ¹²¹

Box 24 Type of transaction

Box 44 Open box for messages

Box 46 Value ¹²²

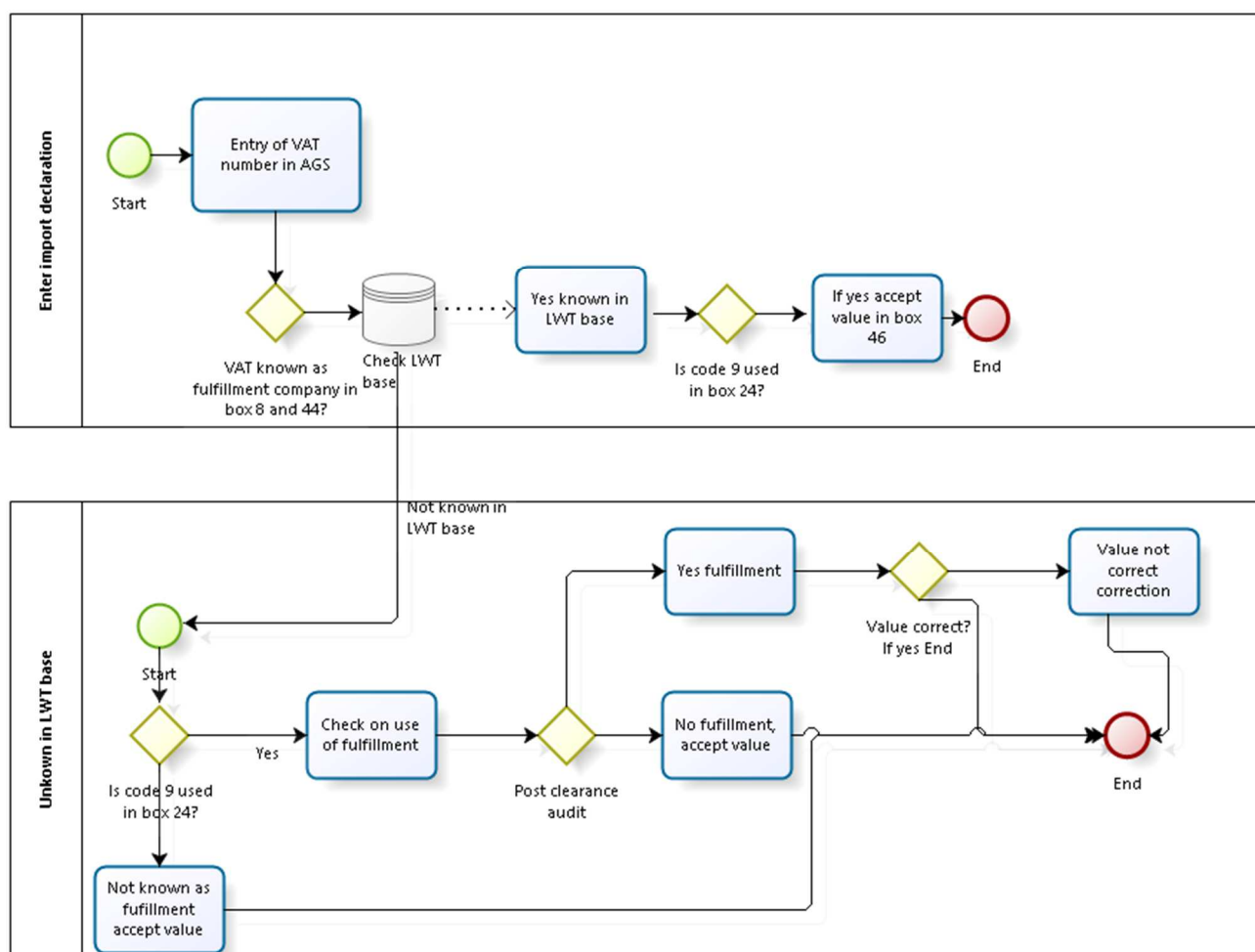


Figure 7: BPMN model of handling of an e-fulfillment import declaration

¹²¹ Economic Operators Registration and Identification

¹²² Appendix VI Algemene Douaneregeling and tables Customs codebook Sagitta

16 Conclusions and recommendations

16.1 General conclusions

As described in this master thesis, CAN has encountered a relatively new business model. As part of the booming trade of e-commerce, e-fulfillment is a phenomenon with Customs related risks at import. General conclusions from literature, interviews and study of legal aspects are:

- ✚ E-fulfillment can be translated into stock movement in light of e-commerce.
- ✚ Transaction code 9 is a general code “other transactions” which should be used for certain e-fulfillment import declarations.
- ✚ Most e-fulfillment risks arise from declared value. However, classification is a general risk especially with consol shipments. No particular risks regarding origin in relation to e-fulfillment were found.
- ✚ The near future will most probably see a considerable rise in import declarations making supervision harder.
- ✚ Another trend is that more and more shipments have low declared value, which could be correct or undervaluated.
- ✚ Data from fair price lists cannot be directly used for correction of perceived low value.
- ✚ The impact of reverse logistics on Customs supervision has been found negligible.
- ✚ The impact of Silk Road, the transport by train from China to EU, has been found relatively small at the moment. In view of the future, it is expected that the transport of goods by rail from China to EU will increase especially since rail is faster and cheaper compared to transportation by ships. That is why proper EU monitoring is advised.
- ✚ The impact of Brexit on Customs supervision needs further research.
- ✚ The concept of data pipeline is interesting but most probably not completely feasible in light of some countries not willing to mutually assist EU.
- ✚ Proper IT helps to improve data quality and decision making.
- ✚ There is no extra risk for VGEM in e-fulfillment found, this includes safety and security risks.

16.2 Recommendations

As described in Chapter 13 with possible solutions, several recommendations are made to improve Customs supervision on e-fulfillment import declarations among other:

- ✚ Make use of enforcement communication. Set up a system to recognize declarers and importers who might use e-fulfillment and actively approach them with information how to correctly declare import. CAN should take the lead in cooperation with branch organizations like FENEX¹²³ and EVO.¹²⁴
- ✚ Make use of the statistics in fair price lists to find possible outliers and detect possible declarations with undervaluation. The outcome of these statistical outliers could be that parties will be audited post clearance or be approached in another way to get the correct information. Staff with proper statistical background should be hired or trained to analyze possible faulty or even fraudulent patterns.
- ✚ Build a database with particulars about parties in the logistical chain known to be e-fulfillment parties and use this information for verification process in AGS.
- ✚ Adapt CAN Handbook with knowledge about e-fulfillment.
- ✚ LWT is proposed to further work out plans to make periodic road shows to spread knowledge (permanent education) and adapt the LWT webpage with knowledge about e-fulfillment.
- ✚ As proposed in this thesis, make use of a CTSP model to monitor the effect of Customs policy.
- ✚ Diversify the level of supervision according to the value in combination with custom duties. The higher the risk of missing custom duties, the higher the chance of selection should be. This can be done during the verification phase when import declarations are filed but also as way to detect risks which can be turned into a ranking of the potential risks to mitigate in a post-clearance selection.

16.3 Benefits and disadvantages from points of emphasis in solutions

16.3.1 Enforcement communication

Benefits

Enforcement communication has a preventive effect. A Dutch proverb is that a warned person counts for two. Also it concerns not only the compliance behavior of the companies being reached through communication or checks, but also unchecked actors who have heard or read about certain policy are reached. However, enforcement communication is a part of supervision but cannot replace checks. Companies expect to be checked and if checks are no longer in place this might increase the chance of unwanted behavior. Good behavior should be rewarded in a way that is appealing to the target group. For example less checks meaning less burden to logistics.

Disadvantages

To make use of the instrument enforcement communication certain conditions must be met. In other words not following these conditions are the unfavorable points. There must be sufficient enforcement capacity available. Unwanted behavior should be sanctioned in such a way that actors are impressed enough to act better. Otherwise the enforcement communication is of insufficient deterrent effect.¹²⁵

¹²³ Nederlandse Organisatie voor Expeditie en Logistiek

¹²⁴ Eigen Vervoerders Organisatie, Dutch organization for proper logistical transport modalities

¹²⁵ Handhavingscommunicatie in theorie en praktijk Voedsel en Waren Autoriteit, oktober 2005 (Enforcement communication in theory and practice)

16.3.2 Fair price list

Benefits

Analysts need ideas to start investigating certain risks. The same can be said for pre-programmed software to detect anomalies in data sets. Since the data set of the fair price list consists of several databases working independent of each other the reliability of the outcome of possible outliers is higher than working with just one database.

Disadvantages

The outcome of the outliers does not automatically mean that a certain declaration is wrong, an audit or other type of control is still needed. Before making use of data, a thorough investigation of the quality of data is needed. In other words the process of data cleaning is important also. This can be an expensive and time consuming process.

An important feature to reduce the burden is to start cleaning data as soon as possible in the process. Of importance is also *“the complete process of quality assurance in research studies includes error prevention, data monitoring, data cleaning, and documentation”* as mentioned by Van den Broeck.¹²⁶ To have clean data, investments in skilled staff, software and hardware need to be done to reach an acceptable level of errors, before an analysis can be made (no garbage in – garbage out).

Another type of staff is needed which can be hired, trained, or outsourced. All these solutions cost proper allocation of resources like staff (hiring and training) and budget.

16.3.3 Database of e-fulfillment companies

Benefits

By centrally maintaining up to date information about companies it is easy for the organization to share knowledge internally. A lot of knowledge is in the heads of people, but when they are not available there is a knowledge gap at the moment a question needs answering. Also, information in systems is less biased than when asking a colleague for information about a certain company. In view of communication towards Customs target groups it is convenient to have an up to date overview of the companies you want to inform about certain aspects of legislation or policy.

Disadvantages

As with all databases, entry must be flawless. The database must be maintained to be up-to-date, which can be an action done by both government and companies. Checks must be built in since everyone can edit. A secure area must be made so only allowed parties can either consult or edit. A blackout could mean that data is unavailable and might even be corrupted so appropriate back up and fallback procedures must be in place.

16.3.4 Customs Handbooks

Just benefits were found. The status of Customs Handbooks is that of reference. Benefits are it is written by experts in a comprehensible way with examples of the main issues that can arise regarding legislation. Another benefit is that Handbooks are held up to date and have been rewritten because of new EU legislation. It is an open source, meaning everybody can access the knowledge in these Handbooks.

¹²⁶ Van den Broeck J, Argeseanu Cunningham S, Eeckels R, Herbst K (2005) Data cleaning: Detecting, diagnosing, and editing data abnormalities. *PLoS Med* 2(10): e267.

16.3.5 CTSP model

Benefits

The general benefits of the model are a systematic and easier way to show a certain outcome with a visual focus on complex issues. Also it is convenient to compare periods with each other.

Disadvantages

There is always a story behind figures or models. A model might suggest a certainty but without an explanation how the model was made it could be narrow, blur or blind decision making. So besides showing a model both time and effort are needed to provide more background information, for example about extremities which might blur the model.

16.3.6 Diversification of e-fulfillment supervision based on value

Benefits

Benefits are that only those declarations are checked that are “fiscally worthy” of Customs supervision. In other words, give the proper supervision attention to those declarations that need it. A lot of checks are made in low value courier declarations, most findings found are made in the VGEM legislation while the corrections about value and classification are relatively low. By making use of this diversification valuable staff is allocated in the best meaningful way.

Disadvantages

Not all risks are based upon value. By using higher thresholds small shipments declared at low value (either the correct value or undervaluation will have none or just a small chance for selection. This way especially VGEM risks would hardly be mitigated. Analysts should find which flows of goods have a high impact on these kind of risks. Therefore low value declarations should always have a chance to be selected. The Enforcement Vision described in Chapter 9.6 should be leading in those selections.

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S.J. van der Meulen Ir. M.R.J. Kindt, Fulfilment van online verkoop, Oktober 2013 Panteia

Thole, E. P., & Dekhuijzen, A. E. (2001). *50 vragen over ecommerce*. Kluwer.

17.3 Legal sources

Algemene Douanewet

Algemene Douaneregeling

Algemeen Douanebesluit

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Commission Regulation (EC) No 2454/93

Council Regulation (EC) No 1186/2009 of 16 November 2009 setting up a Community system of reliefs from Customs duty

Council Directive 2009/132/EC of 19 October 2009 determining the scope of Art. 143(b) and (c) of Directive 2006/112/EC as regards to exemption from value added tax on the final importation of certain goods

Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (CCC)

Decision No 70/2008/EC of the European Parliament and of the Council of 15 January 2008 on a paperless Customs environment for Customs and trade, OJ 2008, N° L23, p. 21.

Fiche 3: Richtlijn en verordening Modernisering van de btw voor grensoverschrijdende e-commerce

Gerechtshof Amsterdam, 15 september 2016, joint cases 15/00260 and 15/00261

Mededeling 2014/527

Notice 252 of HRMC p.5

Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code-UCC

Wet op de omzetbelasting 1968 - Wet van 28 juni 1968, houdende vervanging van de bestaande omzetbelasting door een omzetbelasting volgens het stelsel van heffing over de toegevoegde waarde

17.4 List of internet sources

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<https://belastingdienst-in-beeld.nl/over-de-belastingdienst/hoe-zijn-we-georganiseerd/>

<https://www.rijksoverheid.nl/ministeries/ministerie-van-financien/inhoud/organisatie/organogram>

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<https://stats.oecd.org/glossary/detail.asp?ID=4721>

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<https://www.pwc.nl/nl/assets/documents/pwc-brexite-leaflet.pdf>

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<https://www.tilburg.nl/actueel/nieuws/item/treinverbinding-tussen-chengdu-en-tilburg/ 4-11-2016>

17.5 Webinars

<https://www.youtube.com/watch?v=iiNKkIBO99k> and Whitepaper: Pushing Boundaries: The Customs Administration of The Netherlands' point on the horizon for the enforcement on continuously increasing flows of goods (June 2014)

https://www.youtube.com/watch?v=I_jPswnVjTY Presentation for Air Cargo Netherlands Schiphol 1 november 2016

18 Appendices-interviews

For reasons of anonymity, the names of the interviewees are shown with just capital letters. The names are known with the supervisors in an undisclosed Appendix.

18.1 Interview with Mr. A.D.

December 20th 2016. Mr. A.D. works at CAN Schiphol Cargo Customs, department of client management as contact person for e-commerce and VENUE.

As key drivers he cites the growing role of the consumer who is becoming more and more demanding. Why wait for example for eight days or longer if a competitor can deliver within a few hours? Coincidentally, a few days before this interview there was an advertisement on internet by Amazon showing delivery of orders with a weight up to 5 LBS or 2,25 kilogram with a drone. The story goes that Amazon is striving to deliver their orders in the USA to 60% of US consumers within two hours after ordering.

Within logistics, there are increasing opportunities to transport goods from A to B quicker and more efficient. As major challenges he sees:

- ✚ the decreasing knowledge of the Customs brokers;
- ✚ decreasing knowledge within CAN partly due to the outflow of experienced staff in the context of the voluntary redundancy scheme 2016 and
- ✚ whether or not compliant behavior is of high priority for a company.

For Customs brokers there is the question between profit and comply with rules and regulations. Actually this plays perhaps also a part to Customs: what commitment is required in order to meet a target level of enforcement. The risk is that if an EU Customs commits too much invasion of logistics processes there occurs a sort of waterbed effect and customers shift their logistics processes to other EU countries where less stringent enforcement is in order. Losing business can of course have impact on local employment for stakeholders like industry, the logistics sector and public authorities.

He sees an important role for the so-called intelligence branch of the Customs. I interpreted this as not only about single individual shipments which are coming, but also changes in the market and legislation. If you already know that a particular Regulation is going to be in effect with a certain possible impact on good flows (think anti-dumping duties) on the market then you should already try to analyze the relevant risks.

There are also ongoing developments in logistics such as Fulfillment by Amazon where relatively little knowledge is spread among most Customs employees. Maybe 10-20 people within CAN know exactly how FBA works. We talked about FBA. These various logistical variants are possible:

- ✚ FBA- release for free circulation on entry
- ✚ FBA- entry into a bonded warehouse
- ✚ FBA- stock movement, transaction code 1 is not possible.
- ✚ FBA- role of belonging, affect valuation. At arms-length or not.

The question now is what transaction can serve Customs value determination. Also, you cannot in all cases making use of, for example, Pay Pal payment data because there is not always a transaction. Customs value is then determined by reasonable means, the price of a commodity on the Internet is can be used as a basis and after deducting certain elements is then determined the Customs value.

When making use of FBA there always is a unique ASIN number:

“ASINs

Amazon Standard Identification Numbers (ASINs) are unique blocks of 10 letters and/or numbers that identify items. You can find the ASIN on the item's product information page at Amazon.com. For books, the ASIN is the same as the ISBN number, but for all other products a new ASIN is created when the item is uploaded to our catalogue. You will find an item's ASIN on the product detail page alongside further details relating to the item, which may include information such as size, number of pages (if it's a book) or number of discs (if it's a CD).

ASINs can be used to search for items in our catalogue. If you know the ASIN or ISBN of the item you are looking for, simply type it into the search box (which can be found near the top of most pages), hit the "Go" button and, if the item is listed in our catalogue, it will appear in your search results. For example, the ASIN for Hasbro's "Monopoly" game is B00005N5PF.”

¹²⁷

Another term used in logistics is the SKN, stock keeping number and SKU, stock keeping unit. Further we spoke about centralized clearance. Circa 2020 it will run. In other words, a declaration can be made throughout the EU, irrespective of where the goods are. No clear view what it will mean for DTCA and supervision.

Schiphol's ambition is to become the e-commerce hub for Europe.

The declaration system AGS is sometimes unstable. A return message from Customs after a company files a declaration may take up to 30 seconds. This is obviously difficult if a company sends for example 5000 declarations. VENUE is therefore a solution, however, in 2019 third quarter VENUE most probably will be abandoned. What is a solution? Both parcel services and ministries are lobbying for solutions.

In Great Britain all shipments with a value of less than 22 euros are allowed to be declared under one CN code so they are indicated as a “collective declaration”. Moreover, the fiscal interest lies mainly in import VAT and a lot less in Customs duties since the rates of Customs duties are significantly lower than the VAT rates.

¹²⁷ <https://www.amazon.com/gp/seller/asin-upc-isbn-info.html>

18.2 Interview with Mr. L.B.

December 2th 2016. Mr. L.B. works at CAN Nijmegen as Dutch program manager being responsible for improving the quality of declarations ("AB plus"). The scope of this project is to enhance the quality of the import declarations.

Important outcome of the project is sending a letter to the companies that file declarations. This letter was sent to these declarers on January 31th 2017. This letter informed declarers about representation and applicable rules in the new UCC but also the following four items:

1. Customs should know who is involved in the import or export of goods.

If you name the addressee in the appropriate boxes, then the EORI number should be valid. The operator is obliged to (have) the EORI number in all Customs procedures used as identification in the data exchange with the Customs. Also when Customs operations are carried out in other EU countries.

What do we see going the wrong way: Some applicants fill in the recipient field, or Principal Represented a number that is not a valid EORI number. There are two situations in which we see mistakes:

I Fiscal unity. In a fiscal unity several companies are seen together as one company for VAT. A fiscal entity gets a new tax number. We can see that a portion of the importers use this tax number as if it were a valid EORI number. The use of this EORI number is incorrect because it is not a valid EORI number. You need a valid EORI number the (subsidiary) company use that is involved in import or export of the goods.

II. Foreign traders. The EORI number is assigned by the Member State where the economic operator is established. We see that the petitioners of a Dutch EORI number of a foreign trader fill if it was a Dutch EORI number (NL + tax number). This is incorrect because this is not a valid EORI number. For a foreign operator elsewhere in the EU, you must be using the EORI number that the operator has been awarded in its own country.

What are the consequences: by not just filling out the EORI number Customs in controls, when petitioner to inform the appropriate EORI number of the operator. If there is no valid EORI number used in the declaration, the Customs authorities are unable to use fewer controls on specific operators.

What to improve: If you enter using an EORI number this always must be the EORI number of the operator involved in the import or export of goods.
Check if you are unsure whether the EORI number is the EORI database.

2. Buyer and seller mentioned in the declaration

How should it be done: If the Customs value is determined on the basis of transaction value method (buy / sell) pursuant to Article 70 of the UCC, if required, both the buyer and seller should be mentioned in the appropriate fields of the D.V.1.

What we see go wrong: sometimes the entry in the fields of the D.V.1 shows exactly the same names for seller and buyer. When there is a transaction with transfer of ownership (Transaction code 1 in field 24 - nature of transaction), this is not correct.

What are the consequences. When you make this mistake in declarations you get more checks and requests for additional information, risk adjustments and penalties arising from incorrect declarations.

What to improve: Make sure that in case of a transaction in the fields D.V.1 seller and D.V.1

buyer show two different companies. If there is no a transfer of ownership and therefore not a transaction, the transaction value method can't be applied.

3. Product description-specific trade name

How should it be done: enter the description of goods so the trade description of the goods. Mention this specific trade name (brand / product number) and add the main characteristics of the goods to the description (such as material, levels, features and functionality). In this way the goods can always be identified by Customs and classify

What we see go wrong: some authors of declarations copy the general and comprehensive text from the tariff. In this way, the specific trade description of the goods is missing. What are the consequences: when using a general description Customs can't possibly identify goods properly. If Customs does not know exactly what goods this could lead to questions, checks and delays of further transport of goods. What to improve: make a clear definition by using the specific trade description of the goods. Do not copy the general descriptions of the tariff.

4. Declarations multistory-more lines per declaration

How should it be done: If you make a Customs declaration, it is often necessary for multiple lines to be created within one declaration. For all the different goods with different HS codes you have to create a separate line in a declaration. Customs may check all measures relating to the goods.

What we see go wrong: checks show that declarations are filed who produce only one HS code for all to declared goods. This way not all the appropriate duties and taxes are paid. The consequence could be that Customs has stricter controls on the classification of goods.

In the past there was an admission Customs agent in the Netherlands. In the new UCC this has become the admission Customs representative. In principle, these representatives must comply with the AEO criteria. Major challenge is whether there is sufficient information available about and from the customer to submit a correct declaration.

He heard about the term e-fulfillment for the first time. After explaining what e-fulfillment is there was recognition. He knows e-commerce also from personal experience eg. ordering drum sticks online. We discussed the Dutch definition of e-commerce which about covers almost all transactions, nowadays.

Trends noticed by Mr L.B.

We are entering the automation era. The 90s of the previous century and later until recently he sees as the digital age. Internet sites are becoming more accessible to consumers. Also through mobile phones you can now easily order and pay for items. Consumer convenience is growing. What is critical or desired delivery time, this is situational and different for each consumer. For him the receipt of his new drumsticks can also be the day after tomorrow. He is willing to pay more for speed when it is really needed. He lacks confidence because he has not had the desired product on his hands.

At for example Amazon, with stock movement, there is no transaction. LWT sees this as a risk because shipments still apparently are declared with transaction code 1. This should be 9

VERIFY: Basic transaction codes basis what to do with stock movements.

For him the background of information when making an import declaration hardly matters, whether it is e-commerce or not. In the end to carry out supervision Customs needs to know enough of the classification of goods, value, country of origin etc. He sees a big risk in the literal copying of the product description of the Customs tariff and also with the use of the residual items.

Within e-commerce and fulfillment there are two sides who know exactly what the contents of a box are, namely the shipper (trader) and the end user (buyer). How do we get right information needed for proper declarations.

The companies which are filing declarations would not just have to copy data in a declaration, they should do their own research and see for themselves what the correct data is. For parties this can probably be automated.

He sees a trend than principals becoming now software vendors such as Maco.

He has heard of data pipeline. This data pipeline he sees as complementary information. According to Mr.L.B. invoices would be required in the AGS transmission of declarations somewhere in 2017 but I knew nothing about that.

18.3 Interview with Mr.H.H.

December 27th 2016. Mr. H.H. is working as a team manager in the process of the import declaration department CAN Schiphol which is one of two AGS import declaration departments. Next to AGS import declarations take place by couriers (VENUE and AGS).

The term fulfillment was unknown to him. After explaining there was a recognition. He himself has never bought goods from China but from the EU (bol.com) and knows about e-commerce this way.

According to him, there is nobody within the Customs organization that knows exactly who is doing or need to do within the chain of DLTC, Physical Supervision, Declaration Department, Client management so who exactly is responsible for what. He would welcome a workflow chart describing all processes and the links between the departments.

AGS he finds unreliable, regular outages. In that case a fall back procedure is used which can put strain on both declarers as Customs.

He would like to see how the processes are managed and what kind of Internal Controls within Declaration Department and internal reviews.

As a solution for the enforcement level of physical checks on imports there might be the idea to start with calculating what can be done so not a fixed percentage but a bandwidth in numbers say 50-70 k checks on import declarations per year. I suggested then to take into account also the import declarations being checked with post clearance audits. There is no clarity what level of enforcement is acceptable to Brussels. My opinion is that this will never be achieved EU wide. Note: In the recently published HHP 2017 there is a bandwidth in numbers, not a percentage anymore.

We discussed the disadvantages of data pipeline, how can we as DTCO be sure of data from non-EU countries, where we are not allowed to check. The system of mutual assistance could be used but only with countries we have treaties with.

He describes the problems of the declared Customs value, it takes a lot of time to check this especially if there is no transaction. I mentioned Customs has to control declarations and not find things out themselves. A declarer must make the declarations and CAN checks what contents of declarations are.

He sees a change in the types of employees. For many years Customs people had to be generic but he thinks CAN goes into more specializations. Let specialists take care of their own processes.

18.4 Interview with Dutch Valuation Team (LWT) Mr. N. and mr. L.

The meeting held on January 4th 2017 lasted for three hours and touched numerous topics. Almost immediately I was shown a press release that the 22 euro threshold might be abolished. Reason for abolishing is more tax collection and it was easier to handle parcels for couriers services. Nowadays with all automation there is no more need to skip the declarations of shipments of low value.

On a yearly basis there are about 150 million parcels entering EU. The damage of not collecting duties and VAT is estimated a 5 billion euro (in Dutch miljard). Most risks at classification and undervaluation.

For the undervaluation I suggested the way Post NL works, when in doubt you ask PayPal data from the importer. Mr. N. said well there are ways to go around the correct payment then, for example aftercharges or back payments.

Mr. N. mentioned about 600 profiles in AGS this could mean that certain import profiles AGS are not working well or are not usefull.

I was invited to join a meeting at Schiphol January 5th for a meeting on Schiphol between Dutch Valuation Team (LWT), Customs declaration department, importeur K. BV and her declarer to discuss issues regarding e-commerce shipments, especially valuation.

Solution for valuation is to work according to a system of day prices or Amazon prices. But to use this work order this can only be done in line with the legal prescribed order to value and after authorisation by LWT, in case of stock movement.

Example: shipment of 3.000 parcels. Looking at the recipients (individuelle labelled) these all had to be unique declarations. The declarer H. only made one declaration. Was B2C shipment and selected for physical check. So according to legislation the declaration had to be split. Both Customs and declarer would have had a lot of work. The declarer H. said it would be possible to split it but when his company would send 3000 lines of declarations his IT system would fail.

Check: what are possibilities to do 1 declaration with 1 GN code?

3 flows according to LWT in e-commerce:

✚ **B2C**

✚ **B2B** (valuation by way of using value of identical goods?)

✚ **Stock movement**, acceptable price would be the price the consumer price pays with deductions for VAT, custom duties and EU costs if distinguishable.

There are at least two international groups working on e-commerce namely in WDO and EU. We discussed differences in culture. Reliability of data from China. A declarer asked if a certain price was correct. Chinese party said yes and that was all that was done. No further check on prices.

Trends:

1. Amazon is getting more and more competition. Competitors being able to give the same service as Amazon at lower prices. Chinese companies, with a base in Germany like Ali Express.
2. Another trend is the rise of traffic through rail. So called Silk Road. China through Russia would be faster than by boat. Entry in EU in Poland? What are checks at that EU border?

Are lower prices possible because of dumping? Mr. L. gave example of buying hygrometers, value 5 USD which he paid but on the invoice in the shipment the invoice showed a value of just 0,10 USD

3. Another trend is that when companies are being checked too often (in their opinion) they easily go shopping to other EU countries to conduct business there. This could be tackled by a EU broad uniformity in risk approach.
Fiscal program in EU 2020 with lot of money to be spend 500 million euro of which 300 million euro would be for IT measures.

Best would be to make life easy for all countries, do not forget Holland is the number one distribution country in Europe.

The feeling at LWT is that 95% of all couriers shipments are having mistakes in declarations. Valuation, GN, codes for transfer of ownership etc.

Simple solution but politically probably not attainable would be to hire more staff, educate them well since they would earn the costs back. However, more checks could result in companies leaving the Netherlands.

Hanjin has filed bankruptcy because of overcapacity on the oceans with containers. Bigger and bigger ships but not enough demand especially during economic crisis.

Challenges: less staff, loss of knowledge with 5100 people leaving the DTCA including over 300 in CAN. Lot of IT systems which are not well connected, IRS dealing with company "blue" taxes have this better organized.

Probability of road show to spread knowledge at Customs offices.

18.5 Interview with Mr. R.B.

January 30th 2017. Mr. R.B. works as a risk analyst for CAN at Schiphol Cargo Customs. He specializes in e-commerce, giving presentations, preparing post clearance audits and profiles in AGS. He also evaluates the outcome of these audits and profiles. His specializes in so-called consumer goods. (I received a list of who is working in which part of Nomenclature-HS codes).

The old fraud team at Schiphol now is gone, all activities fall under a new team called AFCOS.

As key drivers he cites:

1. Digitalisation of the world
2. You can order anytime anywhere (M-commerce)
3. Order today delivery tomorrow (sometimes even on the very same day)
4. Speed is important, because of modalities and fulfillment the distances are of less importance

His definition of fulfillment is about storage because of internet possibilities. The goods are already near the consumers in a warehouse. The owner of the warehouse is not the owner of the goods, this is not really of importance to Mr. B. but more for the Physical Supervision department, they should know where to go for physical checks.

He has not heard about companies who have left the Netherlands because we do too many checks (LWT told me so this could happen as a trend).

He mentioned Mr. R. as possible interviewee, he checks new importers and low value primarily from Chinese shipments.

There are not a lot of people analyzing, and overall he sees gaps in knowledge also because not every colleague in the analyzing department had had a course in analyzing. Getting education would help improving the skills of analysts. Nowadays he spends more time in import profiles, less time for post clearance audits. This has to do with less post clearance audits in HHP (used to be yearly approximately 1200 now 500) and more in the NOW work than before. The 1,7% physical checks was not a holy number anymore in 2017, now a certain amount is in the management contract (bandwidth in numbers). He has no idea how the percentages or number of checks are in other EU countries.

In fulfillment the biggest risk he sees is that there is no sale while in the declaration the transaction code is said to be sale (code 1 should be 9). He knows about the letter being send to all declarers about improvement of quality of declarations. How can you improve the quality I asked. He said making declarers more aware, know your customers better. This can be done with letters but also presentations and road shows. I suggested webinars. He heard from colleagues there are always technical issues with AGS. When AGS does not work, there is a fall back procedure.

He is member of a group having regular (weekly) meeting about e-commerce. He mentions there should be EU broad measures to cover e-commerce risks. That will be hard I said because not all EU countries have the same issues as the Netherlands.

18.6 Interview with Mr. P.N.

January 31st 2017. Mr. P.N. works as a risk analyst for CAN at Schiphol Cargo Customs. He works in the field of business analytics and has (after a career beginning on the work floor, climbing up) data science as background and analyzes the big picture regarding e-commerce imports.

He compares the growing numbers in shipments with a tsunami. An annual growth in numbers of declarations of 15%. Sometimes a jump in valuation which does not correspond with the rise in numbers. We discussed the value of data cleaning before making assumptions. For example a faulty declaration stating 1000 times the value needs to be cleaned first before making statements about growth. As long as Customs duties are zero a declarer won't notice his mistake. 0% of 1000 is the same as 0% of 1.000.000.000.

He mentions the theories of Darwin. Since the number of employees won't grow the same percentage as the number of declarations you need other methods of tackling risks. As Darwin said, adapt to your surroundings to survive and become stronger. He sees major challenges in staff, will they be able to / willing / allowed to change. For example, the better colleagues from Physical Supervision can be sent to an education for the next level in rank with the risk of keeping less educated and experienced people doing work.

He sees a landslide with fulfillment. Not just for Physical Supervision but also the verification department and client management. Now he sees yearly 8 million declarations in AGS-Venue and his estimation is that about 80% of this number is e-commerce. Schiphol wants to become the EU e-commerce gateway.

His definition of fulfillment is short: stock movement. Order now for delivery tomorrow. The drone experiment Amazon is nice for rural areas but not for busy cities. Why order at Ali express when you need it now but delivery takes 2-3 weeks? Also depends how soon a consumer wants his goods (note: see Consumentenbond article)

We discussed the internet shopping platforms. Especially by use of data analytics predictions of what consumers want and predictions of what trends are the companies can deliver faster and faster. On the other hand, some consumers do not want to pay a lot of money for speedy delivery by UPS or Fedex but prefer low costs with a small letter by China Post. Schiphol Cargo can check physically about 100 declarations a day. In most of the cases when there is a correction its of low fiscal nature, small amounts of Customs duties and VAT. His estimate is that 80-90 % are relatively small shipments.

He sees a trend that malafide companies declare just above thresholds like for example 300 euro while value is much higher. Perhaps in that case there is less chance of selection he is not sure.

I mentioned LWT and their way of making agreements with companies about valuation. Of 10 applicants only 2 or 3 went on, the other parties did not go into further negotiations. The feeling could be among parties that they think Customs processes are not in line with their logistics so Customs is not doing a good enough job. Then its Customs problem to supervise.

He mentions agreements about import of textile and valuation. 4 euro seems reasonable on average. There is mention of a European fair price list but no documentation found yet. I mentioned the system of Swiss Customs, where weight is used instead of valuation to calculate Customs duties.

In most declarations he does not see big risks. It's like the 80-20 rules, 80% has little impact but needs to be controlled in such a way that the other 20% can get more needed attention. We also discussed the Enforcement Vision.

When you would take the numbers of 2015, the largest part of goods/shipments/declarations is between 6 and 20 euro.

He sees a trend in postbox companies, how could you profile these? Perhaps making use of blue (corporate tax) systems like IKB. Also that way you might see who facilitators are. Making databases of these companies for profiling would be an idea to have up to date information needed to mitigate risks.

About trends:

Growth in numbers but also in speed, the velocity of which goods arrive at the buyers place. He sees a parallel with doing groceries being delivered.

About key drivers

- Convenience to order goods
- Transparency in service (you can see scores of client satisfaction)
- Competition is good for consumers, transparent market
- Some companies offer a lowest price guarantee
- Zalando story about reverse logistics (not owner of goods?)
- Sending back is easy with as incentive that when consumers find out how easy this out, the bigger the chance they come back and no questions asked

Which kind of transaction, 9 could possibly mean fulfillment. But first it must be determined whether this code 9 is valid.

No use of article 23 VAT could mean a consumer buying goods or a small company. With private persons this still can mean transaction code 1 (buy-sale). In fulfillment you would not expect to see private consumers as buyer.

Some companies have their internal controls very well organized. He mentions company BW (name anonymized) which does its own internal checks on approximately 1 in every 200 packages, which are opened to check for classification and value.

We discussed issues with AGS and Venue, and the use of the fall back procedure. Overall parties are burdened when systems are down.

Faulty declaration means filing reports which cost a lot of time at Customs Schiphol. At Stationsgebouw there is in some kind of app which generates more simplified reports. Another issue is that declarations can have up to 99 lines, even if you would only have to check 1 line you have issues checking completeness of value and risk of holding up logistics.

Issues with low value China shipments, in China the trader knows exactly what the value is. China Customs controls their imports more than their exports.

Data pipeline could work if there is EU broad consensus about exchange of data.

Out of own experience, value of most fulfillment declarations is low. TNT post has a good information position, know a lot about their clientele. Customs has a lot of diverse but systems are hardly linked. So it is hard to make use of Big Data.

Also a large part of import has low value, perhaps 50% of all shipments is lower than 18 euros.

18.7 Interview with Mr. H.B.

February 8th 2017. Mr. H. B. works as a EDP Auditor for CAN at Eindhoven. He is the Dutch national program manager e-commerce.

His estimation is that Amazon, e-Bay and Alibaba are involved in about 75-80 % of the world market in ecommerce.

In the UK there is legislation about giving data by the private sector to Customs in e-commerce transactions. Compared to other EU countries this means there is no level playing field since rest of EU does not have these kind of legal demands.

Would using a forfait be a solution to tackle low value risks? For example, examine possibilities to have another VAT system making it easier for both buyers as Customs. Worldwide you see more exemptions in custom duties. EU goes other way. You might think about other ways or platforms to deal with payment of VAT and duties.

In the UK the platform owner is responsible for payment of VAT and duties.

What about the use of data pipeline? Use of data from outside EU is a no-go area since we have no jurisdiction there to check validity of the data.

Despite lot of checks in couriers, not a huge amount of corrections (webinar). This was also mentioned by Mrs. M.M.

Another trend (webinar): shops that do not sell anything more expensive than 22 euro (which is the threshold to pay zero custom duties and VAT)

18.8 Interview with Mrs. I.T.

February 8th 2017. Mrs.I.T. works as manager for CAN at Schiphol, fiscal department. Core business of her team is to mitigate risks regarding the fiscal aspects of declarations.

Her department works with teams that have Intelligence, Risk analysts, Profiling of declarations as their tasks.

There are three declaration points in Netherlands:

- ✚ 432-Schiphol which covers the Northern part of the country
- ✚ 396-Rotterdam the Southern part
- ✚ 144-couriers

E-commerce according to her is transactions through internet, movement of goods, passing EU borders. As e-fulfillment she sees the movement of stock. E-commerce is disruptive to the market, and a relative new business model (like B&B, Uber). CAN is not used to this new business model yet.

Her challenge, with 15% growth in number of declarations yearly, is how to enforce in a more smart way.

Risk analyses: who are the players in the market.

VENUE: was only available for the big 5 couriers who were used after years and years of experience to work in some kind of way. The risk now is that new companies who apply to work with VENUE are not as experienced to work properly as the couriers are used.

With growth in numbers of declarations there is the challenge is how to enforce properly, She does not think the solution lies in more staff but select and work smarter.

18.9 Interview with Mrs. M.M.

March 8th 2017. Mrs. M.M. works as Enforcement Director, e-Commerce for CAN.
AS IS situation on e-commerce: not a lot of policy in e-commerce, and there are no 100% concrete solutions for the problems and risks there are.

She has the idea that a lot of work in analysis is still done by hand. She heard the story about self-learning programs but this is still for future (algorithms, false positives) and not a practical workable solution now.

E-fulfillment exists in both systems AGS and Venue, and it is hard to distinguish whether a shipment is e-commerce or not since there is no specific code in the CAN declaration systems for those kind of shipments. We discussed transaction code 9, which is a rest code or closing post. Using a rest code makes it hard to see what exactly is behind the data. Checks on import with VENUE (opening packages) has little fiscal results, most corrections are VGEM related.

One of her colleagues is involved in the possibility of fixed pricing (as already mentioned by LWT).

Adaptations in SAD would be welcome to recognize e-commerce or e-fulfillment, it would mean changing the specific fields in declaration systems (note...must be EU broad level).

Solution could be in the use of Big Data, but as we see in the Netherlands it is already hard to make for example an electronic patient dossier. Especially communication between different systems and different languages, definitions is a hard task.

A solution to mention is the use of internet price information in a declaration, for example mention a hyperlink with additional information in box 44 of the SAD. Not sure however if this hyperlink works in the declaration, or that this data has to be copied into an internet environment.

Data pipeline is nice theoretic model but hard to accomplish to get relevant data of parties outside EU from traders or governments. Mutual Assistance could help out here but this is not a solution for countries without agreements (like China).
Developments in VAT were not clarified.

Learning circle could help to mitigate risks but that would mean commitment from high ranking managers to invest in people and systems. For example still a lot of human work is being done which is not captured in systems. So you would need a good organization of data and research in case people would leave, knowledge should not stay in heads but be embedded in the organization.

Possible solution might be to segment in value, for example hardly checks on low value shipments like smaller than 1000 euro and take your minor losses for potential custom duties and VAT missed

Colleague R.V. made a type practical working solution of mitigating and detecting risks in import declarations by recognizing new traders.

18.10 Interview with Mr. T.Z.

January 4th 2017 Brief interview since most of the answers were the same as Mr. N., his direct colleague. Mr. Z. works as a risk analyst for CAN at Schiphol Cargo Customs. He was one of CAN students at the Delft programme which preceeded the RSM.

An eye opener was his remark that is not just lack of knowledge in Customs but also lack of information. Another proposal would be to cluster possible solutions in my thesis.

18.11 Interview with Mr. R.G.

May 19th 2017. Mr. R.G. works as policy maker enforcement Director for CAN in Rotterdam.

My question was to him was: which VGEM risks are known that play in e-fulfillment / stock movement, how does mitigation take place and what can be suggestions for improvement in risk detection and risk mitigation?

Mr. R.G. answered in the following way:

"In essence, it is possible for any subject to send something by mail or courier that does not comply with against a certain VGEM regulation. For each VGEM enforcement area, an intelligence employee is set up to continuously analyze the risks in that particular area, and that employee is also expected to consider not just regular import but also mail and courier flow. If the risks are substantial enough then they will be highly prioritized on a list after the risk weighting every couple of years, and the ranking can be influenced by policy makers also. The largest risks to mitigate and the number of possible controls are mentioned in the HHP 2017, and its Annex A.

Venue has been made for all couriers (note EVH: as of recently open for all declarers after Customs authorisation) to enter their "summary declaration", including a check on VGEM profiles. Those VGEM profiles reflect the HHP, and make sure we can select the most risky packages.

(Note EVH: These are the same profiles as for AGS (level playing field!) and the EPD.

If the value is above 22 euro then an additional declaration is made in the AGS, but this is primarily intended to pay import duties and VAT. The goods are usually gone.

Whether all Couriers use Venue for all packages coming from outside the EU is a question where another colleague could give an answer. If there are e-Commerce companies that do not use Venue, the pallets / parcels should already be on the summary declaration upon entry, but then the description of the goods will probably not go beyond "1 pallet with 1256 packages amazon.com" (note EVH: consol?) In my knowledge, those shipments are also included. Well selected for controls, but you understand it's like shooting in the dark then to find risky goods.

The postal information position is based on other than Customs legislation, so that has consequences for the way we can select (in my view, we know "less" of that), courier shipments simply have to comply with what Customs requirements are required.

As with everything, maintaining a balance between checking and facilitating, and given the enormous amounts, everything stops being illegal, a utopia. I can only rely on my colleagues in Intelligence to think about the risks as sharp as possible, and to drive the biggest up in that HHP.

In addition, there is also a development that the Ministries become our direct clients, and this may change the focus. Even then, it is a matter of risk-taking where Customs should put her effort into it.

In all cases, "VGEM dossier" records are being carried out on counterfeit, phytosanitary, veterinary and Flora and Fauna but by far the biggest is counterfeiting. From the EU, there is the Small Shipment Procedure (counterfeiting), so the importance of Postal and Couriers is recognized at European level.

He had just read the Business Case for ICS2, and for mail and couriers, there is a consideration which indicates that our information position on mail and couriers especially for Safety & Security which is part of VGEM should improve, I quote:

"In addition , the EU air cargo security action plan calls for addressing the existing critical security loopholes in relation to the Customs capacity to analyse security risks presented by the absence of ENS data covering small consignments , i.e. goods of value below 22 Euros and by a complete absence of advance electronic data for goods in the postal sector.

Consequently, by acknowledging the seriousness of the terrorism related threats posed by goods/cargo in the air supply chains, of the importance of advance data to the Customs to allow its timely analysis in support of strengthening of the air transport security, the Universal Postal Union at its the 25th UPU Congress amended, by overwhelming majority, UPU Convention Article 9 by introducing advance electronic information as a future requirement for postal traffic (excluding postcards)."