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Improving Dutch Customs' supervision on the Inward Processing procedure destruction in light of the increase in recycling of residues and waste

Executive Master in Customs and
Supply Chain Compliance

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Preface and Acknowledgements

Dear reader,

After three years of combining work and study alongside my personal life, it is finally here. Completing my master's degree is truly a milestone in my life, and I am proud of the path I have taken to achieve it. In the end, I succeeded without too many setbacks, but this required dedication and sometimes thinking in the middle of the night about what could still be done to get one step closer to the end.

It was sometimes challenging to divide my attention between school, work and private life. Therefore, I am also happy to shift my focus a bit again. Furthermore, I would like to mention that this thesis was written in a personal capacity and not on behalf of Dutch Customs. Therefore, no rights can be derived from what is written here.

I would also like to immediately thank Dutch Customs for giving me the opportunity to participate in this great programme. In my view, it is always good when an organisation encourages employees to participate in programmes to improve knowledge.

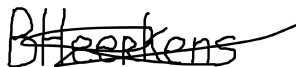
Following this, I would like to express my gratitude to my supervisors. Frank and Walter have helped me tremendously with their guidance and critical view through the feedback sessions over the past six months. In addition, as the first supervisor, Frank also helped with contacts for the interviews and at the beginning with determining the direction of this research. To the latter, my colleague Serge also assisted at the start by participating in an online session and providing comments.

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Last but not least, I must conclude with my thanks to Lotte for her unconditional support. Lotte, you always knew at the right moments to trigger me to study but also to give me rest, balance and distraction. Without you, completing this study properly would have been much harder. So thanks (a) Lot!

Enjoy your reading all,

Bart Heerkens



's-Hertogenbosch, 24 March 2023

"No one who achieves success does so without acknowledging the help of others. The wise and confident acknowledge this help with gratitude."

- Alfred North Whitehead -

Executive Summary

Under the Inward Processing (IP) procedure economic operators with an authorisation can carry out various processing operations on non-Union goods. One of the operations is destruction, and then the IP procedure is discharged when the goods placed under this procedure have been destroyed with no waste remaining or when the remaining goods have been placed under a subsequent customs procedure or have left the customs territory of the EU.

Destruction of non-Union goods with no waste or secondary products remaining under the IP procedure is in reality quite challenging to achieve because, in the current economic and circular environment, companies will look for opportunities to increase reusable products that were previously considered waste. Even when goods are thrown into an incinerator, in many cases a residual product is created as steam is captured that is used to generate energy. Another method of destruction where a residual product is often created is the pulverisation of fruit or vegetables that can no longer be sold on the internal market. This is performed so it can be composted and used to produce biogas.

The problem lies in the proper discharge of the IP destruction procedure. Both companies and customs authorities find it difficult to either acknowledge that products after the destruction require further formalities or it is considered unworkable to allocate the secondary processed product to the goods placed under the special procedure. There can be various reasons for this, such as the valuation of fruits and vegetables that have a really low value but remain stuck to valuation based on unit prices, there are not always clear or different CN-codes for processed products, or the destruction process might be unclear for the authorisation holder. Making compliance with formalities more difficult leads to non-compliance and may encourage companies to choose less sustainable destruction routes.

For this reason, the research question focuses on improving Dutch Customs supervision on the discharge of the Inward Processing procedure for destruction in light of the increase in the recycling of residues and waste.

Seven sub-research questions and two research objectives have been developed to answer the research question. The first objective is descriptive legal research, and the second is design science. Different research methods were used, namely: legal research, literature and desk research, interviews, and analysing the outcomes and writing down possible improvements.

The legal research contributed to a better understanding of the legal framework for the destruction of non-Union goods under IP and showed how the IP destruction procedure changed over time. The literature and desk research was conducted to identify possible IP destruction operations, the current customs supervision in the Netherlands, and whether or not the system is suitable for today's business operations where more and more products are reusable. The interviews were necessary to gain insights and gather facts about the legal framework and policies of Dutch Customs. All this led to possible improvements to be followed by either regulatory changes from the European Commission (COM) or quick wins from Dutch Customs.

The advice towards COM is to amend article 324 UCC-IA in order to make it easier to end the formalities regime for goods destroyed with no or low value. Moreover, the word "destruction" is not further defined in the legislation, although it is a new procedure under IP since the UCC became applicable. Clarification of the legislation is certainly recommended. Just as more practical examples in the Guidance on Special Procedures would lead to more unity of policy and implementation across Member States. The latter is especially needed for the two main

destruction operations. Lastly, the COM could look at: (1) creating additional CN codes for products that are destroyed, or converted, into a reusable product in a sustainable way, and (2) creating an end-use procedure for fruit and vegetables which are destroyed in a sustainable manner.

Dutch Customs is responsible for its own policy on EU legislation. As a result, quick wins are also possible to improve its supervision of the IP Destruction procedure. The first is to put a maximum on authorisations by declaration, and by doing so, more administrative supervision is possible instead of physical supervision. Then a change in the DO 040 document is desirable to optimise information on possible required subsequent procedures for residual products after destruction. Furthermore, two policy changes are possible, namely: (1) a policy position saying Dutch Customs consider destruction by incineration or composting as done without residues and waste materials when the secondary compensating product had a 0% tariff, and (2) view goods to be destroyed by an incinerator as the same as goods from the Valuation Compendium commentary number 15. Finally, Dutch Customs is also responsible for guidance through the Customs Manual, which should be updated with practical examples and more explanations. Discussing new policy changes within the Customs-Business Consultation Platform is also important.

It is recommended to further explore the feasibility of (some) improvements. Especially regarding regulatory changes and what this would mean for other, perhaps less sustainable, flows and there is a need to guard against unfair competition. Furthermore, regarding generalizability, the improvements could also be applied in other EU Member States. Ultimately, the aim was to see how the supervision of this IP destruction procedure could be improved, and this has been achieved by identifying several possible solutions.

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Abbreviations

CCC	Community Customs Code - Council Regulation (EEC) No 2913/92
CCC-IP	Community Customs Code Implementing Provisions - Commission Regulation (EEC) No 2454/93
CEG-SPE	Customs Expert Group on Special Procedures
COM	European Commission
CN	Combined Nomenclature - Regulation (Council Regulation (EEC) No 2658/87
EU	European Union
IP	Inward Processing
MCC	Modernized Customs Code – Regulation (EC) No. 450/2008
ODB	Overleg Douane Bedrijfsleven
TFEU	Treaty on the Functioning of the European Union
UCC	Union Customs Code – Regulation (EU) No. 952/2013
UCC-DA	Union Customs Code Delegated Act – Commission Delegated Regulation (EU) 2015/2446
UCC-IA	Union Customs Code Implemented Act – Commission Delegated Regulation (EU) 2015/2447
WCO	World Customs Organization
WTO	World Trade Organization

1. Introduction and Research Problem

1.1 Introduction to the Inward Processing procedure: destruction of goods

The Inward Processing (hereinafter: IP) procedure allows businesses to perform processing operations¹ on imported goods coming from outside the customs territory of the Union. Upon import, those non-Union goods are not subjected to:

- import duties;
- other possible taxes related to the import (e.g. excises and VAT); and
- commercial policy measures.

Destruction of non-Union goods is one of the processing operations that can be done under the IP procedure. When the goods placed under the procedure have been destroyed with no waste remaining, the special procedure² is discharged. However, when there are remaining goods after destruction under the IP procedure, the special procedure is only discharged after those processed goods have been placed under a subsequent customs procedure or have left the customs territory of the Union.³

An authorisation from customs authorities is required⁴ for the use of the IP procedure. It is possible to apply for an authorisation based on a customs declaration or to apply for a standard authorisation. This latter can be used on a continuous basis.

1.2 Research problem

The IP destruction procedure is used by companies, and products, residues and/or waste may arise from this without proper clearance of the special procedure. Therefore, there is no question of complete destruction and these remaining products often do not receive the correct follow-up. This could be seen as a matter of setting guidelines and proper enforcement.

The European Commission provides in its guidance document⁵ the following two somewhat strict examples where no destruction takes place:

- 1) *Apples are placed under inward processing. The main processed products are peeled apples. The peels are a secondary processed product and they are not waste because their economic value is not considered to be low (see article 1(41)(b) UCC-DA). These peels may be processed under another inward processing authorisation (e.g. to make compost). In this case, no destruction has taken place by the processing activity that leads to compost.*
- 2) *Fish is placed under inward processing. The main processed products are fish fillets. The fish bones are a secondary processed product and they are not waste because their economic value is not considered to be low (see article 1(41)(b) UCC-DA). The fish bones are burned and the steam resulting of this operation is used to produce electricity. If the steam would not be used to produce electricity, but simply released to the air, this operation would be considered as a destruction of fish bones with no waste remaining.*

Even if the authorisation holder is obliged to pay for the destruction, it must place the possible remaining goods under a subsequent customs procedure. There are substantiated signals that this is not happening. For example, the destruction of fruit or vegetables often takes place on behalf of the owner of the goods (holder of the IP scheme), this owner of the goods then usually pays other companies to get rid of his goods. These other companies could be recycling

¹ Article 256 in conjunction with article 5(37) UCC

² Article 5(16)(b) in conjunction with article 210 UCC

³ Article 215 UCC

⁴ Article 211(1)(a) UCC

⁵ Page 29 of the guidance document on special procedures – TAXUD/A2/SPE/2016/001-Rev 19-EN

companies that grind fruit into pulp and resell this residue/waste to a fermentation company. As said before, the destruction by the authorisation holder is often wrongfully seen as “destroyed with no waste remaining”. With the current law, the IP procedure is not discharged properly and the pulp should be seen as a processed product and be placed under a subsequent customs procedure. On top of that, it is even doubtful whether this is at all an approved operation under IP destruction.

It has come to light that the DO 040 documents⁶ are not filled in correctly by the economic operators and the customs authorities. Incorrectness occurs probably mostly in questions 5, 11 and 12. Question 5 concerns information about residues and waste, which must be filled in by the economic operator. Question 11 and 12 is about possible residues and waste after the destruction and the quantity. These two questions must be filled in by the customs authority.

There are several reasons why the industry wrongfully considers destructions under inward processing without waste or products remaining. One such reason could be that, in many cases, the authorisation holder does not know precisely what happens to the goods still under customs supervision. For example, if it is unknown that energy is made from goods going into an incinerator, the authorisation holder is also not able to know if there even are processed products. This could be seen as non-compliance because the authorisation holder is obliged to know as the holder must carry out the processing operations on the goods or arrange for them to be carried out.⁷

Another reason why the procedure is not correctly used could be that the basis for calculating the amount of import duties is article 86(3) of the UCC. With fruit for instance, there could arise complications when minimum import prices are in place. According to article 74(2)(c) UCC, in conjunction with article 142(6) UCC-IA, certain perishable goods⁸ may be subject to unit prices when released for free circulation and imported on consignment. What complicates formalities and taxation here is that rotten fruit, for example, still requires a declaration in free circulation and possibly based on unit prices, while the actual economic value is negligible.

Other member states acknowledged the issues arising from current legislation on this matter. In June 2022 in the Customs Expert Group of Special Procedures⁹ (hereinafter: CEG-SPE) member states asked the European Commission to provide a working document in which they show their opinion. Explicitly has been asked to give examples where goods under IP procedure are destroyed and where: (1) residues and waste are generated, (2) electricity is generated, and (3) scrap metal remains. This working document is discussed during the CEG-SPE meetings from the mid of 2022 to the beginning of 2023. Finally, this resulted in a revision of the Guidance document on Special Procedures.¹⁰ This provided some clarification and guidance on this subject. This in turn can be used in advising on the supervision within Dutch Customs. Unfortunately, some questions still remained unanswered.

In summary, the destruction of non-Union goods with no waste remaining under the IP procedure is quite hard to achieve. This may encourage companies to choose less sustainable destruction routes. The latter, in turn, contradicts the EU 2020 action plan for the circular economy.¹¹

⁶ ‘Verklaring Vernietiging van goederen onder toezicht van de Douane’. In English translated this is the ‘Statement Destruction of goods under supervision of Customs’. See paragraph 4.3 for more information.

⁷ Article 211(3)(d) UCC

⁸ Listed in Annex 23-02 UCC-IA

⁹ Group of experts from different member states that provide expertise to the European Commission.

¹⁰ TAXUD/A2/SPE/2016/001-Rev 19-EN which got published on 14 March 2023. It should be noted here that this is almost at the end of this thesis project.

¹¹ EC COM(2020) 98 final – A new Circular Economy Action Plan For a cleaner and more competitive Europe

1.3 Research questions

Considering the problem definition, the main research question is as follows:

How can Dutch Customs' supervision on the discharge of the Inward Processing procedure for destruction be improved considering the increase in recycling of residues and waste?

The main research question can be answered by breaking it down into the following sub-research questions:

1. What is the legal framework on destruction of non-Union goods under IP?
2. How has the IP destruction procedure changed over time?
3. What are possible IP operations under destruction of non-Union goods?
4. How is currently customs supervision in the Netherlands set up for destruction under the IP procedure?
5. Is the IP destruction system appropriate for today's business operations where more and more products are reusable that were previously considered waste?
6. What are the strengths and weaknesses of the current supervision on the destruction under IP in the Netherlands?
7. What are possible legal or policy improvements with regard to Dutch Customs' supervision of the IP destruction procedure?

1.4 Scoping of the research

It is good that the European Commission is aware of the problems, but this problem has multiple layers, and therefore customs supervision in this area can be improved, whatever future improvements or guidelines come from the COM. Therefore, the focus of this research project is on this issue and then specifically for Dutch customs.

The scope of the research concerns the destruction of non-Union goods under the Inward Processing procedure. What falls under 'waste and scrap' is explained in article 1(41)(b) UCC-DA. More clarity on what exactly falls under the destruction operation of Inward Processing is something that has been investigated further during this thesis project.

2. Research Methods

2.1 Introduction and objectives

The first goal of this thesis project is to perform legal research on the applicable legislation regarding dealing with non-Union waste products that were placed under the Inward Processing procedure. The object of the study therefore is legal texts. There are different types of legal research objectives possible (Kestemont, 2018). The first step in any legal research is describing the law. This objective will be the legal research objective in this project.

After descriptive legal research, the second research objective of this thesis project will be a piece of advice on possible improvements of the customs supervision on this subject. Therefore, design science will be a research methodology. Wieringa¹² uses a template for design problems. The template could be filled in as follows:

- Improve <customs supervision on the discharge of the IP procedure for destruction>
- by <designing quick wins for Dutch Customs and recommendations to amend legislation>
- that satisfies <the legal framework set by the EU>
- in order to <help Dutch Customs in its supervision task>.

The programme of the executive master in Customs and Supply Chain Compliance focusses on three pillars, namely: customs regulations, supply chain management, and IT-based compliance. It goes without saying that this subject has a strong emphasis to the customs legislation part of the master's programme.

This research is performed to show if the current customs supervision is in line with the legislation and whether it could be improved. Policymakers, customs agencies, and businesses are likely to have an interest in this research. Especially when the outcome shows a strong emphasis to make big changes in the supervision or legislation. This could also give insights towards other customs authorities.

2.2 Research design and methodologies

The theoretical framework is shown in the next conceptual model.

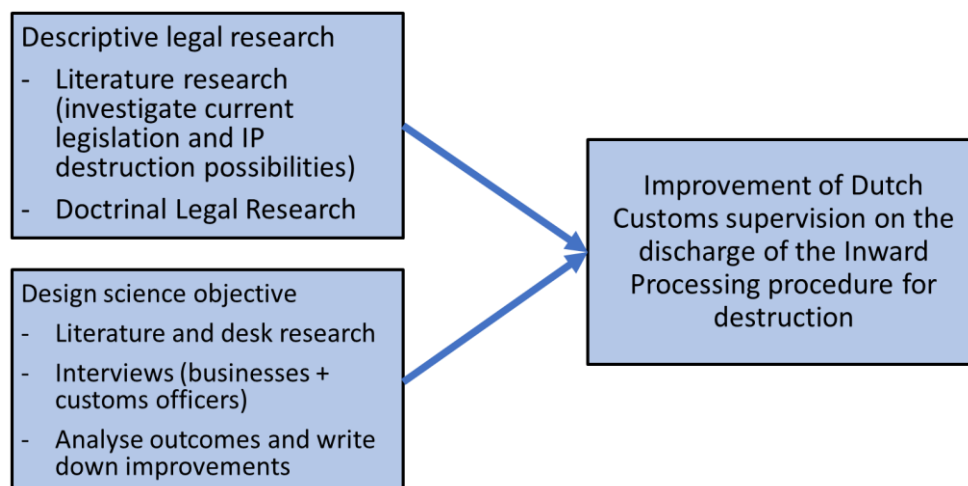


Figure 1: Conceptual model

¹² Template for design problems of Wieringa 2014, see table 2.1, page 16.

The model shows the objectives on the left side. In this research and to accomplish the descriptive objective, the current legislation and IP destruction possibilities must be investigated. This is done by literature research. Some literature research is also used for the design science objective. Next to that, interviews will be conducted with businesses and customs officials who have know-how on such destructions. These interviews will help to evaluate the current customs supervision and perhaps offer views on the to-be situation. After the interviews, the outcomes are analysed together with possible improvements. The outcome will be an artefact which in this project will be possible quick wins for Dutch Customs (for example, a redesign of the DO 040 document), and proposals for legislative changes that would improve practice and enforcement.

The abovementioned activities will help to answer the sub-questions and in the end lead to improvement of Dutch Customs supervision on the discharge of the Inward Processing procedure for destruction. The used methodologies will be explained in the next four sub-paragraphs.

2.2.1 Legal research

To improve supervision on a topic that is strongly legal, one must first describe and understand the legal framework. Describing the law aims to systematically analyse legal constructs in all their components in order to present them in an accurate, significant and orderly manner. Therefore, the framework for the destruction of non-Union goods under IP will be described, including the history of this procedure. Moreover, this procedure will be explained within the entire customs legal framework, as it is relevant to the current state of the regulation.

2.2.2 Literature & desk research

Literature research was conducted because it helps building the knowledge in this field. It helps learning about important concepts like supervision, research methods and gain insight into possible opportunities for the problem. Literature and desk research, together with legal research, provides the foundation of knowledge on the thesis topic. Relevant literature is drawn from scientific publications but also from the World Customs Organization (WCO), the European Commission (COM), public manuals of Dutch Customs and through desk research of internal notes and other documents.

2.2.3 Interviews

Interviews are generally used in conducting qualitative research, in which the researcher is interested in collecting “facts” or gaining insights into or understanding of opinions, attitudes, experiences, processes, behaviours, or predictions (Rowley, 2023).¹³ This method is used in this research project because the research is qualitative-oriented and it is hard to acquire other data. However, there were experts on this subject and businesses dealing with this procedure. The interviews were also used in gaining information to come up with recommendations on how it is possible to improve the supervision (the artefact of the design science). Some interviewees gave their insights which were helpful in validating the findings.

Information on the topic of how DO 040 documents are dealt with within a specific customs department is gained via non-structured interviewing. This is best used for exploring a new topic and is only used with one interview. The other interviews are performed with the technique of semi-structured interviews. As this allows to collect opinions on a pre-defined set of questions and topics. To write the semi-structured interview protocols a three-step approach was used (Bearman, 2019).

¹³ Page 261 of Management Research Review, Emerald Group Publishing, vol. 35, 3/4

2.2.4 Design science

The last goal of this thesis research is to come up with possible improvements for the Dutch Customs' supervision on the IP procedure for destruction. The applied methodology here is design science and deals with relevance (need) and rigour (the way the artefact is developed). Design science is the design and investigation of artefacts in context. Hevner et al. (2004) have formulated a framework for Information Systems Research which can also be applied to this project. In this case, a supervisory model already exists, so the existing model must first be evaluated to build/assess the updated supervisory model. There will be two different possibilities to improve supervision, namely: amendments by the European Commission on the customs legislation and quick wins for Dutch Customs.

3. Review of Legal Research

3.1 Introduction

First, it is important to understand the whole legal framework on the destruction of non-Union goods under Inward Processing and what possible IP operations can be performed under this procedure. To understand a little more about the origins of this scheme, this chapter has also looked at the change over the years. By doing the legal research, the first two sub-questions of paragraph 1.3 can be answered.

Legal doctrine aims to give a systematic exposition of the principles, rules and concepts governing a particular legal field and analyses the relationship between these principles, rules, and concepts (Smits, 2015). This chapter provides an explanation of the legal framework.

3.2 Legal framework of IP procedure destruction of non-Union goods

International agreements and conventions are described first, as they are relevant to the origin of the legal framework.

3.2.1 European Union and other international institutions

After World War II, preparations were made for closer cooperation between countries. Later, the cooperation was more and more based on international collaboration regarding peace, trade, and protection mechanisms. The European Union is based on the rule of law, meaning that actions on behalf of the EU are based on treaties signed by the EU member states.¹⁴ Those are binding agreements that set out the objectives of the EU, rules for its institutions, clarification on decision-making and relationships between EU and member states. There were several important treaties that led to the European Union as we know it today.¹⁵

There are, of course, many international conventions that affect current customs legislation. A few more important ones are the GATT and the WTO. The GATT has been elaborated in EU law. For customs law, the GATT and the WTO are particularly important for customs valuation, tariffs (including trade treaties) and anti-dumping. Valuation is also relevant to this thesis subject because it is seen as difficult to put a value on products after IP Destruction. The WCO is another important intergovernmental organisation dealing with customs-related matters like commodity classification, rules of origin, valuation, trade facilitation, etcetera. Its mission is to enhance the effectiveness and efficiency of customs administrations.¹⁶ All these international conventions have helped create the current European Customs legislation, the UCC, which we know today.

3.2.2 UCC, UCC-DA, and UCC-IA, the basis for customs legislation

Union customs law is essentially laid down in regulations, with the basis being the regulation containing the UCC. The UCC is coming from article 288 of the TFEU. Several legislative instruments are available here, namely regulations, directives, decisions, recommendations and opinions. Regulations have binding legal force for all member states and are directly applicable. Directives are also binding with respect to the intended result. However, the member state itself must choose the form on how to transpose the directive into national law. Then, decisions are EU laws to specific cases and therefore directed to specific member

¹⁴ When new countries joined the EU, the founding treaties were amended.

¹⁵ European Union official website managed by the European Commission, Directorate-General for Communication. Page: Founding agreements. Last accessed 10th Oct 2022: https://european-union.europa.eu/principles-countries-history/principles-and-values/founding-agreements_en

¹⁶ World Customs Organization official website: Page: Discover the WCO. Last accessed 11th October 2022: <http://www.wcoomd.org/en/about-us/what-is-the-wco/discover-the-wco.aspx>

states, companies and/or individuals. Lastly, recommendations and opinions shall have no binding force.

The UCC was adopted on 9 October 2013 as Regulation (EU) No 952/2013 of the European Parliament and of the Council. Most of the provisions became applicable from 1 May 2016.

For the application and implementation of the UCC, applying articles 290 and 291 TFEU, three regulations have been adopted:

1. The UCC Delegated Act was adopted on 28 July 2015 as Commission Delegated Regulation No 2015/2446
2. The UCC Implementing Act was adopted on 24 November 2015 as Commission Implementing Regulation No 2015/2447
3. The UCC Transitional Delegated Act was adopted on 17 December 2015 as Commission Delegated Regulation No 2016/341

The European Commission also published guidance documents relating to the UCC. These documents are only of an illustrative and explanatory nature. Customs legislation always takes precedence, and these guidance documents are not legally binding. However, such information can still be relevant to understand the Inward Processing procedure and destruction operations under it. This can be found in the guidance document on special procedures.

3.2.3 Specific legal framework for the IP destruction procedure of non-Union goods

According to article 210(d) of the UCC, Inward Processing is a special procedure, and special procedures are one of the three customs procedures looking at article 5(16)(b) of the UCC. Most special procedures are suspensive customs procedures and have been created to suspend the payment of customs duties, VAT, and other taxes upon importation. Inward processing is one of the special procedures¹⁷. It allows businesses to use non-Union goods within the Union customs territory in one or more processing operations without the goods being subject to import duties, other duties, and/or commercial policy measures.¹⁸

In the UCC, the system of supervision is based on declarations. An accepted declaration serves to cover certain operations involving goods subject to customs supervision. This includes placing goods under the IP Destruction procedure.¹⁹ The destruction of goods is one of the five processing operations.²⁰ When the goods placed under the procedure have been destroyed with no waste remaining, the special procedure is discharged. However, when there are remaining goods after destruction under the IP procedure, the special procedure is only discharged after those processed goods²¹ have been placed under a subsequent customs procedure or have left the customs territory of the Union.²²

The definition of “waste and scrap” is given in article 1(41)(b) UCC-DA, where it says that “waste and scrap” in the context of inward processing means: goods or products resulting from a processing operation which have no or low economic value and which cannot be used without further processing. Also, there is a distinction between “main processed products” and

¹⁷ Article 256 UCC

¹⁸ Insofar as they do not prohibit the entry or exit of goods from the customs territory of the Union, see article 134 UCC.

¹⁹ All goods intended to be placed under the inward-processing procedure must be covered by a customs declaration for placement under the procedure according to article 158(1) UCC. This also applies in the case of using the authorisation for repeated use.

²⁰ Article 5(37)(c) UCC

²¹ Meaning: goods placed under a processing procedure which have undergone processing operations, see article 5(30) UCC.

²² Article 215 UCC

“secondary processed products”. According to article 1(2)(7) UCC-IA “main processed products” means the processed products for which the authorisation for inward processing has been granted. And according to article 1(2)(9) UCC-IA “secondary processed products” means processed products which are a necessary by-product of the processing operation other than the main processed products.

After reading the last two paragraphs, it is important to distinguish that article 215 UCC says that a special procedure is only discharged after destruction when there is no waste remaining. The first remark here is that it does not use the exact same definition as mentioned in 1(41) UCC-DA because it leaves out the “scrap” in article 215 UCC. Secondly, it must be underlined that even when waste remains after destruction, then you must submit a declaration for it. The latter may be perceived as odd because you then must file a declaration, mostly for release into free circulation, on goods that, according to article 1(41)(b) UCC-DA, are not worth anything anyway. Recommendations on how legislation can be amended, so that customs supervision is better designed will be discussed in Chapter 6.

As said in paragraph 1.1 and according to article 211(1)(a) UCC, an authorisation from customs authorities is required for the use of the IP procedure. It is possible to apply for an authorisation based on a customs declaration instead of applying for a standard authorisation (for repeated use). If a company occasionally destroys goods, the inward processing authorisation is usually applied for based on a customs declaration. The authorisation based on a customs declaration is granted by releasing the goods for the procedure.²³

Depending on the exact situation, several conditions are in place in order to obtain an authorisation. In any case, the following conditions apply to the applicant of the inward processing authorisation²⁴:

- must be established in the customs territory of the Union;
- provide the necessary assurance of the proper conduct of the operations;
- provide a guarantee in accordance with article 89 UCC;
- they carry out the processing operations on the goods or arrange for them to be carried out;
- customs authorities are able to exercise customs supervision without introducing disproportionate administrative arrangements;
- essential interests of Union producers would not be adversely affected by an authorisation for a processing procedure (economic conditions).

In addition to the above conditions, the holder of the authorisation, the holder of the procedure, and all persons carrying on an activity involving the processing of goods shall keep appropriate records in a form approved by the customs authorities.²⁵ The exact records are mentioned in article 178 UCC-DA. This authorisation will have to reflect, among possibly other things, at least: information about the way the procedure was discharged with relevant documents, the location of goods and information about their movement, the customs status, particulars of inward processing, including information about the nature of the processing, and the rate of yield or its method of calculation. Also, destruction under IP can only be carried out where there is an economic need on the part of the economic operator.²⁶

Annex 1 displays mentioned relevant articles of the UCC and its delegated and implemented acts.

²³ Article 262 UCC-IA

²⁴ Article 211 UCC

²⁵ Article 214 UCC

²⁶ Page 59 of the guidance document on special procedures – TAXUD/A2/SPE/2016/001-Rev 19-EN

3.2.4 Other forms of destruction under the UCC

Destruction as part of the disposal of goods in accordance with articles 197 and 198 UCC is not a processing operation within the meaning of article 5(37)(c) UCC. Consequently, customs authorities cannot require the operator to apply for an IP authorisation. The holder of the goods may be notified by authorities that the goods in question should be destroyed - e.g. for environmental reasons. This provision does not allow the holder of the goods to request the customs authorities to decide on the destruction of the goods. If goods that have been rejected or refused by an inspection service²⁷ are to be destroyed, this is destruction by order of the customs authorities (or an inspection service) as referred to in article 197 UCC. The holder of the goods who wants them to be destroyed must then be able to prove that a decision of rejection or refusal was taken by an inspection service. If infringing goods are to be destroyed, this can also be done under article 197 UCC.

Another way to destroy non-Union goods under the UCC is possible under the end-use procedure. The goods placed under the end-use procedure may be destroyed before the goods are assigned the prescribed end-use. An inward processing authorisation is not required for this type of destruction unless a claim for duty drawback is made. Any possible residues and wastes from the destruction of goods placed under the end-use procedure become non-Union goods and are deemed to be placed under the customs warehousing procedure. However, no bonded warehouse authorisation is required.²⁸

In these two other forms of destruction, physical supervision is required with the use of a DO 040 document. Thus, the same document is used here as it is often used for the destruction under inward processing.

3.2.5 Case law

After lengthy searches, no case law was found by the researcher on the subject of the destruction of non-Union goods.²⁹ A vain search has also been done for cases on the extinguishment of a customs debt when goods were destroyed under customs supervision.³⁰ Nor did any case law specifically on destroying customs goods emerge from the interviews held. Finally, a half-day session was also spent looking together with an experienced defendant (legal expert), but this also did not yield any results. Eventually, the further search for case law stopped because searching for something that probably did not exist was considered a waste of time.

3.3 History of the IP destruction procedure

The Community Customs Code³¹ (hereinafter: CCC) is the regulation that was applicable within the Community prior to the UCC. The Commission recognized that the CCC was not fit for purpose anymore and stated that it was out of date and had not kept pace with radical changes

²⁷ Examples are NVWA, Naktuinbouw, or the Kwaliteits-Controle-Bureau

²⁸ Article 154(c) and article 254(7) UCC in conjunction with article 1(41)(b) UCC-DA.

²⁹ Case C-75-20 (Lifosa case) was found. This case does does say that for the purpose of determining the customs value of imported goods, the costs actually incurred by the producer for their transport to the place where they have been brought into the customs territory of the European Union should not be added to the transaction value of the goods when, according to the agreed delivery terms, the obligation to cover those costs lies with the producer, even though those costs exceed the price actually paid by the importer, provided that that price corresponds to the real value of the goods. This means that it is possible that the transportation costs may be higher than the agreed price between buyer and seller, but if the seller has agreed to pay for these costs it still does not need to be in the transaction value. Only a small parallel can be drawn from this, namely: this basically creates negative value of goods only because seller account for them, a positive value is created. For this reason, nothing further has been included in this regard.

³⁰ Based on article 124(1)(f) UCC

³¹ Council Regulation (EEC) No 2913/92

to the environment and the changing focus of customs work. Therefore, the Modernized Customs Code came in 2005. But this regulation already became out of date before it became applicable. Thus, it got replaced by the UCC (see paragraph 3.2). In summary, the UCC is a 'recast' of the MCC, and the MCC is a 'Modernized Customs Code' from CCC.

Before the CCC, inward processing was regulated in European law by an Inward Processing Directive of March 1969 and later by Council Regulation (EEC) No. 1999/85. For now, the focus of the history of the IP (destruction) procedure lies with the more recent history, the CCC.

Under the CCC, two methods of Inward Processing were possible³², namely:

1. Suspension system

With this procedure non-Community goods intended for re-export from the customs territory of the Community can be used in one or more processing operations without such goods being subject to import duties or commercial policy measures.

2. Drawback system

With this procedure goods were released for free circulation with repayment or remission of import duties if such goods were exported after they were used in the territory in one or more processing operations.

Currently, only the first form is possible, and the refund system has been abolished.

According to article 114(2)(c) CCC processing operations are: (1) the working of goods, including erecting or assembling them or fitting them to other goods, (2) the processing of goods, and (3) the repair of goods, including restoring them and putting them in order. For the purpose of this study, it is important to note that "destruction" was not a processing operation in the previous legislation.

Processing under customs control was a procedure covering non-Community goods handled within the EU customs territory and intended to be released for free circulation in the EU in the form of treated products.³³ Two applications were possible. Firstly, the condition and state of the goods change and the treated products are taxed lower than the imported goods. This is also known as tariff anomaly. The second form of application is when EU or national legislation imposes requirements for the release into free circulation. For example, safety, health or environmental requirements.

The previous paragraphs said nothing about the destruction of non-Union goods. Surely this is the subject of this study. Therefore, we will now explore further how this then happened under the CCC since it was neither under inward processing nor under processing under customs control. Destruction of non-Community goods was possible under article 182 CCC, where it states that non-Community goods may be destroyed under certain conditions.

Commission Regulation (EEC) No 2454/93 (hereinafter: CCC-IP) lays down the provisions for the implementation of the CCC. Whereas article 842 applies to destruction.

Destruction within the meaning of the CCC means making unfit for the purpose for which the goods to be destroyed were intended. The goods are no longer fit for their original purpose. However, residues and/or waste may arise. These must be given an approved customs destination. So even in the older customs legislation, such residues and waste had to be given a successor regime. Until the remains and/or waste have been assigned a customs-approved treatment or use, they remain under customs supervision in the same way as goods brought in. The packaging and the waste or scrap are subject to the tax that would be due if these goods were imported as such.

³² Article 114(2) CCC

³³ Article 130 CCC

Destruction of goods is a customs destination that can only be given to non-Community goods. This customs destination could be chosen after the summary declaration has been lodged. Also, the customs destination destruction could be chosen after the following customs procedures:

- external transit;
- customs warehouse;
- inward processing suspension system;
- processing under customs control;
- temporary importation.

The authorisation holder of the prior customs procedure is responsible for destroying and giving an approved customs destination for any residues and wastes. Under this regulatory regime also a document was used to declare that goods were destroyed under supervision. This looks like the DO 040 document. The prior customs procedure is discharged after complete destruction, and if there are residues/wastes, these have been assigned an approved customs destination. This is also the moment the customs supervision ends.

3.4 Conclusion

This chapter first outlined the legal framework for the destruction of non-Union goods under IP, which gives an answer to the first sub-research question. It showed that the Member States of the EU are restricted to Union customs law, more specifically, the UCC. By examining the legal framework, the purpose of the destruction procedure under the IP could be understood. It is now clear that this procedure aims to suspend the payment of customs duties, VAT, and other taxes upon importation. Under the UCC, the Inward Processing procedure is one of the special procedures and destruction is one of the processing operations under IP. No clear definition of what constitutes destruction under inward processing is given. Further, an authorisation is required in order to place goods under this procedure and conditions must be fulfilled before such a licence can be issued.

The second sub-research question, “How has the IP destruction procedure changed over time?”, can also be answered after the legal research conducted in paragraph 3.3. Previously under the CCC, destruction was a destination. So it was not a procedure, meaning it did not require a declaration to place goods under a procedure. And now, under UCC, destruction is more or less tucked away under IP as one of the processing operations. From the legislator's point of view, it might have been more convenient to make this a separate special procedure.³⁴ Then it might have been a bit more clear what formalities need to be fulfilled. But under both the UCC and the CCC, both forms of destruction (by procedure or by destination) are discharged after complete destruction. If there are or were residues/wastes, these should be given an approved subsequent customs procedure or destination.

³⁴ Including the end-use destruction and destruction by measure of customs authorities.

4. Review of Literature and Desk Research

4.1 Introduction

This chapter presents the literature- and desk research, which is considered the theoretical and practical foundation of this thesis project. For the literature review, scientific articles and publications were consulted. For the desk research, publications of Dutch Customs and EU institutions were consulted.

First, possible destructions under the IP procedure are considered. Common forms of destruction will be investigated in this paragraph and this will help answering the third sub-question. Next, this chapter will show how Dutch Customs has set up its supervision of this procedure. This will answer the fourth sub-question. Finally, the fifth sub-question will be investigated, namely whether the current IP destruction system is appropriate regarding today's operations.

4.2 Possible IP operations under destruction of non-Union goods

According to the Cambridge Dictionary, "destruction" means the act of destroying something or the fact of being destroyed. But the question to be answered is what methods of destruction are possible under the processing operation "destruction of goods". This is a question which cannot simply be answered.

As mentioned before in paragraph 1.2, the older³⁵ Guidance document on special procedures only gives two examples where no destruction takes place under inward processing. In short, the two examples are as follows:

Nr.	Placed under IP	Main processed product	Secondary processed product	Further processing of secondary product
1.	Apples	Peeled apples	Peels	Composting
2.	Fish	Fish filets	Bones	Burned and steam used to produce electricity

Table 1: Examples where no destruction under IP take place

The reason why it is not considered as destruction is that its economic value is not considered to be low in accordance with article 1(41)(b) UCC-DA. In the case of the fish bones, it can be considered as a form of destruction, but then the steam had to be released into the air instead of used to produce electricity. This makes it clear that the European Commission currently has a strict view on this topic. Especially when looking at practical situations where the operation of these processing operations on many occasions is a costly manner for the holder of the goods. The holder of the goods often just wants to "get rid of the goods".

Revision 19 of the Guidance document does show when destruction under IP is possible with three examples³⁶ and provides clarification that the purpose of the holder of the IP authorisation is exclusively to destroy the goods unless the destruction is not a usual operation in the business model of the economic operator.

This view that goods can only be destroyed under IP when the secondary product has no economic value also comes from the Guidance document. As mentioned earlier, these guidance documents published by the European Commission are only of an illustrative and explanatory nature and are therefore not legally binding. It does provide insights on how to read the legislation.

³⁵ Before revision 19 which was published 14 March 2023

³⁶ Page 30 of the Guidance on Special Procedures

In practice, the incineration of customs goods in an incinerator will often take place under IP. This is also the case for processing rotten or surplus fruit and vegetables into compost. Burning goods and composting are two of the main methods of destroying goods. Despite the guidance saying this is unlikely to be possible under IP destruction. The reason the industry still does this under IP destruction is that it probably does not consider the economic value of goods after the processing operations but rather looks at the intentions of the holder of the goods. This view is further investigated in the interview section of this report.

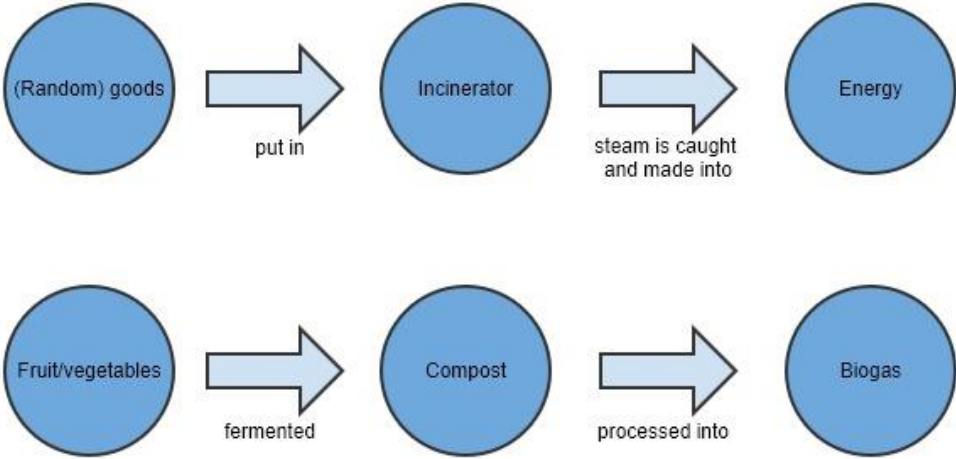


Figure 2: Two main operations

Figure 2 shows the two main destruction operations. There are, of course, unthinkably many other ways to destroy goods, partly because of the search for ever more innovative, sustainable, and price-reducing methods.

4.3 Current Dutch customs supervision on destruction under IP

First, the general EU rules regarding supervision are described, as they take precedence over the supervision established by the member states. The second sub-paragraph looks more closely at how specifically customs supervision is regulated in the Netherlands.

4.3.1 EU general rules regarding supervision

“Customs supervision” means action taken in general by the customs authorities with a view to ensuring that customs legislation and, where appropriate, other provisions applicable to goods subject to such action are observed.³⁷

At a prominent place within the UCC, namely article 3, it becomes clear that customs authorities shall be primarily responsible for the supervision of at least the European Union’s policies and that it shall put in place measures. When goods enter the customs territory of the EU, they are immediately put under customs supervision.³⁸ This encompasses, among others, the customs controls, including risk-based checks and random checks at clearance and post-release. Non-Union goods shall remain under customs supervision until their customs status is changed, taken out of the customs territory of the Union, or destroyed.

As mentioned in paragraph 3.2.3, customs authorities must be able to exercise customs supervision without introducing disproportionate administrative arrangements. Also, unlawful removal or withdrawal from customs supervision gives rise to a customs debt through non-compliance based on article 79 UCC.

³⁷ Article 5(27) UCC

³⁸ Article 134 UCC

4.3.2 Specific Dutch supervision

According to the 'Handboek Douane' section 1.00.00 paragraph 1.2, this manual describes the application of the system of formalities and supervision as regulated by customs legislation. Therefore, this manual can be considered a policy. This means one must look at this manual to see how supervision is dealt with within Dutch Customs. The relevant section regarding Inward Processing is 16.00.00, and more specifically for destruction is Chapter 7. In the context of powers of control within Dutch customs supervision, Dutch legislation provides the inspector with such powers in articles 1:20 to 1:37 of the 'Algemene douanewet'.

If a company incidentally destroys goods, the inward processing authorisation is usually applied for based on a customs declaration.³⁹ If a company's business activity is the destruction of goods or a company otherwise regularly destroys goods, then a standard authorisation for repeated use is applied for. When placing goods under the IP procedure, the code for the requested procedure '51' is used. To indicate in the declaration that it is a destruction under IP, the declarant must file a supplementary arrangement code '202' in AGS or in DMS code 'A10'.⁴⁰

Customs supervision on the destruction is either administrative or physical. Administrative customs supervision is only possible if there is a standard authorisation and when it is approved for. If it is not approved for in the standard authorisation, then physical customs supervision is mandatory. The meaning of administrative and physical supervision at customs and translated into English is explained as follows (Belastingdienst Handboek Controle, 2020, p. 10):

- Administrative supervision: "administrative controls on licence holders, post-import controls, excise controls and controls on compliance with formalities"
- Physical supervision: "physical surveillance of declarations includes physical checks of goods and scan checks"

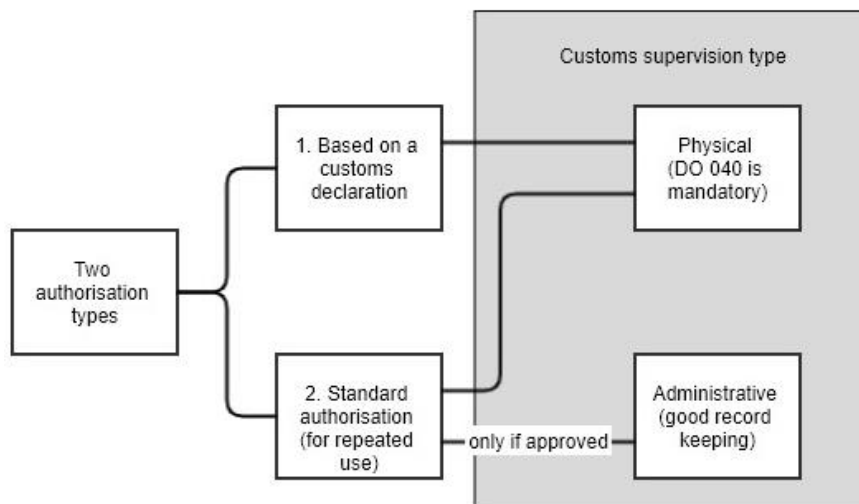


Figure 3: Authorisation type in relation to the Dutch supervision format

³⁹ If an authorisation is applied for based on a customs declaration, Customs assesses whether the authorisation can be granted based on the data in the customs declaration and the "Declaration of additional data and conditions when applying for authorisation on declaration (DO 162)".

⁴⁰ AGS and DMS are customs declaration systems. AGS is being replaced by DMS. Source: Dutch Customs official website. *Van AGS en G(S)PA naar DMS*. Last accessed 13th November 2022: https://www.belastingdienst.nl/wps/wcm/connect/bldcontentnl/belastingdienst/douane_voor_bedrijven/naslagwerken_en_overige_informatie/aangiftesysteem_ags/van-ags-en-gspa-naar-dms/van-ags-en-gspa-naar-dms

If physical customs supervision is mandatory⁴¹, the declarant must fill in the DO 040 document after the release of the goods for the procedure. After that, the declarant must submit the DO 040 and the “toestemming tot wegvoering” at their customs office by e-mail.⁴² This must be done at least 24 hours prior to the planned destruction. This is the trigger for the customs office to plan the physical customs control. The customs office fills box 8 of the DO 040 and places a signature and service stamp and returns the document to the declarant, and an appointment is made for the destruction. On the moment of destruction, the applicant, or its representative, hands a printed copy of the DO 040, and after the destruction, the customs official fills in box 11 and box 12 together with another signature and service stamp. This is returned and saved in Plato, the system used for physical inspections by Dutch Customs. Often destruction takes place at a different site, and if this is the case, then customs are present at the loading and sealing of the goods. The official also fills in box 9.

If administrative customs supervision is applied, the authorisation holder must always include in its records the location of the goods and information on each shipment. The authorisation holder must also include in its records the details of the destruction. For example, in the case of administrative supervision, an invoice from the person who destroyed the goods may serve as evidence.⁴³

The IP authorisation holder is required to submit a bill of discharge to the supervising office. This also applies if there is an authorisation based on a customs declaration.⁴⁴ In the case of an authorisation based on a customs declaration, the bill of discharge consists of handing in (after the destruction of the goods) the signed DO 040 together with the "Declaration of additional information and conditions when applying for authorisation on the declaration" (DO 162) at Customs office Eindhoven/Heerlen. If residues and waste are created during destruction, a copy of the declaration by which those residues and waste have been placed under a subsequent customs procedure and the inward processing procedure has been discharged must also be enclosed.

It was not possible with desk research to clarify how supervision is carried out by the customs office Eindhoven/Heerlen when they check DO 040 and DO 162 documents for residues and waste after IP destruction. This had to be further investigated through a non-structured interview. This is explained later in section 5.2.

4.4 Appropriateness of current IP destruction system regarding today's business operations

To get right to the point, the contemporary UCC's IP destruction system no longer reflects the current world. There are several findings to back this up.

As mentioned in paragraph 1.2 earlier, even when the holder of the authorisation is obliged to pay for the destruction, it must place the possible remaining goods under a subsequent customs procedure. From the perspective of the authorisation holder, it can be stated that it is not always clear that they know that goods may actually hold a customs value, even if it only costs them money.

To give some more insight into the amount of waste. The world generates 2.01 billion tonnes of municipal solid waste annually, with at least 33 per cent of that—extremely conservatively—

⁴¹ Which is possible with a standard authorisation and with an authorisation based on a customs declaration.

⁴² See 'Handboek Douane' section 16.00.00 Chapter 14: "Bijlage 1. Lijst gegevens douanekantoren indiening DO 040".

⁴³ Article 178(1)(e) and (i) UCC-DA

⁴⁴ Article 175(1) UCC-DA

not managed in an environmentally safe manner. Worldwide, waste generated per person per day averages 0.74 kilograms but ranges widely from 0.11 to 4.54 kilograms. Though they only account for 16 per cent of the world's population, high-income countries generate about 34 per cent, or 683 million tonnes, of the world's waste. When looking forward, global waste is expected to grow to 3.40 billion tonnes by 2050. For high-income countries, like the Netherlands, it is projected to increase by 19%.⁴⁵

Although the EU 2020 Action Plan for a Circular Economy states that it strives to double its circular material use rate in the coming decade⁴⁶, the COM appears to see no need to amend the legislation on greener destruction. Since the UCC became applicable in May 2016, there have been no changes to the IP destruction procedure.

No one will dispute that putting waste products to a new use entails circularity and is better than giving no further use to them. Goal 12 of the Sustainable Development Goals⁴⁷ is about ensuring sustainable consumption and production patterns. Ultimately, the end goal with waste is also that there is actually no more waste. This is also considered a social phenomenon as it is a consequence of climate change. Regarding waste, interviewee i10 already thinks there is no more waste in the Netherlands because it states the following⁴⁸:

"Does waste even exist? Because there's always some half-wit who says they can do something with it. After all, it is always a raw material for something else."

And that is exactly what companies, at least in the Netherlands, try to do. They always look for possibilities to increase reusable products that were previously considered waste. This is also the case for the two main destruction operations from figure 2. However, as explained in the whole problem definition, current legislation makes it difficult to comply with formalities. Dutch Customs is often referred to as the green enforcement service because it has a green logo, green stripes on the car, and employees often say they have a "green heart". However, the difficulties a company faces in destroying (or converting) products into another product in a sustainable way are causing Dutch Customs to move further and further away from a real Green Customs.

4.5 Conclusion

The following sub-questions were answered in this chapter:

- What are possible IP operations under destruction of non-Union goods?
- How is currently customs supervision in the Netherlands set up for destruction under the IP procedure?
- Is the IP destruction system appropriate for today's business operations where more and more products are reusable that were previously considered waste?

Two main destruction operations exist under IP. The first is (random) goods that are put into an incinerator, whose steam is caught and converted into electrical energy. The second stream involves fruit and vegetables, which are often pulverised first, after which the compost is fermented and further processed into biogas. There are, of course, unimaginably many other

⁴⁵ World Bank (2018)- What a Waste 2.0 - A Global Snapshot of Solid Waste Management to 2050. Page 23

⁴⁶ EC COM(2020) 98 final – A new Circular Economy COM Action Plan For a cleaner and more competitive Europe. Page 2

⁴⁷ <https://www.un.org/sustainabledevelopment/sustainable-consumption-production/>

⁴⁸ Interviews are further discussed in chapter 5. This quote comes from i10 page 3 and 4 of the transcript.

possibilities of destruction under IP, but for this study, it is convenient to stick to these two larger streams.

Dutch Customs makes a distinction in supervision which is based either on administrative nature or physical nature. If administrative customs supervision is applicable, the authorisation holder basically must have good record keeping regarding the destruction and customs operations. When physical customs supervision is in place, Dutch Customs works with a so-called DO 040 document that requires statements by both the company and Customs regarding the goods to be destroyed. It is in both supervision formats required to place the goods under the special procedure by a declaration and to submit a bill of discharge to the supervising office.

The IP destruction system is not suitable for today's business operations because it no longer reflects the current world where companies are constantly looking for ways to reduce waste and promote sustainable consumption and production patterns. The current regime makes it too difficult to comply with formalities, even for goods destroyed in a green way. Therefore, EU customs legislation needs to be changed to achieve more green customs across the European Union.

5. Review of Interviews

5.1 Introduction

This chapter will first explain the research method of conducting interviews, followed by details of the data collection methods and data analysis methods. Finally, the results that emerged from the interviews will also be discussed.

5.2 Interview methodology

A qualitative research method is used because the main question of this study is a "how question". This already indicates exploratory research and makes it suitable for it (Yin, 2009). Interviews are generally used in conducting qualitative research (Rowley 2012, p. 261-262), in which the interest lies in gaining insights or collecting facts. For this research, one non-structured interview was conducted and twelve semi-structured interviews were conducted.

Respondent code	Interview type	Organization	Interviewee Role	Customs experience (years)	Interview Type	Duration (h:m:s)
i1	Semi-structured	Dutch Customs	Coordinator on special procedures and participant of various EU committees	27	WebEx call	00:59:53
i2	Semi-structured	Dutch Customs	Regional excise coordinator and teacher in various customs areas	38	Face to face	00:58:03
i3	Semi-structured	Dutch Customs	Compliance manager	36	Face to face	00:49:50
i4	Semi-structured	Dutch Customs	Compliance manager	44	Face to face	00:45:59
i5	Semi-structured	Dutch Customs	Regional coordinator on special procedures	48	Face to face	00:44:18
i6	Semi-structured	Dutch Customs	Prospective regional coordinator on special procedures	5	Face to face	00:33:05
i7	Semi-structured	Dutch Customs	Regional coordinator on special procedures and teacher in various customs areas	44	Face to face	01:12:23
i8/1	Non-structured	Dutch Customs	Coordinator at discharge of customs procedures	5	WebEx call	01:01:40
i8/2	Non-structured	Dutch Customs	Discharge of customs procedures	44		
i8/3	Non-structured	Dutch Customs	Discharge of customs procedures	40		
i8/4	Non-structured	Dutch Customs	Regional coordinator on special procedures and teacher in various customs areas	44		
i9	Semi-structured	Dutch Customs	Regional coordinator on special procedures	16	WebEx call	01:40:38
i10	Semi-structured	Big Four accounting firm	Tax partner	15	Face to face	00:50:01
i11	Semi-structured	Big Four accounting firm	Tax partner	25	Face to face	01:05:36
i12	Semi-structured	Big Four accounting firm	Customs director	30	WebEx call	00:50:07
i13/1	Semi-structured	Big Four accounting firm	Tax partner	30	Face to face	00:46:22
i13/2	Semi-structured	Big Four accounting firm	Senior manager	10		

Figure 4: Overview of interviews

Figure 4 contains a brief overview of the respondents' company information and job titles. To ensure the anonymity of the interviewees, chronological respondent codes were assigned. These respondent codes were also used in the results paragraph to quote statements made by the respondents. Interviews 8 and 13 were conducted with more than one person; therefore, a slash with a number has been added to specify the interviewee.

5.2.1 Non-structured interview

Information on the topic of how DO 040 documents are dealt with after destruction within customs is gained via non-structured interviewing. This type of interview is best used for exploring a new topic and is used in this study only for one interview. As mentioned in paragraph 4.3.2, the supervision of DO 040 documents after destruction should be performed by the customs office Eindhoven/Heerlen.⁴⁹ This is an office that has a specific knowledge and field of work regarding the discharge of customs procedures. This interview technique is used to clarify what kind of supervision is carried out by this customs office when they check DO 040 and DO 162 documents for residues and waste after IP destruction.

See Annex 2 for the interview hand-out and Annex 3 for the non-structured interview protocol.⁵⁰

⁴⁹ See 'Handboek Douane' section 16.00.00 Chapter 7 paragraph 7.7.

⁵⁰ These are in Dutch, as they were held in Dutch.

5.2.2 Semi-structured interviews

The other interviews are performed with the technique of semi-structured interviews, as this allows to collect opinions on a pre-defined set of questions and topics. To write the semi-structured interview protocol, three steps were used, namely: (1) articulate questions around the core event, (2) find an intuitive conversational structure, and (3) refine the schedule (Bearman, 2019). This form of interviewing is often used when there is some information known about the topic, but more is needed.

The number of right interviews for a study varies, and there is no overall universal number given (Brennen, 2017). But to explain why twelve semi-structured interviews were conducted, it is important to indicate that the research topic is very specific and little knowledge is available in general. The interviewees come from different fields of work because it is important to receive insights from different perspectives. However, they were selected as such because they have knowledge of customs regulations and, more specifically, the inward processing regime. The research literature speaks of data saturation when interviews no longer provide new information (Saunders et al., 2019). First, interviews were conducted with Dutch Customs employees. The last interviews already showed data saturation. Finally, four interviews were done with professionals from the consulting world. Here, it was especially pleasing to note that these outcomes were also largely in line with those of the interviewees from customs.

See Annex 2 for the interview hand-out and Annex 4 for the non-structured interview protocol.⁵¹

5.3 Data-analysis methods

The interviews were conducted in Dutch and recorded with the approval of the interviewees. The recordings were done using the standard mobile dictaphone application. Interviewees received the handout and interview protocol by e-mail at least a week before the interview. This method allows the interviewees to think in advance about the topic and to come more prepared.

All interviews were transcribed.⁵² After transcribing manually five times, the programme 'Descript' was used. However, this programme, unfortunately, did not meet the researcher's standards, and the sixth interview was still transcribed manually. From the seventh interview onwards, transcription was done using 'AmberScript'. This is an application that converts audio to text. After automatic conversion, the transcribed text was still manually checked and corrected for grammatical errors. Also, during the transcription of all interviews, important parts of the interview were directly highlighted. The latter makes it especially efficient to organise the collected data.

The next step is to bring order to this information. The transcribed texts were coded to make it easier to analyse the results. A commonly used coding technique for interviews in qualitative research is open, axial and selective coding. However, due to the different levels of expertise and the often limited time of an interview for such a deep topic, not every interviewee was able to answer all the questions. As a result, a proprietary form of coding was chosen. This still included a subdivision of different topics, and within these, the answers were categorised as much as possible. The table was created in Excel, and all the cells with answers from the interviewees contain a note to the exact location of the transcript. This latter in order to keep the link between a data result and where the data comes from. The outcome of the interviews

⁵¹ These are in Dutch, as they were held in Dutch.

⁵² Transcripts were intentionally not appended to this thesis document for two reasons. Firstly, to ensure the anonymity of the interviewees and secondly, because the total of transcripts amounted to 255 pages.

is shown in the following table. A dot means that it was not addressed during the interview for reason(s) mentioned earlier.

Outcome Interviews	Interviews												
	i1	i2	i3	i4	i5	i6	i7	i8	i9	i10	i11	i12	i13
1.1 Clear law for interviewee	Yes	Yes	Yes	Yes	Yes	Yes	Not really	.	Yes	Yes	Yes	Neutral	Yes
1.2 Opinion on Dutch Customs knowledge level	Low	Low	Low	Medium	Low	Low	Medium	.	Low	Low	Unknown	Low	Low
1.3 Opinion on licence holder knowledge level	Low	Medium	Low	Medium	Low	Low	Medium	.	Low	Low	Medium	Low	Medium
2.1 Goal incinerator company with energy creation	Double, bu	Double	Double, b	Double, b	Double, b	Double, b	Processin	.	Double, b	Double, b	Double, b	.	Double
2.2 Goal waste management company compost and biogas	Double, bu	Processin	Processin	Processin	Double, b	Double, b	Processin	.	Processin	Double, b	Processin	.	Double, b
2.3 Goal owner of goods who wants their goods destroyed (possible at cost)	Destruction	Destructio	Processin	Destructio	Destructio	Destructio	Destructio	.	Destructio	Destructio	Destructio	.	Destructio
3.1 More Guidance	Yes	.	.	.	Yes	.	Yes	.	.	Yes	Yes	Yes	Neutral
3.2 Article 324 extra possibility with good framing	Yes	No	Yes	.	Yes	Yes	Yes	.	Yes	Possible	Yes	Yes	Yes
3.3 Policy: Dutch Customs views destruction by incineration or composting	Yes	.	.	.	.	.	.	.	.	.	.	.	.
3.4 Clarify the word 'Destruction' somewhere in the UCC	.	Yes	.	.	Yes	Yes	Yes	.	Yes	No	Yes	Yes	Yes
3.5 Delete 'destruction' as processing operation from art. 5(37) UCC	.	Yes	.	.	.	.	.	.	Yes	.	Yes	Yes	.
3.6 Create end-use procedure for some goods	.	.	.	.	.	.	.	.	No, need	Yes	No	.	Yes
3.7 Create on EU level GN-code for fruit/vegetable pulp or green waste	.	.	Yes	.	Yes	Yes	Yes	.	Yes	Yes	.	.	.
3.8 Have incomplete declaration filed for r.f.f.c. and complete declaration a	.	.	.	Yes	.	.	Possible	.	.	.	.	.	.
3.9 Article 215 ...have been destroyed with no more than waste and scrap	.	.	.	.	.	.	Yes	.	Change 23	Yes	Yes	Yes	Yes
4. Fair that residual product still needs proper clearance?	Yes	Yes	Yes	Yes	.	Yes	Not, if de	.	.	Yes	Yes	Yes	Yes
5.1 Allocation of generated power to product placed under IP (incinerator)	Practically	Work with	Practically	Work with	Practically	Work with	Practically	.	Work with	Practically	Practically	Practically	Work with
5.2 Allocation of generated compost to fruit/vegetable placed under IP	Practically	Work with	Practically	Work with	Practically	Work with	Practically	.	Work with	Practically	Practically	Practically	.
6. Physical supervision properly set up for this process?	No, not with	No, not w	.	Not sure	No, not w	Not sure	No, not w	.	Execution	Yes, think	.	.	.
7. Question or a note needed in DO 040 regarding proper clearance	Yes	.	Yes	.	Yes	Yes	Yes	Yes	Yes	Not sure	Not in fav	Not in fav	.
8. Need for more administrative supervision instead of physical	.	Yes	.	Yes, even	Yes, even	Yes	Yes	Yes	Neutral	Yes	Yes	Yes	Yes
9. Authorisation by declaration is easier to get than for repeated use	.	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	.	Yes	Yes	Yes
10. Bill of discharge supervision at Heerlen for authorisation on declaration	.	Yes	Yes	No	No, or a st	.	Yes	.	Yes	.	.	.	.
11. Important data in administration of authorisation holder	.	Tracking v	Tracking v	Tracking v	Tracking v	Tracking v	Tracking v	.	Tracking v	Account f	Tracking v	Tracking v	Tracking v

Figure 5: Outcome interviews divided over 11 topics

The results that came out of the interviews will be discussed in paragraph 5.5. There are 11 main topics, and some of them have subtopics.

5.4 Interview quality

5.4.1 Reliability

This means how thoroughly research is performed and documented. Interviews do not give facts but opinions and memories. Therefore, there is always informant bias possible. A way to counteract bias is to perform data triangulation. Outcomes of interviews can also enrich data if it was already discussed in the legal-, literature-, or desk research. If this is the case, 'data triangulation' was performed. More specifically, this is a check whether information from different sources is not contradictory or did not omit important information.

To increase the reliability of the study, the interviews were conducted with people from different positions and, thus, different perspectives on the subject. Interviews were conducted with Dutch Customs employees but also with employees of Big Four accounting firms⁵³. All interviewees were briefed in advance on definitions and information gathered from the legal-, literature-, and desk research. This helped to go into the interviews from the same starting point and level of knowledge. Briefing in advance was done by sending with the invitation also the 'Interview hand-out'.

5.4.2 Validity

In other words: "Do we measure what we intend to measure?". The structure and research questions were tested and evaluated throughout the conducting of the interviews. This has a positive effect on validity because the quality and sequencing of the questions have a significant impact on the outcomes of the study (Saunders et al., 2019). By evaluating the interviews held, the interview template changed over time.

⁵³ The Big Four are the four largest professional services networks in the world.

The interviews were held using an interview protocol. This way, all interviewees were asked the same questions in somewhat the same way. This increases the validity of the interview results. Of course, the interview protocol did change a bit over time due to improvement after doing some interviews.

5.4.3 Limitations

Inevitably, this research method also has some limitations. First, it was not easy to find interviewees due to the required specific knowledge on this topic. Also, there are quite some different people responsible for different tasks. This made it hard to find people with so-called "overall knowledge on IP Destruction". No interviews were conducted with the companies that want to get rid of their goods or the waste management companies. The reason behind this is that the thesis topic is quite legal in nature, and the knowledge among those companies is not considered available. Lastly, it was sometimes difficult to go through the interview protocol thoroughly within an hour because one quickly gets caught up in legislation and makes diversions as a result.

5.5 Interview results

First, the main takeaway from the non-structured interview will be displayed in this paragraph. Then the other outcomes of topics 1 to 11 will come to light.⁵⁴

5.5.1 Non-structured interview

Customs office Eindhoven/Heerlen supervises authorisations granted via a declaration. This office is in charge of, among other things, the discharges of relevant customs regimes and possible renewal of a licence. The discharge for the Inward Processing Destruction happens via submitting the DO 040 and the DO 162 at this office. They then check whether there is residual waste and if this is brought under release for free circulation.

After the interview, it was clear that only a small team of a handful customs officers performs the checks of the clearance on temporary admission, inward processing and end-use. In 2019, there were a few thousand authorisations on declaration for the Inward Processing procedure. This means that all those declarations had to be discharged via this small team. Therefore, there are too many authorisation applications for inward processing on declarations in the opinion of those interviewed. Another remark that was made here is that companies often also apply for a licence on declaration 20 to 30 times a year. The interviewees would actually prefer to get these to an authorisation for repeated use.⁵⁵

An important point that was also taken into account is something interviewee i8/2 said, namely: "In very many cases, the DO 040 showed that everything was just destroyed. Only in a very few cases do I recall that a final import declaration was made, maximum 10 cases". This clearly shows that, practically speaking, there is almost never any follow-up procedure to an IP destruction.

Finally, several interviewees indicated that it would be easier for their work if the DO 040 document revealed the following information:

- Plato-number
- EORI-number
- Box to fill in a subsequent customs procedure if there are waste products
- Box 12 needs to be filled in by the company, as they need to declare the goods

⁵⁴ Only results of interviewees who gave their insights will be taken into account. So if during an interview a topic was not covered/discussed or the answer was not given, this was disregarded.

⁵⁵ Interviewee i8/1 page 5 of transcript

5.5.2 Clear law or not?

Some questions were made in order to show whether or not the regulator provided clear law on this subject. Here are the results of the interviews on this subject.

Topic	i1	i2	i3	i4	i5	i6	i7	i9	i10	i11	i12	i13	Result
1.1 Clear law for interviewee	Yes	Yes	Yes	Yes	Yes	Yes	Not really	Yes	Yes	Yes	Neutral	Yes	83,33% says 'Yes'
1.2 Opinion on Dutch Customs knowledge level	Low	Low	Low	Medium	Low	Low	Medium	Low	Low	Unknown	Low	Low	75,00% says 'Low'
1.3 Opinion on licence holder knowledge level	Low	Medium	Low	Medium	Low	Low	Medium	Low	Low	Medium	Low	Medium	58,33% says 'Low'

Figure 6: Opinions on clarity of legislation (topic 1)

83% of the interviewees declared that the law on IP Destruction was clear to them. On the one hand, this can be explained as the interviews were done with experts in the customs field. Their view on the knowledge level of Dutch customs officers and license holders in general is already more noticeable. Of the interviewees, 75% think that the knowledge level of Dutch Customs on this topic is low, and 58% of the license holders are considered low. This demonstrates the idea that legislation is not well understood by the people working with it. This, of course, also increases the likelihood of incorrect discharges or other inaccuracies in the IP Destruction scheme.

5.5.3 Goals and processing operations for different companies

As there was much ambiguity about whether common forms of "destruction" were possible under Article 5(37)(c) UCC, interviewees were asked how they viewed three different company situations. They were specifically asked what the purpose of such a business is and, thus, under which processing operation they believe it belongs.

The first company is an incinerator facility that receives goods from third parties and captures the steam during combustion to then generate energy. The second company is a waste processing plant that receives (mostly rotten) fruits and vegetables, may turn them into pulp, make compost and finally make biogas. The last company is the owner of (any) goods who wants to get rid of his goods, possibly at cost, and delivers the goods to one of the previous companies.

In visual, the three different companies and given outcomes⁵⁶ look as follows in pie charts.

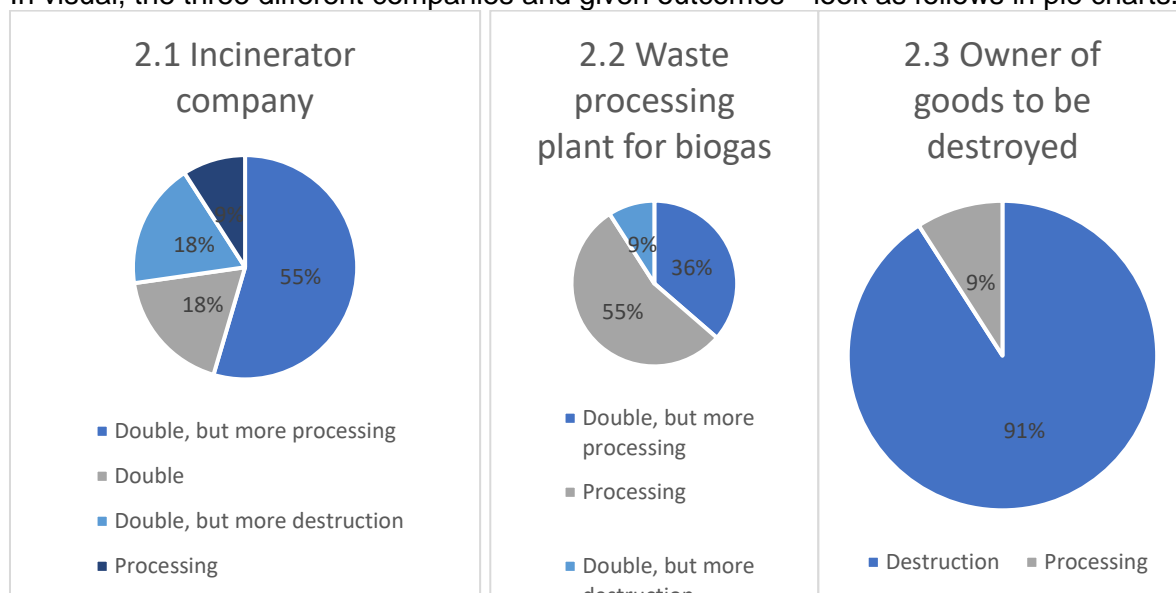


Figure 7: View on processing operation of article 5(37) UCC for three different companies (topic 2)

⁵⁶ When it says "double", this means a combination between "processing" and "destruction".

From this, we can see that for companies one and two, the majority consider that this is classified more as “processing”, and for the third company, the vast majority says such a company can classify this operation under “destruction”. This is in line with the revised Guidance, which states that the purpose of the holder of the IP authorisation is exclusively to destroy the goods unless the destruction is not a usual operation in the business model of the economic operator. The first two companies do not fulfil these conditions to perform under IP destruction. The revised guidance was not yet available at the time of the interviews.

5.5.4 Different opinions on how to change the law or policies

The question: “What would you like to change about the current laws and regulations and why?” has always been stated during the interviews. As more and more interviews were held, more ideas came in. For that reason, some answers were brought up as topics later. However, this also means that it is more common that interviewees did not express an opinion on a specific subtopic from 3.

All topics are explained more in the second column, and the main takeaway is presented in the final column with the response rate.

Topics	Explanation	Main takeaway
3.1 More Guidance	Whether or not the interviewee thinks more guidance is needed, especially on the proper discharge of two big destruction streams.	Yes: 86% Neutral: 14% Total: 7 interviewees
3.2 Article 324 UCC-IA; extra possibility with good framing	Adding an additional letter under paragraph 1 of this article. This article shows special cases of discharge for IP, and in these cases, it shall be regarded as a re-export. This means no further formalities are in place. For instance, rotten fruit and vegetables are being brought to a company against a cost.	Yes: 82% No: 9% Possible: 9% Total: 11 interviewees
3.3 Dutch Customs views some destruction as if it was without residues and waste	This is more of a national policy position saying that Dutch Customs always considered destruction by incineration or composting as done without residues and waste when the secondary compensating product had a 0% tariff.	Only one came with this answer. This was not further discussed.
3.4 Clarify the word 'Destruction' somewhere in the UCC	"Destruction" has been a new procedure under IP since the UCC; however, this has not been clarified anywhere.	Yes: 89% No 11% Total: 9 interviewees
3.5 Delete 'destruction' as processing operation from article 5(37) UCC	When 'Destruction' is deleted as a processing operation, a company must go to another processing operation of article 5(37) UCC. Another way was to make a separate special procedure for destruction.	Yes: 100% Only 3 interviewees
3.6 Create an end-use procedure for some goods	Especially for fruit and vegetables, this was seen as a possible solution. For instance, if an owner has rotten fruit in its customs warehouse, he can now place them under an end-use procedure with the destination that such goods are delivered to a plant that makes biogas out of it.	Yes: 71% No: 28%; one said to get rid of the authorisation regime Total: 7 interviewees
3.7 Create on EU level CN-code for fruit/vegetable pulp or green waste	A rotten banana often still has the same commodity code as a banana. If additional commodity codes are created here, it is easier to move away from unit price valuation, for example. In addition, it also offers more options to classify secondary	Yes: 100% Total: 6 interviewees

	processed products to these new commodity codes, which can also make things easier.	
3.8 Have incomplete declaration filed for r.f.f.c. and complete declaration afterwards if yields are known	The major problem was that at the time of the destruction, the outcome was not yet known. As a result, someone suggested an incomplete declaration for release for free circulation first. Once the yield was known, the declaration could be completed afterwards.	Only two feedbacks; one said yes, and one said possible.
3.9 Article 215 UCC "...have been destroyed with no more than waste and scrap"	This one came up in a later interview. Here, it was suggested that Article 215 UCC should be amended from: "...have been destroyed with no waste remaining..." to "...have been destroyed with no more than waste and scrap...". Because waste and scrap are further explained in article 1(41)(b) UCC-DA, this would mean that if it was destroyed with only waste and scrap, it would be considered discharged.	Yes: 100% Total: 5 interviewees i9 gave more and slightly other insights on how. ⁵⁷

Table 2: Explanation and takeaways of provided changes to law or policy (topic 3)

5.5.5 Other takeaways from the interviews

This subsection will highlight the results from topics 4 to 11. The answers on each topic are displayed in the following table. This is followed by a short textual contribution.

4. Fair that residual product still needs proper clearance?		
Yes	9	90%
Not, if destroyed in a sustainable manner	1	10%
Total interviewees	10	100%
5.1 Allocation of generated power to the product placed under IP (incinerator)		
Practically impracticable, but perhaps work with weights	6	50%
Work with weights plus combustible categories	3	25%
Work with weights	2	17%
Practically impracticable; you don't need to want this	1	8%
Total interviewees	12	100%
5.2 Allocation of generated compost to fruit/vegetable placed under IP		
Practically impracticable, but perhaps work with weights	6	55%
Work with weights	4	36%
Practically impracticable; you don't need to want this	1	9%
Total interviewees	11	100%
6. Physical supervision properly set up for this process?		
No, not with composting and incineration	4	50%
Not sure	2	25%
Execution is not going well	1	13%
Yes, think so	1	13%
Total interviewees	8	100%
7. Question or a note needed in DO 040 regarding proper clearance		

⁵⁷ Change 215 UCC in destroyed (without "with no waste remaining") + clarify destruction to: reducing goods so that nothing more than scraps and waste remain + under 167(p) UCC-DA convert the word process to reduce (in Dutch translation of UCC-DA)

Yes	7	70%
Not sure	1	10%
Not in favour of DO 040 in total. More physical supervision on placement side	2	20%
Total interviewees	10	100%
8. Need for more administrative supervision instead of physical		
Yes	6	75%
Yes, even with administrative supervision, you can complement with physical	1	13%
Neutral	1	13%
Total interviewees	8	100%
9. Authorisation by declaration is easier to get than for repeated use		
Yes	11	100%
Total interviewees	11	100%
10. Bill of discharge supervision at Heerlen for authorisation on declaration		
Yes	4	67%
No	1	17%
No, or a short line to the office where you can check	1	17%
Total interviewees	6	100%
11. Important data in administration of authorisation holder		
Tracking what happens to goods (placement, processing operations, processed products)	10	91%
Account for quantities and hereby determine rate. Plus enforceable and be able to be compliant	1	9%
Total interviewees	11	100%

Table 3: Interviewee outcomes topic 4 until 11

Topic 4 shows that 90% of the interviewees said it is fair that when waste remains after destruction, the procedure is not discharged properly and requires an extra declaration. However, it is often considered unreasonable if one then has to pay duties for it when it has a negative value. It is important to be able to keep track of the product flow.

On topic 5, the majority of the interviewees say that it is practically impracticable to allocate the generated power or compost to the products placed under IP. The best way is to work with weights and allocate on that basis.

The interviewees showed on the 6th topic that a slight majority indicates that the physical supervision is not properly set up for the IP Destruction process, especially not for composting and incineration. This has a strong emphasis on the possibility of allocating the secondary processed product to the product placed under IP (in topic 5).

Regarding the DO 040 document, 70% say that a question or a note helps in the proper discharging of the procedure. This question or note would entail something in the sense of: "if there is any waste after IP destruction, please consider that this product needs a subsequent procedure in order to discharge the IP procedure". Furthermore, interview i8 showed that an EORI-number of the authorisation holder, a Plato-number, and the subsequent MRN would help Customs Office Eindhoven/Heerlen in their enquiry. Lastly, two interviewees feel more about deleting the whole DO 040 document and only working with physical inspection after goods are placed under the IP regime.

Topic 8 and 9 both say there is a vast majority indicating there is a need for more administrative supervision instead of physical supervision⁵⁸ and secondly that an authorisation by declaration is easier to get than one for repeated use.

The 10th topic makes clear that 4 out of 6 interviewees say that Customs Office Eindhoven/Heerlen is the proper place for supervision on the discharge of these special procedures.

Then finally, the 11th topic demonstrates that 91% of the interviewees say that it is important for the authorisation holder to be able to keep track of what happens to the goods. This includes placement under the procedure, processing operation, final products, and, basically, the audit trail. The other interviewee said it is important to always account for quantities and be able to determine tariff rates. Next to that, the administration must be enforceable, and the authorisation holder must be able to be compliant.

5.6 Conclusion

This chapter started by showing the interview methodology and data-analysis methods. All thirteen interviews were transcribed, and the outcomes were then coded in eleven different topics in which the answers were categorised.

The only non-structured interview was held with customs officials from the office Eindhoven/Heerlen. This office is, among other tasks, specialized in the discharge of special procedures for authorisations granted via a declaration. The main issue here was that, according to them, too many licences are granted on customs declarations and that there should be more of a shift to continuous licences. It was further indicated that there is hardly any follow-up declaration to the IP destruction declaration. They would also like to see the DO 040 document updated on a few points.

Furthermore, all the interviews gave insight into how eleven different topics are viewed. This showed the strengths and weaknesses of the current supervision on IP destruction within the EU, but also, more specifically, within the Netherlands. This answers the sixth sub-question, and to see possible recommendations for improvements, see Chapter 6. Now, what are the strengths and weaknesses that came out of the interview results? To start with, the perceived level of knowledge of customs officials is considered overall low. This is also the case for the authorisation holders. In addition, there is some unclarity in the view on processing operations under IP. But most interviewees' views are in line with the new Guidance provided by the COM.

In total nine different takeaways were given by the interviewees on the question of what they would like to change about the current law. The majority would like more guidance (especially on the proper discharging of the two big destruction streams), legal clarification of the word "destruction", create an end-use procedure for fruit and vegetables and a CN-code for pulp and green waste, and either change article 324 UCC-IA or article 215 UCC to end the formality system easier.

The biggest conclusions from the interviews, topics 4 to 11, are:

- It is fair that a residual product still needs a proper discharge
- Impracticable to calculate the yield of the two biggest destruction streams
- DO 040 document needs a change
- Need for more administrative supervision rather than physical
- Authorisations by declaration are easier to obtain
- Important for the authorisation holder to keep track of what happens to the goods at all time

⁵⁸ There may be a distinction on the basis of the nature of the goods and possible (non-)fiscal risks.

Then a strength of the current system is that customs supervision only ends after the special procedure has been properly discharged. When goods are placed under a new suspensive special procedure, customs supervision remains. This procedure ensures that goods do not simply enter the EU internal market without paying import duties and VAT. In addition, there are good criteria in order to obtain the IP authorisation for destruction. One of these is proper record keeping, which, according to the interviewees, always includes keeping records on the placement of goods, processing operations, the secondary processed products, and accounting of quantities to determine any possible levy elements. Most of these strengths were discussed somewhere during the interviews but also came to light during the legal research.

6. Improve Supervision

6.1 Introduction

After the performed research, there are two issues that would allow for improving the supervision of the IP destruction procedure. First, legislative and regulatory changes are needed to address the changing market of ever-valuing a waste products. These will be covered in paragraph 6.2. Second, some quick wins are also possible for Dutch Customs. These will be explained in section 6.3. The improvements presented in this chapter are based on conclusions from the interviews but also on the knowledge foundation laid during the legal, literature and desk research.

6.2 Cry for help to amend legislation

It is stated before that the current IP destruction system and its legal framework are not appropriate regarding today's operations. Changes are needed to provide a workable way for businesses and customs to properly discharge the IP regime. Especially since sustainability goals lead to an increase in recycling which again will lead to no waste; because of this, the IP destruction procedure will disappear as there is no advantage in doing it under this procedure as opposed to the more standard used IP operation 'Processing of goods'. It should be made easier for businesses to clear customs goods from formalities and supervision when done in a green, non-profit way. Consequently, it is important to make amendments to current legislation to incentivise economic operators to choose so-called green methods of "destruction".

The adjustments in the EU legislation and Guidance must come from the European Commission. Therefore, this "cry for help" is addressed to them. The next three subparagraphs show possible adjustments.

6.2.1 Changes in the UCC

It is difficult to understand why a system of formalities still needs to be followed for goods that only cost the economic operator money and no longer have any economic value. For this reason, in the researcher's view, it is advisable to amend the legislation to make it easier for these goods to comply or supervise in a correct manner for both companies and for customs authorities.

The first amendment is to either change article 324 UCC-IA or article 215 of the UCC. It is probably easier to modify the implementing regulation than the UCC itself, so we will start with that. Article 324 UCC-IA starts with: "For the purposes of discharging the inward processing IM/EX procedure, the following shall be regarded as re-export". What then follows are six letters, each describing a situation that can thus be seen as re-exported. In other words, the IP scheme would then be discharged as per article 215 DWU. Adding an extra letter to article 324 UCC-IA can make it easier to make a specified situation comply with formalities. The situation could be described as follows: 'When goods under IP Destruction have been destroyed with no more than waste and scrap.' It is important to note "no more than waste and scrap". Because "waste and scrap" is defined under article 1(41)(b) UCC-DA. Thus, adding this specific situation would result in no further formalities for waste and scrap after destruction under IP.⁵⁹ It is, of course, possible to set additional boundary conditions by describing the situation more comprehensively.

It is also possible to leave article 324 UCC-IA in place and make an amendment to article 215 UCC. Now it says: "(...) a special procedure shall be discharged when the goods placed under

⁵⁹ Especially chosen for "waste and scrap" as it is explained as: "(...) products resulting from a processing operation, which have no or low economic value and cannot be used without further processing".

the procedure (...) have been destroyed with no waste remaining (..)". If this is changed in a somewhat same manner as before, it would be easier to discharge the special procedure for products with no or low economic value. The following adjustment along these sentence would help in this: "(...) have been destroyed with no more than waste and scrap (...)". Again, by adding "no more than waste and scrap" a reference is made to article 1(41)(b) UCC-DA and no further formalities are needed for such goods because the special procedure is discharged. It is probably less easy to set any additional conditions within this article. It is therefore advised to look within article 324 UCC-IA first.

"Destruction" has been a new procedure under IP since the UCC. However, this has not been clarified anywhere. 89% of the interviewees indicated they would like the COM to clarify this. Definitions are given in article 5 UCC, article 1 UCC-DA, and article 1 UCC-IA. The definition will therefore have to be added somewhere within these three articles. That only leaves the question of what definition could be given to it. Interviewee i7 said it is important to highlight the factor that the economic operator is paying for such a destruction and gave the following definition: "When a business wants to get rid of his goods, and it costs him money". Interviewee i9 came up with the next definition: "Destruction is the reduction of goods so that nothing more than scrap and waste remain". It seems prudent to the researcher to include some of both elements, so reducing to no more than waste and scrap and taking into consideration the cost aspect.

6.2.2 More Guidance by the COM

86% of the interviewees said that more guidance is needed regarding this topic. Especially on the proper discharge of the two main destruction operations from figure 2. It should be noted that a revision of the Guidance on Special Procedures was published on 14 March 2023, which lies short of the submission date of this thesis. This new version now shows that an authorisation for IP Destruction cannot be obtained for companies with exclusively the purpose of destruction unless the destruction is not a usual operation according to the business model of the economic operator concerned.⁶⁰ It also now clarifies that if there are residues, then these are always considered secondary processed products that should receive a subsequent customs procedure.

However, the COM does not specify how such secondary processed products successfully follow a subsequent procedure. Especially for the two largest destruction operations, there is unclarity; this is also evident from topic 5 of the interviews. For this reason, it would be desirable if the COM offered some more guidelines on the allocation of the processed product (for example, the generated power or pulp/biogas) to the product placed under Inward Processing. It would be helpful if example 3 on page 30 had more follow-ups. Most of the interviewees already indicated that for the two large destruction operations, it is impracticable, and therefore they said it seems best to work with flat rates based on weights, for example. After all, better examples from the COM will provide more unity in policy and implementation across the member states of the EU.

6.2.3 Other EU regulation changes

Topic 3 of the interview results yielded other EU regulatory changes that could improve compliance on the business side and supervision on the authority side regarding this special procedure. First of all, 100% of the interviewees indicated that it would be helpful if the EU created a CN-code for fruit and vegetable pulp and/or for green waste. A rotten banana with just some speckles is still considered a banana for tariff purposes. Even if it has already been grounded into pulp, it still holds the same CN-code. If additional commodity codes are created, it would be easier for economic operators to move away from unit price valuation. As explained in paragraph 1.2, the latter is common as a method for determining the customs value of fruit

⁶⁰ Page 29 of Guidance document on special procedures – TAXUD/A2/SPE/2016/001-Rev 19-EN

and vegetables. By creating more codes, it is easier to comply with regulations, also because businesses have more options to classify the secondary processed products.

The second takeaway is to create an end-use procedure for fruit and vegetables. The destination could be that predefined goods are delivered to a plant that makes biogas or green energy out of these goods. Additional conditions to meet this particular destination are, of course, possible. These could include the cost aspect, sustainable way of destruction, limited types of goods, proven companies, etcetera.

6.3 Quick wins for Dutch Customs

To improve Dutch Customs' supervision of the IP Destruction procedure, we are not solely dependent on the COM. In fact, there are also a number of quick wins to be achieved. These improvements mainly concern adjusting policy, i.e. how imposed laws and regulations are dealt with. Such adjustments will have to be further elaborated first at Dutch Customs within the Cluster and/or the Coordination Group on Formalities & Special Procedures before possible approval must be given by a meeting of directors. The following three subsections show some possible quick wins.

6.3.1 Put a maximum on authorisations by declaration

As outlined in paragraph 5.5.5, a vast majority of the interviewees indicated the need for more administrative supervision instead of physical. There is a need and a transformation for a new customs supervision system. Nowadays, supervision is mainly based on the physical tracking of goods in a logistical process at the transaction level. But the current customs supervision system is not, in some respects, aligned with the required flexibility and the objectives that this legislation is intended to achieve for several reasons (Heijmann & Peters, 2022, page 345). This is especially the case for IP destruction. When applied for an authorisation by declaration, supervision is always performed on the basis of physical inspection.

The United Kingdom has put a maximum on authorisations by declarations.⁶¹ The regime, which recently left the EU, also has the option of an Inward Processing authorisation based on a customs declaration. However, you can only use this up to three times in a rolling year for goods valued up to £500,000 for each import.

It may be possible by creating a policy position by Dutch Customs to also put a maximum on the authorisations by declaration. This forces companies to apply for an authorisation for repeated-use and therefore creates an increase in administrative supervision rather than physical. On the other hand, it should be borne in mind that such a measure will result in restrictions for business, partly due to the lack of handling capacity at Dutch customs.

6.3.2 Changes in the DO 040 document

First of all, it will be necessary to closely examine the added value of the DO 040 document. For example, why is there not more use of the option for physical checks only when consignments fall red as goods are placed under the scheme? Clearly, it is a fraud-prone scheme due to the difficulty in incorporating a control mechanism in case of retrospective destruction. That said, Dutch Customs should take a close look at whether the document provides sufficient guarantees.

However, it is clear that if the DO 040 remains in place, it is desirable to make the following adjustments to it:

- A note or watch out for the applicant saying that residues and wastes after IP should be given a subsequent customs procedure to discharge the IP regime;

⁶¹ Source official GOV.UK website: Page: Guidance - Apply to delay or pay less duty on goods you import to process or repair. Last accessed 26th February 2023.

- EORI-number of the authorisation holder;
- Plato-number;
- Let the company fill in what goods remain after the destruction and the quantity instead of customs officers.

6.3.3 Other policy changes by Dutch Customs

First, a policy position saying that Dutch Customs always consider destruction by incineration or composting as done without residues and waste when the secondary compensating product had a 0% tariff. This makes it easier to end formalities and supervision when such destructions occur. Especially since the generated power and biogas have 0%. Then the question would arise: what are the added value and the risk if Dutch Customs does not do it? Well, to be clear, no benefits are seen in putting a lot of capacity into a difficult monitoring process here that ultimately does not result in customs duties being handed over anyway. It is unlikely the COM will investigate lost Traditional Own Resources. However, this policy position will have to be further examined for feasibility and, of course, should also not lead to COM's peremptory disagreement.

Perhaps another policy position might be to view goods to be destroyed by an incinerator as the same as goods from the Valuation Compendium commentary number 15.⁶² Here they made an agreement to value such goods for 1 Euro to make import formalities easier for businesses. The reason is that the waste is intended strictly for destruction, and the destruction is performed as a service paid by the exporter. Therefore, the customs value for such waste may be determined on the basis of a symbolic value. The symbolic value can be found in the Compilers guide⁶³, where it says that the negative value of waste without market value shall be adjusted close to zero or to 1 unit of value. Of course, this is somewhat different because it involves the actual entry of waste that is also classified as such according to the Combined Nomenclature⁶⁴ compared to the problem mainly under investigation, which is customs goods already within the EU being destroyed under IP. Nevertheless, it might be possible that a parallel can be drawn with regard to the valuation of goods. If not, then an extension of the Compilers guide is also required by the COM to include goods destroyed under IP within the EU. Again, additional conditions may then be imposed to delineate it.

6.3.4 More guidance via the Dutch Customs Manual and ODB

It is important that companies are familiar with the laws and regulations and their formalities. Clarity at the front end prevents clutter later in the process. But how to ensure greater clarity for both Customs and business? The Trade Facilitation Agreement of the World Trade Organisation states that cooperation between business and customs is important. Article 2, paragraph 2 states the following: "Each Member shall, as appropriate, provide for regular consultations between its border agencies and traders or other stakeholders located within its territory". Dutch Customs, on the one hand, provides guidance through the Customs Manual and, on the other hand, consult business via the Customs-Business Consultation Platform (in Dutch: Overleg Douane-Bedrijfsleven, hereafter: 'ODB').

To start with, the Customs Manual needs to be updated with the new guidance from the COM given by the revision document this month. In addition, additional practical examples and explanations contribute to the interpretation of legislation and the unity of policy and implementation. For this, it will first be necessary to see whether any policy adjustments (such as those mentioned above) will be made. Naturally, if legislation changes or additional Guidance comes from the COM, it must be translated into the Customs Manual as always.

⁶² European Commission - Compendium of Customs Valuation Texts. Edition 2022

⁶³ Europol - Compilers guide on European Statistics on international trade in goods. Edition 2021. Paragraph 147 and 149, page 20.

⁶⁴ Regulation (Council Regulation (EEC) No 2658/87

The ODB is for Dutch customs and business representatives to discuss issues relating to EU cross-border trade in goods in the broadest sense (Heijmann & Peters, 2022, page 241). So, this is a platform⁶⁵ for the parties to debate and evaluate strategic vision for implementing policy on supervising and enforcing goods still under the radar of customs authorities. Within this consultative body, it may be desirable to communicate major policy changes regarding the IP Destruction procedure to the business community. This is not just a one-way street, but also to consider whether policy might be better designed in a different way in response to input from the industry.

The level of knowledge of Customs officials is also rated as low by interviewees. As a result, it is advisable that Dutch Customs also ensures that knowledge is brought up to standard. This can obviously be done in various ways, such as presentations, work instructions, intranet news items, newsletters, and so on.

6.4 Conclusion

This chapter gave an answer to the final sub-question, namely: “What are possible legal or policy improvements with regard to Dutch Customs’ supervision of the IP destruction procedure?”. A distinction has been made between improvements that require action from the COM and those that can be taken up by Dutch Customs.

To reiterate briefly, the COM can, by amending an article, make it easier to end the formalities regime for waste and scrap after IP destruction. The word “definition” needs a definition under the law, as this is a new procedure under the UCC. Further on, the COM can also create an end-use procedure and extra CN-codes. Next to this, more guidance is required. With practical examples, it is easier for economic operators to comply and for authorities to supervise, and it creates more unity of policy and implementation. The DO 040 document should be amended by Dutch Customs or deleted, and other policy changes are possible.

⁶⁵ Obligated for all members of the WTO under article 23 paragraph 2

7. Conclusions

7.1 Conclusions on research questions

The research problem focuses on the failure to properly discharge the special procedure IP destruction and, by extension, how Dutch Customs' supervision of this can be improved in light of the increasing level of residues and waste recycling. It is perceived as difficult to comply with the formalities system in some cases, so companies may choose to get rid of their goods in less sustainable ways. This problem prompted the initiation of this study and the formulation of the following main research question:

How can Dutch Customs' supervision on the discharge of the Inward Processing procedure for destruction be improved considering the increase in recycling of residues and waste?

To answer the main research question, the question was divided into the following seven sub-questions. The conclusions to these questions are summarised briefly below each question, and together they also form the answer to the main question.

1. *What is the legal framework on destruction of non-Union goods under IP?*

In any legal research, it is important to start with understanding and describing the whole legal framework. The regulatory context ensures that the conditions are clear to which everyone must adhere. The Netherlands is bound by European Union customs legislation laid down in the UCC. The IP destruction is a special procedure that suspends taxes upon import and allows companies within the EU to process these non-Union goods which are still under customs supervision. Supervision ends when the procedure is discharged properly, in this case, has been placed under a subsequent customs procedure, left the EU, or has been destroyed with no waste remaining.

To place goods under IP destruction, a declaration must be filed, and an authorisation must be obtained. This authorisation can be applied for on a continuous basis or on a one-off basis. In the latter case, the application is made on the declaration. Both types of authorisations require compliance with set conditions. Appropriate record keeping is one of the conditions that will always have to be met. In addition, to obtain an authorisation, the purpose of the holder of the IP authorisation must be to exclusively destroy the goods unless the destruction is not a usual operation in the business model of the economic operator.

2. *How has the IP destruction procedure changed over time?*

The CCC was the predecessor of the UCC. It was therefore examined how the destruction of customs goods was done under the CCC.

First of all, Inward Processing was also a procedure under the previous legislation, but "destruction" was not one of the processing operations. Next to IP, processing under customs control was another procedure covering non-Community goods to be handled within EU territory, but again no destruction was possible under this procedure. Destruction of such goods was possible under article 182 CCC, stating that non-Community goods may be destroyed under certain conditions which were further laid down in article 842 CCC-IP. Destruction meant making goods unfit for the purpose for which they were intended. Also, under this legislation, residues and/or waste that may arise had to be given a successor regime. The main difference is that under the CCC, it was not a procedure for which a declaration had to be made, but it was a customs destination that discharged the previous customs procedure.

3. *What are possible IP operations under destruction of non-Union goods?*

The legislation does not describe clear examples of possible forms of destruction under IP. The guidance on special procedures does give two practical examples when no destruction

takes place and three more general examples when an IP authorisation for destruction can be issued if the economic operator destroys goods and obtain processed products but this is not a usual operation in its business model.

There are unthinkable ways to destroy goods, partly because of the constant search for ever more innovative, sustainable and cost-saving methods. However, there are two main destruction operations where the focus of this thesis lies. The first is (random) goods put into an incinerator, whose steam is caught and converted into electrical energy. The second stream involves fruit and vegetables, which are often pulverised first, after which the compost is fermented and further processed into biogas.

4. How is currently customs supervision in the Netherlands set up for destruction under the IP procedure?

Dutch Customs has its own customs manual in which they describe the application of the system of formalities and supervision as regulated by EU customs law. This customs manual is published online, so both customs officials and businesses are able to make use of it. Supervision in the Netherlands is either administrative or physical. Administrative supervision is only possible with standard authorisations and only when approved for. In physical customs supervision, Dutch Customs works with a so-called DO 040 document that requires statements from both the company and Customs about the goods to be destroyed. In both forms of supervision, the goods must be placed under the special procedure by means of a customs declaration, and next to that, a bill of discharge must be submitted to the supervising office.

5. Is the IP destruction system appropriate for today's business operations where more and more products are reusable that were previously considered waste?

As companies are increasingly looking to become more sustainable and reduce waste, the current IP destruction regime is no longer appropriate. It is currently too difficult for companies to comply with the formalities regime and especially for goods destroyed in a green way (read: conversion to other products). No one will dispute that destruction under IP should become a way purely to get rid of customs supervision in an easy way without paying duties. For this reason, it is desirable to tighten the legislation on this issue so that we can move towards a more Green Customs within the whole EU.

6. What are the strengths and weaknesses of the current supervision on the destruction under IP in the Netherlands?

In general, a strength of the current system is that customs supervision only ends after a proper discharge of the special procedure. Placing goods under a new suspensive special procedure would entail that customs supervision is still in place. This regime ensures that goods do not simply enter the EU single market without paying import duties. Moreover, there are good conditions in place for having an authorisation IP for destruction. One of these is appropriate record keeping, which according to the interviewees, always includes keeping track of goods placement, processing operations, processed products, and accounting for quantities to determine possible levy elements.

Most weaknesses emerged during the interviews, and the main ones will be briefly repeated here. The first striking thing is that the level of knowledge of authorisation holders and Dutch customs officials on this particular procedure is generally considered low, resulting in non-compliance issues. The second weakness is that insufficient guidance is provided by the COM and perhaps also by the national customs authority. In particular, more practical examples of how to allocate the secondary processed product to the goods placed under the special procedure need more clarification. Furthermore, physical supervision for composting and incineration processes is currently not well established, and the DO 040 could be improved or even abolished as there is a need for more administrative supervision rather than physical supervision. Finally, it should not be that authorisations on declaration are easier to obtain than continuous authorisations.

7. What are possible legal or policy improvements with regard to Dutch Customs' supervision of the IP destruction procedure?

Improvement of supervision is possible by changing things in the EU customs legislation, which should involve the COM, and secondly by quick wins for Dutch Customs. If the COM agreed to add in article 324 UCC-IA a situation like: "When goods under IP destruction have been destroyed with no more than waste and scrap", this would result in no further formalities being required for such goods. Also, the word "Destruction" is not further defined under the UCC, which is advisable. In addition, it would be desirable if the COM provided more practical examples through the Guidance. This can also be given by Dutch Customs via its own customs manual. Finally, the COM could do something by creating additional CN codes for fruit and vegetable pulp and/or green waste and by creating an end-use procedure for fruit and vegetables.

Dutch Customs could improve its supervision by putting a maximum on authorisation by declaration. This leads to more standard authorisations, which are obtained less easily, and this makes it more convenient to check whether all required conditions are met. Secondly, Dutch Customs should examine the necessity of the DO 040 document and/or make some adjustments to it, such as: (1) a 'note' or 'watch out' for a subsequent customs procedure when there are residues and waste after IP destruction, (2) adding a box to fill in the Plato-number and EORI-number, and (3) letting the company itself fill in what goods remain after the destruction and the quantity. Finally, it may look at policy positions saying that 'Dutch Customs always considers destruction by incineration or composting as done without residues and waste when the secondary compensating product had a 0% tariff' and/or to 'view goods to be destroyed by an incinerator as same goods from the Valuation Compendium commentary number 15'.

7.2 Recommendations, limitations and contribution

First of all, with a strict legal and policy topic, there is a reliance on COM and Dutch Customs to implement the improvements in order to increase the level of supervision on the IP destruction procedure.

Further investigation into the feasibility of the recommendations, as described in Chapter 6 is advised. Not only the practical side from the eyes of law enforcers or the legislators is important, but it is also wise to examine what these possible improvements might mean for other, perhaps less sustainable, flows of goods as it is important to guard against unfair competition within the EU.

The approach of the thesis was to look from a more legal perspective. It is therefore needed to also take into account the opinions and views of the economic operators who have IP destruction authorisations and whether they believe the improvements are also, in practice, executable.

The research contribution entails that the advice on the supervision model can be used in other member states working with the same customs legislation. This makes the findings of this thesis generalisable. In particular, the results of the interviews are key takeaways that may also be useful for other customs areas.

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Annex 1 | Relevant UCC articles

Article 5(2) UCC

(2) "customs legislation" means the body of legislation made up of all of the following:

- (a) the Code and the provisions supplementing or implementing it adopted at Union or national level;
- (b) the Common Customs Tariff,
- (c) the legislation setting up a Union system of reliefs from customs duty,
- (d) international agreements containing customs provisions, insofar as they are applicable in the Union;

Article 5(16) UCC

(16) "customs procedure" means any of the following procedures under which goods may be placed in accordance with the Code:

(a) release for free circulation;

(b) special procedures;

(c) export;

Article 5(30) UCC

(30) "processed products" means goods placed under a processing procedure which have undergone processing operations;

Article 5(37) UCC

(37) "processing operations" means any of the following:

- (a) the working of goods, including erecting or assembling them or fitting them to other goods;
- (b) the processing of goods;
- (c) the destruction of goods;
- (d) the repair of goods, including restoring them and putting them in order;
- (e) the use of goods which are not to be found in the processed products, but which allow or facilitate the production of those products, even if they are entirely or partially used up in the process (production accessories);

Article 74(2)(c) UCC

Article 74

Secondary methods of customs valuation

1. Where the customs value of goods cannot be determined under Article 70, it shall be determined by proceeding sequentially from points (a) to (d) of paragraph 2, until the first point under which the customs value of goods can be determined.

The order of application of points (c) and (d) of paragraph 2 shall be reversed if the declarant so requests.

2. The customs value, pursuant to paragraph 1, shall be:

(a) the transaction value of identical goods sold for export to the customs territory of the Union and exported at or about the same time as the goods being valued;

(b) the transaction value of similar goods sold for export to the customs territory of the Union and exported at or about the same time as the goods being valued;

(c) the value based on the unit price at which the imported goods, or identical or similar imported goods, are sold within the customs territory of the Union in the greatest aggregate quantity to persons not related to the sellers; or

Article 85(1) UCC

Article 85

General rules for calculating the amount of import or export duty

1. The amount of import or export duty shall be determined on the basis of those rules for calculation of duty which were applicable to the goods concerned at the time at which the customs debt in respect of them was incurred.

Article 86(3) UCC

Article 86

Special rules for calculating the amount of import duty (...)

3. Where a customs debt is incurred for processed products resulting from the inward processing procedure, the amount of import duty corresponding to such debt shall, at the request of the declarant, be determined on the basis of the tariff classification, customs value, quantity, nature and origin of the goods placed under the inward processing procedure at the time of acceptance of the customs declaration relating to those goods.

Article 158(1) UCC

Article 158

Customs declaration of goods and customs supervision of Union goods

1. All goods intended to be placed under a customs procedure, except for the free zone procedure, shall be covered by a customs declaration appropriate for the particular procedure.

Article 197 UCC

Article 197

Destruction of goods

Where the customs authorities have reasonable grounds for so doing, they may require goods which have been presented to customs to be destroyed and shall inform the holder of the goods accordingly. The costs of the destruction shall be borne by the holder of the goods.

Article 198 UCC

Measures to be taken by the customs authorities

1. The customs authorities shall take any necessary measures, including confiscation and sale, or destruction, to dispose of goods in the following cases:

- (a) where one of the obligations laid down in the customs legislation concerning the introduction of non-Union goods into the customs territory of the Union has not been fulfilled, or the goods have been withheld from customs supervision;
- (b) where the goods cannot be released for any of the following reasons:
 - (i) it has not been possible, for reasons attributable to the declarant, to undertake or continue examination of the goods within the period prescribed by the customs authorities;
 - (ii) the documents which must be provided before the goods can be placed under, or released for, the customs procedure requested have not been provided;
 - (iii) payments or a guarantee which should have been made or provided in respect of import or export duty, as the case may be, have not been made or provided within the prescribed period;
 - (iv) the goods are subject to prohibitions or restrictions;
- (c) where the goods have not been removed within a reasonable period after their release;
- (d) where after their release, the goods are found not to have fulfilled the conditions for that release; or
- (e) where goods are abandoned to the State in accordance with Article 199.

2. Non-Union goods which have been abandoned to the State, seized or confiscated shall be deemed to be placed under the customs warehousing procedure. They shall be entered in the records of the customs warehousing operator, or, where they are held by the customs authorities, by the latter.

Where goods to be destroyed, abandoned to the State, seized or confiscated are already subject to a customs declaration, the records shall include a reference to the customs declaration. Customs authorities shall invalidate that customs declaration.

3. The costs of the measures referred to in paragraph 1 shall be borne:

- (a) in the case referred to in point (a) of paragraph 1, by any person who was required to fulfil the obligations concerned or who withheld the goods from customs supervision;
- (b) in the cases referred to in points (b) and (c) of paragraph 1, by the declarant;
- (c) in the case referred to in point (d) of paragraph 1, by the person who is required to comply with the conditions governing the release of the goods;
- (d) in the case referred to in point (e) of paragraph 1, by the person who abandons the goods to the State.

Article 210(d) UCC

Article 210

Scope

Goods may be placed under any of the following categories of special procedures:

- (a) transit, which shall comprise external and internal transit;
- (b) storage, which shall comprise customs warehousing and free zones;
- (c) specific use, which shall comprise temporary admission and end-use;
- (d) processing, which shall comprise inward and outward processing.

Article 211(1)(a) UCC

Article 211

Authorisation

1. An authorisation from the customs authorities shall be required for the following:

- (a) the use of the inward or outward processing procedure, the temporary admission procedure or the end-use procedure;
- (b) the operation of storage facilities for the customs warehousing of goods, except where the storage facility operator is the customs authority itself.

The conditions under which the use of one or more of the procedures referred to in the first subparagraph or the operation of storage facilities is permitted shall be set out in the authorisation.

2. The customs authorities shall grant an authorisation with retroactive effect, where all of the following conditions are fulfilled:

- (a) there is a proven economic need;
- (b) the application is not related to attempted deception;
- (c) the applicant has proven on the basis of accounts or records that:
 - (i) all the requirements of the procedure are met;
 - (ii) where appropriate, the goods can be identified for the period involved;
 - (iii) such accounts or records allow the procedure to be controlled;
- (d) all the formalities necessary to regularise the situation of the goods can be carried out, including, where necessary, the invalidation of the customs declarations concerned;
- (e) no authorisation with retroactive effect has been granted to the applicant within three years of the date on which the application was accepted;
- (f) an examination of the economic conditions is not required, except where an application concerns renewal of an authorisation for the same kind of operation and goods;
- (g) the application does not concern the operation of storage facilities for the customs warehousing of goods;
- (h) where an application concerns renewal of an authorisation for the same kind of operation and goods, the application is submitted within three years of expiry of the original authorisation.

Customs authorities may grant an authorisation with retroactive effect also where the goods which were placed under a customs procedure are no longer available at the time when the application for such authorisation was accepted.

3. Except where otherwise provided, the authorisation referred to in paragraph 1 shall be granted only to persons who satisfy all of the following conditions:

- (a) they are established in the customs territory of the Union;
- (b) they provide the necessary assurance of the proper conduct of the operations; an authorised economic operator for customs simplifications shall be deemed to fulfil this condition, insofar as the activity pertaining to the special procedure concerned is taken into account in the authorisation referred to in point (a) of Article 38(2);
- (c) where a customs debt or other charges may be incurred for goods placed under a special procedure, they provide a guarantee in accordance with Article 89;
- (d) in the case of the temporary admission or inward processing procedure, they use the goods or arrange for their use or they carry out processing operations on the goods or arrange for them to be carried out, respectively.

4. Except where otherwise provided and in addition to paragraph 3, the authorisation referred to in paragraph 1 shall be granted only where all of the following conditions are fulfilled:

- (a) the customs authorities are able to exercise customs supervision without having to introduce administrative arrangements disproportionate to the economic needs involved;
- (b) the essential interests of Union producers would not be adversely affected by an authorisation for a processing procedure (economic conditions).

5. The essential interests of Union producers shall be deemed not to be adversely affected, as referred to in point (b) of paragraph 4, except where evidence to the contrary exists or where the economic conditions are deemed to be fulfilled.

6. Where evidence exists that the essential interests of Union producers are likely to be adversely affected, an examination of the economic conditions shall take place at Union level.

Article 214 UCC

Article 214

Records

1. Except for the transit procedure, or where otherwise provided, the holder of the authorisation, the holder of the procedure, and all persons carrying on an activity involving the storage, working or processing of goods, or the sale or purchase of goods in free zones, shall keep appropriate records in a form approved by the customs authorities.

The records shall contain the information and the particulars which enable the customs authorities to supervise the procedure concerned, in particular with regard to identification of the goods placed under that procedure, their customs status and their movements.

2. An authorised economic operator for customs simplifications shall be deemed to comply with the obligation laid down in paragraph 1 insofar as his or her records are appropriate for the purpose of the special procedure concerned.

Article 215 UCC

Article 215

Discharge of a special procedure

1. In cases other than the transit procedure and without prejudice to Article 254, a special procedure shall be discharged when the goods placed under the procedure, or the processed products, are placed under a subsequent customs procedure, have been taken out of the customs territory of the Union, or have been destroyed with no waste remaining, or are abandoned to the State in accordance with Article 199.

2. The transit procedure shall be discharged by the customs authorities when they are in a position to establish, on the basis of a comparison of the data available to the customs office of departure and those available to the customs office of destination, that the procedure has ended correctly.

3. The customs authorities shall take all the measures necessary to regularise the situation of the goods in respect of which a procedure has not been discharged under the conditions prescribed.

4. The discharge of the procedure shall take place within a certain time-limit, unless otherwise provided.

Article 256 UCC

Article 256

Scope

1. Without prejudice to Article 223, under the inward processing procedure non-Union goods may be used in the customs territory of the Union in one or more processing operations without such goods being subject to any of the following:

- (a) import duty;
- (b) other charges as provided for under other relevant provisions in force;
- (c) commercial policy measures, insofar as they do not prohibit the entry or exit of goods into or from the customs territory of the Union.

2. The inward processing procedure may be used in cases other than repair and destruction only where, without prejudice to the use of production accessories, the goods placed under the procedure can be identified in the processed products.

In the case referred to in Article 223, the procedure may be used where compliance with the conditions laid down in respect of equivalent goods can be verified.

3. In addition to paragraphs 1 and 2, the inward processing procedure may also be used for any of the following goods:

- (a) goods intended to undergo operations to ensure their compliance with technical requirements for their release for free circulation;
- (b) goods which have to undergo usual forms of handling in accordance with Article 220.

Article 1(41)(b) UCC-DA

(41) 'waste and scrap' means either of the following:

- (a) goods or products which are classified as waste and scrap in accordance with the Combined Nomenclature;
- (b) in the context of end-use or inward processing, goods or products resulting from a processing operation, which have no or low economic value and which cannot be used without further processing.

Article 167(1)(p) UCC-DA

Article 167

Cases in which the economic conditions are deemed to be fulfilled for inward processing

(Article 211(5) of the Code)

1. The economic conditions for inward processing shall be deemed to be fulfilled where the application concerns any of the following operations:

(...)

(p) the reduction to waste and scrap, destruction, recovery of parts or components;

Article 178 UCC-DA

Article 178

Records

(Articles 211(1) and 214(1) of the Code)

1. The records referred to in Article 214(1) of the Code shall contain the following:
 - (a) where appropriate, the reference to the authorisation required for placing the goods under a special procedure;
 - (b) the MRN or, where it does not exist, any other number or code identifying the customs declarations by means of which the goods are placed under the special procedure and, where the procedure has been discharged in accordance with Article 215(1) of the Code, information about the manner in which the procedure was discharged;
 - (c) data that unequivocally allows the identification of customs documents other than customs declarations, of any other documents relevant to the placing of goods under a special procedure and of any other documents relevant to the corresponding discharge of the procedure;
 - (d) particulars of marks, identifying numbers, number and kind of packages, the quantity and usual commercial or technical description of the goods and, where relevant, the identification marks of the container necessary to identify the goods;
 - (e) location of goods and information about any movement thereof;
 - (f) customs status of goods;
 - (g) particulars of usual forms of handling and, where applicable, the new tariff classification resulting from those usual forms of handling;
 - (h) particulars of temporary admission or end-use;
 - (i) particulars of inward or outward processing including information about the nature of the processing;
 - (j) where Article 86(1) of the Code applies, the costs for storage or usual forms of handling;
 - (k) the rate of yield or its method of calculation, where appropriate;
 - (l) particulars enabling customs supervision and controls of the use of equivalent goods in accordance with Article 223 of the Code;
 - (m) where accounting segregation is required, information about type of goods, customs status and, where appropriate, origin of the goods;

- (n) in the cases of temporary admission referred to in Article 238, the particulars required by that Article;
- (o) in the cases of inward processing referred to in Article 241, the particulars required by that Article;
- (p) where appropriate, particulars of any transfer of rights and obligations in accordance with Article 218 of the Code;
- (q) where the records are not part of the main accounts for customs purposes, a reference to those main accounts for customs purposes;
- (r) additional information for special cases, at the request of the customs authorities for justified reasons.

2. In the case of free zones, the records shall, in addition to the information provided for in paragraph 1, contain the following:

- (a) particulars identifying the transport documents for the goods entering or leaving the free zones;
- (b) particulars concerning the use or consumption of goods of which the release for free circulation or temporary admission would not entail application of import duty or measures laid down under the common agricultural or commercial policies in accordance with Article 247(2) of the Code.

3. The customs authorities may waive the requirement for some of the information provided for in paragraphs 1 and 2, where this does not adversely affect the customs supervision and controls of the use of a special procedure.

4. In the case of temporary admission, records shall be kept only if required by the customs authorities.

Article 1(2)(7) and 1(2)(9) UCC-IA

(7) 'main processed products' means the processed products for which the authorisation for inward processing has been granted;

(8) 'marketing activities' means, in the context of customs valuation, all activities relating to advertising or marketing and promoting the sale of the goods in question and all activities relating to warranties or guarantees in respect of them;

(9) 'secondary processed products' means processed products which are a necessary by-product of the processing operation other than the main processed products;

Article 142(6) UCC-IA

6. The customs value of certain **perishable goods as referred to in Annex 23-02 imported on consignment** may be directly determined in accordance with **Article 74(2)(c) of the Code**. For this purpose the unit prices shall be notified to the Commission by the Member States and disseminated by the Commission via TARIC in accordance with Article 6 of Council Regulation (EEC) No 2658/87 ⁽¹⁾.

Such **unit prices** may be used to determine the customs value of the imported goods for periods of 14 days. Each period shall start on a Friday.

The unit prices shall be calculated and notified as follows:

- (a) after the deductions provided for in paragraph 5 unit price per 100 kg net for each category of goods shall be notified by the Member States to the Commission. Member States may fix standard amounts for the costs referred to point (b) of paragraph 5, which shall be made known to the Commission;
- (b) the reference period for determining unit prices shall be the preceding period of 14 days which ends on the Thursday preceding the week during which new unit prices are to be established;
- (c) Member States shall notify the unit prices in euro to the Commission not later than 12.00 on the Monday of the week in which they are to be disseminated by the Commission. Where that day is not a working day, notification shall be made on the working day immediately preceding that day. Unit prices shall only apply if this notification is disseminated by the Commission.

Article 262 UCC-IA

Article 262

Authorisation in the form of release of goods

(Article 22(1) of the Code)

Where an application for an authorisation has been made based on a customs declaration in accordance with Article 163(1) or (5) of Delegated Regulation (EU) 2015/2446, the authorisation shall be granted by release of goods for the relevant customs procedure.

Article 324(1) UCC-IA

Article 324

Special cases of discharge of the inward processing IM/EX procedure

(Article 215 of the Code)

1. For the purposes of discharging the inward processing IM/EX procedure, the following shall be regarded as re-export:

Annex 2 | Interview hand-out (Dutch)

Deze hand-out bevat algemene informatie over het afstudeeronderzoek van Bart Heerkens voor de Executive Master in Customs and Supply Chain Compliance. Dit is een studie aan de Rotterdam School of Management (Erasmus Universiteit). Voor vragen en extra informatie over dit onderzoek ben ik te bereiken via bej.heerkens@gmail.com of +31 6 41 00 89 11.

Doel van het onderzoek

In dit kwalitatieve onderzoek wordt gekeken hoe het Nederlandse douanetoezicht op de aanzuivering van de regeling Actieve Veredeling (AV) voor vernietiging kan worden verbeterd.

Korte toelichting van achtergrond en kaders

Vernietiging is een veredelingshandeling waarbij niet-Uniegoederen onder deze regeling worden geplaatst. Dit kan alleen wanneer het doel van de vergunninghouder is om de goederen te vernietigen. Hier kan geen hoofdveredelingsproduct uit ontstaan, dan zou dit namelijk onder een andere veredelingshandeling van artikel 5 lid 37 DWU moeten. Wanneer er na de vernietiging restproducten zijn, dan zijn dit secundaire producten die aangegeven dienen te worden voor een andere regeling. Het zuiveren van de regeling AV gebeurt met toepassing van artikel 215 DWU.

We zien dat er vaak bij vernietiging restproducten ontstaan zoals biogas en energie en dat het douanetoezicht hier beter op kan worden ingericht. Er zijn in Nederland twee vormen van toezicht, namelijk fysiek en administratief.

- Fysiek toezicht is verplicht als de vergunning AV voor vernietiging is afgegeven op basis van een douaneaangifte, maar ook wanneer er een doorlopende AV vergunning is en administratief toezicht is niet toegestaan. Bij fysiek toezicht is het gebruik van een D0 040 document verplicht. Met dit vragenformulier wordt gemeld dat goederen onder douanetoezicht moeten worden vernietigd. Er dient een aanzuiveringsafrekening te worden voorgelegd aan het controlekantoor. Wanneer er sprake is van een vergunning op basis van een douaneaangifte, gebeurt dit d.m.v. het inleveren van de afgetekende D0 040 samen met de D0 162 bij Douanekantoor Eindhoven/Heerlen.
- Administratief toezicht kan alleen bij een doorlopende vergunning AV voor vernietiging en wanneer dit is toegestaan. In dit geval zal de vergunninghouder altijd in zijn administratie de plaats van de goederen, informatie over iedere overbrenging en gegevens van de vernietiging moeten vermelden. Daarnaast wordt een aanzuiveringsafrekening ingediend bij het controlekantoor.

Wat voorbeelden van zaken die kunnen leiden tot onjuiste beëindiging van de regeling AV Vernietigen:

- Eigenaar van rot niet-Unie fruit wil goederen laten vernietigen door ander bedrijf die er pulp/compost van maakt en er uiteindelijk biogas mee opwekt. De eigenaar betaald voor het vernietigen en is vergunninghouder (deze heeft immers het doel het fruit te vernietigen). Het fruit kan door de eigenaar onder AV vernietigen worden gebracht, maar het restproduct dient onder een volgende regeling te worden gebracht alvorens de regeling AV is gezuiverd. Soms weet de eigenaar niet eens dat er een restproduct wordt gemaakt.
- Een bedrijf met een verbrandingsinstallatie wil niet-Uniegoederen van anderen vernietigen en door middel van de verbranding wordt er stroom opgewekt. In dit geval is het doel van het vernietigingsbedrijf vernietigen én stroom opwekken. Kijkende naar de twee verschillende doelen, is het maar de vraag of dit proces (volledig) onder AV Vernietiging kan of wellicht onder een andere veredelingshandeling. De eigenaar van de goederen zou in dit geval sowieso als vergunninghouder onder AV vernietigen de goederen laten verbranden, alleen in dit geval is er dan ook een restproduct (stroom) wat onder een volgende regeling zal moeten worden gebracht.

- Niet juist invullen van D0 040 formulieren. In dit formulier dient te worden aangegeven (door vergunninghouder én Douane) of er producten overblijven na vernietiging inclusief onderliggende informatie.

Methodologie

Eerst is het wettelijke kader in kaart gebracht samen met het literatuuronderzoek. Vervolgens zijn er interviews nodig om informatie te verzamelen hoe het toezicht beter kan worden ingericht ten aanzien van AV Vernietiging. Tot slot zal een adviesstuk worden geschreven.

Verzamelde informatie is enkel ten behoeve van dit afstudeeronderzoek. De interviews worden bij voorkeur en na goedkeuring opgenomen en daarnaast geanonimiseerd tijdens het transcriberen.

Annex 3 | Non-structured interview protocol (Dutch)

Een ongestructureerd interview wordt gebruikt omdat de onderzoeker informatie wil verzamelen over hoe het toezicht op DO 040 formulieren is door douanekantoor Eindhoven/Heerlen. Deze interview methode leent zich voornamelijk voor het ontdekken van nieuwe informatie waar op voorhand niet veel over bekend is. Vaak is dit meer een gesprek dan een interview. Doordat het gesprek moeilijk te sturen is, is het hier belangrijk om slechts een paar goede vragen te hebben met wat mogelijke follow-up vragen.

Introductie

- Mijzelf voorstellen
- Nadere toelichting onderzoek
- Anonimiteit garanderen
- Toestemming vragen opnemen interview
- Vooraf dankwoord

Algemene vragen

1. Kun je jezelf kort introduceren
 - a. Voor welk bedrijf/organisatie werk je?
 - b. Wat is je functie en rol?
 - c. Hoe lang zit je in deze rol?
2. Waar houdt de afdeling Zuivering zich zoal mee bezig?

Toezicht op aanzuiveringsafrekeningen bij vergunningen AV Vernietigen op aangifte

In het Handboek Douane onderdeel 16.00.00 paragraaf 7.7 staat dat de regeling AV (voor vernietiging) is gezuiverd wanneer geplaatste goederen zijn vernietigd zonder afvalresten of bij eventuele resten en afval deze onder een volgende douaneregeling zijn geplaatst of het gebied van de Unie hebben verlaten.

Het toezicht gaat door middel van het indienen van een aanzuiveringsafrekening aan het controlekantoor. Bij vergunningen op basis van een douaneaangifte wordt dit gedaan door het indienen van de DO 040 en DO 162 bij Douanekantoor Eindhoven/Heerlen. Als er resten en afval zijn, moet een exemplaar van de aangifte worden bijgevoegd waarmee die resten en afval onder een volgende regeling zijn geplaatst en dus de regeling AV is gezuiverd.

3. Kun je wat meer vertellen over het ontvangen van dit soort aanzuiveringsafrekeningen en hoe dit toezicht verder is ingericht?
 - a. Hoe wordt gekeken of er restproducten zijn?
 - b. Is er een controle op de juiste zuivering van de regeling?
 - c. Hoe ziet deze eruit?
 - d. Komen jullie alleen in beeld bij de aanzuivering bij vergunningen AV Vernietigen op aangifte?
4. Heb je het idee dat het toezicht op de aanzuiveringsafrekeningen bij de vergunning AV voor vernietiging op aangifte beter kan worden ingericht?
 - a. Hoe zou dit in jouw ogen kunnen worden ingericht?
5. Zou er een rol ergens anders moeten worden weggelegd?
 - a. Zo ja, waar en waarom?
6. Zijn er procedures beschikbaar ten aanzien van het toezicht op dit onderwerp?

Overige

7. Heb je ideeën of tips over hoe het toezicht moet worden ingericht bij AV Vernietigen op basis van een doorlopende vergunning?
 - a. Bij Fysiek Toezicht (met DO 040)
 - b. Bij Administratief Toezicht

8. Vind je het redelijk dat wanneer een bedrijf van zijn goederen af wil en hiervoor betaald het kan zijn dat er over het restproduct alsnog een juiste opvolging moet komen?
 - a. Hoe zou je dit eventueel liever willen zien?

Afrondende vragen

9. Zijn er nog meer inzichten die je kunt delen met betrekking tot dit onderwerp?

Afsluiting

- Bedanken
- Optie bieden transcript te controleren
- Eventuele vragen

Annex 4 | Semi-structured interview protocol (Dutch)

Een semigestructureerd interview wordt gebruikt omdat de onderzoeker informatie wil verzamelen over het toezicht op de regeling Actieve Verdeling (AV) voor vernietiging. Deze interview methode leent zich voornamelijk voor het verzamelen van informatie wanneer er al het een en ander bekend is over het onderwerp. Aan de hand van dit protocol is er een structuur om de richting van het gesprek te bepalen, echter is er wel flexibiliteit mogelijk voor additionele vragen en standpunten.

Introductie

- Mijzelf voorstellen
- Nadere toelichting onderzoek
- Anonimiteit garanderen
- Toestemming vragen opnemen interview
- Vooraf dankwoord

Start opname

Achtergrondinformatie geïnterviewde

1. Kun je jezelf kort introduceren
 - a. Voor welk bedrijf/organisatie werk je?
 - b. Wat is je functie en rol?
 - c. Hoe lang zit je in deze rol?

Wet- en regelgeving

2. Is voor jou de huidige wet- en regelgeving omtrent dit onderwerp duidelijk? Waarom wel/niet?

De douanewetgeving en Europese Commissie hebben een duidelijk standpunt, namelijk als er een restproduct is na de verdelingshandeling vernietiging, dan is de regeling AV pas gezuiverd wanneer dit restproduct onder een volgende douaneregeling is gebracht of weder uitgevoerd.

3. Denk je dat dit standpunt landelijk ook zo bekend is bij de Douane? Waarom wel/niet?
4. Wordt dit standpunt volgens jouw mening nageleefd door de vergunninghouders? Waarom wel/niet?
5. Wat kan het momenteel moeilijk maken voor vergunninghouders om de huidige wet- en regelgeving na te leven? Kun je toelichten hoe jij dit ziet?

Het lijkt er sterk op dat vernietiging onder AV alleen kan als het doel van de vergunninghouder ook vernietigen is. Dit wordt momenteel besproken in de Customs Expert Group on Special Procedures. Dit komt ook naar voren in de Guidance (pagina 55 heeft het over “economic need”).

Ik leg nu drie situaties voor waar het criterium doel van de vergunninghouder naar voren komt.

6. Wat is volgens jou het doel van een afvalverwerkingsbedrijf die goederen verbrand en stoom opvangt voor het opwekken van energie?
 - a. Afval verwerken, stroom opwekken, beiden, of anders?
 - b. Onder welke verdelingshandeling kan dit? Verwerken/bewerken/vernietigen/anders
 - c. Waarom?
7. Nu een enigszins soortgelijke situatie. Wat is volgens jou het doel van een afvalverwerkingsbedrijf dat groente/fruit verwerkt tot compost en biogas?
 - a. Afval verwerken, biogas opwekken, beiden, of anders?
 - b. Kun je zeggen dat het van belang is als er een ander of extra doel is dan vernietiging?

8. Wat is volgens jou het doel van de eigenaar van goederen die zijn goederen tegen betaling naar één van de twee afvalverwerkingsbedrijven brengt uit de vorige situaties?
 - a. Onder welke veredelingshandeling kan dit? Verwerken/bewerken/vernietigen/anders
 - b. Zit hier in jouw ogen eventueel een verschil qua doel met voorgaande situaties?
9. Wat zou je graag aanpassen aan de huidige wet- en regelgeving en waarom?
 - a. Wellicht artikel 324 UVo (AV IM/EX, wederuitvoer beschouwen)
 - b. Verduidelijken vernietigen, heel de veredelingshandeling vernietigen weglaten, artikel 215 DWU uitbreiden naar “vernietiging met niet meer dan resten en afvallen”, etc.
 - c. Extra goederencode / kijken naar bijzondere bestemming
 - d. Meer voorbeeldsituaties in Guidance? M.n. twee belangrijke stromen
10. Mede kijkende naar het principe dat de basis niet-Uniegoed is, vind je het redelijk dat wanneer een bedrijf van zijn goederen af wil en hiervoor betaald en dat wanneer er een restproduct ontstaat de regeling alsnog een juiste opvolging moet krijgen?
 - a. Hoe zou je dit eventueel liever willen zien?

Toezicht

Het kan als lastig worden ervaren om te achterhalen welk deel van het secundair veredelingsproduct (resten/afval na vernietiging) afkomstig is van het onder de regeling AV Vernietigen geplaatste product.

11. Wanneer iets bijvoorbeeld de verbrandingsoven ingaat voor vernietiging en er wordt stroom uit opgewekt. Hoe kan volgens jou de hoeveelheid opgewekte stroom worden toebedeeld aan het onder de AV Vernietiging geplaatste goed?
 - a. Vaak zul je zien dat er ook andere (Unie-)producten tegelijk worden verbrand
12. Als fruit/groente bij vernietiging tot compost wordt gemaakt waar uiteindelijk biogas als product uit komt, hoe kan dan volgens jou de verdeling plaatsvinden tussen onder de regeling AV Vernietiging geplaatste goederen en andere producten die eveneens worden gebruikt bij het maken van die compost/biogas?
 - a. Kortom: hoe bereken je het opbrengstpercentage?

Ik wil het nu graag hebben over het fysieke toezicht. In het DO 040 document moet door de vergunninghouder worden aangegeven of er resten en afval zijn, wat daar de GN-code van is en de waarde. De Douane vult na vernietiging ook in of er resten en afval zijn en de hoeveelheid daarvan.

13. Is in jouw ogen het fysiek toezicht zo goed ingericht?
 - a. Wat kan er beter / heb je ideeën over de inrichting?
14. Wat vind je ervan dat er geen vraag wordt gesteld over de volgende douaneregeling/wederuitvoer wanneer er resten en afval zijn?
 - a. Zou dit het toezicht verbeteren?
15. Zijn er eventueel vragen die je (nog meer) zou toevoegen aan het DO 040 document? Zo ja, welke?
16. Is het in jouw ogen logisch dat bij vergunningen o.b.v. een douaneaangifte er landelijk gezien één afdeling is die dit controleert of zou dit anders kunnen worden ingericht?

Dan nu over het administratief toezicht bij vernietiging.

17. Heb je het idee dat het toezicht op de aanzuiveringsafrekeningen bij de vergunning AV Vernietiging beter kan worden ingericht?
 - a. Hoe zou dit in jouw ogen kunnen worden ingericht?
18. Is er een reden in jouw ogen waarom er ogenschijnlijk weinig doorlopende vergunningen zijn voor AV Vernietiging?

19. De Douane beoordeelt bij de aanvraag van de doorlopende vergunning AV Vernietiging of administratief toezicht mogelijk is. De vergunninghouder moet dus voldoen aan de administratie eisen. Op grond waarvan zal de Douane volgens jou beslissen wanneer administratief toezicht is toegestaan of juist niet?

Dan nog even over de administratieplicht. Dit geldt voor zowel de doorlopende als eenmalige vergunningen.

20. Wat verwacht je van de administratie van de vergunninghouder AV?
- a. Natuurlijk de vereisten uit artikel 178 GVo, maar wat is in jouw ogen met betrekking tot specifiek deze regeling dan belangrijk?

Afrondende vragen

21. Zijn er nog meer inzichten die je kunt delen met betrekking tot dit onderwerp?

Einde opname

Afsluiting

- Bedanken
- Optie bieden transcript te controleren
- Eventuele vragen