

EUROPEAN
COURT OF AUDITORS

ISSN 1831-0834

Special Report No 1

2010

ARE **SIMPLIFIED CUSTOMS
PROCEDURES FOR IMPORTS**
EFFECTIVELY CONTROLLED?



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(pursuant to Article 287(4), second subparagraph, TFEU)

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Special Report No 1 // 2010

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Cataloguing data can be found at the end of this publication
Luxembourg: Publications Office of the European Union, 2010

ISBN 978-92-9207-682-5
doi:10.2865/65396

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Printed in Luxembourg

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ABBREVIATIONS

AEO: Authorised Economic Operator

CCIP: Customs Code Implementing Provisions

CRMF: Common Risk Management Framework

DG BUDG: Directorate-General for Budget

DG TAXUD: Directorate-General for Taxation and the Customs Union

EU: European Union

LCP: Local clearance procedure

SDP: Simplified declaration procedure

TOR: Traditional Own Resources

WCO: World Customs Organisation

GLOSSARY OF TERMS

Automated risk management/risk analysis: the systematic identification of risk and implementation of all measures necessary to limit exposure to risk using automated data processing techniques. This includes activities such as collecting data and information, analysing and assessing risk, prescribing and taking action and regular monitoring and review of the process and its outcomes, based on international, EU and national sources and strategies.

Certificate of origin: a document required when claiming a preferential duty rate which should be completed by the exporter of the goods (e.g. EUR.1, Form A, invoice declaration).

Check before release: a physical or documentary check before the goods are made available to the trader for the determined purpose of the respective customs procedure.

Controls/ customs controls: specific acts performed by customs authorities in order to ensure the correct application of customs rules; such acts may include examining goods, verifying declaration data and the existence and authenticity of electronic or written documents, examining the accounts of undertakings and other records, inspecting means of transport, inspecting luggage and other similar acts.

Customs clearance: the process of fulfilling customs formalities so that the applicant can have the goods at his disposal.

Customs procedure: applying one of the following procedures: release for free circulation; transit; customs warehousing; inward processing; processing under customs control; temporary admission; outward processing; export.

Declaration/customs declaration: the act whereby a person indicates a wish to place goods under a given customs procedure.

Documentary check: a control of the correctness, completeness and validity of information entered on the customs declaration (e.g. description of goods, value, quantity) or other documents (e.g. import licences, certificates of origin).

Ex-post audit: controlling traders through examination of their accounts, records and systems in order to ensure compliance with customs rules and evaluate the risks linked to their business.

Free circulation: the status of goods imported from third countries which have undergone all import formalities in order to be able to be sold or consumed on the EU market.

Import: application of the customs procedure *release for free circulation* after which goods can be sold or consumed on the EU market.

Import licence: a document issued by the competent authorities of a Member State authorising the import of certain goods which are subject to restriction into the EU. Each licence specifies the volume of imports allowed, and the total volume imported should not exceed this maximum amount.

Physical check: an examination of goods including detailed counting and taking of samples to check whether they match the customs declaration accompanying the goods.

Post-event: after release of the goods.

Pre-authorisation audit/pre-audit: controlling traders by means of an examination of their accounts, records and systems before issuing an authorisation to use a customs procedure. The objective is to test the trader's compliance with the conditions to be able to use the procedure and to evaluate the risk linked to his business.

Presentation of goods to customs: the notification to the customs authorities of the arrival of goods at the customs office or at any other place designated or approved by the customs authorities.

Reconciliation check: a check between simplified declaration (SDP) or entry in the trader's records (LCP) and the supplementary declaration. The check can include a substantive check of individual items (accuracy) and/or ensure that all simplified transactions are included in a supplementary declaration (completeness).

Release of goods: the act whereby the customs authorities make goods available for the purposes stipulated by the customs procedure under which they are placed.

Risk: the likelihood of an event occurring which prevents the correct application of EU or national measures, compromises the financial interests of the EU and its Member States, or poses a threat to the EU's security and safety, to public health, to the environment or to consumers.

Risk profile: a combination of risk criteria and control areas (e.g. type of goods, countries of origin) which indicates the existence of risk and leads to a proposal to carry out a control measure.

Surveillance document: products under EU surveillance may be imported only on production of a surveillance document issued by the competent authorities of a Member State.

EXECUTIVE SUMMARY

I.

Traders who are authorised to use simplified customs procedures for imports benefit from an accelerated customs clearance process. Customs place reliance on the correctness of their import declarations and carry out fewer controls before release. This should be compensated by pre-authorisation and ex-post audits. The procedures are long-standing and widely used in the EU; in 2008, more than two thirds of all EU customs declarations for imports were made using simplified procedures.

II.

These procedures are an important element of EU trade facilitation policy, which was further developed in 2008 through the implementation of the concept of the Authorised Economic Operator (AEO), a privileged user of simplified customs procedures, by Regulation (EC) No 1192/2008, and by the adoption of *the Modernized Customs Code*, which will be applicable by 2013.

III.

The Court's audit assesses whether the two main simplified customs procedures for imports are effectively controlled in order to provide reasonable assurance for the correct collection of Traditional Own Resources (TOR) and help ensure that traders comply with the obligations deriving from the common trade policy. The Court considers whether the Commission has taken into account international best practice for the development of a sound control approach for simplified procedures and whether it monitors their correct application throughout the EU. The audit also assesses whether Member States carry out effective controls based on such an approach.

IV.

The Court found that:

- the Commission has taken into account international standards and put in place an appropriate regulatory framework for simplified procedures, but not before the end of 2008,
- the Commission has developed an EU-wide automated risk management system. While the system allows for an automated exchange of Risk Information Forms (RIF), it does not yet include risk profiles covering TOR or the common trade policy,
- the obligation to apply automated risk analysis in the framework of simplified procedures will only apply from 1 January 2011,
- the Commission carried out specific inspections on simplified procedures for imports for the first time in 2008 and enhanced its monitoring activities in 2009, and
- a standardised approach for ex-post audits on simplified procedures is not yet applied throughout the EU, because the activities of the Commission to achieve it have not yet been completed.

EXECUTIVE SUMMARY

V.

The Court found that Member States use their own, sometimes deficient, approaches to the control of simplified procedures, resulting in:

- generally poor or poorly documented audits before authorising a trader to use simplified procedures,
- little use of automated data processing techniques for carrying out checks during the processing of simplified procedures,
- excessive use of simplification practices, namely the notification waiver under the local clearance procedure, which prevent risk-based checks before goods come onto the EU market, and
- ex-post audits of the trader's commercial documents and accounts of poor quality, insufficiently frequent or not adequately targeting transactions.

VI.

The Court measured the effectiveness of controls on imports under simplified procedures by testing randomly selected declarations where a preferential duty rate was claimed or where import documents were required to comply with the common trade policy. A high frequency of errors was found in six out of nine Member States, often due to the fact that traders did not possess the necessary documents entitling them to import goods subject to trade policy measures or to benefit from the application of a preferential duty rate.

VII.

In order to improve controls on simplified procedures and to contribute to the development of EU trade facilitation policy, the Commission should:

- take the Court's findings into account when considering further simplifications for customs procedures,
- encourage Member States to rapidly implement the recently developed regulatory framework and guidelines, monitor their implementation and further enhance the framework in the light of the Court's and its own audit and monitoring results,
- put in place common standards for ex-post audits in customs, using sound audit methodology and a systems-based approach,
- develop automated EU-wide risk profiles for TOR and the common trade policy and critically review Member States' simplification practices,
- encourage Member States to computerise all aspects of the processing of simplified procedures for imports, and
- invite Member States to make traders more aware of their obligations and responsibilities and promote trader compliance measurement.

INTRODUCTION

1. Simplified customs procedures for import are a key element of EU customs policy: they facilitate the business of traders by reducing customs formalities and control before the release of goods. Figures for 2008 indicate that around 70 % of all customs import procedures are simplified. Their impact on the collection of Traditional Own Resources (TOR) is thus considered to be substantial.
2. European customs legislation has been constantly amended in order to adapt it to the evolving technical, economic and political conditions. This has resulted in the *Modernized Customs Code of 2008*¹, which further paves the way for trade facilitation.
3. This audit report analyses two important customs procedures facilitating the release of goods for free circulation, the *simplified declaration procedure* (SDP) and the *local clearance procedure* (LCP). These are long-standing and widely used in the EU and constitute a key element of trade facilitation.
4. Under a standard customs procedure for import, a trader has to present the goods to customs, lodge a standard declaration and pay or provide a security for any duties before the goods are released. Customs may check documents and/or inspect the goods.
5. A trader with frequent imports can apply for the use of simplified procedures. Their use is subject to prior authorisation. By carrying out a pre-authorisation audit national customs services should ensure that an applicant trader is reliable, assess whether they will be able to carry out any checks they deem necessary and obtain a security to cover any duties payable.
6. Once authorisation to use simplified procedures is granted, a trader can lodge a customs declaration which can be partially completed, a commercial document (e.g. an invoice) (SDP) or simply by an entry in his records (LCP). The trader can obtain simplifications for presenting the goods to customs and the goods are released against security and any duties paid at a later stage. Thus the entire clearance process is accelerated and the trader has the goods at his disposal more quickly.

¹ Regulation (EC) No 450/2008 of the European Parliament and of the Council (OJ L 145, 4.6.2008, p. 1).

7. After a defined period — usually a month — the trader submits a comprehensive declaration (*supplementary declaration*), which summarises the simplified declarations/record entries and completes the missing information, and pays any duties due.
8. Customs services generally place reliance on the completeness and accuracy of the information provided by the trader and checks before release are only exceptionally carried out.
9. As much of the key information is provided later in the supplementary declaration, any controls that are carried out usually take place after release of the goods in the form of a check of customs documents or reconciliation checks, or as full ex-post audits at the trader's premises.
10. EU customs legislation establishes the legal framework for carrying out controls and imposes the obligation to use risk management. With effect from 1 January 2009 the Commission has introduced specific rules as to how to control simplified procedures, in particular regarding pre-authorisation audits and harmonised conditions and criteria that the trader must fulfil before being granted authorisation to use simplified procedures.
11. The Commission's objective² is to make national customs administrations act as if they were one and to this end it has also developed guidelines ('soft law') regarding customs audit in general and controls on simplified procedures in particular.
12. A schematic presentation of how SDP and LCP work is given in **Annex I**.

² In accordance with, inter alia, Decision No 624/2007/EC of the European Parliament and the Council of 23 May 2007 establishing an action programme for customs in the Community (Customs 2013) (OJ L 154, 14.6.2007, p. 25).

AUDIT SCOPE AND APPROACH

MAIN AUDIT OBJECTIVE

13. The audit assessed whether the regulatory framework and control approach developed by the Commission and put in place in the Member States effectively control simplified procedures, provide reasonable assurance for the correct collection of TOR and help ensure that traders comply with the obligations deriving from the common trade policy.
14. The audit sought answers to the following specific questions:
 - (a) Has the Commission developed a sound approach for controls on simplified procedures, taking into account international best practices, and did it monitor the correct application of simplified procedures and the controls thereon?
 - (b) Do Member States use a sound and standardised approach for controls on simplified procedures and are these controls effective?

AUDIT APPROACH AND METHODOLOGY

15. The audit was carried out in two stages. First the Court prepared a control model for simplified procedures (see **Annex II**), based on its own experience and that of other organisations. It analysed current practice by contacting non-EU countries and visiting the World Customs Organisation (WCO) in order to obtain information on international control approaches on simplified procedures.
16. The Court then benchmarked the Commission's recommended control approach against the control model and assessed the Commission's monitoring activities on simplified procedures.

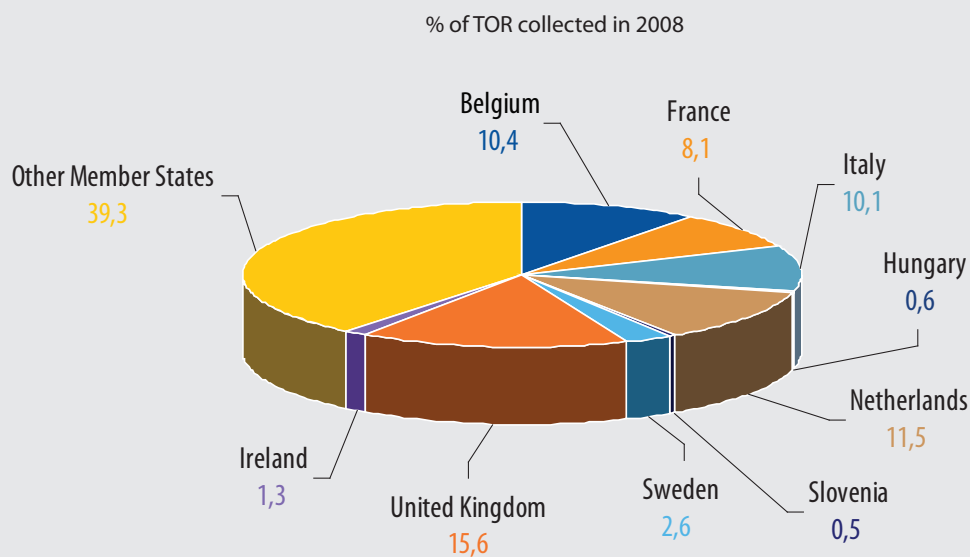
17. In the second stage the Court reviewed the quality of the strategies and the controls actually applied in respect of simplified procedures in nine Member States³ and compared them with the control model. These Member States accounted for more than 60 % of all TOR collected in the EU in 2008 and were using simplified procedures for import declarations to a significant extent⁴.
18. The quality of the control strategies and the controls actually carried out in these Member States were assessed in the light of the replies received to questionnaires and through evidence obtained on-the-spot and by walk-through tests on a total of 157 trader files.

³ Belgium, France, Italy, Hungary, the Netherlands, Slovenia, Sweden and the United Kingdom. Ireland was audited in the framework of the pre-study and thus before the control model was finalised. As the audit approach was comparable, the results are presented together with those in respect of the other Member States audited.

⁴ Imports using simplified procedures as a proportion of total import declarations for the audited Member States ranged from 26 % to 93 % in 2008.

GRAPH 1

AUDITED MEMBER STATES AND THEIR IMPORTANCE FOR TOR COLLECTION IN 2008



- 19.** During an audit of 2007, the Court had identified weaknesses in the operation of simplified procedures in several Member States, and in particular a higher risk of error under simplified procedures when traders claim the use of a preferential duty rate⁵ or import goods subject to common trade policy measures⁶.
- 20.** The legality and regularity of 967 customs declarations relating to the years 2005 to 2008 and selected at random in the Member States audited were checked in order to conclude on whether the controls in place in these Member States had prevented underpayment of TOR and imports that did not respect the common trade policy.

⁵ Imports of goods from third countries are liable to duties (Own Resources of the EU budget). Under certain circumstances, the duty rate can be reduced on the basis of preferential trade agreements on the condition that the importer has specific documents at his disposal e.g. certificates of origin.

⁶ Certain imports such as textiles or steel are the subject of specific monitoring measures derived from the common trade policy in order to protect the interests of EU producers. If traders want to import such goods from certain countries, they need specific customs documents at the moment of release, e.g. import licences or surveillance documents.

OBSERVATIONS

HAS THE COMMISSION DEVELOPED A SOUND APPROACH FOR CONTROLS ON SIMPLIFIED PROCEDURES, TAKING INTO ACCOUNT INTERNATIONAL BEST PRACTICES, AND DID IT MONITOR THE CORRECT APPLICATION OF SIMPLIFIED PROCEDURES AND THE CONTROLS THEREON?

- 21.** Simplified procedures are long-standing and were codified in the Customs Code in 1992⁷. The Court assessed to what extent the Commission has developed common standards for the control of simplified procedures and how it has monitored their actual implementation.

THE INITIAL REGULATORY FRAMEWORK WAS INSUFFICIENT BUT WAS IMPROVED FROM THE BEGINNING OF 2009

- 22.** In 2008 the implementation of the concept of the AEO started in the EU. An AEO is a privileged user of simplifications in customs who needs to fulfil specific conditions and criteria before this status is granted⁸.
- 23.** In order to harmonise the AEO conditions and criteria with those for traders using the SDP and the LCP, the Commission adopted a regulation⁹ which introduced as of 1 January 2009, for the first time, a set of specific controls to be carried out when customs authorise traders to use these two procedures. The regulation also introduced the legal obligation for Member States to computerise simplified procedures by 1 January 2011.
- 24.** The Commission has also developed comprehensive guidelines for the single authorisation for simplified procedures¹⁰. Such authorisation enables traders to centralise the formalities in the customs administration of the authorising Member State, even where imports may take place in another one. In the course of 2008 the Commission extended the applicability of the concepts of these guidelines to national authorisations for simplified procedures i.e. authorisations where imports and customs formalities take place in the same Member State as the conditions and criteria for granting both authorisations are the same.

⁷ Council Regulation (EEC) No 2913/92 (OJ L 302, 19.10.1992, p. 1).

⁸ The Commission has issued comprehensive guidelines for national customs services regarding the authorisation of the AEO status (cf. DOC TAXUD/2006/1450 of 29 June 2007).

⁹ Commission Regulation (EC) No 1192/2008 (OJ L 329, 6.12.2008, p. 1).

¹⁰ TAXUD/1284/2005.

25. The framework now largely accords with the Court's control model regarding simplified procedures and also takes into account internationally accepted standards¹¹ for such controls.

26. However the Commission's guidelines do not specify:

- the use of risk assessment methodology, such as the AEO compact model¹², during pre-authorisation audits;
- the necessity to carry out a minimum number of checks before release;
- the advantage of an automated reconciliation between supplementary and simplified declarations/record entries to ensure the completeness of the former; nor
- the advantage of assurance measures (e.g. trader compliance measurement).

MANDATORY APPLICATION OF AUTOMATED RISK ANALYSIS NOT YET IMPLEMENTED

27. Regulation (EC) No 648/2005 of the European Parliament and of the Council¹³ has introduced the obligation that customs control be based on risk analysis using automated data processing techniques and the Commission has developed an EU-wide IT-based risk management system for customs, the Common Risk Management Framework (CRMF)¹⁴.

28. Priority was given to the implementation of common criteria (risk profiles) for risk analysis on goods at their first point of entry into the EU for security/safety purposes. No such profiles covering TOR or the common trade policy have been developed at EU level to date in this context.

¹¹ Inter alia, the Revised Kyoto Convention to which the EC acceded by Council decision 2003/231/EC (OJ L 86, 3.4.2003, p. 21) and the guidelines thereon.

¹² TAXUD/2006/1452; The AEO compact (Compliance Partnership Customs and Trade) model is a methodology for assessing the risks linked to a trader's business by an analysis of his administrative organisation and his internal control system.

¹³ OJ L 117, 4.5.2005, p. 13.

¹⁴ The main features of the CRMF have been in force since January 2007 and those concerning security/safety were planned to come into effect on 1 July 2009; however, as certain Member States had not reached a sufficient level of computerisation, this date could not be met and it is now in effect postponed until the end of 2010.

29. Moreover, since simplified procedures can be manual until the end of 2010, the application of any automated risk profiles (national or EU-wide) will depend on the degree of computerisation and the decision of the individual Member State to actually carry out automated risk analysis on simplified procedures. Consequently, a common approach to manage the risks (TOR and other) incurred by the use of simplified procedures will not be applied until that date.
30. Furthermore, a number of Member States customs services allow practices under LCP which render it impossible to carry out risk analysis or checks before the release of goods. These Member States apply a flexible interpretation of EU customs legislation, which only permits this practice in exceptional circumstances (see paragraph 46).
31. The Commission has not given the necessary guidance in order to prevent the unjustified and excessive use of this practice, which impedes the application of automated risk analysis, even after full computerisation of simplified procedures has been accomplished.

GUIDELINES FOR EX-POST AUDITS ARE NOT YET COMPLETE

32. With the modernisation of EU customs legislation the Commission has encouraged trade facilitation, with the associated reduction in customs checks before release, which should be compensated by a risk-based and common approach for enhanced customs control, in particular post-event.
33. Regarding the standardisation of ex-post audits, the Commission produced in 2007 the *Customs audit guide*¹⁵ which covers all customs procedures. This guide does not take into account the risk of loss of TOR by time-barring¹⁶ nor does the section on audit methodology cover key aspects such as risk assessment tools, sampling methods and audit risks.

¹⁵ The *Customs audit guide* was developed under the Customs 2007 programme and is an agreed guideline between the Commission and the Member States on how ex-post audits in customs should be carried out. It has been translated into 19 languages and distributed to Member States.

¹⁶ Under normal circumstances, the time period allowable for collecting customs duties is three years after the actual import has taken place (cf. Article 221(3) of Regulation (EEC) No 2913/92).

DEDICATED INSPECTIONS ON SIMPLIFIED PROCEDURES BY THE COMMISSION TOOK PLACE FOR THE FIRST TIME IN 2008

- 34.** DG TAXUD's responsibility is to ensure that EU customs legislation is uniformly applied and thus to make national customs administrations act as if they were one. DG BUDG carries out inspections on TOR, during which compliance with the applicable customs legislation is also verified.
- 35.** The Court identified weaknesses in the operation of simplified procedures in 2007 in several Member States¹⁷ and subsequently decided to carry out this full-scale audit.
- 36.** DG BUDG selected simplified procedures as a specific subject for its inspection for the first time in 2008. It identified a number of deficiencies in the seven Member States inspected (cf. **Table 1**).
- 37.** DG TAXUD established a monitoring function for the uniform application of EU customs legislation in 2006. It has included the monitoring of elements of simplified procedures in its monitoring programmes for 2009 and 2010.
- 38.** The obligation to apply an appropriate framework for controls only from 2009, the absence of a common and automated risk analysis for checks on TOR and common trade policy aspects before release and incomplete guidelines for ex-post audits increase the likelihood that risks associated with the use of simplified procedures materialise.

¹⁷ Member States audited in the framework of the DAS 2007: Bulgaria, Denmark, Germany, Spain, Portugal, Romania.

TABLE 1

OVERVIEW ON DG BUDG'S INSPECTION FINDINGS ON SIMPLIFIED PROCEDURES IN 2008

Deficiencies in	Member State						
	DE	IE	ES	FR	PL	FI	UK
Authorisation process							
Checks before release							
Use of risk analysis							
Simplification practices							
Ex-post controls/audits							

DO MEMBER STATES USE A SOUND AND STANDARDISED APPROACH FOR CONTROLS ON SIMPLIFIED PROCEDURES AND ARE THESE CONTROLS EFFECTIVE?

39. The Court reviewed the controls and audit approaches applied in nine Member States and benchmarked them against its control model. This included the review of 157 trader files. In addition, the Court measured the effectiveness of the controls using samples of customs declarations. A total of 967 customs declarations were checked.

¹⁸ Traders complying with the legal conditions for the use of simplified procedures and providing the necessary assurance that they are aware of their obligations in this context.

MEMBER STATES FOLLOWED THEIR OWN APPROACHES WITH DIFFERENCES IN CONTROLS AT EACH STAGE

40. All Member States had national instructions for simplified procedures in place and used their own methodology for controls in this context. The quality and quantity of controls carried out in the different processing phases (pre-authorisation, during processing and ex-post) of simplified procedures varied across Member States and **Annex III** provides an overview of this quality and quantity per control model standard for each Member State audited.

PRE-AUTHORISATION CONTROL STAGE

THE NETHERLANDS CUSTOMS SERVICES HAD THE BEST CONCEPT FOR PRE-AUTHORISATION AUDITS, BUT WERE NOT ABLE TO DEMONSTRATE THAT THEY HAD APPLIED IT

41. Traders authorised to use simplified procedures have the benefit of an accelerated customs clearance process with fewer controls before goods are released. Only reliable traders¹⁸ should have such a facility. Their reliability should be evaluated by means of a thorough pre-authorisation audit including an assessment of the risks affecting the trader's business and a recommendation of how often and how intensively the activities of the trader should be reviewed (control plan) after the granting of the authorisation.

42. Of the nine audited Member States, the Netherlands had the best concept for pre-authorisation audits, which fully corresponds to the Court's control model. However the Court could find little evidence that the Netherlands customs services had followed this approach. The approaches applied in the other Member States audited were often deficient.
43. Moreover, Member States could not always demonstrate that an audit assessing the internal controls and administrative organisation of the trader before granting the authorisation had been carried out. Audit reports could often not be linked to the authorisation reviewed by the Court. Only the Belgian customs services could systematically provide satisfactory evidence of pre-authorisation audits. Little evidence was found that trader risk assessments or control plans had been drawn up.
44. **Table 2** shows a more detailed view of the Court's findings regarding pre-authorisation audits.

TABLE 2

ASSESSMENT OF PRE-AUTHORISATION AUDITS

Control model standards	BE	FR	IT	HU	NL	SI	SE	UK
<i>Number of trader files reviewed</i>	17	20	20	16	18	17	22	20
Audit made/audit report available	■	■	■	■	■	■	■	■
Administrative organisation/internal controls checked	■	■	■	■	■	■	■	■
Accounting/ systems incl. IT checked	■	■	■	■	■	■	■	■
Check for existence of serious offences	■	■	■	■	■	■	■	■
Financial solvency checked	■	■	■	■	■	■	■	■
Trader risk assessment carried out	■	■	■	■	■	■	■	■
Control recommendation (plan)	■	■	■	■	■	■	■	■
Assurance elements (e.g. training)	■	■	■	■	■	■	■	■

N.B. : ■ satisfactory; ■ partly satisfactory; ■ not satisfactory.
The pre-authorisation aspect was not checked for Ireland.

CONTROLS DURING PROCESSING — CHECKS BEFORE RELEASE

EXCESSIVE USE OF SIMPLIFICATIONS IN THE LCP

- 45.** Simplified procedures imply that few controls are made before release. However, the Court considers that a minimum number of checks based on automated risk analysis should be made at this stage in order to maintain an uncertainty factor for the trader, detect imports that do not respect common trade policy rules and avoid TOR underpayments.
- 46.** EU customs legislation requires that traders have to present goods or to notify customs about their intention to have goods released for free circulation. This applies equally in the framework of simplified procedures. However under LCP customs may authorise a 'super-simplification' (notification waiver) in exceptional and justified cases¹⁹ whereby the trader does not need to notify customs about each individual consignment and his intention to have it released for free circulation (see paragraph 30).
- 47.** In five of the nine Member States audited traders using LCP obtain the benefit of the above 'super-simplification' (notification waiver) on a regular basis²⁰ while the legislation allows for such a simplification only in certain special circumstances. The Commission found similar practices in Germany, Spain and Finland in 2008 (cf. **Table 1**).
- 48.** Although some Member States indicated that the use of this 'super-simplification' could be temporarily suspended in order to allow customs to carry out checks on the goods, they could not demonstrate that this was actually done. Thus few or no checks before release were carried out on LCP in these Member States.

¹⁹ Cf. Article 266(2)(b) CCIP : 'On the condition that checks on the proper conduct of operations are thereby not affected, the customs authorities may [...] (b) in certain special circumstances, where the nature of the goods in question and the rapid turnover so warrant, exempt the holder of the authorisation from the requirement to notify the competent customs office of each arrival of goods [...]'. Commission Regulation (EEC) No 2454/93 (OJ L 253, 11.10.1993, p. 1), as amended.

²⁰ Hungary, the Netherlands, Slovenia, Sweden, United Kingdom.

LITTLE USE OF AUTOMATED RISK ANALYSIS FOR CHECKS ON TOR AND COMMON TRADE POLICY ISSUES BEFORE RELEASE

- 49.** The use of risk analysis for customs control has been a legal obligation since 1 January 2007 and only automated risk profiles integrated into the processing of customs declarations can sufficiently protect the financial and trade policy interests of the EU.
- 50.** France and Slovenia were the only Member States to have automated risk profiles which included TOR and common trade policy issues in place for all simplified procedures. In Sweden and the Netherlands, such profiles covered SDP only.
- 51.** Where risk-relevant issues came up in the context of checks before release, they were generally properly recorded, followed-up and fed back into the risk management system. In Belgium, however, weaknesses in the flow of risk-relevant information, in particular to the central level, were identified.
- 52.** **Table 3** shows a more detailed view of the Court's findings regarding checks before release for the audited Member States.

TABLE 3

ASSESSMENT OF CHECKS BEFORE RELEASE

Control model standards	BE	FR	IE	IT	HU	NL	SI	SE	UK
<i>Number of trader files reviewed</i>	17	20	7	20	16	18	17	22	20
'Super-simplification' (notification waiver) for LCP	■	■	■	■	■	■	■	■	■
Minimum of checks on TOR	■	■	■	■	■	■	■	■	■
Automated TOR risk profiles	■	■	■	■	■	■	■	■	■
Automated random selection	■	■	■	■	■	■	■	■	■
Feedback for risk management	■	■	■	■	■	■	■	■	■

N. B.: ■ satisfactory; ■ partly satisfactory; ■ not satisfactory.

CONTROLS DURING PROCESSING — CHECKS ON SUPPLEMENTARY DECLARATIONS

- 53.** A trader using simplified procedures has to finalise the customs declarations at regular intervals and to do so submits the detailed supplementary declaration. Customs should target a sample of transactions using automated risk analysis and carry out checks on them. These checks should include a review of the relevant customs documents (invoices, certificates, licences, etc.) in order to detect TOR underpayments or imports without the essential documents required by the common trade policy, and to take immediate remedial action where necessary.

²¹ Belgium, France, Ireland, the Netherlands, Sweden and the United Kingdom.

²² France, Italy, Hungary and Slovenia.

SLOVENIA IS THE BENCHMARK FOR CHECKS ON SUPPLEMENTARY DECLARATIONS

- 54.** The Court found that supplementary declarations were submitted electronically in all audited Member States. However, in six²¹ of them little or no review of customs documents was carried out and automated TOR-related risk analysis for simplified procedures was only applied in four²² Member States at this stage.
- 55.** A systematic reconciliation between simplified transactions (i.e. simplified declarations — SDP — and entries in the trader's records — LCP) and the supplementary declaration should be made in order to obtain assurance that the latter is complete and accurate. This reconciliation should be automated whenever possible and any errors should be followed up.

56. France and Slovenia had data processing systems for simplified procedures computerised to an extent which permitted an automated reconciliation for all simplified procedures. Some²³ Member States carried out automated reconciliations for SDP only or occasionally made manual reconciliations. **Table 4** shows a more detailed view of the findings regarding checks on supplementary declarations for the audited Member States.

²³ Sweden, the Netherlands (automated reconciliation for SDP); Belgium, Ireland, Hungary, the Netherlands and the United Kingdom (occasional manual reconciliations for SDP and/or LCP).

TABLE 4

ASSESSMENT OF CHECKS ON SUPPLEMENTARY DECLARATIONS

Control model standards	BE	FR	IE	IT	HU	NL	SI	SE	UK
<i>Number of trader files reviewed</i>	17	20	7	20	16	18	17	22	20
IT supplementary declarations	■	■	■	■	■	■	■	■	■
Substantive documentary checks	■	■	■	■	■	■	■	■	■
Automated TOR risk profiles	■	■	■	■	■	■	■	■	■
Automated random checks	■	■	■	■	■	■	■	■	■
Automated reconciliation	N/A	■	■	N/A	N/A	■	■	■	■
Systematic manual reconciliation	■	N/A	■	■	■	■	N/A	■	■
Feedback for risk management	■	■	■	■	■	■	■	■	■

N.B.: ■ satisfactory; ■ partly satisfactory; ■ not satisfactory; N/A: not applicable.

EX-POST AUDITS

- 57.** The very nature of simplified procedures implies that few controls are made during processing and that customs place reliance on the correctness of the information provided by the trader once the authorisation is granted. The only effective way to obtain reasonable assurance that this reliance is justified is to conduct well planned, thorough and sufficiently frequent ex-post audits. These audits should target both the trader's systems (internal control, IT, accounting) and a sample of transactions, including an examination of the underlying accounting records. Such audits should consider the risks of the trader's business for customs and in particular address the risk that customs duties cannot be collected any longer because they are time-barred.
- 58.** The Commission's 'Customs audit guide' was not often used by national services, in which case they used their own methodology. Although these services endeavour to apply a coherent approach for audits, for example by using standard checklists, reporting or trader risk-rating templates, customs auditors followed their own individual approaches and the documentation in the reviewed trader files was often inconsistent and/or incomplete.
- 59.** Member States had, in general, national or regional control plans with broad control objectives in place. However the Court rarely found evidence that for the traders selected in its sample a recommendation for audit frequency or nature of control to be carried out was actually issued as the result of a risk assessment during the authorisation process.

EX-POST AUDITS WERE NOT FREQUENT ENOUGH

- 60.** Ex-post audits including the review of a sufficiently high number of transactions and the commercial accounts of traders were made in seven of the nine Member States audited, but the frequency of such audits in order to provide reasonable assurance that customs duties were not affected by time-barring was only satisfactory in Hungary. Such audits were particularly infrequent in Sweden and in the UK.

61. Adequate ex-post audits on traders' systems, including IT systems, were not carried out in four of the nine Member States audited. Only the Netherlands and the United Kingdom have a structured review of trader performance (compliance measurement). **Table 5** gives a more detailed view of the Court's findings regarding ex-post audits.
62. The assurance that simplified procedures are effectively controlled is inadequate in the majority of the audited Member States due to the application of a deficient audit methodology, poor planning and in particular the absence of sufficiently frequent and thorough ex-post audits on traders using these procedures. This results in increased risks of loss of duty amounts to the EU budget and of imports not respecting the obligations deriving from common trade policy measures.

TABLE 5

ASSESSMENT OF EX-POST AUDITS

Control model standards	BE	FR	IE	IT	HU	NL	SI	SE	UK
<i>Number of trader files reviewed</i>	17	20	7	20	16	18	17	22	20
Sound/coherent audit methodology	■	■	■	■	■	■	■	■	■
Systems audit including IT systems	■	■	■	■	■	■	■	■	■
Audits on persistence of conditions	■	■	■	■	■	■	■	■	■
Transactions/accounts audits	■	■	■	■	■	■	■	■	■
Sufficiently frequent audits	■	■	■	■	■	■	■	■	■
% of traders not audited within 3 years	71	70	57	15	6	39	18	91	90
Follow-up of audit reports	■	■	■	■	■	■	■	■	■

N.B.: ■ satisfactory; ■ partly satisfactory; ■ not satisfactory.

INEFFECTIVE CONTROLS IN THE MEMBER STATES

63. The Court measured the effectiveness of the controls using samples of customs declarations. **Annex IV** provides a breakdown per country of the number of declarations it checked and the errors detected.
64. The samples were split into two categories, one concerning recent declarations (from 2008) in order to assess whether controls currently in place had actually prevented errors, and one concerning declarations of previous years (2006 or earlier) in order to see whether errors had been detected and corrected following ex-post audits.

EFFECTIVENESS OF CONTROLS FOR THE 2008 SAMPLES

65. For the year 2008, two samples relating to data originating from all customs offices of the Member State and referring to two different populations were selected:
 - (a) *the financial sample*: around 30 declarations per Member State, in order to check TOR-relevant issues, i.e. the correct application of a preferential duty rate on the basis of an appropriate supporting document (e.g. a certificate of origin);
 - (b) *the non-financial sample*: around 60 declarations per Member State in order to check common trade policy-relevant issues, i.e. the existence and proper handling of import licences (textile sector) or surveillance documents (iron and steel sector).

RESULTS FOR THE FINANCIAL SAMPLE OF 2008

- 66.** In four of the nine Member States audited, an error²⁴ frequency of at least 10 % was identified (see **Graph 2**).
- 67.** Traders are obliged to retain the pertinent customs documentation in case customs want to carry out an ex-post audit. They are informed about this obligation during the authorisation process. The high error frequency in Sweden (19 %) and Ireland (40 %) was mainly due to the fact that the necessary documents did not exist or could not be found.

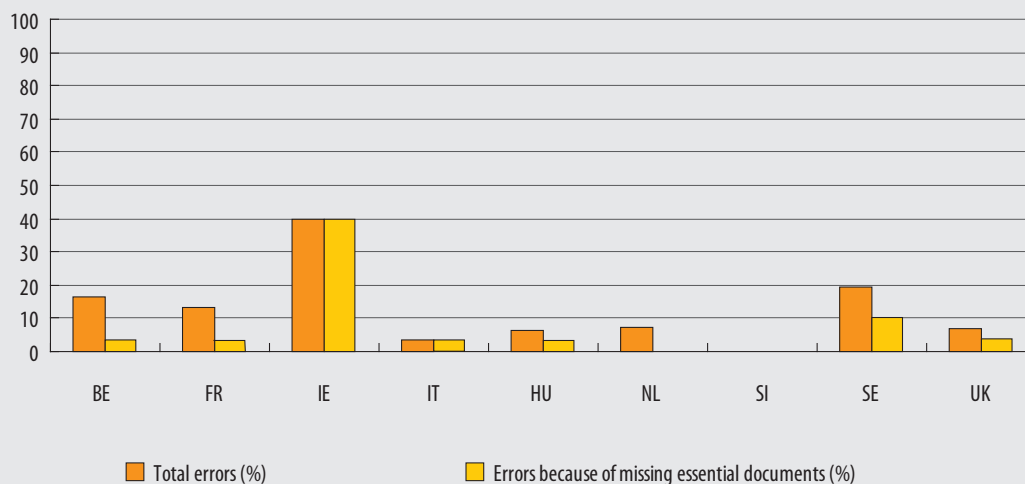
²⁴ These errors amount to 358 000 euro, but can still be corrected by a recovery of duties. Such recovery is possible within three years after the customs debt has been incurred.

RESULTS FOR THE NON-FINANCIAL SAMPLE OF 2008

- 68.** Licences and surveillance documents are issued for a fixed quantity of goods. In order to guarantee that no goods are released onto the EU market without a valid document, the quantities have to be written-down on the licence and certified by customs for each individual import at the moment of release.

GRAPH 2

ERROR FREQUENCY (%) IN THE 2008 FINANCIAL SAMPLE

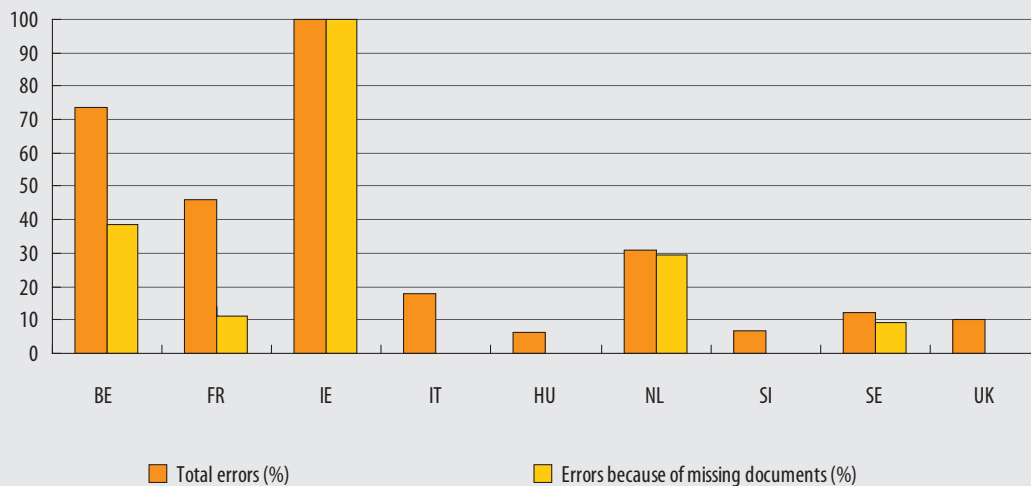


69. Only Sweden and the UK had an IT-based system for writing-down licences. However, in the UK, traders could easily override the obligation to key-in a valid licence and to record the quantity at the moment when the goods are released.
70. All Member States except Sweden and Italy systematically wrote-down the respective quantities some days or in the month following the actual import, usually when the supplementary declaration was lodged.
71. In 34 out of 426 transactions (8 %), the writing-down occurred several months after the release of the goods or was never certified by customs authorities. In another 31 cases (7 %), the import licences/surveillance documents were not valid or did not refer to the goods actually imported. In addition, Member States could not provide the proof that any such document actually existed at the moment of release for 58 transactions (14 %). These cases are summarised in **Graph 3**²⁵.

²⁵ The system for managing licences and surveillance documents in the UK was found to be unreliable. The error frequency presented refers only to the substantive errors actually found. In Ireland, the sample size tested was much smaller because it was only part on the preliminary study.

GRAPH 3

ERROR FREQUENCY (%) IN THE 2008 NON-FINANCIAL SAMPLE



- 72.** Whereas in the financial sample the errors can be corrected by a recovery of duties if the errors are detected before the duty amounts are time-barred, in the non-financial sample the interest of EU producers is affected when imports without the necessary documents take place.

EFFECTIVENESS OF EX-POST AUDITS

- 73.** A sample of around 30 declarations per Member State from 2006²⁶ was selected in order to check TOR-relevant issues, i.e. the correct application of a preferential duty rate and to assess whether errors detected had been corrected by customs.

- 74.** In six²⁷ of the nine audited Member States, high error frequencies were identified. These Member States could not show that they had subsequently corrected any of the errors through ex-post audits. Each error had a financial impact and led to an underpayment of TOR. In the 274 declarations checked, 49 errors were found, giving rise to 558 000 euro of loss of duty. These amounts are time-barred and therefore can no longer be recovered and are definitively lost for the EU budget.

- 75.** The fact that in five²⁸ of these six Member States traders were unable to provide the requested customs documentation, even months later, implies that these traders did not respect the commitments they made in the framework of the authorisation. Such traders are unreliable and, by their negligent behaviour, present a risk for TOR and to EU producers. They should not be allowed to use simplified procedures.

- 76.** In the three²⁹ Member States with an acceptable frequency of ex-post audits (cf. **Table 5**), none of the declarations tested by the Court's auditors were affected by an error.

²⁶ For Ireland and the United Kingdom, declarations of 2005 were selected, because the audit visits took place in 2008; for practical reasons the selection in the Netherlands related partly to 2007.

²⁷ Belgium, France, Ireland, the Netherlands, Sweden, United Kingdom.

²⁸ Belgium, France, Ireland, Sweden, United Kingdom.

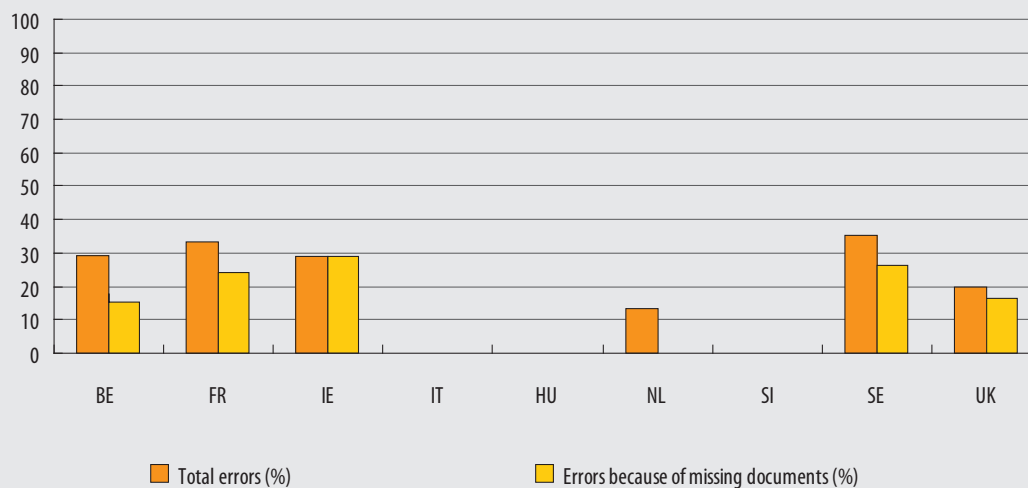
²⁹ Italy, Hungary, Slovenia.

77. **Graph 4** shows the total error frequency for the 2006 sample and the proportion of cases that relate to the absence of essential documents.

78. These findings give reason to doubt that, in particular for six of the nine audited Member States, imports under simplified procedures are effectively controlled so as to prevent loss of funds to the EU budget or prejudice to EU producers.

GRAPH 4

ERROR FREQUENCY (%) IN THE 2006 FINANCIAL SAMPLE



CONCLUSIONS AND RECOMMENDATIONS

79. The results of the Court's audit show that simplified procedures are not yet effectively controlled in the majority of the audited Member States. As such there is no reasonable assurance of the correct collection of TOR or that traders comply with the obligations deriving from the common trade policy.
80. The Commission should ensure that the framework applicable from 2009 operates effectively throughout the EU.

HAS THE COMMISSION DEVELOPED A SOUND APPROACH FOR CONTROLS ON SIMPLIFIED PROCEDURES AND DID IT MONITOR THE CORRECT APPLICATION OF SIMPLIFIED PROCEDURES AND THE CONTROLS THEREON?

81. The Commission has developed a sound approach for controls on simplified procedures and put in place the regulatory framework supported by comprehensive guidelines, but not before the end of 2008. Certain aspects, such as the use of risk analysis or controls during processing need to be improved (see paragraphs 22 to 26).
82. As simplified procedures can be manual until the end of 2010, the application of an EU-wide automated risk analysis that takes into account TOR or common trade policy issues will only be mandatory from that moment. In addition, Member States frequently allow practices under the LCP which prevent the application of automated risk analysis before release (see paragraphs 27 to 31).
83. Guidelines for ex-post audits in customs are not yet complete and the Commission did not start dedicated inspections on simplified procedures for imports until 2008. Further monitoring activity has only recently started (see paragraphs 32 to 38).

84. The Commission should:

- improve the existing regulatory framework and guidelines for simplified procedures by using the Court's control model as a basis,
- monitor the implementation of this framework and guidelines in the Member States,
- develop EU-wide profiles for TOR and the common trade policy and include them in the CRMF,
- complete the guidelines for ex-post audits, and
- take the Court's findings into account when considering further simplifications for customs procedures.

DO MEMBER STATES USE A SOUND AND STANDARDISED APPROACH FOR CONTROLS ON SIMPLIFIED PROCEDURES AND ARE THESE CONTROLS EFFECTIVE?

85. Member States did not apply a standardised approach for controls/audits at the different phases of simplified procedures, e.g. before authorisation or ex-post and often used deficient methods for such controls/audits. The Court's audit has shown that their controls/audits were frequently ineffective and that Member States did not always follow the guidance provided by the Commission (see paragraph 40).

86. The significant number of poor or poorly documented pre-authorisation audits identified increases the risk that unreliable traders can operate simplified procedures (see paragraphs 41 to 44).

- 87.** The approaches used for checks during the processing of simplified procedures for the release of goods were varied and often of poor quality (see paragraphs 45 to 56).
- The frequent and unjustified use of 'super-simplifications' (notification waivers) in the framework of the LCP and the general absence of automated risk profiles prevented checks before release and increased the risk of imports not respecting the obligations deriving from common trade policy measures and/or loss of TOR.
 - Few documentary checks on supplementary declarations and, in particular, the fact that simplified declarations/entries in the traders' records were not systematically reconciled with supplementary declarations increased these risks.
- 88.** Seven out of nine Member States audited used a deficient or partly deficient audit methodology including poor planning. In eight out of nine Member States audited, the frequency of ex-post audits did not consider sufficiently the risk of time-barring of duties (see paragraphs 57 to 62).
- 89.** The absence of checks before and after release and, in particular, the absence of good quality and sufficiently frequent ex-post audits encourage trader negligence. This in turn increases the risk of irregularities remaining undetected, leading to a loss of TOR or imports that do not respect the obligations deriving from the common trade policy (see paragraphs 45 to 62).
- 90.** The high number of errors in the samples of customs declarations show for simplified procedures that (see paragraphs 63 to 78):
- (a) checks before release are not effective,
 - (b) imports of goods requiring licences or similar documents are difficult to monitor if no reliable IT online management is in place,
 - (c) many traders did not respect the commitments they made in the framework of the authorisation to use simplified procedures, and
 - (d) ex-post audits are not frequent enough in the majority of the audited Member States and did not adequately prevent or detect errors.

91. The Commission should:

- urge Member States to implement without delay the recently-created regulatory framework on simplified procedures including a common approach for checks and audits throughout the procedure, in line with the control model defined by the Court,
- critically review the Member States' practice of authorising 'super simplifications' (notification waivers) and provide guidance on this issue, in particular, regarding goods requiring customs intervention before release,
- encourage all Member States to computerise the processing of simplified procedures including the electronic management (online writing-down at the moment of release of the goods) of licences and similar documents and the use of IT-based risk profiles covering TOR and common trade policy issues,
- invite Member States to enhance training for traders in order to raise traders' awareness for their obligations and responsibilities when using simplified procedures, and
- promote performance measurement and benchmarking exercises between Member States, encouraging them to enhance their practices for the control of simplified procedures.

This report was adopted by the Court of Auditors in Luxembourg at its meeting of 25 March 2010.

For the Court of Auditors



Vítor Manuel da Silva Caldeira
President

OVERVIEW ON THE CHARACTERISTICS OF SIMPLIFIED PROCEDURES¹

Article 76 of the Community Customs Code² (CCC) is the legal basis for simplified procedures. Article 76(1)(a) to (c) sets out the characteristics of three different procedures:

- (a) the incomplete declaration procedure (outside audit scope);
- (b) the simplified declaration procedure;
- (c) the local clearance procedure.

Article 253 CCIP (the CCC's implementing provisions³) gives a general definition of the purpose and the character of each of the three simplified procedures. More specifically regarding the subject of the audit — *the release to free circulation procedure* — details are set out in the CCIP, Articles 254 to 267.

THE INCOMPLETE DECLARATION PROCEDURE IS OUTSIDE THE AUDIT SCOPE AND IS NOT FURTHER DEVELOPED IN THIS ANNEX

I. SIMPLIFIED DECLARATION PROCEDURE (ARTICLES 253; 253a–253m; 260–262 CCIP)

Article 253(2) CCIP: 'The simplified declaration procedure shall enable goods to be entered for the customs procedure in question on presentation of a simplified declaration with subsequent presentation of a supplementary declaration which may be of a general, periodic or recapitulative nature, as appropriate.'

Article 76(1)(b) CCC specifies: ...'customs authorities shall...grant permission for...a commercial or administrative document, accompanied by request for the goods to be placed under the customs procedure in question, to be lodged in place of the declaration...'

¹ See end of Annex for a schematic presentation.

² Council Regulation (EEC) No 2913/92 (OJ L 302, 19.10.1992, p. 1), as amended.

³ Commission Regulation (EEC) No 2454/93 (OJ L 253, 11.10.1993, p. 1), as amended.

The procedure:

- (a) is subject to prior authorisation (Articles 253, 253a–253m, 260–262 CCIP). Customs are to check thoroughly the reliability of the applicant and to determine all pertinent details in the authorisation;
- (b) includes the presentation of goods to customs.

The procedure allows for various possibilities, but the typical case is as follows:

- 1) The trader presents goods to customs and lodges either a simplified declaration form or a commercial document (e.g. an invoice) instead of a detailed standard declaration.
- 2) The usual processing of release to free circulation declarations is carried out (decisions on checks on fiscal or non-fiscal issues).
- 3) At the end of the period agreed in the authorisation (usually a month), the trader lodges the supplementary declaration, which contains all details (customs valuation, weight, etc.) for each individual simplified declaration in order to be able to calculate the duties for the totality of all simplified declarations (total duty amount) in the period.
- 4) The total duty amount is entered in the accounts of customs within five days of the reference period, i.e. the month in the example (cf. Article 218(1) CCC) and paid according to Article 227 CCC, i.e. by the 16th day of the month following the reference month.
- 5) Post-event control may be carried out in the form of ad hoc checks on the supplementary declaration or by in-depth ex-post audits at the trader's premises, including the trader's commercial documents and accounts.

II. LOCAL CLEARANCE PROCEDURE (ARTICLES 253(3); 263–267 CCIP)

Article 253(3): ‘The local clearance procedure shall enable the entry of goods for the customs procedure in question to be carried out at the premises of the person concerned or at other places designated or approved by the customs authorities.’

Article 76(1)(c) CCC specifies:...‘customs authorities shall...grant permission...for...the goods to be entered for the procedure in question by means of an entry in the records; in this case, the customs authorities may waive the requirement that the declarant presents the goods to customs.’

The procedure:

- (a) is subject to prior authorisation (Articles 253, 253a–253m; 263–267 CCIP). Customs are to check thoroughly the reliability of the applicant and to determine all pertinent details in the authorisation.
- (b) includes, in general, a notification to customs of the arrival of goods at the traders premises (or any other designated place for that purpose) and the intention to have the goods released.

The procedure allows for various possibilities, but the typical case is as follows:

- 1) The trader receives the goods at his premises, usually under another customs regime for which he is already authorised (e.g. transit).

- 2) Depending on the degree of simplification, the trader then:
 - either notifies customs about his intention to have the goods released, enters the particulars referring to the goods into his accounting records and waits until customs decide whether they wish to carry out checks before release, or
 - directly enters the particulars referring to the goods into his accounting records, which can have the effect of a release for free circulation.
- 3) Thus, depending on the degree of simplification, customs may or may not have the possibility to check goods before release.
- 4) At the end of the period agreed in the authorisation (usually a month), the trader lodges the supplementary declaration, which contains all details (customs valuation, weight, etc.) for each individual account entry in order to be able to calculate the duties for the totality of all account entries (total duty amount) in the period.
- 5) The total duty amount is entered in the accounts of customs within five days of the reference period, i.e. the month in the example (cf. Article 218(1) CCC) and paid according to Article 227 CCC, i.e. by the 16th day of the month following the reference month.
- 6) Post-event control may be carried out in the form of ad hoc checks on the supplementary declaration or by in-depth ex-post audits at the trader's premises, including the trader's commercial documents and accounts.

SCHEMATIC PRESENTATION OF THE SIMPLIFIED DECLARATION AND THE LOCAL CLEARANCE PROCEDURE FOR RELEASE OF GOODS FOR FREE CIRCULATION

Phase Type of procedure	Simplified declaration procedure	Local clearance procedure
Phase 1 Authorisation	<p>Formal procedure (Application → Authorisation):</p> <ul style="list-style-type: none"> - authorisation prior to the procedure - check of trader reliability and further conditions by customs - details of processing are specified in authorisation 	<p>Formal procedure (Application → Authorisation):</p> <ul style="list-style-type: none"> - authorisation prior to the procedure - check of trader reliability and further conditions by customs - details of processing are specified in authorisation
Phase 2 Clearance	<p>Trader:</p> <ul style="list-style-type: none"> - presents goods to customs - lodges simplified declaration (e.g. invoice) <p>Customs:</p> <ul style="list-style-type: none"> - register the simplified declaration - decides on whether to carry out a check - release the goods for free circulation 	<p>Trader:</p> <ul style="list-style-type: none"> - receives/has goods at his premises (or the designated place) - notifies customs of his intention to have the goods released for free circulation and enters declaration particulars into his records (notification waiver possible) <p>Customs:</p> <ul style="list-style-type: none"> - receive (or not) notification by the trader - decides on whether to carry out a check (if still possible) - release goods (if not already released by the trader himself)
Phase 3 Supplementary declaration	<p>Trader:</p> <ul style="list-style-type: none"> - lodges supplementary declaration (= summary of all simplified declarations during the period) - pays aggregate amount of duties due <p>Customs:</p> <ul style="list-style-type: none"> - enter duty amount into the accounts - decides on whether to carry out a post-event check 	<p>Trader:</p> <ul style="list-style-type: none"> - lodges supplementary declaration (= summary of all record entries during the period) - pays aggregate amount of duties due <p>Customs:</p> <ul style="list-style-type: none"> - enter duty amount into the accounts - decides on whether to carry out a post-event check
Phase 4 Ex-post audit	<p>Trader:</p> <ul style="list-style-type: none"> - holds documentation at customs' disposal <p>Customs:</p> <ul style="list-style-type: none"> - decides on whether to carry out an ex-post audit 	<p>Trader:</p> <ul style="list-style-type: none"> - holds documentation at customs' disposal <p>Customs:</p> <ul style="list-style-type: none"> - decides on whether to carry out an ex-post audit

ECA-CONTROL MODEL FOR SIMPLIFIED PROCEDURES

1. CRITERIA FOR CONTROLS BEFORE AUTHORISING A TRADER

- (a) It should be checked whether the trader has an appropriate record of compliance with customs requirements, a satisfactory and reliable (IT) system for managing his commercial records, proven financial solvency and that it is possible to check compliance with import prohibitions or restrictions.
- (b) The administrative organisation and the internal controls of the trader should be audited; this audit should include a visit to the trader's premises.
- (c) The risks affecting the trader's business should be identified and assessed during the audit and covered by appropriate control measures; a control plan/recommendation addressing the remaining risks should be established for each trader.
- (d) The results of the audit should be formalised in a report.
- (e) Traders should be properly advised during the authorisation process and made aware of their obligations and of the customs risks affecting their trade.
- (f) Authorisations should be a formal and explicit written commitment between customs and trader defining their cooperation and the rights and obligations of each party, including the trader's obligations to notify any changes arising in his business and organisation and to nominate a representative for customs matters.

2. CRITERIA FOR CONTROLS¹ WHEN PROCESSING SIMPLIFIED PROCEDURES i.e. ON SIMPLIFIED DECLARATIONS/RECORD ENTRIES AND ON SUPPLEMENTARY DECLARATIONS

- (a) A minimum number of risk-based physical and documentary checks before release in order to maintain an uncertainty factor for the trader, detect irregular imports and avoid TOR underpayments should be carried out.
- (b) Substantive documentary checks on supplementary declarations should be carried out for the same purpose.
- (c) An automated reconciliation between supplementary declarations and simplified declarations/entries in the trader's records ensuring the completeness of supplementary declarations should be carried out.
- (d) Physical and documentary checks should be based on risk analysis, using appropriate automated data processing techniques including a random element.
- (e) Results of such checks should be properly recorded and fed back into the risk management system; regular performance measurement undertaken by Customs should ensure that risk profiles remain effective and up to date.

¹ The minimum number of checks before release and on supplementary declarations should depend on the degree of risk associated with the imports concerned. For traders having only low-risk imports, an uncertainty factor should nevertheless be maintained by carrying out random checks.

3. CRITERIA FOR EX-POST AUDITS² ON SIMPLIFIED PROCEDURES

- (a) Regular and planned ex-post audits should be carried out, based on sound and standardised audit methodology taking into account the trader's business risks and time-barring risks, some of them selected at random.
- (b) Audits should target transactions or specific subjects (e.g. customs valuation), systems including IT systems, or assess whether a trader still meets the conditions for the use of simplified procedures.
- (c) Audit findings should be formalised in a report and systematically followed-up; audit results should be fed back into the risk management system.
- (d) Quality assurance measures (e.g. trader performance or compliance measurement) should be implemented and trader self-assessment should be promoted.

² In order to properly address the risk of time-barring of duties, ex-post audits targeting transactions should be carried at least every three years. The number of transactions to be checked in each ex-post audit should depend on the risks involved. A systems audit or an audit to assess whether the trader still meets the conditions for the use of simplified procedures can be carried out at longer intervals, but is always necessary if a system change (IT, other) occurs.

OVERVIEW OF THE OBSERVATIONS FOR THE NINE AUDITED MEMBER STATES

Control model standards	BE	FR	IE	IT	HU	NL	SI	SE	UK
<i>Number of trader files reviewed</i>	17	20	7	20	16	18	17	22	20

Pre-authorisation audits

Was an audit at the premises of the trader carried out, an audit report made and available?	■	■	N/A	■	■	■	■	■	■
Were the administrative organisation and internal controls of the trader assessed?	■	■	N/A	■	■	■	■	■	■
Were accounting and IT systems checked?	■	■	N/A	■	■	■	■	■	■
Were the legal requirements of Articles 261(2) and 264(2) CCIP checked (e.g. absence of serious offences)?	■	■	N/A	■	■	■	■	■	■
Was the trader's financial solvency checked?	■	■	N/A	■	■	■	■	■	■
Was a risk assessment of the trader carried out?	■	■	N/A	■	■	■	■	■	■
Did the risk assessment/audit result in a control recommendation (plan)?	■	■	N/A	■	■	■	■	■	■
Did the authorisation process contain assurance elements (e.g. training, info, coordinators)?	■	■	N/A	■	■	■	■	■	■

Control during processing — checks before release

Were simplification practices for LCP (notification waiver) granted in accordance with the legislation?	■	■	■	■	■	■	■	■	■
Was a minimum of checks before release on TOR/common trade policy aspects actually made?	■	■	■	■	■	■	■	■	■
Were automated risk profiles with TOR/common trade policy relevance applied?	■	■	■	■	■	■	■	■	■
Was there an automated random element included in the risk management?	■	■	■	■	■	■	■	■	■
Was there a follow-up of risk-relevant issues (e.g. performance measurement of risk profiles, feedback)?	■	■	■	■	■	■	■	■	■

N.B.: ■ satisfactory; ■ partly satisfactory; ■ not satisfactory; N/A: not applicable.

Control model standards	BE	FR	IE	IT	HU	NL	SI	SE	UK
Number of trader files reviewed	17	20	7	20	16	18	17	22	20

Control during processing — checks on supplementary declarations

Are supplementary declarations generally processed via IT?									
Was a minimum of substantive documentary checks actually made?									
Were automated risk profiles with TOR/common trade policy relevance applied?									
Was there an automated random element included in the risk management?									
Was there an automated reconciliation between supplementary and simplified entries?	N/A			N/A	N/A				
Was there a systematic manual reconciliation between supplementary and simplified entries?		N/A					N/A		
Was there a follow-up of risk relevant issues (e.g. performance measurement of risk profiles, feeding back)?									

Ex-post audits

Are ex-post audits based on sound audit methodology (audit tools, coherent approach)?									
Do these audits include systems, also IT systems?									
Do these audits include the continued respect of conditions for authorisation?									
Do these audits include substantive testing of transactions (including commercial accounts)?									
Is the audit frequency sufficient to take into account the risk of time-barring?									
% of traders, which were not audited frequently enough to avoid time-barring	71	70	57	15	6	39	18	91	90
Is there a follow-up of audit reports (management control, feeding back of information)?									

N. B. : ■ satisfactory; ■ partly satisfactory; ■ not satisfactory; N/A: not applicable.

OVERVIEW ON ERRORS IN THE SAMPLES

	BE	FR	IE	IT	HU	NL	SI	SE	UK
2008 financial sample									
Number of transactions reviewed	31	32	20	30	33	30	30	31	30
No 'issued retrospectively' indicated on preferential document, where necessary	3	2	0	0	0	2	0	0	0
No direct transport evidenced	1	1	0	1	0	0	0	3	1
No document(s) provided	0	0	8	0	1	0	0	0	0
Other substantive error	1	1	0	0	1	0	0	3	1
Total number of errors	5	4	8	1	2	2	0	6	2
Total errors (%) for the 2008 sample — financial	16	13	40	3	6	7	0	19	7
Errors (%) because of missing essential documents	3	3	40	3	3	0	0	10	3
2008 non-financial sample									
Number of transactions reviewed	60	57	6	62	32	61	30	58	60
Attribution not directly after globalisation period/not endorsed by customs	9	13	0	10	2	0	0	0	0
No document(s) provided	23	6	6	0	0	18	0	5	0
Other substantive error	12	7	0	1	0	1	2	2	6
Total number of errors	44	26	6	11	2	19	2	7	6
Total errors (%) for the 2008 sample – non-financial	73	46	100	18	6	31	7	12	10
Errors (%) because of missing essential documents	38	11	100	0	0	30	0	9	0

N.B.: Member States were invited to provide any missing documentation in their replies to the Court's statements of preliminary findings. Where they were unable to deliver the required documents, this was considered to be an error.

	BE	FR	IE	IT	HU	NL	SI	SE	UK
2006 financial sample									
Number of transactions reviewed	34	33	24	33	29	30	30	31	30
No 'issued retrospectively' indicated on preferential document, where necessary	1	0	0	0	0	1	0	1	0
No direct transport evidenced	4	8	0	0	0	0	0	8	2
No document(s) provided	1	0	7	0	0	0	0	0	3
Other substantive error	4	3	0	0	0	3	0	2	1
Total number of errors	10	11	7	0	0	4	0	11	6
Total errors (%) for the 2006 sample — financial	29	33	29	0	0	13	0	35	20
Errors (%) because of missing essential documents	15	24	29	0	0	0	0	26	17

N.B.: Member States were invited to provide any missing documentation in their replies to the Court's statements of preliminary findings. Where they were unable to deliver the required documents, this was considered to be an error.

REPLY OF THE COMMISSION

EXECUTIVE SUMMARY

II.

The Authorised Economic Operator (AEO)¹ has to fulfil very stringent compliance criteria and thus has easier access to simplified customs procedures. When an AEO applies for a simplified procedure, customs will check the additional requirements but will not check again the criteria already checked when AEO status was granted. The AEO audit and authorisation process is very thorough; after authorisation, the AEO is also subject to close monitoring by customs.

The Commission's intention has been to improve and harmonise, at European level, the legal rules on simplified procedures for releasing goods based on the reliability of the trader, minimising pre-clearance controls before release and replacing them with more efficient post-audit controls.

IV. second indent

Under the Community Risk Management Framework the Member States are obliged to exchange and share risk-related information in electronic form, including risks related to Traditional Own resources (TOR) and Community trade policy risks, in accordance with Article 4g(2) of the Customs Code Implementing Provisions.

IV. third indent

Article 13(2) of the Community Customs Code obliges customs authorities to use automated data processing techniques for the purpose of risk analysis. In a paper-based environment it is difficult to efficiently apply automated risk analysis. However, already now a large proportion of customs declarations is made electronically.

¹ The AEO status was already introduced with the Security Amendment to the Code (Regulation 648/2005) and fully implemented as of 1 January 2008.

REPLY OF THE COMMISSION

IV. fourth indent

The Commission has also examined aspects of simplified procedures prior to 2008 in the course of its inspections, e.g. Electronic Customs Declarations in 2004, Customs Warehousing in 2005 and Transit in 2006. It has also examined control aspects of simplified procedures in its inspection of the Customs Control Strategy in 2009.

IV. fifth indent

The Commission will review the Customs Audit Guide to consider further development of common standards for ex-post audits and will consider in the Customs Code Committee the issue of standards.

V. first indent

The Commission would expect that with the introduction of mandatory audits the quality of audits and of the documentation will improve.

V. third indent

In the course of its inspections the Commission has found excessive use of notification waiver in a number of Member States. It has asked those Member States to amend their procedures and it is following up the action taken by these Member States.

The Commission will raise the issue of excessive use of the notification waiver under local customs procedure in the training actions organised in the Member States and in the guidelines.

V. fourth indent

EU legislation does not prescribe how Member States should organise their customs control activities for simplified procedures. This means that the Member States are responsible for putting in place an efficient customs control framework, including effective, risk-based, ex-post audits. In the course of its TOR inspections the Commission has also observed weaknesses in the frequency and quality of some Member States' ex-post audits and has asked these Member States to take remedial measures and is following up their action. The Commission will continue to verify customs control aspects in its future TOR inspections. A number of Member States are currently reviewing their control procedures, in order to improve them and adapt them to an environment where simplified procedures are being increasingly used. The Commission has issued the Customs audit guide and recommended that the Member States use it. Training and monitoring actions on simplified procedures will focus on the control strategy of the authorisations for simplified procedures.

VII. first indent

The Commission will take into account the Court's findings when considering further simplifications of customs procedures.

REPLY OF THE COMMISSION

VII. second indent

The Member States are currently being encouraged to rapidly implement the recently developed regulatory framework and guidelines, through training actions on simplified procedures and Single Authorisation for Simplified Procedures (SASP) carried out in Member States. Austria, Portugal and Ireland have hosted training actions on simplified procedures and others are planned to take place during the current year in Poland, Sweden, Slovenia, France and the Netherlands.

Monitoring actions on simplified procedures have been included in the monitoring programme for 2010. The Commission services are preparing the start of these monitoring actions.

VII. third indent

The Commission will review the Customs Audit Guide to consider further development of common standards for ex-post audits and will consider in the Customs Code Committee the issue of standards.

VII. fourth indent

The Commission will begin discussions with Member States in the Customs Code Committee with a view to developing risk profiles for TOR and Community trade policy. Simplification practices will be reviewed during the monitoring actions on simplified procedures.

VII. fifth indent

With Regulation (EC) No 1192/2008 the Commission has already taken action as requested by the Court. Further developments are ongoing.

VII. sixth indent

The Commission will invite the Member States to make traders more aware of their obligations and responsibilities. The training actions on simplified procedures are for both customs officials and traders. Some Member States have included traders in the audience, others will organise individual training actions for traders.

INTRODUCTION

2.

Constant adaptation to evolving technical, economic and political conditions resulted in the amendment of the Customs Code Implementing Provisions which will become applicable in 2013.

OBSERVATIONS

26.

The Commission considers that its guidelines for monitoring the correct application of simplified procedures and of controls² are helping to harmonise practices and are being regularly updated (work on the fifth version is currently ongoing).

26. first indent

This point will be developed in the next version of the guidelines. Annex V of the current guidelines already describes the potential risk indicators to be checked during the pre-audits as well as the actions to be taken.

² TAXUD/1284/2005.

REPLY OF THE COMMISSION

26. second indent

The legislation does not prescribe a specific number of checks to be carried out. However, a minimum number of checks based on risk analysis, including a random element, should be made before release and the Commission has, in the course of its inspections, requested the Member States that do not already carry out such checks to do so.

26. third indent

Reconciliation is part of the national systems. The Commission agrees that reconciliation should be processed in a structured and automated way and is encouraging the Member States to do so.

28.

The Commission facilitates the exchange of risk-related information also relating to TOR and common trade policy via the provision of the electronic Community Risk Management System using Risk Information Forms and thus ensures that appropriate information can be shared quickly and effectively between the appropriate risk management centres and customs control points in the Community.

29.

A common approach to risk management is also possible in a paper-based environment. It is, however, true that automated risk analysis is more effective than manual risk analysis.

30.

In the course of its inspection the Commission has made similar observations in the case of a number of Member States and has asked those Member States to amend their procedures. The Commission is following up the action taken by these Member States.

The use of notification waivers under the local clearance procedure is/will be addressed during the training/monitoring actions. A comprehensive standard control strategy will be recommended.

31.

The guidelines are being improved by the Project Group on the implementation of simplified procedures/SASP and special attention will be given to this and other points mentioned in the Court of Auditors' findings.

33.

The work on enhancement of the Customs Audit Guide will start in 2010.

35.

The increasing use of various simplified procedures in the Member States, the findings made by the Commission in the course of its earlier TOR inspections and the observations made by the Court during its audits prompted the Commission to select simplified procedures as a specific theme for its 2008 inspections.

REPLY OF THE COMMISSION

36.

Before choosing simplified procedures as a specific theme for its inspections in 2008, the Directorate-General for Budget has also examined aspects of the functioning of simplified procedures during its inspections. In recent years it has examined aspects relating to the operation of simplified procedures in the course of its inspections of Electronic Customs Declarations in 2004, Customs Warehousing in 2005 and Transit in 2006. In its continual examination of the B-accounts it also examines aspects of these procedures when they are the subject of the files examined. It has also examined control aspects of simplified procedures in the course of its inspection of the Customs Control Strategy in 2009.

38.

Under the Community Risk Management Framework the Member States are required to exchange and share risk-related information, including risks relating to TOR and Community trade policy risks, in accordance with Article 4g(2) of the Customs Code Implementing Provisions. The Commission facilitates this process via the provision of the electronic Community Risk Management System to ensure that appropriate information can be shared quickly and effectively between the appropriate risk management centres and customs control points in the Community. In the last three years Member States have exchanged 6 330 Risk Information Forms (RIFs) on risks under the competence of customs, 844 of which related to TOR. In addition, in the last three years the Commission has issued 64 Risk Information Forms (RIFs) on risks falling within the competence of customs; of these 10 related to TOR and trade policy risks.

The Commission opted, five years ago, for developing a harmonised legal framework for the simplified procedures which was achieved with the publication of Regulation (EC) No 1192/2008 amending the Customs Code Implementing Provisions.

Since then the Commission has been developing training and monitoring actions on simplified procedures/SASP in several Member States.

During the training actions special attention is being given to the weak points mentioned in the Court of Auditors' report.

40.

The findings of the Court are based on the Court's Control-Model Standard which reflects best practice.

42.

There is no legal obligation on the Member States to follow any particular model of pre-authorisation audit. Nevertheless, the Commission considers the model used by the Court useful.

43.

The authorisations examined by the Court were issued prior to 1 January 2009. Until 1 January 2009 there was no legal requirement to audit the trader prior to the grant of an authorisation for simplified procedures. However, prior to that date, it was the practice in several Member States to do so. Neither was there a legal requirement to draw up a control plan or risk assessment although doing this would have conformed with best practice.

REPLY OF THE COMMISSION

45.

The legislation does not prescribe a specific number of checks to be carried out. However, a minimum number of checks based on risk analysis, including a random element, should be made before release and the Commission has, in the course of its inspections, requested the Member States that do not already carry out sufficient checks, or do not do so in a satisfactory manner, to take remedial action.

47.

The Commission found similar use of the 'super-simplification' (notification waiver) in a number of Member States in the course of its inspections in 2008/2009. It drew the attention of the Member States to the fact that this facility should only be allowed as an exceptional measure and asked them to amend their procedures appropriately.

48.

The Commission found similar situations during its inspections and is continuing to follow up this issue with the Member States concerned.

50.

The use of risk analysis for customs control has been mandatory since 1 January 2007. The requirement to carry out automated risk analysis for customs controls came into effect from 26 December 2007 with the entry into force of Regulation (EC) No 648/2005 and Regulation (EC) No 1875/2006. The requirement to automate simplified procedures comes into effect only from 1 January 2011. The combination of these factors explains why not all the Member States have automated risk profiles in place for simplified procedures but they are working towards this goal. In the course of its inspections the Commission has encouraged the national authorities to speed up the automation of simplified procedures in those Member States where paper-based systems are still in use.

51.

The Belgian authorities have informed the Commission that a new feedback system concerning the outcome of controls has been put in place with effect from 1 October 2009. The Commission will examine the functioning of this system in the course of its future inspections and will confirm that the weaknesses found by the Court have been addressed.

54.

The Commission agrees that a review, on the basis of risk analysis, of the documents supporting the supplementary declarations should be carried out. The Commission has, in the course of its inspections, drawn the attention of the Member States to the need for sufficient documentary controls and is following up the measures taken by the Member States to improve these controls.

55.

The Commission agrees that a reconciliation should be made between the simplified transactions and the supplementary declarations. The automation of simplified procedures will facilitate this process.

The reconciliation of the simplified transactions with the supplementary declaration is a relevant issue during the training actions on simplified procedures and will be addressed during the monitoring actions starting in September 2010.

REPLY OF THE COMMISSION

56.

The automation of simplified procedures is a mandatory requirement from 1 January 2011.

58.

The Commission found that in some Member States guidelines are in use which are more comprehensive than those in the 'Customs Audit Guide', while in others, elements of the Guide have been incorporated in national guidelines on audit.

The need for the common use of the guide is highlighted during training actions. The next version of the guidelines on simplified procedures/SASP will recommend explicitly the use of the 'Customs Audit Guide'. A special simplified procedures/SASP e-learning tool was developed in 2008 and released in January 2009, where the control strategy is a relevant issue. It is available in five language versions and ten further language versions are being developed together with Member States concerned.

60.

The Commission has examined the frequency of post-clearance controls in the course of its inspection on simplified procedures in 2008 and on the Customs Control Strategy in 2009 and will continue to examine the frequency of post-clearance audits in the course of its future inspections. The Commission also found in its inspections in recent years that ex-post audits were not frequent enough in many Member States. Where it found this it requested the relevant Member States to increase the frequency of these audits. As regards the UK, the Commission has noticed some improvement in the audit of traders using simplified procedures since the commencement of the national project on Customs Freight Simplified Procedures.

61.

The Commission has also drawn attention to the weaknesses in post-clearance controls in the Member States. The customs controls and procedures in a lot of the Member States are in a state of transition as the national authorities are refining their strategy and rethinking their controls to meet the challenges posed by the new procedures and requirements of the Modernised Customs Code.

62.

EU legislation does not prescribe how Member States should organise their customs control activities for simplified procedures. This means that the Member States are responsible for putting in place an efficient customs control framework, including effective, risk-based, ex-post audits. In the course of its TOR inspections the Commission has observed weaknesses in the frequency and quality of some Member States' ex-post audits and has asked those Member States to take remedial measures and it is following up their action. The Commission will continue to verify aspects of customs control in its future TOR inspections. A number of Member States are currently reviewing their control procedures, in order to improve them and adapt them to an environment where simplified procedures are increasingly used.

Furthermore, the next revision of the simplified procedures/SASP guidelines, as well as the training and monitoring actions on simplified procedures will address, in a comprehensive way, the need for a control strategy where all risks are identified and compliance actions as well as their frequency clearly recommended.

REPLY OF THE COMMISSION

66.

The Commission is following up the action of the Member States concerned in all the cases observed by the Court. The financial impact in terms of possible losses of these cases can be determined only after this follow-up has been completed.

67.

The Commission is following up the non-availability of the necessary documents with Sweden and Ireland. The Irish authorities have recovered the amount of Traditional Own Resources involved and they have undertaken to closely monitor the availability of documents concerned in order to prevent any recurrence of the problem. The Commission requested the Irish authorities to draw up an action plan of the remedial measures to be taken to address the deficiencies found by the Court and the Irish authorities supplied a copy of that plan. This action plan has been monitored by the Commission.

69.

The UK will be requested to put in place measures to ensure that the licences are written down at the time of release.

70.

The Member States concerned will be requested to ensure that the licences are written down at the time of release.

71.

The Commission will request the Member States to put remedial measures in place.

72.

The Commission will start a discussion with the Member States in the Customs Code Committee this year with a view to developing relevant risk profiles.

74.

The Commission will examine the cases identified by the Court in order to determine whether the relevant Member States may be held financially responsible for the losses incurred. The definitive loss of duty cannot be ascertained by the Commission at this stage and the Member States' financial responsibility cannot be determined before the follow-up of each individual case has been completed.

75.

The Commission services will examine the cases where the requested documentation has not been supplied to see what action the Member States have taken.

The new rules on simplified procedures have specified the action to be taken in cases of non compliance (suspension of the authorisation or revocation in case of serious and repeated infringements).

REPLY OF THE COMMISSION

CONCLUSIONS AND RECOMMENDATIONS

78.

It is the responsibility of the Member States to establish and implement a control framework which adequately safeguards the collection of Traditional Own Resources. In doing so they must, on the basis of risk analysis, devise controls of sufficient quality and implement them with sufficient frequency to ensure that Traditional Own Resources are protected. In the implementation of the controls the Member States should take account of the prescription period of three years. The Commission in the course of its inspections examines these controls and where it finds shortcomings it recommends that the Member States take appropriate measures to address these shortcomings. The Commission will follow up the findings of the Court with the relevant Member States and confirm that satisfactory remedial measures are taken.

During monitoring actions on simplified procedures starting in September 2010 it will be possible to assess the control measures in place and their impact on compliance. Best practices will be recommended.

79.

EU legislation does not prescribe how Member States should organise their customs control activities. This means that the Member States are responsible for putting in place an efficient customs control framework, including effective, risk-based, ex-post audits. In the course of its TOR inspections the Commission has also observed weaknesses in the quality and frequency of some Member States' ex-post audits and has asked these Member States to take remedial measures. It is following up their action. The Commission will continue to verify customs control aspects in its future TOR inspections. A number of Member States are currently reviewing their control procedures, in order to improve them and adapt them to an environment where simplified procedures are increasingly used.

80.

In order to ensure that the new framework operates effectively, the Commission will carry out monitoring actions starting in September 2010.

81.

Work on risk analysis is constantly progressing.

REPLY OF THE COMMISSION

83.

Prior to 2008, when the Commission selected simplified procedures as a specific theme for its inspection, it has also examined aspects of simplified procedures in the course of its inspections e.g. the inspections of: Electronic Declarations in 2004, Customs Warehousing in 2005, Transit in 2006 and it also examines aspects of these procedures in its continual examination of files concerning items in the B account when they are the subject matter of these files. It has also examined control aspects of simplified procedures in the course of its inspection of the Customs Control Strategy in 2009.

84. first indent

The guidelines are currently being improved and the fifth version is under preparation. The Court's observations will be taken into account.

84. second indent

Monitoring actions start in 2010.

84. third indent

The Commission will start a discussion with the Member States in the Customs Code Committee this year with a view to developing such profiles.

84. fourth indent

The Commission will review the Customs Audit Guide to consider further development of common standards for ex-post audits and will consider in the Customs Code Committee the issue of standards.

84. fifth indent

The Commission will take into account the Court's findings when considering further simplifications for customs procedures.

86.

During the monitoring actions on simplified procedures/SASP starting in September 2010 special attention will be given to pre-authorisation audits.

87.

It is the responsibility of the Member States to establish and implement a control framework which adequately safeguards the collection of Traditional Own Resources. In doing so they should, on the basis of risk analysis, devise controls of sufficient quality, and implement them with sufficient frequency to ensure that Traditional Own Resources are adequately protected. The Commission in the course of its inspections examines the frequency and quality of these controls and where it finds shortcomings it recommends that the Member States take appropriate measures to address them. The Commission will follow up the findings of the Court with the Member States concerned and confirm that satisfactory remedial measures are taken.

During monitoring actions on simplified procedures starting in September 2010 it will be possible to assess the control measures in place and their impact on compliance. Best practices will be recommended. The new rules on simplified procedures have specified the action to be taken in cases of non-compliance (suspension of authorisation or revocation in case of serious and repeated infringements).

REPLY OF THE COMMISSION

87. first indent

In the course of its inspection the Commission has had similar observations in the case of a number of Member States and has asked those Member States to amend their procedures. The Commission is following up the action taken by these Member States.

The use of notification waiver in the framework of the LCP and the absence of automated risk profiles will be addressed during the training and monitoring actions on simplified procedures/SASP. Best practices will be discussed in the Customs Code Committee and recommended.

87. second indent

The reconciliation of the simplified with the supplementary declaration will be addressed during the training and monitoring actions on simplified procedures/SASP. Best practices will be discussed in the Customs code Committee and recommended.

88.

During its inspections, the Commission found similar deficiencies in the procedures and controls implemented in some Member States and it requested these Member States to take appropriate remedial measures. It is following up the action being taken by these Member States. It will continue to examine the frequency and quality of post-clearance audits in its future inspections. The Commission will also follow up the shortcomings found by the Court and verify that remedial measures are put in place.

It will review the Customs Audit Guide to consider further development of common standards for ex-post audits and will consider in the Customs Code Committee the issue of standards.

89.

EU legislation prescribes neither a specific number of checks to be carried out before release nor the quality or frequency of ex-post audits.

In order to protect the EU's financial and trade policy interests, Member States are responsible for putting in place an efficient control framework. This implies that a minimum number of checks based on risk analysis, including a random element, should be made. The Commission has, in the course of its inspections, requested the Member States which do not already carry out a sufficient number of checks, or do not do so in a satisfactory manner, to take remedial action.

Where the Commission finds shortcomings in the quality and frequency of ex-post audits it recommends that the Member States take appropriate measures to address these shortcomings. The Commission will also follow up the findings of the Court with the relevant Member States and confirm that satisfactory remedial measures are taken.

90. (a)

The Commission has, in the course of its inspections, requested the Member States which do not already carry out sufficient checks, or do not do so in a satisfactory manner, to take remedial action.

90. (c)

The Commission will follow up the findings of the Court with the Member States and confirm that satisfactory remedial measures are taken.

REPLY OF THE COMMISSION

90. (d)

The Commission in the course of its inspections has consistently examined the frequency of ex-post audits and, where shortcomings were found, has requested the Member States concerned to take remedial action. It has also followed up the action taken by the Member States.

91. first indent

The Commission will urge Member States to implement without delay the recently created framework on simplified procedures. The Court's control model will be considered when revising the Customs Audit Guide.

91. second indent

The Commission will critically review the Member State's practice of authorising notification waivers. With regard to the practice, the guidelines already give information on this issue and will be improved this year.

The notification waiver issue is addressed in the monitoring questionnaire and will be considered during the monitoring actions.

In the course of its inspections where it has found extensive use of the 'super simplification', the Commission has asked those Member States to review and amend their procedures.

91. third indent

The Commission is encouraging the Member States to computerise the processing of simplified procedures, including the online writing-down of licences.

The control of goods subject to prohibitions and restrictions under simplified procedures, SASP and future centralised clearance is being improved. A document (TAXUD C4/0006/2009) has been drafted where several recommendations are proposed such as the mandatory use of indicators by economic operators when lodging the summary entry declaration or the simplified customs declaration.

91. fourth indent

The Commission is inviting Member States to enhance training for traders. To give an example, training on simplified procedures/SASP is already taking place under the Customs 2013 Programme (see box reply to observation VII, 2nd and 6th indents). Some Member States take this opportunity to invite traders to participate in these training actions.

91. fifth indent

The Commission is promoting performance measurement and benchmarking exercises between Member States in order to enhance control practices for simplified procedures.

For reliable economic operators, the modernised Customs Code provides for further simplifications (self assessment — Article 116 MCC).

European Court of Auditors

Special Report No 1/2010

Are simplified customs procedures for imports effectively controlled?

Luxembourg: Publications Office of the European Union

2010 — 59 pp. — 21 × 29,7 cm

ISBN 978-92-9207-682-5

doi:10.2865/65396

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SIMPLIFIED CUSTOMS PROCEDURES FOR IMPORTS ARE A KEY ELEMENT OF EU CUSTOMS AND TRADE FACILITATION POLICY. THIS REPORT ANALYSES WHETHER THE TWO MOST IMPORTANT SIMPLIFIED PROCEDURES, THE SIMPLIFIED DECLARATION PROCEDURE AND THE LOCAL CLEARANCE PROCEDURE ARE EFFECTIVELY CONTROLLED IN ORDER TO PROTECT ADEQUATELY THE FINANCIAL AND TRADE POLICY INTERESTS OF THE EU. THE REPORT ALSO CONSIDERS WHETHER THE COMMISSION HAS DEVELOPED A SOUND CONTROL APPROACH FOR SUCH PROCEDURES AND WHETHER MEMBER STATES ACTUALLY CARRY OUT EFFECTIVE CONTROLS BASED ON SUCH AN APPROACH.



EUROPEAN COURT OF AUDITORS



Publications Office

ISBN 978-92-9207-682-5



9 789292 076825