

# **DG TAXUD**

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# **Study on the Evaluation of the EU Customs Union**

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## **Disclaimer**

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## Limitations of the Study/methodology

For a good understanding of the Study as performed and the results acquired, it is necessary to explain the limited scope of the Study as well as the (natural) constraints resulting from that. In that respect, we outline below a number of starting points that indicate what may be expected from this Study.

### Scope of the Study

The scope of this Study is limited, i.e.

- to collecting and ensuring the quality of the data/information,
- to carrying out the analysis and validating the findings,
- to providing evidence-based judgments and conclusions, and, where appropriate, recommendations thereon.

The scope does not include dissemination and exploitation of results and follow-up actions.<sup>2</sup>

It should be noted that not all the judgment criteria mentioned in the Feasibility Study are included in this Study. Further prioritisation has been done together with the Commission's Steering Committee, mainly limiting the scope to the "priority 1" (sub-)judgment criteria. Nonetheless, when reading this Study, one of the key statements set out in the Feasibility Study should be taken into account, being that *"As a general conclusion in terms of feasibility of the indicators, it is however clear that trying to collect data for each indicator in one single evaluation study is virtually impossible. Even for the "priority 1" (sub-) judgment indicators attempting to collect data for all indicators (being more than 400) is deemed not feasible. DG TAXUD will therefore need to further limit the (sub-) evaluation questions and/or (sub-) judgment criteria that need to be considered for the evaluation study."*<sup>3</sup>

Although this has been a key starting point, no further limitation has been performed and data has been collected for each "priority 1" (sub-)judgment indicator. While this approach was in place, in a number of cases just one sub-judgment criterion was taken to reach a conclusion on a judgment criterion. As a result, in these cases, only a partial analysis could be done on that judgment criterion rather than that criterion being fully evaluated in depth.

### Data constraints

Group data was not collected from every stakeholder on all judgment criteria and evaluation questions. Each stakeholder group was addressed to provide data on an agreed selection of judgment criteria, in line with the Feasibility Study. For example, the information collected through the questionnaire targeting "other authorities" has had a limited scope and in essence only dealt with the appreciation of the quality of services of customs authorities as provided to other authorities.<sup>4</sup>

Furthermore, not all the data wished for, more specifically quantitative data from Member States, could be requested/obtained because of restricted access rules. This has limited the ability to verify/evaluate the outcome of several criteria in the survey.

This Study reports on the data collected using the various data-gathering techniques, applied in line with the Feasibility Study. It should be noted that all conclusions are based on these data and should not be automatically extrapolated.

As no agreed EU benchmarks with respect to the judgment criteria and evaluation questions were established or are in place, PwC's professional expertise required to be called upon to analyse the collected data, set

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<sup>2</sup> Accepted proposal for services, p. 4.

<sup>3</sup> Deloitte, Final Report, Framework contract DIGIT/R2/PO/2009/027 ABC II, Feasibility study on the evaluation of the state of the EU Customs Union, May 15th, 2012, p. 35.

<sup>4</sup> Deloitte, Final Report, Framework contract DIGIT/R2/PO/2009/027 ABC II, Feasibility study on the evaluation of the state of the EU Customs Union, May 15th, 2012, p. 40.

benchmarks and draw conclusions. Thus, clear benchmarks are defined per evaluation question, which may nevertheless be subject to further refinement.

The collected data is mostly of a high-level nature, which does not allow of analysis beyond the scope of this Evaluation Study, i.e. in a number of cases, facts and results as found can only be reported with a high-level judgment and conclusion (if any). Although questions may be raised as to the background of a certain outcome, the overall information and data in place did not allow of analysis in greater depth.

Therefore, where more in-depth insight is wished for, or a detailed analysis is required upon further fact finding, additional studies with a more specific scope are required and recommended to gain further in-depth understandings. Nevertheless, the overall trends as found are reported in this document. Where insufficient data was available, or data was deemed to be unreliable, this has been clearly indicated and no conclusions drawn.

#### *Time constraints*

Finally, the short timeframe to complete the Study and the scope of the study did not allow an analysis of every possible cross-tabulation of responses. Cross-tabulations were done for the agreed criteria such as company size, old versus new Member States and transport and logistics versus other sectors.

## Executive summary

### 1 Introduction

The mission of the European Commission, in particular the Directorate-General for Taxation and Customs Union ('DG TAXUD'), in the area of the customs policy is to develop, manage and monitor the Customs Union<sup>5</sup>.

The Customs Union is a cornerstone of the European Union and an essential element in the functioning of the Single Market. The Single Market can only function properly with a uniform application of common rules at its external borders. This implies that the 27 customs administrations of the EU must act as though they were one. These common rules go beyond the Customs Union as such - with its common tariff - and extend to all aspects of trade policy, such as preferential trade, health and environmental controls, the common agricultural and fisheries policies, the protection of economic interests by non-tariff instruments and external relations policy measures.

Since the Customs Union was set up in 1968, it has faced an evolving set of challenges, especially since the creation of the Single Market and the adoption of the Safety and Security Amendment to the Community Customs Code.

The demands of growing trade volumes and fierce global competition have put extreme pressure on the Customs Union to better facilitate and encourage the flow of goods across external borders, while at the same time protecting the integrity of the EU market and its societies from the various risks related to the international movement of goods.

The key strategic objectives of the Customs Union are (1) **to protect the EU** and (2) **to support EU competitiveness**. It is the European Commission's responsibility to make sure that EU policy and legislation are uniform (to the greatest extent possible), applied correctly and consistently across the EU's Customs Union. This requires efficient, effective controls as well as close cooperation among the different stakeholders: the customs authorities, other authorities, business and international partners.

It is in this context that DG TAXUD commissioned a study to evaluate the EU Customs Union. PwC was selected by DG TAXUD to perform this study. This study was performed between July 2012 and April 2013 based on desk research, stakeholder surveys (business, customs authorities and other authorities) and in-depth interviews with businesses, customs authorities and different Directorates-General within the European Commission).

#### 1.1 Goal

The objective of this study on the evaluation of the EU Customs Union<sup>6</sup> is to provide a robust, evidence-based evaluation of the Customs Union, in accordance with the scope and methodology identified in the feasibility study on the evaluation of the state of the EU Customs Union<sup>7</sup> (the "feasibility study"), which preceded this study.

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<sup>5</sup> In general terms, a customs union is a type trade block which is composed of a free trade area with a common external tariff.

<sup>6</sup> 'EU Customs Union' refers to the EU customs union and territory as defined in articles 30 *et seq.* of the TFEU, excluding customs unions of the EU with Turkey, Andorra and San Marino.

<sup>7</sup> Deloitte, Final Report, Framework contract DIGIT/R2/PO/2009/027 ABC II, Feasibility study on the evaluation of the state of the EU Customs Union, 15 May 2012.

## 1.2 Scope

The **substantive scope** is set forth in the detailed intervention logic of the feasibility study together with the following evaluation questions:

- 1) To what extent are the core processes of the EU Customs Union **applied uniformly** across the EU?
- 2) Are the core processes of the EU Customs Union **performed efficiently**?
- 3) What have been **the effects/outcome of the major recent policy initiatives** in the field of the EU Customs Union for the Customs Union and its stakeholders?
- 4) What is the **quality of the service** provided by the EU Customs Union to its main stakeholders?
- 5) Has the EU Customs Union achieved its **strategic objectives**?
- 6) How has the EU Customs Union **absorbed the enlargement** of the EU?

The **geographical scope** of the evaluation covers the Customs Union of the EU, encompassing its Member States. Acceding countries, candidate countries and countries with which the EU has a customs union, such as San Marino and Turkey, are excluded. The effects of, relations with and impacts on third countries are also out of the scope.

## 2 To what extent are the core processes of the EU Customs Union applied uniformly across the EU?

For the purpose of this study, uniformity is defined as the application of the customs legislation and the processes based upon said legislation in a homogeneous and unvarying manner across the Customs Union. Differences are allowed in so far as they are in accordance with EU law. In principle, all customs processes<sup>8</sup> related to a given shipment should be the same in each Member State.

The broad conclusion of the study is that the level of uniformity in a majority of customs processes and procedures is not satisfactory. This includes certain processes based upon a common EU legal basis (e.g. valuation, classification).

### The main findings on uniformity based on the analysis of the gathered data:

- Conditions for simplified procedures<sup>9</sup>, the interpretation of provisions on the taxable basis for import duty purposes (the customs value), and the classification of goods differ among Member States.
- The role and level of documentary controls, physical controls, post-clearance controls or combinations thereof still depend to a great extent on national legislation, national policy and instructions within the control framework of specific Member States (within its risk management framework). Similarly, the European Court of Auditors also concluded that major differences in actual controls exist and that these controls were insufficient to secure the interests of the EU.
- Specifically in relation to physical controls, differences arise depending on the control philosophy of Member States and differences in the scope of their controls.
- Businesses repeatedly highlighted the impact of differing interpretations of EU legislation by customs officers and national authorities on the carrying out of documentary and physical controls. A further point made was that customs officers sometimes interpret and handle customs-related mistakes made by business differently.
- Major efforts are being made to unify the EU's risk management and analysis approach focusing mainly on security and safety aspects. Despite these efforts, differences still exist and the further development of a common risk management approach to protecting the financial interests of the EU and its Member States is required. The differences are caused *inter alia* by a focus on investment in national risk analysis systems (instead of in a single EU shared platform) as well by the fact that the implementation of these systems is still at the discretion of Member States.

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<sup>8</sup> Customs processes considered are clearance processes, control processes, data management processes, and authorisation management processes.

<sup>9</sup> According to article 253 CCCIP, simplified procedures encompass incomplete declarations, simplified declarations and declarations under the local clearance procedure.

- There is a clear case of non-uniformity in relation to economic operator processes. One example is the differences in prior audits for AEO status. As this has a clear impact on companies, especially those with operations in several Member States, this is an aspect that needs further attention. The newly published AEO guidelines represent a step towards more uniformity in this respect.

### **The impact on business stakeholders**

The conclusions are generally the same for large companies and SMEs. The only difference between the input of large companies and SMEs with respect to uniformity is that SMEs tend to judge certain aspects (e.g. origin, valuation, classification and controls) less negatively. The more positive evaluation of SMEs with respect to uniformity can be explained by the fact that large companies are more often active in multiple Member States and therefore more affected by the non-uniform application of the rules.

Non-uniformity leads to complaints between Member States about the application of customs legislation and unfair competition. According to business stakeholders, non-uniformity can also have an impact on their cost of doing business, lead times, location choices for activities and customer satisfaction.

### **Advantages of uniformity**

Further harmonisation of the customs processes within the Customs Union will lead to cost savings, thus improving the competitive position of business and the EU as a whole.

### **Creating uniformity based on best practises**

The study clearly demonstrates that there is plenty of scope to improve the uniformity of the application of customs procedures across the EU – a move that would be broadly supported by business stakeholders. It is important to note that stakeholders' support for increasing uniformity hinges on the extension of best practices across the Union as opposed to a 'race to the bottom' in terms of standards and practices. In other words, uniformity is only wished for by the stakeholders if the basis for such uniformity is found in best practices not in taking steps back to reach uniformity at any cost.

## **3 Are the core processes of the EU Customs Union being performed efficiently?**

For the purpose of this study, efficiency is understood to mean speed, simplicity, predictability and cost-effectiveness.

In general, the efficiency of the EU Customs Union is judged positively by the stakeholder groups surveyed.

### **The main findings on efficiency based on the analysis of the gathered data:**

- Looking at factors such as time-efficiency and simplicity, the clearance processes are considered to be efficient. Nevertheless, it transpires that transport and logistics companies are less positive in their evaluation of the efficiency of the Customs Union. Non-efficient clearance processes impact their core business (e.g. transport), which explains why they are more sensitive to issues of efficiency than other companies.
- The positive feedback from business stakeholders is in line with the Logistics Performance Index.<sup>10</sup> The EU as a whole performs relatively efficiently when compared to other countries and regions of the world but performance is not the same across the EU-27.

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<sup>10</sup> The Logistics Performance Index is based on a worldwide survey of operators on the ground (global freight forwarders and express carriers), providing feedback on the logistics-“friendliness” of the countries in which they operate and those with which they trade. The LPI survey was designed and implemented by the World Bank International Trade and Transport Departments, with Finland’s Turku School of Economics (TSE) – <http://data.worldbank.org/data-catalog/logistics-performance-index>.

- Single windows and one-stop shops are not yet widespread across the Customs Union although where they are available, they are evaluated positively by stakeholders.
- The average cost for companies to file a single customs declaration is EUR 35.<sup>11</sup> Costs differ significantly depending on the organisation of the company and how it connects to the customs authorities.
- The application process for AEO status and the certification process itself appear to be relatively efficient. Businesses are generally satisfied with the processes and with the audits carried out by customs authorities. The time-frame to issue AEO certificates is within the legally established limits of 180 calendar days, which is accepted as the appropriate benchmark and judged positively.

### **Still room for improvement**

Despite the generally positive evaluation of efficiency, a number of businesses indicated that they had to deal with a number of other authorities aside from customs during the customs clearance process. This shows that national customs authorities' efforts to coordinate customs clearance processes with other authorities have still some way to go.

### **The impact on large companies and SMEs**

In general, large companies and SMEs voice similar opinions on most of the efficiency aspects analysed. Only with respect to controls do SMEs voice more neutral opinions, which can be explained by the fact that SMEs are less familiar with controls than large companies are.

## **4 What have been the effects/outcome of the major recent policy initiatives in the field of the EU Customs Union for the Customs Union and its stakeholders?**

Based on the gathered data, it can be concluded that the policy measures in scope, i.e. the Safety and Security Amendment, simplified procedures and the e-Customs Initiative, have had an overall positive effect on customs processes and procedures from the viewpoint of both business and authorities. Nevertheless, two aspects of the safety and security measures were nonetheless singled out as being less positive.

### **The main findings and conclusions were as follows:**

- The Safety and Security Amendment<sup>12</sup> has led to the creation of an EU database where the registration numbers of all economic operators carrying out activities subject to customs legislation can be consulted; it has also led to the introduction of uniform risk-selection criteria for controls, supported by computerised systems, which has improved the safety and security of the EU and its citizens.

#### **Issues**

The information gathered from business stakeholders reveals a negative evaluation of two specific aspects:

- AEO-certified companies expected greater facilitation and more benefits (see also section 5), and
- common risk-selection criteria are not applied uniformly.

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<sup>11</sup> European Commission, Commission Staff Working Document, Annex to the Proposal for a regulation of the European Parliament and of the Council laying down the Community customs code and to the Proposal for a decision of the European Parliament and of the Council implementing a paperless environment for customs and trade, Impact Assessment, COM(2005) 608 final/COM(2005) 609 final, Brussels, 30/11/2005, SEC(2005) 1543.

<sup>12</sup> [http://ec.europa.eu/ecip/security\\_amendment/index\\_en.html](http://ec.europa.eu/ecip/security_amendment/index_en.html).



- As regards the effects of simplified procedures, businesses are generally satisfied with the time savings gained in the customs clearance processes by making use of incomplete declarations, simplified declarations and local clearance procedures. Simplified procedures result not only in a reduction in time spent, but also in financial savings. No significant differences were identified between the opinions of large companies and SMEs.
- The majority of businesses and customs authorities are of the opinion that the e-Customs Initiative<sup>13</sup> has led to more-streamlined, simplified processes and working procedures. Furthermore, almost all declarations are filed electronically (normal procedures: 86% for import and 98% for export; simplified procedures: 99% for import and export). Large companies are somewhat more satisfied with the positive effects. As to a common IT system, for some Member States this idea is considered a step too far as it means that Member States need to transfer their power to implement to the EU level. The e-Customs Initiative has made it possible to speed up customs clearance processes.

## **5 What is the quality of the service provided by the EU Customs Union to its main stakeholders?**

Based on the analysis and evaluation of the quality of service within the Customs Union, it can be concluded that the level of quality of services is high. The businesses showed satisfaction with almost all aspects, including:

- the involvement of stakeholders in decision-making;
- the level of customer-orientation of customs authorities' services;
- additional customs services for AEO-status companies;
- the existence and quality of paperless customs services, and
- the competences and skills of customs officials.

This is supported by the following individual findings.

### **Communication and customer-orientation**

National customs authorities are very satisfied with the way in which legislative changes are communicated by the European Commission to the Member States. Other authorities also express a high level of satisfaction with the way legislative changes are communicated by national customs authorities.

Despite the positive feedback overall, one stakeholder group, business – and in particular, large companies, were somewhat less satisfied with their involvement in decision and rule-making, as national customs authorities do not (and cannot) always take their views into account. This criticism contrasts with the fact that, in 25 of the 27 Member States, national customs authorities formally consult with local stakeholders and, in most Member States, stakeholder platforms exist through which national customs authorities communicate with relevant stakeholders.

The overall conclusion is that Customs work in a very customer-oriented way. Positive feedback was gathered from business stakeholders and other authorities on topics such as opening hours, availability, provision of information and communication. Nevertheless, SMEs appear to have a harder time getting in touch with the right person at customs authorities than large companies do. The feedback by the transport and logistics sector also adds a caveat to the generally positive feedback. These stakeholders were less positive when it came to evaluating the opening hours of national customs offices and getting in contact with the right person.

The other authorities surveyed are very satisfied with the quality of communication by national customs authorities on all aspects surveyed (customer-orientation, reliability of information, accuracy of communication and timeliness of communication). They are also highly satisfied with the reliability, speed and availability of their electronic communications with national customs authorities.

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<sup>13</sup> [http://ec.europa.eu/taxation\\_customs/customs/policy\\_issues/e-customs\\_initiative/index\\_en.htm](http://ec.europa.eu/taxation_customs/customs/policy_issues/e-customs_initiative/index_en.htm).

### **Additional services for companies with AEO status**

Only a limited range of additional services are offered by national customs authorities to companies with AEO status. Although a majority of business stakeholders with AEO status appreciate these extra services, the benefits experienced are perceived to be limited in practice. Some companies go further in their criticism and describe that they feel targeted by customs authorities and subject to an increased level of controls. To put this into perspective, the Commission stressed that the AEO status, contrary to the expectation and perception of business, was not created to improve quality of service or facilitate trade. Moreover, the Commission point out that the AEO status has an added value for companies, as it provides them with a 'quality approved' status.

### **Customs IT systems**

Overall, the levels of satisfaction with the performance of customs' IT systems and the existence of full electronic declarations are good. The highest level of dissatisfaction relates to the availability of help and assistance when technical issues arise, and the availability and robustness of IT environments in terms of downtime and access.

### **Knowledge and integrity**

Customs officials themselves are proud of their profession, and feel that they are knowledgeable and have the right skills set to do their job. Overall, business and other authorities agree that customs officials in their country are knowledgeable of customs legislation. Nevertheless, businesses also noted the lack of experience of customs officers when dealing with issues going beyond standard procedures. The overall positive evaluation is rather surprising as the differences in interpretation by customs officials is one of the main reasons of non-uniformity indicated by business stakeholders.

A majority of the other authorities surveyed find that national customs authorities have sufficient knowledge of the applicable legislation and procedures relevant to their activities in the respective domains of the other authorities surveyed. However, results from the desk research show that there is a need to create a more uniform training programme to align levels of knowledge of customs officials within the EU.

Although the integrity of customs officials is perceived to be high, examples were given in interviews illustrating that there clearly are exceptions (e.g. bribery of customs officials is reported by multiple business stakeholders related to one specific Member State).

## **6 Has the EU Customs Union achieved its strategic objectives?**

The key strategic objectives of the EU Customs Union are (1) to protect the EU and (2) to support the EU's competitiveness. These objectives can only be met by applying efficient, effective controls, and by close consultation among customs authorities, other administrations, with businesses and with international partners.

As only little relevant information is available or could be granted access to, no decisive answer can be formulated on this evaluation question. Furthermore, the lack of benchmarks makes replying to this question impossible. Nevertheless, based on the collected information, the overall impression is that the Customs Union is effective in general terms, although more in 'traditional' areas than safety and security.

### **Unintended effects**

Only a few unintended effects are reported. The most cited unintended consequence is 'customs shopping': the fact that some operators seek to import goods into the Member State where controls are least stringent or interpretation of the legislation is different. This aspect clearly relates to the uniformity aspect and depending on the scale of this phenomenon, could lead to distortion and/or unfair competition within the Customs Union, and so it is a point needing attention.

## 7 How has the EU Customs Union absorbed the enlargement of the EU?

The question of enlargement was addressed across the study. The analysis of the data shows that the Customs Union has indeed successfully absorbed the enlargement of the European Union. Notwithstanding this positive evaluation, for some areas certain issues remain, which are reported below. No separate analysis was performed for large companies and SMEs on this evaluation question.

### Uniformity

As mentioned earlier in this report, the Customs Union is not operating in a completely uniform manner across the EU. However, based on the surveys, there is no evidence of major systematic differences between the old and new Member States. Where differences are identified, the in-depth interviews indicate that they can be attributed to a habitual *modus operandi* (new Member States sometimes stick to their old working methods) or the use of a different infrastructure (new Member States are more likely to operate new IT systems).

### Efficiency

Overall, business stakeholders are more satisfied with the efficiency of customs processes in the new Member States than with those in the old Member States. This is especially the case for customs clearance and control processes. However, this positive perception is contradicted by the Logistics Performance Index,<sup>14</sup> where most new Member States rank considerably lower than the old Member States.

With regard to authorisation management processes, business stakeholders are more satisfied with the time it takes in old Member States than in new Member States. This is likely to be a result of greater accumulated experience in the old Member States than in the new Member States.

### Recent policy initiatives

As to recent policy initiatives, businesses from new Member States confirm that savings have been generated for businesses in terms of time spent on the administrative requirements when applying simplified procedures compared to non-simplified procedures. Somewhat fewer businesses from old Member States are convinced that savings have been generated by simplified procedures.

Considerably more businesses from new Member States do not believe that having an AEO certificate has made life easier in terms of time reduction and cost savings. The e-Customs Initiative, on the other hand, is much better received in the new than the old Member States. This is reflected in the opinions of both business stakeholders and customs authorities.

### Quality of service

Overall, the quality of service delivered by customs authorities is considered to be high. Businesses in new Member States are slightly more satisfied with the quality of service provided by their national customs authorities.

### Strategic objectives

As regards the extent to which the Customs Union's strategic objectives have been met in both the old and new Member States, no differences have been found.

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<sup>14</sup> The Logistics Performance Index is based on a worldwide survey of operators on the ground (global freight forwarders and express carriers), providing feedback on the logistics-“friendliness” of the countries in which they operate and those with which they trade. The LPI survey was designed and implemented by the World Bank International Trade and Transport Departments, with Finland's Turku School of Economics (TSE) – <http://data.worldbank.org/data-catalog/logistics-performance-index>.

## **8 Overall conclusions and recommendations**

### **8.1 Overall conclusions**

The study looks at the Customs Union from a very broad perspective. Despite certain limitations linked to time constraints and scope, the study nonetheless gives valuable insight into the state of the EU Customs Union. These insights and recommendations are a basis for actions to be taken in view of further levelling up the functioning of the Customs Union.

#### **Different stakeholders come to similar conclusions**

The opinions of SMEs and large companies are very comparable for most of the judgment criteria. Where small differences are identified, these are generally due to larger companies tending to be slightly more negative in their evaluations. This is explained by their greater experience with and exposure to the customs-related matters surveyed and the wider spread of their operations.

#### **Positive result but further work to be done on uniformity**

Globally speaking, the conclusions are positive. The Customs Union performs very well on aspects such as efficiency and quality of services. Simplified procedures and the e-Customs Initiative have contributed to the competitiveness of businesses in the EU.

Despite this positive overall result, there still exists room for improvement in a number of areas. The most important area for improvement that emerges from the study is the question of uniformity.

#### **The impact of uniformity on the EU Customs Union**

The broad scope of the study addressed a number of different issues but uniformity in particular stood out as a transversal issue affecting the working of the customs union. The feedback from the evaluation questionnaire as well as the findings of the desk-top research support this: examples range from the application of simplified procedures and controls thereof to IT-system differences between Member States as well as the efficiency of clearance procedures.

That uniformity within the EU Customs Union is still a work in progress should come as no surprise given the Union's legal basis. The 1993 framework sets common standards while at the same time allowing room for the adoption of local processes and procedures in different areas, such as controls (administrative vs. physical controls) and the use of IT systems for customs clearance. In addition, there are other areas that are not governed by the EU framework legislation (e.g. customs authority organisation, broader tasks of Customs, penalties). The fact that these areas depend on individual Member State policies for their implementation logically leads to a heterogeneous picture emerging across the Customs Union.

#### **Desired levels of uniformity**

The question then is whether this is a fundamental issue and to what extent further steps towards uniformity are called for. The question marks surrounding uniformity are best exemplified by examining customs clearance processes. Business stakeholders were broadly in favour of increasing uniformity but only where this homogenisation would be based on the extension of best practice across the Union as opposed to a 'race to the bottom' in terms of standards and practices. Faced with the prospect of the latter, businesses would favour the status quo. A further question mark regarding uniformity relates to the possibility of the customs system falling victim to its own success: The uniform application without implementing best practices could lead to serious administrative and logistic congestion problems.

#### **Uniformity vs. efficiency**

As mentioned, the question of applying best practice uniformly touches on the issue of efficiency, showing how different aspects of the study are interlinked. Recent discussions on the development of the new legislative framework for the EU (MCC/UCC) have shown that it is not easy to strike a balance between uniformity and

efficiency. Not all Member States are willing or able to adopt best practice and would rather opt for “old” document-driven procedures. Similarly, the discussion on IT solutions for Customs in the EU further shows the tension that exists at the authority level between promoting efficiency and best practice and uniformity in the EU.

### **The legal basis of uniformity**

Although, in certain areas, uniformity has to be assessed against the specific nature of the legal framework, the autonomy of Member States and the extent to which uniformity can be created are fundamental (the EU Customs Union has a very broad impact and touches on many different aspects that cannot always be aligned). There exists an unequivocal need for improvement in areas where there is a common legal basis that leaves little or no room for local differences. This is true for areas such as classification, valuation and origin, where despite of the strict common legal basis a relatively high degree of non-uniformity was found to exist regardless of the common legal basis.

Some of the disputes between Member States (e.g. unfair competition) relate to these same aspects. Here, action is required to secure more uniform application of the EU Tariff and Customs Code throughout the Customs Union with an eye to securing a level playing field for businesses across Member States.

### **Risk management and e-customs**

Aside from exploring uniformity and efficiency, the study also shows that more recent initiatives in the area of risk management and e-Customs have been successful. It is generally felt that the initiatives have had a positive impact on customs processes. Despite these positive conclusions, business stakeholders remain somewhat sceptical as to the benefits of AEO status. The EU Commission would argue that AEO system is functioning as it was envisaged. Further, what is clear is that simplified procedures are a cornerstone of the Customs Union, having a particular impact on efficiency.

### **Enlargement**

On enlargement, the study clearly shows that the new Member States have properly integrated into the EU Customs Union. Furthermore, the surveys reveal that companies operating in the new Member States are relatively more satisfied with the functioning of the Customs Union than companies operating in the old Member States. This is a somewhat surprising finding, which is not corroborated by any available data or desk research (e.g. trade and logistics performance indexes).

## **8.2 Main overall recommendations**

The main recommendations are categorised under two headings, i.e. uniformity and efficiency, without prejudice to recommendations on other areas.

### **8.2.1 Uniformity**

While the conclusions of this report have outlined that complete uniformity is neither feasible, given the existing legal framework, nor wished for in each and every area of customs unless best practises are taken into account, action can still be taken. Given the current legal framework, the main area where increased uniformity would be of benefit is in the interpretation and application of the EU Tariff and Customs Code in terms of the calculation of import duties such as the classification of goods and customs valuation. More EU guidance for Member States will improve the uniformity of customs clearance processes. Note however that the adoption of more restrictive measures if the only reason is to find common ground (i.e. uniformity that is not driven by the extension of best practice) should be avoided.

The EU should also move towards the use of more uniform IT systems and processes which should be incorporated into the development and implementation of the UCC. Harmonising the informational technology treatment of customs matters would increase efficiency and reduce costs for stakeholders. New technology and developments such as cloud computing and commercially available, off-the-shelf software should be considered.

### **8.2.1.1 Monitoring uniformity**

In addition to the more obvious tools for ensuring uniformity, like guidelines, training and more direct binding legislation (giving less freedom in application), another suggestion is to improve the monitoring of how legislation is applied. Existing monitoring programmes on the application of legislation can be strengthened or, better still, the Measurement of Results programme could be extended to also cover the application of legislation. At the same time, the monitoring programme should be linked to other, existing monitoring programmes (for other legislation). In this manner, monitoring programmes can be used more efficiently to check that all customs processes are performed uniformly among the Member States and appropriate action can be taken in cases of non-uniformity.

The monitoring programme should also allow comparisons to be made between Member States and best-practice processes to be identified. On this basis, improvements in other key elements of the Customs Union could be achieved, as the application of best practice across Member States would contribute to the enhancement of the overall efficiency of the Customs Union and improve the quality of services rendered by customs authorities.

### **8.2.1.2 Data management procedures**

Several actions can be taken in order to improve the uniformity of data management processes, including:

- further integrating the national customs authorities' IT systems;
- developing new working methods and monitoring European Binding Tariff Information (ETBI) so that BTIs are only rendered at EU level in future;
- avoiding business stakeholders having to provide the same information more than once; and
- fostering the exchange of best practices between customs authorities through field visits, training sessions and experience-sharing sessions.

Such recommended actions should be included in and aligned with an integrated implementation plan as referred to in the DG TAXUD Management Plan 2013. Besides positive effects on uniformity, such actions would also increase the quality of services, another key element of the Customs Union.

## **8.2.2 Efficiency**

In addition to the positive efficiency effects that could result from the above action on uniformity, efficiency and cost-effectiveness could be further improved by:

- increasing the exchange of electronic data (e.g. exchange of data between the customs authorities as well as with the other authorities, the use of web applications and new technologies, harmonisation of the technical specifications to connect the IT systems of national customs authorities, and introduction of quality certificates). This also would have a positive effect on risk-management and the battle against fraud (see also 8.2.3.);
- making the processes simpler (e.g. by reducing the number of documents required);
- promoting and coordinating the use of single windows and one-stop shop solutions;
- using the UCC to create a more efficient and solid basis for SASP (SEA), and
- aiming at further alignment with best-in-class documentary and physical controls (this would also have a positive effect on risk-management and the battle against fraud).

It is recommended that the efficiency of Member States in implementing the core principles of the EU Customs Union be measured, evaluated and improved through the development of common performance indicators (EU-level KPIs).

One important KPI should result from a systematic evaluation of the actual collection of import duties in each Member State. This will allow a benchmark to be established among the Member States.

These indicators and evaluation methodology could result in increased, cost-efficient collection of duties, improved uniformity, and better overall performance of the EU.

Further development of a common approach to risk management and a related control methodology will ensure better-targeted controls covering financial and non-financial aspects. Border controls requested by customs and other authorities should be executed jointly by applying the one-stop-shop concept.

Controls on simplified procedures, which are a cornerstone of the customs process within the Customs Union, could be performed more uniformly, with greater efficiency and also more effectively (reports by the Court of Auditors having revealed inconsistencies and even deficiencies). Thus, such controls would not only raise the efficiency level of the Customs Union but would also have a positive effect on uniformity.

### *8.2.3 Other recommendations*

Three other recommendations stand out:

- To improve the quality of services and the efficiency of new measures in the Customs Union, consultation with business stakeholders should be improved. At present, the overall feeling among business stakeholders is that their views are not sufficiently taken into account as regards legislative changes and new policy initiatives. Such an improvement will not only require better consultation between authorities and businesses, but also asks for improved communication within stakeholder groups (e.g. among the different business stakeholders). Doing so would ensure wider support and buy-in and could facilitate the adoption and implementation process.
- Develop a further integrated, coordinated approach across the EU and across authorities to fight illegal trade, tax evasion and fraud. This would include integrated training and interlinking the IT systems of customs and other authorities.
- Align the level of knowledge of customs officials within the EU through the use of uniform training programmes.

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## 1 Introduction

### 1.1 Background

The mission of the European Commission, in particular Directorate-General for Taxation and Customs Union ('DG TAXUD'), in the area of the customs policy is to develop, manage and monitor the Customs Union. As explained in the Communication on the State of the Customs Union from the European Commission<sup>15</sup> the Customs Union already has a long history. *"The Customs Union abolished in 1968 customs duties at national borders and put in place a uniform system for taxing imports from outside the EEC. The initial creation of the common customs tariff and of common rules on origin and customs valuation was eventually complemented by regulations and directives, on various areas of customs legislation such as customs procedures, customs formalities and controls as well as customs debt and guarantees. The most significant change, in the context of the establishment of the Single Market in 1993 and the removal of internal borders for goods, was the codification of this constellation of legislation in a single, directly applicable legal basis, i.e. the Community Customs Code (CCC). Although the public perceived the onset of a borderless Europe as the disappearance of Customs, it in fact underlined the importance of effective customs supervision at the common external border. The centrepieces of the Customs Union since 1993 have then been the comprehensive and directly applicable Community Customs Code and Common Customs Tariff, and their successive amendments. Furthermore, a series of topical legal instruments including regulations on intellectual property rights (IPR) enforcement, drug precursors, cultural goods, cash controls, market surveillance or pieces of legislation aiming at protecting citizens and the environment provide a substantial and directly applicable legal basis for enforcement of rules in those fields by customs in the EU."*

The demands of growing trade volumes and fierce global competition have put extreme pressure on the Customs Union to deliver smoother and more facilitated flows of goods across the external border, while at the same time protecting the integrity of the EU market and its societies from various risks related to international supply chains and goods flows.

The key strategic objectives of the Customs Union are (1) **to protect the EU** and (2) **to support EU competitiveness**. These objectives will be fulfilled by applying efficient, effective control, and close cooperation among customs administrations, with other administrations, with business and with international partners.

The Communication on the State of the Customs Union from the European Commission<sup>16</sup> further states that *"international cooperation is a key strategic element of EU customs policy. Multilaterally, for example in the context of the World Customs Organisation and the World Trade Organization, the EU promotes the development and implementation of international standards, notably in the area of security, trade facilitation and customs simplification. Bilaterally, the EU aim has been to work actively with the main trading partners to address the customs related challenges, for example on trade facilitation, rules of origin, IPR enforcement, supply chain security and the fight against fraud."*

*In providing these services, EU customs handle 17% of world trade, over 2 billion tonnes of goods a year<sup>17</sup> with a value of 3300 billion EUR. Between 2004 and 2010, despite the impact of the financial crisis, the value of EU external trade has grown by almost 50%<sup>18</sup>. The EU is at the centre of global trade and supply chain logistics, and is the number one trading partner for the United States, China and Russia. More than 90% (8.4 billion tons of merchandise) of trade is carried by sea, of which more than 20% is unloaded in Europe. The EU has over 250 international airports. The eastern land border runs to almost 10,000 km with 133 commercial road and rail entry points. Taking into account the entire EU external border (land, air, sea) there are in total more than 1.000 customs offices of entry.*

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<sup>15</sup> Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee on the State of the Customs Union – Brussels, 21/12/2012.

<sup>16</sup> Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee on the State of the Customs Union – Brussels, 21/12/2012.

<sup>17</sup> EU webpage – customs policy area: [http://europa.eu/pol/cust/index\\_en.htm](http://europa.eu/pol/cust/index_en.htm).

<sup>18</sup> External and intra EU trade, A statistical yearbook, data 1958-2010, p. 16.

*In 2011, EU customs processed 36 million pre-arrival cargo declarations, 140 million import declarations, 96 million export declarations and 9 million transit declarations. These figures represent an average of 8.9 declarations per second handled by the Member States' customs administrations. They made available around 16.6 billion EUR to the EU budget, i.e. approximately 13% of the EU budget.”<sup>19</sup>*

It is the European Commission's responsibility to ensure that EU policy and legislation are not only applied correctly, but that this is done uniformly across the EU.

## 1.2 Subject and purpose

It is in this context that DG TAXUD has commissioned a study to evaluate the EU Customs Union. PricewaterhouseCoopers ('PwC') was selected by DG TAXUD to perform this study in line with the scope and methodology identified in the Feasibility Study on the evaluation of the state of the EU Customs Union (the "Feasibility Study" – see annex 1).<sup>20</sup>

The objective of this study on the evaluation of the Customs Union is to collect and/or collate data that is relevant and up to date and to carry out an analysis to evaluate the Customs Union in line with the scope, evaluation questions (see below) and methodology described in detail in sections 3 and 4 of the Feasibility Study in order to provide a robust, evidence-based evaluation of the Customs Union.

## 1.3 Scope of the study

The scope is to collect and ensure the quality of the data/information, carry out analysis and validation of the findings and provide evidence-based judgments and conclusions and, where appropriate, recommendations. The scope does not include dissemination and exploitation of results and follow-up action.

The **substantive scope** is provided in the detailed intervention logic of the Feasibility Study together with the following evaluation questions:

- 1) To what extent are the core processes of the EU Customs Union **applied uniformly** across the EU?
- 2) Are the core processes of the EU Customs Union being **performed efficiently**?
- 3) What have been **the effects/outcome of the major recent policy initiatives** in the field of the EU Customs Union for the Customs Union and its stakeholders?
- 4) What is the **quality of the service** provided by the EU Customs Union to its main stakeholders?
- 5) Has the EU Customs Union achieved its **strategic objectives**? (Has it generated its intended effects? To what extent has the EU Customs Union in particular contributed to these effects? Are there any unintended effects and how significant are they?)
- 6) How has the EU Customs Union **absorbed the enlargement** of the EU?

The **geographical scope** of the evaluation covers the Customs Union of the EU, encompassing its Member States but excluding, explicitly, acceding countries, candidate countries and countries with which the EU has a Customs Union, such as San Marino and Turkey. Nor will the scope include effects of, relations with or impacts on third countries.

Based upon the purpose of the study and taking into account the above overall scope, PwC has defined the methodology described in annex 2 together with the core team of DG TAXUD. Moreover, the Steering Committee of the European Commission has provided PwC with input on various occasions during the (data-

<sup>19</sup> Budget 2011 in figures: [http://ec.europa.eu/budget/figures/2011/2011\\_en.cfm](http://ec.europa.eu/budget/figures/2011/2011_en.cfm).

<sup>20</sup> Feasibility Study on the evaluation of the state of the EU Customs Union, Framework contract DIGIT/R2/PO/2009/027 ABC II.

gathering) process (i.e. consultation/validation of the survey questions as reviewed in the expert workshop, the interim report and the selected case studies). The Study is structured in line with the below figure.

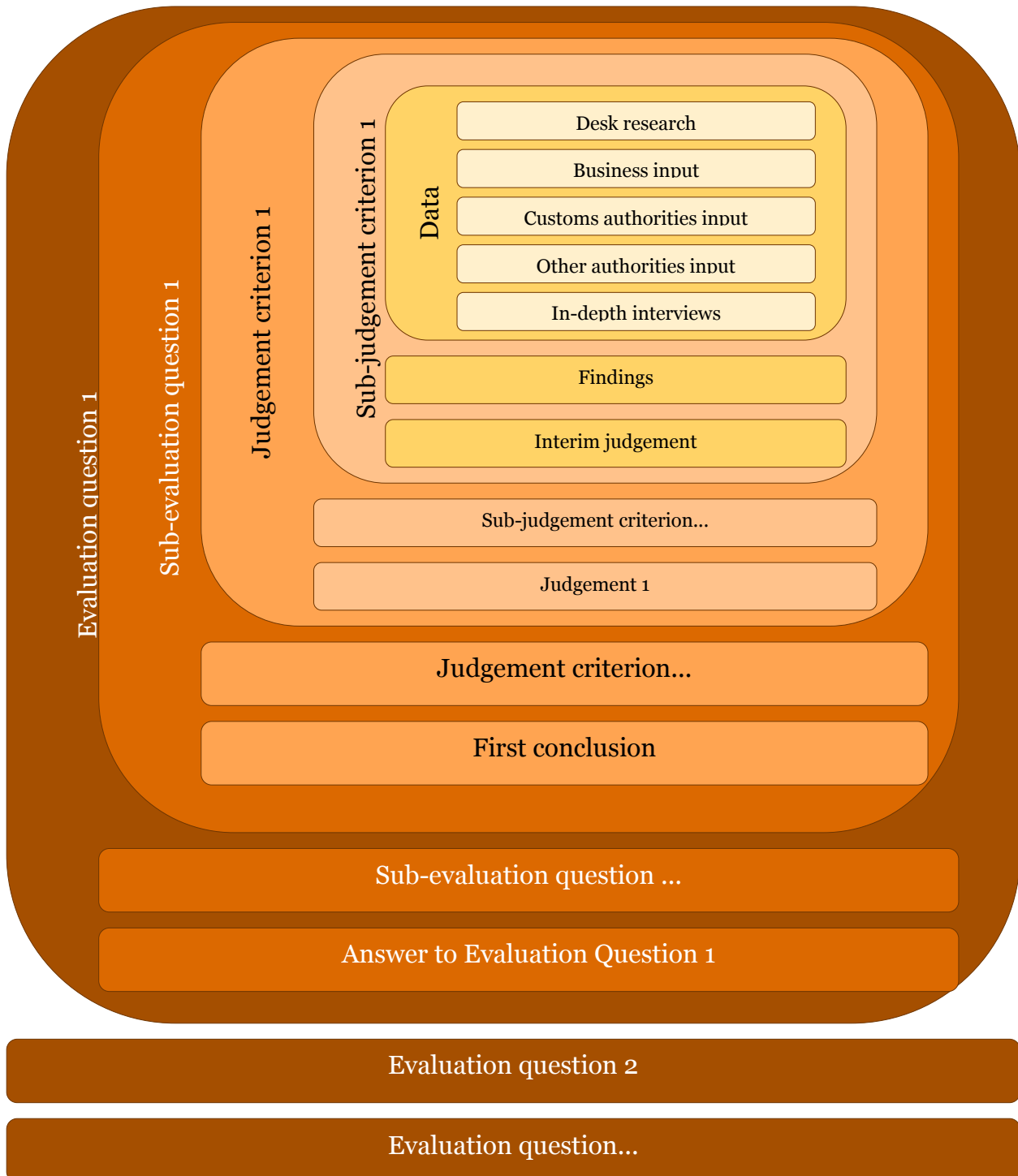


Figure 1 – Structure of the study



**Reader guidelines**

For every (sub-)judgment criterion, available and relevant data from desk research, businesses, customs authorities, other authorities and in-depth interviews is presented. The ‘data’ section is fairly detailed, to improve the transparency of the report. The reader can easily skip the ‘data’ sections and jump direct to the findings, in which the different data sources are triangulated with one another and the main findings from the total data sources are presented. Based on the findings from the available data and our own expert opinion/experience, an interim judgement is formulated.

Please note that, for the extended web-based survey, a high number of ‘don’t know’ replies was observed. This can be explained by the fact that respondents to this survey were asked to provide their opinion for all Member States where they have customs activities. Detailed information might not be directly available for every single Member State, increasing the number of ‘don’t know’ replies.

## **2 Uniformity**

This chapter analyses to what extent the core processes of the Customs Union are applied uniformly across the Customs Union and identifies the main reasons for differences resulting in non-uniformity. Where possible, consequences of non-uniformity are also listed.

For the purpose of this study, uniformity is defined as a state or condition in which the application of customs legislation is homogeneous and unvarying across the Customs Union. Differences are allowed in so far as in accordance with EU legislation. In principle, the treatment of a shipment with respect to all customs-related processes should be the same regardless of the Member State involved.

When evaluating uniformity, the following items are considered:

1. clearance processes,
2. control processes,
3. risk management processes,
4. data management processes and
5. economic operator processes.

Data on uniformity was extracted from desk research, the extended web-based survey, the targeted business survey, the targeted customs authority survey and in-depth interviews. Stakeholders were asked to assess statements regarding the uniformity of the different items mentioned above. As uniformity in the application of customs processes is considered to be an important criterion to ensure a level playing field within the Customs Union, the (sub-)judgment criteria should be evaluated thoroughly. If 10% or more of the stakeholders assess a certain statement as being non-uniform, it is concluded that the Customs Union is not uniform in regards the area assessed in the statement. In principle, uniformity indicates that all core processes are performed in a 100% uniform fashion. This is the reason for the relatively small margin (10%) used to assess uniformity.

Data was not obtained on every sub-judgment criterion from every stakeholder group or data source. Different reasons can be given for this, including: a lack of reliable information in the desk research on each sub-judgment criterion, no specific questions included in the surveys and a lack of knowledge on the sub-judgment criterion by the stakeholder group.

For sake of transparency and completeness, data sources used/not used are presented in a table for each (sub-)judgment criterion.

Please note that numbers may not add up to 100% due to rounding.

### **2.1 To what extent are the clearance processes applied uniformly across the Customs Union? What are the main reasons for differences in application of the clearance processes or for non-uniformity? How significant are the consequences of the differences in application of these processes as identified?**

Clearance processes cover the carrying-out of formalities, the performance of controls and the application of measures pertaining to goods brought into or taken out of or transiting through the Union. It includes pre-arrival/pre-departure declarations, where required, formalities and controls in relation to the entry/exit of goods and the placement of goods under a customs procedure or in a free zone.

First of all, the processing of pre-arrival/departure notifications and of customs declarations is considered. Second, the calculation and collection of customs duties and other taxes/levies is evaluated. Finally, the consequences and reasons for detected non-uniformity are assessed.

## 2.1.1 Uniformity of clearance processes – General data

Before reviewing the individual judgment criteria and sub-judgment criteria as listed in the Feasibility Study (see annex 1), more general data on the uniformity of clearance processes is presented.

### 2.1.1.1 Data

Data sources				
Desk research	Business	Customs authorities	Other authorities	In-depth interviews
✓	✓	X	X	✓

**Desk research.** In the self-assessment study<sup>21</sup> it is stated that “it is crucial to understand that the national legal frameworks are a formidable source of diversity across the Member States in operational priorities, in implementing customs processes and their supporting IT systems. This diversity, which has never been fully examined or documented, limits the scope of IT reuse and sharing across Member States.”

It is furthermore stated that “for the clearance process, EU guidelines exist for most aspects, and EU tools and databases have been established to support the provision of data for this process. There are no EU helpdesks to support this process, however.”

In the self-assessment report, some weaknesses and strengths are identified with regard to the uniformity of the Customs Union.

One of the weaknesses identified is that “the organisational structure is characterised by 27+1 organisations.” In the self-assessment report it is stated “that virtually all interviewees emphasised that the organisational set-up of the Customs Union, composed of 27 national customs authorities and the European Commission, does not always facilitate implementation of common rules and working practices across the Customs Union. In addition, not all national customs authorities deal with the same activities (e.g. some deal with tax collection, whereas others do not), nor do they all have the same powers (e.g. of investigation), which does not facilitate achieving ‘uniformity’, either.”

Another weakness stated in the report is “the absence of performance indicators. Currently there are no performance indicators that allow for an objective measurement of the uniformity of any kind of customs task. There is no objective and measurable basis to judge which processes are working well and which are not. The Customs Policy Group (CPG) survey indicated that 19 participants agree that there is a lack of performance indicators to measure the impact of customs activities on uniformity, while seven respondents did not see this as a weakness.”<sup>22</sup>

Finally, “the existence of 27 different national declaration processing systems and “Single Windows” is also mentioned in the report as a weakness. Member States currently apply the concept of a single window for economic operators to interact with various national authorities. This means, in practice, that economic operators active in multiple Member States face multiple “Single Windows”. It was found therefore that there should be more focus on creating a “European Single Window”. However, this would require significant progress in harmonising the customs processes in the Union as identified during the SEAP project.”

One of the strengths concerns Business Process Modelling. It is stated in the report that “the various initiatives and work performed on Business Process Modelling by both Member States and the Commission will contribute to harmonising customs processes.”

<sup>21</sup> Final report on Task 2.2 – Strengths and weaknesses of the current organisation model and Final report on Task 2.3 – Options for improvement of the functioning of the Customs Union (TAXUD/R3/VDL D(2010) 433216) – 24/05/2011.

<sup>22</sup> In total, 26 respondents answered this question.

**Business.** Individual companies were asked to provide their perception of the uniformity of clearance processes among Member States in the extended web-based survey and the targeted business questionnaire.

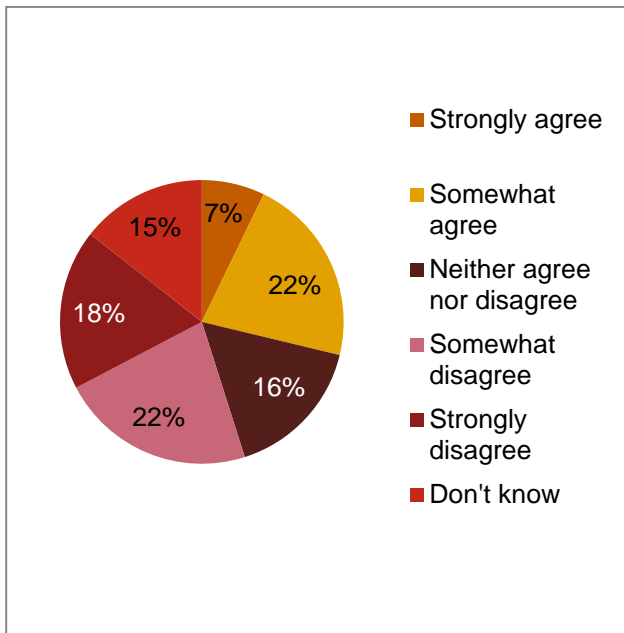


Figure 2 (left) – Extended web-based survey (question 29) – Is customs clearance applied uniformly among the Member States where my company is involved in activities covered by customs legislation?

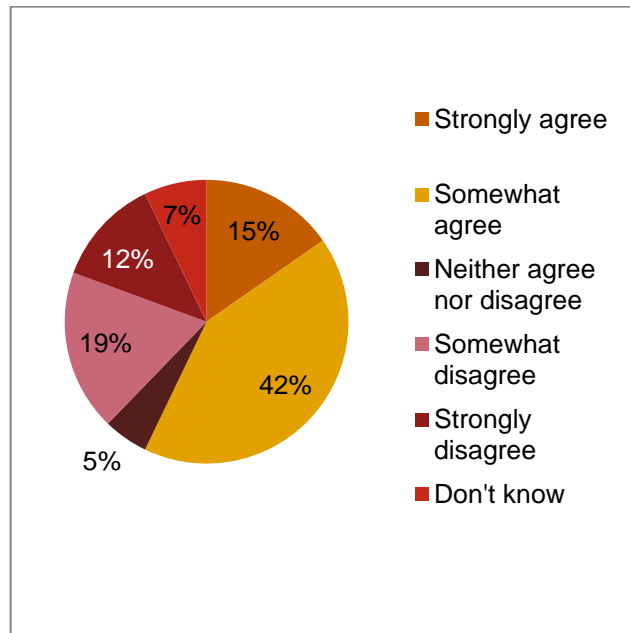


Figure 3 (right) – Targeted business survey (question 10) – Is customs clearance applied uniformly across the different Member States?

For the extended web-based survey, 40% of the businesses indicated that uniformity does not exist (22% somewhat disagreed with the statement while 18% strongly disagreed), while 29% indicated that uniformity exists (22% somewhat agreed with the statement while 7% strongly agree). The other 31% either did not know or were undecided. For the targeted business survey, 31% of the businesses indicated that uniformity does not exist (19% somewhat disagreed with the statement while 12% strongly disagreed), while 57% of the businesses indicated that uniformity exists (42% somewhat agreed with the statement while 15% strongly agreed). The other 12% either did not know or were undecided.

Forty per cent of large businesses that completed the extended web-based survey disagreed (25% somewhat disagreed and 15% strongly disagreed) and 26% of large businesses agreed (20% somewhat agreed and 6% strongly agreed) with the statement that customs clearance is applied uniformly among the Member States. For SMEs, 41% of the respondents disagreed (15% somewhat disagreed and 26% strongly disagreed) and 35% of the respondents agreed (26% somewhat agreed while 9% strongly agreed). Thirty-four per cent of large businesses could not answer the statement (16% did not know) or were undecided (18% neither agreed nor disagreed) compared with 24% of the SMEs (11% did not know and 13% neither agreed nor disagreed).

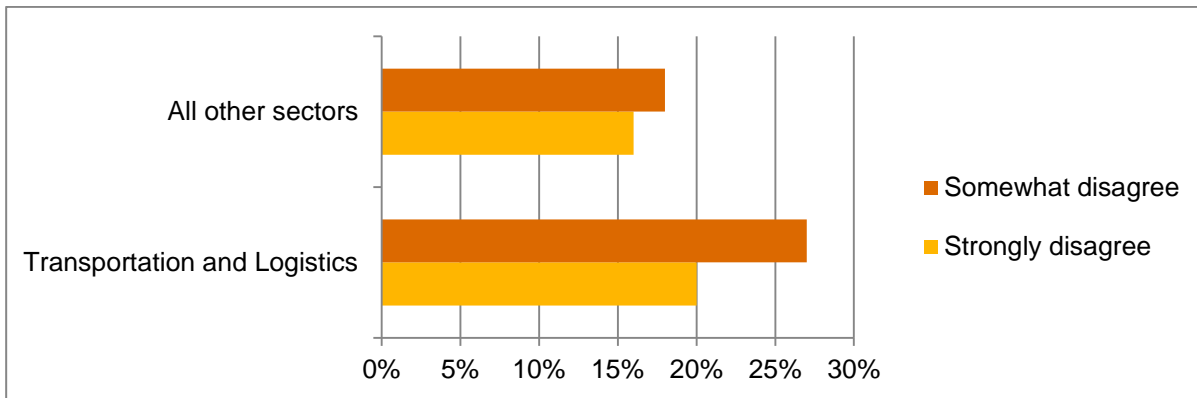


Figure 4 – Extended web-based survey (question 29 – Sector) – Is customs clearance applied uniformly among the Member States where my company is involved in activities covered by customs legislation?

The extended web-based survey indicates that 47% of companies in the transport and logistics sector disagree (27% somewhat disagree and 20% strongly disagree) with the statement that customs clearance is applied uniformly among the Member States, compared with 34% of the companies in other sectors (18% somewhat disagree and 16% strongly disagree). Only 24% of companies in transport and logistics sector agree with the statement (17% somewhat agree and 7% strongly agree) whereas 33% of companies in other sectors agree with the statement (26% somewhat agree while 7% strongly agree). Of the transport and logistics sector, 13% of the respondents indicated ‘don’t know’, while the same applied for 16% of the other sectors.

Most examples of non-uniformity that are given by business stakeholders refer to differences in IT support systems, import VAT clearance and specific customs procedures.

**In-depth interviews.** In the course of these interviews, further to the basic input on the judgment criterion, the following input was acquired that is of interest.

The European Court of Auditors indicated that there are differences with respect to compliance requirements related to customs procedures in general. The example given relates to bonded warehousing. While, in some Member States, the bonded warehousing regime is fully computerised and the customs authorities have on-line access to stock records, in other countries, entries are done manually (following the ‘SDP’, or simplified declaration procedure) and customs authorities just periodically receive bundles of stock records.

Another main area of non-uniformity indicated during the in-depth interviews with business associations relates to the presentation of goods. Where the customs code refers to the time at which goods are ‘available for controls’, this concept is interpreted differently among the Member States. In some, it is possible to file a declaration up front, without physically presenting the goods. In others, that practice is not accepted. This impacts business since many advantages or, by the same token, disadvantages stem from whether this facility is available or not.

#### 2.1.1.2 Findings

More than 30% of the businesses that responded to the different questionnaires indicate that customs clearance is not applied uniformly across the Member States. However, there is also a comparatively large number of more than 31% of the respondents to the extended web-based survey and up to 57% of the respondents to the targeted business survey that believe that customs clearance processes are applied uniformly across the Customs Union.

The extended web-based survey indicates that the opinions of SMEs and large companies are comparable, but that companies frequently involved in, or having to wait on, completion of the customs clearance process, such as those in the transport and logistics sector, appear to disagree more with the statement that customs clearance processes are applied uniformly.

Independently from the opinions of businesses, desk research and in-depth interviews show that national legal frameworks are a major source of diversity across the Member States in terms of operational priorities, and in implementing customs processes and their supporting IT systems. It is clear that the organisational structure that is characterised by 27+1 organisations does not facilitate common rules and working practices.

**2.1.1.3 Judgment 1 – customs clearance processes**

Given that the percentage of respondents indicating that there is no uniformity in respect of customs clearance processes clearly exceeds the threshold of 10%, it is concluded that customs clearance processes in the Customs Union are not applied in a uniform way.

Nevertheless, companies are not always in favour of 100% uniformity. Several business stakeholders stated that harmonisation of customs clearance procedures often gravitates down to the lowest system’s standard instead of rising to the highest best-in-class-system standard. In this respect, business stakeholders indicate that they would prefer non-uniformity if uniformity meant that countries with fast clearance processes were to be slowed down by countries with slower operating clearance systems. It should be noted, however, that fast clearance is not the only concern of customs authorities. An appropriate balance should be found between trade facilitation (i.e. fast clearance) and completion of controls in order to ensure a level playing field for EU operators.

**2.1.2 Uniformity of clearance processes – Extent to which processing pre-arrival/departure notifications and customs declarations is applied uniformly**

In order to address this judgment criterion, the following aspects are considered:

- the conditions/prerequisites for simplified procedures,
- additional (national) clearance formalities that apply/need to be fulfilled, and
- the main reasons for existing differences/non-uniformity.

**2.1.2.1 Extent to which variety exists with respect to conditions/prerequisites for simplified procedures across the Customs Union**

**2.1.2.1.1 Data**

<b>Data sources</b>				
Desk research	Business	Customs authorities	Other authorities	In-depth interviews
✓	✓	X	X	✓

**Desk research.** The thematic report of DG BUDG on the Local Clearance Procedure<sup>23</sup> states that “some Member States are systematically waiving, for all their operators, the obligation to notify the customs authorities either of the arrival of the goods or the intention to release them. Consequently, customs authorities cannot carry out risk-based checks before release. This exemption is to be granted according to the legislation only under certain specific circumstances. Member States overusing it are in a situation of persistent non-compliance.”

<sup>23</sup> European Commission, Own resources and financial programming, Control of traditional own resources, Local Clearance Procedure – Thematic report of the Directorate-General for Budget – Results of inspections carried out in Member States in 2011, p. 1.

**Business.** Responses from the targeted business questionnaire are presented in the figure below.

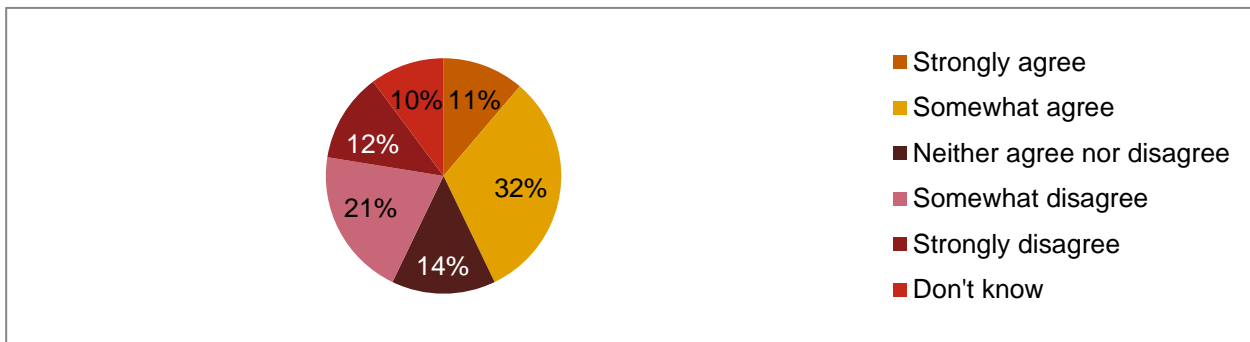


Figure 5 – Targeted business survey (question 12) – National conditions for simplified procedures are uniform across Member States.

Forty-three per cent of the business stakeholders that completed the targeted business survey agree with the statement that national conditions for simplified procedures are uniform across Member States (32% somewhat agree and 11% strongly agree). Thirty-three per cent of the business stakeholders do not agree (21% somewhat disagree and 12% strongly disagree). The other 24% did not express a clear opinion (they did not know or were undecided, which is possible since not all companies apply simplified procedures).

Thirty-eight per cent of large enterprises that completed the questionnaire agree with the statement (29% somewhat agree and 9% strongly agree), compared with 62% of the SMEs (40% somewhat agree and 20% strongly agree). Thirty-five per cent of large enterprises do not agree with the statement (22% somewhat disagree and 13% strongly disagree), compared with 25% of the SMEs (15% somewhat disagree and 10% strongly disagree). Nine per cent and 15% of large enterprises and SMEs respectively indicated 'don't know'. Eighteen per cent of the large enterprises and none of the SMEs neither agree nor disagree with the statement.

**In-depth interviews.** In the course of these interviews, further to the basic input on the judgment criterion, the following input was acquired that is of interest.

In the in-depth interviews with business associations, the existence of differences relating to simplified procedures was confirmed by the different respondents. As an example of non-uniformity relating to simplified procedures, it was indicated that the possibility to apply certain simplified procedures in some Member States is restricted to the owners of goods whilst, in other Member States, such procedures are also open to customs brokers/logistics providers.

#### 2.1.2.1.2 Findings

Of the business stakeholders, a sizeable group (43% in the targeted business questionnaire) said that national conditions for simplified procedures are uniform across the Customs Union. However, a considerable number (33%) indicated the contrary, i.e. that they are not satisfied with the uniformity of simplified procedures. Thus, business stakeholders indicated clearly that simplified procedures are not applied uniformly, at least not in respect of the national conditions that have been set down. SMEs agree somewhat more and disagree somewhat less with the statement. However, the number of respondents not agreeing with the statement is material for both groups of enterprises (>10%).

This finding was confirmed during the in-depth interviews with business associations and in the desk research. Especially the uneven level of flexibility, the overuse of simplified procedures and the restriction of simplified procedures to certain stakeholder groups in some Member States were mentioned as reasons for non-uniformity.

2.1.2.2 Extent to which additional (national) clearance formalities apply/need to be fulfilled

Based on predominantly national legislation, additional clearance formalities are sometimes in place in addition to normal clearance procedures as prescribed by the Community Customs Code and its implementing provisions.

2.1.2.2.1 Data

Data sources				
Desk research	Business	Customs authorities	Other authorities	In-depth interviews
X	X	✓	X	X

**Customs authorities.** Although no additional (national) clearance formalities need to be gone through in the majority (13 out of 20) of the Member States, some exceptions are in place for particular types of goods in seven Member States. These are as follows:

- In certain Member States, there are customs clearance formalities for imports of certain dual-use goods originating from certain countries.
- In another Member State, there are additional national simplified transit formalities for diamonds and rough lumber (article 97.2 CCC).
- Some Member States report that there are additional customs clearance formalities for the import, export and transit of specific products, e.g. defence-related products. In this respect, there are specific customs procedures for the import, export and transit of explosives, pyrotechnic products, firearms and ammunition.

2.1.2.2.2 Findings

Seven out of 20 Member States' customs authorities that provided input on the question whether or not additional national customs clearance procedures are applicable for particular types of goods provided a list of additional clearance formalities.

2.1.2.3 Main reasons for existing differences/non-uniformity

2.1.2.3.1 Data

Data sources				
Desk research	Business	Customs authorities	Other authorities	In-depth interviews
✓	✓	X	X	✓

**Desk research.** In the self-assessment study,<sup>24</sup> it is concluded that *“the organisational structure and governance of the Customs Union is uniform in broad terms, but still divergent in some key areas, such as the interpretation of legislation or rulings, which impacts the ability to maximise effectiveness and efficiency.”* Moreover, it is concluded that *“the design of business processes is characterised by a lack of uniformity, which is often derived from differences in resource availability, priorities and availability of information. This can impede effective, efficient realisation of the objectives of the Customs Union.”*

With regard to the lack of uniformity regarding interpretation of the legislation, it is stated that *“this weakness mainly deals with the clearance process and is chiefly an issue for the classification of goods and determining the customs value of imported goods. Differences in interpretation of EU legislation lead to so-called “shopping” by companies searching for the most lenient or favourable rulings, mainly upon importing goods under anti-dumping legislation (unfair trade); they are potential distortions of competition and encourage companies to shop around for their customs activities (or part thereof).”*

<sup>24</sup> Future business architecture for the Customs Union and cooperative model in the taxation area in Europe – Final report on Task 2.2 – Strengths and weakness of the current organisation model Customs Union (TAXUD/R3/VDL D(2010) 433216) – May 2011, p. 98.



With regard to the existence of different capacity levels (availability and level of expertise) for the development of detailed specifications, it is stated that *“this leads to differing business and functional analyses in the Member States, which in turn leads to differences in implementation of the EU-wide requirements. This unavoidably reduces uniformity between the Member States.”*

Furthermore, the existence of differences in business and functional analysis performed by the Member States for national IT systems is indicated as a weakness in terms of uniformity. *“For various reasons, there are differences in the business and functional requirements as determined by the Member States for their national customs systems. For one, many interviewees in the Member States emphasised that the business requirements set at EU level for implementation in national IT systems are currently too generic. Moreover, there is also a large degree of divergence of national roles and responsibilities as well as business processes in the Member States, which leads to different business needs and subsequently different business and functional requirements.”*

**Business.** Responses from the targeted business questionnaire are presented in the figure below. The “undecided” category covers companies that answered “neither important nor unimportant” and “don’t know”.

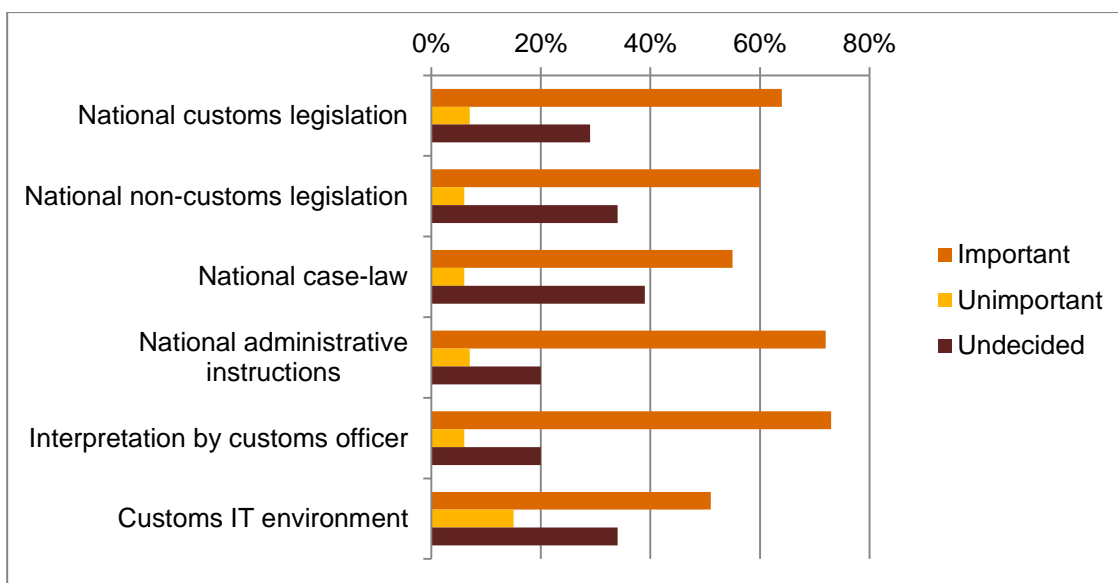


Figure 6 – Targeted business survey (question 29) – Business perception of the main reasons for differences/non-uniformity (the “undecided” category covers companies that answered “neither important nor unimportant”, “don’t know” and “not applicable”)

Sixty-four per cent of the business stakeholders indicate that the main reason for differences/non-uniformity is:

- national customs legislation (64% of businesses, whereas 7% deem this unimportant, 29% are undecided),
- national non-customs legislation (60% of businesses, whereas 6% deem this unimportant and 34% are undecided),
- national case-law (55% of the stakeholders, whereas 6% deem this unimportant and 39% are undecided),
- administrative instructions (72% of the stakeholders, whereas 7% deem this unimportant and 20% are undecided),
- interpretations by customs officers (73% of the stakeholders, whereas 6% deem this unimportant and 20% are undecided),
- customs IT environment (51% of the stakeholders, whereas 15% deem this unimportant and 34% are undecided).

For SMEs and large enterprises, respectively, the following percentages of respondents represent the importance given to the listed reasons:

- national customs legislation: 62% and 75% of large enterprises and SMEs, respectively,
- national non-customs legislation: 60% of large enterprises and SMEs,
- national case-law: 54% and 55% of large enterprises and SMEs, respectively,
- national administrative instructions: 72% and 75% of large enterprises and SMEs, respectively,
- interpretation by customs officers: 73% and 75% of large enterprises and SMEs, respectively,
- customs IT environment: 50% and 55% of large enterprises and SMEs, respectively.

**In-depth interviews.** By means of these interviews, further to the basic input on the judgment criterion, the following input was acquired that is of interest.

The results for the surveys were discussed during the in-depth interviews. In general, the opinion was expressed that the most important cause of non-uniformity is geographical and cultural differences. Traditional international trading nations have historically paid attention to facilitating trade and have therefore implemented other facilitation procedures. The existence of many small ports has also historically led to local differences in the approach taken by customs officials, which still exist today.

According to business stakeholders, the interpretation of customs legislation by customs officers is the most decisive factor for its application in their Member State. Furthermore, although Member States have to operate in line with EU legislation, they also apply or have to consider national legislation. According to DG BUDG, this sometimes results in divergence.

DG SANCO believes the main reason for the lack of uniformity is the lack of training, knowledge and/or instructions to Customs. This means that procedures are often not executed correctly, directly resulting in non-uniformity. The lack of training/knowledge/instructions furthermore results in goods being released that should not have been released, which can incur considerable risk to animal, plant and public health.

DG BUDG stresses the importance of the use of different IT systems in the different Member States as a reason for non-uniformity. Every IT system has its own approach/philosophy behind it. Furthermore, there is a lack of a fully automated approach in some Member States.

#### 2.1.2.3.2 Findings

Many reasons for non-uniformity were listed by the business stakeholders. For each of the causes of non-uniformity mentioned below, a majority of respondents in the targeted business survey indicated that it is important factor in explaining non-uniformity (listed in decreasing order by deemed importance):

- interpretation by customs officers,
- national administrative instructions,
- national customs legislation,
- national non-customs legislation,
- national case-law,
- customs IT environment.

For large enterprises and SMEs, a similar pattern is established.

The importance of the above causes is also confirmed by the in-depth interviews. Lack of guidance and training is another reason mentioned during these interviews. The desk research also confirms these findings. The self-assessment study further indicated that the lack of uniformity in interpretation of the legislation results in so-called “shopping” by companies searching for the most lenient or favourable rulings. Other reasons for non-uniformity reported in this report are the different capacity levels for developing detailed specifications and differences in business and functional requirements for national customs systems. Further geographical and cultural differences are mentioned as important causes for non-uniformity.

#### 2.1.2.4 Judgment 2 – pre-arrival/departure notifications and customs declarations

Based on the above, it must be concluded that the customs clearance processes are applied in a non-uniform way. With respect to simplified procedures, it must be concluded that they are not applied uniformly as there are differences at least with respect to conditions/prerequisites.

Multiple causes for non-uniformity are listed and confirmed by the different stakeholder groups. These apply to each and every type of non-uniformity listed in this study. The main causes listed are:

- interpretation by customs officials, linked to their individual levels of knowledge on the subject,
- national official instructions and national customs legislation, linked to divergent national interpretations of EU legislation, geographical and cultural differences, and the lack of a uniform message from the European Commission,
- other legislation that is applicable (e.g. VAT legislation),
- the diversity of the IT systems in place, and
- differences in resource availability, priorities and availability of information.

### 2.1.3 Uniformity of clearance processes – Extent to which the calculation and collection of customs duties and other taxes/levies are uniform

The calculation of customs duties depends on the origin, valuation and classification of the product being imported. The section below reviews whether the rules with regard to these three elements are applied uniformly among the Member States.

#### 2.1.3.1 Extent to which provisions regarding origin are applied and interpreted uniformly by customs officials across the Customs Union

##### 2.1.3.1.1 Data

Data sources				
Desk research	Business	Customs authorities	Other authorities	In-depth interviews
X	✓	X	X	X

**Business.** Responses from the targeted business questionnaire are presented in the figure below.

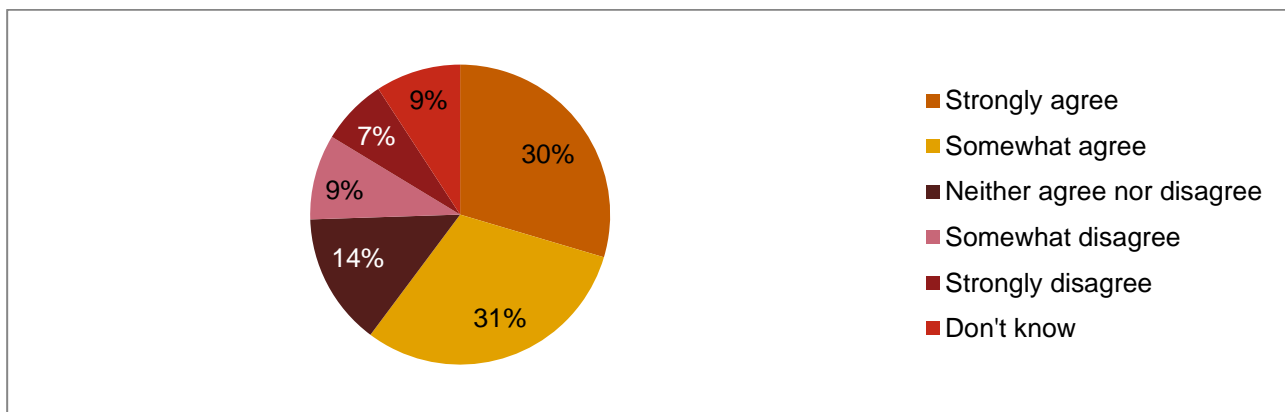


Figure 7 – Targeted business survey (question 15) – International and EU legal provisions regarding origin are interpreted uniformly.

Sixty-one per cent of the businesses that responded to the targeted business questionnaire agree with the statement that international and EU legal provisions regarding origin are interpreted uniformly (31% somewhat agree and 30% strongly agree), whereas 16% do not agree (9% somewhat disagree and 7% strongly disagree). Fourteen per cent of the businesses neither agree nor disagree and 9% don't know.

Twenty-nine per cent of large enterprises strongly agree with the statement and 35% somewhat agree. Ten per cent neither agree nor disagree, 10% somewhat disagree and 8% strongly disagree. Eight per cent don't know. Thirty per cent of SMEs strongly agree with the statement and 15% somewhat agree. Thirty per cent neither agree nor disagree, 5% somewhat disagree and 5% strongly disagree. Fifteen per cent don't know.

The following examples of non-uniformity were given,

- upon import: different tolerances of minor errors on certificates not affecting the substance of the import,
- upon export: different proof needing to be submitted for obtaining a certificate of origin.

Eighteen per cent of the business stakeholders strongly agree and 36% somewhat agree that the proof required for obtaining preferential certificates of origin is uniform among Member States. However, 16% and 1% of the business stakeholders somewhat and strongly disagree, respectively, that the proof required for obtaining preferential certificates of origin is uniform among Member States.

A similar trend is observed for non-preferential certificates of origin. Twelve per cent of the businesses strongly agree and 34% of the businesses somewhat agree that the proof required for obtaining non-preferential certificates of origin is uniform among Member States. However, 15% and 2% of the business stakeholders somewhat and strongly disagree, respectively, that the proof required for obtaining non-preferential certificates of origin is uniform among Member States.

Not all businesses were in a position to express their opinion for both preferential and non-preferential certificates of origin (28% and 37% of the businesses answered ‘don’t know’ or ‘neither agree nor disagree’ for preferential and non-preferential certificates of origin, respectively – source: targeted business survey question 17 and 20).

#### 2.1.3.1.2 Findings

Although origin provisions on an EU level should be clear and uniform, around 16% of business stakeholders still strongly or somewhat disagree that interpretation of the origin provisions is uniform. For large enterprises, the percentage of businesses disagreeing is 18%, whereas for SMEs, the percentage of businesses disagreeing is somewhat less (10%). The majority of respondents (61%) agree with the statement that application of the origin provisions is uniform. As these are EU rules that apply in all Member States with no room for local implementation, unlike with other procedures, e.g. simplified procedures, and very few examples of non-uniformity are cited, an in-depth examination is needed to arrive at a final conclusion on this topic. With regard to the proof required for obtaining preferential and non-preferential certificates of origin as well, a considerable number of businesses (17% and 23%, respectively) point to the existence of non-uniformity.

Please note that this information could not be tested against other data sources, either, as no other data was found or collected in this respect.

#### 2.1.3.2 Extent to which provisions regarding *valuation* are applied and interpreted uniformly by customs officials across the EU/extent to which the determination of customs value at EU level is harmonised

##### 2.1.3.2.1 Data

Data sources				
Desk research	Business	Customs authorities	Other authorities	In-depth interviews
✓	✓	X	X	X

**Desk research.** The issue of the transaction value of imported goods is mentioned in a study by the [European Parliament](#).<sup>25</sup> It states that, “among the many individual problems caused by transaction value, one deficiency is particularly relevant: the non-uniform application of the customs legislation by customs authorities”.

<sup>25</sup> European Parliament – Policy Department External Policies – The Legal Aspects of EU Export and Import Procedures and their links with Trade Policy – 2008 (pp. 5-6).

With respect to customs valuation, the European Court of Auditors report<sup>26</sup> of 2000 identified a number of issues:

- the absence of common control standards and working practices,
- the absence of common treatment of traders with operations in several Member States,
- the absence of Community law provisions allowing the establishment of Community-wide valuation decisions,
- the absence of a database of binding valuation decisions,
- the absence of prior notification and records of “successive sales”,
- plus, the dubious treatment of air cargo costs, the consideration of manufacturers’ guarantees and the exchange of information between the customs authorities of Member States.

In the self-assessment study,<sup>27</sup> it is stated that “*there is evidence of the economic operators ‘shopping’ between Member States for the best entry point in terms of valuation and for the best interpretation of a tariff requirement*”. Furthermore, it is mentioned that there is a lack of uniformity of (aspects of) the clearance processes due to differences in approach and execution and due to duplication of efforts:

- organisation structure characterised by 27+1 organisations,
- operational knowledge concentrated at national level,
- lack of uniformity regarding interpretation of the legislation,
- insufficient integration in the EU on the fight against illegal trade, and safety and security,
- resources available at the Commission,
- lack of performance indicators,
- lack of a minimum, uniform level of standards for the control process,
- inadequate monitoring of how processes are performed,
- lack of specificity in the business (and functional) requirements determined at EU level,
- dispersed publication of guidelines in different sources of information.

**Business.** Responses from the targeted business questionnaire are presented in the figure below.

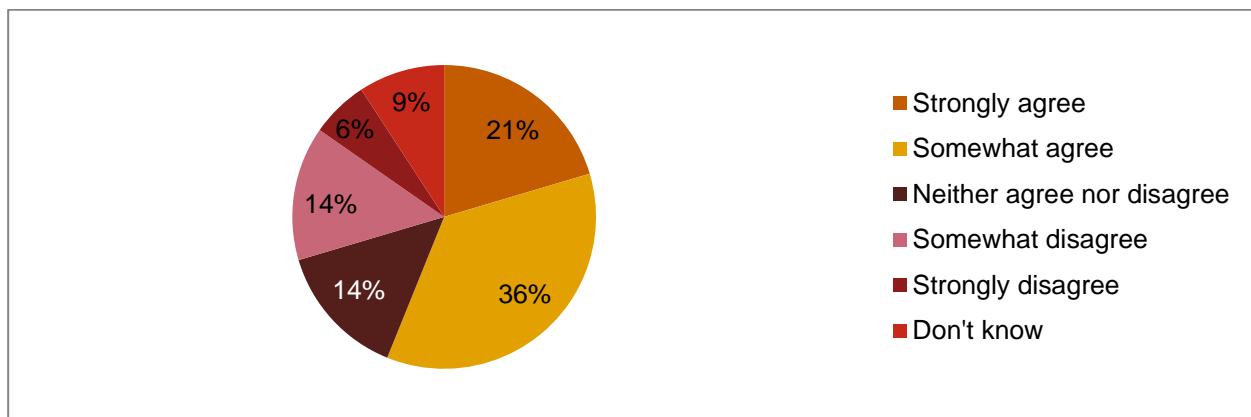


Figure 8 – Targeted business survey (question 23) – Provisions regarding customs valuation are interpreted uniformly among the Member States.

Twenty-one per cent of the businesses strongly agree with the statement that provisions regarding customs valuation are interpreted uniformly among Member States; 36% somewhat agree. Six per cent of the businesses strongly disagree, on the other hand, while 14% somewhat disagree. Of the respondents, 14% neither agree nor disagree, while 9% of the businesses indicate that they don't know.

<sup>26</sup> Court of Auditors, Special Report No. 23/2000 concerning valuation of imported goods for customs purposes (customs valuation), together with the Commission's replies; OJ C 84, 14.3.2001 (p. 1).

<sup>27</sup> Future business architecture for the Customs Union and cooperative model in the taxation area in Europe – Final report on Task 2.2 – Strengths and weakness of the current organisation model Customs Union (TAXUD/R3/VDL D(2010) 433216) – May 2011, pp. 96-106.

Twenty-one per cent of large enterprises strongly agree with the statement and 37% somewhat agree. Thirteen per cent neither agree nor disagree, 17% somewhat disagree, 6% strongly disagree and 6% don't know. Twenty per cent of SMEs strongly agree and 30% somewhat agree with the statement, while 20% of the SMEs neither agree nor disagree, 5% somewhat disagree, 5% strongly disagree and 20% don't know.

The following examples of non-uniformity were given by the group of businesses responding to the targeted business survey:

- article 156a CCCIP<sup>28</sup> is not interpreted uniformly,
- different interpretations of the words “chain of sales” in the relevant customs legislation (article 147 CCCIP),
- transfer pricing rules are not always accepted by customs authorities,
- deduction of inland freight (e.g. fixed amount or freight invoice required), and
- the existence of country-specific tools such as valuation methodology agreements.

#### 2.1.3.2.2 Findings

Although the results are positive at first sight, 20% of the business stakeholders (23% of large companies and 10% of SMEs) still state that they disagree to some extent that provisions regarding customs valuation are interpreted uniformly among Member States. Therefore, we conclude that, according to the business stakeholders, provisions regarding customs valuation are not interpreted uniformly among Member States. The report from the European Parliament concurs with this conclusion. The European Court of Auditors is of the same opinion and identifies a number of reasons for this non-uniformity. In the self-assessment study as well, it is stated that there is a certain degree of non-uniformity, resulting in economic operators ‘shopping’ between Member States.

#### 2.1.3.3 Extent to which provisions regarding *classification* are applied and interpreted uniformly by customs officials across the EU/extent to which the determination of classification at EU level is harmonised

##### 2.1.3.3.1 Data

Data sources				
Desk research	Business	Customs authorities	Other authorities	In-depth interviews
✓	✓	X	X	X

**Desk research.** With regard to classification, the following documents are of importance.

The Midterm Evaluation of the Customs 2013 Programme<sup>29</sup> states that “*the vast majority of customs authorities felt that TARIC<sup>30</sup> has greatly helped to safeguard the interests of the EU by ensuring consistent application of legislation across the EU*”.

The report<sup>31</sup> resulting from the first EBTI monitoring phase (2007-2008) contains a number of relevant findings that could indicate the main reasons for existing differences within the field of binding tariff informations. First, it was found that, “*at almost all the administrations visited, the personnel felt their performance would be improved by the addition of extra manpower. In some cases, staff's ability to carry out the tasks and duties expected of them was effectively stretched to the limit as they had various other tasks to perform as well. Those tasks could influence the industry's ability to effectively carry out the procedures*

<sup>28</sup> Article 156a, Commission Regulation (EEC) No. 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No. 2913/92 establishing the Community Customs Code, OJ L 253, 11.10.1993, p. 1.

<sup>29</sup> Mid-Term Evaluation of Customs 2013 Programme, Final Report, p. 53.

<sup>30</sup> Integrated Tariff of the European Communities.

<sup>31</sup> European binding tariff information – report of the first phase of the exercise to monitor the issuing of BTI and the application of the relevant Community legal provisions in the Member States 2007 and 2008.

required to ensure that BTIs are issued correctly. Moreover, the levels of actual knowledge for personnel dealing with BTIs vary significantly among the Member States.”

Furthermore, it was found that “continuous developments in industry, especially in the electronics and internet technology fields, mean that the level of research required to determine the tariff classification of new products is intensifying.”

One of the recommendations made in this report is that “searches should be carried out in the EBTI-3 database for all applications, and especially for those submitted by, or on behalf of, economic operators in other Member States or from outside the EU, to ensure that no other applications for the same goods and on behalf of the same traders have been submitted in other Member States. This is important to reduce the opportunities for BTI ‘shopping’.”

**Business.** More than half of the businesses responding to the targeted business questionnaire either strongly agree (23%) or somewhat agree (28%) with the statement that provisions regarding classification are interpreted uniformly among Member States. Nevertheless, 21% somewhat disagree and 11% strongly disagree with the statement. The remaining 16% either did not know or were undecided (neither agreed nor disagreed).

The split according to size of company voicing an opinion on this statement is reflected in the figure below.

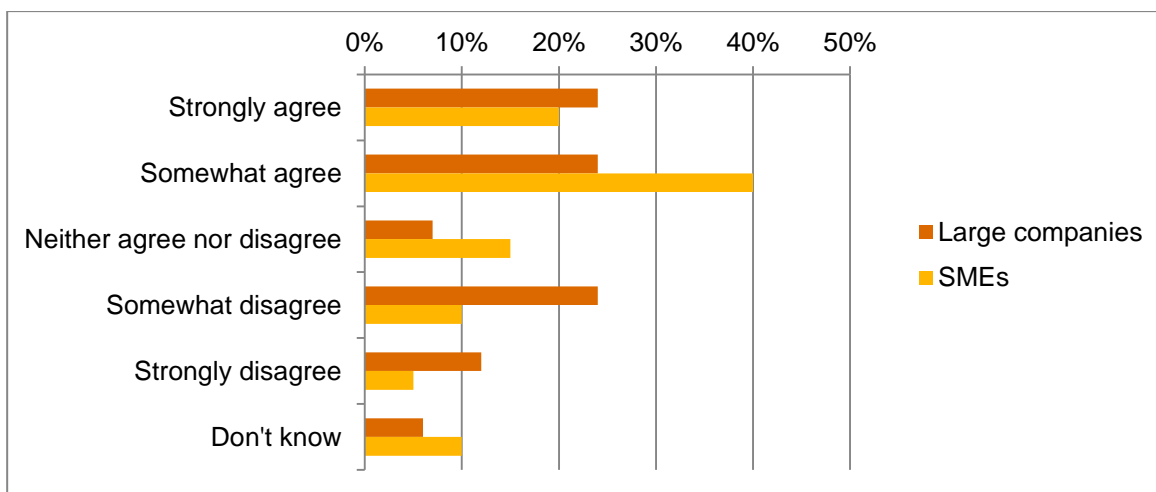


Figure 9 – Targeted business survey (question 26 – company type) – Provisions regarding classification are interpreted uniformly among the Member States.

Twenty-four per cent of large companies strongly agree with the statement, 24% somewhat agree, 7% neither agree nor disagree, 24% somewhat disagree, 12% strongly disagree and 6% don’t know. Twenty per cent of SMEs strongly agree with the statement, while 40% somewhat agree, 15% neither agree nor disagree, 10% somewhat disagree, 5% strongly disagree and 10% don’t know.

The following examples of non-uniformity were given:

- different interpretations of tariff classification with regard to items such as cigarette filters, electronic equipment, telecom products and high tech components, and
- different interpretations of Binding Tariff Informations (BTIs).

#### 2.1.3.3.2 Findings

Contrary to the rules on valuation, there is a clear difference between the opinions given by large companies and SMEs. While 37% of large companies believe that rules regarding classification are not applied uniformly, this percentage is considerably lower for SMEs (around 15%), which is logical as SMEs mostly deal with only one customs authority in respect of classification of their products and are not therefore in a position to make such a comparison. Overall, it is clear that the number of business stakeholders pointing to non-uniformity is considerable, especially in view of the purely EU legislation that needs to be applied. Contrary to the opinion of

customs authorities as expressed in the Mid Term evaluation of the Customs 2013 Programme, according to business stakeholders, the provisions regarding classification are not applied uniformly in the Customs Union.

This position is confirmed by the EBTI report. Even the sectors indicated in the EBTI report can be matched to the examples provided by the business stakeholders.

*2.1.3.4 Main reasons for existing differences/non-uniformity*

*2.1.3.4.1 Data*

<b>Data sources</b>				
Desk research	Business	Customs authorities	Other authorities	In-depth interviews
X	✓	X	X	✓

**Business.** No additional data on the main reasons for non-uniformity was collected from the business stakeholders apart from the data mentioned above when dealing with the main reasons for the non-uniformity of clearance processes.

**In-depth interviews.** Only general information on the main reasons for non-uniformity was collected during the in-depth interviews. This information is mentioned above when dealing with the main reasons for the non-uniformity of clearance processes.

*2.1.3.4.2 Findings*

No additional findings were gathered on the main reasons for non-uniformity.

*2.1.3.5 Judgment 3 – calculation and collection of customs duties*

Although most surveys show that about half of the business stakeholders perceive the interpretation of provisions on origin, valuation and classification to be uniform, for each sub-judgment criterion a significant number of respondents (>10%) express real concern. Desk research concurs with the stakeholders' expression of disagreement on uniformity statements in respect of valuation and classification.

It can therefore be concluded that an undesirable level of non-uniformity exists in almost all areas covered in this study with respect to the calculation of customs duties. Based upon the results, there is an indication that, where companies operate in multiple jurisdictions, the observations in this regard are even more conclusive.

*2.1.4 Uniformity of clearance processes – Extent to which consequences of the difference in applying the collection of customs duties is significant for business and other authorities*

As a separate judgment criterion, the consequences of the differences in applying clearance processes are dealt with below.

*2.1.4.1 Data*

<b>Data sources</b>				
Desk research	Business	Customs authorities	Other authorities	In-depth interviews
X	✓	X	X	✓



**Business.** Responses from the targeted business questionnaire are presented in the figures below.

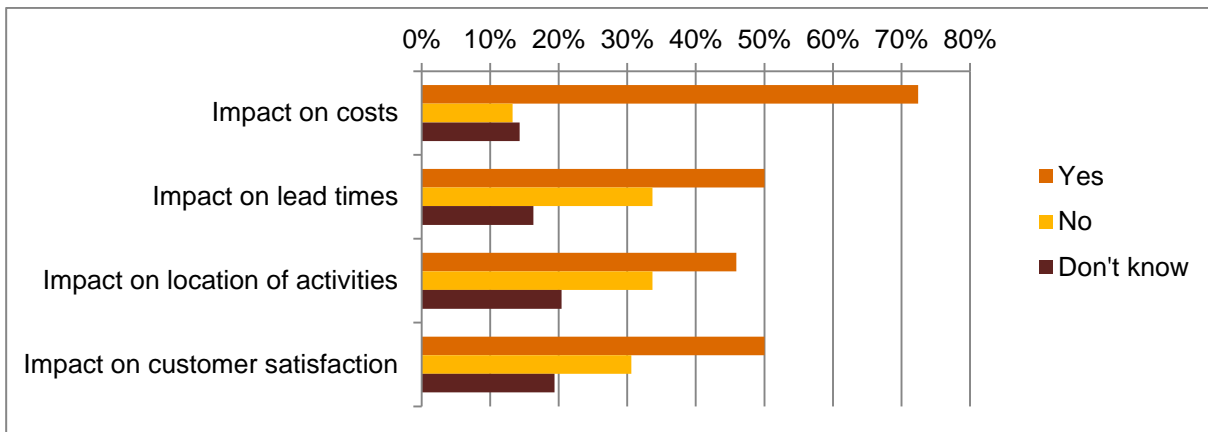


Figure 10 – Targeted business survey (question 24) – Differences regarding valuation provisions – Impact on costs, lead time, location of activities and customer satisfaction

Figure 10 shows that:

- Seventy-two per cent of the business stakeholders that completed the targeted business survey indicate that the differences regarding valuation provisions have an impact on costs, while 14% indicate the opposite. Thirteen per cent don't know;
- Fifty per cent of the stakeholders are convinced that these differences have an impact on lead times. Thirty-four per cent indicate that differences regarding valuation provisions have no impact on lead time and 16% don't know;
- Further, 46% of the business respondents indicate that these differences have an impact on the location of activities. On the other hand, 34% indicate that there is no impact on location and 20% don't know;
- Fifty per cent of the businesses indicate that customer satisfaction also is impacted by the differences. Thirty-one per cent are convinced that it has no impact on customer satisfaction and 19% don't know.

The same trend is observed for large companies and SMEs. The main difference between both groups of enterprises is that SMEs indicate more 'don't know' than large enterprises (on average 16% of large enterprises indicate 'don't know', whereas this is 23% in the case of SMEs).

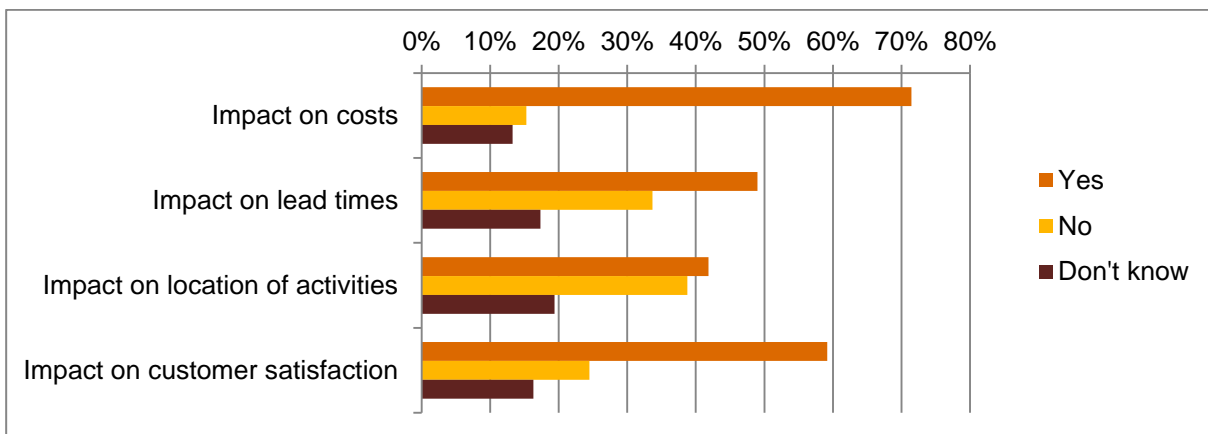


Figure 11 – Targeted business survey (question 27) – Differences regarding classification – Impact on costs, lead time, location of activities and customer satisfaction

Figure 11 shows that:

- Seventy-one per cent of the business stakeholders that completed the targeted business survey indicate that the differences regarding classification have an impact on costs, while 15% indicate the opposite. Thirteen per cent don't know;

- Forty-nine per cent of the stakeholders are convinced that these differences have an impact on lead times. Thirty-four per cent indicate that differences regarding classification have no impact on lead time and 17% don't know;
- Further, 42% of the business respondents indicate that these differences have an impact on the location of activities. On the other hand, 39% indicate that there is no impact on location and 19% don't know;
- Fifty-nine per cent of the businesses indicate that customer satisfaction is also impacted by the differences. Twenty-four per cent are convinced that they have no impact on customer satisfaction and 16% don't know.

The same trend is observed for large companies and SMEs. The main difference between the two groups of enterprises is that SMEs indicate more 'don't know' than large enterprises (on average 15% of large enterprises indicate 'don't know', whereas this is 24% in the case of SMEs).

**In-depth interviews.** In the course of these interviews, further to the basic input on the judgment criterion, the following input was acquired that is of interest.

- The European Court of Auditors said that the lack of uniformity in clearance processes may result in 'customs shopping'. *"Importers look for the weakest link in the chain and will import where the controls are laxest. In this context laxest means not only fewer checks at import, but poor and/or infrequent post-clearance controls. The latter are supposed to compensate for this lack of checks at import. Moreover, importers are aware that imports released for free circulation at one Member State with little or no check at import are unlikely to be subsequently verified as part of a post-clearance control when they arrive at their final destination in another Member State. We believe this to be a significant occurrence;"*
- DG ENTR mentioned certain other consequences of non-uniformity, such as risks to public health, public order and distortion of the market;
- DG BUDG stressed that, when processes are clearly not in line with the regulation and if this, as a consequence, jeopardises the financial interests of the EU budget, the consequences might be significant;
- DG SANCO was of the opinion that the main reason for the lack of uniformity is the lack of training, knowledge and/or instructions provided to Customs. This means that procedures are often not executed correctly and, furthermore, result in goods are being released that should not have been released, which can pose considerable risks for animal, plant and public health.

#### 2.1.4.1.1 Findings

The impact of non-uniformity is similar for different aspects of determining the amount of customs duties payable (e.g. valuation, classification). Businesses state that non-uniformity primarily tends to impact companies' costs. In addition to costs, lead times and customer satisfaction are other key areas where the impact of non-uniformity can be seen. To a lesser extent, businesses see an impact on location of activities; this is confirmed by the authorities, as they state that non-uniformity even may lead to 'customs shopping' between Member States. Furthermore, non-uniformity may also impact the financial interests of the Customs Union and create risks for public health, public order and market distortion.

#### 2.1.4.2 Judgment 4 – consequences of differences

Non-uniformity has a clear impact for business, mainly in the area of costs. Therefore, besides the need for a uniform process within the Customs Union, further harmonisation will likely also lead to cost savings, improving the competitive position of business. Furthermore, harmonisation would, *inter alia*, be beneficial to the EU's financial interests and should limit risks in other areas mainly covered by other legislation.

#### 2.1.5 Uniformity of clearance processes – Primary conclusion (Judgment 1 – Judgment 4)

From the individual evaluations of the research, surveys and interviews, it is clear that uniformity – which is an essential element of a properly functioning Customs Union – is not a given in the present situation. On almost all aspects included in this evaluation, there exists a significant level of non-uniform treatment (when applying

the 10% threshold for non-uniformity). Non-uniformity has an impact on the cost for businesses. On the other hand, businesses are afraid that 100% harmonisation of customs clearance procedures would gravitate down to the lowest system's standard instead of rising to the highest, best-in-class-system standard and therefore prefer a certain level of non-uniformity.

## **2.2 To what extent are control processes applied uniformly across the Customs Union? What are the main reasons for differences in the application of control processes or for non-uniformity? How significant are the consequences of the differences in application of these processes as identified?**

Customs authorities are involved in the (practical) implementation and enforcement of EU legislation relating to external trade, not only for customs duties and commercial policy measures but also as regards security, environmental, anti-dumping, consumer protection, cultural and agricultural controls.

The most important control processes under the customs authorities' responsibility are:<sup>32</sup>

- controls of the nature and the amounts of duties applicable according to the correct description of commodity code, origin and customs value of goods,
- controls of goods under customs supervision (goods in temporary storage and placed under certain customs procedures),
- controls on commercial policy measures (objectives) and commercial traffic,
- controls for security, safety and public health requirements,
- controls on compliance with environmental legislation,
- controls on compliance with Common Agriculture Policy (CAP) rules,
- controls on compliance with veterinary, (phyto-)sanitary, health and quality regulations,
- customs must consistently apply a wide variety of controls across the Community in the fast-moving goods environment of today. This means customs controls must be quick, effective and based on modern risk management techniques.

Customs controls are carried out by the national customs authorities of the 27 Member States. This section evaluates whether these controls are applied uniformly even though they are mainly executed in the Member States by national customs authorities.

Different types of controls can be identified. For the purpose of this analysis, the following types of controls are dealt with:

- documentary controls,<sup>33</sup>
- physical controls,<sup>34</sup> and
- post-clearance controls.<sup>35</sup>

Other types of control are not looked at in this chapter.

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<sup>32</sup> [http://ec.europa.eu/taxation\\_customs/customs/customs\\_controls/general/index\\_en.htm](http://ec.europa.eu/taxation_customs/customs/customs_controls/general/index_en.htm).

<sup>33</sup> A documentary control is a check to verify the accuracy of the particulars in a customs declaration submitted to place the goods under a customs procedure.

<sup>34</sup> Physical control is an examination of goods including detailed counting and sampling to check whether the goods accord with the particulars in the customs declaration accompanying them.

<sup>35</sup> A post-clearance control, or, better, "post-clearance examination of declarations", is a control that takes place after the goods have been released by Customs.

### 2.2.1 Uniformity of control processes – Extent to which documentary controls occur uniformly across the Customs Union

To judge whether documentary controls are uniform across the Customs Union, the following differences are analysed:

- in scope of documentary controls,
- in priority and focus of documentary controls,
- in relative importance of documentary controls compared to other controls and
- reasons for those differences between documentary controls.

#### 2.2.1.1 Extent to which differences exist across the Customs Union with regard to the scope of documentary controls (the different aspects subject to documentary control)

##### 2.2.1.1.1 Data

Data sources				
Desk research	Business	Customs authorities	Other authorities	In-depth interviews
X	✓	X	X	✓

#### Businesses.

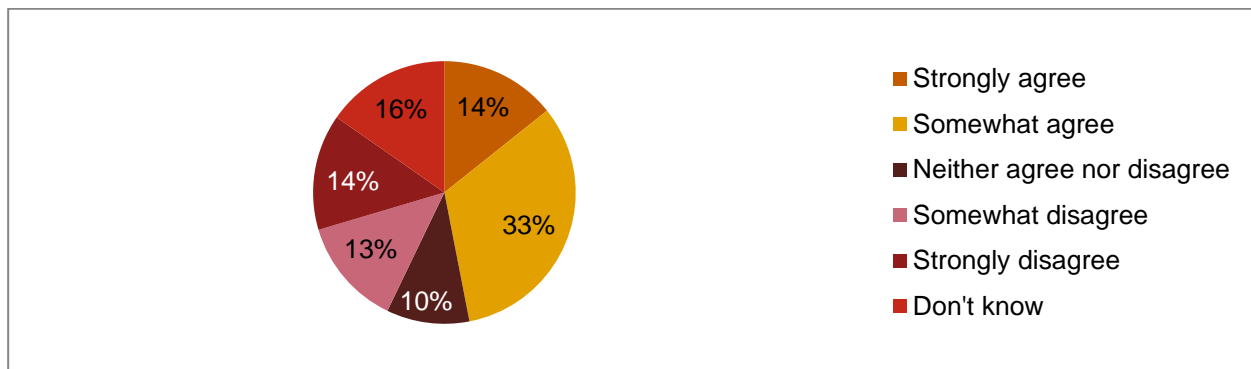


Figure 12 – Targeted business survey (question 30) – Documentary controls are executed uniformly among the Member States.

Of the business stakeholders, 14% responding to the targeted business survey strongly agree that documentary controls are executed uniformly among the Member States, while 33% somewhat agree. Overall, 27% dissent. More specifically, 13% somewhat disagree and 14% strongly disagree. The other 26% of the respondents did not provide an opinion ('don't know') or were undecided ('neither agree nor disagree').

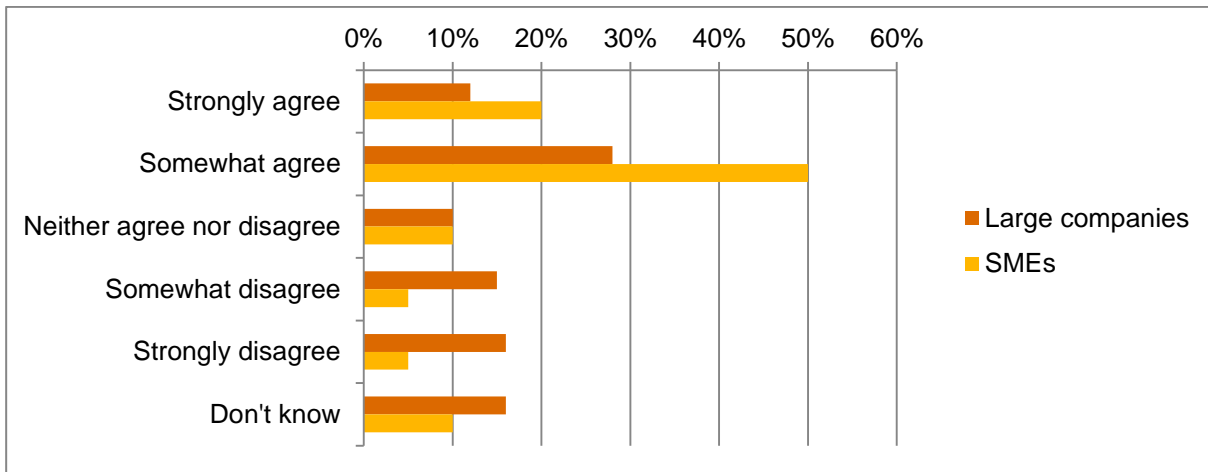


Figure 13 – Targeted business survey (question 30 – Large companies and SMEs) – Documentary controls – Documentary controls are executed uniformly among the Member States.

Forty-one per cent of large companies agree with the statement (13% strongly agree, while 28% somewhat agree), compared with 70% of the SMEs (20% strongly agree, while 50% somewhat agree). Ten per cent of large enterprises neither agree nor disagree, 15% somewhat disagree and 17% strongly disagree with the statement. Seventeen per cent of large enterprises indicate ‘don’t know’. Ten per cent of the SMEs also neither agree nor disagree. Furthermore, 5% of the SMEs somewhat disagree and 5% strongly disagree with the statement and 10% of the SMEs indicate ‘don’t know’.

**In-depth interviews.** In the course of these interviews, further to the basic input on the judgment criterion, the following input was acquired that is of interest.

According to DG TAXUD, differences in controls are caused by differences in frequencies and by the classification of ‘mistakes’. For example, in some Member States, certain mistakes are directly deemed to be fraud. However, according to the DG TAXUD representative, this is a legislative problem rather than a control problem.

#### 2.2.1.1.2 Findings

About half the business stakeholders agree that documentary controls are applied uniformly across Member States. However, a considerable number (more than 10%) of the business stakeholders point to non-uniformity. A number of examples of non-uniformity were given in the surveys and confirmed during the in-depth interviews:

- differences in the frequency of documentary controls,
- different classifications of mistakes (e.g. in some countries mistakes are considered ‘fraud’).

A third of the large companies do not agree with the statement on uniformity, compared to 10% of the SMEs. One business association said this could be explained by the fact that large companies deal with documentary controls more frequently than SMEs and therefore have a better perception of divergences between Member States. For both large enterprises and SMEs, the numbers of respondents not agreeing are considerable. Therefore, it is concluded that, according to the business stakeholders, there is no uniformity with respect to documentary controls.

2.2.1.2 Extent to which differences exist across the Customs Union with regard to priorities and focus of documentary controls

2.2.1.2.1 Data

Data sources				
Desk research	Business	Customs authorities	Other authorities	In-depth interviews
✓	X	X	X	✓

**Desk research.** In the self-assessment study,<sup>36</sup> some weaknesses and strengths are identified with regard to the uniformity of the Customs Union. One of the weaknesses identified is the lack of minimum and uniform level of standards for the controls process: this weakness is mainly “an issue for the control process and its supporting processes, such as risk management. According to the interviewees, there is considerable divergence in the frequency of controls and the level of detail of those controls in the various Member States. Member States suggested that there should be more convergence on control activities since a Member State’s border is also an EU border, and is therefore everyone’s border. Different opinions exist on whether this convergence should focus on the procedure (uniformity) or more on the results (effectiveness).”

In the thematic report of DG BUDG on control strategies,<sup>37</sup> one of the objectives evaluated is that “there is a global customs control strategy, possibly based on a periodical inspection plan, covering all types of control and all customs operations”. It is concluded in the report that “most Member States have general objectives and priority areas on which to focus and, in some cases, corresponding targets for the different types of controls. However, an overall, explicit customs control strategy aimed at protecting traditional own resources, indicating the mechanisms used to achieve that protection and the assurance to be obtained from each of them, was not in place. Most Member States base their customs control strategies on a balance of clearance and post-clearance controls, but there was not always sufficient use of all types of controls. Feedback from both the operational level and internal audit services in general was used to ensure proper monitoring of customs control strategy.” Furthermore, the Member States’ follow-up of the findings is discussed in the thematic report.

**In-depth interviews.** In the course of these interviews, further to the basic input on the judgment criterion, the following input was acquired that is of interest.

According to DG TAXUD, some documentary controls are risk-based, but some are also imposed by other legislation. Some are imposed by European legislation, others by other (national) legislation. Controls are said to also depend on the level of resources available in Member States. In the DG TAXUD representative’s view, it is not the percentage of controls that is worrying, but rather the fact that levels depend on location (e.g. some extended borders require more controls) and other factors. It was stated that the mere existence of differences in controls is not the main issue, but rather the reasons for these differences.

2.2.1.2.2 Findings

According to the in-depth interview with DG TAXUD, there is non-uniformity in the priorities and focus of documentary controls. Desk research confirms this finding: most Member States have general objectives and priority areas on which to focus for different types of controls. Not all Member States use all types of controls sufficiently. According to DG TAXUD, one of reasons for this non-uniformity is the different levels of available resources in the Member States. According to the interviewees in the self-assessment study, there is considerable divergence in the frequency of controls and the level of detail of these controls, and Member States suggested that there should be more convergence on control activities. However, differing opinions exist on whether this convergence should focus on procedure (uniformity) or rather on results (effectiveness).

<sup>36</sup> Final report on Task 2.2 – Strengths and weaknesses of the current organisation model and Final report on Task 2.3 – Options for improvement of the functioning of the Customs Union (TAXUD/R3/VDL D(2010) 433216) – 24/05/2011.

<sup>37</sup> European Commission, Control of traditional own resources, Customs control strategy in the Member States – Thematic report of the Directorate-General for Budget – Results of inspections carried out in Member States in 2009-2010.

2.2.1.3 Extent to which differences exist across the Customs Union with regard to the relative importance of documentary controls, compared to other types of control

2.2.1.3.1 Data

Data sources				
Desk research	Business	Customs authorities	Other authorities	In-depth interviews
✓	✓	X	X	✓

**Desk research.** In the self-assessment study,<sup>38</sup> it is stated that, “for control processes, there are currently no EU guidelines on how to perform the different types of controls, or even detailed definitions of the types of controls (physical control, administrative control, warehouse inventories, etc.), but that there are EU guidelines, tools and IT systems to support control of individual restrictions/prohibitions, counterfeiting and IPR, etc. Furthermore, a database called Surveillance has been established containing data of essential SAD information extracted from each declaration accepted in Member States for certain types of goods released into free circulation. This information could be useful for control and statistical purposes, particularly when related to information available in other IT tools (TARIC, Quota, etc.)”.

**Businesses.** Business stakeholders indicated in the targeted business survey that there are differences with regard to the relative importance of documentary controls among the Member States. The following is stated:

- percentages of documentary controls differ between MS;
- document checks are too frequent, dependent on the individual relationship with the customs officer, even though the company is ‘known’;
- the format and language in which documents have to be provided differ between Member States;
- depending on the country and even on Customs, the probability of following the red or orange circuit can vary greatly. There is still a risk that red or orange circuit importations that are passed as accepted may be re-evaluated within a three-year period. The respondent indicates that, if Customs is not sure about the validations made, the importer cannot feel secure in his business;
- One Member State requests 100% submission of all custom SADs and invoices whereas other EU Member States select samples.

**In-depth interviews.** In the course of these interviews, further to the basic input on the judgment criterion, the following input was acquired that is of interest.

In the view of one national customs authority, volumes of trade take priority when making choices on the most suitable control processes to apply. In that respect, they note that, in The Netherlands, about 70 million simplified procedures are processed a year. Together with the UK and Germany, they process about 77% of all simplified procedures in the EU. These volumes require proper risk management, which is done based on the input provided. Some Member States apply a certain coverage strategy whereby physical controls are triggered by certain indicators spotted during documentary controls.

2.2.1.3.2 Findings

Businesses believe there are differences with regard to the relative importance of documentary controls among Member States. Currently, there exist no EU guidelines on how to perform controls, or even detailed definitions of the types of controls, which may explain the differences. Member States apply control strategies/philosophies based on local circumstances and measures required to achieve an efficient, effective level of control.

<sup>38</sup> Final report on Task 2.2 – Strengths and weaknesses of the current organisation model and Final report on Task 2.3 – Options for improvement of the functioning of the Customs Union (TAXUD/R3/VDL D(2010) 433216) – 24/05/2011.

2.2.1.4 Reasons for existing differences/non-uniformity

2.2.1.4.1 Data

Data sources				
Desk research	Business	Customs authorities	Other authorities	In-depth interviews
✓	✓	X	X	✓

**Desk research.** In the self-assessment study<sup>39</sup> it is concluded that “the design of business processes is characterised by a lack of uniformity, which is often derived from differences in resource availability, priorities and availability of information. This can impede effective, efficient realisation of the objectives of the Customs Union”. Furthermore, it is mentioned that there is a lack of uniformity in (aspects of) the control processes due to differences in approach and execution, and due to duplication of efforts:

- “organisational structure characterised by 27+1 organisations,
- operational knowledge concentrated at national level,
- lack of uniformity regarding interpretation of the legislation,
- insufficient integration in the EU on the fight against illegal trade and safety and security,
- resources available at the Commission,
- lack of performance indicators,
- lack of minimum, uniform standards for the control process,
- inadequate monitoring of how processes are performed,
- lack of specificity in the business (and functional) requirements determined at EU level,
- guidelines dispersed among different sources of information.”

**Businesses.**

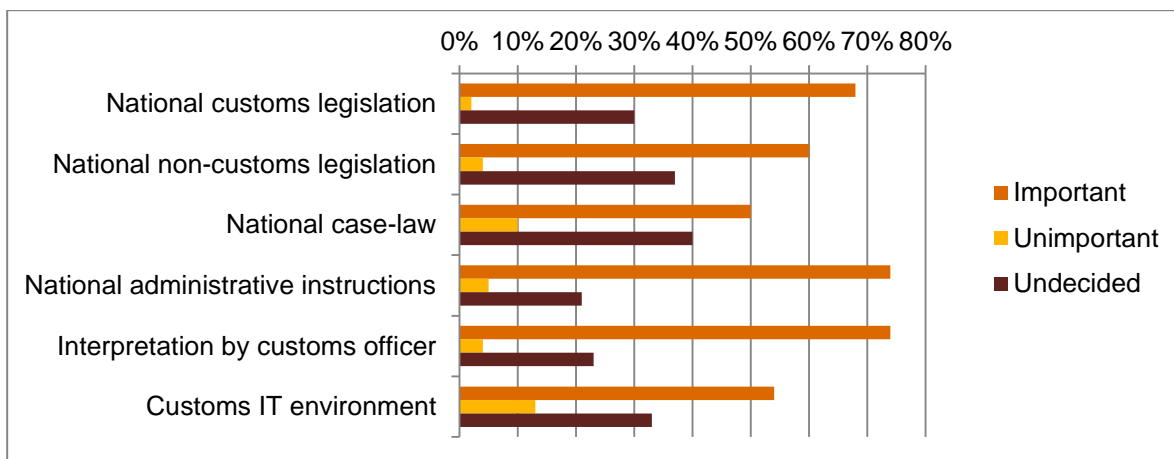


Figure 14 – Targeted business survey (question 33) – Reason for non-uniformity – Observation by stakeholders

The “undecided” category covers the companies that answered “neither important nor unimportant” and “don’t know”

The targeted business survey results in the following:

- sixty-eight per cent of the businesses indicate that national customs legislation is an important reason for non-uniformity (2% unimportant, 30% undecided);
- sixty per cent of the businesses are convinced that non-uniformity is caused by national non-customs legislation (4% unimportant, 37% undecided);

<sup>39</sup> Future business architecture for the Customs Union and cooperative model in the taxation area in Europe -Final report on Task 2.2 – Strengths and weakness of the current organisation model Customs Union (TAXUD/R3/VDL D(2010) 433216) – May 2011, pp. 98-106.



- half of the business stakeholders indicate that national case law is a reason for non-uniformity (40% unimportant, 10% undecided);
- the highest percentage of “important” responses (74%) relate to national administrative instructions (5% unimportant, 21% undecided) and interpretation by customs officers (4% unimportant, 21% undecided);
- the customs IT environment is cited by 54% of the businesses (13% unimportant, 33% undecided).

The “undecided” category covers the companies that answered “neither important nor unimportant” and “don’t know”.

There are no considerable differences between SMEs and large enterprises. Somewhat more SMEs believe that national customs legislation, national non-customs legislation and national case law are important reasons (75%, 62% and 56% of the SMEs think these reasons are important, compared with 66%, 59% and 49% of the large enterprises).

**In-depth interviews.** In the course of these interviews, further to the basic input on the judgment criterion, the following input was acquired that is of interest.

DG TAXUD wonders what is meant by ‘uniformity’ in terms of controls. It should not concern similar numbers of controls, but be about applying the legislation the same way. The DG TAXUD’s representative thinks this is the real issue.

With respect to the survey, DG TAXUD states it is remarkable that the focus lies on the ‘national’ aspects. For example, when implementing an EU directive on non-customs legislation, the Member States have to meet the minimum requirements laid down in the directive.

#### 2.2.1.4.2 Findings

According to business stakeholders, national customs official instructions and interpretations by customs officers are very important when it comes to executing documentary controls. Non-uniformity with regard to documentary controls is mainly caused by differing interpretations by Member States and the freedom they have in this respect. One of the stakeholders indicated that the treatment of minor errors on preference certificates varies from country to country. In some countries, there is no tolerance whatsoever while most countries apply a reasonability test. Also, during in-depth interviews, it was discussed that European legislation is not always applied in the same way, which is a major reason for non-uniformity. These findings are confirmed by the self-assessment study.

More than half of the respondents to the targeted business questionnaire furthermore cite national customs and national non-customs legislation, national case law and the customs IT environment as being important reasons for non-uniformity.

The same trend is observed regarding the importance of the reasons for non-uniformity according to businesses in this section and in section 2.1.2.5 (reasons for existing differences/non-uniformity for clearance processes). The only difference is that the customs IT environment is assessed as being more important than national case law in this section, whereas the opposite is true for section 2.1.2.5.

#### 2.2.1.5 Judgment 5 – documentary controls

Differences mainly exist with regard to the frequency of documentary controls, the position of documentary controls in the overall control framework and, more specifically, the interpretation of “mistakes”. The main reason can be found in national rules and policy in this respect (which often lay down additional risk criteria) as well as differences in interpretation.

As EU legislation only provides a minimum framework for controls and national Member States are free to institute additional controls, a comparison on the uniformity of controls is difficult if not inapplicable if there is no foundation for uniform controls: it is *de facto* impossible to judge the existence of uniformity. In fact the only judgment that can be made is that no uniformity (obviously) exists. When the focus is laid only on the

uniform application of controls under customs legislation, stakeholder responses do not always follow the same interpretation, in spite of the definitions provided, leading to a result that is inconclusive.

### 2.2.2 Uniformity of control processes – Extent to which physical controls occur uniformly across the Customs Union

To judge whether physical controls occur uniformly across the Customs Union, the following differences are analysed:

- in the scope of physical controls,
- in the priority and focus of physical controls,
- in the relative importance of physical controls compared to other controls,
- reasons for existing differences in physical controls.

#### 2.2.2.1 Extent to which differences exist across the Customs Union with regard to the scope of physical controls (the different aspects subject to physical control)

##### 2.2.2.1.1 Data

Data sources				
Desk research	Business	Customs authorities	Other authorities	In-depth interviews
X	✓	X	✓	✓

### Businesses.

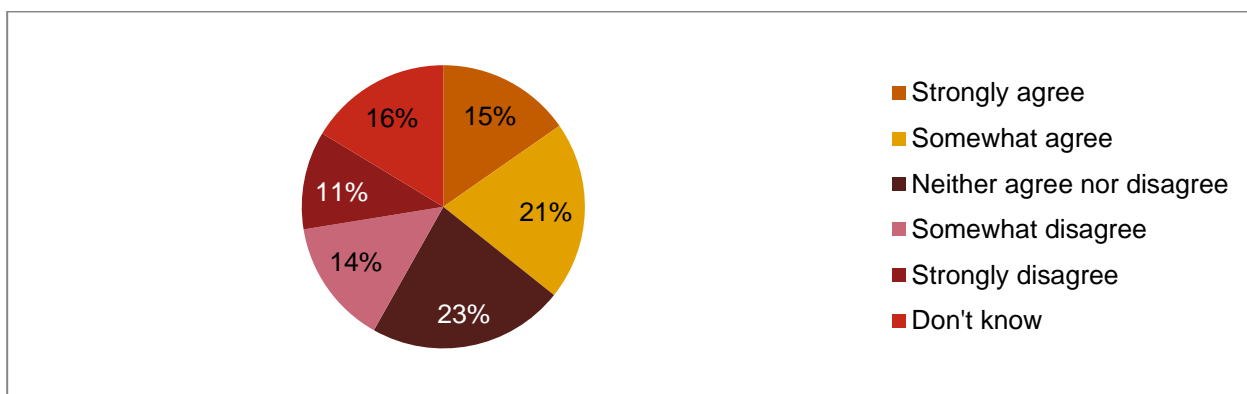


Figure 15 – Targeted business survey (question 34) – Physical controls are executed uniformly among the different Member States

Of the stakeholders that responded to the targeted business survey, 36% find that physical controls are executed uniformly among the Member States (15% strongly agree and 21% somewhat agree with the statement) while 25% disagree (11% strongly disagree and 14% somewhat disagree). Twenty-three per cent of the respondents neither agree nor disagree, while 16% don't know.

The following examples of non-uniformity are mentioned with respect to the execution of physical controls among Member States:

- the frequency of physical controls differs among Member States,
- the reason that triggers a physical control varies among Member States,
- the scope of the physical control differs.

In this respect, one business representative stated that, in their case, new products are often not imported into countries that operate higher levels of physical controls because the risk of delays in the supply chain is excessive.

Although the same proportion of large enterprises (36% in total: 18% strongly agreeing and 18% somewhat agreeing) and SMEs (35% in total: 5% strongly agreeing and 30% somewhat agreeing) agree with the statement that physical controls are executed uniformly among the different Member States, a significant difference is observed in the proportion of companies not agreeing with the statement. For large enterprises, this is 29% of the respondents (15% somewhat disagreeing and 14% strongly disagreeing); for SMEs, this is 10% of the respondents (10% somewhat disagreeing and 0% strongly disagreeing). Twenty-one per cent of the large enterprises neither agree nor disagree and 14% don't know. Thirty per cent of the SMEs neither agree nor disagree, 25% don't know.

**Other authorities.** From other individual authorities, doubts occasionally emerge as to operational capacities that appear crucial for successful performance of border control and surveillance tasks.

Physical controls can be performed by different authorities, for customs as well as for other purposes. Sometimes controls for different purposes are combined, shared or delegated, in the hands of one authority.

Certain misunderstandings exist regarding specific powers available to Customs in certain Member States. The function allowed under customs legislation that is highly appreciated by other executive authorities is that of stop and search *without* reasonable suspicion, as allowed to Customs within a border zone of, e.g., five or 30 km (land border) or 50 km (maritime border). This power has proved a very attractive reason for police forces to seek closer cooperation with the customs authorities.

Some customs authorities carry out border guard functions on the basis of a "mutual conferral of public authority". The mutual conferral has practical importance in situations in which one of the two administrations is not represented, e.g. in small seaports, customs and police aspects are controlled based on a joint risk analysis by one of the authorities involved. Please note that this is not applicable in all Member States.

**In-depth interviews.** In the course of these interviews, further to the basic input on the judgment criterion, the following input was acquired that is of interest.

The results of the surveys were discussed during the in-depth interviews. The in-depth interview with DG AGRI showed that controls are not always in the hands of Customs. Although controls are often shared/delegated/combined, it is not necessarily so.

#### 2.2.2.1.2 Findings

Around one quarter of the business stakeholders expressed disagreement with the statement that physical controls are executed uniformly among the different Member States. Especially large companies (strongly) disagree. According to business stakeholders, the Customs Union is not uniform with regard to physical controls. Non-customs authorities confirm that non-uniformity does indeed exist. The availability of operational capacity influences the number and successful performance of border controls and surveillance tasks. This operational capacity varies from Member State to Member State and can consequently be considered as a trigger for non-uniformity as the level and frequency of controls may vary accordingly.

Although controls are often shared/delegated/combined with other authorities, this is not a requirement. Therefore, in certain cases, controls are out of the hands of Customs.

2.2.2.2 Extent to which differences exist across the Customs Union with regard to the priorities and focus of physical controls

2.2.2.2.1 Data

Data sources				
Desk research	Business	Customs authorities	Other authorities	In-depth interviews
✓	X	X	X	✓

**Desk research.** In the thematic report of DG BUDG on control strategies,<sup>40</sup> one of the objectives evaluated is that “there is a global customs control strategy, possibly based on a periodical inspection plan, covering all types of control and all customs operations.” It is concluded in the report that “most Member States have general objectives and priority areas on which to focus and, occasionally, corresponding targets for the different types of controls. However, they mostly lack an overall explicit customs control strategy aimed at protecting traditional own resources, indicating the mechanisms used to achieve it and the assurance to be obtained from each of them. Most Member States base their customs control strategy on a balance of clearance and post-clearance controls, but there was not always sufficient use of all types of controls. There was generally feedback from both the operational level and the internal audit services to allow for proper monitoring of the customs control strategy.” Furthermore, the Member States’ follow-up of the findings is discussed in the thematic report (also quoted under 2.2.1.2.1).

**In-depth interviews.** In the course of these interviews, further to the basic input on the judgment criterion, the following input was acquired that is of interest.

According to DG TAXUD, physical controls will be performed when customs authorities are obliged to do them or when there is reasonable suspicion. Physical controls are extremely time-consuming. Consequently, it is obvious that the customs authorities do not carry out controls just for the sake of it.

2.2.2.2.2 Findings

Most Member States have general objectives and priority areas on which to focus. However, desk research points to the fact that there is not sufficient use of all types of controls in most Member States. This was confirmed during the in-depth interview with DG TAXUD. During the interview, it was mentioned that physical controls are often only performed when customs authorities are obliged to do them.

2.2.2.3 Extent to which differences exist across the Customs Union with regard to the relative importance of physical controls, compared to other types of control

2.2.2.3.1 Data

Data sources				
Desk research	Business	Customs authorities	Other authorities	In-depth interviews
✓	✓	X	X	X

**Desk research.** DG BUDG’s thematic report on control strategies<sup>41</sup> states that “customs clearance includes documentary and physical controls, the latter of these including the possibility to carry out laboratory analyses of goods. These controls are based on risk analysis as required by the legislation.<sup>42</sup> The more developed and precise the risk analysis system is, the smaller the number of declarations needing to be targeted for control. However, in some Member States, risk analysis could not justify the very low levels of controls.”

<sup>40</sup> European Commission, Control of traditional own resources, Customs control strategy in the Member States – Thematic report of the Directorate-General for Budget – Results of inspections carried out in Member States in 2009-2010.

<sup>41</sup> European Commission, Control of traditional own resources, Customs control strategy in the Member States – Thematic report of the Directorate-General for Budget – Results of inspections carried out in Member States in 2009-2010.

<sup>42</sup> Article 13(2) CC.

**Businesses.** According to businesses responding to the targeted business survey, there are differences between Member States with regard to the scope and frequency of physical controls. In a number of Member States, physical controls are limited to merely checking markings while goods are carefully inspected in other Member States.

#### 2.2.2.3.2 Findings

According to business stakeholders, there exist differences between Member States with regard to the scope and frequency of physical controls. Desk research confirms this finding. In some Member States, very low levels of controls were observed, which could not be justified by the risk analysis carried out.

#### 2.2.2.4 What are the main reasons for existing differences/non-uniformity?

##### 2.2.2.4.1 Data

Data sources				
Desk research	Business	Customs authorities	Other authorities	In-depth interviews
✓	✓	X	X	X

**Desk research.** Reference is made to 2.2.1.4.1.

**Businesses.**

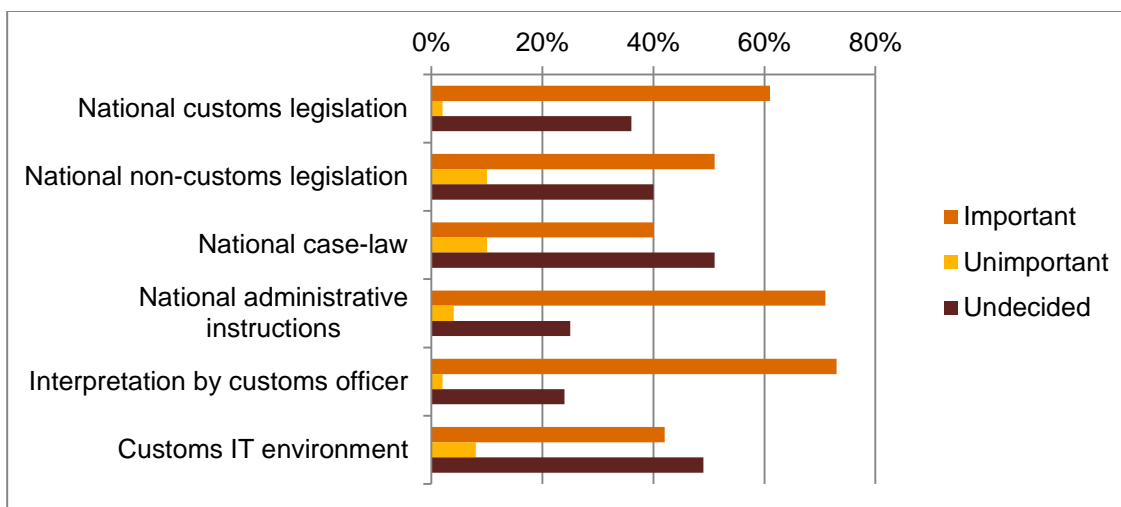


Figure 16 – Targeted business survey (question 37) – Reason for non-uniformity – observation by stakeholders (the “undecided” category covers the companies that answered “neither important nor unimportant” and “don’t know”)

The targeted business survey results in the following:

- sixty-one per cent of the businesses indicate that national customs legislation is an important reason for non-uniformity (2% unimportant, 36% undecided);
- about half of the businesses (51%) are convinced that non-uniformity is caused by national non-customs legislation (10% unimportant, 40% undecided);
- forty per cent of the business stakeholders indicate national case law as a reason for non-uniformity (10% unimportant, 51% undecided);
- the highest percentages of “important” responses (71% and 73%) relate respectively to national administrative instructions (4% unimportant, 25% undecided) and interpretation by customs officers (2% unimportant, 24% undecided);

- the customs IT environment is cited by 42% of the businesses (8% unimportant, 49% undecided).

The “undecided” category covers the companies that answered “neither important nor unimportant” and “don’t know”.

The view of large enterprises and SMEs is the same with regard to national customs and non-customs legislation and the customs IT environment. Somewhat more SMEs indicate national case law as being an important reason for non-uniformity (47% of SMEs compared to 38% of large enterprises). On the other hand, somewhat more large enterprises think that national administrative instructions (73% of large companies compared to 63% of SMEs) and interpretation by customs officers (75% of large companies compared to 63% of SMEs) are important reasons for non-uniformity. Please note that more SMEs indicated ‘don’t know’ (overall, 32% of SMEs and 16% of large enterprises).

#### 2.2.2.4.2 Findings

According to the respondents to the targeted business survey, the most important reasons for differences between Member States is differences in interpretation by customs and differences in national administrative instructions. National customs, non-customs legislation and case law also are considered as important reasons, though to a more limited extent. The impact of national legislation was confirmed during the in-depth interviews. The self-assessment study also points to the differences in approach and execution. Member States have to meet minimum requirements, but each Member State is free to impose additional requirements if it wants.

The same trend regarding the importance of the reasons for non-uniformity is observed in this section and in section 2.2.1.4 (reasons for existing differences/non-uniformity of documentary controls).

Other reasons mentioned are reductions in the numbers of customs offices and budget cuts as well as reductions in numbers of customs officers, combined with the lack of modern scanning equipment. Another reason is customs officers’ lack of experience when dealing with anything beyond standard procedures. Moreover, businesses often do not know which authority/officer is responsible for carrying out physical controls.

#### 2.2.2.5 Judgment 6 – physical controls

As EU legislation only provides a minimum framework for controls and national Member States are free to institute additional controls, judging the uniformity of controls is difficult.

In general, it can be concluded that differences exist in the scope of physical controls, but they are mainly linked to national legislation and/or non-customs legislation (national control framework). These, together with national official instructions, are stated to be the main reasons for the differences that exist. The data gathered does not allow further conclusions to be drawn with regard to physical controls.

As an approximation, the level of physical control makes businesses opt for other points of entry into the EU.

### 2.2.3 Uniformity of control processes – Extent to which post-clearance controls occur uniformly across the Customs Union

#### 2.2.3.1 Data

Data sources				
Desk research	Business	Customs authorities	Other authorities	In-depth interviews
✓	X	X	X	X

**Desk research.** A report by the European Court of Auditors states that *“the Commission’s ‘Customs audit guide’ is not often used by national customs authorities. They prefer their own methodology.<sup>43</sup> Although these services endeavour to apply a coherent approach to audits, for example by using standard checklists, reporting or trader risk-rating templates, customs auditors follow their own individual approaches. The documentation in the reviewed trader files was often inconsistent and/or incomplete. Adequate ex-post audits on traders’ systems, including IT systems, are not carried out in a number of audited Member States.”*

The same report indicated that *“there is inadequate assurance that simplified procedures are effectively controlled in the majority of the audited Member States due to application of a deficient audit methodology, poor planning and, in particular, the absence of sufficiently frequent, thorough ex-post audits on traders using these procedures.<sup>44</sup> This results in increased risks of loss of duty to the EU budget and of imports not complying with the obligations deriving from common trade policy measures.”*

The findings of this report by the European Court of Auditors give reason to doubt whether, *“especially for six of the nine audited Member States, imports under simplified procedures are effectively controlled so as to prevent a loss of funds to the EU budget or prejudice to EU producers.<sup>45</sup>”*

The thematic report of DG BUDG on Local Clearance Procedures<sup>46</sup> states that the following issue calls for special attention:<sup>47</sup>

- *“Member States committed themselves to stepping up post-clearance checks and to monitoring authorisations for simplified procedures in order to make up for the reduction of controls before release and to adequately protect the EU’s financial interests, especially in relation to the three-year limitation period. These commitments have not yet fully materialised.”*

The overall conclusion of the report is that *“post-clearance checks should be carried out based on a risk assessment and the three-year limitation period should be properly taken into account. Member States should, when applying a lower frequency of checks, be able to justify the level as nonetheless being sufficient to protect the EU’s financial interests. The Commission and the Court of Auditors have underlined the need to step up post-clearance audits in recent years to compensate for the reduction of controls at clearance. Most Member States have committed to doing so but have not fully implemented that commitment. The monitoring of authorisations, for both AEOs and local clearance procedures, has also been planned by most Member States but still needs further execution. Those Member States that were unable to provide an audit trail for pre-authorisation checks should pay particular attention to monitoring, especially in the current context of the increasing reuse of AEO status for other authorisations.”*

DG BUDG’s thematic report on control strategies<sup>48</sup> evaluated the following objectives, amongst others:

- *“Controls carried out when a customs-approved treatment or use is assigned to goods are based on a risk analysis which makes it possible to determine and quantify the risks. The risk analysis is supplied without delays, using all available information sources.”*

Not all Member States perform equally on this objective. The report concludes that *“customs clearance controls were based on risk analysis in all Member States. The services involved in risk analysis were generally coordinated but did not always ensure that the results of post-clearance control activities were fed back into the system. The mechanisms to exchange and use risk information among Member States were not fully exploited. Although serious consideration was given to the information received, the timeliness and documentation of the actions undertaken in response to the risk and the feedback to*

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<sup>43</sup> European Court of Auditors – Special Report No. 1/2010 – Are Simplified Customs Procedures for Imports Effectively Controlled?, p. 58.

<sup>44</sup> European Court of Auditors – Special Report No. 1/2010 – Are Simplified Customs Procedures for Imports Effectively Controlled?, p. 9.

<sup>45</sup> European Court of Auditors – Special Report No. 1/2010 – Are Simplified Customs Procedures for Imports Effectively Controlled?, p. 31.

<sup>46</sup> The Local Clearance Procedure (LCP) is defined as a commonly used simplified procedure which enables goods to be entered for customs treatment at the premises of the operator, or at other places designated or approved by the customs authorities, by means of an entry in the operator’s records, subject to the subsequent presentation of a supplementary declaration.

<sup>47</sup> European Commission, Own resources and financial programming, Control of traditional own resources, Local Clearance Procedure – Thematic report of the Directorate-General for Budget – Results of inspections carried out in Member States in 2011.

<sup>48</sup> European Commission, Control of traditional own resources, Customs control strategy in the Member States – Thematic report of the Directorate-General for Budget – Results of inspections carried out in Member States in 2009-2010.

*Member States and the Commission needed improvement. In some Member States, the risk analysis carried out did not justify the very low levels of control.”*

- *“Post-clearance controls are organised and determined on the basis of an organisational structure involving the central and regional/local levels. They are programmed on the basis of a risk analysis covering all customs-approved treatments and uses, all accepted declarations and all operators.”*

Not all Member States perform equally on this objective. The report concludes that *“the decentralised selection of operators for post-clearance audits in some Member States was only effective and ensured fair treatment to operators when it was co-ordinated and supported by Member States’ central services. Post-clearance risk analysis systems did not always take into consideration risk indicators such as the time-barring period for communicating the customs debt or the risk presented by operators. The post-clearance controls targeted most customs procedures and operators. However, in some Member States, simplified procedures and authorised operators were not sufficiently targeted.”*

- *“Post-clearance control programmes are implemented properly, unless there is specific justification and their results are evaluated.”*

Not all Member States perform equally on this objective. The report concludes that *“no significant backlogs in the implementation of post-clearance control programmes were observed, thus limiting the risk of customs debt being time-barred after three years. There were monitoring mechanisms in place in most Member States, with minor adjustments to be made.”*

- *“The types of controls carried out post-clearance make it possible to achieve the stated control objectives efficiently. Regarding authorised operators, post-clearance controls take account of the existence of pre-audits and include, if necessary, audits of operators’ computer systems.”*

Not all Member States perform equally on this objective. *“Post-clearance examinations of declarations have inherent limitations and need to be complemented by post-clearance audits. The number of post-clearance audits was considered as limited in a number of Member States. This was not sufficiently justified by risk analysis. The preparation and execution of these audits was considered as satisfactory in general terms, with the need for additional guidance and a more risk-oriented approach in general, and a wider scope in some Member States.”*

The main conclusion from this report is that *“post-clearance audits should be reinforced to compensate for the reduction in customs clearance controls with a view to achieving a balanced approach between control and trade facilitation. The reduction in controls at clearance should also be compensated for by reinforcement in post-clearance audits. For such audits, there should be coordinated programmes based on risk analysis, which should target all types of procedures and operators. These risk analyses should also take due account of the three-year time bar to communicate outstanding customs debts. Most Member States agree with this conclusion and have committed to taking action in this area.”*

#### 2.2.3.2 Findings

A report by the Court of Auditors states that the Commission’s ‘Customs audit guide’ is not often used by national customs authorities. National customs auditors follow their own individual approaches. DG BUDG’s thematic reports agree with these findings. The main conclusions from this report are that there are differences between Member States with regard to post-clearance controls and the objectives evaluated.

#### 2.2.4 Uniformity of control processes – Extent to which the consequences of the differences in application of these processes are significant for businesses and other stakeholders

As a separate judgment criterion, the consequences of the differences in the application of control processes are dealt with below.



2.2.4.1 Data

Data sources				
Desk research	Business	Customs authorities	Other authorities	In-depth interviews
X	✓	X	X	✓

**Businesses.**

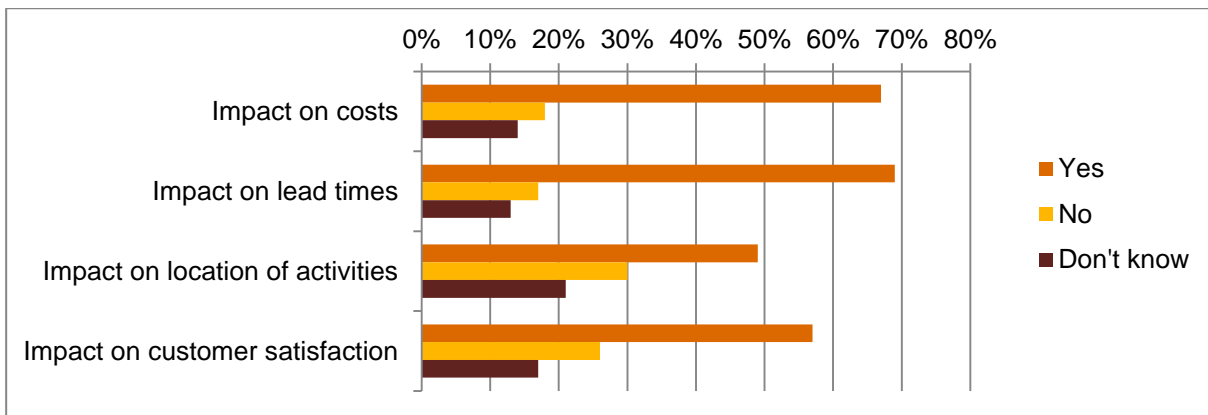


Figure 17 – Targeted business survey (question 31) – Documentary controls – impact on costs, lead times, location of activities and customer satisfaction.

The targeted business survey leads to the following results on documentary controls:

- sixty-seven per cent of the business stakeholders of the targeted business survey indicate that the differences in applying documentary controls have an impact on costs (18% no impact, 14% don't know);
- sixty-nine per cent cite the impact on lead times (17% no impact, 13% don't know);
- about half of the businesses (49%) are convinced that the location of activities is impacted by the differences (30% no impact, 21% don't know);
- the impact on customer satisfaction is cited by 57% (26% no impact, 17% don't know).

The same trend is observed for large enterprises and SMEs. However, somewhat fewer SMEs think that there is an impact on cost (60% compared to 69% of the large enterprises) and on lead times (60% compared to 72% of large enterprises).

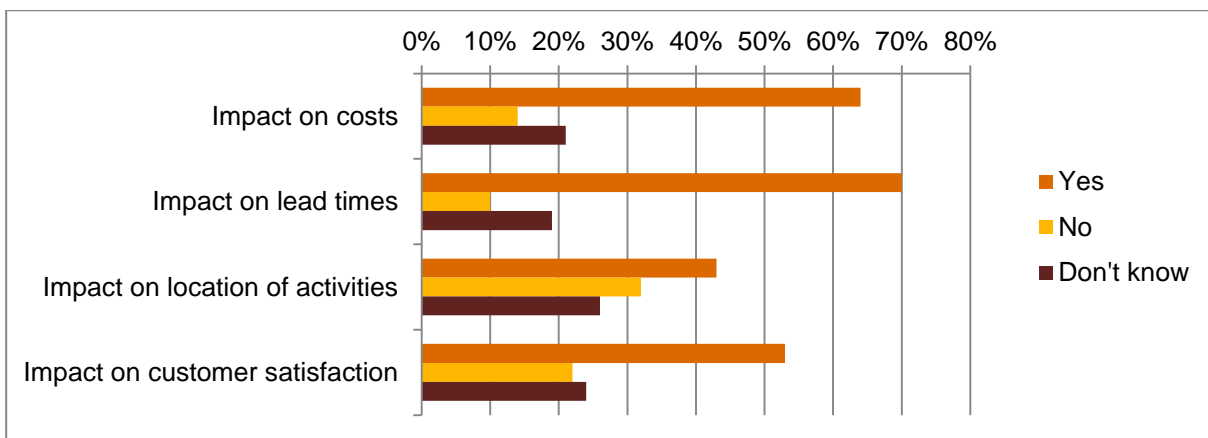


Figure 18 – Targeted business survey (question 35) – Physical controls – Impact on costs, lead times, location of activities and customer satisfaction

The targeted business survey (see figure 18) leads to the following results on physical controls:

- sixty-four per cent of the business stakeholders of the targeted business survey indicate that the differences in the application of physical controls have an impact on costs (14% no impact, 21% don't know);
- seventy per cent cite the impact on lead times (10% no impact, 19% don't know);
- forty-three per cent of the businesses are convinced that the location of activities is impacted by the differences (32% no impact, 26% don't know);
- the impact on customer satisfaction is cited by 53% of the respondents (22% no impact, 24% don't know).

The same trend is observed for large enterprises and SMEs. However, somewhat fewer SMEs think that there is an impact on cost (60% compared to 65% of the large enterprises) and on lead times (60% compared to 73% of large enterprises).

**In-depth interviews.** In the course of these interviews, further to the basic input on the judgment criterion, the following input was acquired that is of interest.

The only main additional point resulting on this aspect from the in-depth interviews is that, in the opinion of DG TAXUD, only in exceptional cases will businesses choose one Member State above another to avoid paying higher customs duties.

#### *2.2.4.2 Findings*

According to the majority of the business stakeholders responding to the targeted business survey, documentary controls have a significant impact on both costs and lead times. Fewer business stakeholders think there is a significant impact on the location of activities and customer satisfaction. This is also confirmed during the in-depth interview, during which it was also stated that there will only be an impact on location in exceptional cases.

The same trend applies for the impact of physical controls.

#### *2.2.4.3 Judgment 7 – consequences of differences in control processes*

The main consequences of the existence of non-uniformity with respect to controls are the impact on costs and lead times. Still, a considerable number of businesses think the differences in control processes cause a shift in location, and discern an impact on customer satisfaction. Although perhaps not the decisive factor, the non-uniformity of controls (read: a high/low level of controls in a given Member State) will certainly be a point of evaluation for business when restructuring/relocating activities subject to customs controls.

#### *2.2.5 Uniformity of control processes – Second conclusion (judgment 5 – judgment 7)*

On the question to what extent control processes are applied uniformly across the Customs Union, an analysis of the input received shows that, although respondents believe there is a certain level of uniformity, a relatively high number of them are still of the opinion that this is not the case. Differences in performing documentary controls mainly relate to interpretations by customs officers and the consequences of mistakes (which are viewed very differently between Member States). As regards physical controls, differences relate to the control philosophy of the Member States and differences in the scope of controls.

The role and level of documentary controls, physical controls, post-clearance controls or combinations of them greatly depend on national legislation, national policy and instructions within the control framework of a specific Member State (within its risk management framework). On that aspect, the European Court of Auditors concluded in an audit of controls of simplified import procedures in nine Member States that there exist major differences in actual controls and, in six of the nine cases, controls were insufficient to secure the interests of the EU.

Controls are stated to have a clear impact on cost, lead times and, also, location choices and customer satisfaction. Business furthermore clearly indicated that interpretations of EU legislation and national official

instructions by customs officers are very important when it comes to carrying out documentary and physical controls. Different interpretations by customs officers in different Member States can lead to non-uniformity. Another reason for non-uniformity is said to be the lack of experience of customs officers when dealing with anything beyond standard procedures. Thus, it can be stated in conclusion that there is no uniform application of controls themselves or of control strategies within the Customs Union. Although this is a logic consequence of the present legislative structure, it may be undesirable for the Customs Union, as reduced levels of uniformity have clear consequences for business stakeholders and are disruptive.

### 2.3 To what extent are risk management processes applied uniformly across the Customs Union? What are the main reasons for differences in the application of risk management processes or for non-uniformity? How significant are the consequences of differences in the application of these processes?

With respect to the sub-evaluation question on uniformity of risk management, only the existence of potential non-uniformity is looked into.

#### 2.3.1 Uniformity of risk management processes – Extent to which risk management and analyses are applied uniformly across the Customs Union

To judge the uniformity of risk management and analyses, it is reviewed whether the Customs Union uniformly applies the EU Risk Management Framework.

##### 2.3.1.1 Data

Data sources				
Desk research	Business	Customs authorities	Other authorities	In-depth interviews
✓	X	X	X	✓

**Desk research.** In the self-assessment study,<sup>49</sup> it is stated that, “for the risk management process, various EU guidelines have recently been drafted and are currently being tested. Various helpdesks exist to support this process, as well as some modules and IT tools. The EU risk management guidelines only deal with transaction-based controls (TBC), and not with system-based, operator-specific controls (SBC). The national targeting centres in the Member States each set their own priorities in terms of risk management, without having to take into account any EU guidance in this respect.”

A standardised EU framework for risk management processes was first devised by a project group set up under the Customs 2002 Programme. In practical terms, risk management primarily rests on three main pillars: (1) relevant legislation; (2) IT systems to collect and exchange relevant data; and (3) rules and guidelines to help interpret legal requirements and give them substantive meaning for day-to-day customs operations. The Customs 2013 Programme has actively supported developments in the second and third areas through a number of activities in the last three years.

The main IT system in this area is the Community Risk Management System (CRMS). The first phase of the CRMS, the electronic Risk Information Form (RIF) system, was launched in April 2005 to facilitate the exchange of risk information among the Member States and between them and the Commission.

According to the Midterm evaluation of the Customs 2013 Programme,<sup>50</sup> “significant progress has been made in the area of risk management in recent years, to the point where, on 1 January 2011, the new security rules

<sup>49</sup> Final report on Task 2.2 – Strengths and weaknesses of the current organisation model and Final report on Task 2.3 – Options for improvement of the functioning of the Customs Union (TAXUD/R3/VDL D(2010) 433216) – 24/05/2011.

<sup>50</sup> Mid-Term Evaluation of the Customs 2013 Programme, Annex 3, p. 69.

*came fully into force. This means that all traders involved in customs transactions and international logistics have to provide EU customs with security data by means of electronic declarations before goods are brought into, or taken out of, the EU. In addition, a uniform set of EU risk criteria is applied by Member States when carrying out customs controls on goods entering or leaving the EU.”*

There was widespread agreement among participants in this Midterm evaluation that the significant progress that has been achieved in this area would have been inconceivable without the Customs 2013 Programme’s support for various joint actions and IT systems. With regard to the joint actions that were assessed as part of this case study, the close cooperation and coordination between Member States and the European Commission that was made possible by the Customs 2013 Programme’s support has undoubtedly added substantial value: rules and guidelines were developed in a way that was much more pragmatic, effective, efficient, timely and collaborative than if only more formal channels (such as the Customs Code Committee) had had to be used. The Programme was also instrumental in disseminating knowledge about the new rules and procedures to the most relevant actors in all Member States, as well as gathering political support and jointly deciding future priorities.

In a study by CEPS, Liberty and Security in Europe in 2011,<sup>51</sup> several interviewees mentioned (potential or real) weaknesses in the legislative framework (e.g. with regard to the quantity and quality of information that traders are legally obliged to provide as part of their pre-arrival declarations), the IT infrastructure, and/or the human resources available in national customs authorities to actually implement all aspects of the common risk management approach. All these aspects will have to be monitored carefully, and it is likely that further adjustments will be required before it can be ascertained that the progress that has been made (partly due to Customs 2013 joint actions) is actually having a significant impact on achievement of one or more of the Customs 2013 Programme objectives.

The thematic report of DG BUDG on Local Clearance Procedures<sup>52</sup> evaluates the following objectives, amongst others:

*“Customs authorities are able to make sure that they are informed in every case that the goods are to be released by the authorisation holder (notification of arrival, notification of the intention to release the goods), unless otherwise provided in the rules or, where there are particular circumstances, in the authorisation.”*

According to this report, not all Member States perform equally on this objective. The report concludes that the fact that *“notification waivers are granted systematically and notifications are not submitted electronically or do not contain pertinent information does not allow customs to properly exercise their right to check goods before release”*.

- *“Customs authorities are able to check, at the premises of the operator, all goods intended for release, as well as the corresponding account entries, prior to release being granted. Sufficient checks at the moment of release are in place based on a risk analysis. The risk analysis should take into account Mutual Assistance communications and other risk information relating to goods, operators and the possibilities/risks of evading customs duties, particularly Risk Information Forms (RIFs)”*.

*The report concludes that the fact that “notification waivers are granted systematically and that notifications are not processed in the automated risk analysis systems undermines the possibility for Customs to carry out effective checks before release.”* Performance regarding this objective varies between Member States.

The thematic report of DG BUDG on Control Strategy<sup>53</sup> evaluates the following objectives, amongst others:

- *“Accurate selection criteria based on a risk analysis are developed and disseminated and receive an accurate and rapid follow-up. The results of controls carried out by the service are the subject of*

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<sup>51</sup> Customs cooperation in the Area of Freedom, Security and Justice, The role of customs in the management of the EU’s external border, Peter Hobbing, CEPS, Liberty and Security in Europe, June 2011, p. 11.

<sup>52</sup> The Local Clearance Procedure (LCP) is defined as a commonly used simplified procedure that enables goods to be entered for customs treatment at the premises of the operator, or at other places designated or approved by the customs authorities, by means of an entry in the operator’s records, subject to subsequent presentation of a supplementary declaration.

<sup>53</sup> European Commission, Control of traditional own resources, Customs control strategy in the Member States – Thematic report of the Directorate-General for Budget – Results of inspections carried out in Member States in 2009-2010.

*rapid and accurate feedback which makes it possible to supply the risk analysis quickly and accurately at national, regional and/or local level.*"

The report concludes that, as a general rule, "risk profiles set up by Member States combine sufficient risk indicators. The random element laid down in the legislation is taken into consideration for risk management by most Member States. In most cases, the risk profiles provide clear control instructions for customs clearance officers. Feedback is mostly ensured, although not always in a quick, systematic, comprehensive, structured manner so as to facilitate monitoring." The performance of Member States on this objective varies.

- "All accepted customs declarations, irrespective of the customs procedure, are subjected to a risk analysis using data-processing techniques."

The report concludes that "all Member States, except one, base their controls on risk analysis using automated data processing techniques except for simplified procedures, where the obligatory electronic lodging of customs declarations and notifications would come into force in 2011. Member States' systems are in the course of being adapted. The waiver of notification under the local clearance procedure that may be allowed in special circumstances was applied on a generalised basis in some Member States, limiting customs authorities' ability to examine goods before release. The practice of overruling controls in a general, unjustified, undocumented manner undermines the effectiveness of automated risk analysis in some Member States."

Overall, the report concludes that "risk management should be reinforced, with emphasis on coordination and exchange of information between different services within and across Member States. A general trend of reducing controls at clearance has been observed in the context of trade facilitation. In these circumstances, risk management should govern all the control activities. Coordination between all the services involved within Member States, not only at central, regional or local level but also between clearance and post-clearance departments, needs to be enhanced. The trend of exchanging more risk information between Member States needs to be consolidated, as does use of, and feedback on, this information. Controls should be based on risk analysis using data processing techniques if they are to be efficient and effective, reducing manual intervention to the minimum necessary."

In the self-assessment study,<sup>54</sup> it is concluded that "the lack of uniformity in risk management processes is a pain point for the Customs Union." Related weaknesses are listed below:

- "lack of availability of information,
- duplication of effort by Member States in developing their own approaches to the various processes,
- uneven levels of information-sharing,
- lack of uniformity regarding interpretation of the legislation,
- guidelines are dispersed among different sources of information,
- uneven levels to which information is digitised."

**In-depth interviews.** According to DG TAXUD, each Member State has its own IT systems/language/etc. Furthermore, it was indicated that there are large differences in the amounts of resources invested in risk assessment by individual Member States. The latest trends with respect to the resources spent on risk management are an increase in the investments in IT system and further reductions in staff.

#### 2.3.1.2 Findings

Apart from the desk research and in-depth interviews, no data was obtained. The main findings from the desk research are that significant progress has been made in the area of risk management in recent years, to the point where, on 1 January 2011, the new security rules came fully into force. The close cooperation and coordination between Member States and the European Commission that was made possible by the Customs 2013 Programme's support has undoubtedly added substantial value: rules and guidelines were developed in a way that was much more pragmatic, effective, efficient, timely and collaborative than if only more formal

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<sup>54</sup> Future business architecture for the Customs Union and cooperative model in the taxation area in Europe -Final report on Task 2.2 – Strengths and weakness of the current organisation model Customs Union (TAXUD/R3/VDL D(2010) 433216) – May 2011, p. 107.

channels (such as the Customs Code Committee) had had to be used. Also, in the self-assessment study, it is stated that, for the risk management process, various EU guidelines have recently been drafted and are currently being tested. Various helpdesks exist to support this process, as well as some modules and IT tools.

However, in a study by CEPS,<sup>55</sup> several interviewees mentioned weaknesses in the legislative framework, the IT infrastructure, and/or the human resources available at national customs authorities to effectively implement all aspects of the common risk management approach. Also, in the self-assessment study carried out by DG TAXUD, the lack of uniformity in the risk management process is considered as a pain point. This was confirmed during the in-depth interviews with DG TAXUD. It was mentioned during the interviews that there are huge differences in the amounts of resources invested in risk management by individual Member States. The thematic report by DG BUDG confirms that differences exist between Member States and concludes that risk management should be reinforced, with an emphasis being placed on coordination and exchange of information between different services within and across Member States. Controls should be based on risk analysis using data processing techniques if they are to be efficient and effective, reducing manual interventions to the minimum necessary. The self-assessment study furthermore points to the fact that the EU risk management guidelines only deal with transaction-based controls (TBC), and not with system-based, operator-specific controls (SBC). The national targeting centres in the Member States each set their own priorities in terms of risk management, without having to take into account any EU guidance in this respect.

#### *2.3.1.3 Judgment 8 – risk management*

*See 2.3.2 Uniformity of risk management processes – Third conclusion (Judgment 8)*

#### *2.3.2 Uniformity of risk management processes – Third conclusion (Judgment 8)*

Major efforts are being made to evolve towards a uniform EU risk management and analysis approach. EU risk management mainly focuses on security and safety aspects. However, differences still exist and further development of a common risk management approach to protection of the financial interests of the EU and its Member States is required. The differences are caused *inter alia* by investments in national IT systems and the sovereignty of Member States.

### **2.4 To what extent are data management processes applied uniformly across the Customs Union? What are the main reasons for differences in the application of data management processes for non-uniformity? How significant are the consequences of the differences in application of these processes as identified?**

Data management processes include:

- collection of data: external and internal,
- data storage,
- dissemination of data: external and internal.

To evaluate uniformity with respect to data management processes, two aspects are analysed:

- the existence of (non-)uniformity with respect to data management processes, and
- the main consequences of existing differences/non-uniformity.

#### *2.4.1 Uniformity of data management processes – Extent to which data management processes are applied uniformly across the Customs Union*

Although not a separate judgment criterion in the feasibility study, the existence of non-uniformity with respect to data management processes is dealt with as a separate judgment criterion below.

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<sup>55</sup> Customs cooperation in the Area of Freedom, Security and Justice, The role of customs in the management of the EU's external border, Peter Hobbing, CEPS, Liberty and Security in Europe, June 2011, p. 11.

2.4.1.1 Data

Data sources				
Desk research	Business	Customs authorities	Other authorities	In-depth interviews
✓	✓	X	X	X

**Desk research.** In the self-assessment study,<sup>56</sup> it is stated that, “for data management, the different domains are supported to very different degrees: the common domain is entirely specified and supported by a help desk. For some systems, there are technical guidelines regarding the business processes to be put in place and the format of IT exchanges with trade. Beyond this, no EU guidelines, helpdesks or tools have been established. Data related to Customs is managed and protected via the (M)CC and through a large variety of European and (largely uncharted) national legislation, rules and procedures.”

In the self-assessment report, it is furthermore stated that “it is crucial to understand that the national legal frameworks are a formidable source of diversity across the Member States in operational priorities, in implementing customs processes and their supporting IT systems. This diversity, which has never been fully examined or documented, limits the scope of IT reuse/sharing across Member States.”

All but a few Member States responding to the evaluation questionnaire used for the midterm evaluation of the Customs 2013 Programme were of the opinion that Customs 2013 has helped to improve the correct and uniform application of customs legislation and to standardise customs methods across the EU. Approximately half of the customs authorities felt that Customs 2013 contributed “a lot” in this respect. The most important programme actions in this area included, first and foremost, the monitoring and working visits and in particular those related to EBTI, AEO, SASP, REM/REC, rules of origin, etc. This is primarily because the teams are made up of experts from countries participating in the Midterm evaluation of the Customs 2013 Programme (and the European Commission) and provide an excellent platform to sharing experience, a hands-on approach to learning and transferring best practices.<sup>57</sup>

Other important actions included meetings of the AEO Contact Network, the Seminar on Under-valuation and activities related to the classification of goods. In fact, according to DG TAXUD’s allocation, there were a total of 22 cooperation initiatives (joint actions) between Member States’ experts under Customs 2013 that contributed to uniform classifications in the EU tariff.

In their questionnaire responses, 25 of the 27 national customs authorities indicated that Customs 2013 has helped “somewhat” (17 Member States) or “a lot” (eight Member States) in terms of national customs authorities increasingly acting as one.<sup>58</sup> It has done so mainly through various activities providing customs authorities with a platform to exchange information, develop common guidelines, and IT systems and training, thereby helping Member States to perform their duties more homogeneously. However, it was also acknowledged that the work is far from finished and that significant differences continue to exist across the EU.

Regarding the Customs 2013 Programme priorities related to this objective, there was overwhelming agreement that the Customs 2013 Programme has contributed to the first two priorities, i.e. the (inter)operability, maintenance and upgrading of existing IT systems and the preparation and implementation of new IT projects.

<sup>56</sup> Final report on Task 2.2 – Strengths and weaknesses of the current organisation model and Final report on Task 2.3 – Options for improvement of the functioning of the Customs Union (TAXUD/R3/VDL D(2010) 433216) – 24/05/2011.

<sup>57</sup> Mid-Term Evaluation of Customs 2012 Programme, Final Report, p. 55.

<sup>58</sup> Mid-Term Evaluation of Customs 2012 Programme, Final Report, p. 64.

**Businesses.** Results from the targeted business survey are shown in the figure below.

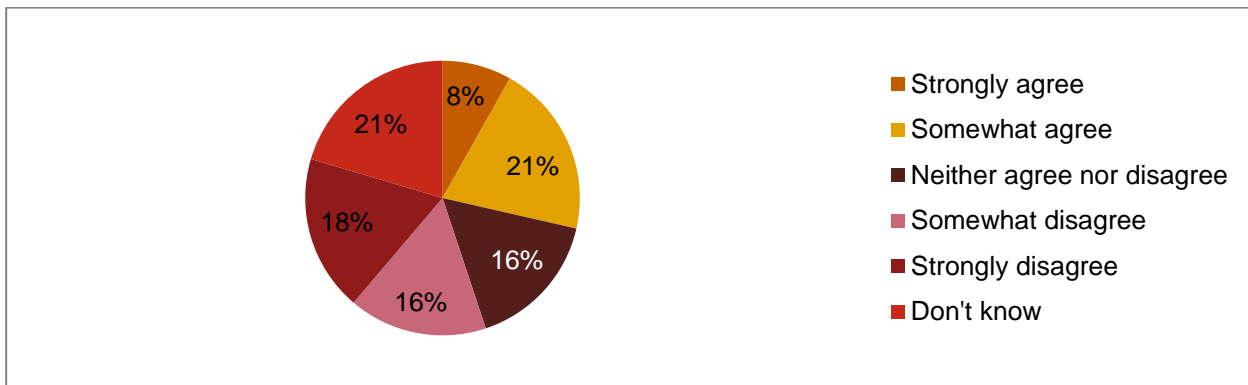


Figure 19 – Targeted business survey (question 46) – Data management processes are applied uniformly across the Customs Union.

Eight per cent of the businesses agree with the statement that data management processes are applied uniformly across the Customs Union, 21% somewhat agree. On the other hand, 18% of the businesses somewhat disagree, 21% strongly disagree and 16% do not agree or disagree. Twenty-one per cent of the businesses indicate that they don't know.

Twenty-seven per cent of the large enterprises agree with the statement (8% strongly agree and 19% somewhat agree) while 36% do not agree (18% strongly disagree and 18% somewhat disagree). Seventeen per cent do not agree or disagree and 21% don't know. Thirty-five per cent of the SMEs agree with the statement (10% strongly agree and 25% somewhat agree) while 30% do not agree (20% strongly disagree and 10% somewhat disagree); 15% do not agree or disagree and 20% don't know.

The following examples of non-uniformity were given:

- 27 different IT solutions,
- lack of integration and networking among Member States and with non-EU trading partners,

Stakeholders responding to the targeted business survey found that detailed information requirements make the system complicated and non-operative. Moreover, companies often need to provide the same data to several authorities independent from each other.

Stakeholders indicate that reporting into the national customs IT systems across the EU (e.g. ATLAS (Germany) DELTA-D (France), SAGITTA (The Netherlands), PLDA (Belgium), CHIEF (UK), etc.) requires modifications of the output files to be sent to the authorities. Data exchange does not exist between the authorities within the scope of Single European Authorisations.

#### 2.4.1.2 Findings

The Customs 2013 Programme has helped to improve the correct, uniform application of customs legislation and to standardise customs methods across the EU. It has provided customs authorities with a platform to exchange information, develop common guidelines, IT systems and training, thereby helping Member States to perform their duties more homogeneously. However, significant differences continue to exist across the EU. In the self-assessment report, it is stated that, for data management, the different domains are supported to very different degrees. This is confirmed by the business stakeholders. According to the business stakeholders, there is no uniformity with regard to data management processes in the Customs Union. Thirty-four per cent (36% of large enterprises and 30% of SMEs) of the business stakeholders do not agree with the statement that data management processes are applied uniformly across the Customs Union. They quote the different national IT solutions, the lack of integration and networking among Member States and different approaches to control as resulting in non-uniformity. Indeed, the self-assessment study confirms that the diversity in national legal frameworks, which has never been fully examined or documented, limits the scope of IT reuse and sharing across Member States.



2.4.1.3 Judgment 9 – data management processes

Although the Customs 2013 Programme has had a very positive impact on the uniformity of data management processes, the different national IT solutions are still the main cause of non-uniformity.

2.4.2 Uniformity of data management processes – Extent to which consequences of differences in the application of these processes are significant for businesses and other stakeholders

As a separate judgment criterion, the consequences of differences in data management processes are dealt with below.

2.4.2.1 Data

Data sources				
Desk research	Business	Customs authorities	Other authorities	In-depth interviews
X	✓	X	X	X

**Businesses.**

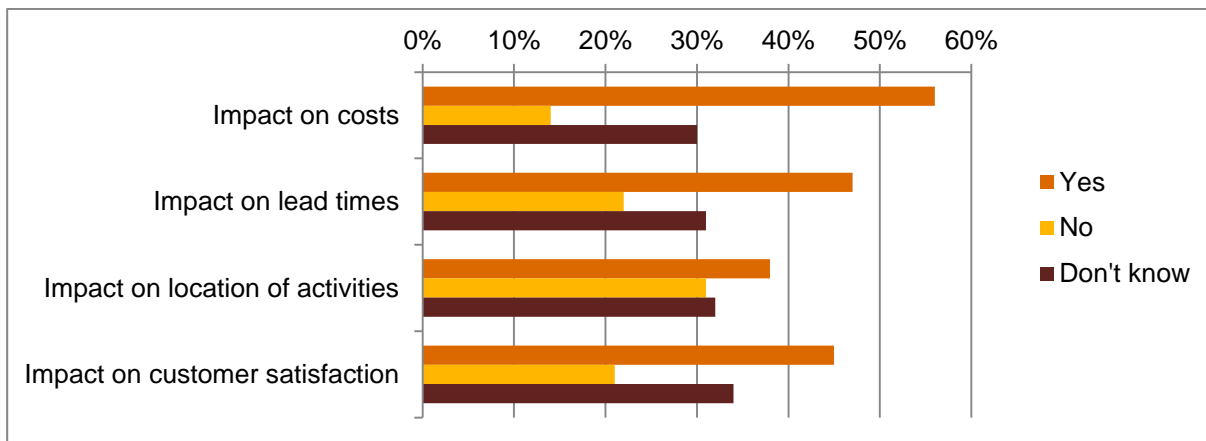


Figure 20 – Targeted business survey (question 47) – Data management processes – Impact on costs, lead times, location of activities and customer satisfaction

The targeted business survey results in the following:

- fifty-six per cent of the business stakeholders in the targeted business survey indicate that the differences in data management processes have an impact on costs (14% no impact, 30% don't know);
- forty-seven per cent cite the impact on lead times (22% no impact, 31% don't know);
- thirty-eight per cent of the businesses are convinced that the location of activities is impacted by the differences (31% no impact, 32% don't know);
- the impact on customer satisfaction is cited by 45% (21% no impact, 34% don't know).

Somewhat more large enterprises indicate that there is an impact on costs (58% of large enterprises compared to 50% of SMEs) and lead times (49% of large enterprises compared to 40% of SMEs). Somewhat more SMEs, on the other hand, indicate that there is an impact on location of activities (40% of SMEs compared to 37% of large enterprises) and customer satisfaction (50% of SMEs compared to 44% of large enterprises). On average, 33% of the large enterprises indicated 'don't know'. For SMEs, this is 26%.

#### *2.4.2.2 Findings*

Stakeholders responding to the targeted business survey found that data management processes particularly have an impact on costs, and only to a lesser extent on other factors such as lead times, customer satisfaction and location of activities. While large enterprises mainly indicate impacts on costs and lead times, SMEs mainly indicate impact on costs and customer satisfaction.

#### *2.4.2.3 Judgment 10 – consequences of differences in data management processes*

As little information is available on the impact of differences in data management processes, no conclusive judgment can be made. Nevertheless, it can be stated that the responding business stakeholders believe that the existing level of non-uniformity primarily impacts costs.

#### *2.4.3 Uniformity of data management processes – Fourth conclusion (judgment 9 – judgment 10)*

Based on the above, uniformity with respect to data management processes is improving. Nevertheless, differences still exist. Insufficient information is available to draw firm conclusions on the consequences of these differences.

### **2.5 To what extent are economic operator processes applied uniformly across the Customs Union? What are the main reasons for differences in the application of economic operator processes or for non-uniformity? How significant are the consequences of differences in the application of these processes as identified?**

This section on economic operator processes mainly covers the aspects related to EORI and authorised economic operators ('AEOs'). Other economic operator processes are mentioned where appropriate.

An EORI number is a unique customs registration number of a legal entity.

AEO is one of the main elements of the security amendment of the Community Customs Code (Regulation (EC) 648/2005). On the basis of article 5a of the security amendments, Member States can grant AEO status to any economic operator established in the EU meeting the following common criteria:

- customs compliance,
- appropriate record-keeping,
- financial solvency and,
- where relevant, appropriate security and safety standards.

The status of authorised economic operator granted by one Member State is recognised by the other Member States. This does not automatically allow an AEO to benefit from simplifications provided for in the customs rules in other Member States. However, they should grant authorised economic operators the use of simplifications if they meet specific requirements and without re-examining criteria that have already been checked.

Economic operators can apply for AEO status either to gain easier access to customs simplifications or to be in a more favourable position to comply with the new security requirements. Under the security framework, which has been applicable since 1 July 2009, economic operators have to submit pre-arrival and pre-departure information on goods entering or leaving the EU. The security-type AEO certificate and the combined type allow holders to benefit from facilitations with regard to customs controls relating to security.<sup>59</sup>

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<sup>59</sup> [http://ec.europa.eu/taxation\\_customs/customs/policy\\_issues/customs\\_security/aeo/index\\_en.htm](http://ec.europa.eu/taxation_customs/customs/policy_issues/customs_security/aeo/index_en.htm).

This section shows to what extent economic operator processes are applied uniformly across the Customs Union and what the main reasons are for differences in the application of economic operator processes or for non-uniformity.

### 2.5.1 Uniformity of economic operator processes – Extent to which registration of traders is done uniformly across the Customs Union

#### 2.5.1.1 Data

Data sources				
Desk research	Business	Customs authorities	Other authorities	In-depth interviews
✓	✓	X	X	X

**Desk research.** By the end of 2010, more than 3 million EORI numbers had been created in the EORI database for the whole EU.<sup>60</sup> This is shown in the table below.

Member States	Total number at the end of 2010	% of total
AT	183,287	6.1%
BE	47,607	1.6%
BG	82,859	2.7%
CY	26,541	0.9%
CZ	61,377	2.0%
DE	88,994	2.9%
DK	77,858	2.6%
EE	11,078	0.4%
EL	72,657	2.4%
ES	331,932	11.0%
FI	11,511	0.4%
FR	566,583	18.7%
HU	130,121	4.3%
IE	5,952	0.2%
IT	519,610	17.2%
LT	55,148	1.8%
LU	57,580	1.9%
LV	21,182	0.7%
MT	13,219	0.4%
NL	118,947	3.9%
PL	68,171	2.3%
PT	66,861	2.2%
RO	34,622	1.1%
SE	52,587	1.7%
SI	59,807	2.0%
SK	20,653	0.7%
UK	242,088	8.0%
EU 27	3,028,833	100.0%

Table 1 – Number of EORI-registered traders at the end of 2010

<sup>60</sup> Report from the Commission to the Council and the European Parliament, Report on Progress on the Strategy for the Evolution of the Customs Union XXX, pp. 6-7.

**Businesses.** Responses from the extended web-based survey are presented in the figure below.

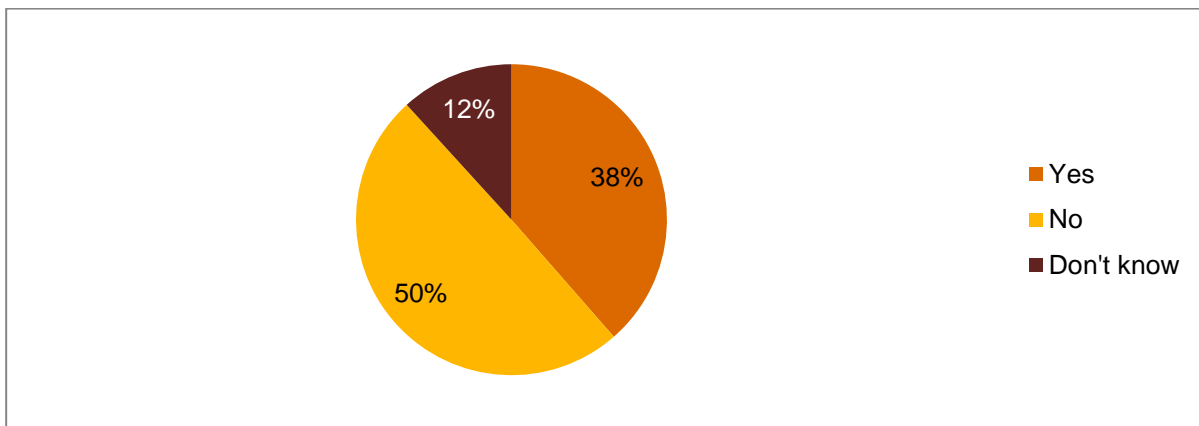


Figure 21 – Extended web-based survey (question 31) – Does your company have multiple EORI (Economic Operator Registration Identification) numbers as a single legal entity?

Thirty-eight per cent of the business stakeholders indicate that their company has multiple EORI numbers as a single legal entity, while 50% indicate that they do not. The other 12% don't know.

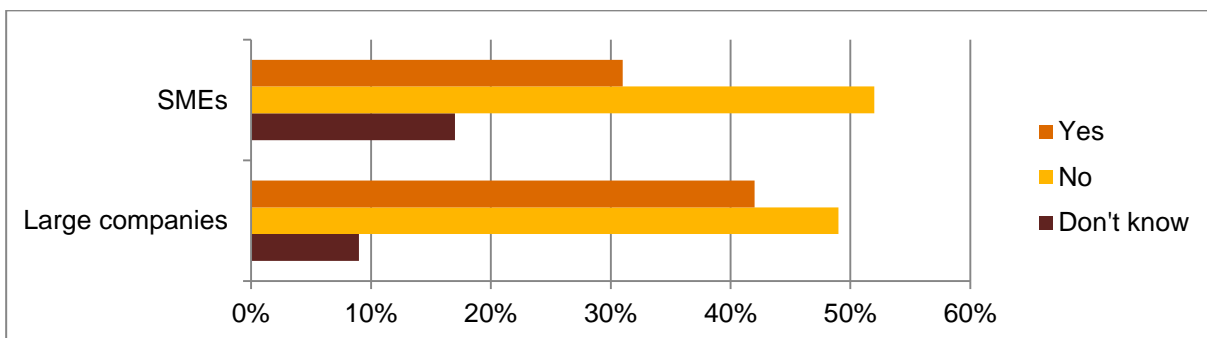


Figure 22 – Extended web-based survey (question 31 large companies and SMEs) – Does your company have multiple EORI (Economic Operator Registration Identification) numbers as a single legal entity?

Thirty-one per cent of the business stakeholders qualifying as SMEs indicate that their company has multiple EORI numbers as a single legal entity, while 52% indicate they do not. The other 17% don't know. On the other hand, 42% of the large companies indicate that their company has multiple EORI number as a single legal entity, while 49% indicate they do not. The other 9% don't know.

In the targeted business survey, 36% (40% of large enterprises and 20% of SMEs) of the respondents indicated that they have multiple EORI numbers as a single legal entity. Fifty-five per cent of the respondents (55% for both large enterprises and SMEs) indicated that they do not have multiple EORI numbers and 9% of the respondents (5% of large enterprises and 25% of SMEs) indicated that they don't know.

#### 2.5.1.2 Findings

Of the businesses that participated in the extended web-based survey, 38% said they do have multiple EORI numbers as a single legal entity. This figure is confirmed by the results from the targeted business questionnaire, where 36% of the stakeholders answered 'yes' to the same question. If one compares the figures on EORI numbers per country, it is clear that there must be non-uniform application of the registration rules. It is to be expected that more large companies have multiple EORI numbers as a single legal entity than SMEs.

This is confirmed by the business stakeholders that completed the questionnaires. More large enterprises than SMEs indicated they have multiple EORI numbers (42% compared to 31% for the extended web-based survey and 40% compared to 20% for the targeted business survey).

### 2.5.1.3 Judgment 11 – registration of traders

Over 30% of the respondents to the extended web-based survey and the targeted business questionnaire say they have more than one EORI number as a single legal entity. As a legal entity should only have one single registration, it must be concluded that this is an indication of possible non-uniformity. Large companies, commonly more likely to be active in multiple Member States, are more often reporting having multiple EORI numbers for one legal entity.

## 2.5.2 Uniformity of economic operator processes – Extent to which prior (initial) audit of economic operators is done uniformly across the Customs Union

Below, the uniformity of how prior audits are done is looked into. Prior audit means the initial audit/checks following an application by an economic operator for customs-related authorisation to verify that all conditions are met before authorisation is actually granted.

### 2.5.2.1 Data

Data sources				
Desk research	Business	Customs authorities	Other authorities	In-depth interviews
✓	✓	X	X	✓

**Desk research.** In Annex III to the Mid-Term Evaluation of the Customs 2013 Programme,<sup>61</sup> it is stated that “the AEO monitoring and best practices visits (CMT/004) aim to examine the uniform application of the AEO rules and to share best practices. The expected results of the visits are:

- report on the implementation of the AEO rules in all Member States,
- AEO guidelines amended with best practices,
- assurance on uniform implementation of the AEO concept, and
- assurance on correct application of AEO rules and possibility of correcting an incorrect application from the very beginning.”

The thematic reports of DG BUDG on Local Clearance Procedures<sup>62</sup> indicate that not all Member States perform as well on the following overall objective: “Only persons who satisfy the legal conditions are granted an authorisation of the local clearance procedure.”

In the self-assessment study,<sup>63</sup> it is stated that “publication of AEO guidelines is seen as a good initiative with a view to harmonisation or uniformity of assessments related to this aspect of the economic operator management process”.

<sup>61</sup> Mid-Term evaluation of the Customs 2013 programme Annex III – 15 June 2011, p 26

<sup>62</sup> The Local Clearance Procedure (LCP) is defined as a commonly used simplified procedure which enables goods to be entered for customs treatment at the premises of the operator, or at other places designated or approved by the customs authorities, by means of an entry in the operator’s records, subject to the subsequent presentation of a supplementary declaration.

<sup>63</sup> Final report on Task 2.2 – Strengths and weaknesses of the current organisation model and Final report on Task 2.3 – Options for improvement of the functioning of the Customs Union (TAXUD/R3/VDL D(2010) 433216) – 24/05/2011.

**Businesses.** Results from the targeted business survey are shown in the figure below.

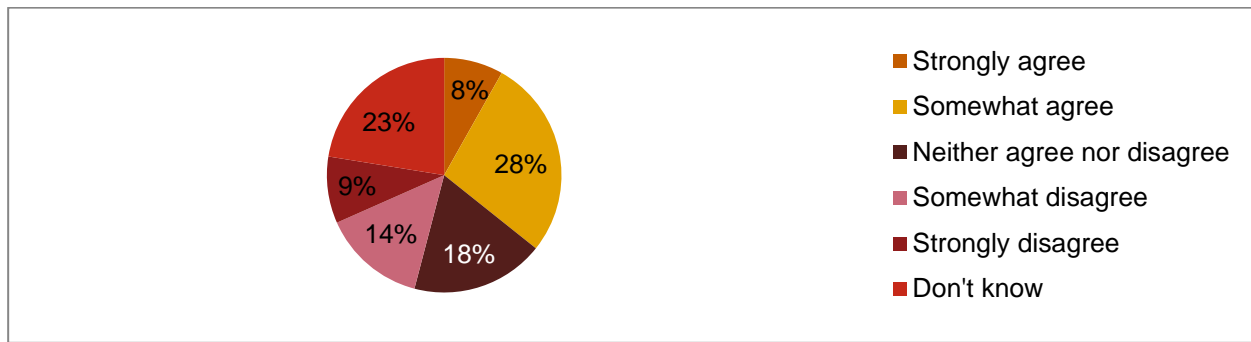


Figure 23 – Targeted business survey (question 38) – The items that are checked during prior (initial) audit are uniform among the Member States.

Eight per cent of the business stakeholders strongly agree with the statement that the items that are checked during prior (initial) audits are uniform among the Member States, 28% somewhat agree. On the other hand, 23% of the businesses do not agree (14% somewhat disagree and 9% strongly disagree) and 18% do not agree or disagree. Twenty-three per cent of the businesses indicate that they don't know.

Thirty-two per cent of large enterprises agree (9% strongly agree and 23% somewhat agree) and 50% of SMEs agree (5% strongly agree and 45% somewhat agree) with the statement that the items that are checked during prior (initial) audits are uniform among the Member States. Twenty-eight per cent of large enterprises disagree (10% strongly disagree and 18% somewhat disagree) and 5% of SMEs do not agree (5% strongly disagree and 0% somewhat disagree). Seventeen per cent of large enterprises and 25% of SMEs neither agree nor disagree. Twenty-three per cent of large enterprises and 20% of SMEs don't know.

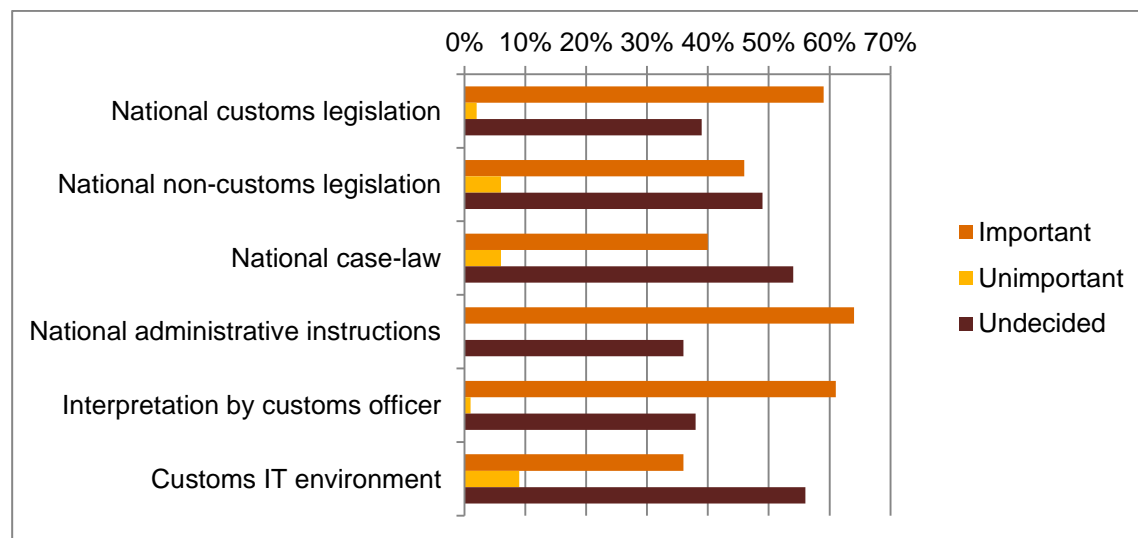


Figure 24 – Targeted business survey (question 41) – Prior audit – Reason for non-uniformity – Observation of stakeholders (the “undecided” category covers the companies that answered “neither important nor unimportant” and “don't know”)

In the targeted business survey:

- fifty-nine per cent of the businesses indicate that national customs legislation is a reason for the non-uniformity of prior (initial) audits of economic operators across the Customs Union (2% unimportant, 39% undecided);
- forty-six per cent are convinced that non-uniformity is caused by national non-customs legislation (6% unimportant, 49% undecided);

- forty per cent of the business stakeholders indicate national case law as a reason for non-uniformity (6% unimportant, 54% undecided);
- the highest percentages of “important” responses (64% and 61%) relate to national administrative instructions (0% unimportant, 36% undecided) and interpretation by customs officers (1% unimportant, 38% undecided), respectively;
- in the customs IT environment is cited by 36% of the businesses (9% unimportant, 56% undecided).

The “undecided” category covers the companies that answered “neither important nor unimportant” and “don’t know”.

For large enterprises and SMEs, the following percentages of respondents think the different reasons are important:

- national customs legislation: 58% and 63% of large enterprises and SMEs, respectively;
- national non-customs legislation: 42% and 58% of large enterprises and SMEs, respectively;
- national case law: 37% and 53% of large enterprises and SMEs, respectively;
- national administrative instructions: 65% and 63% of large enterprises and SMEs, respectively;
- interpretation by customs officer: 61% and 63% of large enterprises and SMEs, respectively;
- customs IT environment: 32% and 47% of large enterprises and SMEs, respectively.

**In-depth interviews.** According to one company with operations in most of the Member States, there is a great difference in focus between Member States when it comes to these initial audits. The company’s representative stated that some Member States focus greatly on initial audits while others only perform relatively minor checks.

#### *2.5.2.2 Findings*

The findings are contradictory for SMEs and large enterprises. Only 5% of the SMEs do not agree with the statement that the items that are checked during prior (initial) audits are uniform among the Member States. For large enterprises, this is 28%. According to SMEs, the Customs Union is uniform with regard to prior audits; according to large enterprises, the Customs Union is not uniform. Those business stakeholders complained that there is a difference in the approach of customs authorities when checking for AEOs, simplified procedures or authorisations for which AEO standards have to be met. Examples of non-uniformity concern different procedures and application forms and, more generally, differing approaches and methodologies. One of the respondents in the targeted business survey even stated that, in some Member States, there was no initial audit when its AEO-C status was granted.

Although the above examples of non-uniformity as cited by business stakeholders concern AEO, Figure 24 is not limited to AEO-certified businesses only. The figure provides an overview of reasons for non-uniformity, independent of the type of authorisation.

Both SMEs and large enterprises think that it is mainly national official instructions, different interpretations by customs officers and national customs legislations that are important causes of non-uniformity. Considerably more SMEs also indicated national non-customs legislation, national case law and the customs IT environment as important causes for non-uniformity.

The same trend regarding the importance of different reasons for non-uniformity is observed in this section as in sections 2.1.2.5 (main reasons for existing non-uniformity in clearance processes), 2.2.1.4 (main reasons for existing non-uniformity in documentary controls) and 2.2.2.4 (main reasons for existing non-uniformity in physical controls).

The in-depth interview and desk research confirm the opinion of businesses (in particular large businesses), that there is a level of non-uniformity. The Mid-Term Evaluation study furthermore demonstrates the need for AEO monitoring and best practices visits in order to ensure uniform implementation of the AEO concept. The AEO Guidelines are a step up to a more uniform implementation.

### 2.5.2.3 Judgment 12 – prior (initial) audits

It can be concluded that there are differences with respect to prior audits among Member States.

Particularly with respect to AEOs, concerns were raised on the differences regarding prior (initial) audits. The main reasons for non-uniformity in prior (initial) audits are said to be national official instructions and individual interpretations by customs officers. The newly published AEO guidelines are a further step toward improving this process.

### 2.5.3 Uniformity of economic operator processes – Extent to which the post-audit of economic operators is done uniformly across the Customs Union

Below, the uniformity of how post-audits are done is looked into. Post-audit means a check by the customs authorities of the use of a customs-related authorisation as applied by an economic operator. This is done to verify that all the conditions for continuing the authorisation are met and to check that the authorisation/procedure has been properly applied up till then, including correct payment of duties (where applicable).

#### 2.5.3.1 Data

Data sources				
Desk research	Business	Customs authorities	Other authorities	In-depth interviews
X	✓	X	X	X

**Businesses.** Results from the targeted business survey are shown in the figure below.

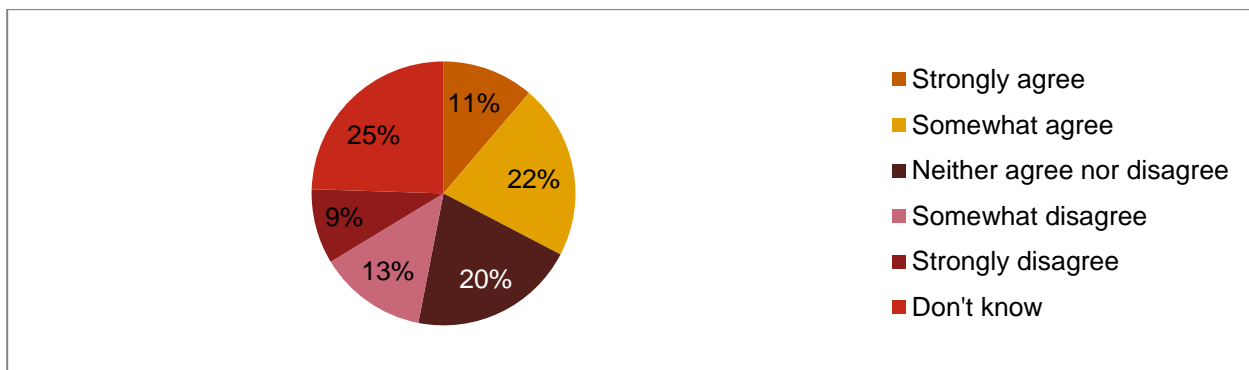


Figure 25 – Targeted business survey (question 42) – Items that are checked during post-audits are uniform among the Member States.

Eleven per cent of the business stakeholders strongly agree with the statement that items checked during post-audits are uniform among the Member States; 22% somewhat agree. On the other hand, 22% of the businesses do not agree (13% somewhat disagree and 9% strongly disagree) and 20% do not agree or disagree. Twenty-five per cent of the businesses indicate that they don't know.

The following examples of non-uniformity were raised:

- different methodology and approach,
- different frequency.

Thirty per cent of large enterprises agree (12% strongly agree and 18% somewhat agree) and 45% of SMEs agree (10% strongly agree and 35% somewhat agree) with the statement that items that are checked during post-audits are uniform among the Member States. Twenty-seven per cent of large enterprises disagree (15% somewhat disagree and 12% strongly disagree) and 5% of SMEs disagree (5% somewhat disagree and 0%



strongly disagree) with the statement. Eighteen per cent of large enterprises and 30% of SMEs neither agree nor disagree. Twenty-six per cent of large enterprises and 20% of SMEs indicate that they don't know.

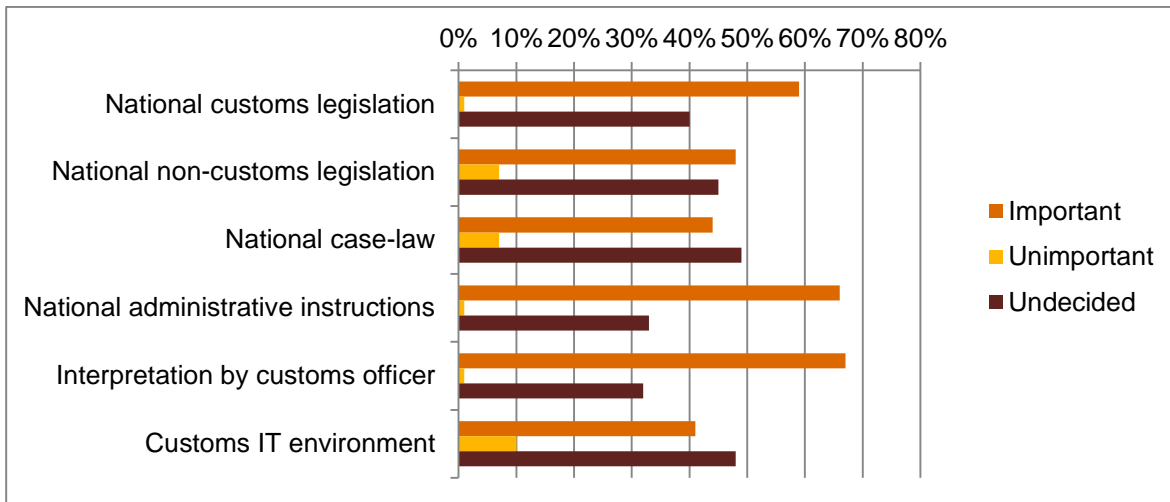


Figure 26 – Targeted business survey (question 45) – Post audits – Reasons for non-uniformity – Observation by stakeholders (the “undecided” category covers the companies that answered “neither important nor unimportant” and “don’t know”)

In the targeted business survey:

- fifty-nine per cent of the businesses indicate that national customs legislation is a reason for non-uniformity of the items that are checked during post-audits among the Member States (1% unimportant, 40% undecided);
- forty-eight per cent are convinced that non-uniformity is caused by national non-customs legislation (7% unimportant, 45% undecided);
- forty-four per cent of the business stakeholders indicate national case-law as a reason for non-uniformity (7% unimportant, 49% undecided);
- the highest percentages of “important” responses (66% and 67%) relate respectively to national administrative instructions (1% unimportant, 33% undecided) and interpretation by customs officers (1% unimportant, 32% undecided);
- the customs IT environment is cited by 41% of the businesses (10% unimportant, 48% undecided).

The “undecided” category covers the companies that answered “neither important nor unimportant” and “don’t know”.

For large enterprises and SMEs, the following percentages of respondents think the different reasons are important:

- national customs legislation: 57% and 67% of large enterprises and SMEs, respectively,
- national non-customs legislation: 48% and 50% of large enterprises and SMEs, respectively,
- national case law: 41% and 56% of large enterprises and SMEs, respectively,
- national administrative instructions: 67% and 61% of large enterprises and SMEs, respectively,
- interpretation by customs officer: 64% and 78% of large enterprises and SMEs, respectively,
- customs IT environment: 39% and 50% of large enterprises and SMEs, respectively.

### 2.5.3.2 Findings

With respect to this judgment criterion, only information from business stakeholders was obtained. Therefore, no triangulation is possible. Moreover, findings are contradictory for large enterprises and SMEs. Twenty-seven

per cent of the large enterprises do not agree with the statement that items that are checked during post-audits are uniform among the Member States. For SMEs, this is only 5%. So, according to large enterprises, the Customs Union is not uniform, while according to SMEs, it is uniform on the aspect of post-audits.

Both large enterprises and SMEs indicated that the most important reasons for non-uniformity on this score are national administrative instructions, interpretations by customs officers and national customs legislation.

### 2.5.3.3 Judgment 13 – post-audits

No clear conclusion can be drawn on the uniformity of post-audits.

### 2.5.4 Uniformity of economic operator processes – Extent to which consequences of differences in the application of these processes are significant for businesses and other stakeholders

As a separate judgment criterion, the consequences of differences with respect to economic operator processes are dealt with below.

#### 2.5.4.1 Data

Data sources				
Desk research	Business	Customs authorities	Other authorities	In-depth interviews
X	✓	X	X	X

**Businesses.** Results from the targeted business survey are shown in the figure below.

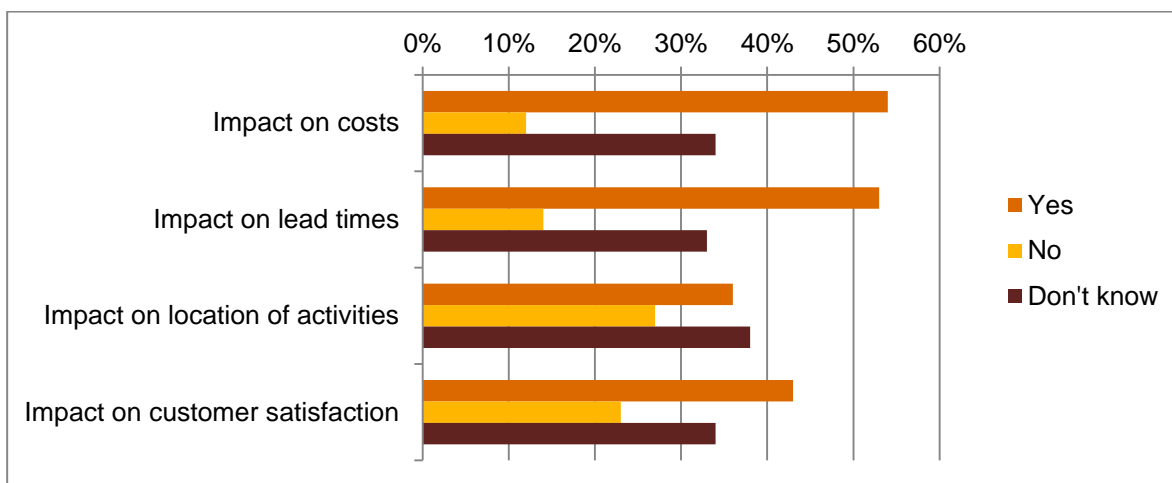


Figure 27 – Targeted business survey (question 39) – Prior audit – impact on costs, lead times, location of activities and customer satisfaction

In the targeted business survey:

- fifty-four per cent of the businesses stakeholders indicate that differences in the application of prior audits have an impact on costs (12% no impact, 34% don't know);
- fifty-three per cent cite the impact on lead times (14% no impact, 33% don't know);
- thirty-six per cent of the businesses are convinced that the location of activities is impacted by the differences (27% no impact, 38% don't know);
- the impact on customer satisfaction is cited by 43% (22% no impact, 34% don't know).

For large enterprises and SMEs, the following percentages of respondents think the following impacts exist:

- impact on costs: 53% and 60% of large enterprises and SMEs, respectively,
- impact on lead times: 51% and 60% of large enterprises and SMEs, respectively,
- impact on location of activities: 35% and 40% of large enterprises and SMEs, respectively,
- impact on customer satisfaction: 41% and 50% of large enterprises and SMEs, respectively.

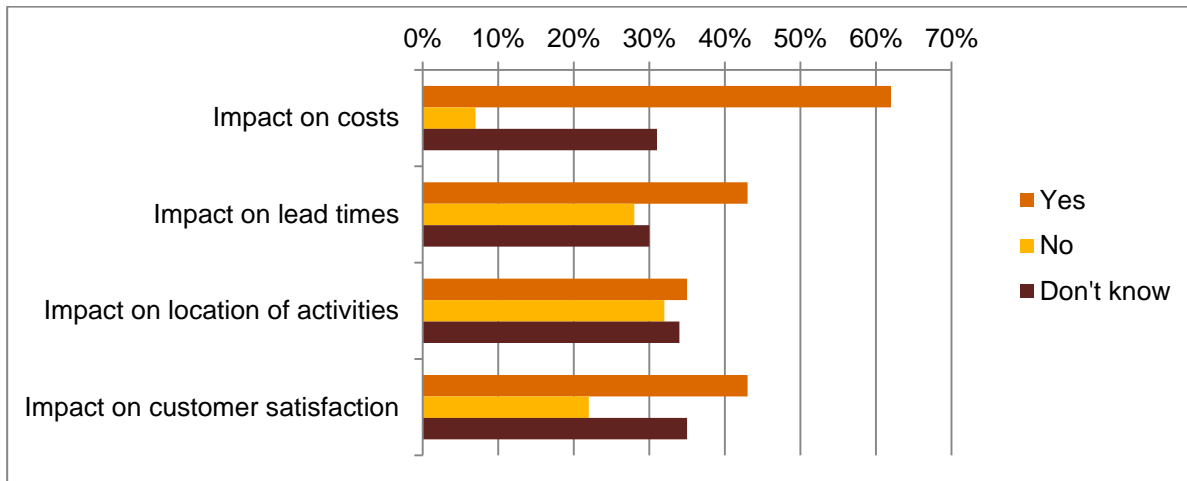


Figure 28 – Targeted business survey (question 43) – Post-audits – impact on costs, lead times, location of activities and customer satisfaction

In the targeted business survey:

- sixty-two per cent of the businesses stakeholders indicate that differences in the application of post-audits have an impact on costs (7% no impact, 31% don't know);
- forty-three per cent cite the impact on lead times (28% no impact, 30% don't know);
- thirty-five per cent of the businesses are convinced that the location of activities is impacted by the differences (32% no impact, 34% don't know);
- the impact on customer satisfaction is cited by 43% (22% no impact, 35% don't know).

For large enterprises and SMEs, the following percentages of respondents think the following impacts exist:

- impact on costs: 62% and 65% of large enterprises and SMEs, respectively,
- impact on lead times: 38% and 60% of large enterprises and SMEs, respectively,
- impact on location of activities: 33% and 40% of large enterprises and SMEs, respectively,
- impact on customer satisfaction: 38% and 60% of large enterprises and SMEs, respectively.

#### 2.5.4.2 Findings

Both for prior audits and post-audits, it is the impact on costs that is most cited by business stakeholders. For prior audits, this is followed by the impact on lead times, customer satisfaction and location of activities. For post-audits, many business stakeholders indicated an impact on lead times and customer satisfaction, followed by an impact on the location of activities. The trends observed for large companies and SMEs are similar.

#### 2.5.4.3 Judgment 14 – consequences of differences in economic operator processes

Only information from business stakeholders is available on the consequences of non-uniformity of economic operator processes. Therefore, no triangulation is possible.

Based on the available information, non-uniformity primarily impacts the cost for business.

### **2.5.5 Uniformity of economic operator processes – Fifth conclusion (Judgment 11 – judgment 14)**

With regard to the question of whether economic operator processes are applied uniformly across the Customs Union, the conclusion has to be that (although the level of information was not always acquired from multiple sources – i.e. more than one main group of stakeholders) there is a clear level of non-uniformity in relation to this aspect. This is even more important because the level of agreement on the questions asked was also relatively low.

As this has a clear impact on companies, especially those operating in several Member States, this is an aspect that needs further attention.

## **2.6 Uniformity – Conclusion**

This chapter examines the level of uniformity in the application of core customs processes (one of the cornerstones of the Customs Union). Overall, the conclusion has to be that the level of uniformity in many important customs processes and procedures is insufficient. Whereas some aspects and processes are applied relatively uniformly, there are many areas and examples of non-uniformity. This is especially important as this also concerns very important processes such as clearance, classification, valuation and the status of authorised economic operator. It can therefore be concluded that several aspects of core processes of the Customs Union are not applied uniformly among all Member States.

As will also be apparent from other key objectives examined, many of the remarks and observations made directly or indirectly relate to the uniform application of legislation, policies, processes and procedures. Complaints between Member States on the application of customs legislation and deemed unfair competition resulting from that are also mainly a result of this non-uniformity in the application of customs legislation and processes. The main reasons for this lie in the fact that the practical implementation of the legislation, policies, processes and procedures is not laid down in a detailed manner in the EU customs legislation but is rather left to the 27 different customs authorities, each with different levels of expertise and experience and each with their own preferences in terms of controls and risk management. Thus, national interpretations and even local interpretations by individual customs officers are a main source of the non-uniformity that has been found to exist. Considering all of this, it must be borne in mind that customs authorities are under obligations to control and protect against financial and non-financial risks and it is important to find an appropriate balance in trade facilitation (i.e. fast clearance) and completion of controls in order to ensure a level playing field for EU operators.

As non-uniformity is said to have a clear impact for business, mainly in the area of costs, striving for uniformity should be an objective. Therefore, besides the need for a uniform process within the Customs Union, further harmonisation will likely also lead to cost savings, improving the competitive position of business.

## **2.7 Uniformity - Recommendations**

As this aspect is deemed to be one of the most important aspects, if not the most important aspect, for effective, efficient functioning of the Customs Union, finding ways to establish more uniform application of the customs rules and regulations and their processes should be a priority for the Commission.

Of the different possible initiatives that would support this (e.g. guidelines, training, more direct legislation (less freedom in application)), one suggestion is to set up a monitoring programme, or, better, to extend the Measurement of Results monitoring programme or to liaise/combine/link other existing monitoring programmes and to use monitoring programmes more efficiently, in order to check that all customs processes are performed uniformly among Member States and to take appropriate action in cases of non-uniformity.

Specific processes that require further inquiry to find out how far they are applied uniformly include the economic operator registration process and prior and post-audits in the course of the authorisation process.

In the areas where non-uniformity is detected, action plans for follow-up should be established in order to diminish the level of non-uniformity as it causes risks in protection of the financial interest of the EU.

Further, multiple recommendations can be put forward to improve the uniformity of data management processes, including:

- further integration of national customs' IT systems,
- developing new working methods and monitoring of the European Binding Tariff Information (ETBI) so that BTIs will in future only be rendered on EU level,
- avoiding business stakeholders needing to provide the same information more than once, and
- further training of customs officials.

Nevertheless, it should be noted that several business stakeholders stated that harmonisation of customs clearance procedures often gravitates down to the lowest system standard instead of rising to the highest best-in-class-system standard. It is therefore recommended that, when further action is taken to increase uniformity, this consideration is borne in mind. When striving for uniformity, implementing best-in-class processes should be an objective.

All these actions should be aligned in an integrated implementation plan as referred to in the DG TAXUD Management Plan 2013.

### 3 Efficiency

This section analyses to what extent the core activities of the Customs Union are applied efficiently across the Customs Union. Efficiency consists of speed, simplicity, predictability and cost-effectiveness.

It contains the results of the slim web-based survey and the extended web-based survey, on the subject of the efficiency of the Customs Union. To further explain the main findings, data from the targeted questionnaires (sent to businesses, customs authorities and other authorities) were analysed along with information that was collected during the in-depth interviews.

To evaluate the efficiency of the Customs Union, businesses, customs authorities and other authorities were asked to consider various customs processes:

- clearance processes,
- control processes,
- data management processes, and
- authorisation (AEO and other) management processes.

Stakeholders were asked to assess statements regarding the efficiency of the different customs processes mentioned above. As efficiency is somewhat more influenced by perceptions, these (sub-)judgment criteria are not assessed as severely as those with respect to uniformity. If 30% or more of the business stakeholders assess a certain statement as not being efficient, it is concluded that the Customs Union is not efficient as regards the area assessed in the statement. In the section on uniformity, this percentage is set at 10%. The reason for this difference is that uniformity only exists when, theoretically speaking, none of the stakeholders identifies differences in the core processes. Efficiency, however, is more subjective than uniformity. If more than 35% of the business stakeholders that completed a certain questionnaire could not assess the statement because they 'didn't know', the findings for that specific statement of that questionnaire are not used to draw conclusions.

Please note that numbers may not add up to 100% due to rounding.

#### 3.1 Are current clearance processes performed efficiently?

For the purpose of this study, clearance processes were defined as the processes for going through formalities, the performance of controls and the application of measures pertaining to goods brought into/taken out of/in transit through the Customs Union, including pre-arrival/pre-departure declarations, where required, formalities and controls in relation to the entry/exit of goods and the placement of goods under a customs procedure or in a free zone.

In this section, stakeholders were asked how efficient they believe customs clearance processes are in the various Member States.

##### 3.1.1 Efficiency of clearance processes – General information

Before tackling the individual judgment criteria and sub-judgment criteria as listed in the Feasibility Study, more general information is presented on the efficiency of clearance processes.

###### 3.1.1.1 Data

Data sources				
Desk research	Business	Customs authorities	Other authorities	In-depth interviews
✓	✓	X	X	✓

**Desk research.** The workload for customs officials has been growing and will continue to grow in the next few years, while the number of customs officials has decreased significantly.<sup>64</sup> Comparing the number of customs officials in 2007 to the number in 2010, there has been a decrease of 13% and there are no signs that the workforce will stop falling in the near future.

In the self-assessment study,<sup>65</sup> it is concluded that *“human resources are at present sufficient in number and competences to fulfil the traditional functions of customs effectively. There is greater divergence in terms of the assessment of competences when it comes to safety and security functions. Some of this divergence is attributed to national structures and mind-sets, shortcomings that are not necessarily being compensated for through adequate training, or training that is sufficiently integrated with those fulfilling associated functions, such as border and fraud control.”*

It is furthermore stated that *“the design of the business processes in the Customs Union is generally suitable for effective operation of the Customs Union, even if the level of efficiency varies greatly according to Member State and there may be a lack of uniformity, which is often due to differences in available resources, priorities and the availability of information, and this can impede effective, efficient realisation of the objectives of the Customs Union.”*

In the 2013 Management Plan of DG Taxation and Customs Union, it says that, according to the latest known results, the average time for solving various classification cases in 2012 was 10 months, whereas it was 11 months in 2011 and 18 months in 2010. Twenty-seven per cent of all new cases were solved within six months and 69% of all new cases were solved within one year.

The Logistics Performance Index (LPI)<sup>66</sup> provides an assessment of a country's logistics based on:

- the efficiency of the customs clearance process (i.e. speed, simplicity and predictability of formalities) by border control agencies, including customs,
- quality of trade and transport-related infrastructure,
- ease of arranging competitively priced shipments,
- quality of logistics services,
- ability to track and trace consignments and
- frequency with which shipments reach consignees within scheduled times.

The efficiency of the customs clearance process by border control agencies, including customs, is consequently one element but not the only element influencing the Logistics Performance Index. The LPI survey provides extensive new details on the customs clearance process in the domestic section of the LPI, allowing a more qualified analysis of particular aspects of customs and the clearance process.

Therefore, the tables below provide an overview of scores for both:

- the efficiency of the customs clearance process (i.e. speed, simplicity and predictability of formalities) by border control agencies, including customs, and
- overall Logistics Performance scores.

The first table provides the scores for the Member States of the EU-27, from one (lowest) to five (highest). The second table provides an overview of the scores for the main regions worldwide. Europe & Central Asia (i.e. much broader than the EU alone) perform better in the efficiency of their customs clearance than the Middle

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<sup>64</sup> Report from the Commission to the Council and the European Parliament, Report on Progress on the Strategy for the Evolution of the Customs Union XXX, draft, pp. 6-7.

<sup>65</sup> Future business architecture for the Customs Union and cooperative model in the taxation area in Europe -Final report on Task 2.2 – Strengths and weakness of the current organisation model Customs Union (TAXUD/R3/VDL D(2010) 433216) – May 2011, p 98-106

<sup>66</sup> The Logistics Performance Index is based on a worldwide survey of operators on the ground (global freight forwarders and express carriers), providing feedback on the logistics-“friendliness” of the countries in which they operate and those with which they trade. The LPI survey was designed and implemented by the World Bank International Trade and Transport Departments, with Finland's Turku School of Economics (TSE) – <http://data.worldbank.org/data-catalog/logistics-performance-index>.

East and North Africa, South Asia and Sub-Saharan Africa and are comparable to Latin America and the Caribbean and East Asia and Pacific.

The third table shows that there is a clear link between the income level of a country or region and its performance in terms of customs clearance efficiency. The last table shows the results for a selection of non-EU countries, to put the figures for individual Member States into perspective.

The 2013 management plan of DG Taxation and Customs Union<sup>67</sup> also refers to the Logistics Performance Index. It is used as an indicator for the general objective ‘to ensure that EU customs policy protects society, facilitates trade and supports the competitiveness of the European economy.’

Country	Customs	LPI
EU 27		
Austria	3.49	3.76
Belgium	3.83	3.94
Bulgaria	2.5	2.83
Cyprus	2.92	3.13
Czech Republic	3.31	3.51
Denmark	3.58	3.85
Estonia	3.14	3.16
Finland	3.86	3.89
France	3.63	3.84
Germany	4	4.11
Greece	2.48	2.96
Hungary	2.83	2.99
Ireland	3.6	3.89
Italy	3.38	3.64
Latvia	2.94	3.25
Lithuania	2.79	3.13
Luxembourg	4.04	3.98
Malta	2.65	2.82
Netherlands	3.98	4.07
Poland	3.12	3.44
Portugal	3.31	3.34
Romania	2.36	2.84
Slovak Republic	2.79	3.24
Slovenia	2.59	2.87
Spain	3.47	3.63
Sweden	3.88	4.08
United Kingdom	3.74	3.95

Table 2 – LPI for EU-27 (2010)

Country	Customs	LPI
Regions		
East Asia & Pacific	2.41	2.73
Europe & Central Asia	2.35	2.74
Latin America & Caribbean	2.38	2.74
Middle East & North Africa	2.33	2.6
South Asia	2.22	2.49
Sub-Saharan Africa	2.18	2.42

Table 3 – LPI for main regions (2010)

Country	Customs	LPI
Income Groups		
High income: all	3.36	3.55
Low income	2.19	2.43
Lower middle income	2.23	2.59
Upper middle income	2.49	2.82

Table 4 – LPI for main income groups (2010)

Country	Customs	LPI
Hong Kong	3.83	3.88
Russian Federation	2.37	2.61
United States of America	3.68	3.86
Canada	3.71	3.87
Japan	3.79	3.97
United Arab Emirates	3.49	3.63
Singapore	4.02	4.09

Table 5– LPI for other countries (2010)

<sup>67</sup> [http://ec.europa.eu/atwork/synthesis/amp/index\\_en.htm](http://ec.europa.eu/atwork/synthesis/amp/index_en.htm).



**Business.** Individual companies were asked to give their views on the efficiency of clearance processes in Member States in the slim web-based survey and the extended web-based survey.

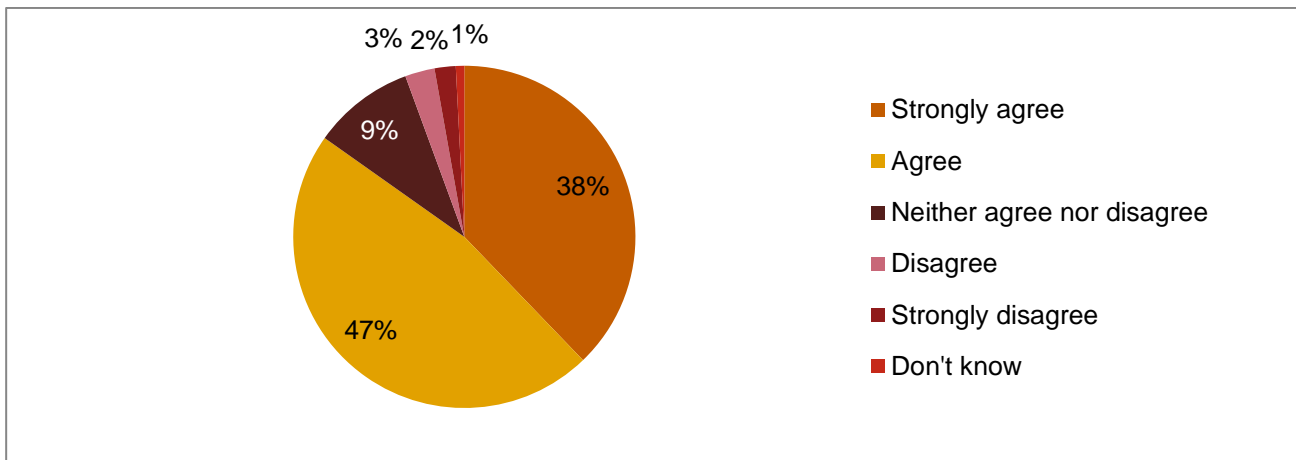


Figure 29 – Slim web-based survey (question 7.1) – Customs clearance in my country is efficient.

For the slim web-based survey, 38% of the business stakeholders strongly agree with the statement that customs clearance is efficient in their country, 47% somewhat agree. On the other hand, 3% of the businesses disagree, 2% strongly disagree and 9% do not agree or disagree. Only 1% of the businesses indicate that they don't know.

Results for large companies and SMEs are in line. Forty-one per cent of large companies strongly agree with the statement, 44% somewhat agree, 10% neither agree nor disagree, 3% somewhat disagree, 2% strongly disagree and 1% don't know. Thirty-two per cent of the SMEs strongly agree with the statement, 54% somewhat agree, 10% neither agree nor disagree, 2% somewhat disagree, 2% strongly disagree and 1% don't know.

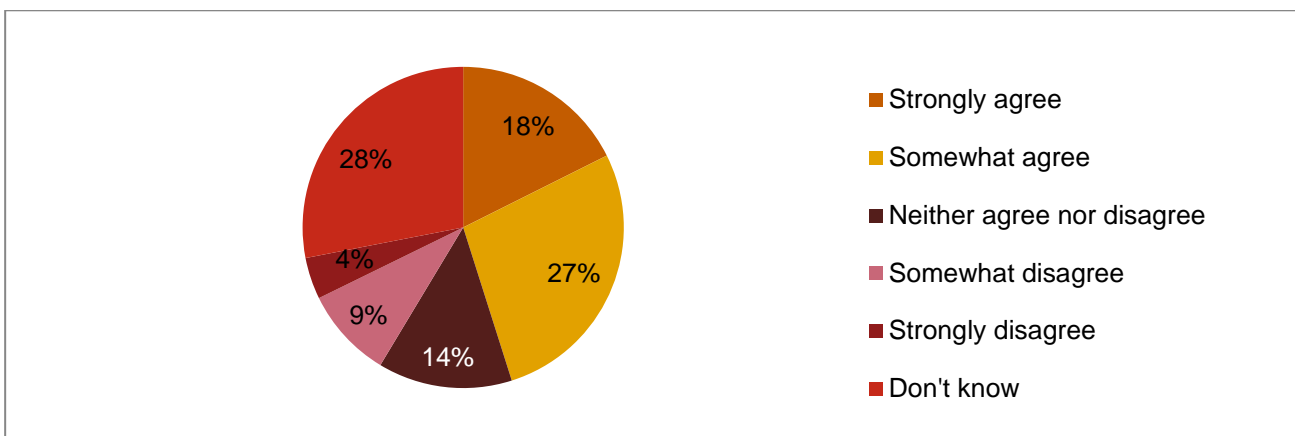


Figure 30 – Extended web-based survey (question 6) – Customs clearance is efficient in my country.

For the extended web-based survey, 18% of the business stakeholders strongly agree with the statement that customs clearance is efficient in their country; 27% somewhat agree. On the other hand, 9% of the businesses somewhat disagree, 4% strongly disagree and 14% do not agree or disagree. Twenty-eight per cent of the businesses indicate that they don't know.

Eighteen per cent of large companies strongly agree with the statement, 26% somewhat agree, 13% neither agree nor disagree, 7% somewhat disagree, 3% strongly disagree and 33% don't know. Sixteen per cent of SMEs

strongly agree with the statement, 32% somewhat agree, 16% neither agree nor disagree, 13% somewhat disagree, 8% strongly disagree and 15% don't know.

In the extended web-based survey, fewer transport and logistics companies are (somewhat or strongly) satisfied with the efficiency of customs clearance processes, with only 39% of transport and logistics companies agreeing (13% and 26% strongly and somewhat agreeing respectively), compared to 53% of companies active in other industries (23% and 30% strongly and somewhat agreeing, respectively). The proportion of companies in the transport and logistics sector disagreeing with the statement is 16% (11% somewhat and 5% strongly disagreeing), compared to 10% of companies active in other industries (7% somewhat disagreeing and 3% strongly disagreeing). Overall, 13% of the companies (both in the transport and logistics sector and in other sectors) neither agree nor disagree. The proportion of transport and logistics companies that did not know was also higher, at 32% compared to only 24% for the group of other companies.

**In-depth interviews.** In the course of these interviews, further to the basic input on the judgment criterion, the following input was acquired that is of interest.

The business associations noted that many companies categorised under the transport and logistics industry may not be greatly involved in all conceivable customs processes. Depending on their activities, significant numbers of 'don't know' replies should be expected from this stakeholder group.

#### *3.1.1.2 Findings*

The results of the two surveys show that, according to business stakeholders, the Customs Union is functioning efficiently.

Results for SMEs and large companies are more comparable in the slim web-based survey than they are in the extended web-based survey.

For both companies in the transport and logistics sector and companies in other sectors, the majority of companies agree with the statement that customs clearance is done efficiently. However, the proportion of companies in the transport and logistics sector agreeing with the statement is somewhat lower (39% compared to 53% in other sectors).

The relatively positive overall feedback from business on the efficiency of clearance processes in general is confirmed by the Logistics Performance Index. Nevertheless, this index shows that significant differences exist among Member States. Also, the conclusions of the self-assessment study confirm that the business processes are generally suitable for effective operation of the Customs Union, but that the level of efficiency varies greatly per Member State. Furthermore, whereas, in general terms, the Customs Union is effective/efficient as concerns the appropriate level of number and competence of human resources in 'traditional areas', this is less the case in areas such as safety and security. As an example of an improvement in efficiency in the 'traditional areas', the 2013 Management Plan of DG TAXUD reveals a positive development in the average time spent in solving various classification cases from 2010 until 2012.

However, the self-assessment study also stresses that there are no performance indicators that objectively measure the efficiency of all kinds of customs tasks. There is therefore no objective, measurable basis to judge which processes are working well and which are not.

### 3.1.1.3 Judgment 1 – efficiency in general

In general, clearance processes are perceived to be done efficient by the surveyed stakeholder groups. Nevertheless, somewhat fewer transport and logistics companies are positive with regard to the efficiency of the Customs Union, which can be explained by the fact that they are more greatly impacted in their core processes (e.g. transport) by non-efficient clearance processes than other companies, and are thus more sensitive in this respect. Nevertheless, it is an important signal to remain alert and strive for more efficiency where possible.

The positive feedback from the business stakeholders is in line with the Logistics Performance Index. The EU performs well on a global scale, whereby it should be taken into account that fairly large differences exist when comparing the results for the Member States separately.

### 3.1.2 Efficiency of clearance processes – Extent to which processing pre-arrival/departure notifications and customs declarations (e.g. import/export/transit/warehouse, etc.) is done efficiently across the Customs Union

To judge the efficiency with which declarations are processed, the processes are approached from different angles, being:

- time-efficiency of processes,
- simplicity of processes, and
- cost-effectiveness of processes.

#### 3.1.2.1 Extent to which pre-arrival/departure notification processes and customs declaration processes are time-efficient

##### 3.1.2.1.1 Data

Data sources				
Desk research	Business	Customs authorities	Other authorities	In-depth interviews
✓	✓	X	X	✓

**Desk research.** Bourdet and Persson<sup>68</sup> explained in their study in 2010 that “lengthy delays that impose costs on import and export activities, such as depreciation costs, storage costs and costs due to the need for wider safety margins, are caused by burdensome, complex trade procedures. Improvements in trade procedures that reduce time delays incurred for goods to cross national borders will therefore produce significant welfare gains”. In their study, Bourdet and Persson explained that the number of days required to comply with all necessary procedures to import the same good into the Member States varies considerably. The times required are five times longer in the poorest-performing Member States in their sample than in the best-performing Member States. A clear geographical pattern was evident in their study, with most Member States that entered the EU in 2004 being among the least efficient performers in terms of time taken to import goods.

<sup>68</sup> Research Institute of Industrial Economics -IFN Working Paper No. 848, 2010 – Completing the EU Customs Union. The Effects of Trade Procedure Harmonisation – Yves Bourdet and Maria Persson.

**Businesses.** Respondents were asked to provide their feedback on the time-efficiency of customs clearance.

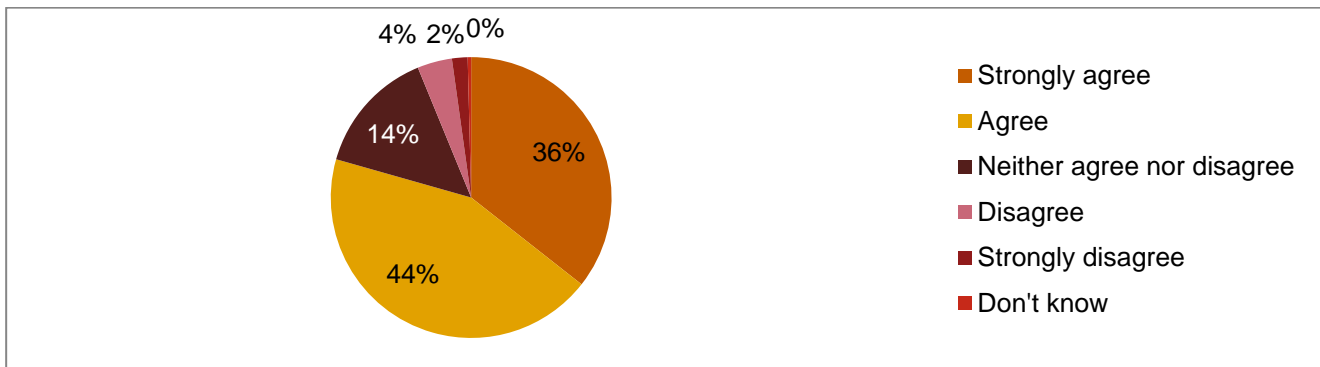


Figure 31 – Slim web-based survey (question 7.3) – I am satisfied with customs clearance in my country in terms of the average time taken per transaction

For the slim web-based survey, 36% of the business stakeholders strongly agree with the statement “I am satisfied with customs clearance in my country in terms of average time taken per transaction”; 44% agree somewhat. On the other hand, 4% of the businesses somewhat disagree, 2% strongly disagree and 14% do not agree or disagree.

Results for SMEs and large enterprises are comparable. Thirty-six per cent of large companies strongly agree with the statement, 41% agree, 17% neither agree nor disagree, 4% disagree, 1% strongly disagree and 0% don’t know. Thirty-four per cent of the SMEs strongly agree with the statement, 49% agree, 9% neither agree nor disagree, 4% disagree, 4% strongly disagree and 1% don’t know.

Seventy per cent of companies in the transport and logistics sector agree with the statement (40% strongly agree and 30% agree), 7% do not agree (4% disagree and 3% strongly disagree) and 24% are undecided (24% neither agree nor disagree and 0% don’t know). Of the companies active in other sectors, 81% agree (35% strongly agree and 46% agree), 6% disagree (4% disagree and 2% strongly disagree) and 13% are undecided (13% neither agree nor disagree and 0% don’t know).

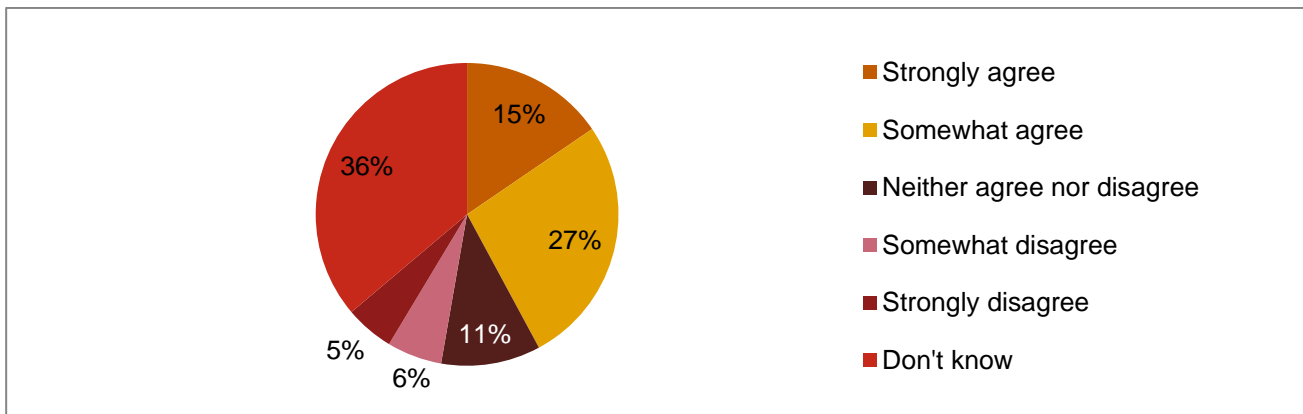


Figure 32 – Extended web-based survey (question 9) – I am satisfied with the customs clearance in my country in terms of the average time taken per transaction.

For the extended web-based survey, 15% of the business stakeholders strongly agree with the statement “I am satisfied with customs clearance in my country in terms of average time taken per transaction”, while 27% agree somewhat. On the other hand, 6% of the businesses somewhat disagree, 5% strongly disagree and 11% do not agree or disagree. Thirty-six per cent of the businesses indicate that they don’t know.

Sixteen per cent of large companies strongly agree with the statement, 24% somewhat agree, 10% neither agree nor disagree, 4% somewhat disagree, 5% strongly disagree and 41% don’t know. Thirteen per cent of the SMEs

strongly agree with the statement, 33% somewhat agree, 12% neither agree nor disagree, 10% somewhat disagree, 6% strongly disagree and 26% don't know.

Twelve per cent of companies in the transport and logistics sector strongly agree with the statement, 24% somewhat agree, 12% neither agree nor disagree, 7% somewhat disagree, 8% strongly disagree and 37% don't know. Of the companies active in other sectors, 21% strongly agree, 29% somewhat agree, 7% neither agree nor disagree, 5% somewhat disagree 2% strongly disagree and 36% don't know.

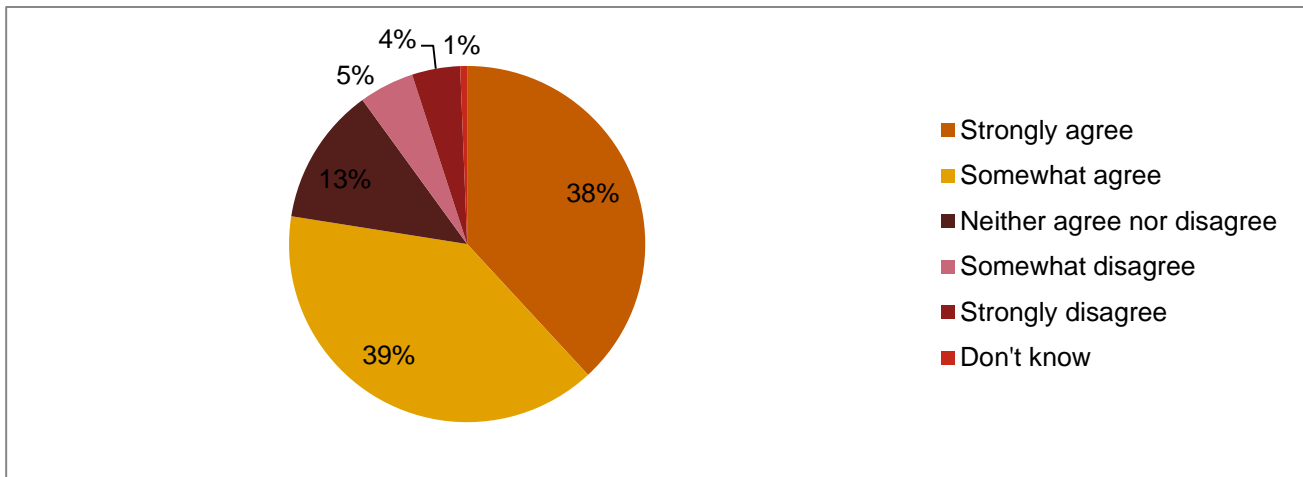


Figure 33 – Targeted business survey (question 57) – I am satisfied with customs clearance in my country in terms of the average time taken per transaction.

For the targeted business survey, 38% of the business stakeholders strongly agree with the statement “I am satisfied with customs clearance in my country in terms of average time taken per transaction”, 39% somewhat agree. On the other hand, 5% somewhat disagree, 4% strongly disagree, 13% do not agree or disagree and 1% of the businesses indicate that they don't know.

Forty per cent of the large companies strongly agree with the statement, 41% somewhat agree, 10% neither agree nor disagree, 6% somewhat disagree, 3% strongly disagree and 1% don't know. Thirty-four per cent of the SMEs strongly agree with the statement, 36% somewhat agree, 18% neither agree nor disagree, 2% somewhat disagree, 9% strongly disagree and 0% don't know.

Fifty-three per cent of companies in the transport and logistics sector strongly agree with the statement, 20% somewhat agree, 7% neither agree nor disagree, 7% somewhat disagree 13% strongly disagree and 0% don't know. For the companies active in other sectors, 37% strongly agree, 41% somewhat agree, 13% neither agree nor disagree, 5% somewhat disagree, 3% strongly disagree and 1% don't know.

**In-depth interviews.** In the course of these interviews, further to the basic input on the judgment criterion, the following input was acquired that is of interest.

According to the business associations, the high number of ‘don't know’ replies in the extended web-based survey can be explained by the fact that respondents to this survey were asked to provide their opinion for all Member States where they have customs activities. Detailed information might not be directly available for every single Member State, increasing the number of ‘don't know’ replies.

DG BUDG noted that customs authorities are under obligations to control and protect against financial and non-financial risks and it is important to find an appropriate balance in trade facilitation (i.e. fast clearance) and adequate controls in order to ensure a level playing field for EU operators. A different level of protection does not ensure such a level playing field. However, abandoning the progress made in modernised customs procedures is also not a step that should be envisaged.

### 3.1.2.1.2 Findings

Overall, the majority of companies are satisfied with the time-efficiency of customs clearance.

For both SMEs and large companies, the majority (between 70% and 83%) of respondents are (to a certain extent) satisfied with the time-efficiency of customs clearance.

Also, for companies active in the transport and logistics sector and for companies active in other sectors, the majority of respondents (between 70% and 81%) are satisfied with the time-efficiency of customs clearance.

The overall satisfaction of businesses does not correspond to the findings of Bourdet and Persson,<sup>69</sup> who point to the existence of inefficiencies. They mention that the required waiting periods are five times longer in the poorest-performing Member States in their sample than in the best-performing.

DG BUDG noted that it is important to find an appropriate balance in trade facilitation (i.e. fast clearance) and adequate controls in order to ensure a level playing field for EU operators. A different level of protection does not ensure such a level playing field. However, abandoning the progress made in modernised customs procedures is also not a step that should be envisaged.

#### 3.1.2.2 *Extent to which pre-arrival/departure notification processes and customs declaration processes are characterised by simplicity*

The simplicity of customs clearance processes can be characterised by a number of elements such as the extent to which customs authorities coordinate efforts with other agencies and other authorities. The existence of a Single Window,<sup>70</sup> one-stop shop systems<sup>71</sup> and the use of simplified procedures also contributes to simplifying customs clearance processes.

Several elements that contribute to the simplicity of clearance processes are analysed in the following pages.

#### 3.1.2.2.1 Data

Data sources				
Desk research	Business	Customs authorities	Other authorities	In-depth interviews
✓	✓	X	✓	X

### **Desk research.**

#### Single Window

This principle of ‘Integrated Border Management’ is one of the numerous goals set by the Framework of Standards to Secure and Facilitate Global Trade (SAFE Framework), adopted in 2005 by the WCO and its member countries.<sup>72</sup>

One approach to achieving coordination of the control efforts of customs authorities and other authorities is the introduction of a Single Window. The concept provides one entrance, either electronic or physical, for the

<sup>69</sup> Research Institute of Industrial Economics – IFN Working Paper No. 848, 2010 – Completing the EU Customs Union. The Effects of Trade Procedure Harmonisation – Yves Bourdet and Maria Persson.

<sup>70</sup> For the purpose of this study, a “Single Window” was explained to be a facility that allows parties involved in trade and transport to lodge standardised information and documents with a single entry point in order to fulfil all import, export and transit-related regulatory requirements, thus facilitating customs clearance processes in the Customs Union. Any system providing just some of the services of a fully-fledged Single Window, e.g. validation of non-customs documents, was also accepted as being a Single Window.

<sup>71</sup> A one-stop shop is defined as a system where, in respect of the same goods, controls other than customs controls are performed by competent authorities other than the customs authorities. Customs authorities, in close cooperation with those other authorities, endeavour to have those controls performed, wherever possible, at the same time and place as customs controls (one-stop shop), with customs authorities having the coordinating role in achieving this.

<sup>72</sup> The aim of SAFE is to secure and facilitate global trade, *inter alia* by measures laying down international standards for customs administrations to strengthen their relationships with other customs authorities and other public authorities.

submission and handling of all data and documents related to the release and clearance of international transactions, which is managed by one agency, which informs the appropriate agencies and/or directs combined controls. Expanding the use of Single Windows is a goal set by the SAFE Framework.

Single Windows can have many benefits for governments, such as improved trader compliance, ability to use risk management techniques for control and enforcement purposes and more effective, efficient deployment of resources. For businesses, benefits can be reduced costs and delays for clearance, predictable application and explanation of rules and more effective, efficient deployment of resources.

In the self-assessment study,<sup>73</sup> however, it is stated that *“the current concept of the Single Window is seen as a missed opportunity to introduce a true Single Window. Member States currently apply the concept of a Single Window for economic operators to interact with various national authorities. This means, in practice, that economic operators active in multiple Member States face multiple “Single Windows”. It was found, therefore, that there should be more focus on creating a “European Single Window”. However, this would require significant progress in harmonising the customs processes in the Union as identified during the SEAP project (Single Electronic Access Point)”*.

In a working document from DG TAXUD<sup>74</sup> regarding the Single Window at a Community level, the following definition is provided:

*“The Single Window environment aims to expedite and simplify information flows between trade and government and bring meaningful gains to all parties involved in cross-border trade. In a theoretical scheme, Single Window can be described as ‘a system that allows traders to lodge information with a single body to fulfil all import or export-related regulatory requirements’.*

*In practical terms, a Single Window environment provides one entrance (either physical or electronic) for the submission and handling of all data and documents related to the release and clearance of an international transaction. This entry point is managed by one agency, which informs the appropriate agencies and/or performs combined controls.”*

The benefits of the Single Window for economic operators are also listed:

- *“easier access to information through better co-ordination between all authorities involved – leading to time savings when looking for information and increased compliance due to better understanding;*
- *improved efficiency when submitting information through exchange of data between authorities involved allowing economic operators to give the same information only once to these authorities – faster processing, more rapid clearance, greater accuracy of data and increased compliance;*
- *fewer delays, less uncertainty, and more targeted inspections through better coordination between authorities involved;*
- *lower barriers to trade, which makes it possible for new traders to focus on strategic and commercial considerations as opposed to regulatory regulations.”*

For Member States and the Community, the following benefits are listed:

- *“improved service to customers, improving the competitiveness of EU business;*
- *reduced levels of inadvertent non-compliance, leading to better ability to focus on those traders that actively try to avoid regulations;*
- *better quality of information by increased sharing of information between government agencies – leading to improved security, better ability to target consignments to be inspected;*
- *improved efficiency when moving from paper-based to electronic applications, licences etc. – reduced re-typing, faster processing;*
- *more joined-up government.”*

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<sup>73</sup> Future business architecture for the Customs Union and cooperative model in the taxation area in Europe – Final report on Task 2.2 – Strengths and weakness of the current organisation model Customs Union (TAXUD/R3/VDL D(2010) 433216) – May 2011, p. 84.

<sup>74</sup> Working Document: DG TAXUD/1241/2005 – Rev. 5, Single Window at Community Level.

Electronic input and simplified procedures

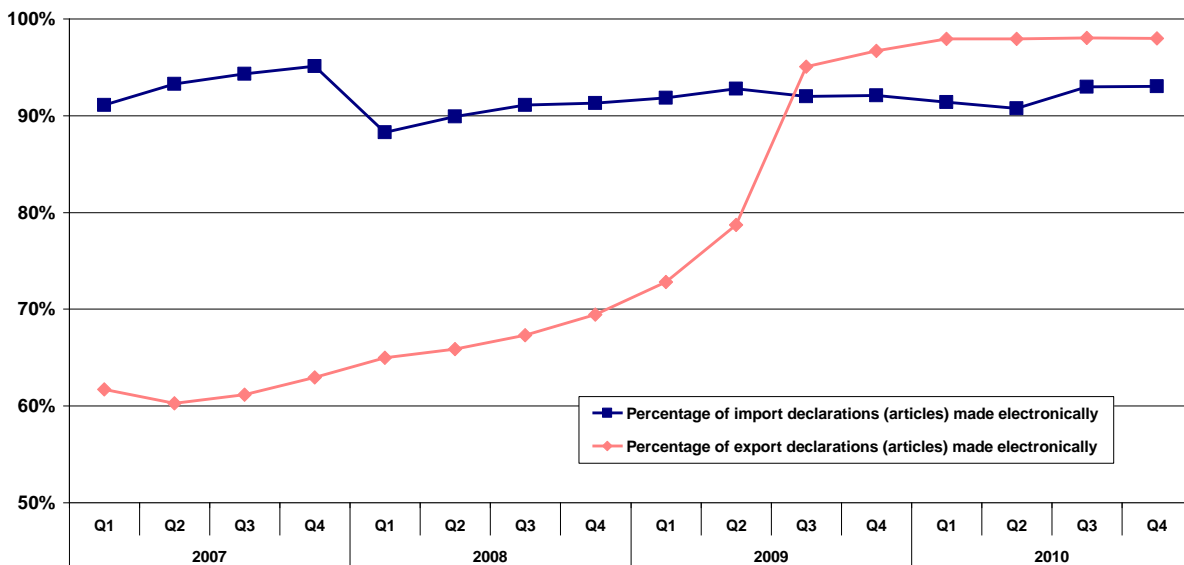


Figure 34 – Development of the rate of electronic input – normal and simplified procedures together (27 Member States)

The electronic input of customs declarations under normal and simplified procedures in the EU reached the level of 92% for imports and 98% for exports<sup>75</sup> in 2010.<sup>76</sup> In the field of normal procedures, the level of electronic input of import declarations was somewhat lower compared to simplified procedures (84%; it nevertheless shows a slightly increasing trend). Export rates of electronic input for normal and simplified procedures were identical (98%).

As far as imports are concerned, the number of customs declarations done electronically in the EU has been at more or less the same level for many years (mostly slightly above 90%, a figure that fluctuates only little). The significant increase in the electronic input for exports in 2009 was linked to deployment of the ECS on 1 July 2009 and the requirement to lodge all export declarations electronically. The level of electronic declarations remained stable at about 98% during 2010.

**Businesses.**

Coordination with other authorities

With the principle of integrated border management in mind, in the slim web-based survey and the extended web-based survey, businesses were asked to rate their satisfaction with the coordination of customs clearance processes in the countries where they operate. They were asked to consider how coordinated their national customs authorities are with other authorities and agencies in their home countries such as those responsible for veterinary/sanitary/phyto-sanitary health, cultural artefacts, security, etc.

<sup>75</sup> In the absence of figures from Belgium, the analysis used the ratio of electronic input from 2007 (93%).

<sup>76</sup> Report from the Commission to the Council and the European Parliament, Report on progress on the strategy for evolution of the Customs Union XXX, p. 6, point 2.2.



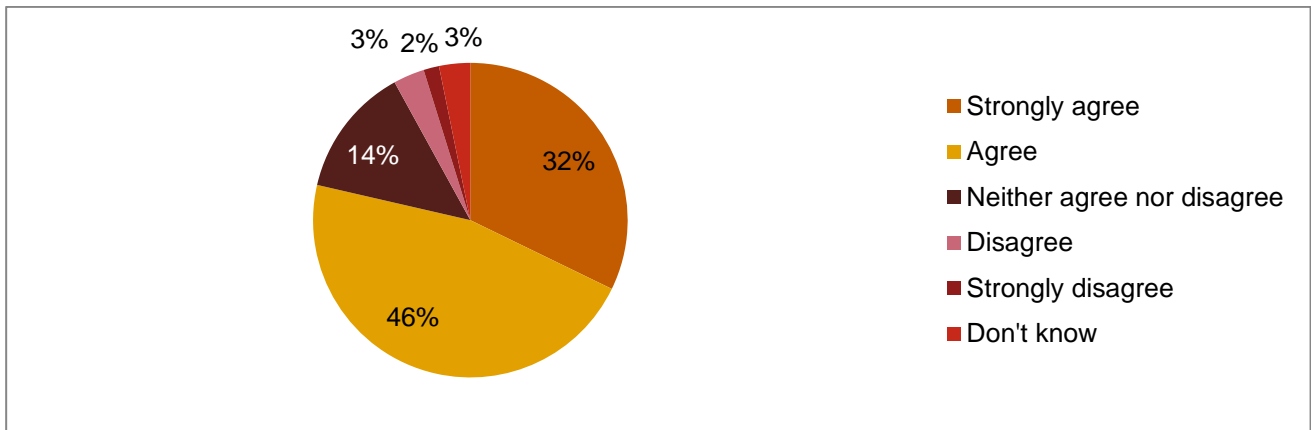


Figure 35 – Slim web-based survey (question 7.2) – Customs clearance in my country is well coordinated (i.e. well coordinated with other authorities and agencies such as those responsible for veterinary/sanitary/phytosanitary health, cultural artefacts, security etc.).

Of the stakeholders that responded to the slim web-based survey, 32% strongly agree with the statement that customs clearance is well coordinated in their country, 46% agree, 14% neither agree nor disagree, 3% disagree, 2% strongly disagree and 3% don't know.

Thirty-three per cent of the large companies strongly agree with the statement, 47% agree, 14% neither agree nor disagree, 2% disagree, 2% strongly disagree and 3% don't know. Thirty-one per cent of the SMEs strongly agree, 45% somewhat agree, 13% neither agree nor disagree, 6% somewhat disagree, 2% strongly disagree and 4% don't know.

In the slim web-based survey, 41% of transport and logistics respondents strongly agree that customs clearance processes are well coordinated, compared to only 31% of respondents from all other sectors. Thirty-six per cent of transport and logistics respondents somewhat agree, compared to 48% of respondents from all other sectors. Overall satisfaction rates (strongly agree and somewhat agree together) are similar for both groups. Sixteen per cent of companies in the transport and logistics sector disagree and 4% strongly disagree. Of companies in other sectors 13% disagree and 3% strongly disagree. For both transport and logistics respondents and respondents from other industry sectors, the proportion of respondents not agreeing with the statement is 5% and the proportion of respondents that answered 'don't know' is 3%. Somewhat more respondents from the transport and logistics sector did not agree or disagree (16%) than from other industry sectors (13%).

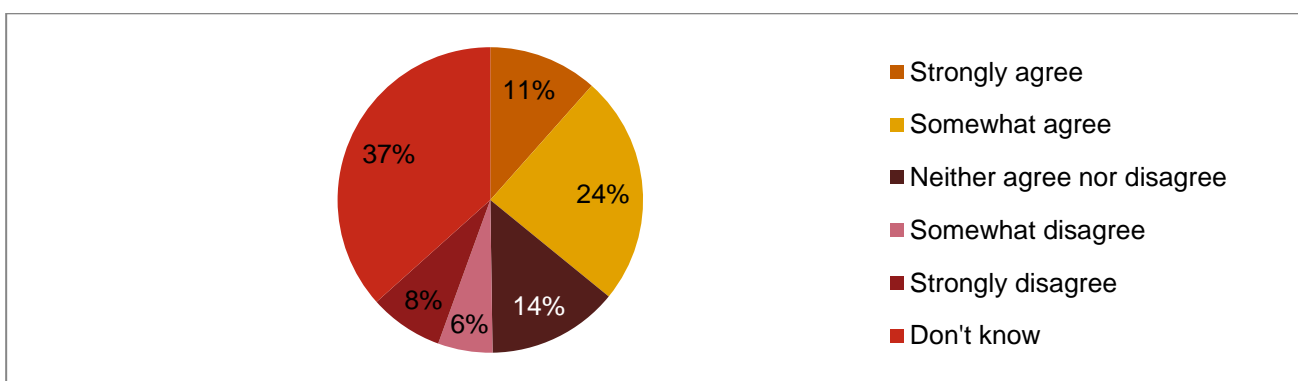


Figure 36 – Extended web-based survey (question 8) – Customs clearance in my country is well coordinated (i.e. coordinated with other authorities and agencies such as those responsible for veterinary/sanitary/phytosanitary health, cultural artefacts, security etc.)

For the extended web-based survey, 35% find that customs clearance is well coordinated in their country (11% strongly agree and 24% somewhat agree), while 14% disagree (4% somewhat disagree and 8% strongly disagree). The other 51% did not express a clear opinion (they did not know or were undecided).

Twelve per cent of large companies strongly agree with the statement, 22% somewhat agree, 16% neither agree nor disagree, 4% somewhat disagree, 7% strongly disagree and 39% don't know. Eleven per cent of the SMEs strongly agree with the statement, 31% do not agree, 9% neither agree nor disagree, 10% somewhat disagree, 10% strongly disagree and 29% don't know.

Seven per cent of transport and logistics companies strongly agree with the statement, 24% somewhat agree, 16% neither agree nor disagree, 8% somewhat disagree, 9% strongly disagree and 36% don't know. Seventeen per cent of other companies strongly agree with the statement, 26% somewhat agree, 13% neither agree nor disagree, 3% somewhat disagree, 3% strongly disagree and 38% don't know.

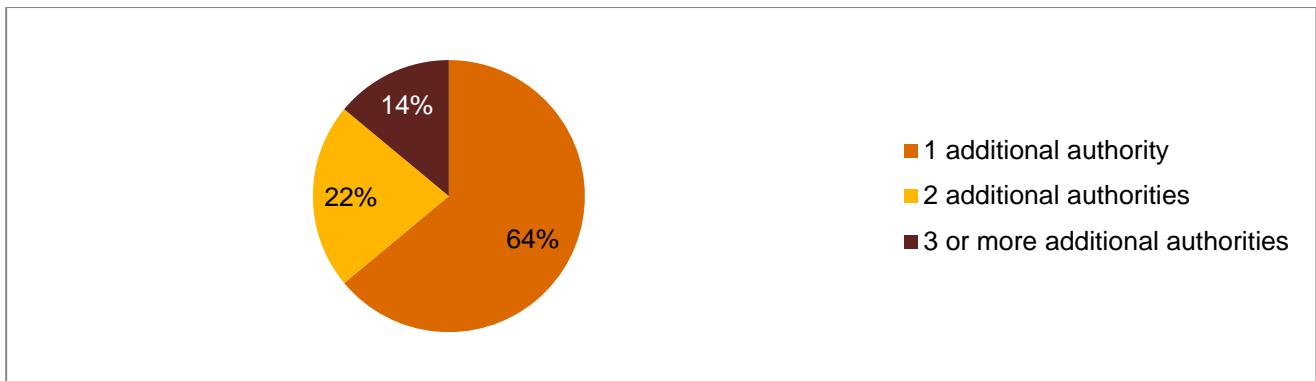


Figure 37 – Targeted business survey (question 58) – Please indicate which other authorities you have to interact with to get your goods imported/exported – Average number of authorities to be contacted where additional authorities have to be contacted

To measure just how integrated border controls have become in the Customs Union, businesses were asked in the targeted business survey whether they still directly interact with other authorities for customs purposes.

Responses from the targeted web-based survey are presented in the figure above. Of the stakeholders that indicated to interact with other authorities, 64% indicated that they do interact with only one additional authority, 22% indicated that they interact with two additional authorities and 14% indicated that they interact with three or more additional authorities.

In respect of contacts with other authorities, the following input was given:

- 30% of the respondents interact directly with financial authorities,
- 28% of the respondents interact with authorities responsible for dual-use goods,
- 26% of the respondents interact with authorities responsible for veterinary and (phyto)sanitary products, and
- 16% of the respondents interact with the relevant embassy/consulate.

### Single Window

Next, the extent to which the concept Single Window is utilised across the Customs Union was analysed.

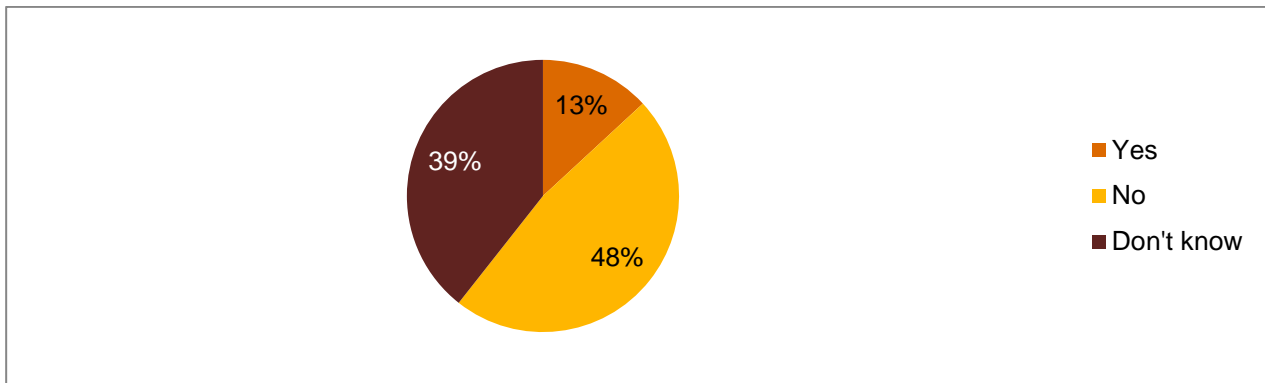


Figure 38 – Targeted business survey (question 59) – Is there a Single Window in your country?

Responses from the targeted business survey are presented in the figure above. Thirteen per cent of the business respondents (16% of large enterprises and 7% of SMEs) indicate that there is a Single Window in their country, while 48% (50% of large enterprises and 41% of SMEs) state there is none. Overall, 39% of the stakeholders (34% of large enterprises and 52% of SMEs) don't know.

One-stop shop

The extent of utilisation of one-stop shops was also analysed. Responses from the targeted business survey are presented in the figure below.

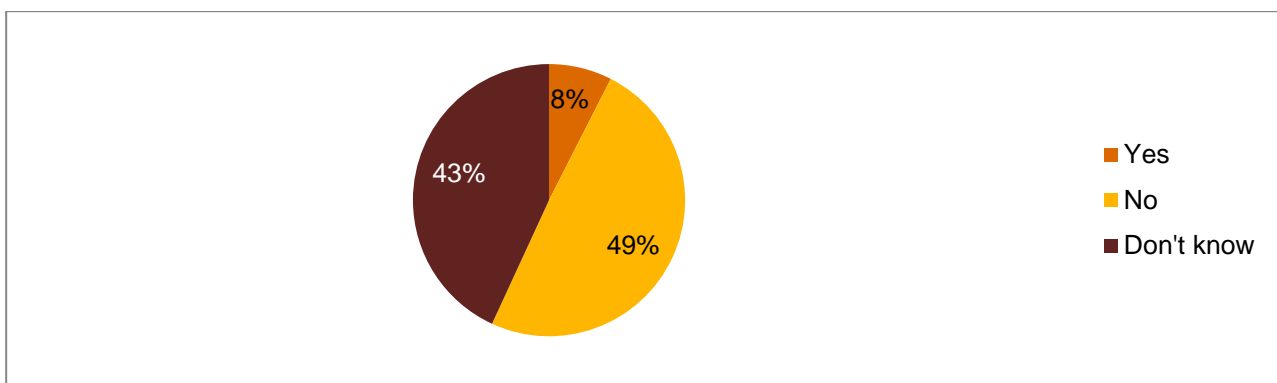


Figure 39 – Targeted business survey (question 61) – Is there a one-stop shop in your country?

Of the business respondents, eight per cent (9% of large companies and 5% of SMEs) indicate that there is a one-stop shop in their country, while 49% (54% of large companies and 36% of SMEs) state there is no one-stop shop. Forty-three (37% of large companies and 59% of SMEs) of the stakeholders don't know.

Electronic services

In the targeted business survey, businesses were asked whether they believed any electronic service was missing in the customs clearance processes in their respective countries. Besides centralised customs clearance, additional electronic services that several businesses find would be useful are:<sup>77</sup>

- an electronic system for customs duty payments,
- acceptance of electronic versions of certificates such as EUR1 and ATR,

<sup>77</sup> Other useful services mentioned by individual companies are ECS and DTI (Direct Trade Input) facilities for traders (without having to resort to agents), an electronic way of viewing PARNs (pre-authenticated release notes) without asking Customs to send hard copies, an electronic application for BTIs and licences, local electronic acceptance of communications besides the electronic processing of customs declarations (e.g. documents via e-mail), binding information on the status of licences, messaging to certify completion of an exportation, ability to electronically check all the data that the custom authorities have of a company's import/exports, advertisement of the EUROPA website, which is very good for learning technical customs language, better electronic access to customs law, pre-alert of T1, GVFF and an electronic appeals process.

- possibility to supplement, correct or cancel export/import customs declarations and to submit a statement and explanations electronically via EDI,
- inbound declarations for customs warehouses.

Number of additional documents needed

In the slim web-based survey and the extended web-based survey, participants were asked to indicate the average range of the number of additional documents that they need to have available for one transaction as part of the customs clearance that was most applicable for them per Member State for which they completed the questionnaire.

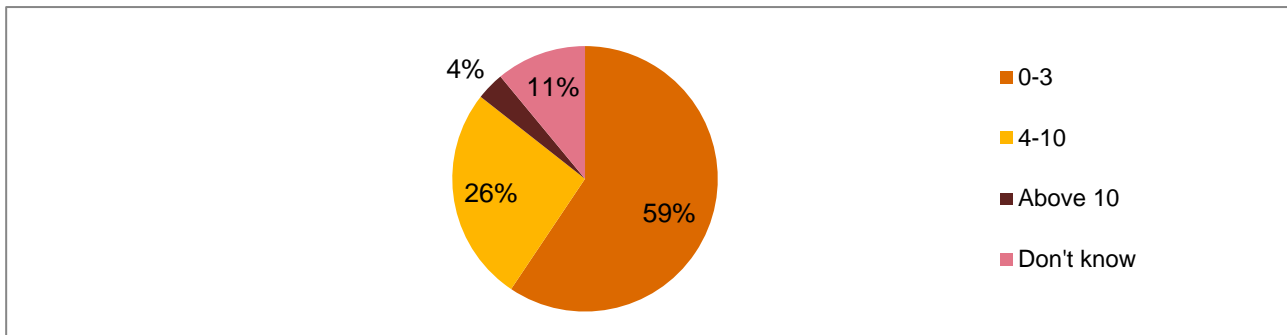


Figure 40 – Slim web-based survey (question 8) – On average, how many documents additional to the customs declaration do you need to have available for one transaction as part of customs clearance?

For the slim-web based survey, 59% (57% of large companies and 64% of SMEs) of the business respondents indicate that fewer than four documents additional to the customs declaration have to be available for one transaction as part of customs clearance. Twenty-six per cent (27% of large companies and 25% of SMEs) state that four to ten documents are needed in this respect. Only 4% (5% of large companies and 1% of SMEs) indicate that more than ten additional documents are needed. Eleven per cent of the respondents (12% of large companies and 10% of SMEs) don't know.

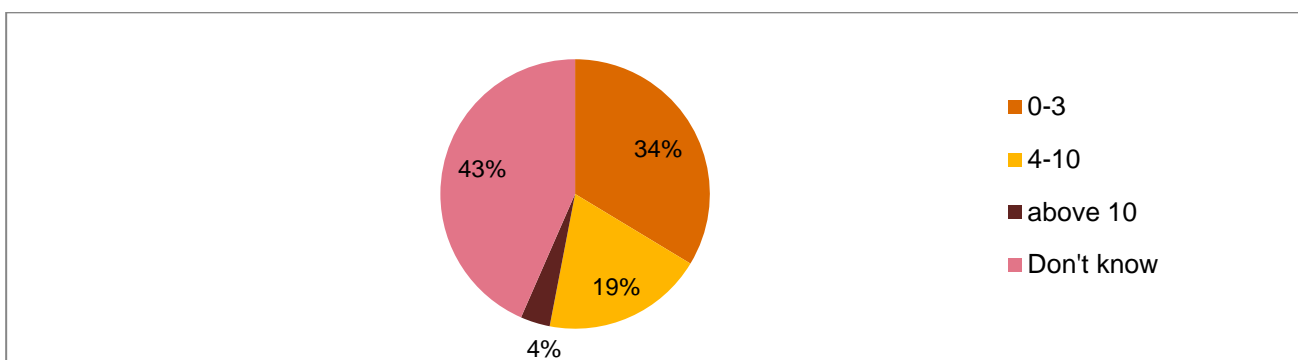


Figure 41 – Extended web-based survey (question 7) – On average, how many documents additional to the customs declaration do you need to have available for one transaction as part of customs clearance?

For the extended web-based survey, 34% of the business respondents indicate that fewer than four documents additional to the customs declaration have to be available for one transaction as part of customs clearance. Nineteen per cent state that four to ten documents are needed in this respect. Only 4% indicate the number of documents as being above ten. Forty-three per cent of the respondents don't know.

**Other authorities.** When considering the extent to which customs declaration processes are aligned across the Customs Union, a total of 87% of other-authority respondents confirmed that their national customs authorities provide assistance based on EU legislation.

Of the respondents, 90% confirmed that customs authorities provide assistance based on national legislation; when such assistance is provided, 62% of the other authorities indicate that this is based on a memorandum of understanding or a service level agreement. Three respondents were aware that their customs authorities provided assistance on another basis: administrative agreements, an inter-ministerial order or a national cooperation team.

The other authorities were also asked what services they received from national customs authorities. Besides control activities relating to the import and export of goods, several support activities are provided, the nature of which varies depending on the domains of interest of the other authorities. Some examples were:

- sampling and collecting information on samples for laboratories,
- being informed of plants and plant products from outside the EU, cultural goods of doubtful origin, customs operations with dual-use goods and clandestine medicines,
- stamping and returning licences,
- detention of waste imports on request.

The other authorities were asked to indicate any additional steps, alongside filing the actual customs declaration, that need to be taken by businesses before their goods are cleared by customs in their country. Of the other authorities, 55% indicate that businesses do not have to submit separate cross-border-related declarations. Around 39% indicate that companies have to obtain certificates, and 43% indicate that businesses do not have to obtain certificates.

Obtaining licences (58% response rate from other authorities) and specific controls (50% response rate) appear to be the two main additional steps that businesses must complete in the domains of the other authorities that answered the questionnaire.

#### 3.1.2.2.2 Findings

##### Coordination

The majority (78%) of respondents to the slim-web based survey are positive on the coordination efforts of national customs authorities with other national authorities. The results from the extended web-based survey are not in line with this finding: only 35% of the respondents to the extended web-based survey think that customs clearance is well coordinated. However, a very large proportion of the respondents to the extended web-based survey could not answer the question because they did not know (37%). Therefore, the extended survey will not be used for further analysis or to draw general conclusions.

Although respondents to the slim web-based survey indicate that the Customs Union is well-coordinated, 62% of business stakeholders that completed the targeted business survey state that they are required to provide information to at least one other authority besides Customs. These results demonstrate, albeit on a national basis, that the SAFE Framework slowly implemented by Member States is clearly not yet producing full benefits for businesses. Only six per cent of the respondents have to interact with three or more other authorities (source: targeted business questionnaire). All but four of these companies were large businesses, most of which operate in one of the following sectors of industry: food, beverages and tobacco, industrial goods, automotive and parts, telecommunications, and transport and logistics.

Results indicate that companies mostly interact directly with financial authorities (31% of the respondents). However, many companies provide information to authorities responsible for dual-use goods (29% of the respondents) and to authorities responsible for veterinary and (phyto)sanitary products (26% of the respondents).

With regard to the alignment of customs declaration processes across the Customs Union, close to 90% of respondent other authorities confirmed that their national customs authorities provide assistance based on EU legislation.

When comparing the impressions of large companies and SMEs, the slim web-based survey reveals that somewhat more SMEs (8%) than large enterprises (4%) do not believe that the customs authorities coordinate sufficiently with other authorities and agencies.

When comparing the impression of respondents from the transport and logistics sector and those from other sectors, the proportion agreeing that the Customs Union is well-coordinated is comparable.

### Single Window

The Single Window principle is one of the numerous goals set by the SAFE Framework, adopted by the WCO and its member countries. However, only 13% of the respondents to the targeted business survey indicated that there are Single Windows in their Member States. Forty-eight per cent of the respondents indicated that there is no Single Window and 39% of the respondents did not know whether there is one or not in their Member State. Results also indicate that large companies are more aware of the existence of Single Windows than SMEs, with 16% of large companies responding positively to the question, compared to only 7% of SMEs. In the self-assessment study it is concluded that Single Windows do exist in the Member States, but that there is no European Single Window. Instead, several national Single Windows are in place. A European Single Window is expected to further improve the efficiency in the Customs Union.

Considering the link between Single Windows and the time-efficiency of the Customs Union, a total of 86% of respondents to the targeted web-based survey who's Member States have implemented a Single Window express satisfaction with the time-efficiency of the Customs Union.

### One-stop shop

Only 8% of the respondents to the targeted business survey indicated that there is a one-stop-shop system in their Member States. Forty-nine per cent of the respondents indicated that there is no one-stop-shop system and 43% did not know whether there is one or not in their Member State. Results also revealed that a larger proportion of large companies are more aware of the existence of a one-stop-shop system in their home countries, with 9% of large companies confirming the statement compared to only 4% of SMEs.

On the question whether there is a link between one-stop shops and the time-efficiency of the Customs Union, it should be noted that a total of 83% of respondents to the targeted web-based survey whose Member States have implemented a one-stop shop system expressed satisfaction with the efficiency of the Customs Union.

### Number of additional documents

Simplicity is also characterised by the number of additional documents that have to be submitted for customs clearance. In the slim web-based survey, the majority of SMEs (64%) and large companies (57%) indicate that they have to submit fewer than four documents for customs clearance of their goods. Around one quarter of SMEs (25%) and large companies (27%) indicate that they have to submit between four and ten documents for customs clearance of their goods. Fewer than 5% of all companies have to submit more than ten documents to Customs. Results are comparable for companies active in the transport and logistics sectors and those active in other sectors.

In the extended web-based survey, 43% of the companies did not know how many additional documents need to be submitted. Therefore, the results are not further analysed and not used to draw general conclusions. These high numbers of 'don't know' replies can possibly be explained by a lack of detailed respondents' knowledge for each and every individual Member State.

### Number of actions

The simplicity of customs clearance processes could also be improved by reducing the number of actions for businesses to complete customs clearance processes. Large companies and transport and logistics companies tend to find higher variance in the numbers of documents needing to be submitted to Customs than other companies. In addition to the completion and filing of customs declarations, businesses are often required to obtain licences and to submit goods to certain controls in order to import/export goods to/from the Customs Union.

Reference is also made to specific controls mentioned by agricultural, environmental and trade statistics authorities. Licences and specific controls were mentioned by other authorities in charge of cultural goods, dual-use goods, pharmaceutical goods, weapons and munitions and (phyto)sanitary and veterinary goods.

### Electronic services

The electronic input of customs declarations under normal and simplified procedures in the EU reached a level of 92% for imports and 98% for exports. When asked about new electronic services besides centralised customs clearance, however, it was found that businesses would appreciate the introduction of electronic services for *inter alia*:

- payment of customs duties,
- better access to customs legislation,
- correction of customs declarations.

#### 3.1.2.3 *Extent to which pre-arrival/departure notification processes and customs declaration processes are cost-effective*

##### 3.1.2.3.1 Data

Data sources				
Desk research	Business	Customs authorities	Other authorities	In-depth interviews
✓	X	X	X	✓

**Desk research.** According to the Impact Assessment to the Modernised Customs Code<sup>78</sup> and its 2012 update,<sup>79</sup> the average cost for a company for one customs declaration is estimated to be EUR 35.

**In-depth interviews.** Also in the in-depth interviews, little concrete information turned out to be available. Nevertheless, some input was received that is worth mentioning here. One national customs authority reported the authority's cost for processing one customs declaration as being EUR 13.10.

Various individual companies were asked to provide details of the cost of connecting to the customs authorities. This data is presented in a separate case study (see 8.3).

##### 3.1.2.3.2 Findings

The question on costs in the targeted business questionnaire was too difficult for most stakeholders to answer. The little information gathered on this topic does not show a clear trend. Taking into account the potential

<sup>78</sup> European Commission, Commission Staff Working Document, Annex to the Proposal for a regulation of the European Parliament and of the Council laying down the community customs code and to the Proposal for a decision of the European Parliament and of the Council implementing a paperless environment for customs and trade, Impact Assessment, COM(2005) 608 final/COM(2005) 609 final, Brussels, 30/11/2005, SEC(2005) 1543.

<sup>79</sup> PwC Study, Update of the costs and benefits related to the Impact Assessment to the Modernised Customs Code, 15/05/2012, p. 30.

differences in the internal customs organisations of the respondent companies, the reported figures are not comparable.

#### *3.1.2.4 Judgment 2 – efficiency of declaration processing*

Overall, companies agree that the Customs Union is time-efficient with regard to declaration processes. Results are very much comparable for SMEs and large companies, as well as for companies in the transport and logistics sector and companies in other sectors.

Various other authorities or agencies often require information from customs authorities about goods in order to fulfil their tasks or responsibilities relating to the import, export or transit of goods into, from or through the territory of the European Union. It was found that businesses sometimes still have to interact with several other authorities to provide them with information. This suggests that national customs authorities' efforts to coordinate customs clearance processes are not as successful as they could be.

Based on the data gathered, Single windows and one-stop shops are not yet widespread across the Customs Union despite the fact that they are evaluated positively by stakeholders when they are available.

All these factors indicate that there is still room to improve the simplicity, and hence the efficiency, of the customs clearance processes.

The average cost for companies to file one customs declaration is EUR 35. Information nonetheless suggests that significant differences in cost arise depending on the organisation of the company and how the company connects to the customs authorities (see case study). It is to be expected that customs clearance could be made more cost-efficient, but unfortunately insufficient comparable data is available.

#### *3.1.3 Efficiency of clearance processes – Extent to which the calculation and collection of customs duties, other taxes and levies is done efficiently across the Customs Union*

To judge efficiency in the calculation and collection of customs duties, other taxes and levies, this study focuses on the cost-effectiveness of these processes.

##### *3.1.3.1 Extent to which the costs of collecting customs duties, other taxes and levies are outweighed by the revenue collected (cost-effective), focusing on the cost-effective use of both EU input resources and national input resources*

###### *3.1.3.1.1 Data*

<b>Data sources</b>				
Desk research	Business	Customs authorities	Other authorities	In-depth interviews
✓	X	X	X	✓

**Desk research.** The workload for customs officials has been growing and will continue to grow in the next few years, while the number of customs officials has decreased significantly.<sup>80</sup> Comparing the number of customs officials in 2007 to the number in 2010, there has been a decrease of 13% and there are no signs that the fall will stop in the near future.

Based on data received from DG BUDG on Member States' Traditional Own Resources contributions to the 2011 budget, the total amount of customs duties made available by the 27 Member States was EUR 16,645,989,075.

<sup>80</sup> Report from the Commission to the Council and the European Parliament, Report on Progress on the Strategy for the Evolution of the Customs Union XXX, draft, pp. 6-7.



According to data on the Measurement of Results, a total of 245 million customs declarations<sup>81</sup> were filed in 2011. Altogether, 124,035 customs officials worked for the customs authorities of the 27 national customs authorities in 2011.

**In-depth interviews.** In the course of these interviews, further to the basic input on the judgment criterion, the following input was acquired that is of interest.

During the in-depth interview with the customs authorities of one large old Member State, a detailed calculation was provided of the average cost for the customs authorities to process a customs declaration. This cost is EUR 13.10. The average cost of one man-day of a controlling customs official is EUR 385. Both average cost calculations are said to be valid for 2010 and 2011 for the relevant Member State.

Further, the national customs authority interviewed stated that 3,166 out of 17,414<sup>82</sup> (i.e. 18%) customs officials are permanently occupied in carrying out controls.

#### 3.1.3.1.2 Findings

The number of customs officials is decreasing while the workload for customs officials is increasing. A total of 245 million customs declarations were filed in 2011. The total amount of customs duties collected by the 27 Member States in 2011 was EUR 16,645,989,075. The numbers of customs officials occupied in carrying out controls vary from Member State to Member State. Some of the known figures fluctuate between less than 20% to over 50% of the total number of customs officials involved in controls.

In one large Member State, the number of officials involved is 18% of the total number of customs officials. This is considered by experts as fairly low.

#### 3.1.3.2 Judgment 3 – efficiency in the calculation and collection of customs duties

Cost efficiency should be judged using a benchmark that is currently not available. At this time, only high-level, anecdotal information is available and no conclusive judgment can be made on the basis of the data.

#### 3.1.4 Efficiency of clearance processes – Primary conclusion (Judgment 1 – judgment 3)

The present level of efficiency of the EU Customs Union is fairly good on the basis of the analysis done. However, there are clear differences in the efficiency of processes when comparing the individual Member States with each other based on the logistics performance index, the self-assessment and, more indirectly, the various surveys carried out. Also in relation to other key factors of the Customs Union, such as uniformity, it is desirable to reduce the large differences that exist. Efficiency (in coordination with other authorities, on the number of additional documents needed) can certainly be improved, which would most probably lead to more cost-efficient clearance processes. Finally, the lack of comparable data to evaluate cost-effectiveness means the Commission is unable to formulate a properly founded policy in this respect.

## 3.2 Are current control processes performed efficiently?

The second part of the customs processes that is looked at from an efficiency perspective is control processes. Three types of control processes are dealt with:

- documentary controls,
- physical controls, and
- post-clearance controls and post-declaration audits.

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<sup>81</sup> Including import, export and transit declarations.

<sup>82</sup> Number of customs officials in that Member State in 2010.

### 3.2.1 Efficiency of control processes – Extent to which documentary controls are done efficiently across the Customs Union

To judge the efficiency of documentary controls, they are analysed from different angles, being:

- the efficiency of documentary controls in general,
- the time-efficiency of documentary controls, and
- the simplicity of documentary control processes.

#### 3.2.1.1 General information

##### 3.2.1.1.1 Data

Data sources				
Desk research	Business	Customs authorities	Other authorities	In-depth interviews
✓	✓	X	X	X

**Desk research.** In the self-assessment study,<sup>83</sup> figures regarding documentary and physical controls and laboratory tests in eight test countries are presented as in the table below.

Type of control	Total – 8 Member States
Documentary (Import)	18.15
Physical (Imports)	15.98
Laboratory test (Import)	0.24
Physical (Export)	10.97
Laboratory test (Export)	0.15

Table 6 – Documentary and physical controls, and laboratory tests in eight test countries (2009 aggregate as a percentage of SADs). Source: Deloitte’s calculations based on MoR data provided by eight Member States.

The figures obtained from these eight Member States suggest a certain degree of variation in the level of documentary checks and the relative importance attached to documentary and physical checks among the Member States. However, the figures do not create a basis for further interpretation of the reasons behind this variation.

In the self-assessment study,<sup>84</sup> some weaknesses are identified with regard to the efficiency of business processes:

- Duplication of effort by Member States to develop their own approaches towards the various processes: *“currently the Member States establish and develop their own practices to deal with all customs processes, such as controls, client management, risk management, etc. Although this allows the Member States to take specific needs and circumstances into account, this way of working entails a certain degree of duplication of Member States’ efforts.”*

<sup>83</sup> Future business architecture for the Customs Union and cooperative model in the taxation area in Europe – Final report on Task 2.2 – Strengths and weakness of the current organisation model Customs Union (TAXUD/R3/VDL D(2010) 433216) – May 2011, p. 98.

<sup>84</sup> Future business architecture for the Customs Union and cooperative model in the taxation area in Europe – Final report on Task 2.2 – Strengths and weakness of the current organisation model Customs Union (TAXUD/R3/VDL D(2010) 433216) – May 2011, p. 98.

- Different approaches towards controls: *“Member States have different approaches to compliance control strategy. Some limit their approach to transaction-based controls, whereas others increasingly use system-based control (SBC) where possible. An efficient approach would combine both traditional transaction-based control and system-based control. Under a system-based approach (SBA), the majority of goods movements under customs supervision into or out of the EU is supervised in a holistic, supply chain-focused manner, rather than on the basis of the individual transactions. Interviewees indicated that introducing a balance of transaction-based control and SBC in all Member States would generate enhanced efficiency (and effectiveness) of controls – both transaction and systems-based.”*
- Lack of an EU support framework for systems-based working methods: *“for the time being, for example, the current EU risk management guidelines deal with transaction-based controls only. Common frameworks and support tools and instruments need to be developed for SBA to enable all Member States to adopt its use. It could, however, be that the current legal framework (European and national) is not conducive to enabling and supporting a differentiated approach to compliance and control.”* It must be noted that a project group now exists in DG TAXUD on SBA. TAXUD

The Enabling Trade Index (ETI) was developed within the context of the World Economic Forum’s Transportation Industry Partnership programme, and was first published in the Global Enabling Trade Report 2008. A number of Data Partners collaborated in this effort: the Global Express Association (GEA), the International Air Transport Association (IATA), the International Trade Centre (ITC), the United Nations Conference on Trade and Development (UNCTAD), World Bank, the World Customs Organization (WCO), and the WTO. The ETI measures the extent to which individual economies have developed institutions, policies and services facilitating the free flow of goods over borders and to destinations. The structure of the index reflects the main enablers of trade, breaking them down into four overall issue areas, captured in the sub-indices. One of the sub-indices is border administration. The border administration sub-index assesses the extent to which administration at the border facilitates the entry and exit of goods. This sub-index is in turn composed of three pillars:

- efficiency of customs administration,
- efficiency of import-export procedures,
- transparency of border administration.

In the table below, the rank and score of each European Member State is shown for the sub-index and its pillars. In total, the sample consisted of 132 countries; scores are always between one and seven.

As also mentioned in the self-assessment study, the table indicates significant differences in the efficiency of customs administrations among EU Member States.

	Border administration		Pillars					
			Efficiency of customs administration		Efficiency of import-export procedures		Transparency of border administration	
Country	Rank <sup>85</sup>	Score	Rank <sup>86</sup>	Score	Rank <sup>87</sup>	Score	Rank <sup>88</sup>	Score
Austria	13.0	5.6	7.0	5.9	19.0	5.6	22.0	5.5
Belgium	27.0	5.1	41.0	4.6	32.0	5.3	21.0	5.6
Bulgaria	74.0	3.9	72.0	4.1	73.0	4.5	73.0	3.1
Cyprus	32.0	4.9	52.0	4.4	25.0	5.5	32.0	4.9
Czech Republic	41.0	4.6	21.0	5.3	52.0	4.9	55.0	3.7
Denmark	3.0	6.2	6.0	5.9	3.0	6.2	2.0	6.5
Estonia	16.0	5.6	11.0	5.7	8.0	5.9	23.0	5.2
Finland	7.0	5.9	28.0	5.1	6.0	6.1	5.0	6.4
France	19.0	5.4	23.0	5.2	9.0	5.9	24.0	5.2
Germany	18.0	5.5	26.0	5.2	13.0	5.8	19.0	5.6
Greece	79.0	3.8	96.0	3.5	71.0	4.6	67.0	3.3
Hungary	35.0	4.8	15.0	5.6	58.0	4.8	45.0	4.1
Ireland	10.0	5.8	5.0	5.9	18.0	5.6	15.0	5.9
Italy	55.0	4.3	75.0	4.0	39.0	5.1	56.0	3.7
Latvia	43.0	4.6	49.0	4.5	23.0	5.5	52.0	3.8
Lithuania	40.0	4.7	44.0	4.5	34.0	5.2	41.0	4.2
Luxembourg	21.0	5.4	40.0	4.6	31.0	5.3	8.0	6.2
Netherlands	5.0	6.0	3.0	6.0	12.0	5.8	7.0	6.2
Poland	38.0	4.7	48.0	4.5	36.0	5.2	38.0	4.5
Portugal	36.0	4.8	81.0	3.8	21.0	5.5	27.0	5.0
Romania	57.0	4.2	53.0	4.4	65.0	4.7	60.0	3.6
Slovakia	49.0	4.4	32.0	4.9	80.0	4.4	53.0	3.8
Slovenia	29.0	5.1	19.0	5.4	42.0	5.1	34.0	4.8
Spain	28.0	5.1	20.0	5.4	46.0	5.0	31.0	4.9
Sweden	2.0	6.3	2.0	6.3	4.0	6.2	4.0	6.5
United Kingdom	9.0	5.8	4.0	6.0	14.0	5.8	17.0	5.6
<b>EU average</b>		<b>5.1</b>		<b>5.0</b>		<b>5.4</b>		<b>4.9</b>

Table 7 – The Enabling Trade Index 2012: Border administration. Source: The Global Enabling Trade Report, World Economic Forum – 2012

A report by the European Court of Auditors<sup>89</sup> on customs procedure 42 (the regime an importer uses to get a VAT exemption upon importation in the country of import when the imported goods are immediately transported to another Member State) found that “control of this procedure in seven selected Member States is deficient because:

- customs authorities do not ensure the validity and completeness of key data,
- essential information is not made available to tax authorities, and
- cross-checking of key data is not carried out by tax authorities in all cases.”

<sup>85</sup> Out of 132 countries in the sample.

<sup>86</sup> Out of 132 countries in the sample.

<sup>87</sup> Out of 132 countries in the sample.

<sup>88</sup> Out of 132 countries in the sample.

<sup>89</sup> European Court of Auditors – Special Report No. 13 – Does the Control of Customs Procedure 42 Prevent and Detect VAT Evasion? – 2011 (pp. 13-14).

The European Court of Auditors found that “the application of customs procedure 42 has led to significant losses. Based on the results of its sample testing, the extrapolated amount of the losses in 2009 would be approximately 2.2 billion euro, of which 1.8 billion was incurred in the seven selected Member States and 400 million in the 21 Member States of destination of the imported goods in the sample. This represents 29% of the VAT theoretically applicable on the taxable amount of all the imports made under customs procedure 42 in 2009 in these seven Member States.”

**Businesses.** In the targeted business survey, companies were asked about the efficiency of the documentary control processes.

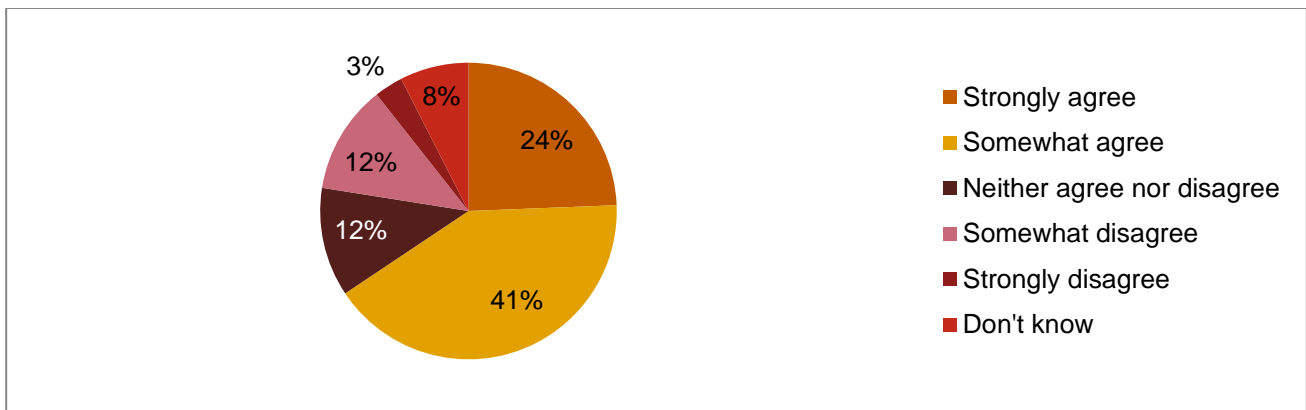


Figure 42 – Targeted business survey (question 53) – I am satisfied with the efficiency of documentary controls in my country.

For the targeted business survey, 65% of the business stakeholders are satisfied with the efficiency of documentary controls in their country (24% strongly agree, 41% somewhat agree). On the other hand, 15% of the businesses do not agree (12% somewhat disagree and 3% strongly disagree) and 12% do not agree or disagree. Eight per cent of the businesses don't know.

For large enterprises, 28% of the respondents strongly agree with the statement, 43% somewhat agree, 8% neither agree nor disagree, 15% somewhat disagree, 3% strongly disagree and 3% don't know. For SMEs, 16% strongly agree and 36% somewhat agree, 23% neither agree nor disagree, 5% somewhat disagree, 2% strongly disagree and 18% don't know.

Twenty per cent of companies in the transport and logistics sector strongly agree with the statement, 67% somewhat agree, 7% neither agree nor disagree, 0% somewhat disagree, 7% strongly disagree and 0% don't know. For companies active in other sectors, 25% strongly agree, 39% somewhat agree, 12% neither agree nor disagree, 13% somewhat disagree, 3% strongly disagree and 8% don't know.

#### 3.2.1.1.2 Findings

The majority (65%) of business stakeholders who completed the targeted business survey are satisfied with the efficiency of documentary controls. This is the case for large companies (71% agree) as well as SMEs (52% agree).

Transport and logistics companies are satisfied with the efficiency of documentary controls, with 87% of respondents agreeing to some degree. This rate of satisfaction is close to 20% higher than for companies in other sectors.

Overall, according to SMEs, large companies, companies in the transport and logistics sector and companies in other sectors, business stakeholders are satisfied with the efficiency of documentary controls.

Efficiency does not necessarily imply effectiveness. This is confirmed by desk research. The European Court of Auditors found that the application of customs procedure 42 is deficient and has most probably led to significant losses due to customs authorities not ensuring the validity and completeness of key data, essential

information not being made available to tax authorities and cross-checking of key data not being carried out by tax authorities in all cases.

Although the business stakeholders are satisfied overall with documentary controls, some weaknesses are identified in the self-assessment study. These are the duplication of effort by Member States to develop their own approaches to the various processes, different approaches to controls and the lack of an EU support framework for systems-based working methods. The Enabling Trade Index and in particular the 'Border administration' sub-index does indeed show that significant differences in the efficiency of customs administration exist among the EU Member States. This is also confirmed by the self-assessment study, which suggests a certain degree of variation in the level of documentary checks and the relative importance attached to documentary (and also physical) checks among the Member States.

### 3.2.1.2 The extent to which documentary controls are time-efficient

#### 3.2.1.2.1 Data

Data sources				
Desk research	Business	Customs authorities	Other authorities	In-depth interviews
X	✓	X	X	✓

**Businesses.** In the slim web-based survey, businesses were asked whether they are satisfied with the documentary controls in their countries of operation, in terms of average time taken.

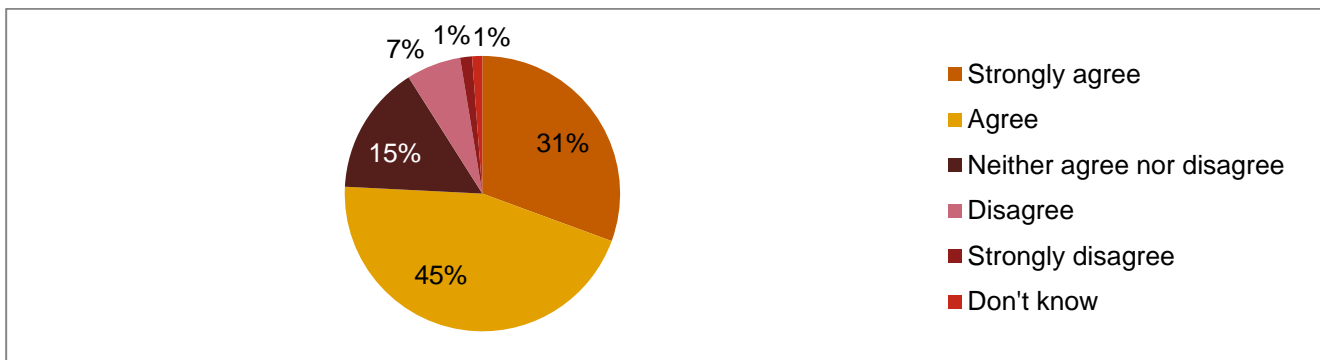


Figure 43 – Slim web-based survey (question 7.4) – I am satisfied with the documentary controls in my country in terms of average time taken (i.e. once the initial submission has been done).

For the slim web-based survey, 31% of the business stakeholders strongly agree that they are satisfied with documentary controls in their country in terms of average time taken (i.e. once the initial submission has been done); 45% agree, 15% neither agree nor disagree, 7% disagree, 1% strongly disagree and 1% don't know.

Findings are comparable for large companies and SMEs: 31% of large companies strongly agree, 45% agree, 16% neither agree nor disagree, 7% disagree, 1% strongly disagree and 1% don't know. For SMEs, these percentages are 31%, 46%, 14%, 5%, 2% and 2%, respectively.

Findings are also comparable for companies in the transport and logistics sector and companies active in other sectors. Thirty-three per cent of the companies active in the transport and logistics sector strongly agree with the statement, 43% agree, 17% neither agree nor disagree, 3% disagree, 4% strongly disagree and 0% don't know. Thirty per cent of companies in other sectors strongly agree with the statement, 46% agree, 15% neither agree nor disagree, 7% disagree, 1% strongly disagree and 1% don't know.

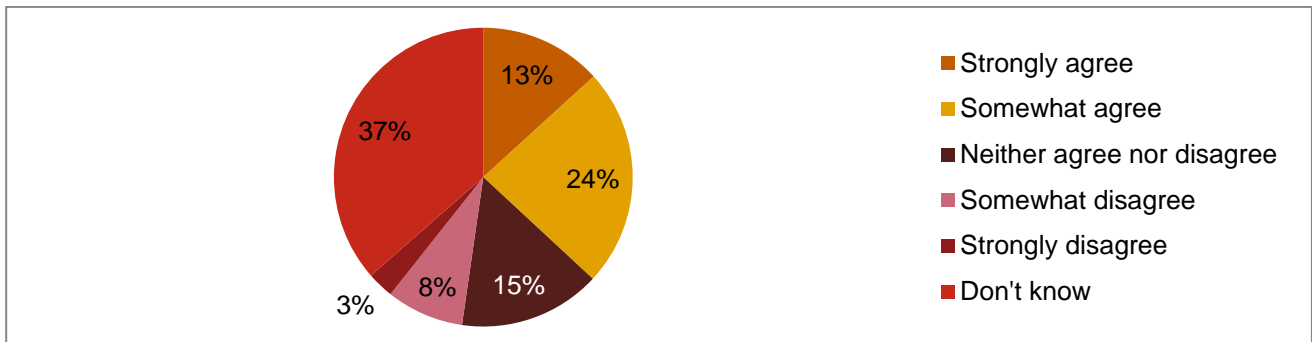


Figure 44 – Extended web-based survey (question 10) – I am satisfied with the documentary controls in my country in terms of average time taken (i.e. once the initial submission has been done).

For the extended web-based survey, 13% of the business stakeholders strongly agree with the statement that they are satisfied with the documentary controls in their country in terms of average time taken (i.e. once the initial submission has been done), 24% somewhat agree, 15% neither agree nor disagree, 8% somewhat disagree, 3% strongly disagree and 37% don't know.

Findings are comparable for large companies and SMEs. Fourteen per cent of large companies strongly agree, 22% somewhat agree, 15% neither agree nor disagree, 8% somewhat disagree, 2% strongly disagree and 1% don't know. For SMEs, these percentages are 11%, 28%, 17%, 9%, 6% and 29%, respectively.

Nine per cent of the companies active in the transport and logistics sector strongly agree with the statement, 25% somewhat agree, 17% neither agree nor disagree, 12% somewhat disagree, 4% strongly disagree and 33% don't know. For companies in other sectors these percentages are 18%, 23%, 10%, 5%, 2% and 42%, respectively.

**In-depth interviews.** In the course of these interviews, further to the basic input on the judgment criterion, the following input was acquired that is of interest.

As stated above, according to the business associations, the high number of 'don't know' replies in the extended web-based survey can be explained by the fact that respondents were asked to provide their opinions for all Member States where they have customs activities. Detailed information might not be directly available for every single Member State, thus increasing the number of 'don't know' replies.

#### 3.2.1.2.2 Findings

In the slim web-based survey, the majority of companies (76%) indicate that average documentary controls take an acceptable execution time in the Member States where they run operations. There is very little difference between the satisfaction and dissatisfaction rates for large companies and SMEs, or between transport and logistics companies and companies in other sectors.

These results are confirmed by the extended web-based survey. Again, the majority of businesses agree with the statement.

#### 3.2.1.3 The extent to which documentary controls are simple

In this section, it is assumed that documentary controls are simple if documents additional to the customs declaration can be submitted in electronic format.

##### 3.2.1.3.1 Data

Data sources				
Desk research	Business	Customs authorities	Other authorities	In-depth interviews
X	✓	X	X	X

**Businesses.** Participants in the surveys were asked what formats of submission for documents additional to customs declarations are allowed by the national customs authorities in Member States in which they operate (including alternative documents and data).

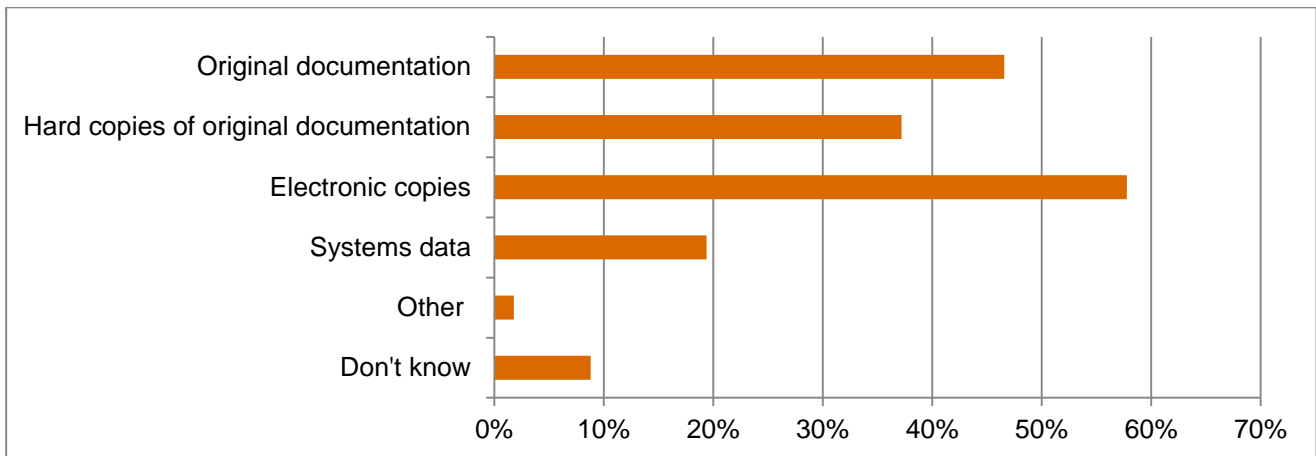


Figure 45 – Slim web-based survey (question 9) – In what ways does the customs authority in your country allow you to submit documents additional to the customs declaration in the case of documentary controls?

For the slim web-based survey, 47% of the business stakeholders indicate that the customs authority in their country allow the submission of original documents in addition to the customs declaration in the case of documentary controls, while 37% refer to hard copies of original documentation. The highest percentage (58%) of stakeholders state that additional documentation can be submitted by means of electronic copies. Further, 19% of the business stakeholders indicate systems data as a way to submit additional documents. Of the 2% of businesses that ticked the 'other' box in the questionnaire, the following explanations were given: pro forma, customs online system, electronic system, depending on the products imported, no need to file any additional documents for export declarations. Nine per cent of the business stakeholders did not know how they can submit documents additional to the customs declaration. Please note that respondents could tick more than one option; therefore, the numbers do not add up to 100%.

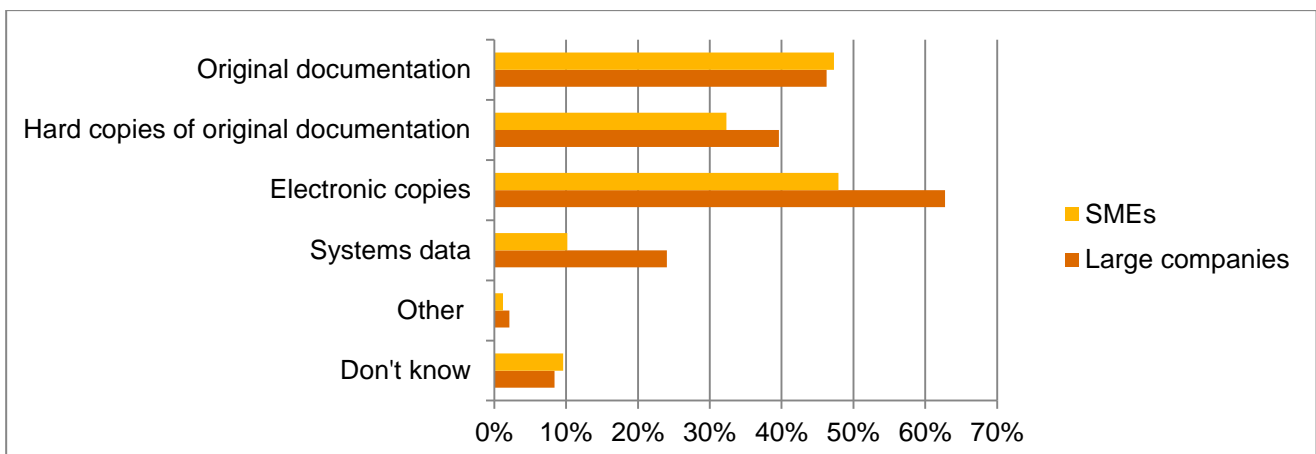


Figure 46 – Slim web-based survey (question 9) – In what ways does the customs authority in your country allow you to submit documents additional to the customs declaration in the case of documentary controls?

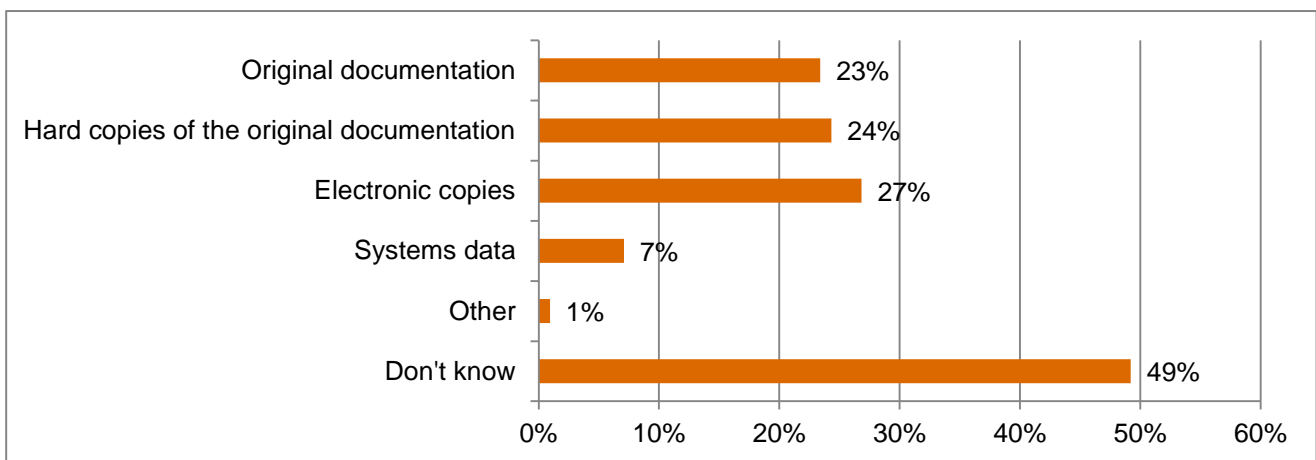
For the slim web-based survey, 47% of SMEs, compared to 46% of large companies, indicate that the customs authority in their country allows the submission of original documents additional to the customs declaration in the case of documentary controls. Thirty-two per cent of SMEs and 40% of large companies refer to hard copies of original documentation. The highest percentage of large companies (63%), compared to 48% of SMEs, state that additional documentation can be filed in the form of electronic copies. Further, 10% of SMEs, compared to



24% of large companies, cite systems data (i.e. data extracts) as a way to submit additional documents. One per cent of SMEs and 2% of large companies indicate ‘other’. Ten per cent of SMEs and 8% of large companies indicate that they don’t know. Please note that respondents could tick more than one option; therefore, the numbers do not add up to 100%.

The following answers were given in the slim web-based survey by companies active in the transport and logistics sector and those active in other sectors:

- original documentation: 51% of companies in transport and logistics, 46% of other companies,
- hard copies of original documentation: 41% of companies in transport and logistics, 37% of other companies,
- electronic copies: 72% of companies in transport and logistics, 55% of other companies,
- systems data: 28% of companies in transport and logistics, 18% of other companies,
- other: 1% of companies in transport and logistics, 2% of other companies,
- don’t know: 4% of companies in transport and logistics, 10% of other companies.



*Figure 47 – Extended web-based survey (question 11) – In what ways does the customs authority in your country allow you to submit documents additional to the customs declaration in the case of documentary controls?*

For the extended web-based survey, 23% of the business stakeholders indicate that the customs authorities in the countries in which they undertake activities covered by customs legislation, allow the submission of original documents additional to the customs declaration in the case of documentary controls, while 24% refer to hard copies of original documentation. Twenty-seven per cent of stakeholders state that additional documentation can be sent in in the form of electronic copies. Further, 7% of the business stakeholders indicate systems data (i.e. database extracts) as a way to submit additional documents. One per cent of businesses indicate ‘other’ ways of submission, 49% of the businesses don’t know. The ‘other’ box is ticked for specific countries: copy of B/L, depending on procedure (normal or simplified), for customs electronic copies and for veterinary originals, original documents only for certificates (i.e. FormA-EUR1), selected options but you have ten days to present originals, EUR1, licences etc. in original, fax.

Please note that respondents could tick more than one option for each Member State in which they undertake activities covered by customs legislation. Therefore, the numbers do not add up to 100%.

### 3.2.1.3.2 Findings

From the slim web-based survey, it can be concluded that electronic copies are the most widespread format for submission across various countries in the Customs Union. Original documentation and hard copies of original documentation follow close behind in the ranking. Systems data was the least-accepted format. The same ranking is observed for large companies and SMEs, and for companies in the transport and logistics sector and those active in other sectors.

For the ‘systems data (i.e. database extracts)’ option, no replies were received for seven Member States. In the other Member States, the numbers of respondents indicating that they are allowed to use systems data are considerably lower, indicating that other ways of submitting data are preferred by the relevant national customs authorities.

### 3.2.1.4 Judgment 4 – efficiency of documentary controls

Overall, feedback from business stakeholders on the efficiency of documentary controls is very positive. However, data shows that SMEs are in general less familiar with documentary controls, and thus give a more neutral opinion. SMEs are less aware that it is possible to provide data to the customs authorities in electronic format in the case of documentary controls. This possibility simplifies documentary controls.

### 3.2.2 Efficiency of control processes – Extent to which physical controls – such as laboratory analysis, inspections of means of transport, inspection of baggage carried by persons, etc. – are done efficiently across the Customs Union

To judge the efficiency of physical controls, they are analysed from two angles, being:

- the efficiency of physical control processes in general, and
- the simplicity of physical control processes.

#### 3.2.2.1 General information

##### 3.2.2.1.1 Data

Data sources				
Desk research	Business	Customs authorities	Other authorities	In-depth interviews
X	✓	X	X	X

**Businesses.** In the targeted business survey, businesses had to assess the efficiency of physical controls in their Member States.

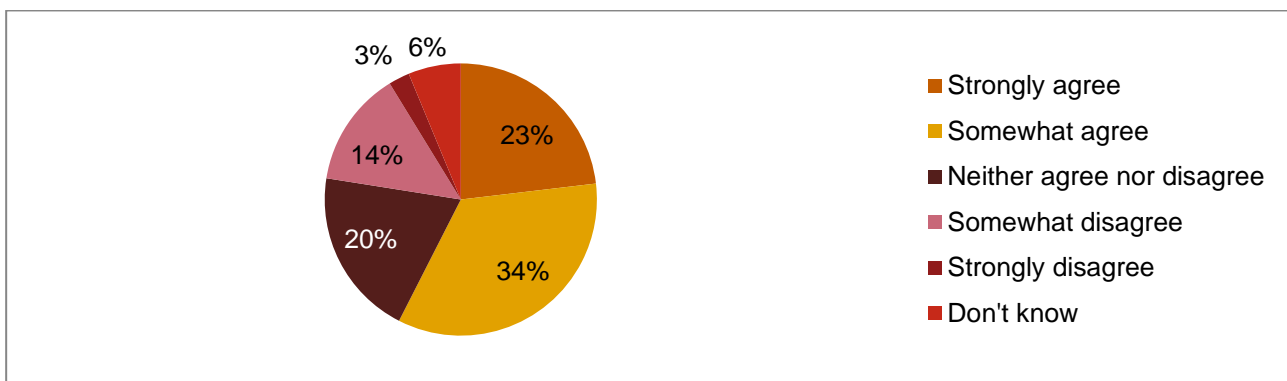


Figure 48 – Targeted business survey (question 54) – I am satisfied with the efficiency of physical controls in my country.

For the targeted business survey, 23% of the business stakeholders strongly agree with the statement ‘I am satisfied with the efficiency of physical control in my country’, 34% somewhat agree, 14% somewhat disagree, 3% strongly disagree and 20% do not agree or disagree. Six per cent don’t know.

Regarding large companies, 23% of the respondents strongly agree, 37% somewhat agree, 16% neither agree nor disagree, 16% somewhat disagree, 3% strongly disagree and 4% don't know. For SMEs, 23% of the respondents strongly agree, 27% somewhat agree, 30% neither agree nor disagree, 7% somewhat disagree, 2% strongly disagree and 11% don't know.

Forty per cent of the respondents in the transport and logistics sector strongly agree with the statement, 33% somewhat agree, 7% neither agree nor disagree, and 0% don't know. Of the respondents in other sectors, 21% strongly agree, 34% somewhat agree, 21% neither agree nor disagree, 14% somewhat disagree, 2% strongly disagree and 7% don't know.

### 3.2.2.1.2 Findings

The majority (57%) of businesses that completed the targeted business survey are satisfied with the efficiency of physical controls. This is also the case for the sample of large enterprises and SMEs separately, although considerably more SMEs neither agree nor disagree with the statement than large companies.

Both for companies operating in the transport and logistics sector and those operating in other sectors, the same trend is observed. However, somewhat more companies in the transport and logistics sector are satisfied with the efficiency of physical controls than in other sectors. Please note that somewhat more companies operating in other sectors neither agree nor disagree or could not answer the question because they don't know.

The overall conclusion from the targeted business survey is that business stakeholders are satisfied with the level of efficiency of physical controls (fewer than 30% are not satisfied).

### 3.2.2.2 Extent to which physical controls are simple

#### 3.2.2.2.1 Data

Data sources				
Desk research	Business	Customs authorities	Other authorities	In-depth interviews
X	✓	X	X	X

### Businesses.

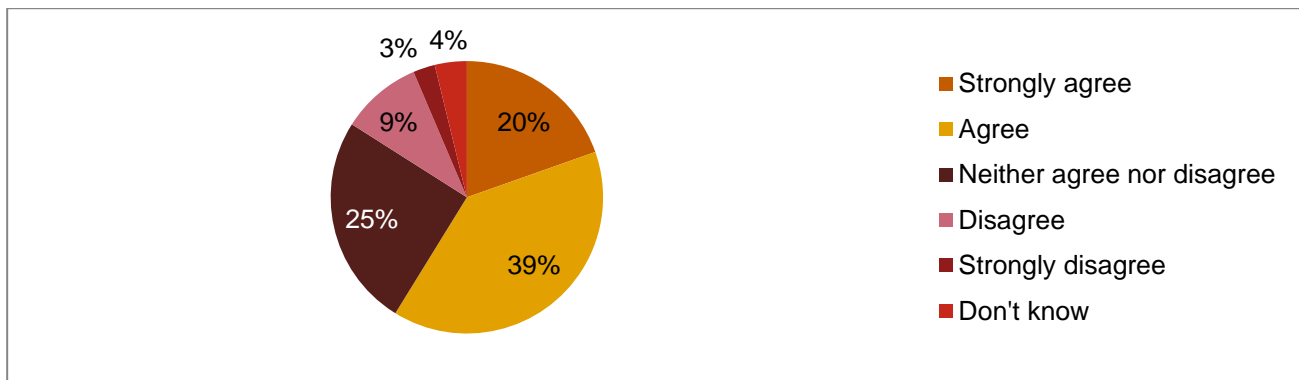


Figure 49 – Slim web-based survey (question 7.5) – It is easy to understand the procedures followed by the customs authorities in cases of physical controls (such as laboratory analysis, scanning and inspections of goods and means of transport) in my country.

For the slim web-based survey, 20% of the business stakeholders strongly agree that it is easy to understand the procedures followed by the customs authorities in cases of physical controls in their country, 39% agree with the statement, 25% neither agree nor disagree, 9% disagree, 2% strongly disagree and 4% don't know.

Of the large enterprises, 21% strongly agree with the statement, 38% agree, 27% neither agree nor disagree, 10% disagree, 2% strongly disagree and 3% don't know. For SMEs, these percentages are 17%, 43%, 22%, 10%, 3% and 5%, respectively.

Regarding companies in the transport and logistics sector, 25% strongly agree, 37% somewhat agree, 26% neither agree nor disagree, 8% somewhat disagree, 1% strongly disagree and 3% don't know. For companies in other sectors, these percentages are 19%, 40%, 25%, 10%, 3% and 4%.

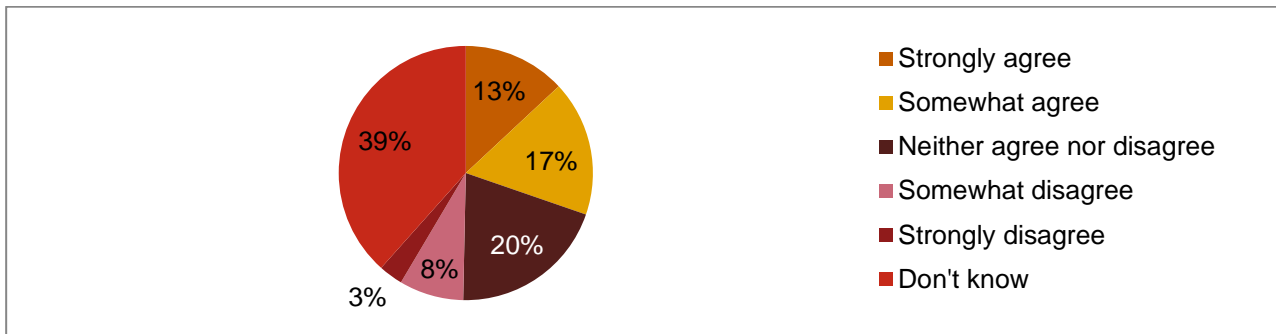


Figure 50 – Extended web-based survey (question 12) – It is easy to understand the procedures followed by the customs authorities in cases of physical controls (such as laboratory analysis, scanning and inspections of goods and means of transport) in my country.

For the extended web-based survey, 13% of the business stakeholders strongly agree that it is easy to understand the procedures followed by the customs authorities in cases of physical controls in their country, while 17% somewhat agree. Eight per cent of the businesses somewhat disagree and 3% strongly disagree. Fifty-nine per cent of the respondents do not state an opinion ('don't know') or are undecided ('neither agree nor disagree').

#### 3.2.2.2.2 Findings

According to the findings of the slim web-based survey, results are in line for SMEs, large companies, companies active in the transport and logistics sector and companies active in other sectors. In the slim web-based survey, around 60% of both large companies and SMEs agree that it is easy to understand the procedures followed by customs authorities in cases of physical controls. Sixty-two per cent of transport and logistics companies agree that it is easy to understand physical controls, compared to 59% of companies in other sectors.

In the extended web-based survey, 39% of the companies indicate that they don't know. This percentage is very high and therefore no further analysis is performed and no conclusions are drawn based on the results from this survey.

#### 3.2.2.3 Judgment 5 – efficiency of physical control processes

Most companies voice a positive opinion on the overall efficiency and simplicity of physical controls across the Customs Union. However, a limited number of them still voice a clearly negative opinion or are unable to provide a clear judgment. Results are in line for all types of companies.

### 3.2.3 Efficiency of control processes – Extent to which post-clearance controls and post-declaration audits are done efficiently across the Customs Union

To judge the efficiency of post-clearance controls<sup>90</sup> and post-declaration audits,<sup>91</sup> general information was gathered on the appreciation of these types of controls by business stakeholders.

<sup>90</sup> "Post-clearance controls", or, better, "post-clearance examinations of declarations", are controls that take place after the goods have been released by customs.

### 3.2.3.1 General information

#### 3.2.3.1.1 Data

Data sources				
Desk research	Business	Customs authorities	Other authorities	In-depth interviews
✓	✓	X	X	✓

**Desk research.** The thematic report of DG BUDG on Local Clearance Procedures<sup>92</sup> states that the following issues call for special attention:<sup>93</sup>

- *“For all their operators, some Member States systematically waive the obligation to notify customs authorities either of the arrival of the goods or of the intention to release them. Consequently, customs authorities cannot carry out risk-based checks before release. This exemption is only to be granted under certain specific circumstances according to the legislation. Member States overusing it are in a situation of persistent non-compliance.”*
- *“Not all Member States have finished putting in place systems that permit the electronic processing of simplified declarations and notifications. The fact that notifications and declarations are not processed in the risk analysis systems undermines the effectiveness of the checks to be carried out and is an obstacle to the development of integrated risk-based approaches.”*
- *“Member States have committed to stepping up post-clearance checks and monitoring authorisations for simplified procedures in order to make up for the reduction in controls before release and to adequately protect the EU’s financial interests, especially in relation to the three-year limitation period. These commitments have not yet fully materialised.”*

The overall conclusion of the report is that *“post-clearance checks should be carried out based on a risk assessment and the three-year limitation period should be taken into proper account. When Member States apply a lower frequency of checks, they should be able to justify that frequency as nonetheless sufficient to protect the EU’s financial interests. In recent years, the Commission and the European Court of Auditors have underlined the need to step up post-clearance audits to compensate for the reduction in controls at clearance. Most Member States have committed to do so but have not fully implemented that commitment. The monitoring of authorisations, for both AEOs and the local clearance procedure, has also been planned by most Member States but still needs further implementation. Those Member States that were unable to provide an audit trail for pre-authorisation checks should pay particular attention to monitoring, especially in the current context of increasing reuse of the AEO status for other authorisations.”*

DG BUDG’s thematic report on control strategies<sup>94</sup> evaluated the following objectives amongst others:

- *“Controls carried out when a customs-approved treatment or use is assigned to goods are based on a risk analysis which makes it possible to determine and quantify the risks. The risk analysis is supplied without delays, using all available information sources.”*

The report concludes that *“customs clearance controls are based on risk analysis in all Member States. The services involved in the risk analysis are generally coordinated but do not always ensure that results of the post-clearance control activities are fed back into the system. The mechanisms to exchange and use risk information among Member States are not fully exploited. Although serious consideration is given to the information received, the timeliness and documentation of the actions undertaken in response to the risk and the feedback to Member States and the Commission need*

<sup>91</sup> Post-declaration audits include examination of the company’s accounting systems and records, as well as examination of the administration, organisational structure and internal procedures in order to gain necessary assurance of compliance with revenue requirements and to assess the reliability of the business to transact with the customs authorities.

<sup>92</sup> The Local Clearance Procedure (LCP) is defined as a commonly used, simplified procedure which enables goods to be entered for customs treatment at the premises of the operator, or at other places designated or approved by the customs authorities, by means of an entry in the operator’s records, subject to the subsequent presentation of a supplementary declaration.

<sup>93</sup> European Commission, Own resources and financial programming, Control of traditional own resources, Local Clearance Procedure – Thematic report of the Directorate-General for Budget – Results of inspections carried out in Member States in 2011.

<sup>94</sup> European Commission, Control of traditional own resources, Customs control strategy in the Member States – Thematic report of the Directorate-General for Budget – Results of inspections carried out in Member States in 2009-2010.

improvement. In some Member States the risk analysis carried out does not justify the very low levels of control.”

- “Post-clearance controls are organised and determined on the basis of an organisational structure involving the central and regional/local levels. They are programmed on the basis of a risk analysis covering all customs-approved treatments and uses, all accepted declarations and all operators.”

The report concludes that “the decentralised selection of operators for post-clearance audits in some Member States is only effective and ensures fair treatment to operators when it is coordinated and supported by Member States’ central services. Post-clearance risk analysis systems do not always take into consideration risk indicators such as the time-barring period for communicating customs debts or the risks posed by operators. Post-clearance controls target most customs procedures and operators. However, in some Member States, simplified procedures and authorised operators are not sufficiently targeted.”

- “Post-clearance control programmes are implemented properly, unless there is specific justification and their results are evaluated.”

The report concludes that “no significant backlogs were observed in the implementation of post-clearance control programmes, thus limiting the risk of customs debt being time-barred after three years. There are monitoring mechanisms in place in most Member States, with minor adjustments to be made.”

- “The types of controls carried out post-clearance make it possible to achieve the stated control objectives efficiently. Regarding authorised operators, post-clearance controls take account of the existence of pre-audits and include, if necessary, audits of operators’ computer systems.”

“Post-clearance examinations of declarations have inherent limitations and need to be complemented by post-clearance audits. The number of post-clearance audits was considered as limited in a number of Member States. This was not sufficiently justified by risk analysis. The preparation and execution of these audits was considered as satisfactory in general terms, with the need for additional guidance and a more risk-oriented approach in general, and a wider scope in some Member States.”

The main conclusion from this report is that “post-clearance audits should be reinforced to compensate for the reduction in customs clearance controls with a view to a balanced approach between control and trade facilitation. The reduction in controls at clearance also should be compensated for by a reinforcement of post-clearance audits. For such audits, there should be coordinated programmes based on risk analysis, which should target all types of procedures and operators. These risk analyses should also take due account of the three-year time bar to communicate outstanding customs debts.”

**Businesses.** Businesses stakeholders were asked to evaluate the efficiency of post-clearance procedures.

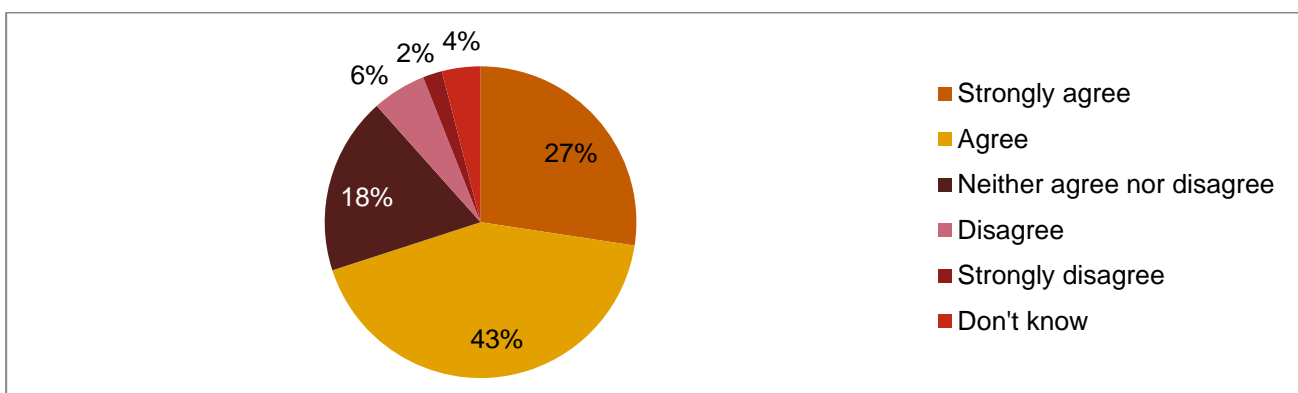


Figure 51 – Slim web-based survey (question 7.6) – The post-clearance controls in my country are efficient. For the slim web-based survey, 27% of the business stakeholders strongly agree that post-clearance controls are efficient in their country and 43% agree. Eighteen per cent neither agree nor disagree, 6% disagree, 2% strongly disagree and 4% don't know.

Of the large businesses, 29% strongly agree with the statement, 42% agree, 19% neither agree nor disagree, 5% disagree, 2% strongly disagree and 4% don't know. Of the SMEs, 25% strongly agree, 44% agree, 18% neither agree nor disagree, 6% disagree, 3% strongly disagree and 4% don't know.

Of the companies active in the transport and logistics sector, 29% strongly agree, 39% somewhat agree, 26% neither agree nor disagree, 3% disagree, 1% strongly disagree and 1% don't know. Of the companies active in other sectors, 27% strongly agree, 43% agree, 17% neither agree nor disagree, 6% disagree, 2% strongly disagree and 4% don't know.

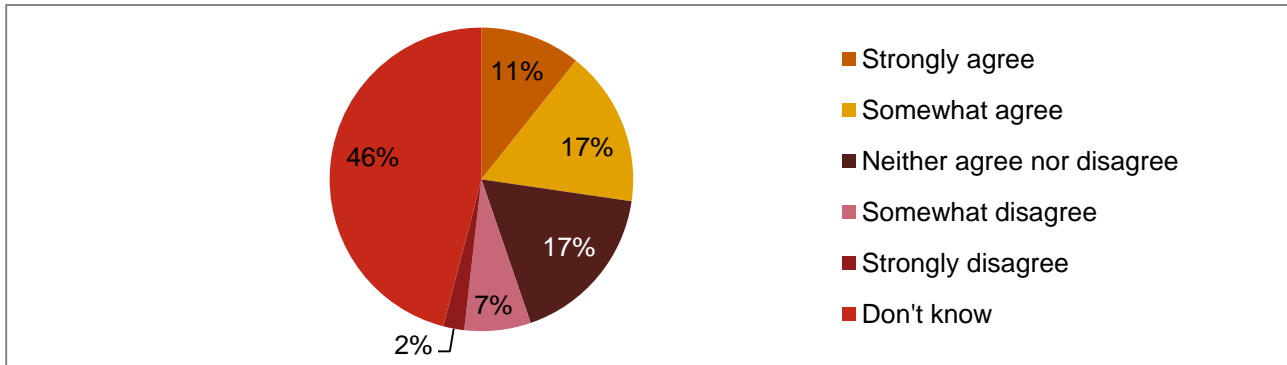


Figure 52 – Extended web-based survey (question 13) – The post-clearance controls in my country are efficient.

For the extended web-based survey, 11% of the business stakeholders strongly agree that post-clearance controls are efficient in their country, while 17% somewhat agree. Seven per cent of the businesses somewhat disagree and 2% strongly disagree. The other 63% of the respondents do not state an opinion (don't know) or are undecided ('neither agree nor disagree').

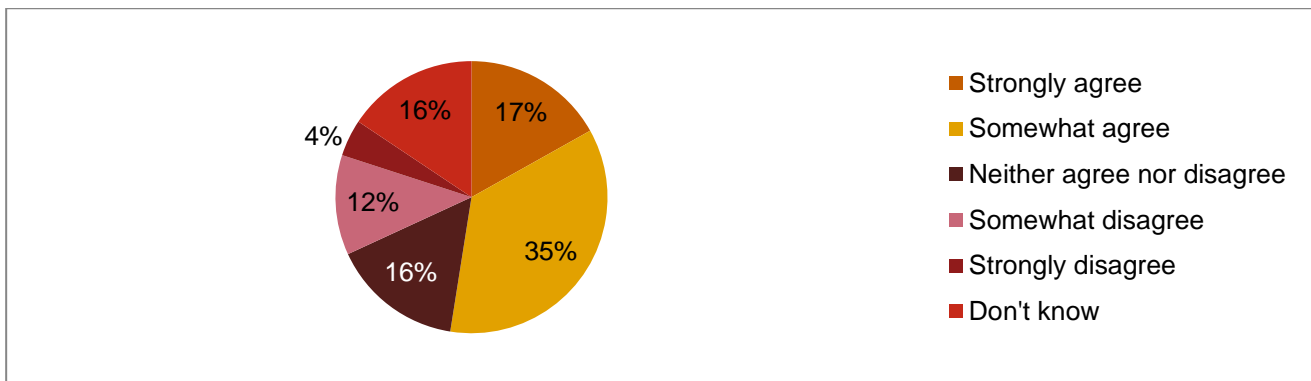


Figure 53 – Targeted business survey (question 55) – I am satisfied with the efficiency of post-clearance controls in my country.

For the targeted business survey, 17% of the business stakeholders strongly agree with the statement "I am satisfied with the efficiency of post-clearance controls in my country", while 35% somewhat agree. Twelve per cent of the businesses somewhat disagree and 4% strongly disagree. The other 32% of the respondents do not state an opinion (16% 'don't know') or are undecided (16% 'neither agree nor disagree').

Of the large companies, 19% strongly agree with the statement, 40% somewhat agree, 11% neither agree nor disagree, 16% somewhat disagree, 3% strongly disagree and 11% don't know. Of the SMEs, 11% strongly agree with the statement, 25% somewhat agree, 27% neither agree nor disagree, 2% somewhat disagree, 7% strongly disagree and 27% don't know.

Of the companies in the transport and logistics sector, 27% strongly agree with the statement, 13% somewhat agree, 20% neither agree nor disagree, 0% somewhat disagree, 20% strongly disagree and 20% don't know. Of

the companies active in other sectors, 16% strongly agree, 38% somewhat agree, 15% neither agree nor disagree, 13% somewhat disagree, 3% strongly disagree and 15% don't know.

**In-depth interviews.** In the course of these interviews, further to the basic input on the judgment criterion, the following input was acquired that is of interest.

Based on figures provided by DG BUDG, in 2011, 124,254 customs officials worked at national customs departments in the 27 Member States. Of these, 16,828 were involved in post-clearance checks, which is about 13.5%. The number of officials involved in post-clearance controls on a national level has been decreasing over the past few years. This is shown in the table below.

EU-27	2008	2009	2010	2011
<b>Total number of staff in customs departments</b>	124,976	126,675	129,747	124,254
<b>Total number of staff assigned to post-clearance checks at national level</b>	19,249	18,683	17,012	16,828
<b>Total number of staff assigned to post-clearance checks at national level/ Total number of staff in customs departments</b>	15%	15%	13%	14%

Table 8 – Number of staff in customs departments (source: DG BUDG report “Advisory Committee on own resources”)<sup>95</sup>

In an in-depth interview, detailed figures on the cost of controls were provided by one national customs authority of a large old Member State (see table below). As these figures are expected to differ among Member States, the figures presented should merely be considered as an example.

Description	Data
<b>Total number of staff in customs department (2010 figure)</b>	17,414
<b>Number of customs officials involved in post-clearance controls</b>	Approximately 800
<b>Number of customs officials involved in post-clearance controls/ Total number of staff in customs department (2010 figure)</b>	5%
<b>Average daily cost per customs official involved in post-clearance controls</b>	EUR 385

Table 9 – Details of post-clearance controls (source: customs authorities of a large old Member State)

### 3.2.3.1.2 Findings

In the extended web-based survey, on average, almost half of respondents gave no response regardless of what Member State they reside in. This can be explained by the lack of detailed knowledge on the part of respondents for every Member State, and also by the fact that not all companies are involved in post-clearance controls given their activities. Due to the high proportion (46%) of companies indicating that they don't know, the results from this survey are not further analysed or used to draw conclusions.

<sup>95</sup> DG BUDG report – Advisory Committee on Own Resources – “Traditional Own Resources, Activity Reports by the Member States, Financial Year 2011 (Article 17(5) of Regulation No. 1150/2000), pp. 11-12.



In the slim web-based survey, regardless of the size of the companies, around 70% agree that post-clearance controls are efficient and around 8% disagree with this statement. In the targeted business survey, fewer SMEs agree that post-clearance processes are efficient (36%) than large companies (59%). At the same time, fewer SMEs (9%) disagree with the statement than large companies do (19%).

In the slim web-based survey, transport and logistics companies are no more satisfied than other companies with post-clearance processes (around 70% for both groups). Results from the targeted web-based survey contradict this finding. Transport and logistics companies are not as satisfied with post-clearance processes as companies active in other industries.

Based on the above results, it can be stated that business stakeholders are satisfied with the efficiency of post-clearance controls.

Apart from the positive evaluation on efficiency by business stakeholders, the thematic reports from DG BUDG point to the fact that post-clearance audits should be reinforced to compensate for the reduction in customs clearance controls in view of a balanced approach between control and trade facilitation.

However, it is more the opposite that is happening. The number of officials involved in post-clearance controls on a national level has been decreasing over the past few years. Overall, at present, about 13.5% of customs officials are active in performing post-clearance controls on a national level. The figure from the in-depth interview with one large Member State's national customs authority shows that the proportion of customs officials that are active in performing post-clearance controls at that Member State's national level is far lower (5%).

#### *3.2.3.2 Judgment 6 – efficiency of post-clearance controls and post-declaration audits*

Business stakeholders are of the opinion that post-clearance controls are executed in an efficient manner. However, this could not be confirmed due to a lack of data from other sources.

#### *3.2.4 Efficiency of control processes – Second conclusion (Judgment 4 – judgment 6)*

Business stakeholders are generally positive on the efficiency of all types of controls. Overall, SMEs tend to be less aware of the efficiency of controls and therefore voice more neutral and negative opinions. However, due to a lack of more-detailed data from other sources, a firm conclusion on this sub-evaluation question will require more in-depth inquiry to benchmark the efficiency of controls on clearly and objectively defined key performance indicators.

### **3.3 Are current data management processes performed efficiently?**

Although data management processes can be very broad, this part focuses on the collection and exchange of data, and in particular the cost of implementing a Single Window.

#### *3.3.1 Efficiency of data management processes – Extent to which the collection and exchange of data (external and internal) is done efficiently across the Customs Union*

Only a very limited amount of information was available on the efficiency of the collection and exchange of data. To still be able to make a judgment, the focus was placed on the cost of implementing a Single Window.

3.3.1.1 Extent to which the collection and exchange of data (external and internal) is cost-effective

3.3.1.1.1 Data

Data sources				
Desk research	Business	Customs authorities	Other authorities	In-depth interviews
✓	✓	X	X	X

**Desk research.** A number of countries are referred to in a publication on a ‘Single Window’ for the exchange of information between trade and government.<sup>96</sup>

Case studies are presented for countries both inside and outside Europe. Total implementation costs of a Single Window<sup>97</sup> range from less than one million US dollars (Guatemala) to between one and four million US dollars (Finland, Senegal, Malaysia). Member States discussed in the report are Finland, Germany and Sweden.

**Business.** Fewer than 10% of the business stakeholders in the targeted questionnaire confirmed the existence of a Single Window in the Member State where they are active. Due to this limited experience with existing Single Windows, no data was collected on the costs of these Single Windows.

3.3.1.1.2 Findings

Apart from the limited information found in the desk research and as only limited stakeholder experience is available, no relevant information was obtained for the purpose of this question.

3.3.1.2 Judgment 7 – efficiency of data collection

See 3.3.2: Efficiency of data management processes – Third conclusion (Judgment 7).

3.3.2 Efficiency of data management processes – Third conclusion (Judgment 7)

Insufficient data was available to draw a conclusion on the efficiency of the collection and exchange of data. Only anecdotal data is available.

## 3.4 Are current authorisation (AEO and permit) management processes performed efficiently?

This section on economic operator processes mainly covers the aspects related to authorised economic operators (‘AEOs’). AEO status is one of the main elements of the Security Amendment of the Community Customs Code (Regulation (EC) 648/2005).<sup>98</sup> Nevertheless, based on the prioritisation made during the experts’ workshop, data has primarily been collected on AEOs.

Based on article 5a of the Security Amendment, AEO certificates may be granted by Member States to economic operators established in the EU that meet special criteria stipulated in the customs legislation, such as customs

<sup>96</sup> Economic Commission for Europe – United Nations Centre for Trade Facilitation and Electronic Business (UN/CEFACT) – Case Studies on Implementing a Single Window to enhance the efficient exchange of information between trade and government.

<sup>97</sup> Single Window in general means a facility that allows parties involved in trade and transport to lodge standardised information and documents with a single entry point to fulfil all import, export and transit-related regulatory requirements. For the purposes of this survey, any system providing just some of the services of a fully-fledged Single Window, e.g. validation of non-customs documents, is also considered as a Single Window.

<sup>98</sup> Regulation (EC) No. 648/2005 of the European Parliament and of the Council of 13 April 2005 amending Council Regulation (EEC) No. 2913/92 establishing the Community Customs Code, OJ L 117, 04/05/2005, p. 13.

compliance, record-keeping standards, financial solvency, and security and safety standards. AEO certificates cover either customs simplifications, or security and safety, or both combined in one certificate.

To judge the efficiency of the authorisation management processes, the following aspects are covered in more detail:

- the efficiency of authorisation management processes in general,
- trader registration processes,
- the processes of Customs taking decisions, granting authorisations or AEO status,
- the efficiency of prior audits and
- the efficiency of post-audits.

### 3.4.1 Efficiency of authorisation management processes – General information

#### 3.4.1.1 Data

Data sources				
Desk research	Business	Customs authorities	Other authorities	In-depth interviews
✓	✓	X	X	✓

**Desk research.** In the self-assessment study,<sup>99</sup> some weaknesses are identified regarding the efficiency of business processes in the Customs Union. One of the identified weaknesses concerns the different degrees to which there exists a customer strategy. *“There are different degrees to which national customs authorities currently make use of a differentiated approach towards economic operators as a function of the risk and/or their needs. Such a “customer strategy” would nevertheless allow customs authorities to differentiate their efforts depending on the profile of an economic operator. Such differentiation could also enhance efficiency with which customs authorities use their time and resources and would allow for more targeted priority setting.”*

In the thematic report on control strategies by DG BUDG, it is furthermore mentioned that, *“in the Special Report on simplified procedures, the European Court of Auditors indicates that, generally, only poor, or poorly documented, audits were carried out before a trader was authorised to use simplified procedures. The Commission services did not include these audits in the scope of the inspections for the customs control strategy and will deal with them under the 2011 inspections on local clearance procedures.”*<sup>100</sup>

According to the Report on Progress on the Strategy for the Evolution of the Customs Union,<sup>101</sup> 4,618 AEO certificates had been granted and a further 7,222 companies had submitted applications for the status by 2010, only two years after its creation.<sup>102</sup> This is shown in the table below.

2010	AEO applications	AEO certificates	% of all certificates
AT	181	156	3.4%
BE	189	134	2.9%
BG	21	14	0.3%
CY	11	7	0.2%
CZ	94	77	1.7%
DE	2,648	1,654	35.8%
DK	60	41	0.9%

<sup>99</sup> Future business architecture for the Customs Union and cooperative model in the taxation area in Europe -Final report on Task 2.2 – Strengths and weakness of the current organisation model Customs Union (TAXUD/R3/VDL D(2010) 433216) – May 2011, p. 98.

<sup>100</sup> European Commission, Control of traditional own resources, Customs control strategy in the Member States – Thematic report of the Directorate-General for Budget – Results of inspections carried out in Member States in 2009-2010.

<sup>101</sup> Report from the Commission to the Council and the European Parliament, pp. 6-7.

<sup>102</sup> According to Mariya Polner’s Compendium of Authorised Economic Operator (AEO) Programmes, WCO Research paper No. 8, July 2010, p. 15, a total of 4,538 requests for the status had been filed and 2,561 authorisations granted by 22 April 2010.

EE	15	11	0.2%
EL	24	11	0.2%
ES	258	154	3.3%
FI	53	42	0.9%
FR	618	379	8.2%
HU	96	62	1.3%
IE	69	53	1.1%
IT	491	369	8.0%
LT	21	16	0.3%
LU	13	12	0.3%
LV	19	13	0.3%
MT <sup>103</sup>	17	15	0.3%
NL	808	449	9.7%
PL	431	304	6.6%
PT	99	47	1.0%
RO	38	28	0.6%
SE	483	270	5.8%
SI	58	41	0.9%
SK	35	27	0.6%
UK	372	232	5.0%
Total	7,222	4,618	100%

Table 10 – Number of applications and certificates issued in Member States by the end of 2010

Customs are actively monitoring whether economic operators are still complying with the conditions for their AEO status. Up to the end of 2010, 113 authorisations had been revoked, and eight are currently suspended.

As described in a research paper by the WCO,<sup>104</sup> AEO status should offer a number of advantages to its holders, such as:

- a lower risk that the flow of goods into or out of the EU will be stopped for examination,
- the possibility to request a specific place for customs checks,
- facilitations in the form of a reduced amount of data to be provided in summary declarations,
- easier access to authorisations and permits for customs simplifications,
- specially appointed customs support officers,
- less stringent controls for documentary and physical inspections,
- advance notice of inspections where the customs controls will not thereby be jeopardised,
- priority treatment.

According to the AEO guidelines,<sup>105</sup> “the AEO status shall be recognised across all Member States, pursuant to Article 5a of the CCC, therefore, the holder of an AEO certificate shall receive the same benefits in all Member States.” The benefits are also summarised in the AEO guidelines:

- easier admittance to customs simplifications,
- prior notification,
- reduced data set for entry and exit summary declarations,
- fewer physical and document-based controls,
- priority treatment of consignments if selected for control,
- choice of the place of controls,
- indirect benefits such as more transparency and visibility of the supply chain,
- recognised as a secure and safe business partner,
- improved relations with Customs, and
- improved relations and acknowledgement by other government authorities.

<sup>103</sup> Of 15 AEO certificates issued in MT, eight are valid, seven have been revoked.

<sup>104</sup> Compendium of Authorised Economic Operator (AEO) Programmes, Mariya Polner, WCO Research paper No. 8, July 2010, p. 24.

<sup>105</sup> Authorised economic operators, Guidelines, Approved by the CCC-GEN (AEO subsection) on 17 April 2012.

**Businesses.** Responses from the targeted business survey are presented in the figure below.

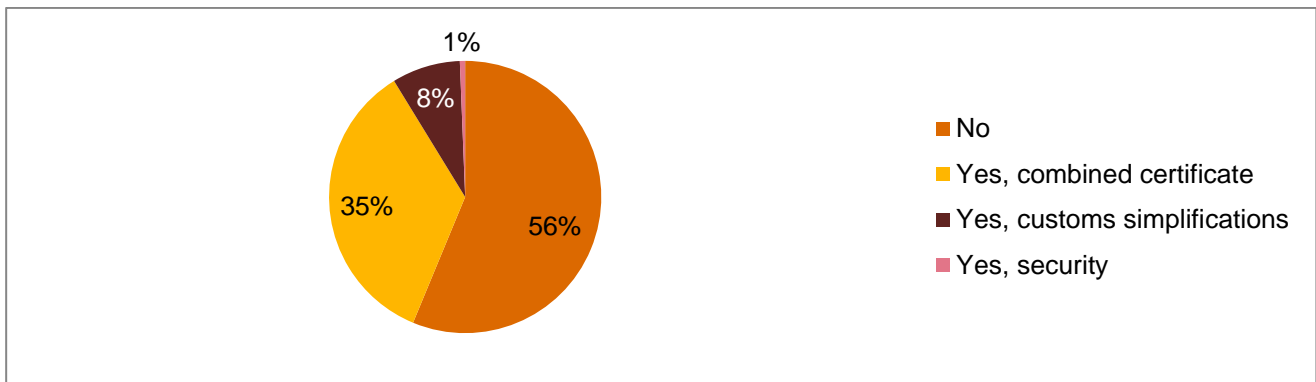


Figure 54 – Targeted business survey (question 6) – Does your company hold an AEO certificate according to article 5a CCC? If so, please indicate which one.

Forty-four per cent of the business respondents hold an AEO certificate according to article 5a CCC. Of these respondents, the majority (35%) hold a combined certificate. Eight per cent hold a certificate for customs simplifications and 1% for security only.

Forty-seven per cent of large companies have no AEO certificate, compared to 80% of the SMEs. Forty-six per cent of large companies have a combined certificate and 7% have a certificate for customs simplifications. Seven per cent of the SMEs have a combined certificate, 11% have a certificate for customs simplifications and 2% have a certificate for security only.

Forty-seven per cent of the companies in the transport and logistics sector have no AEO certificate, compared to 57% of the companies in other sectors. Thirty-three per cent, 13% and 7% of companies in the transport and logistics sector have combined certificates, certificates for customs simplifications and certificates for security, respectively. Thirty-five per cent, 8% and 0% of companies in other sectors have combined certificates, certificates for customs simplifications and certificates for security, respectively.

Respondents with AEO certificates were asked whether their AEO certification gives them access to additional customs services. Companies mentioned:

- reduced or waived bank guarantees,
- increased access to simplified declarations,
- less frequent audit
- s,
- fast clearance and minimised controls,
- direct contact lines with customs,
- access to an IT system giving information about changes to customs rules and
- frequent meetings with customs officials.

**In-depth interviews.** In the course of these interviews, further to the basic input on the judgment criterion, the following input was acquired that is of interest.

As discussed during in-depth interviews with individual companies and business associations, in practice, not much more effort is required for companies to obtain a combined certificate than needs to be made for an AEO certificate for security only. In one of the in-depth interviews, it was stated that AEO status does not give benefits with respect to reduced controls; rather it makes certified companies into targets for controls.

DG TAXUD confirmed that, on the basis of the data from the in-depth interviews, i.e. on 25 November 2012, 12,144 companies had AEO status and a total of 14,449 companies had applied for AEO status. These companies represent 40% of the trade volume in the EU and 6.4% of EORI-registered companies.

### 3.4.1.2 Findings

On the whole, the general advantages cited are those provided for in the legislation. Most respondents are satisfied with these advantages, although a number of other companies are not able to substantiate their satisfaction with their AEO status as they have only recently been certified. That said, some companies do not see any advantages in being AEO-certified.

AEO is a comparatively successful status as the number of companies with AEO status increased by about 163% in three years. The number of applications doubled in three years. More large companies (53%) are AEO-certified than SMEs (20%), and more companies in the transport and logistics sector (53%) are AEO-certified than in other sectors (43%).

Most certificates are combined certificates, since the additional effort to obtain a combined certificate is said to be limited.

### 3.4.1.3 Judgment 8 – efficiency of authorisation management processes in general

Fewer than half the respondents are AEO-certified. Most of the companies that are certified hold combined certificates. Large companies and transport and logistics companies hold relatively more AEO certificates than other companies.

Many companies recognise the standard benefits of AEO certification, although some others do not, and some even experience negative effects of being AEO-certified. Nevertheless, AEO is a successful concept as the number of applications and certifications is increasing sharply. The number of applications has increased by 100% (from 7,222 in 2010 to 14,449 in 2012) over the past few years, while the number of certifications has increased by 163% (from 4,618 in 2010 to 12,144 in 2012).

## 3.4.2 Efficiency of authorisation management processes – Extent to which registration of traders is efficient across the Customs Union

As the registration of traders should be a one-off process for every company, the efficiency of the registration process is judged based on the number of registrations that are completed.

### 3.4.2.1 General information

#### 3.4.2.1.1 Data

<b>Data sources</b>				
Desk research	Business	Customs authorities	Other authorities	In-depth interviews
✓	X	X	X	X

**Desk research.** The economic operator system (EOS) is composed of the Authorised Economic Operators – Full System (AEO) and the Economic Operators Registration and Identification Systems (EORI). The EORI database was developed to store data on registered economic operators.

By the end of 2010, more than 3 million EORI numbers had been created in the EORI database for the whole EU.<sup>106</sup> This is shown in the table below.

<sup>106</sup> Report from the Commission to the Council and the European Parliament, Report on Progress on the Strategy for the Evolution of the Customs Union XXX, pp. 6-7.

Member States	Total number at the end of 2010	% of total
AT	183,287	6.1%
BE	47,607	1.6%
BG	82,859	2.7%
CY	26,541	0.9%
CZ	61,377	2.0%
DE	88,994	2.9%
DK	77,858	2.6%
EE	11,078	0.4%
EL	72,657	2.4%
ES	331,932	11.0%
FI	11,511	0.4%
FR	566,583	18.7%
HU	130,121	4.3%
IE	5,952	0.2%
IT	519,610	17.2%
LT	55,148	1.8%
LU	57,580	1.9%
LV	21,182	0.7%
MT	13,219	0.4%
NL	118,947	3.9%
PL	68,171	2.3%
PT	66,861	2.2%
RO	34,622	1.1%
SE	52,587	1.7%
SI	59,807	2.0%
SK	20,653	0.7%
UK	242,088	8.0%
EU 27	3,028,833	100.0%

Table 11 – Number of EORI-registered traders at the end of 2010

3rd countries	Total number at the end of 2010
Russia	4,271
Japan	166
China	266
Turkey	1,498
USA	2,414
Norway	1,938
Switzerland	6,444

Table 12 – Number of third-country operators registered in the EORI database – focus on main trading partners

#### 3.4.2.1.2 Findings

No historical data is available to judge efficiency or developments in the registration of traders.

#### 3.4.2.2 Judgment 9 – efficiency of the registration of traders

No judgment can be formed on the efficiency of trader registration.

### 3.4.3 Efficiency of authorisation management processes – Extent to which customs decisions/granting authorisations or AEO status are done efficiently across the Customs Union

Focusing on AEOs, the efficiency of the process of granting AEO status is judged based on the following aspects:

- the time-efficiency of the process, and
- the cost-effectiveness of the process.

#### 3.4.3.1 Extent to which granting authorisation or AEO status is time-efficient

##### 3.4.3.1.1 Data

Data sources				
Desk research	Business	Customs authorities	Other authorities	In-depth interviews
✓	X	✓	X	✓

**Desk research.** According to the AEO guidelines,<sup>107</sup> the time limit for the customs authorities to take a decision on granting an AEO certificate is 120 calendar days. *“The time limit can be extended in two cases:*

- *By the issuing customs authority by another 60 calendar days if it is unable to meet the 120 calendar days. Before the expiry of the 120 calendar days the applicant has to be informed about the extension;*
- *On request by the applicant and subject to agreement with the customs authority concerned. During the latter extension, the applicant carries out adjustments in order to satisfy the criteria and communicates them to the customs authority. The period of extension requested should be reasonable with a view to the nature of the adjustments to be done.”*

**Customs authorities.** In the targeted customs authorities’ survey, customs authorities were asked to indicate the average lead time in calendar days between receipt of an AEO application and the decision to issue an AEO certificate in 2011. Results are shown in the table below.

Average number of calendar days to obtain customs certification	
Customs simplification	158
Security	151
Combined authorisation	160

Table 13 – Targeted customs authorities survey (question 9) – Please indicate the average lead time in calendar days between receipt of an AEO application and the decision to issue an AEO certificate in 2011.

**In-depth interviews.** In the course of these interviews, further to the basic input on the judgment criterion, the following input was acquired that is of interest.

The average lead time reported by the customs authorities was confirmed in multiple in-depth interviews with both individual companies and customs authorities, where the lead time for granting an AEO certificate was estimated to be six months. Please note that, where this is an average, the actual differences that exist between Member States are large and differences even exist within single Member States.

##### 3.4.3.1.2 Findings

According to data obtained from customs authorities, the average lead time to obtain an AEO certificate of any kind is longer than five months. In multiple in-depth interviews, an average lead time of about six months was

<sup>107</sup> Authorised economic operators, Guidelines, Approved by the CCC-GEN (AEO subsection) on 17 April 2012.



confirmed from application till the time an AEO certificate is granted. This is in line with the timeframe laid down by law.

The lead time to obtain AEO status with respect to security only is somewhat shorter. It should be noted that these certificates are applied for much less frequently.

### 3.4.3.2 *Extent to which granting authorisation or AEO status is cost-effective*

#### 3.4.3.2.1 Data

Data sources				
Desk research	Business	Customs authorities	Other authorities	In-depth interviews
X	X	✓	X	✓

**Customs authorities.** Customs authorities were asked to state the amount of time, in man-days, their staff invested in granting or rejecting AEO authorisations. Some national authorities provided aggregate figures.

**In-depth interviews.** In the course of these interviews, further to the basic input on the judgment criterion, the following input was acquired that is of interest.

In an in-depth interview with a national customs authority, details were provided on the time spent on granting AEO status. However, this data has to be considered as a mere example, as significant differences were apparent between Member States in in-depth interviews. The reported data for one Member State shows that 120 customs officials can issue about 400 AEO certificates a year.

The cost of obtaining AEO status very much depends on the Member State and the company involved. This cost may include investment in security-related equipment, staff time to prepare the AEO application (e.g. staff time to set up or write down procedures or staff time for internal review purposes). Different individual companies provided cost estimations for getting AEO status.

#### 3.4.3.2.2 Findings

The figures provided by the customs authorities should be compared to the number of AEO certificates granted during 2011 in order to judge the cost-effectiveness of the process. As not all Member States were able to provide details of time spent on granting AEO certificates and the 2011 number of AEO certificates granted is not available for each Member State, this analysis cannot be completed.

### 3.4.3.3 *Judgment 10 – efficiency of granting AEO status*

The time required to grant AEO status is in line with the legally prescribed timeframe, and even somewhat shorter for granting ‘security’ AEO status. Assuming that the legally prescribed timeframe is a good benchmark, it can be concluded that the process of granting AEO status is comparatively time-efficient.

Insufficient information is available on the cost-effectiveness of granting AEO status to be able to draw solid conclusions.

### 3.4.4 *Efficiency of authorisation management processes – Extent to which prior audit of economic operators is done efficiently across the Customs Union*

To judge the efficiency of prior (initial) audits, the following aspects are dealt with in more detail:

- the time-efficiency of prior (initial) audits and
- the predictability of prior (initial) audits.

### 3.4.4.1 Extent to which prior (initial) audit of economic operators is time-efficient

In this paragraph, the time-efficiency of prior (initial) audits for granting customs authorisations in general is analysed.

#### 3.4.4.1.1 Data

Data sources				
Desk research	Business	Customs authorities	Other authorities	In-depth interviews
X	✓	✓	X	X

#### Businesses.

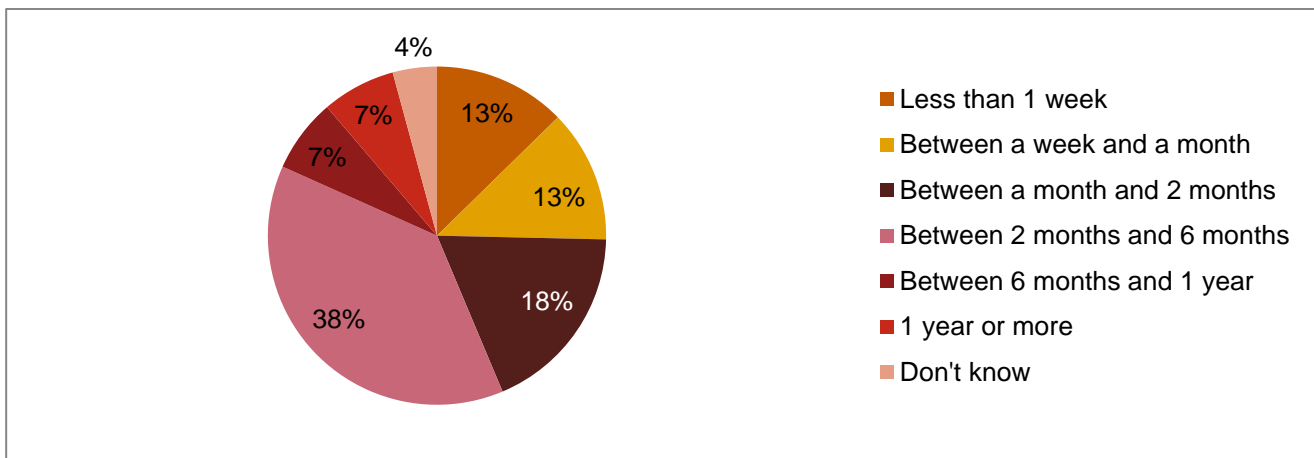


Figure 55 – Targeted business survey (question 56) – Please estimate the average lead time to obtain a customs authorisation.

In the targeted business survey, businesses were asked to estimate the average lead time in calendar days between start and finalisation (i.e. conclusion) of a prior (initial) audit for obtaining a customs authorisation. For countries where no prior (initial) audit takes place, businesses were required to reply with “not applicable.” Responses from the targeted business survey are presented in the figure above. Thirteen per cent of the business respondents indicate that the average lead time to obtain a customs authorisation is less than one week. Thirteen per cent of the respondents state a period of between a week and one month, 18% between a month and two months. The highest percentage (38%) of business stakeholders indicate an average lead time of between two months and six months. Further, an average lead time of six months to a year is stated by 7% and more than a year by 7%. Four per cent of the stakeholders don’t know.

Companies were also asked to rate their satisfaction with the average time it takes in their home countries for customs authorities to grant (or reject) AEO certificates (targeted business questionnaire, question 63). For customs simplification, 19% strongly agree with the statement, 39% somewhat agree, 11% neither agree nor disagree, 13% somewhat disagree, 9% strongly disagree and 10% don’t know. For security, 14% strongly agree, 33% somewhat agree, 11% neither agree nor disagree, 9% somewhat disagree, 10% strongly disagree and 23% don’t know. For combined certificates, 14% strongly agree, 36% somewhat agree, 14% neither agree nor disagree, 10% somewhat disagree, 10% strongly disagree and 16% don’t know.

**Customs authorities.** Customs authorities were asked to indicate the average lead time in calendar days between the start and conclusion of an audit (prior and/or post-audit considered together) relative to an AEO certificate in 2011. The results are shown in the table below.

Average lead time in calendar days between start and conclusion of an audit (prior and/or post-audit) relative to an AEO certificate	
Customs simplification	98
Security	94
Combined authorisation	102

Table 14 – Targeted customs authorities survey (question 10) – Please indicate the average lead time in calendar days between the start and conclusion of an audit (prior and/or post-audit) relative to an AEO certificate in 2011

#### 3.4.4.1.2 Findings

The average lead time for a prior audit is between one week and six months. Lead times for prior audits relating to AEO certificates are very similar and take 100 days on average. This data is confirmed in the targeted business survey, where 36% of companies indicated that prior audits take between two and six months.

#### 3.4.4.2 Extent to which the prior audit of economic operators is predictable

##### 3.4.4.2.1 Data

Data sources				
Desk research	Business	Customs authorities	Other authorities	In-depth interviews
X	✓	X	X	X

**Businesses.** In the targeted business questionnaire, companies with AEO status were asked to provide feedback on whether the results of the prior (initial) audit were in line with their own findings from the AEO self-assessment. Responses from the targeted business survey are presented in the figure below.

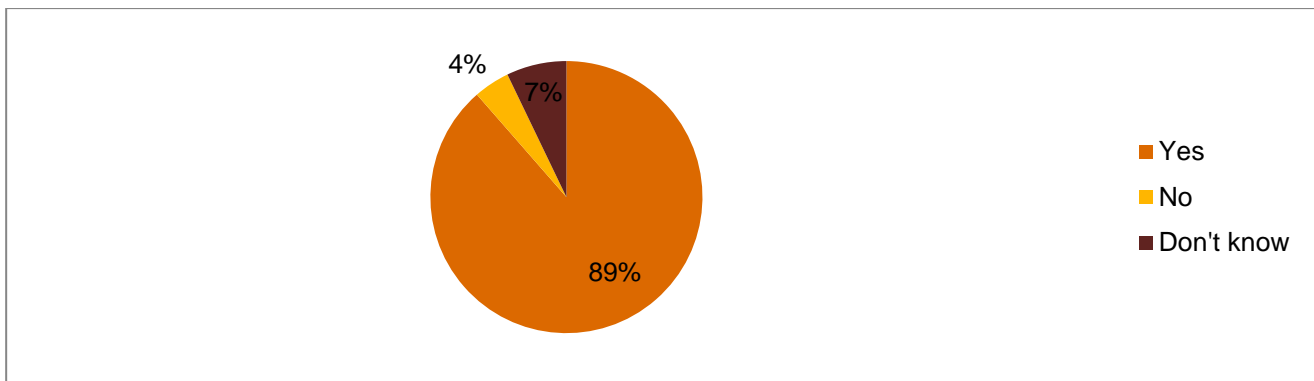


Figure 56 – Targeted customs authorities survey (question 64) – For your company, was the outcome of the prior audit in line with your AEO self-assessment?

Eighty-nine per cent of the business stakeholders (90% of large companies and 78% of SMEs) confirm that the outcome of the prior audit was in line with their AEO self-assessment, while 4% (5% of large companies and less than 1% of SMEs) answered the question in the negative. Seven per cent of the business stakeholders (5% of large companies and 22% of SMEs) don't know.

#### 3.4.4.2.2 Findings

Eighty-nine per cent of the respondents confirm that the results of the prior audit are in line with the results of their own AEO self-assessment. This percentage is lower for SMEs (78%).

### 3.4.4.3 Judgment 11 – efficiency of prior (initial) audits

There is no benchmark available with respect to the time needed for a prior audit. However, it should be noted that the average time required for prior (initial) audits with a view to granting AEO status is an indication that the present processes are sufficiently efficient to meet the legal requirements. Further, the outcome of prior (initial) audits is very predictable for business stakeholders based on the results of an AEO self-assessment.

### 3.4.5 Efficiency of authorisation management processes – Extent to which post-auditing of economic operators takes place efficiently across the Customs Union

To judge the efficiency of post-audits, their time-efficiency is evaluated.

#### 3.4.5.1 Extent to which post-auditing of economic operators is time-efficient

##### 3.4.5.1.1 Data

Data sources				
Desk research	Business	Customs authorities	Other authorities	In-depth interviews
X	X	X	X	✓

**In-depth interviews.** In the course of these interviews, further to the basic input on the judgment criterion, the following input was acquired that is of interest.

In the in-depth interview with DG TAXUD, it was confirmed that no data is yet available on post-audits to reassess customs authorisation. It was also stated that post-audits should be initiated at least every three to four years and upon changes in legislation or upon information being received that the criteria are no longer fulfilled. In addition, it was stated that, despite of the lack of information on reassessment post-audits, Customs do focus on monitoring the application of licences.

Business associations are not aware of whether or not post-audits currently occur often. None of the individual companies with AEO status that were interviewed has been subject to a post-audit, which may also be a consequence of the fact that AEO was introduced relatively recently and the focus of the customs authorities for now is more on the process of issuing these certificates.

##### 3.4.5.1.2 Findings

There are no findings on this sub-judgment criterion.

#### 3.4.5.2 Judgment 12 – efficiency of post-audits

As post-audits are not yet being done on a regular basis, no conclusions can be drawn on their time-efficiency.

### 3.4.6 Efficiency of authorisation management processes – Fourth conclusion (Judgment 8 – judgment 12)

The whole process with regard to applications for AEO status and the certification process itself appear to be relatively efficient. Respondents are satisfied overall with the processes and audits carried out by customs authorities. The time-frame to issue certificates is also within the legal limits.

On a number of aspects, such as the cost-efficiency of the AEO process, the efficiency of post-audits, the registration of traders and the efficiency of data exchanges, no analysis was possible because of the lack of reliable data.

Due to a lack of information in terms of other authorisations, no conclusions can be drawn.

### **3.5 Efficiency – Conclusion**

The present overall level of efficiency of the EU Customs Union is comparatively good. Based on the Logistics Performance Index and compared on a global basis as well as with best in class, the average of the Member States scores well. However, there are clear differences in the efficiency of processes when individual Member States are compared.

Business is generally positive on the efficiency of all types of controls, with improvements being possible in the area of the electronic submission of data and documentation to the authorities.

Business confirms that the process with regard to applying for AEO status, the certification process itself and the related audits are organised efficiently. Input from the authorities also confirms that the process is efficient, customs authorities being able to issue certificates within the time-frame set down by statute.

On a number of aspects, such as the cost-efficiency of the focus on authorisation management in a sense broader than just AEO, the efficiency of post-audits, the registration of traders and the efficiency of data exchanges, no analysis was possible due to a lack of reliable data.

### **3.6 Efficiency – Recommendations**

Potential for improvement exists in relation to aspects such as the coordination and alignment of customs and clearance processes, control processes and economic operator processes.

#### *Clearance processes*

In order to simplify the customs clearance processes in the Customs Union, it is advisable to centralise all communication between businesses and customs authorities and reduce the number of other authorities that companies have to communicate with directly.

To further improve the simplicity of customs clearance processes, it is suggested introducing new electronic services such as for payment of customs duties, better access to customs legislation and correction of customs declarations.

The reasons for the differences in efficiency between Member States should be analysed to further develop a benchmark and set up an action plan to move all Member States into the top 50 ranking of the LPI and ETI.

Further efforts should be made to introduce Single Windows and one-stop shops in more countries of the Customs Union, given that it is stated that these concepts contribute to increasing the efficiency of customs clearance processes. Any new Single Window or one-stop shop should be widely advertised, in view of the fact that the survey shows that business stakeholders' awareness of the Single Window and one-stop shop is poor. One suggested way forward, would be to link (new) Single Window systems to other processes, such as the TRACES system, to ensure that information submitted via other processes can be reviewed by customs authorities. It is good to note that DG TAXUD is in the process of introducing the suggested connection of customs systems and TRACES under its Single Window programme. When developing Single Window systems, the existing Port Community Systems could also be linked into these Single Windows, as they often perform this kind of role already.

As only high-level, anecdotal information is available at this time to judge cost-efficiency in the collection of duties, further analysis is recommended, including all the cost elements of the customs authorities (including costs on an EU level) and taking into account all revenues (e.g. including agricultural levies). Measuring efficiency in the calculation and collection of customs duties is an interesting exercise for all customs authorities and the European Commission, as this enables them to benchmark and implement best practices. The other tasks of the customs authorities should also be considered in the analysis.

*Control processes*

The acceptability of system data should be extended as it is set to be the next development to further enhancing the simplicity of documentary controls.

The possibility to provide data to the customs authorities in electronic format could be further extended to all companies and all Member States, so as to further enhance the efficiency of this type of control.

Attempts should be made to develop an EU post-audit methodology as it would serve both efficiency and uniformity purposes.

*Economic operator processes*

There are different degrees to which national customs authorities currently take differentiated approaches towards economic operators depending on risk and/or needs. Such a “customer strategy” would nonetheless allow customs authorities to differentiate their efforts according to the profile of an economic operator. Differentiation enhances efficiency in the use of time and customs authorities’ resources and allows for more targeted priority setting. Therefore, such an approach should be analysed and implemented

## **4 Recent policy initiatives**

This section examines the effects and outcomes of recent policy initiatives for the Customs Union and its stakeholders.

More specifically, it examines:

- the effects of the Safety and Security Amendment to the Community Customs Code,
- simplified procedures and other related measures,
- the e-Customs Initiative.

Although simplified procedures are not really a recent policy initiative, this topic is included under this section in line with the Feasibility Study.

Stakeholders were asked to assess statements regarding recent policy initiatives. Where 30% or more of the business stakeholders did not agree with the statement, it was concluded that the policy initiative is not accepted or that business stakeholders are not satisfied with the policy initiative. Where more than 35% of the business stakeholders that completed a certain questionnaire could not assess the statement because they 'did not know', the findings for that specific statement of that questionnaire were not used to draw conclusions.

Please note that numbers may not add to 100% due to rounding.

### **4.1 What have been the effects of the Safety and Security Amendment to the Community Customs Code (including AEO) for the Customs Union and its stakeholders?**

The Safety and Security Amendment to the Community Customs Code is the main building block of customs security at an EU level in both legislative and practical terms. The purpose of the Amendment is to ensure an equivalent level of protection for all goods brought into or taken out of the EU's customs territory through common formalities and controls.

The Safety and Security Amendment includes four important changes to the Customs Code:

- it requires traders to provide the customs authorities with information: security data has to be provided before the arrival or departure of goods into or from the EU customs territory (annex 30A to the Community Customs Code Implementing Provisions, "CCCIP"),
- it provides reliable traders with trade facilitation measures: AEO status can be granted by Member States to economic operators that meet certain conditions,
- it introduces uniform EU risk-selection criteria for controls, supported by computerised systems for goods brought into or taken out of the EU customs territory,
- it introduces an EU database allowing all national registration numbers to be consulted: Economic Operators Registration and Identification numbers (EORI) are included in that database.<sup>108</sup>

To provide an answer to the sub-evaluation question, the following elements are analysed:

- implementation of the EORI database,
- implementation of uniform risk selection procedures, and
- trade facilitation for AEO-certified companies.

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<sup>108</sup> [http://ec.europa.eu/ecip/security\\_amendment/index\\_en.htm](http://ec.europa.eu/ecip/security_amendment/index_en.htm).

#### 4.1.1 Recent Policy Initiatives – Extent to which the Safety and Security Amendment to the Community Customs Code has efficiently and effectively implemented an EU database allowing consultation of all registration numbers (EORI)

##### 4.1.1.1 Data collection

Data sources				
Desk research	Business	Customs authorities	Other authorities	In-depth interviews
✓	✓	X	X	X

**Desk research.** The EORI database can be consulted online on the site of the European Commission.<sup>109</sup> Member States have access to the EU database to verify whether an EORI number is already in place.

**Business.** Responses from the extended web-based survey are presented in the figure below.

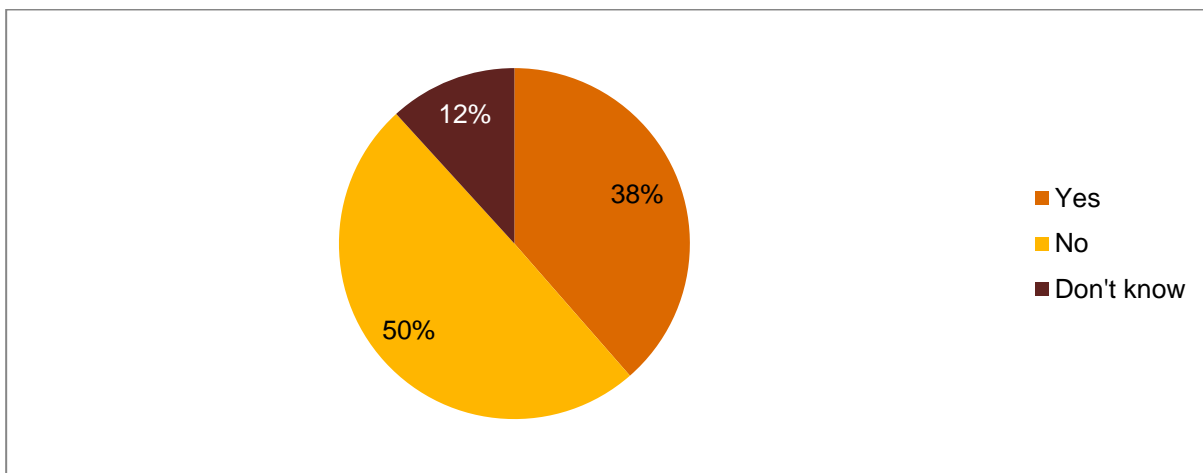


Figure 57 – Extended web-based survey (question 25) – Does your company have multiple EORI numbers as a single legal entity?

Thirty-eight per cent of the business stakeholders (42% of large companies and 31% of SMEs) have multiple EORI numbers for one legal entity, while half of the businesses have only one EORI number for one legal entity (49% of large companies and 52% of SMEs). Twelve per cent of the stakeholders (9% of large companies and 17% of SMEs) don't know.

##### 4.1.1.2 Findings

The survey indicates that 38% of the respondents claim that their company has multiple EORI numbers for the same legal entity. Member States, however, have access to the EU database to verify whether an EORI number is already in place.

##### 4.1.1.3 Judgment 1 – registration of traders

The purpose of issuing EORI numbers is to ensure that there is only one number per single legal entity. Although the database set up by the European Commission allows EORI numbers to be consulted, the figure above shows that many businesses (38%) have multiple EORI numbers, even though they are single legal entities. This is deemed to be an important indication that the concept of the EORI number is not being implemented in an appropriate manner.

<sup>109</sup> [http://ec.europa.eu/taxation\\_customs/dds2/eos/eori\\_home.jsp?Lang=en](http://ec.europa.eu/taxation_customs/dds2/eos/eori_home.jsp?Lang=en).



#### 4.1.2 Recent Policy Initiatives – Extent to which the Safety and Security Amendment to the Community Customs Code has led to the introduction of uniform risk selection criteria for controls, supported by computerised systems for goods brought into the EU

##### 4.1.2.1 Data

Data sources				
Desk research	Business	Customs authorities	Other authorities	In-depth interviews
✓	X	X	X	✓

**Desk research.** In the 2013 Management Plan of DG TAXUD and Customs,<sup>110</sup> one of the stated objectives is to protect citizens from the security and safety risks posed by the international trade in goods and to support the fight against illicit traffic and fraud by improving the capacity of the Commission and Member States to act. One of the indicators to achieve this objective is “improved exchange of risk information between Member States via the Customs Risk Management System (CRMS) measured by the number of Risk Information Forms (RIF) issued and the Priority Control Areas (PCA) exercises performed.” According to the latest known results, the number of RIFs issued significantly<sup>111</sup> increased between 2010 and 2012.

**In-depth interviews.** In the course of these interviews, further to the basic input on the judgment criterion, the following input was acquired that is of interest.

In the interview with DG TAXUD, the concern was raised that one of the main risk selection criteria, besides the value involved, is the persons involved in the transactions. Furthermore, DG TAXUD, together with experts from the Member States, tries to define the selection criteria for controls, so that the same criteria are used by everyone. Although Member States have the same risk selection criteria, they are not applied in the same way by all Member States or implemented at the same time.

##### 4.1.2.2 Findings

As regards the effects of the Safety and Security Amendment for the Customs Union and its stakeholders (i.e. businesses, customs authorities and other authorities), very limited information was available. What was available suggests that there may be issues with regard to application of the risk selection criteria for controls in the different Member States. From the 2013 Management Plan of DG TAXUD and Customs, it is known that the number of Risk Information Forms (RIFs) that have been issued increased significantly between 2010 and 2012.

##### 4.1.2.3 Judgment 2 – risk selection criteria for controls

Insufficient information was retrieved to draw firm conclusions. A main point of concern raised by DG TAXUD is that, although Member States have the same risk selection criteria, they are not applied in the same way. However recent information shows that increased attention is being given to this area. This is neither confirmed nor contradicted by other stakeholders, however.

<sup>110</sup> [http://ec.europa.eu/atwork/synthesis/amp/index\\_en.htm](http://ec.europa.eu/atwork/synthesis/amp/index_en.htm).

<sup>111</sup> From around 1,200 in 2010 to around 1,700 in 2012.

### 4.1.3 Recent Policy Initiatives – Extent to which the Safety and Security Amendment to the Community Customs Code has facilitated trade for reliable businesses with AEO status

#### 4.1.3.1 Data

Data sources				
Desk research	Business	Customs authorities	Other authorities	In-depth interviews
✓	✓	X	X	✓

**Desk research.** The concept of AEO was introduced as one of the main elements of the security amendment<sup>112</sup> of the CCC. According to the AEO guidelines,<sup>113</sup> “the AEO status shall be recognised across all Member States, pursuant to Article 5a of the CCC, therefore, the holder of an AEO certificate shall receive the same benefits in all Member States.” The benefits are summarised above (see 3.4.1.1. Data).

**Business.** Responses from the targeted business survey are presented in the figure below.

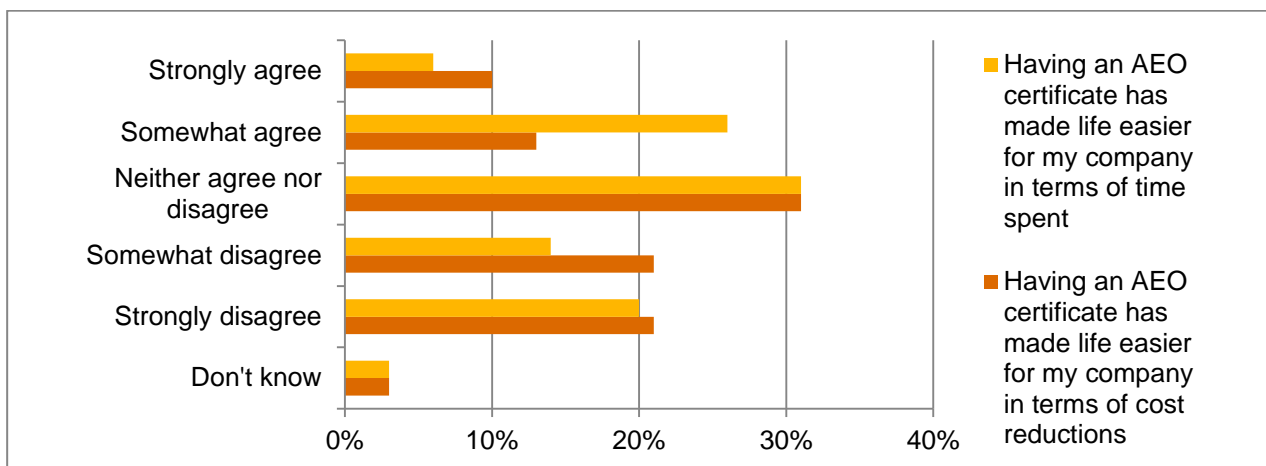


Figure 58 – Targeted business survey (question 91) – Having an AEO certificate has made life easier for my company in terms of cost reductions or time savings.

For the targeted business survey, 6% of the business stakeholders (7% of large companies and none of the SMEs) strongly agree that having an AEO certificate has made life easier for their company in terms of time spent, while 26% somewhat agree (23% of large companies and 44% of SMEs). Fourteen per cent of the businesses (13% of large companies and 22% of SMEs) somewhat disagree and 20% strongly disagree (21% of large companies and 11% of SMEs). The other 34% of respondents (36% of large companies and 22% of SMEs) do not state an opinion (‘don’t know’: 1% of large companies and 2% of SMEs) or are undecided (‘neither agree nor disagree’: 17% of large companies and 5% of SMEs).

Moreover, 10% of the business stakeholders (8% of large companies and 22% of SMEs) strongly agree that having an AEO certificate has made life easier for their company in terms of cost reductions, while 13% (13% of large companies and 11% of SMEs) somewhat agree. Twenty-one per cent of the businesses (21% of large companies and 22% of SMEs) somewhat disagree and 21% (23% of large companies and 11% of SMEs) strongly disagree. The other 34% of the respondents (35% of large companies and 33% of SMEs) do not provide an opinion (‘don’t know’: 1% of large companies and 2% of SMEs) or are undecided (‘neither agree nor disagree’: 18% of large companies and 2% of SMEs).

<sup>112</sup> Regulation (EC) no. 648/2005 of the European Parliament and of the Council of 13 April 2005 amending Council Regulation (EEC) no. 2913/92 establishing the Community Customs Code.

<sup>113</sup> Authorised economic operators, Guidelines, Approved by the CCC-GEN (AEO subsection) on 17 April 2012.

Please note that the sample size for this question was comparatively limited. Seventy business stakeholders were asked to answer the question, 61 were large enterprises but only nine were SMEs.

**In-depth interviews.** In the course of these interviews, further to the basic input on the judgment criterion, the following input was acquired that is of interest.

The in-depth interviews with a number of individual companies and business associations reveal an apparent lack of tangible benefits resulting from AEO status. Additionally, the AEO application procedure is not uniform in the various Member States.

DG TAXUD points out that AEO was not meant as a facilitation programme, but was created for security reasons, for the safety of the supply chain. Contrary to remarks from businesses that have experienced few advantages from having AEO status, businesses keep applying for it.

#### *4.1.3.2 Findings*

Thirty-four per cent of the businesses do not believe that having an AEO certificate has made life easier for their company in terms of time spent, while 42% do not think that having an AEO certificate has resulted in cost reductions for their company. Therefore, it can be concluded that, generally speaking, businesses with an AEO certificate do not think that having the AEO certificate makes life easier. This impression is confirmed by the interviews with business stakeholders. In the interview with DG TAXUD, however, it was clearly noted that AEO was not meant as a facilitation programme, but was created for security reasons.

#### *4.1.3.3 Judgment 3 – trade facilitation for companies with AEO status*

AEO certificates do not facilitate trade according to many businesses, although, in their opinion, it was presented as such. In response, DG TAXUD pointed out that the AEO programme was not meant to be a facilitation programme but originated from requirements for safety and security.

Apparently, businesses have understood the aim of the AEO programme (regardless of its origin) as being a facilitation instrument for companies that fulfil the relevant criteria. If, and in so far as, the programme was indeed promoted based on the benefits it would bring, no such benefits are perceived by businesses in their daily routines. The fact that business expectations are not always met is consequently a result of the fact that businesses have a different perception of the benefits of the AEO programme.

Nevertheless, the AEO status has real added value for companies as it provides them with a “quality approved” status. It proves that a company makes efforts to keep its customs compliance under control. Specifically, economic operators within the transport and logistics sector promote this quality label and are requested to have AEO status by their clients. Furthermore, the process of getting AEO status has led to improvements in operators’ internal control processes.

#### *4.1.4 Recent Policy Initiatives – Primary conclusion (Judgment 1 – judgment 3)*

A significant number of companies reported that they have more than one EORI number as a single legal entity. Taking this finding together with the reported non-uniform application of uniform risk selection criteria for controls and the perceived lack of real advantages of being AEO certified, the overall response on the evaluation of the Safety and Security Amendment to the Community Customs Code is that the measures and changes are not meeting the expectations of businesses.

## 4.2 What have been the effects of the simplified procedures and other related measures? Do these differences with regard to the impact of simplified procedures depend on stakeholder type and Member State? Are there differences in impact according to type of simplified procedure?

### 4.2.1 Recent Policy Initiatives – Simplified procedures: in general

In accordance with article 253 of the CCCIP, simplified procedures encompass:

- incomplete declarations,
- simplified declarations and
- declarations under local clearance procedure.

In the case of incomplete declarations, customs authorities can, in duly justified cases, accept a declaration which does not contain all the required particulars or which is not accompanied by all the necessary documents (article 253(1) CCCIP).

The simplified declaration procedure has to 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 (article 253(2) CCCIP).

The local clearance procedure has to 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 253(3) CCCIP).

To answer this sub-evaluation question, the savings in terms of time spent on administration using simplified procedures are evaluated below.

### 4.2.2 Recent Policy Initiatives – Extent to which simplified procedures have generated savings for businesses in terms of time (spent on administration), compared to the situation before the introduction of simplified procedures

#### 4.2.2.1 Data

Data sources				
Desk research	Business	Customs authorities	Other authorities	In-depth interviews
✓	✓	X	X	✓

**Desk research.** Aggregate figures from the Measurement of Results show a slight increase in the use of simplified procedures for imports as well as for exports. This can be seen in the table below.

Percentage of declaration/EU-27	2009		2010		2011	
	Import	Export	Import	Export	Import	Export
<b>Normal procedures</b>	26%	36%	24%	29%	23%	30%
<b>Simplified procedures</b>	74%	64%	76%	71%	77%	70%

Table 13 – MoR – Percentage of declarations EU-27

In a report by the European Court of Auditors,<sup>114</sup> it was found that “national customs authorities generally rely on the correctness of import declarations and carry out fewer controls before release. This should in principle be offset by pre-authorisation and ex-post audits. Nevertheless, according to the European Court of Auditors, there should be effective control on the use of these simplified procedures to ensure the collection of Traditional Own Resources.”

In its report, the European Court of Auditors found that the European Commission has taken international standards into account and put in place an appropriate regulatory framework for simplified procedures.

The European Court of Auditors found, however, 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.”<sup>115</sup>

The thematic report by DG BUDG on Local Clearance Procedures<sup>116</sup> concludes that “systematic grants of notification waivers is not in compliance with EU rules. The relevant legislation explicitly limits this exemption to ‘certain special circumstances’ and provides that alternative control arrangements must be in place. Excessive use of the notification waiver undermines the ability to carry out risk-based controls before release and reconciliation with supplementary declarations. It may also lead to trade deviations and affect the level playing field for EU importers. The compulsory reassessment of authorisations has been a missed opportunity to address the issue for the Member States in question.

*If this situation persists, the Commission will have to examine the consequences of sustained non-compliance with the EU legislation. Any extended use of the notification waiver would need an amendment to the EU legislation, which should be addressed in the appropriate forums and would need to be uniformly implemented and accompanied by compensating measures. The Member States concerned should take prompt corrective measures.”*

Furthermore, the following conclusions are stated in the report:

1. “The electronic environment for local clearance procedure is not fully implemented although, from January 2011, the use of the local clearance procedure has been conditional on the lodging of electronic customs declarations and notifications”;
2. “There is a need to reinforce post-clearance audits in order to compensate for the reduction in controls at clearance”.

This report was written following inspections of Traditional Own Resources in almost all Member States and was agreed with the relevant Commission services (including DG TAXUD).

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<sup>114</sup> Court of Auditors, Special Report No. 01/2010 concerning the control of simplified procedures for imports, together with the Commission’s replies, p. 8.

<sup>115</sup> Court of Auditors, Special Report No. 01/2010 concerning the control of simplified procedures for imports, together with the Commission’s replies, p. 9.

<sup>116</sup> European Commission, Own resources and financial programming, Control of traditional own resources, Local Clearance Procedure – Thematic report of the Directorate-General for Budget – Results of inspections carried out in Member States in 2011.

**Business.** Responses from the extended web-based survey are presented in the figure below.

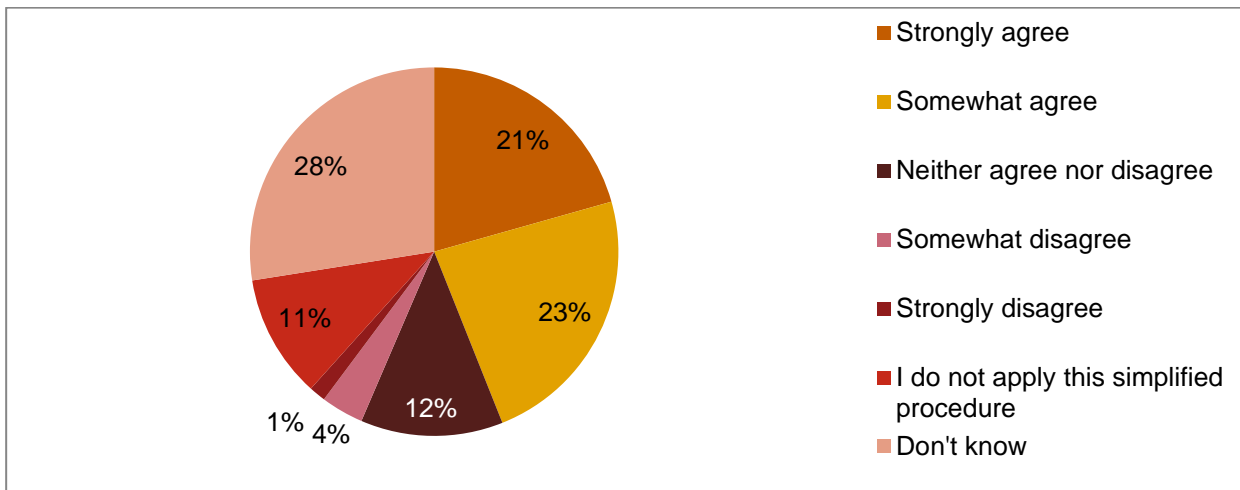


Figure 59 – Targeted business survey (question 89) – Incomplete declarations, simplified procedures and local clearance procedure have resulted in a reduction in time spent on customs formalities.

Of the 89% of business respondents that apply simplified procedures, 21% strongly agree that incomplete declarations, simplified procedures and local clearance procedures have resulted in a reduction in time spent on customs formalities, while 23% somewhat agree. Four per cent of the businesses somewhat disagree and 1% strongly disagree. The other 40% of the respondents do not state an opinion ('don't know') or are undecided ('neither agree nor disagree').

Six per cent of large companies do not apply simplified procedures, compared to 23% of SMEs. Of the large companies, 23% strongly agree with the statement, 24% somewhat agree, 16% neither agree nor disagree, 5% somewhat disagree, 2% strongly disagree and 24% don't know. Of the SMEs, 14% strongly agree with the statement, 21% somewhat agree, 5% neither agree nor disagree, 1% somewhat disagree, 0% strongly disagree and 36% don't know.

**In-depth interviews.** In the course of these interviews, further to the basic input on the judgment criterion, the following input was acquired that is of interest.

During the in-depth interviews with business associations, the concern was raised that there is non-uniformity with regard to access to simplified procedures, specifically with regard to local clearance procedures. The example given was that customs brokers do not have access to simplified procedures in every Member State. Commonly, simplified procedures need to be requested by the importer/exporter. In another in-depth interview, it was also stated that simplified procedures are essential to accelerate trade and result in enormous savings for businesses.

The example of one interviewed company demonstrates the financial savings from a Single Authorisation for Simplified Procedures ('SASP'). Without an SASP, transit declarations (NCTS messages) were issued in Member State 1 to a central warehouse in Member State 2, where the goods were released for free circulation. Having the SASP means the goods are now immediately released for free circulation in Member State 1 and transported to the central warehouse in Member State 2. Transit declarations (NCTS messages) are no longer required. Given a cost estimated by the company at EUR 50 per transit declaration (NCTS message) and as approximately 10,000 containers are transported from Member State 1 to Member State 2 on an annual basis, the costs savings for the company amount to EUR 500,000 annually.

Nevertheless, DG BUDG declared that use of the SASP is very limited: it has not yet been fully implemented because it depends on other issues such as IT developments.

Based on information collected in an in-depth interview with one of the national customs authorities, one of the larger old Member States has currently granted 2,982 authorisations for simplified procedures as well as six

Single Authorisations for Simplified Procedures. Of these six SASPs, only three were initiated in the Member State itself. A further six applications for SASPs are still pending with the customs authorities.

#### *4.2.2.2 Findings*

Simplified procedures are used to file approximately three out of four customs declarations in the EU. From 2009-2011, there was a slight increase in the use of simplified procedures for imports as well as for exports.

Many business stakeholders (44%) are of the opinion that the simplified procedures have resulted in a reduction in time spent, while only 5% think the opposite. A large number of large companies (47%) and, to a more limited extent, also SMEs (35%) are of the opinion that the simplified procedures have resulted in a reduction in time spent. Large companies are also slightly more negative about simplified procedures (7% disagree compared to 1% of the SMEs). This is mainly due to the fact that there are more SMEs that do not apply simplified procedures (23% compared to 6% of the large companies) or could not answer the question because they 'did not know' (36% compared to 24% of the SMEs).

Overall, it can be concluded that business stakeholders are positive about the reduction in time spent due to simplified procedures. This conclusion is confirmed by the in-depth interviews. It was stated that simplified procedures are essential to accelerate trade and result in enormous savings for businesses. However, interviewees also indicated that there is some non-uniformity with regard to access to simplified procedures, specifically with regard to local clearance procedures. The example given was that customs brokers do not have access to simplified procedures in every Member State.

Besides time savings, the use of simplified procedures also results in financial savings for companies. However, simplified procedures have to be properly controlled and monitored, which is not always the case according to the European Court of Auditors or the thematic report by DG BUDG. With regard to the control environment on these simplified procedures, analysis shows that more attention should be given to controls on operating simplified procedures to ensure their uniform, correct application. As for control of simplified procedures, according to DG BUDG, the use of electronic systems should be completed and there is a need to reinforce post-clearance controls.

#### *4.2.2.3 Judgment 4 – simplified procedures in general*

See 4.2.3 Recent Policy Initiatives – Second conclusion (Judgment 4)

#### *4.2.3 Recent Policy Initiatives – Second conclusion (Judgment 4)*

Although there is some concern as regards the uniformity of access to simplified procedures for all parties, businesses are generally satisfied with the time savings resulting from incomplete declarations, simplified declarations and local clearance procedures. Furthermore, simplified procedures not only result in a reduction in time spent but also in clear financial savings.

Measurement of Results data show an increase in import and export declarations presented under simplified procedures. This makes the European Court of Auditors' explicit request for effective controls of simplified procedures to ensure correct collection of Traditional Own Resources even more important. The 2010 Report by the Court of Auditors<sup>117</sup> concluded that controls of simplified procedures are not harmonised and are even sometimes deficient.

Nevertheless simplified procedures are widely applied and clearly a necessary instrument to facilitate the good functioning of the Customs Union.

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<sup>117</sup> Court of Auditors, Special Report No. 01/2010 concerning the control of simplified procedures for imports, together with the Commission's replies.

### 4.3 What have been the effects of the e-Customs Initiative for the Customs Union and its stakeholders?

The e-Customs Initiative refers to Decision No. 70/2008/EC of the European Parliament and of the Council of 15 January 2008 on a paperless environment for customs and trade.<sup>118</sup>

Pursuant to Decision 2004/387/EC of 21 April 2004 on interoperable delivery of pan-European e-Government services to public administrations, businesses and citizens,<sup>119</sup> the Commission and the Member States should provide efficient, effective, interoperable information and communication systems for the exchange of information between public administrations and Community citizens. The pan-European e-Government action plan requires measures to increase efficiency in the organisation of customs controls and ensure the seamless flow of data in order to make customs clearance more efficient. For that purpose, the provision of information and communication technologies for customs purposes is of crucial interest. Accordingly, Decision No. 70/2008/EC<sup>120</sup> seeks to lay down the objectives to be met in creating a paperless environment for customs and trade.

This section examines to what extent the e-Customs Initiative has led to streamlined, simplified customs processes and working procedures in the EU. For this, existing modes of data exchange between customs authorities were examined and stakeholders (i.e. businesses and customs authorities) questioned about their perception of data exchange between customs authorities. It is also assessed whether electronic declarations are becoming a rule rather than an exception compared to paper-based declarations.

#### 4.3.1 Recent Policy Initiatives – Extent to which the e-Customs Initiative for the Customs Union has led to streamlined, simplified customs processes and working procedures in the EU

##### 4.3.1.1 Data

Data sources				
Desk research	Business	Customs authorities	Other authorities	In-depth interviews
✓	✓	✓	X	✓

**Desk research.** In the self-assessment study,<sup>121</sup> strengths and weaknesses are identified with regard to the organisational structure and governance of the Customs Union. One of the weaknesses mentioned in the report is the lack of alignment of Commission initiatives. *“Many interviewees reported what they consider to constitute a lack of alignment between initiatives taken by various Commission DGs, and in some cases even initiatives taken by a single DG. They referred in particular to difficulties encountered in implementing the e-Customs concept due to uncoordinated, and sometimes conflicting, requirements and instructions from DG TRADE, DG HOME, OLAF, etc.”*

<sup>118</sup> Decision No. 70/2008/EC of the European Parliament and of the Council of 15 January 2008 on a paperless environment for customs and trade, OJ L23/21, 26/01/1008.

<sup>119</sup> Decision No. 2004/387/EC of the European Parliament and of the Council of 21 April 2004 on interoperable delivery of pan-European eGovernment services to public administrations, businesses and citizens, OJ L 181/25, 18/05/2004.

<sup>120</sup> Decision No. 70/2008/EC of the European Parliament and of the Council of 15 January 2008 on a paperless environment for customs and trade, OJ L23/21, 26/01/1008.

<sup>121</sup> Final report on Task 2.2 – Strengths and weaknesses of the current organisation model and Final report on Task 2.3 – Options for improvement of the functioning of the Customs Union (TAXUD/R3/VDL D(2010) 433216) – 24/05/2011.



**Business.** Responses from the targeted business survey are presented in the figure below.

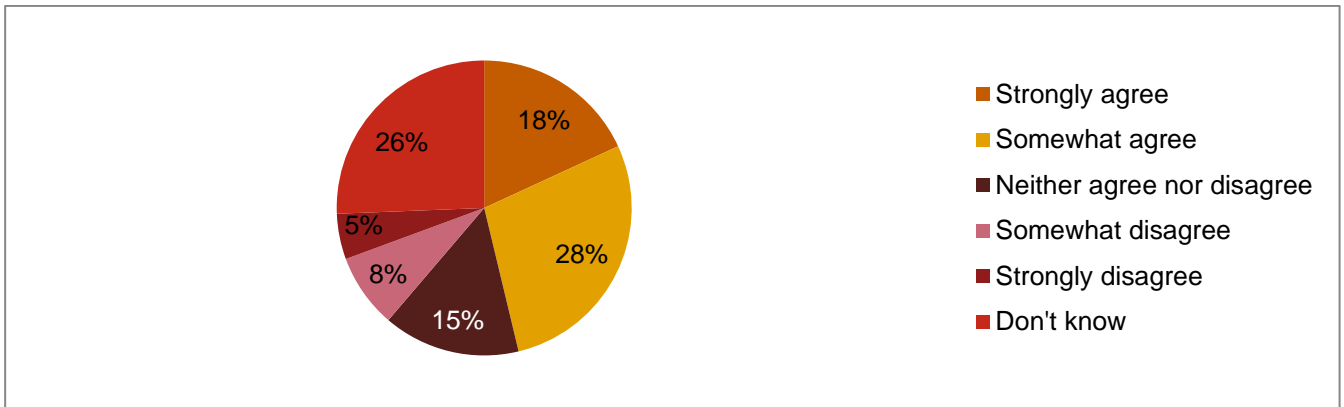


Figure 60 – Targeted business survey (question 87) – The e-Customs Initiative has led to more streamlined, simplified processes and working procedures

Eighteen per cent of the business stakeholders strongly agree that the e-Customs Initiative has led to more streamlined, simplified processes and working procedures, while 28% somewhat agree. Eight per cent of the businesses somewhat disagree and 5% strongly disagree. The other 41% of the respondents do not provide an opinion (don't know) or are undecided ('neither agree nor disagree').

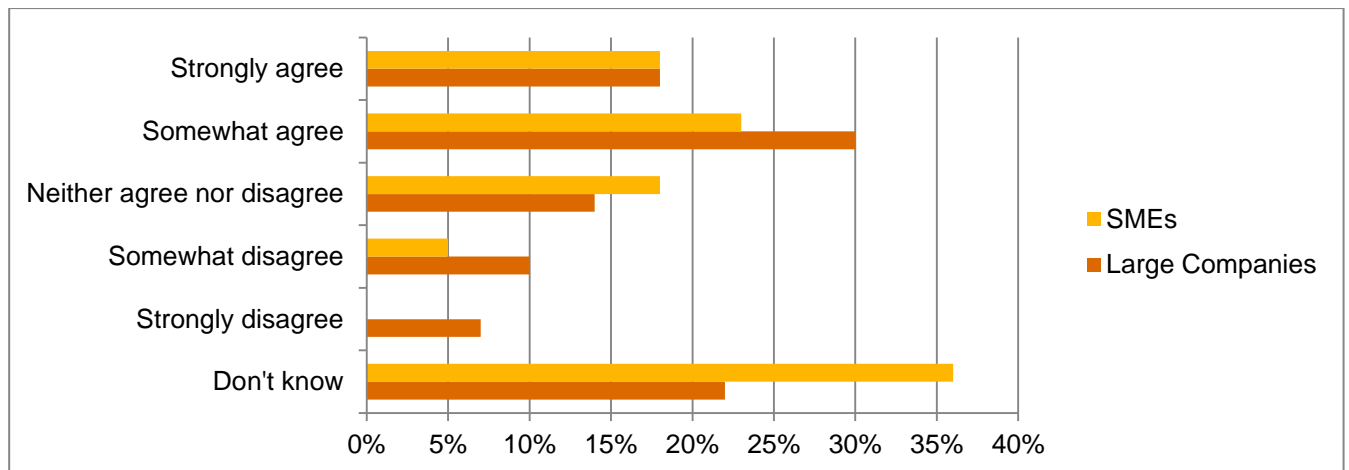


Figure 61 – Targeted business survey (question 87) – The e-Customs Initiative has led to more streamlined, simplified processes and working procedures, differences between large companies and small and medium-sized companies

For the targeted business survey, 18% of SMEs and of large companies strongly agree that the e-Customs Initiative has led to more streamlined, simplified processes and working procedures, 23% of SMEs, compared to 30% of large companies, somewhat agree. On the other hand, 5% of SMEs, compared to 10% of large companies, somewhat disagree and 0% of SMEs compared to 7% of large companies strongly disagree. Eighteen per cent of SMEs and 14% of large companies do not agree or disagree. Thirty-six per cent of SMEs and 22% of large companies 'don't know'.

Businesses that did not agree with the statement that the e-Customs Initiative has led to streamlined, simplified processes remark that there are still too many fields which are not paperless, and that the simplifications are often cancelled out by security measures.

**Customs authorities.** The customs authorities of the different Member States were also asked whether they agree with the statement that the e-Customs Initiative has led to more streamlined, simplified processes and

working procedures. Responses from the targeted survey for customs authorities are presented in the figure below.

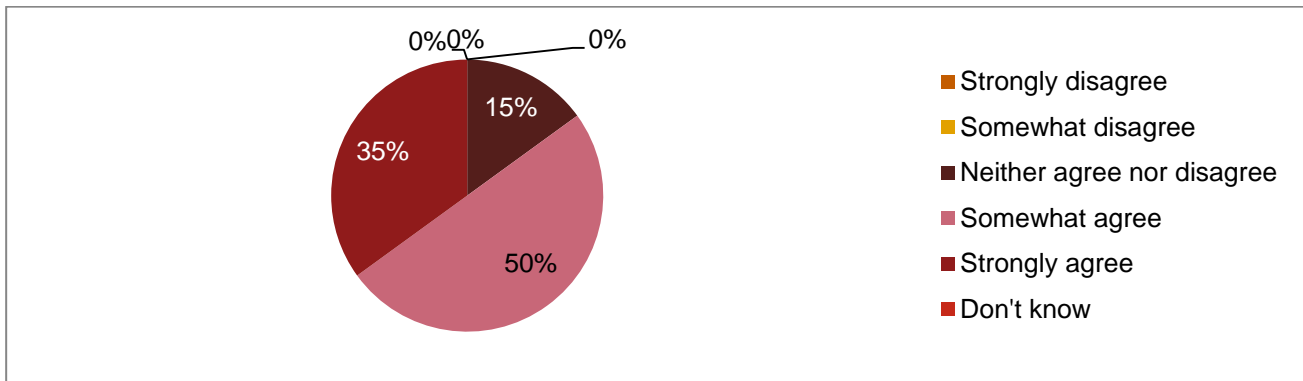


Figure 62 – Targeted customs authorities’ survey (question 32) – Did the e-Customs Initiative lead to more streamlined, simplified processes and working procedures?

Thirty-five per cent of the customs authorities strongly agree that the e-Customs Initiative has led to more streamlined, simplified processes and working procedures, while 50% somewhat agree. Fifteen per cent of the customs authorities do not agree or disagree.

Customs authorities remarked, *inter alia*, that there is fast, easy provision of data and a reduced workload for both customs authorities and traders. Customs clearance is faster and export movements can be monitored easily. However, one customs authority observed that, although the e-Customs Initiative has improved matters for trade, these improvements are outweighed by the increased burden arising from the advent of Safety and Security declarations.

It was also examined how often customs authorities are contacted by customs authorities in other Member States for information on imports, exports and transit, apart from the automated communications of the customs IT environment (e.g. automated NCTS messages, ICS, ECS).

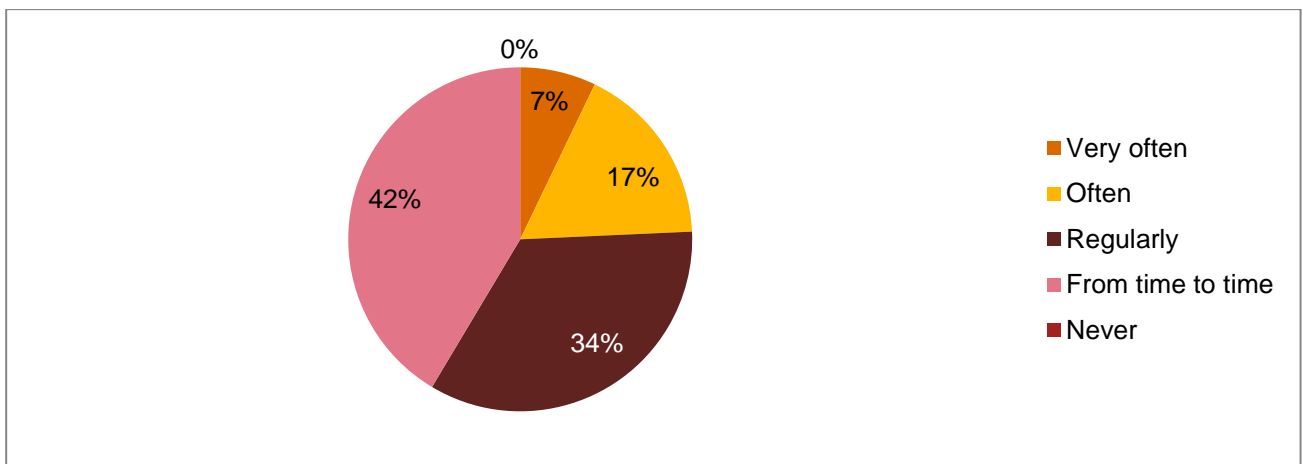


Figure 63 – Targeted customs authorities survey (question 33) – How often are customs authorities contacted by customs authorities from other Member States for information on imports, exports or transit?

Seven per cent of the customs authorities indicate that they are very often contacted by customs authorities of other Member States for information on imports, exports or transit. Seventeen per cent indicate that they are often contacted in this respect. Further, 34% of the customs authorities are contacted on a regular basis. The highest percentage of customs authorities (42%) is contacted from time to time by customs authorities of other Member States.

Customs authorities were also asked if they agree with the following statements regarding information received from customs authorities in other Member States:

- the information received is accurate and up-to-date,
- the information is provided in a timely manner.

Responses from the targeted survey for customs authorities are presented in the figure below.

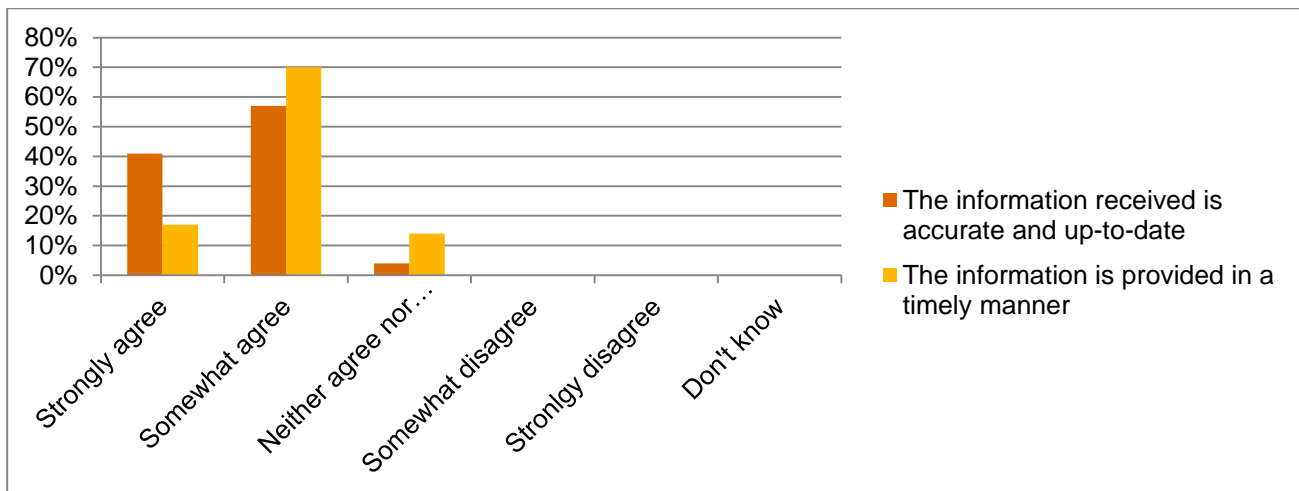


Figure 64 – Targeted customs authorities survey (question 34) – Is the information received from other customs authorities accurate and up to date and is it provided in a timely manner?

Forty-one per cent of the customs authorities strongly agree with the statement that the information received from other authorities is accurate and up to date, while 57% somewhat agree. Four per cent of the customs authorities do not agree or disagree. None of the customs authorities disagrees or doesn't know.

Seventeen per cent of the customs authorities find that the information of other customs authorities is provided in a timely manner. The majority of customs authorities (70%) somewhat agree with this statement. Fourteen per cent of the customs authorities do not agree or disagree. None of the customs authorities disagrees or doesn't know.

**In-depth interviews.** In the course of these interviews, further to the basic input on the judgment criterion, the following input was acquired that is of interest.

DG BUDG said that Member States are reluctant to adopt a single IT system: they prefer their own national systems. However, a more integrated, common approach would increase effectiveness and reduce costs.

The European Court of Auditors considers that the e-Customs Initiative had led to a decrease in the manpower needed to deal with information. The system that has been introduced allows automatic controls and checks and reduces the risk of mistakes.

#### 4.3.1.2 Findings

In general, most business stakeholders and customs authorities agree that the e-Customs Initiative has led to more streamlined, simplified processes. However, some business stakeholders do not agree with this. A small group even strongly disagree with the statement that the e-Customs Initiative has led to more streamlined, simplified processes and working procedures, thus reducing or even outweighing the positive effect of the e-Customs Initiative.

Significantly more large companies disagree with the statement that the e-Customs Initiative has led to more streamlined, simplified processes and working procedures (7% strongly disagree, 10% somewhat disagree), than

SMEs (0% strongly disagree, 5% somewhat disagree). A considerable number of SMEs cannot assess the statement because they 'don't know' (36%, compared to 22% of large companies).

Customs authorities confirm that they are often contacted by customs authorities from other Member States for information regarding imports, exports and transit. None of the customs authorities indicates that it is never contacted. This information provided is judged overall to be accurate and up to date and provided in a timely manner.

In the self-assessment study it is mentioned that many interviewees reported that difficulties encountered were in implementing the e-Customs initiatives due to uncoordinated and sometimes conflicting requirements and instructions from DG TRADE, DG HOME, OLAF etc.

According to the European Court of Auditors, the IT system introduced is beneficial for automatic controls and checks and in reducing the risk of mistakes. DG BUDG sees some opportunities for improvement, however. During the in-depth interview, it was stated that Member States are reluctant to adopt a single IT system although a more integrated, common approach would increase effectiveness and reduce costs.

#### *4.3.1.3 Judgment 5 – streamlined, simplified processes*

The majority of businesses and customs authorities are of the opinion that the e-Customs Initiative has led to more streamlined, simplified processes and working procedures. This is also confirmed in the in-depth interviews, together with the remark that a common IT system might be a step too far for some Member States as it is perceived as impinging on national discretionary powers.

### *4.3.2 Recent Policy Initiatives – Extent to which the e-Customs Initiative for the Customs Union has made electronic declarations the rule and paper-based declarations the exception*

#### *4.3.2.1 Data*

<b>Data sources</b>				
Desk research	Business	Customs authorities	Other authorities	In-depth interviews
✓	X	X	X	X

**Desk research.** The table below provides an overview of the proportion of import and export declarations filed electronically since 2009.

<b>Percentage of electronic input</b>	<b>2009</b>		<b>2010</b>		<b>2011</b>	
	Simplified procedures	Normal procedures	Simplified procedures	Normal procedures	Simplified procedures	Normal procedures
Import	97%	84%	92%	84%	99%	86%
Export	87%	86%	98%	98%	99%	98%

*Table 15 – MoR – Percentage of electronic input*

#### *4.3.2.2 Findings*

Aggregate figures from the Measurement of Results show a slight increase in electronic inputs for imports and exports.

#### **4.3.2.3 Judgment 6 – electronic declarations as a rule**

The findings show that, with regard to the declaration process, most declarations are filed electronically.

#### **4.3.3 Recent Policy Initiatives – Third conclusion (judgment 5 – judgment 6)**

The analysis shows that the e-Customs Initiative has clearly led to more streamlined, simplified procedures and processes. Furthermore, almost all declarations are filed electronically.

### **4.4 Recent Policy Initiatives – Conclusion**

The main results from the analysis and evaluation done with regard to the effects and outcomes of recent policy initiatives for the Customs Union and its stakeholders can be summarised as follows:

- The Safety and Security Amendment has led to the creation of an EU database allowing consultation of the registration numbers of all the economic operators deploying activities subject to customs legislation, it has led to the introduction of uniform risk selection criteria for controls, supported by computerised systems, and in so doing has improved the safety and security of the EU and its citizens. However, the information gathered results in a comparatively negative evaluation in terms of three factors: a significant number of companies have multiple EORI numbers, AEO-certified companies expect more facilitation and benefits, and there exists non-uniform application of common risk selection criteria.
- As regards the effects of simplified procedures, businesses are generally satisfied with the time savings resulting from incomplete declarations, simplified declarations and local clearance procedures. Simplified procedures result not only in a reduction in time spent, but also in financial savings. No significant differences were spotted between the opinions of large companies and SMEs.
- The majority of businesses and customs authorities are of the opinion that the e-Customs Initiative has led to more streamlined, simplified processes and working procedures. Large companies are somewhat more satisfied with the positive effects. The feedback on information sharing between customs authorities is positive as the information provided is judged to be accurate, up to date and timely.

Overall, it can be concluded from the analysis that, with the exception of safety and security measures, policy measures have had an overall positive effect on customs processes and procedures from the viewpoint of both business and the authorities.

### **4.5 Recent Policy Initiatives – Recommendations**

The main need is for further streamlining and alignment of measures with regard to safety and security. The processes regarding EORI numbers and the entire processes surrounding AEO are needful of attention. The expectations of businesses with respect to AEO should be managed. This may include the introduction of effective control facilitation. As it is technically possible to link the control programme to an individual risk score of an economic operator, it is recommended facilitating controls of companies with AEO status.

As simplified procedures are widely applied and clearly a necessary instrument to facilitate the good functioning of the Customs Union, the framework for applying them should be further completed and the more complex procedures should also be enabled by means of relevant (IT) procedures.

The simplification of processes and further integration of IT systems should be prioritised within the EU Customs Union to reduce administrative burden and increase competitiveness and economic growth. Implementation of the UCC may be the most appropriate legal instrument to achieve this. More concrete action is set out in case study 3 on the costs of connecting to the IT system of the customs authorities. These recommendations are:

- Use of the web-application should be further looked into to make this more attractive to business. This will have to include an upgrade of the application currently in place.

- The quality of customs software applications can be monitored to enhance customs compliance. The introduction of a quality label, or even a quality certificate, at an EU level that is required to implement the applications would level the playing field.
- To avoid multiplication of IT costs for companies, the technical specifications to connect to the IT systems of the (national) customs authorities should be harmonised.
- As for the use of reliable ERP systems, these systems should allow companies to use Entry-into-the-Records and be subject to system-based controls. These would be key simplifications. Further, access to these ERP systems could be granted to customs authorities, facilitating controls for both them and companies.

Nevertheless, as indicated above, an additional study may be desired in greater depth to determine the scope, feasibility and priority of such action.

## 5 What is the quality of the service provided by the Customs Union to its main stakeholders?

To evaluate the quality of service within the Customs Union, respondents were asked to rate their satisfaction levels with regard to a range of aspects including:

- the involvement of stakeholders in decision-making and rule-making,
- how far customs authorities' services are customer-oriented,
- the potential existence of additional customs services for AEOs,
- the existence and quality of paperless customs services and
- the competence and skill of customs officials.

This section draws on data and information from the slim and extended web-based surveys, as well as desk research, in-depth interviews, and targeted surveys of business stakeholders, customs authorities and other authorities. It was not possible to retrieve data and information on every sub-judgment criterion from each stakeholder group. Different reasons can be named for this, including a lack of reliable information in the desk research on each and every sub-judgment criterion, no specific questions included in the surveys or a lack of knowledge on the sub-judgment criterion on the part of the stakeholder group.

For sake of transparency and completeness, data sources used/not used are presented in a table for each judgment criteria.

Stakeholders were asked to assess statements regarding the quality of the service provided by the Customs Union. Where 30% or more of the business stakeholders negatively assess a certain statement, it is concluded that Customs do not perform well on the assessed statement. Where more than 35% of the business stakeholders that completed a certain questionnaire could not assess the statement because they 'did not know', the findings for that specific statement of that questionnaire are not used to draw conclusions.

Please note that numbers may not add to 100% due to rounding.

### 5.1 Do customs authorities sufficiently involve their main stakeholders in decision-making and rule-making and tell them of adjustments?

To answer this sub-evaluation question, data was gathered on the extent to which customs authorities involve other stakeholders in decision-making and rule-making.

#### 5.1.1 Quality of service – Extent to which customs authorities involve stakeholders in decision-making and rule-making

##### 5.1.1.1 Data

Data sources				
Desk research	Business	Customs authorities	Other authorities	In-depth interviews
✓	✓	✓	✓	✓

**Desk research.** In the self-assessment study,<sup>122</sup> strengths and weaknesses are identified with regard to the organisational structure and governance of the Customs Union. On one point, more specifically the involvement of traders at EU level, there are divergent views on whether it is a strength or, instead, a weakness. Some interviewees in the Member States found that the current level of involvement of traders at EU level is

<sup>122</sup> Final report on Task 2.2 – Strengths and weaknesses of the current organisation model and Final report on Task 2.3 – Options for improvement of the functioning of the Customs Union (TAXUD/R3/VDL D(2010) 433216) – 24/05/2011.

insufficient. However, the survey indicated that only seven respondents agreed with this view, and that 17 respondents disagreed.<sup>123</sup>

**Business.** As identified by national customs authorities as well as other authorities when surveyed, stakeholder platforms through which there is interaction between national customs authorities and businesses include: chambers of commerce, customs brokers associations, freight forwarding associations and logistics associations. A stakeholder platform is defined as a place of interaction between customs authorities and stakeholders (other authorities and/or businesses) to improve their mutual understanding, create trust, learn, discuss priorities and define roles for customs-related matters.

Responses from the targeted survey for customs authorities are presented in the figure below.

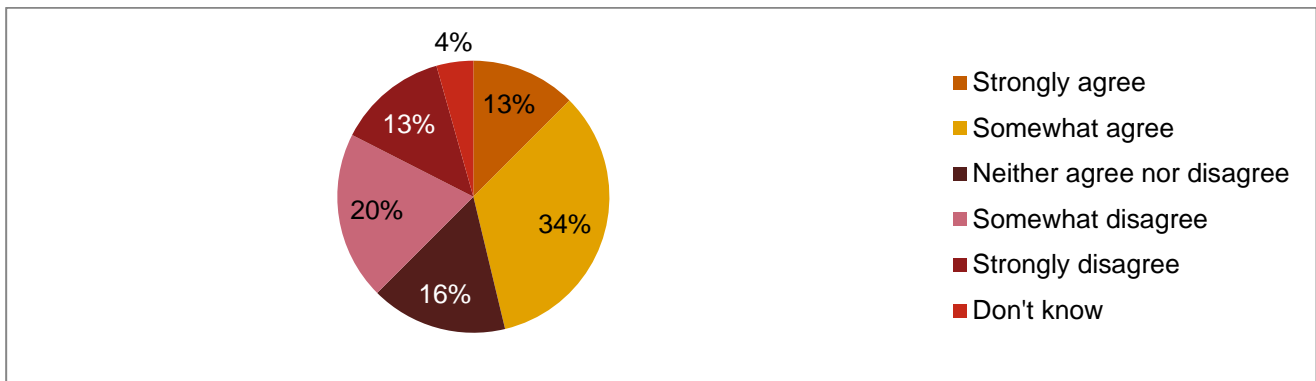


Figure 65 – Targeted business survey (question 66) – Changes in customs legislation are sufficiently publicised in advance by national customs authorities.

Thirteen per cent of the business stakeholders strongly agree that changes in customs legislation are sufficiently published in advance by national customs authorities, while 34% somewhat agree. On the other hand, 20% of the business respondents somewhat disagree, 13% strongly disagree and 16% do not agree or disagree. Four per cent of the businesses indicate that they ‘don’t know’.

Of the large companies, 11% strongly agree with the statement, 32% somewhat agree, 16% neither agree nor disagree, 25% somewhat disagree, 15% strongly disagree and 2% don’t know. Of the SMEs, 16% strongly agree, 39% somewhat agree, 18% neither agree nor disagree, 7% somewhat disagree, 9% strongly disagree and 11% don’t know.

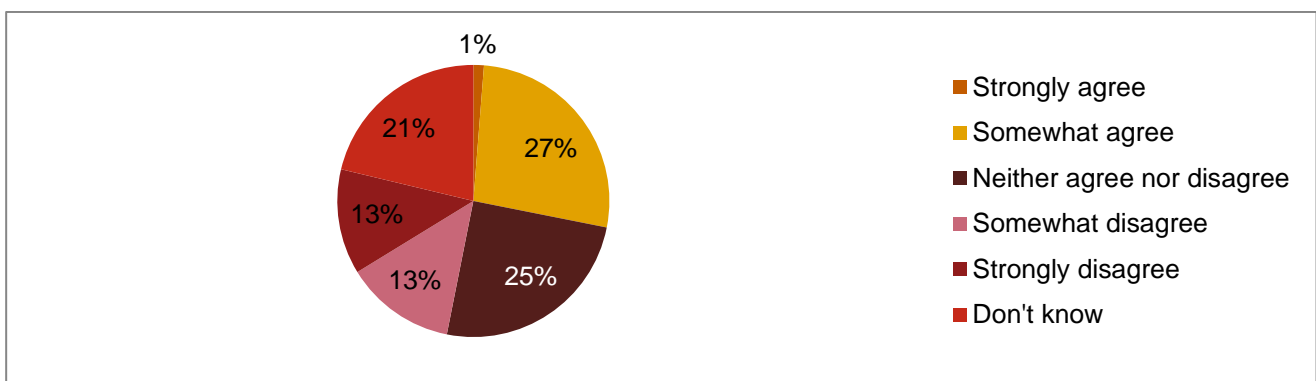


Figure 66 – Targeted business survey (question 67) – Views expressed by stakeholders are taken into account by national customs authorities



One per cent of the business stakeholders strongly agree that views expressed by stakeholders are taken into account by national customs authorities, 27% somewhat agree. On the other hand, 13% of the business respondents strongly disagree, 13% somewhat disagree and 25% do not agree or disagree. Twenty-one per cent of the businesses indicate that they don't know.

Of the large companies, 1% strongly agree, 30% somewhat agree, 27% neither agree nor disagree, 15% somewhat disagree, 14% strongly disagree and 14% don't know. Of the SMEs, 2% strongly agree, 18% somewhat agree, 20% neither agree nor disagree, 9% somewhat disagree, 9% strongly disagree and 41% don't know.

**Customs authorities.** In 22 of the 27 Member States, the national customs authorities are of the opinion that the European Commission publicises changes in rules and legislation sufficient time in advance.

In 25 of the 27 Member States, national customs authorities formally consult with local stakeholders on EU policy and legislative proposals.

**Other authorities.** In general, there are a number of different authorities that are in contact with national customs authorities, such as:

- agricultural authorities,
- environmental authorities,
- food and health authorities,
- culture authorities,
- chemicals authorities,
- animal health authorities and
- statistical authorities.

Twenty-two of the 36 other authorities surveyed agree that their national customs authorities make the necessary efforts to provide timely distribution of information regarding changes in customs legislation.

**In-depth interviews.** In the course of these interviews, further to the basic input on the judgment criterion, the following input was acquired that is of interest.

Business associations confirmed that not all views expressed by business stakeholders are taken into account by customs authorities.

One large business stakeholder located in an old Member State stated that the customs authorities in its country do their best to take account of the opinions of business stakeholders. However, they lack the internal resources needed to be able to do so to a sufficient extent.

#### *5.1.1.2 Findings*

In most Member States, stakeholder platforms exist through which national customs authorities communicate with relevant stakeholders. Communication between national customs authorities and stakeholders takes place through different mediums such as websites, email, fax, organised meetings and seminars.

Opinions vary among the three main stakeholder groups regarding satisfaction with the extent to which changes in rules and legislation are notified in advance.

- Business stakeholders are not satisfied (33%) with rule and legislation changes being notified to them in advance by national customs authorities. Especially large enterprises (40%) express dissatisfaction;
- National customs authorities are satisfied with the European Commission providing advance notification of changes in rules and legislation. Twenty-two of the 27 Member States' national customs authorities agree that the European Commission publicises legislation and changes a sufficient time in advance;
- Other authorities enjoy a high level of satisfaction regarding the advance notification of rule and legislation changes. Sixty-one per cent of the other authorities surveyed agree that their national customs authorities make the necessary efforts to provide timely distribution of information regarding changes in customs legislation.

Business stakeholders also have a different opinion on whether views expressed by stakeholders are taken into account by national customs authorities. Around one quarter (28%) agrees, whereas one quarter (26%) does not agree. One quarter (25%) neither agree nor disagree and one fifth (21%) don't know. These findings are in contrast with the fact that 25 out of 27 customs authorities indicate that they formally consult with local stakeholders on EU policy and legislative proposals. The opinion that not all views expressed by business stakeholders are taken into account by customs authorities was confirmed in the in-depth interviews with business associations.

In the self-assessment study it is mentioned that some interviewees in the Member States found that the current level of involvement of traders at EU level is insufficient. However, the survey indicated that only seven respondents agreed with this view, and that 17 respondents disagreed.<sup>124</sup>

#### *5.1.1.3 Judgment 1 – involvement of stakeholders*

See 5.1.2: Quality of service – Primary conclusion (Judgment 1)

### *5.1.2 Quality of service – Primary conclusion (Judgment 1)*

In 25 of the 27 Member States, national customs authorities formally consult with local stakeholders. In most Member States, stakeholder platforms exist through which national customs authorities consult with relevant stakeholders. Communication takes place through various media such as websites, meetings and seminars.

National customs authorities are highly satisfied with the level at which legislation changes are communicated by the European Commission to the national level. Other authorities also have a high degree of satisfaction regarding the level of communication of legislation changes from national customs authorities. By contrast to customs and other authorities, business stakeholders are somewhat less satisfied with regard to the timely publication of changes in customs legislation. Business stakeholders are furthermore dissatisfied with the fact that national customs authorities do not (and cannot) always take their views into account. National customs authorities do nevertheless consult with local stakeholders on EU policy and legislative proposals in 25 out of 27 Member States.

## **5.2 Are the services provided by customs authorities customer-oriented?**

To answer this sub-evaluation question, data was gathered and analysed on the opening hours of customs offices, how easy it is to reach the right person within customs authorities, additional clearance services and the business-orientation of the customs authorities.

### *5.2.1 Quality of service – Extent to which customs authorities adapt office hours to commercial needs*

#### *5.2.1.1 Data*

<b>Data sources</b>				
Desk research	Business	Customs authorities	Other authorities	In-depth interviews
X	✓	✓	X	X

**Business.** Results from the slim and extended web-based surveys are shown in the figures below.

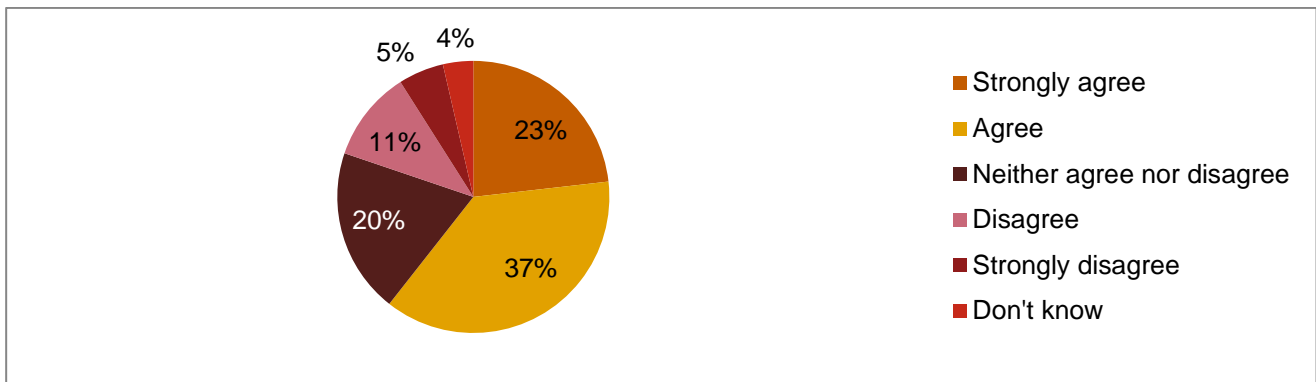


Figure 67 – Slim web-based survey (question 11.2) – Customs office opening hours match my company's needs.

For the slim web-based survey, 23% strongly agree that customs office opening hours match the respondent company's needs, 37% somewhat agree, 20% neither agree nor disagree, 11% somewhat disagree, 5% strongly disagree and 4% don't know.

Of the large companies, 23% strongly agree, 35% somewhat agree, 23% neither agree nor disagree, 10% somewhat disagree, 6% strongly disagree and 4% don't know. Of the SMEs, 23% strongly agree, 43% somewhat agree, 14% neither agree nor disagree, 12% somewhat disagree, 4% strongly disagree and 4% don't know.

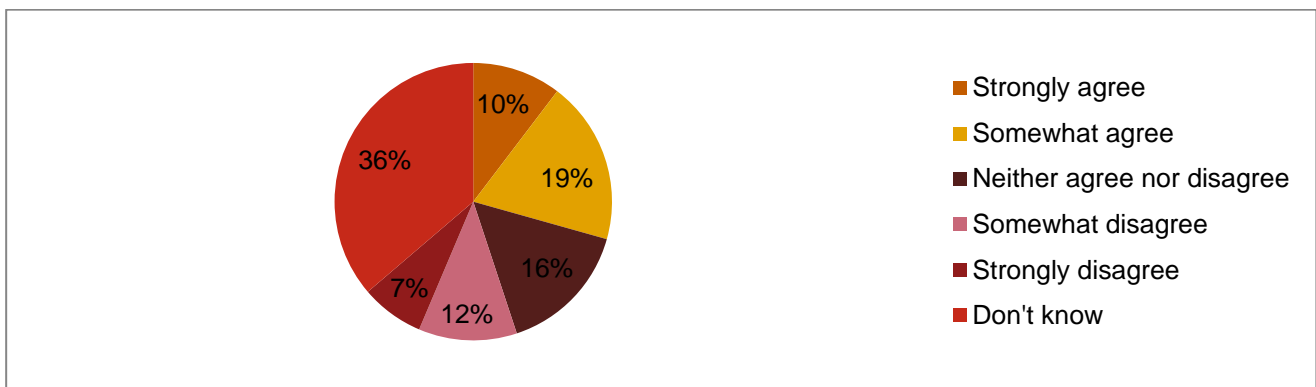


Figure 68 – Extended web-based survey (question 16) – The opening hours of customs authorities in my country match my company's needs.

For the extended web-based survey, 10% of the respondents strongly agree that opening hours of customs authorities in their country match their company's needs, 19% somewhat agree, 16% neither agree nor disagree, 12% somewhat disagree, 7% strongly disagree and 36% don't know.

Of the large companies, 9% strongly agree, 19% somewhat agree, 16% neither agree nor disagree, 9% somewhat disagree, 6% strongly disagree and 41% don't know. Of the SMEs, 15% strongly agree, 20% somewhat agree, 14% neither agree nor disagree, 17% somewhat disagree, 10% strongly disagree and 24% don't know.

Of the companies active in the transport and logistics sector, 10% strongly agree, 18% somewhat agree, 16% neither agree nor disagree, 8% somewhat disagree, 11% strongly disagree and 37% don't know. Of the companies active in other sectors, 11% strongly agree, 21% somewhat agree, 12% neither agree nor disagree, 16% somewhat disagree, 3% strongly disagree and 37% don't know.

**Customs authorities.** Office hours for inland and border customs offices differ in all Member States. The results from the targeted customs authorities' survey are shown in the figure below. Border offices are generally open 24/7.

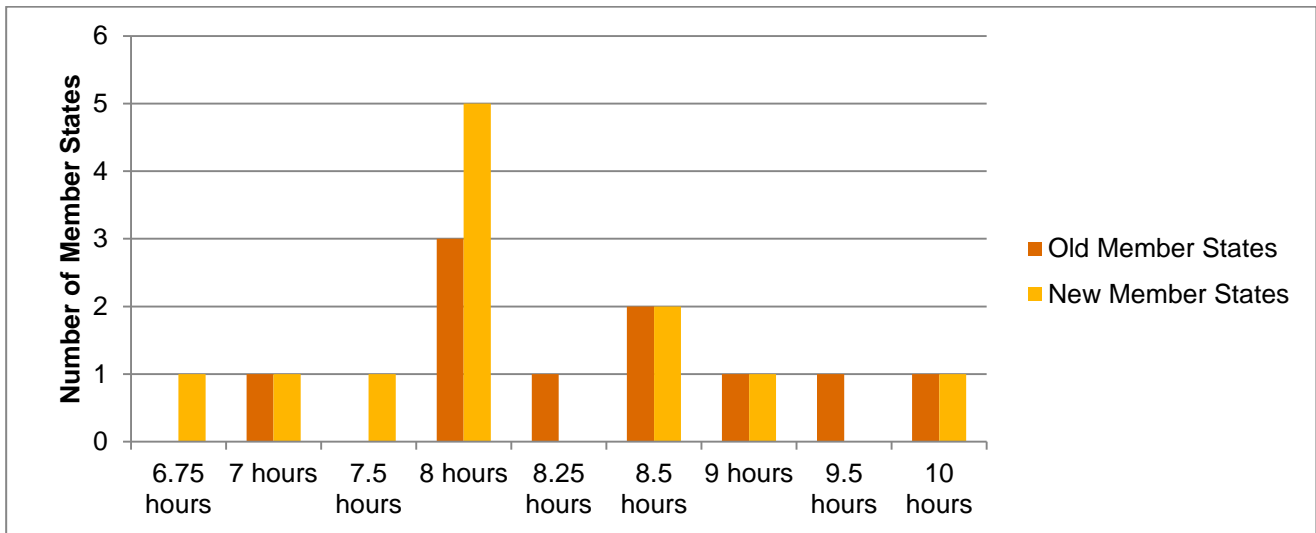


Figure 69 – Targeted customs authorities survey (question 22a) – Opening hours of inland customs offices per day.

Of the 22 customs authorities that responded to the question on the daily opening hours of inland customs offices, three in 'old' Member States and five in 'new' Member States indicate that they are open eight hours a day. In four Member States (two 'old' and two 'new'), office opening hours are 8.5 hours a day. Offices are said to be open for seven hours, nine hours and ten hours a day by a customs authority in both an 'old' Member State and one in a 'new' Member State. Further, offices are said to open for 6.75 hours and 7.5 hours by a customs authority in a 'new' Member State, while opening hours of 8.25 hours and 9.5 hours are indicated by an authority in an 'old' Member State.

#### 5.2.1.2 Findings

The slim web-based survey has high rates of businesses that both strongly agree (23%) and agree (37%) that the opening hours of customs authorities match company needs. However, some respondents are negative about Customs' opening hours (11% disagree and 5% strongly disagree that opening hours match company needs). Overall, somewhat more SMEs (66%) are satisfied with opening hours than large companies (58%). According to the slim web-based survey, companies in the transport and logistics sector are less positive than those in other sectors.

More than 35% of the respondents to the extended web-based survey indicate that they 'don't know'. Therefore, the extended web-based survey is excluded from this analysis.

Some business stakeholders find that there should be an extension of national customs authorities' opening hours. According to them, national customs authorities in certain Member States should not reduce their working hours during the summer months. Those in the transport and logistics sector favour 24/7 opening hours.

Inland customs offices are open from morning until evening in accordance with regular office hours, while border customs offices tend to be open 24 hours, seven days a week.

#### 5.2.1.3 Judgment 2 – opening hours of customs

Overall, current opening hours of customs authorities are seen as customer-oriented. However, some stakeholders indicate that they would prefer opening hours to be extended to enable 24/7 customs clearance.

This is especially the case for companies in the transport and logistics sector. Such extension should of course be carefully evaluated and linked to the activities for which the customs offices in question are responsible.

## 5.2.2 Quality of service – Extent to which customs can easily be reached by businesses

### 5.2.2.1 Data

Data sources				
Desk research	Business	Customs authorities	Other authorities	In-depth interviews
X	✓	✓	X	X

**Business.** Results from the slim web-based survey and the extended web-based survey on how easy it is to get in contact with the right person at the respondent’s national customs authority are shown in the figures below.

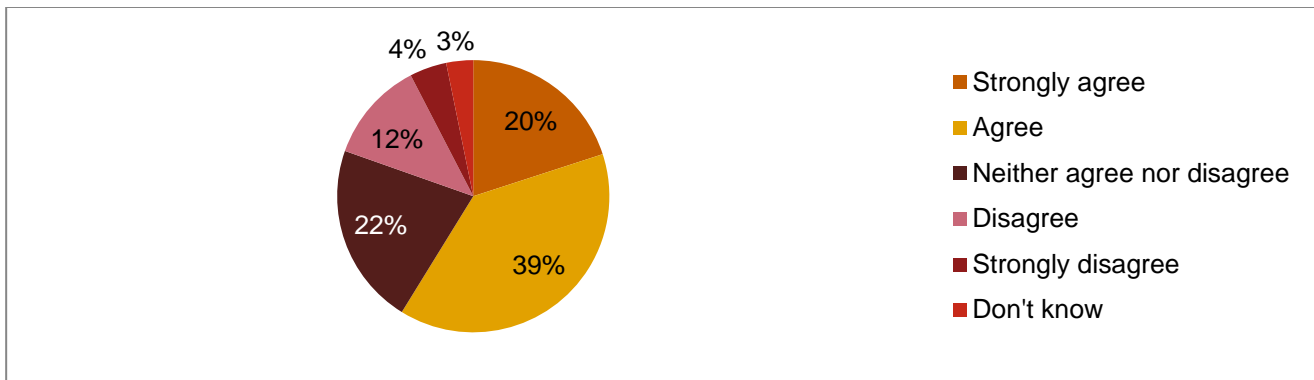


Figure 70 – Slim web-based survey (question 11.1) – It is easy to get in contact with the right person at the national customs authority

For the slim web-based survey, 20% of the business stakeholders strongly agree that it is easy to get in contact with the right person at the national customs authority. Thirty-nine per cent of the business stakeholders agree, 22% neither agree nor disagree, 12% disagree, 4% strongly disagree and 3% don't know.

Of the large companies, 21% strongly agree, 39% agree, 22% neither agree nor disagree, 11% disagree, 4% strongly disagree and 4% don't know. Of the SMEs, 18% strongly agree, 28% agree, 22% neither agree nor disagree, 15% disagree, 5% strongly disagree and 2% don't know.

Of the companies in the transport and logistics sector, 14% strongly agree, 34% agree, 29% neither agree nor disagree, 17% disagree, 5% strongly disagree and 0% don't know. Of the companies active in other sectors, 21% strongly agree, 40% agree, 20% neither agree nor disagree, 11% disagree, 4% strongly disagree and 4% don't know.

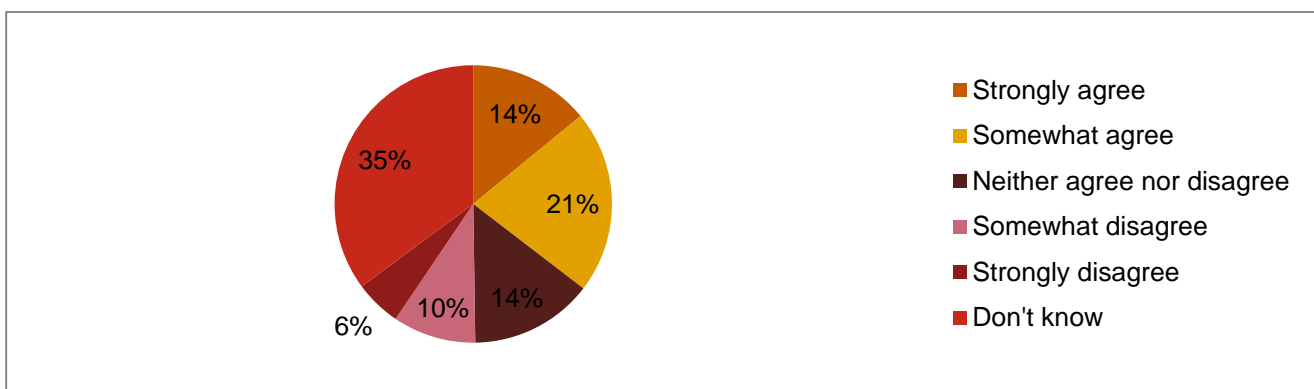


Figure 71 – Extended web-based survey (question 15) – It is easy to get in contact with the right person at the customs authorities in my country

For the extended web-based survey, 14% of the business stakeholders strongly agree, 21% somewhat agree, 14% neither agree nor disagree, 10% somewhat disagree 6% strongly disagree and 35% don't know.

Of the large companies, 13% strongly agree with the statement, 20% somewhat agree, 13% neither agree nor disagree, 7% somewhat disagree, 5% strongly disagree and 42% don't know. Of the SMEs, 16% strongly agree, 26% somewhat agree, 17% neither agree nor disagree, 16% somewhat disagree, 6% strongly disagree and 19% don't know.

Of the companies active in the transport and logistics sector, 10% strongly agree, 20% somewhat agree, 17% neither agree nor disagree, 8% somewhat disagree 6% strongly disagree and 39% don't know. Of the companies active in other sectors, 19% strongly agree, 23% somewhat agree, 12% neither agree nor disagree, 12% somewhat disagree 2% strongly disagree and 32% don't know.

**Customs authorities.** There are a range of means by which national customs authorities are reachable, including website, phone, fax, general email address, personal email addresses, hotline, drop box and ordinary mail.

Five Member States indicate that in-house customs services are available. Nineteen Member States indicate that this is not the case and three Member States did not provide an answer to this question. In-house customs services consist of a customs official being permanently located at the company's premises.

#### 5.2.2.2 Findings

The majority of business stakeholders think it is easy to get in contact with the right person at the customs authorities. There are, however, differences in opinion as to whether it is easy to get in contact with the right person at the customs authority depending on company size and sector. Based on the extended web-based survey, it can be concluded that respondents from large companies are more positive on the ease of getting in contact with the right person compared to SME respondents. Respondents from the transport and logistics sector are somewhat less positive compared to respondents from other sectors.

Customs authorities confirm that there are indeed a range of means by which national customs authorities are reachable, including website, phone, fax, general email address, personal email addresses, hotline, drop box and ordinary mail.

Considering the control philosophy (administrative control) and the simplifications currently offered in-house, customs services can be seen as not required/wished for in 19 of the Member States.

#### 5.2.2.3 Judgment 3 – ease of contacting the right person

Based on the above, it can be concluded that there is a high quality of service as regards the ease with which customs authorities can be reached. Large companies are especially positive about the ease with which they can reach the right person within the customs authorities.

### 5.2.3 Quality of service – Extent to which additional customs services related to clearance are adapted to the needs of businesses

#### 5.2.3.1 Data

Data sources				
Desk research	Business	Customs authorities	Other authorities	In-depth interviews
X	X	✓	X	X

**Customs authorities.** The following facilitation services were reported:

- Thirteen of the 27 Member States allow goods to be declared before arrival.
- Consignments can be cleared 24 hours a day in 22 of the 27 Member States.
- Twenty-one of the 27 Member States allow documents relevant to customs declarations to be in English.

#### 5.2.3.2 Findings

Although supporting documents can be provided in other languages (including English), it was stated that official translations into the relevant national language can be requested. Although not confirmed, it may be assumed that such requests can be made in each Member State.

#### 5.2.3.3 Judgment 4 – additional customs services

Customs clearance on a 24/7 basis does not appear to be possible in all Member States, where the indication is that this is a pre-requisite for border offices. Declaring goods before arrival is possible in about half of the Member States; however no clear conclusion can be reached in this respect as this data cannot be triangulated and there is a clear risk of divergent interpretations on what ‘prior to arrival’ means.

Overall, there tends to be a sufficient quality of service throughout the Customs Union relative to the extent to which additional customs services related to clearance are adapted to the needs of businesses.

### 5.2.4 Quality of service – Extent to which existing communication and information is adapted to the needs of businesses

#### 5.2.4.1 Data

Data sources				
Desk research	Business	Customs authorities	Other authorities	In-depth interviews
X	✓	✓	✓	✓

**Business.** Responses from the slim and extended web-based survey are presented in the figures below.

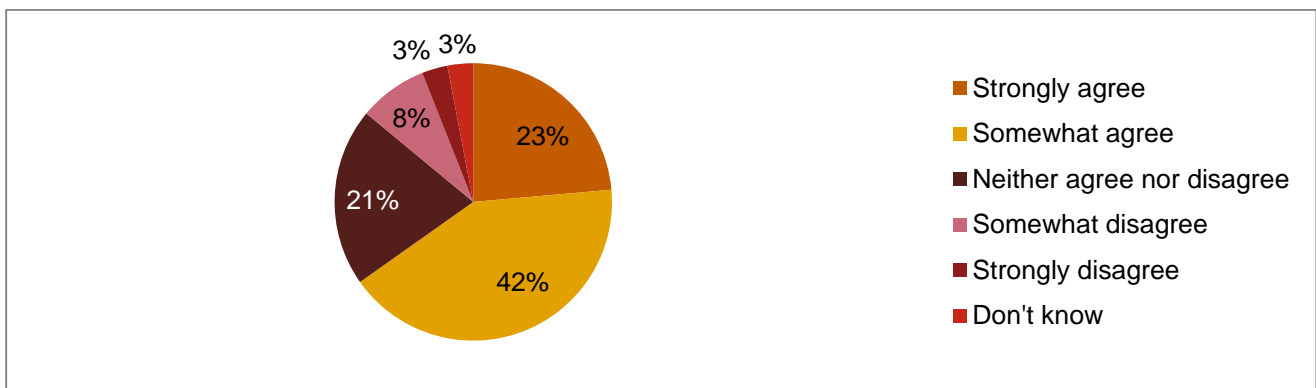


Figure 72 – Slim web-based survey (question 11.5) – The information provided by the customs authorities in my country is easy to access when I need it

Of the business stakeholders that responded to the slim web-based survey, 23% strongly agree that the information provided by the customs authorities in their country is easy to access when they need it, 42% somewhat agree, 21% neither agree nor disagree, 8% somewhat disagree, 3% strongly disagree and 3% don't know.

Of the large companies, 25% strongly agree, 39% somewhat agree, 22% neither agree nor disagree, 8% somewhat disagree, 3% strongly disagree and 3% don't know. Of the SMEs, 22% strongly agree, 46% somewhat agree, 19% neither agree nor disagree, 9% somewhat disagree, 2% strongly disagree and 2% don't know.

Of the companies active in the transport and logistics sector, 28% strongly agree, 39% somewhat agree, 24% neither agree nor disagree, 7% somewhat disagree, 3% strongly disagree and 0% don't know. Of the companies active in the other sectors, 23% strongly agree, 42% somewhat agree, 20% neither agree nor disagree, 8% somewhat disagree, 3% strongly disagree and 4% don't know.

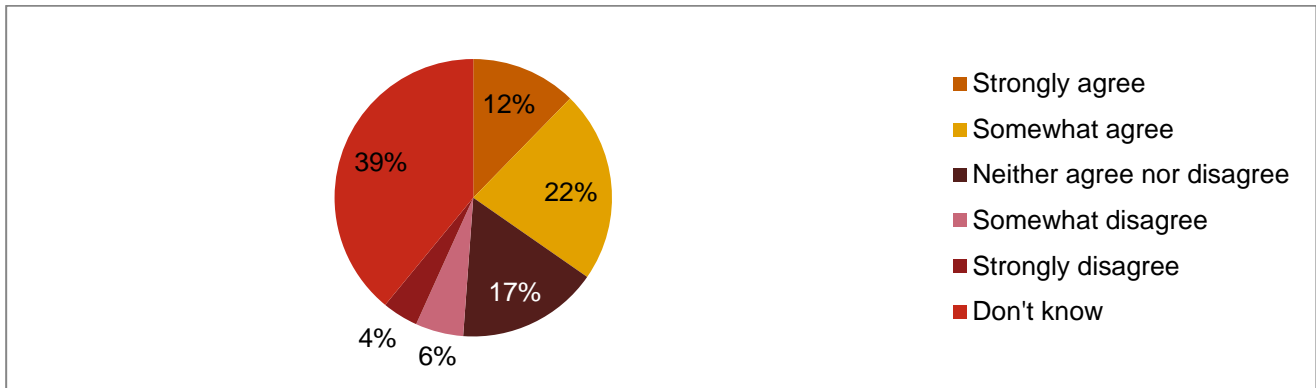


Figure 73 – Extended web-based survey (question 19) – The information provided by the customs authorities in my country is easy to access when I need it

Of the business stakeholders that responded to the extended web-based survey, 12% strongly agree that the information provided by the customs authorities in their country is easy to access when they need it, 22% somewhat agree, 17% neither agree nor disagree, 6% somewhat disagree, 4% strongly disagree and 39% don't know.

Of the large companies, 13% strongly agree, 20% somewhat agree, 12% neither agree nor disagree, 4% somewhat disagree, 2% strongly disagree and 49% don't know. Of the SMEs, 12% strongly agree, 29% somewhat agree, 27% neither agree nor disagree, 9% somewhat disagree, 8% strongly disagree and 15% don't know.

Of the companies active in the transport and logistics sector, 10% strongly agree, 17% somewhat agree, 18% neither agree nor disagree, 6% somewhat disagree, 5% strongly disagree and 44% don't know. Of the companies active in the other sectors, 16% strongly agree, 29% somewhat agree, 11% neither agree nor disagree, 6% somewhat disagree, 3% strongly disagree and 35% don't know.

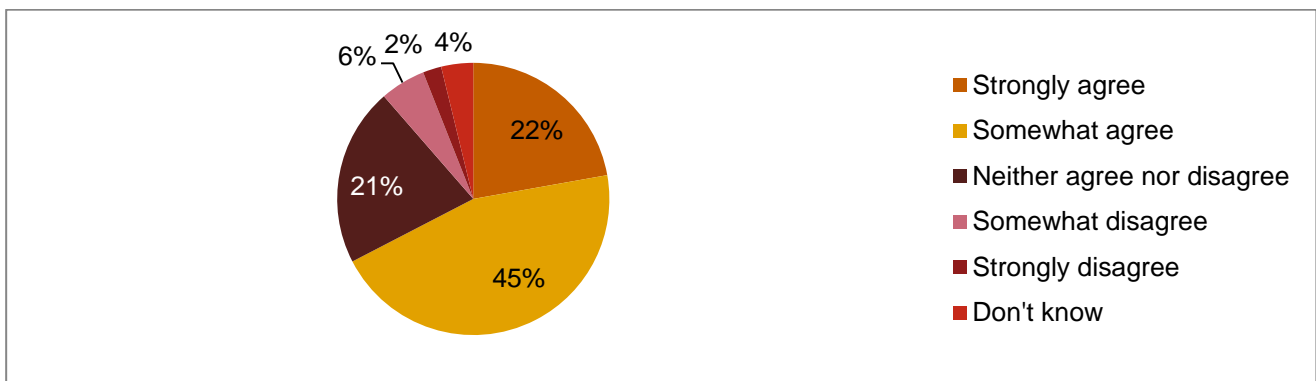


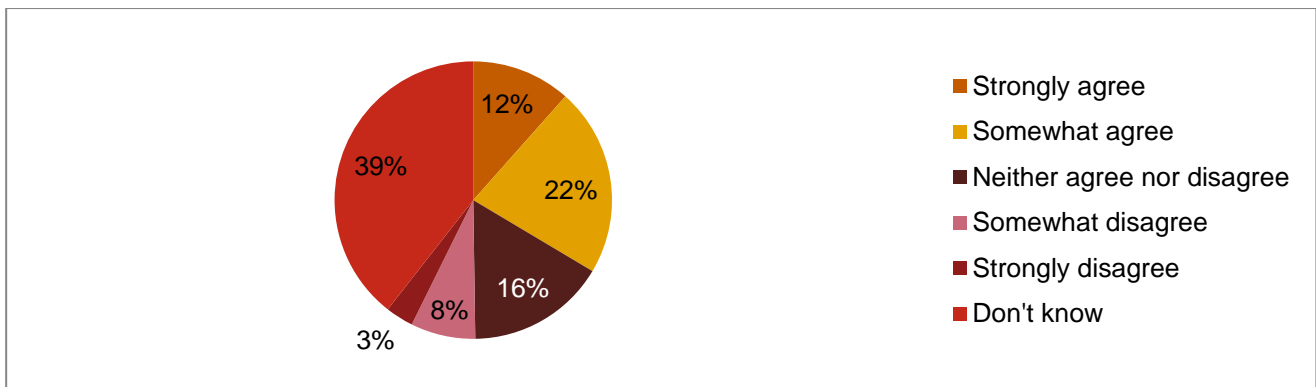
Figure 74 – Slim web-based survey (question 15.4) – The information provided by the customs authorities in my country is relevant to my needs



Of the business stakeholders that responded to the slim web-based survey, 22% strongly agree with the statement that the information provided by the customs authorities in their country is relevant to their needs, 45% somewhat agree, 21% neither agree nor disagree, 6% somewhat disagree, 2% strongly disagree and 4% don't know.

Of the large companies, 22% strongly agree, 42% somewhat agree, 24% neither agree nor disagree, 6% somewhat disagree, 2% strongly disagree and 4% don't know. Of the SMEs, 23% strongly agree, 51% somewhat agree, 16% neither agree nor disagree, 4% somewhat disagree, 2% strongly disagree and 4% don't know.

Of the companies active in the transport and logistics sector, 26% strongly agree, 45% somewhat agree, 21% neither agree nor disagree, 4% somewhat disagree, 3% strongly disagree and 1% don't know. Of the companies active in the other sectors, 21% strongly agree, 45% somewhat agree, 21% neither agree nor disagree, 6% somewhat disagree, 2% strongly disagree and 4% don't know.



*Figure 75 – Extended web-based survey (question 18) – The information provided by the customs authorities in my country is relevant to my needs*

Of the business stakeholders that responded to the extended web-based survey, 12% strongly agree that the information provided by the customs authorities in their country is relevant to their needs, 22% somewhat agree, 16% neither agree nor disagree, 8% somewhat disagree, 3% strongly disagree and 39% don't know.

Of the large companies, 12% strongly agree, 18% somewhat agree, 14% neither agree nor disagree, 4% somewhat disagree, 3% strongly disagree and 49% don't know. Of the SMEs, 11% strongly agree, 32% somewhat agree, 21% neither agree nor disagree, 17% somewhat disagree, 4% strongly disagree and 15% don't know.

Of the companies active in the transport and logistics sector, 10% strongly agree, 16% somewhat agree, 20% neither agree nor disagree, 9% somewhat disagree, 1% strongly disagree and 44% don't know. Of the companies active in the other sectors, 14% strongly agree, 29% somewhat agree, 13% neither agree nor disagree, 7% somewhat disagree, 2% strongly disagree and 35% don't know.

**Customs authorities.** The targeted customs authorities' survey shows that Member States have different lead times between publication in the Official Journal and communication at national level. Please note that not all national customs authorities provided answers to this survey question. A 'none' answer means that there is no lead time between publications in the Official Journal and communication at national level.

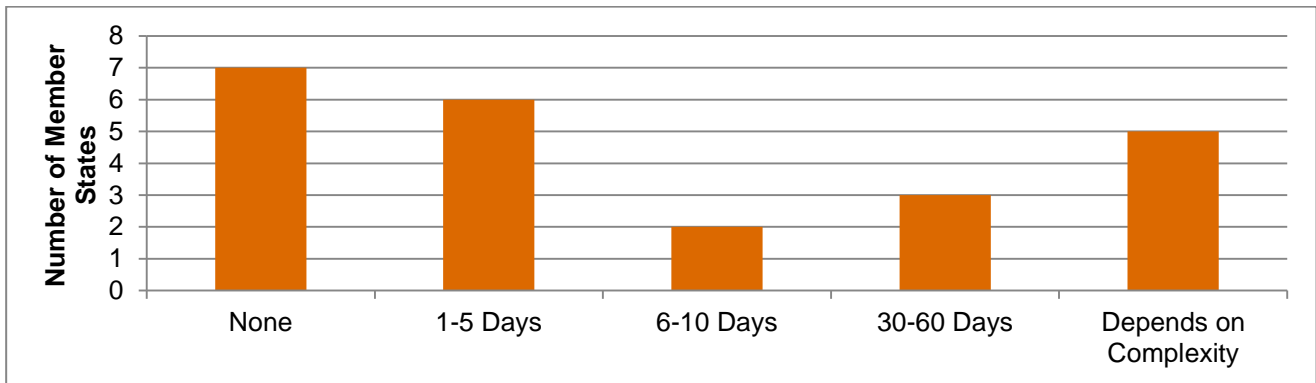


Figure 76 – Targeted customs authorities survey (question 18) – Lead time per Member State between publications in the Official Journal and communication at national level

Of the 23 customs authorities that responded, seven indicate that there is no lead time in their Member State between publication in the Official Journal and communication at national level. Six state that communication at national level takes place within one to five days after publication in the Official Journal. Two indicate the lead time as being between six and ten days and three other customs authorities put it at between 30 and 60 days. In five Member States, lead time depends on the complexity of the regulation.

With regard to EU customs policy and legislative changes, 20 of the 27 Member States have a communication strategy to actively translate EU customs policy and legislation into national communication campaigns.

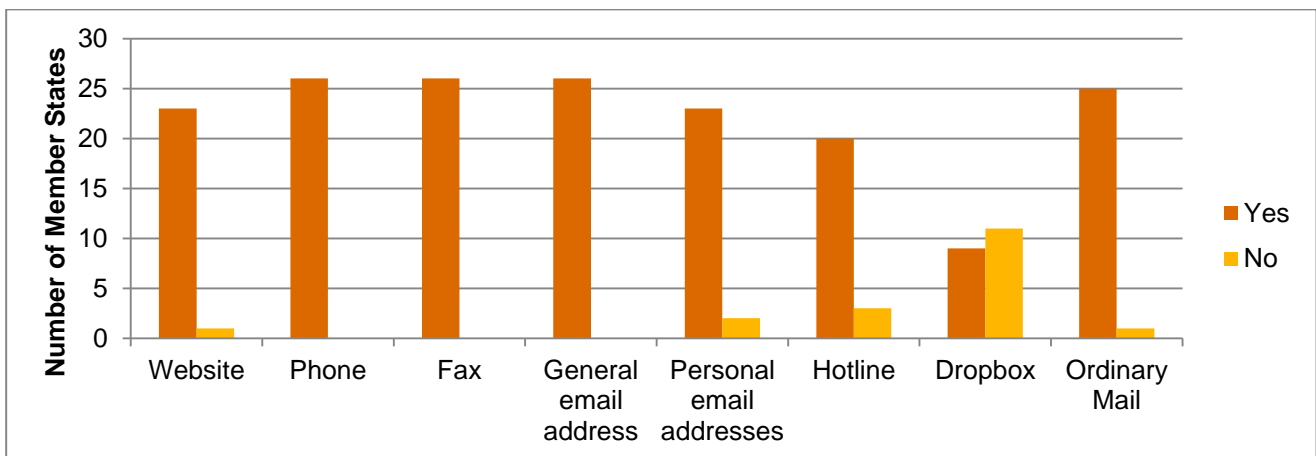


Figure 77 – Targeted customs authorities survey (question 20) – Communication channels offered by national customs authorities

Twenty-six national customs authorities indicate that they offer phone and fax numbers and general e-mail address as communication channels in their Member States. In 25 Member States, ordinary mail can be used as a communication channel with the customs authorities. Twenty-three customs authorities also indicate that they have a website and a personal e-mail address. The use of a drop box as a communication channel is less prevalent (nine Member States), whereby 11 customs authorities indicate that a drop box is not offered as a communication channel. Hotline and personal e-mail address are not used by three and two customs authorities respectively. Website and ordinary mail are not communication channels in one Member State.

In addition to the most common channels of communication shown in the above chart, a number of Member States offer other communication channels such as newsletters, media coverage (including press, television and other internet sources), consultation with trade associations, targeted seminars, meetings with traders and personal contacts.

**Other authorities.** The most commonly used communication channels between other authorities and national customs authorities are depicted below.

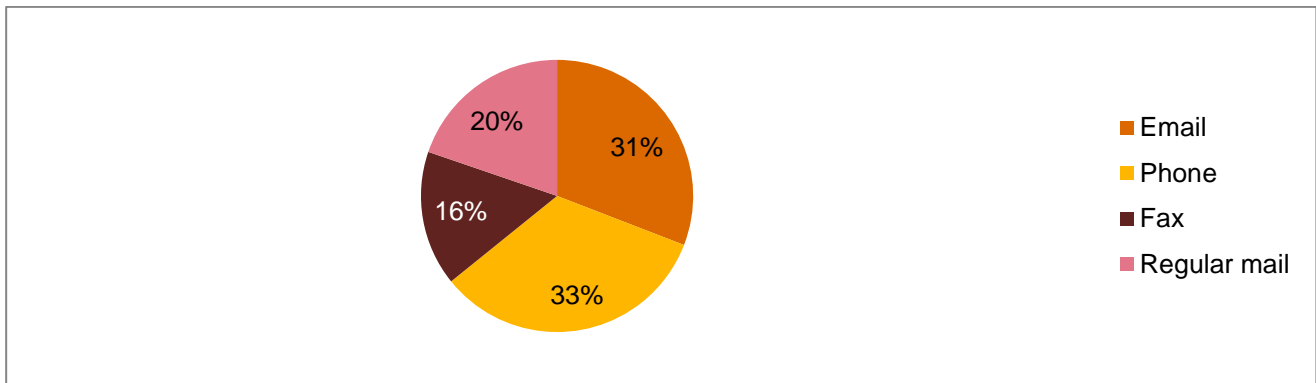


Figure 78 – Targeted survey for other authorities (question 9) – Channels used by other authorities to communicate with national customs authorities

Thirty-one per cent of the other authorities indicate that e-mail is used as a channel to communicate with the national customs authorities, 33% indicate the phone as channel. The fax is used by 16% of the other authorities. Twenty per cent of the other authorities use regular mail as a communication channel.

In addition to this, other authorities are also in contact with their national customs authorities through personal contacts, meetings and letters.

Other authorities were also asked whether they are satisfied with the quality of information and communication from customs authorities given the parameters of customer-orientation, reliability of information and communication, accuracy of communication and timely communication. The results are shown in the figure below.

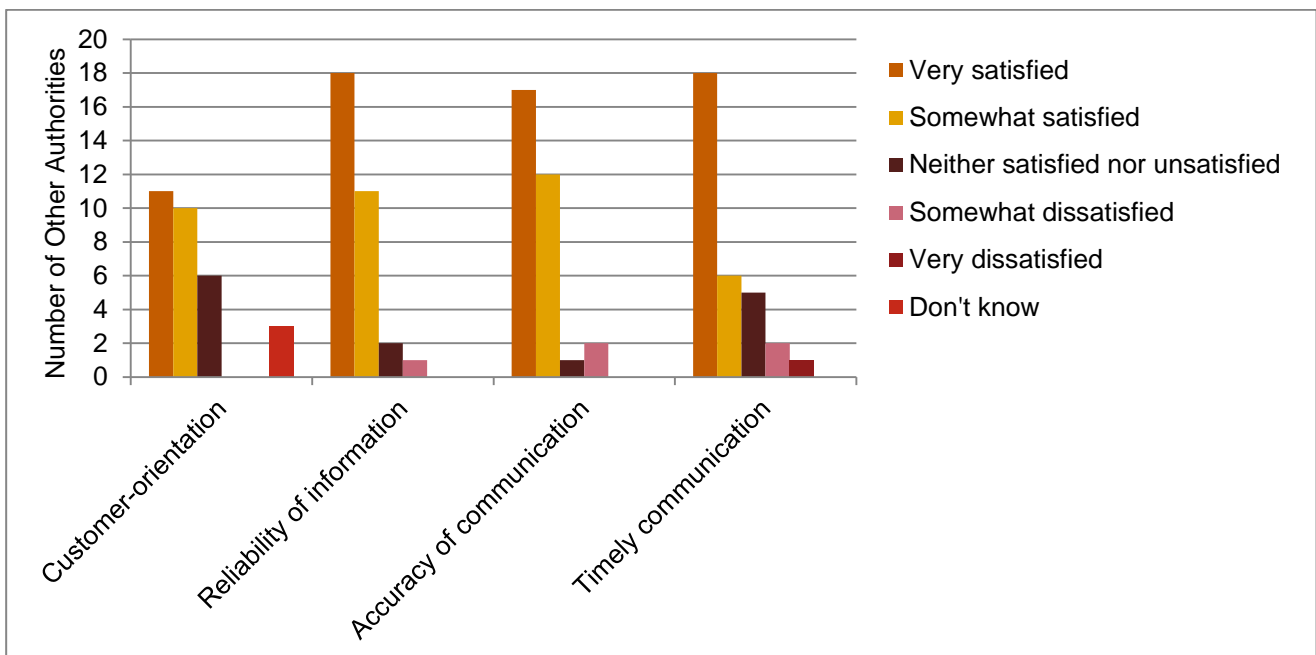


Figure 79 – Targeted survey for other authorities (question 10) – Satisfaction levels with quality of information and communication from customs authorities given the parameters of: customer-orientation; reliability of information and communication; accuracy of communication; and timely communication

Eleven other authorities are very satisfied with the quality of information and communication from the customs authorities in respect of customer-orientation, while ten are somewhat satisfied. Nine other authorities do not state an opinion (don't know) or are undecided ('neither satisfied nor unsatisfied').

Eighteen other authorities are very satisfied with the reliability of the information of the customs authorities, 11 are somewhat satisfied. On the other hand, one other authority is somewhat dissatisfied. Two other authorities are neither satisfied nor unsatisfied. Seventeen other authorities are very satisfied with the accuracy of the communication with the customs authorities, 12 are somewhat satisfied. On the other hand, two other authorities are somewhat dissatisfied. One other authority is neither satisfied nor unsatisfied.

Eighteen other authorities indicate that they are very satisfied with the timeliness of communications from the customs authorities, six are somewhat satisfied. On the other hand, one other authority is very dissatisfied with the timeliness of communication and two authorities are somewhat dissatisfied. Five other authorities are neither satisfied nor unsatisfied.

**In-depth interviews.** In the course of these interviews, further to the basic input on the judgment criterion, the following input was acquired that is of interest.

Comments from in-depth interviews with business stakeholders and interviewees of EU institutions reveal the opinion that development within the Customs Union and the Member States is taking place in an uncoordinated way.

#### *5.2.4.2 Findings*

The majority of the respondents to the slim web-based survey either “strongly agree” or “somewhat agree” that the information provided by national customs authorities is easy to access when needed as well as relevant for their needs. Given the level of disagreement (somewhat disagree/strongly disagree), it can be concluded that business stakeholders are satisfied overall with both statements.

As regards ease of accessibility of information from customs authorities, the same proportions of large companies and SMEs as well as of companies in the transport and logistics sector and other sectors do not agree with the statement. Furthermore, no significant differences are observed in the proportion of companies agreeing with the statement.

SMEs are more likely than large companies to agree to a certain extent that information provided by customs authorities is relevant to their needs. Respondents from the transport and logistics sector are more positive on this statement than those from other sectors.

The other authorities are (very) satisfied with regard to the quality of communication with national customs authorities on the following aspects: customer-orientation, reliability of information, accuracy of communication and timely communication. From the targeted customs authorities’ survey, it is clear, however, that lead times between publications in the Official Journal and communication at national level differ considerably between Member States.

Overall, both business stakeholders and other authorities are satisfied with the existing communication and information. However, in-depth interviews revealed that the timing and implementation of different decisions is not uniform throughout the Customs Union, which, as a consequence, lowers the overall level of quality of service within the Customs Union.

#### *5.2.4.3 Judgment 5 – communication and information*

Although many business respondents are unable to indicate their opinion clearly, it can be concluded that, overall, stakeholders believe that existing communication and information from customs authorities is adapted to their needs, the latter being more true for the other authorities.

#### *5.2.5 Quality of service – Second conclusion (Judgment 2 – judgment 5)*

Overall, it can be concluded that Customs work in a very customer-oriented way. Positive feedback from business stakeholders and other authorities was gathered on topics such as opening hours, reachability, provision of information and communication. The areas where the highest level of disagreement exists among

business stakeholders relate to the ease of getting in touch with the right person at the customs authority and the suitability of opening hours. SMEs appear to have a harder time getting in touch with the right person at customs authorities than large companies. This may reflect the need for better signposting or support for this group. Furthermore, feedback from the transport and logistics sector may also need additional attention. On a number of the aspects discussed in this part of the report, this group of businesses has a specific interest in view of their functions and operations. All types of companies are satisfied with the accessibility and relevance of information.

### 5.3 Do customs authorities provide an additional quality service for businesses with an AEO certificate?

To answer this sub-evaluation question, it is examined whether there is a differentiated quality of service for AEO-certified companies.

#### 5.3.1 Quality of service – Extent to which companies with AEO status receive a differentiated quality of service from customs authorities

##### 5.3.1.1 Data

Data sources				
Desk research	Business	Customs authorities	Other authorities	In-depth interviews
✓	✓	✓	X	✓

**Desk research.** In the self-assessment study,<sup>125</sup> strengths are identified with regard to the organisational structure and governance of the Customs Union. One of the strengths identified is the helpdesk for AEO-related questions. *“Some interviewees in the study found that setting up an operational helpdesk at EU level to assist Member States with operational questions regarding AEO certification was a good example of a best practice in terms of efficiency. The helpdesk allowed the authorities in the Member States to get feedback on any question in a timely manner.”*

**Business.** Respondent business stakeholders with AEO status list a range of different customs services offered to them:

- simplified permissions,
- fast customs declaration service,
- fast clearance,
- minimum control,
- reduced bank guarantees,
- simplified procedures and
- enhanced relationships and contacts with national customs authorities.

Although respondent business stakeholders with AEO status are satisfied with these extra facilities, a number of respondents state that, in their experience, having AEO status does not bring any significant advantages. One particular respondent with AEO status even stated that the status brings more prestige than actual benefits, and another stated that it resulted in greater controls and more audits from the customs authorities.

**Customs authorities.** Three of the 27 Member State national customs authorities have longer opening hours for companies with AEO status.

Thirteen of the 27 Member States have special communication channels for companies with AEO status.

<sup>125</sup> Final report on Task 2.2 – Strengths and weaknesses of the current organisation model and Final report on Task 2.3 – Options for improvement of the functioning of the Customs Union (TAXUD/R3/VDL D(2010) 433216) – 24/05/2011.

The customs authorities surveyed list the following range of additional customs services offered to companies with AEO status:

- fewer controls,
- priority at controls,
- simplifications,
- choice of place of controls,
- guarantee waiver,
- receipt of newsletters,
- appointed contact officer,
- AEO status is taken into account in risk assessments.

**In-depth interviews.** In the course of these interviews, further to the basic input on the judgment criterion, the following input was acquired that is of interest.

The in-depth interviews provide results that differ from the web-based survey with regard to the question of whether AEO status does actually reduce controls. Whereas one interviewee stated that the number of controls is no different to before obtaining AEO status, another feels the company has become a target for customs authority controls since it became AEO certified. The fact that the risk analysis is now increasingly streamlined and automated means that companies' risk scores (depending on, say, type of goods, and provenance of shipment) may actually render them more susceptible to controls than in the past.

When interviewed, one large business stakeholder located in an old Member State stressed the following advantages of having AEO status:

- no audit in other Member States requested to participate in SASP because the company is AEO certified,
- lower bank guarantees (or even none needed at all).

#### *5.3.1.2 Findings*

Different Member States have different additional services in place (which mainly relate to advantages provided for in the AEO policy). Some interviewees in the self-assessment study found that setting up an operational helpdesk at EU level to assist the Member States with operational questions regarding AEO certification was a good example of a best practice in terms of efficiency. The helpdesk allowed the authorities in the Member States to get feedback on any question in a timely manner.

However, when interviewees were questioned in detail, some of them expressed a much lower level of satisfaction with the benefits resulting from AEO status (in line with the comments made on AEO in the chapter on policy).

Each source of information (the various surveys and in-depth interviews) mentions the same additional services for companies with AEO status. The additional services mainly relate to those AEO advantages that are provided for under the legislation.

#### *5.3.1.3 Judgment 6 – differentiated quality of service for AEO-certified companies*

See 5.3.2: Quality of service – Third conclusion (Judgment 6).

### *5.3.2 Quality of service – Third conclusion (Judgment 6)*

Only minor additional services tend to exist for AEO-certified companies besides those provided for in the EU's legislation. Although a majority of business stakeholders with AEO status are relatively satisfied with these additional services, the benefits experienced in practice are perceived to be limited. By contrast, some companies even feel they are targeted by the customs authorities and more controls are carried out now they are AEO-certified.

## 5.4 Do customs authorities sufficiently support a paperless customs environment?

To draw conclusions on whether customs authorities sufficiently support a paperless customs environment, an evaluation was done of the availability of paperless customs systems, their use by business and the assessment of these systems.

### 5.4.1 Quality of service – Extent to which paperless customs services are available

#### 5.4.1.1 Data

Data sources				
Desk research	Business	Customs authorities	Other authorities	In-depth interviews
X	✓	X	X	X

**Business.** Results with regard to the opinions of business stakeholders on the functionality of submitting full electronic declarations are shown in the figures below.

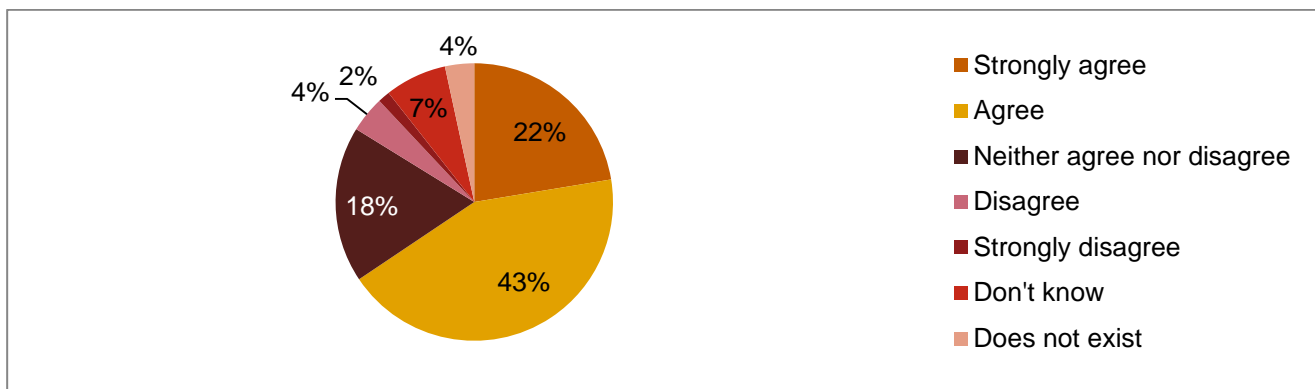


Figure 80 – Slim web-based business survey (question 13.1) – Satisfaction with the functionality of full electronic declarations

For the slim web-based survey, 22% of the business stakeholders strongly agree with the statement of satisfaction with the functionality of full electronic declarations, while 43% agree. Two per cent of the businesses strongly disagree, 4% disagree and 18% do not agree or disagree with the statement. Seven per cent of the businesses ‘don’t know’ and 4% indicate that full electronic declarations do not exist.

Of the large companies, 21% strongly agree, 44% agree, 20% neither agree nor disagree, 4% disagree, 2% strongly disagree, 7% don’t know and 3% indicate that full electronic declarations do not exist. Of the SMEs, 25% strongly agree, 43% agree, 16% neither agree nor disagree, 4% disagree, 1% strongly disagree, 7% don’t know and 5% indicate that full electronic declarations do not exist.

Of the companies active in the transport and logistics sector, 29% strongly agree, 46% agree, 12% neither agree nor disagree, 5% disagree, 4% strongly disagree, 1% don’t know and 3% indicate that full electronic declarations do not exist. Of the companies active in other sectors, 21% strongly agree, 43% agree, 19% neither agree nor disagree, 4% disagree, 1% strongly disagree, 8% don’t know and 4% indicate that full electronic declarations do not exist.

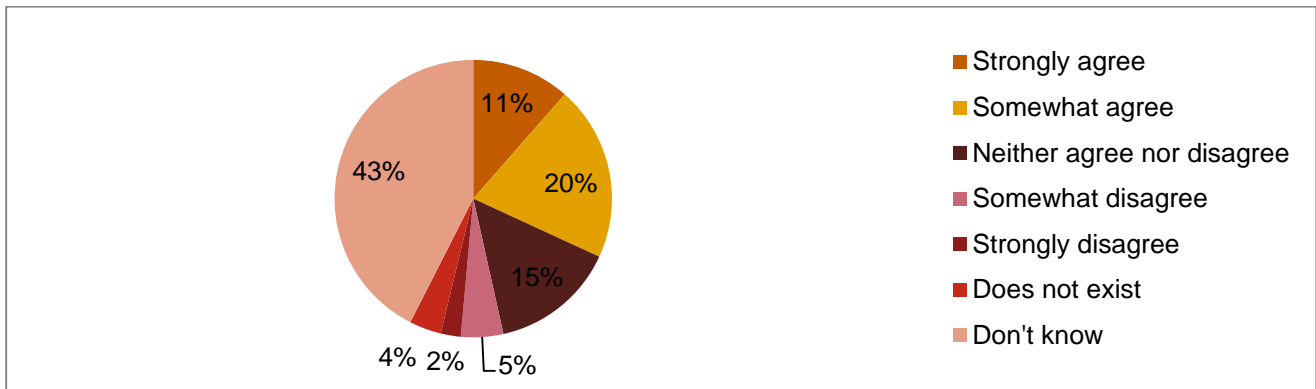


Figure 81 – Extended web-based survey (question 22) – I am satisfied with the functionality of submitting full electronic declarations

For the extended web-based survey, 11% of the business stakeholders strongly agree with the statement of satisfaction with the functionality of full electronic declarations, while 20% somewhat agree. Fifteen per cent of the business stakeholders neither agree nor disagree, 5% somewhat disagree, 2% strongly disagree, 4% indicate that full electronic declarations do not exist and 43% don't know.

Of the large companies, 11% strongly agree with the statement, 15% somewhat agree, 13% neither agree nor disagree, 4% somewhat disagree, 2% strongly disagree, 5% indicate that full electronic declarations do not exist and 50% don't know. Of the SMEs, 13% strongly agree, 34% somewhat agree, 19% neither agree nor disagree, 6% somewhat disagree, 2% strongly disagree, 1% indicate that full electronic declarations do not exist and 24% don't know.

Of the companies active in the transport and logistics sector, 13% strongly agree, 18% somewhat agree, 11% neither agree nor disagree, 5% somewhat disagree, 3% strongly disagree, 6% indicate that full electronic declarations do not exist and 44% don't know. Of the companies active in other sectors, 11% strongly agree, 21% somewhat agree, 18% neither agree nor disagree, 5% somewhat disagree, 1% strongly disagree, 2% indicate that full electronic declarations do not exist and 42% don't know.

Business stakeholders were also asked whether they are satisfied with the availability of help and assistance when technical issues are encountered in the electronic customs environment.

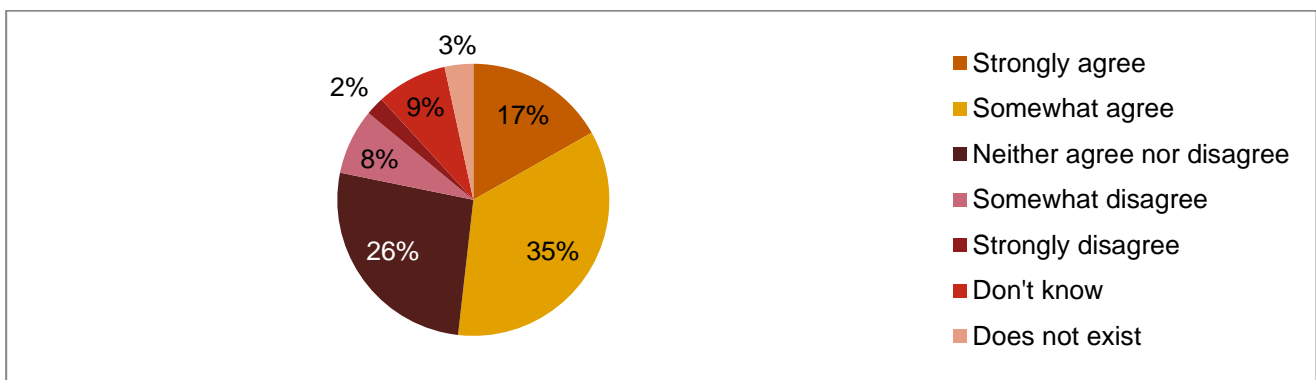


Figure 82- Slim web-based survey (question 13.3) – I am satisfied with the availability of help and assistance when technical issues are encountered in the electronic customs environment

In the slim web-based survey, 17% of the respondents strongly agree with the statement that they are satisfied with the availability of help and assistance when technical issues are encountered in the electronic customs environment, 35% somewhat agree, 26% neither agree nor disagree, 8% somewhat disagree, 2% strongly disagree, 9% don't know and 3% indicate 'does not exist'.



Of large companies and SMEs, both 17% strongly agree, 31% and 43%, respectively, somewhat agree, 30% and 19%, respectively, neither agree nor disagree, 9% and 5%, respectively, somewhat disagree, 2% of both strongly disagree, 8% and 9%, respectively, don't know and 2% and 5%, respectively, indicate 'does not exist'.

Of the companies in the transport and logistics sector and companies active in other sectors, 16% and 17%, respectively, strongly agree, 37% and 35%, respectively, somewhat agree, 30% and 26%, respectively, neither agree nor disagree, 9% and 8%, respectively, somewhat disagree, 3% and 2%, respectively, strongly disagree, 1% and 10%, respectively, don't know and 4% and 3%, respectively, indicate 'does not exist'.

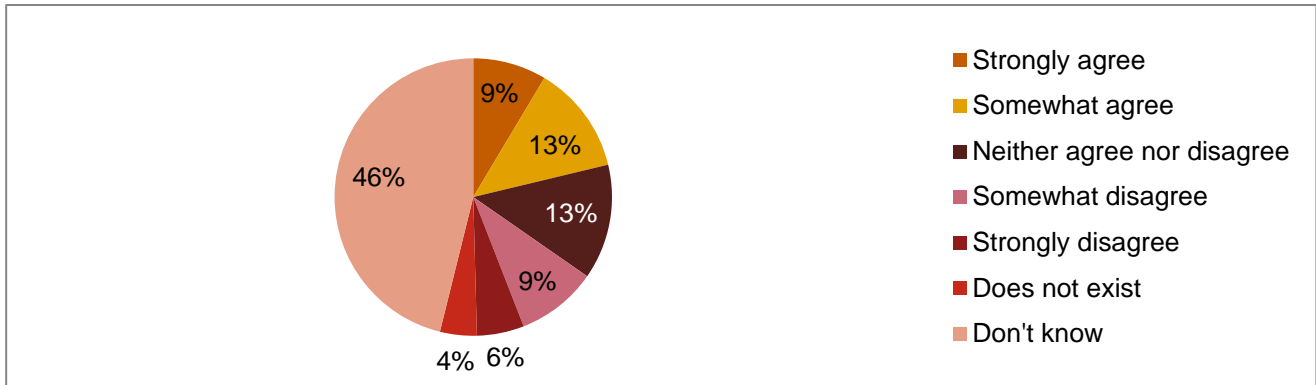


Figure 83 – Extended web-based survey (question 24) – I am satisfied with the availability of help and assistance when technical issues are encountered in the electronic customs environment

In the extended web-based survey, 9% of the respondents strongly agree with the statement that they are satisfied with the availability of help and assistance when technical issues are encountered in the electronic customs environment, 13% somewhat agree, 13% neither agree nor disagree, 9% somewhat disagree, 6% strongly disagree, 8% indicate 'does not exist' and 46% don't know.

Of the large companies and SMEs, 8% and 9%, respectively, strongly agree, 11% and 17%, respectively, somewhat agree, 13% and 15%, respectively, neither agree nor disagree, 9% and 11%, respectively, somewhat disagree, 3% and 12%, respectively, strongly disagree, 4% and 4%, respectively, indicate 'does not exist' and 52% and 32%, respectively, indicate that they don't know.

Of the companies in the transport and logistics sector and companies active in other sectors, 8% and 10%, respectively, strongly agree, 10% and 16%, respectively, somewhat agree, 13% and 15%, respectively, neither agree nor disagree, 10% and 5%, respectively, somewhat disagree, 6% and 5%, respectively, strongly disagree, 5% and 3%, respectively, indicate 'does not exist' and 48% and 46%, respectively, don't know.

#### 5.4.1.2 Findings

The majority of respondents (65%) to the slim-web-based survey either agree or strongly agree with the proposition concerning the functionality of full submission of electronic declarations. Only 6% of the respondents disagree with this statement. Four per cent of the respondents state that there is no submission of full electronic declarations. Results for the extended web-based survey are not analysed due to the fact that a high number of respondents (43%) indicated that they don't know.

For some Member States, some respondents to the extended web-based survey answered that full electronic declarations do not exist, while other respondents answered that they are satisfied/dissatisfied with the full electronic declaration submission functionality. Please note that these answers tend to indicate that interpretation differences may have existed as to the definition of 'full electronic declarations'.

In the slim web-based survey, more SMEs (68%) are satisfied with the functionality of submitting full electronic declarations than large companies (65%). Moreover, more companies in the transport and logistics sector (75%) are satisfied with the functionality of submitting full electronic declarations than companies in the other sectors are (64%).

In the slim web-based survey, around half of the respondents agree with the statement ‘I am satisfied with the availability of help and assistance when technical issues are encountered in the electronic customs environment’. Results are in line for companies in the transport and logistics sector and companies in other sectors. Fewer large companies (48%) agree with the statement than SMEs (61%), whereas more large companies disagree with the statement (11% compared to 7% of the SMEs) or neither agree nor disagree (30% compared to 19% of the SMEs). Results for the extended web-based survey are not analysed due to the fact that a high number of respondents (46%) indicated that they ‘don’t know’.

*5.4.1.3 Judgment 7 – availability of paperless customs services*

Overall, business stakeholders are satisfied with the quality of service with respect to the extent to which paperless customs services are available. Large companies, except for those active in the transport and logistics sector, are less satisfied with the paperless customs services than SMEs.

With regard to the functioning of the Customs Union, an average of 4% of respondent business stakeholders indicated that full electronic declarations do not exist.

*5.4.2 Quality of service – Extent to which the paperless customs services are used and appreciated by companies*

*5.4.2.1 Data*

Data sources				
Desk research	Business	Customs authorities	Other authorities	In-depth interviews
✓	✓	X	✓	✓

**Desk research.** In the 2013 Management Plan of DG TAXUD and Customs, one of the stated objectives is to modernise and streamline the functioning of the Customs Union by improving its functioning for the benefit of economic operators and customs administrations. One of the indicators to achieve this objective is the availability of:

- centralised IT customs applications (including tariff systems),
- NCTS, ECS, and
- an ICS and CCN/CSI system.

According to the latest known results, availability is:

- centralised IT customs applications (including tariff systems): 99.11% of the time during business hours and 95+% of the time otherwise,
- NCTS, ECS: 98+% of the time during business hours and 98+% otherwise and
- ICS and CCN/CSI system: 99.94% of the time.

**Business.** There exists a range of ways in which business stakeholders connect to the IT systems of national customs authorities.

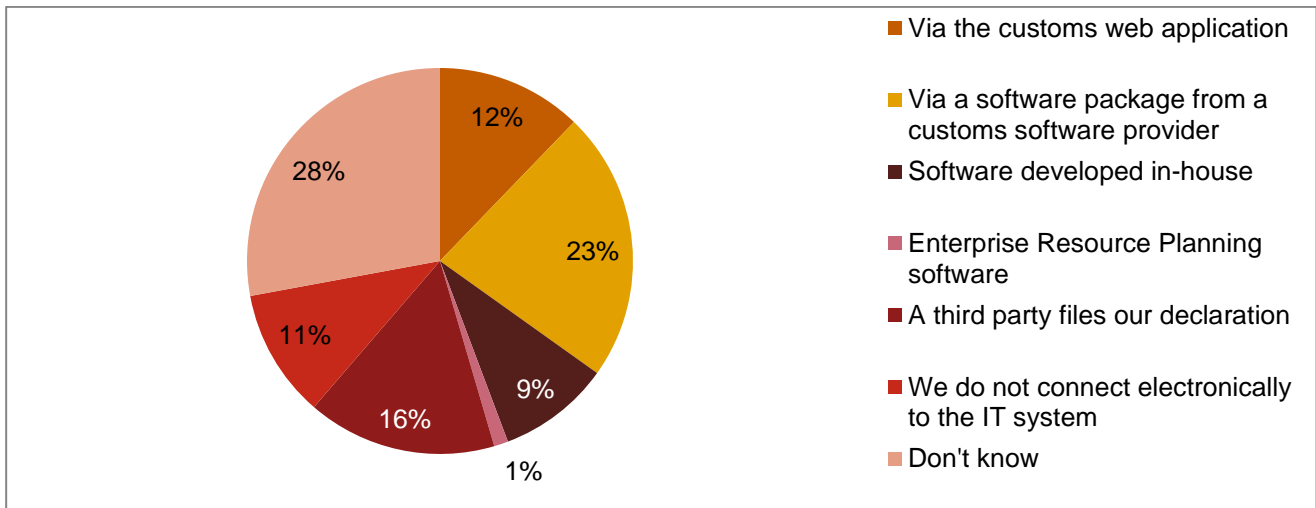


Figure 84 – Extended web-based survey (question 21) – How do you connect to your country's customs IT system?

For the slim web-based survey, 12% of the business stakeholders indicate that their company is connected to the national customs IT system via the customs application web, while 23% of respondents connect via a software package from a customs software provider. Nine per cent indicate that their company has developed software in-house. Only 1% of businesses use Enterprise Resource Planning software. Sixteen per cent indicate that a third party files their declarations. Eleven per cent is not connected electronically to the IT system. Twenty-eight per cent of the respondents don't know.

The following proportions of large companies and SMEs connect in the following ways to the customs IT systems:

- via the customs web application: 8% of large companies and 22% of SMEs,
- via a software package from a customs software provider: 21% of large companies and 27% of SMEs,
- software developed in-house: 10% of large companies and 8% of SMEs,
- Enterprise Resource Planning software: 1% of large companies and 3% of SMEs,
- a third party files our declarations: 16% of large companies and 16% of SMEs,
- we do not connect electronically to the IT system: 11% of large companies and 9% of SMEs,
- don't know: 33% of large companies and 15% of SMEs.

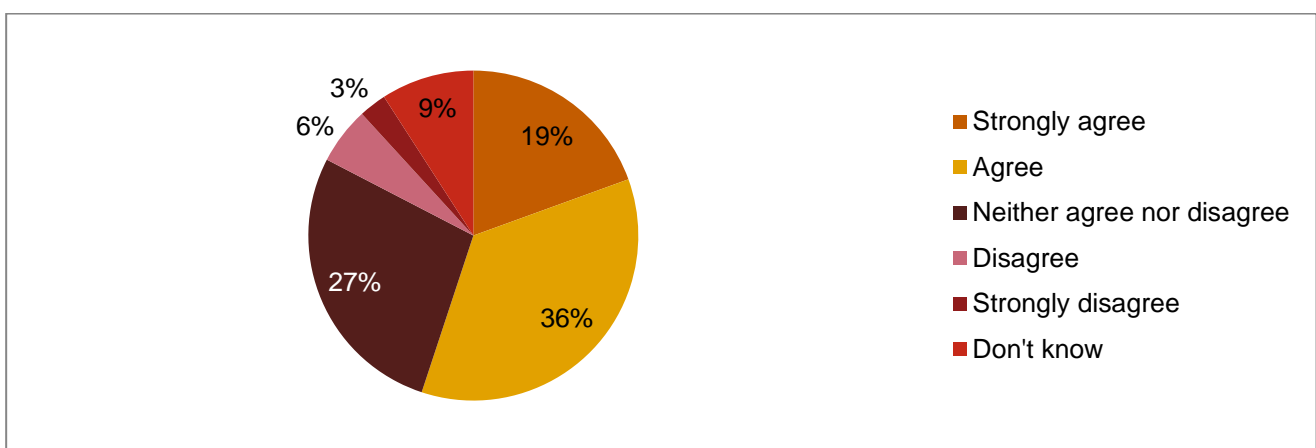


Figure 85 – Slim web-based survey (question 13.4) – I am satisfied with the availability and robustness of the customs IT environment

Opinions differ as to satisfaction levels with the availability and robustness of the customs IT environment.

For the slim web-based survey, 19% of the business stakeholders strongly agree with the statement that “I am satisfied with the availability and robustness of the customs IT environment”, while 26% agree. Six per cent disagree, 3% strongly disagree and 27% do not agree or disagree. Nine per cent of the businesses don’t know.

Of the large companies, 21% strongly agree, 32% agree, 29% neither agree nor disagree, 5% disagree, 4% strongly disagree and 9% don’t know. Of the SMEs, 16% strongly agree, 43% somewhat agree, 24% neither agree nor disagree, 6% disagree, 1% strongly disagree and 10% don’t know.

Of the companies in the transport and logistics sector, 18% strongly agree, 46% agree, 24% neither agree nor disagree, 8% disagree, 1% strongly disagree and 3% don’t know. Of the companies active in other sectors, 20% strongly agree, 34% somewhat agree, 28% neither agree nor disagree, 5% disagree, 3% strongly disagree and 10% don’t know.

**Other authorities.** Responses from the targeted survey for other authorities are presented in the figure below.

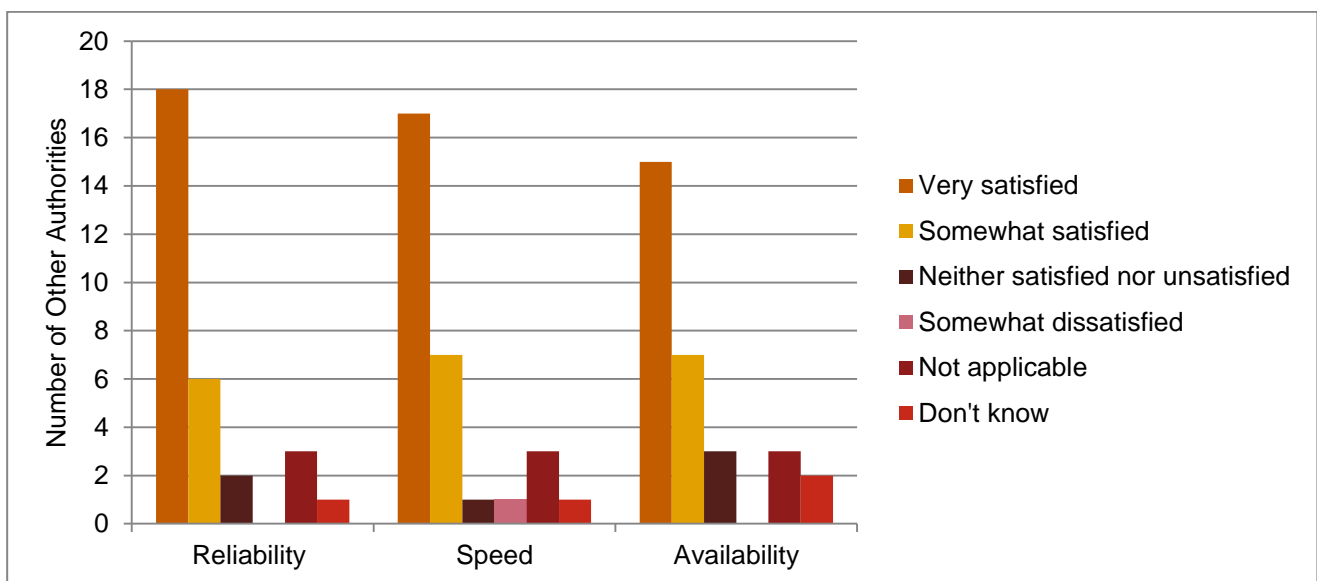


Figure 86 – Targeted survey for other authorities (question 11) – Level of satisfaction with the quality of electronic communication with national customs authorities

Eighteen non-customs authorities out of the 30 are very satisfied with the *reliability* of electronic communication with the national customs authorities, while six respondents are somewhat satisfied. Four other authorities are neither satisfied nor unsatisfied or don’t know.

Seventeen non-customs authorities are very satisfied with the *speed* of electronic communication with the national customs authorities, while seven respondents are somewhat satisfied. On the other hand, one respondent is somewhat dissatisfied, three other authorities indicate that the statement is not applicable, and two other authorities are neither satisfied nor unsatisfied or don’t know.

Fifteen non-customs authorities are very satisfied with the *availability* of the electronic communication with the national customs authorities, while seven respondents are somewhat satisfied. Three other authorities indicate that the statement is not applicable. Five other authorities are neither satisfied nor unsatisfied or don’t know.

**In-depth interviews.** In the course of these interviews, further to the basic input on the judgment criterion, the following input was acquired that is of interest.

Costs for connecting to the customs IT system can be (very) high. As stated in one in-depth interview, this is especially so for those businesses needing to connect to the customs IT system of several Member States. A

more detailed case study on the cost of connecting to Customs' IT systems can be found in the results of the case study included under 8.3.

Comments from interviews with business stakeholders highlight the fact that certain national customs authority websites regularly suffer downtime. By way of an exception to this, one large business stakeholder located in an old Member State reported in an in-depth interview that the national customs IT system experiences only one to two downtimes a year, never lasting longer than a couple of hours. This suggests that differences may exist among Member States in this respect.

#### *5.4.2.2 Findings*

Of those using customs' IT system, the largest group of respondents connect via a software package from a customs software provider or use a third party to file their customs declarations. Another relatively substantial group of respondents connect through the customs web application, especially SMEs. The substantial number of 'don't know' answers to the question on how companies connect to customs' IT system can be attributed to respondents from large companies. Those answering 'don't know' did give one of the other applicable answers on how they connect to customs' IT system in their main country of operation but often went on to answer 'don't know' for each other subsequent country in which they have operations (possibly through a local office).

Just over half of respondents to the slim web-based survey either strongly agree or somewhat agree that they are satisfied with the availability and robustness of Customs' IT environment. Results are comparable for large companies and SMEs. There are no major differences in responses on availability and robustness of the customs IT environment depending on the sector in which a company works. However, somewhat more companies active in other sectors agree with the statement (54%), compared to 46% of the companies in the transport and logistics sector. Desk research indeed demonstrates a high rate of availability.

There is a high level of satisfaction among the other authorities surveyed regarding the reliability, speed and availability of electronic communication with customs authorities.

Based on the contradictory information gathered during the in-depth interviews with respect to the downtime of customs' IT systems, there is reason to assume that differences exist among Member States.

#### *5.4.2.3 Judgment 8 – the use and assessment of paperless customs services*

Paperless customs services are commonly used. Overall, the assessment of business stakeholders and other authorities is positive, though local differences may exist with regard to the reliability of the service.

#### *5.4.3 Quality of service – Fourth conclusion (Judgment 7 – judgment 8)*

From both web-based business surveys, it can be concluded that business stakeholders are comparatively satisfied with the functionality of full electronic declarations. Overall, levels of satisfaction with the performance of the customs IT environment are good. Large companies tend to be less positive than SMEs with regard to the functionality of full electronic declarations, the availability of help and assistance when technical difficulties occur and the availability and robustness of the customs IT environment.

The highest level of respondent disagreement relates to the availability of help and assistance when technical issues arise, and the availability and robustness of the IT environment in terms of downtime and access. With a view to the future of the Customs Union, this may be a point to be further investigated, especially where the reliability of the IT structure and its availability are concerned, as there may be differences according to Member State.

The overall positive evaluation from business stakeholders is supported by other authorities, which are highly satisfied overall with the reliability, speed and availability of their electronic communications with national customs authorities.

## 5.5 Do customs officials have the right competences and skills to provide a quality service?

To answer this sub-evaluation question, data was gathered on the knowledge and expertise of customs officials, and on their skills and customer-oriented approach. This included their level of integrity.

### 5.5.1 Quality of service – Extent to which customs officials have sufficient knowledge and expertise of customs legislation

#### 5.5.1.1 Data

Data sources				
Desk research	Business	Customs authorities	Other authorities	In-depth interviews
✓	✓	X	✓	✓

**Desk research.** In the self-assessment study,<sup>126</sup> it is stated that “*training and knowledge management activities are performed in the Customs Union both at EU and at national level. Through the Customs 2013 programme, the EU level provides financial support for working visits of national customs officials (exchanges of good practice and networking), the development of guidelines and (e-)learning for customs officials and traders, and the setting-up of the TACTIC platform, which connects national training institutes and national trainers and allows them to exchange relevant training material. Communication and training activities developed at EU level currently mainly deal with EU legislation and EU initiatives (e.g. the AEO system), on the one hand, and with IT topics (e.g. learning how to use European IT systems, etc.), on the other. In addition to these activities, the EU level also invests in training and knowledge development for DG TAXUD officials.*

*At national level, authorities determine the skills and competences required to perform operational customs processes. Many national customs authorities develop their own vocational training curriculum (best based on the European Vademecum), often supplemented by training provided by national training institutes for civil servants (often dealing with more generic skills and competences). Information collected from the Member States in the sample indicates different levels of budget available for training, as well as different levels of expertise and of training facilities available.*

*In addition, national higher education institutions develop their own academic programmes dealing with customs matters. Participants in these academic training programmes are customs officials, (current or future) traders and other (current or future) economic operators.*

*At the time of writing the self-assessment report (May 2011), there was neither any overall competence framework nor an overall knowledge management strategy for the Customs Union as a whole.”*

In the self-assessment study, strengths and weaknesses are furthermore identified with regard to the human capital of the Customs Union. Some strengths identified in the study in this respect are:

- “*Existing EC training programme and working visits: these are considered by the Member States’ interviewees to have clear added value in terms of networking, the quality of training, etc. DG TAXUD is, moreover, satisfied with the participation and quality of the training courses and of the working visits.*”
- “*Highly experienced customs staff in the Member States: Member State interviewees emphasised the current level of maturity of knowledge at national level. DG TAXUD considers operational knowledge in the Member States to be of high quality.*”
- “*Expertise of Commission staff: both Member States and DG TAXUD found that there is a good level of knowledge at EU level in the areas related to its competences.*”

<sup>126</sup> Final report on Task 2.2 – Strengths and weaknesses of the current organisation model and Final report on Task 2.3 – Options for improvement of the functioning of the Customs Union (TAXUD/R3/VDL D(2010) 433216) – 24/05/2011.

- “National investments in training: significant investments are made at national level, leading to the development of high-quality training courses and corresponding training infrastructure.”
- “Culture of exchanging good practices: the many examples of exchanges of good practice and experience amongst Member States have helped to create a positive stimulus for mutual learning and to align how colleagues in other states work.”

The following weaknesses were identified with regard to human capital:

- “Operational knowledge concentrated at national level: interviewees acknowledged that operational knowledge is currently concentrated at the level of the Member States and that more could/should be done to translate that operational level to the EU level.”
- “Insufficient transfer of knowledge and skills: the workforce in national customs administrations is approaching retirement age. In some Member States this poses specific challenges in terms of knowledge management, as the present competences and skills of retiring staff are not always captured and transferred to remaining staff.”
- “Lack of integrated training: some Member States find that there is currently a lack of training covering all aspects and actors involved in border security from a staff point of view: customs, anti-fraud, border controls, actors such as OLAF, Frontex, Europol, etc. The CPG survey indicated that 17 respondents recognised this problem. Four respondents did not consider this a problem.”<sup>127</sup>
- “Lack of an overall competence framework for the Customs Union, identifying critical competences and subsequently developing knowledge management activities to support the competence framework.”
- “Serious cultural/political differences between Member States: not all Member States have “internalised” the new philosophies and new role of Customs.”

Based on a feasibility study carried out on a potential EU Academic programme for the customs profession, the following primary findings were identified with respect to the knowledge of customs officials:

- **“High levels of variation in the training provision between organisations** – This results in a lack of harmonisation in the understanding and application of EU regulations and systems, impacts upon the competitiveness of European trade and limits cooperation and collaboration across the union.
- **An overreliance upon traditional experientially-led internal training provision exists** – As a consequence learning is not shared amongst organisations, the evolution of processes and understanding within organisations is inhibited, and the breadth and depth of knowledge to which professionals are exposed is more limited than it should be.”<sup>128</sup>

**Business.** Results for the slim and extended web-based surveys are shown in the figures below.

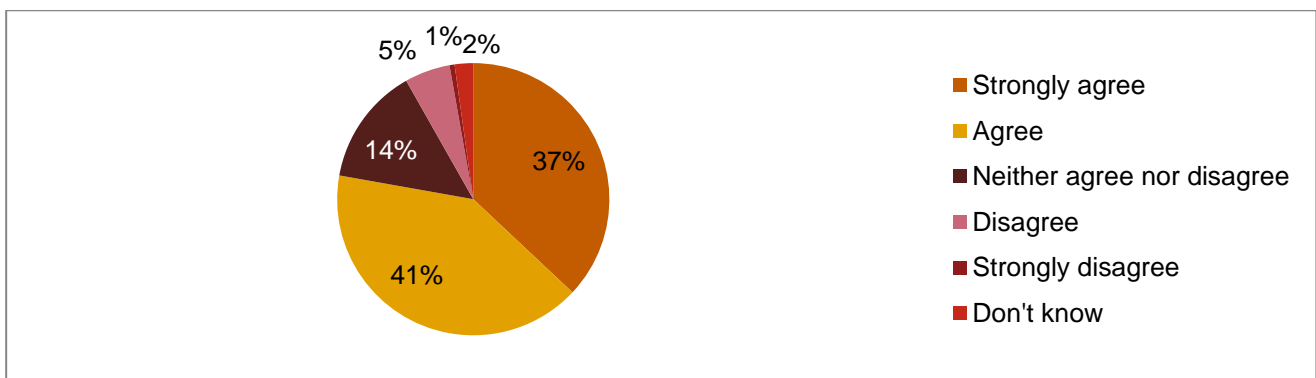


Figure 87 – Slim web-based survey (question 14.1) – Customs officials in my country are knowledgeable of customs legislation

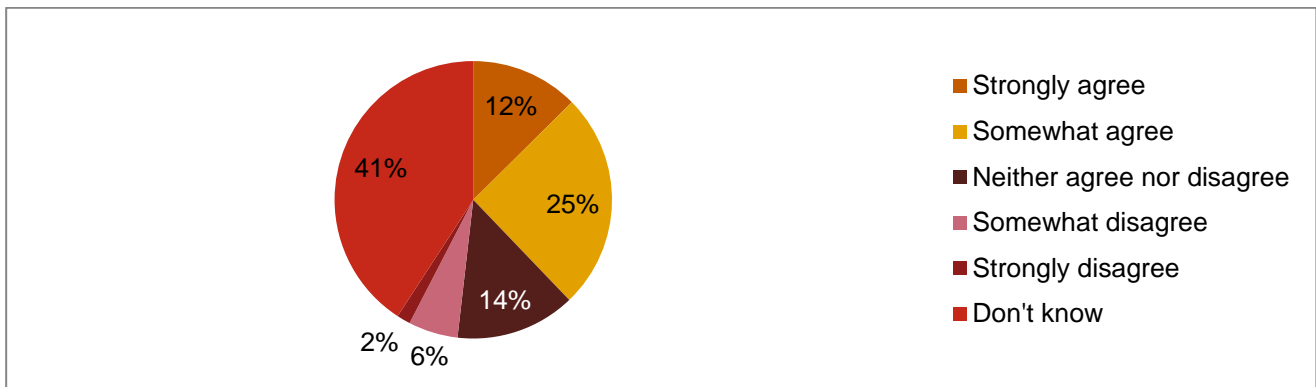
<sup>127</sup> The five remaining respondents answered “no opinion”. In total, 26 respondents answered this question.

<sup>128</sup> DG TAXUD, Project BTRAIN – Feasibility study on a potential EU academic programme for the customs profession, v1\_o\_o Final Report DLV-4-1, 05/12/2011.

From the slim web-based survey, 37% of the business stakeholders strongly agree that the customs officials in their country are knowledgeable of customs legislation, while 41% agree. Five per cent of the business stakeholders disagree, 1% strongly disagree and 14% do not agree or disagree. Two per cent of the businesses ‘don’t know’.

Of the large companies, 38% strongly agree, 40% agree, 15% neither agree nor disagree, 5% disagree, 1% strongly disagree and 2% don’t know. Of the SMEs, 36% strongly agree, 42% agree, 13% neither agree nor disagree, 7% disagree, 1% strongly disagree and 2% don’t know.

Of the companies in the transport and logistics sector, 45% strongly agree, 32% agree, 14% neither agree nor disagree, 7% disagree, 1% strongly disagree and 1% don’t know. Of the companies in other sectors 36% strongly agree, 42% agree, 14% neither agree nor disagree, 5% disagree, 0% strongly disagree and 2% don’t know.



*Figure 88 – Extended web-based survey (question 26) – Customs officials in my country are knowledgeable of customs legislation*

From the extended web-based survey, 12% of the business stakeholders strongly agree that the customs officials in their country are knowledgeable of customs legislation, 25% somewhat agree, 14% neither agree nor disagree, 6% somewhat disagree, 2% strongly disagree and 41% don’t know.

Of the large companies, 13% strongly agree, 22% somewhat agree, 11% neither agree nor disagree, 4% somewhat disagree, 1% strongly disagree and 49% don’t know. Of the SMEs, 11% strongly agree, 33% somewhat agree, 20% neither agree nor disagree, 11% somewhat disagree, 4% strongly disagree and 21% don’t know.

Of the companies in the transport and logistics sector, 9% strongly agree, 25% somewhat agree, 15% neither agree nor disagree, 5% somewhat disagree, 1% strongly disagree and 45% don’t know. Of the companies active in other sectors, 18% strongly agree, 26% somewhat agree, 10% neither agree nor disagree, 7% somewhat disagree, 2% strongly disagree and 37% don’t know.



**Other authorities.** Responses from the targeted survey for other authorities are presented in the figure below.

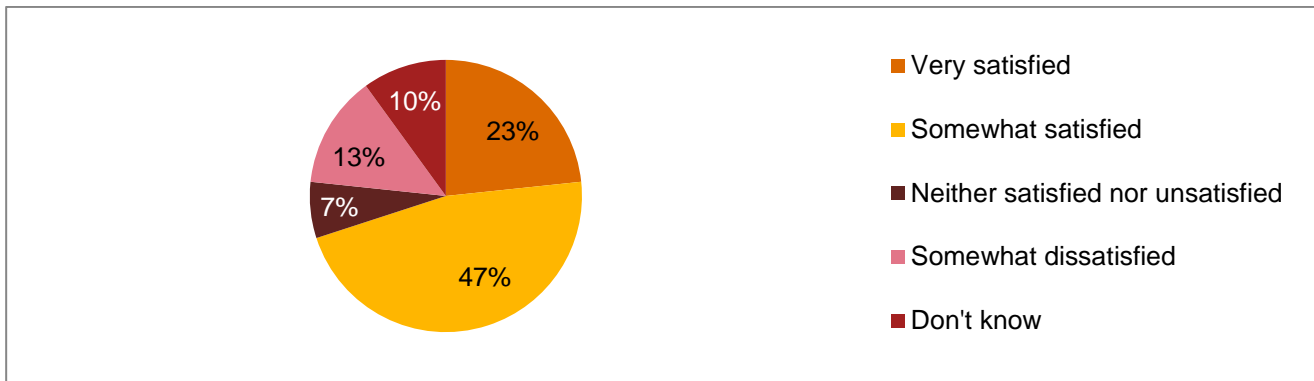


Figure 89 – Targeted survey for other authorities (question 12) – Satisfaction with level of expertise of customs authorities in executing controls in your specific domain

Twenty-three per cent of the non-customs authorities are very satisfied with the level of expertise of customs authorities in executing controls in their business domain, while 47% of the respondents somewhat agree. On the other hand, 13% of the other authorities are somewhat dissatisfied with the level of expertise. The other 7% of the respondents are neither satisfied nor unsatisfied or don't know.

**In-depth interviews.** In the course of these interviews, further to the basic input on the judgment criterion, the following input was acquired that is of interest.

Based on the in-depth interviews, overall, customs officials are considered to be well-qualified for customs work. However, it was stated by one representative of DG SANCO that this is not always the case when customs work spills over into other domains, for example, personal luggage controls or pet controls. The competences and skills of customs officials, and consequently the quality of service, are said to be highly dependent on the customs organisation in the Member State concerned.

#### 5.5.1.2 Findings

In general, a positive opinion is expressed by the business stakeholders in the slim web-based survey with regard to the knowledge of customs officials about customs legislation: 78% of the business stakeholders respond in the positive in the slim web-based survey. The results of the extended web-based survey are not further analysed due to the high number of business stakeholders indicating that they 'don't know' (41%).

The results from the slim web-based survey are comparable for large companies and SMEs as well as for companies in the transport and logistics sector and companies in other sectors.

In general, other authorities are very satisfied (70%) with the knowledge of customs authorities relative to their domains. However, it was stated in one of the in-depth interviews that this is not always the case when customs work spills over into other domains. The competences and skills of customs officials, and consequently the quality of service, are said to be highly dependent on the customs organisation in the Member State concerned. This is confirmed by desk research, from which it is concluded that there is a high level of variation in training provision between organisations and a lack of learning-sharing amongst organisations.

In the self-assessment study,<sup>129</sup> some strengths regarding human capital are mentioned, such as the existence of the EC training programme and working visits, highly experienced customs staff in Member States, the expertise of Commission staff, national investment in training and a culture of exchanging good practices. On the other hand, some weaknesses are also pointed to, such as operational knowledge being concentrated at national level, insufficient transfer of knowledge and skills when staff retire, the lack of integrated training, the

<sup>129</sup> Final report on Task 2.2 – Strengths and weaknesses of the current organisation model and Final report on Task 2.3 – Options for improvement of the functioning of the Customs Union (TAXUD/R3/VDL D(2010) 433216) – 24/05/2011.

lack of an overall competence framework for the Customs Union and the major cultural and political differences between Member States.

Furthermore, the self-assessment study indicates that training and knowledge management activities are performed in the Customs Union both at EU and at national level. At the time of writing the self-assessment report (May 2011), there was neither an overall competence framework nor an overall knowledge management strategy for the Customs Union as a whole.

**5.5.1.3 Judgment 9 – knowledge and expertise of customs officials**

All stakeholder groups are positive on the level of knowledge and expertise of customs officials. This positive evaluation is rather surprising taking into account that differences in interpretation by customs officials is one of the recurring main reasons of non-uniformity indicated by business stakeholders.

However, results from the desk research show that there may be a need to create a more uniform training programme to align levels of knowledge of customs officials within the Customs Union and thus also further support other main fundamentals of the Customs Union (e.g. uniformity).

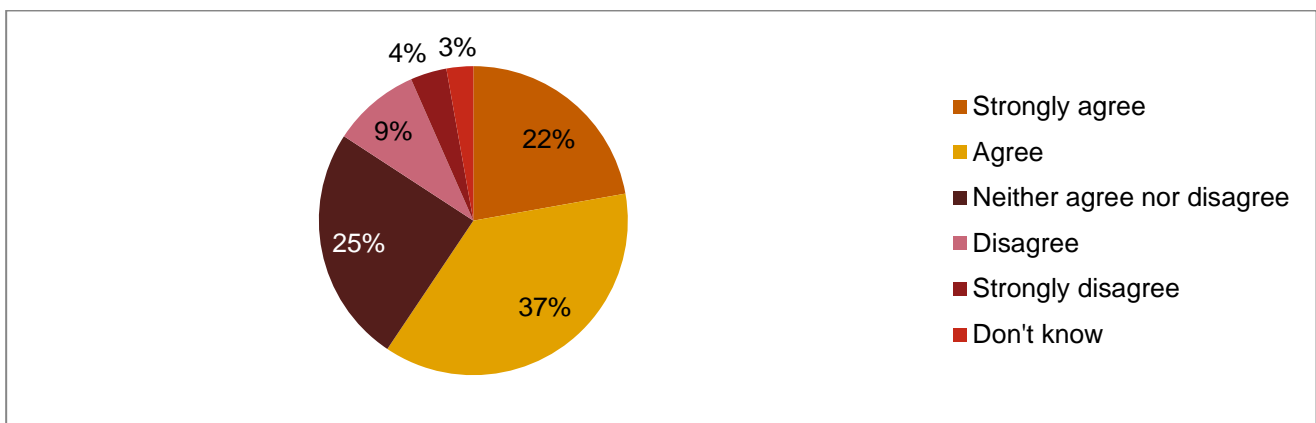
**5.5.2 Quality of service – Extent to which customs officials have the right skills set to perform their job in a customer-oriented way**

On this question, an analysis was done of whether the different sources indicate that customs officers have the right skills set to perform their job. This was not only limited to the specific customs skills set but also included customs officials’ integrity.

**5.5.2.1 Data**

Data sources				
Desk research	Business	Customs authorities	Other authorities	In-depth interviews
X	✓	✓	X	✓

**Business.** Responses from the slim web-based survey are presented in the figure below.



*Figure 90 – Slim web-based survey (question 14.2) – The customs officials in my country take a customer-oriented approach*

Twenty-two per cent of the business stakeholders strongly agree that customs officials in their country take a customer-oriented approach, while 37% agree. On the other hand, 9% of the respondents disagree with the statement and 4% strongly disagree. Twenty-five per cent of the businesses neither agree nor disagree and 3% don't know.

Of the large companies, 24% strongly agree, 35% agree, 26% neither agree nor disagree, 9% disagree, 4% strongly disagree and 2% don't know. Of the SMEs, 19% strongly agree, 41% agree, 22% neither agree nor disagree, 10% disagree, 4% strongly disagree and 4% don't know.

Of the companies in the transport and logistics sector, 21% strongly agree, 42% somewhat agree, 21% neither agree nor disagree, 12% disagree, 4% strongly disagree and 0% don't know. Of the companies active in other sectors, 22% strongly agree, 36% agree, 25% neither agree nor disagree, 9% disagree, 4% strongly disagree and 3% don't know.

Examples given in the different surveys show that levels of integrity are not uniform amongst Member States. The integrity of customs authorities appears to be a big obstacle to all ship suppliers, which sometimes leads to unofficial requests/bribes, with particular agents requiring ship suppliers to pay extra 'unofficial fees' for signing and stamping required customs permissions when supplying a particular vessel at a specific port or ship repair yard.

**Customs authorities.** In 11 of the 27 Member States, customs authorities conduct employee satisfaction surveys (source: targeted customs survey). Among those that do, the results are positive. The majority of employees responding to employee satisfaction surveys are proud to work for customs and feel that they have the right tools, skills and knowledge to do their job.

**In-depth interviews.** In the course of these interviews, further to the basic input on the judgment criterion, the following input was acquired that is of interest.

Comments from business stakeholders indicate that there should be more training in customer-orientation for customs officials who are in regular contact with customers.

#### *5.5.2.2 Findings*

Just over half of respondents either strongly agree or agree that customs officials in their country take a customer-oriented approach. Results are comparable for large companies and SMEs, as well as for companies active in the transport and logistics sector and companies active in other sectors. A limited number (13%) of the respondents do not agree that customs officials in their country take a customer-oriented approach. Although the overall opinion of the integrity of customs officials is positive, examples were given of cases of bribery.

Although the majority of employees responding to employee satisfaction surveys are proud to work for customs and feel that they have the right tools, skills and knowledge to do their job, comments from business stakeholders indicate that there should be more training in customer-orientation for customs officials who are in regular contact with customers.

#### *5.5.2.3 Judgment 10 – skills of customs officials*

Although no clear opinion can be drawn from the respondents regarding this indicator, it can still be concluded that, in general, stakeholders are positive about customs officials having a customer-oriented approach. Nevertheless, examples of bribery of customs officials are also cited, resulting in a contradictory result. Care should therefore be taken in drawing positive conclusions for the indicator of customer-orientation and integrity of customs officials.

### *5.5.3 Quality of service – Fifth Conclusion (Judgment 9 – judgment 10)*

Overall, business and other authority respondents agree that customs officials in their country are knowledgeable of customs legislation. This positive evaluation is rather surprising taking into account that differences in interpretation by customs officials is one of the recurring main reasons of non-uniformity indicated by business stakeholders. A substantial proportion of the respondents agree that customs officials in their country take a customer-oriented approach. Although the integrity level of customs officials is perceived to be high, examples were given in interviews illustrating the contrary.

Customs officials themselves feel proud and knowledgeable, and claim that they have the right skills set to do their job.

A majority of the other authorities surveyed find that national customs authorities have sufficient knowledge of the applicable legislation and procedures relevant to their activities in the respective domains of the other authorities surveyed.

## **5.6 Quality of Service – Conclusion**

On the different aspects surveyed and analysed, the following main conclusions can be drawn:

- Level of communication on changes in rules and legislation: other authorities report that customs maintains a high level of satisfaction regarding the level of communication of changes in rules and legislation; business stakeholders are a little bit less satisfied.
- Views expressed by stakeholders are taken into account by nearly all national customs authorities. The majority of business stakeholders feel that national customs authorities do not take enough account of their views, however.
- Opening hours: differences exist between the opening hours of inland and border customs offices, with the latter generally being open 24/7. A vast majority of the business stakeholders are satisfied with opening hours as they are, but there are still transport and logistics companies that favour further extension of opening hours to enable customs clearance 24/7.
- Contact within Customs: even though it tends to be easy to contact the right person within customs authorities, SMEs appear to have a slightly harder time in that regard.
- Information: overall, business stakeholders are positive with respect to the availability, accuracy and currency of the information provided by customs. The majority of national customs authorities have a range of passive channels of communication (i.e. website, fax, phone, email, ordinary mail) through which they can be contacted.
- Communication with other authorities: the other authorities surveyed are genuinely satisfied with the quality of communication by national customs authorities on all aspects surveyed (customer-orientation, reliability of information, accuracy of communication and timeliness of communication). They also are highly satisfied with the reliability, speed and availability of their electronic communications with national customs authorities.
- IT environment: overall, levels of satisfaction with the performance of customs' IT environments and the existence of full electronic declarations are good. The highest level of disagreement relates to the availability of help and assistance when technical issues arise, and the availability and robustness of IT environments in terms of downtime and access.
- AEO-related services: only a limited range of additional services are offered by national customs authorities to companies with AEO status. Although a majority of business stakeholders with AEO status are satisfied with these extra services, benefits experienced in practice are perceived to be limited. By contrast, some companies even feel they are targeted by customs and more controls have been carried out since they got AEO-certified. It should be noted that the AEO status was not created to improve quality of service, however.
- Knowledge of Customs: Customs officials are perceived to be sufficiently knowledgeable of customs legislation. This positive evaluation is rather surprising taking into account that differences in interpretation by customs officials is one of the recurring main reasons of non-uniformity indicated by business stakeholders. More respondents agree than disagree that customs officials in their country take a customer-oriented approach. However, it should be noted that there are still a sizeable number of respondents that disagree and find that customs do not take a customer-oriented approach; they propose more training for customs officials who are in regular contact with customers.

Overall, on the analysis and evaluation of the quality of service within the Customs Union, it can be concluded it is at a more than adequate level. Almost all aspects meet an acceptable level of satisfaction, including: the involvement of stakeholders in decision making; the level of customer-orientation of customs authorities' services; the potential existence of additional customs services for AEO-status companies; the existence and quality of paperless customs services; and the competences and skills of customs officials.

## **5.7 Quality of Service – Recommendations**

Regardless of the overall positive evaluation with respect to the quality of service, there are a number of points that may need further attention to maintain and further improve the quality of service within the Customs Union, including:

- where possible and in line with trade facilitation and protection objectives, taking into account the views of other authorities and business stakeholders with regard to rule and legislation changes in order to ensure seamless alignment of new legislation with business processes;
- considering more active methods of communication such as workshops and meetings with relevant stakeholders.

## 6 Has the Customs Union achieved its strategic objectives? Has it generated its intended effects?

This section examines whether the Customs Union has achieved its strategic objectives. The key strategic objectives of the EU Customs Union are (1) to protect the EU and (2) to support the EU's competitiveness. These objectives will be fulfilled by applying efficient, effective controls, and by close consultation among customs authorities, with other administrations, with businesses and with international partners. The purpose of this section is therefore to examine whether these strategic objectives are indeed being achieved.

In this respect, it is evaluated whether, based upon the different sources examined/consulted:

- the Customs Union is succeeding in detecting fraud and tax evasion,
- the entry of prohibited and illegal goods into the EU market is being stopped and
- the Customs Union has succeeded in collecting customs duties and levies effectively and properly.

Further, businesses, customs authorities and other authorities were asked to voice their opinion on potentially unintended effects that have been generated by the Customs Union.

Stakeholders were asked to assess statements. If 30% or more of the business stakeholders negatively assess a certain statement, it is concluded that the Customs Union does not perform well on the assessed statement. If more than 35% of the business stakeholders that completed a certain questionnaire could not assess the statement because they did not know, the findings for that specific statement of that questionnaire are not used to draw conclusions.

Please note that numbers may not add to 100% due to rounding.

### 6.1 Is the Customs Union able to detect fraud and tax evasion?

#### 6.1.1 Strategic objectives – Extent to which the Customs Union detects fraud and tax evasion

This section comprises an examination of the extent to which the Customs Union has detected fraud and tax evasion. The European instruments in the fight against fraud are assessed, as is the perception of businesses regarding fraud detection and the severity of the attendant consequences.

##### 6.1.1.1 Data

Data sources				
Desk research	Business	Customs authorities	Other authorities	In-depth interviews
✓	✓	X	X	✓

**Desk research.** Overall, the self-assessment study<sup>130</sup> concludes that, regarding organisation and governance, “the Customs Union is in general terms effective, but possibly more so in ‘traditional’ areas than in safety and security, and that there are areas of difficulty – mainly the failure to apply rules and procedures consistently – which are likely to be causing distortion of trade and the Internal Market, and where the financial interests of the EU and its Member States may not always be optimally protected. This is a qualitative assessment in the absence of key performance indicators.”

<sup>130</sup> Future business architecture for the Customs Union and cooperative model in the taxation area in Europe -Final report on Task 2.2 – Strengths and weakness of the current organisation model Customs Union (TAXUD/R3/VDL D(2010) 433216) – May 2011, p. 98.

Member States need to report numbers of cases of fraud and irregularity to the European Commission. Based on figures up until 2011, it can be concluded that the number of fraud cases that have been detected has decreased over the last few years. This can be seen in the table below.

	2007	2008	2009	2010	2011
<b>Cases</b>	6,480	6,278	5,334	5,625	5,210
<b>Amount (EUR)</b>	393,341,447	362,529,968	352,967,120	429,738,570	340,721,931

Table 16 – EU COM (advisory committee on own resources) – Number of cases of fraud and irregularities (23/01/2013)

The average amount of duty at stake was EUR 65,398 per case in 2011. When analysing the customs procedures that are most vulnerable to fraud and irregularities, release into free circulation bears the most risk as regards both the number of cases and value. This can be seen in the table below.

	Number of cases	Value (EUR)
<b>Free circulation</b>	3,945	271,535,777
<b>Community transit</b>	723	10,285,735
<b>Inward processing</b>	253	28,783,932
<b>Customs warehousing</b>	124	18,890,540
<b>Outward processing</b>	10	233,056
<b>Temporary admission</b>	43	1,377,072
<b>Other procedures</b>	112	9,615,819
<b>Total</b>	5,210	340,721,931

Table 17 – EU COM (advisory committee on own resources) – Vulnerability of customs procedures to fraud and irregularities (23/01/2013)

Whereas the actual level of (criminal) fraud against the EU budget is not known, the Commission's Annual Reports provide two sets of figures which give an indication of the extent of the problem as can be seen in the table above:

- total irregularities reported by Member States or EU authorities,
- the subset of that total which has been identified as suspected fraud.<sup>131</sup>

With regard to customs duties losses, the European Parliament stresses in a report on the protection of the European Union's financial interests<sup>132</sup> that the correct operation of Customs also has a direct impact on the calculation of value-added tax.

In the fight against fraud and tax evasion, a number of initiatives can be mentioned.

- Since mutual assistance is a very important factor in the fight against fraud and tax evasion, the European Commission has developed a policy facilitating access to information for relevant authorities at both EU and national level. This includes the amendment of Council Regulation (EC) 515/97 of 13 March 1997,<sup>133</sup> which extended the exchange of information regarding suspected fraud to systematic communication of pre-defined commercial information, as well as the scope of the Customs Information System (CIS).
- On 1 January 2011 the EU Financial Intelligent Units (anti-money laundering authorities) were connected to the AFIS portal for the exchange of information concerning established or suspected illicit movements of cash.

<sup>131</sup> European Commission Staff Working Paper – Impact Assessment – Accompanying document to the proposal for a regulation of the European Parliament and of the Council on the Hercule III programme to promote activities in the field of the protection of the European Union's financial interests, COM (2011) 914 final, p. 8.

<sup>132</sup> Report from the Commission to the European Parliament and to the Council, Report on the protection of the financial interests – Fight against fraud – Annual Report 2010.

<sup>133</sup> Regulation (EC) No. 766/2008 of the European Parliament and of the Council of 9 July 2008 amending Council Regulation (EC) No. 515/97 on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of the law on customs and agricultural matters.

- To detect abnormal shipments in transit, an Administrative Arrangement on the Anti-Fraud Transit Information System (ATIS) was adopted in July 2011 to enable the Commission to access transit data.
- Also in 2011, the Commission adopted a Communication on the protection of EU financial interests by criminal law and by administrative investigations, plus a new anti-fraud strategy.<sup>134</sup>

**Business.** Responses from the targeted business survey are presented in the figures below.

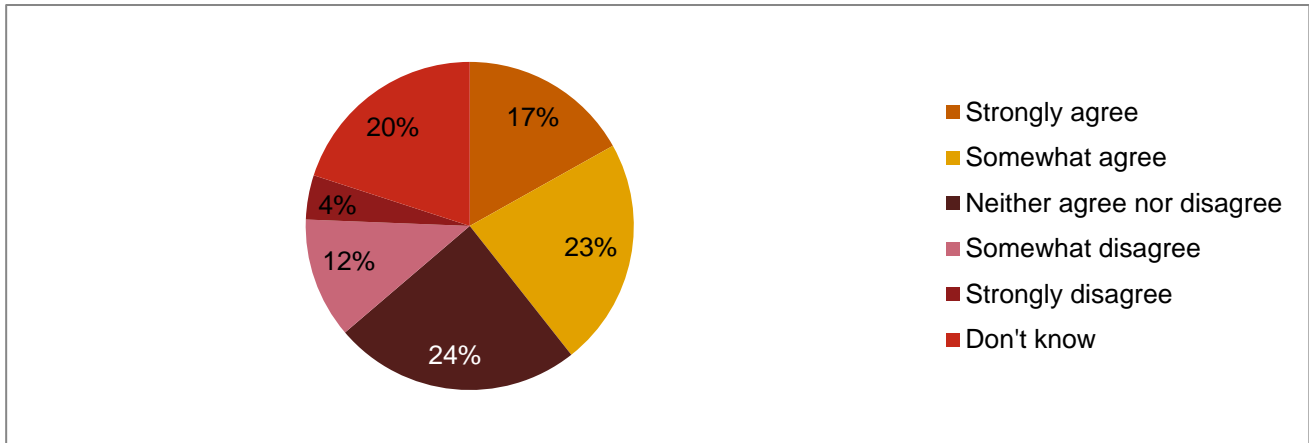


Figure 91 – Targeted business survey (question 82) – The EU customs policy and the customs authorities adequately protect the EU market and my company from unfair trading practices, such as piracy, non-compliance with safety rules and dumping

Seventeen per cent of the business stakeholders strongly agree that the EU customs policy and the customs authorities adequately protect the EU market and their companies from unfair trading practices, such as piracy, non-compliance with safety rules and dumping; 23% somewhat agree. On the other hand, 12% of the respondents somewhat disagree with this statement and 4% strongly disagree. Twenty-four per cent of the stakeholders neither agree nor disagree and 20% don't know.

Of the large companies, 16% strongly agree, 25% somewhat agree, 24% neither agree nor disagree, 15% somewhat disagree, 6% strongly disagree and 15% don't know. Of the SMEs, 20% strongly agree, 16% somewhat agree, 25% neither agree nor disagree, 5% somewhat disagree, 0% strongly disagree and 34% don't know.

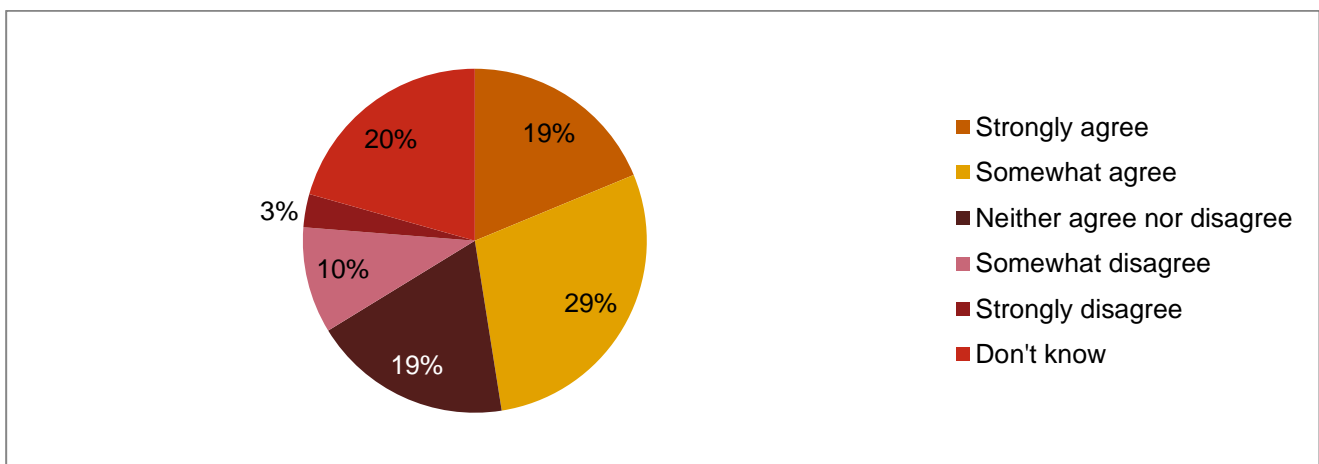


Figure 92 – Targeted Business Survey (question 92) – Customs authorities in my country apply appropriate penalties if fraud or tax evasion is detected, answers from all businesses

<sup>134</sup> Report from the Commission to the Council and to the European Parliament, Report on progress on the strategy for the evolution of the Customs Union, p. 12.



Businesses were also asked whether they agree with the statement that the customs authorities in their Member State apply appropriate penalties when fraud or tax evasion is detected. Responses from the targeted business survey are presented in the above figure. Nineteen per cent of the business stakeholders strongly agree that the customs authorities in their country apply appropriate penalties if fraud or tax evasion is detected, 29% somewhat agree. On the other hand 10% of the respondents somewhat disagree with this statement and 3% strongly disagree. Nineteen per cent of the stakeholders neither agree nor disagree and 20% don't know.

Of the large companies, 17% strongly agree, 27% somewhat agree, 22% neither agree nor disagree, 11% somewhat disagree, 4% strongly disagree and 18% don't know. Of the SMEs, 23% strongly agree, 34% somewhat agree, 9% neither agree nor disagree, 7% somewhat disagree, 0% strongly disagree and 27% don't know.

**In-depth interviews.** In the course of these interviews, further to the basic input on the judgment criterion, the following input was acquired that is of interest.

DG SANCO pointed out that customs authorities should work together with other authorities to detect fraud. In the case of sanitary and veterinary services, there is not always feedback from Customs to other authorities when illegal imports are detected.

DG SANCO furthermore indicated that the RASFF database (i.e. the Rapid Alert System for Food and Feed) would be the system of choice for DG SANCO for informing competent authorities in other Member States of fraud and for collecting data on fraud. According to the information contained in it, there were seven cases of fraud in 2012, mainly concerning fraudulent health certificates.

#### *6.1.1.2 Findings*

The opinions of business stakeholders differ regarding the statement that EU customs policy and the customs authorities adequately protect the EU market and their companies from unfair trading practices, such as piracy, non-compliance with safety rules and dumping. Whereas 16% of the business stakeholders disagree, only 40% of the business stakeholders agree (to a certain level) with the statement. Twenty-four per cent neither agree nor disagree. Somewhat more large companies disagree with the statement (21% compared to only 5% of the SMEs) and somewhat more SMEs indicate that they don't know (34% compared with 15% of the large enterprises).

These findings are not in line with the findings of the desk research, which shows that there are a number of initiatives to fight fraud and that the number of fraud cases has decreased over the last few years. Figures for 2013 show a total reported value of fraud with respect to customs procedures of EUR 340,721,931. That further steps still can be taken was mentioned during the in-depth interviews where, for example, it was stated that collaboration between customs authorities and other authorities could be improved to further reduce fraud cases. The self-assessment study, on the other hand, concludes that, regarding organisation and governance, the Customs Union is effective in general terms, but possibly more so in 'traditional' areas than in safety and security.

Business stakeholders are more positive with respect to the statement that customs authorities in their country apply appropriate penalties if fraud or tax evasion is detected. Almost 50% of the business stakeholders agree with the statement. However, SMEs are more positive (57% agree) than large companies (44% agree).

#### *6.1.1.3 Judgment 1 – detection of fraud and tax evasion*

The above figures show that businesses have different opinions with regard to the extent to which customs authorities have detected/detect fraud and tax evasion. A fairly large number of businesses take a neutral point of view: they are not dissatisfied at the detection of fraud, but they are not satisfied either. This may, however, also be due to the level of insight that business has. Businesses are more positive with regard to Customs applying appropriate penalties when fraud or tax evasion is detected.

### 6.1.2 Strategic objectives – Extent to which customs authorities coordinate their actions with non-customs agencies and entities

To assess the extent to which customs authorities coordinate their actions with other agencies or entities, the following items are considered:

- available coordination platforms,
- the compatibility of the IT systems of customs authorities and other authorities and agencies,
- the number of joint controls and operations and the existence of one-stop-shop systems,
- electronic exchanges of information,
- the perception of the degree of fraud detection.

#### 6.1.2.1 Data

Data sources				
Desk research	Business	Customs authorities	Other authorities	In-depth interviews
✓	✓	X	✓	✓

**Desk research.** In 2007, the World Customs Organisation<sup>135</sup> implemented the SAFE framework of standards. The SAFE Framework has become a major international instrument, setting standards for customs-to-customs network arrangements and customs-to-business partnerships. It contains a set of practical measures on Single Windows and border management.

In addition to Pillar 1 (customs-to-customs cooperation) and Pillar 2 (customs-to-business cooperation), there have been discussions to add a Pillar 3 to the SAFE Framework, which would cover customs-to-other border agencies cooperation. It addresses the need for government agencies involved in international trade to cooperate.

The coordinated border management concept has been further developed in other WCO documents. In particular, in the 2008 *Customs in the 21st Century* strategy document, coordinated border management is described as follows:

*“Better coordinated border management entails coordination and cooperation among all the relevant authorities and agencies involved in border security and regulatory requirements that apply to passengers, goods and conveyances that are moved across borders. Governments also need to explore more effective solutions to border management. The establishment of better coordinated border management for the cross-border movement of goods requires the introduction of the electronic Single Window concept that allows a trader to provide all necessary information and documentation once to the designated agency that, in turn, distributes the information to all relevant agencies”.*<sup>136</sup>

On the European level with respect to feed and food, animal health and animal welfare, Regulation (EC) No. 882/2004<sup>137</sup> requires efficient, effective coordination and cooperation between competent authorities. Close cooperation between the various services involved in import controls is required by paragraph 5(1) of the Annex to Decision 2001/812/EC.<sup>138</sup> This is necessary in order to ensure that all consignments are presented for checking at borders. Cooperation and coordination is also essential for the exchange of relevant information between services and to ensure access to electronic systems in accordance with articles 6 and 7 of Regulation (EC) No. 136/2004<sup>139</sup> and articles 5 and 6 of Commission Regulation (EC) No. 282/2004.<sup>140</sup>

<sup>135</sup> The World Customs Organization (WCO), established in 1952 as the Customs Co-operation Council (CCC), is an independent intergovernmental body whose mission is to enhance the effectiveness and efficiency of customs administrations.

<sup>136</sup> M. Ploner, Coordinated Border Management: from theory to practice, World Customs Journal, Volume 5, No. 2, pp. 51-52.

<sup>137</sup> Regulation (EC) No. 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules, OJ L 191, 28/05/2004, p. 1.

<sup>138</sup> Commission Decision of 21 November 2001 laying down the requirements for the approval of border inspection posts responsible for veterinary checks on products introduced into the Community from third countries, OJ L 306, 23/11/2001, pp. 28-33.

<sup>139</sup> Commission Regulation (EC) No. 136/2004 of 22 January 2004 laying down procedures for veterinary checks at Community border inspection posts on products imported from third countries, OJ L 21, 28/01/2004, pp. 11-23.

<sup>140</sup> Commission Regulation (EC) No. 282/2004 introducing a document for the declaration of, and veterinary checks on, animals from third countries entering the Community, OJ L 49, 19 February 2004, pp. 11-24.

In 2011, a report<sup>141</sup> was published of the missions carried out in Member States by DG SANCO to evaluate import controls at border inspection posts. It shows that, although there was an improvement in cooperation between competent authorities, direct access by border inspection posts' staff to a relevant sub-set of the electronic information held by customs authorities is not available in most Member States. While customs authorities generally make this information available to border inspection post staff on request, the lack of any direct access to it, or to data held by operators, hinders the effectiveness and efficiency of controls and increases the resources needed to carry them out.<sup>142</sup>

In the case of live animals or animal products, a system has been established for exchanges of information. The Trade Control and Expert System (TRACES) provides on-line information on import consignments of live animals and animal products. It facilitates the exchange of information between competent animal and public health inspectors, allows veterinary authorities to react rapidly to any health emergencies and speeds up administrative procedures for business operators.<sup>143</sup>

The development and implementation of TRACES has facilitated and simplified many procedures for border inspection posts and has improved communication between Member States relative to imports and transit. It has also facilitated an overview of imports into the EU. The fact that some of the main importing Member States do not use TRACES weakens its effectiveness. TRACES is also not generally used for consignments being transhipped through EU entry points, which makes carrying out the required controls more difficult for the border inspection posts involved.<sup>144</sup>

In the self-assessment study<sup>145</sup> it is furthermore stated that “customs authorities are nationally called upon to carry out a range of additional tasks, particularly in the area of controls, as illustrated in a survey on the powers of Member State customs authorities carried out by the Council’s Customs Cooperation Working Party (CCWP) in 2000 (subsequently revised in 2006).<sup>146</sup> The document lists areas where customs at that time had sole, “shared”<sup>147</sup> or (for some Member States) no competence for controls in 28 different areas.”

**Business.** Responses from the extended web-based survey are presented in the figure below.

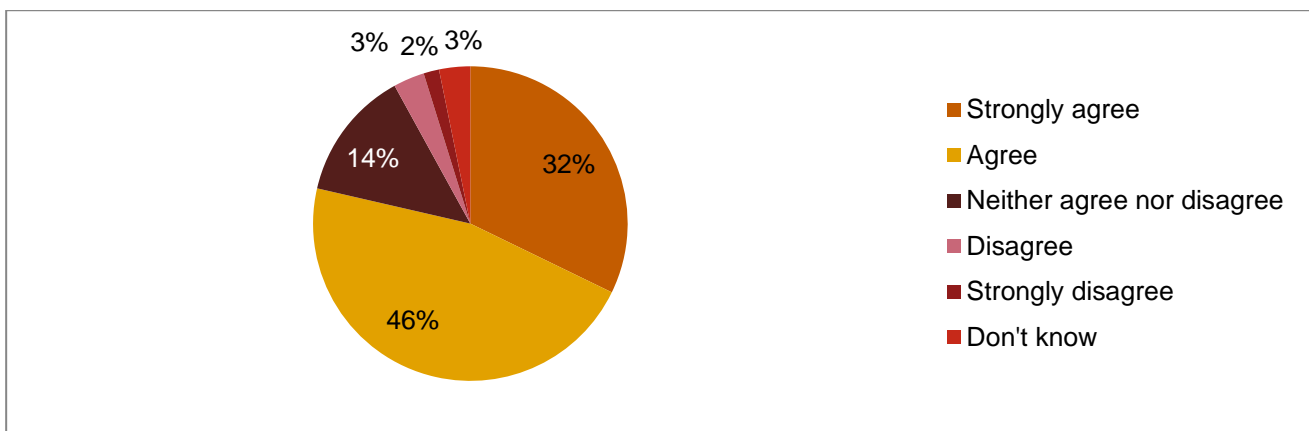


Figure 93 – Slim web-based survey (question 7.2) – Customs clearance in my country is well coordinated (i.e. well coordinated with other authorities and agencies such as those responsible for veterinary/sanitary/phytosanitary health, cultural artefacts, security etc.).

<sup>141</sup> Final general overview report of the missions carried out in Member States in order to evaluate the import controls at border inspection posts 2007-2009, European Commission, Directorate F, Food and veterinary office, DG (SANCO)2011-6255 – MR FINAL.

<sup>142</sup> Final general overview report of the missions carried out in Member States in order to evaluate the import controls at border inspection posts 2007-2009, European Commission, Directorate F, Food and veterinary office, DG (SANCO)2011-6255 – MR FINAL, pp. 5-6.

<sup>143</sup> Report from the Commission to the European Parliament and the Council on the effectiveness and consistency of sanitary and phytosanitary controls on imports of food, feed, animals and plants, COM(2010) 785 final, 21 December 2012, p. 9.

<sup>144</sup> Final general overview report of the missions carried out in Member States in order to evaluate the import controls at border inspection posts 2007-2009, European Commission, Directorate F, Food and veterinary office, DG (SANCO)2011-6255 – MR FINAL, p. 7.

<sup>145</sup> Future business architecture for the Customs Union and cooperative model in the taxation area in Europe -Final report on Task 2.2 – Strengths and weakness of the current organisation model Customs Union (TAXUD/R3/VDL D(2010) 433216) – May 2011, p. 98.

<sup>146</sup> To be found in the Council Register of Documents at consilium.europa.eu under reference ENFOCUSTOM no. 13606/2/06.

<sup>147</sup> Meaning that they, among other national authorities, are responsible.

Of the stakeholders that responded to the slim web-based survey, 32% strongly agree with the statement that customs clearance is well coordinated in their country, 46% agree, 14% neither agree nor disagree, 3% disagree, 2% strongly disagree and 3% don't know.

Thirty-three per cent of the large companies strongly agree with the statement, 47% agree, 14% neither agree nor disagree, 2% disagree, 2% strongly disagree and 3% don't know. Thirty-one per cent of the SMEs strongly agree, 45% somewhat agree, 13% neither agree nor disagree, 6% somewhat disagree, 2% strongly disagree and 4% don't know.

In the slim web-based survey, 41% of transport and logistics respondents strongly agree that customs clearance processes are well coordinated, compared to only 31% of respondents from all other sectors. Thirty-six per cent of transport and logistics respondents somewhat agree, compared to 48% of respondents from all other sectors. Overall satisfaction rates (strongly agree and somewhat agree together) are similar for both groups. Sixteen per cent of companies in the transport and logistics sector disagree and 4% strongly disagree. Of companies in other sectors, 13% disagree and 3% strongly disagree. Of both transport and logistics respondents and respondents from other industry sectors, the proportion of respondents not agreeing with the statement is 5% and the proportion of respondents that answered 'don't know' is 3%. Somewhat more respondents from the transport and logistics sector did not agree or disagree (16%) compared with respondents from other industry sectors (13%).

**Other authorities.** For the purpose of this study, the customs IT system is the national IT system of the customs authorities that, among other things, allows customs declarations to be submitted and processed. Other authorities and agencies were asked if their IT system is connected to customs' IT system in their Member State. Responses from the targeted survey for other authorities are presented in the figure below.

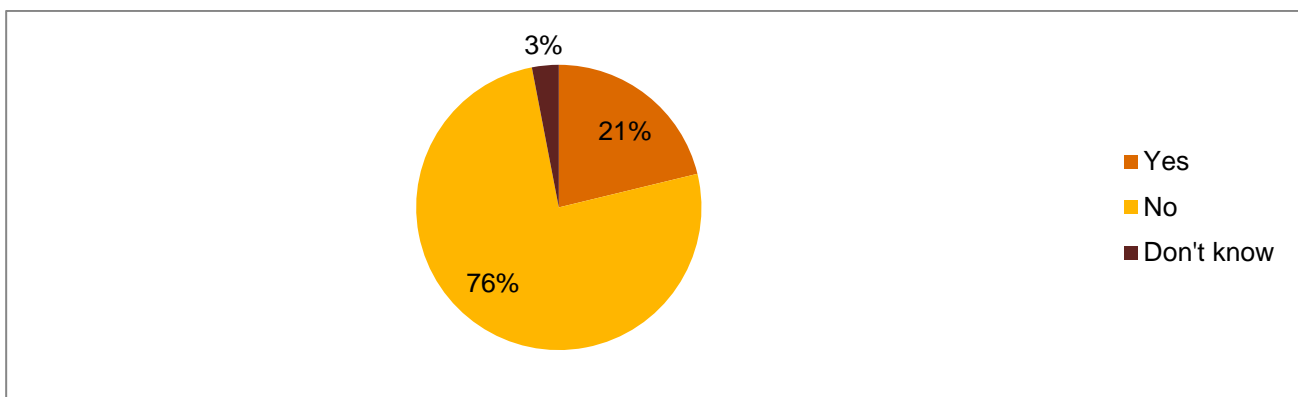


Figure 94 – Targeted survey for other authorities (question 16) – Are the IT systems of the customs authorities and your competent authority connected? Answers from other authorities

Responses from the targeted survey for other authorities are presented in the figure above. Twenty-one per cent of the other authorities indicate that the IT systems of the customs authorities and the competent authority are connected. Seventy-six per cent of the respondents indicate the opposite. Three per cent of the other authorities don't know.

Further, they were also asked whether the way in which the customs authorities cooperate with them improves the level of detection of offences. Responses from the targeted survey for other authorities are presented in the figure below.

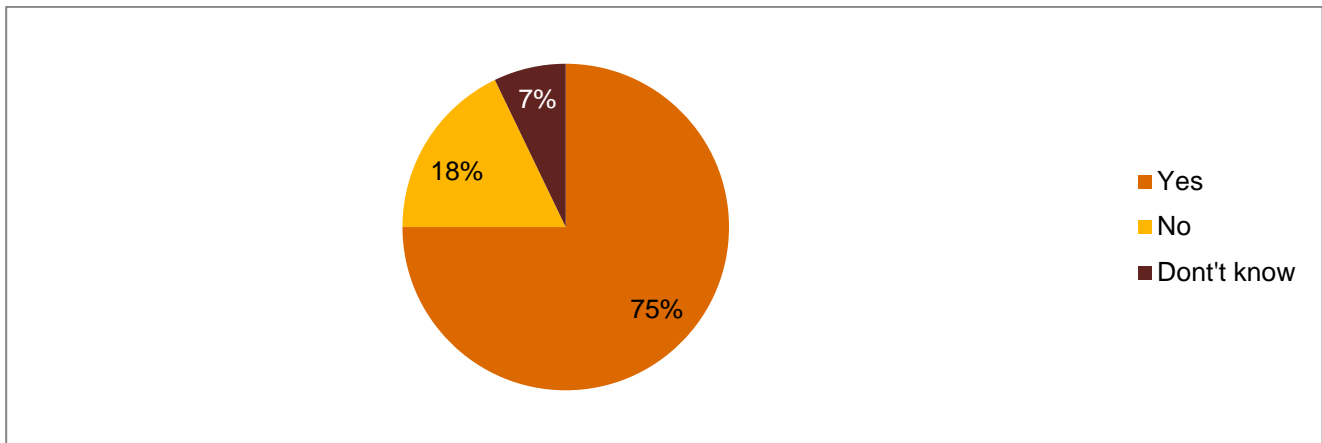


Figure 95 – Targeted survey for other authorities (question 15) – Does the way in which the customs authorities in your country currently cooperate with your competent authority improve the level of detection of offences?

Seventy-five per cent of the other authorities indicate that the way in which the customs authorities in their country currently cooperate with their competent authority improves the level of detection of offences. Eighteen per cent of the respondents indicate the opposite. Seven per cent of the other authorities don't know.

Some other authorities made recommendations to further improve cooperation between customs authorities and other authorities. These recommendations are, *inter alia*, organising training and meetings and efficient use of new technologies related to documentation and communication.

Finally, other authorities were asked to state their level of satisfaction with the quality of electronic communication between authorities in their country with respect to reliability, speed and availability. Responses from the targeted survey for other authorities are presented in the figure below.

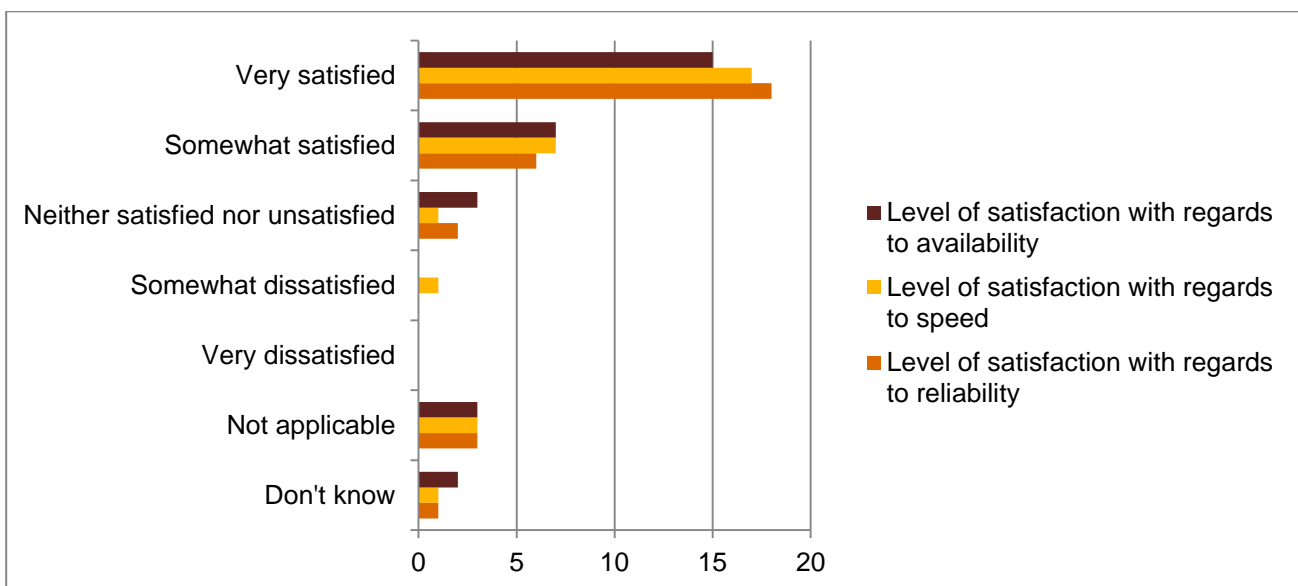


Figure 96 – Targeted survey for other authorities (question 11) – Level of satisfaction with the quality of electronic communication between authorities with regard to reliability, speed and availability

Fifteen other authorities are very satisfied with the quality of electronic communication between the authorities with regard to availability, while seven respondents are somewhat satisfied. Three other authorities are neither satisfied nor unsatisfied. Three respondents indicate that the statement is not applicable and two respondents don't know.

Seventeen other authorities are very satisfied with the quality of electronic communication between the authorities with regard to speed, while seven respondents are somewhat satisfied. On the other hand, one other authority is somewhat dissatisfied with the speed of the electronic communication and one respondent is neither satisfied nor unsatisfied. Three respondents indicate that the statement is not applicable and one respondent does not know.

Eighteen other authorities are very satisfied with the quality of electronic communication between the authorities with regard to reliability, while six respondents are somewhat satisfied. Two other authorities are neither satisfied nor unsatisfied. Three respondents indicate that the statement is not applicable and one respondent does not know.

**In-depth interviews.** In the course of these interviews, further to the basic input on the judgment criterion, the following input was acquired that is of interest.

In the interviews, it was indicated that cooperation and coordination between customs authorities and other authorities are possible in various matters. It was stated by DG TAXUD that one of the main forms of cooperation comprises customs authorities performing controls on the application of legislation other than customs legislation. In another form, other authorities perform any controls themselves and customs then validate certificates or licences as part of the clearance process.

Most interviews also emphasised the importance of communication between customs authorities and other authorities or agencies. There are many doubtful cases where the specific circumstances mean that customs should (be able to) consult with other authorities and agencies. On this score, the issue was raised that the costs of the IT connections in relation to security clearance were enormous as connections had to be made to each Member State. A more preferred option for the future would be to link to a central IT system.

It was highlighted by DG TAXUD that correct application of the legislative framework is facilitated by unambiguous, specific legislation on specific topics. The CITES legislation was cited as an example. If the customs authorities have doubts on whether a certain animal is covered by CITES, they are able to call in an expert to assist them (e.g. a zoo, museum or veterinary specialist). Such assistance is provided for in the CITES legislation.

DG AGRI said that there is little or no cooperation between customs authorities and agriculture authorities in practice. Controls are by and large performed by the relevant authorities themselves, which are very specialised. Customs authorities do not interact in this process, or only to a comparatively limited extent.

Not all infringements of agricultural policy will be detected. It is fair to assume that fraud still exists. One of the most difficult infringements according to DG AGRI is detecting genetically modified organisms. It is believed that increased cooperation with customs authorities could lead to further improvement in the controls in this respect.

#### *6.1.2.2 Findings*

According to 78% of the businesses responding to the slim web-based business survey, customs clearance in their country is well coordinated between the customs authorities and other authorities and agencies. Five per cent of the business stakeholders do not agree with this.

The results of the slim web-based business survey show a small difference in opinion between large companies and SMEs. Whereas 76% of SMEs agree with the statement that customs clearance in their country is well coordinated, only 60% of large companies do. When results are compared per sector, the extended web-based business survey shows that 77% of companies in the transport and logistics sector think that customs clearance in their country is well coordinated, compared to 79% of companies in other sectors. Nevertheless, one in-depth interviewee said that the transport and logistics sector advocates further coordination between authorities and development of Single Windows, preferably on an EU level.

Other authorities are overall satisfied with the quality of electronic communication between authorities, with regard to availability, speed and reliability. Only one other authority is not satisfied with the speed of electronic communication. The majority (75%) of other authorities are also satisfied with cooperation with customs authorities in order to improve the level of detection of offences.

The results are in line with our desk research, which showed that multiple initiatives exist to enforce coordination in the European Customs Union. This is required *inter alia* due to the fact that customs authorities are nationally called upon to carry out a range of additional tasks, particularly in the area of controls. One of the initiatives to mention specifically is with respect to feed and food, animal health and animal welfare, there is a specific regulation that requires efficient, effective coordination and cooperation between competent authorities;

Most in-depth interviews also emphasised the importance of communication between customs authorities and other authorities and agencies. However, on that, some other authorities recommended further improving cooperation between customs authorities and other authorities. Desk research also points to opportunities for improvement:

- one report shows that, in most Member States, there is no direct access by border inspection posts' staff to a relevant sub-set of electronic information held by customs authorities;
- TRACES is not used by some of the main importing Member States, which weakens its effectiveness.

During the in-depth interviews, it was also mentioned that there is little or no cooperation between customs authorities and agriculture authorities in practice.

Within the related IT environment, based upon the input received from other authorities, it appears that a majority (76%) of IT systems of other authorities are not connected to those of the customs authorities (within the scope of this study this was not further verified/tested – the finding is based purely on the input received from the surveys and interviews). As this is a very important matter in the views of the respondents, the input is that this should be improved, preferably through a centralised IT system. This was also confirmed by the in-depth interviews, in which it was stated that IT connections costs are enormous due to the fact that connections have to be made to each Member State. A more preferred option for the future would be to link to a central IT system.

#### *6.1.2.3 Judgment 2 – coordination with non-customs agencies and entities*

The majority of business stakeholders are satisfied with coordination between customs authorities and other authorities and agencies. Other authorities are satisfied overall with the quality of electronic communication between authorities in terms of availability, speed and reliability.

However, from an analysis of the different data sources, it is clear that there is still room for improvement with regard to coordination with non-customs agencies and entities. This opinion is expressed by both business stakeholders and other authorities.

It is also evidenced that the IT systems of other authorities are not connected to the IT systems of customs authorities in the majority of Member States. More information and recommendations are to be found in case study 4 on the collaboration between customs authorities and other authorities.

#### *6.1.3 Strategic objectives – Primary conclusion (Judgment 1 – judgment 2)*

Figures from 2013 show a decrease in the number of fraud cases detected. Business stakeholders are neither dissatisfied nor satisfied, or are satisfied, with the detection of tax fraud and tax evasion. The Customs Union is effective in general terms, although more in 'traditional' areas than in terms of safety and security. Regarding cooperation and communication between relevant authorities, an analysis based on the different sources shows that things are under control, especially due to a number of steps that have already been taken. Nevertheless, to maintain the high standard already achieved, further improvements could be made, especially in terms of the IT structures required.

## 6.2 Has the Customs Union succeeded in stopping prohibited and illegal goods from entering the market?

### 6.2.1 Strategic objectives – Extent to which the Customs Union has stopped prohibited and illegal goods from entering the EU market, on an equal basis across the EU

This section comprises an examination of the extent to which the Customs Union has stopped prohibited and illegal goods from entering the EU market, on an equal basis across the European Union.

To assess the extent to which the Customs Union has stopped prohibited and illegal goods from entering the EU market, the number and value of confiscated goods was examined based on findings from in-depth interviews and information received from DG BUDG. In addition, the movement in investments to protect the EU market against all types of illegal goods over the past five years is observed via the customs authorities' survey.

#### 6.2.1.1 Data

Data sources				
Desk research	Business	Customs authorities	Other authorities	In-depth interviews
✓	X	✓	X	X

**Desk research.** In the self-assessment study,<sup>148</sup> the results of control activities are discussed. Reference is made to the Annual Activity Reports (AARs) of DG TAXUD, which provide some indicators of the volumes of goods seizures by the customs authorities in the Member States. The results can be found in the table below.

Indicators	Information from AAR 2008	Information from AAR 2009
Volume of seizures of counterfeited goods	79m articles; 43,000 operations; significant increase in seizure of potentially dangerous products; 50% increase in seizures of medicines; 260% increase in seizure of personal care products.	178m articles; 49,000 operations; significant increase in seizures of potentially dangerous products; 18% increase in seizures of medicines.
Seizure of synthetic drugs precursors	Seizures in 2007 of just two key precursors (Ephedrine and BMK used to make methamphetamine and amphetamine) equates to the production of more than €2.5 bn of drugs at street value.	Significant increase in seizures of major synthetic drug precursors; 600+% increase in seizures of heroin precursors – 75% of the world's total; 400+% increase in seizures of GBL ('liquid ecstasy'); Considerable decrease in trafficking of ecstasy due to reinforced cooperation with China.

Table 18 - Data on volumes of seizures of goods in the EU (2008 and 2009.) Source: Self-assessment study (DG TAXUD Annual Activity Reports, 2008 & 2009)

Data is also collected on the number of infringements of CITES legislation. In order to respect confidentiality, the data at EU level could not be disclosed for the self-assessment report. It was, however, possible to collect data for seven of the ten sample Member States visited for the purpose of the self-assessment study. The average number of infringements identified in these seven Member States is 0.01% of all SAD declarations. The figures obtained suggest a certain degree of variation between Member States. The figures do not allow for further interpretation of the reasons behind this variation.

<sup>148</sup> Future business architecture for the Customs Union and cooperative model in the taxation area in Europe -Final report on Task 2.2 – Strengths and weakness of the current organisation model Customs Union (TAXUD/R3/VDL D(2010) 433216) – May 2011, p. 98.



The self-assessment report also says that the CPG survey showed agreement from 16 respondents that there is insufficient integration in the EU on the fight against illegal trade (counterfeiting, IPR, etc.), while seven disagreed.<sup>149</sup>

**Customs authorities.** Customs authorities were asked whether they agree with the statement that investments made to prevent entry into the EU of all types of restricted/prohibited goods have significantly increased over the past five years. More specifically, they were asked about the increase in investments with regard to equipment, number of staff and time spent by dedicated staff. Responses from the targeted survey for customs authorities are presented in the figure below.

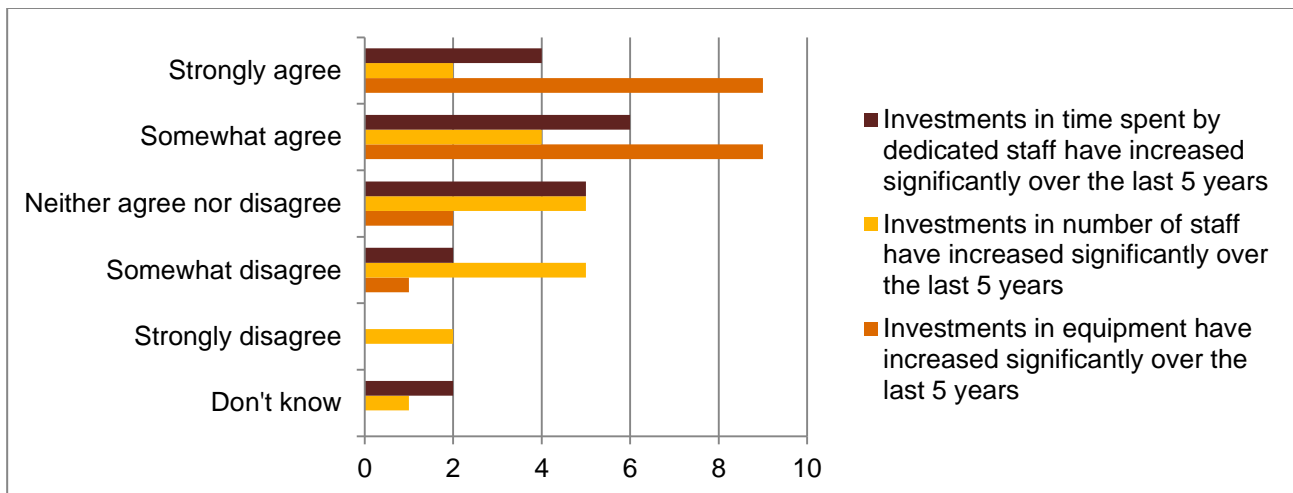


Figure 97 – Targeted customs authorities’ survey (question 36) – Investments made to prevent entry into the EU of all types of restricted/prohibited goods have significantly increased over the past five years

Four customs authorities strongly agree that investments in time spent by dedicated staff have increased significantly over the last five years, six respondents somewhat agree. On the other hand, two customs authorities somewhat disagree with this statement and five authorities neither agree nor disagree. Two respondents ‘don’t know’.

Two customs authorities strongly agree that investments in the number of staff have increased significantly over the last five years; four respondents somewhat agree. On the other hand, five customs authorities somewhat disagree with this statement and two authorities strongly disagree. Five authorities neither agree nor disagree and one respondent ‘doesn’t know’.

Nine customs authorities strongly agree that investments in equipment have increased significantly over the last five years; nine respondents somewhat agree. On the other hand, one customs authority somewhat disagrees and two authorities neither agree nor disagree.

The customs authorities were also asked whether they agree that investments made to prevent entry into the EU of all types of restricted/prohibited goods have significantly decreased over the past five years. More specifically, they were asked about decreases in investments in equipment, number of staff and time spent by dedicated staff. Responses from the targeted survey for customs authorities are presented in the figure below.

<sup>149</sup> In total, 23 respondents answered this question.

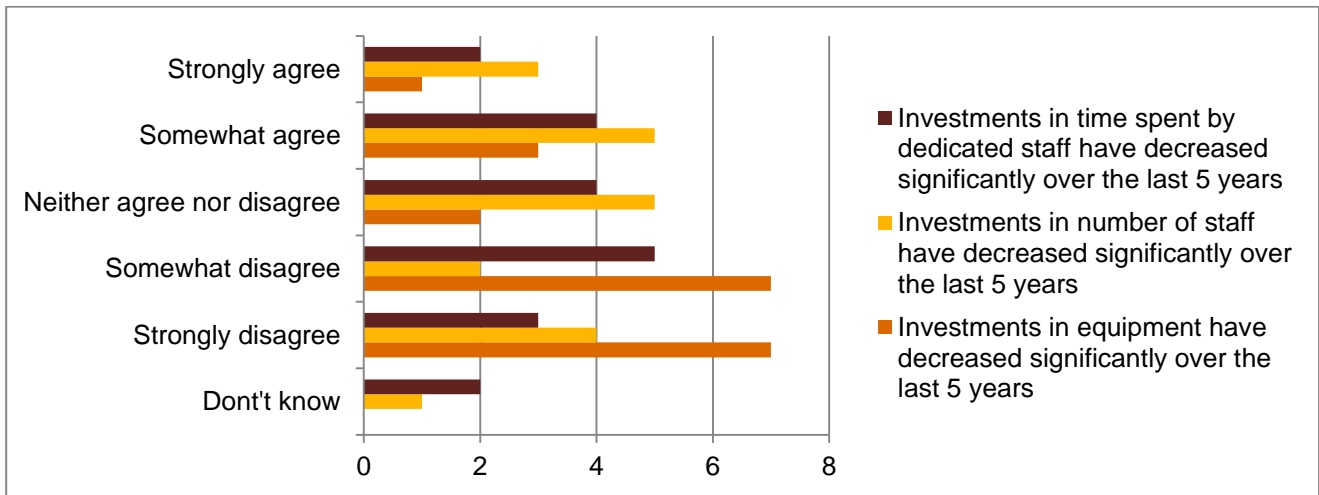


Figure 98 – Targeted customs authorities’ survey (question 37) – Investments made to prevent entry into the EU of all types of restricted/prohibited goods have significantly decreased over the past five years

Two customs authorities strongly agree that investments in time spent by dedicated staff have decreased significantly over the last five years; four respondents somewhat agree. On the other hand, five customs authorities somewhat disagree with this statement and three strongly disagree. Four authorities neither agree nor disagree and two respondents ‘don’t know’.

Three customs authorities strongly agree that investments in the number of staff have decreased significantly over the last five years; five respondents somewhat agree. On the other hand, two customs authorities somewhat disagree with this statement and four strongly disagree. Five authorities neither agree nor disagree and one respondent ‘doesn’t know’.

One customs authority strongly agrees that investments in equipment have decreased significantly over the last five years; three respondents somewhat agree. On the other hand, seven customs authority somewhat disagree and seven strongly disagree. Two authorities neither agree nor disagree.

#### 6.2.1.2 Findings

Two questions were asked in the targeted customs authorities’ survey. Customs authorities were first asked whether they think investments have significantly increased. Then, they were asked whether they think that investments have significantly decreased. The findings from the first question are tested against the findings from the second question.

Investments in equipment have increased especially significantly over the past five years according to the majority (18 out of 21) of customs authorities. Only one customs authority disagrees with this. This is more or less confirmed by the answers to the question on whether customs authorities think that investments in equipment have decreased significantly over the last five years. Fourteen out of 20 customs authorities disagree with this, whereas four customs authorities agree.

Regarding the investment in time spent, around half (ten out of 19) of the customs authorities indicate that there has been a significant increase over the past five years. Only two customs authorities do not agree with this and five neither agree nor disagree. However, these results are out of line with the answers to the question of whether they think that investments in time have significantly decreased over the past five years. In this case, six (out of 20) customs authorities agree and only eight disagree. Four customs authorities neither agree nor disagree. This confusion may be caused by a change in some Member States, in that the number of staff in general has decreased whilst the number of staff dedicated to the detection of infringements may have increased.

Opinions differ somewhat when it comes to investments in staff numbers. Six customs authorities think these have increased significantly, while seven do not agree. Five authorities neither agree nor disagree. These results

are confirmed by the answers to the question of whether investments in staff numbers have decreased over the past five years: six customs authorities disagree and eight agree. Five neither agree nor disagree.

Overall, it can be concluded that customs authorities agree that investments in equipment have increased significantly over the last five years. Opinions differ regarding investments in staff numbers over the past five years. Some think they have significantly increased while others think they have decreased. Regarding investments in time spent by dedicated staff over the past five years, the customs authorities did not provide consistent answers. Therefore, no conclusions can be drawn based on these findings.

The self-assessment report reveals that the CPG survey showed 16 respondents agreeing that there is insufficient integration in the EU on the fight against illegal trade (counterfeiting, IPR, etc.), while seven disagreed.

However, despite the differing opinions on investments made and integration, results from AAR show that there was a significant increase in seizures of potentially dangerous products, medicines and synthetic drug precursors in 2009.

#### 6.2.1.3 *Judgment 3 – stopping prohibited and illegal goods*

See 6.2.2: Strategic objectives – Second conclusion (Judgment 3).

#### 6.2.2 *Strategic objectives – Second conclusion (Judgment 3)*

In the battle against prohibited and illegal goods, a shift is reported in the allocation of resources. More investments are being made in equipment while numbers of dedicated staff are down in some Member States and up in others. No data was available in the context of this study on the results of this shift in the allocation of resources.

On the actual question raised in this paragraph, there was not sufficient data to be able to draw a conclusion on whether the present strategy effectively stops prohibited and illegal goods from entering the EU or to make a comparison on that criterion among the Member States.

### 6.3 **Has the Customs Union succeeded in collecting customs duties and other taxes and levies effectively and correctly?**

#### 6.3.1 *Strategic objectives – Extent to which the cost of collecting customs duties, other taxes and levies is outweighed by the levies collected, focusing on the cost-effective use of both EU input resources and national input resources*

##### 6.3.1.1 *Data*

Data sources				
Desk research	Business	Customs authorities	Other authorities	In-depth interviews
✓	X	X	X	✓

**Desk research.** It is stated in the self-assessment study<sup>150</sup> that, “overall, there are many good examples of exchanges of “best practice” between national customs authorities, e.g. in risk management, and support of effective operations from EU initiatives, e.g. the AEO guidelines. However, opportunities for exploiting differences between the Member States and how they perform customs processes have yet to be fully eliminated, and customs officials often lack information to perform some of their customs tasks effectively.”

<sup>150</sup> Future business architecture for the Customs Union and cooperative model in the taxation area in Europe – Final report on Task 2.2 – Strengths and weakness of the current organisation model Customs Union (TAXUD/R3/VDL D(2010) 433216) – May 2011, p. 98.

In the self-assessment study,<sup>151</sup> certain strengths and weaknesses are identified regarding the effectiveness of business processes in the Customs Union. One of the strengths is the effective protection of financial interests. *“In relation to the clearance process, there was a general acknowledgement that protection of the EU and Member States’ financial interests was effective. Most Member States indicated, however, that more could/should still be done as many interviewees knew of specific instances<sup>152</sup> of “shopping” – i.e. cases in which certain companies seek the “weakest link” in the Customs Union. There were divergent views among the interviewees on whether or not shopping has a significant impact on the collection of duties.”*

One of the weaknesses stated is the lack of available information. *“Customs authorities require information in order to carry out all types of customs processes effectively, whether information on how certain goods are valued in other Member States (clearance process), on activities of companies in other countries (for the risk management and client management process) or even information that allows simulations to be done. Although tools and databases exist to support the exchange of some types of information, Member States and DG TAXUD found that more could and should be done to make information available to perform core processes<sup>153</sup> effectively. In the CPG survey, 20 respondents agreed that there is a need to enhance the exchange of information between Member States (e.g. regarding valuation, prosecutions against companies, etc.), while two respondents disagreed instead.<sup>154</sup> In addition to this, 16 respondents agreed that information should be made available proactively rather than having to be searched for (i.e. should move from ‘pull’ to ‘push’), while eight respondents disagreed with this view.<sup>155</sup>”*

Another weakness stated in the report is the absence of performance indicators. *“Currently there are no performance indicators that allow for an objective measurement of the effectiveness of all kinds of customs tasks. There is no objective, measurable basis to judge which processes are working well and which are not. The CPG survey indicated that 19 participants agree that there is a lack of performance indicators to measure the impact of customs activities on uniformity, while seven respondents did not see this as a weakness.<sup>156</sup>”*

In the table below, data from the Measurement of Results database is shown for number of import declarations, total duties collected and average duty per declaration for 2009, 2010 and 2011.

	2009	2010	2011
<b>Number of import declarations<sup>157</sup></b>	116 million	125 million	140 million
<b>Total duties made available by Member States</b>	EUR 15.36 billion	EUR 15.44 billion	EUR 17.68 billion
<b>Average duty per declaration (EUR)</b>	132.41	123.52	126.29

Table 19 – MoR

The thematic report of DG BUDG on the Local Clearance Procedure<sup>158</sup> concludes that *“post-clearance checks should be carried out based on a risk assessment and the three-year limitation period should be properly taken into account. When Member States carry out checks with a lower frequency, they should be able to justify that that frequency is nevertheless sufficient to protect the EU’s financial interests. The Commission*

<sup>151</sup> Future business architecture for the Customs Union and cooperative model in the taxation area in Europe –Final report on Task 2.2 – Strengths and weakness of the current organisation model Customs Union (TAXUD/R3/VDL D(2010) 433216) – May 2011, p. 98.

<sup>152</sup> Instances were mentioned of companies choosing to have certain goods enter the EU through a specific Member State as the frequency and/or severity of customs controls in that Member State are perceived as being lower than in some other Member States.

<sup>153</sup> There may be various reasons for a lack of availability, such as the lack of IT tools and databases, national legislation, rules and procedures related to data protection, etc.

<sup>154</sup> The remaining two respondents answered “no opinion”. In total, 24 respondents answered.

<sup>155</sup> The remaining two respondents answered “no opinion”. In total, 24 respondents answered

<sup>156</sup> In total 26 respondents answered this question

<sup>157</sup> Please note that only figures for 2011 are available on the numbers of import, export and transit declarations. For 2009 and 2010, only the total number of declarations (import, export and transit) and the number of transit declarations are available. For 2009 and 2010, the number of import declarations is calculated based on the assumption that the percentage of import declarations (i.e. the number of import declarations compared to the number of import and export declarations) is the same for 2009, 2010 and 2011. We therefore assume for 2009 and 2010 that 59.32% of the total numbers of import and export declarations concern import declarations.

<sup>158</sup> European Commission, Own resources and financial programming, Control of traditional own resources, Local Clearance Procedure – Thematic report of the Directorate-General for Budget – Results of inspections carried out in Member States in 2011, p. 1.

*and the European Court of Auditors have in recent years underlined the need to step up post-clearance audits to compensate for the reduction in controls at clearance. Most Member States have committed to doing this, but have not fully implemented that commitment.”*

**In-depth interviews.** In the course of these interviews, further to the basic input on the judgment criterion, the following input was acquired that is of interest.

In an in-depth interview with the national customs authorities of an old, large Member State, it was stated that the average cost to process a customs declaration (EUR 13.10 in that Member State) is lower than the average amount of collected duties per declaration (EUR 157.86 per declaration in 2011).

DG BUDG stressed that, if processes are clearly not in line with the regulation and, as a consequence, the financial interests of the EU budget are jeopardised, the consequences might be significant.

#### *6.3.1.2 Findings*

In the self-assessment study, certain strengths and weaknesses are identified regarding the effectiveness of business processes in the Customs Union. One of the strengths is the effective protection of financial interests. This is in contradiction with the thematic report of DG BUDG, in which it is stated that, to protect the financial interests of the EU, post-clearance controls need to be stepped up to compensate for the reduction in controls at clearance. Furthermore, DG BUDG point to the fact that, if processes are not in conformity with EU regulations, this might jeopardise the financial interests of the EU. In the self-assessment, as well, certain weaknesses were identified: the lack of available information and the absence of performance indicators to measure effectiveness are identified as weaknesses.

As for a comparison between actual duties collected and the cost of collection, the data are too limited to make any real judgment (only one actual example was available – see above).

#### *6.3.1.3 Judgment 4 – collection of customs duties, other taxes and levies*

See Strategic objectives – Third conclusion (Judgment 4).

#### *6.3.2 Strategic objectives – Third conclusion (Judgment 4)*

Based on a high-level analysis, no conclusion can be drawn. One suggestion based on the limited information available (although no cross-country benchmarks can be done) is that customs duties are collected effectively.

Only limited data is available on the effective, correct collection of customs duties and other taxes and levies. A high-level analysis for one Member State indicates that, if desired, an evaluation of this aspect would be possible.

## **6.4 Has the Customs Union also generated unintended effects? What are they? How significant are they?**

This section examines to what extent the Customs Union has generated unintended effects.

The Customs Union has had the following desired outcomes or effects:

- to stop illicit, restricted and prohibited goods destined for the EU (at the border, prior to arrival or within the EU),
- to detect fraud and tax evasion,
- to correctly and efficiently collect customs duties, other taxes and levies,
- to correctly and uniformly apply customs and non-customs legislation and working processes across the EU,
- to reduce unnecessary administrative burdens on businesses for trade-related formalities.

Unintended effects of the Customs Union are effects that were not initially intended by it but that nevertheless follow from how it is functioning today. These include:

- positive unintended effects, representing an unexpected benefit,
- negative unexpected effects occurring in addition to the desired effects of the Customs Union,
- perverse effects, which are contrary to the intended effects of the Customs Union.

#### 6.4.1 Strategic objectives – Extent to which the Customs Union has generated unintended effects

In order to assess the extent to which the Customs Union has generated unintended effects, businesses, customs authorities and other authorities were asked to give feedback.

##### 6.4.1.1 Data

Data sources				
Desk research	Business	Customs authorities	Other authorities	In-depth interviews
X	✓	✓	✓	✓

**Business.** About 46% of the business stakeholders that completed the questionnaire are of the opinion that the Customs Union has not generated unintended effects (source: targeted business questionnaire question 96) The businesses that do think that the Customs Union has generated unintended effects (17%), gave the following examples, among others:

- the absence of internal borders has made smuggling much easier;
- identification of anti-dumping rules for an individual item is problematic;
- there are still differences in interpretation between the Member States with respect to customs clearance.

Thirty-six per cent of the business stakeholders did not know whether the Customs Union has generated unintended effects or not.

**Customs authorities.** Customs authorities were asked whether they think that the Customs Union has generated unintended effects. The results are shown in the figure below.

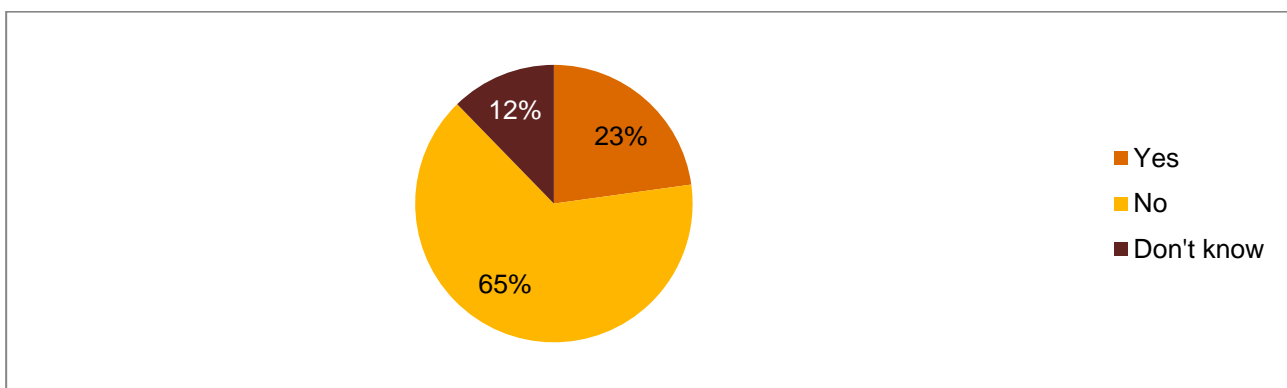


Figure 99 – Targeted customs authorities survey (question 38) – Has the Customs Union generated unintended effects with respect to the detection of fraud and tax evasion, the detection of prohibited and restricted goods, the collection of customs duties and other taxes, reduction of the administrative burden, the application of customs legislation and processes or collaboration between customs authorities and other stakeholders?

Of the customs authorities that completed the question, a 65% majority do not think that the Customs Union has generated unintended effects. Twenty-three per cent of the customs authorities indicate that the Customs Union has generated unintended effects. These unintended effects relate to:

- the detection of fraud and tax evasion (33%),
- the detection of prohibited and restricted goods (20%),
- the collection of customs duties and other taxes (16%),
- reduction of the administrative burden (26%),
- the application of customs legislation and processes (30%), as well as
- collaboration between customs authorities and other stakeholders (11%).

Thirteen per cent of the customs authorities ‘don’t know’.

**Other authorities.** Other authorities were asked whether they think that the Customs Union has generated unintended effects. The results are shown in the figure below.

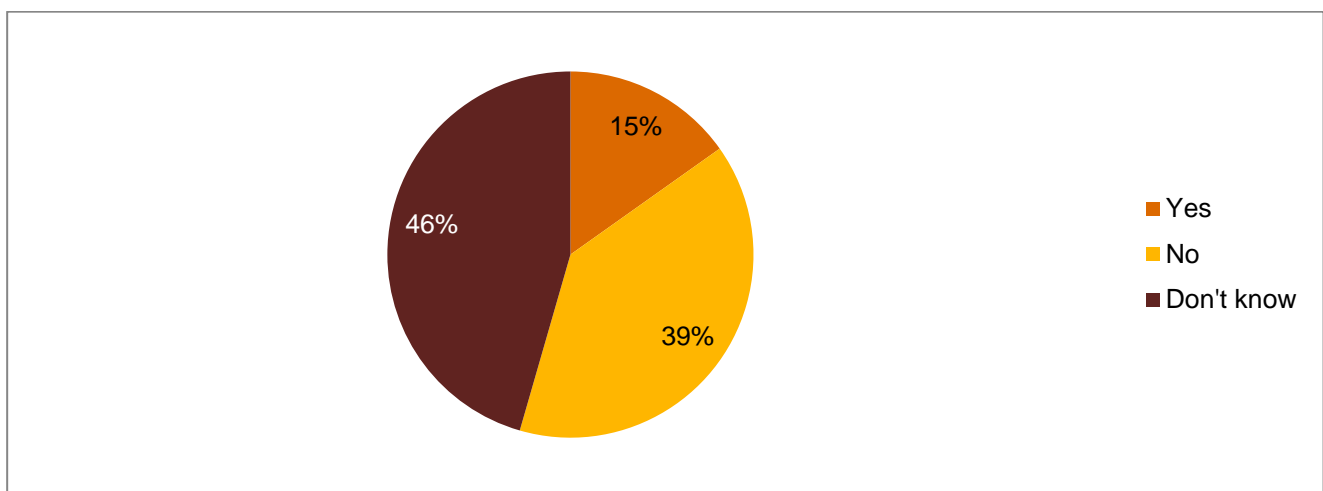


Figure 100 – Targeted survey for other authorities (question 17) – Has the Customs Union generated unintended effects with respect to the detection of prohibited and restricted goods, reduction of the administrative burden, the application of customs clearance or collaboration between customs authorities and other stakeholders?

The responses from the targeted survey for other authorities show that 15% per cent of the customs authorities indicate that the Customs Union has generated unintended effects with respect to the detection of prohibited and restricted goods, reduction of the administrative burden, the application of customs clearance or collaboration between customs authorities and other stakeholders. Thirty-nine per cent of the other authorities do not think that the Customs Union has generated unintended effects and 46% don't know.

**In-depth interviews.** In the course of these interviews, further to the basic input on the judgment criterion, the following input was acquired that is of interest.

Various stakeholders said that ‘customs shopping’ is a major unintended effect of the Customs Union. Companies locate their customs activities in the Member State that is most beneficial to them from a customs point of view, whereas, in principle, there should be no differences among Member States. According to the European Court of Auditors, companies tend to seek the Member State where controls are less stringent or where they can avoid paying VAT through customs procedure 42.<sup>159</sup> The European Court of Auditors adds that the financial losses could be significant.

<sup>159</sup> Procedure 42 allows an exemption from payment of import VAT for goods imported from a third country into a number of States for subsequent delivery to another Member State.

Another unintended effect is mentioned by DG ENTR and relates to the changing role of customs authorities. From the key task of collecting duties, a shift is noted to other areas including controls originating from other than customs legislation.

#### *6.4.1.2 Findings*

Twenty-three per cent of customs authorities and 15% of other authorities think that the Customs Union has generated unintended effects. The aspects where customs authorities think that the Customs Union has generated the most unintended effects relate to the detection of fraud and tax evasion, the application of customs legislation and processes and the reduction of administrative burden. It is perceived as difficult to handle all issues the same way in different Member States, since each Member State has its own needs and requirements, i.e. there is a lack of the uniformity that should have resulted from the Customs Union. Irrespective of the Customs Union, each country has its own supplementary legislation and practices. The existence of differences among Member States was confirmed during the in-depth interviews. Furthermore, it was stated during these interviews that this can result in 'customs shopping'.

Another unintended effect mentioned in the in-depth interviews was the changing role of customs authorities.

No positive unintended effects were cited. All in all, and although the surveys give the impression that there are lots of unintended effects, few relevant concrete examples were cited.

#### *6.4.1.3 Judgment 5 – unintended effects*

See 6.4.2: Strategic objectives – Fourth conclusion (Judgment 5).

### *6.4.2 Strategic objectives – Fourth conclusion (Judgment 5)*

Only few unintended effects are reported. The most reported unintended effect is 'customs shopping': the fact that some operators seek to import goods into the Member State where controls are least stringent. Depending on the scale of this phenomenon, it can lead to distortion and/or unfair competition within the Customs Union, and so it is a point needing attention.

## **6.5 Strategic Objectives – Conclusion**

As only little relevant information is available or could be granted access to, no decisive answer can be formulated on this evaluation question. Furthermore, the lack of benchmarks makes replying to this question impossible.

Nevertheless, it can be concluded that, overall, the Customs Union is effective in realising its strategic objectives and its general intended goals. The main overall points needing attention relate to the need for a good IT infrastructure to support communication, and better coordination and cooperation between different authorities in order to avoid fraud and tax evasion.

Though no conclusive statement can be made on the effectiveness of the collection of customs duties, initial indications are that such may be the case (cost compared to return in terms of duty collected).

Another main point resulting from an analysis of the question as to the strategic goals of the Customs Union and its intended effects is that, where unintended effects are mentioned (and they qualify as resulting from the Customs Union), they almost all relate to the lack of uniformity in the application of legislation and differences in local practical formalities and procedures. This may also be an aspect needing further attention to ensure optimal functioning of the Customs Union. The most reported unintended effect, however, is 'customs shopping': the fact that some operators seek the place of import where controls are least stringent.



## **6.6 Strategic Objectives – Recommendations**

It is demonstrated that the IT systems of other authorities are not connected to the IT systems of customs authorities in the majority of Member States. As this is an important matter for facilitating trade, improvements are desirable. This point should be further evaluated and investigated to determine the best way forward.

A further integrated, coordinated approach should be developed across the EU and across authorities to fight illegal trade, tax evasion and fraud.

Performance indicators should be developed in order to objectively measure and improve the Member States' customs authorities' efficiency and effectiveness in terms of core processes.

An evaluation of the effective collection of import duties is recommended for each Member State. This would produce a benchmark amongst the Member States, resulting in increased cost-efficiency in the collection of duties, uniformity and an improved ranking at a global level.

Finally, an adequate exchange of information between customs authorities and other authorities is recommended to improve coordination between authorities in the field of detecting fraud and illegal goods.

## 7 How has the Customs Union absorbed the enlargement of the EU?

The following section analyses how the Customs Union has absorbed the enlargement of the European Union to 27 Member States. Enlargement as an evaluation criterion is assessed across all of the other evaluation criteria:

- uniformity,
- efficiency,
- effects of major policy initiatives,
- quality of service,
- effects of strategic objectives.

The analysis in this section looks at whether there are substantial differences between the old and new Member States in terms of the various evaluation criteria.<sup>160</sup> It draws on data and information from the slim web-based survey, as well as desk research, in-depth interviews and targeted surveys of business stakeholders, customs authorities and other authorities. Results from the extended web-based survey are not taken into account in this section due to the high number of ‘don’t knows’ in this survey. The results are divided up according to evaluation criterion and then further split into the different sources: desk research, business surveys, customs authorities, other authorities and in-depth interviews.

Please note that numbers may not add up to 100% due to rounding.

### 7.1 Extent to which uniformity in application of the core processes of the Customs Union is comparable for the old and new Member States

To evaluate the uniformity of core processes between old and new Member States, the different (sub-)judgment criteria as dealt with in the section on uniformity are compared. The key findings are reported below.

#### 7.1.1 Uniformity – Data

Data sources				
Desk research	Business	Customs authorities	Other authorities	In-depth interviews
X	✓	✓	✓	✓

**Business.** It is not useful to compare how businesses that are established in old and new Member States assess the Customs Union with regard to uniformity, because businesses established in both old and new Member States assess the level of uniformity based on the differences among all (old and new) Member States. Businesses were not asked to assess uniformity for old Member States and new Member States separately.

**Customs authorities.** From the point of view of the customs authorities surveyed, no differences are reported between the old and new Member States as regards the uniformity criterion.

**Other authorities.** From the point of view of the other authorities surveyed, no differences are reported between the old and new Member States as regards the uniformity criterion.

**In-depth interviews.** In the course of these interviews, further to the basic input on the judgment criterion, the following input was acquired that is of interest.

According to the representatives of the business associations interviewed, more physical controls are performed in the new Member States. In the opinion of DG TAXUD, this is because newer Member States are sticking to their traditions.

<sup>160</sup> The old Member States are: Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden and the United Kingdom. The new Member States are Bulgaria, Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, Slovakia and Slovenia.

It was stated by representatives of business associations that the operation of new state-of-the-art IT systems with more advanced data management technology differs amongst Member States. New IT systems are more common in new Member States. This can be explained by the fact that old Member States typically have legacy systems.

### 7.1.2 Uniformity – Findings

In-depth interviews indicate that there are differences between new and old Member States. Representatives of business associations stated that more physical controls are performed in the new Member States and that new Member States more commonly operate new IT systems.

### 7.1.3 Uniformity – Primary conclusion

The second chapter of this report on uniformity of the Customs Union has already revealed that the Customs Union is not completely uniform. There is no evidence of differences between the old and new Member States in this respect as the surveys did not furnish any such information. Where differences might exist, indications based on the in-depth interviews are that they may be due to a habitual *modus operandi* (new Member States sometimes stick to their old working methods) or a different infrastructure (new Member States more often operate new IT systems).

## 7.2 Extent to which efficiency in the performance of the core processes of the Customs Union is comparable for the old and new Member States

To evaluate the efficiency of core processes between old and new Member States, the different (sub-)judgment criteria are compared as dealt with in the section on efficiency. The key findings are reported below.

### 7.2.1 Efficiency – Data

Data sources				
Desk research	Business	Customs authorities	Other authorities	In-depth interviews
✓	✓	✓	✓	✓

**Desk research.** Reference is made to the Logistics Performance Index and the Enabling Trade Index as referred to in Chapter 3 on Efficiency (see the indices listed in par 3.1.1.1 and par. 3.2.1.1.1). From the two indices, it is clear that, based on the World Economic Forum and the World Bank’s Logistics Performance Index, there is a clear difference in efficiency between the old and the new Member States (as well as within these groups). Whereas most of the old Member States that are part of the core trade lanes of the EU are ranked relatively high, most new Member States (often) rank considerably lower. Thus, based on external indices, there is a clear difference between the old and new Member States in respect of efficiency.

Further, with regard to the evaluation of the efficiency of the AEO certification process (see below), reference is made to Chapter 3, paragraph 3.4.1.1.1, on the number of AEO certificates granted, where it should be noted that the large majority of AEO certificates are granted in the old Member States: substantial numbers of AEO certificates are applied for and issued in only one new Member State.

**Business.** Data from business stakeholders was gathered regarding the efficiency of customs clearance, controls and authorisation management processes (see below). As already discussed in chapter 3 of this report, no data was gathered from business stakeholders regarding the efficiency of data management processes.

Customs clearance

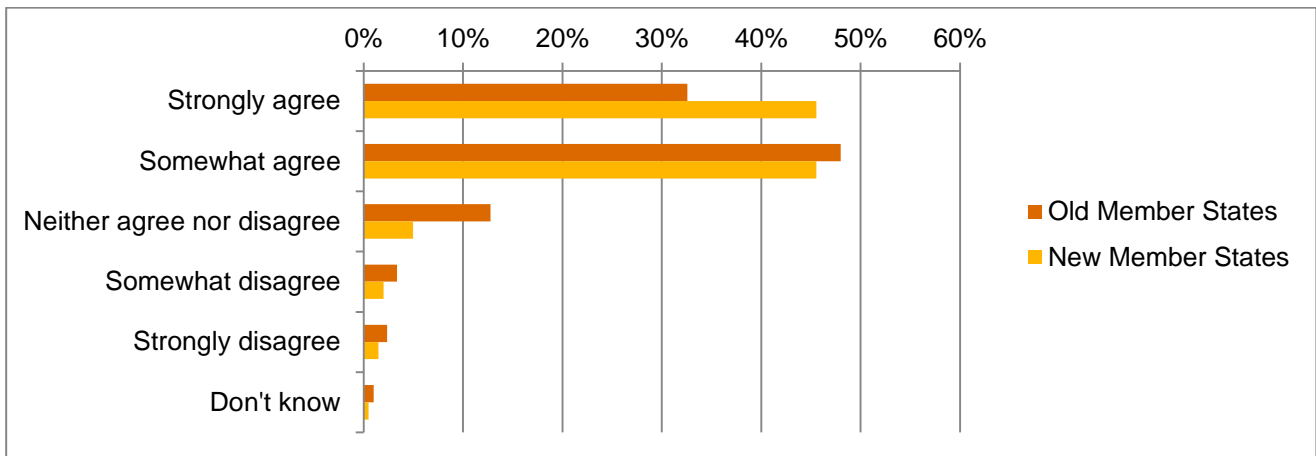


Figure 101 – Slim web-based survey (Question 7.1) – To what extent do you agree with the statement ‘Customs clearance in my country is efficient?’

Business stakeholders were asked in the slim web-based survey to what extent they agree that ‘Customs clearance in my country is efficient’.

Of the respondents established in old Member States, 33% strongly agree with the statement, 48% somewhat agree, 13% neither agree nor disagree, 3% somewhat disagree, 2% strongly disagree and 1% don’t know. Of the respondents established in new Member States, 46% strongly agree with the statement, 46% somewhat agree, 5% neither agree nor disagree, 2% somewhat disagree, 1% strongly disagree and 0% don’t know.

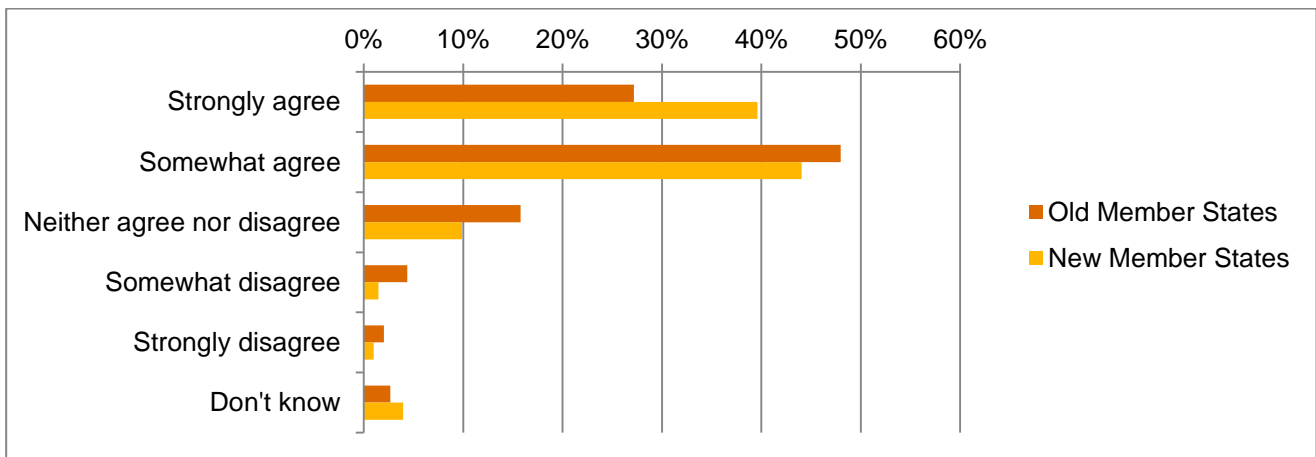


Figure 102 – Slim web-based survey (Question 7.2) – To what extent do you agree with the statement ‘Customs clearance in my country is well coordinated?’

Business stakeholders were asked in the slim web-base survey to what extent they agree that ‘Customs clearance in my country is well coordinated’.

Of the respondents established in old Member States, 27% strongly agree, 48% somewhat agree, 16% neither agree nor disagree, 4% somewhat disagree, 2% strongly disagree and 3% don’t know. Of the respondents established in new Member States, 40% strongly agree, 44% somewhat agree, 10% neither agree nor disagree, 1% somewhat disagree, 1% strongly disagree and 4% don’t know.

Control processes

- Documentary controls

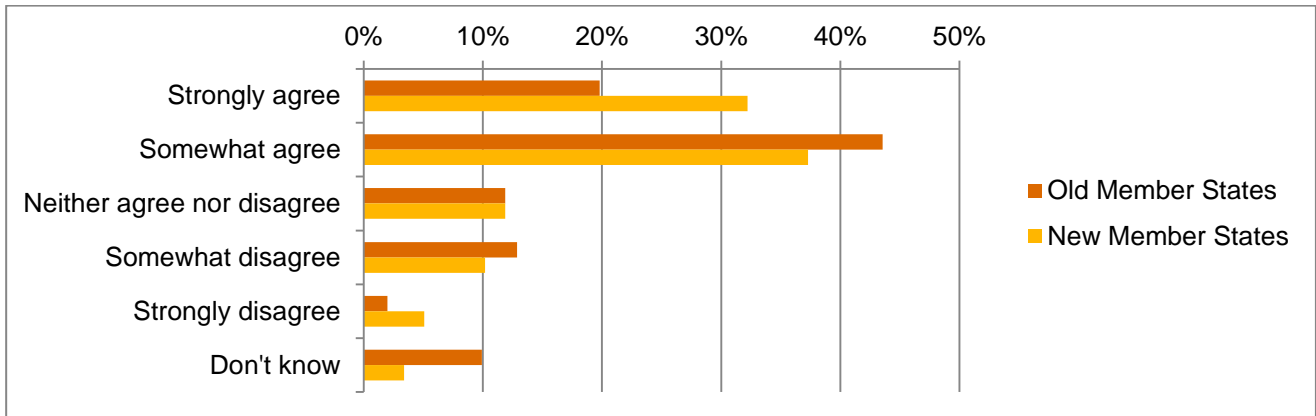


Figure 103 – Targeted business survey (Question 53.1) – To what extent do you agree with the statement ‘I am satisfied with the efficiency of documentary controls in my country’?

Business stakeholders were asked in the targeted business survey to what extent they agree with the statement ‘I am satisfied with the efficiency of documentary controls in my country’.

Of the respondents established in old Member States, 20% strongly agree with the statement, 44% somewhat agree, 12% neither agree nor disagree, 13% somewhat disagree, 2% strongly disagree and 10% don’t know. Of the respondents established in new Member States, 32% strongly agree, 37% somewhat agree, 12% neither agree nor disagree, 10% somewhat disagree, 5% strongly disagree and 3% don’t know.

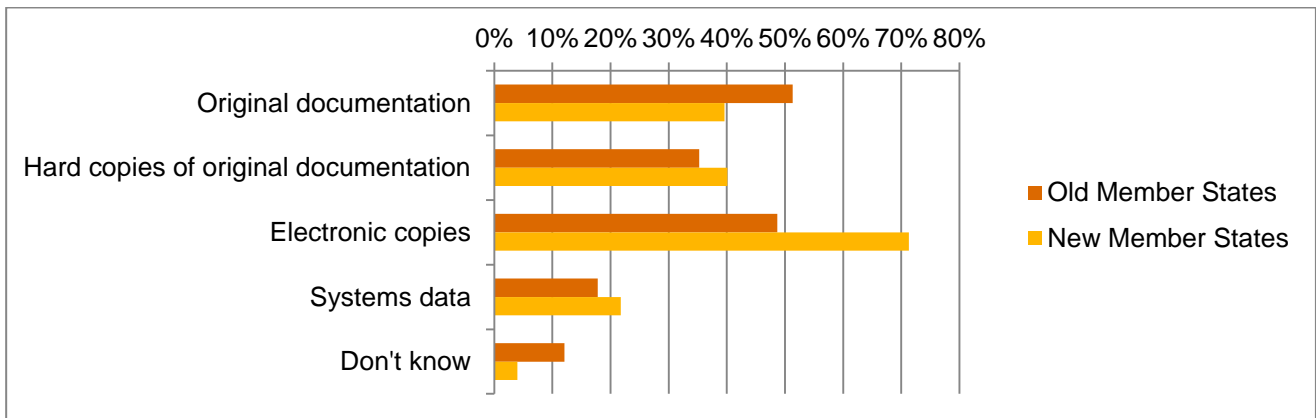


Figure 104 – Slim web-based survey (Question 9) – In what ways does the customs authority in your country allow you to submit documents additional to the customs declaration in the case of documentary controls?

Fifty-one per cent of business stakeholders established in old Member States indicate that original documentation can be submitted, compared to 40% of business stakeholders established in new Member States. Thirty-five per cent of business stakeholders established in old Member States indicate that hard copies of original documentation can be submitted, compared to 40% of business stakeholders established in new Member States. Forty-nine per cent of business stakeholders established in old Member States indicate that electronic copies are accepted, compared to 71% of business stakeholders established in new Member States. Eighteen per cent of business stakeholders established in old Member States indicate that systems data is accepted, compared to 22% of business stakeholders established in new Member States. Twelve per cent of business stakeholders established in old Member States don’t know in what format additional documentation can be submitted, compared to 4% of the business stakeholders established in new Member States.

- Physical controls

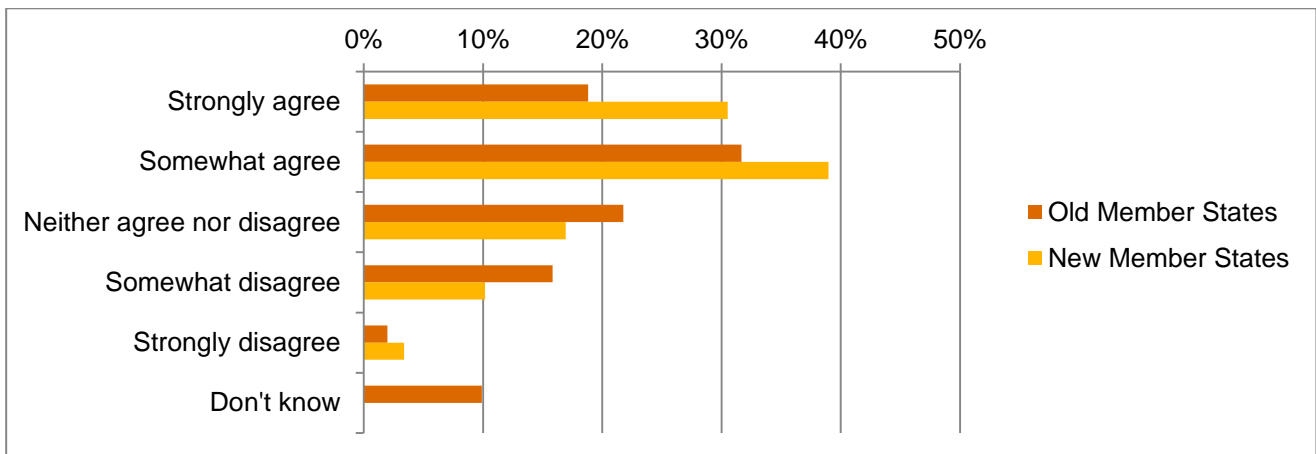


Figure 105– Targeted business survey (Question 54.1) – To what extent do you agree with the statement ‘I am satisfied with the efficiency of physical controls in my country’?

Business stakeholders were asked in the targeted business survey to what extent they agree with the statement ‘I am satisfied with the efficiency of physical controls in my country’.

Of the respondents established in old Member States, 19% strongly agree, 32% somewhat agree, 22% neither agree nor disagree, 16% somewhat disagree, 2% strongly disagree and 10% don’t know. Of the respondents established in new Member States, 31% strongly agree, 39% somewhat agree, 17% neither agree nor disagree, 10% somewhat disagree, 3% strongly disagree and 0% don’t know.

- Post-clearance controls

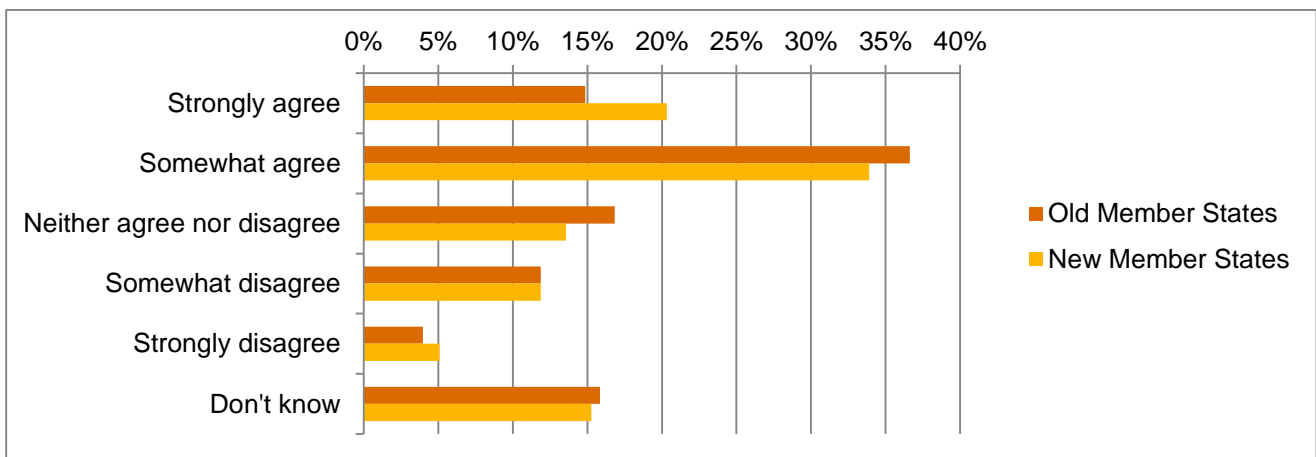


Figure 106 – Targeted business survey (Question 55.1) – To what extent do you agree with the statement ‘I am satisfied with the efficiency of post-clearance controls in my country’?

Business stakeholders were asked in the targeted business survey to what extent they agree with the statement ‘I am satisfied with the efficiency of post-clearance controls in my country’.

Of the respondents established in old Member States, 15% strongly agree, 37% somewhat agree, 17% neither agree nor disagree, 12% somewhat disagree, 4% strongly disagree and 16% don’t know. Of the respondents established in new Member States, 20% strongly agree, 34% somewhat agree, 14% neither agree nor disagree, 12% somewhat disagree, 5% strongly disagree and 15% don’t know.

Authorisation management processes

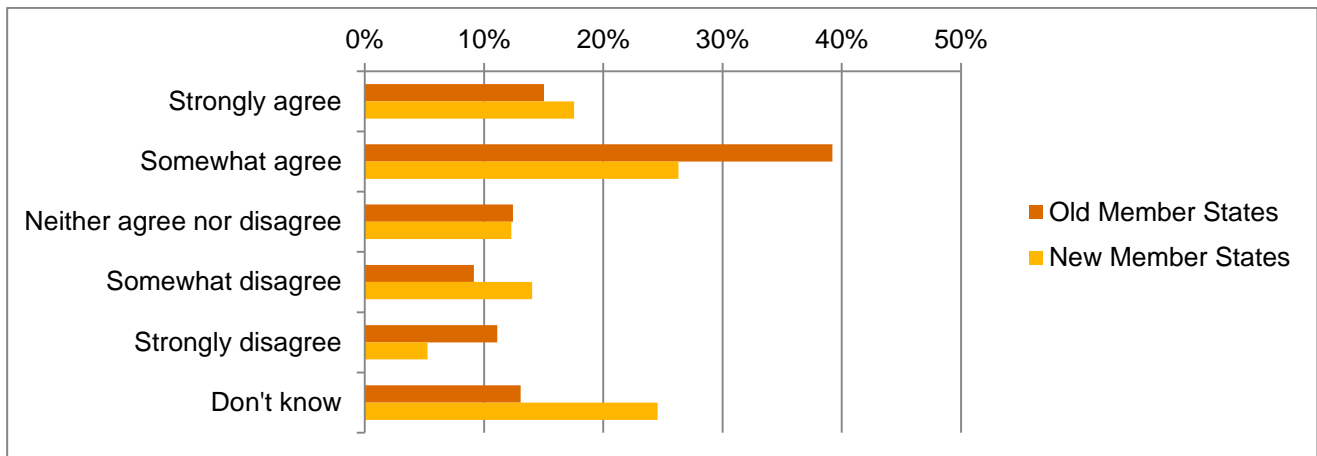


Figure 107 – Targeted business survey (Question 63) – ‘I am satisfied with the average time it takes in my country for customs authorities to grant (reject) AEO certificates’

Business stakeholders were asked in the targeted business survey to what extent they agree with the statement ‘I am satisfied with the average time it takes in my country for customs authorities to grant (reject) AEO certificates (customs simplification, security or combined certificate)’.

Of the respondents established in old Member States, 15% strongly agree with the statement, 39% somewhat agree, 12% neither agree nor disagree, 9% somewhat disagree, 11% strongly disagree and 13% don’t know. Of the respondents established in new Member States, 18% strongly agree, 26% somewhat agree, 12% neither agree nor disagree, 14% somewhat disagree, 5% strongly disagree and 25% don’t know.

**Customs authorities.** Customs authorities were asked in the targeted customs authorities’ survey: In your Member State, are goods declared for a customs procedure prior to their arrival?

Five of the 15 old Member States indicated that goods are indeed declared for a customs procedure prior to their arrival. Six of the old Member States indicated the opposite and four old Member States did not provide an answer.

Seven of the 12 new Member States indicated that goods are indeed declared for a customs procedure prior to their arrival and five new Member States indicated the opposite.

Customs authorities were also asked about time spent on data management processes and authorisation processes, but insufficient answers were gathered to enable a comparison between old and new Member States.

**Other authorities.** From the point of view of the other authorities surveyed, no differences were found between the old and new Member States as regards the efficiency criterion.

**In-depth interviews.** In the course of these interviews, no further input was acquired except that indicated under 7.1.1.

7.2.2 *Efficiency – Findings*

Customs clearance

Customs clearance is perceived to be more efficient by business stakeholders in new Member States than in old Member States (91% of respondents established in new Member States agree with the statement on customs clearance compared to 81% of the respondents in old Member States). Moreover, more business stakeholders established in the new Member States think that customs clearance is well coordinated (84% compared to 75% of business stakeholders established in old Member States). However, this is not backed up by the external

reference documentation, i.e. the LPI and the Enabling Trade Index (ETI), which show a completely different result, with only one new Member State being ranked in the top ten EU countries (place 8 – ETI); in the other one, there is no new Member State in the top ten EU members (LPI).

Overall, new Member States are more positively assessed regarding the efficiency and coordination of customs clearance than old Member States. This finding is in line with the finding that goods are declared for a customs procedure prior to their arrival in more new Member States than in old Member States. Again, reference is also made to the documentation researched, which does not confirm the survey results on this aspect.

#### Control processes

- Documentary controls

Business stakeholders established in new Member States are also slightly more positive about the efficiency of documentary controls than those established in old Member States (69% agreed with the statement on the efficiency of documentary controls compared to 63% in old Member States).

According to the slim web-based survey, documents that old Member States allow business stakeholders to submit in addition to their customs declarations in the case of documentary controls may most often be in the form of original documentation (51%) and electronic copies (49%), followed by hard copies (35%) and systems data (18%). According to this survey, new Member States more often accept electronic copies (71%) followed by original documentation and hard copies (both 40%) and systems data (22%). During the in-depth interviews, it was furthermore stated that new Member States more often possess new IT systems, which might explain the more prevalent use of electronic copies.

- Physical controls

Business stakeholders established in new Member States are again significantly more positive about the efficiency of physical controls than those established in old Member States (69% agreed with the statement on the efficiency of physical controls compared to 50% in old Member States). During the in-depth interviews, it was stated that more physical controls are performed in new Member States, which may result in better knowledge and on-the-job training of customs officials.

- Post-clearance controls

Business stakeholders established in new Member States are also slightly more positive about the efficiency of post-clearance controls than those established in old Member States (54% agreed with the statement on the efficiency of documentary controls compared to 51% in old Member States).

Overall, new Member States are perceived to perform better in terms of the efficiency of all types of controls than old Member States. Especially in respect of physical controls, they score considerably better.

When documents have to be submitted additional to a customs declaration in the case of documentary controls, new Member States more often accept electronic copies (71%, compared to 49% in the old Member States). Systems data is not often used in either old or new Member States.

#### Authorisation management processes

Business stakeholders are more satisfied with the time it takes for customs authorities to grant (or reject) AEO certificates in old Member States (54% agree with the statement) than in new Member States (44% agree with the statement). The level of dissatisfaction is equal in both old and new Member States. However, business stakeholders in new Member States do more often say that they don't know whether they are satisfied with the time it takes for customs authorities to grant (or reject) AEO certificates (25% indicate 'don't know' compared to 13% for the old Member States). In weighing up the results as indicated, it should nevertheless be borne in mind that, with the exception of one Member State, all the main contributors to the AEO certification data are old Member States.



### 7.2.3 Efficiency – Second conclusion

Overall, business stakeholders are more satisfied with the efficiency of customs in the new Member States than in the old Member States. This is especially the case for customs clearance and control processes. However, this positive perception is contradicted by the LPI and the Enabling Trade Index, in which most new Member States are ranked considerably lower than the old Member States.

With regard to authorisation management processes, it can be concluded that business stakeholders are more satisfied with the time it takes in old Member States than with the time it takes in new Member States. This should also be put into perspective as clearly more applications have been processed in old Member States and a similar group of the new Member States (by trade volume).

When documents have to be submitted additional to a customs declaration in the case of documentary controls, new Member States more often accept electronic copies. This can be explained by the fact that new Member States are more often in possession of new IT systems.

## 7.3 Extent to which the effects/outcomes of the major recent policy initiatives of the Customs Union are comparable for the old and new Member States

To evaluate the effects/outcome of the major policy initiatives for old and new Member States, the different (sub-)judgment criteria are compared as dealt with in the section on recent policy initiatives. The policy initiatives that are examined are: the Safety and Security Amendment of the Community Customs Code, the e-Customs Initiative, simplified procedures, and other related measures. The key findings are reported below.

### 7.3.1 Policy Initiatives – Data

Data sources				
Desk research	Business	Customs authorities	Other authorities	In-depth interviews
X	✓	✓	✓	X

#### Business.

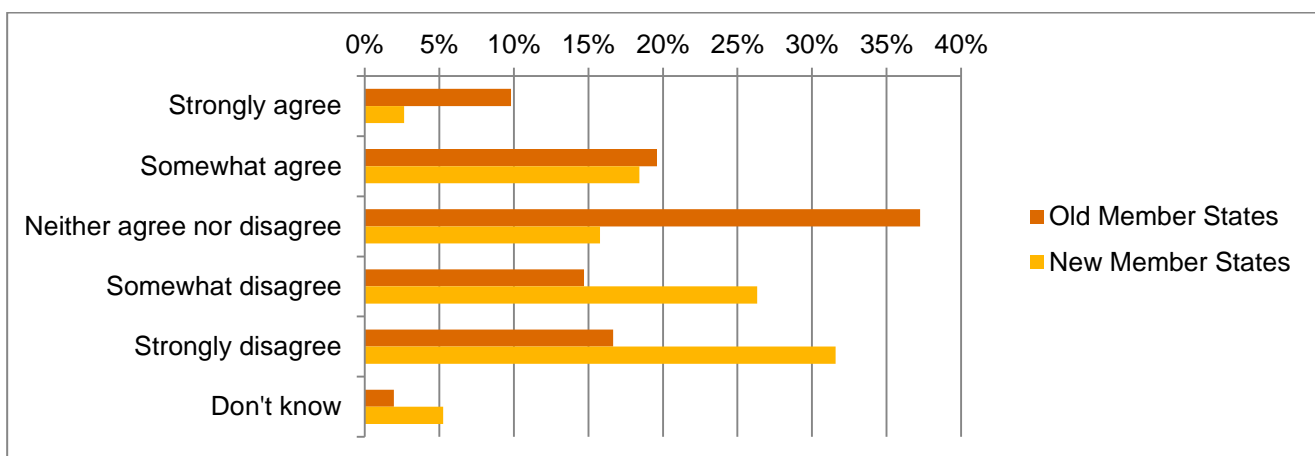


Figure 108 – Targeted business survey (Question 91) – ‘Having an AEO certificate has made life easier for my company in terms of cost reductions and time savings’

Business stakeholders were asked in the targeted business survey to what extent they agree with the statement ‘Having an AEO certificate has made life easier for my company in terms of cost reductions and time savings’.

Of the respondents established in old Member States, 10% strongly agree with the statement, 20% somewhat agree, 37% neither agree nor disagree, 15% somewhat disagree, 17% strongly disagree and 2% don’t know. Of the respondents established in new Member States, 3% strongly agree, 18% somewhat agree, 16% neither agree nor disagree, 26% somewhat disagree, 32% strongly disagree and 5% don’t know.

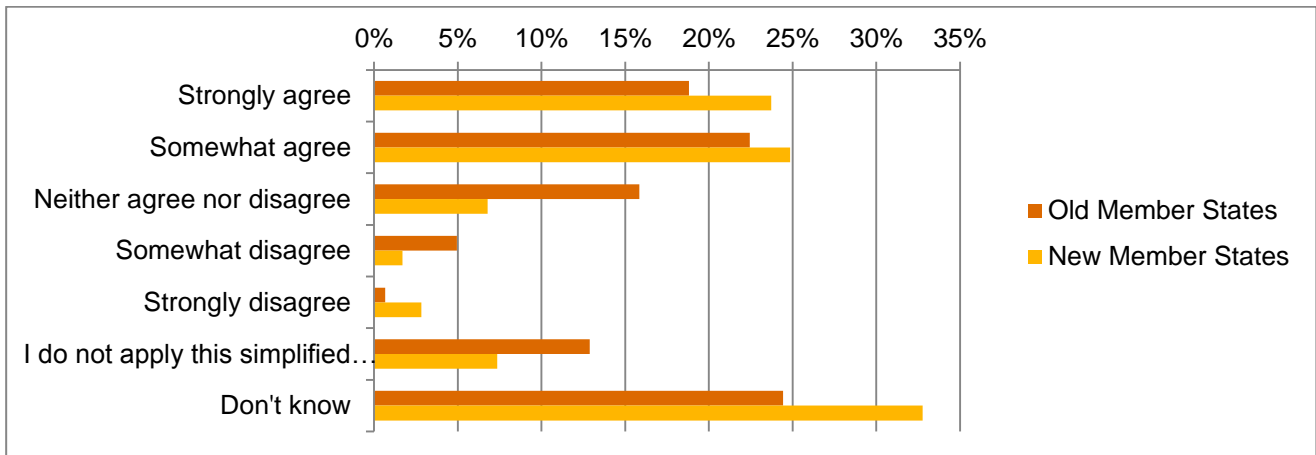


Figure 109 – Targeted business survey (Question 89) – ‘Incomplete declarations, simplified procedures and local clearance procedure have resulted in a reduction in time spent on customs formalities’

Business stakeholders were asked in the targeted business survey to what extent they agree with the statement ‘Incomplete declarations, simplified procedures and local clearance procedure have resulted in a reduction in time spent on customs formalities’.

Of the businesses established in old Member States, 19% strongly agree with the statement, 22% somewhat agree, 16% neither agree nor disagree, 5% somewhat disagree, 1% strongly disagree, 13% indicate that they do not apply incomplete declarations, simplified procedures or local clearance procedures and 24% indicate that they don’t know. Of the businesses established in new Member States, 24% strongly agree with the statement, 25% somewhat agree, 7% neither agree nor disagree, 2% somewhat disagree, 3% strongly disagree, 7% indicate that they do not apply incomplete declarations, simplified procedures or local clearance procedures and 33% indicate that they don’t know.

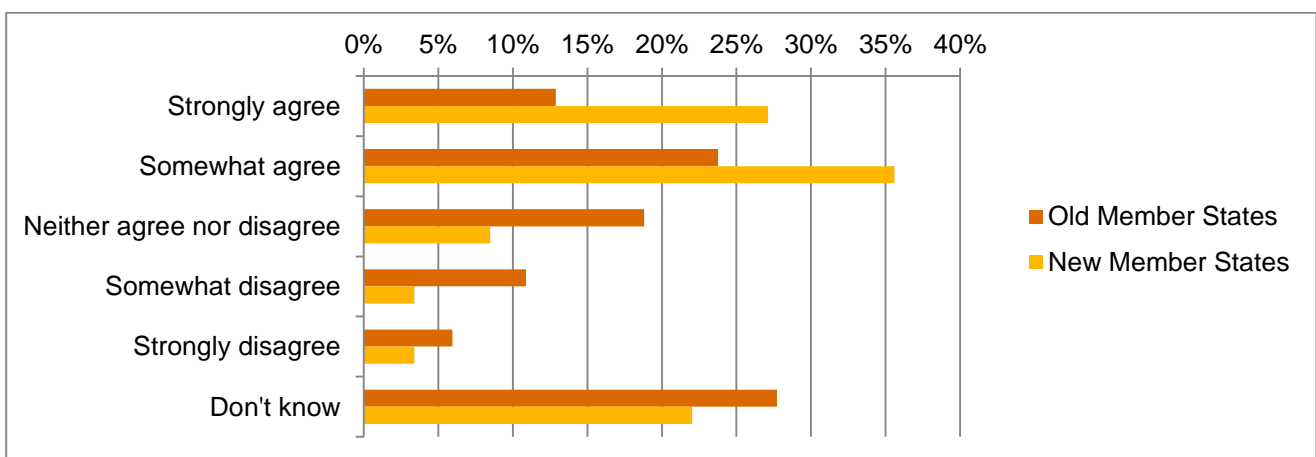


Figure 110 – Targeted business survey (Question 87) – ‘The e-Customs Initiative has led to more streamlined, simplified processes and working procedures’

Business stakeholders were asked in the targeted business survey to what extent they agree with the statement 'The e-Customs Initiative has led to more streamlined, simplified processes and working procedures'.

Of the respondents established in old Member States, 13% strongly agree with the statement, 24% somewhat agree, 19% neither agree nor disagree, 11% somewhat disagree, 6% strongly disagree and 28% don't know. Of the respondents established in new Member States, 27% strongly agree, 36% somewhat agree, 8% neither agree nor disagree, 3% somewhat disagree, 3% strongly disagree and 22% don't know.

**Customs authorities.** National customs authorities were also asked whether they think that the e-Customs Initiative has led to more streamlined, simplified procedures. Five of 15 customs authorities in old Member States somewhat agree with the statement and four out of 15 neither agree nor disagree. The other six customs authorities in old Member States did not provide an answer. Seven out of the 12 customs authorities in new Member States strongly agree with the statement while the other five somewhat agree.

**Other authorities.** Given the policy initiative criteria, no significant differences were found between the old and new Member States from the perspective of other authorities.

### *7.3.2 Policy Initiatives – Findings*

The majority of business stakeholders (59%) established in new Member States does not agree with the statement that having an AEO certificate has made life easier for their company in terms of cost reductions and time savings. This is not the case for business stakeholder established in old Member States (only 31% share this opinion). Somewhat more business stakeholders in this latter group agree with the statement (29% compared to 21% of the business stakeholders in new Member States) or neither agree nor disagree (37% compared to 16% of the business stakeholders in new Member States).

Slightly more business stakeholders established in new Member States (49%) agree with the statement that incomplete declarations, simplified procedures and local clearance procedure have resulted in a reduction in time spent on customs formalities than in old Member States (41%). The proportion of business stakeholders in both groups not agreeing with the statement is almost the same (5% and 6%, respectively)

Considerably more business stakeholders established in new Member States (63%) agree with the statement that the e-Customs Initiative has led to more streamlined, simplified processes and working procedures than in old Member States (37%). Somewhat more business stakeholders in this latter group disagree with the statement (17%, compared to 7% of those in new Member States) or neither agree nor disagree (19%, compared to 8% of those in new Member States). These findings are confirmed by the findings of the customs authorities' survey. Whereas all customs authorities in new Member States somewhat or strongly agree with the statement, only one third of those in old Member States somewhat agree with the statement (none of them strongly agrees). The other customs authorities in old Member States neither agree nor disagree or did not provide an answer.

### *7.3.3 Policy Initiatives – Third conclusion*

Business respondents from new Member States confirm that savings have been generated for businesses in terms of the time spent on the administrative requirements when applying for simplified procedures compared to the time spent on administrative requirements before the introduction and application of simplified procedures. Somewhat fewer business respondents from old Member States are convinced that savings have been generated by simplified procedures.

However, considerably more business respondents from new Member States do not believe that having an AEO certificate has made life easier in terms of time reduction and cost savings. The e-Customs Initiative, on the other hand, is much better received in the new than the old Member States. This is so in the opinion of both business stakeholders and customs authorities.

## 7.4 Extent to which the quality of service provided by customs authorities is comparable for the old and new Member States

To evaluate the quality of service provided by the customs authorities in old and new Member States, the different (sub-)judgment criteria are compared as dealt with in the section on quality of service. The key findings are reported below.

### 7.4.1 Quality of service – Data

Data sources				
Desk research	Business	Customs authorities	Other authorities	In-depth interviews
X	✓	✓	✓	X

#### Business.

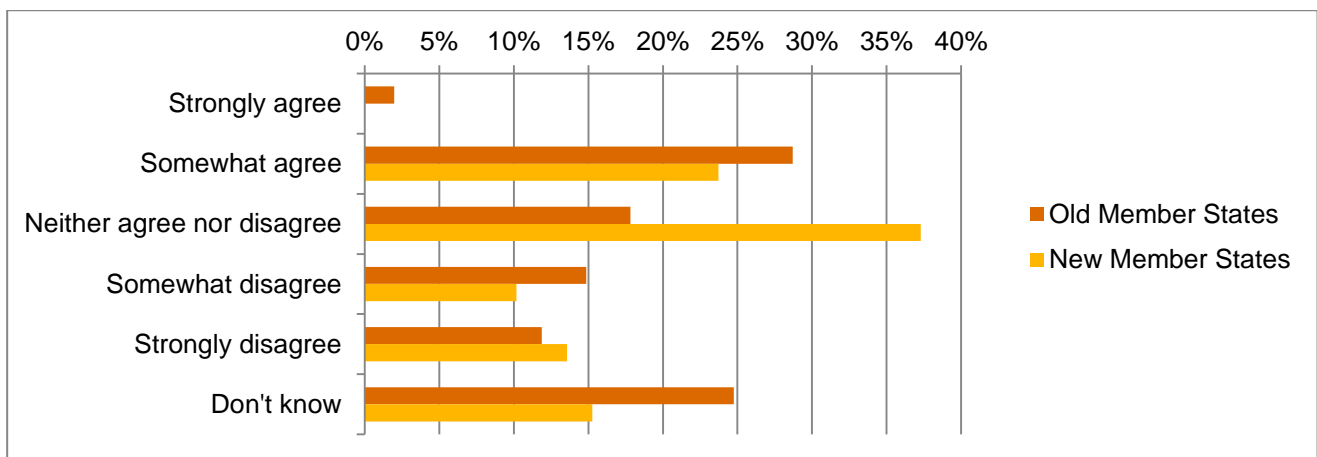


Figure 111 – Targeted business survey (Question 67) – Views expressed by stakeholders are taken into account by national customs authorities

Business stakeholders were asked in the targeted business survey to what extent they agree with the statement that 'Views expressed by stakeholders are taken into account by national customs authorities'.

Of the business stakeholders established in old Member States, 2% strongly agree with the statement, 29% somewhat agree, 18% neither agree nor disagree, 15% somewhat disagree, 12% strongly disagree and 25% don't know. Of the business stakeholders established in new Member States, 0% strongly agree, 24% somewhat agree, 37% neither agree nor disagree, 10% somewhat disagree, 14% strongly disagree and 15% don't know.

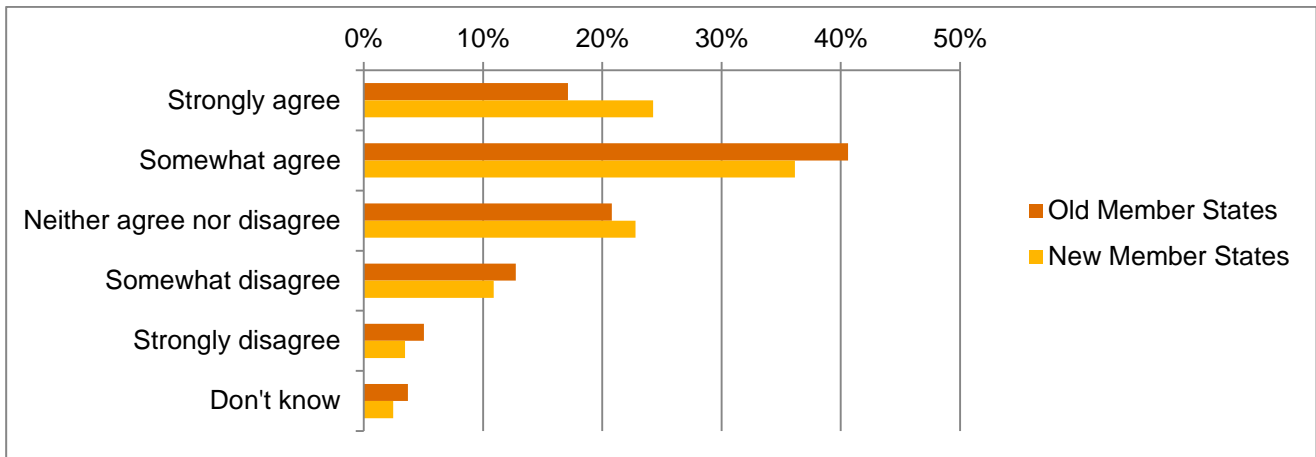


Figure 112 – Slim web-based survey (Question 11.1) – It is easy to get in contact with the right person at the customs authorities in my country

Business stakeholders were asked in the slim web-based survey to what extent they agree with the statement ‘It is easy to get in contact with the right person at the customs authorities in my country’.

Of the business stakeholders established in old Member States, 17% strongly agree with the statement, 41% somewhat agree, 21% neither agree nor disagree, 13% somewhat disagree, 5% strongly disagree and 4% don’t know. Of the business stakeholders established in new Member States, 24% strongly agree, 36% somewhat agree, 23% neither agree nor disagree, 11% somewhat disagree, 3% strongly disagree and 2% don’t know.

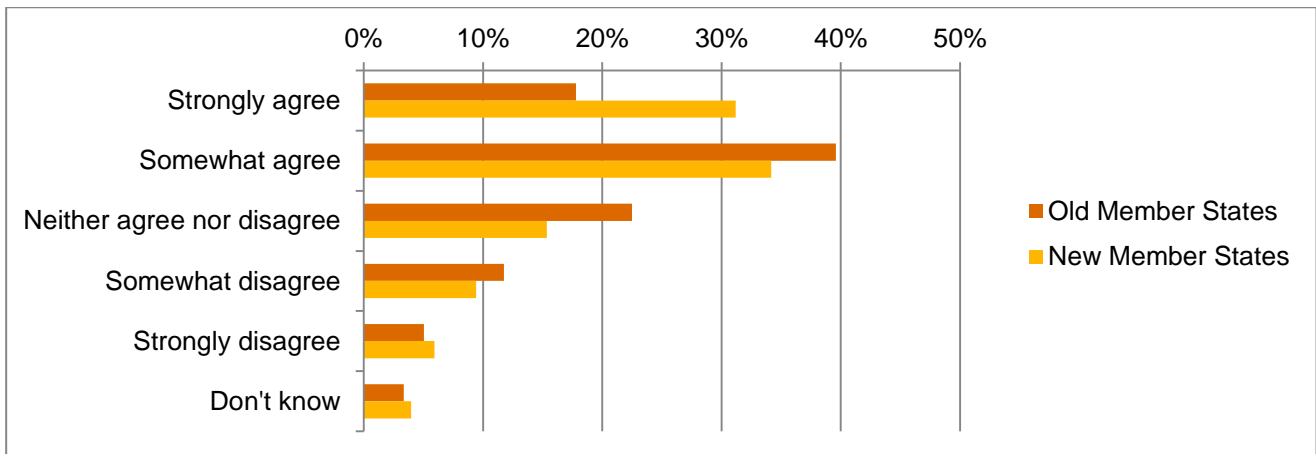


Figure 113 – Slim web-based survey (Question 11.2) – The opening hours of the customs authorities in my country match my company's needs

Business stakeholders were asked in the slim web-based survey to what extent they agree with the statement that ‘The opening hours of the customs authorities in my country match my company’s needs’.

Of the business stakeholders established in old Member States, 18% strongly agree with the statement, 40% somewhat agree, 22% neither agree nor disagree, 12% somewhat disagree, 5% strongly disagree and 3% don’t know. Of the business stakeholders established in new Member States, 31% strongly agree, 34% somewhat agree, 15% neither agree nor disagree, 9% somewhat disagree, 6% strongly disagree and 4% don’t know.

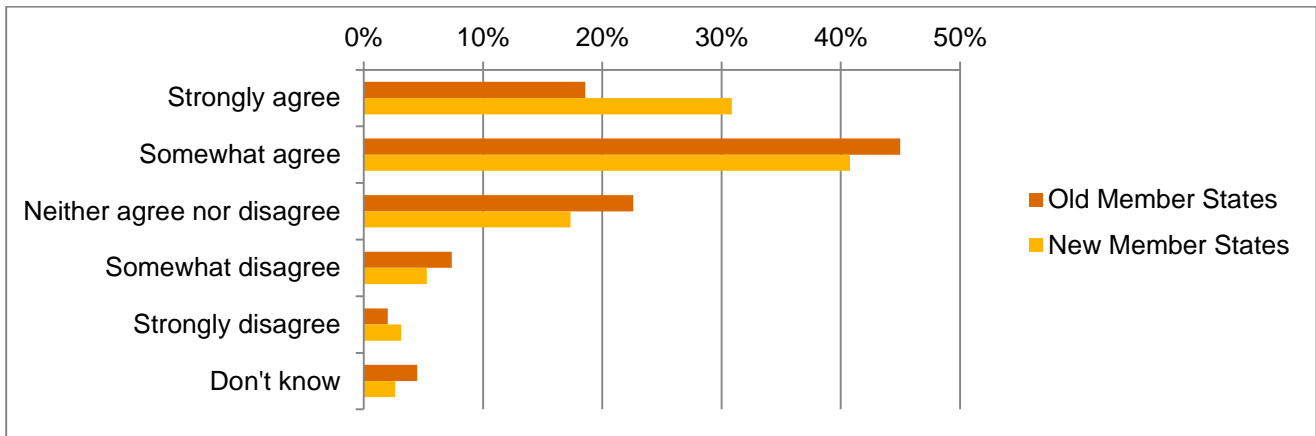


Figure 114 – Slim web-based survey (Question 11.3, 11.4 and 11.5) – The information provided by the customs authorities in my country is accurate, up to date, relevant to my needs and easy to access when I need it

Business stakeholders were asked in the slim web-based survey to what extent they agree with the statement that ‘The information provided by the customs authorities in my country is accurate, up to date, relevant to my needs and easy to access when I need it’.

Of the business stakeholders established in old Member States, 19% strongly agree with the statement, 45% somewhat agree, 23% neither agree nor disagree, 7% somewhat disagree, 2% strongly disagree and 4% don’t know. Of the business stakeholders established in new Member States, 31% strongly agree, 41% somewhat agree, 17% neither agree nor disagree, 5% somewhat disagree, 3% strongly disagree and 3% don’t know.

**Customs authorities.** There are no differences between the old and new Member States as to the existence of formal consultation on EU policy and legislative proposals between national customs authorities and local stakeholders. All customs authorities confirm that they formally consult with stakeholders on EU policy or legislative proposals, except two, one in an old and one in a new Member State.

All Member States provide a range of means through which they can be contacted (website, phone, fax, email addresses, hotline and ordinary mail). No significant differences are observed between new and old Member States.

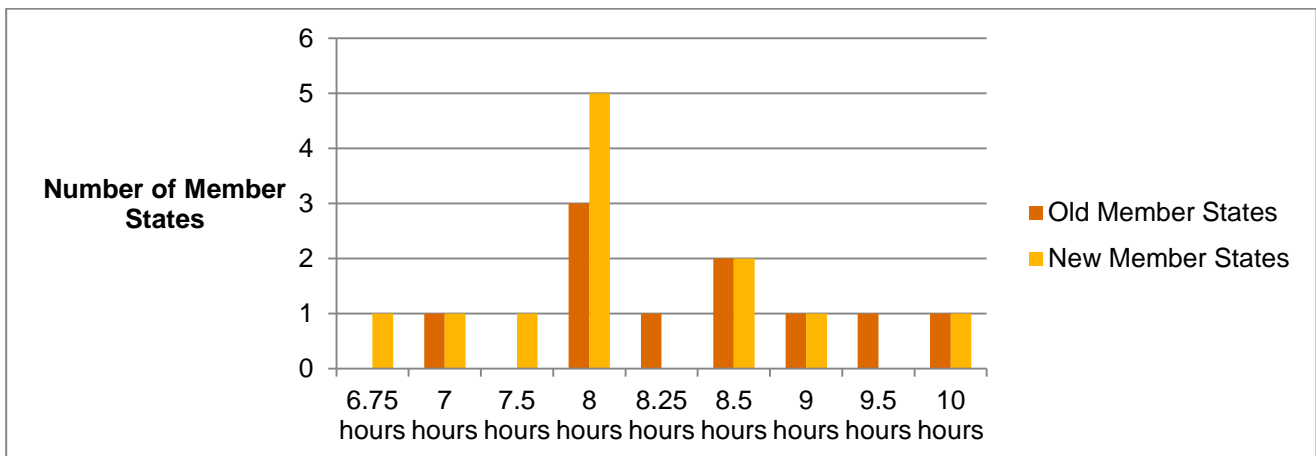


Figure 115 – Targeted customs authorities survey (question 22a) – Opening hours of inland customs offices per day

No significant differences were found between old and new Member States regarding the opening hours of inland customs offices. Differences do nevertheless exist regarding the possibility for 24 hour-a-day clearance of consignments at border offices.

Furthermore, no differences are observed regarding the possibility for 24 hour-a-day clearance of consignments at border offices. Only one new Member State (of all the Member States that answered this question) indicated that this does not exist.

There are differences between the Member States as to the availability of in-house customs services (defined as the permanent presence of a customs official on company premises). Overall, this is comparatively rare. However, four new Member States and one old Member States indicated that this does exist in their country.

There are differences in the possibility to submit customs documentation in English. In most Member States, submitting documents in other languages is only possible under certain circumstances. Four of the new Member States do nonetheless indicate that documents can only be submitted in their own languages, compared to two old Member States.

No major differences were reported between the new and old Member States regarding the existence of a communication strategy to actively translate EU customs policy and legislation into national communication campaigns. The majority of Member States indicate there is a communication strategy in place. Four old Member States indicate that they do not have a communication strategy in place, compared to two new Member States.

Two new Member States have longer opening hours for companies with AEO status. Some Member States have a special communication channel for companies with AEO status.

**Other authorities.** There are no major differences between the other authorities that were surveyed in new and old Member States as to their participation in stakeholder platforms with national customs authorities.

As for the level of satisfaction with the quality of communication with customs authorities, there are no differences between the new and the old Member States.

There are minor differences of opinion between the Member States on whether customs officials have sufficient knowledge and expertise.

#### *7.4.2 Quality of service – Findings*

Somewhat more business stakeholders established in old Member States (31%) are of the opinion that views expressed by stakeholders are taken into account by national customs authorities compared to in new Member States (24%). The latter group neither agree nor disagree with the statement more often (37%) than the first group does (18%). Comparable proportions of business stakeholders from new and old Member States disagree with the statement (24% and 27% respectively). These results are somewhat contradictory with the findings from the customs authorities' survey, which shows that there are no differences between the old and new Member States as to the existence of formal consultation on EU policy and legislative proposals between national customs authorities and local stakeholders.

Business stakeholders in old (58%) and new (60%) Member States both think it is easy to get in contact with the right person at the customs authorities in their country. This is confirmed by the findings from the customs authorities' survey, which shows that all Member States provide a range of means through which they can be contacted (website, phone, fax, email addresses, hotline and ordinary mail). No significant differences are observed between new and old Member States.

Somewhat more business stakeholders in new Member States (65%) agree that the opening hours of the customs authorities in their country match their company's needs, compared to business stakeholders in old Member States (57%). This somewhat contradicts the findings of the customs authorities' survey, which show that no significant differences exist between old and new Member States regarding the opening hours of inland customs offices.

Considerably more business respondents in new Member States (72%) than in old Member States (63%) agree that the information provided by the customs authorities in their country is accurate, up to date, relevant to

their needs and easy to access when they need it. However, no important differences are observed regarding the existence of communication strategies in old and new Member States.

### 7.4.3 Quality of service – Fourth conclusion

Overall, the quality of service delivered by customs authorities is considered to be high. Business respondents in new Member States are somewhat more satisfied with the quality of service provided by their national customs authorities. Only with regard to the involvement of stakeholders in decision-making and rule-making do the old Member States perform better.

## 7.5 Extent to which realisation of the Customs Union’s strategic objectives is comparable for the old and new Member States

To evaluate realisation of the Customs Union’s strategic objectives in old and new Member States, the different (sub-)judgment criteria are compared as dealt with in the section on strategic objectives. The key findings are reported below.

### 7.5.1 Strategic Objectives – Data

Data sources				
Desk research	Business	Customs authorities	Other authorities	In-depth interviews
X	✓	✓	✓	X

**Business.** Given the strategic objectives criterion, no differences were found between the old and new Member States from the point of view of business respondents in the slim and extended web-based surveys or in the targeted business survey.

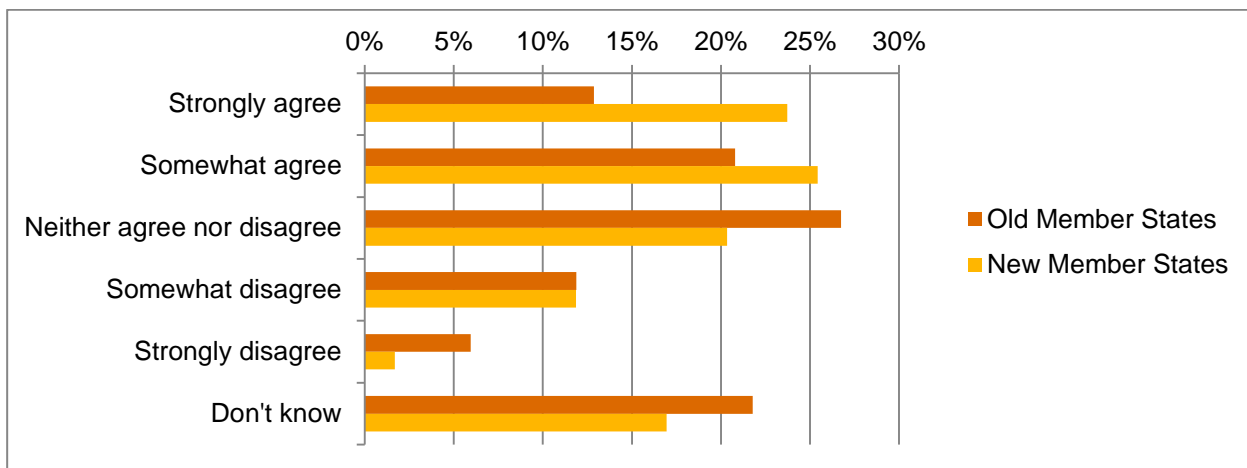


Figure 116 – Targeted business survey (question 82) – EU customs policy and customs authorities adequately protect the EU market from unfair trading practices, such as piracy, non-compliance with safety rules and dumping, distinction between old and new Member States

There is a difference in opinion between businesses established in new and old Member States on whether EU customs policy and customs authorities adequately protect the EU market from unfair trading practices. This is illustrated in the figure above.

Of the business stakeholders established in old Member States, 13% strongly agree with the statement, 21% somewhat agree, 27% neither agree nor disagree, 12% somewhat disagree, 6% strongly disagree and 22% don't know. Of the business stakeholders established in new Member States, 24% strongly agree, 25% somewhat agree, 20% neither agree nor disagree, 12% somewhat disagree, 2% strongly disagree and 17% don't know.



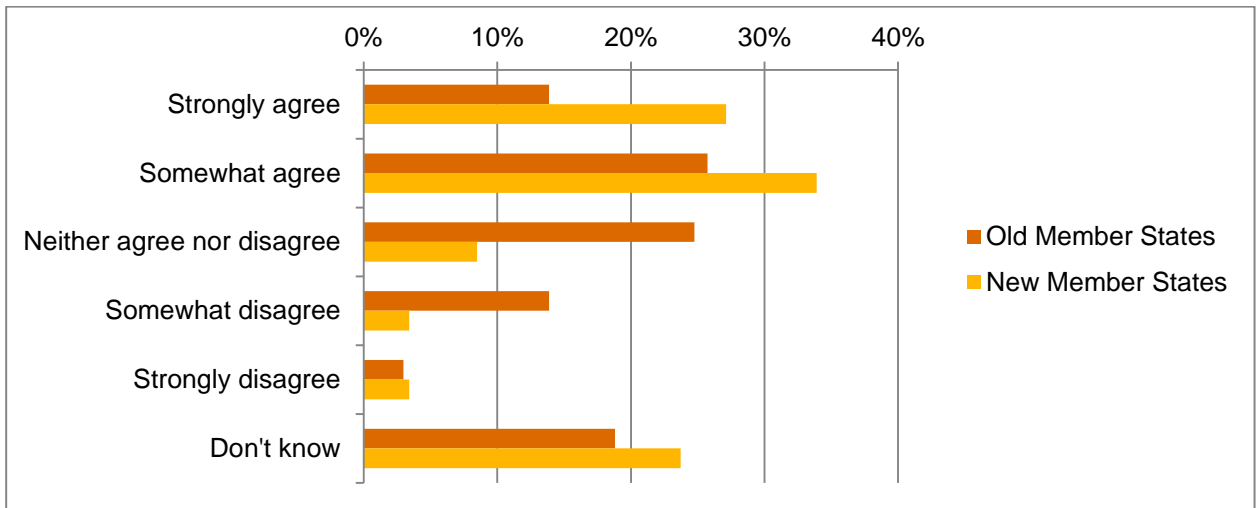


Figure 117 – Targeted business survey (question 92) – Customs authorities in my country apply appropriate penalties if fraud or tax evasion is detected, distinction between businesses established in new and old Member States

There is also a difference in opinion between businesses established in new and old Member States on whether customs authorities apply appropriate penalties if fraud or tax evasion is detected.

Of the business stakeholders established in old Member States, 14% strongly agree with the statement, 26% somewhat agree, 25% neither agree nor disagree, 14% somewhat disagree, 3% strongly disagree and 19% don't know. Of the business stakeholders established in new Member States, 27% strongly agree, 34% somewhat agree, 8% neither agree nor disagree, 3% somewhat disagree, 3% strongly disagree and 24% don't know.

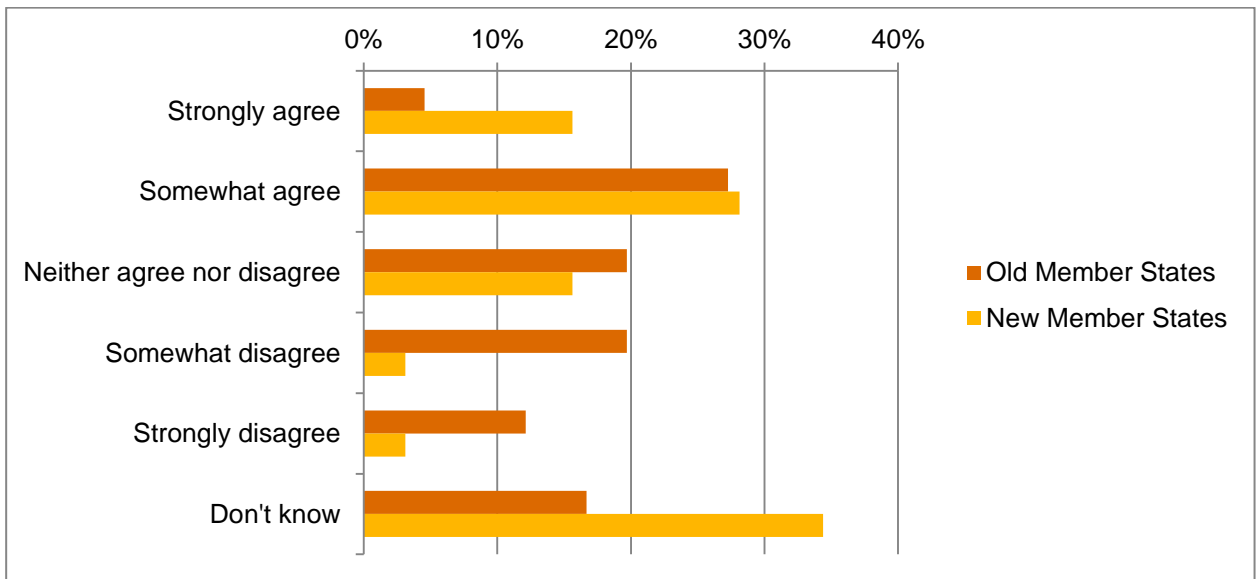


Figure 118– Targeted business survey (question 38) – Has the Customs Union generated unintended effects with respect to the detection of fraud and tax evasion, the detection of prohibited and restricted goods, the collection of customs duties and other taxes, reduction of the administrative burden, the application of customs legislation and processes or collaboration between customs authorities and other stakeholders?

Of the business stakeholders established in old Member States, 5% strongly agree with the statement that the Customs Union has generated unintended effects, 27% somewhat agree, 20% neither agree nor disagree, 20% somewhat disagree, 12% strongly disagree and 17% don't know. Of the business stakeholders established in new Member States, 16% strongly agree, 28% somewhat agree, 16% neither agree nor disagree, 3% somewhat disagree, 3% strongly disagree and 34% don't know.

**Customs authorities.** The evolution in investments to protect the Community against all types of illegal goods over the past five years is compared between old and new Member States.

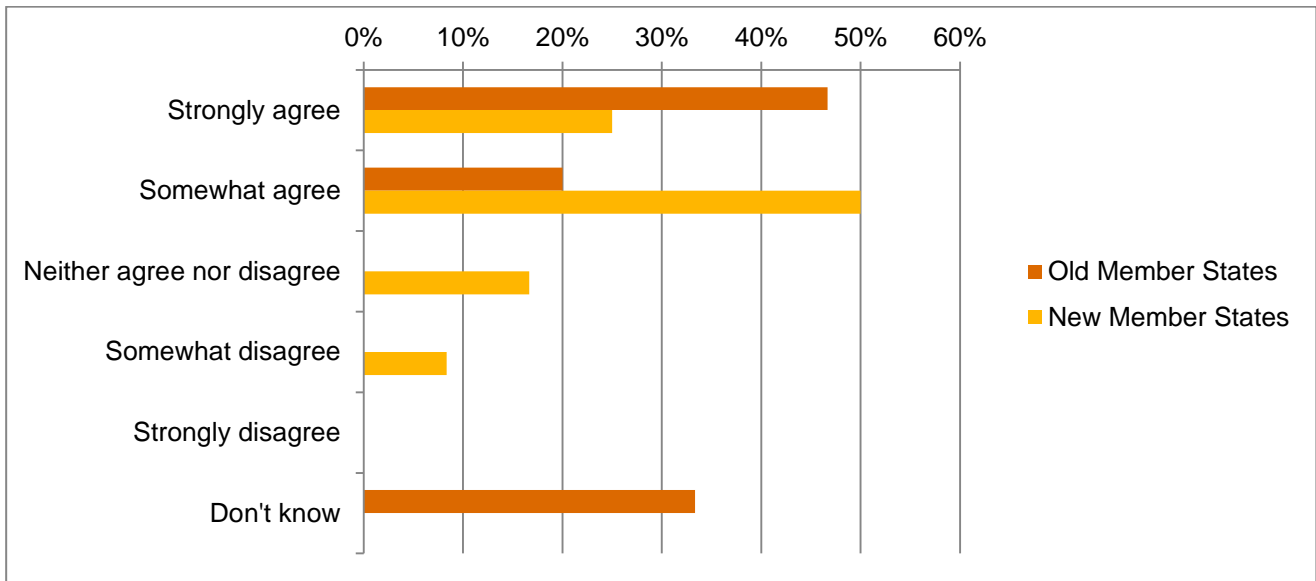


Figure 119 – Targeted customs authorities’ survey (Question 36) – The investments made to prevent entry into the EU of all types of restricted/prohibited goods have significantly increased over the last five years, investment in equipment

Of customs authorities in old Member States, 47% strongly agree with the statement that ‘The investments made to prevent entry into the EU of all types of restricted/prohibited goods have significantly increased over the last five years [in terms of] investment in equipment’, 20% somewhat agree and 33% don’t know. Of the customs authorities in new Member States, 25% strongly agree, 50% somewhat agree, 17% neither agree nor disagree and 8% somewhat disagree.

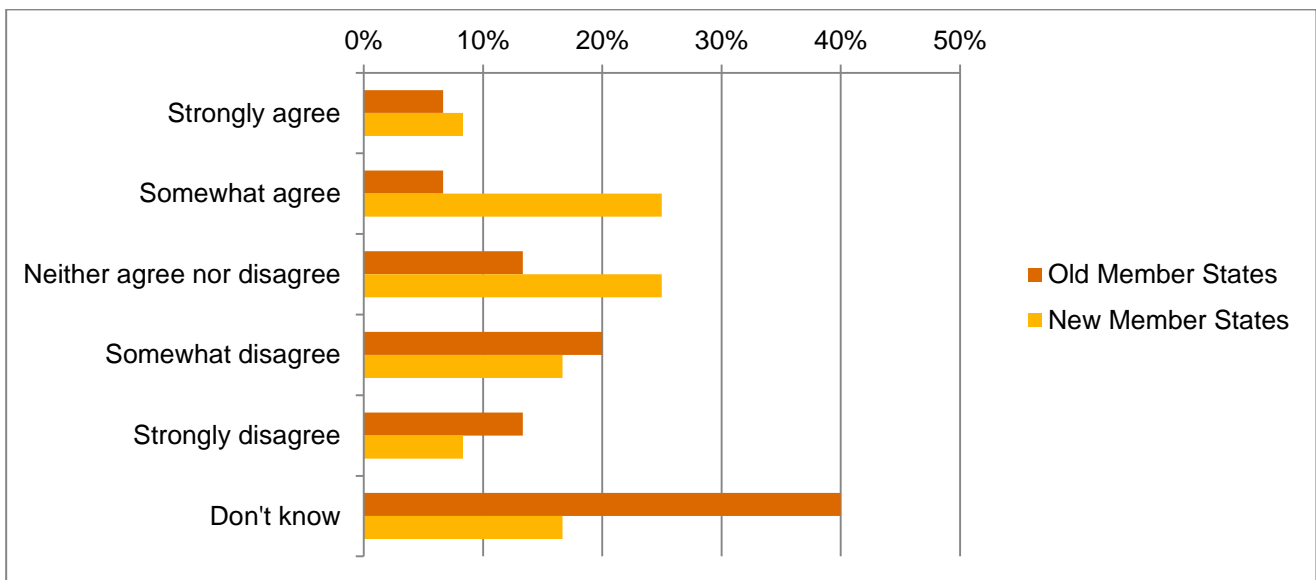


Figure 120 – Targeted customs authorities’ survey (Question 36) – The investments made to prevent entry into the EU of all types of restricted/prohibited goods have significantly increased over the last five years, investment in number of staff

Of customs authorities in old Member States, 7% strongly agree with the statement ‘The investments made to prevent entry into the EU of all types of restricted/prohibited goods have significantly increased over the last

five years [in terms of] investment in number of staff, 7% somewhat agree, 13% neither agree nor disagree, 20% somewhat disagree, 13% strongly disagree and 40% don't know. Of the customs authorities in new Member States, 8% strongly agree, 25% somewhat agree, 25% neither agree nor disagree, 17% somewhat disagree, 8% strongly disagree and 17% don't know.

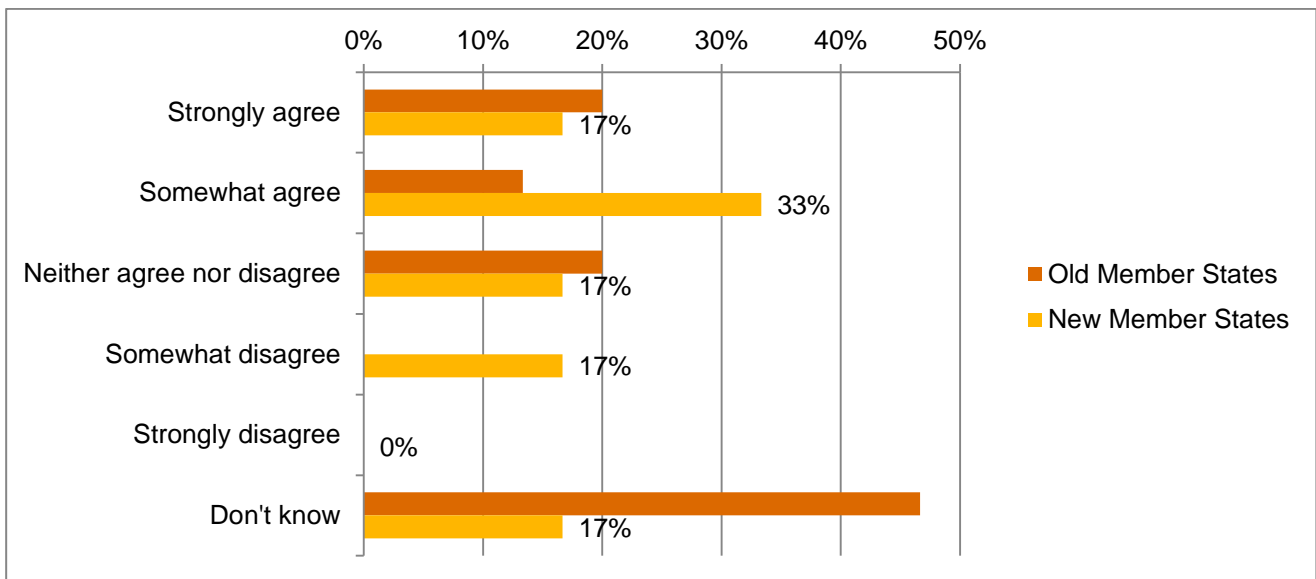


Figure 121 – Targeted customs authorities’ survey (Question 36) – The investments made to prevent entry into the EU of all types of restricted/prohibited goods have significantly increased over the last five years, investment in time spent by dedicated staff

Of customs authorities in old Member States, 20% strongly agree with the statement that ‘The investments made to prevent entry into the EU of all types of restricted/prohibited goods have significantly increased over the last five years [in terms of] investment in time spent by dedicated staff, 13% somewhat agree, 20% neither agree nor disagree and 47% don't know. Of the customs authorities in new Member States, 17% strongly agree, 33% somewhat agree, 17% neither agree nor disagree, 17% somewhat disagree and 17% don't know.

On the criterion of whether the Customs Union has generated unintended effects with respect to the detection of fraud and tax evasion, the detection of prohibited and restricted goods and the application of customs legislation and processes, there are no significant differences in opinion between the national customs authorities of the old and new Member States.

**Other authorities.** Customs authorities in the old Member States are more likely to have their IT systems connected to other authorities than those in new Member States. Six other authorities in old Member States answered positively as against only one in a new Member State.

On the criterion of whether customs authorities cooperate with other authorities to improve the level of detection of offences, there are no differences between the old and the new Member States.

On the criterion of whether the Customs Union has generated unintended effects with respect to the reduction of administrative burdens for trade-related formalities, there are no differences in opinion between the other authorities of the old and new Member States.

### 7.5.2 Strategic Objectives – Findings

Considerably more business stakeholders established in new Member States (49%) agree that the EU customs policy and customs authorities adequately protect the EU market and companies from unfair trading practices, such as piracy, non-compliance with safety rules and dumping, compared to business stakeholders established in old Member States (34%). The same is true with regard to the statement that customs authorities apply appropriate penalties if fraud or tax evasion is detected. Sixty-one per cent of the business stakeholders

established in new Member States agree with this statement, compared to 40% of business stakeholders established in old Member States.

Forty-four per cent of the business stakeholders established in new Member States indicate that the Customs Union has generated unintended effects, compared to only 32% of the business stakeholders established in old Member States.

Compared to customs authorities in the old Member States, those in new Member States are more of the opinion that the Customs Union has generated unintended effects with respect to:

- the collection of customs duties (including preferential measures and surveillance) and other taxes and levies, and
- collaboration between customs authorities and other stakeholders.

Compared to customs authorities from the new Member States, those from the old Member States are more of the opinion that the Customs Union has generated unintended effects with respect to:

- reduction of the administrative burden for trade-related formalities.

Compared to other authorities from new Member States, those from old Member States are more of the opinion that the Customs Union has generated unintended effects with respect to:

- the detection of prohibited and restricted goods,
- the application of customs clearances, and
- collaboration between customs authorities and other stakeholders.

Customs authorities in new Member States more frequently indicate that significant investments have been made during the last five years. This is the case for equipment (75%, compared 67% in old Member States), number of staff (33%, compared to 13% in old Member States) and time spent by dedicated staff (50%, compared to 23% in old Member States).

### *7.5.3 Strategic Objectives – Fifth conclusion*

As the perception in relation to realisation of the Customs Union's strategic objectives is comparable for the old and new Member States, there is a clear sign that the Customs Union has successfully absorbed enlargement of the Customs Union overall.

Unintended effects generated by the Customs Union are viewed differently among the old and the new Member States. This is most likely to be due to the individual appreciation of respondents and to the length of time they have been part of the Customs Union.

## **7.6 Enlargement – Conclusion**

For the majority of indicators relative to the various criteria, the Customs Union has successfully absorbed the enlargement of the European Union.

The evaluation of the Customs Union highlights a number of differences between the old and new Member States. These differences confirm that, for a number of aspects, development across the Customs Union is taking place in an uncoordinated fashion. Some criteria are implemented better in the old Member States, whereas others are implemented better in the new Member States. Of the three stakeholder groups (businesses, customs authorities and other authorities), it is businesses that feel these differences between the old and new Member States across the widest range of criteria.

Regarding uniformity, there are differences between the new and old Member States in terms of the following uniformity aspects:<sup>161</sup>

- controls, and
- existence and operation of new state-of-the-art IT systems.

Efficiency differences were found from the perspectives of business respondents and customs authorities. The main differences between new and old Member States were found to exist in relation to the following criteria:

- the scores in logistics and trade performance indices,
- efficiency of customs clearance,
- coordination of customs clearance,
- efficiency of documentary controls,
- submission of documents: electronic copies and original documentation,
- efficiency of physical controls,
- efficiency of post-clearance controls,
- the time-efficiency of customs authorities in granting simplification certificates, and
- the ability to file customs declarations before goods physically arrive.

Differences in Policy Initiatives between new and old Member States were found in respect of the following aspects:

- whether simplified procedures have made life easier for businesses,
- whether simplified procedures generate savings for businesses, and
- the effects of the e-Customs Initiative.

Quality of Service differences between old and new Member States exist from the perspective of all three stakeholder groups (businesses, customs authorities and other authorities), and concern the following criteria:

- whether views are taken into account by national customs authorities,
- whether the opening hours of customs authorities match companies' needs,
- whether information provided by customs authorities is relevant, accurate and up to date,
- the availability of in-house customs services,
- the acceptance of customs documentation in English, and
- longer opening hours for companies with AEO status.

Different views on the strategic objectives between the new and old Member States are found from the perspective of customs authorities and other authorities and include:

- protection of the EU market and companies from unfair trading practices,
- application of appropriate penalties if fraud or tax evasion is detected,
- unintended effects with respect to the detection of fraud and tax evasion, the detection of prohibited and restricted goods, the collection of customs duties, reduction in administrative burden, the application of customs legislation and processes or the collaboration between customs authorities and other stakeholders,
- investments made to prevent entry into the EU of all types of prohibited goods, and

---

<sup>161</sup> For the criterion of uniformity, the level of respondents' critical opinions differed dependent on whether they were located in old or new Member States.

- connections between the IT systems of other authorities and customs authorities.

Regarding the other criteria considered throughout this evaluation of the Customs Union, no major differences have been found between the old and new Member States.

## **7.7 Enlargement – Recommendations**

No specific recommendation should be given with respect to enlargement as the Customs Union should work as a whole. The relevant recommendations are listed in the previous sections with the respective evaluation questions.

## 8 Overall conclusion and recommendations

### 8.1 Overall conclusion

The study looks at the Customs Union from a very broad perspective. While, based on the time constraints and scope, certain limitations were imposed, the study gives valuable insight into the state of the EU Customs Union. These insights and recommendations are a basis for actions to be taken in view of further levelling up the functioning of the Customs Union.

Globally speaking, the conclusion is a positive one. The Customs Union performs very well on aspects such as efficiency and quality of services. Simplified procedures and the e-Customs Initiative have contributed to the competitiveness of business in the EU. Despite this overall result is positive, there still exists room for improvement in a number of areas. While all the evaluation topics revealed points requiring specific attention or areas where improvement can be made, the main resulting point for attention is the level of uniformity within the Customs Union. We therefore elaborate this item below.

The broad scope of the study addressed a number of different issues but uniformity in particular stood out as a transversal issue affecting the working of the customs union. The feedback from the evaluation questionnaire as well as the findings of the desk research support this: Examples range from the application of simplified procedures and their controls to IT-system differences between Member States as well as the efficiency of clearance procedures.

That uniformity within the EU Customs Union is still a work in progress should come as no surprise given the Union's legal basis. The 1993 framework sets common standards while at the same time allowing room for the adoption of local processes and procedures in different areas, such as controls (administrative vs. physical controls) and the use of IT systems for customs clearance. In addition, there are other areas that are not governed by the EU framework legislation (e.g. customs authority organisation, broader tasks of Customs, penalties). The fact that these areas depend on individual Member State policies for their implementation logically leads to a heterogeneous picture emerging across the Customs Union. The question, then, is whether this is a fundamental issue and to what extent further steps towards uniformity are called for. The question marks surrounding uniformity are best exemplified by examining customs clearance processes. Business stakeholders were broadly in favour of increasing uniformity but only where this homogenisation would be based on the extension of best practice across the Union as opposed to a 'race to the bottom' in terms of standards and practices. Faced with the prospect of the latter, businesses would favour the status quo. A further question mark regarding uniformity relates to the possibility of the customs system falling victim to its own success: The uniform application of best practice across the Customs Union could lead to serious administrative and logistic congestion problems by massively increasing the flow of goods.

As mentioned, the question of applying best practice uniformly touches on the issue of efficiency, showing how different aspects of the study are interlinked. Recent discussions on the development of the new legislative framework for the EU (MCC/UCC) have shown that it is not easy to strike a balance between uniformity and efficiency. Not all Member States are willing or able to adopt best practice and would rather opt for "old" document-driven procedures. Similarly, the discussion on IT solutions for Customs in the EU further shows the tension that exists at the authority level between promoting efficiency and best practice and uniformity in the EU.

Although, in certain areas, uniformity has to be assessed against the specific nature of the legal framework, the autonomy of Member States and the extent to which uniformity can be created are fundamental (the EU Customs Union has a very broad impact and touches on many different aspects that cannot always be aligned). There exists an unequivocal need for improvement in areas where there is a common legal basis that leaves little or no room for local differences. This is true for areas such as classification, valuation and origin, where a relatively high degree of non-uniformity was found to exist regardless of the common legal basis. Some of the disputes between Member States (e.g. unfair competition) relate to these same aspects. Here, action is required

to secure more uniform application of the EU Tariff and Customs Code throughout the Customs Union with an eye to securing a level playing field for businesses across Member States.

Aside from exploring uniformity and efficiency, the study also shows that more recent initiatives in the area of risk management and e-Customs have been successful. It is generally felt that the initiatives have had a positive impact on customs processes. Despite these positive conclusions, business stakeholders remain somewhat sceptical as to the benefits of AEO status. The EU Commission would argue that AEO system is functioning as it was envisaged. Further, what is clear is that simplified procedures are a cornerstone of the Customs Union, having a particular impact on efficiency.

On enlargement, the study clearly shows that the new Member States have properly integrated into the EU Customs Union. Furthermore, the surveys reveal that companies operating in the new Member States are relatively more satisfied with the functioning of the Customs Union than companies operating in the old Member States. This is a somewhat surprising finding, which is not corroborated by any available data or desk research (e.g. trade and logistics performance indexes).

## **8.2 Main overall recommendations**

The main recommendations are categorised under two headings, i.e. uniformity and efficiency, without prejudice to recommendations on other areas.

### **8.2.1 Uniformity**

While the conclusions of this report have outlined that complete uniformity is neither feasible, given the existing legal framework, nor wished for in each and every area of customs without taking into account best practises, action can still be taken. Given the current legal framework, the main area where increased uniformity would be of benefit is in the interpretation and application of the EU Tariff and Customs Code in terms of the calculation of import duties such as the classification of goods, customs valuations and the application of origin criteria. More EU guidance for Member States will improve the uniformity of customs clearance processes. Note however that the adoption of more restrictive measures if the only reason is to find common ground (i.e. uniformity that is not driven by the extension of best practice) should be avoided.

The EU should also move towards the use of more uniform IT systems and processes which should be incorporated into the development and implementation of the UCC. Harmonising the informational technology treatment of customs matters would increase efficiency and reduce costs for stakeholders. New technology and developments such as cloud computing and commercially available, off-the-shelf software should be considered.

#### **8.2.1.1 Monitoring uniformity**

In addition to the more obvious tools for ensuring uniformity, like guidelines, training and more direct legislation (giving less freedom in application), another suggestion is to improve the monitoring of how legislation is applied. Existing monitoring programmes on the application of legislation can be strengthened or, better still, the Measurement of Results programme could be extended to also cover the application of legislation. At the same time, the monitoring programme should be linked to other, existing monitoring programmes (for other legislation). In this manner, monitoring programmes can be used more efficiently to check that all customs processes are performed uniformly among the Member States and appropriate action can be taken in cases of non-uniformity.

The monitoring programme should also allow comparisons to be made between Member States and best-practice processes to be identified. On this basis, improvements in other key elements of the Customs Union could be achieved, as the application of best practice across Member States would contribute to the enhancement of the overall efficiency of the Customs Union and improve the quality of services rendered by customs authorities.



### **8.2.1.2 Data management procedures**

Several actions can be taken in order to improve the uniformity of data management processes, including:

- further integrating the national customs authorities' IT systems;
- developing new working methods and monitoring European Binding Tariff Information (ETBI) so that BTIs are only rendered at EU level in future;
- avoiding business stakeholders having to provide the same information more than once; and
- fostering the exchange of best practices between customs authorities through field visits, training sessions and experience-sharing sessions.

Such recommended actions should be included in and aligned with an integrated implementation plan as referred to in the DG TAXUD Management Plan 2013. Besides positive effects on uniformity, such actions would also increase the quality of services, another key element of the Customs Union.

### **8.2.2 Efficiency**

In addition to the positive efficiency effects that could result from the above action on uniformity, efficiency and cost-effectiveness could be further improved by:

- increasing the exchange of electronic data (e.g. exchange of data between the customs authorities as well as with the other authorities, the use of web applications and new technologies, harmonisation of the technical specifications to connect the IT systems of national customs authorities, and introduction of quality certificates). This also would have a positive effect on risk-management and the battle against fraud (see also 8.2.3.);
- making the processes simpler (e.g. by reducing the number of documents required);
- promoting and coordinating the use of single windows and one-stop shop solutions;
- using the UCC to create a more efficient and solid basis for SASP (SEA), and
- aiming at further alignment with best-in-class documentary and physical controls (this would also have a positive effect on risk-management and the battle against fraud).

It is recommended that the efficiency of Member States in implementing the core principles of the EU Customs Union be measured, evaluated and improved through the development of common performance indicators (EU-level KPIs).

One important KPI should result from a systematic evaluation of the actual collection of import duties in each Member State. This will allow a benchmark (performance indicator) to be established among the Member States. These indicators and evaluation methodology could result in increased, cost-efficient collection of duties, improved uniformity, and better overall performance of the EU.

Further development of a common approach to risk management and a related control methodology will ensure better-targeted controls covering financial and non-financial aspects. Border controls requested by customs and other authorities should be executed jointly by applying the one-stop-shop concept.

Controls on simplified procedures, which are a cornerstone of the customs process within the Customs Union, could be performed more uniformly, with greater efficiency and also more effectively (reports by the Court of Auditors having revealed inconsistencies and even deficiencies). Thus, such controls would not only raise the efficiency level of the Customs Union but would also have a positive effect on uniformity.

### **8.2.3 Other recommendations**

Three other recommendations stand out:

- To improve the quality of services and the efficiency of new measures in the Customs Union, consultation with business stakeholders should be improved. At present, the overall feeling among business stakeholders is that their views are not taken into sufficient account as regards legislative

changes and new policy initiatives. Such an improvement will not only require better consultation between authorities and businesses, but also asks for improved communication within stakeholder groups (e.g. among the different business stakeholders). Doing so would ensure wider support and buy-in and could facilitate the adoption and implementation process.

- Develop a further integrated, coordinated approach across the EU and across authorities to fight illegal trade, tax evasion and fraud. This would include integrated training and interlinking the IT systems of customs and other authorities.
- Align the level of knowledge of customs officials within the EU through the use of uniform training programmes.

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## List of abbreviations

<b>Term</b>	<b>In full</b>
AAR	Actual Activity Report
AEO	Authorised Economic Operator
AFIS	Anti-Fraud Information System
ATIS	Anti-Fraud Transit Information System
B/L	Bill of Lading
BTI	Binding Tariff Information
CAP	Common Agricultural Policy
CCC	Community Customs Code
CCCIP	Implementing Provisions to the Community Customs Code
CCWP	Customs Cooperation Working Party
CEPS	Centre for European Policy Studies
CIS	Customs Information System
CITES	Convention on International Trade in Endangered Species and Wild Fauna and Flora
CPG	Customs Policy Group
CRMS	Community Risk Management System
DG AGRI	Directorate-General for Agriculture and Rural Development
DG BUDG	Directorate-General for Budget
DG ENTR	Directorate-General for Enterprise and Industry
DG HOME	Directorate-General for Home Affairs
DG SANCO	Directorate-General for Health and Consumers
DG TAXUD	Directorate-General for Taxation and Customs Union
DTI	Direct Trader Input
EBTI	European Binding Tariff Information
ECS	Export Control System

EDI	Electronic Data Interchange
ENS	Entry Summary Declaration
EORI	Economic Operator Registration and Identification
EOS	Economic Operator System
ETI	Enabling Trade Index
EU	European Commission
EXS	Exit Summary Declaration
FTE	Full-time equivalent
GEA	Global Express Association
IATA	International Air Transport Association
ICS	Import Control System
IPR	Intellectual Property Rights
IT	Information Technology
ITC	International Trade Centre
LCP	Local Clearance Procedure
LPI	Logistics Performance Index
MoR	Measurement of Results
NCTS	New Computerized Transit System
OLAF	European Anti-Fraud Office
PARN	Pre-Authenticated Release Note
RASFF	Rapid Alert System for Food and Feed
REC	Decisions concerning requests for non-recovery of duties
REM	Decisions concerning requests for remission or repayment of duties
RIF	Risk Information Form
SAD	Single Administrative Document
SAFE Framework	Framework of Standards to Secure and Facilitate Global Trade

SAP GTS	SAP Global Trade Services
SASP	Single Authorisation for Simplified Procedures
SBA	System-Based Approach
SBC	System-Based, operator-specific Controls
SEAP	Single Electronic Access Point
SME	Small and Medium-sized Enterprise
TARIC	Integrated Tariff of the European Communities
TBC	Transaction-Based Control
TCG	Trade Contact Group
TRACES	Trade Control and Expert System
UNCTAD	United Nations Conference on Trade and Development
VAT	Value Added Tax
WCO	World Customs Organisation
WTO	World Trade Organisation

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