



Rules at work: sector scan for logistics

Opinion on reduction of regulatory burden in the logistics sector

1. General

The logistics sector in the Netherlands is extensive, diverse and specialised. There are very many different specialists who each have a specific task in just one of the links in a logistics chain. Think of arranging an import application, storage or unloading of a consignment, for example. All these businesses are dependent on one another for their scheduling and information provision. This mutual interdependence can be recognised in the bottlenecks that have been identified. And stresses the importance of an approach in which the logistics network is central. When the connecting links within and between the partially overlapping logistic chains mesh together well, huge improvements in efficiency can be made.

The sector scan for logistics looks at regulatory burden from the perspective of business. Due to the diversity of types of companies in the logistics sector, there is no such thing as a logistics 'model business'. That is why we opted to find out the bottlenecks of businesses by following goods - mostly using a container as carrier of the load when importing and exporting goods from the Netherlands. This approach made it possible to determine, from the experience of businesses, what bottlenecks they have to deal with every day. Our recommendations therefore connect to the practice of businesses, so that a noticeable reduction in regulatory burden becomes possible.

The bottlenecks that TNO describes in its research report largely emanate from the fragmented approach of the government and its supervisors which has arisen over the course of time. These bottlenecks limit businesses in their comings and goings. In recent years, many initiatives have been launched to simplify and streamline individual links within logistics chains. However, the TNO study makes it clear that fundamental steps are necessary to structurally tackle the causes of the identified bottlenecks.

The sector scan identifies three main bottlenecks of regulatory burden in the logistics sector:

1. The means of transport - and not the goods to be transported - are central to the specific regulations for the logistics sector. This limits flexible deployment of modalities of transport and

their associated logistics services.

2. The quality of supervision for the logistics sector is inadequate due to a fragmented implementation and often limited service provision.
3. The complexity of sector specific regulation has increased significantly. In some cases, businesses can no longer understand it and therefore cannot adhere to it.

Fundamental revision

To solve these bottlenecks, a fundamental revision of the existing legal order is needed. Not just one link or one policy area must take centre stage, but 'the chain' or more precisely: the network of overlapping logistic chains. In order to make this change, an industry-wide approach is necessary. Only if the entrepreneur takes centre stage in doing that, does a network approach become possible. Three major flows in the logistic chains are the flow of goods, the flow of information and the financial flow. These three flows must also take centre stage in the revision. Many of the simplifications require a longer time, but some can already be achieved in the short term.

We recommend that a legal order be arrived at which gives the logistics network a central place. In making this revision, the following must be achieved in any event:

- **the harmonisation of the legislative frameworks for transport by road, inland waterways and rail;**
- **a single (digital) transport document for all modalities of transport;**
- **the removal of legal barriers to cooperation between supervisors domestically and abroad;**
- **an unambiguous organisation of system supervision for the logistics sector;**
- **the conducting of inspections at times of rest that are part of the chain;**
- **the removal of the accumulation of Customs authorisations.**

Burden light implementation

Much of the legislation and regulations applicable to the logistics sector has an international origin. From interviews with businesses, it is apparent that the Netherlands does not always implement European and international guidelines with as little regulatory burdens as possible. As a result, businesses are unnecessarily restricted, with negative consequences for the international competitiveness of logistics in the Netherlands. An example of this is the

implementation of the Train Drivers' Directive¹. Since August 2013, the Netherlands requires that train drivers who operate an international train to just over the border in the Netherlands, must have a command of the Dutch language². Other EU member states, such as Germany, do not impose such a requirement. Another example is the stricter noise standards in ship cabins. Unlike other members of the International Maritime Organization, the Netherlands imposes the voluntary 'Code on noise levels on board ships'³ as mandatory. This makes it difficult to get a somewhat older foreign ship under the Dutch flag.

We recommend that consideration be given to which European and international directives can still be implemented with protection from burdens. This may contribute to the government's objective of reducing the regulatory burden by €2.5 billion.

Get rid of ambiguities

In recent years, many attempts have been made to reduce the regulatory burden in the logistics sector. They often had the character of suppressing the symptoms; the root cause of the fragmentation was not removed. As a result, a great deal of confusion in the sector emerged, especially about what the responsibilities are that businesses have. For example: new forms of digitisation make it possible for the terminal to indicate when a container can be picked up. Previously, Customs did this. This change leads to uncertainty among businesses, because it is unclear to them what this signifies for their own responsibility. Another example is the new phenomenon of the chain director. Businesses have no insight into what the responsibilities and rights of a chain director⁴ will be, and what this means for them if they are not the chain director.

We recommend evaluating new initiatives and simplifications from the perspective of businesses. When revising the legal order, we advise that the responsibilities of stakeholders be unambiguously and explicitly recorded.

¹ Directive 2007/59/EC of the European Parliament and of the Council of 23 October 2007 on the certification of train drivers operating locomotives and trains on the railway system in the Community.

² Policy Guideline Language Proficiency of Train Drivers on the Railway Network, Government Gazette dated 26-08-2013.

³ Resolution A.468 (XII).

⁴ Chain management involves coordinating and directing the flow of goods (and related information and financial flows) from the raw materials supplier to customer, including return flows and reuse, from "Partituur naar de top, adviesrapport Topteam Logistiek" [Roadmap to the top, consultation report Logistics Topteam], June 2011.

Fulfil ambitions

We realise that actually and fundamentally addressing the three main bottlenecks in the logistics industry requires a long-term process. However, the fundamental revision fits within the ambition and the time schedule of the Logistics Topteam: “In 2020, the Netherlands will have a top international position (1) in the settlement of commodity flows, (2) as chain director of (inter)national logistics activities and (3) as a country with an attractive climate for innovation and establishment for transfer and logistics business.”⁵ The noticeable reduction of regulatory burden in this sector contributes to this. Besides the achievement of this structural change in the organisation of supervision, the sector scan also includes recommendations that may, in the short term, already contribute to the noticeable reduction of regulatory burden.

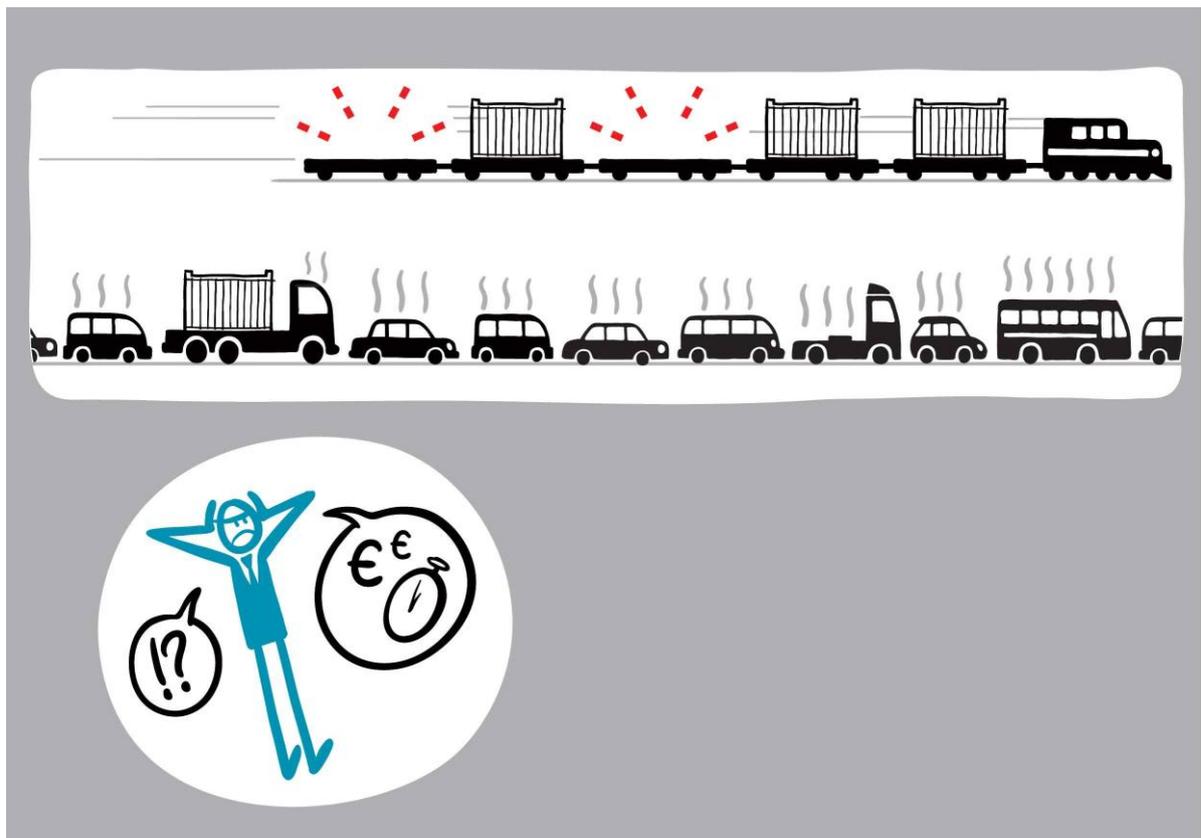
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In the next three sections, we will examine the three main bottlenecks in greater depth, and offer concrete pointers for resolving the unnecessary regulatory burden identified. In the final section we identify some bottlenecks that are more or less independent of the main bottlenecks. These are separate recommendations that can be followed up in anticipation of a fundamental revision.

⁵ “Partituur naar de top, adviesrapport Topteam logistics” [Roadmap to the top, consultation report Logistics Topteam], June 2011.

2. Main bottleneck: rigid focus on means of transport

The means of transport - and not the goods to be transported - are central to the specific regulations for the logistics sector. This limits flexible deployment of modalities of transport and their associated logistics services.



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Harmonisation of regulations

The TNO study makes it clear that the current legislation and regulations are too focused on one specific modality of transport. For each individual modality of transport, the government imposes specific requirements on the carrier (training requirements, licences) and on the means of transport (transport documents, supervision). Moreover, this rigid classification affects the content of contracts between parties, the insurance requirements, the applicable liability regime, the inventory management and the booking process. This limits the flexibility of businesses. The

current legal frameworks thereby also hinder the optimal use of intermodal⁶ and synchromodal⁷ transport. The regulations for the various modalities of transport (market access requirements, licence application procedures, requirements for transport documentation, liability regime) need to be harmonised so that an integrated and consistent approach to logistics chains becomes possible. A business now has to deal with different requirements for each modality. In that respect, he sometimes even has to apply for a separate licence for each modality when he is operating intermodally or synchromodally.

We recommend the harmonisation of the legislative framework for transport by road, inland waterways and rail. A first step is to employ an intermodal approach in policy development and supervision in the Netherlands. Additionally, in a small international context, steps may be taken towards legal harmonisation with (areas of) Germany and/or in a Benelux context.

Synchromodal transport

The lack of a network approach not only reduces the flexibility of the businesses, but also hampers the potential of inter- and synchromodal transport. Many of the individual, identified bottlenecks also complicate the choice for synchromodal transport. The legal differences among the modalities in transport law block the way to further integration and exchange of loads among the modalities. For example, there are differences in the content and use of the transport documents and in the extent of limitation of liability of the carrier. Choosing a network approach will largely remove the barriers for inter alia synchromodal transport. It is clear that the legal frameworks largely permeate the working methods of the businesses. They extend the current modality-specific approach into their product and service offerings. So alongside the steps that the government must take, in the second instance the businesses must also have their turn.

The barriers for synchromodal transport are not only attributable to government legislation and regulations. Businesses indicate that container owners also set such conditions for demurrage and detention that it is impossible or hardly possible to switch between modalities.⁸

⁶ Intermodal transport: moving goods from a to z using different modalities, which are fixed in advance, Partituur naar de top.

⁷ Synchromodal transport: moving goods for which, at any time, a choice can be made among different transportation modalities based on the actual conditions, Partituur naar de top.

⁸ Demurrage is the fee paid to a shipping company on exceeding the time limit for the collection of a container in the port. Detention is the fee paid to a shipping company on exceeding the time limit for bringing the empty container back into the port.

We recommend reviewing with the relevant parties whether barriers to inter- and synchromodal transport can be removed concerning the conditions that container owners set for demurrage and detention and about the barriers in legislation and regulation for new forms of these.

A single transport document

The fragmentation within the legal frameworks has led to there being different documentation requirements for each modality. This not only leads to an accumulation of freight documents in intermodal freight transport, but also constitutes a brake on fast and flexible switching between modalities. In addition, as a precaution, businesses proceed to draft unnecessary documentation. The superfluous regulatory burden that accompanies this is very noticeable. The ongoing EU project to arrive at a Single European Transport Document represents an important step in the direction of a single transport document. But there is still a long way to go here. The Dutch government may consider whether - on a smaller scale as a pilot, - it wishes to start using such a document. Interesting options are cooperation with Germany and/or in a Benelux context.

We recommend developing a single integrated (digital) transport document for all modalities of transport within the EU. We recommend pioneering this in a Benelux context, possibly supplemented with (areas of) Germany.

Inter-terminal transport

When a container is stored in a terminal, the container has the status 'Space for Temporary Storage' (Ruimte voor Tijdelijke Opslag or RTO⁹). At this time, there is a difference by modality in how long goods may remain in an RTO. This period is 45 days for sea transport, while it is only 20 days for other modalities.

For transportation of cargo that enters the country via one terminal, and leaves the country immediately through another terminal, a separate transit declaration¹⁰ is necessary. Customs evaluates these declarations for risks. Because these containers are again leaving the country through the same port, businesses experience this declaration as an excessively burdensome measure.

With the expansion of container terminal capacity on the Maasvlakte, inter-terminal transport will greatly increase. Dutch Customs should facilitate that a follow-on declaration for all inter-

⁹In an RTO, goods may remain temporarily before these goods have been assigned a customs designation.

¹⁰Community transit customs declaration.

terminal transport movements should no longer be required. Thus, on the Maasvlakte - as is the case at Schiphol Airport - a type 2 free zone¹¹ could be implemented.

The UCC¹² also allows goods to be transported between terminals with an RTO licence without transit declarations. In the Netherlands, however, there are still only a few RTOs. This is partly due to the complex process of applying for an RTO licence. Businesses are experiencing the application process as complex, because its structure is layered and modular. The one-time costs for applying for this license are hefty. Terminals wishing to acquire RTO status find it difficult to properly estimate in advance how long the application process will take and how much effort is to be expected. The consequences of this uncertainty are that fewer applications than expedient are submitted and that the number of companies with RTO status is limited. This kind of uncertainty is sometimes difficult to quantify; that it is noticeable is certain.

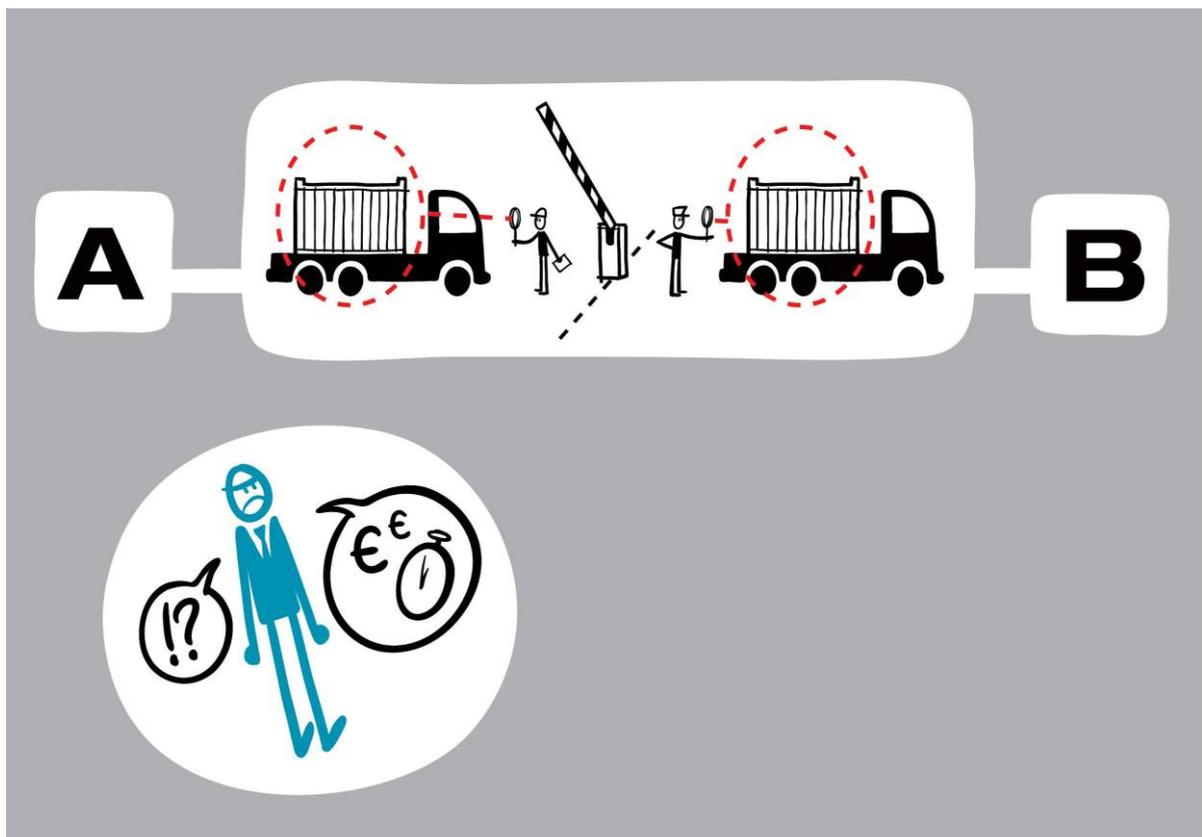
We recommend making inter-terminal transport of containers less burdensome for companies. Get rid of the requirement for a transit declaration for inter-terminal transport. Make use of the scope that the new UCC offers for terminals with an RTO status. In addition, we recommend harmonisation of the periods for goods storage in an RTO so that a single period (45 days) applies for all modalities. Make the application process for an RTO licence more transparent by getting rid of the layering of the process. Create clarity about processing times.

¹¹ This would be a geographical area functioning as a customs bonded warehouse where inspection takes place on the basis of the stock records of the administrator or operator of the free zone.

¹² UCC stands for Union Customs Code.

3. Main bottleneck: quality of supervision and service provision

The quality of supervision for the logistics sector is inadequate due to a fragmented interpretation and often limited service provision.



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Businesses within the logistics sector have to deal with various executive and enforcing government agencies. Supervision relates, inter alia, to the location (such as the building and working conditions), the administrative processes (such as declarations), the load and the means of transport. In cross-border goods transport businesses also have to deal with inspections abroad. These sometimes take place just over the border, which does not seem to do justice to the fact that the European Union is a single market.

Thus, transporting Community goods via short sea shipping¹³ to other EU destinations still leads to a lot of regulatory burden. This does not benefit the desired 'modal shift'¹⁴. The European Commission has meanwhile announced measures to simplify Customs formalities for such transport¹⁵. It is important to maintain a chain approach in the case of supervision as well. At present, supervisors are thinking and acting primarily from the standpoint of their own duties and powers. Not from the point of view of the businesses or the sequence of actions within logistics chains.

Cooperation of supervisors

The poor cooperation between supervisors within the Netherlands and those in the rest of the world is a major source of irritation among businesses. The cooperation between inspections - including the Joint Inspection Centre - does not yet go far enough. One reason for this limited cooperation is the legislation and regulations on which basis supervisors operate. Often the legal frameworks lead to differences in conditions, definitions, etc. that stand in the way of closer cooperation and information exchange.

We recommend optimising efficiency of inspections through closer cooperation between supervisors in the Netherlands and abroad. Avoid unnecessary inspections: where it makes sense to do so, make a comprehensive inspection possible and ensure the mutual recognition of inspection results within the Netherlands, within the EU and with other countries on a bilateral basis.

Re-use of data

The aim of the government is to avoid duplication in requests for information. Some relevant data known to one supervisor are not accessible to other supervisors. As a result, it still happens that companies repeatedly have to provide the same information to different supervisors. The emergence of supd@x – primarily intended for import of veterinary shipments – is a step in the right direction. With this system, businesses submit all the data for imported goods to all relevant government authorities at once. By setting up a Dutch inspection register, best use can be made of the information available to the Dutch government. Inspection services can then more easily share that information with each other. Customs can play a coordinating

¹³ Short sea shipping includes water transport of goods or passengers on a route of which at least one part is by sea or ocean, but where the ocean is not crossed.

¹⁴ Modal shift is the term for the replacement of part of the road transport by other forms of transport, specifically by rail and by (inland waterways) shipping.

¹⁵ With the EC Communication "The blue Belt, towards a shipping area without borders", two important proposals are described to simplify customs formalities for ships by amendment of the existing Community Customs Code.

role here, since it already handles the coordination of all cross-border traffic. The register can also help to counter duplicate inspections. It could eventually become part of Single Window Trade and Transport (Single Window Handel en Transport or SWH&T), after it is fully operational. The aim is to connect the SWH&T to the NLIP¹⁶. The logistics chains will be able to use this in a clever and standardised way to submit information to and share it with the market and the government.

We recommend enabling the sharing of information among supervisors to avoid duplication of requests for information. In doing this, connect as much as possible to SWH&T. We recommend designating a coordination manager. We further recommend that the data available about a load when export inspections are done should be used as much as possible for inspections when that load is imported.

System supervision

For an effective supervision policy, it is essential that supervisors focus on the greatest risks within the chain, and on reusing available information. The latter involves better use of the information from its own inspections or via AEO¹⁷ certification.

In that way, supervision becomes a part of the chain. The principle of horizontal supervision¹⁸ dovetails well with this, but is limited to Customs. For Customs, horizontal supervision takes shape based on the AEO certificates. The NVWA¹⁹ (The Netherlands Food and Consumer Products Safety Authority) concludes covenants and the Royal Netherlands Marechaussee, for example, has 'Known Consignor Status'. All these regimes aim to interpret supervision in a more focused way. At present there is no cooperation between supervisors and business in shaping these regimes. Companies must therefore all go through separate application and auditing procedures. At the initiative of Customs, among others, an investigation has been launched to develop new supervisory models for reducing administrative burdens for international trade and transport. This is based on responsible trust in the cooperation between the government and business. In this, the focus is still on Customs-related issues²⁰. It is important for such initiatives to cover the entire chain, including all other supervisors.

¹⁶ NLIP stands for Neutral Logistics Information Platform.

¹⁷ AEO stands for Authorised Economic Operator. See also under 5.

¹⁸ Horizontal supervision requires the willingness of all parties to be transparent; to lay possible discussion points on the table in advance; to show their hand and to look for solutions together. From: 'Horizontal supervision, Cooperation based on trust', The Tax Authorities, 2008.

¹⁹ NVWA stands for Nederlandse Voedsel en Warenautoriteit [The Netherlands Food and Consumer Products Safety Authority].

²⁰ Supply Chain Compliance and Border Management (ISCOM).

Businesses are worried, however, that the steps that have already been taken in the Netherlands will be nullified at EU level. Thus many EU member states are still using a transaction-based approach. We must prevent the positive measures already put in place in the Netherlands from being reversed by developments at EU level.

It would be wise to involve insurers in this system supervision as well. Reducing the regulatory burden by agreements between supervisor and business should not go lost because of additional standards, requirements and obligations imposed by insurers.

We recommend arriving at an unambiguous organisation of system supervision for the logistics sector, including agreements with insurers. The approach should dovetail as closely as possible with inspections that companies already carry out themselves. Furthermore, all supervisors must handle the approach to risk in the same way.

Strengthen the quality and service provision of supervisors

Companies sometimes experience the quality of individual inspectors as inadequate. This has consequences for the speed with which goods are dealt with, and the added value that inspections have. Because skilled inspectors leave the service, the quality of service is subject to further pressure²¹. In addition, businesses complain about the non-conformity of the prices used by the NVWA and the KCB²² with the market. The resultant price/quality ratio leads to great irritation among businesses.

Companies would also like to receive more feedback on the results of inspections. In addition to their inspection role, supervisors can help companies to make the adjustments and so prevent the repetition of mistakes. Businesses find that too often the prevention and advisory task is not adequately taken on board. An example of this is information about the extraterritorial effect of U.S. regulations or the licensing requirements of dual use goods. Businesses often cite examples from abroad that the Netherlands can learn from²³.

²¹ ORAM study "Serviceniveau Douane bij bedrijven in het Noordzeekanaalgebied", ["Level of Customs Service to Companies in the North Sea Canal Area"] 2013. Customs is tackling some of the issues in the context of the nationwide improvement project "Work in progress".

²² KCB stands for the Kwaliteits-Controle-Bureau [Quality Control Bureau] responsible for the quality control of fruit and vegetables on import and export.

²³ Just like the German BAFA (Bundesamt für Wirtschaft und Ausfuhrkontrolle or Federal Office of Economics and Export Control), the CDIU (Centrale Dienst voor In- en Uitvoer) could provide more information on the conditions for applying for export licences for dual use goods. In addition, the ILT (Inspectie Leefomgeving en Transport or Environment and Transport Inspectorate), like its counterpart in France, L'Établissement Public de Sécurité Ferroviaire (EPSF), could proactively provide companies with safety advice in accordance with Article 16 of EU Directive 2004/49.

We recommend reinforcing the prevention and advisory role of inspections and guaranteeing the quality of all inspectors.²⁴

We also recommend providing insight into the costs of inspections that certain supervisors pass on to businesses, and thereby to indicate why they differ from market rates.

Streamline the declaration procedure

At the present time, when businesses introduce and import goods into the Netherlands they are required to make several declarations: an ENS declaration²⁵, followed by one SAL²⁶, an import declaration and possibly a declaration for transport under Customs supervision. This accumulation of declarations is ineffective and unnecessarily restrictive. In addition, each separate declaration can lead to inspection. Thus, long delays and high costs may arise - especially because Customs may require additional documents and certificates at each step. The TNO study shows that in preparation for this, some businesses establish comprehensive accounting as standard so as to be able to quickly comply with such requests. The unpredictability and the need for businesses when so requested to be able to act quickly lead to excessive compliance: businesses maintain a supplementary paper archive.

The declaration procedure can be streamlined and simplified by improving the quality of the ENS declaration and replacing the SAL with a simple notification. With the new declaration system "AGS" Customs can indicate early on in the chain – a maximum of 7 days before actual import – whether a physical inspection will take place. If this information is shared within the chain, the predictability increases. This will save businesses time and irritation.

In the Netherlands, measures have been taken to have the ENS declaration and the SAL dovetail better. Thus a business that makes a declaration in the Netherlands may use the data from the ENS declaration for the SAL. Businesses make use of this primarily in air and bulk transport by sea. TNO indicates that this happens much less frequently for container transport by sea, because the market operator who places the container in temporary storage after unloading is a different party from the one who has completed the ENS declaration. It is important to look at how the Dutch method of working can be designed so as to obtain added

²⁴ An example of such reinforcement is the Master's Course in Customs and Supply Chain Compliance, a customs training course given at three universities, namely the TU Delft, the University of Leiden and the Erasmus University in Rotterdam.

²⁵ ENS declaration: Summary declaration on entry, in English, Entry Summary Declaration - ENS.

²⁶ SAL stands for Summiere aangifte bij lossing (Summary Declaration on Unloading or Summary Declaration for Temporary Storage).

value for containerised transport by sea. However, these are just optimisations of individual links in certain chains. As stated earlier, in the long term, fundamental steps are necessary in order to simplify the process structurally. The legal framework as enshrined in the EU context is leading in this.

We recommend streamlining the declaration process in an EU context by strengthening the ENS declaration and replacing the SAL declaration with a simple notification. In the short term, consideration can be given to how much the new declaration system (AGS aangiftesysteem) can further simplify the import declaration for the Netherlands.

Argue for dual filing

Current European Customs legislation does not allow the possibility of dual -filing²⁷. The new European Union Customs Code (UCC) does allow for the creation of the concept of dual filing procedures. This has yet to be given further interpretation in the Delegated and Implementing Provisions²⁸ of the European Commission.

We recommend – in consultation with businesses and supervisors involved – arguing on European level for making dual filing possible.

Periodically make import declaration after the fact

The purpose of the import declaration – which is made after the ENS declaration and the SAL – is primarily fiscal: to establish the correct amounts for import duties, excise taxes and VAT. At present, after going through a complex licensing process, businesses can qualify for an exemption to periodically make a declaration after the fact. Viewed from the perspective of the chain, there is no violent need to require this declaration in advance. Indeed, the inspection is often done only retrospectively based on company records. With the new declaration system (AGS), it will become possible to make periodic declarations after the fact.

We recommend changing the import declaration into a periodic declaration after the fact, as is usual for VAT.

²⁷ Dual filing means that different parties make the declaration together. In doing this, the intercontinental carrier supplies the transport-related data fields and the forwarding agent or the party with an interest in the cargo provides the commercial trading information.

²⁸ Delegated and Implementing Provisions are rules for implementation which explain in detail how the general provisions of the European Customs Code work in practice.

Times of inspection that are part of the chain

An important factor in the international transport of freight is the completion of Customs and inspection formalities. Traditionally, many inspections take place at the borders between countries. Businesses complain that too often, too many of the same kind of inspections are carried out in different countries. Thus it can happen that an inspection has only just taken place in the Netherlands and right over the border, it is repeated in Germany. With the transfer of inspections to resting places within the chain, the operation of the chain is made central, and not the implementation practice of the individual supervisors. When transferring the inspection to a time appropriate to the chain, the entire chain must be in the picture, both domestically and abroad.

We recommend that inspections be held at times of rest that are part of the chain. To do so, cooperation with neighbouring countries and the main seaports and airports is of great importance.

Parallel routes

Simultaneous registration of goods with multiple supervisors, parallel inspection applications and parallel inspections could accelerate the logistics process by anything from hours to days. An example may illustrate this.

Fruit and vegetables often already have a sales destination at the time of import and must be delivered quickly because of the risk of spoilage. At present, the business is still required to first arrange the phytosanitary²⁹ inspection at the KCB. Only after this inspection has been satisfactorily completed may the business make a Customs declaration. As a result of this, the waiting time is already doubled. In addition, the KCB works with blocks of time; this can cause the delay to add up considerably. Moreover, the waiting time can be much longer still, because the KCB can literally detain the load until it has taken a decision about what should happen to the load. If that decision is about a part of a much larger consignment, then the KCB will detain the whole consignment. Waiting can thus be very frustrating.

TNO states that such delays in the fruit and vegetable trade often give rise immediately to loss of value – in the worst case to loss of the entire consignment. A risk-based approach based on the entire consignment is lacking. Simultaneous notification to Customs and the KCB could lead to fewer reports, shorter waiting times and less loss of value. Parallel inspection applications

²⁹ Phytosanitary control aims to prevent the introduction and spread of organisms harmful to plants and plant products across national borders.

and parallel inspections also reduce the regulatory burden on businesses. Above all, the time of the phytosanitary inspection by the KCB has to be very precise.

We recommend making simultaneous notification, parallel inspection applications and parallel inspections possible.

We further recommend applying a risk-based approach to a consignment, so that, on inspection, it is not always necessary to detain the entire consignment.

Standardisation

The International Maritime Organisation (IMO) has developed seven standard forms for shipping documentation. Owing to the absence of a mandatory format for countries, that ultimately led to some 25,000 different forms. Standardisation is essential if (international) digitisation is to succeed.

We recommend the use of mandatory formats when digitising forms within the IMO.

Digital service provision

Goods transport requires many documents. Many of these documents have meanwhile been digitised, but it still happens that (foreign) supervisors require paper documentation. This is evident, inter alia, from the fact that the majority of EU member states have not yet ratified the supplementary E-protocol to the CMR Convention³⁰. This means that an efficiency drive in the use of electronic transport documents – such as the digital CMR bill of lading within international routes – cannot be achieved as yet. In addition, even in the Netherlands, paper documentation is requested at various points in the chain. These may be transport documents, Customs escort forms, invoices or packing lists, for example. The development of the NLIP is a step in the right direction; in time, this will make digital data exchange in the chains easier. Many export documents in the Netherlands are not available digitally. This turns the application for these documents into a major expense. Currently, in the Netherlands alone, approximately €10.5 million per year is being paid in requests for documents of origin and preferential documents. Digitisation of service provision by all Dutch supervisors fits within the aspirations of the government to enable all companies to conduct all business with the government digitally by 2017³¹.

³⁰ CMR: Convention for the International Carriage of Goods by Road.

³¹ Vision document on eGovernment 2017, Letter to the Dutch House of Representatives of 23 May 2013.

We recommend making it possible to apply fully digitally for export documents in the Netherlands.

A single general information point for import requirements

Many countries of destination for Dutch exports set their own requirements, for example for documentation, products and labelling. This is especially true for particular types of goods, such as pharmaceuticals, veterinary and phytosanitary products and hazardous materials.

Businesses have only a limited view of the import requirements of the receiving country. This impedes effective and purposeful action. The European Commission makes requirements available in the Market Access Database, but not for all countries. The Chamber of Commerce and AgentschapNL also provide information on countries and their import requirements, but they too are not complete. The regulatory burden can be reduced by establishing a single general information point, where complete information is available on import requirements. This can be achieved on a national basis, but also at European level.

We recommend making all import requirements of receiving countries accessible and transparent for Dutch companies by establishing a single general information point.

Automatic linking

For every consignment by air freight, the freight forwarders, agents and traders are required to verify the security status of the proffering parties. The current system is not efficient for businesses because there is no automatic link between the consignment system of businesses and the 'Regulated Agent/Known Consignor' database. As a result, they have to do a manual check on each consignment as to whether the consignor or agent is in the database. This creates irritation for businesses. Furthermore, in another database, the EU Watch list, such an automatic link has been made possible.

We recommend providing user-friendly operation of the Regulated Airfreight Agent/Known Consignor database, in a way similar to the operation of the EU Watch list³².

³²With the status of Regulated Airfreight Agent/Known Consignor, a consignment need no longer be checked for prohibited items, because the consignor or intermediary has the status 'certified safe'.

Gas measurements in containers

The standard period of validity of a gas measurement in a container is 2 hours. This means that upon physical inspection, after the expiration of this period a new gas measurement in the container must be taken. Companies often experience these repeat measurements as unnecessary, because in most cases there is no question of (new) gas being formed within a container after an inspection. To avoid unnecessary repeat measurements, a risk-based approach is necessary. This approach can be based on existing knowledge from previous measurements about which (combination of) products can give rise to which gases.

We recommend the use of a risk-based approach to the period of validity of gas measurements. Furthermore, differentiations can be made in the period of validity instead of taking the standard of 2 hours as a starting point.

Tolerance limits for bulk goods

When pumping out a load, pumping variances often arise, because a portion of the load remains behind in a ship. This has major consequences for excise goods, because these differences quickly exceed the tolerance limit. When unloading, if the specified data differ from those in the original transport document, the final placement notification becomes erroneous³³. This leads to additional levies, because lately, retrospective corrections are no longer being put through. At present, EU member states have different tolerance limits for different modalities and types of products. This is partly due to differences in interpretations of legislation between Dutch Customs regions and other EU member states.

We recommend making retrospective corrections of the placement notification possible and harmonising the tolerance limits.

Joining excise and customs regimes

Businesses that have to deal with the national excise and Customs legislation are annoyed about the differences between the two regimes. Thus, the AEO certificate has no effect in the excise legislation. What's more, it is not always clear how businesses should handle goods for which excise is suspended when it comes to Customs obligations. According to the TNO study, it is unclear whether goods for which excise has been suspended may be stored in the same

³³Reporting by forwarding agents and importers to Customs of goods arriving from overseas under the DIN regulations (DIN= Domproc INvoer or Domproc import) or DEN regulations (DEN=Domproc ENTrepot or Domproc bonded warehousing).

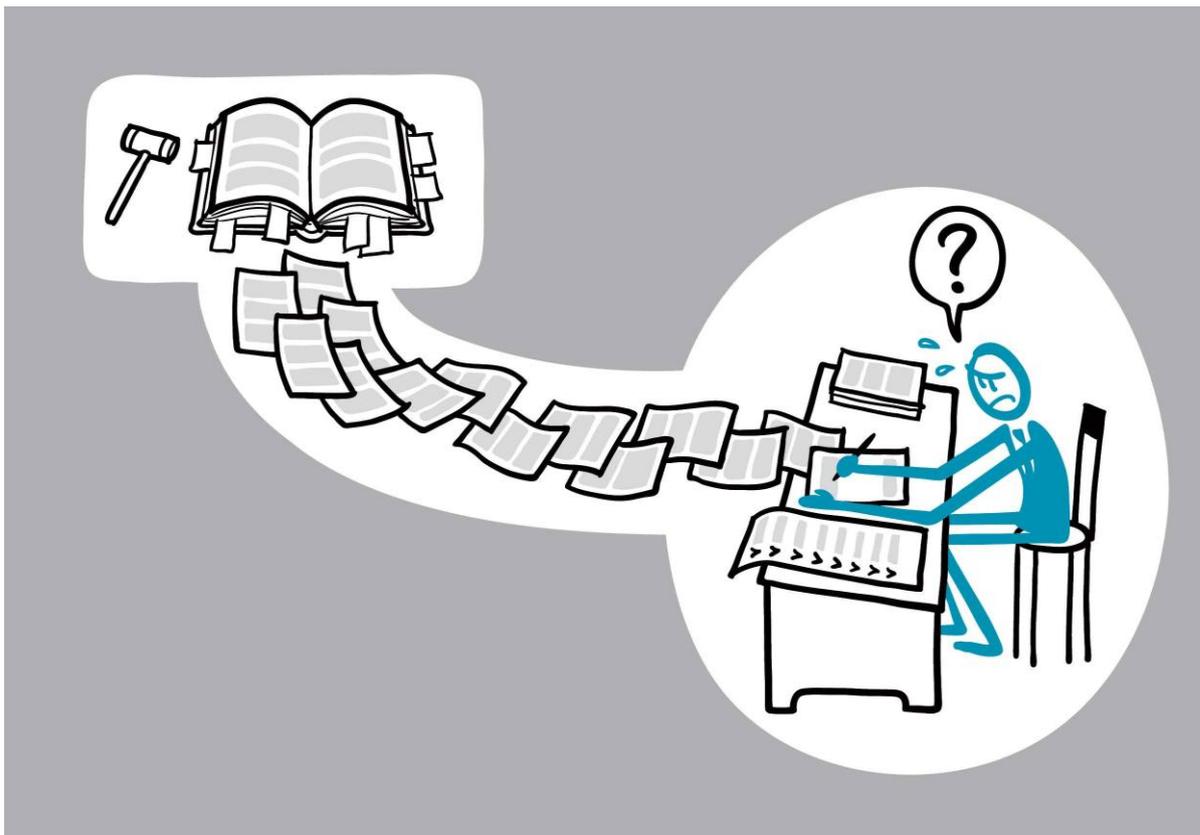


tank as goods under Customs supervision. Even after companies have posed specific questions, Customs provides no clarification on this point.

We recommend providing a one on one connection between excise and customs legislation by involving the excise legislation in the proposed fundamental revision of the legal order. Ensure that businesses always have an unambiguous answer.

4. Main bottleneck: complexity of legislation and regulations

The complexity of sector specific regulation has increased significantly. In some cases, businesses can no longer understand it and therefore cannot adhere to it.



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Businesses indicate that the complexity of some regulations is increasing. Moreover, the complexity is compounded by frequent changes. In some cases, this leads specific regulation no longer being understandable, and as a result, impossible to adhere to.

Complexity of the Customs Code

Businesses appreciate the efforts of Customs to arrive at simpler procedures. In the eyes of individual businesses, the service provision of Customs is often good. Together with the overall business sector, they have identified concrete points for improvement in the work programme 'Work in progress 2013-2014'. However, from discussions with the business sector and from the

TNO study, it has been found that the underlying Customs legislation and regulations are so outdated that they can no longer adequately keep up with innovative themes such as digitisation, synchronomodality and intermodal transport. This means that the simplification of procedures is often only possible by allowing exceptions. These exceptions then again require an exemption or licence, such as in the local clearance procedure, for example³⁴. These licences are admittedly simplifications compared to the standard process, but the accumulation leads to complex procedures. The further development of the new European Customs Code provides the opportunity to change assumptions and thus make the many exceptions redundant.

We recommend getting rid of the accumulation of Customs licences by adjusting the standards in the European Customs Code so that new developments become the norm and not the exception.

Storage and transport of hazardous materials

The regulations for the transport and storage of hazardous materials are very complex. This complexity leads to significant cost increases. In specific inspections by the ILT,³⁵ a high percentage of violations is frequently found for hazardous materials. This may be an indication that complying with the regulations is exceptionally difficult for many companies because of the complexity of the rules and the frequent amendments to them. Businesses do acknowledge the importance of the obligations, but they seem to have insufficient knowledge about them. Unlocking that knowledge is a first step to achieving better compliance in the short term. The experiences of and with the DCMR Milieudienst Rijnmond (the environmental protection agency of local and regional authorities in the Rijnmond region) may be important in this.

We recommend better unlocking of (knowledge about) the legislation and regulations for the transport and storage of hazardous materials.

We further recommend that, when changing these regulations, the effects on regulatory burden are explicitly assessed, so that the perspective of the (small and large) businesses is consistently heard.

³⁴ With the local clearance procedure, goods are placed under a customs procedure without any immediate declaration needing to be made for them.

³⁵ Inspectie Leefomgeving en Transport or The Human Environment and Transport Inspectorate.

5. Other bottlenecks

Besides the three main bottlenecks in the previous sections, we have also identified several other bottlenecks that are separate from these. Addressing these bottlenecks will also contribute to noticeably reducing the regulatory burden for businesses in the logistics sector.

Strengthen the AEO certificate

Logistics service providers can apply for a certificate if they meet a number of criteria of trustworthiness: the so-called Authorised Economic Operator (AEO) certificate³⁶. For an AEO certificate, Customs checks in advance whether a company is trustworthy. The main reason for companies to apply for an AEO certificate is the benefits it provides them, such as fewer physical and document inspections, priority at inspections or requests for data for licences. The AEO certificate was introduced as a voluntary simplification in 2008, but is experienced by many businesses as required, because the market compels them to have such a certificate.

Businesses indicate that the certificate is experienced primarily as a tool for strengthening the quality of the sector. Dutch companies are currently experiencing too few benefits from this certificate because the Netherlands was already working inter alia with enforcement agreements. In addition, when making an ENS declaration, Customs does not know whether a company – or one of its partners in the chain – is AEO certified. At the present time, businesses cannot indicate this. As a result, AEO benefits at the beginning of the chain cannot be utilised. The one-time request for data is currently seen as an important benefit for AEO certificate holders³⁷. We argue that this principle should apply to every business - AEO certified or not.

For some companies, it requires considerable investment to obtain and maintain the AEO certificate. Also, it is not easy to get clarity in advance about what costs it entails because of the open standards that Customs use. The system of self-evaluation provides too little guidance for companies – particularly SMEs – to gain insight into this. This can lead to over compliance and in many cases high costs for obtaining information by hiring external consultants.

Customs is already working on extending the benefits of the AEO certificate. Thus for AEO holders, an additional facility has been developed whereby the sum they have to deposit for security in respect of latent Customs duty and tax on imports is reduced to zero. In the context

³⁶ There are three types of AEO certificates: Security and safety, Customs simplifications and a combined Security and safety and customs simplifications certificate.

³⁷ Article 14c, paragraph 1UCDW stipulates that "if the company requesting a certain simplification is the holder of an AEO-C or and AEO-F, Customs does not re-examine the conditions that have already been investigated when the AEO status was applied for"; Automated market participants' guide, 2012.

of the 'Added value of an AEO', it is important to continue considering together with the business community what new AEO benefits can be achieved.

We recommend that Customs actively bring the advantages of the AEO certificate to the attention of the (potential) certificate holders. Make sure that AEO certified companies can be recognised as early as possible in the chain (at the time of the ENS declaration). Offer businesses clarity about the standards used. Consider whether the application procedure can be set up in the form of a Regelhulp (Dutch government online resource).

Effect of fiscal sanctions on AEO certification

The entry into force of the Wet OM-afdoening (Public Prosecution Settlement Act)³⁸ allows Customs to impose penalties for punishable offences. This is usually a fine: the fiscale strafbeschikking (FSB - or fiscal sanction). Businesses fear that if their appeal against an imposed FSB is rejected, and this then leads to a judgement that is recorded in the criminal record, the AEO certificate can be revoked. With this risk in mind, companies prefer to not appeal against an imposed FSB. For a minor infraction where the amount of the fine is small, the business will not risk losing its AEO certificate. This cannot be the intended effect. It must be possible for businesses to appeal against an FSB for a minor infraction without this having direct consequences for their AEO certificate.

We recommend the creation of opportunities for objection and appeal against minor infractions that do not result in loss of the AEO status if rejected.

Required extract from the Commercial Register

Businesses experience the authorisation process for obtaining the status of 'direct representation' as time-consuming. Direct representation means that a Customs agent represents an importer or exporter, and also makes the customers declarations on its behalf. As part of this, Customs must be able to determine who the client is, whether it really exists, where it is established, by whom the authorisation has been signed on behalf of the client, and whether this person is empowered to issue this authorisation. Customs then asks the Customs agent for a current extract of the entry for the client in the Commercial Register. If the client is an individual, it is a copy of his passport or identity card. But for most Customs licences,

³⁸ This Act now allows the public prosecutor to impose penalties for some common punishable acts themselves. This is called a punishment order.

Customs still additionally requires original extracts from the Commercial Register of the Chamber of Commerce.

Customs can request or consult these extracts itself. Requesting an extract is thus unnecessary. This also applies to the copy of the passport or identity card.

We recommend getting rid of the requirement for (licence) applications of submitting an extract from the Commercial Register or a copy of the passport or identity card.