

The risk analysis and risk management practices of the customs in the cargo (at the Liszt Ferenc International Airport)

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1. Foreword

The actuality of the topic is that the basic objective of the government is to minimize the bureaucracy and a more targeted use of the scarce resources of customs officers as well.

The aim of drawing up control plans based on risk management and analysis, within the Hungarian Tax and Customs Administration is mainly directed on economic abuse screening and preventing, given that state tax revenue is crucial to ensure Hungary's central budget.¹

2. Risk analysis and management generally speaking

The concept of "risk" can be defined in several ways, but in general it means the obscurity of activities, actions, outcomes and the uncertainty deriving from it:²

- risk
- uncertainty

The concept of risk of course can also depend on what is the aspect or field to be specified. It means something else by either environmental, health, disaster management, criminal, financial and customs point of view. In my presentation I focus on the activities of risk analysis of the Hungarian Tax and Customs Administration's specialist area. But what does the concept of risk mean in the aspect of customs administration? According to the World Customs Organization (WCO)³ it is the "non-compliance for customs legislation" and the guide to risk analysis and customs control issued by Taxation and Customs Union Directorate General of the European Commission (DG TAXUD⁴) says that "risk is the probability, that something is going to prevent the application of Community or national measures in relation to the customs procedure of goods"⁵

¹ Dajka, András 2016. Integrált kockázatmenedzsment a Nemzeti Adó- és Vámhivatal vám- és pénzügyőri szakágán belül (irányított kockázatkezelés), Diplomadolgozat, Nemzeti Közszolgálati Egyetem, Budapest, p.3-4.

² Dajka, András 2016. Integrált kockázatmenedzsment a Nemzeti Adó- és Vámhivatal vám- és pénzügyőri szakágán belül (irányított kockázatkezelés) Nemzeti Közszolgálati Egyetem, Budapest, p.5. In:² Pálincás, Péter: Kockázatkezelési eljárások alkalmazása az európai unió mezőgazdaságában Doktori (PhD) értekezés, Szent István Egyetem, Gödöllő Gazdálkodás És Szervezés Tudományok Doktori Iskola, Gödöllő 2011, p. 3.

³ World Customs Organization; (later more information)

⁴ Taxation and Customs Union Directorate, official website: http://ec.europa.eu/taxation_customs/index_en.htm

⁵ Csaba, Zsolt: A gazdasági biztonságot garantáló fegyveres szervezetek szükséges képességeinek és kapacitásainak meghatározása kockázatelemzési eljárásokkal, Doktori (PhD) értekezés, Nemzeti Közszolgálati Egyetem Hadtudományi Doktori Iskola, 2014. p. 25.

There are several ways to categorize the types of risks according to literature. It can be categorized by the forming reasons, expected effects (simple, clean risk - advanced risk (speculative risk)) or risk time horizon (short- and long-term risk), etc. However, the customs risks most common grouping modes can be defined as follows

2.1 In terms of financial impact:

- financial in nature (reducing tax or customs revenue),
- non-financial in nature: Security & Protection type (health, life, protection of physical integrity), concerning cultural assets (e.g. illegal trade in metals in some instances: plaque, statue theft, smuggling artifacts etc), protection of the environment (illegal waste shipments exploration, etc).

2.2 In terms of injured norms:

- European Union (hereinafter EU) violation (unauthorized use of EU funds, irregularities reducing the EU's duty revenue, EU security policy, etc.)
- national rule violation (eg. VAT, metal law, registration tax, excise tax).

In terms of the basis or object of the risk: a risk can be bound to goods, procedure, individuals (natural persons, firms, etc.), vehicles, etc.

In terms of the organizational level of risk:

- emerging in a central level
- emerging in a regional level.

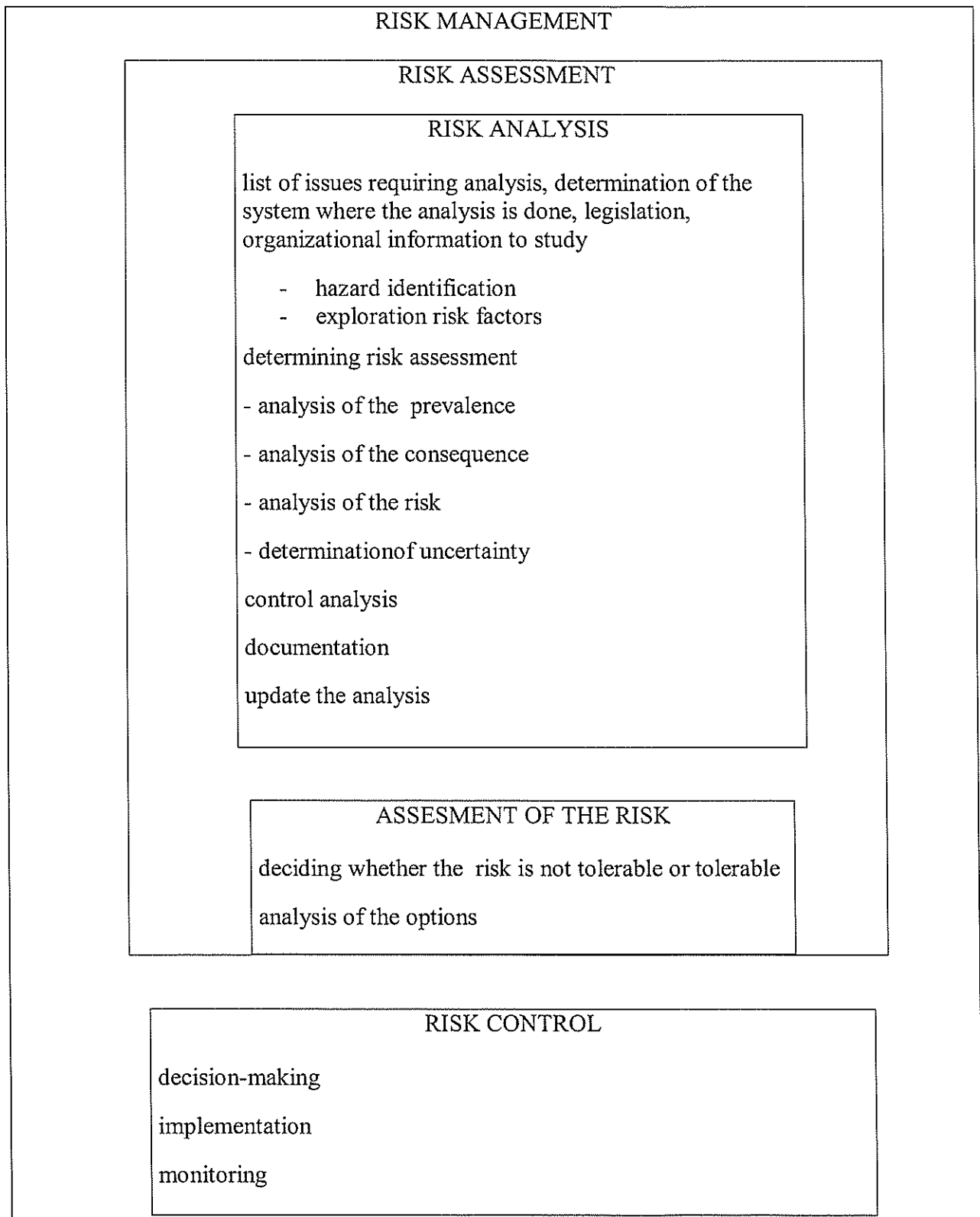
In terms of time of intervention:

- process built, that is already affecting the conduct of the procedure (for duties such as establishment of risk profile, which sets out the arrangements.)
- subsequent, measures conducted after the incident (eg. tax investigation, customs post audits).

The risk analysis is the systematic use of available information, which aims the identification of hazards, the determination of the frequency of potential damages and the price of damage.⁶

⁶Schutzbach, Mártonné: Az informatikai biztonság általános koncepciója és gyakorlata a védelmi szférában, Nemzetvédelmi Egyetemi Közlemények, 7. évfolyam, 2. szám, 2003, p.156.

2.3 The location of the risk analysis process in the risk management system is well illustrated below⁷



⁷Schutzbach, Mártonné: Az informatikai biztonság általános koncepciója és gyakorlata a védelmi szférában, Nemzetvédelmi Egyetemi Közlemények, 7. évfolyam, 2. szám, 2003, p. 157.

The risk assessment processes used by the Hungarian Tax and Customs Administration are based on analogous principles. It can be divided into the following main steps:

- detection, information collection: (a risk-seeking)
- risk analysis, identification
- risk assessment
- risk management
- monitoring, review

3. Customs area vocational risk management and analysis

3.1 The international projection of the need of customs risk analysis

At the outset, I would like to indicate that the following overview of the history that I - at a risk management perspective - considered the most important milestones in the description of it, which does not include the development of customs in important year numbers - discussed in detail by the literature.

3.2 World Customs Organization (hereinafter WCO)⁸

The release of the concept of risk management related to customs is connected to the amendment of the General Agreement on Tariffs and Trade Agreement Article⁹ VIII. in 1994. (Fees and formalities in connection with importation and exportation). In particular, paragraph 1 (c), which recognizes the need to reduce the import and export formalities complexity to a minimum and to simplify documentation requirements. The World Trade Organization¹⁰ (successor to General Agreement on Tariffs and Trade) members are considering the introduction of risk management techniques in customs to speed up the clearing of the goods.

The amendment in 1999 of the Customs Cooperation Council Convention in 1973 in Kyoto (came into force: 1974) on the simplification and harmonization determined among other things that the customs risk analysis should be performed. It provided that the customs authorities should use risk analysis of customs control, namely to determine which persons, goods, transport equipment to examine and to what extent. Following an amendment of the Kyoto Convention, in 2000, the World Customs Organisation in cooperation with its Member States developed a uniform standard framework for the implementation of

⁸World Customs Organization (WCO); official website: <http://www.wcoomd.org>

⁹General Agreement on Tariffs and Trade (GATT)

¹⁰World Trade Organization (WTO), since 01.01.1995. successor to General Agreement on Tariffs and Trade; official website: <https://www.wto.org/index.htm>

riskmanagement. The framework defined the key elements of the risk management activities ("SAFE"¹¹)

3.3 The "SAFE" standard system

According to the standard system for security and facilitation of global trade - the "SAFE" (Framework of Standards to Secure and Facilitate Global Trade; hereinafter SAFE) 1. Foreword 1.1 Introduction subsection French fourth paragraph:

„It is an unacceptable and an unnecessary burden to inspect every shipment. In fact, doing so would bring global trade to a halt. Consequently, modernized Customs administrations use automated systems to risk manage for a variety of issues. In this environment, Customs administrations should not burden the international trade community with different sets of requirements to secure and facilitate commerce, and there should be recognition of other international standards. There should be one set of international Customs standards developed by the WCO that do not duplicate or contradict other intergovernmental requirements.”

The standard system has four basic elements¹²:

1. advanced electronic recording data requirements for every single consignment;
2. to a uniform risk management strategy to eliminate the security threat;
3. examination shall be conducted in the high-risk shipments and containers by the the sender State's Customs using a risk-assessment methodology, if possible, using non-intrusive means;
4. for those businesses, which use thebest practice and the minimum standards during the delivery, can enjoy benefits during the customs procedures.

The standard system has two main pillars¹³:

- a network of agreements concluded between the customs authorities
- partnership between customs and businesses.

4. The need of customs risk assessment in the European Union

4.1 The European Union's AEO program

The Authorized Economic Operator ¹⁴ (hereinafter AEO) has a special status in economics. This status is provided by the customs authorities fir the entity's request. The AEO

¹¹ Framework of StandardstoSecure and Facilitate Global Trade; http://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/tools/safe_package.aspx

¹² Dajka, András 2016.Integrált kockázatmenedzsment a Nemzeti Adó- és Vámhivatal vám- és pénzügyőri szakágán belül (irányított kockázatkezelés), Diplomadolgozat, Nemzeti Közzolgálati Egyetem, Budapest, p.10.

¹³ Dajka, András 2016.Integrált kockázatmenedzsment a Nemzeti Adó- és Vámhivatal vám- és pénzügyőri szakágán belül (irányított kockázatkezelés), Diplomadolgozat, Nemzeti Közzolgálati Egyetem, Budapest, p.10.

¹⁴ AuthorisedEconomic Operator (AEO)

facilitations and/or simplifications provided for under the customs rules relating to customs controls relating to safety benefit. The firm with AEO status is provided with facilitations and/or simplifications in connection with customs controls under the customs rules. It specifically means that the firms with AEO status during the entry- and exit procedures - depending on the results of security and safety risk analysis, -partially or fully exempted from customs control or have an advantage over firms do not have the AEO status, as well benefit from significant simplifications to the normal procedure in terms of formalities and customs procedures applicable to the payment obligations. However, firms must meet very stringent set of requirements in order to achieve it. The AEO status is recognized by authorities in all Member States and permit that the firm benefits from that reduction or simplification. The already detailed paragraph of "SAFE" explains the AEO concept as follows:

"...a party involved in the international movement of goods in whatever function that has been approved by or on behalf of a national Customs administration as complying with WCO or equivalent supply chain security standards. Authorized Economic Operators include inter alia manufacturers, importers, exporters, brokers, carriers, consolidators, intermediaries, ports, airports, terminal operators, integrated operators, warehouses, distributors"¹⁵.

AEO certificate types:

- AEOC type permission - "Customs simplifications";
- AEOS type permission- "Safety and Security";
- AEOF type permission- a combination of two types above.

4.2 Union Customs Codex - Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013¹⁶

According to the rules of the Union Customs Codex as below:

„Control of goods

Article 46

Risk management and customs controls

1. The customs authorities may carry out any customs controls they deem necessary.

Customs controls may in particular consist of examining goods, taking samples, verifying the accuracy and completeness of the information given in a declaration or notification and the existence, authenticity, accuracy and validity of documents, examining the accounts of

¹⁵Dajka, András 2016.Integrált kockázatmenedzsment a Nemzeti Adó- és Vámhivatal vám- és pénzügyőri szakágán belül (irányított kockázatkezelés), Diplomadolgozat, Nemzeti Közszolgálati Egyetem, Budapest, p.12.

¹⁶Union Customs Codex - Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013; official website:<http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32013R0952>

economic operators and other records, inspecting means of transport, inspecting luggage and other goods carried by or on persons and carrying out official enquiries and other similar acts.

2. Customs controls, other than random checks, shall primarily be based on risk analysis using electronic data-processing techniques, with the purpose of identifying and evaluating the risks and developing the necessary counter-measures, on the basis of criteria developed at national, Union and, where available, international level.

3. Customs controls shall be performed within a common risk management framework, based upon the exchange of risk information and risk analysis results between customs administrations and establishing common risk criteria and standards, control measures and priority control areas.

Controls based upon such information and criteria shall be carried out without prejudice to other controls carried out in accordance with paragraph 1 or with other provisions in force.

4. Customs authorities shall undertake risk management to differentiate between the levels of risk associated with goods subject to customs control or supervision and to determine whether the goods will be subject to specific customs controls, and if so, where.

The risk management shall include activities such as collecting data and information, analysing and assessing risk, prescribing and taking action and regularly monitoring and reviewing that process and its outcomes, based on international, Union and national sources and strategies.

5. Customs authorities shall exchange risk information and risk analysis results where:

(a) the risks are assessed by a customs authority as being significant and requiring customs control and the results of the control establish that the event triggering the risks has occurred; or

(b) the control results do not establish that the event triggering the risks has occurred, but the customs authority concerned considers the threat to present a high risk elsewhere in the Union.

6. For the establishment of the common risk criteria and standards, the control measures and the priority control areas referred to in paragraph 3, account shall be taken of all of the following:

(a) the proportionality to the risk;

(b) the urgency of the necessary application of the controls;

(c) the probable impact on trade flow, on individual Member States and on control resources.

7. The common risk criteria and standards referred to in paragraph 3 shall include all of the following:

(a) a description of the risks;

(b) the factors or indicators of risk to be used to select goods or economic operators for customs control;

(c) the nature of customs controls to be undertaken by the customs authorities;

(d) the duration of the application of the customs controls referred to in point (c).

8. Priority control areas shall cover particular customs procedures, types of goods, traffic routes, modes of transport or economic operators which are subject to increased levels of risk analysis and customs controls during a certain period, without prejudice to other controls usually carried out by the customs authorities.

Article 128

Risk analysis

The customs office referred to in Article 127(3) shall, within a specific time-limit, ensure that a risk analysis is carried out, primarily for security and safety purposes, on the basis of the entry summary declaration referred to in Article 127(1) or the particulars referred to in Article 127(8) and shall take the necessary measures based on the results of that risk analysis.

Article 264

Risk analysis

The customs office to which the pre-departure declaration referred to in Article 263 is lodged shall ensure that, within a specific time-limit, a risk analysis is carried out, primarily for security and safety purposes, on the basis of that declaration and shall take the necessary measures based on the results of that risk analysis.

Entry summary declaration

Goods brought into and out of the customs territory of the Union shall be covered by an entry summary declaration with specific data content, prior to import to the customs territory of the EU and prior to export, taking the deadlines laid down into account, mainly due to the customs authorities can carry out the risk analysis.

Deadlines:

- Air traffic: For a short distance at take off, for a long distance four hours before arrival;
- Rail and inland waters traffic, two hours prior to arrival;
- Road traffic: one hour before arrival.

Article 127

Lodging of an entry summary declaration

1. Goods brought into the customs territory of the Union shall be covered by an entry summary declaration.

2. The obligation referred to in paragraph 1 shall be waived:

(a) for means of transport and the goods carried thereon only passing through the territorial waters or the airspace of the customs territory of the Union without a stop within that territory; and

(b) in other cases, where duly justified by the type of goods or traffic, or where required by international agreements.

3. The entry summary declaration shall be lodged at the customs office of first entry within a specific time-limit, before the goods are brought into the customs territory of the Union.

Customs authorities may allow the entry summary declaration to be lodged at another customs office, provided that the latter immediately communicates or makes available electronically the necessary particulars to the customs office of first entry.

4. The entry summary declaration shall be lodged by the carrier.

Notwithstanding the obligations of the carrier, the entry summary declaration may be lodged instead by one of the following persons:

(a) the importer or consignee or other person in whose name or on whose behalf the carrier acts;

(b) any person who is able to present the goods in question or have them presented at the customs office of entry.

5. The entry summary declaration shall contain the particulars necessary for risk analysis for security and safety purposes.

6. In specific cases, where all the particulars referred to in paragraph 5 cannot be obtained from the persons referred to in paragraph 4, other persons holding those particulars and the appropriate rights to provide them may be required to provide those particulars.

7. Customs authorities may accept that commercial, port or transport information systems are used for the lodging of an entry summary declaration provided such systems contain the necessary particulars for such declaration and those particulars are available within a specific time-limit, before the goods are brought into the customs territory of the Union.

8. Customs authorities may accept, instead of the lodging of the entry summary declaration, the lodging of a notification and access to the particulars of an entry summary declaration in the economic operator's computer system.”

4.3 Common Risk Management Framework¹⁷ (hereinafter CRMF)

The Community-wide risk management is executed in accordance with an electronic common risk management framework that includes the following elements:

-to implement the Community Customs Risk Management System between the customs authorities of the Member States and the Commission related to information about risk to improve the effectiveness of customs controls;

- common priority control areas;

- a common risk criteria and standards, for harmonized application of customs controls in specific cases.

4.4 Customs Risk Management System¹⁸ (hereinafter CRMS)

The CRMS is a web application that provides transmission of information related to the risk between the customs authorities of the Member States and the Commission to improve the effectiveness of customs controls. The CRMS has two main areas (domains), one of them is the RIF¹⁹, and the other is the CPCA²⁰. RIF is a simple electronic form, that provide the rapid exchange of information and information about risk between the the customs authorities of the Member States. In the CPCA domain information on PCA²¹ action or CRC²² determined during crisis management needs to be dealt with which supports certain identified risks and its response in the EU for a certain period of time. The customs authorities exchange information on risks using the CRMS-RIF system in the following circumstances,:

- a customs authority considers that the risks are significant and customs controls are required and the results of the audit show that Article 4 (25) of the Code events (“risk”occurred;

¹⁷CommonRisk Management Framework (CRMF)

¹⁸CustomsRisk Management System (CRMS)

¹⁹RiskInformationForm(RIF)

²⁰ComprehensivePartnership and CooperationAgreement(CPCA)

²¹Partnership and CooperationAgreement (PCA)

²²CommonRiskCriteria(CRC)

- the results of the audit did not indicate that the "risk" occurred, but the customs authority concerned considers the opportunity of a high risk elsewhere in the Community.

Normal RIF: Normal RIF shall be issued when an identified risk needs to be disclosed to any other State officials. In addition, standard RIF is to be issued even if irregularities were found during an inspection for safety and security. RIF BV: If the front office needs access to further information to carry out a risk assessment, or if the consignment was released without control to the secondary customs office.

4.5 Priority control areas²³

Based on the proposals and the relevant research and fact-finding results of the Member States, the Commission identifies priority control areas and organizes action to these control areas. It aims through customs control based on risk analysis to ensure adequate (equivalent) level of protection for citizens, the environment and the firms in order to ensure security and public health in the aspects of the financial and economic interests and the proper application of the measures in the control of goods. Risk-coordinated customs controls should be carried out in the designated areas based on real-time information exchange on the common aspects of risk analysis. The priority control areas may apply for any use, type of goods, transit routes, freight firm device or approved by those authorities.

4.6 Common Risk Criteria (hereinafter CRC)²⁴

The common risk criteria and standards include a description of the risks, applicable factors and indicators, inspections / audits nature, duration. The common risk criteria - among other things - needs to be implemented in respect of the following risk factors: basic data on firms, risky products in terms of security, risky goods dispatched to/from risky countries, transport document number, transporting vehicle data, unusual routes, case by case cargos, information from other sources on the consignment. The common risk criteria are defined by the Commission along with the Member States. The common risk criteria need to be automatically implemented in advance during security and safety security risk analysis of the formerly electronically sent collective customs-declarations in ICS²⁵, ECS²⁶ and NCTS²⁷ systems.

The risks can be categorized as follows:

Place of intervention:

- during entry and exit procedures;

²³Dajka, András 2016. Integrált kockázatmenedzsment a Nemzeti Adó- és Vámhivatal vám- és pénzügyőri szakágán belül (irányított kockázatkezelés), Diplomadolgozat, Nemzeti Közszolgálati Egyetem, Budapest, p.15.

²⁴Dajka, András 2016. Integrált kockázatmenedzsment a Nemzeti Adó- és Vámhivatal vám- és pénzügyőri szakágán belül (irányított kockázatkezelés), Diplomadolgozat, Nemzeti Közszolgálati Egyetem, Budapest, p.16.

²⁵Import Control System (ICS)

²⁶Export Control System (ECS)

²⁷New Computerised Transit System (NCTS)

- During customs procedures (fiscal, other).

According to their level of risk:

- arose at a central or
- territorial level.

5. The risk analysis and risk management practices of the customs in the cargo

5.1 Goals:

- 1) to clear „TROUBLE FREE” shipments as soon as possible
- 2) to select suspicious shipments for further examination

5.2 Risk analysis at the Liszt Ferenc International Airport, by air cargo (PRE-ARRIVAL STAGE)

ICS²⁸ (Import Control System; hereinafter ICS): before an aircraft lands at an EU airport the data of all cargo consignments loaded at the plane must be sent to the „first point of entry”:

„The ICS is a system architecture developed by the Community for the lodging and processing of ENS (Entry Summary Declaration; hereinafter ENS) and for the exchange of messages between national customs administrations and between them and economic operators and with the European Commission. In certain circumstances in accordance with Article 183a CCIP the NCTS can be used instead for lodging the ENS.”²⁹

Security (prohibited and restricted goods)

Fiscal analysis: conducted at a later stage, when the declaration is made (once at Budapest risk analysis team encounters a new fiscal risk indicator and made a report for the central risk analysis bureau /who is responsible for profiles/)

Data available: consignor, consignee, country of origin, weight, number of packages, description of the goods, route

5.3 Risk analysis at the Liszt Ferenc International Airport by couriers (PRE-ARRIVAL STAGE)

There is no ICS-data available (first point of entries are located in other EU-countries – Cologne UPS (Germany), Paris FEDEX (France), Liege TNT (Belgium), Leipzig DHL (Germany))

5.4 Risk analysis is based upon the data of the PRE-ARRIVAL Manifest (in an EXCEL table)

²⁸ Import Control System (ICS)

²⁹ What is the ICS? http://ec.europa.eu/ecip/help/faq/ens7_en.htm#faq_1

Selection

The officer selects the shipment for:

- 1) document analysis (e.g. official license needed)
- 2) physical inspection

supervision of loading & unloading + physical inspection of the aircraft (especially in case of an „suspicious” flight)

PRE-ARRIVAL fiscal analysis is also conducted at couriers - customs can claim for additional documents and data (e.g. bank transfer data, link to online orders, etc.).

Such an additional data often serves as proof for higher customs value (compared to Manifest data)

5.5 Most cases at the Liszt Ferenc International Airport connect to courier shipments

Reason: B2C (business to consumer) and C2C (consumer to consumer) took over the B2B (business to business) - number of courier consignments increased

5.6 Most typical cases:

- 1) illegal medicines (e.g.: growth hormones, tranquilizers, etc.)
- 2) new psy drugs („DESIGNER DRUGS”)
- 3) counterfeits
- 4) CITES-related³⁰ (the *Convention on International Trade in Endangered Species* of Wild Fauna and Flora) goods

The major case of this spring at the Liszt Ferenc International Airport:

Almost 2 tons of dried khat (*Catha edulis*)³¹ (in 20 shipments in short time) seized at the Liszt Ferenc International Airport (from Eastern Africa to Western European countries via Budapest)

- police made 3 arrests

6. Conclusion

Main goals in the future:

- 1) keep on improving the accuracy of targeting
- 2) improving our fiscal analysis methods

³⁰ Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES); official website <https://www.cites.org/>

³¹ Addict Health. 2011 Summer-Autumn; 3(3-4): 137–149.; <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3905534/>

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6. Dajka, András 2016. Integrált kockázatmenedzsment a Nemzeti Adó- és Vámhivatal vám- és pénzügyőri szakágán belül (irányított kockázatkezelés), Diplomadolgozat, Nemzeti Közszerológálati Egyetem, Budapest, p.10.
7. Dajka, András 2016. Integrált kockázatmenedzsment a Nemzeti Adó- és Vámhivatal vám- és pénzügyőri szakágán belül (irányított kockázatkezelés), Diplomadolgozat, Nemzeti Közszerológálati Egyetem, Budapest, p.12.
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10. World Customs Organization (WCO)
11. Taxation and Customs Union Directorate (DG TAXUD)
12. World Trade Organization (WTO)
13. Framework of Standards to Secure and Facilitate Global Trade
14. Authorised Economic Operator (AEO)

15. Customs Risk Management System (CRMS)
16. Risk Information Form (RIF)
17. Comprehensive Partnership and Cooperation Agreement (CPCA)
18. Partnership and Cooperation Agreement (PCA)
19. Common Risk Criteria (CRC)
20. Import Control System (ICS)
21. Export Control System (ECS)
22. New Computerised Transit System (NCTS)
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