

It's already 20 years since the European Union decided to open its internal borders to the flow of goods between Member States. As a result, veterinary inspections, which had been performed upon crossing the internal EU borders until then, were purely and simply eliminated, as were the customs declarations which had included the goods' customs commodity codes. These declarations were then replaced by an exchange of goods declaration or Intrastat, lodged once a month for statistical purposes.

Through the current "*Horse-gate*" affair, we get a real sense of the direct consequences of the intra-EU trade facilitation on a sanitary level. Due to a lack of systematic inspections, a degree of laxity has been allowed to set in which authorises trade actors to take certain liberties with the regulations.

If we draw a parallel with the 2011 implementation of the new customs regulation, ICS (Import Control System), designed for trade security purposes and applicable to all goods entering the EU customs territory from countries outside the European Union, it is possible to evaluate the true importance of scrupulously respecting the arrangements provided for by the law and thus avoiding an international "Horse-gate".

Yet CONEX, European customs and security data dematerialisation specialist, present in 21 of the 27 EU Member States, makes an alarming observation. Data included in the EU entry declaration messages do not respect the obligations of the Customs Code: most of the time the description of the goods is partial, even incorrect, and the description of the supply chain actors

is truncated. **Therefore, who would be surprised by an international “horse-gate” or other transgression of the “weak” trade rules and what else will we face in the future?**

**Despite being legally transposed, the application of the “safety and security” amendment to the Community Customs Code is failing in practice.**

The European Union developed a body of rules designed to reinforce the security of goods entering the EU customs territory. However, their legal coming into force on 1<sup>st</sup> January 2011 was not followed up by a real implementation on the ground. The Findus Horse-gate affair, despite being a European issue, raises questions of security which are applicable to the Import Control System.

Regulations (EC) No. 648/2005 and 1875/2006, the so-called “security amendment”, modifying the Community Customs Code, constitute the first customs measure to be taken with regard to safety/security. Obligations relating to the ICS (Import Control System) project came into force on 1<sup>st</sup> January 2011. Since this date, operators have been obliged to send Entry Summary declarations (ENS), containing logistics and commercial data, to the customs services, allowing

them to carry out risk analysis and thus target specific flows for inspection.

Two years on however, experience shows us that ENS messages are still not compliant with the terms defined by the Community Customs Code, effectively preventing adequate risk management. CONEX is present in 21 of the 27 EU Member States and everywhere the findings are the same: data provided in ENS messages do not respect the Community Customs Code rules. Most of the time the description of the goods is only partial, sometimes it is simply wrong.

In addition, due to a lack of reliable data, it is impossible to verify who the consignor, the consignee or the owner of the goods really is. Therefore, in the consignor and consignee boxes, we often find the names of forwarding agents, who are not really the operators concerned by the message transmitted. However, to simplify the procedure (and in the absence of any form of sanction), the forwarding agent's name is used instead of the real exporter/importer of the goods. This reality poses a major security challenge.

So, while everything is in place to ensure that the common European Union risk management system works, due to this lack of reliable data, the actual objective of security is compromised. Member State customs authorities do not possess the necessary elements to enable them to perform efficient safety/security risk analysis using computerised procedures.

**In these conditions, how can the reality of the harmonised risk management system,**

implemented by European institutions, be ensured?

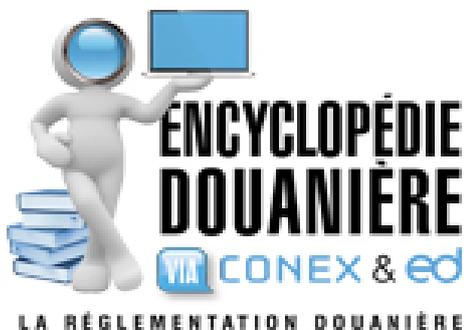
### Findus “Horse-gate”

*“This 8-digit code, 02050080, would correspond to the international standard code for frozen horse meat”.* This wording judged “unusual” at the heart of the Findus affair in fact corresponds to the **customs code for frozen horse meat. This ignorance is a symptom of a more serious problem: the misapplication of the Community Customs Code “safety/security” amendment**. These measures require operators to comply with a collection of rules and procedures to enable customs authorities to control risk effectively. However, **due to the lack of any sanction or financial or legal penalty in the event of infringing the rules, economic operators are not encouraged to apply ICS correctly, preventing the system from producing the expected results.**

To go further still, in the absence of the enforcement of the rules adopted, the EU’s partners with whom it is currently negotiating in order to promote its measures could legitimately obstruct talks citing doubts about the EU’s capacity for being a reliable

partner in the safe flow of goods on an international level.

For CONEX, it is **essential – to guarantee safety and security- that the customs authorities really check the quality of data and reject systematically any incomplete message.** In this way, economic operators will be forced to comply with the fixed rules. Economic operators must also **be better informed in order to better understand the use of these new messages and the importance of data quality** . This will avoid having operators view the rules purely as an additional constraint to ignore without threat of penalty. A penalty system for non-respect of rules could also guarantee a greater respect of obligations by economic operators.



For the Findus affair, CONEX's *Encyclopédie Douanière* (Customs Encyclopaedia) refers us to the CN8 which is available on the CONEX website:

<http://www.conex.net/en-FR/tools-and-documents/cn8.html>

available in a number of languages.

CONEX's *Encyclopédie Douanière* integrates all the goods nomenclature used for customs clearance, the wording of associated definitions and the rates of taxes and duties applicable according to origin as well as other diverse regulations (quotas, prohibitions, etc.)

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