

Customs warehousing and open customs warehouses

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The customs status of goods in the port determines their tax burden and the procedures that apply to them. Goods arriving from abroad by Rhine vessel can be cleared for free circulation immediately, or they can be stored under customs control without the payment of duties and import VAT until they are cleared or re-exported. Swiss customs law provides several instruments for such storage. The Customs Act of 2005 introduced, besides the traditional free zones, the customs warehouses (*Zolllager*) and the open customs warehouses (*offene Zolllager*, OZL), which allow authorised operators to store goods under suspension of duties in their own premises.¹

The open customs warehouse is a facility of a private operator approved by the customs authority, in which goods can be stored, sorted and, under certain conditions, subjected to customary handling without being cleared for import. The operator must keep a stock accounting system that allows the authority to verify the movement of goods at any time. Since the reform that followed public criticism of the free ports, the inventories must identify the depositor and, for certain sensitive goods such as works of art and cultural property, include more detailed information on their origin and value.² The free ports and their role in the art market are examined in Chapter V of this Part.

For the logistics companies of Basel, customs warehousing is a core service. Goods intended for re-export, such as transit cargo between the EU and third countries, can pass through Switzerland without Swiss duties, while goods for the Swiss market can be stored and cleared only when they are sold. The customs status of the goods also determines the application of export control rules and sanctions: goods stored in a customs warehouse are not exempt from the Goods Control Act or from the embargo ordinances, since these rules apply to the territory of Switzerland regardless

of the customs procedure.³ Chapter III examines this interaction in more detail.

The customs administration is in the midst of a digital transformation. The programme DaziT, renamed Passar for its central system, aims to replace paper-based procedures with fully digital declarations and controls, while the parliament has revised the customs legislation in a total revision that splits the old Customs Act into a framework act on the tasks of the Federal Office for Customs and Border Security and a new act on customs duties.⁴ For the Basel ports and the logistics industry, these reforms change the procedures, the liability of declarants and the data that must be supplied to the authorities.

Warehouse receipts link customs warehousing with finance. A warehouse keeper may issue a document of title for goods in storage. Under the Swiss Code of Obligations, such a receipt can represent the goods so that their transfer or pledge is effected by the transfer of the document.⁵ Banks financing stocks of commodities in the Basel ports rely on such documents and on collateral management agreements with independent inspection companies. The legal effectiveness of the pledge, the risk of fraud through duplicate receipts and the rights of the warehouse keeper to unpaid storage charges are the typical questions that arise when such financing fails.

1 Notes

1. Customs Act of 18 March 2005 (CustA/ZG, SR 631.0), in particular Articles 50–57 on customs warehouses and free zone warehouses and Articles 62–65 on open customs warehouses and authorised consignor/consignee procedures; Customs Ordinance of 1 November 2006 (SR 631.01). Article numbers to be verified. ↩
2. On the inventory obligations for customs warehouses, open customs warehouses and free zone warehouses introduced by the revision of the Customs Ordinance in force since 1 January 2016, see the Customs Ordinance (SR 631.01) and the publications of the FOCBS. Status to be verified. ↩
3. On the application of the Goods Control Act of 13 December 1996 (SR 946.202) and of the embargo ordinances based on the Embargo Act of 22 March 2002 (SR 946.231) to goods in transit and in customs warehouses, see the publications of SECO and the FOCBS. To be verified. ↩
4. On the transformation programme DaziT and the Passar system of the FOCBS and on the total revision of the Customs Act (Federal Act

on the Federal Office for Customs and Border Security and Customs Duty Act), see the dispatch of the Federal Council of 24 August 2022 and the parliamentary deliberations. Status and dates of entry into force to be verified. ↩

5. On the contract of warehousing (Articles 482–486 Swiss Code of Obligations) and the warehouse receipt as a document of title (Articles 482 para. 1 and 1153–1155 CO), see the commentaries on the Swiss Code of Obligations. Article numbers to be verified. ↩

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