CIRCOLARE N. 18/D

Protocollo: 162477 /RU

Rif.:

Allegati:

Roma, 29 dicembre 2010

Alle Direzioni Regionali Interregionali
e Provinciali dell'Agenzia delle Dogane

Agli Uffici delle Dogane

LORO SEDI

Alle Direzioni Centrali

Agli Uffici di diretta Collaborazione del
Signor Direttore

Al Servizio Autonomo Interventi nel
Settore Agricolo

S E D E

OGGETTO: Esportazione e uscita della merce dal territorio doganale della Comunità; regole applicabili dal 1° gennaio 2011.

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Con il regolamento (UE) 430 del 20 maggio 2010, pubblicato nella Gazzetta Ufficiale dell'Unione Europea, serie L n. 12/10 del 21 maggio 2010, sono state apportate alcune modifiche al Reg. (CEE) 2454/93 che trovano applicazione a decorrere dal 1° gennaio 2011.

Le modifiche apportate riguardano sia aspetti di natura procedurale del regime dell'esportazione sia profili di applicazione delle misure di sicurezza. Come noto, le misure di sicurezza applicate alla dichiarazione doganale di esportazione hanno già trovato applicazione dal 1.7.2009 (cfr. nota dell'Agenzia delle Dogane prot. 88970 del 29.6.2009), mentre quelle relative alla dichiarazione sommaria di uscita (EXS) saranno applicate dal 1° gennaio 2011.

Recentemente, inoltre, la Commissione Europea ha emanato le "Linee Guida sull'esportazione ed uscita delle merci nel contesto del regolamento (CE) 648/2005" che si allegano alla presente nota insieme ai relativi allegati da I a V. Le Linee Guida **non** sono uno strumento giuridicamente vincolante per gli Stati Membri, ma hanno lo scopo di fornire principi o raccomandazioni tesi alla uniforme applicazione delle norme. Ne consegue che come specificato nel frontespizio delle stesse Linee Guida, il Codice Doganale Comunitario e le relative Disposizioni di Applicazione costituiscono l'unica base giuridicamente vincolante.

Con la presente nota si forniscono, quindi alcuni chiarimenti sulle novità introdotte con il citato Regolamento (UE) 430/2010 specificando, nel contempo, le pratiche modalità di attuazione di alcuni orientamenti contenuti nelle citate Linee Guida chiarendo che, per l'applicazione di alcune norme, si continueranno ad applicare le modalità procedurali già avviate a livello nazionale.

I – PROCEDURE APPLICABILI ALL'ESPORTAZIONE

Alcune disposizioni del citato Reg. (UE) 430/2010, si riferiscono alle procedure applicabili al regime dell'esportazione come di seguito illustrato.

1.1. - Provviste e dotazioni di bordo.

Il punto 15 dell'art. 1 del Reg. (UE) 430/2010, ha introdotto alcune modifiche all'art. 592bis del Reg. (CE)2454/93 ed, in particolare, è stata introdotta la nuova lettera o) che esonera le provviste e dotazioni di bordo dai requisiti sicurezza di cui all'allegato 30 bis del medesimo Reg. (CEE) 2454/93.

Conseguentemente, è stata soppressa la precedente lettera e) dell'art. 592 ter che aveva disposto per tale merce la presentazione della dichiarazione doganale con i dati sicurezza da presentarsi entro un tempo limite di 15 minuti.

Con le modifiche apportate, quindi, viene sciolta la riserva oggetto del punto 4, della nota prot. 88970 del 30 giugno 2009 di questa Agenzia, di successive comunicazioni circa la disciplina della procedura di esportazione di tale merce sulla base degli sviluppi in sede comunitaria.

Alla luce delle modifiche apportate dal citato Reg. (UE) 430/2010, per le provviste e dotazioni di bordo si applicano le seguenti disposizioni:

a) presentazione di una dichiarazione doganale e applicazione delle relative formalità per le merci comunitarie destinate all'approvvigionamento esente da imposta di navi ed aeromobili, **indipendentemente** dalla destinazione dell'aeromobile o della nave come disposto ai sensi dell'art. 786, p.2, lett. b) del reg. (CEE) 2454/93 introdotto dal punto 18 dell'art. 1 del citato Reg. (UE) 430/2010;

b) esonero per tali dichiarazioni dei dati di sicurezza di cui all'allegato 30 bis e relativo tempo limite di presentazione ai sensi dell'ultimo periodo del paragrafo 2, dell'art. 786 del Reg (CEE) 2454/93 e della lettera o) dell'art. 592 bis del Reg. (CEE) 2454/93 modificato dal punto 15 dell'art. 1 del Reg. (UE) 430/2010.

Fermo restando quanto sopra, le provviste e dotazioni di bordo possono essere, quindi, imbarcate dietro presentazione di una dichiarazione doganale di esportazione con le seguenti modalità:

i. Procedura ordinaria

E' previsto l'invio di una dichiarazione di esportazione in formato elettronico secondo le modalità impartite con le note prot. 88970 del 30.6.2009 e prot. 75522 del 19.6.2009, pubblicate sul sito web dell'Agenzia: www.agenziadogane.gov.it..

ii. Procedura di domiciliazione

E' previsto l'invio di una dichiarazione di esportazione in formato elettronico da parte dei soggetti autorizzati alla procedura di domiciliazione, secondo le modalità impartite con le citate note prot. 88970 del 30.6.2009 e prot. 75522 del 19.6.2009, pubblicate sul sito web dell'Agenzia: www.agenziadogane.gov.it .

Sul territorio nazionale, tuttavia, per l'imbarco di alcune merci comunitarie costituenti provviste e dotazioni di bordo viene utilizzato il "**memorandum di imbarco"** al quale segue la presentazione di una dichiarazione di esportazione cumulativa o, in alcuni casi particolari,

l'iscrizione in registri di carico e scarico. Tale procedura pur ponendosi al di fuori delle ipotesi previste dal citato regolamento comunitario risulta essere, comunque, particolarmente utile in determinate situazioni caratterizzate da esigenze di velocizzazione e semplificazione dell'imbarco di tale merce.

A tal fine, considerato che l'utilizzo di tale procedura avviene esclusivamente presso gli uffici doganali nazionali e che per tali merci a livello comunitario è previsto l'esonero dalla fornitura dei dati di sicurezza, questa Agenzia ritiene che la procedura utilizzata a livello nazionale che prevede l'utilizzo del "memorandum di imbarco" per provviste e dotazioni di bordo, possa continuare ad essere utilizzata, con l'avvertenza che sono in fase di predisposizione aggiornamenti della procedura stessa in modo che possa essere maggiormente aderente alla regolamentazione comunitaria e che le diverse modalità applicative siano il più possibile armonizzate.

Per l'utilizzo del "memorandum di imbarco", nelle more dell'adozione dei preannunciati aggiornamenti, dovranno comunque essere rispettate le seguenti condizioni:

1) le formalità di esportazione devono essere espletate presso l'ufficio ove le provviste di bordo o dotazioni verranno imbarcate nel senso che il memorandum e la successiva dichiarazione di esportazione cumulativa devono essere presentate presso lo stesso ufficio doganale (dogana di esportazione e di uscita/imbarco coincidono);

2) l'utilizzo del memorandum deve essere preventivamente autorizzato dal direttore dell'Ufficio doganale o della SOT competente, e si deve riferire solo ai casi in cui la presentazione della dichiarazione di esportazione al momento dell'imbarco della merce **non è oggettivamente possibile** per la ristrettezza dei tempi di imbarco o per la natura delle operazioni;

3) la procedura in questione può riguardare **solo** merci esonerate dai dati sicurezza di cui all'art. 592 bis del Reg. (CEE) 2454/93, come da ultimo modificato dal punto 15) dell'art. 1 del Reg. (UE) 430/2010. Per le merci non rientranti nel citato art. 592 bis deve essere presentata una dichiarazione doganale di esportazione comprensiva dei dati sicurezza di cui alla Tabella 1 dell'allegato 30 bis del Reg. (CEE) 2454/93;

4) in attesa di verifica circa la compatibilità con la regolamentazione comunitaria sopra richiamata, per il momento, continuano ad applicarsi le disposizioni operative specifiche previste per alcuni particolari settori economici che a seguito di presentazione del "memorandum di imbarco", dispensano dalla presentazione di una dichiarazione doganale di esportazione prevedendo, invece, l'iscrizione di tale merce in specifici registri di carico e scarico.

I Direttori degli Uffici delle Dogane e o delle SOT interessate valuteranno, quindi, l'oggettiva necessità di utilizzo della procedura del "memorandum di imbarco", invitando gli operatori del settore, qualora non siano ravvisate tali effettive necessità, all'invio della dichiarazione doganale di esportazione in procedura "ordinaria" o, se autorizzati, in "domiciliata".

Gli operatori economici coinvolti nelle attività di bunkeraggio che attualmente utilizzano la procedura del "memorandum di imbarco", sono invitati a prendere nota di quanto riportato al successivo punto 1.3. della presente nota. In particolare tali soggetti dovranno considerare che sulla base della nuova procedura relativa all'esportazione di merce in sospensione dei diritti di accisa il Documento Amministrativo Elettronico (e-AD) o, se del caso, il DAA, sarà appurato solo a seguito dell'appuramento della dichiarazione di esportazione, la presentazione di una dichiarazione di esportazione cumulativa ritarderà, di conseguenza, l'appuramento dei predetti documenti di circolazione in regime sospensivo.

1.2. - Contratto di trasporto unico a destinazione di paesi terzi

Come noto, l'art. 793, p.2, lett. b) del Reg. (CEE) 2454/93, prevede per le merci trasportate con contratto di trasporto unico a destinazione di paesi terzi, una deroga al criterio generale che individua l'ufficio di uscita dal territorio doganale della Comunità quale l'ultimo ufficio prima dell'uscita delle merci da tale territorio ai sensi dell' art. art. 793, p.2 del Reg. (CEE) 2454/93. Per tale tipo di trasporto, infatti, l'ufficio di uscita è l'ufficio ove la merce è presa in carico a fronte di tale contratto ***(d'ora in poi ufficio di presa in carico)*** ed è qui che saranno espletate le relative formalità di uscita. In tale situazione, è quindi possibile che l'ufficio di **effettiva** uscita della merce dal territorio doganale della Comunità, non coincida con l'ufficio di presa in carico.

Prima di esporre le modifiche intervenute, appare utile chiarire che, nonostante la dichiarazione di esportazione sia appurata dall'ufficio di "presa in carico" e, quindi anche prima dell'**effettiva** uscita **fisica** dal territorio della Comunità, la merce non muta il proprio status comunitario. Lo status di merce estera è, cioè, acquisito sempre e solo con l'uscita fisica della merce dal territorio comunitario.

Ciò premesso, su tale procedura, il Reg. (UE) 430/2010 è intervento ai punti 20) e 21), dell'art. 1.

Con il punto 20) è stato inserito il paragrafo 3 al citato art. 793 in cui viene elencata una lista di documenti che devono essere presentati da parte del trasportatore in caso di richiesta da parte dell' ufficio di **effettiva** uscita dal territorio doganale della Comunità.

Al punto 21), invece, viene eliminato l'art. 793 bis, p.6, che prevedeva l'apposizione, da parte dell'ufficio di presa in carico, di reciproci riferimenti sulla dichiarazione doganale di esportazione e sul contratto di trasporto unico a destinazione paesi terzi, nonché, su quest'ultimo documento il timbro doganale con la dicitura "Export" in rosso.

Il citato paragrafo 3, dell'art. 793, introdotto dal punto 20) e richiamato al paragrafo 10.1. delle Linee Guida comporta, quindi, che la dogana di **effettiva** uscita dal territorio doganale della Comunità può richiedere informazioni al vettore sul fatto che la merce abbia espletato le formalità di esportazione e che l'uscita della merce sia stata certificata dall'ufficio di uscita (presa in carico) di cui al citato art. 793, p2, lett. b.

Poiché si ritiene, necessario, che l'ufficio di effettiva uscita debba avere sempre contezza del fatto che la merce presentata per l'effettiva uscita sia stata già assoggettata alle prescritte formalità di esportazione, compresa la prevista analisi dei rischi ai fini sicurezza, si dispone che presso l'ufficio di presa in carico si provveda ad inserire il numero del movimento esportazione (MRN) sul contratto di trasporto unico che è stato appena appurato dal predetto ufficio doganale.

Qualora l'effettiva uscita della merce avvenga presso un porto o aeroporto nazionale, gli operatori economici coinvolti in tale procedura, provvederanno ad inserire il MRN riportato sul contratto di trasporto unico nel Manifesto Merci in Partenza secondo le modalità indicate al successivo paragrafo 1.5.

Si fa presente che la dichiarazione di esportazione che fa fronte a merci per le quali si è concluso un contratto di trasporto unico a destinazione di paesi terzi deve contenere oltre ai consueti dati di cui all'allegato 37 del Reg. (CEE) 2454/93, anche i dati sicurezza di cui all'allegato 30bis del medesimo Regolamento e deve essere trasmessa all'ufficio di esportazione nei tempi limite indicati all'art. 592 ter del reg. (CEE) 2454/93.

1.3 - Merci in regime di sospensione dai diritti di accisa.

Il punto 22 dell'art. 1 del citato reg. (UE) 430/92 ha soppresso l'art. 793 quater del Reg. (CEE) 2454/93. *Dal 1° gennaio 2011, pertanto, anche l'esportazione di tali merci sarà gestita in ambito ECS.*

In particolare, il Documento Amministrativo di Accompagnamento (DAA) elettronico o, se del caso, cartaceo deve essere indicato nella casella 44 del DAU ("Documenti presentati/Certificati") con la seguente modalità:

- *DAA elettronico*
    - *"Tipo documento" = "01DA".*
    - *"Paese di emissione del documento" = terzo e quarto carattere del codice ARC (es. "IT").*
    - *"Anno di emissione del documento" = primo e secondo carattere del codice ARC nel formato a 4 cifre (es. "2011").*
    - *"Identificativo documenti presentati" = dal quinto al ventunesimo carattere del codice ARC + "Riferimento unico del corpo di dati" del DAA a 3 caratteri (es. "12345678901234567001").*
    - *"Quantità riferita al documento" = "Numero progressivo" del DAA a 5 caratteri (es. "00001").*
- *DAA cartaceo*
    - *"Tipo documento" = "01DA".*
    - *"Paese di emissione del documento" = Paese di emissione del documento (es. "IT").*
    - *"Anno di emissione del documento" = anno di emissione del documento nel formato a 4 cifre (es. "2011").*
    - *"Identificativo documenti presentati" = identificativo del DAA (es. "12345678").*

L'ufficio di esportazione, quindi, dopo aver accettato la dichiarazione doganale ed effettuata la prescritta analisi dei rischi rilascerà il DAE (documento di accompagnamento esportazione), comprensivo del riferimento "ARC" in caso di presentazione di documento amministrativo elettronico e-AD o, se del caso, del riferimento del DAA cartaceo.

L'operatore economico dovrà comunicare l'MRN quale notifica di arrivo all'ufficio di uscita in modo che possano essere correttamente espletate le formalità di uscita ed il conseguente appuramento della dichiarazione di esportazione e del documento di accompagnamento accisa. In particolare in ordine alle modalità di chiusura del documento

amministrativo elettronico (e-AD) emesso per la circolazione in regime sospensivo si rinvia al disposto dell'art. 6, comma 7 del D.Lgs n. 48/2010.

Anche in tale caso la dichiarazione di esportazione deve essere trasmessa con i dati sicurezza di cui all'allegato 30bis entro i termini stabiliti dall'art. 592ter del Reg (CEE) 2454/93 a meno che non si tratti di merce esonerata ai sensi dell'art. 592bis del medesimo Regolamento.

1.4. - Definizione di vettore

Con il Reg. (UE) 430/2010, si è ritenuto necessario individuare con esattezza la figura del vettore (trasportatore) a cui fanno riferimento varie disposizioni del Codice Doganale e delle relative Disposizioni di Applicazione, ponendo a carico di tale soggetto adempimenti ed obblighi soprattutto in materia di sicurezza.

In particolare, ai sensi del paragrafo 1, dell'art. 796 quinquies del Reg. (CEE) 2454/93 come modificato dal punto 24 dell'art. 1 del Reg. (UE) 430/2010, per vettore (trasportatore) si intende la persona che fa uscire le merci, o che assume la responsabilità dell'uscita delle merci dal territorio doganale della Comunità.

Ciò premesso, si specifica tuttavia che:

- in caso di trasporto combinato, se il mezzo attivo che attraversa la frontiera serve solo a trasportare un altro mezzo di trasporto che, dopo l'arrivo a destinazione, circolerà autonomamente come mezzo di trasporto attivo, il vettore (trasportatore) è la persona che gestirà il mezzo di trasporto che circola autonomamente dopo che il mezzo di trasporto che lascia il territorio doganale della Comunità è arrivato a destinazione;
- in caso di traffico marittimo o aereo, in applicazione di un accordo di gestione in comune di navi o di disposizioni contrattuali, per vettore (trasportatore) si intende la persona che ha concluso il contratto ed emesso la polizza di carico o la lettera di vettura aerea per il trasporto effettivo delle merci fuori dal territorio doganale della Comunità.

1.5. Adempimenti degli operatori economici all'ufficio di uscita.

Al punto 24 dell'art. 1 del Reg. (UE) 430/2010 è stato modificato il paragrafo 1 dell'art. 796 quinquies del Reg. (CEE)2454/93 prevedendo una serie di adempimenti presso l'ufficio di

uscita, soprattutto marittimo o aereo, anche al fine di evitare il mancato appuramento delle dichiarazioni di esportazione.

In particolare, l'articolo fa riferimento alle situazioni in cui, presso l'ufficio di uscita, la merce viene scaricata da un mezzo di trasporto e consegnata ad altro soggetto che ne assume la detenzione per il successivo carico su un altro mezzo di trasporto che porta le merci fuori dal territorio della Comunità.

In tale caso, il primo detentore delle merci deve comunicare, al momento della consegna delle stesse al secondo detentore, il numero di riferimento dell'operazione di esportazione (MRN). La mancata comunicazione di tale dato comporta l'impossibilità di poter caricare la merce sul mezzo di trasporto che porterà la merce fuori dal territorio doganale della Comunità.

Pertanto, il secondo detentore provvederà ad inserire il suddetto dato (MRN) nel Manifesto Merci in Partenza (MMP). Tale iscrizione costituisce la "notifica di arrivo" di cui all'art. 796 quater del Reg. (CEE) 2454/93.

Maggiori dettagli sono forniti nella relativa nota tecnica predisposta dalla Direzione Centrale Tecnologie per l'Innovazione di questa Agenzia.

1.6. Mancata uscita della merce dal territorio comunitario

Il Reg. (CEE) 2454/93 come da ultimo modificato dal citato Reg. (UE) 430/2010 ha puntualizzato l'obbligo, da parte dei soggetti coinvolti nelle operazioni di esportazione, di comunicare la mancata uscita della merce. In particolare:

a) ai sensi dell'art. 792 bis, p.1, l'esportatore o il dichiarante hanno l'obbligo di comunicare all'ufficio di esportazione, la mancata uscita della merce; l'ufficio di esportazione procederà, conseguentemente, ad annullare la dichiarazione di esportazione;

b) ai sensi dell'art. 792 bis, p.2, nei casi di contratto di trasporto unico a destinazione paesi terzi di cui all'art. 793, p.2, lett. b) o di esportazione abbinata a transito di cui all'art. 793ter, l'eventuale modifica del contratto di trasporto che ha l'effetto di far terminare all'interno del territorio doganale della Comunità un trasporto che doveva concludersi fuori da detto territorio, comporta che le società o le autorità interessate possono procedere all'esecuzione di tale contratto modificato solo previo accordo con l'ufficio doganale di uscita (presa in carico) come individuato dal citato art. 793, p.2, lett b) o, in caso di transito, dell'ufficio doganale di destino/uscita; tali Uffici provvederanno a

darne comunicare agli uffici di esportazione ai fini dell'annullamento della dichiarazione di esportazione;

c) fatti salvi i precedenti paragrafi a) e b), ai sensi del paragrafo 4, dell'art. 796 quinquies del Reg. (CEE) 2454/93 introdotto dal punto 24 dell'art. 1 del Reg. (UE) 430/2010, la persona che ritira la merce precedentemente dichiarata per l'esportazione, dall'ufficio di uscita per trasportarle in un luogo situato nel territorio doganale della Comunità deve fornire all'ufficio doganale di uscita il MRN relativo affinché quest'ultimo possa comunicare all'ufficio di esportazione la mancata uscita della merce ai fini dell'annullamento della dichiarazione doganale.

L'ufficio di esportazione che ha annullato la dichiarazione doganale di esportazione a seguito delle circostanze di cui alle precedenti lettere a), b) e c) **procederà a dare comunicazione di tale annullamento all'Ufficio delle Entrate territorialmente competente, come peraltro previsto dal paragrafo 9 delle citate Linee Guida.**

II - RIESPORTAZIONE

La riesportazione avviene con una delle seguenti modalità:

a) con una notifica di riesportazione in conformità all'art. 841bis, p. da 2 a 4 del Reg. (CEE) 22454/93;

b) con una dichiarazione doganale, in conformità con gli artt. da 787 a 796 sexies del Reg. (CEE) 2454/93;

c) con una dichiarazione sommaria di uscita (EXS), in conformità agli artt. da 842 a 842 sexies del Reg. (CEE) 2454/93.

2.1. Notifica di riesportazione - art. 182 p.3 Reg. (CEE) 2913/92. Con il punto 27 dell'art. 1 del Reg. (UE) 430/2010 è stato introdotto l'art. 841bis al Reg. (CEE) 2454/93. Ai sensi del paragrafo 2 di tale articolo, se le merci che si trovano in custodia temporanea o in una zona franca sottoposta a controllo di tipo I sono riesportate **e non** è richiesta una dichiarazione doganale o una dichiarazione sommaria di uscita, la riesportazione è comunicata all'ufficio doganale di uscita competente prima dell'uscita delle merci.

La notifica è presentata dal trasportatore o dal gestore del magazzino di temporanea custodia o dal gestore della zona franca di tipo I, o da chiunque sia in grado di presentare le merci, purché il trasportatore sia stato informato della presentazione della notifica da parte di uno dei soggetti precedentemente citati.

La notifica di riesportazione contiene:

a) i dati identificativi della persona che presenta la richiesta di rimozione;

b) il riferimento del documento presentato per l'introduzione nel magazzino di custodia temporanea o in una zona franca sottoposta a controllo di tipo I;

c) l'identità del mezzo di trasporto su cui saranno caricate per uscire dal territorio doganale della Comunità;

d) il luogo di scarico.

La mancata uscita della merce deve essere comunicata all'ufficio di uscita dal trasportatore ai sensi di quanto disposto dall'art. 796 quinquies, p.4. Al riguardo, si fa rinvio a quanto indicato al precedente punto 1.6.

2.2. Dichiarazione doganale: va presentata per i casi in cui deve essere riesportata merce terza precedentemente introdotta nella Comunità e vincolata ad un regime doganale economico. In tal caso si applicano le disposizioni relative alla dichiarazione doganale di pre-partenza e le misure di sicurezza relative. (cfr. punto 3.1)

2.3. Dichiarazione sommaria di uscita (EXS): deve essere presentata per merce in riesportazione o comunque in uscita dal territorio comunitario ogni qualvolta non sia richiesta una dichiarazione doganale e non ricorrano le ipotesi per le quali è prevista la notifica di riesportazione di cui al precedente punto 2.1.

Alcuni esempi sono riportati nel successivo capitolo 3.2.

III – DISPOSIZIONI CONCERNENTI L'ATTUAZIONE DEL COSIDDETTO "EMENDAMENTO SICUREZZA"

3.1 - Dichiarazione doganale anticipata (o di pre-partenza).

Le modifiche al Codice Doganale comunitario e alle relative Disposizioni di Applicazione per l'attuazione del cosiddetto "emendamento sicurezza", introdotte rispettivamente con il Reg. (CE) 648/2005 e con il Reg. (CE) 1875/2006, sono in parte applicate nel regime dell'esportazione, già dal 1° luglio 2009 e sono state oggetto della nota prot. 88970 del 30.6.2009 *a cui si fa rinvio.*

In tale contesto, quindi, la dichiarazione doganale per i regimi di esportazione definitiva, perfezionamento passivo e riesportazione a seguito di regime doganale economico, comprensiva dei dati di cui all'allegato 37 e dei dati sicurezza di cui all'allegato 30 bis del

Reg. (CEE) 2454/93, deve essere già trasmessa, dal 1° luglio 2009, in formato elettronico nei tempi limite fissati dall'art. 592 ter del citato Reg. (CEE) 2454/93, al fine di consentire all'ufficio doganale di esportazione di poter effettuare la prescritta analisi dei rischi sia di natura fiscale che di sicurezza.

Si chiarisce che i dati sicurezza di cui all'allegato 30 bis del Reg. (CEE) 2454/93, devono essere indicati nella dichiarazione doganale al momento della presentazione della stessa e non è possibile rinviare la comunicazione degli stessi ad un momento successivo presso la dogana di uscita e nella forma di una dichiarazione sommaria di uscita. Qualora, quindi, la dichiarazione doganale non contenga i dati sicurezza, il circuito doganale di controllo gestirà di conseguenza tali dichiarazioni doganali.

Per quanto concerne le merci esonerate dai dati sicurezza, si fa rinvio all'elenco di cui all'art. 592 bis del Reg. (CEE) 2454/93 come modificato, da ultimo, dal citato reg. (UE) 430/2010, nonché agli specifici Accordi stipulati tra UE e Svizzera e Norvegia (cfr. parte B, par. 2.2. delle Linee Guida).

Per quanto, invece, concerne, i tempi limite entro cui le dichiarazioni doganali comprensive dei dati sicurezza di cui al citato allegato 30 bis devono essere presentate, si fa rinvio all'art. 592 ter del Reg. (CEE) 2454/93, come da ultimo modificato con il reg. (UE) 430/2010. Tale tempo limite è indicato come il tempo necessario, a seconda della modalità di trasporto utilizzata, all'autorità doganale per effettuare l'analisi dei rischi e controlli appropriati, prima dello svincolo delle merci per l'esportazione e la seguente movimentazione verso l'ufficio doganale di uscita. Come precisato dalla stessa Commissione nelle Linee Guida allegate (parte B, par. 1), le regole sul tempo limite richiedono la presentazione di dichiarazione doganale molto tempo prima rispetto all'orario prestabilito per la partenza del mezzo di trasporto dall'ufficio di uscita.

Nulla è innovato in merito ai soggetti che devono presentare la dichiarazione doganale di pre-partenza (esportatore o dichiarante) e al luogo ove presentare la dichiarazione doganale (ufficio doganale di esportazione ai sensi dell'art. 161, p.5 del Codice doganale comunitario).

Al riguardo, si coglie l'occasione per ricordare quanto già espresso al punto 5 della nota prot. 3028 del 21.7.2008, circa le difficoltà a cui vanno incontro gli operatori economici italiani che disattendono il citato art. 161, p5, presentando la dichiarazione di esportazione presso uno **Stato Membro** diverso da quello di residenza. *Al riguardo, si coglie l'occasione per ricordare che, come espressamente indicato dalla Commissione Europea nel documento 1667/94 del 14.11.1995, punto 4 della lista B (motivi non giustificati per la deroga all'applicazione dell'art. 161, p.5) che costituisce l'allegato IV alle "Linee Guida per*

l'esportazione e uscita della merce nel contesto del Reg. (CE) 648/2005", il fatto che un esportatore venda la propria merce "ex-work" e che l'acquirente estero sia il soggetto responsabile per il trasporto, non da diritto a quest'ultimo di decidere il luogo ove presentare la dichiarazione di esportazione il quale deve, quindi, attenersi alla regola secondo la quale la dichiarazione di esportazione deve essere presentata secondo le forme e regole stabilite dalla normativa doganale vigente e quindi presso l'ufficio doganale preposto alla vigilanza nel luogo in cui l'esportatore è stabilito o dove le merci sono imballate o caricate per essere esportate.

Come più volte precisato, il rispetto dell'art. 161, p.5 del Codice doganale comunitario, appare oltre che doveroso, essendo previsto dalla normativa comunitaria, anche necessario soprattutto in conseguenza dell'informatizzazione della procedura di esportazione e del conseguente rapporto che si instaura tra l'Autorità doganale e Autorità fiscale, rapporto che viene meno quando Autorità doganale e Autorità fiscale appartengono a due Stati membri diversi (cioè quando l'ufficio di esportazione che è in possesso del dato di "uscita" della merce è diverso da quello ove è situata l'Autorità fiscale interessata alla corretta conclusione dell'operazione di esportazione posta in essere dal soggetto residente).

A livello nazionale, invece, la gestione nel sistema doganale AIDA delle dichiarazioni di esportazione trasmesse telematicamente, permette di indicare un qualsiasi ufficio di esportazione nazionale consentendo, altresì, di acquisire l'informazione relativa ai risultati di uscita della merce valevole sia ai fini doganali che fiscali. Tale gestione consente, quindi, una applicazione meno stringente del principio comunitario sopra richiamato.

A seguito di quanto sopra, quindi, per le operazioni svolte in procedura **ordinaria,** la residenza dell'esportatore a cui fa riferimento l'art. 161, p.5 si intende riferito all'intero territorio nazionale di appartenenza e non necessariamente alla singola località di residenza all'interno del medesimo territorio nazionale. In pratica l'esportatore nazionale che effettua operazioni in "ordinaria" è abilitato a presentare la dichiarazione di esportazione e le merci in uno degli uffici doganali situati nel territorio nazionale; non è, invece, abilitato a presentare la dichiarazione doganale in uno Stato Membro diverso da quello di residenza a meno che non ricorrano le prescritte condizioni di deroga (luogo competente per dove la merce è caricata o imballata).

Va da sé che per le esportazioni effettuate in procedura di domiciliazione, la dichiarazione di esportazione ***deve*** *essere trasmessa alla dogana di esportazione competente per il controllo delle operazioni svolte con tale procedura ed espressamente indicata nell'autorizzazione.*

3.1.1.. - Operatori Economici Autorizzati – AEO

I soggetti certificati AEOS o AEOF che presentano a proprio nome e per proprio conto una dichiarazione di esportazione definitiva, perfezionamento passivo o di riesportazione di merci a seguito di un regime doganale economico, possono presentare tale dichiarazione con il set ridotto dei dati di sicurezza di cui alla Tabella 5, dell'Allegato 30 bis del Reg. (CEE) 2454/93.

Se la dichiarazione di cui sopra è presentata da un rappresentante (diretto o indiretto) è ammesso il set ridotto di dati, quando entrambi i soggetti indicati nella casella 2 (esportatore) e 14 (rappresentante), della dichiarazione doganale sono soggetti Certificati AEOS o AEOF.

Possono altresì presentare il set di dati ridotto di cui alla citata Tabella 5 anche altri soggetti (vettori, spedizionieri, raggruppatori etc), titolari di certificato AEOS o AEOF che partecipano all'esportazione, perfezionamento passivo o riesportazione a seguito di regime doganale economico per conto di soggetti titolari di un certificato AEOS o AEOF.

3.1.2. - Esportazione di prodotti agricoli soggetti a restituzione dei diritti

Anche nelle dichiarazioni di esportazione di prodotti agricoli soggetti a restituzione dei diritti devono essere inclusi i dati sicurezza di cui alla Tabella 1, dell'Allegato 30 bis del Reg. (CEE)2454/93.

Per quanto concerne il tempo limite di presentazione delle relative dichiarazioni di esportazione, la lettera f) dell'art. 592 ter, del citato reg. (CEE) 2454/93, fa rinvio al Reg. (CE) n. 800/1999 ora Reg. (CE) 612/2009.

Atteso quanto sopra si fa, quindi, rinvio alle disposizioni impartite dal competente Servizio Autonomo Interventi Agricoli (SAISA) di questa Agenzia.

3.2. - Dichiarazione Sommaria di Uscita (EXS – Export Summary Declaration)

Ai sensi dell'art. 182 quater del Reg. (CEE) 2913/92 e dell'art. 842 bis, p.1, del Reg. (CEE) 2454/93 come modificato dal punto 28 dell'art. 1 del Reg. (UE) 430/2010, la dichiarazione sommaria di uscita – d'ora in poi EXS, deve essere presentata **solo** nei casi in cui alla merce non è attribuita una destinazione doganale per cui sia necessaria una dichiarazione in dogana.

Non è quindi ammessa, come già anticipato, la presentazione di una EXS all'ufficio di uscita a completamento di una precedente dichiarazione doganale priva dei dati di sicurezza di cui alla Tabella 1 dell'allegato 30bis del Reg. (CEE) 2454/93.

3.2.1. Modalità di presentazione della EXS

La EXS deve essere presentata all'ufficio doganale di uscita cioè, all'ufficio doganale dal quale le merci lasciano effettivamente il territorio doganale della Comunità o, in caso di trasporti aerei o marittimi, all'ufficio doganale competente per il luogo in cui le merci sono caricate sulla nave o sull'aeromobile che le porterà a destinazione, fuori dal territorio doganale della Comunità. Tale ufficio procede ad adeguati controlli sulla base dell'analisi dei rischi, soprattutto ai fini sicurezza, prima dello svincolo delle merci per l'uscita entro un periodo di tempo compreso tra il tempo limite indicato in relazione alla modalità di trasporto, dall'art. 592ter del citato Reg. (CEE) 2454/93 e il momento del carico o della partenza della merce stessa.

Ai sensi dell'art. 842 ter del Reg. (CEE) 2454/93, la EXS deve essere trasmessa in formato elettronico e deve contenere i dati di cui alla Tabella 1 dell'allegato 30 bis. La presentazione cartacea è ammessa nei casi di "fallback" e quindi di mancato funzionamento dei sistemi informatici della dogana o del soggetto che deve presentare tale dichiarazione ed è disciplinata dall'art. 842 ter del Reg. (CEE) 2454/93. In tal caso si utilizza il formulario di cui all'allegato 45 decies del predetto Regolamento.

Ai sensi dell'art. 182 quinquies del Reg. (CEE) 2913/92, e dell'art. 842 bis, p. 5 del Reg. (CEE) 2454/93 come modificato dal punto 28 dell'art. 1 del Reg. (UE) 430/2010, la EXS è presentata alternativamente:

a) dal vettore (cfr. precedente par. 1.4);

b) dal gestore del magazzino di temporanea custodia o gestore custodia in una zona franca purché il vettore sia informato della presentazione e abbia dato il proprio assenso sulla base di una disposizione contrattuale;

c) da qualsiasi persona in grado di presentare le merci in questione o di provvedere alla loro presentazione presso l'autorità doganale competente;

d) da un rappresentante di una delle persone di cui alle lettere a) e b).

3.2.2. - Esempi di obbligo di presentazione della EXS

Per meglio chiarire i casi in cui ricorre l'obbligo di presentazione delle EXS, si elencano di seguito alcune fattispecie esemplificative:

a) spedizione *via terra* di merce comunitaria tra due Stati Membri con attraversamento di uno o più Paesi terzi a meno che non vi sia un accordo specifico con tale/tali Stati (es. Svizzera)

   Es. Slovenia → Paesi Balcanici → Grecia

b) arrivo di merce terza in un *porto o aeroporto* comunitario ove viene trasbordata e posta in un magazzino di temporanea custodia o zona franca di tipo I ove permane per più di 14 giorni di calendario. La merce terza è successivamente (dopo 14 giorni di calendario) caricata su altra nave o aereo per raggiungere la destinazione finale fuori dal territorio doganale della comunità. In tale caso è richiesta una dichiarazione sommaria di entrata (ENS) dall'arrivo del mezzo di trasporto e una EXS alla partenza del successivo mezzo di trasporto

   Es. New York → Lisbona → Tangeri

c) Container vuoti trasportati in virtù di un contratto di trasporto.

   Es. Genova → New York

d) Merce esportata da un magazzino di temporanea custodia o zona franca di tipo I per la quale non è richiesta una dichiarazione di riesportazione. Tuttavia nei casi di trasbordo, la EXS non è richiesta se la permanenza in tali magazzini è inferiore a 14 giorni di calendario (cfr. punto 3.2.3, esempi f) e g). In tale caso, sarà presentata la notifica di riesportazione di cui al precedente punto 2.1.

3.2.3. - Esempi di esonero dalla presentazione di una EXS

Si espongono di seguito alcune casistiche di esonero dalla presentazione della dichiarazione sommaria di uscita:

a) esportazione di merce elencata nell'art. 592 bis del Reg. (CEE) 2454/93. Si fa presente che ai sensi dell'art. 842quinquies, p.2 del Reg. (CEE)2454/93 modificato dal punto 29 dell'art. 1 del Reg. (UE) 430/2010, per le merci esentate dall'obbligo di presentazione di una EXS ai sensi del citato art. 592 bis, l'eventuale analisi dei rischi sicurezza è effettuata al momento della

presentazione delle merci, sulla base della documentazione o altre informazioni relative alle merci (art. 842 bis, p.4, lett. a, del Reg. (CEE) 2454/93);

b) merce caricata in un porto o aeroporto della Comunità e scaricata in un porto o aeroporto della Comunità con scalo in porti o aeroporti di paesi terzi **purché** rimanga a bordo del mezzo (scalo in porto o aeroporto di paese terzo senza trasbordo), e purché, all'ufficio doganale di uscita che ne fa richiesta, sia presentata prova del previsto luogo di scarico sotto forma di manifesto commerciale, portuale o di trasporto o di una distinta di carico (art. 842 bis, p.4, lett. b, secondo periodo del Reg. (CEE) 2454/93).

   Es. Palermo →Tunisi → Barcellona

c) Merce caricata in un porto o aeroporto comunitario per essere scaricata in altro porto o aeroporto comunitario purché all'ufficio doganale di uscita che ne fa richiesta sia presentata prova del previsto luogo di scarico sotto forma di manifesto commerciale, portuale o di trasporto o di una distinta di carico (art. 842 bis, p.4, lett. b, primo periodo del Reg. (CEE) 2454/93).

   Es. Palermo → Barcellona

d) Merce caricata in un precedente porto o aeroporto della Comunità e destinata a porti o aeroporti fuori dalla Comunità con precedente scalo in altro porto comunitario, purché rimanga sullo stesso mezzo di trasporto che la trasporterà fuori dal territorio doganale della Comunità (art. 842 bis, p.4, lett. d, del Reg. (CEE) 2454/93).

   Es. Genova → Marsiglia → Algeri

   In tale caso, la merce è coperta dall'analisi dei rischi sicurezza effettuata sulla dichiarazione doganale di esportazione.

e) Merce estera caricata in un precedente porto o aeroporto fuori dalla Comunità e destinate a porti o aeroporti fuori dalla Comunità con precedente scalo in porto o aeroporto della Comunità purché rimanga sul mezzo di trasporto (art. 842 bis, p.4, lett. c, del Reg. (CEE) 2454/93)

   Es. Istambul→ Milano Malpensa →New York

   In tale caso, l'analisi dei rischi è stata effettuata sulla ENS

f) Merce estera scaricata da un mezzo di trasporto, introdotta in custodia temporanea o zona franca e trasbordata sul mezzo di trasporto (nave, aereo,

ferrovia) che la trasporterà fuori dalla Comunità (art. 842 bis, p. 4, lett. e, del Reg. (CEE) 2454/93), a condizione che:

- il trasbordo avvenga **entro 14 giorni** di calendario (è considerata ancora valida la ENS presentata al loro ingresso nella Comunità);
- siano fornite informazioni alle Autorità doganali (notifica di riesportazione di cui al precedente punto 2.1);
- la destinazione e il destinatario della merce non abbiano subito modifiche.

Es. **Tel-Aviv→ Gioia Tauro → Tunisia**

Nell'esempio citato, occorre considerare che all'entrata del mezzo di trasporto nel territorio comunitario è stata presentata una dichiarazione sommaria di entrata (ENS). Entro i 14 giorni sopra indicati, la merce è quindi ancora coperta dall'analisi dei rischi sicurezza effettuata all'entrata. *Le autorità doganali possono estendere tale periodo al fine di gestire circostanze eccezionali e per lo stretto periodo necessario*. Deve, comunque essere presentata la notifica di riesportazione di cui al precedente punto 2.1. Oltre tale periodo di giacenza (14 giorni) deve essere presentata la EXS per una nuova analisi dei rischi ai fini sicurezza.

g) La medesima procedura della lettera f) è applicata nel caso in cui la merce è stata caricata in un porto o aeroporto comunitario, **trasbordata** in altro porto comunitario sul mezzo di trasporto (nave, aereo, ferrovia) che la trasporterà fuori dal territorio doganale della Comunità (art. 842 bis, p.4, lett. e, del Reg. (CEE) 2454/93. Tale esempio differisce da quello indicato alla precedente lett. d) in quanto si tratta di merce trasbordata).

Es. Marsiglia → Livorno → Porto Said

In tale caso, la merce è coperta dall'analisi dei rischi effettuata sulla dichiarazione di esportazione che perde validità allo scadere dei 14 giorni di giacenza della merce in un magazzino di temporanea custodia o zona franca di tipo I. *Le autorità doganali possono estendere tale periodo al fine di gestire circostanze eccezionali e per lo stretto periodo necessario*. Deve comunque essere presentata la notifica di riesportazione di cui al punto 2.1. Superato il periodo di giacenza indicato (14 giorni), deve essere presentata la EXS per una nuova analisi dei rischi ai fini sicurezza.

h) Merce vincolata a regime di transito (art. 842 bis, p.3 del Reg. (CEE) 2454/93) purché:

1) la dichiarazione di transito sia presentata in formato elettronico e contenga i dati sicurezza;

2) l'ufficio di destino sia anche ufficio di uscita dal territorio doganale della Comunità o sia situato in un paese terzo.

l) Container vuoti trasportati per riposizionamento da parte del vettore (continua ad essere prevista la segnalazione alla dogana competente)

In merito all'obbligo di presentazione della Dichiarazione sommaria di uscita (EXS) di cui al precedente paragrafo 3.2 che, si rammenta, decorre dal 1° gennaio 2011, si evidenzia che la Commissione Europea ha preso atto delle preoccupazioni espresse dagli operatori economici dovute alla complessità dell'architettura dell'emendamento sicurezza introdotto nel codice doganale comunitario e nelle relative disposizioni di attuazione rispettivamente con i Regolamenti (CE) 648/2005 e 1875/2006, dei numerosi adempimenti posti a carico degli stessi operatori economici compresi gli adeguamenti delle necessarie strutture informatiche nonché, infine, della complessità degli stessi scenari di applicazione e ha, conseguentemente, sensibilizzato gli Stati Membri al riguardo.

Pertanto, nel primo periodo di avvio della procedura che prevede l'obbligo di presentazione della EXS, gli uffici operativi, nelle ipotesi in cui si verifichino difficoltà nella presentazione di tale dichiarazione in formato telematico da parte degli operatori economici interessati, potranno effettuare la prevista analisi dei rischi sicurezza sulla base dei dati contenuti nel modello Documento Sicurezza – DS, conforme all'allegato 45 decies del Reg. (CEE) 2454/93, come introdotto dall'Allegato V del Reg. (CE) 414/2009, presentato preferibilmente su supporto esterno (usb, cd-rom etc.), oppure sulla base dei dati contenuti nei documenti commerciali o di trasporto, cercando di evitare tempistiche sensibilmente maggiori rispetto a quelle normalmente previste nel caso di presentazione della EXS in formato elettronico.

Gli uffici doganali sono altresì invitati ad evitare, per quanto possibile, ritardi nel rilascio della spedizione anche nei casi in cui la EXS in formato elettronico sia presentata in ritardo rispetto alle tempistiche previste dall'art. 592ter del reg. (CEE) 2454/93.

Nel frattempo, si rende noto che le Strutture Centrali dell'Agenzia, anche in collaborazione con la Commissione Europea, monitoreranno strettamente l'attuazione e la stabilizzazione

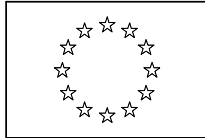
delle nuove norme in materia di sicurezza, al fine di risolvere le eventuali criticità che dovessero presentarsi.

Si rammenta che le disposizioni relative alla presentazione della dichiarazione doganale di esportazione detta anche di pre-partenza, in vigore dal 1° luglio 2009, e oggetto del precedente paragrafo 3.1, continuano ad applicarsi come previsto dal più volte citato Reg. (CEE) 2454/93 e successive modifiche.

* * *

Nel rinviare alle ulteriori indicazioni in merito a tale materia che l'Agenzia pubblica sul sito internet www.agenziadogane.gov.it, nella sezione e-customs.it-AIDA, si invitano le Direzioni regionali, interregionali e provinciali, a dare la massima diffusione alla presente circolare vigilando sulla corretta e puntuale applicazione della stessa da parte degli Uffici doganali non mancando di rappresentare eventuali difficoltà applicative. Ai suddetti Uffici è richiesto di prestare la massima assistenza all'utenza interessata soprattutto nella prima applicazione delle nuove disposizioni.

Il Direttore Centrale
Ing. Walter De Santis
(Firma autografa sostituita a mezzo stampa
ai sensi dell'articolo 3, comma 2 del D.L.vo 39/93)



EUROPEAN COMMISSION
DIRECTORATE-GENERAL
TAXATION AND CUSTOMS UNION
Customs Policy
Customs Procedures

Brussels, 25 October 2010
TAXUD/A3/0034/2010

CUSTOMS CODE COMMITTEE
IMPORT /EXPORT FORMALITIES SECTION

GUIDELINES ON EXPORT AND EXIT
IN THE CONTEXT OF REGULATION (EC) NO 648/2005
(APPLICABLE FROM 1-1- 2011)

These Guidelines are intended to explain **export and exit provisions as applicable from 1st January 2011**.

LEGAL NOTICE
This document contains guidelines explaining the obligations on advance cargo information resulting from the implementation of Regulation (EC) No 648/2005 and how to fulfill them. However, users are reminded that the Customs Code and the Customs Code Implementing Provisions are the only authentic legal basis.

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Summary

Since 1 July 2009 export declarations (as well as declarations for outward processing and re-export after a customs procedure with economic impact) have to be lodged in electronic form and must contain additional data elements introduced for safety and security purposes where no other form of declaration (e.g. orally or by crossing the frontier) may be, and is, used.

Starting from 1 January 2011 exit summary declarations must be lodged for goods not subject to export declarations where no exception applies.

The basic export procedure involving a customs office of export and a customs office of exit in different Member States (in which case the Export Control System – ECS is used) is described below.

Formalities at the office of export

Declaration - acceptance – risk analysis – possible verification

Upon acceptance of the export declaration, the person lodging the declaration will receive from customs a Movement Reference Number (MRN). On the basis of the data in the declaration the customs office of export will perform risk analysis and, where appropriate, control the goods.

Release for export

The customs office of export will release the goods for export by issuing an export accompanying document (EAD). The EAD will contain the MRN. Where authorized, the person lodging the declaration may print the EAD from its computerized system. On release of the goods, the customs office of export will transmit the necessary particulars of the export movement to the declared customs office of exit. Where the customs office of export is the same as the customs office of exit, no EAD is issued and the export procedure is terminated by that office unless:

- *the customs office of export has not waived the use of the EAD in order to facilitate the procedure for both traders and customs, or*
- *the local clearance procedure is used (Art. 285(2) CCIP)*

Formalities at the customs office of exit

Presentation of the goods and the EAD at the customs office of exit

The goods and the EAD shall be presented at the customs office of exit. Alternatively, customs may require notification (containing the MRN) of the arrival of the goods at the customs office of exit, to be communicated to them electronically.

Supervision of the exit of the goods

On the basis of the information received from the customs office of export, the customs office of exit will identify the goods and check, on a risk analysis basis, if they correspond to the goods declared in the export declaration. The customs office of exit will then supervise the exit of the goods.

Formalities after the exit of the goods

Confirmation of the exit of the goods

When the customs office of exit is, on the basis of the information available (including port and airport systems), satisfied that the goods have left the customs territory of the Community, it forwards an "Exit results" message to the customs office of export at the latest on the working day following the exit of the goods. Immediately upon receipt of a positive exit results message the customs office of export sends an electronic message to the exporter/declarant to certify the exit.

Enquiry procedure – alternative proof

If the exit results message is not forthcoming within 90 days from the release of the goods, the customs office of export may, at its own initiative, start an enquiry procedure. The customs office of export may also, at the request of the person who lodged the customs declaration, start the enquiry procedure - before the 90 days have elapsed This can occur where the person who lodged the customs declaration has information that the goods have already left the customs territory of the Community.

Where the customs office of exit does not confirm the exit of the goods in either of the cases mentioned above, the customs office of export informs the person who lodged the customs declaration and invites him to produce (alternative) evidence that the goods have left the customs territory of the Community (examples of such proof are stated in Article 796da (4) CCIP). Unless otherwise specified in the customs legislation, this evidence does not have to be authenticated by the customs authorities through means of a customs stamp, though such a stamp may be requested by the economic operator or the customs office of export where this seems justified by the circumstances. Where the customs office of export has received satisfactory evidence, the customs office of export closes the movement and informs the customs office of exit. The customs office of export confirms the exit to the person who lodged the customs declaration.

Where, within 150 days from the date of the release of the goods for export, the exit has not been confirmed, the customs office of export may invalidate the export declaration and informs the person who lodged the customs declaration.

Specific situations which are not covered in the description above include:

→ goods taken over under a single transport contract

→ the combination of export and transit

→ export of excise goods under duty suspension

→ split shipments

→ amendments to the export declaration

→the fallback procedure when there is a failure of the electronic systems.

PART A
GENERAL EXPLANATIONS

1. Introduction

The aim of these guidelines is to explain the application of the Community Customs Code (CC) as amended by Regulation (EC) 648/2005 and it's implementing Regulation (CCIP), in particular safety and security requirements at export and exit, as they apply from January 2011.

The export procedure applies, in general, in the following cases:

→ Bringing Community goods to a destination outside the EU (Art. 786(1) CCIP)

→ Movements of Community goods to and from special fiscal territories (Art. 786(2) (a) CCIP)

→ Delivery of tax exempt aircraft and ship supplies (Art. 786(2) (b) CCIP)

→ Outward processing (Art. 589(2) CCIP)

→ Re-exportation (Art. 182 (3) CC, 841(1) CCIP) (including delivery of non-Community aircraft and ship supplies) after customs warehousing, inward processing, processing under customs control or temporary admission

When a customs declaration for export, re-export or transit is not required, an exit summary may be required (see Part C for details relating to exit summary declarations).

2. Definition of the roles and responsibilities of the different customs offices

With the addition of the security and safety requirements the roles and responsibilities of the border and inland customs offices have been re-defined. Below is an overview of the roles and responsibilities of the customs offices of export and exit under the export and outward processing procedures and re-exportation after a customs procedure with economic impact.

2.1. Customs office of export

This is the customs office designated by the customs authorities in accordance with the customs rules where the formalities requiring a customs declaration for goods destined to leave the customs territory of the Community for a destination outside of the territory are to be completed.

Typical formalities to be completed at the customs office of export include:

→ the lodging and acceptance of a customs declaration for export, outward processing or, following a customs procedure with economic impact, for re-exportation[1]

→ *the* verification of the declaration, supporting documents, and the examination of the goods

→ *taking measures allowing the identification of the goods*

→ *controls on whether the goods are subject to prohibitions or restrictions*

→ *the release of goods for moving to the customs office of exit*

→ *the confirmation of exit to the exporter/declarant*

→ *the issuing of the MRN to the declarant*

→ *forwarding the "Anticipated Export Record" message to the customs office of exit.*

The customs office of export has to perform appropriate risk-based controls, both for safety and security and other purposes (Article 592e CCIP), except where EU legislation requires that such controls are to be performed at the customs office of exit.
Establishing which customs office has to perform the function of customs office of export depends, to some extent, on the choice of the person lodging the declaration.

Customs declarations for export, outward processing and re-exportation must, in principle, be lodged with the customs office responsible for supervising the place where:

- the exporter is established, or
- the goods are packed or loaded for export shipment

Where goods are re-exported the re-export declaration must normally be lodged where the procedure under which the goods have been placed is to be discharged (e.g. import goods in a port are stored in the public warehouse and then re-exported).

The following special rules exist:

- for cases involving sub-contracting, the declaration may be lodged with the customs office responsible for the place where the sub-contractor is established (Article 789 CCIP)
- for cases where for administrative reasons, the declaration may be lodged with a different customs office in the Member State concerned which is competent for the operation in question (Article 790 CCIP)

[1] Under certain conditions, the customs office of export can accept an incomplete or simplified declaration or a notification of entry in the records (Article 253, 277, 279-289 CCIP).

- in duly justified circumstances, in which case the declaration may be lodged at another customs office (Article 791 CCIP) [see Annex 4]
- for cases of goods not exceeding 3000 EUR in value per consignment and per declarant and which are not subject to prohibitions or restrictions the customs declaration may be lodged with the customs office of exit (Article 794 (1) CCIP)
- for oral customs declaration which can only be lodged at the customs office of exit (Article 794 (2) CCIP)
- for postal traffic (Articles 237, 238 CCIP)
- for customs declarations made by any other act which can take place only at the customs office of exit (Articles 231, 232 (2), 233, 235, 236 CCIP)
- for customs declarations lodged retrospectively, which must be lodged at the customs office competent for the place where the exporter is established (Article 795 CCIP)
- for cases of re-exportation of non-Community goods under temporary importation where an ATA carnet is used (Article 841 (2) CCIP).

2.2. Customs office of exit (for the export procedure)

This is the customs office designated by the customs authorities in accordance with the customs rules to which goods must be presented before they leave the customs territory of the Community and at which they will be subject to customs controls relating to the completion of exit formalities and the confirmation of the exit of the goods from the customs territory of the Community. The responsibilities of the customs office of exit include the following:

Where the goods to be brought out of the customs territory of the Community are covered by a customs declaration lodged at another customs office (which has already performed risk analysis in accordance with Article 592e CCIP), the customs office of exit checks, on the basis of a risk analysis, whether goods

→ are missing,

→ are in excess, and/or

→ do not correspond to those declared or have been substituted.

The customs office of exit may carry out additional controls on the basis of a risk analysis (Article 4 (4) d CC).

Where no discrepancies are identified, the customs office of exit releases the goods for exit and informs the customs office of export about the exit of the goods.

Where discrepancies are identified, they are notified to the customs office of export through the "Exit results" message. If there are goods in excess or there is a discrepancy in the

nature of the goods, the customs office of exit refuses the exit of the goods until the export formalities have been completed (Article 793a (5) CCIP).

Where the customs office of exit receives an enquiry from the customs office of export concerning the exit of goods for which the customs office of export did not receive an exit results message, it replies to such a request for information (Articles 796da, 796e CCIP).

Where the customs office of exit is also the customs office of export, it performs the functions described for both customs offices.

Where the goods to be brought out of the customs territory are not covered by a customs declaration but by an exit summary declaration, the customs office of exit performs all controls required for goods leaving the customs territory of the Community before allowing the exit of the goods. The same applies in the cases where the requirement of an exit summary declaration is waived but a re-export notification is required.

Criteria for determining the customs office of exit

Determining the customs office of exit depends on the specifics of the export operation and it may or may not coincide with the customs office of exit indicated in the export declaration[2]. It is because of this reason that, it is recommended to Member States to include all export operations in the ECS domain (i.e. should have a MRN) even if according to the export declaration the customs offices of export and office of exit are the same or are different but in the same Member State. The general rule is that the customs office of exit is the last customs office before the goods leave the customs territory of the Community (Article 793 (2), first subparagraph, CCIP).

The above mentioned general rule for customs declarations is subject to several special rules which, as a result, mean that the customs office of exit will not always be the last customs office before the goods leave the customs territory of the Community to a destination outside that territory.

These special rules for customs declarations are the following:

A vessel other than an authorised regular shipping service leaving for another EU port

The customs office of exit is the customs office competent for the place where the goods are loaded to the vessel (which is not assigned to a regular shipping service authorised in accordance with Articles 313a and 313b CCIP for a discharge in a subsequent EU port).

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[2] In the export declaration the indication of the customs office of exit (Box 29 SAD) is a mere identification of the intended customs office of exit (see Annex 37 CCIP).

This interpretation is based on Article 793 (2) (first subparagraph), and Article 313 CCIP, because the latter provision stipulates that in subsequent EU ports the goods will be considered to be non-Community goods and, consequently, be subjected to the provisions concerning the entry of goods into the customs territory of the Community (apart from the need to lodge an entry summary declaration).
This situation occurs only if the goods are unloaded in subsequent EU ports and are therefore in temporary storage, because, if they remain on board the vessel, the above mentioned general rule applies.

Export goods moved by a vessel or aircraft using the level 2 simplified transit procedure

The exit formalities are performed by the customs office competent for the place where the Community goods are loaded to a vessel or aircraft that uses the simplified transit procedure – Level 2 (Article 445 or Article 448 CCIP) and are identified in the single manifest with the letter "X" (Article 793b (2) CCIP).
In maritime traffic the use of a simplified transit procedure is only possible for vessels assigned to an authorized regular shipping service because – for such services - the transit procedure is mandatory for non-Community goods (Article 340e (2) CCIP).

The customs office at the place of exit controls the physical exit of the goods.

Single Transport Contract

The exit formalities are performed by the office competent for the place where the goods are taken over under a single transport contract for transport in accordance with the rules of Article 793 (2) (second subparagraph) (b) CCIP where the application of this derogation is requested.
The customs office at the place of exit controls the physical exit of the goods.

Export followed by transit

The customs office of departure of the transit procedure fulfils the exit formalities (Article 793b (1) CCIP). The customs office at the place of exit controls the physical exit of the goods.

Pipelines and electric energy

The customs office of exit is the customs office designated by the Member State where the exporter of goods leaving by pipeline and of electrical energy is established (Article 793 (2) (a) CCIP).

3. EORI Numbers

The person lodging a customs or exit summary declaration (see part C) must include his own Economic Operator Registration and Identification (EORI) number in the declaration.

A declarant who does not already have an EORI number (which is in many Member States a Trader Identification Number or a VAT number used before 1.07.2009) needs to obtain an EORI number. Application for an EORI number should be done before the filing of the first declaration. In case of operators established in third countries it can also be done during the first lodging. However, the latter is not recommended due to a possible long registration process.

The EORI application process differs according to whether the declarant is established in or outside the customs territory of the Community:

- a declarant established in the customs territory of the Community must apply for an EORI number at the customs authority or, if different, the designated authority of the Member State in which the declarant is established
- a declarant not established in the customs territory of the Community must apply for an EORI number at the customs authority or, if different, the designated authority of the Member State where the declarant will first lodge a customs or exit summary declaration.

Further information on EORI can be found at the following web link:
http://ec.europa.eu/ecip/security_amendment/who_is_concerned/index_en.htm#eori

4. Movement Reference Number (MRN)

The MRN is a unique number that is automatically allocated by the customs office that receives/validates and accepts the electronic customs declaration or EXS.

The allocation of a MRN to a customs declaration means that the MRN can be retrieved via the common ECS domain. It is therefore recommended to Member States to use the MRN not only where the indicated customs office of exit is in another Member State but also in other cases. This facilitates handling of the "cargo diversion" situations, where the goods arrive at a customs office of exit in another Member State than that indicated in the declaration. If a national registration number has been used and goods are presented at a customs office of exit in another Member State, the fallback procedure would need to be applied. The MRN contains 18 digits and is composed of following elements:

Field	Content	Field type	Examples
1	Last two digits of year of formal acceptance/ registration of the declaration (YY)	Numeric 2	07
2	Identifier of the Member States from which the movement originates.	Alphabetic 2 (ISO alpha 2 country code)	IT
3	Unique identifier for the movement per year and country	Alphanumeric 13	9876AB8890123
4	Check digit	Alphanumeric 1	5

PART B
LODGING A CUSTOMS DECLARATION

1. Obligation to lodge an electronic customs declaration with security data within certain time limits

Without prejudice to the exceptions laid down in Article 592a CCIP EU legislation requires that an export/re-export/outward processing declaration must be lodged before departure or, in the case of deep sea container traffic, before loading of the container on board the vessel (cases referred to in Article 592b(1)(a)(i) CCIP). However, in practice, for all modes of transport, the export declaration must be lodged far earlier than the time limits set out in Article 592b CCIP in order to comply with the procedures at the customs office of export. Goods may not be removed from the customs office of export to the customs office of exit until the former office – upon finalization of its risk analysis - grants release for export. The time needed to perform risk analysis, to grant release for export, and upon release, to move the goods to the customs office of exit will in most cases and for all modes of transport necessitate a much earlier lodgement of the declaration if the goods are to depart from the customs office of exit at the scheduled time and on/in the scheduled conveyance.

In accordance with Articles 787(1) and 841(1) CCIP, the customs declaration for export/re-export/outward processing shall be lodged electronically. In cases where the electronic system of the customs authority is not available the use of paper based declarations is accepted (Article 787 (2) CCIP). Further exceptions are cases where an oral or paper based customs declaration or a declaration made by any other act is permitted and used (see Articles 226-238 CCIP). The electronic or paper based declaration shall contain the particulars laid down for such declarations in Annexes 37, 38 and 30A CCIP (including the security-related data) and shall be completed in accordance with the explanatory notes in those Annexes. The declaration shall be authenticated by the person making it.

2. Exceptions

2.1. Exceptions from the time limits laid down in Articles 592b and 592c CCIP

In the cases laid down in Article 592a CCIP the time limits for prior lodgement of the customs declaration do not apply; the declaration can be lodged as late as at the time of presentation of the goods at the customs office of export. However, in the interest of uninterrupted cargo flow and to ensure compliance with other jurisdictions' advance cargo risk requirements, the declarant will find it in his interest to lodge the customs declaration earlier than at the time of presentation.

Article 592a CCIP does not derogate from the need of a customs declaration but merely from the need to comply with the specific time limit and other rules laid down in Articles 592b to

592f CCIP. Instead, the customs declaration is to be lodged in accordance with the rules applicable in the particular case (for example, presentation of an ATA carnet).

2.2. Lodging a customs declaration without the safety and security data

All normal, incomplete or simplified export declarations (as well as declarations for outward processing and re-export after a customs procedure with economic impact) must contain the safety and security data defined in Annex 30A CCIP for the exit summary declaration.

The lodging of safety and security data is not required in the following cases:

- oral declarations (Articles 226-229(2), 235, 236 CCIP)
- declarations made by any other act (Articles 231 - 236 CCIP) (e.g. re-exportation of empty containers or exportation of remains (coffin) or ashes (urn) from a deceased person)
- postal traffic under the UPU rules(Articles 237, 238 CCIP)
- use of an ATA Carnet (Articles 797, 841(2) CCIP)
- goods intended for incorporation as parts of or accessories in vessels and aircraft, motor fuels, lubricants and gas which are necessary for the operation of machines and apparatus used on board of the ship or aircraft, foodstuff and other items to be consumed or sold on board (Art. 592a (o)CCIP)
- other cases specified in Art. 592a CCIP, such as electrical energy, goods leaving by pipeline, letters, postcards, printed matter, including on electronic medium, and goods of an intrinsic value which does not exceed 22 EUR where the conditions of that provision are met
- where Community goods are dispatched to a territory belonging to the customs territory of the Community but not to its fiscal territory and the rules on exportation apply in accordance with Articles 278 - 280 of Directive 2006/112/EC (OJ 2006 No L 347, p. 1), or where goods are dispatched to Helgoland, Büsingen, San Marino, Lake Lugano or the Vatican
- goods exported to Norway or to Switzerland (including Liechtenstein) in accordance with the agreements between the European Union and those countries.

The waiver from providing the security data does not waive any other requirement for customs declarations.

3. Place at which the declaration must be lodged

3.1. General definition

The customs declaration must be lodged at the customs office of export. This is also the place where the security related risk analysis takes place.

3.2. Place where goods are packed or loaded for export shipment

According to Article 161(5) CC the export declaration must be lodged either at the customs office responsible for supervising the place where the exporter is established or "where the goods are packed or loaded for export shipment". The question regarding the local responsibility of the customs office of export when "packing" or "loading" the goods for export has been posed frequently by logistic companies. The customs office responsible for the place where the goods are packed or loaded is generally the customs office in the region from where the goods, with a destination outside the customs territory of the Community, are transported.

"Packing goods for export" is based on the point in time at which a decision has already been taken to export the goods, so that at least the quantity, type of the goods and country of destination of the goods are known and concrete steps have been taken to initiate the export transaction

At this early point, the customs administration is able to carry out checks in the most efficient manner possible – also in respect of safety and security risks - without any great effort, since there are no ensuing problems with packing, delays to onward transport and costs. It is in the interests of all parties involved to enable the customs administration to carry out its checks as early as possible to keep the parties' costs as low as possible and to limit possible checks at the EU's external borders to an absolute minimum.

Goods are packed for export when, for example:

- they are prepared for shipment (e.g. packed in cardboard boxes), particularly in order to avoid damage during transportation
- they are completely repacked by a professional packing company or undergo final packing in boxes specially made for the consignment
- when cartons are stuffed into a container (under the export refund legislation the word "loading" is used for this operation).

The above comments regarding "packing" also apply for "loading"; the definition for "packing" is more specific, since all packed goods are also loaded. Regarding "loading", the only cases covered are those where the goods are not packed for export (e.g. into a container).

This concerns in particular goods loaded on the active means of transport that will bring them out of the customs territory of the Community in an unpacked state (e.g. bulk goods, such as gravel or sand, or vehicles).

Goods have been loaded for export, for example, when they are loaded at the factory (e.g. the loading of unpacked bulk goods).
Goods have not yet been loaded for export, for example, when the exporter in question does not yet know the exact arrangements for the export transaction (e.g. knows the goods recipient and the quantity of goods but not the scheduled date of the export) at the time when the goods are delivered to the storage facility.
These guidelines leave enough leeway within the legal framework for carrying out exports using the provisions on the local responsibility of the customs office of export to receive the export declaration, especially as Article 791 CCIP and the Administrative Arrangement create even more leeway (see Annex 4).
The failure to take advantage of the good level of knowledge at the customs office of export regarding the exporter and his products could mean that the admissibility check at "any" customs office of export would take longer and would generally not be able to guarantee that all the expertise existing at the local customs office is used.
In case of the export refund goods only the place of packing or loading is allowed for lodging the export declaration (Reg. (EC) No 612/2009).

4. Person responsible for lodging the customs declaration

The person responsible for the lodgement of the customs declaration is the person who may declare the goods for the customs procedure concerned and who is able to present the goods to customs together with all the required documents; goods may alternatively be presented through a representative.
In case of an export declaration that person is the exporter, i.e., the person on whose behalf the export declaration is made and who is the owner of the goods or has a similar right of disposal over them at the time the declaration is accepted (Article 788(1) CCIP). In the case of export of agricultural goods under an export licence the export declaration must be lodged by the licence holder (Regulation (EC) No. 376/2008, OJ 2008 No L114, p. 3).
In case of an outward processing declaration that person is the holder of the outward processing procedure.
In case of re-exportation that person is the holder of the customs procedure with economic impact (customs warehousing, inward processing, temporary admission, processing under customs control) that is going to be discharged with the re-exportation of the goods.
Any of these persons may use a representative.

5. Data requirements

The data required for the safety and security analysis are listed in Annex 30A CCIP.

Holders of an AEO certificate referred to in Article 14a (1) points (b) or (c) CCIP exporting goods may lodge a customs declarations containing the reduced safety and security data requirements set out in Table 5 of Annex 30A CCIP.

Carriers, freight forwarders or customs agents who are holders of an AEO certificate referred to in point (b) or (c) of Article 14a (1) CCIP and are involved in the exportation of goods on behalf of holders of an AEO certificate referred to in point (b) or (c) of Article 14a (1) may also lodge a customs declaration comprising the reduced data requirements set out in Table 5 of Annex 30A CCIP.

The following persons need to be an AEO (holders of an AEO certificate - Security and Safety or of an AEO certificate – Customs Simplifications/Security and Safety) in order to submit a customs declaration containing the reduced security data set:

→ the exporter, holder of the outward processing procedure or holder of the customs procedure with economic impact that is going to be discharged with the re-exportation of the goods, in the cases they lodge themselves, respectively, the export customs declaration, the outward processing customs declaration or the re-export customs declaration;

→ if the customs declaration is lodged by a representative, also the representative (direct or indirect representation) of the persons referred to in the first indent.

6. Time limits for lodging the customs declaration

6.1. Introduction

The time limits for lodging the customs declaration are intended to allow the minimum time period necessary for the customs office of export to perform risk analysis and any customs control it deems necessary before the goods are released for export. At the latest, these deadlines are measured against the moment in time when the goods are actually to leave the customs territory of the Community (except for deep sea containerised cargo where the deadline expires 24 hours before the goods are to be loaded on the vessel, Article 592b (1) (a) (i) CCIP). However, in practice these deadlines will only apply in those relatively few instances where the customs office of export is also the customs office of exit (again, with the possible exception of Article 592b (1) (a) (i) CCIP). Where this is not the case, the lodgement of the declaration must take place by a point in time before the goods are actually to leave the customs office of exit that will allow both the customs office of export to carry out its risk analysis and for the goods – following release for export - to be moved to the office of exit for departure on the scheduled time and in/on the scheduled conveyance. Therefore, in practice, for all modes of transport described below the customs declaration must normally be lodged

far earlier than the deadlines. Failure to do so may result in delay of the release of the goods for export and the goods missing the scheduled conveyance at the customs office of exit.
The time limits for lodging the pre-departure customs declaration are defined in Article 592b CCIP. These time limits can be divided into two groups:
→ Special cases[3], [e.g. for the application of export refunds];
→ General cases, where the time limits are associated with:

- the expected moment when the goods will be brought out of the customs territory of the Community[4].
- the expected moment when the active means of transport will bring the goods out of the customs territory of the Community[5].

6.2 Special cases due to the nature of the operation

Entry in the records by approved exporters

Member States may allow that under the local clearance procedure approved exporters according to Article 283 CCIP apply for an additional simplification in cases where a waiver from the pre-departure declaration applies (see Art. 285a (1a) CCIP), such an authorisation may cover for example:

- delivery of ship and aircraft supplies (i.e. spare parts and foodstuff for consumption or sale on board of ships and aircraft)
- goods brought out of the customs territory directly to drilling or production platforms or wind turbines operated by a person established in the EU
- gravel or rough timber extracted or cut close to the border and exported to Norway or Switzerland.

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[3] The application of the specific time limits for the special cases prevails over the application of the time-limits for the general cases.
[4] The person lodging the declaration should estimate the **moment when the goods will be brought out of the customs territory of the Community** in order to be able to comply with time limit. Note that it is only knowledge of the expected moment the goods will be removed from the customs territory of the Community and not the knowledge of the exact moment when that future event will occur.
According to EU customs legislation the only direct consequence of the non-compliance of the time limits is a delay in the release of the goods by the customs authorities because those time limits were considered the minimal time limits for the customs authorities to perform risk analysis and the customs controls they consider appropriate. However, the non-compliance of the time limits may be subject to penalties in accordance with the legislation of the Member State concerned (Article 592f (2) CCIP).
Until the goods are released by the customs authorities they cannot be removed from the place where they were presented when the declaration was lodged.
[5] See Article 592c CCIP for intermodal transportation and for so-called "combined transportation" (e.g. a truck on a ferry).

It should be noted that some of these goods (e.g. fuel in a normal tank of a truck) need not be declared for export for customs purposes, as they are considered to be part of the means of transport. They may however have to be declared for statistical or tax reasons.

The granting of such an authorisation requires that the applicant fulfils the criteria for the local clearance procedure. The authorisation can be limited to cases of export of Community goods. In general this additional simplification can only be granted if the whole export operation takes place in one Member State (customs offices of export and exit are located in the same MS); MS can agree on bilateral basis that the simplification is valid in cases of export via the customs offices of exit of the other MS.

Such an approved exporter must:

→ enter each export immediately in his records and

→ report all exports to the customs office where he is established on a periodic basis of up to one month; these reports must be made electronically where computerised systems are in place, otherwise paper-based.

Entry of the goods in the records shall be deemed to be release for export and exit.

In order to allow sufficient customs surveillance the competent customs office shall require that the holder of the authorisation makes an endorsement on the transport documents or the invoices which accompany the export consignment indicating the simplification. The transport document or the invoice should contain at least the following information:

<table>
<tr><td>DE[6]</td><td>Art. 285a (1a) CCIP[7]</td></tr>
<tr><td colspan="2">EXPORT – DE abcd ZA xyz[8]</td></tr>
<tr><td colspan="2">name of the approved exporter</td></tr>
</table>

It is recommended that the customs offices which are responsible for the authorisation consider using this sample.

[6] MS

[7] Reference to the granted simplification

[8] Authorisation number – competent customs office

6.3. Application of export refunds [9] [10]

All persons exporting products for which they claim an export refund shall be required to:

- lodge the export declaration with the competent customs office in the place where the products are to be loaded for export transport
- inform that customs office at least 24 hours prior to starting the loading operations and indicate the anticipated duration of loading. The competent authorities may stipulate a time limit other than 24 hours.

The following may be considered as the place of loading for the transport of products for export:

- in the case of products exported in containers, the place where they are stuffed into the containers
- in the case of products exported in bulk, sacks, cartons, boxes, bottles, etc. and not loaded into containers, the place where the means of transport, in which they leave the customs territory of the Community, is loaded.

Taking into account this provision, when Regulation (EC) No 612/2009 is applicable, the information and the relevant data about the export [11] shall be lodged:

- In the case of products exported in containers, at least 24 hours prior to starting the loading operation of the goods into the containers
- In all other cases, at least 24 hours prior to starting the loading operation of the goods on the active means of transport which will bring the goods out of the customs territory of the Community.

6.4. General cases associated with the means of transport

- **<u>Maritime Traffic</u> (when the expected active means of transport will bring the goods out of the customs territory of the Community by sea)**

→ Short sea[12] containerised cargo or bulk/break bulk cargo

[9] Commission Regulation (EC) No 612/2009 of 7 July 2009, laying down common detailed rules for the application of the system of export refunds on agricultural products (OJ L 186, 7.7. 2009).

[10] In the case of export refunds on agricultural products for consumption on board ships or aircrafts Article 33 (4) Regulation (EC) No 612/2009 states that "*the provisions of Article 5 (7) shall not apply to deliveries covered by this Article. However, the Member States may take appropriate action to allow checks on the products*". This means that there is no time-limit in this cases (Article 592a letter o CCIP) unless the Member State, using the empowerment of Article 33 (4) Regulation (EC) No 612/2009, has defined a specific time limit for lodging the customs declaration.

[11] Regulation (EC) No 612/2009 is only applicable to Community agricultural products.

The electronic customs declaration shall be lodged at least 2 hours before the expected moment when the vessel will leave the port in the territory.

→ **Deep sea[12] containerised cargo**

The electronic customs declaration shall be lodged at least 24 hours before the expected moment when the goods will be loaded onto the vessel on which they are to leave the customs territory of the Community.

→ **Deep sea[12] bulk/break bulk cargo**

The electronic customs declaration shall be lodged at least 4 hours before the expected moment when the vessel will leave the port in the customs territory of the Community.

- **Air Traffic (when the expected active means of transport will bring the goods out of the customs territory of the Community by air)**

The electronic customs declaration shall be lodged at least 30 minutes before the expected moment when the aircraft that will take the goods out of the customs territory of the Community will take off at the airport in the territory.

- **Rail Traffic (when the expected active means of transport will bring the goods out of the customs territory of the Community by rail)**

The electronic customs declaration shall be lodged at least 2 hours prior to the expected moment when the train will depart from the last customs office in the customs territory of the Community.

- **Inland Waters Traffic (when the expected active means of transport will bring the goods out of the customs territory of the Community on a river or lake)**

The electronic customs declaration shall be lodged at least 2 hours prior to the expected moment when the vessel will depart from the last customs office in the customs territory of the Community.

- **Road Traffic (when the expected active means of transport will bring the goods out of the customs territory of the Community by road)**

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[12] Details on these time-limits, including the distinction between short sea and deep sea movements, are available in part. C, section 9.1.

The electronic customs declaration shall be lodged at least 1 hour prior to the expected moment when the truck will depart from the last customs office in the customs territory of the Community.

Where the customs declaration is not lodged by use of data processing technique because the electronic application of the person lodging that declaration is not functioning, the time-limit is 4 hours (Article 592b (2) CCIP) for all of the above mentioned means of transport except deep sea containerised cargo where the deadline remains 24 hours before commencement of loading.

6.5. Derogations

The lodging of a customs declaration is not subject to the above mentioned time limits in the cases laid down in Article 592a CCIP and for exports to Norway and Switzerland (including Liechtenstein).

In such cases, the customs declaration can be lodged at the latest when the goods are presented to the customs office of export (this may also be the customs office of exit)[13]. However, the declarant will find it in his interest to lodge the declaration far earlier to ensure uninterrupted cargo flow.

7. Specific rules for aircraft and ship supplies

It should be noted that under EU legislation some of these goods (e.g. fuel filled in a normal tank) need not be declared for export, as they are considered to be part of the means of transport. However, for the tax purposes an export declaration may be needed. For details on specific codes and rules for aircraft and ship supplies see Annex 3.

8. Information to the customs office of exit on the exit of goods

Articles 793a (1) and 796d (1) CCIP stipulate that the customs office of exit shall supervise the physical exit of the goods from the customs territory of the Community.

How should this be done and who is obliged to provide the necessary information once the goods have been presented at the customs office of exit?

Article 796d CCIP requires that the person holding the goods advises the next holder of the goods of the Movement Reference Number(s) of the export operation(s), together with the unique consignment reference number or transport document number or reference for the bill of lading/air waybill and number of packages. If containerised, the equipment identification number should also be given. This has to be done as early as possible - at the latest at

[13] Note that until the customs authorities grant the release, the goods cannot be brought out of the customs territory of the Community.

handover of the goods. The advice may be made using commercial, port or transport information systems and processes or, where not available, in any other form. At the latest upon handover of the goods, the person to whom they are handed over shall record the advice provided by the first holder of the goods.

If the carrier has not obtained all of the above information, it may not load the goods and bring them out of the Community.

The carrier must then inform the customs office of exit that the goods have effectively left the Community, by providing to the customs office of exit the above information. This may be done through the existing manifest or other transport reporting requirement and should be made available to customs through existing commercial, port or transport systems. Such information is not necessary in cases where the customs office is already aware of the exit (e.g. in cases where a truck has passed a customs office at the land border and can from there leave only the customs territory of the Community).

9. Information of exit to fiscal authorities

According to Article 796e (1) CCIP, upon receipt of the exit results message, the customs office of export shall certify the physical exit of the goods to the declarant, by use of the export notification message or in the form specified by that office for that purpose.

Customs legislation cannot impose on tax authorities the type of proof to be used for tax relief on exported goods; however in accordance with the principle of legislative coherence the proof of exit provided under the customs provisions should also be accepted for tax purposes. In this case the fiscal authorities should also be informed about the invalidation of the export declaration.

Member States should inform the Commission about the type and format of the exit confirmation/notification so that this information can be passed on to the other Member States.

10. Single transport contract (Article 793(2) (b) CCIP)

10.1. Introduction

Article 793 (2) (b) CCIP establishes a derogation to the general rule that the customs office of exit is the last customs office before the goods leave the customs territory of the Community.

If a request is made to that effect, the customs office of exit is the office competent for the place where the goods are taken over under a single transport contract for transport of the goods out of the customs territory of the Community by railway companies, postal operators under the UPU rules, airlines, express operators or maritime carriers.

Transport by road by these operators is permitted, as long as the goods do not leave the customs territory of the Community by road, i.e. they are carried out of the territory by rail, post, air or sea. The rules on the single transport contract apply also, when the transport company combines different means of transport (hereafter referred to as 'multimodal transport'). An example of a multimodal transport is the use of 'air trucks' (trucks run by an airline) to cover part of the route for goods transported under a contract with an airline company.

The export/re-export declaration must, where no exception applies, comply with Article 787 (1) CCIP, i.e. be lodged using a data processing technique and contain the required data elements.

When goods arrive at the customs office from where they will leave the customs territory of the Community by rail, post, air or sea, this customs office can request information that the requirements of the export procedure have already been complied with since the export formalities were already completed and the exit certified.

Article 793(3) (a) to (d) CCIP sets out the possible information to be made available by the carrier to the actual customs office of exit on request.

One of the following proofs shall be accepted:

- the MRN of the export declaration if available
- a copy of the single transport contract or the export declaration for the goods concerned
- the unique consignment reference number or the transport document reference number and the number of packages and, if containerised, the equipment identification number
- information concerning the single transport contract or the transport of the goods out of the customs territory of the Community contained in the data processing system of the person taking over the goods or another commercial data processing system

10.2. Exports by air and by express operators

Where goods are carried by an airline or an express operator under cover of a single transport contract for transport of the goods out of the customs territory of the Community, and part of the route is made by air, road or rail, the conditions of Article 793 (2) (b) CCIP are considered to be fulfilled, provided the goods are brought out of the customs territory of the Community for a destination outside that territory by air, and provided the person lodging the declaration makes a request to this end.

10.3. Exports by sea

By analogy with exports by air, in the case of multimodal transport covered by a single transport contract, the customs office of exit is the customs office competent for the place

where the goods are taken over under a single transport contract by the shipping company, provided the goods are brought out of the customs territory of the Community to a destination outside that territory by sea. In other words, the decisive element for determining whether an export is by sea is the way in which the external border is crossed.

10.4. Exports by rail

Where goods are transported by rail, different types of consignment notes are used, depending mainly on the final destination of the goods exported and on the operation concerned: the CIM consignment note, the SMGS consignment note, the combined CIM/SMGS consignment note,; and consignments notes established under bilateral or multilateral arrangements (e.g. the SAT consignment note).

The CIM consignment note is the documentary proof of a transport contract within the meaning of the 'International Convention concerning the Carriage of Goods by Rail (CIM) (Annex B of the new COTIF "99") used by the EU Member States and other States participating in the COTIF[14] agreement. Under the new COTIF, the CIM consignment note is to be used and has to accompany the consignment for transport in the customs territory of the Community.

The SMGS[15] consignment note is the transport contract used by OSZhD members (Organisation for Railways Co-operation – whose members are mainly Eurasian countries).

In addition, a combination of two separate consignment notes (CIM and SMGS) is also considered to be a single transport contract, provided the place of destination mentioned in the first note (CIM) from the consignor lays down the binding commitment to transport the consignment directly to a state which is a party to the SMGS Agreement and thereby terminates the transport at a destination outside the customs territory of the Community. The basis for this type of single transport contract is the GR-CIM/SMGS.[16]

Such a combination is required for the movement of goods between an EU Member State and a third country that is an OSZhD-Member unless the railway company of the EU Member State concerned is also a party to the SMGS Agreement. For example, goods exported from Brussels via Poland to Minsk (Belarus) will be covered first by a CIM (used for the transport from Brussels to Poland) and then, at the Polish eastern border crossing (Malaszewicze/Terespol), by a SMGS which replaces the CIM and is used for the rest of the journey. This combination of transport documents can nevertheless be considered as a

[14] COTIF: Convention concerning international carriage by rail – Convention relative aux Transports Internationaux Ferroviaires.

[15] SMGS: Convention concerning international goods traffic by railway.

[16] GR-CIM/SMGS: Guide des Réexpéditions CIM/SMGS, CIM/SMGS Reconsignment Manual

single contract provided it is specified in the CIM that the final destination is Minsk. The same applies for the combined CIM/SMGS consignment note. Accordingly, Brussels would be the customs office of exit in the example given.

The SAT consignment note is an example of bi- or multilateral agreements on which single transport contracts can be based. The SAT consignment note is the transport contract used by Austria, accepted by the Czech Republic, Slovakia, Poland and Hungary for transport to CIS countries.[17]

These types of transport contracts fulfil the requirements of single transport contracts for the purposes of Article 793(2) (b) CCIP.

Transports covered by a TR transfer note may include the dispatch of consignments by transport undertaking using modes of transport other than rail, to the nearest suitable railway station from the point of loading and from the nearest suitable railway station to the point of unloading, and any transport by sea in the course of the movement between those two stations (Article 426 CCIP).

11. Excise formalities

According to **Directive 2008/118/EC**, the trader registers an electronic excise declaration in EMCS and receives a registration number (Administrative reference code). When the declarant lodges an export declaration, the export declaration shall refer to this administrative reference code (ARC). Subsequently the declarant receives an MRN. On release of the goods for export, an anticipated export record is sent to the office of exit and the EAD is printed.

At the office of exit, the goods and the EAD (with the ARC) are presented for the exit formalities described above.

12. An export declaration is lodged. Afterwards it is decided not to take the goods out of the Community.

In all cases where goods released for export do not leave the customs territory of the Community, the exporter or the declarant must immediately inform the customs office of export (Article 792a (1) CCIP).

The customs office of export shall invalidate the export declaration (Art. 251(2) (b) CCIP)

In addition special rules apply in the following cases:

- Where the customs office of exit was the office competent for the place where the goods were taken over under a single transport contract for transport out of the customs territory

[17] CIS: Commonwealth of Independent States (Azerbaijan, Armenia, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Uzbekistan and Ukraine).

of the Community (derogation in accordance with Article 792 (2) (b) CCIP – see section 10), and there is change in the transport contract with the effect that it no longer terminates outside the customs territory of the Community, the carrier who issued the single transport contract may only carry it out of that territory with the agreement of the customs office competent for the place where the goods are taken over under the single transport contract (Article 792a (2) CCIP). This customs office of exit should inform customs office of export.

- Where the export procedure was discharged by entering the goods for a transit procedure covering their movement out of the customs territory of the Community or to a customs office of exit (in accordance with Article 793b CCIP), and there is a change in the transport contract with the effect that it no longer terminates outside the customs territory of the Community or at a customs office of exit, the carrier who issued it, may only carry it out of that territory with the agreement of the customs office of departure of the transit movement (Article 792a (2) CCIP)
- Where the goods have already been presented to the customs office of exit at the time it is decided not to bring the goods out the customs territory of the Community, the person who removes the goods from that customs office for carriage back into the Community shall notify that customs office of:

  → the unique consignment reference number or the reference number of the transport document covering the earlier intended movement out of the customs territory of the Community

  → the number of packages, or, if containerised, the equipment identification number

  → the movement reference number of the export declaration.

This information may be provided in any form (Article 796d (4) CCIP).

PART C
EXIT SUMMARY DECLARATION (EXS)

1. Obligation to lodge an EXS

EU legislation requires, as a general principle, that **all** goods brought out of the customs territory of the Community, regardless of their final destination, shall be risk assessed and subject to customs control before departure or – in the case of deep sea containerized maritime shipments – before commencement of vessel loading. All such goods must therefore be covered by a declaration of some kind either by a customs declaration, e.g. for export, re-export, transit etc. or, wherever any of the former is not required, by an EXS.

This in principle means that an EXS is required in cases where goods are brought out of the Community without a customs declaration (Art. 842a CCIP).

Typical situations where an EXS would be required are:

- Goods are moved between two EU Member States via the territory of one or several third countries (from Slovenia via Balkan countries to Greece) unless an agreement exists with those countries, or
- Non–Community goods leave the EU from temporary storage or a control type I free zone where no EXS exemption applies.

Sections 2 describes in more detail situations where an EXS is not required; section 3, using maritime containerised traffic as an example, describes situations where an EXS would be required.

2. Exemptions from the obligation to lodge an EXS

Article 842a CCIP lay down the situations where no EXS is required.

An EXS shall not be required in the following cases:

- where goods are brought to Heligoland
- where goods are loaded at a port or airport in the customs territory of the Community for discharge at another Community port or airport, provided that, upon request, evidence in the form of a commercial, port or transport manifest or loading list is made available to the customs office of exit regarding the intended place of unloading. The same applies when the vessel or aircraft that transports the goods is to call at a port or airport outside the customs territory of the Community and those goods are to remain loaded on board the vessel or aircraft during the call at the port or airport outside the customs territory of the Community
- where, in a port or airport, the goods are not unloaded from the means of transport which carried them into the customs territory of the Community and which will carry them out of that territory
- where the goods were loaded at a previous port or airport in the customs territory of the Community and remain on the means of transport that will carry them out of the customs territory of the Community
- where goods in temporary storage or in a control type I free zone are transhipped from the means of transport that brought them to that temporary storage facility or free zone under the supervision of the same customs office onto a vessel, airplane or railway that

will carry them from that temporary storage facility or free zone out of customs territory of the Community, provided that:

→ the transhipment is undertaken within fourteen calendar days from when the goods were presented for a temporary storage or at a control type I free zone; in exceptional circumstances, the customs authorities may extend this period of time in order to deal with those circumstances necessary to face the exceptional circumstances present;

→ information about the goods is available to the customs authorities; and

→ the destination of the goods and the consignee do not change, to the knowledge of the carrier

- when an electronic transit declaration contains the EXS data provided the office of destination is also the customs office of exit or the office of destination is outside the customs territory of the Community.

Community export goods included in an Articles 445 and 448 CCIP manifest.

No EXS is required at the place of exit from the Community for Community goods under the export procedure moved to the place of transhipment / exit and included in an Articles 445 or 448 CCIP manifest.

Such goods are, by definition in these Articles, not under the transit procedure. They retain their Community status and are not under temporary storage when they arrive at the point of exit from customs territory of the Community; their physical exit is supervised by the customs office qt the point of exit.

Community export goods moving under the terms of Article 793(2) (b)CCIP

No EXS is required at the place of exit for Community goods under the export procedure moved to the place of transhipment/exit under a single transport contract (Article 793(2) (b) CCIP). Such goods retain their Community status and are not under temporary storage when they arrive at the point of exit from customs territory of the Community; their physical exit is supervised by the customs at the point of exit (Articles 793(3) and 796 CCIP).

3. Situations where an EXS is required

EU legislation does not include a provision listing the situations where an EXS would be required. However, based on the exemptions discussed in section 2 above, and using maritime containerised traffic as an example, situations where an EXS would be required can be identified as follows (subject to international agreements concluded by the EU with a third country in the area of security; see section 4 below):

3.1. Non-Community goods in temporary storage or in a control type I free zone at an EU port loaded for re-export from the Community

Non-Community goods being exported from temporary storage or from a control type I free zone do not require a re-export declaration. Therefore, in principle, an EXS must be lodged for such goods prior to commencement of vessel loading (Article 842a (1) CCIP).

However, non-Community goods in temporary storage or free zone that are loaded for re-export may be exempted from the EXS requirement in the following two situations:

Transhipment

No EXS is required for non-Community goods in temporary storage or a control type I free zone loaded for re-export provided that:

→ the goods are transhipped from a means of transport to a vessel or aircraft or rail wagon that will carry them from that temporary storage facility or control type I free zone directly out of the customs territory of the Community;

→ the transhipment is done at the same place where the goods were first placed into the temporary storage facility or free zone;

→ the transhipment is done within 14 calendar days from when the goods were presented for temporary storage[18]; and

→ the destination and the consignee for the goods have, to the knowledge of the carrier, not changed (Article 842a (4) (e) CCIP).

All four conditions must be met in order to qualify for the EXS exemption, e.g. a change of destination of the goods would require lodgement of an EXS even when the goods are to be loaded for re-export within 14 days from when they were presented for temporary storage. If the goods qualify for the EXS exemption, they can be taken out of temporary storage or free zone for loading upon lodgement of a re-export notification (request for release from temporary storage) (see Part D).

Transit declaration with security data

In the case of 'through transit', where the customs office of departure is at the EU entry point and the customs of destination is outside of the customs territory of the Community, an EXS will not be required provided that the goods remain on the same means of transport that brought them into the customs territory of Community or the conditions of Article 842a (3) CCIP are met. Otherwise, if transhipment takes place, under the transit rules, at or before the

[18] In exceptional circumstances, the customs authorities may prolong this time period.

place of exit, an EXS will be required. The goods will not be placed under temporary storage at the place of exit and Article 842a (4) (e) CCIP cannot therefore apply.

Non-Community goods being trucked to the temporary storage facility or control type I free zone for loading on to a ship for re-export may be exempted from the EXS requirement provided that the transit declaration, lodged for bringing the goods to the facility or free zone, contains the data elements required for an EXS, and provided that the office of destination for the transit operation is also the customs office of exit for the purpose of lodging EXS or the office of destination is outside the customs territory of the Community (Article 842a (3) CCIP). If both requirements are fulfilled, then the goods can be taken out of temporary storage or free zone for loading upon lodgement of a re-export notification (request for release from temporary storage) irrespective of how long the goods are in temporary storage or in the free zone.

3.2. Community export goods loaded as transhipment goods following carriage from another EU port

Community export goods loaded as transhipment goods to an outbound main haul vessel following carriage from another EU port on a non-authorized regular shipping service vessel are deemed to be non-Community goods in temporary storage in the EU transhipment port, given that they have left the customs territory of the Community. Consequently, such transhipment goods are to be treated the same way as non-Community goods in temporary storage transhipped for re-export described above. An EXS is required *unless* the transhipment goods are loaded onto the outbound main haul vessel at the same place where they were brought to the storage facility; the transhipment is done within 14 calendar days from when the goods where presented for temporary storage in the transhipment port; and the destination and consignee for the goods have not during that time, to the knowledge of the carrier, changed (Article 842a (4) (e) CCIP).
Where transhipped goods are exempted from the requirement that an EXS be lodged with customs in the EU transhipment port, a re-export notification must be lodged instead before the exit of such goods. (See Part D).

3.3. Goods moved between Member States via transhipment in a country outside of the EU

Goods to be moved between EU Member States via transhipment in a country outside the EU are not exports (or re-exports) and no export declaration is therefore required. An EXS

must therefore be lodged for such goods at the EU port of loading (Article 842a (4) (b) CCIP), unless the EXS data are contained in the transit declaration (which is not possible in maritime traffic).

For example, Community goods moved on a vessel from Spain to the U.K. will not require EXS filings as long as the goods remain on board the vessel during any non-EU intermediary port calls. However, if the goods leave Spain on a vessel bound for Agadir, Morocco, where the goods are to be unloaded for transhipment onto another vessel for discharge in Felixstowe, UK, an EXS would need to be filed with Spanish customs before vessel departure from the Spanish port.

3.4. Shipper owned empty containers

Shipper-owned empty containers that are being transported, against payment, pursuant to a contract of carriage are to be treated in the same way as other cargo and must be covered by an EXS (Article 842a (1) CCIP).

Carrier reposition empty containers do not, pursuant to Article 842a (4) (a) CCIP, need to be covered by an EXS; they should instead continue to be reported to customs at departure.

4. International agreements

An EXS shall not be required in cases provided for in international agreements concluded by the EU with a third country in the area of security. Such agreements currently exist with Norway and Switzerland (including Liechtenstein).

They foresee the following:

The Contracting Parties shall introduce and apply to goods leaving their customs territories the customs security measures ensuring thus an equivalent level of security at their external borders. The Contracting Parties shall waive the application of the customs security measures where goods are carried between their respective customs territories.

5. Place to which the EXS must be lodged

If goods are to be covered by an EXS, it must in all cases be lodged with, or communicated to, the customs office of exit, which is normally the customs office competent for the place where the goods will be brought out of the customs territory of the Community for a destination outside that territory.

For the purposes of EXS, the “customs office of exit” is:

→ *the* customs office competent for the place from where the goods will leave the customs territory of the Community, or

→ where the goods are to leave the customs territory of the Community by air or sea, the customs office competent for the place where the goods are loaded onto the vessel or

aircraft on which they will be brought to a destination outside the customs territory of the Community.

Where an EXS has been lodged the responsibility for risk analysis and control always lies with the customs office of exit. While Article 182c (2) CC provides for the possibility that an EXS may be lodged at a different customs office – the customs office of lodgement - than the customs office of exit (if the customs authorities concerned agree to this), this would not change or modify the customs office of exit's risk analysis responsibility or the deadline by which it the EXS must be lodged.

6. Person responsible for lodging the EXS

The EXS, where required, shall be lodged by the carrier. However, such declaration may be lodged instead by the holder of the temporary storage facility or the holder of a storage facility in a control type I free zone, or any other person able to present the goods, where the carrier has been informed, and given its consent under a contractual arrangement, that such person lodges the declaration. The customs office of exit may assume, except where there is evidence to the contrary, that the carrier has given its consent under a contractual arrangement and that the declaration has been lodged with its knowledge.

For the purpose of the EXS, the “carrier” is the person who brings the goods, or who assumes responsibility for the carriage of the goods, out of the customs territory of the Community. However:

→ in the case of combined transportation, where the active means of transport leaving the customs territory of the Community is only transporting another means of transport which, after the arrival of the active means of transport at its destination, will move by itself as an active means of transport, “carrier” means the person who will operate the means of transport which will move by itself once the means of transport leaving the customs territory of the Community has arrived at its destination,

→ in the case of maritime or air traffic under a vessel sharing or similar contracting arrangement, “carrier” means the person who has concluded a contract, and issued a bill of lading or air waybill, for the actual carriage of the goods out of the customs territory of the Community.

7. Content, accuracy and completeness of the EXS filing

All the data elements prescribed in Annex 30A CCIP for the particular mode of transport or for express consignments that are covered by the EXS filing must be contained in the EXS filing. The filing must be completed in accordance with the Explanatory Notes in Annex 30A CCIP.

Without prejudice to the possible application of any sanction, the lodging of a declaration signed by the declarant or his representative shall render it responsible under the provisions in force for:

→ the accuracy of the information given in the declaration,

→ the authenticity of the documents attached, and

→ the compliance with all the obligations relating to the exit of the goods in question under the procedure concerned.

However, the declarant is only obliged to provide the information known to it at the time of lodgement of the EXS. Thus, the declarant can to base its EXS filing on data provided by his trading or contracting parties, and the declarant would not have to ascertain the accuracy of the data provided to him, unless he known that they are wrong. The person, who causes and contractually agrees with e.g. a carrier, a forwarder or a consolidator for the carriage of a cargo shipment out of the Community, must provide complete and accurate cargo shipment information to that carrier, forwarder or consolidator. If the declarant learns later that one or more particulars contained in the EXS filing have been incorrectly declared or have changed, the provisions on amendments apply. Additionally, the declarant should inform customs if it becomes aware that a person causing cargo shipments to be carried out of the EU systematically provides incorrect cargo shipment information.

8. Data requirements

The data requirements required for the safety and security analysis are listed in Annex 30A CCIP.

Holders of an **AEO** certificate referred to in Article 14a (1) points (b) or (c) CCIP exporting goods may lodge EXS comprising the reduced data requirements set out in Table 5 of Annex 30A CCIP.

Carriers, freight forwarders or customs agents who are holders of an **AEO** certificate referred to in point (b) or (c) of Article 14a (1), and are involved in exportation of goods on behalf of holders of AEO certificate referred to in point (b) or (c) of Article 14a (1) may also lodge EXS comprising the reduced data requirements set out in Table 5 of Annex 30A CCIP.

The following persons need to be an AEO (holders of an AEO certificate Security and Safety or of an AEO certificate – Customs Simplifications/Security and Safety) in order to submit a declaration containing the reduced security data set:

→ the person lodging the EXS and all consignors declared in the EXS

→ *in* case the EXS is lodged by a representative of the person responsible for lodging the EXS, the representative and all consignors declared in the EXS.

9. Time limits for lodging an EXS[19]

9.1. General rules

Containerised maritime cargo *(except short sea containerised shipping)*	At least 24 hours before commencement of loading on the vessel that will carry the goods to a non-EU destination
Bulk/ break bulk maritime cargo *(except short sea bulk/break bulk shipping)*	At least 4 hours before the vessel that will carry the goods to a non-EU destination will leave the port
Short sea shipping: Movements **between** → Greenland, Faroe Islands, Ceuta, Melilla, Norway[20], Iceland, ports on the Baltic Sea, ports on the North Sea, ports on the Black Sea or ports on the Mediterranean and all ports in Morocco **and** → The Community customs territory except the French overseas departments, the Azores, Madeira and the Canary Islands	At least 2 hours before the vessel that will carry the goods to a non-EU destination will leave the port
Short sea shipping: Movements with a duration of less than 24 hours **between** → a territory outside the customs territory of the Community **and** → the French overseas departments, the Azores, Madeira and the Canary Islands	At least 2 hours before the vessel that will carry the goods to a non-EU destination will leave the port
Air traffic	At least 30 minutes before the

[19] Articles 842 (1) and 592b CCIP

[20] Exit of goods with a destination to Norway has been exempted from the requirement of an EXS by virtue of an agreement with the EU.

	aircraft that will carry the goods to a non-EU destination will leave the airport This means the airport at which the goods are loaded to the aircraft which will take them out of the EU, . this is not necessary airport at which the aircraft will call.
Rail and inland waterways	At least 2 hours before the train or ship that will bring the goods out of the customs territory of the Community will depart from the place for which the last customs office in that territory is competent. For these movements, the customs office of exit is always the last customs office before the goods leave the customs territory of the Community.
Road traffic	At least 1 hour before the truck that will bring the goods out of the customs territory of the Community will depart from the last customs office in that territory For these movements, the customs office of exit is always the last customs office before the goods leave the customs territory of the Community.

For road and rail transport, the deadline for lodgement of the EXS is straightforward and is always set against the point in time that the means of transport is to leave the last customs office in the customs territory of the Community.

Where the goods are to leave the customs territory of the Community by air or sea, the deadline is set against the point of time where the means of transport that will carry the goods to a destination outside the customs territory of the Community is to leave that territory or - in the case of deep sea containerized cargo – when the goods are to be loaded to the vessel that will carry the goods to a destination outside that territory. The same applies to those movements between Member States via a third country where an EXS is required.
This means that the deadlines are not affected where an EXS is accepted by another customs office ("customs office of lodgement"; see section 5 above) given that the person lodging the EXS has no control over the treatment of the declaration by the customs authorities.

9.2. Maritime traffic

Authorized regular shipping service vessels are not allowed to carry goods to a destination outside the customs territory of the Community. They are therefore not affected by the EXS requirements; these requirements apply only to goods carried on vessels other than authorized regular shipping service vessels, including those deployed in deep sea traffic (main haul vessels).
For maritime traffic, the customs office of exit to which the EXS, where required, must be lodged is always defined the same way, i.e. the customs office at the port where the goods are to leave on or - in the case of deep sea containerized cargo - are to be loaded to a vessel that will carry them to a destination outside the customs territory of the Community:

→ If the goods are loaded directly onto the vessel that will carry them to a destination outside the customs territory of the Community, then the EXS, where required, must be lodged to the customs office at that load port. The goods will become Freight Remaining on Board (FROB) if the vessel is to make calls at subsequent ports in the EU before heading to its foreign destination(s); FROB cargo shall not be presented to customs in the subsequent ports, and no EXS is therefore required to be lodged for the FROB cargo in the subsequent ports.

→ If the goods are instead to be transhipped in another port in the EU on to the vessel that will carry the goods to a destination outside that territory, then the EXS, where required, must be lodged at the customs office at the transhipment port. No EXS is required to be lodged at the customs office in the first EU port of loading. At the port of transhipment, the re-export rules apply. The transhipped goods will become Freight Remaining on Board (FROB) the vessel if the vessel is to make calls at subsequent EU ports before heading to its foreign destination(s); FROB cargo shall not be presented to customs in

the subsequent ports, and no EXS is therefore required to be lodged for the FROB cargo in the subsequent ports.

Example

The container in this example is:

- consigned to New York (= deep sea container)
- stuffed with Community goods by an exporter in Lyon (= customs office of export)
- loaded on to a vessel in Marseille (= customs office of exit for the export procedure)
- transhipped in Hamburg.

An export declaration must be lodged by the exporter or its representative with customs in Lyon no later than 24 hours before the container is to be loaded in Marseille; in practice, the export declaration must be lodged far earlier. No EXS is required to be lodged with customs in Marseille.

Hamburg is the customs office of exit for the purpose of the lodgement of EXS, where required (i.e. where Article 842(4) (e) or (f) CCIP does not apply), because it is here the container will be loaded on to the (main haul) vessel that will carry it to a destination (New York) outside the customs territory of the Community. If an EXS is required, it must be lodged no later than 24 hours before the container is to be loaded on to the man haul vessel.

If the vessel after departure from Hamburg is to call at Felixstowe before it heads for New York, the EXS filing location and deadline remains unchanged. Hamburg remains the port at which the container is loaded to the vessel that will carry it to a destination (New York) outside the customs territory of the Community. After departure from Hamburg, the container becomes Freight Remaining on Board (FROB) and is therefore not presented to customs during the calls at Felixstowe. No further EXS or risk analysis is therefore necessary at that port.

10. Amendments of EXS

The person who has lodged the EXS shall, at his request, be authorised to amend one or more particulars of the EXS after it has been lodged (Art. 182d (4) CC). However, some national customs systems for lodgement of EXS may not allow for amendments to be made to a previously lodged EXS; in these cases, a new EXS should be lodged instead.

From a legal point of view, in the CC or the CCIP there are no restrictions on amendments to one or more particulars of the EXS. However, the particulars concerning the person lodging the EXS and the representative and the customs office of exit cannot be amended for technical reasons.

Where national customs systems allow for amendments to be made, the deadline for lodging the EXS does not start again when an amendment is being lodged.

11. Transhipments

The term "transhipment" relates to non-Community goods, unloaded and reloaded at the same place within the customs territory of the Community under customs supervision.

Unless the waiver for transhipped goods above applies, an EXS is required for such goods when they, upon having been in temporary storage (or in a control type I free zone), are transhipped to the means of transport that will carry them out of the customs territory of the Community to a destination outside that territory. Where an EXS is required, it will also serve as a request for removal from temporary storage for the goods that are to be transhipped.

If no EXS is required for these goods, then a request for removal of the goods from temporary storage - now referred to as a re-export notification (Article 841a CCIP) - must be made (see Part D).

At the request of the person concerned, and subject to the rules applicable for goods in temporary storage and to the conditions specified by the customs authorities, the customs authorities should as far as possible allow goods in transhipment to undergo operations likely to facilitate their re-exportation**.**

12. Requirements when goods, covered by an EXS, are not taken out of the customs territory of the Community.

Where following the lodgement of an EXS, the goods are no longer destined to be brought outside the Customs territory of the Community, the person who removes the goods from the customs office for carriage back into the Community shall notify that customs office of:

- → The unique consignment reference number or the reference number of the transport document covering the earlier intended movement out of the customs territory of the Community;
- → The number of packages, or, if containerised, the equipment identification number
- → The movement reference number of the EXS.

This information may be provided in any form (Article 842a (6) CCIP).

PART D
RE-EXPORT NOTIFICATION

1. Obligation to lodge a re-export notification

Where goods under temporary storage or in a control type I free zone are to be re-exported but where neither a customs declaration nor an EXS is required, re-exportation of such goods must be notified to the customs office of exit prior to the exit of the goods.

Re-export notifications (or, as they are also referred to, requests for release from temporary storage) are an existing requirement, pursuant to national rules and requirements. Where required, re-export notifications shall be lodged, in the form prescribed by the customs authorities, via existing, national notification mechanisms. If acceptable to the customs authorities, the re-export notification may take the form of a commercial, port or transport manifest or loading list.

2. Person responsible for lodging the re-export notification

The re-export notification, where required, shall be lodged by the carrier. However, such notification may be lodged instead by the holder of the temporary storage facility or the holder of a storage facility in a control type I free zone, or any other person able to present the goods, where the carrier has been informed, and given its consent under a contractual arrangement, that such person lodges the declaration. The customs office of exit may assume, except where there is evidence to the contrary, that the carrier has given its consent under a contractual arrangement and that the declaration has been lodged with its knowledge.

For the purpose of re-export notification, the "carrier" shall be the person who brings the goods, or who assumes responsibility for the carriage of the goods, out of the customs territory of the Community. However:

- → in the case of combined transportation, where the active means of transport leaving the customs territory of the Community is only transporting another means of transport which, after the arrival of the active means of transport at its destination, will move by itself as an active means of transport, "carrier" means the person who will operate the means of transport which will move by itself once the means of transport leaving the customs territory of the Community has arrived at its destination,
- → in the case of maritime or air traffic under a vessel sharing or similar contracting arrangement, "carrier" means the person who has concluded a contract, and issued a bill

of lading or air waybill, for the actual carriage of the goods out of the customs territory of the Community.

3. Data requirements

National customs authorities specify the data elements for the re-export notification. Such a notification will typically contain the following information:

→ identity of the person lodging the removal request

→ a reference to the summary declaration for temporary storage covering the goods

→ place of loading

→ the identity of the means of transport on which the goods are to be loaded for carriage out of the customs territory of the Community

→ the intended place of unloading.

4. Requirements when goods, covered by a re-export notification, are not taken out of the customs territory of the Community

Where after re-export has been notified to customs, the goods are no longer destined to be brought outside the customs territory of the Community, the person who removes the goods from the customs office for carriage back into the EU shall notify that customs office of:

→ the unique consignment reference number or the reference number of the transport document covering the earlier intended movement out of the customs territory of the Community

→ the number of packages, or, if containerised, the equipment identification number

→ the movement reference number of the re-export notification.

This information may be provided in any form (Article 842a (4) CCIP).

PART E
FURTHER INFORMATION

Further information on the security aspects of customs can be found at the following link:
http://ec.europa.eu/taxation_customs/customs/policy_issues/customs_security/index_en.htm

FALLBACK RULES

This Annex describes specific rules for the use of the fallback procedure under Articles 787(2) and 842b(3) CCIP where

- the customs authorities' system is not functioning
- the economic operator's system is not functioning
- the network between the economic operator and the customs authorities is not functioning
- the network between customs authorities is not functioning.

1. FALLBACK AT THE CUSTOMS OFFICE OF EXPORT

1.1. UNAVAILABILITY OF THE CUSTOMS AUTHORITIES' SYSTEM

The export declaration used should be recognisable by all parties involved in the export operation. For this reason the documentation is limited to the use of

– the Export/Security SAD (ESS) (Annexes 45k/45l CCIP[1]),

- the SAD, complemented with the Security and Safety Document (SSD) where the export declaration should contain safety and security data (Annexes 45i/45j CCIP)[2]

The export declaration, irrespective of the document used, should be completed and three copies produced to the customs office of export in accordance with Annexes 37, 30A, 45k/45l and 45i/45j CCIP.

The properly completed declaration should be registered at the customs office of export using a numbering system different from ECS in box A. Where the SAD is lodged together with the SSD the same number should be assigned to both documents.

The fallback procedure should be indicated on the copies of the declaration with the following information, as shown below, in box 31:

[1] Regulation (EC) No 414/2009, OJ No L 125, p.6

[2] Regulation (EC) No 414/2009, OJ No L 125, p. 6

ECS FALLBACK PROCEDURE
NO DATA AVAILABLE IN THE SYSTEM
INITIATED ON____________________
(Date/hour)

The fallback procedure should be indicated on the copies of the declaration with the following stamp (dimensions: 26 x 59 mm), as shown below, in box A underneath the registration number:

Where the decision to revert to a paper procedure is taken all declarations that were lodged electronically but have not been processed due to the failure of the system should be cancelled. At the office of exit movements with paper export declarations should be terminated according to the provisions governing the use of the SAD.

1.2. Unavailability of the economic operator's system and/or network

The economic operator should contact the competent customs authority to obtain approval to revert to the fallback procedure according to Article 787(4) CCIP. The economic operator should announce the reason for and the starting time of the fallback procedure.

Once the competent customs authority has approved the fallback procedure, the provisions explained under point 1.1 should apply. The economic operator should inform the customs authorities when his system and/or the network is available again.

The customs office of export may decide to insert the data of the declaration lodged on paper by the trader manually in the ECS system. In this case the EAD will be printed and the operation will became an ECS operation.

1.3. Action at the customs office of exit

At the customs office of exit movements with paper export declarations will be terminated according to the provisions governing the use of the SAD.

2. FALLBACK AT THE CUSTOMS OFFICE OF EXIT

2.1. Treatment of export movements

The rule is that a declaration made electronically shall be closed electronically.

Where the export movement is started in ECS but at the office of exit the customs system is not functioning, or the network between the customs system and CCN (Commission network) or with the other member state system is not functioning, the customs office of exit should register the EAD presented, record the date of arrival and enter the details of controls in box K of the EAD. Once the system is up and running, it should capture these results and communicate them to the customs office of export using ECS.

Where the system of the economic operator is not functioning and it is not possible to send the arrival notification, the economic operator should present the EAD to the customs office of exit. The customs office of exit should register the arrival of the goods in ECS.

Where the system of the economic operator is not functioning and he cannot communicate the confirmation of the exit of the goods, the economic operator should communicate the exit confirmation to the customs office of exit using other available means. The customs office of exit should communicate the exit results to the office of export using ECS.

In case the network between customs administrations and the
Commission does not function, the above described procedure shall apply.
In addition, the helpdesks may check and solve the problem.

2.2. Treatment of EXS or re-export notifications

Where the EXS or re-export notification has to be lodged at the customs office of exit but the system of the economic operator or that of the customs authorities is not functioning, the declaration can be lodged instead using:

→ an alternative filing method (e.g. information systems of ports or airports), if agreed by the competent customs authority,

→ the Security and Safety Document (SSD) (Annexes 45i/45j CCIP).

If the EXS is submitted using a SSD form it should be presented in one copy. If the economic operator wishes to have a copy of the EXS he can submit two copies of which one should be returned after acceptance by the office of exit.

The paper EXS should be registered by the customs office of exit using a numbering system different from ECS. The registration number should be indicated in place of a MRN.

The competent authorities monitor the use of the fallback procedure in order to avoid any misuse. The competent authorities will refuse permission to use the fallback procedure in cases of systematic requests by a given economic operator.

Annex II

FREQUENTLY ASKED QUESTIONS

Lodgement of Exit Summary Declarations (EXS)

(Article 182 b CC)

Contents

1. **Basic principles**
2. **Amendments to ENS**
3. **Release messages**

DRAFT

1. BASIC PRINCIPLES

Q1.1 – Why are exit summary declarations EXS required?

The amended Community legislation requires, as a general principle that **all** goods brought out of the customs territory of the Community, regardless of their final destination, shall be subject to risk analysis and customs control, primarily for security and safety purposes, before departure or – in the case of containerized maritime shipments – before commencement of vessel loading. All such goods must therefore be covered by a declaration of some kind -- either a customs declaration, e.g. for export (i.e. the Customs treatment of Community goods that are taken out of the customs territory), re-export (i.e. the Customs treatment of non-Community goods that are taken out of the customs territory), transit etc., or, wherever any of the former is not required, an exit summary declaration (EXS).

The stated purpose of the new measure is to establish an improved control over exported goods, so that risk to the EU's trading partners is diminished, with a view to the possible relaxation of their own import controls in respect of EU goods and to the establishment of reciprocal agreements with those countries who adopt similar principles.

Such declarations will become mandatory of 1 January 2011.

Q1.2 – When is an exit summary declaration required?

Most goods leaving the customs territory of the Community will be covered by a customs declaration for export, re-export outward processing or transit (also for the inclusion of the EXS data is optional). EXS are only required, under Article 842a CCIP, for other goods -- that is all goods, with certain specified exemptions, which are to be brought out of the Community but for which a customs declaration is not required.

As Community legislation does not include a provision listing all the instances where an EXS would be required, instead instances where EXS would be required are identified below.

1. **Non-Community goods in temporary storage or in a control type I free zone at an EU port/airport loaded for re-export from the Community, where the period of storage has exceeded 14 working days**

   Non-Community goods being re-exported from temporary storage or from a control type I free zone do not require a re-export customs declaration, and therefore Article 824b CCIP requires an EXS to be lodged for such goods prior to commencement of vessel loading. There is, however, an exemption, under Article 841a, point (b) for non-Community goods previously covered by an ENS and transhipped at the place where they are unloaded, including where such goods are in 'short term' storage. 'Short term' storage has been defined, in guidelines, developed by the Commission in cooperation with the Member States, as not exceeding 14 working days.

   In summary, an EXS is required to be lodged for non-Community goods being re-exported, *unless* those goods have been covered by an ENS, are transhipped at the same place where they were unloaded, and have been in storage for less than 14 working days.

2. **Community goods to be moved between Member States via the territory of a country outside of the EU (including when carried between EU ports on vessels that call at non-EU ports in between).**

   These goods are not exports (or re-exports) and no customs declaration is therefore required. Article 824b therefore applies at the EU port of loading in the Community, and an EXS must be lodged there.

   It should be noted that the call at a port outside the EU means that the goods lose their Community status and must be covered by an ENS when re-imported into the Community; the Community status will also need to be proven, i.e. by the Customs document typically referred to as "T2L" or other appropriate means.

   For example, Community goods moved on a vessel from Spain to the U.K. will not require EXS filings if the vessel has no non-EU intermediary port calls. However, if the vessel calls in Morocco after leaving Spain before sailing to the U.K., an EXS would need to be filed with Spanish customs before vessel loading in Spain, and an ENS would need to be filed with U.K. customs two (2) hours before arrival at the UK port.

   This does not apply where goods are moved via Norway or Switzerland due to the agreements with these countries.

3. **Shipper owned empty containers**

   Shipper-owned empties that are being transported pursuant to a contract of carriage are to be treated in the same way as other cargo and must be covered by an EXS.

   Carrier repositioned empty containers would not, pursuant to Article 592a (e) and (g), need to be covered by an EXS. (See Q.1.12)

In all of the instances listed in 1-3 where an EXS is required, the ocean carrier may - for certainty of trade flow - decide to lodge the EXS itself. Alternatively, it could arrange for the lodgement of the EXS by another party as part of the contractual arrangement for the carriage of the shipment.

DRAFT

Q1.3 – Are there any exemptions to the requirement for an exit summary declaration?

Yes. The Community legislation lists several types of goods/traffic for which an EXS is not required. Most important among these for the liner shipping industry are the exemptions for carrier repositioned empty containers, intra Community cargo movements ('feeder' movements), and cargo ROB, including export cargo loaded in previous Community ports.

The regulations also provide for an exemption from EXS for short term storage and transhipments of non-Community goods.

Q1.4 - Where must the exit summary declaration be lodged?

The exit summary declaration must be lodged at the customs office of exit. For maritime traffic, this is the EU port of loading of the goods to the vessel that is to carry them out of the Community even if the vessel is to call at subsequent Community ports before finally leaving the customs territory of the Community. (See Q1.10).

Q1.5 - Who must lodge the exit summary declaration?

There is a key difference from imports and ENSs (ENS), in that no legal obligation is placed upon the ocean carrier, or any other particular party, to lodge the exit summary declaration.

The Community legislation requires that the EXS shall be lodged **either** *'...by the person who brings the goods, or who assumes responsibility for the carriage of the goods out of the customs territory of the Community'*, i.e. the carrier, **or** *'...any person who is able to present the goods in question or to have them presented to the competent customs authority...'*, i.e. the exporter, a forwarder, a terminal operator, or anyone else with a commercial interest in the goods or a representative of any of these.

There is, therefore, no legal obligation placed upon the ocean carrier to lodge the EXS, or to ensure that it is lodged, within the time limit. Article 182d (3) CC provides for an option, not an obligation for any specific party. As a practical matter, however, the carrier will, as has always been the case, not be able to load, or remove, the goods without the permission of the customs authorities.

If an EXS is required but has not been lodged, then the customs authorities will not release the goods for exit (loading).

It is possible, that the exporter or forwarder will seek to be responsible for lodging the EXS, where required, as they control the timing of the movement to the border, as with goods under the export procedure. However, specifically in the maritime environment, it is probable that ocean carriers, in order to ensure that containers will be released for vessel loading, may choose to lodge the EXS themselves.

Arrangements for the control, release and loading of outbound goods will be governed, as now, by national, rather than Community, legislation. The requirement for export manifests practised in many Member States is an example of this. As it is the ocean carrier, who is primarily affected by those national rules, it may find it in its interest to have full control over compliance with the customs requirements at EU ports of loading.

In any event, ocean carriers must, as now, ensure that goods are not loaded or removed without proper release by the relevant customs authority.

Q1.6 - Must the person lodging the EXS have status as an Authorized Economic Operator (AEO)?

No. There is no requirement that an EXS declarant must be an AEO.

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However, the person lodging the EXS ("the declarant") must have an Economic Operator Registration and Identification (EORI) number that must be included in the EXS. If the EORI number is not included, then the EXS is not complete, and it will be rejected.

Q1.7 - When must the EXS be lodged?

The Community legislation requires that the EXS for deep-sea containerized shipments on voyages from the EU whose duration is over 24 hours, must be lodged at least 24 hours **before commencement of loading** in the EU load port. Other deadlines apply for other shipping services and other modes of transport, e.g. 4 hours before departure for other non-containerized deep sea maritime sectors; for all short sea shipping sectors the dead line is 2 hours before departure from the EU load port.

Q1.8 – What must be declared in the EXS?

Annex 30A Table 1 CCIP sets out the data elements to be included in the EXS.

Whoever lodges the EXS, this person ("the declarant") is responsible for its content, accuracy and completeness. However, the declarant is only obligated to provide the information known to it at the time of the lodgement of the EXS. An ocean carrier would thus be able to rely on the information in its bill of lading to populate the data fields in the EXS.

Q1.9 - Can exit summary declarations be lodged at a customs office different from the office of exit?

Yes, provided that that a system is forwarding the EXS is available in the Member States concerned.

In any event, there seems to be little benefit for the ocean carrier in this. The Customs office of exit would still be responsible for the risk assessment and for release (or not) of the cargo for loading/exit, so an ocean carrier would want to be connected to that office in any case. The ocean carrier will for other reasons already have a close relationship with the Customs office of exit (manifest filing etc.), so establishing a connection to an office of lodgement (perhaps in an landlocked country in the EU) solely for the purpose of filing an EXS may not be a resource effective decision.

Q1.10 - Is the last EU port of call always the office of exit?

No. The last EU port of call is the customs office of exit only for goods loaded to the vessel in that port.

This is also the case for vessels with ports of call outside of the Community, i.e. the office of exit is the EU port of loading of the goods to the vessel that is to carry them out of the Community, *even if* the vessel is to call at subsequent Community ports before finally leaving the customs territory of the Community.

Q1.11 - Must FREIGHT REMAINING ON BOARD (FROB) for carriage to other ports, inside or outside of the Community, be included in an EXS?

No. The requirement for EXS lodgement applies only to cargo loaded at that EU port. FROB brought into the Community, and cargo loaded at previous Community ports, need not be declared on departure from any subsequent EU port or from the final EU port of call. (See the previous Q. 1.4 and Q1.10).

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Q1.12 - Is an EXS required at the last Community port of call if no containers will be loaded there, e.g. a vessel calls only to unload containers?

No. The office of exit is the EU port at which the containers were loaded aboard the vessel. See previous Q1.10 & 1.11.

Q1.13 - Do EMPTY CONTAINERS have to be declared in an exit summary declaration?

Shipper-owned empty containers that are being transported pursuant to a contract of carriage shall be treated in the same way as other cargo and thus be covered by an EXS.

Carrier repositioned empty containers may continue to be reported to Customs as is done today at loading and are not to be covered by an EXS.

Q1.14 - Will shipment of EMPTY ROLL TRAILERS be considered the same as empty containers, i.e. only to be covered by an EXS if transported under a contract of carriage?

Yes. Roll trailers would fall under the category "means of road, rail, air, sea and inland waterway transport"**.** Such means of transport will need to be covered by an EXS only if they are to be carried under a transport contract.

Q1.15 - How is TRANSHIPMENT CARGO to be handled?

This will depend on the type of transhipped cargo:

(1) Inward non-Community goods to be transhipped in a port in the EU will have been covered by an ENS (ENS) prior to arrival (prior to vessel loading for deep sea containerized maritime shipments) in the Community and will be in temporary storage.

Where such goods are loaded to another vessel, *for carriage to a destination outside of the customs territory of the Community, i.e. are to be re-exported from the Community,* at the same port within 14 working days after arrival, no exit summary declaration is required, provided that there has been no change to the supply chain information (e.g. consignee, destination) declared in the ENS. Local arrangements for request for release from temporary storage to/by the customs authorities will continue to apply.

If, however, the transhipped cargo for re-export "sits" for more than 14 days in the transhipment port, or the supply chain information has changed, an exit summary declaration (EXS) must be lodged for that cargo prior to loading.

Where such goods are loaded to another vessel for direct carriage to another EU port or ports, i.e. without any intervening call at a non-EU port, no exit summary declaration is required, whatever the length of time in temporary storage. Once again, local arrangements for request for release from temporary storage to/by the customs authorities will continue to apply.

(2) For outward goods (i.e. Community goods previously covered by an export declaration at the original EU load port from which they have been carried and are unloaded at another EU port for transhipment to the vessel which will carry them out of the Community), rhe exemption for goods re-exported within 14 working days applies, too.

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Q1.16 – What happens if the vessel is to call at a control type I or free zone within the Community to load cargo? Do the same rules apply?

Yes. The present freedom from customs formalities, particularly for storage and transhipment, is seen by the Community as a 'security loophole', and the requirements for ENSs and exit summary declarations will apply to cargo brought directly into/out of free zones from/to ports outside of the customs territory of the Community. The same deadlines for lodging the EXS also apply.

As in other cases, goods leaving the Community covered by a customs declaration (full or simplified), via a free zone will not require an EXS. An EXS will, however, be required when goods not covered by a customs declaration are brought out of free zone, e.g. for goods transhipped in the free zone (i.e. direct re-export from free zone). The exemption for transhipment after short term storage (See Q1.15 (1) above) also applies to free zones.

Q1.17 - Will EXS replace the export manifest filing? If not, what about the relationship between EXS and export manifest?

The EXS will not replace the traditional export manifest filing in each load port common to many EU Member States.

However, a national Customs administration may waive the requirement to lodge an EXS provided that the export manifest for those shipments contains the relevant EXS data. Such a waiver would be pursuant to national Customs legislation.

A national Customs administration could instead, again pursuant to national legislation, require that the export manifest includes a reference to an EXS, where applicable, in order to establish the relationship between the manifest and the EXS. Such a reference could be the container number, but could also be Customs' registration number of the EXS or - - in the case of non Community goods in short term transhipments - the registration number (the so-called MRN) of the ENS.

Q1.18 - Are exit summary declarations and export manifests to be lodged electronically?

EXS must be submitted electronically, or may be replaced by a notification to the customs authorities and access to the declarants computer system, provided that the necessary information is included. How, i.e. to what system, EXS are to be lodged in each Member State is a matter for the individual customs authorities themselves. (See Q 1.19 below).

It is, as noted above, possible that some Member States may allow EXS to be lodged as part of an electronic export manifest, via port inventory systems. Export manifests are outside the Community legislation and are instead regulated by national legislation. Today, several Member States continue to use paper export manifests, but these Member States may at some point introduce legislation requiring the submission of manifests electronically.

Q1.19 - How is the ocean carrier's computer system to be connected to the customs office of exit -- through the internet or any other special connection? Is it necessary for the carrier's system to be connected to all Customs offices of exit in EU ports? Or will there be a single receiver for all EU EXS filings?

A single pan-European repository for the lodging of EXS does not exist. Instead, the EXS must be lodged electronically to the customs office of exit, via whatever system is established by the individual EU Member States.

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There is a widely held – but incorrect - belief that the Export Control System (ECS) must be used for exit summary declarations (EXS) as well as for export declarations. However, further in Section 5 below, ECS is a message exchange system between Member States, not a data capturing system. Export declarations must be lodged with the individual Member States own export systems, and the data for any exchanges of messages then extracted from those systems using ECS. What is more, ECS need only be used where more than one Member State is involved. EXS, however, must be lodged to the office of exit, and while the ECS message system may be used to provide for the 'office of lodgement' facility, whereby it is lodged elsewhere and forwarded to the customs office of exit (See Q1.9), the lodgement of EXS is likely almost invariably to be direct to the customs office of exit – in particular if it is done by an ocean carrier. It is therefore highly probable that Member States with existing, well established declaration capture and processing systems will simply require EXS to be lodged to those systems, in accordance with national technical specifications, formats, connections, etc. It is immaterial to ocean carriers – for the purposes of lodging EXS - whether those national systems are part of the wider ECS system or are simply just national communication channels, such as the United Kingdom's CHIEF system.

Consequently, ocean carriers that are to take responsibility for lodging EXS will need to establish the necessary IT interfaces with those national Customs administrations that will be acting as the Customs office of exit on their vessel rotations. The interfaces with those systems will be laid down in national technical specifications, including the MIGs (Message Implementation Guides), setting forth how lodgement of EXS must be done in each Member State.

Economic operators are therefore encouraged to obtain the national technical specifications, MIGs and other supporting material for how Member States acting as customs offices of exit will require the lodgement of EXS to be done and in which format etc.

Q1.20 – Does the EXS system cover the act of presenting the goods to Customs and Customs' release of the goods?

Presentation of goods for export and the release of goods for exit are national Customs matters pursuant to national rules. These activities are not covered by the EXS requirements. Nor is the lodging of export manifests, which will also be pursuant to national Customs legislation. (See Q1.17 & 1.18 above)

Q1.21 - If the ocean carrier – for whatever reason - failed to lodge an EXS in time, what will the consequences be?

As is explained in Q1.5 above, there is no legal obligation on any particular party to lodge the EXS. The consequence will normally be that release for loading/exit will simply not be granted.

Article 842d (3) CCIP provides that: "*If the person lodges an exit summary declaration after the deadlines specified in Articles 592b and 592c, this shall not preclude the application of the penalties laid down in the national legislation*". Any such penalties would be imposed according to the national customs legislation of the Member State acting as the customs office of exit.

It should be noted, however, that Article 842d (3) also prescribes that the customs authorities may, in cases where goods for which an EXS is required are presented for export loading without an EXS having been lodged, require the ocean carrier to lodge one immediately.

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Q1.22 – What happens if both the ocean carrier and a third party, e.g. the shipper or a freight forwarder, lodge an EXS for the same goods?

The lack of legal responsibility referred to in Q1.5 and Q1.21 above means, of course, that both the ocean carrier and a third party may file an EXS for the same shipment. This will be a national matter, for the customs authorities to deal with. If there is discrepancy between the two EXS, however, then the consequence may be that the goods will not be released for exit/loading.

2. LODGING OF EXS: DIFFERENT SCENARIOS

Q2.1 - The Community legislation requires that the EXS should be submitted at the office of exit, i.e., the last customs office before the goods leave the Community. What happens if the vessel calls at more than one Community port? Is it necessary to submit an EXS twice, to the port of loading and then a second time to the last port?

No. For maritime traffic, the office of exit is the EU port of loading of the goods to the vessel that is to carry them out of the Community *even if* the vessel is to call at subsequent Community ports. The last port of call in the Community is the office of exit only for goods loaded to the vessel there. (See Q1.10 &1.11 above).

The above also applies if the vessel calls at non-Community ports before calling at the subsequent Community ports. (See Q.2.2 below).

Q2.2. What if a vessel loads at a Community port (e.g. Stockholm), then calls at a non-EU port (e.g. St. Petersburg, Russia) and then calls to load again at another Community port (e.g. Rotterdam)? Is it necessary to submit a new EXS in Rotterdam for the cargo loaded in Stockholm? And/or St Petersburg?

No. Cargo remaining on board the vessel need not be covered by an EXS when the vessel leaves Rotterdam (See Q1.10 above). Any EXS need only be lodged for cargo to be loaded at Rotterdam that requires an EXS, i.e. which is not covered by other forms of customs declaration or benefits from the short term transhipment waiver facility (See Q. 1.15) *N.B. All the cargo on board the vessel will have been covered by an ENS prior to arrival in Rotterdam, as the voyage from St. Petersburg will constitute a new arrival in the Community. This ENS must include cargo loaded in both Stockholm and in St. Petersburg, whether or not for discharge in Rotterdam.*

Q2.3 - Must cargo, e.g., from Russia transported on a feeder vessel to Hamburg to be transhipped onto a vessel destined for Singapore, be covered by an EXS lodged with Hamburg Customs?

In principle, yes, but the short term transhipment waiver facility may apply. The basic rule is that all cargo loaded in Community ports, including in control type I free zone ports, to be brought out of the customs territory of the Community must be covered by a customs declaration, for risk analysis purposes. As this cargo is not EU export, an EXS will be required to be lodged with Hamburg Customs no later than 24 hours before commencement of loading of the cargo to the Singapore bound vessel. If, however, the goods are to be transhipped within 14 days of their arrival in Hamburg, the requirement for an EXS is waived. (See Q1.14 above).

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3. Amendments to EXS

Q3.1 - What information change in the shipment requires a re-submission of the EXS data to the Customs office of exit?

The legal requirement is that the EXS must be complete and accurate.

There are a number of principles regarding what can be amended in the EXS and when the amendment can take place:

- The CC or the CCIP do not restrict what or when amendments can be lodged. However, the particulars concerning the person lodging the EXS, the representative and the customs office of exit should not be amended in order to avoid technical (systems) problems.
- The time limits for the lodging of the EXS do not start again after the amendment since it is the initial declaration that sets them.
- Risk analysis is performed on the basis of the exit summary declaration. Where an amendment is made, risk analysis is performed again with regard to the amended particulars. This will have an impact on the release of the goods only where the amendment is made so shortly before the departure (or – in the case of containerized maritime shipments – the commencement of loading) of the goods, that the customs authorities need additional time for their risk analysis.

Additionally, an amendment request cannot be accepted by Customs if one of the following conditions is met:

- The person lodging the original EXS has been informed that the customs office of exit intend to examine the goods;
- The customs authorities have established that the particulars in question are incorrect;
- The customs office of exit has allowed their removal.

Amendments may be lodged by the same person that lodged the original EXS or its representative. However, amendments cannot be lodged with an 'office of lodgement', only with the customs office of exit so the filer – or its representative – would need to be IT connected to that office.

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4. Release messages

Q4.1 - How will Customs communicate permission to release for exit/load?

This will be up to each individual Customs administration to arrange pursuant to national rules. However, nothing is likely to change from existing practice, where Customs – based on the exit summary declaration, final loading list other export control mechanisms – may have targeted a shipment for inspection at exit and then, after inspection, allow release for exit from the Community.

Q4.2 - Are there DO NOT LOAD messages for maritime cargo covered by EXS?

The Community legislation only explicitly provides for the issuance of Do Not Load (DNL) messages for deep sea containerized cargo to be brought into the customs territory of the Community. If risk is identified by analysis of an EXS, then the customs authorities will advise

the person who lodged the EXS and, where different, the intended ocean carrier, that the goods are not to be released. How this is done will be a matter for each individual customs administration. In reality, a message that the goods cannot be released amounts to a DNL message. As such, the message should be communicated by the Customs office of exit as soon as possible and in no case later than 24 hours after the lodgement of the EXS.

5. Shipsupply

Q 5.1: Does a Spanish Shipsupplier in Algeciras, Spain who wants to deliver to a ship in Tanger, Morocco use electronic export declarations?
Yes, since shipsupply is considered as an export operation for which the ECS system must be used.

Q 5.2: Does a German Shipsupplier who wants to deliver to a vessel, docked in the port of Rotterdam, The Netherlands and heading for New York have to use electronic export declarations? Does the same apply for a Belgium shipsupplier in Antwerpen?
Yes, the delivery of goods on board of a vessel leaving the European Community is considered an export operation regardless in which Member States the Shipsupplier operates in.

Q 5.3: Shipsuppliers supply thousands of different goods, which are all covered by different CN/HS Codes. Do they have to indicate all the hundreds of different individual CN Codes for their export declaration?
Annex 30A, as included in the implementing provisions of the Customs code by Regulation 1875/061 provides that "a specific simplified goods nomenclature will be published by the Commission" in respect of Exit ship and aircraft supplies summary declarations.The Guidelines on Specific Commodity codes for air and ship supplies (21.09.2007 TAXUD/1401/2007 Final – EN) spells out that the following codes, as defined in Article 24 of Regulation 1917/2000, can be used:
– 99302400: goods from CN chapters 1 to 24;
– 99302700: goods from CN Chapter 27;
– 99309900: goods classified elsewhere.
However, use of these codes is not sufficient where export refunds and excise goods are involved.

Q 5.4: Do Shipsuppliers, in addition to the three CN Codes have to make a goods description?
Annex 30A, as included in the implementing provisions of the Customs code by Regulation 1875/061 provides that goods description for summary declarations is possible. It is "a plain language description that is precise enough for Customs services to be able to identify the goods. General terms (i.e. “consolidated”, “general cargo” or “parts”) cannot be accepted. A list of such general terms was published by the Commission providing guidelines on acceptable and unacceptable terms for the description of goods for exit and entry summary declarations as spelled out in the document TAXUD/1402/2007 Final-EN of the 21.09.2007. A loading list, giving a detailed description as such can fulfil this requirement.

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Annex III

OPEN EXPORT MOVEMENTS – REASONS AND SOLUTIONS

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Introduction:

A certain number, but certainly not the major part of the open movements, is due to technical problems. Messages are sent but never arrive etc. For example, it seems that if a Member State does not run the latest version of ECS or has not updated his system, this Member State is not able to send or receive a certain number of messages. This has as a consequence that other Member States involved even do not receive error messages, messages sent from another Member State simply disappear in the system.

Another problem causing a lot of open movements is the human factor, not all customs officers or traders know how to handle the system correctly.

There is therefore a need to teach and train all the people dealing with customs IT systems (not only ECS). It is also very important to inform all the people involved somewhere in the customs procedures about the changes and how to handle the new procedures (e.g. a truck driver not knowing what to do with an EAD will cause open movements).

The following reasons why movements may remain open in ECS have been identified. In order to improve the rate of non-closed movements the following solutions are available.

1. A movement started in ECS, the goods have not left the Community:

   a) For practical reasons the exporter stores the goods, for example in a port, until the ship arrives, or the consignee needs the goods (on demand traffic).

   An inquiry procedure is started which may lead to a cancellation of the export declaration → Non-Community goods will stay under temporary storage, and a new export declaration is needed for the definitive exportation.

   b) After an export procedure started, the contract is cancelled for whatever reasons; non-Community goods stay under temporary storage until the exporter finds an other buyer, or takes the goods back and has to cancel the export declaration.

   The exporter should inform the customs office of export.

   The customs office of exit cancels the export declaration→ non-Community goods stay under temporary storage, and a new export declaration is needed for the definitive exportation.

   The export declaration shall also be cancelled if the exporter takes back his goods.

   c) A contract could also be suspended for a certain time period, and depending on the nature of the goods, these stay in a port or airport.

   The exporter should inform the customs office of export.

   If the time period exceeds the possible time limit (150 days) for the export, the export declaration procedure should be cancelled.

d) The goods are stolen.

The exporter informs the customs office of export → the export declaration has to be cancelled.

2. A movement started in ECS, the goods have left the customs territory of the Community, but the movement was neither closed in ECS nor on paper:

a) The goods were not presented to customs;

b) The goods were presented to customs, but no message was sent;

c) The goods were presented to customs, an arrival was notified in a paper based procedure, but the customs office of exit was not informed about the exit of the goods;

d) The goods were presented to customs, the arrival was notified in ECS, but the customs office of exit was not informed about the arrival and/or exit of the goods, for example because different offices were competent.

The customs office of export shall, on request of the exporter, start an inquiry procedure. If for whatever reasons the customs office of exit is not able to confirm the exit, the customs office of export may use the possibility of alternative proof to close the movement.

3. A movement started in ECS, but was closed only on paper at the customs office of exit:

A movement started in ECS should always be closed in ECS.

a) The notification of arrival is not received by the customs office of exit;

See introduction,

b) The customs office of exit can not read the barcode.

The barcode shall be keyed in manually.

4. A movement started in ECS and was followed by transit/use of single transport contract but not closed in ECS:

The transit declaration is lodged without knowledge about the existence of the ECS movement.

A reference to the export declaration should be indicated in box 40 (transit document)

STC: see No 12 below

5. A movement started in ECS, and was closed paper based on alternative proof at the customs office of export but not closed in ECS.
6. A movement started in ECS, and was closed in ECS by the customs office of exit, but message IE518 is lost and has never reached the office of export.
7. A movement started in ECS, however, after a diversion, message IE503 was never received by the actual customs office of exit, the movement was only closed on paper.

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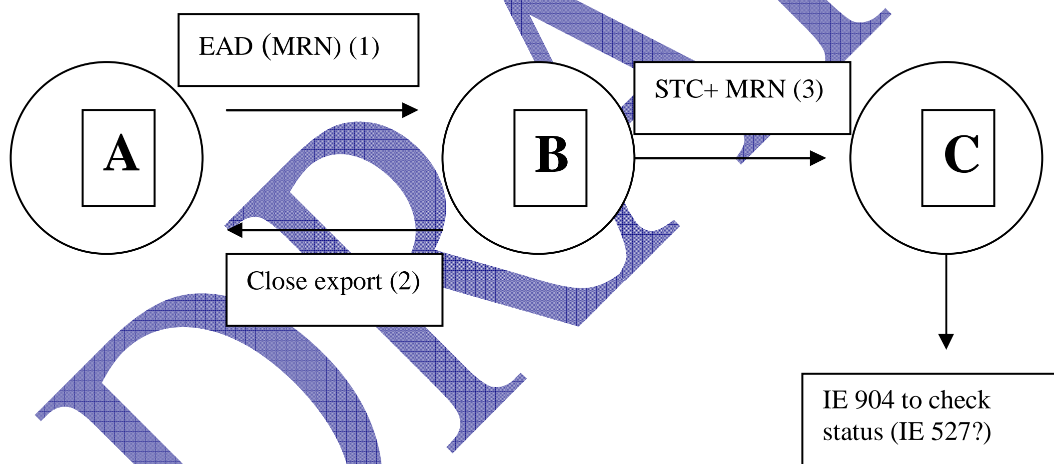
8. A movement started in ECS and was diverted to another customs office of Exit (IE503 successfully received), the movement was only closed on paper at the customs office of exit.
9. A movement started in ECS, and was diverted to another customs office of exit (IE503 successfully received) and closed in ECS, but message IE518 is lost and has never reached the customs office of export.
10. A movement arrives in another country (country B) than the declared customs office of exit (country A). The declared customs office of exit (in country A) will receive a message IE524. If there is a diversion after that to the declared customs office or country of exit in country A, it is impossible to register the exit because the reception of message IE524 gives the declaration a final status. In this case it is not possible to register the exit in country A.
11. The arrival is registered at the declared customs office/country (country A) of exit. After this registration there is a diversion to another country (country B) and the declared customs office of exit will receive an IE524 (country A). After that there is a diversion again to the first office or country of exit (country A). It is impossible to register the exit because the reception of message IE524 gives the declaration a final status. In this case it is not possible to register the exit in country A.
12. Single transport contract

    In a paperless environment the stamp on the single transport contract/transport document should be replaced by the reference to the MRN of the export declaration.



Goods shipped under a STC to the office of physical exit should be accompanied by a document on which the MRN and the barcode are put. The message IE904 (IE 527) can be used to check the status of the goods (status request answered automatically by IE905).

In practice it is recommended to print the MRN together with the barcode on a sticker, and paste this sticker on the document accompanying the goods to the physical office of exit. The sticker is used in the same way that the customs stamp is used nowadays.

(In case the customs office of export is in the same country as the customs office of exit it is important that the MRN and the messages are generated via ECS, otherwise this solution does not work).

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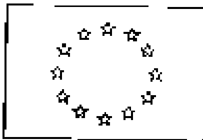

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Working paper

CUSTOMS CODE COMMITTEE

Section for General Customs Rules

Duly justified good reasons for the acceptance of a customs declaration at a customs office other than that normally responsible

Attached is the final version of this document, as requested by the delegations at the meeting of the Customs Code Committee (Section for General Customs Rules) on 3 October 1994, containing a more detailed list of criteria to be applied in order to ensure the uniform application of Article 791(1) of the Customs Code implementing provisions.

This version would appear to reflect current thinking on the matter.

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INTRODUCTION

Attached are two lists, one of cases in which it is considered that "duly justified good reasons" within the meaning of Article 791(1) of the Customs Code implementing provisions exist (List A) and the other of cases where such reasons cannot be invoked (List B).

These lists are based on cases known to Commission departments. Delegations are asked to submit other cases which should be added to the lists.

Customs authorities need to display a certain firmness in applying the rules of competence laid down by the Code. However, since common sense suggests that a degree of flexibility is appropriate in some cases, an export declaration lodged with a non-competent customs office on the basis of Article 791 should not necessarily be refused systematically, or on the first occasion. Rather, the opportunity should be taken to point out the need to comply with the rule laid down in Article 161(5).

In the case of one-off transactions, or where a claim of unfamiliarity with the Community legislation can be substantiated, it may be appropriate to accept a declaration. On the other hand, where there is repeated non-compliance and the operator cannot give valid reasons for ignoring reminders from a customs office, an export declaration lodged with one of the customs offices referred to in Article 791(1) may be refused.

However, in the interests of educating users interim measures may need to be taken to enforce the rules. These may include:

- designating another customs office under Article 161(5), i.e. where goods are loaded and/or unpacked;
- stricter supervision (under Article 791(1), second paragraph).

The whole aim of any measure taken must be to persuade the declarant that he has an interest in carrying out export formalities (or having them carried out) at the customs office responsible for the place in which he is established.

LIST A

Duly justified good reasons

In general: "Duly justified good reasons" exist inter alia where there is a situation which could not have been foreseen in which the application of the general rule in Article 161(5) of the Code would require an economically unreasonable effort by the exporter.

1. Where goods are sent to a destination in the Community and there is a change in the contract after they leave the place of loading, as a result of which they have to be exported, the export declaration may be accepted by the customs office by which the goods leave the customs territory of the Community.

2. Where an exporter who is authorized to use the local clearance procedure presents an administrative or commercial document in place of copy 3 of the SAD for the first time to the customs office of exit, which the latter cannot accept, a new export declaration must be lodged with that office.

3. Under the second and third subparagraphs of Article 793(4), the customs office of exit may accept a declaration in respect of goods not wrongfully or repeatedly in excess or goods actually presented, provided this does not undermine application of the relevant legislation.

4. Where the customs office responsible for supervising the place where the exporter is established is at some distance away and in the wrong direction, rendering the application of Article 161(5) uneconomic, the declaration may be accepted by the first customs office on the route from the place of establishment to point of exit from the customs territory of the Community.

LIST B

Cases in which duly justified reasons do not exist

In general: Duly justified reasons do not exist in situations which can be foreseen or where the exporter does not have to make an economically unreasonable effort to carry out the formalities at the customs office referred to in Article 161(5) of the Code.

Where acceptance of the export declaration by a different office from that normally responsible would affect the customs authorities' ability to carry out physical inspections of the goods, e.g. because of their packing or loading, duly justified good reasons cannot be invoked.

1. The fact of obtaining a significant financial advantage by lodging the export declaration in a Member State other than that in which the exporter is established (for agricultural goods with refunds) does not constitute a duly justified good reason.

2. Where used vehicles are loaded onto a lorry at several places in a Member State to be sent to another Member State from which they are exported, duly justified good reasons do not exist and the export declaration must be lodged at the customs office where the last car is loaded onto the lorry.

3. The fact that the customs office responsible under Article 161(5) of the Code is closed when the goods leave does not constitute a duly justified good reason, since exporters must organize their affairs so as to take account of the normal working hours of the customs authorities.

4. The fact that an exporters sells his goods "ex works" and it is the foreign buyer who is responsible for transport does not give the buyer or the transport company representing him the right to decide on the place of customs clearance. This does not constitute a duly justified good reason.

5. The mere fact that an exporter/declarant is established in another Member State and the goods are transported across a substantial portion of the customs territory of the Community is not a duly justified good reason.

6. Where an exporter does not want his Community supplier to know the subsequent destination of the goods and transport of the goods to his establishment would be disadvantageous on grounds of cost, he should go through an intermediary based in the supplier's Member State. Duly justified reasons may not be invoked where the goods are dispatched from the supplier's establishment for declaration at an office of exit (e.g. a consignment from Italy may not be declared for export after crossing the border between Switzerland and Germany).

7. Grouped storage on the premises of forwarding/transhipment firms of goods for export already packaged for sea transport, ordered from different suppliers (who are not sub-contractors for the purposes of Article 789 of the Customs Code implementing provisions), bypassing the exporter's establishment, does not constitute a duly justified good reason within the meaning of Article 791(1) of the implementing provisions as the exporter could have foreseen the situation. The solution would be for the forwarding/transhipment firm to undertake the final packaging itself.

SCENARIOS

This document contains scenarios explaining the obligations on advance cargo information resulting from the implementation of Regulation (EC) No 648/2005 and how to fulfill them. However, users are reminded that the Customs Code and the Customs Code Implementing Provisions are the only authentic legal basis.

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I. The customs office of exit is the last customs office before the goods are taken out of the EU. Article 793(2) (b) CCIP does not apply.

I.A Office of export and office of exit are the same

Scenario 1 The goods are taken out of the EU by road. The customs office at which the declaration is lodged (customs office of export) is also the last customs office of exit before the goods leave the EU.

Example: The customs office of export is Terespol, Poland. The customs office of exit, being the last customs office before the goods are taken out of the EU is Terespol, Poland.

1.1 The goods are taken out of the EU by road, so the export declaration must be lodged at the office of export at least one hour prior to departure from the customs office of exit, which in this scenario is the same as the customs office of export.

1.2 Upon acceptance of the export declaration, the customs office of export (Terespol, Poland) will issue a registration number (MRN)[1], perform risk analysis, release the goods following possible verification and supervise the exit out of the EU.

1.3 Having supervised the exit of the goods the customs office of export certifies the exit to the exporter/declarant.

Scenario 2 The export declaration is lodged at a customs office (customs office of export), which is also the customs office supervising the airport where the goods are loaded on an aircraft for direct transport to a destination outside of the EU.

Example: The customs office of export is Madrid, Spain. The customs office of exit is Madrid, Spain. The goods are loaded in Madrid, Spain and taken out of the EU from Madrid airport on a direct flight to Mexico City, without an intervening stop in the EU.

2.1 The goods are taken out of the EU by air, so the export declaration must be lodged at the customs office of export (Madrid) at least 30 minutes prior to departure from an airport in the EU, which in this scenario is Madrid as well. The customs office of exit is also Madrid.

2.2 Upon acceptance of the export declaration, the customs office of export (Madrid) will issue a registration number (MRN)[1] perform risk analysis, release the goods following possible verification and supervise the exit out of the EU.

2.3 Having supervised the exit of the goods the customs office of export certifies the exit to the exporter/declarant.

<u>Scenario 3</u> **The export declaration is lodged at a customs office (customs office of export), which is also the customs office supervising the port where the goods are loaded on a vessel for direct transport to a destination outside of the EU.**

The deadline for lodging the export declaration at the customs office of export depends on the circumstances and is:

(a) for containerised cargo, other than where point (c) or (d) applies, at least 24 hours before the goods are loaded onto the vessel on which they are to leave the customs territory of the Community;

(b) for bulk/break bulk cargo, other than where point (c) or (d) applies, at least four hours before leaving the port concerned;

(c) for movement between the customs territory of the Community - with the exception of the French overseas departments, the Azores, Madeira or the Canary Islands and Greenland, the Faeroe Islands, Ceuta, Melilla, Norway, Iceland, ports on the Baltic Sea, the North Sea, the Black Sea, the Mediterranean or all ports of Morocco, at least two hours before leaving the port concerned;

(d) for movement, in cases other than those covered under point (c), between the French overseas departments, the Azores, Madeira, the Canary Islands and territories outside the customs territory of the Community, where the duration of the voyage is less than 24 hours, at least two hours before leaving the port concerned;

(e) in the case of inter-modal transportation, where goods are transferred from one means of transport to another for transport out of the customs territory of the Community, the deadline for submission of the declaration corresponds to the deadline applicable to the means of transport leaving the customs territory of the Community, as specified in CCIP Article 592b; and

(f) in the case of combined transportation, where the active means of transport crossing the border is only transporting another active means of transport, the deadline for the lodging of the declaration corresponds to the deadline applicable to the active means of transport crossing the border, as specified in Article 592b.

Example applicable to situation 3.1 (a):

The customs office of export is Hamburg, Germany. The customs office of exit is Hamburg, Germany. Containerized goods are loaded in Hamburg and taken out of the EU on a direct service to New York, without an intervening call in the EU.

3.1 The export declaration must be lodged to the customs office of export (Hamburg) at least 24 hours before the goods are loaded onto the vessel on which they are to leave the EU.

3.2 Upon acceptance of the export declaration, the customs office of export will issue a registration number (MRN)[1], perform risk analysis, release the goods following possible verification and supervise the exit out of the EU.

3.3 Having supervised the exit of the goods the customs office of export certifies the exit to the exporter/declarant.

I.B Office of export and office of exit are not the same

Scenario 4 The goods are taken out of the EU by road (or by rail). The customs office at which the export declaration is lodged is not the same as the customs office of exit before the goods leave the EU. Customs office of export and customs office of exit are in a different Member State.

Example: The customs office of export is Berlin, Germany, the customs office of exit is Terespol, Poland. The goods are transported from Berlin, Germany to Terespol, Poland and taken out of the EU by road (or by rail).

4.1 If the goods are taken out of the EU by road, the export declaration must be lodged at the customs office of export (Berlin) at least one hour prior to departure from the customs office of exit (Terespol, Poland). If the goods are taken out of the EU by rail the export declaration must be lodged at the customs office of export (Berlin) at least two hour(s) prior to departure from the customs office of exit (Terespol, Poland).

However, it is the office of export (Berlin) which is responsible for risk analysis, including risk analysis for safety/security purposes, not the office of exit. It is impossible for the office of export to perform this task if the goods are no longer under its supervision. The export declaration must be lodged in accordance with the existing national or local arrangements and procedures for the export declaration at the place of export, which is Berlin. The goods cannot be removed from the place where they must be available for control by the office of export until that office grants release.

In practice, the customs declaration must, therefore, be lodged far earlier than the deadline of one hour (in case of rail transport two hours) prior to departure from the office of exit at Terespol, as time must be allowed both for risk analysis and any control by the office of export in Berlin and for transport to Terespol. In fact, in such cases, the deadline will invariably automatically be met simply by compliance with the export procedure in Berlin.

4.2. The customs office of export will issue a registration number (MRN) upon acceptance of the declaration, perform risk analysis and, following possible verification, release the goods by issuing an EAD (export accompanying document) to the declarant. Where authorised, the declarant may print the EAD from his/her computerized system.

On release of the goods, the customs office of export will transmit the necessary particulars of the export movement to the declared customs office of exit using the “Anticipated export record” message.

4.2a At the latest when the goods are unloaded from the first means of transport (truck) and handed over to the next holder of the goods (terminal operator), the holder of the goods (trucking company) must advise the next holder of the goods of the unique consignment reference number or the transport document reference number, and the number of packages or, if containerized, the equipment identification number and the MRN. At the latest upon handover of the goods, the person to whom the goods are handed over must record the advice provided by the immediately preceding holder of the goods. The same procedure then applies when the goods are handed over to the carrier that will bring the goods out of the EU.

4.3 The EAD is to be presented at the customs office of exit. Alternatively, the customs authorities may require notification of the arrival of the goods at the customs office of exit to be communicated to them electronically. In this case it is not necessary for the export accompanying document to be physically presented to the customs authorities.

4.4 The customs office of exit will satisfy itself that the goods presented correspond to those declared and supervise the exit of the goods out of the EU.

4.4a The carrier that will bring the goods out of the EU must notify the exit of the goods to the customs office of exit by providing the information referred to in point 4.2a, unless this information is available to the customs authorities through existing commercial, port or transport systems or processes. Wherever possible this notification should form part of existing manifest or other transport reporting requirements.

4.4b The customs office of exit will forward an “Exit results” message to the customs office of export at the latest on the working day following the day the goods left the customs territory of the Community. In cases justified by special circumstances the customs office of exit may forward that message at a later date.

4.5 Upon receipt of the exit results message, the customs office of export will certify the exit to the exporter/declarant.

4.6 Where, after 90 days from the release of goods for export, the customs office of export has not received the “Exit results” message, the customs office of export may, where needed, request the exporter or declarant to indicate the date at which and the customs office from where the goods have left the customs territory of the Community.

4.7 The exporter or declarant may, following this request being made or on his own initiative, inform the customs office of export that the goods have left the customs territory of the Community indicating the date at which and the customs office of exit from where the goods have left the customs territory of the Community and request from

the customs office of export that the exit be certified. In this case, the customs office of export will request the "Exit results" message from the customs office of exit, which must respond within 10 days.

4.8 Where the customs office of exit does not confirm the exit of the goods within this time limit, the customs office of export will inform the exporter or declarant who may provide to the customs office of export evidence that the goods have left the customs territory of the Community. Where it has received satisfactory evidence, the customs office of export will inform the declared customs office of exit.

4.9 Where the customs office of export has, after a period of 150 days from the date of release of the goods for export, received neither an "Exit results" message from the customs office of exit nor satisfactory evidence that the goods have left the customs territory of the Community, the customs office of export may consider this as information that the goods have not left the customs territory of the Community and invalidate the export declaration. The customs office of export will inform the exporter or declarant and the declared customs office of exit of the invalidation of the export declaration.

4.10 The same rules apply where goods are brought out of the EU by inland waterways (e.g. the Danube).

Scenario 5 The goods are taken out of the EU by air. They are trucked to an airport in the EU where they are loaded on an aircraft for direct transport to a destination outside of the EU. The customs office at which the export declaration is lodged (customs office of export) is not the same as the customs office which supervises the airport from which the goods are taken out of the EU (customs office of exit) and they are in a different Member State.[1]

Example: The customs office of export is Brussels, Belgium. The goods are trucked from Brussels to Paris CDG, France. At Paris CDG the goods are loaded onto a direct air service to New York.

5.1 The deadline for inter-modal transportation applies, i.e. the deadline corresponding to the means of transport by which the goods are taken out of the EU (air). The export declaration therefore must be lodged 30 minutes prior to departure from an airport in the EU. In this example this can only be Paris CDG, France.

However, it is the office of export which is responsible for risk analysis, including risk analysis for safety/security purposes, not the office of exit. It is impossible for the office of export to perform this task if the goods are no longer under its supervision. The export declaration must be lodged in accordance with the existing national or local arrangements and procedures for the export declaration at the place of export, which is Brussels. The goods cannot be removed from the place where they must be available for control by the office of export until that office grants release.

In practice, the customs declaration must, therefore, be lodged far earlier than the deadline of 30 minutes prior to departure from Paris, which is the office of exit: time must be allowed not only for risk analysis and any control by the office of export in Brussels, but also for transport to Paris and for compliance with export loading procedures there.

In fact, in such cases, the deadline will invariably automatically be met simply by compliance with the export procedure at the customs office of export.

5.2 to 5.9 are the same as 4.2 to 4.9. In the express operator environment, however, the trucking company, terminal operator and carrier out of the EU may be one and the same, so 4.2a will not apply.

Scenario 6 The goods are taken out of the EU by sea. They are trucked to a port in the EU where they are loaded on a vessel for direct transport to a destination outside of the EU. The customs office at which the export declaration is lodged (customs office of export) is not the same as the customs office which supervises the port from which the goods are taken out of the EU (customs office of exit) and they are in a different Member State.

Example: Customs office of Export is Brussels, Belgium. A sea container is trucked from Brussels, Belgium to Le Havre, France. At Le Havre the carrier takes over the container and loads it onto a direct service to New York.

6.1 The deadline for inter-modal transportation applies, i.e. the deadline corresponding to the means of transport by which the goods are taken out of the EU (containerised ocean transport). The export declaration therefore must be lodged at least 24 hours before the goods are loaded onto the vessel on which they are to leave the customs territory of the Community. In this example this can only be Le Havre.

However, it is the office of export which is responsible for risk analysis, including risk analysis for safety/security purposes. It is impossible for the office of export to perform this task if the goods are no longer under its supervision. The export declaration must be lodged in accordance with the existing national or local arrangements and procedures for the export declaration at the place of export, which is Brussels. The goods cannot be removed from the place where they must be available for control by the office of export until that office grants release.

In practice, the customs declaration must, therefore, be lodged far earlier than the deadline of 24 hours prior to loading to the vessel in Le Havre, which is the office of exit; time must be allowed not only for risk analysis and any control by the office of export in Brussels, but also for transport to Le Havre and compliance with export loading requirements there.

In fact, in such cases, the deadline will invariably automatically be met simply by compliance with the export procedure at the customs office of export.

6.2 to 6.9 is the same as 4.2 to 4.9

Scenario 7 The goods are taken out of the EU by sea. They are carried onboard a truck that is then loaded on a vessel for direct transport to a destination outside of the EU. The customs office at which the export declaration is lodged (customs office of export) is not the same as the customs office which supervises the port from which the goods are taken out of the EU (customs office of exit) and they are in a different Member State.

Example: Customs office of Export is Brussels, Belgium. A truck carries the goods from Brussels, Belgium to Lisbon, Portugal. At Lisbon the truck goes onboard a direct ferry service to Morocco.

7. 1. The deadline for combined transportation applies i.e. the deadline corresponding to the active means of transport crossing the border, which is the ferry. The export declaration therefore must be lodged at least two hours before the vessel is scheduled to leave the port in the customs territory of the Community i.e. Lisbon.

However, it is the office of export which is responsible for risk analysis, including risk analysis for safety/security purposes. It is impossible for the office of export to perform this task if the goods are no longer under its supervision. The export declaration must be lodged in accordance with the existing national or local arrangements and procedures for the export declaration at the place of export, which is Brussels. The goods cannot be removed from the place where they must be available for control by the office of export until that office grants release.

In practice, the customs declaration must, therefore, be lodged far earlier than the deadline of 2 hours before the vessel is scheduled to leave the port in Lisbon, which is the office of exit: time must be allowed not only for risk analysis and any control by the office of export in Brussels, but also for transport to Lisbon and compliance with export loading requirements there.

In fact, in such cases, the deadline will invariably automatically be met simply by compliance with the export procedure at the customs office of export.

7.2 to 7.9 is the same as 4.2 to 4.9

Scenario 8 The goods are loaded on a feeder aircraft at an airport in the EU and flown to another airport in the EU where they are transshipped onto a main haul

flight which takes them out of the EU. The export declaration is lodged at the customs office (customs office of export) supervising the airport where the goods are loaded onto the feeder aircraft. The simplified transit procedure provided for under Article 445 CCIP is not used. (Use of the simplified transit procedure under Article 445 CCIP: see scenario 17)

Example: The export declaration is lodged at the customs office of Helsinki, Finland. The goods are taken over by the carrier in Helsinki, and subsequently moved by air to London, UK. In London they are transshipped onto a main haul flight for direct transport to New York.

8.1 Goods moving on board an aircraft operating between airports in the EU without any intervening stop outside the EU, maintain their Community status. The customs office of exit, therefore, is at the airport where the goods are transshipped onto a main haul flight (London), because this is the last airport before they leave the EU.
As the goods are taken out of the EU by air, the export declaration must be lodged at the customs office of export (Helsinki) at least 30 minutes prior to departure from an airport in the EU. Departure must be read as departure out of the EU. The export declaration therefore must be lodged at least 30 minutes before the goods are loaded onto the main haul flight in London.

However, it is the office of export which is responsible for risk analysis, including risk analysis for safety/security purposes. It is impossible for the office of export to perform this task if the goods are no longer under its supervision. Therefore the export declaration must be lodged in accordance with the existing national or local arrangements and procedures for the export declaration at the place of export, which is Helsinki. The goods cannot be removed from the place where they must be available for control by the office of export until that office grants release.

In practice, the customs declaration must, therefore, be lodged far earlier than the deadline of 30 minutes prior to loading onto the aircraft in London, which is the office of exit: time must be allowed not only for risk analysis and any control by the office of export in Helsinki, but also for transport to London and compliance with export loading requirements there.

In fact, in such cases, the deadline will invariably automatically be met simply by compliance with the export procedure at the customs office of export.

8.2 to 8.9 are the same as 4.2 to 4.9. In the express operator environment, however, the feeder airline, terminal operator and airline carrier bringing the goods out of the EU may be one and the same, so 4.2a will not apply.

<u>Scenario 9</u> A container is loaded on a feeder vessel at a port in the EU and carried to another port in the EU where it is transshipped onto a main haul vessel which takes it out of the EU. The feeder vessel has status as an authorized regular shipping service[2], in accordance with Articles CCIP 313a and 313b. The export declaration is lodged at the customs office (customs office of export) supervising the port where the goods are loaded onto the feeder vessel. The simplified transit procedure provided for under Article CCIP 448 is not used. (Use of the simplified transit procedure under Article CCIP 448: see scenario 18)

Example: The export declaration is lodged at the customs office of Antwerp, Belgium. The goods are taken over by the carrier in Antwerp, Belgium and subsequently moved on board a ship with a status of an authorized regular shipping service to Rotterdam, the Netherlands, where they are transshipped onto a main haul vessel which takes them to New York.

9.1 Goods moving on an authorised regular shipping service vessel maintain their Community status. The customs office of exit, therefore, is at the port where they are transshipped onto the main haul vessel (Rotterdam, the Netherlands) because this is the last port before they leave the EU.

The export declaration must be lodged at the customs office of export at least 24 hours before the goods are loaded onto the vessel on which they are to leave the customs territory of the Community, i.e. on the main haul vessel in Rotterdam, the Netherlands.

However, it is the office of export which is responsible for risk analysis, including risk analysis for safety/security purposes. It is impossible for the office of export to perform this task if the goods are no longer under its supervision. The export declaration must be lodged in accordance with the existing national or local arrangements and procedures for the export declaration at the place of export, which is Antwerp. The goods cannot be removed from the place where they must be available for control by the office of export until that office grants release.

In practice, the customs declaration must, therefore, be lodged in Antwerp in time to allow not only for risk analysis and any control by the office of export in Antwerp, but also for transport to Rotterdam and compliance with export loading requirements there. Even in this example, this will probably require lodgment of the export declaration in Antwerp earlier than the deadline of 24 hours prior to loading onto the vessel in Rotterdam, which is the office of exit.

9.2 to 9.9 is the same as 4.2 to 4.9

II. The vessel or aircraft leaves the EU temporarily. Article 793(2) (b) CCIP does not apply.

Scenario 10 **Goods are loaded on a feeder vessel that does not have status as an authorized regular shipping service vessel at a port in the EU and carried to another port in the EU where they are transshipped onto a main haul vessel for transport to a destination outside of the EU. The export declaration is lodged at the customs office (customs office of export) supervising the port where the goods are loaded onto the feeder vessel.**

Example: The export declaration is lodged to the customs office of Antwerp, Belgium. The goods are taken over by the carrier in Antwerp, Belgium, and subsequently moved on a feeder vessel to Rotterdam, the Netherlands. The feeder vessel does not have status as an authorized regular shipping service vessel. In Rotterdam, the goods are transshipped onto a main haul vessel which takes them to New York.

10.1 Goods moving on board a vessel without status as an authorized regular shipping service vessel do not maintain their Community status. The customs office of exit, therefore, is the customs office supervising the port where they were loaded on the feeder vessel (Antwerp, Belgium), because this is where the goods leave the EU for the first time.

As the goods are consigned to New York, the export declaration must be lodged to the customs office of export in Antwerp at least 24 hours before loading to the vessel on which the goods will first leave the EU i.e. when they are loaded to the feeder vessel.

10.2 In this example, as the customs office of export and the customs office of exit are the same (they are both Antwerp, Belgium), 3.2 to 3.3 applies.

10.3 In spite of the fact that the goods arriving at the port where they are transshipped (Rotterdam, the Netherlands) have non-Community status, the lodgment of an entry summary declaration, at that customs office is not required: goods on vessels moving between EU ports without an intervening port of call outside the customs territory of the Community are exempted.

10.3a Removal from temporary storage for re-export will require the lodgment of an Exit Summary Declaration (EXS) only if the goods remain in temporary storage for more than 14 days or if consignee or destination details change. Where the EXS is waived in accordance with Article 842a (4) CCIP, re-export must be notified by means of a simple re-export notification. (See Guidelines on Export and Exit Part C)

It should be noted that no equivalent scenario applies to air movements. Scenario 8 applies in all cases where export goods are carried directly between EU airports. Aircraft making such flights are deemed not to have left the EU, even where they overfly a third country.

Scenario 11 **The goods are loaded at an airport or a port in the EU onto a feeder aircraft/vessel and subsequently transshipped at a EU port/airport onto a main haul flight/vessel which takes them out of the EU. On its way to the airport/port of transshipment the feeder aircraft/vessel has a stop/call at an airport/port outside the EU but the goods remain on board the vessel /aircraft during that stop/call.**

Except for the deadlines, the procedure applies irrespective of whether the goods are taken out of the EU by air or by sea. In this example the goods are taken out by sea.

Example: The export declaration is lodged to the customs office of Marseille, France. The goods are taken over by the carrier in Marseille, and subsequently moved to Athens, Greece with an intervening call outside the EU, during which call the goods remain on board the vessel. In Athens they are transshipped onto a main haul vessel which takes them out of the EU on a direct service to Port Said, Egypt.

11.1 As there is an intervening port outside the customs territory of the Community on the way to the port in the EU where the goods are transshipped, the customs office of exit is at the port where the goods were loaded onto the feeder service (Marseille), because this is the last port before they leave the EU for the first time. The goods will effectively be exported and lose their Community status.

In this example, as the customs office of export and the customs office of exit are the same (they are both Marseille), Scenario 3 applies, except for the deadline for lodging the export declaration in Marseilles, which - because the goods are consigned to Port Said (short sea shipping) - must be at least 2 hours before leaving the port.

11.2 An entry summary declaration must be lodged to the customs office of Athens, at least 2 hours before arrival at the port, where the goods are brought (back) into the EU and the goods will be treated as non-Community goods.

11.2a Removal from temporary storage for re-export will require the lodgment of an Exit Summary Declaration (EXS) only if the goods in Athens remain in temporary storage for more than 14 days or if, to the knowledge of the carrier, consignee or destination details change. Where the EXS is waived in accordance with Article 842a (4) CCIP, re-export must be notified by means of a re-export notification. (See Guidelines on Export and Exit Part C and D)

III. Movements under a single transport contract in accordance with CCIP Article 793 (2) (b)

STC process

Under the single transport contract (STC) facilitation, the customs office of exit is not the customs office supervising the airport [place] from where the goods physically leave the customs territory in the Community, but - at the request of the exporter/declarant or his representative - the office where the goods are taken over by the carrier for movement out of the EU under a single transport contract. The goods must be taken out of the EU by air, sea, rail or post.

Except for the deadlines, the procedure applies in the same way irrespective of whether the goods are taken out of the EU by air, sea, rail or post. It does not apply where the goods are taken out of the EU by road. In the scenarios, the goods are taken out of the EU by air and by rail.

Under this facilitation, it may happen that the customs office of exit, i.e. the office where the goods are taken over by the carrier for movement out of the EU under a single transport contract, is also the office at which the export declaration is lodged. This is scenario 12A. Scenario 12B describes the situation where the customs office of exit i.e. the office where the goods are taken over by the carrier for movement out of the EU under a single transport contract, is different from the customs office at which the export declaration is lodged.

<u>Scenario 12 A</u> The export declaration is lodged at a customs office which is also the customs office supervising the place where the goods are taken over by the carrier for transport out of the EU under a single transport contract.

Example: The goods are taken over by the carrier at Vienna airport, Austria, and subsequently flown to Frankfurt, Germany. From Frankfurt they leave the EU by air, on a direct flight to New York, USA. The entire movement from Vienna to New York is covered by a single transport contract. The export declaration is lodged in Vienna and the office of exit is, upon request of the exporter/declarant or his representative, the same office.

12A.1 The export declaration must be lodged at the office of export (Vienna) at least 30 minutes prior to departure from an airport in the EU. Departure must be read as departure out of the EU. The export declaration must be lodged, to the customs office of export (Vienna), not later than 30 minutes prior to departure of the aircraft from Frankfurt.
However, as it is the office of export (Vienna) which is responsible for risk analysis, including risk analysis for safety/security purposes, the export declaration must be lodged in accordance with the existing national or local arrangements and procedures for the export declaration at the place of export i.e. in Vienna. The goods cannot be removed from the place where they must be available for control by the office of export until that

office grants release. As the deadline, in this case, is 30 minutes before the goods are loaded onto the aircraft on which they are to leave the customs territory of the Community i.e. in Frankfurt, the deadline will therefore invariably automatically be met simply by compliance with the export procedure.

12A.2 The customs office of export (Vienna) will issue a registration number (MRN) [1] upon acceptance of the declaration, perform risk analysis and release the goods following possible verification.

The exporter/declarant, or his representative, must advise the office of export that the goods are to be taken over under a single transport contract and request that the office of exit formalities are completed by the office of export. The office of export may require evidence of the single transport contract.

12A.3 The customs office of export (Vienna), is now also, for the purposes of the export procedure, the customs office of exit and certifies the exit of the goods on the basis of the assumption that exit is 'guaranteed' by the single contract. The certificate of exit [export notification] required by other authorities, e.g. VAT, is issued immediately to the exporter by the office of export in Vienna when it releases the goods.

12A.4 In order for the customs office of Frankfurt, which is the office of physical exit (different from the customs office of export/exit which is Vienna) to know that the goods can be loaded for transport out of the EU, evidence that the goods have been released for export and that the exit formalities have already been completed must be available. The carrier must therefore make available on request to the customs office at the actual point of exit one of the following:
- the MRN of the export declaration; or
- a copy of the single transport contract or export declaration; or
- the unique consignment reference number or the transport document reference number together with the number of packages and, if containerized, the equipment identification number: or
- information concerning the single transport contract or the transport of the goods out of the customs territory of the Community contained in the processing system of the person taking over the goods or another processing system.

12A.5 The customs office of physical exit (Frankfurt) will control the physical exit of the goods.

Example 2: The goods are taken over by a railway undertaking at Paris (France). These goods have to be delivered in Zagreb (Croatia). The entire transport from Paris to Zagreb is covered by one CIM consignment note (= single transport contract). The goods loaded onto the wagon at Paris will only be unloaded at Zagreb. They leave the EU by rail at Dobova (Slovenia).

12A.1 (1) The export declaration is lodged in Paris and the customs office of exit is, upon request of the exporter/declarant or his representative, the same office.
The export declaration must be lodged at the customs office of export (Paris) at least 2 hours before departure from the office of exit (Paris).
The customs office of export (Paris) is responsible for risk analysis including risk analysis for safety/security purposes.

12A.2 (2) The customs office of export (Paris) will issue an MRN upon acceptance of the declaration and release the goods following possible verification. The exporter/declarant or his representative must inform the office of export (Paris) that the goods will be covered by a single transport contract and has to request that the exit formalities will be completed by the office of exit (Paris).

12A.2 (3) The certificate of exit required by other authorities, e.g. VAT, is issued immediately to the exporter by the customs office of export (Paris) when the goods are released.

12A.2 (4) As the customs office of export (Paris) is also the customs office of exit, it supervises the exit of the goods on the basis that exit is guaranteed by the single transport contract and by the fact that the goods will not be unloaded en route (between Paris and Zagreb). The customs office of physical exit (Dobova) may require evidence that the goods have been released for export and that the exit formalities have already been completed. Therefore, the railway undertaking carrying the goods out of the EU must make available on request to the customs office of the actual point of exit one of the following:

- the movement reference number of the export declaration; or
- a copy of the single transport contract (CIM or CIM/SMGS consignment note) or the export declaration for the goods concerned; or
- the unique consignment reference number or the CIM or CIM/SMGS consignment note number and the number of packages and, if containerised, the equipment identification number; or
- information concerning the single transport contract, or the transport of the goods out of the customs territory of the Community, contained in the data processing system of the person taking over the goods or another commercial data processing system.

<u>Scenario 12B</u> The export declaration is lodged at a customs office of export which is different from the office of exit (i.e. the place where the goods are taken over by the carrier for transport out of the EU under a single transport contract).

Example 1: The export declaration is lodged to the customs office at Györ, Hungary. The goods are taken over by the carrier at Vienna airport and subsequently flown to Frankfurt. From Frankfurt they leave the EU by air, on a direct flight to New York. The

entire movement from Vienna to New York is covered by a single transport contract. The office of exit is, upon request of the exporter/declarant or his representative, Vienna.

12B.1 The export declaration must be lodged at Györ, Hungary, at least 30 minutes prior to departure from an airport in the EU. Departure must be read as departure out of the EU. The export declaration must be lodged therefore, at the customs office of export in Gyor, not later than 30 minutes prior to departure of the aircraft from Frankfurt.

However, as it is the office of export which is responsible for risk analysis, including risk analysis for safety/security purposes, the export declaration must be lodged in accordance with the existing national or local arrangements and procedures for the export declaration at the place of export. The goods cannot be removed from the place where they must be available for control by the office of export until that office grants release. As the deadline, in this case, is 30 minutes before the goods are loaded onto the aircraft on which they are to leave the customs territory of the Community, i.e. from Frankfurt, the deadline will invariably automatically be met simply by compliance with the export procedure at the customs office of export.

12B.2 The customs office of export (Györ, Hungary) issues an MRN upon acceptance of the declaration, performs risk analysis and, following possible verification, releases the goods by issuing an EAD (export accompanying document) to the declarant. Where authorised, the declarant may print the EAD from his/her computerized system. On release of the goods, the customs office of export transmits the necessary particulars of the export movement to the declared customs office of exit (Vienna) using the "Anticipated export record" message.

12B.3 The EAD is to be presented at the customs office of exit (Vienna). Alternatively, the customs authorities may require notification of the arrival of the goods at the customs office of exit to be communicated to them electronically. The notification must contain the MRN. In this case it is not necessary for the export accompanying document to be physically presented to the customs authorities.

At the same time, the exporter/declarant, or his representative, must advise the office of exit in Vienna that the goods are to be taken over under a single transport contract and request that the office of exit formalities are completed there. The office of exit in Vienna may require evidence of the single transport contract as it is this office that must satisfy itself that the STC exists, not the office of export in Gyor.

12B.4 The customs office of exit in Vienna will satisfy itself that the goods presented correspond to those declared and certify the exit of the goods on the basis of the assumption that exit is 'guaranteed' by the single transport contract.
It will forward an "Exit results" message to the customs office of export in Gyor at the latest on the working day following the day the goods left the customs office in Vienna.

In cases justified by special circumstances the customs office of exit may forward that message at a later date. 4.5 to 4.9 also apply.

12B.5 In order for the customs office of Frankfurt, which is the office of *physical exit* (different from the customs of exit which is Vienna) to know that the goods can be loaded for transport out of the EU, evidence that the goods have been released for export and that the exit formalities have already been completed must be available. The carrier must therefore make available on request to the customs office at the actual point of exit one of the following:

- the MRN of the export declaration; or
- a copy of the single transport contract or export declaration; or
- the unique consignment reference number or the transport document reference number together with the number of packages and, if containerized, the equipment identification number; or
- information concerning the single transport contract or the transport of the goods out of the customs territory of the Community contained in the processing system of the person taking over the goods or another processing system.

12B.6 The customs office of physical exit (Frankfurt) will control the physical exit of the goods.

Example 2: The export declaration is lodged at the customs office of export at Paris (France). The goods are loaded into a container which will be transported from Paris to Mannheim (Germany) by road. The container is taken over by a railway undertaking at Mannheim. These goods have to be delivered in Zagreb (Croatia). The entire transport from Mannheim to Zagreb is covered by one CIM consignment note (=single transport contract). The goods loaded onto the wagon at Mannheim will only be unloaded at Zagreb. They leave the EU by rail at Dobova (Slovenia).

12B.2 (1) The export declaration is lodged in Paris and the customs office of exit is, upon request of the exporter/declarant or his representative, Mannheim (Germany).
The export declaration must be lodged at the office of export (Paris) at least 2 hours before departure from the office of exit (Mannheim). The office of export (Paris) is responsible for risk analysis including risk analysis for safety/security purposes. For this reason the pre-declaration time has to meet the requirements of the customs office of export (Paris). See explanation to Scenario 4, item 4.1.
The customs office of export (Paris) will issue an MRN upon acceptance of the declaration and, following possible verification, release the goods by issuing an EAD.

12B.2 (2) The EAD has to be presented at the customs office of exit (Mannheim). At the same time the exporter/declarant or his representative must inform the customs office of exit that the goods are to be taken over under cover of a single transport contract and has to request that the exit formalities will be completed by the office of exit (Mannheim).

12B.2 (3) When the goods are released, the customs office of exit (Mannheim) will forward an "exit results" message to the customs office of export (Paris). The certificate of exit required by other authorities, e.g. VAT, is issued immediately to the exporter by the customs office of export (Paris).

12B.2 (4) The customs office of exit certifies the exit of the goods on the basis that exit is guaranteed by the single transport contract and by the fact that the goods will not be unloaded en route (between Mannheim and Zagreb).

The customs office of physical exit (Dobova) may require evidence that the goods have been released for export and that the exit formalities have already been completed. Therefore the railway undertaking carrying the goods out of the EU must make available on request to the customs office of the actual point of exit one of the following:

- the movement reference number of the export declaration; or
- a copy of the single transport contract (CIM or CIM/SMGS consignment note) or the export declaration for the goods concerned; or
- the unique consignment reference number or the CIM or CIM/SMGS consignment note number and the number of packages and, if containerised, the equipment identification number; or
- information concerning the single transport contract or the transport of the goods out of the customs territory of the Community contained in the data processing system of the person taking over the goods or another commercial data processing system.

IV. Export and transit

<u>Scenario 13</u> Goods are exported to an EFTA country by road (or by rail). They leave the EU under the Common Transit procedure. The customs office at which the export declaration and the transit declaration is lodged are the same.

Example 1: The export declaration is lodged at the customs office of Reims, France for goods to be exported to Switzerland. Simultaneously, a transit declaration is lodged. The office of departure of the transit movement is Reims, France and the office of destination is Zürich, Switzerland.

13.1. The office of export is Reims, France and the export declaration must be lodged there at least one hour prior to departure from the customs office of exit. The customs office of exit for the purposes of the deadline for lodging the export declaration is the last customs office before the goods leave the EU. See explanation to Scenario 4 item 4.1. As the goods are placed under the common transit procedure, however, the office of the departure of the transit movement (Reims, France) carries out the formalities of the office of exit for the export procedure. [3]

13.2 The customs office of export (Reims, France) will accept the export declaration and subsequently the transit declaration, perform risk analysis and following possible verification release the goods for the transit procedure.

13.3 The customs office of export/ departure (Reims, France) carries out the formalities of the customs office of exit for the export procedure and certifies the exit of the goods on the basis of the assumption that exit is 'guaranteed' by the transit procedure. The certification of exit required by other authorities, e.g. VAT, is issued immediately to the exporter by the office of export (Reims, France) when it releases the goods for transit.

13.4 As the goods are taken out of the EU under a transit procedure, the office of departure (Reims, France) will endorse the TAD with the word "export".

13.5 The customs office of physical exit, which will be an office of transit at the French/Swiss border, controls the physical exit of the goods.

Scenario 14 Goods are exported to an EFTA country. They leave the EU under the common transit procedure. The export declaration and the transit declaration are lodged at a different customs office in a different Member State.

Example: The export declaration is lodged at the customs office in Reims, France for goods to be exported to Switzerland. The goods are moved by road to Freiburg, Germany where they are placed under the common transit procedure. The office of destination is Zürich, Switzerland.

14.1. The office of export is Reims, France and the export declaration must be lodged there at least one hour prior to departure from the customs office of exit. The customs office of exit for the purposes of the deadline for lodging the export declaration is the last customs office before the goods leave the customs office of export. As the goods are to be placed under the common transit procedure the office of departure of the transit movement, i.e. Freiburg, Germany, carries out the formalities of the office of exit for the export procedure.

14.2. The customs office of export (Reims, France) will issue an MRN upon acceptance of the declaration, perform risk analysis and, following possible verification, release the goods for export by issuing an EAD (export accompanying document) to the declarant. Where authorised, the declarant may print the EAD from his/her computerized system. On release of the goods, the customs office of export will transmit the necessary particulars of the export movement to the declared customs office of exit (Freiburg, Germany) – using the "Anticipated export record" message.

14.3 The EAD is to be presented at the customs office of departure (Freiburg, Germany) together with the transit declaration. Alternatively, the customs authorities may require notification of the arrival of the goods at the customs office of departure to be

communicated to them electronically. This notification must include the MRN. In this case, it is not necessary for the EAD to be physically presented to the customs authorities.

14.4 The customs office at Freiburg, Germany which is the office of departure for the transit movement, will carry out the exit formalities of the office of exit for the export procedure. It will satisfy itself that the goods presented correspond to those declared, place them under the transit procedure and certify the exit of the goods out of the EU on the basis of the assumption that exit is 'guaranteed' by the transit procedure. It will forward an “Exit results” message to the customs office of export in Reims at the latest on the working day following the day the goods left the customs office of departure. In cases justified by special circumstances the customs office of exit may forward that message at a later date. 4.5 to 4.9 will apply.

14.5 As the goods are taken out of the EU under the common transit procedure, the office of departure (Freiburg, Germany) will also endorse the TAD with the word “export”.

14.6 The customs office of physical exit, which will be an office of transit at the German/Swiss border, will control the physical exit of the goods.

Scenario 15 Goods are transported by road to the place in the EU from where they physically leave the EU. Since the movement between the office of export and the office in the EU where the goods finally leave the EU crosses an EFTA country the Common transit procedure is used. The customs office of export and the customs office of departure of the transit procedure are the same.

Example: The export declaration is lodged at the customs office in Reims, France, for goods to be exported to Egypt. Simultaneously, a transit declaration is lodged. The office of departure for the transit movement is Reims, France and the office of destination for the transit movement is Genoa, Italy. Since the movement between Reims and Genoa crosses an EFTA country, the Common transit procedure is used. The goods are finally taken out of the EU from Genoa.

15.1. The office of export is Reims, France and the export declaration must be lodged there at least two hours before leaving the port in the customs territory in the Community (Genoa, Italy). As the goods are placed under the common transit procedure, the office of departure of the transit movement (Reims, France) carries out the formalities of the office of exit for the export procedure.

However, it is the office of export (Reims, France) which is responsible for risk analysis, including risk analysis for safety/security purposes, not the office of exit. It is impossible for the office of export to perform this task if the goods are no longer under its supervision.

Therefore the export declaration must be lodged in accordance with the existing national or local arrangements and procedures for the export declaration at the place of export.

The goods cannot be removed from the place where they must be available for control by the office of export until that office grants release.

In practice, the customs declaration must, therefore, be lodged far earlier than the deadline of 24 hours prior to departure from the office of exit at Genoa, as time must be allowed both for risk analysis and any control by the office of export in Reims and for transport to Genoa. In fact, in such cases, the deadline will invariably automatically be met simply by compliance with the export procedure in Reims.

15.2 The customs office of export (Reims, France) will accept the export declaration and subsequently the transit declaration, perform risk analysis and following possible verification release the goods for the transit procedure.

15.3 The customs office of export/ departure (Reims, France) carries out the formalities of the customs office of exit for the export procedure and certifies the exit of the goods on the basis of the assumption that exit is 'guaranteed' by the transit procedure. The certificate of exit [export notification] required by other authorities, e.g. VAT, is issued immediately to the exporter by the office of exit (Reims, France) when it releases the goods for transit.

15.4 As the goods are taken out of the EU under a transit procedure, the office of departure (Reims, France) shall endorse the TAD with the word “export”.

15.5 An office of transit at the French/Swiss border controls the physical exit of the goods at that stage.

15.6 The customs office of physical exit (Genoa, Italy), which will be the office of destination, controls the physical exit of the goods out of Genoa.

<u>Scenario 16</u> Goods are transported by road to the place in the EU from where they physically leave the EU. Since the movement between the office of export and the office in the EU where the goods finally leave the EU crosses an EFTA country the Common transit procedure is used. The customs office of export and the customs office of departure of the transit procedure are not the same.

Example: The export declaration is lodged at the customs office in Reims, France, for goods to be exported to Egypt. The goods are moved by road to Freiburg, Germany, where they are placed under the transit procedure for movement via Switzerland to Genoa, Italy. The office of exit is the office where the transit movement starts (Freiburg, Germany). The office of destination of the transit movement is Genoa, Italy. The office of physical exit is Genoa, Italy.

16.1. The office of export is Reims, France and the export declaration must be lodged there at least two hours before leaving the port in the customs territory in the Community (Genoa, Italy). As the goods are placed under the common transit procedure, the office of

departure of the transit movement (Freiburg, Germany) carries out the formalities of the office of exit for the export procedure.

However, it is the office of export which is responsible for risk analysis, including risk analysis for safety/security purposes, not the office of exit. It is impossible for the office of export (Reims, France) to perform this task if the goods are no longer under its supervision. Therefore the export declaration must be lodged in accordance with the existing national or local arrangements and procedures for the export declaration at the place of export. The goods cannot be removed from the place where they must be available for control by the office of export until that office grants release.

In practice, the customs declaration must, therefore, be lodged far earlier than the deadline of one hour prior to departure from the office of exit at Genoa, as time must be allowed both for risk analysis and any control by the office of export in Reims and for transport to Genoa In fact, in such cases, the deadline will invariably automatically be met simply by compliance with the export procedure in Reims.

16.2. The customs office of export (Reims, France) shall issue an MRN upon acceptance of the declaration, perform risk analysis and, following possible verification, release the goods by issuing an EAD to the declarant. Where authorised, the declarant may print the EAD from his/her computerized system. On release of the goods, the customs office of export shall transmit the necessary particulars of the export movement to the declared customs office of exit (Freiburg, Germany) using the “Anticipated export record” message.

16.3 The EAD is to be presented at the customs office of departure (Freiburg, Germany), together with the transit declaration. Alternatively, the customs authorities may require notification of the arrival of the goods at the customs office of departure to be communicated to them electronically. The notification must include the MRN. In this case, it is not necessary for the EAD to be physically presented to the customs authorities.

16.4 The customs office of departure (Freiburg, Germany) will satisfy itself that the goods presented correspond to those declared, place them under the transit procedure and certify the exit of the goods out to the EU on the basis of the assumption that exit is 'guaranteed' by the transit procedure. It will forward an “Exit results” message to the customs office of export in Reims at the latest on the working day following the day the goods left the office of departure in Freiburg. In cases justified by special circumstances the customs office of exit may forward that message at a later date. 4.5 to 4.9 will apply.

16.5 As the goods are taken out of the EU under a transit procedure, the office of departure (Freiburg, Germany) shall endorse the TAD with the word “export”

16.6 An office of transit at the German/Swiss border controls the physical exit of the goods at that stage.

16.7 The customs office of physical exit (Genoa, Italy)), which will be the office of destination, controls the physical exit of the goods out of Genoa.

<u>Scenario 17</u> **The goods are loaded onto a feeder aircraft at an airport in the EU and flown to another airport in the EU where they are transshipped onto a main haul flight which takes them out of the EU. The export declaration is lodged at the customs office (customs office of export) supervising the airport where the goods are loaded onto the feeder aircraft. The carrier uses the simplified transit procedure provided for under Article 445 CCIP.**

Example: The export declaration is lodged to the customs office of Helsinki, Finland. The goods are taken over by a carrier using the simplified transit procedure in Helsinki and subsequently moved by air to London, UK under the simplified transit procedure by air. In London they are transshipped onto a main haul flight which takes them out of the EU on a direct service to New York, USA.

17.1 The office of export is Helsinki, Finland and the export declaration must be lodged there at least at 30 minutes prior to departure from an airport in the customs territory of the Community (London, UK). As the goods are to be carried forward under cover of the Article 445 simplified transit manifest, the office of departure is Helsinki and it will carry out the formalities of the office of exit for the export procedure. The office of destination of the transit procedure is London.

However, it is the office of export which is responsible for risk analysis, including risk analysis for safety/security purposes, not the office of exit. It is impossible for the office of export to perform this task if the goods are no longer under its supervision. The export declaration must therefore be lodged in accordance with the existing national or local arrangements and procedures for the export declaration at the place of export. The goods cannot be removed from the place where they must be available for control by the office of export until that office grants release.

In practice, the customs declaration must, therefore, be lodged far earlier than the deadline of 30 minutes prior to departure from London, as time must be allowed both for risk analysis and any control by the office of export in Helsinki and for transport to London In fact, the deadline will invariably automatically be met simply by compliance with the export procedure in Helsinki.

17.2 The customs office of export (Helsinki, Finland) will issue an MRN[1] upon acceptance of the declaration, perform risk analysis and release the goods for export.
17.3 The customs office of export (Helsinki, Finland), will also carry out the formalities of the customs office of exit, and certify the exit of the goods on the basis of the assumption that exit is 'guaranteed' by the simplified transit procedure and the certificate of exit [export notification] required by other authorities, e.g. VAT, is issued immediately

to the exporter by the office of exit (Helsinki, Finland) when it releases the goods for transit.

17.4 The goods will be marked with status X (goods under the export procedure which must leave the customs territory of the Community) on the level 2 manifest issued by the authorised carrier.

17.5 The customs office of physical exit (London) will control the physical exit of the goods.

Scenario 18 A container is loaded on a feeder vessel at a port in the EU and carried to another port in the EU where it is transshipped onto a main haul vessel which takes it out of the EU. The feeder vessel has status as an authorized regular shipping service [4], in accordance with Articles 313a and 313b CCIP. The export declaration is lodged at the customs office (customs office of export) supervising the port where the goods are loaded onto the feeder vessel. The simplified transit procedure provided for under Article 448 CCIP is used.[4]

Example: The export declaration is lodged at the customs office of Antwerp, Belgium. The goods are taken over by the carrier in Antwerp, Belgium, and subsequently moved on board a ship with a status of an authorized regular shipping service to Felixstowe, UK, where they are transshipped onto a main haul vessel which takes them to New York. The carrier uses the simplified transit procedure applies in accordance with Article CCIP 448.

18.1 The office of export is Antwerp and the export declaration must be lodged there at least 24 hours before loading of the goods to the vessel that will take them out of the EU, i.e. the main haul vessel in Felixstowe. As the goods are to be carried forward under cover of the Article 448 simplified transit manifest, the office of departure is Antwerp and it will carry out the formalities of the office of exit for the export procedure. The office of destination of the transit procedure is Felixstowe.

However, it is the office of export which is responsible for risk analysis, including risk analysis for safety/security purposes, not the office of exit. It is impossible for the office of export to perform this task if the goods are no longer under its supervision. The export declaration must therefore be lodged in accordance with the existing national or local arrangements and procedures for the export declaration at the place of export. The goods cannot be removed from the place where they must be available for control by the office of export until that office grants release. If at all relevant in practice, the deadline for lodgement of the export declaration in Antwerp shall not be less than 24 hours before loading at the port (Felixstowe, UK) from which the main haul vessel will leave the customs territory of the Community.

18.2 The customs office of export (Antwerp, Belgium) will issue an MRN[1] upon acceptance of the declaration, perform risk analysis and release the goods for export.

18.3 The customs office of export (Antwerp, Belgium), will also carry out the formalities of the customs office of exit for the export procedure and certify the exit of the goods on the basis of the assumption that exit is 'guaranteed' by the carrier using the simplified transit procedure. The certification of exit required by other authorities, e.g. VAT, is immediately issued to the exporter by the office of exit (Antwerp, Belgium) when it releases the goods.

18.4 The goods will be marked with status X (goods under the export procedure which must leave the customs territory of the Community) on the level 2 manifest issued by the authorised carrier.

18.5 The customs office of physical exit (Felixstowe, UK) will control the physical exit of the goods.

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[1] The export declaration registration number will normally take the form of the Movement Reference Number (MRN) required by the Export Control System (ECS). In cases where the office of export is also the office of exit, or these offices are both in the same Member State, and ECS messages are not exchanged, national export declaration registration numbers may be used.

[2] According to Article 313a CCIP, a regular shipping service means a regular service which carries goods in vessels that ply only between ports situated in the customs territory of the Community and may not come from, go to or call at any points outside this territory or in a free zone of control type 1 in the meaning of Article 799 CCIP of a port in this territory. Ships operating under the status of a regular shipping service have to comply with the provisions laid down in Articles 313a and 313b CCIP. These ships should not be mistaken for ships that do not have the afore-mentioned status but operate regular (i.e. scheduled, advertised) services.

[3] Unlike with STC, the office of export/departure is not the office of exit. Article 793b CCIP refers to goods '...sent to a customs office of exit under a transit procedure...'

[4] In accordance with Article 448 CCIP, a shipping company having a status of an authorised regular service may be authorised to use a single manifest as a transit declaration if it operates a significant number of regular voyages between the Member States (simplified procedure — level 2).