



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



Brussels, 13 July 2009
TAXUD 2021/2009 Rev. 3

Working document

CUSTOMS CODE COMMITTEE
Import/Export formalities section

Guidelines on export and exit in the context of Regulation (EC) No 648/2005

This working document is intended to explain the application of export and exit provisions in the context of Regulation (EC) 648/2005. These guidelines will be subject to revisions in the light of the experience gained, especially with regard to Part C on exit summary declarations which is still under discussion.

Comments aiming at further improvements should be sent to the functional mailbox TAXUDC4@ec.europa.eu.

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.

The basic export procedure involving a customs office of export and a customs office of exit in a different Member State (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

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 their 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.

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 shall, at the request of the person who lodged the customs declaration, start an enquiry procedure - even before the 90 days have elapsed - where the person who lodged the customs declaration has information that the goods have left the customs territory of the Community, and requests an inquiry.

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 invalidates 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.

Index

Part A - General explanations

- 1. Introduction**
- 2. Definition of the roles and responsibilities of the different customs offices**
 - 2.1. Customs office of export*
 - 2.2. Customs office of exit*
- 3. EORI Numbers**
- 4. Movement Reference Number (MRN)**
- 5. Transitional measures for exit summary declarations**

Part B - Lodging a customs declaration

- 1. Obligation to lodge an electronic customs declaration with security data within certain time limits**
- 2. Exceptions**
 - 2.1. Exceptions from the time limits laid down in Articles 592b and 592c CCIP*
 - 2.2. Lodging a customs declaration without the safety and security data*
- 3. Place at which the declaration must be lodged**
 - 3.1. General definitions*
 - 3.2. Place where goods are packed or loaded for export shipment*
- 4. Person responsible for lodging the customs declaration**
- 5. Reduced data requirements – AEO**
- 6. Time limits for lodging the customs declaration**
 - 6.1. Introduction*
 - 6.2 Special cases due to the nature of the operation*
 - 6.3. General cases associated with the means of transport*
- 7. Specific codes and rules for aircraft and ship supplies**
 - 7.1. Introduction*
 - 7.2. The situation in respect of security data in the export declaration*
 - 7.3. The situation in respect of external trade statistics*
 - 7.4. List of codes*
 - 7.5. Formalities for aircraft and ship supplies*
- 8. Information to the customs office of exit on the exit of goods**
- 9. Information of exit to fiscal authorities**
- 10. Single transport contract (Article 793(2) (b) CCIP)**
 - 10.1. Introduction*
 - 10.2. Exports by air and by express operators*

10.3. *Exports by sea*

10.4. *Exports by rail*

11. Export of goods under excise duty suspension

11.1. *Under the rules of Directive 92/12/EEC*

11.2. *Under the rules of Directive 2008/118/EC*

[Part C - Exit summary declaration (EXS) – under review – to be updated

1. Obligation to lodge an EXS

2. Exceptions

3. Place at which the EXS must be lodged

4. Person responsible for lodging the EXS

5. Reduced data requirements – AEO

6. Time limits for lodging an EXS

6.1. *General rules*

6.2. *Maritime traffic*

7. Amendments to an EXS

8. Transhipments]

Part D - Export Control System (ECS)

Part E - Fallback rules

1. Fallback procedure at the customs office of export

1.1. *Unavailability of the customs authorities' system*

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

1.3. *Action at the customs office of exit*

2. Fallback procedure at the customs office of exit

2.1. *Treatment of export movements*

2.2. *Treatment of exit summary declarations (EXS)*

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 its implementing Regulation (CCIP), in particular safety and security requirements at export and exit.

These guidelines will need to be further revised and illustrated with examples of best practice after 1 July 2009. Without practical experience and in view of the highly specific situations arising, it is difficult to provide more guidance at this stage.

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 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-exportation¹,
- the verification of the declaration, supporting documents, and 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 Community 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:

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).

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

The following special rules exist:

- a) 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);
- b) 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);
- c) in duly justified circumstances, in which case the declaration may be lodged at another customs office (Article 791 CCIP);
- d) for cases of goods not exceeding 3000 EUR in value per consignment and per declarant and which are not subject to prohibitions the customs declaration may be lodged with the customs office of exit (Article 794 (1) CCIP);
- e) for oral customs declaration which can only be lodged at the customs office of exit (Article 794 (2) CCIP);
- f) for postal traffic (Articles 237, 238 CCIP);
- g) 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),
- h) 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);
- i) 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

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.

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.

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 declaration². 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 for both customs and exit summary declarations 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). However, in the case of maritime and air traffic, the customs office of exit is the customs office competent for the place where the goods are loaded on the means of transport which will bring them to a destination outside the customs territory of the Community, regardless of whether the vessel or aircraft will call at subsequent ports or airports in the Community.

However, the above mentioned general rule is – for customs declarations - 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 Community 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).

This interpretation is based on Article 793 (2) (first subparagraph), and Article 313 CCIP, because the latter provision stipulates that in subsequent Community 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).³

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).

³ The question of whether this interpretation/rule should be maintained in the future, is currently under discussion, as it contradicts the principle that the term “export” covers only movements with a destination outside the customs territory of the Community. Furthermore, the issues of customs status and customs procedure should be separated.

This situation occurs only if the goods are unloaded in subsequent Community 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 customs office of exit is 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 insofar mandatory for non-Community goods (Article 340e (2) CCIP).

➤ **Single Transport Contract**

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 in accordance with the rules of Article 793 (2) (second subparagraph) (b) CCIP where the application of this derogation is requested.

For further details on the application of this derogation see Point 10 of these Guidelines.

➤ **Export followed by transit**

The customs office of exit is the office of departure of the transit procedure (Article 793b (1) CCIP). The export procedure is terminated at the office of departure, and the customs office of export, if different, is notified accordingly.

➤ **Pipelines and electric energy**

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

➤ **Excise goods moved under duty suspension**

The customs office of exit is the customs office of export in the case of goods under excise duty suspension brought out of the customs territory of the Community under cover of the administrative accompanying document issued in accordance with the rules of Directive 92/12/EEC (Article 793c CCIP).⁴ In accordance with Article 796c CCIP, the goods move to the customs office of exit accompanied by the EAD which is presented for arrival notification. In the event of loss of this document in the course of transport, it can be printed out to allow the arrival notification at the customs office of exit, in accordance with Article 796d CCIP.

⁴ It is intended to delete Article 793c CCIP with effect from 1 January 2011 when the use of the Excise Movement Controls System (EMCS) will become mandatory in accordance with Directive 2008/118/EC.

3. EORI Numbers

The person lodging a customs or exit summary declaration 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 but can also be done during the first filing.

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/taxation_customs/resources/documents/customs/security_a_mendment/EORI_guidelines_en.pdf.

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 customs declaration. In some Member States a national registration number is used instead of a MRN in cases where the customs offices of export and exit are in the same Member State. 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 diversion, 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 paper based fallback procedure is 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 of export movement (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 export movement per year and country	Alphanumeric 13	9876AB8890123
4	Check digit	Alphanumeric 1	5

5. Transitional measures for exit summary declarations

During the transitional period until 31 December 2010 economic operators may, but are not obliged to submit exit summary declarations.

Within this transitional period, where the economic operator chooses not to submit advance data, the risk analysis will be carried out at the latest upon presentation of the goods at the customs office of exit, where appropriate on the basis of the information available for those goods.

These transitional measures do not apply to export and outward processing declarations and re-export declarations following a customs procedure with economic impact.

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, with effect from 1 July 2009, Community legislation requires that an export/re-export/outward processing declaration must be lodged before departure or, in the case of deep sea traffic, before loading containerised cargo (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 existing national or local arrangements and 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 lodgment 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 subject to the provisions of Articles 793 and 787 (cases when the electronic system does not function) which authorise the use of paper based declarations. 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). It 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 lodgment 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 far earlier than the time of presentation.

This provision 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 takes a “special” form 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),
- postal traffic (Articles 237, 238 CCIP),
- use of an ATA-carnet (Articles 797, 841(2) CCIP) or, where none of the above mentioned special provisions applies;
- 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 directly 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 directly to Helgoland, San Marino or the Vatican,
- goods exported to Norway or to Switzerland (including Liechtenstein) in accordance with the agreements between the European Union and those countries.

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 (see Part A point 2.1.). 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 freight forwarding companies, as they increasingly focus on matters concerning storage and transport logistics, seeking in this way to justify the local responsibility of the customs offices. 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 and third country recipient 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 Community'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,
- they are packed in a storage facility, provided that they were delivered there in an unpacked state and/or the exporters in question did not yet know the exact arrangements

for the export transaction operation (e.g. the goods recipient, the quantity of goods - but not, however, the scheduled date of the export) when the goods were delivered to the storage facility.

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 not covered are those where the goods are not packed for export (e.g. into a container). This concerns in particular goods loaded on the 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 thereto create even more leeway.

The failure to take advantage of the good level of knowledge at the customs office of export regarding the exporter and his products - 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.

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 or to have them presented, together with all the required documents.

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 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. Reduced data requirements – AEO

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 containerised cargo in cases where the deadline expires 24 hours before the goods are 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 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 cases⁵, due to the nature of the operation;
- 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 Community⁶;
 - ✓ The expected moment the active means of transport will bring the goods out of the customs territory of the Community⁷.

⁵ The application of the specific time limits for the special cases prevails over the application of the time-limits for the general cases.

⁶ 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 Community customs legislation the only direct consequence for 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.

6.2 Special cases due to the nature of the operation

Ship or aircraft supplies

In the case of supplies of:

- ✓ Spare and repair parts intended for incorporation in ships and aircraft for the purpose of their repair and maintenance,
- ✓ Motor fuels, lubricants and gas which are necessary for the operation of machines and apparatus used on board of the ship or aircraft,
- ✓ Foodstuff used for consumption on board of the ship or aircraft,

The electronic customs declaration shall be lodged at least 15 minutes prior to departure of the ship or aircraft from the port or airport in the customs territory of the Community.

However, this rule has been found to be impracticable. The Commission is therefore preparing an amendment that would, if adopted, exempt such supplies from the requirement of this time limit. In the mean time, available simplifications should be used as much as possible, including simplifications for approved exporters (Article 285a CCIP). It should be noted that some of these goods (e.g. fuel to be filled in a normal tank) need not be declared for export, as they are considered to be part of the means of transport.

Application of export refunds (Regulation (EC) No 800/1999)^{8 9}

In accordance with Article 5 (7) of Regulation (EC) No 800/1999:

"7. All persons exporting products for which they claim a refund shall be required to:

- a) lodge the export declaration with the competent customs office in the place where the products are to be loaded for export transport;*
- b) 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 loaded 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 800/1999 is applicable the export declaration¹⁰ shall be lodged:

⁷ See Article 592c CCIP for intermodal transportation and for so-called "combined transportation" (e.g. a truck on a ferry)..

⁸ Commission Regulation (EC) No 800/1999 of 15 April 1999, laying down common detailed rules for the application of the system of export refunds on agricultural products (OJ L 102, 17.4.1999).

⁹ In the case of export refunds on agricultural products for consumption on board ships or aircrafts Article 36 (4) Regulation (EC) No 800/1999 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 the time-limit applicable is the one described in Point A1 unless the Member State, using the empowerment of Article 36 (4) Regulation (EC) No 800/1999, has defined a specific time limit for lodging the customs declaration.

- 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.

6.3 . General cases associated with the means of transport

Maritime Traffic (when the expected active means of transport will bring the goods out of the customs territory of the Community by sea)

Movement of goods (containerised cargo or bulk/break bulk cargo), between:

- the customs territory of the Community (except the French overseas departments, Azores, Madeira and Canary Islands), and
- Greenland,
- the Faroe Islands,
- Ceuta,
- Melilla,
- Norway¹¹,
- Iceland,
- ports on the Baltic Sea,
- ports on the North Sea,
- ports on the Black Sea,
- ports on the the Mediterranean, or
- ports in Morocco,

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.

Movement of goods (containerised cargo or bulk/break bulk cargo), where the duration of the voyage is less than 24 hours, between:

- the French overseas departments,
- Azores,
- Madeira, or
- the Canary Islands, and,
- a territory outside the customs territory of the Community,

The electronic customs declaration shall be lodged, at least 2 hours before the expected moment when the vessel, which is not authorised as a regular shipping service, will leave the port in one of the territories in the customs territory of the Community described above.

Other cases:

For containerised cargo

¹⁰ Regulation (EC) No 800/1999 is only applicable to Community agricultural products.

¹¹ Exports to Norway have been exempted from the requirements of Article 592b CCIP by virtue of an agreement with the EU.

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.

For 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 leave the airport in the that 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)

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.

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)¹². However, the declarant will find it in his interest to lodge the declaration far earlier to ensure uninterrupted cargo flow.

¹² Note that until the customs authorities grant the release, the goods cannot be brought out of the customs territory of the Community.

7. Specific codes and rules for aircraft and ship supplies

7.1. Introduction

Although Article 592b (1) (e) CCIP establishes a specific time limit for the lodging of the customs declaration for air and ship supplies, these operations are only subject to a customs declaration if they are to be treated as exports by the legislation.

Such a case is, for example, laid down in Article 36 of Commission Regulation (EC) No 800/1999 of 15 April 1999, laying down common detailed rules for the application of the system of export refunds on agricultural products (OJ L 102, 17.4.1999).

Special provisions on the exemption from taxes and certain formalities are based on Community and national legislation.

Thus, air and ship supplies, without prejudice to the application of the rules on external trade statistics (see point 7.3), are only subject to the application of the export formalities defined in the CC and the CCIP and described in these guidelines if they are treated as export operations under Community or national legislation. In such cases the general rules for export apply, without prejudice to the special rules described below.

7.2. The situation in respect of security data in the export declaration

Air and ship stores and supplies and spare parts for planes and ships being by essence used or consumed on board the aircraft or the vessel and not destined for import into another country, benefit from special provisions.

These provisions feature a specific dataset and a simplified goods nomenclature (Annex 30A CCIP provides that "a specific simplified goods nomenclature will be published by the Commission" in respect of ship and aircraft supplies exit summary declarations). Such a simplified nomenclature already exists in respect of external trade statistics.

7.3. The situation in respect of external trade statistics

Articles 23 and 24 of Regulation (EC) No 1917/2000¹³ (amended by Commission Regulation (EC) No 1949/2005¹⁴) deal with goods delivered to vessels and aircraft. This concerns nearly exclusively exports.

Goods intended for consumption (by persons & engines) on board of foreign vessels and aircraft at national harbours or airports are reported with simplified CN codes.

The transmission of these CN codes to Eurostat is mandatory. Intrastat National Statistical authorities request trade operators to provide data on goods delivered to vessels and aircraft according to the specific CN codes.

Extrastat National Statistical authorities have the following possibilities:

- direct collection of the CN codes via customs where the customs authorities allow the declaration of the specific CN codes,
- direct collection of the information via trade operators. In most of the cases, catering, supply and warehouse companies located at national harbours and airports are responsible for providing the information and are known to the statistical authorities

¹³ http://eur-lex.europa.eu/LexUriServ/site/en/oj/2000/l_229/l_22920000909en00140026.pdf

¹⁴ http://eur-lex.europa.eu/LexUriServ/site/en/oj/2005/l_312/l_31220051129en00100017.pdf

(because they also provide information for Intrastat). In this case, the statistical authorities have to ensure that corresponding customs declarations are exempted. Otherwise double counting of the trade would happen.

Specific reporting procedures are applied for deliveries of products for the crew and passengers, as well as for the operation of engines, machines and other equipment of vessels or aircraft registered in the partner country. It does not matter whether the vessels or aircraft are managed or used for commercial, military or private purposes.

These provisions apply exclusively to goods which will not leave the vessel or aircraft because they will be consumed during the journey of the vessel or aircraft. It is recommended to report the delivery of long living goods (equipment) which stay on the vessel or aircraft according to the normal detailed declaration (e.g. delivery of bed linen, of musical instruments for the ship's musicians, TV sets for the cabins and other durable goods).

The partner country is the country where the ship or aircraft is registered/flying the flag. However, a simplified Q-series country code specific to stores and provisions reporting may be used.

7.4. List of codes

The codes to be used in respect of ship and aircraft supplies should be the following codes, as defined in Article 24 of Regulation 1917/2000¹⁵:

- 99302400: goods from CN chapters 1 to 24;
- 99302700: goods from CN Chapter 27;
- 99309900: goods classified elsewhere.

¹⁵ This simplified nomenclature is applicable without prejudice to the possible requirement of a more detailed goods code. In particular, if the declaration is also a request for export refund in case of victualling based on Regulation 800/1999, it is necessary to provide the normal CN code to be eligible for refunds.

7.5. Formalities for aircraft and ship supplies

Whenever Community or national legislation requires a customs declaration for aircraft and ship supplies the normal export formalities are applicable.

The confirmation of exit by the customs office of exit (office responsible for the port or airport from where the aircraft or vessel will leave outside the customs territory of the Community) is made once the loading of the goods onto the vessel or aircraft has been confirmed.

Based on that exit confirmation the customs office of export will certify the exit to the person who lodged the customs declaration.

Available simplifications for ship and air supplies should be used as much as possible, in particular for catering. Article 285a CCIP stipulates simplifications for approved exporters which could be used for that purpose. It should be noted that under Community 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.

Tax exemption for excise goods delivered to ships and aircrafts depends on national legislation (Article 23(5) Directive 92/12/EEC, OJ 1992 No L 76, p. 1; as from 1 April 2010 Article 41 Directive 2008/118/EC, OJ 2009 No L 9, p. 12). This legislation must lay down which documents or messages are to be used, at least for cases where a customs document or message certifying the exit of the goods from the customs territory of the Community is not available.

A VAT exemption is granted for "vessels used for navigation on the high sea" (Article 148 a) Directive 2006/112/EC, OJ 2006 N° L 347, p.1). The types of documents or messages to be used for such purposes where no customs document or message certifying the exit is available depends on national legislation.

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?

According to Article 14 CC any person directly or indirectly involved in external trade operations shall provide the customs authorities with the required documents and information, irrespective of the medium used. Consequently, persons who are in possession of information about the exit of goods have to provide such information to the customs authorities. Apart from the person who lodged the declaration, such persons may be:

- port and airport operators, especially those loading the goods on the means of transport leaving the customs territory of the Community,
- persons running port or airport systems,
- forwarders or carriers,
- temporary storage operators, or
- representatives of these persons who are in possession of information about the exit of the goods.

In order to facilitate the provision of such information, it is recommended that the person holding the goods should advise 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 should be done as early as possible - at the latest at 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. 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.

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 for 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 used for tax purposes.

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 authorities, airlines or shipping companies

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 needs information that the requirements of the export procedure have already been complied with since the export operation was already finalised and the exit certified.

Article 793a (6) CCIP foresees that the customs office which is deemed to be the customs office of exit under Article 793 (2) (b) CCIP will, if different from the customs office of export, confirm the exit to the customs office of export which terminates the export procedure (if it is an ECS movement this confirmation is made by sending the "Exit results" message to the customs office of export) after making the endorsement "Export" on the transport document and affixing its stamp. In the case of discrepancies, it takes the measures described under point 2.2.

The manifest and access to the information relating to the export declarations in the economic operators system should be made available to the customs office at the point of exit so that it can verify that the export/re-export formalities have been fulfilled by the economic operator at a previous customs office. The customs authorities shall waive the endorsement "Export" and affixing their stamp to the transport document for regular shipping lines¹⁶ and direct transport or flights to destinations outside the customs territory of the Community where the operators are able to guarantee the regularity of the operations (Article 793a (6) (second subparagraph) CCIP).

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.

10.2. Exports by air and by express operators

Where goods are carried by an airline or an express operator¹⁷ under cover of a single transport contract, 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, provided the person lodging the declaration makes a request to this end.

Where an airline carrying export consignments from the customs office competent for the place where the goods are taken over under a single transport contract (customs office of exit), moves those consignments by road or rail in terms of Article 793 (2) (b) CCIP, to an airport in a second Member State from which the goods will physically exit from the customs territory of the Community, the endorsement "Export" and the stamp of the customs office on the transport document shall be waived, in accordance with Article 793a (6) (second subparagraph) CCIP, if the goods are identified in a manifest containing the required data and the manifest and the information relating to the export declarations can be made available to the customs office at the actual point of exit.. The manifest shall not require any endorsement by customs in case of direct flights to destinations outside the customs territory of the Community (Article 793a (6) (2nd subparagraph) CCIP).

¹⁶ Note that these regular shipping lines are not, necessarily, the regular shipping services defined in Articles 313a and 313b CCIP.

¹⁷ A company providing, under a single transport contract, the integrated service of expedited/time definite collection, transport, customs clearance and delivery of documents, printed matter, parcels, and/or other goods, whilst tracking the location of, and maintaining control over, such items throughout the supply of the service.

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, the TR transfer 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 the 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 COTIF¹⁸ 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 SMGS¹⁹ consignment note is the transport contract used by OSZhD members (Organisation for Railways Co-operation – whose members are mainly Eurasian countries).

The TR transfer note is used in the framework of the simplified transit procedure for goods carried in large containers by railway companies using transport undertakings as intermediaries. The TR transfer note means the document which comprises the contract of carriage by which the transport undertaking arranges for one or more large containers to be carried from a consignor to a consignee in international transport (Article 427(3) CCIP - contract between the carrier Intercontainer/Interfrigo and its customer). The transport itself is carried out by railway companies on the basis of a CIM consignment note and, where appropriate, a SMGS consignment note.

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 RSM²⁰.

¹⁸ COTIF: Convention concerning international carriage by rail – Convention relative aux Transports Internationaux Ferroviaires.

¹⁹ SMGS: Convention concerning international goods traffic by railway.

²⁰ RSM: Recueil des réglementations spéciales pour le trafic international des marchandises/Compendium of special regulations for international goods traffic.

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 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.²¹

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 undertakings 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. Export of goods under excise duty suspension

11.1. Under the rules of Directive 92/12/EEC

When goods covered by the administrative accompanying document (AAD) in accordance with Directive 92/12/ECC are placed under the export procedure, the customs office of export certifies the exit of the goods to the person lodging the declaration at the moment of the release of the goods and makes the endorsement "Export", affixes its stamp and makes reference to the export declaration reference number on all copies of the AAD (Article 793c(1) in conjunction with Article 792(4) CCIP).

The customs office competent for the place where the goods physically leave the customs territory of the Community supervises the physical exit of the goods and sends back a certified copy of the AAD to the consignor. When that customs office establishes that goods are missing, in excess or that there is a discrepancy in the nature of the goods, it applies, where appropriate, the measures laid down in Article 793a(5) CCIP and annotates the AAD accordingly (Article 793c(2) CCIP).

11.2. Under the rules of Directive 2008/118/EC

These rules can be applied as of 1 April 2010 and will be mandatory as of 1 January 2011.

In these cases the "normal" rules of the export procedure will apply. The general rules for the treatment of the electronic export declaration are applicable. In addition, the certification of exit made by the customs office of export will close the excise movement.

Consequently, Article 793c CCIP will be deleted with effect from 1 January 2011.

²¹ CIS: Commonwealth of Independent States (Azerbaijan, Armenia, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Uzbekistan and Ukraine).

[Part C

Exit summary declaration (EXS) – under review – to be updated

The mandatory filing of EXS is delayed until 1 January 2011. The Commission and the Member States are reviewing the current EXS filing requirements as laid down in the CCIP. It is possible that, as a result of this review, the situations when, and to which, customs office of exit an EXS will be lodged may be revised.

Because this review is still ongoing, specific guidance for the exact situations when an EXS is required cannot be provided at this time. The description below therefore provides a general description of some of the issues regarding EXS filing that are general in nature, and likely will not change as a result of the ongoing review.

Economic operators are strongly advised to regularly consult this section of the Guidelines for updates on the ongoing review process.

1. Obligation to lodge an EXS

This concerns in particular exit from free zones and temporary storage, shipper owned empty containers and certain movements of Community goods via a third country (other than Norway and Switzerland).

The EXS filing situations are, as mentioned in the introduction, undergoing review. A description of the specific situations where an EXS is required will be provided once the review has been completed.

2. Exceptions

Articles 841a and 842a CCIP lay down the situations where no EXS is required. The exceptions are also currently undergoing review with a view to increasing their scope.

3. 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..

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 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.

4. Person responsible

The EXS must be lodged by the carrier bringing the goods out of the customs territory of the Community, the person who is able to present the goods or to have them presented at the customs office of exit, or a representative of these persons (Art. 182d CC).

5. Reduced data requirements – AEO

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 exit summary declaration and all consignors declared in the exit summary declaration,
- in case the exit summary declaration is lodged by a representative of the person responsible for lodging the exit summary declaration, the representative and all consignors declared in the exit summary declaration.

6. Time limits for lodging an EXS

6.1. 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-Community 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-Community destination will leave the port
Short sea shipping: Movements between Greenland, Faroe Islands, Ceuta, Melilla, Norway ²² , 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 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-Community destination will leave the port

²² 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.

<p>Short sea shipping: Movements with a duration of less than 24 hours</p> <p>between a territory outside the customs territory of the Community</p> <p>and the French overseas departments, the Azores, Madeira and the Canary Islands</p>	<p>At least 2 hours before the vessel that will carry the goods to a non-Community destination will leave the port</p>
<p>Air traffic</p>	<p>At least 30 minutes before the aircraft that will carry the goods to a non-Community destination will leave the airport</p>
<p>Rail and inland waterways</p>	<p>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 last customs office in that territory</p>
<p>Road traffic</p>	<p>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</p>

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.

6.2. 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 on to 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 Community 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 Community on to the vessel that will carry the goods to a destination outside the customs territory of the Community, then the EXS, where required, must be lodged at the customs office at the transshipment port. No EXS is required to be lodged at the customs office in the first Community port of loading. At the port of transshipment, 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 ports in the Community 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)
- Transshipped in Hamburg.

An export customs 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 lodgment of EXS, where required, because it is here the container will be loaded on to the main 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 and Le Havre 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) the vessel and is therefore not presented to customs during the calls at Felixstowe and Le Havre. No further EXS or risk analysis is therefore necessary in those two ports.

Air

Similarly, Article 592b(1)(b) CCIP refers to an airport, not the last airport; this means the airport at which the goods are loaded to the aircraft which will take them out of the Community, i.e. this is the office of exit, not the last EU airport at which the aircraft will call.

Road/Rail

For these movements, the customs office of exit is always the last customs office before the goods leave the customs territory of the Community.

7. Amendments of EXS

The person who has lodged the exit summary declaration shall, at his request, be authorised to amend one or more particulars of the EXS after it has been lodged (Art. 182d(4) CC).

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 exit summary declaration. However, the particulars concerning the person lodging the EXS and the representative cannot be amended for technical reasons.

8. 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.

An EXS may be required for such goods when they, upon having been placed in temporary storage (or in a control type I free zone), are transhipped or loaded 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 for transhipment must be made to the customs authorities. The request for removal from temporary storage should not contain more than the following information:

- a) Identity of the person lodging the removal request;
- b) A reference to the summary declaration for temporary storage covering the goods;
- c) Place of loading;
- d) 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; and
- e) The intended place of unloading.

The request for removal from temporary storage may take the form of a commercial, port or transport manifest or loading list, provided that it contains the aforementioned five data elements and is lodged in manner acceptable to the customs authorities. No records for temporary storage are needed if the goods to be transhipped are in storage no longer than **[14 working days]** provided information about the goods is available to the customs authorities e.g. through the data processing system of the temporary storage holder, or that of the carrier and/or the port/airport operator.

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].

Part D

Export Control System (ECS)

ECS has been developed by the Community for the exchange of messages and data relating to the export procedure (and outward processing and re-exportation after a customs procedure with economic impact) between national customs administrations and between them and economic operators and with the European Commission. In effect, it provides for the control of the export procedure and as the primary means for certification of export from the Community, for VAT and other tax purposes. Where an incomplete or simplified export declaration or a notification of entry in the records is used, it should be noted that ECS requires more data than the reduced data sets laid down in Table 7 of Annex 30A CCIP. This needs to be taken into account in cases where the customs offices of export and exit are in different Member States. During the transitional phase until 31 December 2010, commercial documents issued by approved exporters and corresponding to the Administrative Arrangement concluded in accordance with Article 288 CCIP may be used where the export operation takes place in a single Member State and where the use of such documents has been authorised.

ECS is made up of three “domains”:

- a) The “common domain” for exchanges between the EU Member States and the European Commission;
- b) The “national domain” made up of the national customs computer systems and the associated risk management processes; and
- c) The “external domain” being the interface between economic operators and the national customs administrations for the lodging of export/re-export declarations, issuance of MRNs as registration of the export declaration and for subsequent confirmation to the economic operator of the actual exit of the goods from the customs territory of the Community. It is through this latter “domain” that the export/re-export declaration must be filed according to nationally determined technical specifications, message formats and structures etc.

Though ECS primarily concerns the exporter or his representative, there are roles within the ECS process that may affect the person loading the goods on the means of transport leaving the customs territory of the Community and the carrier, most notably the identity of the so called ‘Trader at Exit’. The ‘Trader at Exit’ is the person responsible for informing the customs office of exit that the goods have arrived there, in accordance with Articles 793(1) and 796c CCIP. The obligation to do this, or to ensure that this is done, clearly lies with the holder of the procedure, i.e. the person who lodges the customs export or re-export declaration. Usually, however, the exporter will delegate this responsibility to the person he contracts to carry the goods. This may be the carrier, but, in the case of loading for onward transport, may more usually be the person who brings the goods to the port, airport etc., e.g. the haulier, river carrier, or a forwarder. The ‘Arrival Notification’ may also be sent to customs by the operator of the storage/loading facility, i.e. the terminal operator or stevedoring company, particularly where port/airport systems are used for export manifesting and control. Community legislation, however, places no responsibility on the carrier in this matter.

The same applies to ‘Exit Notification’ messages required for ECS. Proof of exit may be required by the exporter or declarant (Article 796da CCIP).

Further information

Further information on the security aspects of customs can be found at this web link:

http://ec.europa.eu/taxation_customs/customs/policy_issues/customs_security/index_en.htm

Further information on the implementing provisions of the Modernised Customs Code can be found on this web site:

http://ec.europa.eu/taxation_customs/customs/procedural_aspects/general/community_code/article_5660_en.htm

Part E
FALLBACK RULES

This Part 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, or
- the network between the economic operator and the 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 CCIP²³),
- the SAD, complemented with the Security and Safety Document (SSD) where the export declaration should contain safety and security data (Annexes 45i/45j CCIP)²⁴,
- commercial documents used in accordance with Article 288 CCIP where an approved exporter has been authorised to use such documents during the transitional period ending on 31 December 2010.

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 stamp (dimensions: 26 x 59 mm), as shown below, in box A underneath the registration number:

<p>ECS FALLBACK PROCEDURE</p> <p><i>NO DATA AVAILABLE IN THE SYSTEM</i></p> <p><i>INITIATED ON</i> _____</p> <p><i>(Date/hour)</i></p>

²³ Regulation (EC) No 414/2009, OJ No L 125, p.6

²⁴ Regulation (EC) No 414/2009, OJ No L 125, p. 6

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 of point 1.1 should apply. The economic operator should inform the customs authorities when his system and/or the network is available again.

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

Where the export movement is started in ECS but at the office of exit the customs 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.

2.2. Treatment of exit summary declarations (EXS)

Where the exit summary declaration 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 exit summary 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,
- an incomplete Export Accompanying Document (EAD),
- the Security and Safety Document (SSD) (Annexes 45i/45j CCIP).

If the EXS is submitted using an incomplete EAD or 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.

Where the incomplete EAD is used no MRN and barcode should appear on the document.

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.