# Suspend a Decision

## Stakeholders involved in the Process

* Trader;
* Decision-taking customs authority;
* Involved member states.

## Business

In specific cases, a decision can be suspended. As a consequence, it is not valid anymore during a certain period of time. The suspension can be requested either by the Customs Authority or by the holder.

In our high-level view of the Customs Decisions process (Figure 1), the suspension is part of the Manage Authorisation process, as depicted in Figure 2.

Figure 1: High level view of the Customs Decisions process

Figure 2: Suspend Decision is part of the Manage Authorisation process

The customs authority will initiate the suspension when:

* There are sufficient grounds for annulling, revoking or amending the decision, but further investigations are required;
* The holder of the decision does no longer fulfil the conditions or does not comply with obligations imposed during that decision, but can take measures to ensure the fulfilment or the compliance;
* After re-assessment, the customs officer realises that the decision needs to be suspended.

The holder of the decision can voluntarily request a suspension when:

* He is temporarily unable to fulfil the conditions of the decision or to comply with the obligations imposed under that decision. In that case, the holder should notify the customs authorities accordingly and inform them about the measures he will take and how much time he will need to implement them.

 It is in the interest of the holder to apply voluntarily for a suspension of a decision.

For example, the holder realises that he no longer complies with the conditions of an active authorisation. He can request to suspend the decision. In this case, the suspension can be ended as soon as he fulfils the conditions again.

However, if the Customs Authorities realises, before the trader, that he no longer complies with obligations imposed under the decision, they can start the revocation process.

In that case the holder may lose his authorisation and the right to re-apply for the same authorisation for the next 3 years.

Depending on the reason for suspension, one of the two following processes will be triggered:

* Suspend Decision – Main process (described in section 11.2.1);
* Suspend Decision – Measures to be Taken (described in section 11.2.2).

It is worth noting that the system will not allow the authorisation status to change more than once a day. Therefore, the suspension process can be *started* as soon as the authorisation is granted but the system will prevent the user to confirm the status change to "Suspended" if the authorisation validity start date is on the same day or if the status of the authorisation has already changed on the same day. A warning will ask the user to proceed on the next day at the earliest.

### Suspension - Main Process

Suspend Decision is part of the Manage Authorisation process. Figure 1 depicts the high-level overview of the Suspend Decision main process.



Figure 3: High Level Overview of the Suspend Decision Main Process

The Suspend Decision process is triggered when the customs authority considers that there may be sufficient grounds for annulling, revoking or amending the decision, but does not yet have all necessary elements to decide on the annulment, revocation or amendment. It can also be automatically started when re-assessing the decision led to suspension.

The customs officer registers the reason for suspension and also registers whether the reason for suspension falls under the non-fulfilled condition 'Holder Has Not Been Convicted of Serious Criminal Offence or Committed Serious Infringements of Customs Legislation or Taxation Rules' Indication.

As soon as the customs officer has registered the reason for suspension, the grounds of the intended suspension are communicated to the trader (via the Right to be Heard process). The holder has then 30 calendar days to provide a point of view. Once provided, the customs authority can evaluate the justification provided by the holder and determines whether the decision is eventually to be suspended or not.

If the decision is to be suspended, the period of suspension shall correspond to the period of time needed by the customs authority to establish whether the conditions for an annulment, revocation or amendment are fulfilled.

From a general perspective, that period cannot exceed 30 calendar days. However, where the customs authority considered that the holder of the decision may not fulfil the criteria because he committed serious infringements of customs legislation, there is no limit of time and the suspension continues until the decision is made by a judicial body.

As soon as the suspension is confirmed by the customs officer, both the holder and the involved member states (if any) are notified about the suspension. The status of the decision is updated to “Suspended”.

Three possible scenarios are then possible:

1. In the case where the non-fulfilled conditions refer to a serious criminal offence or a serious infringement of customs legislation, the decision is suspended until the judicial authorities provide the decision to the customs authority.

That decision can be to:

* + End the suspension and keep the decision active;
	+ Amend the decision;
	+ Annul the decision;
	+ Revoke the decision.
1. In the case where the non–fulfilled conditions does not refer to the previous case, the customs officer analyses whether the decision is to be amended, annulled or revoked. If not, the suspension ends and the decision remains active, otherwise the dedicated process is started.
2. The time to identify whether conditions for amendment, annulment or revocation are fulfilled expires, the suspension ends directly.

### Suspension - Measures to be Taken

Suspend Decision – Measures to be Taken is part of the Manage Authorisation depicts the high-level overview of this process.



Figure 4: High Level Overview of the Suspend Decision – Measures to be Taken Process

This process is triggered when:

* A customs authority considers that the conditions for the decision are not fulfilled or that the holder of the decision does not comply with the obligations imposed under that decision, and it is appropriate to allow the holder of the decision to take measures to ensure the fulfilment of the conditions or the compliance with the obligations;
* The holder has sent a spontaneous request to suspend the decision because he is temporarily unable to fulfil conditions. This request includes a proposal for the measures to be taken and the period of time to take these measures.

When the fulfilment of one or more conditions or when the compliance with obligations may be ensured by the holder taking measures, the customs officer registers the reason for which the decision is to be suspended – including the requested measures to be taken. The trader is notified accordingly. Once he receives that notification, the trader has the right to be heard. Depending on the outcome of the right to be heard, the suspend decision can be aborted. Otherwise, based on the customs authorities’ request, the holder needs to propose measures that he will take and a period of time limit to take those measures.

While waiting for the measures to be submitted, the customs officer may consider that the trader will never submit them. Henceforth, he may decide to stop waiting and stop the procedure. As a consequence, he will register whether the decision should remain active, should be annulled, revoked or amended.

Once submitted, the proposed measures and the period of time to take measures (either spontaneously or on request of the customs officer) are evaluated by the customs officer, he can still refuse the measures and/or the period of time to take the measures and thus decide to annul, revoke, amend the decision or to keep it active.

If the proposed measures and the period of time are accepted, the customs officer determines the period of suspension, which should correspond to the period of time notified by the holder of the decision.

As soon as the suspension is confirmed by the customs officer, both the holder and the involved member states (if any) are notified about the suspension. The status of the decision is updated to “Suspended”.

Three outcomes are then possible:

* The holder provides the measures that he needed to comply with within the time limit;
* The holder asks for a time limit extension to take measures;
* The time limit to take measures expires.

If the holder completes the measures in due time, they are evaluated by the customs officer. If they comply with the expectations, the suspension is to be ended. But if the measures do not fulfil the conditions or do not comply with obligations the customs officer needs to decide whether the decision is to be annulled, revoked or amended. The appropriate process is then started.

If the holder asks for a time limit extension to take measures, the customs officer evaluates if the time limit can be extended and the holder is notified accordingly, informing him about the acceptance or not of the time limit extension.

If the time limit to take measures expires, the decision is to be revoked and the revocation process is automatically started.

### How to End a Suspension?

As a summary of the previous sections, the suspension may be ended in several ways.

1. When the suspension aimed at investigating whether the decision should be annulled, revoked or amended because sufficient grounds tended to prove so:
	1. The customs officer may decide to amend the decision; in which case – after having amended the decision – the suspension is ended and the authorisation is again active;
	2. The customs officer may decide to annul the decision; in which case the suspension is ended automatically by annulling the decision;
	3. The customs officer may decide to revoke the decision; in which case the suspension is ended automatically by revoking the decision;
	4. The time limit to identify the conditions for annulment, revocation or amendment expired; in which case, the suspension is automatically ended and the decision is again active.
2. When the suspension was based on the fact that the holder had done infringements to the customs legislation or taxation rules and aimed at giving the time for a court or another judicial body to make a decision:
	1. The authorities may decide to amend the decision; in which case – after having amended the decision – the suspension is ended and the authorisation is again active;
	2. The authorities may decide to annul the decision; in which case the suspension is ended automatically by annulling the decision;
	3. The authorities may decide to revoke the decision; in which case the suspension is ended automatically by revoking the decision;
	4. The authorities may decide to keep the decision active and thus it is automatically ended and the decision is again active.
3. When the suspension is aimed at leaving the time to the trader to take measures:
	1. The time limit to take measures may expire; in which case the suspension is ended and the decision is revoked;
	2. The customs officer concludes that the measures taken to comply with the obligations are not satisfactory and he decides to amend the decision; in which case – after having amended the decision – the suspension is ended and the authorisation is again active;
	3. The customs officer concludes that the measures taken to comply with the obligations are not satisfactory and he decides to annul the decision; in which case the suspension is ended automatically by annulling the decision;
	4. The customs officer concludes that the measures taken to comply with the obligations are not satisfactory and he decides to revoke the decision; in which case the suspension is ended automatically by revoking the decision;
	5. The customs officer concludes that the measures taken comply with the obligations and the suspension is automatically ended, thus bringing the authorisation again active;
	6. The time limit to establish whether the measures taken fulfil the conditions or comply with the obligations expires; the suspension is also automatically ended and the authorisation is active again.

In all the above cases where the suspension is ended and the decision back to active, the holder is automatically notified about the end of suspension. In the case where there is more than one member states involved in the authorisation, they are also informed accordingly.