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CUSTOMS CODE COMMITTEE

Import and Export formalities section

Guidelines on entry and summary declarations in the context of Regulation (EC) No 648/2005

This working document is intended to explain the application of the entry and import provisions in the context of Regulation (EC) 648/2005.

It is subject to a final review cycle ending on 10 September 2010. Comments should be sent to taxud-a3@ec.europa.eu and Eva-M.Johansson@ec.europa.eu.

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ABBREVIATIONS

AEO	Authorised Economic Operator
AIS	Automated Import System
ATA carnet	"Admission Temporaire/Temporary Admission" carnet
CC	Community Customs Code
CCIP	Community Customs Code Implementing Provisions
CIM	Uniform Rules concerning the Contract of International Carriage of Goods by Rail
CPD carnet	Carnet de Passage en Douane
DNL	Do Not Load
ENS	Entry Summary declaration
EORI	Economic Operators' Registration and Identification
ICS	Import Control System
IMO	International Maritime Organization
MRN	Movement Reference Number
MS	Member State
NCTS	New Computerised Transit System
NCTS-TIR	New Computerised Transit System - Transports Internationaux Routiers
SAT	Transport contract used by Austria, the Czech Republic, Slovakia and Hungary for transport to certain countries
SMGS	Agreement on International Freight Traffic by Rail
TIN	Trader Identification Number

Part A

General explanation

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 the implementing provisions (CCIP), and in particular safety and security declarations at entry.

The guidelines are divided into three main parts – general, entry and Import Control System (ICS).

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

In the context of the security and safety requirements the roles and responsibilities of the border and inland customs offices have been re-defined. The following guidelines give an overview.

2.1. Customs office of entry

This is the customs office designated by the customs authorities in accordance with the customs rules to which an entry summary declaration (ENS) must be sent and at which appropriate risk-based controls, primarily for safety and security purposes will be performed. The customs office of entry is the customs office geographically competent for the place where the goods are brought into the customs territory of the Community.

In maritime traffic, where a vessel during the same voyage may enter and exit the customs territory of the Community and call at several ports in the EU, the customs office of entry means the customs office competent for the port where the vessel arrives first in the customs territory of the Community[1].

When goods dispatched from a third country are moved between different EU ports on a vessel that leaves the customs territory of the Community temporarily without calling at a non-EU port, safety and security risk analysis is only performed at the customs office of entry where the goods are brought into this territory for the first time. If, however, the vessel calls at a port outside the EU between calls at EU ports, a new safety and security risk analysis must be performed by the customs office competent for the EU port where the vessel first calls after re-entering the customs territory of the Community.[2]

Whenever the customs office of the first port or airport of entry in the Community identifies a risk for goods carried on the vessel or aircraft, it will pass

[1] Whenever the term "customs office of entry" is used in these Guidelines in the context of maritime traffic it means the customs office of first entry in the EU on the vessel's itinerary. Customs offices competent for subsequent EU ports on the vessel's itinerary are referred to as subsequent customs offices.

[2] This new risk analysis will be performed on all goods carried on the arriving vessel even if some or all of these goods were already risk assessed when the vessel entered the customs territory of the Community the first time.

on the risk results to the customs offices in subsequent ports or airports so that these goods can be subject to customs control upon scheduled discharge. This risk approach is intended to ensure that legitimate cargo flow can continue uninterrupted. However, the customs office of first entry takes immediate action in those exceptional cases where goods, goods in transit, are deemed to pose such a serious threat that immediate intervention is required. For deep-sea containerized traffic, such immediate action takes, wherever possible, the form of a message to the carrier that the goods are not to be loaded on to the vessel for carriage to the EU.

Member States may offer to economic operators the possibility that an ENS is lodged at another customs office than the customs office of entry (so-called "customs office of lodgement"), provided the ENS is electronically communicated or made available to the customs office of entry.[3] Where the customs office of entry is in another Member State than the customs office of lodgement, this is only possible in cases where the Member State in which the customs office of entry is situated is equipped, and has agreed, to receive ENS data in this way[4]. The responsibility of the customs office of entry for performing risk analysis is not affected by this functionality. Where an economic operator uses this functionality in a Member State where it is offered, his obligations with regard to the deadlines are fulfilled at the office of lodgement, even if there is a delay in the transmission of the data to the customs office of entry.

2.2. Customs office of import

This is the customs office designated by the customs authorities in accordance with the customs rules where the formalities for assigning goods brought into the customs territory of the Community to a customs-approved treatment or use (e.g. release for free circulation, inward processing) are to be carried out and where risk-based controls, primarily for other than safety and security purposes, are performed. All non-Community goods which are upon their arrival under temporary storage[5] must be assigned within 20 or – if they have been carried by sea – 45 days upon their arrival to a customs-approved treatment or use. This means that the function of the customs office of import is normally, albeit at a later stage, to be performed by the customs office of entry. If a transit procedure is started, the customs office of entry acts as office of departure. When the goods arrive at the office of destination, this office will act as customs office of import when the goods are, for example, subsequently released for free circulation.

However, where non-Community goods

- enter directly into a control type I free zone, they are already under a customs-approved treatment or use so that no further formalities are needed as long as the goods stay in the free zone;
- are not released for free circulation at the customs office of entry/import but moved (for example under the external transit or customs warehousing

[3] Article 36a(2) CC.
[4] The list of Member States equipped for and agreeing on this possibility can be found at [*ECIP weblink to be created*] .
[5] Goods arriving by sea or air are only under temporary storage if they are unloaded from the vessel or aircraft, Article 189 CCIP.

procedure) to another place for which another customs office is competent, this other customs office has to also perform the role of a customs office of import until the goods are released for free circulation, re-exported, or moved to a place for which another customs office is competent. This customs office then has to perform again the function of a customs office of import or, in the case of re-exportation, of a customs office of export.

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

- the lodging and acceptance of a customs declaration (for release for free circulation, end use, transit, customs warehousing, inward processing, processing under customs control or temporary admission),
- the verification of the declaration, supporting documents, and the physical examination of the goods,
- taking measures allowing the identification of the goods,
- controls on whether the goods are subject to prohibitions or restrictions,
- the payment of import duties and other charges (e.g. VAT, excise duties) or the lodgement of a guarantee, where required,
- the release of goods for the customs procedure concerned.

3. EORI Numbers

The EORI system identifies each trader involved in the import/export of goods by a unique identifying number. This number must be used by traders in all declarations lodged by them or on their behalf, with customs authorities.

The filer of an entry summary declaration (ENS) must include his own Economic Operator Registration and Identification (EORI) number in the ENS and, if he is not the carrier, also the carrier's EORI number. The indication of the carrier's EORI number is mandatory in situations where the ENS is lodged or amended – with his knowledge and consent - by a person other than the carrier or his representative; the EORI number of the carrier must also be provided in ENS covering deep sea containerised shipments and in situations where the customs authorities decide that the introduction of the goods into the customs territory of the Community would pose a serious threat to safety and security and thus must be able to notify the carrier that the goods are not to be loaded. In other cases, e.g. consignee/consignor, the EORI number should be included whenever this number is available to the person lodging the ENS.

A declarant who does not already have an EORI number (which can be an existing Trader Identification Number provided it conforms to the structure of an EORI number) needs to obtain an EORI number. It is strongly recommended to apply for an EORI number before the filing of the first declaration since it may take several days before the EORI number can be attributed. However, an application for an ad hoc number may be made in the context of the first filing.

The EORI application process differs according to whether the declarant is established within 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 first will lodge a safety and security declaration.

Further information on EORI can be found on the following web link:
http://ec.europa.eu/taxation_customs/resources/documents/customs/security_amendment/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 the entry summary declaration. The MRN must be issued immediately to the person lodging the ENS and, where different, also the carrier upon receipt and successful validation of each ENS lodged.

It contains 18 digits and is composed of following elements:

Field	Content	Field type	Examples
1	Last two digits of year of formal acceptance of entry/import movement (YY)	Numeric 2	11
2	Identifier of the Member State to which the declaration was sent.	Alphabetic 2 (ISO alpha 2 country code)	IT
3	Unique identifier for entry/import movement per year and country	Alphanumeric 13	9876AB8890123
4	Check digit	Alphanumeric 1	5

5. Implementation of the ENS filing requirement

The ENS filing requirement will become mandatory after midnight December 31, 2010.

However, in order to take into account the fact that deep-sea containerized shipments are subject to a pre-loading ENS filing requirement, the ENS filing requirement for this particular type of maritime traffic will only be enforced for scheduled voyages that begin after midnight December 31, 2010.

> For example, in case of a scheduled voyage itinerary Singapore-Colombo-Algeciras, if the ship begins the voyage (i.e. departs) from Singapore before December 31, it will not need to file ENS prior to loading in any of the load ports. The fact that the vessel loads in Colombo after January 1 will not trigger an ENS filing requirement prior to loading in Colombo. If the vessel is scheduled to depart from Singapore after midnight on December 31, 2010, then ENS filings will be mandatory for each of the foreign load ports.

In accordance with the above, all scheduled vessel voyages that begin with a port departure after midnight December 31, 2010 will be required to have ENS filings for all deep-sea containerized cargo loaded aboard prior to arrival in the first EU port of call

6. Fallback rules

The Commission services have developed a Business Continuity Plan (BCP) for allowing the continuity of activities in case of failure of the IT systems. Due to the fact that the alternative systems to be created should be proportional to the risk of such failure, and that lodgement of paper entry summary declarations should only be used as a last resort, the BCP stresses that preference should be given to other fallback instruments. Consequently, it is of prime importance to traders and customs – beforehand – to agree and respect quality criteria that will limit the business impact due to the unavailability of the IT systems concerned.

Information on the procedures together with scenarios can be found on the following web link:

http://ec.europa.eu/ecip/documents/procedures/business_continuity_plan_en.pdf

Part B

Entry Summary Declaration

1. Obligation to lodge an ENS

Without prejudice to transitional rules and the exceptions, EU legislation requires that an ENS must be lodged before the arrival of goods in the customs territory of the Community or before loading containerised cargo in deep sea traffic (cases referred to in Article 184a (1) (a) CCIP) at the first point of entry into the customs territory of the Community. The customs office of entry may waive the lodging of an entry summary declaration in respect of goods for which an electronic customs declaration is lodged within the time limits for an ENS, provided the customs declaration contains the particulars of an ENS. A practical example would be the lodging of a transit declaration (Article 36c (1) CC) at the eastern land border under NCTS or NCTS-TIR.

In accordance with Article 183 (1) CCIP the ENS shall be lodged electronically. It shall contain the particulars laid down for such declaration in Annex 30A CCIP and shall be completed in accordance with the explanatory notes in that Annex. The ENS shall be authenticated by the person making it.

2. Exceptions

No ENS is required in the following cases, which are laid down in Article 181c CCIP:

- electrical energy;
- goods entering by pipeline;
- letters, postcards and printed matter, including on electronic medium;
- goods moved under the rules of the Universal Postal Union Convention;
- goods for which a customs declaration made by any other act is permitted (Articles 230, 232 and 233 CCIP), with the exception of, if carried, against payment, under a contract[6], household effects as defined in Article 2(1)(d) of Council Regulation (EC) No 1186/2009[7], pallets, containers, and means of road, rail, air, sea and inland waterway transport;
- goods contained in traveller's personal luggage;
- goods for which an oral customs declaration is permitted (Articles 225, 227 and 229(1) CCIP), with the exception of, if carried, against payment, under a contract, household effects as defined in Article 2(1)(d) of regulation (EC) No 1186/2009, pallets, containers, and means of road, rail, air, sea and inland waterway transport;
- goods covered by ATA and CPD carnets;
- goods moved under the cover of the form 302 provided for in the Convention between the Parties to the North Atlantic Treaty regarding the Status of their Forces, signed in London on 19 June 1951;

[6] Such a contract is, for air traffic an airwaybill, for maritime traffic a bill of lading and in railway traffic a CIM, SMGS or CIM/SMGS consignment note or a SAT document.
[7] OJ L 324, 10.12.2009, p.23

- goods carried on board vessels of regular shipping services, duly certified (Article 313b), and goods on vessels or aircraft which are carried between EU ports or airports without calling at any port or airport outside the customs territory of the Community;
- goods entitled to relief pursuant to the Vienna Convention on diplomatic relations of 18 April 1961, the Vienna Convention on consular relations of 24 April 1963 or other consular conventions, or the New York Convention of 16 December 1969 on special missions;
- weapons and military equipment brought into the customs territory of the Community by the authorities in charge of the military defence of a Member State, in military transport operated for the sole use of the military authorities;
- the following goods brought into the customs territory of the Community directly from drilling or production platforms or wind turbines operated by a person established in the customs territory of the Community:
  a) goods which were incorporated in such platforms or wind turbines for the purposes of their construction, repair, maintenance or conversion;
  b) goods which were used to fit to or to equip the said platforms or wind turbines;
  c) other provisions used or consumed on the said platforms or wind turbines; and
  d) non-hazardous waste products from the said platforms or wind turbines;
- goods in a consignment the intrinsic value of which does not exceed EUR 22 provided that the customs authorities accept, with the agreement of the economic operator, to carry out risk analysis using the information contained in, or provided by, the system used by the economic operator;
- goods brought from territories within the customs territory of he Community where Council Directive 2006/112/EC[8] or Council Directive 2008/118/EC[9] does not apply; and
- goods brought from Heligoland, the Republic of San Marino and the Vatican City State to the customs territory of the Community.

In cases where an ENS was required but has not been lodged, it shall be lodged at the latest upon presentation of the goods to customs. At that moment the customs office of entry will perform risk analysis.

In cases where an ENS was not required, the customs office of entry will (except in the cases of movements within the customs territory of the Community) perform risk analysis at the moment when goods are presented to customs[10], where appropriate on the basis of the customs or summary declaration for temporary storage or any other information available.

[8] OJ L 347, 11.12.2006, p.1
[9] OJ L 9, 14.1.2009, p.12
[10] Goods arriving by sea or air are only to be presented to customs where they have been unloaded from the vessel or aircraft (Article 189 CCIP).

3. International agreements

An entry summary declaration shall not be required in cases provided for in international agreements concluded by the EU with a third country in the area of security. Such agreements currently exist with Norway and Switzerland (including Liechtenstein). They foresee the following: The Contracting Parties shall introduce and apply to goods entering their customs territories the customs security measures, ensuring thus an equivalent level of security at their external borders. The Contracting Parties shall waive the application of the customs security measures where goods are carried between their respective customs territories (see example in footnote[11]).

4. Place to which the declaration must be lodged and where the security-related risk analysis takes place

In principle, an ENS must be lodged at the EU customs office of entry intended to be called first (declared office of first entry) in order for this office to perform the security and safety risk analysis. If the customs office of first entry identifies any risks, it transmits the risk information, based on Article 184e CCIP, to all subsequent offices of the Community declared in the ENS. This transmission of the risk information allows for customs control to take place upon scheduled discharge of the goods deemed to create a risk, thus ensuring that legitimate cargo flow can continue uninterrupted. Exceptionally, the customs office of first entry may take immediate action where goods are deemed to cause such a serious threat that immediate intervention is required. For deep-sea containerized traffic, such immediate action, wherever possible, takes the form of a message to the carrier that the goods are not to be loaded on to the vessel for carriage to the customs territory of the Community.

Another customs office can accept the ENS if an electronic link with the customs office of entry is available and the use of this facilitation is accepted by the customs authorities. Nevertheless, the customs office of first entry remains responsible for risk analysis.

5. Person responsible

Article 36b CC establishes that the operator of the active means of transport on or in which the goods are brought into the customs territory of the Community is responsible for the filing of an ENS. The operator (or "the carrier") is the person who brings, or who assumes responsibility for the carriage of, the goods into the customs territory of the Community.

[11] A vessel, operated by Company M, the carrier, loads cargo in St Petersburg in Russia for carriage to Bergen in Norway and then to Rotterdam in the Netherlands. An ENS must be lodged electronically before the arrival, for all cargo carried by the vessel, at the customs office of Bergen (Article 9c of Protocol 10 to the Agreement on the European Economic Area applies. The customs office at Bergen will carry out risk analysis on the ENS(s) upon their receipt, in accordance with Article 3(1) of Annex I of Protocol 10 to the Agreement on the European Economic Area. Any positive results of the risk analysis will be communicated to the subsequent ports in the EU. No ENS notification needs to be lodged with the customs office in Rotterdam. However, if the vessel, after having called in Bergen, makes a call at a non-EU port and then calls at a EU port, a new ENS must be lodged with the customs office in Rotterdam if the first port of call was Rotterdam.

There are some types of transport arrangements where the ENS filing obligation lies with a person other than the operator of the active means of transport:

In the case of **maritime or air traffic** involving **vessel sharing** or similar contracting agreements between the involved carriers, the obligation to file an ENS lies with that carrier who has contracted, and issued a bill of lading or an air waybill, for the carriage of the goods into the customs territory of the Community on the vessel or aircraft subject to the arrangement.

In the case of "**combined transport**" (e.g. a truck carried on a ferry) where the means of transport entering the customs territory of the Community (the ferry) is only transporting another means of transport which, after entry into the customs territory of the Community, will move by itself as an active means of transport (the truck), the obligation to file an ENS lies with the operator of that other active means of transport (the trucking company).

Filing by a third party

Since the carrier is legally responsible for the lodging of an ENS and that it is lodged within the deadlines, a third party may only lodge the ENS instead of the carrier with the latter's knowledge and consent. Arranging for such an alternative third party ENS filing involves the following steps:

(a) The 3rd party declarant and the carrier must contractually agree that the third party is to file the ENS instead of the carrier.

How the carrier's consent to the 3rd party ENS filing is to be evidenced and under which conditions and terms, e.g. time for submission of the ENS, the shipments involved, and the duration of the filing arrangement, are subject to contractual agreement between the commercial parties.

Except where there is evidence to the contrary, the customs authorities may assume that the carrier has given his consent under contractual arrangements and that the 3rd party's lodging of the ENS is made with the carrier's knowledge.

(b) The data elements that the 3rd party declarant must include in its ENS filing are set out in Annex 30A CCIP.

The carrier's EORI number and the carrier's transportation document number (e.g. ocean (master) bill of lading or (master) air waybill number) must always be included in any 3rd party ENS filings. Among other required data elements are several that the 3rd party would need to obtain from the carrier prior to lodging the ENS. These include:

- mode of transport at the border;
- expected date and time at first place of arrival/entry in the customs territory of the Community[12];
- first place of arrival/entry code;
- country code of the declared first office of arrival/entry;
- the IMO vessel number (in the case of maritime shipments); the flight number; the wagon number (in the case of rail shipments); or the truck registration number (in the case of road transport);

[12] For ocean going vessels, only the expected date of arrival is required.

- the nationality of the active means of transport entering the customs territory[13];
- voyage or trip number: in the case of code-share arrangements in air transport, the code-share partners' flight numbers (this data element is not required for road transport),
- subsequent ports or airports of call in the customs territory of the Community.

The carrier will need to make such data elements available to the 3rd party declarant preferably at the time of booking or as logically required for a timely submission of that party's ENS filing.

(c) Once the 3rd party, with the carrier's knowledge and consent, undertakes the responsibility of making the ENS filing, the content, accuracy and completeness of the ENS filing is the third party's responsibility.

(d) Immediately upon registration of the ENS, the customs authorities shall notify the 3rd party declarant of the MRN. The customs authorities shall also notify immediately the carrier of the MRN provided that the carrier is electronically connected to the Customs authorities, and provided that the carrier has been identified by its EORI number in the 3rd party ENS filing.

An ENS filing can be made to the customs office of first entry or to another customs office ("Office of Lodgement") where an electronic link exists and the use of this facilitation is accepted by the customs authorities. In the latter case, the MRN will be issued to the 3rd party by the office of lodgement. However, the carrier would not need to be electronically connected to this office in order to receive the MRN for the third party ENS filing as long as he is electronically connected to the customs office of first entry.

Notification of the carrier of the MRN, which also includes a reference to his transportation document number, will provide evidence for the carrier that an ENS has been validated and registered by customs and that the carrier's obligation under Article 36b (3) CC has been met.

(e) If the carrier has contractually agreed that a 3rd party will file the ENS instead of him, the carrier should not make his own ENS filing for that same shipment. Similarly, a 3rd party may not file without the carrier's prior knowledge and contractual agreement. In such cases, the 3rd part declarant cannot use ad hoc EORI numbers in the ENS

(f) In cases where dual filings for the same consignment nonetheless occur, i.e. the carrier and a 3rd party both file an ENS for the same shipment, customs authorities may decide to use both filings for their safety and security risk analysis. Otherwise, they will consider that the ENS lodged by the carrier is the valid one.

Dual filings would in any case not affect compliance with the legal requirement that an ENS is made, and within the specified deadlines.

[13] This data element is not required for sea and air transport.

6. Deadlines

The deadlines for the lodging of the ENS vary according to the transportation mode and duration of transportation carrying the goods in to the customs territory of the Community:

TRANSPORTATION MODE	TIME LIMITS
Containerised maritime cargo (except short sea containerised shipping)	At least 24 hours before commencement of loading in each foreign load port if at least one call of the vessel is foreseen at a port in the customs territory of the Community
Bulk/break bulk maritime cargo (except short sea bulk/break bulk shipping)	At least 4 hours before arrival at the first port in the customs territory of the Community
Short sea shipping: Movements **between** Greenland, Faroe Islands, Ceuta, Melilla, Norway[14], Iceland, ports on the Baltic Sea, ports on the North Sea, ports on the Black Sea or ports on the Mediterranean, all ports of Morocco **and** the customs territory of the Community except French overseas departments, Azores, Madeira and Canary Islands	At least 2 hours before arrival at the first port in the customs territory of the Community
Short sea shipping: Movements with a duration of less than 24 hours **between** a territory outside the customs territory of the Community **and** the French overseas departments, Azores, Madeira and Canary Islands	At least 2 hours before arrival at the first port in the customs territory of the Community
Short haul flights (less than 4 hours duration)	At least by the time of the actual take off of the aircraft
Long haul flights (duration of 4 hours or more)	At least 4 hours before arrival at the first airport in the customs territory of the Community
Rail and inland waterways	At least 2 hours before arrival at the customs office of entry in the Community
Road traffic	At least 1 hour before arrival at the customs office of entry in the Community
Combined transport (see 5. above for definition)	It is the time limit indicated in the rows above for the means of transport that enters the customs territory of the

[14] Entry of goods with a load port in Norway has been exempted from the requirement of an ENS by virtue of an agreement with the EU.

	Community (for example, for a truck on a ferry in short sea traffic, the time limit is at least 2 hours before the ferry's arrival at the first port in the customs territory of the Community).

Apart from ENS lodged before loading, the time limits refer to the arrival at the port, airport etc. for which the customs office of first entry is geographically competent. In case of an emergency call at an EU port or airport, the carrier will do his best to provide the required information as soon as possible. Such situations should not lead to sanctions for non-respect of the deadlines.

However, customs authorities may allow the ENS to be lodged at another customs office, provided that this office immediately communicates or makes available electronically the necessary particulars to the customs office of first entry. The permission to lodge the declaration at a customs office other than the customs office of first entry is dependent on the ability to transmit the particulars of the declaration to the customs office of first entry. Where this ability does not exist (e.g. due to lack of a corresponding interface between Member States), the lodging of the ENS at another customs office cannot be allowed. On the other hand, where an electronic link exists and the ENS is accepted by another customs office, the time limits for lodging the declaration (Article 184a CCIP) are not affected, given that the person lodging the declaration has no control over the treatment of his declaration by the customs authorities. Therefore the time limits of Article 184a CCIP apply also in cases where the ENS is lodged at a customs office other than the customs office of first entry.

7. Content, accuracy and completeness of the ENS filing

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

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

- the accuracy of the information given in the declaration,
- the authenticity of the documents attached, and
- the compliance with all the obligations relating to the entry of the goods.

However, the declarant is only obliged to provide the information known to him at the time of lodgement of the ENS[15]. Thus, the declarant is entitled to base his ENS filing on data provided by his trading or contracting parties, and the declarant would not have to ascertain the accuracy of the data provided to him. The person, who initiates and contractually agrees with e.g. a consolidator, a freight forwarder or a carrier for the carriage of a cargo shipment to the customs territory of the Community, must provide complete and accurate cargo shipment information to that carrier, freight forwarder or consolidator.

[15] When providing the required data, the declarant shall not declare cargo fixing equipment like belts, brackets, cargo securing parts etc. since these objects are considered to be part of the packaging and thus part of the goods declared.

If the declarant learns later that one or more particulars contained in the ENS filing have been incorrectly declared or have changed, the provisions on amendments apply. In cases where an amendment is no longer possible, any discrepancies between the goods declared and those presented to customs should be notified at presentation or in the context of the declaration for temporary storage. Additionally, the declarant should inform customs if he becomes aware that a person initiating cargo shipments to be carried to the customs territory of the Community systematically provides incorrect cargo shipment information.

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8. Authorised Economic Operators (AEO)

Holders of an AEO certificate referred to in in Article 14a (1) points (b) or (c) CCIP may receive from the competent customs office notification before the arrival of the goods into the customs territory of the Community when, as a result of security and safety risk analysis, the consignment has been selected for further physical control (Article 14b (2) CCIP). This notice shall only be provided where it does not jeopardise the control to be carried out, and provided that:

- the ENS has been lodged by the holder of one of the AEO certificates mentioned above;
- the relevant consignee is also holder of one of the AEO certificates mentioned above.

Holders of an AEO certificate referred to in Article 14a (1) points (b) or (c) CCIP importing goods may lodge ENS 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) CCIP, and are involved in the importation of goods on behalf of holders of AEO certificate referred to in point (b) or (c) of Article 14a (1) CCIP may also lodge ENSs 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 an ENS containing the reduced security data set**:

- the person lodging the ENS and all consignees declared in that ENS;
- in case the ENS is sent by a representative of the person lodging the ENS, the representative and all consignees declared in that ENS.

9. Amendments of ENS

The ENS declarant (see point 5) shall, at his request, be authorised to amend one or more particulars of the summary declaration after it has been lodged (Article 36b (5) CC).

From a legal point of view, there is no restriction on ENS particulars which can be amended.

For safety and security risk analysis, the ENS should not, due to restrictions resulting from IT systems, be amended after the notification of arrival or a diversion notification.

However, if the ENS is used for the purpose of declaring the goods for temporary storage, the ENS shall, in case of discrepancies, be amended even after the notification of arrival where the IT system allows for this. Alternatively a separate declaration for temporary storage should be lodged.

In any case, once a vessel or aircraft has left for a subsequent EU port or airport, no amendment of the ENS can be made.

Moreover, the particulars concerning the person lodging the ENS, the representative and the declared customs office of first entry should never be amended in order to avoid technical problems. Furthermore, it is not possible to amend an ENS after a diversion has been notified (see point 13). The time limits for lodging the ENS do not start again after the amendment since it is the initial declaration that sets them. If at the time of amendment, the ship in deep sea container traffic has left the port of departure, a "no load" message can not be issued any more.

When the particulars concerning the person lodging the ENS, the representative or the customs office of entry[16] are no longer correct, a new ENS should be lodged, and the deadlines laid down in Article 184a CCIP should wherever possible be respected in the case of the new ENS. The deadlines concerned are mentioned under point 6.

Where only part of a consignment is short-shipped[17] and it is not possible to determine which specific items are in that part, then a new ENS containing details for all the items from the original ENS may be lodged and the declarant in such case will not be penalised for over-declaring.

10. Risk analysis following an amendment

Risk analysis is performed on the basis of the ENS. Where an amendment is made, risk analysis is performed again to accommodate the amended particulars. This will have an impact on the release of the goods only where the amendment is made so shortly before the arrival of the goods, that the customs authorities need additional time for their risk analysis. If the amendment of the ENS has been made and the risk analysis pertaining to the amendment has been performed any positive result of the risk analysis and particulars of the ENS concerned shall also be forwarded to the office of subsequent port or airport in maritime or air traffic.

11. Unintentional double filing of ENS

This can occur in the following situations:

- an ENS is lodged by a freight forwarder and subsequently by the carrier,
- an ENS is lodged by the importer and subsequently by the carrier or freight forwarder,

[16] See however for diversion point 13.

[17] Example: two containers are declared on the ENS but only one will be shipped and arrive at the destination. The remaining container will be loaded on the next available vessel/aircraft.

- a customs declaration containing the ENS data is lodged by the importer or, in the case of transit, the principal, and subsequently an ENS is lodged by the carrier or freight forwarder.

The following solution is proposed for the national IT systems which can handle only one ENS per consignment: The ENS data first declared are disregarded, as the knowledge and consent of the carrier is required if another person lodges the ENS data. The ENS lodged by the carrier prevails also in the cases where it is lodged before the declaration of the other person. The information from both ENS can nevertheless be used for the purposes of risk analysis.

12. Arrival notification

In maritime and air traffic, an arrival notification is necessary and is always to be lodged at the actual first customs office of entry (in road and rail traffic, this function is fulfilled by the presentation of the goods). It should be noted that the arrival notification will need to contain the particulars necessary for the identification of the previously lodged ENS. Such particulars may be provided by the operator of the active means of transport by communicating, upon its own choice, either:

- the MRNs for all the shipments carried on the means of transport together with the mode of transport at the border, the country code of declared first office of entry, the declared first place of arrival code and the actual first place of arrival code, or

- the so called "Entry Key" data elements, i.e. the mode of transport at the border, the identification of the means of transport crossing the border (e.g. IMO vessel number), the date of expected arrival at the declared customs office of first entry, the country code of the declared customs office of first entry, the declared first place of arrival code and the actual first place of arrival code.

13. Diversion/change of route

Where the active means of transport is to be diverted to a MS different from the MS where the declared office of first entry is located and also different from where any of the declared offices of subsequent entry are located, the operator of the active means of transport must, on the basis of Article 183d CCIP, lodge a diversion notification, complying with the specifications set out in table 6 of Annex 30A CCIP and the associated explanatory notes, with the initially declared office of first entry. The diversion notification can, at the choice of the operator, take either of the two forms described above for arrival notification. This office then sends any positive risk information and the particulars of the ENS concerned to the actual office of first entry. The diversion notification should be sent only after all the ENSs for the means of transport have been lodged as it is not possible to amend an ENS once a diversion has been notified.

No diversion notification is required when there is a simple change of route with the consequence that the active means of transport is entering the customs territory of the Community at a declared customs office of subsequent entry

instead of the declared customs office of first entry[18]. The declared customs office of subsequent entry will already have received any positive risk results from the declared customs office of first entry. For the same reason, a new ENS or amendment to a previously lodged ENS is not required.[19] If goods are unloaded at that port or airport, a summary declaration for temporary storage is required, given that the ENS data for which no risk has not been identified will not be forwarded by the declared customs office of entry.

No diversion notification is needed for cases where a transit declaration contains the security and safety data and where this declaration is used as an ENS according to Article 183a CCIP (e.g. NCTS-TIR) given that the NCTS can handle this.

14. The link between ENS and the subsequent summary declaration for temporary storage or customs declaration

Regulation (EC) No 648/2005 has amended the rules on (entry) summary declarations by requiring that ENS are lodged before – instead of after – the arrival of the goods in the customs territory of the Community. However, Article 49 CC laying down the time limits for assigning goods to a customs-approved treatment or use has not been amended accordingly. Article 186 CCIP stipulates therefore that these time limits start to run when the goods are presented to customs.

The link between the ENS and the subsequent summary or customs declaration is to be established at the moment when the relevant summary or customs declaration is accepted by the customs authorities. The interface between the systems for ENS and customs declarations is to be organised by the MS (national domain).
Economic operators may lodge a declaration for temporary storage or a customs declaration prior to the presentation of the goods but are not obliged to do so. If there are discrepancies between the goods declared and the goods presented, such discrepancies should be notified at the latest at the presentation of the goods.

[18] For example, a vessel is initially planned to enter the customs territory of the Community in Rotterdam and then go to the Le Havre, thus declaring in the ENS Rotterdam as first customs office of entry and Le Havre as a subsequent customs office. For some reason the vessel skips Rotterdam and goes directly to Le Havre.

[19] The same principles apply where the change of route means that an EU port will be called earlier than originally scheduled. For example, the intended schedule was Shanghai-Genoa-Agadir (Morocco)-Barcelona; however, en route, the vessel schedule changes to: Shanghai-Genoa-Barcelona-Agadir. Because the changed schedule only adds an EU port of call before the vessel goes foreign, and because customs in Barcelona will already have received any positive risk results from Genoa, no new ENS or amendments need to be lodged with customs in Genoa (or Barcelona that now becomes a subsequent port of call in the EU).

Part C

The Import Control System (ICS)

The ICS is systems architecture developed by the European Commission and Member States for the lodging and processing of ENS, and for the exchange of messages between national customs administrations, between them and economic operators, and with the European Commission. ICS will form part of the Automated Import System (AIS) the objective of which it is to ensure that import operations starting in one Member State can be completed in another Member State without re-submission of the same information.

ICS 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 ENS, issuance of MRN as receipt for the ENS filing, any "Do Not Load" (DNL) messages etc.

It is through the "external domain" that the ENS normally would be filed according to nationally determined technical specifications, message formats and structures etc.

ICS will be implemented in phases. Phase 1 covers the lodging, handling and processing of ENS; exchange of safety and security risk analysis results between Member States; and the handling of international diversions.

ICS Phase 1 does not cover arrival notifications, the presentation of goods and the handling of summary or customs declarations; these activities will remain national matters.