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CUSTOMS CODE COMMITTEE

IMPORT /EXPORT FORMALITIES SECTION

GUIDELINES ON EXPORT AND EXIT

IN THE CONTEXT OF REGULATION (EC) NO 648/2005

(APPLICABLE FROM 1-1- 2011)

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

LEGAL NOTICE

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

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Summary

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

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

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

Formalities at the office of export

Declaration - acceptance – risk analysis – possible verification

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

Release for export

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

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

Formalities at the customs office of exit

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

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

Supervision of the exit of the goods

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

Formalities after the exit of the goods

Confirmation of the exit of the goods

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

Enquiry procedure – alternative proof

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

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

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

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

→ goods taken over under a single transport contract

→ the combination of export and transit

→ export of excise goods under duty suspension

→ split shipments

→ amendments to the export declaration

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

Part A
General explanations

1. Introduction

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

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

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

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

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

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

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

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

2. DEFINITION OF THE ROLES AND RESPONSIBILITIES OF THE DIFFERENT CUSTOMS OFFICES

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

2.1. Customs office of export

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

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

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

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

→ *taking measures to identify 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; and*

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

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

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

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

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

The following special rules exist:

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

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

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

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

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

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

→ are missing;

→ are in excess; and/or

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

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

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

Where discrepancies are identified, they are notified to the customs office of export through the "Exit results" message. If there are goods in excess or there is a discrepancy in the nature of the goods, the customs office of exit refuses the exit of the goods until the export formalities have been completed (Article 793a (5) CCIP).

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

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

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

Criteria for determining the customs office of exit

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

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

These special rules for customs declarations are the following:

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

[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).

The customs office of exit is the customs office competent for the place where the goods are loaded to the vessel (which is not assigned to a regular shipping service authorised in accordance with Articles 313a and 313b CCIP for a discharge in a subsequent EU port).
This interpretation is based on Article 793 (2) (first subparagraph), and Article 313 CCIP, because the latter provision stipulates that in subsequent EU ports the goods will be considered to be non-Community goods and, consequently, be subjected to the provisions concerning the entry of goods into the customs territory of the Community (apart from the need to lodge an entry summary declaration).
This situation occurs only if the goods are unloaded in subsequent EU ports and are therefore in temporary storage, because, if they remain on board the vessel, the above mentioned general rule applies.

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

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

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

(c) Single Transport Contract

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

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

(d) Export followed by transit

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

(e) Pipelines and electric energy

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

3. EORI Numbers

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

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

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

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

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

4. Movement Reference Number (MRN)

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

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

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

PART B
LODGING A CUSTOMS DECLARATION

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

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

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

2. Exceptions

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

In the cases laid down in Article 592a CCIP the time limits for prior lodgement of the customs declaration do not apply - the declaration can be lodged as late as at the time of presentation of the goods at the customs office of export. However, in the interest of uninterrupted cargo

flow and to ensure compliance with other jurisdictions' advance cargo risk requirements, the declarant will find it in his interest to lodge the customs declaration earlier than at the time of presentation.

Article 592a CCIP does not derogate from the need for a customs declaration but merely from the need to comply with the specific time limit and other rules laid down in Articles 592b to 592f CCIP. Instead, the customs declaration is to be lodged in accordance with the rules applicable in the particular case (for example, presentation of an ATA carnet).

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

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

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

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

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

3. Place at which the declaration must be lodged

3.1. General definition

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

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

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

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

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

Goods are packed for export when, for example:

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

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

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

Goods have been loaded for export, for example, when they are loaded at the factory (e.g. the loading of unpacked bulk goods).

Goods have not yet been loaded for export, for example, when the exporter in question does not yet know the exact arrangements for the export transaction (e.g. knows the goods recipient and the quantity of goods but not the scheduled date of the export) at the time when the goods are delivered to the storage facility.

These guidelines leave enough leeway within the legal framework for carrying out exports using the provisions on the local responsibility of the customs office of export to receive the export declaration, especially as Article 791 CCIP and the Administrative Arrangement create even more leeway (see Annex 4).

The failure to take advantage of the good level of knowledge at the customs office of export regarding the exporter and his products could mean that the admissibility check at "any" customs office of export would take longer and would generally not be able to guarantee that all the expertise existing at the local customs office is used.

In case of the export refund goods only the place of packing or loading is allowed for lodging the export declaration (Reg. (EC) No 612/2009).

4. Person responsible for lodging the customs declaration

The person responsible for the lodgement of the customs declaration is the person who may declare the goods for the customs procedure concerned and who is able to present the goods to customs together with all the required documents. Alternatively, goods may be presented through a representative.

In case of an export declaration that person is the exporter, i.e., the person on whose behalf the export declaration is made and who is the owner of the goods or has a similar right of disposal over them at the time the declaration is accepted (Article 788(1) CCIP). In the case of export of agricultural goods under an export licence, the export declaration must be lodged by the licence holder (Regulation (EC) No. 376/2008, OJ 2008 No L114, p. 3).

In case of an outward processing declaration that person is the holder of the outward processing procedure.

In case of re-exportation that person is the holder of the customs procedure with economic impact (customs warehousing, inward processing, temporary admission, processing under customs control) that is going to be discharged with the re-exportation of the goods.

Any of these persons may use a representative.

5. Data requirements

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

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

Carriers, freight forwarders or customs agents who are holders of an AEO certificate referred to in Article 14a (1) points (b) or (c) CCIP and are involved in the exportation of goods on behalf of holders of an AEO certificate referred to in Article 14a (1) points (b) or (c) 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 where they lodge themselves, respectively, the export customs declaration, the outward processing customs declaration or the re-export customs declaration; and

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

6. Time limits for lodging the customs declaration

6.1. Introduction

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

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

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

6.2 Special cases due to the nature of the operation

Entry in the records by approved exporters

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

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

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

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

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

Such an approved exporter must:

→ enter each export immediately in his records; and

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

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

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

DE[6]	Art. 285a (1a) CCIP[7]
EXPORT – DE abcd ZA xyz[8]	
name of the approved exporter	

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

[6] MS

[7] Reference to the legal basis for the simplification granted

[8] Authorisation number – competent customs office

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

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

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

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

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

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

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

6.4. General cases associated with the means of transport

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

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

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

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

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

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

→ Deep sea[12] containerised cargo

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

→ Deep sea[12] bulk/break bulk cargo

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

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

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

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

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

- **Inland Waterways 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)**

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

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

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

6.5. Derogations

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

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

7. Specific rules for aircraft and ship supplies

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

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

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

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

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

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

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

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

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

9. Information of exit to fiscal authorities

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

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

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

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

10.1. Introduction

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

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

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

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

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

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

One of the following proofs shall be accepted:

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

10.2. Exports by air and by express operators

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

10.3. Exports by sea

By analogy with exports by air, in the case of multimodal transport covered by a single transport contract, the customs office of exit is the customs office competent for the place where the goods are taken over under a single transport contract by the shipping company, provided the goods are brought out of the customs territory of the Community to a destination outside that territory by sea. In other words, the decisive element for determining whether an export is by sea is the way in which the external border is crossed.

10.4. Exports by rail

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

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

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

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

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

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

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

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

(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.[17]

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

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

11. Excise formalities

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

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

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

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

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

In addition special rules apply in the following cases:

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

- Where the customs office of exit was the office competent for the place where the goods were taken over under a single transport contract for transport out of the customs territory of the Community (derogation in accordance with Article 792 (2) (b) CCIP – see section 10), and there is change in the transport contract with the effect that it no longer terminates outside the customs territory of the Community, the carrier who issued the single transport contract may only carry it out of that territory with the agreement of the customs office competent for the place where the goods are taken over under the single transport contract (Article 792a (2) CCIP). This customs office of exit should inform the customs office of export.
- Where the export procedure was discharged by entering the goods for a transit procedure covering their movement out of the customs territory of the Community or to a customs office of exit (in accordance with Article 793b CCIP), and there is a change in the transport contract with the effect that it no longer terminates outside the customs territory of the Community or at a customs office of exit, the carrier who issued it, may only carry it out of that territory with the agreement of the customs office of departure of the transit movement (Article 792a (2) CCIP).
- Where the goods have already been presented to the customs office of exit at the time it is decided not to bring the goods out the customs territory of the Community, the person who removes the goods from that customs office for carriage back into the Community shall notify that customs office of:
  → the unique consignment reference number or the reference number of the transport document covering the earlier intended movement out of the customs territory of the Community;
  → the number of packages, or, if containerised, the equipment identification number; and
  → the MRN of the export declaration.

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

PART C
EXIT SUMMARY DECLARATION (EXS)

1. Obligation to lodge an EXS

EU legislation requires, as a general principle, that **all** goods brought out of the customs territory of the Community, regardless of their final destination, shall be risk assessed and subject to customs control before departure or – in the case of deep sea containerized maritime shipments – before commencement of vessel loading. All such goods must

therefore be covered by a declaration of some kind either by a customs declaration, e.g. for export, re-export, transit etc. or, wherever any of the former is not required, by an EXS.
This in principle means that an EXS is required in cases where goods are brought out of the Community without a customs declaration (Art. 842a CCIP).

Typical situations where an EXS would be required are:

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

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

2. Exemptions from the obligation to lodge an EXS

Article 842a CCIP lays down the situations where no EXS is required.
An EXS shall not be required in the following cases:

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

- where goods in temporary storage or in a control type I free zone are transhipped from the means of transport that brought them to that temporary storage facility or free zone under the supervision of the same customs office onto a vessel, airplane or railway that will carry them from that temporary storage facility or free zone out of the customs territory of the Community, provided that:
  - → the transhipment is undertaken within fourteen calendar days from when the goods were presented for a temporary storage or at a control type I free zone; in exceptional circumstances, the customs authorities may extend this period of time in order to deal with those circumstances necessary to face the exceptional circumstances present;
  - → information about the goods is available to the customs authorities; and
  - → the destination of the goods and the consignee do not change, to the knowledge of the carrier;
- when an electronic transit declaration contains the EXS data, provided the office of destination is also the customs office of exit or the office of destination is outside the customs territory of the Community.

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

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

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

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

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

3. Situations where an EXS is required

EU legislation does not include a provision listing the situations where an EXS would be required. However, based on the exemptions discussed in section 2 above, and using maritime containerised traffic as an example, situations where an EXS would be required can

be identified as follows (subject to international agreements concluded by the EU with a third country in the area of security: see section 4 below).

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

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

However, non-Community goods in temporary storage or in a control type 1 free zone that are loaded for re-export may be exempted from the EXS requirement in the following two situations:

Transhipment

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

- → the goods are transhipped from a means of transport to a vessel or aircraft or rail wagon that will carry them from that temporary storage facility or control type I free zone directly out of the customs territory of the Community;
- → the transhipment is done at the same place where the goods were first placed into the temporary storage facility or free zone;
- → the transhipment is done within 14 calendar days from when the goods were presented for temporary storage[18]; and
- → the destination and the consignee for the goods have, to the knowledge of the carrier, not changed (Article 842a (4) (e) CCIP).

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

Transit declaration with security data

In the case of 'through transit', where the customs office of departure is at the EU entry point and the customs of destination is outside of the customs territory of the Community, an EXS

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

will not be required provided that the goods remain on the same means of transport that brought them into the customs territory of Community or the conditions of Article 842a (3) CCIP are met. Otherwise, if transhipment takes place, under the transit rules, at or before the place of exit, an EXS will be required. The goods will not be placed under temporary storage at the place of exit and Article 842a (4) (e) CCIP cannot therefore apply.

Non-Community goods being trucked to the temporary storage facility or control type I free zone for loading on to a ship for re-export may be exempted from the EXS requirement provided that the transit declaration, lodged for bringing the goods to the facility or free zone, contains the data elements required for an EXS, and provided that the office of destination for the transit operation is also the customs office of exit for the purpose of lodging EXS or the office of destination is outside the customs territory of the Community (Article 842a (3) CCIP). If both requirements are fulfilled, then the goods can be taken out of temporary storage or a control type 1 free zone for loading upon lodgement of a re-export notification (request for release from temporary storage) irrespective of how long the goods are in temporary storage or in the free zone.

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

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

Where transhipped goods are exempted from the requirement that an EXS be lodged with customs in the EU transhipment port, a re-export notification must be lodged instead before the exit of such goods. (See Part D).

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

Goods to be moved between EU Member States via transhipment in a country outside the EU are not exports (or re-exports) and no export declaration is therefore required. An EXS must therefore be lodged for such goods at the EU port of loading (Article 842a (4) (b) CCIP), unless the EXS data are contained in the transit declaration (which is not possible in maritime traffic).

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

3.4. Shipper owned empty containers

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

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

4. International agreements

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

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

5. Place to which the EXS must be lodged

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

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

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

→ where the goods are to leave the customs territory of the Community by air or sea, the customs office competent for the place where the goods are loaded onto the vessel or aircraft on which they will be brought to a destination outside the customs territory of the Community.

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

6. Person responsible for lodging the EXS

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

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

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

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

7. Content, accuracy and completeness of the EXS filing

All the data elements prescribed in Annex 30A CCIP for the particular mode of transport or for express consignments that are covered by the EXS filing must be contained in the EXS

filing. The filing must be completed in accordance with the Explanatory Notes in Annex 30A CCIP.
Without prejudice to the possible application of any sanction, the lodging of a declaration signed by the declarant or his representative shall render 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 exit of the goods in question under the procedure concerned.

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

8. Data requirements

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

Holders of an **AEO** certificate referred to in Article 14a (1) points (b) or (c) CCIP exporting goods may lodge EXS comprising the reduced data requirements set out in Table 5 of Annex 30A CCIP.
Carriers, freight forwarders or customs agents who are holders of an **AEO** certificate referred to in point (b) or (c) of Article 14a (1), and are involved in exportation of goods on behalf of holders of an AEO certificate referred to in point (b) or (c) of Article 14a (1) may also lodge EXS comprising the reduced data requirements set out in Table 5 of Annex 30A CCIP.
The following persons need to be an AEO (holders of an AEO certificate Security and Safety or of an AEO certificate – Customs Simplifications/Security and Safety) in order to submit a declaration containing the reduced security data set:

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

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

9. Time limits for lodging an EXS[19]

9.1. General rules

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

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

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

Air traffic	At least 30 minutes before the aircraft that will carry the goods to a non-EU destination will leave the airport This means the airport at which the goods are loaded to the aircraft which will take them out of the EU, . this is not necessary airport at which the aircraft will call.
Rail and inland waterways	At least 2 hours before the train or ship that will bring the goods out of the customs territory of the Community will depart from the place for which the last customs office in that territory is competent. For these movements, the customs office of exit is always the last customs office before the goods leave the customs territory of the Community.
Road traffic	At least 1 hour before the truck that will bring the goods out of the customs territory of the Community will depart from the last customs office in that territory. For these movements, the customs office of exit is always the last customs office before the goods leave the customs territory of the Community.

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

Where the goods are to leave the customs territory of the Community by air or sea, the deadline is set against the point of time where the means of transport that will carry the goods to a destination outside the customs territory of the Community is to leave that territory or - in the case of deep sea containerized cargo – when the goods are to be loaded to the vessel that will carry the goods to a destination outside that territory. The same applies to those movements between Member States via a third country where an EXS is required.

This means that the deadlines are not affected where an EXS is accepted by another customs office ("customs office of lodgement" - see section 5 above) given that the person lodging the EXS has no control over the treatment of the declaration by the customs authorities.

9.2. Maritime traffic

Authorized regular shipping service vessels are not allowed to carry goods to a destination outside the customs territory of the Community. They are therefore not affected by the EXS requirements which 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 <u>loaded directly</u> onto the vessel that will carry them to a destination outside the customs territory of the Community, then the EXS, where required, must be lodged to the customs office at that load port. The goods will become Freight Remaining on Board (FROB) if the vessel is to make calls at subsequent ports in the EU before heading to its foreign destination(s). FROB cargo shall not be presented to customs in the subsequent ports, and no EXS is therefore required to be lodged for the FROB cargo in the subsequent ports; and

→ If the goods are instead to be <u>transhipped</u> in another port in the EU on to the vessel that will carry them to a destination outside that territory, then the EXS, where required, must be lodged at the customs office at the transhipment port. No EXS is required to be lodged at the customs office in the first EU port of loading. At the port of transhipment, the re-export rules apply. The transhipped goods will become FROB the vessel if it is to make calls at subsequent EU ports before heading to its foreign destination(s). FROB cargo

shall not be presented to customs in the subsequent ports and no EXS is therefore required to be lodged for the FROB cargo in the subsequent ports.

Example

The container in this example is:

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

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

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

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

10. Amendments of EXS

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

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

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

11. Transhipments

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

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

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

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

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

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

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

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

PART D
RE-EXPORT NOTIFICATION

1. Obligation to lodge a re-export notification

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

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

2. Person responsible for lodging the re-export notification

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

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

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

→ in the case of maritime or air traffic under a vessel sharing or similar contracting arrangement, "carrier" means the person who has concluded a contract, and issued a bill

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

3. Data requirements

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

→ identity of the person lodging the removal request;

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

→ place of loading;

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

→ the intended place of unloading.

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

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

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

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

→ the MRN of the re-export notification.

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

PART E

FURTHER INFORMATION

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