



**Customs Expert Group**  
**Section “Import and Export Formalities”**

**EXPORT AND EXIT OUT OF THE EUROPEAN  
UNION – Title VIII UCC**

**Guidance document for MSs and Trade**

Revised

A stylized graphic at the bottom of the page showing a train and an airplane. The train is composed of several rectangular blocks in shades of blue, purple, and orange, moving from left to right. The airplane is a simple orange silhouette, also moving from left to right, positioned below the train.

**UCC**  
SIMPLICITY SERVICE SPEED

A MODERN FRAMEWORK  
FOR CUSTOMS AND TRADE

*Taxation and  
Customs Union*



EUROPEAN COMMISSION  
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Customs Policy, Legislation, Tariff  
**Customs Legislation**

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*Disclaimer: "It must be stressed that this document does not constitute a legally binding act and is of an explanatory nature. Legal provisions of customs legislation take precedence over the contents of this document and should always be consulted. The authentic texts of the EU legal instruments are those published in the Official Journal of the European Union. There may also exist national instructions or explanatory notes in addition to this document."*

## **LIST OF THE ABBREVIATIONS**

<b>AES</b>	Automated Export System
<b>ATA</b>	Admission Temporaire/Temporary Admission Carnet
<b>CPD</b>	Carnet de Passages en Douane
<b>EAD</b>	Export Accompanying Document
<b>ECS</b>	Export Control System
<b>EU</b>	European Union
<b>EXS</b>	Exit Summary Declaration
<b>MRN</b>	Master Reference Number
<b>UCC</b>	Union Customs Code
<b>UCC DA</b>	Commission delegated regulation (EU) No 2015/2446
<b>UCC IA</b>	Commission implementing regulation (EU) No 2015/2447
<b>UCC TDA</b>	Commission delegated regulation No (EU) 2016/341 of 17.12.2015 establishing transitional rules
<b>UCC WORK PROGRAMME</b>	The work programme for the update of the IT systems necessary to comply with the obligations under the UCC as adopted pursuant to Article 280 UCC

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## PART A - INTRODUCTION

The Union Customs Code (Regulation (EU) No 952/2013 of the European Parliament and of the Council (UCC) has entered into force on 9<sup>th</sup> October 2013 and is applicable as from 1 May 2016 together with the related:

- Commission delegated and implementing acts (Commission Delegated Regulation (EU) 2015/2446 of 28<sup>th</sup> July 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning provisions of the Union Customs Code (UCC DA) and Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) no 952/2013 of the European Parliament and of the Council laying down the Union Customs Code (UCC IA), both published in the Official Journal of the European Union, L 343 of 29<sup>th</sup> December 2015), and
- Transitional Delegated Act (Commission Delegated Regulation No (EU) 2016/341 of 17 December 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards transitional rules for certain provisions of the Union Customs Code where relevant electronic systems are not yet operational and amending Delegated Regulation (EU) 2015/2446 (UCC DA), published in the Official Journal of the European Union on 15 March 2016).

Transitional rules for certain provisions are provided also in Title IX of UCC DA and Title IX of UCC IA.

Many provisions of the UCC, UCC DA and UCC IA require adaptation of existing or new systems for electronic exchange of information between customs, trade and the Commission. For these reasons a UCC (IT) Work Programme (Commission Implementing Decision (EU) 2019/2151 of 13 December 2019) has been drawn up specifying the development and deployment of the electronic systems.

## **PART B - FORMALITIES AT EXPORT AND EXIT**

### **1. Formalities at export and exit – an overview**

Goods taken out of the customs territory of the Union must be covered by a pre-departure declaration.

The export procedure applies, to Union goods which are:

- taken out of the customs territory of the Union to a destination outside such territory, which may include the high seas (Article 269(1) UCC), or
- moved to or out of special fiscal territories (Article 134 UCC DA).

Formalities concerning the export customs declaration but not a normal export procedure shall be used for:

- outward processing (Article 269(2)(a) and (3) UCC);
- end use (Article 269(2)(b) and (3) UCC)
- aircraft supplies subject to the conditions under Article 269 (2) (c) UCC;
- ship supplies as explained in Annex B to this guidance document.

Where goods are released for export by one customs office and leave the customs territory of the Union through another customs office it is required that the relevant information is exchanged electronically between these customs offices using the Export Control System (ECS).

Cases where specific rules apply are:

- the single transport contract,
- export and transit,
- excise goods under duty suspension,
- agricultural goods under refund control.

In the case where the customs declaration takes the form of an entry in the declarant's records, the export movements shall be ruled by Articles 150 (4) and (5) UCC DA and 330 UCC IA).



## 2. Master Reference Number (MRN)

The MRN is a unique number in the EU that is automatically allocated by the customs office that receives/validates and accepts an electronic customs declaration, a re-export declaration, exit summary declaration (EXS) or a re-export notification.

The allocation of a MRN to a customs declaration means that the MRN can be retrieved *via* the common ECS domain. This can be very helpful if for example the cargo is diverted to an alternative point of exit.

## 3. ECS

It is obligatory for the Member States (MS) to use the ECS domain including the allocation of a Master Reference Number (MRN) where the office of export and the declared office of exit are in different MS.

It is strongly recommended that the MS also use the ECS domain including the allocation of a MRN when only one MS is involved.

## 4. Re-export

Re-export is not a customs procedure and is not mentioned in the definition of Article 5 (16) UCC. Re-exportation (Articles 270, 271 and 274 UCC) may take place after non-Union goods have been under customs warehousing, inward processing, temporary admission, in a free zone or temporary storage.

In case of a re-export goods may leave the customs territory of the Union covered by:

- a re-export declaration, except for the cases referred to in Article 270(3) UCC;
- an EXS as provided under Article 271 UCC, or
- a re-export notification as provided under Article 274 UCC.

## 5. Re-export notification (Article 274 UCC)

Where the obligation to lodge a customs declaration, a re-export declaration or an EXS has been waived, non-Union goods leaving the customs territory of the Union following transshipment within, or direct re-exportation from a free zone or a temporary storage facility shall be covered by a re-export notification (*see* part G).

A re-export notification does not contain the security and safety data but it has to contain the particulars necessary to discharge the free zone procedure or to end the temporary storage.

Re-export notification is not subject to the time limits referred to in Article 244 UCC DA.

## 6. Non-Union goods directly re-exported

### Examples

- Goods in temporary storage in a seaport are loaded on a vessel going to a destination outside the customs territory of the Union.
  - If the goods leave the temporary storage and a waiver to lodge a pre-departure declaration applies in accordance with Article 245 UCC DA, **the re-export notification is sufficient**. E.g.
    - Re-export within 14 days following their presentation in case the destination has not changed or
    - re-export to Norway or
    - other cases foreseen in Article 245(1) UCC DA.
  - In other cases, a **pre-departure declaration is required**.
- Goods in temporary storage at a seaport are placed under the external transit procedure with the intention to take them out of the customs territory of the Union by rail.
  - If the goods are placed under the external transit procedure and a waiver to lodge a pre-departure declaration applies in accordance with Article 245 UCC DA, **the transit declaration is sufficient** to end the temporary storage, e.g.
    - Re-export within 14 days following their presentation or
    - re-export to Switzerland or
    - other cases foreseen in Article 245(1) UCC DA.

- In other cases, in addition to the transit declaration, a **pre-departure declaration shall be lodged** that may be included in the transit declaration.
- Goods in temporary storage are placed under the external transit procedure with the intention to take them out of the customs territory of the Union by road.
  - If the goods are placed under the external transit procedure and a waiver to lodge a pre-departure declaration applies in accordance with Article 245(1) UCC DA, **the transit declaration is sufficient** to end the temporary storage, e.g.
    - re-export to Switzerland or
    - other cases foreseen in Article 245(1) UCC DA.

In other cases and regardless of the duration of the temporary storage, in addition to the transit declaration, a **pre-departure declaration shall be lodged** that may be included in the transit declaration.

## PART C - PRE-DEPARTURE DECLARATION

### New elements:

- Changes to the scope of waivers from the obligation to lodge pre-departure declaration (*see* section 3);
- Possibility to lodge the export declaration before the presentation of goods to customs (Article 171 UCC).

### Transitional measures:

- Use of means other than electronic for lodgement of the pre-departure declaration (*see* section 1);
- Transitional data requirements for the use of EXS.

## 1. Pre-departure declaration

For goods leaving the customs territory of the Union, **pre-departure declarations must be lodged electronically.**

## **i. Forms of lodgement**

It follows from Article 263 (3) UCC that the pre-departure declaration can be lodged by a submission of the required data set in one of the following forms:

- export declaration to be sent to the national export customs declaration system of the Member State (MS) concerned,
- transit declaration, to be sent to the national transit system of the MS concerned,
- re-export declaration, or
- exit summary declaration to be sent to the national system of the MS concerned.

An EXS shall be lodged where an export or re-export declaration has not been lodged or is not required (Article 271 UCC).

The pre-departure declaration must always contain the particulars necessary for risk analysis for security and safety purposes (Article 263 (4) UCC).

## **ii. Transitional measures applicable on 1 May 2016:**

Until the deployment of the Automated Export System (AES) and the upgrade or deployment of the national IT systems, the pre-departure declaration may be lodged using existing electronic data-processing techniques. In that period the data set of Annex 9 of the TDA is applicable.

## **2. Time limits for lodging a pre-departure declaration (Article 244 UCC DA)**

As an example, EU legislation requires that where a pre-departure declaration is transmitted in the form of an export (re-export/outward processing) declaration, that declaration must be lodged before departure or, in the case of deep sea container traffic, before loading of the container on board the vessel with the competent customs office of export within the specific deadlines in Article 244 UCC DA.

## **3. Waivers from the obligation to lodge a pre-departure declaration (Article 245 UCC DA)**

Waivers that are new or have been amended (as indicated in bold) as from 1 May 2016:

- electrical energy;
- goods leaving by pipeline;

- items of correspondence;
- goods moved under the rules of the Universal Postal Union;
- household effects as defined in Article 2(1) (d) of Regulation (EC) No 1186/2009 provided that they are not carried under a transport contract;
- goods contained in travellers' personal luggage;
- goods referred to in Article 137 UCC DA with the exception, when **moved under a transport contract of:**
  - pallets, spare parts, accessories and equipment for pallets,
  - containers, spare parts, accessories and equipment for containers,
  - means of transport, spare parts, accessories and equipment for means of transport;
- portable music instruments with the exception, when **moved under a transport contract of:**
  - pallets, spare parts, accessories and equipment for pallets,
  - containers, spare parts, accessories and equipment for containers,
  - means of transport, spare parts, accessories and equipment for means of transport;
- goods covered by ATA and CPD carnets;
- goods moved under cover of the form 302 provided for in the Agreement between the Parties of the North Atlantic Treaty regarding the Status of their Forces, signed in London on 19<sup>th</sup> June 1951;
- goods carried on vessels moving between Union ports without any intervening call at any port outside the customs territory of the Union;
- goods carried on aircraft moving between Union airports without any intervening call at any airport outside the customs territory of the Union;
- weapons and military equipment taken out of the customs territory of the Union by the authorities in charge of the military defence of a Member State, in military transport or transport operated for the sole use of the military authorities;
- the following goods taken out of the customs territory of the Union **directly to offshore installations operated by a person established in the customs territory of the Union:**
  - goods to be used for construction, repair, maintenance or conversion of **the offshore installations;**

- goods **to be used to fit or equip the offshore installations;**
- provisions to be used or consumed on the **offshore installations;**
- goods of a non-commercial nature;
- goods of a commercial nature provided that they do not exceed either EUR 1000 in value or 1000 kg in net mass;

*Examples:*

1. *Luxury watches weighing 200 grams with a value of more than EUR 1000 require a pre-departure declaration.*
2. *A consignment of more than 1000 kg of potatoes with a value of EUR 500 also requires a pre-departure declaration.*

- means of transport registered in the customs territory of the Union and intended to be re-imported, and spare parts, accessories and equipment for those means of transport;
- the following goods, except where they are carried under a transport contract:
  - pallets, spare parts, **accessories** and equipment for pallets;
  - containers, spare parts, **accessories** and equipment for containers;
  - means of transport, spare parts, accessories and equipment for means of transport.
- goods for which relief can be claimed pursuant to the Vienna Convention on diplomatic relations on 18 April 1961, the Vienna Convention on consular relations of 24th April 1963, other consular conventions or the New York Convention of 16 December 1969 on special missions;
- goods which are supplied for incorporation as part of accessories in vessels or aircraft and for the operation of the engines, machines and other equipment of vessels or aircraft, as well as foodstuffs and other means items to be consumed or sold on board;
- goods dispatched from the customs territory of the Union to Ceuta and Melilla, Gibraltar, Heligoland, the Republic of San Marino, the Vatican City State, and the municipalities of Livigno and Campione d'Italia, or to the Italian national waters of lake Lugano which are between the bank and the political frontier of the area between Ponte Tresa and porto Ceresio.

## PART D - PRE-DEPARTURE DECLARATION IN THE FORM OF AN EXS

### New elements:

- new rules and functionalities for indirect exports (*see* sections 3 and 4);
- new rules and functionalities for communication between the customs office of export and the customs office of exit (*see* section 4).

### Transitional measures

- the existing IT systems and the current data set of EXS may continue to be used,
- new rules and functionalities for the lodgement of EXS at an office different from the office of exit.

### 1. Obligation to lodge an EXS

EU legislation requires, as a general principle, that all goods brought out of the customs territory of the Union, 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. Consequently, where a customs declaration or a re-export declaration is not required, an exit summary declaration has to be lodged.

*Examples* of situations where an EXS would be required are:

- goods are moved by sea or air between two EU Member States following transshipment in a third country (i.e. goods are shipped from MS A to MS B following transshipment to another vessel in a third country) unless a safety and security agreement exists with those countries;
- goods are moved overland between two EU Member States via the territory of a third or several third countries (e.g. goods are transported from MS A via third country A and third country B to MS B) unless a safety and security agreement exists with those countries;
- goods that are intended to be taken out of customs territory of the Union which have been in temporary storage for more than 14 calendar days;

- goods that are intended to be taken out of customs territory of the Union which have been in temporary storage for less than 14 calendar days where the carrier is aware that the destination and/or the consignee has changed;
- goods that are intended to be taken out of customs territory of the Union which have been in a free zone;
- 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. However, carrier reposition empty containers do not need to be covered by an EXS; but they should continue to be reported to customs at departure;
- Union goods loaded as transshipment goods following carriage on a non-RSS vessel from another EU port:
- goods to be moved between EU Member States via transshipment in a country outside the EU are not exports or re-exports and no export or re-export declaration is therefore required. For example, Union goods moved on a vessel from MS A to MS B 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 MS A on a vessel bound for third country A, where the goods are to be unloaded for transshipment onto another vessel for discharge in MS B, an EXS would need to be filed with customs in MS A before vessel departure from the Spanish port.

Union goods loaded as transshipment goods to an outbound main haul vessel following carriage from another EU port on a non-authorized regular shipping service vessel are non-Union goods in temporary storage in the EU transshipment port, given that they have left the customs territory of the Union. Consequently, such transshipment goods are to be treated the same way as non-Union goods in temporary storage transhipped for re-export described hereinafter. An EXS is required *unless* the transshipment goods are loaded onto the outbound main haul vessel at the same place where they were brought to the storage facility; the transshipment is done within 14 calendar days from when the goods were presented for temporary storage in the transshipment port; and the destination and consignee for the goods have not changed to the knowledge of the carrier. The customs office of exit has the right to request additional information to clarify the conditions of the exemption.



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

## 2. Exemptions from the obligation to lodge a pre-departure declaration in the form of an EXS

Apart from the waivers to lodge a pre-departure declaration (including EXS) referred to in point 5 of Part C, there are also specific exemptions from the obligation to lodge an EXS.

EU security agreements with Andorra, Norway and Switzerland create *de facto* a common customs security area between the EU and each of these countries. These agreements contain a waiver from the obligation to present an EXS in the respective bilateral trade between the contracting parties (e.g. goods exported from Norway to an EU Member State or vice-versa).

The agreements imply that those countries apply security rules that are equivalent to those in force in the EU. Consequently, goods leaving the customs territory of Norway, Switzerland or Andorra for third countries shall be covered by an EXS that is lodged:

- with the competent customs office where the exit formalities for the goods destined for third countries are carried out; or,
- with the competent customs office where the formalities related to the export to a third country are carried out in those cases where an export declaration contain the data elements of the exit summary declaration.

That competent office shall carry out the risk analysis on the basis of the security data included in the declaration.

The agreements stipulate that in cases of indirect exports, *i.e* **exports where goods are declared for export in one MS and leave the Union customs territory from another MS** such as goods exported from MS A that are exiting via a customs office situated in Norway and vice versa, the competent authorities of MS A shall transmit the security data (contained in the export declaration that is lodged there) to the competent authorities of Norway. A common data transmission system is to be established for that purpose.

For the time being, in the absence of such a transmission system, **the exit summary declaration related to indirect exports shall be lodged only with the competent authorities of the contracting party where the goods effectively leave the common customs security area**, *e.g.* for goods exported by rail from Norway via MS A to third country A, the exit summary declaration shall be lodged in MS A.

However, **indirect exports of goods placed under a transit procedure within NCTS make an exception to the rule set out above**. In such cases, when the security data required for the exit summary declaration are given in the electronic transit declaration and provided that the office of destination of the transit procedure is also the office of exit in the second contracting party, the transit declaration is lodged with the competent office in the first contracting party and the risk analysis is carried out there. Under these circumstances, the NCTS serves as the vehicle for the transmission of the security data and there is therefore no need for a further exit summary declaration in the second contracting party.

### **3. Place to which the EXS must be lodged**

If goods are to be covered by an EXS, it must in all cases be lodged with, or communicated to, the customs office of exit.

Article 271(1), second subparagraph, UCC provides for the possibility EXS to be lodged at a customs office other than the customs office of exit where the MS concerned allow for this functionality. MS shall inform economic operators whether this functionality is available.

The customs office of exit is responsible for risk analysis for the purposes of safety and security. Until the upgrade and deployment of the ECS the customs office other than the customs office of exit may perform risk analysis for the purposes of safety and security. Then it sends the results to the customs office of exit. Once ECS is deployed that other customs office shall transmit immediately the particulars of the EXS to the customs office of exit which shall perform risk analysis.

#### **4. Person responsible for lodging the EXS (Article 271(2) UCC)**

The EXS shall be lodged by the carrier or his representative.

It could also be lodged by any person who is able to present the goods or who have them presented to the competent customs authority such as the holder of the authorisation for the operation of the temporary storage facility or the holder of a storage facility in a free zone, (or their representative) where the carrier has allowed that such person lodges the declaration.

In the case of combined transportation, where the first active means of transport leaving the customs territory of the Union is transporting another, second, means of transport which, after the arrival of the first means of transport at its destination, will move by itself as the active means of transport, “carrier” means the person who will operate the second means of transport.

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 Union.

#### **5. Lodgement of EXS by a third party**

During the transitional period the current alternative of filing EXS by a third party on behalf of or instead of the carrier remains applicable. However, one modification involves the termination of the requirement that an EXS filing by a third party such as a freight forwarder or non-vessel operating common carrier (NVOCC) instead of by the carrier shall be done only with the carrier’s “knowledge and consent”. As the carrier in the transitional phase remains responsible that an EXS be lodged within the prescribed time-limit, the termination of the “knowledge and consent” provision suggests that a carrier wishing to allow another party such as NVOCC to file its own EXSs, instead of the carrier, will wish to have a very clear communication protocol in place with such an NVOCC in order to ensure timely filing.

The carrier's EORI number and transportation document number (e.g. ocean (master) bill of lading or (master) air waybill number) must always be included in any third party EXS filings alongside all other data elements required in the EXS.

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

Once the third party, with the carrier's agreement, makes the EXS filing, the content, accuracy and completeness of the EXS filing is this third party's responsibility. The source of this obligation is Article 15 UCC. It applies notwithstanding any penalties or sanctions that may be applicable.

Immediately upon registration of the EXS, the customs authorities must notify the third party declarant of the MRN. The customs authorities must also notify the carrier provided that he is electronically connected to the customs authorities and provided that he as required has been identified by his EORI number in the third party EXS filing.

If the carrier has agreed that a third party will file the EXS instead of him, the carrier should not make his own filing for the same shipment. Similarly a third party may not file without the carrier's prior agreement.

In cases where double filings for the same consignment nonetheless occur, *i.e* the carrier and a third party both file an EXS 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 EXS lodged by the carrier is the valid one. Double filings would in any case not affect compliance with the legal requirement that an EXS is made and within specified deadlines.

## **6. Content, accuracy and completeness of the EXS filing**

During the transitional period the data elements in the EXS filing are those prescribed in Annex 9 of the TDA. The carrier or his representative lodging a declaration shall be 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 from the time such goods are in the possession of the carrier or its representative.

However, the declarant is only obliged to provide information known to him at the time of lodging of the EXS. Thus, the declarant can base his 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 knows 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 Union, 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.

The above applies, *mutatis mutandis*, to a third party that, with the carrier's agreement, lodges an EXS instead of the carrier.

## 7. Rules for maritime traffic

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 Union:

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

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

## **8. Amendment to 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 (Article 272 UCC) where there are no restrictions on amendments to one or more particulars of the EXS. However, the particulars concerning the person lodging the EXS and the representative and the customs office of exit cannot be amended for technical reasons. The deadline for lodging the EXS does not start again when an amendment is being lodged.

## **9. Requirements when goods, covered by an EXS, are not taken out of the customs territory of the Union**

Where following the lodgement of an EXS, it has been decided that the goods will no longer be taken out of the customs territory of the Union; the declarant may request the invalidation of the EXS (Article 272(2) (a) UCC). Such request must contain the MRN of the EXS.

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 Union;
- the number of packages or, if containerised, the equipment identification number; and
- the MRN of the EXS if available.

This information may be provided in any form (Article 64 UCC TDA).

## **PART E - CUSTOMS OFFICE OF EXPORT AND CUSTOMS OFFICE OF EXIT**

### **Roles and responsibilities of the customs offices of export and exit under the export procedure (and outward processing procedures and re-exportation)**

#### **1. Customs office of export**

The Customs Office of Export is responsible for supervising the place where the goods were or are to be presented or made available to customs controls for that purpose and where:

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

*First Example:* Goods are loaded for export shipment in MS A and leave the customs territory of the Union in MS B, the customs office of export is in MS A. However, if goods sold for export in different places are consolidated, packed or repacked for export in MS B, the customs office of export could be in MS B. This means that in such a scenario, the export declaration could be lodged in MS B, instead of in MS A. It should be underlined though, that, if an export declaration had already been lodged in MS A, then the customs office in MS A would be the customs office of export (and considered as the customs office where the goods have been loaded for export). In such a case and despite the fact that the goods may be re-loaded, consolidated or re-packed in MS B, MS B could not assume the role of customs office of export for the said consignment and therefore, no lodgement of an(other) export declaration should be allowed in MS B. In order to avoid the lodging of a second export declaration for the same goods, economic operators operating supply chains similar to the above, and especially the ones responsible for consolidating, re-loading or re-packing goods for export, should ensure appropriate communication within the supply chain and in particular with any preceding parties therein.

*Second Example:* Where goods under customs warehousing or inward processing are to be re-exported, the re-export declaration must be lodged with the customs office as indicated in the authorisation.

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 221(2), third subparagraph, UCC IA);

*Example:* Company A who is responsible for exporting machinery from the EU subcontracts its manufacture to Company B. In this case, the declaration may be lodged at the competent customs office where Company B is established.

- where for administrative or organisational reasons a specific customs office has been designated by a Member State as competent for the operation in question (Article 221(2)(c) UCC IA);

*Example:* The competence for certain goods has been centralised at a specific customs office and, consequently, customs declarations concerning all exports of these goods must be lodged at this office instead of being lodged at the customs office where the company lodges its export declarations for other goods.

- in circumstances of an individual case, the declaration may be lodged at another customs office (Article 221(2), fourth subparagraph, UCC IA);
- 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 competent for the place of exit of the goods from the customs territory of the Union (Article 221(2), second subparagraph, UCC IA);
- declaration by any other act can by their nature be lodged only at the customs office of exit where they must be presented before leaving the customs territory of the Union as circumstances of the presentation of goods to customs so require (Article 221(2) UCC IA);
- for oral customs declarations which can only be made at the customs office competent for the place of exit of the goods (Article 221(3) UCC IA);



- for customs declarations lodged retrospectively, which must be lodged at the customs office competent for the place where the exporter is established (Article 337(1) UCC IA); and
- for cases of re-exportation of non-Union goods under temporary admission where an ATA or CPD carnet is used (Article 338 UCC IA), the competent customs office for the re-export of the goods is the customs office of exit.

## **2. Formalities at the customs office of export**

For goods which require a customs declaration, certain formalities are to be completed at the customs office of export such as:

- the lodging and acceptance of a customs declaration;
- the issuing of the MRN to the declarant, where applicable;
- the verification of the declaration, and if necessary, the examination of the supporting documents and/or goods;
- controls on whether the goods are subject to prohibitions or restrictions;
- the release of goods for moving to the customs office of exit;
- forwarding the "Anticipated Export Record" message to the customs office of exit, where applicable;
- provision of the certification of exit to the exporter/declarant.

## **3. Declaration - acceptance - risk analysis - possible verification**

The person lodging the declaration receives from the competent customs authority a MRN. On the basis of the data in the declaration the customs office of export will perform risk analysis. Where appropriate, customs office of export will verify the declaration and the accompanying documents and will control the goods. For more details related to the customs declaration, see Part F.

## **4. Release for export**

The customs office of export will release the goods for export. 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 it is different from the customs office of export, including the results of an examination where appropriate.

During the transitional period before the upgrade and deployment of the IT systems that will allow customs authorities to request an electronic presentation (IE 507 message) and where the customs office of export and the customs office of exit are different the office of export shall authorise the release of the goods. It shall issue to the declarant an Export Accompanying Document (EAD) as provided in Appendix H1 to the TDA.

The EAD is to be presented then to the customs office of exit.

EAD can also be used in fall-back situations pursuant to Article 6(3) UCC. In that case where the customs office of exit marks the document to certify that the goods have left the customs territory of the Union, the EAD could serve as an alternative proof of exit pursuant to Article 335 (4) (f) UCC IA and the export procedure could be closed.

## **5. Customs office of exit**

This is the customs office competent for the place from where the goods leave the customs territory of the Union and where they must be presented. At this office they are subject to customs controls related to:

- the completion of exit formalities, and
- the confirmation of the exit of the goods.

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

If goods are covered by an export or re-export declaration and where the goods are to leave by sea or by air, the customs office of exit is the customs office competent for the port or airport from where the goods are loaded onto the vessels or aircraft on which they will leave the customs territory of the Union that will bring the goods to a destination outside the customs territory of the Union.

Where goods are covered by an exit summary declaration and leave by sea or air the customs office of exit is the customs office competent for the port or airport where the goods are

loaded onto the vessels or aircraft on which they will be brought to a destination outside the customs territory of the Union.

Special provisions are laid down for:

- goods loaded onto a vessel that is not assigned to a regular shipping service (Article 329 (4) UCC IA);
- goods that have been released for export and subsequently placed under an external transit procedure (Article 329 (5) UCC IA);
- goods that have been released for export and subsequently placed under a transit procedure, other than an external transit procedure (Article 329 (6) UCC IA);
- goods moved under a single transport document (Article 329 (7) UCC IA);
- excise goods subject to excise duty suspension and agricultural products benefiting from a refund under the common agricultural policy (Article 329 (8) UCC IA, currently under revision);
- goods referred to in points (b) and (c) of Article 270 (3) UCC where a re-export notification is to be lodged (Article 329 (9) UCC IA).

## **6. Formalities at the customs office of exit**

### **i. Presentation of the goods**

During the transitional period, the goods and the MRN or Export Accompanying Document (EAD) shall be presented at the customs office of exit.

After the deployment of the Automated Export System (AES), the MRN shall be presented in form of a 1D barcode at the customs office of exit. Customs administrations shall accept this barcode if it is provided in a readable form, irrespectively of the means of presentation (e.g. mobile phone, tablet, paper document etc.).

The customs office of exit shall satisfy itself that the goods presented correspond to those declared and shall supervise the physical exit of the goods from the customs territory of the Union. In order to allow for customs supervision where goods are unloaded from a means of transport and handed over to another person who will be holding the goods, and loaded to another means of transport that will carry the goods out of the customs territory of the Union

following presentation at the customs office of exit, the following provisions in accordance with article 332 UCC IA shall apply:

- At the latest when handing over the goods the holder of the goods shall advise the next holder of the goods of the unique consignment reference number or the transport document reference number, and the number of packages or, if containerised, the equipment identification number, and, if one has been issued, the MRN of the export declaration or the re-export declaration This advice may be made electronically and/or 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 immediately preceding holder of the goods;

The carrier shall notify the exit of the goods to the customs office of exit by providing the information referred above unless that information is available to the customs authorities through existing commercial, port or transport systems or processes. Wherever possible this notification shall form part of existing manifest or other transport reporting requirements.

- A carrier may not load goods for carriage out of the customs territory of the Union unless the information has been provided to him; in this case ‘carrier’ means the person who brings the goods, or who assumes responsibility for the carriage of the goods, out of the customs territory of the Union. However,
- in the case of combined transportation, where the active means of transport leaving the customs territory of the Union 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 Union has arrived at its destination,
- in the case of maritime or air traffic under a vessel/aircraft sharing or 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 Union.

## ii. Criteria for determining the customs office of exit

The general rule is that the customs office of exit is **the customs office competent for the place from where the goods leave the customs territory of the Union.** (Article 329(1) UCC IA)

**For maritime and air traffic** it is the office competent for the port or airport where the goods are loaded onto the ship or aircraft from where they will leave the customs territory of the Union.

However, in the following circumstances, there are some special rules, notably:

- **vessel (other than assigned to regular shipping service) or aircraft leaving for another EU port or airport**

The customs office of exit is the customs office competent for the place where the goods are loaded on the vessel which is not assigned to a regular shipping service authorised in accordance with Article 120(1) UCC DA (Article 329 (3) UCC IA) or aircraft for a destination outside the customs territory of the Union (Article 329 (4) UCC IA).

*Example:* goods are loaded on an aircraft in MS A with a final destination in a third country; it stops in MS B *en route* where the goods remain on board before departing to the third country. MS A will be deemed the customs office of exit and the exit of the goods can be confirmed when the aircraft has left MS A. MS A remains the customs office of exit where the goods are for operational reasons unloaded and reloaded onto the same aircraft in MS B. If the goods remain in temporary storage in MS B for more than fourteen days, the carrier transporting the goods to the third country must file an exit summary declaration.

- **Union goods for export moved by a vessel or aircraft using an electronic manifest as a transit declaration**

The exit formalities are performed by the customs office competent for the place where the Union goods are loaded to a vessel or aircraft that uses an electronic manifest as a transit declaration in accordance with Articles 52 and 53 of the UCC TDA and are identified in the

manifest with the letter “X” (Articles 52(2) (e) and 53(2) (e) of the UCC TDA). The customs office at the place of exit supervises the physical exit of the goods.

After May 2018, these same exit formalities may continue to be carried out on the basis of the "electronic transport document" used as a transit declaration

In maritime traffic the use of a transit procedure is only mandatory for vessels assigned to a regular shipping service (Articles 53 TDA and 295(b) UCC IA).

For goods moved on a vessel using the regular shipping service without an electronic manifest as a transit declaration the standard procedure applies. For goods loaded on board of such a vessel the exit formalities in accordance with Articles 53 UCC TDA and 295(b) UCC IA) will not be completed. The goods will remain under the export procedure on board of these vessels.

- **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 329(7) UCC IA. The economic operator may request the application of this provision for instance by presenting the goods to the responsible customs office where the goods are taken over under a single transport contract. This office is different from the office where the goods physically exit the customs territory of the Union.

Where these goods leave the customs territory of the Union, the carrier shall upon the request by the competent customs authorities at the actual point of exit provide information on those goods. That information shall consist in one of the following:

- the MRN of the export declaration;
- a copy of the single transport contract for the goods concerned;
- the unique consignment reference number or the transport document reference number and where the goods are presented in packages or containerised, the number of packages and, if containerised, the container identification number.

This procedure only applies where the goods are to leave the customs territory by rail, post, air or sea. Express consignments as defined in Title I note 10 of Annex B to UCC DA are also taken out of the Union customs territory under a single transport contract.

A single transport contract may take the form of an airway bill, a maritime bill of lading, a CIM or SMGS consignment note that covers the transport of the goods to a destination outside the customs territory of the Union.

The rules on the single transport contract also apply 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. Transport by road by such operators is permitted, as long as the goods do not leave the customs territory of the Union by road, i.e. they are carried out of the territory by rail, post, air or sea.

In case of an amendment to Article 329 UCC IA the guidance will be updated with regard to excise goods.

- **Export followed by transit**

The customs office exit is the customs office of departure of the transit procedure and, consequently, fulfils the exit formalities (Article 329(5) and (6) UCC IA) and carries out risk based controls where applicable. In case of an amendment to Article 329 UCC IA the guidance will be updated with regard to excise goods.

- **Pipelines and electric energy**

The customs office of exit is the customs office designated by the Member State where the exporter of goods leaving by pipeline and of electrical energy is established (Article 329(2) UCC IA).

### **iii. Checks at the Customs office of exit on goods requiring a customs declaration**

Where the goods to be brought out of the customs territory of the Union are **covered by a customs declaration** lodged at another customs office (which has already performed risk analysis in accordance with Article 264 UCC), **the customs office of exit checks**, on the

basis of a risk analysis, **whether goods presented correspond to those declared** (Article 332 UCC IA).

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

Where discrepancies are identified (Article 332(2), (3) and (4) UCC IA):

- In the cases where goods are missing or do not correspond to those declared the customs office of exit informs the customs office of export, with the appropriate code, through an “exit results” message.
- When goods are in excess, the customs office of exit requires a customs declaration for those goods and acts as the customs office of export and exit.
- For the goods declared but that were not presented, the customs office of exit refuses release for exit.
- When goods presented at the office of exit are subsequently refused for exit, the office of export invalidates the customs declaration (Article 248(1) UCC DA). In case of excise goods it should inform the excise authorities in the appropriate manner.
- Where a waiver from the obligation to lodge a pre-departure declaration applies, risk analysis shall be carried out upon presentation of the goods on the basis of the customs declaration or re-export declaration covering those goods or, where not available, on the basis of any other available information about the goods.

#### **iv. Supervision of the exit of the goods**

When the goods have been released for exit, the customs office of exit will supervise the physical exit of the goods.

#### **v. Certification of the exit of the goods under the export procedure**

When the customs office of exit, on the basis of the information available (including port and airport systems), is satisfied that the goods have left the customs territory of the Union, 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 an exit results message the customs office of export sends an electronic message to the exporter/declarant to certify the exit or information that the movement has not successfully exited the customs territory of the Union. In case of unforeseen circumstances, the exit result message can be sent later (e.g. in the case of unavailability of the system).



When 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 (Article 335 UCC IA).

Where the exit results message (IE518) has not been received and in order for the export movement to be closed, evidence must be provided to prove that the goods have left the customs territory of the Union. A list of examples for evidence that could be suitable is provided for in Article 335 (4) UCC IA. This list is not exhaustive and other suitable means of evidence would also be acceptable, e.g. shipment track and trace systems. It is recommended that customs authority only ask for evidence that is sufficient to decide that goods have left the customs territory of the Union. In particular, due account should be taken of the circumstances of the export and evidence that could practically be made available.

Examples of such circumstances include:

- in case of goods delivered on board of vessels as ship supplies evidence mentioned in Article 335 UCC IA (4) (f) could not be provided;
- for gifts or transactions of no commercial value a proof of payment and/or invoice cannot be provided (Article 335 UCC IA (4) (c) and (b));
- where the goods are accompanied only by a pro forma invoice but not a commercial invoice the evidence in (Article 335 UCC IA (4) (c)) cannot be provided, e.g. deliveries for building industrial facilities are accompanied by pro forma invoices and the commercial invoice is to be issued later for tax purposes.

## **PART F - LODGING A CUSTOMS DECLARATION**

### **New elements:**

- possibility to lodge the export declaration and have its data processed before the presentation of goods to customs,
- new definition of exporter.

### **Transitional measures:**

- use of means other than electronic means during the transitional period;
- use of customs declaration as a presentation notification during the transitional period

## 1. Introduction

The export declaration (**including the simplified declarations, declarations for outward processing and re-export declaration**) shall contain the particulars laid down in Annexe 9 UCC TDA (as from the date of deployment of the UCC AES, the particulars laid down Annex B UCC DA) **and it shall be completed in accordance with the explanatory notes in those Annexes.**

Exceptions from the obligation to use the data-processing technique:

- Cases where an oral or paper-based customs declaration or a declaration made by any other act is permitted and used (Articles 137 to 141 and 143 UCC DA).
- Until the dates of deployment of the UCC AES referred to in the Annex to Implementing Decision 2014/255/EU, customs authorities may allow for means other than electronic data-processing techniques to be used.

## 2. Place where goods are packed or loaded for export shipment

According to Article 221 UCC IA 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 customs office responsible for the place where the goods are **packed or loaded** is generally the customs office in the place from where the goods, with a destination outside the customs territory of the Union, are exported.

"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;
- goods packed in cartons are placed on pallets or put into containers.

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) in particular, goods loaded in an unpacked state on the active means of transport that will bring them out of the customs territory of the Union (e.g. bulk goods such as gravel or sand, or vehicles). It should be noted that with regard to the time limit for containerised maritime cargo the term "loading" refers to the loading on the vessel on which the goods will leave the customs territory of the Union.

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 consignee and the quantity of goods but not the place of exit) at the time when the goods are delivered to the storage facility.

### **3. Exporter**

Further explanations of the definition of exporter are to be found in Annex A to this guidance. These explanations refer only to the export procedure.

### **4. Specific rules for ship supplies**

For details on specific codes and rules for ship supplies see Annex B to this guidance.

### **5. Information of exit to the office of export and to tax authorities**

According to Article 333(2) UCC IA the customs office of exit shall forward the exit result message to the customs office of export.

### **6. 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<sup>1</sup> 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 Union.

The SMGS<sup>2</sup> 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 Union. The basis for this type of single transport contract is the GR-CIM/SMGS.<sup>3</sup>

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 MS A via MS B to third country A (OSZhD-Member) will be covered first by a CIM (used for the transport from MS A to MS B) and then, at the eastern border crossing in MS B, 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 third country A.

The same applies for the combined CIM/SMGS consignment note that is an alternative to the classic system of retranscription of a SMGS consignment note to a CIM consignment note, or

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<sup>1</sup> COTIF: Convention concerning international carriage by rail – Convention relative aux Transports Internationaux Ferroviaires.

<sup>2</sup> SMGS: Convention concerning international goods traffic by railway.

<sup>3</sup>GR-CIM/SMGS: Guide des Réexpéditions CIM/SMGS, CIM/SMGS Reconsignment Manual

vice versa, at a consignment point. Accordingly, MS A would be the customs office of exit in the example given.

## **7. Excise formalities**

In accordance with Council Directive (EU) 2020/262 and unless established simplified procedures are approved, the consignor registers a draft excise electronic administrative document (eAD) in EMCS and receives a unique reference number (Administrative Reference Code - ARC). When the declarant lodges an export declaration, the ARC shall be included in the export declaration. Subsequently, the declarant receives an MRN for the export declaration. On release of the goods for export, an anticipated export record is sent to the office of exit. At the office of exit, the goods are presented together with the MRN and the ARC.

## **8. Invalidation of the export declaration.**

### **8a. On request by the declarant**

The invalidation of the customs declaration is a legal act by the competent customs authorities triggered by a reasoned application of the declarant and based on a customs decision taken on the basis of Article 22 UCC.

Under the UCC legal framework, an already accepted customs declaration for the release of goods for export, re-export or outward processing may be invalidated, where customs authorities are satisfied that due to special circumstances the placing of goods under this procedure is no longer justified (Art. 174(1)(b) UCC and Art. 148(4) UCC DA).

However, if the customs authorities have informed the declarant of their intention to examine the goods, the invalidation of the customs declaration shall take place after this examination.

Invalidation of a customs declaration for placing goods under export, re-export or outward processing procedure can also take place instead of its amendment, in cases of data elements which cannot be amended for practical reasons (please see paragraph 9 below, ‘potential limitations’).

### **8b. Without request by the declarant**

The invalidation of the export declaration is also possible without application by the declarant in cases where goods released for export do not leave the customs territory of the Union. However, the declarant still has to inform the customs office of export immediately (Article 340(1) UCC

IA). This information may be provided in any form (Article 54 UCC TDA). The customs office of export shall invalidate the export declaration (Article 248 UCC DA).

## 9. Amendment of the export declaration

The declarant may request an amendment to certain elements in the export declaration in accordance with Article 173 UCC.

The amendment to the export declaration takes place on the basis of a decision by the competent customs authorities. This is a customs decision taken upon the application of the declarant pursuant to Article 22 UCC.

Since amending the export declaration may only take place upon a request by the declarant, there is currently no legal basis for *ex officio* amendments.

In case where this request concerns the goods originally covered by the same customs declaration, it must be accepted unless:

- the competent customs authorities have informed the declarant that they intend to examine the goods;
- the customs authorities have established that the customs declaration is incorrect; or
- the customs authorities have released the goods.

The cases are exhaustive.

It is also possible, however, that the request for an amendment is made within three years after the acceptance of the customs declaration.

Pursuant to Article 173(3) UCC, amendment to an export declaration is possible upon a request by the declarant lodged within three years of the acceptance of the declaration in order to comply with obligations related to the placing of the goods under the export procedure. As a general principle, during these three years, the declarant may request an amendment unless the invalidation of the export declaration has been asked or provided for.

### **Other legal rights**

The customs authorities should permit amendments to the export declaration when a change in the respective legal situation gives rise to legal rights.

### **Potential limitations**

In principle, any data element in the export declaration may be amended, as long as the request for amendment concerns the goods originally covered by the same export declaration.

However, in practice there might be cases, where it would be necessary to exclude the possibility of amendment. Such case may be for example, if the change concerns the declarant. In such case, it would be more practical to invalidate the original export declaration and replace it by a new one indicating the actual declarant. Other possible situations where an amendment of data elements cannot take place could be:

- Request for an amendment of every data element, the amendment of which would result in a differentiation of any MRN component (please see UCC IA Annex B, data element 2/1, MRN structure). For example, an amendment of the customs procedure might result in the amendment of the procedure identifier incorporated in the MRN structure, which would mean that a new MRN would be generated. But different MRNs cannot correspond to the same declaration. Therefore, in such cases, the economic operator should apply for the invalidation of the initial declaration and lodge a new one.
- Request for an amendment violating the provisions of Article 173(1) UCC, according to which ‘The amendment shall not render the customs declaration applicable to goods other than those which it originally covered’. It has to be noted that this provision refers neither to the commodity code, nor to the goods description (which means that both of them can be amended). Instead, it refers to the nature of the goods initially covered by the customs declaration.

## **10. Export of low value consignments**

Goods in a postal consignment with a value not exceeding EUR 1 000 which are not liable for export duty, may be declared for export by their exit from the customs territory of the Union in accordance with Article 141(4) DA. The act of the customs declaration is deemed to be the exit of goods. Therefore, no formal customs declaration is required for the purpose of the export procedure.

The value must be considered as the total value of the goods in the postal consignment.

Goods other than postal consignments with a value not exceeding EUR 1 000 or a weight not exceeding 1 000 kg may be declared orally for the export procedure, in accordance with Article

137(1)(b) DA. The oral declaration has to take place at the customs office competent for the place of exit of the goods, as provided for in Article 221(3) IA. However, export declarations in the form of oral declarations are mainly designed for travellers and may not really fit with the business routine of, for instance, express operators.

Therefore, it is recommended that another simplification is used by, for instance, express operators. Any kind of commercial goods other than postal consignments with a value not exceeding EUR 1 000 or a weight not exceeding 1 000 kg may also be deemed to be declared by their exit of the customs territory of the Union. The act of export declaration corresponds to the border crossing of the goods. The legal basis for this facilitation is included in Article 141(1)(d)(iii) DA. This Article enables the application of this facilitation in relation with goods referred to in Article 140(1) DA that allows the declaration by any other act of goods referred to in Article 137 DA, in accordance with Article 141 DA. This simplification offers the possibility to take out goods, other than postal consignments with a value not exceeding EUR 1 000 or a weight not exceeding 1 000 kg, of the customs territory of the Union de facto without any export formalities.

It should be noted that goods referred to in Article 142 DA shall be subject to the standard export procedure and cannot be declared orally or by any other act. The exclusion covers the following goods:

- Goods subject to prohibitions and restrictions, as provided for in Union or national provisions
- Goods which are subject to any other special formality provided for under Union legislation that customs authorities shall apply.
- Agricultural goods subject to refunds or other financial advantages related to export (this indent is currently not applicable)
- Goods for which an application for the repayment of duty or other charges has been submitted (this indent is currently not applicable)

## **PART G - RE-EXPORT NOTIFICATION**

### **1. Obligation to lodge a re-export notification**

Where goods in temporary storage or free zone are to be re-exported but where neither a customs declaration, re-export declaration or 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 (Article 274 UCC).

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. In line with Article 54 UCC TDA, 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, provided this information is made available to the customs office of exit before the goods leave the customs territory of the Union.

## **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 authorisation to operate temporary storage facility or the holder of a storage facility in a free zone, or any other person able to present the goods, where the carrier has allowed that such person lodges the re-export notification. As the carrier in the transitional phase remains responsible that a re-export notification, where required, be lodged within the prescribed time-limit, a carrier wishing to allow another party such as NVOCC to file its own re-export notification, instead of the carrier, will want to have a clear communication protocol in place with such an NVOCC in order to ensure timely filing

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 Union.

However, in the case of combined transportation, where the first active means of transport leaving the customs territory of the Union is transporting another second means of transport which, after the arrival of the first means of transport at its destination, will move by itself as the active means of transport, “carrier” means the person who will operate the second means of transport. 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 Union.

### **3. Data requirements**

Under the UCC, data requirements for the re-export notification are subject to a common data set as specified in Annex B UCC DA. However, during the transitional period, and until the deployment of the relevant IT systems, national customs authorities specify the data elements required for the re-export notification. Such a notification will typically contain the following information:

- identity of the person lodging the re-export notification;
- a reference to the temporary storage declaration 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 Union; and
- the intended place of unloading/destination as stipulated in the transport contract.

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

Where after re-export has been notified to customs, the goods are no longer destined to be brought outside the customs territory of the Union, the person who removes the goods from the customs office for carriage back into the customs territory of the Union 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 Union;
- 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 54 UCC TDA).

## **ANNEXES**

## ANNEX A – DEFINITION OF "Exporter"

### ARTICLE 1 (19) UCC DA

The update of Annex A to the UCC Export & Exit Guidance reflects the revised definition of exporter as provided for in **Commission Delegated Regulation (EU) 2018/1063** of 16 May 2018.

#### CASES

Article 1 (19) UCC DA defines two main possibilities for a person to qualify as an exporter.

In accordance with Article 1 (19) (a) UCC DA an exporter is a private individual who carries the goods to be taken out of the customs territory of the EU in his personal baggage.

In accordance with Article 1 (19) (b) (i) UCC DA, in case the exporter is not a private individual who carries the goods in his personal baggage, it is any person who is:

- established in the customs territory of the EU, and
- has the power to determine and has determined that the goods are to be taken out of the customs territory of the EU.

In accordance with Article 1 (19) (b) (ii) UCC DA, where the two paragraphs above do not apply, the exporter is a contracting party established in the customs territory of the EU pursuant to the contract under which the goods are to be taken out of the customs territory of the EU.

When a person qualifies to be an exporter, his EORI number has to be provided in Box 2 (D.E. 3/2 Exporter identification N°) of the customs export declaration. If the person does not have an EORI number (e.g. a private individual), his/her name and address has to be provided instead.

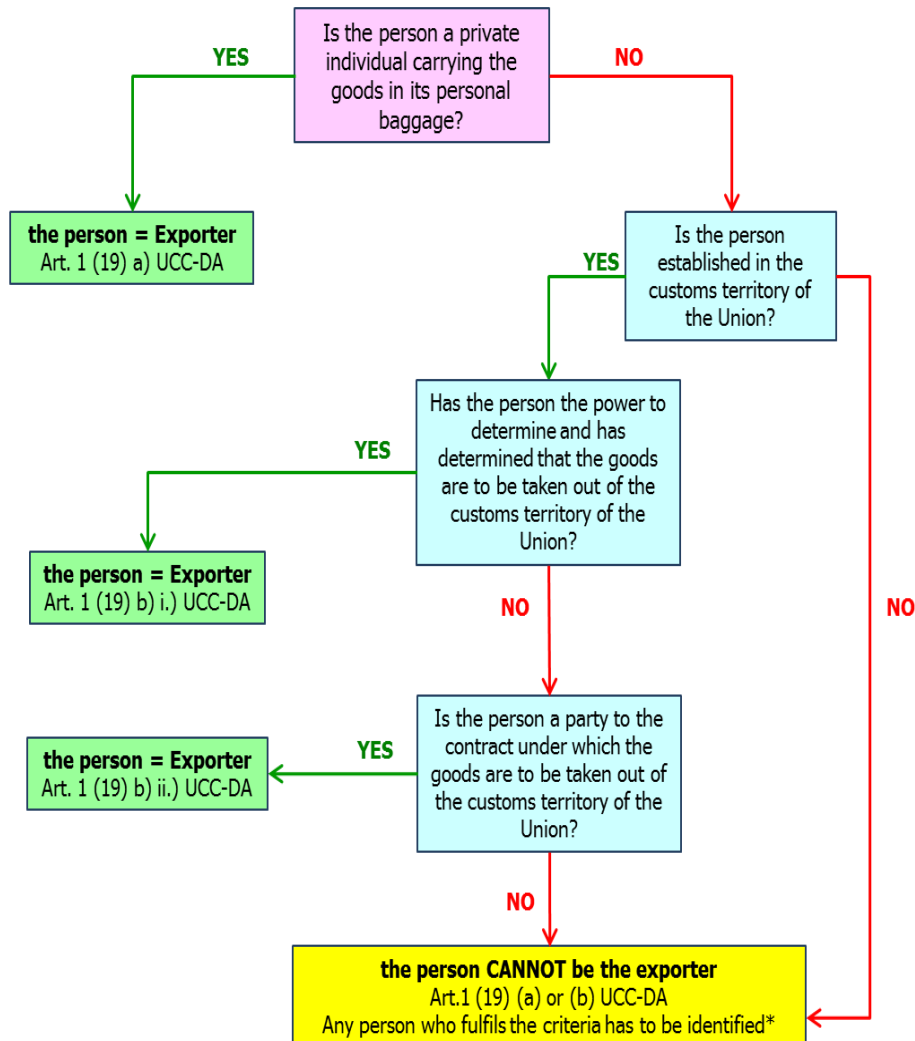
If a person does not qualify to be an exporter, the business partners concerned must make contractual or business arrangements in order to establish who is the person responsible for taking the goods out of the customs territory of the EU.

The new definition of 'exporter' provides for greater flexibility in choosing the person who may act as exporter for customs purposes.

The diagram below illustrates the sequence in which these criteria should be examined.

## Definition of the exporter – Article 1 (19) UCC-DA

### Who can be the exporter?



\* Due to the economic interests related to export, there is at least one person who meets the criteria provided for in Article 1(19) UCC-DA and assumes the role of exporter.

## THE CONCEPT OF BEING "ESTABLISHED IN THE CUSTOMS TERRITORY OF THE UNION"

If the reply to the question 'Is the person a private individual carrying the goods in its personal baggage?' in the previous flowchart is 'NO', then we need to know whether the person is established in the customs territory of the EU, or not.

The concept "established in the customs territory of the Union" is defined in Article 5 (31).

In case of private individuals (natural persons), the person must have his or her habitual residence in the customs territory of the EU.

In the case of a legal person or an association of persons, the definition should be read together with Article 5 (32) UCC. Based on this, the exporter must have in the customs territory of the EU:

- its registered office, or
- its central headquarters, or
- a permanent business establishment, *i.e.* a fixed place of business where:
  - the necessary human and technical resources are permanently present, and
  - through which person's customs related operations are wholly or partly carried out.

A person who is not established in the customs territory of the EU cannot be an exporter and his EORI number or name and address cannot appear in Box 2 (D.E. 3/2 or 3/1 respectively) of the export declaration. Other contractual or business arrangements are needed in order to establish who is the exporter.

Please note that the requirement for the exporter to be established in the customs territory of the EU, does not apply in case of re-export of non-Union goods in accordance with Article 270(1) UCC.

## THE CONCEPT OF "POWER TO DETERMINE AND HAVE DETERMINED THAT THE GOODS ARE TO BE TAKEN OUT OF THE CUSTOMS TERRITORY OF THE UNION"

The power to determine that the goods are to be taken out of the customs territory of the EU must follow unequivocally from the acts of the parties to the transaction on the basis of which the goods leave the customs territory of the EU.

The phrase "and has determined that the goods are to be taken out of the customs territory of the Union" refers to a factual element that the power has been exercised: e.g. by assuming the role of exporter, the person has also assumed to take his or her right to determine the export of the goods. The agreement between the parties to assign to one of them the power to determine that the goods are to be exported may take any form provided for in the civil law of the Member State concerned.

*Examples:*

- where there is a direct sale from a company established in the customs territory of the EU to a buyer established outside the customs territory of the EU, or
- where the price of an export sale is payable only upon exchange of the bill of lading drawn by the seller for carriage outside the customs territory of the EU, or
- contracts with incoterm 'ex works' or similar, where the power for determining that the goods are to be brought to a destination outside the customs territory of the EU lies with a person established outside the Union pursuant to the contract on which the export is based (e.g. buyer), but this person decides to empower a person established in the EU to determine that the goods are to be taken to a destination outside the Union. This means that a person other than the seller may act as exporter under the condition that, for instance, the buyer has empowered that person to do so. The business partners involved have the flexibility to designate the person who has to act as exporter, as long as that person complies with the definition of 'exporter'.

#### **THE CONCEPT OF "PARTY TO THE CONTRACT UNDER WHICH THE GOODS ARE TO BE TAKEN OUT OF THE CUSTOMS TERRITORY OF THE UNION"**

In cases of exports where Article 1(19)(b)(i) does not apply, the business partners concerned must make contractual or business arrangements in order to designate who will act as exporter, provided the person designated is established in the customs territory of the EU.

A carrier, a freight forwarder or any other party may act as exporter as long as that person complies with the definition of 'exporter' and agrees to take on this role.

## **ANNEX B – SHIP SUPPLIES**

*Articles 269 and 270 UCC*

### **I. DEFINITION OF SHIP SUPPLIES**

Ship supplies are ship stores, supplies and spare parts delivered on board of vessels that are exempted from VAT under Article 148 of Council Directive 2006/112/EC and/or excise duties under Article 13(2) of Council Directive (EU) 2020/262. They cover for instance:

- foodstuffs as well as other items that are consumed or sold on board or used by crew, as well as passengers.
- items for incorporation as part of or accessories in vessels and for the operation of the engines, machines and other equipment on-board.

Consumption, use, incorporation and operation of ship supplies should take place on board. If the ship supplies are taken off the vessel again in a third country or third territory, there is no customs debt as the goods are not entering the customs territory of the Union. However, if, following the departure of the vessel out of the customs territory of the Union, the ship supplies are taken off the vessel within the customs territory of the Union, then a customs debt is incurred if the goods are not duly presented to customs, or they are released for free circulation. If they are released for free circulation, the relevant provisions on duty relief and, where applicable, exemption from VAT and excise duties apply.

In case ship supplies delivered on board are rejected or returned by the shipping company to the ship supplier and are not intended to be taken out of the customs territory of the Union, Article 340 UCC-IA applies.



The following examples, which are not exhaustive, illustrate the use of ship supplies, provided that they can be delivered as such, complying with the conditions established in Article 269(2)(c) UCC:

#### Examples

- Spare and repair parts intended for incorporation in ships for the purpose of equipping, repairing and the maintenance of the vessel (for example critical safety and lifesaving equipment, tarpaulins, ropes and cables, paint, varnishes and chemicals, etc.),
- Motor fuels, lubricants and gas which are necessary for the operation of machines and apparatus used on board of the ship,
- Foodstuff and beverages used for consumption on board of the ship,
- Durable goods and equipment (delivery of bed linen, musical instruments and TV sets for cabins),
- Products for personal use, such as toiletries etc. for personal use of crew and passengers,
- Textiles and Synthetic Products, such as synthetic products for cabins, including carpets, curtains as well as flags,
- Electro-technical stores, including specialist navigational equipment,
- Machine, Cabin, Deck and Engine Stores (technical equipment and spares which may be required at the deck department, the engine department or the steward's department),
- Excise goods (alcoholic beverages, tobacco products) sold on board.

The provisions of the UCC distinguish between ship supplies that are Union goods and those that are non-Union goods.

## II. SHIP SUPPLIES THAT ARE UNION GOODS

### 1. Applicable rules

When exiting the customs territory of the Union ship supplies are exempted from the obligation to lodge a pre-departure declaration (Article 245(1)(o) UCC DA).

As regards customs clearance, certain conditions must be complied with by ship supplies to be subject to the special rules provided under Article 269(2)(c) UCC; in particular:

- they must be exempted from VAT and/or excise duties,
- a proof of their supply on board must be available.

The destination of the vessel (i.e. EU or non-EU destination) is not relevant for the purposes of customs clearance because, as the goods are ship supplies, they must follow the formalities concerning the export customs declaration (see Articles 269(2)(c) and 269(3) UCC).

It is to be noted that the VAT exemptions related to international transport, as defined in Article 148 of the Council Directive 2006/112/EC, are applicable to vessels used for navigation on the high seas. The VAT Committee almost unanimously agreed that the concept of ‘high seas’ for the purpose of the VAT Directive must be seen as static and shall cover any part of the sea outside the territorial waters of any country that is beyond a limit not exceeding 12 nautical miles, measured from baselines determined in accordance with the International Law of the Sea. (GUIDELINES RESULTING FROM THE 103rd MEETING of 20 April 2015 DOCUMENT A – taxud.c.1(2015)3366194 – 868).

## **2. Export**

The special rules on ship supplies that are Union goods, under the UCC are to be found in Title VIII, Chapter 3 of the UCC which foresees the rules on export.

## **3. Customs formalities**

Ship supplies of Union goods are not subject to the regular export procedure (see Article 269(2)(c) UCC in combination with Article 269(1) UCC). However, an export declaration must be lodged and all formalities related to the export declaration remain applicable (Article 269(3) UCC). In particular:

- an export declaration bearing the code EX must be lodged,
- the general customs formalities provided under Articles 158 to 195 UCC remain applicable,
- export declarations are registered in the ECS/AES and must be properly closed.

The purpose of these legal rules is to ensure that where a tax exempt supply has been granted

for ship supplies the delivery of those supplies could be proven and the export movement can be closed once the ship supplies are delivered on board. Without that proof the ship supplies could not benefit from the VAT exemption, which is usually applicable to goods exported from the EU. Where excise goods to be supplied to ships have been exempted from excise duty, their delivery on board must be proved to properly close the movement in the ECS/AES and consequently, in the EMCS.

Ship supplies complying with the abovementioned conditions are considered having left the customs territory of the Union once:

- an export declaration has been submitted, and
- the goods have been loaded on-board, regardless of the destination of the vessel (proof of that shall be made available to the customs authorities).

Although ship supplies are not subject to the regular export procedure the competent customs office of exit must supervise the ‘exit’ of the goods out of the customs territory of the Union. This office must then inform the customs office of export about the ‘exit’ of the goods once they have been loaded onto the vessel or when the vessel has left the port at the latest. The office of export shall then certify the ‘exit’ to the declarant or the exporter.

This ‘exit’ certification can be used as a proof of VAT or excise duty exempted delivery of goods, as appropriate.

For the purpose of the customs and tax controls, the ship supplier should keep the delivery note as signed by the consignee.

#### **4. Export of excisable goods**

In case of indirect exports, Union goods under excise duty suspension move from the Member State of export to the Member State of exit through the ECS/AES and the EMCS. The exit result message (IE 518) in the ECS/AES is needed for the EMCS movement to be closed.

In case of direct exports, the Member State on whose territory the movement takes place could be allowed to use national simplifications (Article 30 Council Directive (EU) 2020/262) instead of EMCS. When this Article applies, the use of an entry into the

declarant's records is also possible.

#### **5. Examples for the application of Article 269 UCC**

- a. A ship supplier in Member State A is to supply a vessel in MS A. The goods to be delivered are Union goods. The economic operator wishing to deliver the goods on-board lodges an export declaration at the competent office of export. Once the goods have been loaded on-board the vessel or, at the latest, immediately after the vessel has left the respective port, the export movement can be closed.
- b. A ship supplier in Member State A is to supply a vessel in Member State B. The goods to be delivered are Union goods. The economic operator wishing to deliver the goods on-board in Member State B (office of exit) lodges an export declaration in Member State A (office of export). Once the goods have been loaded on-board the vessel or, at the latest, immediately after the vessel has left the respective port, the open export movement can be closed.

In both cases, evidence that the goods have left the Union can be submitted pursuant to Article 335 UCC-IA if the customs authorities do not close the open movement. If the customs enquiry does not result in closing the export movement, the evidence established in Article 335(4)(g) UCC-IA, namely economic operators' records of goods supplied to ships, should be allowed in the case of ship supply. The customs authorities in MS A should then close the open movement on the basis of that evidence.

### **III. SHIP SUPPLIES WITH THE STATUS OF NON-UNION GOODS (ARTICLE 270 UCC)**

These goods are subject to the general rules on re-export.

#### **1. Re-export formalities for ship supplies with the status of non-Union goods**

Ship supplies of non-Union goods must be covered by a re-export declaration. A re-export notification, however, must be used instead where any of the following conditions are met (see Articles 270(3)(b), 270(3)(c) and 274(1) UCC):

- ship supplies are transhipped within a free zone,
- ship supplies are taken out of free zone, or
- ship supplies are directly re-exported from a temporary storage facility.

A waiver from the obligation to lodge a pre-departure declaration applies, as established in Article 245(1)(o) UCC DA.

## **2. Example for use of the re-export declaration**

A ship supplier in Member State A wishes to supply a vessel in Member State A (or in Member State B). The goods to be delivered are non-Union goods stored in a customs warehouse. The ship supplier moves the goods under the customs warehousing procedure to the competent customs office in accordance with Article 179(3)(c) UCC-DA and updates the relevant records pursuant to Article 178(1)(e) UCC-DA. A re-export declaration is lodged at the customs office of export (Member State A). The customs warehousing procedure is discharged, as soon as the goods have been taken out of the customs territory of the Union (Article 215 UCC).

The records referred to in Article 214(1) of the UCC must provide information about the exit of the goods within 100 days after the goods have been taken out of the customs warehouse (see Article 179(4) UCC-DA).

Depending on the customs procedure chosen by the declarant (see Article 150 UCC), the goods may be moved as mentioned above from the customs warehouse to the customs office of export and the customs office of exit under the conditions established in the customs warehousing authorisation. It is also possible to move the goods to that office under the external transit procedure; see the example under point 3 hereafter.

Evidence that the goods have left the Union can be submitted through the enquiry procedure pursuant to Article 335 UCC-IA if the customs office of export is not informed about the exit of the goods. In particular, the evidence of Article 335(4)(g) UCC-IA should be allowed in the case of ship supplies. The customs authorities in MS A should then close the open movement, namely the economic operator's records.

## **3. Example for the use of the re-export declaration, followed by an external transit procedure**

A ship supplier in Member State A wishes to supply a vessel in Member State A (or in Member State B). The goods to be delivered are non-Union goods stored in a customs warehouse.

A re-export declaration is lodged at the competent customs office pursuant to Article 221 UCC IA, followed by an external transit procedure (T1). The customs warehousing

procedure is discharged as soon as the goods are placed under the external Union transit procedure (Article 215 UCC). The exit of the goods out of the customs territory of the Union must be confirmed as referred to in point 3, Part II.

#### **IV. SIMPLIFICATIONS FOR DELIVERY OF SHIP SUPPLIES**

Operators of ship supplies may be authorised by customs authorities to enter in their records the exported goods and to report their export operations on a periodic basis after the goods have left the customs territory of the Union, in accordance with Article 182 UCC.

In case of excise goods such simplifications could only apply in case of domestic supplies and if the respective MS has allowed such simplifications according to Article 30 Council Directive (EU) 2020/262.

#### **V. COMMODITY CODES TO BE USED FOR SHIP SUPPLIES**

Sub-chapter II of Chapter 99 in Annex I of Council Regulation (EEC) No 2658/87 attributes a simplified nomenclature in respect of external trade statistics for goods delivered to vessels at harbours as ship supplies. These goods are reported with simplified CN codes. It does not matter whether the vessels are managed or used for commercial, military or private purposes. The following codes can be used in export and re-export declarations for ship supplies that are not subject to the rules of the Council Directive (EU) 2020/262:

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

The use of these CN Codes can also be permitted in inland customs offices where the customs declaration is lodged for goods to be delivered as ship supply.

The use of these CN Codes cannot be allowed when the ship supplies are goods discharging a special procedure other than transit because these CN Codes would not correspond to the ones authorised by the supervising customs office.