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**Customs Expert Group
Section "Import and Export Formalities"**

GUIDANCE DOCUMENT

**on
Customs Formalities on Entry and Import
into the European Union**

Revision 2



EUROPEAN COMMISSION
DIRECTORATE-GENERAL
TAXATION AND CUSTOMS UNION
Customs
Customs Legislation

GUIDANCE DOCUMENT

on

Customs Formalities on Entry and Import into the European Union

Disclaimer

As a general remark, it should be underlined that the guidance document is not legally binding. It does not create rights and obligations and are of an explanatory nature only. Its purpose is to provide a tool to facilitate the correct and uniform application of customs legislation by the Member States and to improve customs compliance by economic operators.

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ABBREVIATIONS

| | |
|-------------------|--|
| AEO | Authorised Economic Operator |
| ATA carnet | "Admission Temporaire/Temporary Admission" carnet |
| ENS | Entry Summary Declaration |
| EORI | Economic Operators' Registration and Identification |
| EU | European Union |
| IATA | International Air Transport Association |
| ICS 1.0 | Import Control System in current usage |
| ICS 2.0 | UCC Import Control System upgrade |
| IMO | International Maritime Organisation |
| MRN | Master Reference Number |
| MS | Member State(s) |
| NCTS | New Computerised Transit System |
| NCTS-TIR | New Computerised Transit System/ Transports Internationaux Routier |
| NVOCC | Non-Vessel Operating Common Carrier |
| IT SYSTEMS | Information Technology Systems |
| TDA | Transitional Delegated Act: Commission Delegated Regulation (EU) No 2016/341 |
| TS | Temporary Storage |
| TSD | Temporary Storage Declaration |
| UCC | Union Customs Code: Regulation (EU) No 952/2013 of the European Parliament and of the Council |

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|-------------------------------|--|
| UCC DA | Union Customs Code Delegated Act: Commission Delegated Regulation (EU) 2015/2446 |
| UCC IA | Union Customs Code Implementing Act: Commission Implementing Regulation (EU) No 2015/2447 |
| UPU | Universal Postal Union |
| UCC WORK PROGRAMME | The work programme for the update of the IT systems necessary to comply with the obligations under the UCC as referred to in Article 280 UCC |

PART A

INTRODUCTION

The Union Customs Code (UCC) entered into force 30 October 2013 and is applicable since 1 May 2016. It will be implemented in stages from that date until 31 December 2025 depending on the achieved level of upgrade and deployment of the IT systems required for the implementation of respective parts of the UCC legal framework.

The primary purpose of this guidance document is to highlight and explain the changes in respect of formalities at entry and import into the European Union (EU) applicable for customs administrations and economic operators since 1 May 2016. Secondly, it indicates other new elements of the UCC that will apply once the deployment of the required IT systems enables full UCC implementation, no later than 31 December 2025.

This guidance is based upon the provisions of the UCC, UCC Delegated Act (UCC DA), as amended by the Transitional Delegated Act (TDA), the UCC Implementing Act (UCC IA) and other provisions of the TDA applicable since 1 May 2016. It takes into account the respective provisions which suspend the introduction or certain new requirements for the implementation of the electronic exchange of information, the deployment of new processes or the compliance with new data requirements for which the deployment of suitable IT systems is necessary. The TDA provides the transitional rules and data requirements that are to be used until the required IT systems are in place in accordance with the UCC Work Programme. The UCC Work Programme, as laid down in the Annex to the Commission Implementing Decision (EU) No 2019/2151, establishes the time-tables for the deployment of the UCC IT systems that must be functioning before the UCC can be fully implemented.

The term *the Transitional Period* is used to indicate the transitional period until 31 December 2025 as referred to in Article 278 UCC. It should be noted, however, that this period is replaced under special rules of the UCC DA, UCC IA or TDA by specific transitional periods of a shorter duration according to the UCC Work Programme.

Background to the UCC

The UCC legal package that entered fully into force on 1 May 2016 aims to establish a proper framework for the new role of customs authorities that is intended to support:

- the completion of the internal market in the context of the modern economy;
- the reduction of the internal barriers to trade;
- the implementation of electronic customs in accordance to common principles and agreed planning and time-table;
- risk management and customs controls based on risk analysis using electronic data processing techniques;
- facilitation of customs procedures to the benefit of legitimate trade;
- the functioning of trade supply chains by reduction of the administrative burden.

When the UCC was drafted, negotiated and adopted, the Commission, the Member States (MS) meeting in the Council of the EU and the European Parliament, as well as stakeholders recognized that on 1 May 2016, not all IT systems would be deployed. That is why Article 278 UCC allows the use of other means for the exchange and storage of information while the relevant IT systems are developed, upgraded and fully deployed.

The use of Article 278 UCC also resulted in the suspension of certain UCC provisions and data requirements contained in relevant

provisions of the UCC DA and UCC IA. These suspensions are provided in the TDA, including its amendments to the UCC DA and in the UCC IA.

For these suspensions TDA also replicates in a very large part and in so far as that does not conflict with the UCC, the data sets and legal requirements in current use. These transitional rules will apply from 1 May 2016 until the respective IT systems at EU and Member States level have been upgraded or deployed, in line with the empowerment under the UCC Work Programme. The last system will have to be deployed by the end of 2025.

The use of existing national systems and paper forms may continue until the development, upgrading and deployment of the new IT systems.

The application of some of the provisions of the UCC, UCC DA and UCC IA regarding the entry of goods into the customs territory of the EU will very much depend on the functionalities of ICS 2.0 and their use in different MS. That is why this guidance focuses mainly on the situation as it exists under ICS 1.0.

PART B

ENTRY SUMMARY DECLARATION

OVERVIEW: TRANSITIONAL MEASURES - SITUATION APPLICABLE ON 1 MAY 2016:

1. KEY ELEMENTS UNCHANGED ON 1 MAY 2016 – CONTINUATION OF CURRENT PRACTICE:

- ENS filing processes and data requirements until deployment of ICS.2.0 (*see* points 1 and, 2 below) since TDA suspends new ENS data sets and multiple filing requirements;
- Unintentional double lodgement (*see* points 6 below);
- Customs office of first entry (*see* point 7 below);
- Responsibilities of the declarant (*see* point 8 below);
- Modifications of the waivers from the obligation to lodge ENS (*see* point 4 below);
- Time-limits for lodgement of ENS, in particular for air transport (*see* point 5 below);
- Amendment to the ENS (*see* point 9 below).

2. KEY CHANGES APPLICABLE ON 1 MAY 2016:

- Modifications of the waivers from the obligation to lodge ENS (*see* point 4 below);

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| <p><u>ICS 2.0 FULL DEPLOYMENT IS FORESEEN FOR OCTOBER 2024 IN THE CURRENT UCC WORK PROGRAMME.</u></p> |
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OVERVIEW: NEW ELEMENTS

Situation applicable after the deployment of ICS 2.0:

- New data sets (for all modes of transport), including a "minimum pre-loading set" in the air mode
- Multiple filing, *i.e.* lodgement of ENS by means of submission of different data sets by the same person or by different persons, is only applicable in the air and maritime mode of transport (*see* Articles 112 and 113 UCC DA, Articles 183, 184 and 186 UCC IA).
- New risk analysis processes applicable *per* mode of transport (*see* Article 186 UCC IA).
- New time-limits for air cargo where the ENS must be lodged as early as possible and at the latest before the goods are loaded onto the aircraft on which they are brought into the customs territory of the Union. Where only the minimum data set has been provided before loading the other particulars have to be sent within the currently applicable time-limits (*see* point 6 below).
- Modifications of the waivers from the obligation to lodge an ENS (*see* point 4 below)

EXPLANATIONS OF THE REQUIREMENTS APPLICABLE DURING THE TRANSITIONAL PERIOD FROM 1 MAY 2016

1. LODGEMENT OF ENS

1.1 Submission of particulars

*Art. 127 (1)
to (6) UCC*

Following the introduction of ICS 2.0 and after the end of the transitional period the ENS may be lodged by the submission of required set of particulars in one or more data sets containing the data elements as provided in Annex B to UCC DA.

Because the current Import Control System (ICS 1.0) is capable of only receiving ENS by the submission of one data set, the TDA temporarily suspends the multiple filing mechanism established under the UCC, UCC DA and UCC IA until the deployment of ICS 2.0.

During the Transitional Period it remains the ultimate responsibility of the carrier who brings goods into the EU, as defined in Article 5(40) (a) UCC to ensure that an ENS is lodged at the customs office where the means of transport will first enter the EU.

The following link to frequently asked questions provides examples and practical scenarios related to the lodgement of ENS and the customs formalities at the entry of the goods into the EU, subject to adjustments to take into account the changes introduced by the UCC legal framework: https://taxation-customs.ec.europa.eu/customs-4/customs-security/import-control-system-2-ics2-0/faq_en

1.2 Use of port community or similar commercial or transport information systems

*Art. 127 (7)
UCC*

Ports, airports and other transport or commercial hubs use electronic platforms that connect multiple systems operated by a variety of

organisations. These platforms serve as gateways for filing customs declarations.

ENS lodged by use of such platforms may be accepted provided that

- customs authorities approved it,
- the applicable system requirements are met, and
- it is submitted within the required time-limits.

1.3 Access to the economic operator's computer system

Art. 127(8)
UCC

Customs may accept lodgement of a notification and access to the particulars of the ENS in the economic operator's computer system. This should be the case as long as the economic operator's system:

- stores and processes data in a way compatible with the applicable requirements, and
- allows for transfer of information to subsequent ports and airports (*see* point 3.1 below).

1.4 Advance lodgement of customs declaration or a temporary storage declaration

Art. 130
UCC

In case where a customs declaration or a temporary storage declaration (TSD) is lodged in advance and within the specified time limit and contains the particulars of the ENS, the lodgement of an ENS may be waived.

2. DATA REQUIREMENTS

2.1 Applicable data requirements

Annex 9
TDA

The new ENS datasets established in Annex B of the UCC DA are temporarily suspended by the TDA until the deployment of ICS 2.0. They will not be operative on 1 May 2016. Instead the current data requirements are maintained:

- air mode of transport;

- express consignments;
- maritime mode of transport;
- road mode of transport;
- rail mode of transport;
- authorised economic operators.

The applicable data elements for the ENS that are to be used during the Transitional Period are contained in Appendix A to Annex 9 of the TDA.

2.2 Selected data requirements

▪ Economic operator registration and identification number

The person lodging ENS should include his own economic operator registration and identification number (EORI). Where ENS is lodged by one complete data set by a person different from the carrier, the EORI of the carrier shall also be provided, e.g. where a customs agent is acting on behalf of the carrier and lodges an ENS.

▪ Goods description

The following guidance is available for the list of acceptable and unacceptable terms for description of goods for ENS:

http://ec.europa.eu/taxation_customs/resources/documents/customs/policy_issues/customs_security/acceptable_goods_description_guidelines_en.pdf

3. COMPETENT CUSTOMS OFFICE FOR LODGING ENS

3.1 Customs office of first entry

For goods brought into the EU from a third country by a vessel or an aircraft calling at more than one port or airport in the customs territory of the EU ENS should be lodged at the first customs office of entry.

Art. 127(3)
UCC

Should the vessel or aircraft call at a third country, port or airport between EU destinations then a new ENS must be lodged to the first customs office of entry for all the goods on board of means of transport in accordance with all ENS rules and procedures.

No ENS is required for vessels or aircrafts sailing or flying between two EU ports or airports.

Whenever the customs office of first entry identifies a risk for the goods carried on the vessel or aircraft, it should pass on the risk results to the relevant customs offices, so that these goods could be subject to customs control upon their arrival (risk type B) or upon scheduled discharge (risk type C).

The customs office of first entry should take immediate action in those exceptional circumstances where Freight Remaining on Board (FROB) is deemed to pose such a serious threat to the safety and security of the EU that immediate intervention is required.

For deep-sea containerised traffic, where goods are not to be loaded on the vessel for carriage into the EU a corresponding message to the person lodging the ENS, and where different also to the carrier, must be provided within the 24 hours' time-limit for completing risk assessment following the lodgement of ENS. However, in case of risk information received after the departure of the vessel, such immediate action shall exceptionally take the form of controls at the first point of entry.

3.2 Lodgement of ENS at another customs office

Art. 127(3)
UCC, 2nd
subparagraph

One of the options to lodge ENS provided in the UCC is to submit it at a customs office different from the customs office of first entry. This possibility may be available only if customs authorities so allow. MSs will provide information about the availability of this functionality in their system information available to economic operators.

Until the deployment of ICS 2.0 where a customs office other than the

customs office of first entry is addressed that office will forward the data required for the lodgement of ENS to the competent customs office of first entry for risk assessment to be carried out.

In order for the possibility to lodge ENS at a customs office different from the customs office of first entry to be used the ENS thus lodged must be immediately registered and communicated or otherwise made available electronically by the MS receiving the ENS to the customs office of first entry. An MRN must be issued upon the registration of the ENS.

Where an economic operator uses this possibility the obligation to lodge ENS within a specific time-limit should be fulfilled at the office where ENS was lodged, even if there is a delay in the transmission of the data to the customs office of first entry.

4. WAIVERS FROM THE OBLIGATION TO LODGE ENS

4.1 General overview

There are two types of waivers from the obligation to lodge ENS:

Art. 127 (2)

(a) UCC

- for goods carried by means of transport that only pass through the territorial waters or the airspace of the customs territory of the Union without a stop within that territory, or

Art. 127(2)

(b) UCC

- in other cases which are duly justified by the type of goods or traffic, or where required by international agreements.

In contrast to the rules preceding the UCC legal framework those cases do not include categories of goods on the basis of their value, such as goods of negligible economic importance or goods subject to customs duty relief. Under the UCC legal framework value is no longer a condition for waiving the obligation to lodge ENS for a certain category of goods as it could not be a criterion for assessing the safety and security risk.

The sections below deal with selected types of goods and explain the changes to the existing rules and the transitional periods that apply. It makes a specific mention to items of correspondence, postal consignments and goods which benefit from the possibility to use oral declaration or declaration by any other act. At the end explanation is provided on other exemptions which remain valid but the conditions under which they are granted have been changed.

4.2 Items of correspondence

Art. 1(26)
UCC DA

Items of correspondence are defined as letters, postcards, braille letters and printed matter that are not liable to import or export duty. As such they are exempted from the obligation to lodge ENS notwithstanding the nature of the intermediary, e.g. postal operator or express courier, that delivers them to the consignee.

Art. 104(1)
(c) UCC DA

4.3 Postal consignments

Art. 104(2)
and (4)
UCC DA

The general exemptions for items moved in accordance with the acts adopted by the Universal Postal Union (UPU) are taken away. The table below sets out the rules that apply in various stages during the period after 1 May 2016 but before 31 December 2020.

| Until the upgrade of ICS subject to the time-table of the Work Programme | After the ICS 2.0 and before 31.12.2020 | After 31.12.2020 |
|--|---|---|
| ENS is not required | ENS is not required for consignments up to 250g. Penalties should not apply where ENS is not lodged for consignments beyond 250g. | ENS is required but adaptations of this requirement may appear necessary, by 31.12.2020 the application of the waiver shall be reviewed |

Art. 187(5)
UCC IA

Following the deployment of ICS 2.0 but before 31 December 2020 risk analysis for goods in postal consignment that exceed 250g shall be carried out at their presentation on the basis, where available, of the customs declaration or the temporary storage declaration.

Art. 104(2)
UCC DA,
third
subparagraph

By 31 December 2020 the Commission shall review the situation of goods in postal consignments with a view of making such adaptations as may appear necessary taking into account the use of electronic means by postal operators covering the movement of goods.

4.4 Waiver for goods whose value is below EUR 22

Art. 104 (4)
UCC DA

The waiver continues to apply until the upgrade of the ICS systems in accordance with the time-table of the Work Programme.

4.5 Waiver for goods declared by any other act or oral declaration

Art. 104 (1)
UCC DA

This exemption applies for two types of goods. These are items of correspondence (*see* point 5.2) or the following goods provided that they are not carried under a transport contract:

- products obtained by Union farmers on properties located in a third country and products of fishing, fish-farming and hunting activities, which benefit from duty relief under Article 35 to 38 of Regulation (EC) No 1186/2009;
- seeds, fertilizers and products for the treatment of soil crops imported by agricultural producers in third countries for use in properties adjoining those countries, which benefit from duty relief under Article 39 to 40 of Regulation (EC) No 1186/2009;
- means of transport which benefit from relief from import duty as returned goods in accordance with Article 203 UCC;
- pallets, containers and means of transport, and spare parts, accessories and equipment for those pallets, containers and means of transport when they are covered by an oral declaration;

- portable music instruments re-imported by travellers and benefiting from relief from import duty as returned goods in accordance with Article 203 UCC

4.6 Changes in the remaining exemptions

- ATA or CPD carnets

Goods moved under ATA or CPD carnets continue to be exempt but only if they are not subject to a transport contract:

- Goods supplied for consumption, sale or use on-board vessels or aircrafts

The exemption for goods supplied on board vessel or aircraft is extended to all maritime and air means of transport irrespective whether they are calling outside the EU customs territory or not.

- Supplies

A new exemption has been added for vessels and goods carried on them which enter the territorial waters of a MS with the sole purpose of taking on board supplies without connecting to any of the port facilities.

5. TIME-LIMITS FOR LODGEMENT OF ENS

*Art. 105-109
UCC DA*

The following time-limits are applicable as from 1 May 2016 during the overall transitional period.

| MARITIME TRANSPORT | TIME-LIMIT |
|--|---|
| 1. Containerised cargo other than short-sea shipping | 24 hours before loading onto the vessels on which the goods will enter the customs territory of the EU |
| 2. Bulk or break bulk cargo other than short sea shipping | 4 hours before the arrival of the vessel at the first port of entry into the customs territory of the Union |
| 3. In case of goods coming from: - Greenland, - the Faroe Islands - Iceland - Ports of the Baltic sea, the North Sea, the Black Sea and the Mediterranean Sea, - all ports of Morocco | 2 hours before arrival of the vessel at the first point of entry into the customs territory of the Union |
| 4. Between a territory outside the customs territory of the Union and the French overseas departments the Azores, Madeira or the Canary Islands, where the duration of the voyage is less than 24 hours | 2 hours before arrival at the first point of entry |

| AIR TRANSPORT | TIME-LIMITS |
|---|---|
| 1. Duration of less than 4 hours | Actual departure |
| 2. Duration of 4 hours or more | 4 hours before the arrival of the aircraft at the first airport in the customs territory of the Union |

| RAIL | TIME-LIMITS |
|---|---|
| 1. Where the train voyage from the last train formation station in a third country is less than 2 hours to the customs office of first entry | 1 hour before arrival of the goods in the place for which the customs office of first entry is competent |
| 2. In all other cases | 2 hours before the arrival of the goods at the place for which the customs office of first entry is competent |

For road transport the deadline is 1 hour before the arrival of the goods

at the place for which the customs office of first entry is competent.

For inland waterways the deadline is 2 hours before the arrival of the goods at the place for which the customs office of first entry is competent.

For combined transportation the applicable time limit is the one valid for the active means of transport entering the customs territory of the Union.

6. LODGEMENT OF ENS BY A THIRD PARTY

During the transitional period the current possibility of lodging ENS by a third party lodging an ENS on behalf of or instead of the carrier remains applicable. However, one modification involves the termination of the requirement that an ENS lodgement by a third party such as a freight forwarder or non-vessel operating common carrier (NVOCC) instead of the carrier shall be done only with the carrier's "knowledge and consent". As the carrier remains responsible that an ENS 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 an NVOCC to lodge its own ENSs, instead of the carrier, will wish to have a very clear communication protocol in place with such an NVOCC in order to ensure a timely lodgement.

The carrier's EORI number and transportation document number (e.g. ocean (master) air waybill number) must always be included in any third party ENS lodgement. Among other required data elements the third party needs to obtain from the carrier the following:

- mode of transport at the border;
- expected date and time at first place of arrival/entry in the customs territory of the Union; for ocean going vessels, however, only the expected date of arrival is required.
- first place of arrival/entry code;

- country code of the declared first office of arrival/entry;
- the IMO vessel number (in case of maritime shipments); or the truck registration number (in the case of road transport);
- the nationality of the active means of transport entering the customs territory the customs territory, however, this element is not required for sea and air transport;
- voyage or trip number or, in any case of code-sharing arrangements in air transport, the code-sharing partners' flights numbers (this data element is not required for road transport); and
- subsequent ports or airports of call in the customs territory of the Union.

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 ENS lodgement.

Once the third party, with the carrier's agreement undertakes to lodge the ENS, the content, accuracy and completeness of the ENS filing is this third party's responsibility. This obligation follows from the general rule laid down in Article 15 (2) UCC and is irrespective of penalties or sanctions that might be applicable.

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

If the carrier has agreed that a third party will lodge the ENS instead of him, the carrier should not make his own lodgement for the same shipment. Similarly, a third party should not lodge 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 lodge ENS for the same shipment customs authorities may decide to use both filings for their safety and security risk analysis. Otherwise they should consider that the ENS lodged by the carrier is the valid one. Double filings would in any case not affect compliance with the legal requirement that an ENS is made and within specified deadlines.

7. UNINTENTIONAL DOUBLE LODGEMENT

Examples:

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

For the national IT systems which could handle only one ENS per consignment; it is recommended that the ENS data previously declared be disregarded. The ENS lodged by the carrier, however, should prevail. That holds true also in the cases where it is lodged before the declaration of the other person. The information from both ENS can nevertheless be used for the purposes of risk analysis.

8. RESPONSIBILITIES OF THE DECLARANT

As with all declarations and notifications, the declarant should only be held liable for the accuracy and completeness of the data submission at the time of lodgement of ENS based on the information made available to him. Unless he has reasons to believe that the data provided is not correct he can base his ENS lodgement

on data provided to him by his contracting parties. On the other hand, the persons who initiates and contractually agrees with e.g. a consolidator, a freight forwarder or a carrier for the carriage of a cargo shipment to the customs territory of the Union, must provide complete and accurate cargo shipment information to that carrier, freight forwarder or consolidator.

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

If the declarant finds out that one or more particulars of the ENS are incorrectly declared or have changed, the declarant may request an amendment to the ENS. Additionally, the declarant should inform customs if he becomes aware that a person initiating cargo shipments to be carried to the customs territory of the Union systematically provides incorrect cargo shipment information.

9. AMENDMENT TO THE ENS

*Art. 129
UCC*

In the interests of providing the most complete and accurate ENS as possible for proper risk assessment, amendments should be allowed in all cases that are not referred to in the second subparagraph of Article 129 (1) UCC.

Only the party submitting particulars of the ENS may amend those particulars. If the declarant becomes aware that the particulars initially submitted are not correct any more, he should request an amendment to the ENS.

In principle, there is no limitation foreseen in legislation as regards the data elements that can be subject to amendment. However, in practice, in case the declarant changes and therefore an amendment to the ENS would be necessary, it would be more practical to

invalidate the original ENS and lodge a new one instead.

Amendments to the ENS do not suspend or renew the deadlines for lodgement of ENS.

Where an amendment is made, risk analysis should be performed again to accommodate the amended particulars. That would have an impact on the release of the goods only where the amendment is made so shortly before the arrival that the customs authorities need additional time to perform a proper risk analysis.

If the amendment to the ENS was made and the risk analysis pertaining to the amendment has been performed the risk identified and the particulars of the ENS concerned should be forwarded to the competent customs authorities at the subsequent port or airport.

PART C

FORMALITIES AT ENTRY

OTHER THAN THE LODGEMENT OF ENS

SITUATION APPLICABLE AS OF 1 MAY 2016

TRANSITIONAL MEASURES

*Art. 9, 10
and 11 TDA*

Current submission mechanisms for notifications of arrival and presentation and for lodgement of the temporary storage declaration as well as data requirements valid before 1 May 2016 will remain operable as long as ICS 2.0 and the national UCC Notification of Arrival, Presentation Notification, and Temporary Storage systems are deployed or upgraded according to the MS national planning.

The data requirements for the Arrival Notification and for the Presentation Notification are not laid down in Annex 9 TDA. Pursuant to the third subparagraph of Article 2 (4) UCC DA MS must ensure that the data requirements that they request are such as to warrant that the provisions governing those notifications can be applied.

Until the respective IT systems are in place the data requirements for the diversion notification are laid down in Annex 9 TDA and are identical to the ones applicable before 1 May 2016.

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| NATIONAL TIMETABLES FOR THE UCC NOTIFICATION OF ARRIVAL, PRESENTATION NOTIFICATION, AND TEMPORARY STORAGE SYSTEMS DEPLOYMENTS OR UPGRADE WILL BE COMMUNICATED TO THE COMMISSION FOR INCLUSION IN THE UCC WORK PROGRAMME AND COMMUNICATION TO TRADE |
|---|

SITUATION APPLICABLE FOLLOWING DEPLOYMENT OR UPGRADE OF MEMBER STATES IT SYSTEMS

After the expiry of the respective transitional periods, as may be the case, the electronic data transmission becomes mandatory and new enlarged and harmonised data requirements are in place.

1. ARRIVAL NOTIFICATION

*Art. 133
UCC*

The Arrival Notification is the message sent to the customs office of first entry to advise it that the vessel or the aircraft has arrived.

The Arrival Notification may take the form of information available by a sea going vessel or for an aircraft, specifically the arrival manifest.

The Arrival Notification should contain the particulars necessary for the identification of previously lodged ENSs. In case of combined transportation, such particulars may be provided by the operator of the active means of transport entering the customs territory of the Union by communication upon its own choice.

The Arrival Notification is provided by, either:

- the MRN for all the shipments carried on the means of transport together with the mode of transport at the border, the country code of declared first office of entry, the declared first place of arrival code and the actual first place arrival code, or
- the so-called "Entry Key" data elements, *i.e.* the mode of transport at the border, the identification of the means of transport crossing the border, *e.g.* in maritime or air traffic IMO vessel number, or the IATA flight number, the date of expected arrival at the declared customs office of first entry, the code for the declared first place of arrival and the code for the actual first

place of arrival code.

2. DIVERSION NOTIFICATION

Art. 2 (4)
UCC Annex
1 TDA

Where the sea-going vessel or an aircraft is to be diverted to a MS different from the MS where the declared office of first entry is located and also different from where any of the declared offices of subsequent entry is located, a diversion notification must be submitted by the operator of the means of transport.

Diversions are made entirely at the discretion of the vessel operator and require no justification. However, the submission and form of the diversion notification must comply during the transitional period, with the specifications laid down in Annex 9 to the TDA and the associated explanatory notes.

The diversion notification could, at the choice of the operator, take either of the two forms described in section 1 above for the arrival notification. The customs office which received the notification should send any positive risk information and the particulars of the respective ENS to the new, actual customs office of first entry. The vessel operator should send a diversion notification only after all the ENSs concerned have been lodged as it is not possible to amend ENS once a diversion notification has been notified.

Example

A vessel is scheduled to enter the customs territory of the Union in MS A as first customs office of entry, with subsequent calls at ports in MS B, MS C, MS D and MS E. For operational reasons the vessel makes an unscheduled additional port call at MS X prior to MS A, thus replacing the latter as the new *actual* EU first customs office of entry. Because the port in MS X was not indicated in the ENS a diversion notification

must be submitted by the carrier to the original first customs office of entry – port in MS A. Customs at that port should then process the diversion notification and communicate all relevant information to MS X.

By contrast, no diversion notification is required where a simple change of route with the consequence that the active means of transport is entering the customs territory of the Union at a customs office in a MS of subsequent entry declared in the ENS instead of the customs office of first entry declared in the ENS.

The declared customs office of subsequent entry would already have received information on identified risks from the declared customs office of first entry. For this reason, no new ENS or amendment to a previously lodged ENS can be required.

Example

A vessel is initially planned to enter the customs territory of the Union at a port in MS A as first customs office of entry and a port in MS B as a subsequent customs office of entry. For operational reasons the vessel skips MS A and goes directly to MS B. Le Havre was indicated on the original ENS as a subsequent port and thus no diversion notification is required.

No diversion notification is required in case of a transit operation.

For other modes of transport arriving at a customs office of first entry in a different MS than the one of the customs office of first entry declared in the ENS, a new ENS must be lodged at the office of first entry instead of a diversion notification.

3. PRESENTATION OF GOODS TO CUSTOMS

Art. 139 (1)
UCC

Goods must be presented to customs upon their arrival in the customs territory of the Union and availability for customs controls.

For maritime and air transport the presentation of goods by the carrier at the designated customs office or at any other place designated or approved by the customs authorities may be done in one instance for all the goods that are to be unloaded from the vessel or the aircraft but they shall not be required to be presented individually to customs..

For other modes of transport – the presentation of goods takes place upon the arrival at the designated customs office or any other place designated or approved by the customs authorities.

Art. 139 (6)
UCC

Special conditions, including a waiver from the obligation to present goods to customs should be allowed, provided that customs controls and supervision could be properly carried out, in cases of:

- goods transported within frontier zones;
- goods transported in pipelines and wires;
- items of correspondence or other goods of negligible economic importance such as letters, postcards and printed matter and their electronic equivalents held on other media;
- goods carried by travellers.

Other methods of information may serve the purpose of presentation notification. For example, a reference to the ENS in the §carrier's "Arrival Manifest" should be accepted as the "Presentation Notification".

PART D

TEMPORARY STORAGE

Art.5 (17)
UCC

Temporary storage refers to a legal situation applicable to non-Union goods that are stored under customs supervision. It starts from the time of the presentation of goods to customs and could last up to no more than 90 days. At the latest at the presentation of the goods to customs a temporary storage declaration (TSD) is to be lodged. A breach of this obligation may incur a customs debt for non-compliance.

SITUATION APPLICABLE AS OF 1 MAY 2016 - NEW ELEMENTS

- the time limit for temporary storage is extended to 90 days without a possibility of further extension;
- the provisions of a guarantee becomes mandatory for authorisations to operate temporary storage facilities that are new, including those that are granted after a reassessment;
- there is a possibility to move goods between temporary storage facilities without declaring them for another customs procedure.

TRANSITIONAL MEASURES

These transitional measures apply until the deployment or upgrade of the national UCC Notification of Arrival, Presentation Notification and Temporary Storage Systems and include:

- lodgement of TSD (*see* section 1);
- MRN (*see* section 1.3);
- data requirements (*see* section 1.3);
- applications and authorisations (*see* section 2.1).

1. TEMPORARY STORAGE DECLARATION

1.1. Lodgement

The temporary storage declaration shall be lodged at the latest at the time of the presentation of the goods to customs.

Art.11 TDA

Lodgement of TSD remains possible by means other than electronic methods in accordance with the requirements that are in force in MS by 1 May 2016.

While the issuance of an MRN under the UCC becomes mandatory for the registration of TSD it is not mandatory on 1 May 2016 before the expiry of the transitional period.

*Art.145 (3)
UCC*

TSD could be lodged by one of the following persons:

- the person who brings the goods into the customs territory of the Union;
- the person in whose name or on whose behalf the person who brings the goods into that territory acts;
- the person who assumes responsibility for carriage of the goods after the they were brought into the customs territory of the Union;
- any person who immediately places the goods under a customs procedure;
- the holder of an authorisation for the operation of storage facilities or any person who carries out an activity in a free zone.

Form of lodgement of TSD:

- a submission of the particulars of TSD;
- a reference to the ENS followed by a supplementary submission of the missing elements of the TSD such as the exact location of the goods in TS (*see below*);

Art.145 (5)
UCC

- a cargo manifest or another commercial document submitted before arrival can be used as a TSD provided that it contains the required particulars of the TSD and is made available to customs authorities. Data elements included in this document, for example data pertaining to the location of the goods should be sufficient to identify the holder of the temporary storage authorisation to whom contact may be made by customs authorities to determine the precise location of the goods;
- Customs authorities may accept that commercial, port or transport information systems are used to lodge a TSD provided that they contain the necessary particulars for such a declaration. Data elements included in this document, for example data pertaining to the location of the goods should be sufficient to identify the holder of the temporary storage authorisation to whom contact may be made by customs authorities to determine the precise location of the goods.

1.2. Waiving the obligation to lodge TSD

Art. 145 (8)
UCC

When TSD provides the data required and has been lodged within the respective time limits and in accordance with any conditions that are required it could also be used for:

- an Arrival Notification;
- presentation of goods to customs.

Art. 145 (9)
UCC

The obligation to lodge TSD may be waived in the following cases:

- a customs declaration has been lodged before the goods are presented to customs;
- at the latest at the time of presentation of the goods to customs it has been determined that the goods have obtained the status of Union goods.

1.3. Data requirements

Current data requirements for the TSD remain applicable during the transitional period. Following the deployment or upgrade of the relevant national IT systems the UCC DA harmonised TSD data set as provided in Annex B to UCC DA will become applicable.

During the relevant transitional period there are no common data requirements. Pursuant to the third subparagraph of Article 2 (4) UCC DA MS must ensure that the respective data requirements are such as to warrant that the provisions governing the TSD can be applied.

Art.145 (4)
UCC

In particular, the TSD must always contain a reference to the ENS when it is lodged for the same goods and the lodgement of ENS is required. The obligation to provide a reference to the ENS shall, however, be waived in the following circumstances:

- the obligation to lodge ENS:
 - has been waived pursuant to Article 104 UCC DA, or
 - does not apply, e.g. in case of intra-EU maritime traffic;
- goods have already been in temporary storage, e.g. when they were presented to customs in case of transshipment in the customs office of first entry and subsequent unloading and storage took place under the supervision of the competent customs office where the goods are unloaded; this scenario could also be applicable in case of stopover flights; or
- goods have been placed under a customs procedure and have not left the customs territory of the Union.

During the relevant transitional period MS should decide whether to apply the requirements for the application and authorisations for the operation of temporary storage facilities as defined in Annex B to the UCC DA or to use either:

- the data requirements established under the legislation preceding the UCC, UCC DA and UCC IA, or

- other alternative data requirements.

1.4 Amendment to the TSD

If the TSD that contains at least the particulars of an ENS is lodged pursuant to Article 130 (2) UCC the TSD may be amended even after the notification of arrival where the IT systems so allow.

2. PLACE OF TEMPORARY STORAGE

Goods could be placed under temporary storage in three categories of places:

- temporary storage facilities,
- places approved by the customs authorities,
- places designated by the customs authorities.

2.1 Temporary storage facility

Application and authorisation

*Art.148
UCC*

An authorisation is requested for the operation of a temporary storage facility and must be requested by the operator of the facility. The temporary storage facility must be exclusively operated by the holder of the authorisation. This does not exclude that certain activities are carried out by 3rd parties under the responsibility of the holder of the authorisation..

Existing authorisations to operate temporary storage facilities remain valid after 1 May 2016 until reassessment of MS authorities at the latest by 1 May 2019.

Examples:

A cargo terminal operator at an airport applies for an authorization to operate a TS facility on specific premises.

A terminal operator in a seaport applies for an authorization to operate a TS facility on specific places.

The authorisation for the storage of Union goods in temporary storage facilities should be given only where clear distinction may be made between Union and non-Union goods in case of identical goods, because accounting segregation is not provided for under temporary storage. Accounting segregation is foreseen only for customs warehousing (see Article 177 of UCC-DA).

Guarantee

Art.148 (3)
UCC, Art.
95(32) UCC

The provision of the guarantee for temporary storage facilities is mandatory. However, upon application, economic operators may be authorised to use a comprehensive guarantee including with a reduced amount or a waiver.

Records

In case of an amendment to the TSD, the holder of the authorisation shall ensure that the records are updated accordingly.

2.2. Other places designated or approved by the customs authorities for temporary storage

▪ Places approved by the customs authorities

Art.147 (1)
UCC

Upon application, Customs authorities may approve places other than TS facilities to be used for TS. In the absence of specific data requirements for this application, the customs authorities should use at their discretion the most relevant data requirements which, however, should be sufficient to warrant that the relevant legal provisions can be applied. The approval may be granted on an ad hoc basis, or for a certain period of time.

Art.115 (2)
UCC DA

This possibility may be used where goods are to be placed under a customs procedure or re-exported in 3 or 6 days respectively following their presentation to customs, unless the customs authorities require the goods to be examined in accordance with Article 140(2) of the Code.

Art.148

(2)

UCC

In addition, the following conditions must be met:

- in the absence of a comprehensive guarantee and unless the place has been designated by customs, a guarantee is provided;
- the person who stores the goods must be established in the EU;
- the person who stores the goods must demonstrate a proper conduct of the operation.

Examples:

Goods arrive by road at the premises of an authorised consignee (within the meaning of Articles 233 (4) (b) UCC), who applies for an authorisation for approved place to store these goods under TS at his premises. In that case, the particulars of the transit declaration are used as temporary storage declaration.

Timber arrives from a 3rd country at the land border and it needs to be measured before the customs declaration for release for free circulation is lodged. During the time of measuring, the goods are in temporary storage at an approved place.

The authorisation for the use of a place approved by customs authorities for TS, and the authorisation for authorised consignee each have their own legal basis.

▪ **Places designated by the customs authorities**

Places designated by the customs authorities are places established as such at the discretion of the customs authorities. The purpose for designating such places is to ensure effective and efficient customs control and supervision, in particular for cases where, due to the nature of the goods or the nature of the technical means used for the customs control and supervision, the goods cannot be properly controlled

immediately at the customs office. By contrast to the places approved to be used for TS, a permission by the customs authorities is not required.

In case where goods are stored under TS in a warehouse that is authorised as a customs warehouse and which has been designated by the customs authorities for the purposes of the TS, a guarantee for TS should not be required.

The cases where places designated by customs authorities are used cover, but are not limited to:

- **Cases where, depending on the volume of consignment traffic, customs authorities may direct such traffic to designated places so that it can be treated separate from other traffic, e.g. separate from baggage or general cargo traffic;**

Examples

Customs offices where the volume of the goods is small;

Dedicated places in the passenger halls in case where consignments/goods are brought as part of the unaccompanied luggage;

Freight sheds in case of consignments carried as freight.

- **Goods are presented at the competent customs office and a TS declaration is lodged at the same time. The customs authorities decide that the goods must be checked physically but because of the nature of the goods physical checks at this office are not possible. Customs offices direct the traffic to suitable places**

Example

Presentation to Customs of frozen foods or hazardous goods.

▪ **Other cases**

Examples

Customs authorities use a mobile scan. Any place where goods are scanned by this device is a place designated by customs authorities.

Summary of main features of approved and designated places:

| Subject | TS facility | Approved place (for TS) | Designated place | Remarks |
|--|---|---|--|---------|
| Trigger | Application by EO in CDS | Request/application by EO depending on national practices | Decision by Competent customs authority | |
| Authorisation | Yes | Yes | No | |
| Guarantee | Yes | Yes | No | |
| Storage period | up to 90 days | up to 3/6 days | up to 90 days | |
| Subsequent action | Placing under customs procedure or re-export | Placing under customs procedure or re-export | Placing under customs procedure or re- export | |
| Record keeping obligation | Yes | No | No | |
| Declaration for Temporary storage (the transit declaration may be used as DTS) | Yes | Yes | Yes | |

3. STORAGE OF UNION AND NON-UNION GOODS

Art.148 (6)
UCC

Combined storage of Union and non-Union goods in a facility which is authorised to be used as a temporary storage facility, is possible only where Union goods can be identified. This identification is not possible, for instance, where non-Union sugar and Union sugar are stored in one silo because this would require accounting segregation which is allowed only for customs warehousing.

4. MOVEMENT OF NON-UNION GOODS BETWEEN TEMPORARY STORAGE FACILITIES

4.1 General rules

Art.148 (5)
UCC

Article 148 (5)(a) UCC allows for movements of goods between temporary storage facilities situated in one MS.

Article 148(5)(b), (c) UCC, Article 118 UCC-DA UCC and Article 193(1)-(3) UCC IA lay down exhaustively the requirements for allowing movements of goods between temporary storage facilities situated in different MSs.

The authorisation for the operation of the temporary storage facility should establish the conditions under which such movements may take place. A separate authorisation for the movement itself should not be required.

In case where there is an existing authorisation for an operation of a temporary storage facility and customs authorities approve the possibility to move goods between temporary storage facilities, the existing TS authorisation should be amended to include the approval.

In cases where the movement of goods in temporary storage is envisaged between storage facilities located in more than one MS, the competent customs authority for the temporary storage facility

from which the goods are to be moved should consult the customs authorities concerned in order to ensure the fulfillment of the conditions before authorising such movement. The authorisation for use of the temporary storage facilities should contain a reference to the decision taken pursuant to this consultation and the date when it was notified to the applicant. It is recommended that, if customs authorities agree, a new authorisation will not be necessary.

4.2. Cases

4. 2.1. The customs authorities may authorise the holder of the TS authorisation to move non-Union goods in temporary storage from one of his temporary storage facility to another temporary storage facility, which is also operated by him, provided all of the following conditions are fulfilled:

- The movement would not increase the risk of fraud;
- The movement takes place under the responsibility of one customs authority (meaning only one MS is involved);

(see Article 148(5)(a) UCC)

4. 2.2. The customs authorities may also authorise the holder of the TS authorisation to move non-Union goods in temporary storage from his temporary storage facility to another temporary storage facility, which is located in the same Member State but which is operated by another person, provided all of the following conditions are fulfilled:

- The movement would not increase the risk of fraud;
- The movement takes place under the responsibility of one customs authority (meaning only one MS is involved);

(see Articles 148(5)(a) UCC and 193(4) IA)

4.2.3 The customs authorities may also authorise the holder of the TS authorisation to move non-Union goods in temporary storage from his temporary storage facility to another temporary storage facility, which is also operated by him under the same TS authorization and which is located in another Member State, provided all of the following conditions are fulfilled:

- The movement would not increase the risk of fraud;
- The holder of the TS authorization is AEO for customs simplifications (AEOC).

(see Articles 148(5)(b) UCC and 193(1),(2) IA)

Such authorisation would require a prior consultation of the other Member State.

4.2.4 The customs authorities may also authorise the holder of the TS authorisation to move non-Union goods in temporary storage from his temporary storage facility to another temporary storage facility, which is located in another Member State and which is operated by another person, provided all of the following conditions are fulfilled:

- The movement would not increase the risk of fraud;
- The holders of the TS authorisations are AEOs for customs simplifications (AEOC).
- The movement to other temporary storage facilities in another Member State has to be in compliance with the procedural rules laid down in Article 193 UCC-IA.

(see Article 148(5)(c) UCC, Article 118 UCC-DA UCC and Article 193 UCC-IA)

Such authorisation would require a prior consultation of the other Member State.

The movement of goods between temporary storage facilities is different from the movement of goods from a temporary storage facility to a place designated by the customs authorities.

Example Movement of maritime containers from the temporary storage facility to the scanner site which is a place operated by the customs authority is not considered as a movement under temporary storage in accordance with Article 148(5) UCC.

4.3. Temporary storage declaration

The goods in temporary storage moved between temporary storage facilities are covered by only one TS declaration lodged with the customs authorities competent for the temporary storage facility from which the goods are moved.

The holder of the authorisation for the operation of the temporary storage facility to which the goods were moved should make a reference to the TS declaration in his records.

4.4 Duration and time-limit

Temporary storage does not begin anew with the arrival of goods at the temporary storage facility of destination. The time limit for temporary storage begins with the presentation of goods to customs competent for the place where the temporary storage facility of departure is situated and is not to be suspended by the movement. A new temporary storage period could only potentially begin for such goods where they have been placed under an external Union transit procedure.

According to Article 149 UCC, the end of the temporary storage takes place when the non-Union goods are placed under a customs procedure

or re-exported within 90 days, i.e. upon the release of the goods covered by a customs declaration or, in case of a re-export, upon the exit of the goods from the customs territory of the Union, respectively (see Article 194 UCC). The storage period for the non-Union goods in temporary storage cannot be extended beyond 90 days.

The release of the goods covered by a customs declaration for the placing of the goods under a customs procedure requires that the goods have been presented to Customs and are available for customs controls. However, according to Article 148(4) UCC, the records of the temporary storage facilities must contain information with regard to, among others, the identification of the goods stored. Therefore, the records of the facilities for temporary storage should reflect the information mentioned in the UCC as long as the goods are stored in these premises, regardless whether they are in temporary storage or have already been released for a customs procedure.

In order to avoid that a customs debt incurs because of the end of the 90 days time-limit, it is suggested to place goods under the customs warehousing procedure if goods need to be stored for a period longer than 90 days.

4.5 Responsibilities of the holders of temporary storage facilities

In cases where movement takes place as described under points 4.2.2 and 4.2.4 above, the responsibility of the holder of temporary storage facility ends when the goods are entered in the records of the holder of the temporary storage facility where the goods arrive. It is possible that, as a result of the consultation between the competent customs authorities, it is otherwise provided in the authorisation.

Where the holder of the temporary storage facility of arrival or departure does not comply with the requirements to inform the competent customs office where it is located and the holder of the other temporary storage facility, a customs debt for non-compliance

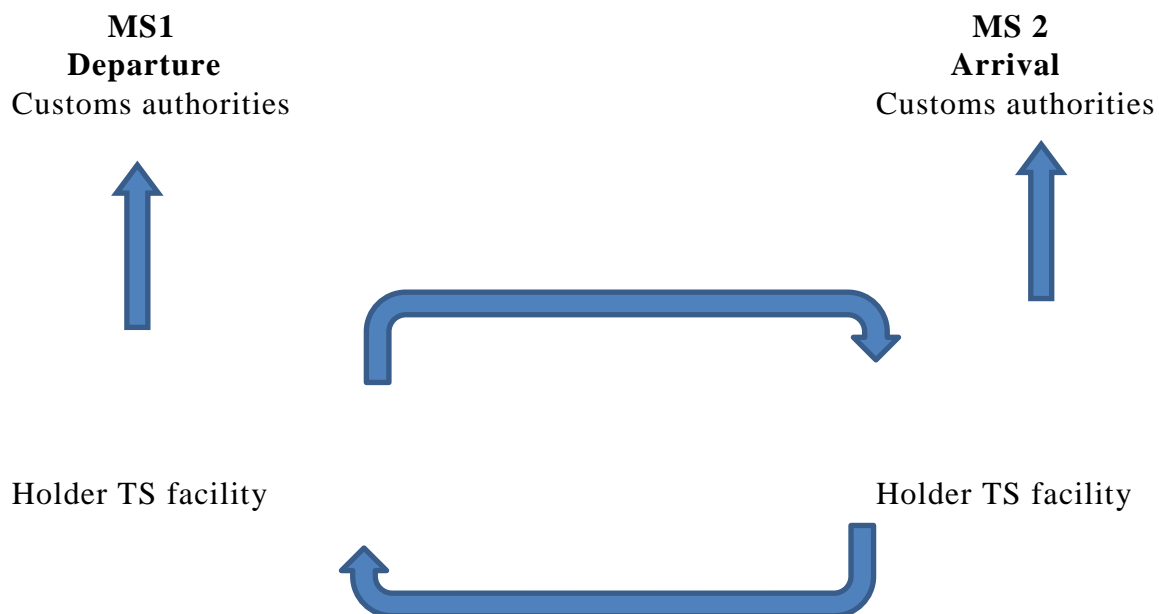
could incur pursuant to Article 79 UCC. Penalties that are provided under the national law remain applicable. In addition, holder of the temporary storage facility may lose his AEOC status.

4.6 Exchanges of information

The following illustration shows the exchanges of information that is required where goods are moved between temporary storage facilities as described under point 4.2.4 above:

Each of these exchanges of information should refer to:

- the MRN of the TSD; during the transitional period another identifier could be used;
- the day on which the temporary storage movement is bound to end.



4.7 Summary

Goods must be presented to customs upon arrival in the customs territory of the EU. In order to move non-Union goods between temporary storage facilities, there are two possible solutions:

1. Movement of goods under TS

In the four cases described under point 4.2 non-Union goods in temporary storage may be moved to another temporary storage facilities.

2. External Union transit of goods

Following their presentation and within the 90-day deadline, the goods are placed under external Union transit procedure and moved to another temporary storage facilities where the transit will end and the goods would be again in (a new) temporary storage.

The main features and differences of movement under temporary storage and the external Union transit procedure are summarized in the below table:

| | Temporary Storage (TS) Movement | External Transit Procedure |
|-------------------------------------|---|--|
| Declaration | Temporary storage declaration (may also take the form of a reference to an ENS supplemented by the particulars of TSD or (e-) manifest or any other transport document if it contains the particulars of a TSD. | Customs declaration for external transit (customs procedure). NCTS has to be used. National transit procedures not allowed under UCC, not even under the transitional period. |
| Presentation of goods to customs | Presentation to be made immediately, Article 139 UCC at the place/port of entry. | Presentation to be made immediately, Article 139 UCC at the place/port of entry. Goods in TS from that moment (Article 144 UCC). Goods in TS may subsequently be placed under external transit (within 90 days according to TS rules). |
| Authorisation | Yes (Article 148 UCC) | No (only in case of simplification). |
| Guarantees | Yes, mandatory (Article 148(c) UCC) although reduction or waiver by authorisation possible. | Yes, mandatory, although reduction or waiver by authorisation possible |
| How is customs supervision ensured? | No specific requirements apart from Article 148(5) UCC, which says that movement is possible 'under the condition that movement does not increase the risk of fraud' and the operator needs to be an AEOC. If more than one MS is involved, Article 193 UCC-IA must be respected. No specific legal requirement for goods to be sealed. However, records must be kept which contain information about movement of goods (see Article 148(4) UCC). | Records must not be kept but goods are to be sealed; other identification measures and a waiver from sealing are possible. Electronic monitoring of the goods in transit. |
| AEO requirement | Yes, if more than one MS is involved | No. |
| 90-day time limit | End of temporary storage within 90 days (same 90-day- time-limit regardless the movement to other temporary storage facilities) | End of temporary storage within 90 days by placing goods under the external transit procedure. With the end of external transit goods are again in temporary storage (new 90 day-time-limit) |

PART E

CUSTOMS DECLARATION

NEW ELEMENTS:

- Standard and simplified declarations may also be lodged by entry in the declarant's records.
- Customs declarations, other than oral declarations and declarations by any other act, must be lodged by electronic means.
- Limitation of the cases where a paper-based declaration could be used (*see* section 1).
- Change of the cases where a declaration by any other act could be lodged (*see* section 2).
- Change of the cases where an oral declaration could be lodged (*see* section 3).
- New rules on the lodgment of the customs declaration before the presentation of goods to customs (*see* section 5).
- New declaration for postal consignments with a reduced dataset (*see* section 6)

TRANSITIONAL MEASURES:

Art 14 TDA

They apply until the dates of upgrade of national import systems and are with regard to:

- The possibility for MS to allow the use of means other than electronic means for the lodgment of customs declaration for release for free circulation (*see* section 1).
- Declaring goods whose intrinsic value does not exceed EUR22 by means of a declaration by any other act, (*see* section 1).
- Goods in postal consignments moved in accordance with the rules adopted under the acts of the UPU (*see* section 1),
- Lodgment of a customs declaration prior to the presentation of the goods (*see* section 5).

1. LODGMENT OF THE CUSTOMS DECLARATION

*Art 14 TDA
and 2 (4)
UCC DA,*

The general rule is that an electronic declaration is lodged instead of the Single Administrative Document.

During the transitional period, however, until the upgrading and deployment of relevant IT systems, MS may allow customs declaration for release for free circulation to be lodged by means other than electronic means. In this case the application of the data requirements under Annex B to UCC DA is to be suspended. Depending on the form of non-electronic means of exchange of information that are used there different data sets will apply during these transitional periods.

*Appendices
B2 and B4
TDA*

During the transitional period goods in postal consignments whose value is above the threshold for an exemption from duty relief but below the statistical threshold of EUR 1000 should be declared in accordance with the practices in place before 1 May 2016.

2. USE OF PAPER-BASED DECLARATIONS

*Appendices
B1 and B3
TDA*

Travellers may lodge a paper-based customs declaration in respect goods carried by them

In addition, during the transitional period the following forms of paper-based declarations could be used:

- Paper-based single administrative document;
- Single administrative document to be printed by a computerised declaration-processing system;
- use of paper-based CN 22 declaration/or CN 23 declaration for declaring goods moved in postal consignments.

*Art. 144
UCC DA*

3. DECLARATION BY ANY OTHER ACT.

*Art.141 (1)
UCC DA*

Musical instruments carried by travellers can be declared by any other act (see ‘Musical instruments carried by travellers’ in Article 250 of the

Guidance on Special Procedures other than Transit).

Art.141 (2)

UCC DA

Items of correspondence shall be deemed to be declared for release for free circulation by their entry into the customs territory of the Union irrespective of the declarant or type of intermediary (postal service or an express courier).

Under the same conditions postal operators moving goods under the rules of the UPU could lodge a declaration by any other act for goods that benefit from customs duty relief provided that taxes and other charges have been collected.

Art.141 (5))

UCC DA

During the overall transitional period existing rules for declarations by any other act shall be used also for goods whose intrinsic value does not exceed EUR 22 provided that:

- the competent customs office accepts the data provided by the declarant for the purposes of customs clearance, and
- the goods are presented to customs.

4. ORAL DECLARATION

The general possibility to lodge oral declaration for goods whose value is below the statistical threshold has been waived. That possibility is kept for the following cases/goods:

- goods of a non-commercial nature;
- goods of a commercial nature contained in the travelers' personal baggage provided that they do not exceed either EUR 1000 in value or 1000 kg in net mass;
- products obtained by Union farmers on properties located in a third country and products of fishing, fish-farming and hunting, activities which benefit from duty relief under Article 35 to 38 of regulation (EC) No 1186/2009;
- seeds, fertilisers and products for the treatment of soil and crops imported by agricultural producers in third countries for use in

properties adjoining those countries which benefit from duty relief under Article 39 and 40 of Regulation (EC) No 1186/2009.

5. MEANING OF "UNION BORDER CUSTOMS OFFICE"

Art.170 (3)
(c) UCC

For the purposes of the application of Article 170 (3) (c) UCC the functions of a "Union border customs office" could be assigned to an inland border office.

6. AMENDMENT

Art.173
UCC

According to Article 173 UCC, which is applicable to customs declarations already accepted by customs, the declarant may request an amendment to certain data elements in the customs declaration.

Amendment to the customs declaration follows a decision taken by the competent customs authorities upon the application of the declarant pursuant to Article 22 UCC. This means that paragraphs 4 and 6 of Article 22 UCC apply, i.e. the applicant has to receive the decision taken by the customs authorities and, if such decision adversely affects the applicant, the decision must be motivated and the applicant has the right to be heard. If a customs representative requests the amendment of the customs declaration, it is recommended that the empowerment covers all the formalities relating to the customs clearance of the goods, including the potential amendment or invalidation of the customs declaration. However, a customs representative is deemed to be entitled to request the amendment or invalidation of the initial customs declaration if he/she had an appropriate empowerment for the initial customs declaration before this declaration was lodged, unless this empowerment excludes this possibility.

Since amending the customs declaration may only take place upon a request by the declarant or customs representative to amend the customs declaration, there is currently no legal basis for ex officio amendments.

According to Article 243(3) UCC-IA and other relevant legislation, the customs authorities must include the results of the verification of a customs declaration after confirming that it contained data not corresponding to those results, but they are not allowed to oblige the declarant to apply for the amendment of a customs declaration. In this case, Article 29 UCC applies, and therefore paragraphs 4 and 6 of Article 22 UCC also apply. However, to ensure the correct collection of customs duties that are due, the customs authorities may launch recovery actions and have to make sure that the customs IT system reflects the reality on the goods that were actually declared (e.g. to transmit the proper information to Surveillance), but they cannot oblige an economic operator to amend a customs declaration.

In principle, any data element in the customs declaration may be amended if it can be proven that the amended data element corresponds to real facts at the moment when the customs declaration was accepted. However, in practice there might be cases where it would be necessary to exclude the possibility of amendment, e.g. in cases where the customs declarations has to be invalidated, according to the UCC provisions.

Therefore, the amendment of a customs declaration according to Article 173 UCC should follow the following general principles:

- a) An economic operator should request the amendment of the customs declaration to reflect the reality of the goods that it originally covered, regardless whether the customs debt incurred in the original customs declaration was different (either higher or lower) from the one incurred with the amended customs declaration.
- b) Such amendment is an option provided to the economic operator, who cannot be obliged by the customs authorities to amend the customs declaration, without prejudice of the declarant's obligations established in Article 15 UCC.
- c) If the customs authorities determine that the customs declaration is

not aligned with the results of their verification regarding the goods that it originally covered (i.e. at the moment of acceptance of the customs declaration), the customs authorities have the obligation to make the customs IT system reflect those results (see Article 243(3) UCC-IA). From IT point of view, the version of the customs declaration lodged by the declarant should remain identifiable in the customs IT system.

- d) The amendment of a customs declaration according to Article 173 UCC should be allowed as long as the conditions established by the applicable legislation to reflect the ‘new’ data in the amended customs declaration were met at the moment when the customs declaration was accepted. For example, if an economic operator requests to amend a customs declaration to benefit from preferential origin and the conditions established in the applicable FTA were met to benefit from it when the customs declaration was accepted, the request for amendment should be accepted.

Art.173 (1)
UCC

The amendment of a customs declaration concerns the data elements of the declaration, so that it reflects the real facts. It should be permitted on the condition that it shall not render the customs declaration applicable to goods other than those that it originally covered.

The term ‘goods which it originally covered’ refers to those goods originally intended to be placed under the customs procedure concerned and which were made available for customs controls. Therefore, an amendment of, among others, the quantity or the CN code of the goods is only possible to reflect the correct quantity or CN code of the goods originally made available for customs controls. No additional goods and no different goods from the ones constituting the ‘goods which it originally covered’ can be covered by an amendment to a customs declaration, i.e. if customs confirms (by means of customs checks) that the quantity or CN code of the goods declared was correct in the original customs declaration, then the request for amendment should not

be accepted. For example:

- An economic operator wishes to declare 100 kg of apples for release for free circulation. By mistake, he/she declares only 90 kg. In this case, the amendment of the declaration regarding the quantity of the goods from 90 kg to 100 kg is possible, because the economic operator intended to place 100 kg of apples under the customs procedure concerned and make them available for customs controls. The same would apply if the mistake concerned the CN code of the goods (e.g. if pears were declared instead of apples);
- An economic operator declares 100 kg of apples for release for free circulation. After the declaration is lodged, he/she decides to declare an additional quantity of 20 kg of apples, which were not made available for customs controls, as confirmed by the customs authority by means of customs checks. In this case, the amendment of the declaration is not possible, because the additional 20 kg of apples do not belong to the goods originally covered by the customs declaration. The same applies in case the economic operator decides to replace 100 kg of apples with 100 kg of potatoes;

There are cases where despite the customs declaration has been accepted by customs, the declarant's wish may not be accepted for certain reasons brought up after the acceptance of the declaration (e.g. the declarant requests a quota, which is exhausted and therefore not granted). In such cases, since the declarant's initial wish was not accepted, the declarant should have the possibility to amend his/her wish. Example:

- An economic operator declares goods for release for free circulation, with a request for the application of a tariff quota. The quota available is not sufficient to cover the declared quantity of goods (partial allocation of quota). The declarant

requests for an amendment to the customs declaration before the release of goods, in order to place under release for free circulation only the quantity of the goods benefitting from the quota, leave the rest of the goods in temporary storage (with the obligation to respect the time-limit established in Article 149 UCC) and wait for another favourable customs treatment to request it. In this case, since the declarant's wish to place the goods under release for free circulation with a benefit from tariff quota is not fully accepted by customs (and despite the fact that the customs declaration as such has already been accepted technically by customs), this non-acceptance should open the possibility for the declarant to reformulate his/her wish.

Art.173 (2)
UCC

In case where the amendment 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. The first two limitations referred to in Article 173(2) UCC apply to Article 173(3) UCC as well. The third limitation referred to in Article 173(2) UCC does not apply to Article 173(1) UCC because it covers only case where goods have been released.

Art.173 (3)
UCC

Pursuant to Article 173(3) UCC, amendment to a customs declaration after the release of the goods is possible upon a request by the declarant lodged within three years of the acceptance of the declaration. As a general principle, during these three years, the declarant may request an amendment only if an invalidation of the customs declaration has not been required. In case of simplified procedures, the three-year period begins on the date of the acceptance of the simplified declaration,

because the simplified declaration and the supplementary declaration are deemed to constitute a single, indivisible instrument taking effect, respectively, on the date on which the simplified declaration is accepted.

That amendment can only take place in order for the declarant to comply with the obligations related to the placing of the goods under the customs procedure concerned.

Examples of obligations related to the placing of the goods under the customs procedure concerned:

- The declarant finds out that the tables in an already released consignment for free circulation were not made of wood (import duty rate at 2.7 %), as originally declared, but of rattan (import duty rate at 5.6 %). He/She requests for an amendment to the correct combined nomenclature code and pays the associated difference in import duty. The request for amendment may be accepted, since it concerns the goods released and the fulfilment of an obligation deriving from their placing under release for free circulation;
- A declarant has wooden tables released for free circulation (import duty rate at 2.7 %) but he/she identifies that the tables were declared as made of rattan (import duty rate at 5.6 %). A request for an amendment of the customs declaration in order for the declarant to be granted a repayment/remission can be accepted because it is linked with an intention to fulfill any 'obligations relating to the placing of the goods under the customs procedure concerned'. In this case, it is about the obligation of veracity and accuracy of the data declared in the customs declaration according to Article 15(2) UCC. This request for amendment may trigger a request for repayment or remission according to the relevant provisions on repayment or remission, but as said above the declarant that requested the

repayment or remission cannot be obliged by the customs authorities to amend the customs declaration. It is the customs authorities who have to make sure that the IT customs system reflects the reality (see Article 243 UCC-IA);

- The declarant wishes to amend a customs declaration, after the release of the goods concerned for free circulation, in order to add freight and insurance charges to the original declaration. He/She requests for an amendment to the original declaration and pays the additional import duty on the undeclared freight and insurance charges. The request for amendment may be accepted, since the amendment concerns an obligation of the declarant deriving from the placing of the goods under release for free circulation. The same would apply if the import duty rate is 0 %, so no additional import duty is due, and the same would also apply if the request for amendment aims to reduce freight and insurance charges, so no import duty has to be repaid;

- The declarant wishes to amend a customs declaration, after the release of the goods concerned for free circulation, in order to reduce freight and insurance charges to the original declaration, after identifying that the initial declaration had been overcharged, in this respect. A request for an amendment of the customs declaration in order for the declarant to be granted a repayment/remission can be accepted, because it is linked with an intention to fulfil any 'obligations relating to the placing of the goods under the customs procedure concerned'. In this case, it is about the obligation a veracity and accuracy of the data declared in the customs declaration according to Article 15(2) UCC). This request for amendment may trigger a request for repayment or remission according to the relevant provisions on repayment or remission, but as said above the declarant that requested the repayment or remission cannot be obliged by the

customs authorities to amend the customs declaration. It is the customs authorities who have to make sure that the IT customs system reflects the reality (see Article 243 UCC-IA).

- The origin of the already released goods was found (by the declarant) to be China and not Vietnam and there are no additional duties to be paid. The importer wishes to amend the original declaration. The request for amendment may be accepted. Despite there are no additional duties to be paid, the origin of the goods is directly linked with the release for free circulation and the obligations deriving from it.

- An importer has goods released for free circulation with a claim for preferential origin on the basis of the importer's knowledge. After the release, it is identified that the preferential origin cannot be proved on the basis of the importer's knowledge. The declarant requests for an amendment of the customs declaration, i.e. amending the claim for preferential origin from 'importer's knowledge' to 'exporter's statement on origin'. By placing the goods under release for free circulation with a claim for preferential origin, the declarant has – among others – created an obligation to prove this origin. As customs confirms that the preferential origin cannot be proved on the basis of the importer's knowledge', the declarant may, pursuant to Article 173(3) UCC, fulfil his/her abovementioned obligation by amending the customs declaration – after the goods have been released – and presenting a valid statement on origin made by the exporter, in accordance with the respective provisions (e.g. FTA). An application for amendment of the customs declaration after the release of the goods in order to change from 'importer's knowledge' to 'exporter's statement on origin' should be accepted if the statement on origin is valid and the declarant had the right to attach it to the customs declaration when it was accepted, i.e. the declarant omitted this information

when lodging the customs declaration despite he/she had the right to the statement of origin when the customs declaration was accepted and the applicable provisions (e.g. FTA) do not establish any impediment to amend the customs declaration. The customs authorities should be able to check the validity of the 'statement on origin' in the context of the acceptance process of the application for amendment. Otherwise, the application for amendment should be accepted and a documentary verification of the statement on origin can confirm whether it is valid or not.

- Amendment of the person on whose behalf a customs declaration is lodged (case law C-97/19): Company A has a power of attorney for indirect representation by company B, i.e. to lodge a customs declaration in its own name and on behalf of company B. However, company A lodges by mistake a customs declaration exclusively in its own name and on its own behalf, instead of on behalf of company B. As it can be proved that the power of attorney for indirect customs representation had been issued before the customs declaration was lodged, an amendment of the customs declaration may be accepted. The customs declaration would then reflect that it was lodged on behalf of company B, based on the power of attorney already existing at the moment of acceptance of the customs declaration.

- Example on the amendment of the Declarant: Company A has a power of attorney for direct representation, by company B, i.e. to lodge a customs declaration in the name and on behalf of company B. However, company A lodges by mistake a customs declaration in its own name, instead of in the name of company B. As it can be proved that the power of attorney for direct customs representation had been issued before the customs declaration was lodged, an amendment of the customs

declaration may be accepted. The customs declaration would then reflect that it was lodged in the name and on behalf of company B, based on the power of attorney already existing at the moment of acceptance of the customs declaration.

Article 173(3) UCC allows the amendment of a customs declaration to comply with the validity, authenticity, completeness and accuracy of the data provided by the declarant (see Article 15(2) UCC), which is one of the obligations resulting from the placing of the goods under the customs procedure. For example:

- A consignment receives customs clearance. It includes 50 chairs – not declared by mistake – with the 100 tables originally declared. The importer voluntarily requests for an amendment to the original declaration to include another item and to pay the duties and other charges for the extra 50 chairs. The competent customs authorities can confirm, after carrying the corresponding investigations, that this is not a case of non-compliance according to Article 79 UCC. If this is confirmed, the request for amendment can be accepted to allow the declarant to reflect in the customs declaration that those 50 chairs were also intended to be declared at the moment of the acceptance of the customs declaration. This case applies provided that the request for amendment is submitted by the economic operator on his/her own initiative, i.e. not at the request of the customs authorities (see Article 173(2) UCC).

Repayment or remission (Article Title III, Chapter 2, Section 3 UCC)

The amendment of a customs declaration is not to be used as the vehicle to be granted a repayment/remission of customs duties where remission/repayment would not be possible under the legal provisions thereon; however, in accordance with Article 116(4) it could lead to a

repayment or remission of the amount of import duty. The amendment of the customs declaration and the repayment or remission of the amount of import duty are distinct actions based on different legal basis. This means that the declarant may request for a repayment or remission of the amount of import duty even if the amendment of the customs declaration is not possible. In this case, if the repayment or remission is granted by customs, this situation should be reflected in the national import system or national systems for the sake of transparency and complete information.

Other legal rights

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

Examples

1. Binding tariff information is invalidated or changed and, consequently, goods are to be re-classified under a tariff subheading granting a different tariff rate, provided that the change or invalidation takes effect before the customs declaration was accepted.
2. Pursuant to the change in binding origin information the origin of goods is established to be in a country, provided that the change or invalidation takes effect before the customs declaration was accepted.
3. A certificate of origin has been annulled and the enquirer wants to reflect this fact in the customs declaration.

Amendment to an EIDR

An EIDR is a customs declaration in the form of an Entry Into the Declarant's Records (see Article 182(1) UCC). Therefore, given that there are no specific EIDR-related provisions laying down specific rules in terms of declaration amendment, EIDR is subject to the same rules as a standard declaration amendment. However, application for

amendment should follow the formalities under which the respective customs declaration has been lodged. This means that, the practical application of Article 173 depends on the practical application of the EIDR. If, for example, an EIDR is followed by a notification to customs that an EIDR has been made, then an amendment to the EIDR should also be notified to customs. In case an EIDR is made and customs are not aware of it, then an amendment to the EIDR may take place without any notification to customs. However, in any case, the amendments to the EIDR shall be identifiable and traceable in the economic operator's IT system, so that customs can verify them, in the course of targeted audits. Such traceability should be an essential element of the pre-audit that is carried out prior to granting an EIDR authorisation.

7. INVALIDATION OF THE CUSTOMS DECLARATION

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.

Only in specific cases provided under the UCC legal framework customs declaration that has been accepted may be invalidated.

There are two types of cases where the customs declaration that has been accepted could be invalidated:

- | | |
|--|--|
| <i>Art.174(1)(a)UCC,</i> <i>Art. 148(1) - (3)</i> <i>UCC DA</i> <i>Art.174(1)(a)UCC,</i> <i>Art. 148(4)</i> <i>UCC DA</i> | <ul style="list-style-type: none"> - where customs authorities are satisfied that the goods are to be placed immediately under another customs procedure, or - where customs authorities are satisfied that due to special circumstances the placing of goods under this procedure is no longer justified. |
|--|--|

In any of these cases, 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.

The application for invalidation of the customs declaration based on Article 148 (1) to (3) UCC DA, shall be submitted within 90 days from the date of the acceptance of the customs declaration –.

In case of Article 148(4)(d) DA only customs declarations accepted during the period provided for in Article 172(2) DA can be subject to invalidation.

8. CUSTOMS DECLARATION LODGED BEFORE THE PRESENTATION OF THE GOODS

Art.171

UCC

Art. 227

UCC IA

Customs declaration may be lodged and the data submitted could be processed before the presentation of the goods to customs. The customs declaration, however, can be accepted only when goods are presented to customs or are deemed to be presented.

Art.17 TDA

Until the respective dates of deployment of the UCC Automated Export System and the upgrading of the National Import Systems the customs authorities may allow the use of means other than electronic data processing techniques for the lodging of notification of presentation.

Art.171

UCC

Art. 130 (1)

UCC

One of the cases where customs declaration may be lodged is the case where it is lodged instead of ENS (Article 130 UCC). The particulars of ENS are required.

In case where the customs declaration has been lodged in advance and the declarant has requested an amendment to the particulars of a declaration the rules applicable to amendment and invalidation of ENS (Articles 129 (1) UCC) shall apply.

Where the particulars that were to serve the purpose of ENS must be invalidated this must be done in accordance with the rules applicable to ENS (Articles 129 (2) UCC).

Where the customs declaration is to be invalidated this must be done in accordance with Article 174 UCC.

9. CUSTOMS DECLARATION FOR GOODS IN POSTAL CONSIGNMENTS

Art.144
UCC DA

A new declaration is introduced for release in free circulation of goods in postal consignment provided that the following requirements are met:

- their value does not exceed EUR 1000;
- no application for repayment or remission is made in relation to them;
- they are not subject to prohibitions and restrictions; and
- the postal operator that brings the goods into the customs territory of the Union acts as customs representative.

This declaration is a standard customs declaration with a reduced data set which contains the same data requirements as the data requirements for simplified declaration.

Its use is optional for postal operators.

During the transitional period applicable for presentation notification the customs declaration for release for free circulation for these goods will be considered to be lodged if they are presented to customs and provided that the consignment is accompanied by CN 22 or CN 23 customs declaration as required under the acts of the UPU.