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**INLAND TRANSPORT COMMITTEE**

Multidisciplinary Group of Experts on Inland  
Transport Security

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**REGULATORY INITIATIVES AT THE INTERNATIONAL LEVEL**

**Note by the secretariat**

**Preliminary draft  
Not to be cited**

**16 November 2007**

**AN INVENTORY OF REGULATORY INITIATIVES AT THE INTERNATIONAL LEVEL  
IN THE FIELD OF INLAND TRANSPORT SECURITY**

**DRAFT 2**

**THE MULTIDISCIPLINARY GROUP OF EXPERTS ON INLAND TRANSPORT  
SECURITY**

**United Nations Economic Commission for Europe**

**Geneva**

## **Introduction**

A thorough search of international organizations was undertaken to find any regulations and/or references to inland transport security. The following is a summary of what was located during the course of that search.

## **Methodology:**

Given the breadth of organizations in existence, the search was confined to those organizations, which were perceived as the most pertinently associated with international relations, international policy and international regulations.

The listed organizations were researched in much the same way as the national documents. Following a general web search to identify relevant organizations, searches were carried out on their web pages. Results linked to transport security in any form were recorded and the document saved. These results were then re-evaluated and documents relating directly to transport security, including some form of evaluation, recommendation, regulation or references to significant legislation were included in this report.

### **List of organizations researched**

- UN
- EU
- International Road Transport Union
- IPU
- OSZE
- Europarat
- NATO
- OECD
- WHO
- IWF
- IOM
- African Union (AU)
- Andean Community
- Arctic Council
- Asia-Pacific Economic Cooperation
- Asian Development Bank
- Asian Productivity Organization
- Asociacion Latinoamericana de Integration
- Association of Southeast Asian Nations
- CAB International
- Caribbean Community and Common Market
- Caribbean Export Development Agency
- Central American Bank for Economic Integration
- Central Bank of West African States (BCEAO)
- Centre on Integrated Rural Development for Asia and the Pacific
- Chemical Weapons Convention. See OPCW
- North American Commission for Environmental Cooperation
- Common Market for Eastern and Southern Africa
- The Commonwealth
- Commonwealth of Independent States (CIS)
- Community of Portuguese Speaking Nations (CPLP)
- Comprehensive Nuclear-Test-Ban Treaty Organization (CTBTO)
- Council of the Baltic States
- Council of Europe
- European Bank for Reconstruction and Development
- European Court of Human Rights
- European Free Trade Association
- European Organization for Nuclear Research (CERN)
- European Central Bank (ECB)
- Free Trade Area of the Americas
- G8 (Group of 8) Information Centre
- G20 (Group of 20)
- Gulf Cooperation Council
- Inter-American Development Bank (IADB)
- Inter-governmental Authority on Development
- International Criminal Police Organization (INTERPOL)
- International Development Association
- International Institute for the Unification of Private Law (UNIDROIT)
- International Labour Organization (ILO)
- International Organization for Migration (IOM)
- International Telecommunication Union
- International Trade Centre
- Inter-Parliamentary Union
- Islamic Development Bank Group
- Latin Union
- League of Arab States
- Nordic Council and Council of Ministers
- North American Development Bank
- North American Free Trade Agreement Secretariat (NAFTA)
- Non-Aligned Movement (NAM)
- North Atlantic Treaty Organization (NATO)
- The Northern Forum
- Nuclear Energy Agency
- Organisation Internationale de la Francophonie
- Organisation for Economic Co-operation and Development (OECD)
- Organization for the Prohibition of Chemical Weapons (The Chemical Weapons Convention Website)
- Organization for Security and Co-operation in Europe (OSCE)
- Organization of the Islamic Conference
- Organization of the Petroleum Exporting Countries (OPEC)
- Paris Club
- Parlamento Amazónico
- Pacific Islands Forum
- Pan-American Health Organization (PAHO)
- Secretariat of the Pacific Community
- South Asian Association for Regional Cooperation
- South Centre (An Intergovernmental Organization of Developing Countries)
- UNIDROIT See International Institute for the Unification of Private Law

## **Document Summaries**

### **Andean Community**

The Andean Community has issued two documents concerning transport security.

***Decision 398 International Passenger Transportation by Road; Replacing Decision 289***<sup>1</sup> recognizes the need for security checks along the transport route. The decision states: "Such inspections as must be carried out along the route for legal reasons of national security or if there is evidence of the commission of customs violations are excepted from the stipulation of the previous paragraph," exempting them from legislation which prevents inspections of vehicles along the transport route for other purposes.

***Decision 399 International Transportation of Merchandise by Road, Replacing Decision 257***<sup>2</sup> further elaborates on transport security inspections, once again incorporating their consideration into legislation to facilitate international border crossing and transportation. Under article 201, the Decision states that authorized vehicles engaged in international transportation services shall not be submitted to customs, immigration, police, and sanitary controls at places other than the border. However, it provides for inspections to be carried out along the route for legally stipulated reasons, national security or if customs violation evidence is found, making such inspections excepted from the provision. Additionally, the Decision enforces security considerations in the construction and maintenance of road transport vehicles. It provides that vehicles are equipped with doors or other openings outfitted with safety devices that guarantee its inviolability during transportation or storage, and that allow for the placement of stamps, customs seals, inspection seals or other elements of customs security.

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<sup>1</sup> Decision 398 International Passenger Transportation by Road, Replacing Decision 289,  
<http://www.comunidadandina.org/ingles/normativa/D398e.htm>

<sup>2</sup> Decision 399 International Transportation of Merchandise by Road, Replacing Decision 257,  
<http://www.comunidadandina.org/ingles/services/directory.htm>

## ASEAN

### **ASEAN Regional Forum *Statement on Strengthening Transport Security Against International Terrorism, 2 July 2004*<sup>3</sup>**

In the statement participating states and organization will endeavour to:

- Enhance efforts and cooperation in fighting terrorism and to jointly explore new practical measures and initiatives to combat terrorism in the transport sector
- Strengthen the legal cooperation framework to counter terrorism in all modes of transport by accession to relevant global anti-terrorist conventions and protocols and the conclusion of appropriate bilateral and multilateral treaties, agreements, and conventions
- Strengthen cooperation in the exchange of information, particularly on terrorist activities – planned or being committed – and persons and entities/organizations/groups involved
- Strengthen practical cooperation between law-enforcement bodies, and relevant security and intelligence services as well as state transportation agencies and organizations in counteracting terrorism in transport
- Explore possible ways of improving interoperable methods of identifying members of terrorist groups active in international transport routes
- Hold appropriate simulation and joint exercises, with a view to enhancing institutional capacity building of coastal states, especially with regard to piracy and maritime and aerial terrorism, to ensure effective modal coordination of maritime and aviation security and safety measures
- Consider opportunities to plan and implement, as appropriate, coordinated special operations and criminal investigations, and set up under the most appropriate jurisdiction, joint operative teams to mitigate the effects of terrorist attacks on transport facilitates and bring the perpetrators to justice
- Cooperate, consistent with existing relevant transportation regimes, in preventing transportation systems from being used by terrorist, either as a site to commit terrorist acts or for transporting personnel, arms, explosives and explosive devices, and weapons of mass destruction
- Promote cooperation between research institutions to examine terrorism against the transport network, carry out joint research, exchange expertise and recommend methodologies, technologies, and best practices for combating such threats through meetings, seminars and conferences or through exchange of legislative and other legal regulations, and scientific research results
- Assist in providing appropriate training and equipment to respective transport security services

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<sup>3</sup> Asean Regional Forum Statement on Strengthening Transport Security against International Terrorism, 2 July 2004,  
<http://www.aseansec.org/16249.htm>.

- Continue to develop and harmonize measures aimed at enhancing necessary security regimes for container shipping, while taking into account national legal systems and the need to avoid unnecessary increase in costs and disruption to trade
- Jointly examine and consider means to counter suicide terrorist attacks against transportation and transport facilities
- Continue to develop concerted efforts to fight piracy and other border crimes such as smuggling of illicit containers, under the aegis of IMO and respective national and regional frameworks, in particular, those relating to enhanced export control measures
- Develop and share best practices in the formulation of an intermodal transport security framework that would link air, rail, road, inland waterway and maritime transport, believing that such a framework will provide a coherent, cost-effective, and rational approach to cargo transport security
- Encourage constructive interaction between the ARF and other regional and international organizations in this area with counter-terrorism mandates
- Cooperate to ensure that terrorists are prevented from using information technology and its applications to disrupt and sabotage the operation of transportation systems
- Annually review the progress of these and other efforts to combat terrorism in transport at the following ARF Ministerial Meetings

## Asociación Latinoamericana de Integración

The *Informe de Seguimiento de las Actividades Sobre la Iniciativa de Transporte Para el Hemisferio Occidental*,<sup>4</sup> recognizing the importance of transport security within the organization, supports the immediate creation of the Grupo de Trabajo sobre Seguridad en el Transporte, whose stated objectives are to identify areas of technical cooperation, to adopt methods to facilitate contacts between government specialists, to evaluate the development of transport systems and to develop financially solvent security programs for the protection of goods and individuals in the area of transport.

The *Disposiciones Particulares para el Transporte de Mercancías Peligrosas en Cantidades Limitadas*<sup>5</sup> holds unique suggestions concerning transport of dangerous materials. It recommends there be a limit on the quantity of dangerous materials transported per shipment. It further requires that a panel be maintained for the evaluation of dangerous material transport, that an assessment be made of risks involved with transport, specific training for transport personnel, that dangerous good transport cannot be conducted in association with passenger transport, and that adequate documentation be prepared for the shipment, including a statement of conformity with the regulations of the shipment.

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<sup>4</sup> Informe de Seguimiento de las Actividades Sobre la Iniciativa de Transporte Para el Hemisferio Occidental, [http://www.aladi.org/nsfaladi/estudios.nsf/decd25d818b0d76c032567da0062fec1/f5bd4f91920ec4ad0325703500600f89/\\$FILE/1918.pdf](http://www.aladi.org/nsfaladi/estudios.nsf/decd25d818b0d76c032567da0062fec1/f5bd4f91920ec4ad0325703500600f89/$FILE/1918.pdf)

<sup>5</sup> Disposiciones Particulares para el Transporte de Mercancías Peligrosas en Cantidades Limitadas, [http://www.aladi.org/nsfaladi/textacdos.nsf/5907ef28575b756103256d2c005e5b6c/5aaaa0385327a8d903256825007916f7/\\$FILE/PC7-Anexo%20II.CapVI.doc](http://www.aladi.org/nsfaladi/textacdos.nsf/5907ef28575b756103256d2c005e5b6c/5aaaa0385327a8d903256825007916f7/$FILE/PC7-Anexo%20II.CapVI.doc)

## CEC

The *Crossing the Border Opportunities to Improve Tracking of Transboundary Hazardous Waste Shipments in North America*<sup>6</sup> report comments on the dangers of hazardous waste but includes three suggestions for transport security, specifically at borders. It recommends the appropriate authorities:

- Designate specific hours of operation and ports of entry for hazardous waste shipments
- Identify capacity building needs for personnel with responsibility for tracking transboundary hazardous waste shipments
- Develop standards for sharing information electronically between agencies

These measures primarily address tracking and control of hazardous waste, but do not specifically address issues that occur along the supply chain outside of border posts.

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<sup>6</sup> Crossing the Border Opportunities to Improve Tracking of Transboundary Hazardous Waste Shipments in North America, [http://www.cec.org/files/PDF/LAWPOLICY/Crossing-the-Border\\_en.pdf](http://www.cec.org/files/PDF/LAWPOLICY/Crossing-the-Border_en.pdf)

**EUROPEAN UNION**

**Existing Rules**

**EUROPEAN UNION**

**Transport of dangerous goods rules**

**EUROPEAN UNION**

**Maritime security rules**

**EUROPEAN UNION**

**Authorized Economic Operator (AEO)**

## REGULATION (EC) No 648/2005 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 13 April 2005

### amending Council Regulation (EEC) No 2913/92 establishing the Community Customs Code

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 26, 95, 133 and 135 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee (<sup>1</sup>),

Acting in accordance with the procedure laid down in Article 251 of the Treaty (<sup>2</sup>),

Whereas:

- (1) Council Regulation (EEC) No 2913/92 (<sup>3</sup>) lays down the rules for the customs treatment of goods that are imported or to be exported.
- (2) It is necessary to establish an equivalent level of protection in customs controls for goods brought into or out of the customs territory of the Community. In order to achieve this objective, it is necessary to establish an equivalent level of customs controls in the Community and to ensure a harmonised application of customs controls by the Member States, which have principal responsibility for applying these controls. Such controls should be based upon commonly agreed standards and risk criteria for the selection of goods and economic operators in order to minimise the risks to the Community and its citizens and to the Community's trading partners. Member States and the Commission should therefore introduce a Community-wide risk management framework to support a common approach so that priorities are set effectively and resources are allocated efficiently with the aim of maintaining a proper balance between customs controls and the facilitation of legitimate trade. Such a framework should also provide for common criteria and harmonised requirements for authorised economic operators and ensure a harmonised

application of such criteria and requirements. The establishment of a risk management framework common to all Member States should not prevent Member States from controlling goods by spot-checks.

- (3) Member States should grant the status of authorised economic operator to any economic operator that meets common criteria relating to the operator's control systems, financial solvency and compliance record. The status of authorised economic operator, once granted by one Member State, should be recognised by the other Member States, but does not confer the right to benefit automatically in the other Member States from simplifications provided for in the customs rules. However, the other Member States should allow the use of simplifications by authorised economic operators provided they meet all the specific requirements for use of the particular simplifications. In considering a request to use simplifications, the other Member States need not repeat the evaluation of the operator's control systems, financial solvency or compliance record, which will already have been completed by the Member State that granted the operator the status of authorised economic operator, but should ensure that any other specific requirements for use of the particular simplification are met. The use of simplifications in other Member States may also be coordinated by agreement between the customs authorities concerned.

- (4) Simplifications under the customs rules should continue to be without prejudice to customs controls as defined within the Community Customs Code, notably relating to safety and security. Such controls are the responsibility of the customs authorities and, while the status of authorised economic operator should be recognised by those authorities as a factor during risk analysis and in the granting of any facilitation to the economic operator with regard to controls relating to safety and security, the right to control should remain.

- (5) Risk-related information on import and export goods should be shared between the competent authorities of the Member States and the Commission. To this end, a common, secure system should be set up, enabling the competent authorities to access, transfer and exchange this information in a timely and effective manner. Such information may also be shared with third countries where an international agreement so provides.

(<sup>1</sup>) OJ C 110, 30.4.2004, p. 72.

(<sup>2</sup>) Opinion of the European Parliament of 20 April 2004 (not yet published in the Official Journal), Council Common Position of 29 November 2004 (OJ C 38 E, 15.2.2005, p. 36) and Position of the European Parliament of 23 February 2005 (not yet published in the Official Journal).

(<sup>3</sup>) OJ L 302, 19.10.1992, p. 1. Regulation as last amended by the 2003 Act of Accession.

(6) The conditions under which information provided by economic operators to customs may be disclosed to other authorities in the same Member State, other Member States, to the Commission, or to authorities in third countries should be specified. For this purpose, it should be clearly indicated that Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (<sup>(1)</sup>) and Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (<sup>(2)</sup>) apply to the processing of personal data by the competent authorities as well as by any other authority receiving data pursuant to the Community Customs Code.

(7) In order to allow for appropriate risk-based controls, it is necessary to establish the requirement of pre-arrival or pre-departure information for all goods brought into or out of the customs territory of the Community, except for goods passing through by air or ship without a stop within this territory. Such information should be available before the goods are brought into or out of the customs territory of the Community. Different time-frames and rules may be set according to the type of goods, of transport or of economic operator or where international agreements provide for special security arrangements. In order to avoid security loopholes, this requirement should also be introduced with regard to goods brought into or out of a free zone.

(8) Regulation (EEC) No 2913/92 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION

### Article 1

Regulation (EEC) No 2913/92 is hereby amended as follows:

1. Article 4 shall be amended as follows:

— the following points shall be inserted:

‘(4a) “Customs office of entry” means the customs office designated by the customs authorities in accordance with the customs rules to which goods brought into the customs territory of the Community must be conveyed without delay and at which they will be subject to appropriate risk-based entry controls;

<sup>(1)</sup> OJ L 281, 23.11.1995, p. 31. Directive as amended by Regulation (EC) No 1882/2003 (OJ L 284, 31.10.2003, p. 1).

<sup>(2)</sup> OJ L 8, 12.1.2001, p. 1.

(4b) “Customs office of import” means the customs office designated by the customs authorities in accordance with the customs rules where the formalities for assigning goods brought into the customs territory of the Community to a customs-approved treatment or use, including appropriate risk-based controls, are to be carried out;

(4c) “Customs office of export” means the customs office designated by the customs authorities in accordance with the customs rules where the formalities for assigning goods leaving the customs territory of the Community to a customs-approved treatment or use, including appropriate risk-based controls, are to be completed;

(4d) “Customs office of exit” means the customs office designated by the customs authorities in accordance with the customs rules to which goods must be presented before they leave the customs territory of the Community and at which they will be subject to customs controls relating to the completion of exit formalities, and appropriate risk-based controls.’;

— point 14 shall be replaced by the following:

‘(14) “Customs controls” means specific acts performed by the customs authorities in order to ensure the correct application of customs rules and other legislation governing the entry, exit, transit, transfer and end-use of goods moved between the customs territory of the Community and third countries and the presence of goods that do not have Community status; such acts may include examining goods, verifying declaration data and the existence and authenticity of electronic or written documents, examining the accounts of undertakings and other records, inspecting means of transport, inspecting luggage and other goods carried by or on persons and carrying out official inquiries and other similar acts.’;

— The following points shall be added:

‘(25) “Risk” means the likelihood of an event occurring, in connection with the entry, exit, transit, transfer and end-use of goods moved between the customs territory of the Community and third countries and the presence of goods that do not have Community status, which

— prevents the correct application of Community or national measures, or

- compromises the financial interests of the Community and its Member States, or
- poses a threat to the Community's security and safety, to public health, to the environment or to consumers.

(26) "Risk management" means the systematic identification of risk and implementation of all measures necessary for limiting exposure to risk. This includes activities such as collecting data and information, analysing and assessing risk, prescribing and taking action and regular monitoring and review of the process and its outcomes, based on international, Community and national sources and strategies.';

2. the following Section and Article shall be inserted:

## 'Section 1A

### **Authorised economic operators**

#### *Article 5a*

1. Customs authorities, if necessary following consultation with other competent authorities, shall grant, subject to the criteria provided for in paragraph 2, the status of "authorised economic operator" to any economic operator established in the customs territory of the Community.

An authorised economic operator shall benefit from facilitations with regard to customs controls relating to security and safety and/or from simplifications provided for under the customs rules.

The status of authorised economic operator shall, subject to the rules and conditions laid down in paragraph 2, be recognised by the customs authorities in all Member States, without prejudice to customs controls. Customs authorities shall, on the basis of the recognition of the status of authorised economic operator and provided that the requirements relating to a specific type of simplification provided for in Community customs legislation are fulfilled, authorise the operator to benefit from that simplification.

2. The criteria for granting the status of authorised economic operator shall include:

- an appropriate record of compliance with customs requirements,
- a satisfactory system of managing commercial and, where appropriate, transport records, which allows appropriate customs controls,
- where appropriate, proven financial solvency, and
- where applicable, appropriate security and safety standards.

The committee procedure shall be used to determine the rules:

- for granting the status of authorised economic operator,
- for granting authorisations for the use of simplifications,
- for establishing which customs authority is competent to grant such status and authorisations,
- for the type and extent of facilitations that may be granted in respect of customs controls relating to security and safety, taking into account the rules for common risk management,
- for consultation with, and provision of information to, other customs authorities;

and the conditions under which:

- an authorisation may be limited to one or more Member States,
- the status of authorised economic operator may be suspended or withdrawn, and
- the requirement of being established in the Community may be waived for specific categories of authorised economic operator, taking into account, in particular, international agreements.';

3. Article 13 shall be replaced by the following:

#### *'Article 13*

1. Customs authorities may, in accordance with the conditions laid down by the provisions in force, carry out all the controls they deem necessary to ensure that customs rules and other legislation governing the entry, exit, transit, transfer and end-use of goods moved between the customs territory of the Community and third countries and the presence of goods that do not have Community status are correctly applied. Customs controls for the purpose of the correct application of Community legislation may be carried out in a third country where an international agreement provides for this.

2. Customs controls, other than spot-checks, shall be based on risk analysis using automated data processing techniques, with the purpose of identifying and quantifying the risks and developing the necessary measures to assess the risks, on the basis of criteria developed at national, Community and, where available, international level.

The committee procedure shall be used for determining a common risk management framework, and for establishing common criteria and priority control areas.

Member States, in cooperation with the Commission, shall establish a computer system for the implementation of risk management.

3. Where controls are performed by authorities other than the customs authorities, such controls shall be performed in close coordination with the customs authorities, wherever possible at the same time and place.

4. In the context of the controls provided for in this Article, customs and other competent authorities, such as veterinary and police authorities, may communicate data received, in connection with the entry, exit, transit, transfer and end-use of goods moved between the customs territory of the Community and third countries and the presence of goods that do not have Community status, between each other and to the customs authorities of the Member States and to the Commission where this is required for the purposes of minimising risk.

Communication of confidential data to the customs authorities and other bodies (e.g. security agencies) of third countries shall be allowed only in the framework of an international agreement and provided that the data protection provisions in force, in particular Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (\*) and Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (\*\*) are respected.

(\*) OJ L 281, 23.11.1995, p. 31. Directive as amended by Regulation (EC) No 1882/2003 (OJ L 284, 31.10.2003, p. 1).

(\*\*) OJ L 8, 12.1.2001, p. 1.'

4. Article 15 shall be replaced by the following:

#### *'Article 15'*

All information which is by nature confidential or which is provided on a confidential basis shall be covered by the duty of professional secrecy. It shall not be disclosed by the competent authorities without the express permission of the person or authority providing it. The communication of information shall, however, be permitted where the competent authorities are obliged to do so pursuant to the provisions in force, particularly in connection with legal proceedings. Any disclosure or communication of information shall fully comply with prevailing data protection provisions, in particular Directive 95/46/EC and Regulation (EC) No 45/2001.'

5. in Article 16 'control by the customs authorities' shall be replaced by 'customs controls';
6. the following Articles shall be inserted under Chapter 1 of Title III:

#### *'Article 36a'*

1. Goods brought into the customs territory of the Community shall be covered by a summary declaration,

with the exception of goods carried on means of transport only passing through the territorial waters or the airspace of the customs territory without a stop within this territory.

2. The summary declaration shall be lodged at the customs office of entry.

Customs authorities may allow the summary declaration to be lodged at another customs office, provided that this office immediately communicates or makes available electronically the necessary particulars to the customs office of entry.

Customs authorities may accept, instead of the lodging of the summary declaration, the lodging of a notification and access to the summary declaration data in the economic operator's computer system.

3. The summary declaration shall be lodged before the goods are brought into the customs territory of the Community.

4. The committee procedure shall be used to establish:

- the time limit by which the summary declaration is to be lodged before the goods are brought into the customs territory of the Community,
- the rules for exceptions from, and variations to, the time limit referred to in the first indent, and
- the conditions under which the requirement for a summary declaration may be waived or adapted,

in accordance with the specific circumstances and for particular types of goods traffic, modes of transport and economic operators and where international agreements provide for special security arrangements.

#### *Article 36b*

1. The committee procedure shall be used to establish a common data set and format for the summary declaration, containing the particulars necessary for risk analysis and the proper application of customs controls, primarily for security and safety purposes, using, where appropriate, international standards and commercial practices.

2. The summary declaration shall be made using a data processing technique. Commercial, port or transport information may be used, provided that it contains the necessary particulars.

Customs authorities may accept paper-based summary declarations in exceptional circumstances, provided that they apply the same level of risk management as that applied to summary declarations made using a data processing technique.

3. The summary declaration shall be lodged by the person who brings the goods, or who assumes responsibility for the carriage of the goods into the customs territory of the Community.

4. Notwithstanding the obligation of the person referred to in paragraph 3, the summary declaration may be lodged instead by:

- (a) the person in whose name the person referred to in paragraph 3 acts; or
- (b) any person who is able to present the goods in question or to have them presented to the competent customs authority; or
- (c) a representative of one of the persons referred to in paragraph 3 or points (a) or (b).

5. The person referred to in paragraphs 3 and 4 shall, at his request, be authorised to amend one or more particulars of the summary declaration after it has been lodged. However, no amendment shall be possible after the customs authorities:

- (a) have informed the person who lodged the summary declaration that they intend to examine the goods; or
- (b) have established that the particulars in question are incorrect; or
- (c) have allowed the removal of the goods.

#### *Article 36c*

1. The customs office of entry may waive the lodging of a summary declaration in respect of goods for which, before expiry of the time limit referred to in Article 36a(3) or (4), a customs declaration is lodged. In such case, the customs declaration shall contain at least the particulars necessary for a summary declaration and, until such time as the former is accepted in accordance with Article 63, it shall have the status of a summary declaration.

Customs authorities may allow the customs declaration to be lodged at a customs office of import different from the customs office of entry, provided that this office immediately communicates or makes available electronically the necessary particulars to the customs office of entry.

2. Where the customs declaration is lodged other than by use of data processing technique, the customs authorities shall apply the same level of risk management to the data as that applied to customs declarations made using a data processing technique.;

7. in Article 37(1) 'control by the customs authority' shall be replaced by 'customs controls' and in Article 38(3) 'the control of the customs authority' shall be replaced by 'customs controls by';

8. Article 38(5) shall be replaced by the following:

'5. Paragraphs 1 to 4 and Articles 36a to 36c and 39 to 53 shall not apply to goods which temporarily leave the customs territory of the Community while moving between two points in that territory by sea or air, provided that the carriage is effected by a direct route and by regular air or shipping services without a stop outside the customs territory of the Community.;

9. Article 40 shall be replaced by the following:

#### *'Article 40'*

Goods entering the customs territory of the Community shall be presented to customs by the person who brings them into that territory or, if appropriate, by the person who assumes responsibility for carriage of the goods following such entry, with the exception of goods carried on means of transport only passing through the territorial waters or the airspace of the customs territory of the Community without a stop within this territory. The person presenting the goods shall make a reference to the summary declaration or customs declaration previously lodged in respect of the goods.;

10. in Title III, Chapter 3 shall be re-titled 'Unloading of goods presented to customs';

11. Articles 43 to 45 shall be deleted;

12. Article 170(2) shall be replaced by the following:

'2. Goods shall be presented to the customs authorities and undergo the prescribed customs formalities where:

- (a) they have been placed under a customs procedure which is discharged when they enter a free zone or free warehouse; however, where the customs procedure in question permits exemption from the obligation to present goods, such presentation shall not be required;
- (b) they have been placed in a free zone or free warehouse on the basis of a decision to grant repayment or remission of import duties;
- (c) they qualify for the measures referred to in Article 166(b);
- (d) they enter a free zone or free warehouse directly from outside the customs territory of the Community.;

13. Article 176(2) shall be replaced by the following:

'2. Where goods are transhipped within a free zone, the records relating to the operation shall be kept at the disposal of the customs authorities. The short-term storage of goods in connection with such transhipment shall be considered to be an integral part of the operation.

For goods brought into a free zone directly from outside the customs territory of the Community or out of a free zone directly leaving the customs territory of the Community, a summary declaration shall be lodged in accordance with Articles 36a to 36c or 182a to 182d, as appropriate.'

14. Article 181 shall be replaced by the following:

*'Article 181*

The customs authorities shall satisfy themselves that the rules governing exportation, outward processing, re-exportation, suspensive procedures or the internal transit procedure, as well as the provisions of Title V, are respected where goods are to leave the customs territory of the Community from a free zone or free warehouse.'

15. in Article 182(3), first sentence, 'Re-exportation or' shall be deleted;

16. under Title V (Goods leaving the customs territory of the Community) the following Articles shall be inserted:

*'Article 182a*

1. Goods leaving the customs territory of the Community, with the exception of goods carried on means of transport only passing through the territorial waters or the airspace of the customs territory without a stop within this territory, shall be covered either by a customs declaration or, where a customs declaration is not required, a summary declaration.

2. The committee procedure shall be used to establish:

- the time limit by which the customs declaration or a summary declaration is to be lodged at the customs office of export before the goods are brought out of the customs territory of the Community,
- the rules for exceptions from and variations to the time limit referred to above,
- the conditions under which the requirement for a summary declaration may be waived or adapted, and
- the cases in which and the conditions under which goods leaving the customs territory of the Community are not subject to either a customs declaration or a summary declaration,

in accordance with the specific circumstances and for particular types of goods traffic, modes of transport and

economic operators and where international agreements provide for special security arrangements.

*Article 182b*

1. Where goods leaving the customs territory of the Community are assigned to a customs approved treatment or use for the purpose of which a customs declaration is required under the customs rules, this customs declaration shall be lodged at the customs office of export before the goods are to be brought out of the customs territory of the Community.

2. Where the customs office of export is different from the customs office of exit, the customs office of export shall immediately communicate or make available electronically the necessary particulars to the customs office of exit.

3. The customs declaration shall contain at least the particulars necessary for the summary declaration referred to in Article 182d(1).

4. Where the customs declaration is made other than by use of a data processing technique, the customs authorities shall apply the same level of risk management to the data as that applied to customs declarations made using a data processing technique.

*Article 182c*

1. Where goods leaving the customs territory of the Community are not assigned to a customs approved treatment or use for which a customs declaration is required, a summary declaration shall be lodged at the customs office of exit before the goods are to be brought out of the customs territory of the Community.

2. Customs authorities may allow the summary declaration to be lodged at another customs office, provided that this office immediately communicates or makes available electronically the necessary particulars to the customs office of exit.

3. Customs authorities may accept, instead of the lodging of a summary declaration, the lodging of a notification and access to the summary declaration data in the economic operator's computer system.

*Article 182d*

1. The committee procedure shall be used to establish a common data set and format for the summary declaration, containing the particulars necessary for risk analysis and the proper application of customs controls, primarily for security and safety purposes, using, where appropriate, international standards and commercial practices.

2. The summary declaration shall be made using a data processing technique. Commercial, port or transport information may be used, provided that it contains the necessary particulars.

Customs authorities may accept paper-based summary declarations in exceptional circumstances, provided that they apply the same level of risk management as that applied to summary declarations made using a data processing technique.

3. The summary declaration shall be lodged by:

- (a) the person who brings the goods, or who assumes responsibility for the carriage of the goods, out of the customs territory of the Community; or
- (b) any person who is able to present the goods in question or to have them presented to the competent customs authority; or
- (c) a representative of one of the persons referred to in points (a) or (b).

4. The person referred to in paragraph 3 shall, at his request, be authorised to amend one or more particulars of the summary declaration after it has been lodged. However, no amendment shall be possible after the customs authorities:

- (a) have informed the person who lodged the summary declaration that they intend to examine the goods; or
- (b) have established that the particulars in question are incorrect; or
- (c) have allowed the removal of the goods.'

## Article 2

This Regulation shall enter into force on the seventh day following its publication in the *Official Journal of the European Union*.

Article 5a(2), Article 13(2) 2nd subparagraph, Article 36a(4), Article 36b(1), Article 182a(2) and Article 182d(1) shall be applicable from 11 May 2005.

All other provisions shall be applicable once the implementing provisions on the basis of the Articles referred to in the second subparagraph have entered into force. However, electronic declaration and automated systems for the implementation of risk management and for the electronic exchange of data between customs offices of entry, import, export and exit, as stipulated in Articles 13, 36a, 36b, 36c, 182b, 182c and 182d, shall be in place three years after these Articles have become applicable.

Not later than two years after these Articles have become applicable, the Commission shall evaluate any request from Member States for an extension of the three-year period referred to in the third subparagraph for electronic declaration and automated systems for the implementation of risk management and for the electronic exchange of data between customs offices. The Commission shall submit a report to the European Parliament and to the Council and propose, where appropriate, an extension of the three-year period referred to in the third subparagraph.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Strasbourg, 13 April 2005.

*For the European Parliament*

*The President*

J. P. BORRELL FONTELLES

*For the Council*

*The President*

N. SCHMIT

**COMMISSION REGULATION (EC) No 1875/2006**  
**of 18 December 2006**

**amending Regulation (EEC) No 2454/93 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code**

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (<sup>(1)</sup>), and in particular Article 247 thereof,

Whereas:

(1) The amendments to Regulation (EEC) No 2913/92, hereinafter 'the Code', laid down in Regulation (EC) No 648/2005, introduce a number of measures to tighten security for goods entering or leaving the Community. Those measures should produce faster and better targeted customs controls, and consist in the analysis and electronic exchange of risk information between customs authorities and between those authorities and the Commission under a common risk management framework, the requirement for pre-arrival and pre-departure information to be provided to the customs authorities on all goods entering or leaving the customs territory of the Community, and the granting of the status of authorised economic operator to reliable economic operators who meet certain criteria and who are to benefit from simplifications provided for under the customs rules and/or facilitations with regard to customs controls.

(2) In order to ensure effective and expeditious implementation of those measures, it is necessary that data exchange between customs authorities is carried out through information technology and computer networks, using agreed standards and common data sets.

(3) Given the progress in Member States' computerised customs clearance systems, as well as the use by the

Member States and the Commission of information technology and computer networks, the common use of such systems should be extended beyond the existing computerised transit system, starting with the introduction of an computerised system for the control of exports.

(4) For the purposes of a common risk management framework and the establishment of an equivalent level of customs controls throughout the Community, risk analysis should be based upon data processing techniques using common criteria. The risk information should therefore be exchanged among customs authorities and the Commission using, without prejudice to national or international obligations, a Community customs risk management system, common priority control areas, and common risk criteria and standards for the harmonised application of customs controls in specific cases.

(5) Economic operators who fulfil the conditions for obtaining the status of authorised economic operator, thus distinguishing themselves positively from other economic operators, should be considered as reliable partners in the supply chain. Authorised economic operators should therefore be able to benefit not only from simplifications provided for under the customs rules but also, where they fulfil certain safety and security conditions, from facilitations with regard to customs controls.

(6) It is necessary to establish common conditions and criteria in all Member States for the granting, amendment or revocation of authorised economic operators' certificates, or for suspension of the status of authorised economic operator, as well as rules on the application for and issuing of authorised economic operators' certificates. In order to ensure that a high level of security is maintained, customs authorities should continuously monitor the compliance of authorised economic operators with the relevant requirements.

(7) It is necessary to establish and maintain a common electronic information and communication system to store and exchange information regarding authorised economic operators.

<sup>(1)</sup> OJ L 302, 19.10.1992, p. 1. Regulation as last amended by Regulation (EC) No 648/2005 of the European Parliament and of the Council (OJ L 117, 4.5.2005, p. 13).

- (8) In order to enable proper risk analysis and appropriate risk-based controls, it is necessary to establish the time limits and detailed rules governing the obligation of economic operators to provide pre-arrival and pre-departure information to the customs authorities for all goods brought into or out of the customs territory of the Community. In keeping with similar measures adopted at international level as part of the Framework of Standards to Secure and Facilitate Global Trade, endorsed by the World Customs Organisation, and in accordance with other special arrangements provided for in international agreements, it is appropriate to take into account different means of transport, as well as different types of goods or economic operators.
- (9) In order to enable customs authorities to carry out effective risk analysis, it is necessary for pre-arrival and pre-departure information to be lodged electronically. Paper-based declarations or notifications should be permitted only in certain exceptional circumstances.
- (10) The data to be required in entry and exit summary declarations should be harmonised so as to ensure a common basis for risk analysis throughout the Community and to enable the effective exchange of information between customs authorities. Although for those purposes account should be taken of the type of traffic by which the goods are carried and of the status of authorised economic operator, security and safety measures should not be jeopardised. Furthermore, although a waiver of the requirement for summary declarations can be justified for goods moved under the rules of the Universal Postal Union, due to the particular circumstances that surround this type of traffic, it is nevertheless necessary to provide for a technical framework for data to be provided to customs authorities by electronic means in respect of this traffic, for mutual benefit.
- (11) In the event of a positive risk analysis, an equivalent level of preventive control should be applied throughout the Community. In that context, the trader or carrier should be notified accordingly.
- (12) The rules governing the presentation and temporary storage of goods brought into the customs territory of the Community should incorporate the changes in data requirements.
- (13) Accordingly, for cases in which the customs declaration is used as an entry or exit summary declaration, it is also appropriate to adjust the general rules governing the method, time and place of lodging customs declarations for placing goods under a customs procedure.
- (14) In order to enable a more efficient control of the export procedure and outward processing, as well as re-exportation, for the purposes of security and safety as well as customs controls, the customs authorities should replace the current paper-based procedure with an electronic exchange of data between the customs office of export and the customs office of exit.
- (15) The computerised system for the control of exports should operate in parallel with the paper-based export procedure for a transitional period. The paper-based export procedure should also be used as a fallback arrangement for the electronic system both during and after the transitional period. Specific provisions should apply where export data is exchanged between customs offices under the computerised system for the control of exports. In order to ensure the proper functioning of that system, the existing provisions of the paper-based export procedure should also be amended.
- (16) In order to maintain the simplifications possible under the export rules, without affecting the benefits offered to economic operators by the computerised system for the control of exports, exporters should be able to choose whether to use the provisions relating to goods leaving the customs territory of the Community under a single transport contract.
- (17) The provisions relating to the granting of the status of authorised economic operator should apply from 1 January 2008, in order to allow Member States to set up the necessary administrative structures.
- (18) However, in order to allow reasonable time for Member States and economic operators to adapt their electronic systems, the provisions laid down in this Regulation relating to the definition of data requirements and the electronic lodging of pre-arrival and pre-departure information should apply from 1 July 2009.
- (19) Commission Regulation (EEC) No 2454/93<sup>(1)</sup> should therefore be amended accordingly.
- (20) The measures provided for in this Regulation are in accordance with the opinion of the Customs Code Committee,

<sup>(1)</sup> OJ L 253, 11.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 402/2006 (OJ L 70, 9.3.2006, p. 35).

HAS ADOPTED THIS REGULATION:

### *Article 1*

Regulation (EEC) No 2454/93 is amended as follows:

1. In Article 1, the following point is added:

*'12. Economic operator means:*

a person who, in the course of his business, is involved in activities covered by customs legislation.'

2. In Part I, Title I, the following Chapters 4 and 5 are added:

### *'CHAPTER 4*

#### ***Data exchange between customs authorities using information technology and computer networks***

##### *Article 4d*

1. Without prejudice to any special circumstances and to the provisions of the procedure concerned, which, where appropriate, shall apply *mutatis mutandis*, where electronic systems for the exchange of information relating to a customs procedure or economic operators have been developed by Member States in co-operation with the Commission, the customs authorities shall use such systems for the exchange of information between customs offices concerned.

2. Where the customs offices involved in a procedure are located in different Member States, the messages to be used for the exchange of data shall conform to the structure and particulars defined by the customs authorities in agreement with each other.

##### *Article 4e*

1. In addition to the conditions referred to in Article 4a (2), the customs authorities shall establish and maintain adequate security arrangements for the effective, reliable and secure operation of the various systems.

2. To ensure the level of system security provided for in paragraph 1 each input, modification and deletion of data shall be recorded together with information giving the reason for, and exact time of, such processing and identifying the person who carried it out. The original data and any data so processed shall be kept for at least three calendar years from the end of the year to which such data refers, unless otherwise specified.

3. The customs authorities shall monitor security regularly.

4. The customs authorities involved shall inform each other and, where appropriate, the economic operator concerned, of all suspected breaches of security.

### *CHAPTER 5*

#### ***Risk management***

##### *Article 4f*

1. Customs authorities shall undertake risk management to differentiate between the levels of risk associated with goods subject to customs control or supervision and to determine whether or not, and if so where, the goods will be subject to specific customs controls.

2. The determination of levels of risk shall be based on an assessment of the likelihood of the risk-related event occurring and its impact, should the event actually materialise. The basis for the selection of consignments or declarations to be subject to customs controls shall include a random element.

##### *Article 4g*

1. Risk management at Community level, referred to in Article 13(2) of the Code, shall be carried out in accordance with an electronic common risk management framework comprised of the following elements:

(a) a Community customs risk management system for the implementation of risk management, to be used for the communication among the Member States customs authorities and the Commission of any risk-related information that would help to enhance customs controls;

(b) common priority control areas;

(c) common risk criteria and standards for the harmonised application of customs controls in specific cases.

2. Customs authorities shall, using the system referred to in point (a) of paragraph 1, exchange risk-related information in the following circumstances:

(a) the risks are assessed by a customs authority as significant and requiring customs control and the results of the control establish that the event, as referred to in Article 4(25) of the Code, has occurred;

- (b) the control results do not establish that the event, as referred to in Article 4(25) of the Code, has occurred, but the customs authority concerned considers the threat to present a high risk elsewhere in the Community.

#### *Article 4h*

1. Common priority control areas shall cover particular customs-approved treatments or uses, types of goods, traffic routes, modes of transport or economic operators that are to be subject to increased levels of risk analysis and customs controls during a certain period.
2. The application of common priority control areas shall be based upon a common approach to risk analysis and, in order to ensure equivalent levels of customs controls, common risk criteria and standards for the selection of goods or economic operators for control.
3. Customs controls carried out in common priority control areas shall be without prejudice to other controls normally carried out by the customs authorities.

#### *Article 4i*

1. The common risk criteria and standards referred to in Article 4g(1)(c) shall include the following elements:
  - (a) a description of the risk(s);
  - (b) the factors or indicators of risk to be used to select goods or economic operators for customs control;
  - (c) the nature of customs controls to be undertaken by the customs authorities;
  - (d) the duration of the application of the customs controls referred to in point (c).

The information resulting from the application of the elements referred to in the first subparagraph shall be distributed by use of the Community customs risk management system referred to in Article 4g(1)(a). It shall be used by the customs authorities in their risk management systems.

2. Customs authorities shall inform the Commission of the results of customs controls carried out in accordance with paragraph 1.

#### *Article 4j*

For the establishment of common priority control areas and the application of common risk criteria and standards account shall be taken of the following elements:

- (a) proportionality to the risk;
- (b) the urgency of the necessary application of the controls;
- (c) probable impact on trade flow, on individual Member States and on control resources.'

3. In Part I, the following Title IIA is inserted:

#### TITLE IIA

##### **AUTHORISED ECONOMIC OPERATORS**

###### CHAPTER 1

###### ***Procedure for granting the certificates***

###### Section 1

###### **General provisions**

###### *Article 14a*

1. Without prejudice to the use of simplifications otherwise provided for under the customs rules, the customs authorities may, following an application by an economic operator and in accordance with Article 5a of the Code, issue the following authorised economic operators' certificates (hereinafter referred to as "AEO certificates"):

(a) an AEO certificate — Customs simplifications in respect of economic operators requesting to benefit from simplifications provided for under the customs rules and who fulfil the conditions laid down in Articles 14h, 14i and 14j;

(b) an AEO certificate — Security and safety in respect of economic operators requesting to benefit from facilitations of customs controls relating to security and safety when the goods enter the customs territory of the Community, or when the goods leave the customs territory of the Community and who fulfil the conditions laid down in Articles 14h to 14k;

(c) an AEO certificate — Customs Simplifications/security and safety, in respect of economic operators requesting to benefit from the simplifications described in point (a) and from facilitations described in point (b), and who fulfil the conditions laid down in Articles 14h to 14k.

2. The customs authorities shall take due account of the specific characteristics of economic operators, in particular of small and medium-sized companies.

#### *Article 14b*

1. If the holder of an AEO certificate referred to in point (a) or (c) of Article 14a(1) applies for one or more of the authorisations referred to in Articles 260, 263, 269, 272, 276, 277, 282, 283, 313a, 313b, 324a, 324c, 372, 454a, 912g, the customs authorities shall not re-examine those conditions which have already been examined when granting the AEO certificate.

2. When an entry summary declaration has been lodged by the holder of an AEO certificate referred to in point (b) or (c) of Article 14a(1), the competent customs office may, before the arrival of the goods into the customs territory of the Community, notify the authorised economic operator when, as a result of security and safety risk analysis, the consignment has been selected for further physical control. This notice shall only be provided where it does not jeopardise the control to be carried out.

Member States may, however, carry out a physical control even where an authorised economic operator has not been notified, prior to the arrival of the goods in the customs territory of the Community, of the selection of the consignment for such control. When goods are to leave the customs territory of the Community, the first and second subparagraphs shall apply *mutatis mutandis*.

3. Holders of an AEO certificate referred to in point (b) or (c) of Article 14a(1) importing or exporting goods may lodge entry and exit summary declarations comprising the reduced data requirements set out in Section 2.5 of Annex 30A.

Carriers, freight forwarders or customs agents who are holders of an AEO certificate referred to in point (b) or (c) of Article 14a(1), and are involved in the importation or exportation of goods on behalf of holders of AEO certificate referred to in point (b) or (c) of Article 14a(1) may also lodge entry and exit summary declarations comprising the reduced data requirements set out in Section 2.5 of Annex 30A.

Holders of an AEO certificate entitled to use reduced data requirements may be required to provide additional data elements in order to ensure the proper functioning of systems set out in international agreements with third countries relating to mutual recognition of AEO certificates and measures related to security.

4. The holder of an AEO certificate shall be subject to fewer physical and document-based controls than other economic operators. The customs authorities may decide otherwise in order to take into account a specific threat, or control obligations set out in other Community legislation.

Where, following risk analysis, the competent customs authority nevertheless selects for further examination a consignment covered by an entry or exit summary declaration or by a customs declaration lodged by an authorised economic operator, it shall carry out the necessary controls as a matter of priority. If the authorised economic operator so requests, and subject to agreement with the customs authority concerned, these controls may be carried out at a place which is different from the place of the customs office involved.

5. The benefits laid down in paragraphs 1 to 4 shall be subject to the economic operator concerned providing the necessary AEO certificate numbers.

## Section 2

### **Application for an AEO certificate**

#### *Article 14c*

1. Application for an AEO certificate shall be made in writing or in an electronic form in accordance with the specimen set out in Annex 1C.

2. Where the customs authority establishes that the application does not contain all the particulars required, the customs authority shall, within 30 calendar days of receipt of the application, ask the economic operator to supply the relevant information, stating the grounds for its request.

The time limits referred to in Articles 14l(1) and 14o(2) shall run from the date on which the customs authority receives all the necessary information to accept the application. The customs authorities shall inform the economic operator that the application has been accepted and the date from which the time limits will run.

**Article 14d**

1. The application shall be submitted to one of the following customs authorities:

- (a) the customs authority of the Member State where the applicant's main accounts related to the customs arrangements involved are held, and where at least part of the operations to be covered by the AEO certificate are conducted;
- (b) the customs authority of the Member State where the applicant's main accounts related to the customs arrangements involved are accessible in the applicant's computer system by the competent customs authority using information technology and computer networks, and where the applicant's general logistical management activities are conducted, and where at least part of the operations to be covered by the AEO certificate are carried out.

The applicant's main accounts referred to in points (a) and (b) shall include records and documentation enabling the customs authority to verify and monitor the conditions and the criteria necessary for obtaining the AEO certificate.

2. If the competent customs authority can not be determined under paragraph 1, the application shall be submitted to one of the following customs authorities:

- (a) the customs authority of the Member State where the applicant's main accounts related to the customs arrangements involved are held;
- (b) the customs authority of the Member State where the applicant's main accounts related to the customs arrangements involved are accessible, as referred to in paragraph 1(b), and the applicant's general logistical management activities are conducted.

3. If a part of the relevant records and documentation is kept in a Member State other than the Member State of the customs authority to which the application has been submitted pursuant to paragraph 1 or 2, the applicant shall duly complete Boxes 13, 16, 17 and 18 of the application form set out in Annex 1C.

4. If the applicant maintains a storage facility or other premises in a Member State other than the Member State of the customs authority to which the application has been submitted pursuant to paragraph 1 or 2, this information

shall be provided by the applicant in Box 13 of the application form set out in Annex 1C, in order to facilitate the examination of the relevant conditions at the storage facility or other premises by the customs authorities of that Member State.

5. The consultation procedure referred to in Article 14m shall apply in the cases referred to in paragraphs 2, 3 and 4 of this Article.

6. The applicant shall provide a readily accessible central point or nominate a contact person within the administration of the applicant, in order to make available to the customs authorities all of the information necessary for proving compliance with the requirements for issuing the AEO certificate.

7. Applicants shall, to the extent possible, submit necessary data to the customs authorities by electronic means.

**Article 14e**

Member States shall communicate to the Commission a list of their competent authorities, to which applications have to be made, and any subsequent changes thereto. The Commission shall forward such information to the other Member States or make it available on the Internet.

These authorities shall also act as the issuing customs authorities of the AEO certificates.

**Article 14f**

The application shall not be accepted in any of the following cases:

- (a) the application does not comply with Articles 14c and 14d;
- (b) the applicant has been convicted of a serious criminal offence linked to the economic activity of the applicant or is subject to bankruptcy proceedings at the time of the submission of the application;
- (c) the applicant has a legal representative in customs matters who has been convicted of a serious criminal offence related to an infringement of customs rules and linked to his activity as legal representative;

- (d) the application is submitted within three years after revocation of the AEO certificate as provided for in Article 14v(4).

### Section 3

#### Conditions and criteria for granting the AEO certificate

##### Article 14g

An applicant need not be established in the customs territory of the Community in the following cases:

- (a) where an international agreement between the Community and a third country in which the economic operator is established provides for mutual recognition of the AEO certificates and specifies the administrative arrangements for carrying out appropriate controls on behalf of the Member State's customs authority if required;
- (b) where an application for the granting of an AEO certificate referred to in point (b) of Article 14a(1) is made by an airline or a shipping company not established in the Community but which has a regional office there and already benefits from the simplifications laid down in Articles 324e, 445 or 448.

In the case referred to in point (b) of the first paragraph, the applicant shall be deemed to have met the conditions set out in Articles 14h, 14i and 14j, but shall be required to meet the condition set out in Article 14k(2).

##### Article 14h

1. The record of compliance with customs requirements referred to in the first indent of Article 5a(2) of the Code shall be considered as appropriate if over the last three years preceding the submission of the application no serious infringement or repeated infringements of customs rules have been committed by any of the following persons:

- (a) the applicant;
- (b) the persons in charge of the applicant company or exercising control over its management;
- (c) if applicable, the applicant's legal representative in customs matters;
- (d) the person responsible in the applicant company for customs matters.

However, the record of compliance with customs requirements may be considered as appropriate if the competent customs authority considers any infringement to be of negligible importance, in relation to the number or size of the customs related operations, and not to create doubts concerning the good faith of the applicant.

2. If the persons exercising control over the applicant company are established or resident in a third country, the customs authorities shall assess their compliance with customs requirements on the basis of records and information that are available to them.

3. If the applicant has been established for less than three years, the customs authorities shall assess his compliance with customs requirements on the basis of the records and information that are available to them.

##### Article 14i

To enable the customs authorities to establish that the applicant has a satisfactory system of managing commercial and, where appropriate, transport records, as referred to in the second indent of Article 5a(2) of the Code, the applicant shall fulfil the following requirements:

- (a) maintain an accounting system which is consistent with the generally accepted accounting principles applied in the Member State where the accounts are held and which will facilitate audit-based customs control;
- (b) allow the customs authority physical or electronic access to its customs and, where appropriate, transport records;
- (c) have a logistical system which distinguishes between Community and non-Community goods;
- (d) have an administrative organisation which corresponds to the type and size of business and which is suitable for the management of the flow of goods, and have internal controls capable of detecting illegal or irregular transactions;
- (e) where applicable, have satisfactory procedures in place for the handling of licenses and authorisations connected to commercial policy measures or to trade in agricultural products;

- (f) have satisfactory procedures in place for the archiving of the company's records and information and for protection against the loss of information;
- (g) ensure that employees are made aware of the need to inform the customs authorities whenever compliance difficulties are discovered and establish suitable contacts to inform the customs authorities of such occurrences;
- (h) have appropriate information technology security measures in place to protect the applicant's computer system from unauthorised intrusion and to secure the applicant's documentation.

An applicant requesting the AEO certificate referred to in point (b) of Article 14a(1) shall not be required to fulfil the requirement laid down in point (c) of the first paragraph of this Article.

#### *Article 14j*

1. The condition relating to the financial solvency of the applicant referred to in the third indent of Article 5a(2) of the Code shall be deemed to be met if his solvency can be proven for the past three years.

For the purposes of this Article, financial solvency shall mean a good financial standing which is sufficient to fulfil the commitments of the applicant, with due regard to the characteristics of the type of the business activity.

2. If the applicant has been established for less than three years, his financial solvency shall be judged on the basis of records and information that are available.

#### *Article 14k*

1. The applicant's security and safety standards referred to in the fourth indent of Article 5a(2) of the Code shall be considered to be appropriate if the following conditions are fulfilled:

- (a) buildings to be used in connection with the operations to be covered by the certificate are constructed of

materials which resist unlawful entry and provide protection against unlawful intrusion;

- (b) appropriate access control measures are in place to prevent unauthorised access to shipping areas, loading docks and cargo areas;
- (c) measures for the handling of goods include protection against the introduction, exchange or loss of any material and tampering with cargo units;
- (d) where applicable, procedures are in place for the handling of import and/or export licenses connected to prohibitions and restrictions and to distinguish these goods from other goods;
- (e) the applicant has implemented measures allowing a clear identification of his business partners in order to secure the international supply chain;
- (f) the applicant conducts, in so far as legislation permits, security screening on prospective employees working in security sensitive positions and carries out periodic background checks;
- (g) the applicant ensures that its staff concerned actively participate in security awareness programmes.

2. If an airline or shipping company which is not established in the Community, but has a regional office there and benefits from the simplifications laid down in Articles 324e, 445 or 448, submits an application for an AEO certificate referred to in point (b) of Article 14a(1), it shall fulfil one of the following conditions:

- (a) be the holder of an internationally recognised security and/or safety certificate issued on the basis of the international conventions governing the transport sectors concerned;
- (b) be a regulated agent, as referred to in Regulation (EC) No 2320/2002 of the European Parliament and of the Council (\*), and fulfil the requirements laid down in Commission Regulation (EC) No 622/2003 (\*\*);

- (c) be the holder of a certificate issued in a country outside of the customs territory of the Community, where a bilateral agreement concluded between the Community and the third country provides for acceptance of the certificate, subject to the conditions laid down in that agreement.

If the airline or shipping company is the holder of a certificate referred to in point (a) of this paragraph, it shall meet the criteria laid down in paragraph 1. The issuing customs authority shall consider the criteria laid down in paragraph 1 to be met, to the extent that the criteria for issuing the international certificate are identical or correspond to those laid down in paragraph 1.

3. If the applicant is established in the Community and is a regulated agent as referred to in Regulation (EC) No 2320/2002 and fulfils the requirements provided for in Regulation (EC) No 622/2003, the criteria laid down in paragraph 1 shall be deemed to be met in relation to the premises for which the economic operator obtained the status of regulated agent.

4. If the applicant, established in the Community, is the holder of an internationally recognised security and/or safety certificate issued on the basis of international conventions, of a European security and/or safety certificate issued on the basis of Community legislation, of an International Standard of the International Organisation for Standardisation, or of a European Standard of the European Standards Organisations, the criteria provided for in paragraph 1 shall be deemed to be met to the extent that the criteria for issuing these certificates are identical or correspond to those laid down in this Regulation.

(\*) OJ L 355, 30.12.2002, p. 1.

(\*\*) OJ L 89, 5.4.2003, p. 9.

#### Section 4

##### Procedure for issuing AEO certificates

###### Article 14l

1. The issuing customs authority shall communicate the application to the customs authorities of all other Member States within five working days starting from the date on which it has received the application in accordance with Article 14c using the communication system referred to in Article 14x.

2. Where the customs authority of any other Member State has relevant information which may prejudice the

granting of the certificate, it shall communicate that information to the issuing customs authority within 35 calendar days starting from the date of the communication provided for in paragraph 1, using the communication system referred to in Article 14x.

###### Article 14m

1. Consultation between the customs authorities of the Member States shall be required if the examination of one or more of the criteria laid down in Articles 14g to 14k cannot be performed by the issuing customs authority due either to a lack of information or to the impossibility of checking it. In these cases, the customs authorities of the Member States shall carry out the consultation within 60 calendar days, starting from the date of the communication of the information by the issuing customs authority, in order to allow for the issuing of the AEO certificate or the rejection of the application within the time limits set out in Article 14o(2).

If the consulted customs authority fails to respond within the 60 calendar days, the consulting authority may assume, at the responsibility of the consulted customs authority, that the criteria for which the consultation took place are met. This period may be extended if the applicant carries out adjustments in order to satisfy those criteria and communicates them to the consulted and the consulting authority.

2. Where, following the examination provided for in Article 14n, the consulted customs authority establishes that the applicant does not fulfil one or more of the criteria, the results, duly documented, shall be transferred to the issuing customs authority which shall reject the application. Article 14o(4), (5) and (6) shall apply.

###### Article 14n

1. The issuing customs authority shall examine whether or not the conditions and criteria for issuing the certificate described in Articles 14g to 14k are met. Examination of the criteria laid down in Article 14k shall be carried out for all the premises which are relevant to the customs related activities of the applicant. The examination as well as its results shall be documented by the customs authority.

Where, in the case of a large number of premises, the period for issuing the certificate would not allow for examination of all of the relevant premises, but the customs authority has no doubt that the applicant maintains corporate security standards which are commonly used in all its premises, it may decide only to examine a representative proportion of those premises.

2. The issuing customs authority may accept conclusions provided by an expert in the relevant fields referred to in Articles 14i, 14j and 14k in respect of the conditions and criteria referred to in those Articles respectively. The expert shall not be related to the applicant.

#### *Article 14o*

1. The issuing customs authority shall issue the AEO certificate in accordance with the specimen set out in Annex 1D.

2. The AEO certificate shall be issued within 90 calendar days starting from the date of receipt, in accordance with Article 14c, of the application. Where the customs authority is unable to meet the deadline, this period may be extended by one further period of 30 calendar days. In such cases, the customs authority shall, before the expiry of the period of 90 calendar days, inform the applicant of the reasons for the extension.

3. The period provided for in the first sentence of paragraph 2 may be extended if, in the course of the examination of the criteria, the applicant carries out adjustments in order to satisfy those criteria and communicates them to the competent authority.

4. Where the result of the examination performed in accordance with Articles 14l, 14m and 14n is likely to lead to the rejection of the application, the issuing customs authority shall communicate the findings to the applicant and provide him with the opportunity to respond within 30 calendar days, before rejecting the application. The period laid down in the first sentence of paragraph 2 shall be suspended accordingly.

5. The rejection of an application shall not lead to the automatic revocation of any existing authorisation issued under the customs rules.

6. If the application is rejected, the customs authority shall inform the applicant of the grounds on which the decision is based. The decision to reject an application shall be notified to the applicant within the time limits laid down in paragraphs (2), (3) and (4).

#### *Article 14p*

The issuing customs authority shall, within five working days, inform the customs authorities of the other Member States that an AEO certificate has been issued,

using the communication system referred to in Article 14x. Information shall also be provided within the same time limit if the application is rejected.

## CHAPTER 2

### ***Legal effects of AEO certificates***

#### **Section 1**

##### **General provisions**

#### *Article 14q*

1. The AEO certificate shall take effect on the 10th working day after the date of its issue.

2. The AEO certificate shall be recognised in all Member States.

3. The period of validity of the AEO certificate shall not be limited.

4. The customs authorities shall monitor the compliance with the conditions and criteria to be met by the authorised economic operator.

5. A re-assessment of the conditions and criteria shall be carried out by the issuing customs authority in the following cases:

(a) major changes to the relevant Community legislation;

(b) reasonable indication that the relevant conditions and criteria are not any longer met by the authorised economic operator.

In the case of an AEO certificate issued to an applicant established for less than three years, close monitoring shall take place during the first year after issue.

Article 14n(2) shall apply.

The results of the re-assessment shall be made available to the customs authorities of all Member States, using the communication system referred to in Article 14x.

## Section 2

### Suspension of the status of authorised economic operator

#### Article 14r

1. The status of authorised economic operator shall be suspended by the issuing customs authority in the following cases:

- (a) where non-compliance with the conditions or criteria for the AEO certificate has been detected;
- (b) the customs authorities have sufficient reason to believe that an act, which gives rise to criminal court proceedings and linked to an infringement of the customs rules, has been perpetrated by the authorised economic operator.

However, in the case referred to in point (b) of the first subparagraph, the customs authority may decide not to suspend the status of authorised economic operator if it considers an infringement to be of negligible importance in relation to the number or size of the customs related operations and not to create doubts concerning the good faith of the authorised economic operator.

Before taking a decision, the customs authorities shall communicate their findings to the economic operator concerned. The economic operator concerned shall be entitled to correct the situation and/or express his point of view within 30 calendar days starting from the date of communication.

However, where the nature or the level of the threat to citizens' security and safety, to public health or to the environment so requires, suspension shall take place immediately. The suspending customs authority shall immediately inform the customs authorities of the other Member States, using the communication system referred to in Article 14x, in order to permit them to take appropriate action.

2. If the holder of the AEO certificate does not regularise the situation referred to in point (a) of the first subparagraph of paragraph 1 within the period of 30 calendar days referred to in the third subparagraph of paragraph 1, the competent customs authority shall notify the economic operator concerned that the status of authorised economic operator is suspended for a period of 30 calendar days, to enable the economic operator to take the required measures to regularise the situation. The notification shall also be sent to the customs authorities of the other Member States using the communication system referred to in Article 14x.

3. If the holder of the AEO certificate has committed an act referred to in point (b) of the first subparagraph of paragraph 1, the issuing customs authority shall suspend the status of authorised economic operator for the duration of the court proceedings. It shall notify the holder of the certificate to that effect. Notification shall also be sent to the customs authorities of the other Member States, using the communication system referred to in Article 14x.

4. Where the economic operator concerned has been unable to regularise the situation within 30 calendar days but can provide evidence that the conditions can be met if the suspension period is extended, the issuing customs authority shall suspend the status of authorised economic operator for a further 30 calendar days.

#### Article 14s

1. The suspension shall not affect any customs procedure already started before the date of suspension and not yet completed.

2. The suspension shall not automatically affect any authorisation which has been granted without reference to the AEO certificate unless the reasons for the suspension also have relevance for that authorisation.

3. The suspension shall not automatically affect any authorisation for use of a customs simplification which has been granted on the basis of the AEO certificate and for which the conditions are still fulfilled.

4. In the case of an AEO certificate referred to in point (c) of Article 14a(1), if the economic operator concerned fails to fulfil only the conditions laid down in Article 14k, the status of authorised economic operator shall be partially suspended and a new AEO certificate, as referred to in point (a) of Article 14a(1) may be issued at his request.

#### Article 14t

1. When the economic operator concerned has, to the satisfaction of the customs authorities, taken the necessary measures to comply with the conditions and criteria that have to be met by an authorised economic operator, the issuing customs authority shall withdraw the suspension and inform the economic operator concerned and the customs authorities of the other Member States. The suspension may be withdrawn before the expiry of the time limit laid down in Article 14r(2) or (4).

In the situation referred to in Article 14s (4), the suspending customs authority shall reinstate the suspended certificate. It shall subsequently revoke the AEO certificate referred to in point (a) of Article 14a(1).

2. If the economic operator concerned fails to take the necessary measures within the suspension period provided for in Article 14r(2) or (4), the issuing customs authority shall revoke the AEO certificate and immediately notify the customs authorities of the other Member States, using the communication system referred to in Article 14x.

In the situation referred to in Article 14s (4), the original certificate shall be revoked and only the new AEO certificate as referred to in point (a) of Article 14a(1) issued shall be valid.

#### *Article 14u*

1. Where an authorised economic operator is temporarily unable to meet any of the criteria laid down in Article 14a, he may request suspension of the status of authorised economic operator. In such case, the authorised economic operator shall notify the issuing customs authority, specifying the date when he will be able to meet the criteria again. He shall also notify the issuing customs authority of any planned measures and their timescale.

The notified customs authority shall send the notification to the customs authorities of the other Member States using the communication system referred to in Article 14x.

2. If the authorised economic operator fails to regularise the situation within the period set out in his notification, the issuing customs authority may grant a reasonable prolongation, provided that the authorised economic operator has acted in good faith. This prolongation shall be notified to the customs authorities of the other Member States using the communication system referred to in Article 14x.

In all other cases, the AEO certificate shall be revoked and the issuing customs authority shall immediately notify the customs authorities of the other Member States, using the communication system referred to in Article 14x.

3. If the required measures are not taken within the suspension period, Article 14v shall apply.

### Section 3

#### **Revocation of the AEO certificate**

##### *Article 14v*

1. The AEO certificate shall be revoked by the issuing customs authority in the following cases:

- (a) where the authorised economic operator fails to take the measures referred to in Article 14t(1);
- (b) where serious infringements related to customs rules have been committed by the authorised economic operator and there is no further right of appeal;
- (c) where the authorised economic operator fails to take the necessary measures during the suspension period referred to in Article 14u;
- (d) upon request of the authorised economic operator.

However, in the case referred to in point (b), the customs authority may decide not to revoke the AEO certificate if it considers the infringements to be of negligible importance in relation to the number or size of the customs related operations and not to create doubts concerning the good faith of the authorised economic operator.

2. Revocation shall take effect from the day following its notification.

In the case of an AEO certificate as referred to in point (c) of Article 14a(1), where the economic operator concerned only fails to fulfil the conditions in Article 14k, the certificate shall be revoked by the issuing customs authority and a new AEO certificate as referred to in point (a) of Article 14a(1) shall be issued.

3. The issuing customs authority shall immediately inform the customs authorities of the other Member States of the revocation of an AEO certificate using the communication system referred to in Article 14x.

4. Apart from cases of revocation referred to in points (c) and (d) of paragraph 1, the economic operator shall not be permitted to submit a new application for an AEO certificate within three years from the date of revocation.

**CHAPTER 3*****Information exchange*****Article 14w**

1. The authorised economic operator shall inform the issuing customs authority of all factors arising after the certificate is granted which may influence its continuation or content.

2. All relevant information at the disposal of the issuing customs authority shall be made available to the customs authorities of the other Member States where the authorised economic operator carries out customs related activities.

3. If a customs authority revokes a specific authorisation granted to an authorised economic operator, on the basis of his AEO certificate, for the use of a particular customs simplification, as provided for in Articles 260, 263, 269, 272, 276, 277, 282, 283, 313a and 313b, 324a, 324e, 372, 454a, 912g, it shall so notify the customs authority which issued the AEO certificate.

**Article 14x**

1. An electronic information and communication system, defined by the Commission and the customs authorities in agreement with each other, shall be used for the information and communication process between the customs authorities and for information of the Commission and of the economic operators.

2. The Commission and the customs authorities shall, using the system referred to in paragraph 1, store and have access to the following information:

- (a) the electronically transmitted data of the applications;
- (b) the AEO certificates, and where applicable, their amendment, revocation, or the suspension of the status of authorised economic operator;
- (c) all other relevant information.

3. The issuing customs authority shall notify the risk analysis offices in its own Member State of the granting, amendment, revocation of an AEO certificate, or the suspension of the status of authorised economic operator. It shall also inform all issuing authorities of the other Member States.

4. The list of authorised economic operators may be disclosed by the Commission to the public via the Internet with prior agreement of the authorised economic operator concerned. The list shall be updated.'

4. In Part I, Title VI, the heading of Chapter 1 is replaced by the following:

**'CHAPTER 1'*****Entry summary declaration'***

5. In Part I, Title VI, Chapter 1, the following Section 1 is inserted:

**'Section 1'*****Scope*****Article 181b**

Except where otherwise provided for in this Regulation, all goods brought into the customs territory of the Community shall be covered by a summary declaration in accordance with Article 36a of the Code, hereinafter referred to as an "entry summary declaration".

**Article 181c**

An entry summary declaration shall not be required in respect of the following goods:

- (a) electrical energy;
- (b) goods entering by pipeline;
- (c) letters, postcards and printed matter, including on electronic medium;
- (d) goods moved under the rules of the Universal Postal Union Convention;
- (e) goods covered by customs declarations made by any other act in accordance with Articles 230, 232 and 233;
- (f) goods contained in travellers' personal luggage;

(g) goods for which an oral customs declaration is permitted, in accordance with Articles 225, 227 and 229(1);

(h) goods covered by ATA and CPD Carnets;

(i) goods moved under cover of the form 302 provided for in the Convention between the Parties to the North Atlantic Treaty regarding the Status of their Forces, signed in London on 19 June 1951;

(j) goods carried on board vessels of regular shipping services, duly certified in accordance with Article 313b;

(k) goods entitled to relief pursuant to the Vienna Convention on diplomatic relations of 18 April 1961, the Vienna Convention on consular relations of 24 April 1963 or other consular conventions, or the New York Convention of 16 December 1969 on special missions.

However, in the cases covered by points (e), (f) and (g) of the first subparagraph, an entry summary declaration shall be required where the goods are to be placed in temporary storage. The first subparagraph of Article 184c shall apply.

#### *Article 181d*

If an international agreement between the Community and a third country provides for the recognition of security checks carried out in the country of export, the conditions set out in that agreement shall apply.'

6. Article 182 is deleted.

7. In Part I, Title VI, the heading of Chapter 2 is replaced by the following:

#### *'Section 2'*

#### **Lodging of an entry summary declaration'**

8. Article 183 is replaced by the following:

#### *'Article 183'*

1. The entry summary declaration shall be made electronically. It shall contain the particulars laid down for such declaration in Annex 30A and shall be completed in accordance with the explanatory notes in that Annex.

The entry summary declaration shall be authenticated by the person making it.

Article 199(1) shall apply *mutatis mutandis*.

2. The customs authorities shall allow the lodgement of a paper-based entry summary declaration only in one of the following circumstances:

(a) the customs authorities' computerised system is not functioning;

(b) the electronic application of the person lodging the entry summary declaration is not functioning.

Such paper-based entry summary declarations shall be accompanied, where necessary, by loading lists or other appropriate lists, and shall contain the particulars laid down for entry summary declarations in Annex 30A.

3. The customs authorities shall establish, in agreement with each other, the procedure to be followed in the cases referred to in point (a) of the first subparagraph of paragraph 2.

4. The use of a paper-based entry summary declaration referred to in point (b) of the first subparagraph of paragraph 2 shall be subject to the approval of the customs authorities.

The paper-based entry summary declaration shall be signed by the person making it.

5. Entry summary declarations shall be registered by the customs authorities immediately upon their receipt.'

9. The following Articles 183a to 183d are inserted:

#### *'Article 183a'*

1. The data provided under a transit procedure may be used as an entry summary declaration if the following conditions are met:

(a) the goods are brought into the customs territory of the Community under a transit procedure;

(b) the transit data is exchanged using information technology and computer networks;

(c) the data comprises all of the particulars required for an entry summary declaration.

2. Provided the transit data containing the required particulars is exchanged by the relevant time limit laid down in Article 184a, the requirements of Article 183 shall be deemed to have been met, even where the goods have been released for transit outside the customs territory of the Community.

#### *Article 183b*

In case of combined transportation, where the active means of transport entering the customs territory of the Community is only transporting another active means of transport, the obligation to lodge the entry summary declaration shall lie with the operator of that other means of transport.

The time limit for lodging the entry summary declaration shall correspond to the time limit applicable to the active means of transport crossing the border, as specified in Article 184a.

#### *Article 183c*

In the case of maritime or air traffic where a vessel sharing or contracting arrangement is in place, the obligation to lodge the entry summary declaration shall lie with the person who has undertaken a contract, and issued a bill of lading or air waybill, for the actual carriage of the goods on the vessel or aircraft subject to the arrangement.

#### *Article 183d*

1. In the cases referred to in Articles 183b and 183c, the operator of the active means of transport entering the customs territory of the Community shall lodge a pre-arrival notification at the customs office of entry listing all consignments carried on that means of transport.

The pre-arrival notification shall specify the identity of the active means of transport entering the customs territory of the Community. For each consignment, it shall contain the following information:

(a) the identity of the person responsible for carriage of the goods at the entry into the customs territory;

(b) the identity of the person lodging the entry summary declaration;

(c) the place of loading;

(d) the place of unloading;

(e) the unique consignment reference number, transport document number or reference for the bill of lading/air waybill;

(f) where appropriate, the identity of the means of transport or, if containerised, the equipment identification number.

The pre-arrival notification shall be lodged in the same format and by the same means as the entry summary declaration, or in the form of a commercial, port or transport manifest or loading list, provided that it contains the necessary particulars and is lodged in a manner acceptable to the customs authorities of the customs office of entry.

2. In cases other than those referred to in Articles 183b and 183c, where an entry summary declaration for goods carried on a means of transport entering the customs territory of the Community is to be lodged by a person other than the operator of that means of transport, that operator may lodge a pre-arrival notification with the customs authorities at the customs office of entry.

The pre-arrival notification shall specify the identity of the means of transport crossing the border. For each consignment, it shall contain the following information:

(a) the identity of the person lodging the entry summary declaration;

(b) the place of loading;

(c) the place of unloading;

(d) the unique consignment reference number, transport document number or reference for the bill of lading/air waybill;

(e) if containerised, the equipment identification number.

3. The notification referred to in paragraphs 1 and 2 shall be lodged by the time limit applicable to the means of transport set out in Article 184a.

However in the case of the traffic referred to in point (a) of Article 184a(1) the notification shall be lodged at least 24 hours before the goods are brought into the customs territory of the Community.

4. Article 183 shall apply, *mutatis mutandis*, to pre-arrival notifications.'

10. In Article 184(1), 'Article 183(1)' is replaced by 'Article 183(1) and(2)'.

11. In Part I, Title VI, Chapter 1, the following Sections 3 and 4 are added:

### 'Section 3'

#### **Time limits**

##### *Article 184a*

1. In the case of maritime traffic the entry summary declaration shall be lodged at the customs office of entry by the following deadlines:

(a) for containerised cargo, other than where point (c) or (d) applies, at least 24 hours before loading at the port of departure;

(b) for bulk/break bulk cargo, at least four hours before arrival at the first port in the customs territory of the Community;

(c) for movement between Greenland, the Faeroe Islands, Ceuta, Melilla, Norway, Iceland or ports on the Baltic Sea, the North Sea, the Black Sea or the Mediterranean, all ports of Morocco, and the customs territory of the Community with the exception of the French overseas departments, the Azores, Madeira and the Canary Islands, at least two hours before arrival at the first port in the customs territory of the Community;

(d) for movement, other than where point (c) applies, between a territory outside the customs territory of the Community and the French overseas departments, the Azores, Madeira or the Canary Islands, where the duration of the voyage is less than 24 hours, at least

two hours before arrival at the first port in the customs territory of the Community.

2. In the case of air traffic the entry summary declaration shall be lodged at the customs office of entry by the following deadlines:

(a) for short haul flights, at least by the time of the actual take off of the aircraft;

(b) for long haul flights, at least four hours prior to arrival at the first airport in the customs territory of the Community;

For the purposes of this paragraph, "short haul flight" means a flight the duration of which is less than four hours from the last airport of departure in a third country till the arrival to the first Community airport. All other flights are considered to be long haul flights.

3. In the case of rail and inland waters traffic, the entry summary declaration shall be lodged at the customs office of entry at least two hours prior to arrival at the customs office of entry in the customs territory of the Community.

4. In the case of road traffic, the entry summary declaration shall be lodged at the customs office of entry at least one hour prior to arrival at the customs office of entry in the customs territory of the Community.

5. Where the entry summary declaration is not lodged by use of a data processing technique, the time limit laid down in points (c) and (d) of paragraph 1, point (a) of paragraph 2 and in paragraphs 3 and 4 shall be at least four hours.

6. If the customs authorities' computerised system is temporarily not functioning, the deadlines provided for in paragraphs 1 to 4 shall still apply.

##### *Article 184b*

The deadlines referred to in Article 184a(1) to (4) shall not apply in the following cases:

(a) where international agreements between the Community and third countries provide for the recognition of security checks as referred to in Article 181d;

(b) where international agreements between the Community and third countries require the exchange of declaration data by deadlines different from those referred to in Article 184a(1) to (4);

(c) cases of force majeure.

#### *Article 184c*

Where it is found that goods presented to customs requiring the lodging of an entry summary declaration are not covered by such a declaration, the person who brought the goods, or who assumed responsibility for the carriage of the goods, into the customs territory of the Community shall lodge an entry summary declaration immediately.

If an economic operator lodges the entry summary declaration after the deadlines provided for in Article 184a, this shall not preclude the application of the penalties laid down in the national legislation.

### Section 4

#### **Risk analysis**

##### *Article 184d*

1. The customs office of entry shall, upon receipt of the information contained in the entry summary declaration, carry out appropriate risk analysis, primarily for security and safety purposes, prior to arrival of the goods in the customs territory of the Community. Where the entry summary declaration has been lodged at a customs office other than the customs office of entry, and the particulars have been made available in accordance with Article 36a(2) and the second subparagraph of Article 36c(1) of the Code, the customs authorities at the customs office of entry shall either accept the results of any risk analysis carried out by that other customs office, or take into consideration the results when carrying out their own risk analysis.

2. The customs authorities shall complete the risk analysis prior to the arrival of the goods, provided that the relevant deadline set out in Article 184a is met.

However, for goods carried by the type of traffic referred to in point (a) of Article 184a(1), the customs authorities shall complete the risk analysis within 24 hours of the receipt of the entry summary declaration. Where that analysis provides reasonable grounds for the customs authorities to consider that the introduction of the goods into the customs territory of the Community would pose such a serious threat to the safety and security of the Community that immediate intervention is required, the customs authorities shall notify the person who lodged the entry summary declaration and, where different, the

person responsible for the carriage of the goods into the customs territory of the Community, that the goods are not to be loaded. The notification shall be made within 24 hours of receipt of the entry summary declaration.

3. Where goods not covered by an entry summary declaration, in accordance with Article 181c(a) to (i), are brought into the customs territory of the Community, risk analysis shall be carried out upon presentation of the goods, on the basis of the customs declaration covering the goods.

4. Goods presented to customs may be released for a customs-approved treatment or use as soon as the risk analysis has been carried out and the results allow such a release.

##### *Article 184e*

Where a vessel or aircraft is to call at more than one port or airport in the customs territory of the Community, provided that it moves between those ports without calling at any port or airport outside the customs territory of the Community, an entry summary declaration shall be lodged at the first Community port or airport for all the goods carried. The customs authorities at this first port or airport of entry shall carry out the risk analysis for security and safety purposes for all the goods carried. Additional risk analysis may be carried out for those goods at the port or airport at which they are discharged.

Where a risk is identified, the customs office of the first port or airport of entry shall, dependent upon the level of threat, either take prohibitive action in the case of consignments identified as posing a threat of such a serious nature that immediate intervention is required, or pass on the results of the risk analysis to the subsequent ports or airports.

At subsequent ports or airports in the customs territory of the Community, an entry summary declaration shall only be required for goods to be discharged at that port or airport. The time limit laid down in Article 184a(1) and (2) shall not apply.

##### *Article 184f*

Where goods are loaded at a port in the customs territory of the Community for discharge at another Community port and are carried on a vessel moving between those ports without calling at any port outside the customs territory of the Community, an entry summary declaration shall only be required for those goods at the Community port at which they are to be discharged. The time limit laid down in Article 184a(1) shall not apply.'

12. In Part I, Title VI, the heading of Chapter 3 is replaced by the following:

**'CHAPTER 2**

***Temporary storage'***

13. Article 186 is replaced by the following:

**'Article 186**

1. When goods are presented to customs in accordance with Article 40 of the Code, they shall be deemed to have been placed under temporary storage and the entry summary declaration shall be kept by the customs authorities for the purpose of verifying that the goods to which it relates are assigned a customs-approved treatment or use. For the purposes of Article 49 of the Code, the entry summary declaration shall be deemed to have been lodged on the date of presentation of the goods.

2. When a customs declaration has been lodged at the customs office of entry as an entry summary declaration, in accordance with Article 36c of the Code, the customs authorities shall accept the declaration immediately upon the presentation of the goods and the goods shall be placed directly under the declared procedure subject to the conditions laid down for that procedure.

3. For the purposes of paragraphs 1 and 2, where non-Community goods moved from the customs office of departure under a transit procedure are presented to customs at an office of destination within the customs territory of the Community, the transit declaration intended for the customs authorities at the office of destination is deemed to be the entry summary declaration for the purposes of temporary storage.'

14. In Article 187, 'Article 44(2)' is replaced by 'Article 36b(3)'.

15. The following Article 187a is added:

**'Article 187a**

1. The customs authorities may grant permission to examine the goods under Article 42 of the Code to the person who, under the customs rules, may assign the goods a customs-approved treatment or use, at that person's oral request. The customs authorities may, however, consider, having regard to the circumstances, that a written request is required.

2. The customs authorities may authorise the taking of samples only at the written request of the person referred to in paragraph 1.

3. The written request may be paper-based or electronic. It shall be signed or authenticated by the person concerned and lodged with the competent customs authorities. It shall include the following particulars:

(a) name and address of the applicant;

(b) location of the goods;

(c) reference to one of the following:

(i) the entry summary declaration;

(ii) the previous customs procedure;

(iii) the means of transport;

(d) all other particulars necessary for identifying the goods.

4. The customs authorities shall communicate their decision to the person concerned. Where the request is for the taking of samples, the decision shall specify the quantity of goods to be taken.

5. Examination of goods and the taking of samples shall be carried out under the supervision of the customs authorities, which shall specify the procedures to be followed.

The person concerned shall bear all risks and costs related to the examination, taking of samples and analysis of the goods.

6. The samples taken shall be subject to formalities with a view to assigning them a customs-approved treatment or use. Where examination of the samples results in their destruction or irretrievable loss, no customs debt shall be deemed to have been incurred.

Any waste or scrap resulting from the examination shall be assigned a customs-approved treatment or use prescribed for non-Community goods.'

16. In Part I, Title VI, the heading of Chapter 4 is replaced by the following:

'CHAPTER 3

***Special provisions applicable to goods consigned by sea or air'***

17. Article 201 is replaced by the following:

'Article 201

1. The customs declaration shall be lodged at one of the following customs offices:

- (a) the customs office responsible for the place where the goods were or are to be presented to customs in accordance with the customs rules;
- (b) the customs office responsible for supervising the place where the exporter is established or where the goods are packed or loaded for export shipment, except in cases provided for in Articles 789, 790, 791 and 794.

The customs declaration may be lodged as soon as the goods are presented or available to the customs authorities for control.

2. The customs authorities may allow the customs declaration to be lodged before the declarant is in a position to present the goods, or make them available for control, at the customs office where the customs declaration is lodged or at another customs office or place designated by the customs authorities.

The customs authorities may set a time limit, to be determined according to the circumstances, within which the goods shall be presented or made available. If the goods are not presented or made available within this time limit, the customs declaration shall be deemed not to have been lodged.

The customs declaration may be accepted only after the goods in question have been presented to the customs authorities or have, to the satisfaction of the customs authorities, been made available for control.'

18. In Article 212(1), the following subparagraph is added:

'Where a customs declaration is used as an entry summary declaration, in accordance with Article 36c(1) of the Code,

that declaration shall, in addition to the particulars required for the specific procedure set out in Annex 37, include the particulars for an entry summary declaration set out in Annex 30A.'

19. In Article 216, the following paragraph is added:

'Where a customs declaration is required for goods to be brought out of the customs territory of the Community, in accordance with Article 182b of the Code, that declaration shall, in addition to the particulars required for the specific procedure set out Annex 37, include the particulars for an exit summary declaration set out in Annex 30A.'

20. In Article 251(2), point (b) is replaced by the following:

'(b) in the case of other goods:

- (i) the customs office of export has been informed, in accordance with Article 792a, that the goods declared have not left the customs territory of the Community;
- (ii) after a period of 90 days from the date of release of the goods for export, the goods have not left the customs territory of the Community, or sufficient evidence of such export cannot be provided in accordance with Article 792b(2).'

21. Article 254 is replaced by the following:

'Article 254

If the declarant so requests, the customs authorities may accept declarations for release for free circulation which do not contain all the particulars set out in Annex 37.

However, those declarations shall contain at least the particulars for an incomplete declaration set out in Annex 30A.'

22. In Article 260, paragraph 2 is replaced by the following:

'2. Such simplified declaration shall contain at least the particulars for a simplified import declaration set out in Annex 30A.'

23. In Article 261, the following paragraph 4 is added:

'4. Where the person concerned holds an AEO certificate referred to in point (a) or (c) of Article 14a(1), the customs authorities in all Member States shall examine only whether the authorised economic operator declares goods for release for free circulation only occasionally. All other requirements set out in paragraphs 1 and 2 of this Article shall be deemed to be met.'

24. In Article 262, paragraph 1 is replaced by the following:

'1. The authorisation referred to in Article 260 shall contain the following particulars:

- (a) the customs office(s) competent to accept simplified declarations;
- (b) the goods to which it applies; and
- (c) a reference to the guarantee to be provided by the person concerned to cover any customs debt which may arise.

It shall also specify the form and content of the supplementary declarations, and shall set the time-limits within which they must be lodged with the customs authority designated for this purpose.'

25. In Article 264, the following paragraph 3 is added:

'3. Where the person concerned holds an AEO certificate referred to in point (a) or (c) of Article 14a(1), the customs authorities in all Member States shall examine only whether the authorised economic operator declares goods for release for free circulation only occasionally. All other requirements set out in paragraphs 1 and 2 shall be deemed to be met.'

26. In Article 266, paragraph 3 is replaced by the following:

'3. The entry in the records referred to in points (a), (b) and (c) of paragraph 1 may be replaced by any other formality offering similar guarantees requested by the customs authorities. This entry shall indicate the date on which it is made and contain at least the particulars for a declaration under the local clearance procedure set out in Annex 30A.'

27. In Article 268, paragraph 1 is replaced by the following:

'1. If the declarant so requests the customs office of entry may accept declarations for the customs warehousing procedure which do not contain all the particulars set out in Annex 37.

However, those declarations shall contain at least the particulars for an incomplete declaration set out in Annex 30A.'

28. In Article 270, the following paragraph 5 is added:

'5. Where the person concerned holds an AEO certificate referred to in point (a) or (c) of Article 14a(1), the customs authorities in all Member States shall examine only whether the authorised economic operator enters the goods for the procedure only occasionally. All other requirements set out in paragraphs 1, 2 and 3 shall be deemed to be met.'

29. Article 271 is replaced by the following:

#### *'Article 271'*

The authorisation referred to in Article 269(1) shall lay down the specific rules for the operation of the procedure, including the customs office(s) of entry for the procedure.

It shall not be necessary to provide a supplementary declaration.'

30. In Article 275, paragraph 1 is replaced by the following:

'1. If the declarant so requests the customs office of entry may accept declarations for placing goods under a customs procedure with economic impact other than outward processing or customs warehousing which do not contain all the particulars set out in Annex 37 or which are not accompanied by certain documents referred to in Article 220.

However, those declarations shall contain at least the particulars for an incomplete declaration set out in Annex 30A.'

31. Article 279 is replaced by the following:

office where the supplementary declaration is to be lodged as provided for in paragraph 1.

#### 'Article 279

1. The formalities to be carried out at the customs office of export as provided for in Article 792 may be simplified in accordance with this Chapter.

2. Articles 792 (4), 792a, 792b, 793 to 793c and, where appropriate, Articles 796a to 796e, shall apply to this Chapter.'

32. Articles 280 and 281 are replaced by the following:

#### 'Article 280

1. If the declarant so requests, the customs office of export may accept export declarations which do not contain all the particulars set out in Annex 37.

However, those declarations shall contain at least the particulars for an incomplete declaration set out in Annex 30A.

Where the goods are liable for export duties or subject to any other measures provided for under the common agricultural policy, the export declarations shall contain all the information required for the application of such duties or measures.

2. Articles 255 to 259 shall apply *mutatis mutandis* to export declarations.

#### *Article 281*

1. Where Article 789 applies, the supplementary declaration may be lodged at the customs office responsible for the place where the exporter is established.

2. Where the subcontractor is established in a Member State other than that where the exporter is established, paragraph 1 shall only apply where the required data is exchanged electronically in accordance with Article 4d.

3. The incomplete export declaration shall specify the customs office where the supplementary declaration shall be lodged. The customs office which receives the incomplete export declaration shall communicate the particulars of the incomplete export declaration to the customs

4. In the cases referred to in paragraph 2, the customs office which has received the supplementary declaration shall immediately communicate the particulars of the supplementary declaration to the customs office where the incomplete export declaration has been lodged.'

33. In Article 282, paragraph 2 is replaced by the following:

2. The simplified declaration shall contain at least the particulars for a simplified declaration set out in Annex 30A.

Articles 255 to 259 shall apply *mutatis mutandis*.

34. Article 285 is replaced by the following:

#### 'Article 285

1. The approved exporter shall, before removal of the goods from the places referred to in Article 283, fulfil the following obligations:

(a) duly inform the customs office of export of such removal by lodging a simplified export declaration, as referred to in Article 282;

(b) make available to the customs authorities any documents required for the export of the goods.

2. The approved exporter may lodge a complete export declaration in place of the simplified export declaration. In this case, the requirement for a supplementary declaration, laid down in Article 76(2) of the Code, shall be waived.'

35. The following Article 285a is inserted:

#### 'Article 285a

1. The customs authorities may exempt the approved exporter from the requirement to lodge a simplified export declaration at the customs office of export for each removal of goods. This exemption shall be granted only if the approved exporter fulfils the following conditions:

- (a) the approved exporter informs the customs office of export of each removal, in the manner and form specified by that office;
- (b) the approved exporter supplies, or makes available, to the customs authorities all information they consider necessary for effective risk analysis before the removal of the goods from the places referred to in Article 283;
- (c) the approved exporter enters the goods in his records.

The entry referred to in point (c) of the first subparagraph may be replaced by any other formality, required by the customs authorities, which offers similar guarantees. This entry shall indicate the date on which it is made and the particulars necessary for the identification of the goods.

2. In certain particular circumstances justified by the nature of the goods in question and the rapid turnover of export operations, the customs authorities may, until 30 June 2009, exempt the approved exporter from the requirements set out in points (a) and (b) of the first subparagraph of paragraph 1, provided that he supplies the customs office of export with all the information it considers necessary to enable it to exercise its right to examine the goods, should the need arise, before the exit of the goods.

In this case, entry of the goods in the records of the approved exporter shall be equivalent to release.'

36. The following Article 285b is inserted:

#### *'Article 285b*

1. The information referred to in point (a) of the first subparagraph of Article 285a(1) shall be given to the customs office of export by the deadlines provided for in Articles 592b and 592c.

2. The entry in the records referred to in point (c) of the first subparagraph of Article 285a(1) shall include the particulars for the local clearance procedure set out in Annex 30A.

3. The customs authorities shall ensure that the requirements of Articles 796a to 796e are met.'

37. In Article 286, paragraphs 3 and 4 are replaced by the following:

'3. Before the departure of the goods the approved exporter shall fulfil the following requirements:

- (a) carry out the procedures referred to in Article 285 or 285a;
- (b) indicate on any accompanying document or any other medium replacing it the following particulars:
  - (i) the reference to the entry in his records;
  - (ii) the date on which the entry referred to in point (i) was made;
  - (iii) the number of the authorisation;
  - (iv) the name of the issuing customs office.'

38. In Article 287, paragraph 1 is replaced by the following:

'1. The authorisation referred to in Article 283 shall specify detailed rules for the operation of the procedure and in particular the following:

- (a) the goods to which it applies;
- (b) the way the conditions laid down in Article 285a(1) are to be fulfilled;
- (c) the way and the moment the goods are released;
- (d) the content of any accompanying document or medium replacing it and the means by which it is to be validated;
- (e) the procedure for presenting the supplementary declaration and the time limit within which it must be lodged.

Where Articles 796a to 796e apply, the release referred to in point (c) of the first subparagraph shall be granted in accordance with Article 796b.'

39. In Article 288, paragraph 2 is replaced by the following:

'2. The document or medium referred to in paragraph 1 shall contain at least the particulars set out in Annex 30A for the procedure to be used. This document or medium shall be accompanied by a request for export.'

The customs authorities may authorise the replacement of this request by a global request under condition that the economic operator has provided the customs authorities with the information they consider necessary for effective risk analysis and the examination of the goods. The global request shall cover export operations to be carried out over a given period. The declarant shall refer to the authorisation on the document or medium used for export.'

40. In Article 289, the following paragraph is added:

'However, the declarant shall make available to the customs authorities the necessary information for effective risk analysis and the examination of the goods before the exit of these goods.'

41. In Article 313b, the following paragraph 3a is inserted:

'3a. Where the shipping company holds an AEO certificate referred to in point (a) or (c) of Article 14a(1), the customs authorities of the Member States concerned shall examine only whether the requirements in paragraph 3(c) and (d) of this Article are met. All other requirements set out in this Article shall be deemed to be met.'

42. Article 367 is replaced by the following:

*'Article 367'*

This subsection shall not apply to the simplified procedures specific to the modes of transport referred to in Article 372(1)(g).'

43. Article 368 is deleted.

44. In Article 373, the following paragraph 3 is added:

'3. Where the person concerned holds an AEO certificate referred to in point (a) or (c) of Article 14a(1), the requirements set out in paragraph 1(c) and 2(b) of this Article shall be deemed to be met.'

45. In Article 454a, the following paragraph 5 is added:

'5. Where the person concerned holds an AEO certificate referred to in point (a) or (c) of Article 14a(1), the requirements set out in point (c) of the first subparagraph of paragraph 2 of this Article and in Article 373(2)(b) shall be deemed to be met.'

46. In Part II, the heading of Title IV is replaced by the following:

**'IMPLEMENTING PROVISIONS RELATING TO EXPORTATION'**

47. In Part II, Title IV, the following Chapter 1 is inserted:

**'CHAPTER 1'**

***General provisions for customs declarations***

***Article 592a***

Articles 592b to 592f shall not apply to the following goods:

- (a) electrical energy;
- (b) goods leaving by pipeline;
- (c) letters, postcards, printed matter, including on electronic medium;
- (d) goods moved under the rules of the Universal Postal Union Convention;
- (e) goods covered by customs declarations made by any other act in accordance with Articles 231 and 233;
- (f) goods contained in travellers' personal luggage;
- (g) goods for which an oral declaration is permitted in accordance with Articles 226, 227 and 229(2);
- (h) goods covered by ATA and CPD Carnets;

(i) goods moved under cover of the form 302 provided for under the Convention between the Parties to the North Atlantic Treaty regarding the Status of their Forces, signed in London on 19 June 1951;

(j) goods carried on board vessels of regular shipping services, duly certified in accordance with Article 313b.

#### *Article 592b*

1. Whenever goods leaving the customs territory of the Community are covered by a customs declaration, this customs declaration shall be lodged at the competent customs office by the following deadlines:

(a) in the case of maritime traffic:

(i) for containerised cargo, other than where point (iii) or (iv) applies, at least 24 hours before the goods are loaded onto the vessel on which they are to leave the customs territory of the Community;

(ii) for bulk/break bulk cargo, at least four hours before leaving the port in the customs territory of the Community;

(iii) for movement between the customs territory of the Community with the exception of the French overseas departments, the Azores, Madeira or the Canary Islands and Greenland, the Faeroe Islands, Ceuta, Melilla, Norway, Iceland, ports on the Baltic Sea, the North Sea, the Black Sea, the Mediterranean or all ports of Morocco, at least two hours before leaving the port in the customs territory of the Community;

(iv) for movement, in cases other than those covered under point (iii), between the French overseas departments, the Azores, Madeira, the Canary Islands and territories outside the customs territory of the Community, where the duration of the voyage is less than 24 hours, at least two hours before leaving the port in the customs territory of the Community.

(b) in the case of air traffic, at least 30 minutes prior to departure from an airport in the customs territory of the Community;

(c) in the case of rail and inland waters traffic, at least two hours prior to departure from the customs office of exit;

(d) in the case of road traffic, at least one hour prior to departure from the customs office of exit;

(e) in the case of suppliers of spare and repair parts, intended for incorporation in ships and aircraft for the purpose of their repair and maintenance, of motor fuels, lubricants and gas which are necessary for the operation of machines and apparatus used on board, and foodstuff used for consumption on board, at least 15 minutes prior to departure of the means of transport from the port or airport in the customs territory of the Community;

(f) in cases where Regulation (EC) No 800/1999 applies, according to the rules of that Regulation.

2. Where the customs declaration is not lodged by use of data processing technique, the time limit laid down in points (a)(iii) and (iv), (b), (c), (d) and (e) of paragraph 1 shall be at least four hours.

3. If the customs authorities' computerised system is temporarily not functioning, the deadlines provided for in paragraph 1 shall still apply.

#### *Article 592c*

1. In the case of inter-modal transportation, where goods are transferred from one means of transport to another for transport out of the customs territory of the Community, the time limit for submission of the declaration shall correspond to the time limit applicable to the means of transport leaving the customs territory of the Community, as specified in Article 592b.

2. In the case of combined transportation, where the active means of transport crossing the border is only transporting another active means of transport, the time limit for the lodging of the declaration shall correspond to the time limit applicable to the active means of transport crossing the border, as specified in Article 592b.

#### *Article 592d*

1. The deadlines laid down in Articles 592b and 592c shall not apply where international agreements between the Community and third countries require the exchange of customs declaration data by deadlines different from those referred to in those Articles.

2. The time limit shall not, in any event, be reduced below the period required for completion of risk analysis before the goods leave the customs territory of the Community.

#### *Article 592e*

1. The competent customs office shall, upon receipt of the customs declaration, carry out appropriate risk analysis and customs controls, prior to release of the goods for exportation.

2. Goods may be released as soon as the risk analysis has been carried out and the results allow such a release.

#### *Article 592f*

1. Where it is found that goods presented to customs are not covered by a customs declaration containing the particulars necessary for the exit summary declaration, the person who brings the goods, or who assumes responsibility for the carriage of the goods out of the customs territory of the Community, shall lodge a customs declaration or an exit summary declaration immediately.

2. If the declarant lodges a customs declaration after the deadlines provided for in Articles 592b and 592c, this shall not preclude application of penalties laid down in the national legislation.

#### *Article 592g*

Where goods covered by an exemption, under Article 592a(d) to (j), from the requirement to lodge a customs declaration by the time limits set out in Articles 592b and 592c, are brought out of the customs territory of the Community, risk analysis shall be carried out upon presentation of the goods, on the basis of the customs declaration covering these goods.'

48. In Part II, Title IV, the heading of Chapter 1 is replaced by the following:

#### 'CHAPTER 2

#### ***Permanent exportation'***

49. In Part II, Title IV, Chapter 2, the following Article 787 is inserted:

#### *'Article 787*

1. Export declarations shall comply with the provisions relating to structure and particulars set out in this Chapter, Articles 279 to 289, Annex 37 and Annex 30A. They shall be lodged at the competent customs office using a data-processing technique.

2. The customs authorities shall accept a paper-based export declaration made on a form corresponding to the specimen set out in Annexes 31 to 34, which shall contain the minimum list of data set out in Annex 37 and Annex 30A for the export procedure, only in one of the following circumstances:

(a) the customs authorities' computerised system is not functioning;

(b) the electronic application of the person lodging the export declaration is not functioning.

3. The customs authorities shall establish, in agreement with each other, the procedure to be followed in the cases referred to in point (a) of paragraph 2.

4. The use of a paper-based export declaration referred to in paragraph 2(b) shall be subject to the approval of the customs authorities.

5. Where the goods are exported by travellers who have no direct access to the customs' computerised system and so have no means of lodging the export declaration using a data processing technique at the office of export, the customs authorities shall authorise the traveller to use a paper-based customs declaration made on a form corresponding to the specimen set out in Annexes 31 to 34 and containing the minimum list of data set out in Annex 37 and Annex 30A for the export procedure.

6. In the cases referred to in paragraphs 4 and 5 of this Article, the customs authorities shall ensure that the requirements of Articles 796a to 796e are met.'

50. In Article 791, paragraph 2 is deleted.

51. Article 792 is replaced by the following:

*'Article 792'*

1. Without prejudice to Article 207, where the export declaration is made on the basis of the single administrative document, Copies 1, 2 and 3 shall be used. The customs office where the export declaration has been lodged shall stamp Box A and, where appropriate, complete Box D.

On granting release of the goods, this customs office shall retain Copy 1, send Copy 2 to the statistical office of the Member State of the customs office of export and, where Articles 796a to 796e do not apply, return Copy 3 to the person concerned.

2. Where the export declaration is processed at the customs office of export using a data processing technique, Copy 3 of the single administrative document may be replaced by an accompanying document printed out from the customs authority's computerised system. This document shall contain at least the data required for the export accompanying document referred to in Article 796a.

The customs authorities may authorise the declarant to print out the accompanying document from his computerised system.

3. When the entire export operation is carried out on the territory of one Member State, that Member State may waive the use of Copy 3 of the single administrative document or the export accompanying document, provided that the requirements of Article 182b(2) of the Code are met.

4. Without prejudice to Articles 796a to 796e, where the customs rules provide for another document to replace Copy 3 of the single administrative document, the provisions of this Chapter shall apply, *mutatis mutandis*, to that other document.'

52. The following Articles 792a and 792b are inserted:

*'Article 792a'*

1. Where goods released for export do not leave the customs territory of the Community, the exporter or the declarant shall immediately inform the customs office of export. Where applicable, Copy 3 of the single adminis-

trative document shall be returned to that office. The customs office of export shall invalidate the export declaration.

2. Where, in the cases referred to in Article 793a(6) or Article 793b, a change in the transport contract has the effect of terminating inside the customs territory of the Community a transport operation which should have terminated outside it, the companies or authorities in question may only carry out the amended contract with the agreement of the customs office referred to in point (b) of the second subparagraph of Article 793(2) or, in the case of a transit operation, the office of departure. Copy 3 of the export declaration shall be returned to the customs office of export and the declaration shall be invalidated by that office.

*'Article 792b'*

1. The customs office of export may ask the exporter or declarant to provide evidence that the goods have left the customs territory of the Community.

2. Where, after a period of 90 days from the date of release of the goods for export, the goods have not left the customs territory of the Community, or sufficient evidence of such export cannot be provided, the export declaration shall be invalidated. The customs office of export shall inform the exporter or declarant accordingly.'

53. Article 793 is replaced by the following:

*'Article 793'*

1. Copy 3 of the single administrative document or the accompanying document referred to in Article 792(2) and the goods released for export shall be presented together to customs at the customs office of exit.

2. The customs office of exit shall be the last customs office before the goods leave the customs territory of the Community.

By way of derogation from the first subparagraph, the customs office of exit shall be one of the following:

(a) in the case of goods leaving by pipeline and of electrical energy, the office designated by the Member State where the exporter is established;

(b) the customs office competent for the place where the goods are taken over under a single transport contract for transport of the goods out of the customs territory of the Community by the railway companies, the postal authorities, the airlines or the shipping companies, provided that the following conditions are met:

(i) the goods are to leave the customs territory of the Community by rail, post, air or sea;

(ii) the declarant or his representative requests that the formalities referred to in Article 793a(2), or in Article 796e(1), be carried out at that office.'

54. The following Articles 793a, 793b and 793c are inserted:

#### *'Article 793a*

1. The customs office of exit shall carry out appropriate risk-based controls prior to the exit of the goods from the customs territory of the Community, primarily to ensure that the goods presented correspond to those declared. The customs office of exit shall supervise the physical exit of the goods.

Where the export declaration has been lodged at an office other than the customs office of exit, and the particulars have been transmitted in accordance with Article 182b(2) of the Code, the customs office of exit may take account of the results of any control carried out by that other office.

2. Where the declarant enters "RET-EXP" in Box 44, or the code 30400, or otherwise indicates his wish to have Copy 3 returned to him, the customs office of exit shall certify the physical exit of the goods by means of an endorsement on the back of that copy.

It shall give that copy to the person who presented it or to an intermediary specified in it and established in the district of the customs office of exit, for the purposes of returning it to the declarant.

The endorsement shall take the form of a stamp showing the name of the customs office of exit and the date of exit of the goods.

3. In the case of split exportation via the same customs office of exit, the endorsement shall be given only for those goods which are actually exported.

In the case of split exportation via several different customs offices of exit, the customs office of export, or the customs office of exit where the original of Copy 3 is presented shall, upon receiving a duly substantiated request, certify a copy of Copy 3 for each part of the goods, with a view to it being presented to another customs office of exit.

In the cases referred to in the first and second subparagraph, the original of Copy 3 shall be annotated accordingly.

4. When the entire export operation is carried out on the territory of one Member State, that Member State may provide for the non-endorsement of Copy 3. In this case the Copy 3 shall not be returned to the declarant.

5. Where the customs office of exit establishes that goods are missing, it shall annotate the copy of the export declaration presented and inform the customs office of export.

Where the customs office of exit establishes that there are goods in excess, it shall refuse exit to these goods until the export formalities have been completed.

When the customs office of exit establishes a discrepancy in the nature of the goods, it shall refuse exit to these goods until the export formalities have been completed, and shall also inform the customs office of export.

6. In the cases referred to in point (b) of the second subparagraph of Article 793(2), the customs office of exit shall endorse Copy 3 of the export declaration in accordance with Article 793a(2) after making the endorsement "Export" on the transport document and affixing its stamp. Reference shall be made to the transport document on Copy 3 of the export declaration and vice versa.

Where, in the case of regular shipping lines or direct transport or flights to destinations outside the customs territory of the Community, the operators are able to guarantee the regularity of the operations, the endorsement "Export" and the affixing of the stamp to the transport document shall not be required.

**Article 793b**

1. In the case of goods brought out of the customs territory of the Community or sent to a customs office of exit under a transit procedure, the office of departure shall endorse Copy 3 in accordance with Article 793a(2) and return it to the person referred to in that Article.

Where an accompanying document is required, it shall also be endorsed with the word "Export". Reference shall be made to the accompanying document on Copy 3 of the export declaration and vice versa.

The first and second subparagraphs of this Article shall not apply where presentation of the goods at the office of departure as referred to in Article 419(4) and (7) and Article 434(6) and (9) is dispensed with.

2. The endorsement and return of the Copy 3 referred to in the first subparagraph of paragraph 1 of this Article shall also apply to goods released for export which are not placed under a transit procedure but are sent to a customs office of exit included in a single manifest transit declaration provided for by Article 445 or Article 448 and identified in accordance with Article 445(3)(e) or Article 448(3)(e).

3. The customs office of exit shall control the physical exit of the goods.

**Article 793c**

1. Where goods under excise duty suspension arrangements are brought out of the customs territory of the Community under cover of the administrative accompanying document provided for by Regulation (EEC) No 2719/92, the customs office of export shall endorse Copy 3 of the export declaration in accordance with Article 793a(2) and return it to the declarant after making the endorsement "Export" and affixing the stamp referred to in that Article on all copies of the administrative accompanying document.

Reference shall be made to the administrative accompanying document on Copy 3 of the export declaration and vice versa.

2. The customs office of exit shall supervise the physical exit of the goods and send back the copy of the adminis-

trative accompanying document in accordance with Article 19(4) of Council Directive 92/12/EEC.

In cases provided for in Article 793a(5), the customs office of exit shall annotate the administrative accompanying document accordingly.'

55. Article 795 is replaced by the following:

**'Article 795**

1. Where goods have left the customs territory of the Community without an export declaration, such declaration shall be lodged retrospectively by the exporter at the customs office competent for the place where he is established.

Article 790 shall apply.

Acceptance of this declaration by the customs authorities shall be subject to provision by the exporter of one of the following:

- (a) reference to the exit summary declaration;
- (b) sufficient evidence concerning the nature and quantity of the goods, and the circumstances under which they left the customs territory of the Community.

That office shall also, if the declarant so requests, provide the exit certification referred to in Article 793a(2) or in Article 796e(1).

2. Retrospective acceptance of the export declaration by the customs authorities shall not preclude the application of either of the following:

- (a) penalties under national legislation;
- (b) the consequences of measures under the common agricultural or commercial policy.'

56. Article 796 is deleted.

57. In Part II, Title IV, the following Chapter 3 is inserted:

**'CHAPTER 3**

***Exchange of export data between customs authorities using information technology and computer networks***

**Article 796a**

1. The customs office of export shall authorise release of the goods by issuing the export accompanying document to the declarant. The export accompanying document shall correspond to the specimen and notes in Annex 45c.

2. Where an export consignment consists of more than one item, the export accompanying document shall be supplemented by a list of items corresponding to the specimen and notes in Annex 45d. It shall form an integral part of the export accompanying document.

3. Where authorised, the export accompanying document may be printed out from the computerised system of the declarant.

**Article 796b**

1. On release of the goods, the customs office of export shall transmit particulars of the export movement to the declared customs office of exit using the "Anticipated export record" message. This message shall be based on data derived from the export declaration and supplemented as appropriate by the customs authorities.

2. Where goods are to be moved to more than one office of exit as more than one consignment, each individual consignment shall be covered by an individual "Anticipated export record" message and an individual export accompanying document.

**Article 796c**

The customs authorities may require notification of the arrival of the goods at the customs office of exit to be communicated to them electronically. In this case it shall not be necessary for the export accompanying document be physically presented to the customs authorities but shall be retained by the declarant.

Such notification shall contain the movement reference number referred to in Annex 45c.

**Article 796d**

1. The customs office of exit shall satisfy itself that the goods presented correspond to those declared.

Any examination of the goods shall be carried out by the customs office of exit using the "Anticipated export record" message received from the customs office of export as a basis for such examination.

The customs office of exit shall supervise the physical exit of the goods from the customs territory of the Community.

2. The customs office of exit shall forward the "Exit results" message to the customs office of export at the latest on the working day following the day the goods leave the customs territory of the Community. In cases justified by special circumstances the customs office of exit may forward that message at a later date.

3. In the case of split exportation, where goods covered by one "Anticipated export record" message are moved to a customs office of exit as one consignment but subsequently exit the customs territory of the Community from that office of exit as more than one consignment, the customs office of exit shall control the physical exit of the goods and send the "Exit results" message only when all of the goods have left the customs territory of the Community.

In exceptional circumstances, where goods covered by one "Anticipated export record" message are moved to a customs office of exit as one consignment but subsequently exit the customs territory of the Community as more than one consignment and through more than one customs office of exit, the customs office of exit where the consignment was first presented shall, upon receiving a duly substantiated request, certify a copy of the export accompanying document for each part of the goods.

This certification shall only be granted by the customs authorities if the data contained in the export accompanying document corresponds to the data in the "Anticipated export record" message.

The relevant copy of the export accompanying document and the goods shall be presented together to the customs office of exit concerned. Each customs office of exit shall endorse the copy of the export accompanying document with the particulars referred to in Article 793a(2) and return it to the customs office of exit where the consignment was first presented. This office shall send the "Exit results" message only when all of the goods have left the customs territory of the Community.

**Article 796e**

1. Upon receipt of the "Exit results" message referred to in Article 796d(2), the customs office of export shall certify the physical exit of the goods for the declarant, by use of the "Export notification" message or in the form specified by that office for that purpose.

2. Where the customs office of export is informed by the exporter or the declarant, in accordance with Article 792a, that goods released for export have not left and are not to leave the customs territory of the Community, or the declaration is to be invalidated pursuant to Article 792b(2), the customs office of export shall immediately invalidate the export declaration and inform the declared customs office of exit of the invalidation, by use of the "Export cancellation notification" message.'

58. In Part II, Title IV, the heading of Chapter 2 is replaced by the following:

**'CHAPTER 4*****Temporary exportation using an ATA carnet'***

59. In Article 806, the following point (h) is added:

'(h) any additional particulars required for an exit summary declaration, set out in Annex 30A, when required under Article 182c of the Code.'

60. Articles 811 and 814 are deleted.

61. In Part II, Title V, Chapter 2, the following heading is inserted before Article 841:

**'Section 1*****Re-exportation'***

62. Article 841 is replaced by the following:

**'Article 841**

1. Where re-exportation is subject to a customs declaration Articles 787 to 796e shall apply *mutatis mutandis*, without prejudice to particular provisions which may apply when the customs procedure with economic impact preceding re-exportation of the goods is discharged.

2. Where an ATA carnet is issued for re-exportation of goods under temporary importation, the customs declaration may be lodged at a customs office other than that referred to in Article 161(5) of the Code.'

63. The following Article 841a is inserted:

**'Article 841a**

Where re-exportation is not subject to a customs declaration, an exit summary declaration shall be lodged in accordance with Articles 842a to 842e.

Provided that an entry summary declaration is lodged at the time when the goods are brought into the customs territory of the Community, an exit summary declaration shall not be required for re-exportation of non-Community goods in one of the following cases:

- (a) the goods are not unloaded from the means of transport which carried them into the customs territory of the Community;
- (b) the goods are transhipped at the place where they are unloaded from the means of transport which carried them into the customs territory of the Community.

The short term storage of goods in connection with such transhipment shall be considered to be an integral part of the transhipment. The control measures shall take account of the special nature of the situation.'

64. The following heading is inserted before Article 842:

**'Section 2*****Destruction and abandonment'***

65. In Part II, Title VI, the following Chapter 1 is inserted:

**'CHAPTER 1*****Exit summary declaration******Article 842a***

Where goods to be brought out of the customs territory of the Community are not covered by a customs declaration, a summary declaration, hereinafter referred to as "an exit summary declaration", shall be lodged at the customs office of exit, as defined in Article 793(2) of this Regulation, in accordance with Article 182c of the Code.

An exit summary declaration shall not be required in the following cases:

- (a) the cases listed in Article 592a(a) to (j);
- (b) where Community goods are loaded in the customs territory of the Community for discharge at another port or airport in the customs territory of the Community and are carried on a vessel or aircraft moving between those ports or airports without calling at any port or airport outside the customs territory of the Community;
- (c) goods entitled to relief pursuant to the Vienna Convention on diplomatic relations of 18 April 1961, the Vienna Convention on consular relations of 24 April 1963 or other consular conventions, or the New York Convention of 16 December 1969 on special missions.

#### *Article 842b*

1. The exit summary declaration shall be made using a data processing technique. It shall contain the particulars for such declaration set out in Annex 30A and shall be completed in accordance with the explanatory note in that Annex.

The exit summary declaration shall be authenticated by the person making it.

2. Exit summary declarations which comply with the conditions set out in paragraph 1 shall be registered by the customs authorities immediately upon their receipt.

Article 199(1) shall apply *mutatis mutandis*.

3. The customs authorities shall allow the lodging of a paper-based exit summary declaration only in one of the following circumstances:

- (a) the customs authorities' computerised system is not functioning;
- (b) the electronic application of the person lodging the exit summary declaration is not functioning.

Such paper-based summary declarations shall be accompanied, where necessary, by loading lists or other commercial documents, and shall contain the information required for summary declarations in Annex 30A.

4. The customs authorities shall establish, in agreement with each other, the procedure to be followed in the cases referred to in point (a) of the first subparagraph of paragraph 3.

5. The use of a paper-based exit summary declaration referred to in point (b) of the first subparagraph of paragraph 3 shall be subject to the approval of the customs authorities.

The paper-based exit summary declaration shall be signed by the person making it.

#### *Article 842c*

1. In the case of inter-modal transportation, where goods are transferred from one means of transport to another for transport out of the customs territory of the Community, the time limit for lodging the exit summary declaration shall correspond to the time limit applicable to the means of transport leaving the customs territory of the Community, as specified in Article 842d(1).

2. In the case of combined transportation, where the active means of transport crossing the border is only transporting another active means of transport, the obligation to lodge the exit summary declaration shall lie with the operator of that other means of transport.

The time limit for lodging the declaration shall correspond to the time limit applicable to the active means of transport crossing the border, as specified in Article 842d(1).

#### *Article 842d*

1. The exit summary declaration shall be lodged at the office of exit by the relevant time limit specified in Article 592b(1).

Article 592b(2) and (3) shall apply *mutatis mutandis*.

2. The competent customs office shall, upon lodgement of the exit summary declaration, carry out appropriate risk based controls, primarily for safety and security purposes, prior to release of the goods for exit from the Community, within a period corresponding to that between the deadline for lodgement of the declaration laid down in Article 592b for the particular type of traffic and the loading or departure of the goods.

Where goods covered by one of the exemptions laid down in Article 592a(a) to (i) from the requirement for an exit summary declaration are brought out of the customs territory of the Community, risk analysis shall be carried out upon presentation of the goods, on the basis of the documentation or other information covering the goods.

Goods may be released for exit as soon as the risk analysis has been carried out.

3. Where it is found that goods intended to be brought out of the customs territory of the Community and for which an exit summary declaration is required are not covered by such a declaration, the person who brings the goods, or who assumes responsibility for the carriage of the goods, out of the customs territory of the Community shall lodge an exit summary declaration immediately.

If the person lodges an exit summary declaration after the deadlines specified in Articles 592b and 592c, this shall not preclude application of penalties laid down in the national legislation.

4. Where, on the basis of the checks which they have carried out, the customs authorities are unable to grant release of the goods for exit, the competent customs office shall notify the person who lodged the exit summary declaration and, where different, the person responsible for the carriage of the goods out of the customs territory of the Community, that the goods are not to be released.

Such notification shall be given within a reasonable time after risk analysis has been finalised for these goods.

#### *Article 842e*

1. The deadlines referred to in Article 842d(1) shall not apply where international agreements between the

Community and third countries require the exchange of customs declaration data by deadlines different from those referred to in that Article.

2. The time limit shall not, in any event, be reduced below the period required for completion of the risk analysis before the goods leave the customs territory of the Community.'

66. The following heading is inserted before Article 843:

#### 'CHAPTER 2

##### ***Temporary export'***

67. In Article 843(1), the word 'Title' is replaced by the word 'chapter'.

68. The following Article 865a is inserted:

#### *'Article 865a*

Where the entry summary declaration has been amended and the behaviour of the person concerned does not suggest any fraudulent dealing, no customs debt shall be incurred on the basis of Article 202 of the Code as a result of the unlawful introduction of the goods which, prior to the amendment of the declaration, were not correctly declared.'

69. In Article 915, the third subparagraph is deleted.

70. Annex 1C as set out in Annex I to this Regulation is inserted.

71. Annex 1D as set out in Annex II to this Regulation is inserted.

72. Annex 30A as set out in Annex III to this Regulation is inserted.

73. Annex 45c as set out in Annex IV of this Regulation is inserted.

74. Annex 45d as set out in Annex V of this Regulation is inserted.

#### *Article 2*

During a transitional period of 24 months starting from 1 January 2008, the period for issuing the AEO certificate referred to in the first sentence of Article 14o(2) shall be extended to 300 calendar days, the period for communication of the application referred to in Article 14l(1) shall be extended to 10 working days, the period for information referred to in Article 14l(2) shall be extended to 70 calendar days, and the period for consultation referred to in Article 14m(1) shall be extended to 120 calendar days.

#### *Article 3*

1. This Regulation shall enter into force on the seventh day following that of its publication in the *Official Journal of the European Union*.

2. Point (3), except insofar as it relates to paragraphs 2 and 3 of Article 14b, and points (23), (25), (28), (41), (44), (45), (70) and (71) of Article 1 shall apply from 1 January 2008.

3. Point (3), insofar as it relates to paragraphs 2 and 3 of Article 14b, and points (4) to (16), (18), (19), (21), (22), (24), (26), (27), (29), (30), (32), (33), (36), (39), (46) to (49), (55), (59), (60), (63), (65) to (68), (72) of Article 1 shall apply from 1 July 2009.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 18 December 2006.

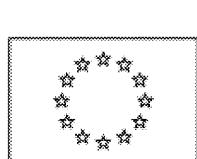
*For the Commission*

László KOVÁCS

*Member of the Commission*

## ANNEX I

## 'ANNEX 1C

**EUROPEAN COMMUNITY**

SPECIMEN

**Application for AEO certificate**

(Referred to in Article 14c(1))

NB: please refer to the explanatory note when filling out the form

<b>1. Applicant</b>		Reserved for customs purposes
<b>2. Legal status of applicant</b>		<b>3. Date of establishment</b>
<b>4. Address of establishment</b>		
<b>5. Location of main place of business</b>		
<b>6. Contact person (name, phone, fax, e-mail)</b>		<b>7. Correspondence address</b>
<b>8. VAT ID number(s)</b>	<b>9. Trader Identification Number(s)</b>	<b>10. Legal registration number</b>
<b>11. Requested type of certificate</b> <ul style="list-style-type: none"> <li><input type="checkbox"/> AEO certificate — Customs simplifications</li> <li><input type="checkbox"/> AEO certificate — Security and safety</li> <li><input type="checkbox"/> AEO certificate — Customs simplifications/Security and safety</li> </ul>		
<b>12. Economic sector of activity</b>	<b>13. Member State(s), where customs related activities are carried out</b>	

14. Border crossing information	15. Simplifications or facilitations already granted, certificates mentioned in Article 14k (4)
16. Office where customs documentation is kept:	
17. Office responsible for providing all customs documentations:	
18. Office where main accounts are kept:	
19.  Signed: ..... Dated: .....	
Name: ..... Number of annexes: .....	

*Explanatory notes:*1. **Applicant:**

Enter the full name of the applicant economic operator.

2. **Legal status:**

Enter the legal status as mentioned in the document of establishment.

3. **Date of establishment:**

Enter — with numbers — the day, month and year of establishment.

4. **Address of establishment:**

Enter the full address of the place where your entity was established, including the country.

5. **Location of main place of business:**

Enter the full address of the place of your business where the main activities are carried out.

6. **Contact person:**

Indicate the full name, phone and fax numbers, and e-mail address of the contact person designated by you within your company to be contacted by the customs authorities when examining the application.

7. **Correspondence address:**

Fill in only in case it differs from your address of establishment.

8, 9 and 10. **VAT, Trader Identification and Legal registration numbers:**

Enter the required numbers.

The Trader Identification Number(s) is(are) the identification number(s) registered by the customs authority(ies).

The Legal registration number is the registration number given by the company registration office.

If these numbers are the same, enter only the VAT ID number.

If the applicant has no Trader Identification Number because e.g. in the applicant's Member State this number does not exist, leave the box blank.

11. **Requested type of certificate:**

Make a cross in the relevant box.

12. **Economic sector of activity:**

Describe your activity.

13. **Member States, where customs related activities are carried out:**

Enter the relevant ISO alpha-2 country code(s).

14. **Border crossing information:**

Indicate the names of customs offices regularly used for border crossing.

15. **Simplifications or facilitations already granted, certificates mentioned in Article 14k(4):**

In case of simplifications already granted, indicate the type of simplification, the relevant customs procedure, and the authorisation number. The relevant customs procedure shall be entered in the form of the codes used in the second or third subdivision of Box 1 of the single administrative document.

In case of facilitations already granted, indicate the number of the certificate.

In case the applicant is the holder of one or more certificates mentioned in Article 14k(4), indicate the type and the number of the certificate(s).

16, 17 and 18. **Offices for documentations/main accounts:**

Enter the full addresses of the relevant offices. If the offices have the same address, fill in only Box 16.

19. **Name, date and signature of the applicant:**

*Signature:* the signatory should add his capacity. The signatory should always be the person who represents the applicant as a whole.

*Name:* name of the applicant and the stamp of the applicant.

*Number of annexes:* the applicant shall give the following general information:

1. Overview of the principal owners/shareholders, stating names and addresses and their proportional interests. Overview of the members of the board of directors. Are owners known by the customs authorities for previous non-compliant behaviour?
2. The person responsible in the applicant's administration for customs matters.
3. Description of the economic activities of the applicant.
4. Specification of the location details of the various sites of the applicant and brief description of the activities in each site. Specification of whether the applicant and each site acts within the supply chain in its own name and its own behalf, or acts in its own name and on behalf of another person, or acts in name of and on behalf of another person.
5. Specification of whether the goods are bought from and/or supplied to companies which are affiliated with the applicant.
6. Description of the internal structure of the organisation of the applicant. Please attach, if it exists, documentation on the functions/competencies for each department and/or function.
7. The number of the employees in total and for each division.
8. The names of the key office-holders (managing directors, divisional heads, accounting managers, head of customs division etc.). Description of the adopted routines in situations when the competent employee is not present, temporarily or permanently.
9. The names and the position within the organisation of the applicant who have specific customs expertise. Assessment of the level of knowledge of these persons in regards of the use of IT technology in customs and commercial processes and general commercial matters.
10. Agreement or disagreement with the publication of the information in the AEO certificate in the list of authorised economic operators referred to in Article 14x(4).'

## ANNEX II

## 'ANNEX 1D

## EUROPEAN COMMUNITY

SPECIMEN

**AEO certificate**

<p>..... (Certificate number)</p>	
<b>1. Holder of the AEO certificate</b>	<b>2. Issuing authority</b>

The Holder mentioned in Box 1 is an

**Authorised economic operator**

- Customs simplifications
- Security and safety
- Customs simplifications/security and safety

**3. Date from which the certificate is effective:**

*Explanatory notes:*

**Certificate number**

The certificate number shall always begin with the ISO alpha-2 country code of the issuing Member State, followed by one of the following letters:

AEOC for AEO certificate — Customs simplifications

AEOS for AEO certificate — Security and safety

AEOF for AEO certificate — Customs simplifications/security and safety

The letters as described above should be followed by the national authorisation number.

**1. Holder of the AEO certificate**

The full name of the Holder shall be mentioned, as indicated in Box 1 of the Application form in Annex 1C, as well as the VAT ID number(s) as indicated in Box 8 of the Application form, if relevant the Trader Identification Number(s) as indicated in Box 9 of the Application form, and the Legal registration number as indicated in Box 10 of the Application form.

**2. Issuing authority**

Signature, the name of the Member State's customs administration and the stamp.

The name of the Member State's customs administration can be mentioned on a regional level, if the customs administration organisational structure requires it.

**Reference to the type of the certificate**

Make a cross in the relevant box.

**3. Date from which the certificate is effective**

Indicate the day, the month and the year, in accordance with Article 14q(1).  
\_\_\_\_\_

## ANNEX III

## 'ANNEX 30A

1. **Introductory notes to the tables***Note 1. Generalities*

- 1.1. The summary declaration that must be lodged for goods entering or leaving the customs territory of the Community contains the information detailed in Tables 1 to 5 for each of the situations or modes of transport concerned.
- 1.2. Tables 1 to 6 include all data elements necessary for the procedures and declarations concerned. They provide comprehensive views of the requirements necessary for the various procedures and declarations.
- 1.3. The headings of the columns are self-explanatory and refer to these procedures and declarations. In case of temporary storage, data in the column "Entry summary declaration" of Table 1 shall be used.
- 1.4. An "X" in a given cell of the tables indicates that the data element concerned is requested for the procedure or declaration described in the title of the relevant column at the declaration item of goods level. An "Y" in a given cell of the tables indicates that the data element concerned is requested for the procedure or declaration described in the title of the relevant column at declaration header level. A "Z" in a given cell of the tables indicates that the data element concerned is requested for the procedure or declaration described in the title of the relevant column at the conveyance report level. Any combination of these symbols "X", "Y" and "Z" means that the data element concerned can be requested for the procedure or declaration described in the title of the relevant column at any of the levels concerned.
- 1.5. The use within this annex of the words entry and exit summary declarations refer respectively to the summary declarations provided for under Articles 36a(1) and 182a(1) of the Code.
- 1.6. The descriptions and notes contained in Section 4 in respect of entry and exit summary declarations and of simplified procedures apply to the data elements referred to in Tables 1 to 6.

*Note 2. Customs declaration used as an entry summary declaration*

- 2.1. Where a customs declaration, as referred to in Article 62(1) of the Code, is used as a summary declaration, in accordance with Article 36c(1) of the Code, that declaration must, in addition to the particulars required for the specific procedure under Annex 37 or Annex 37A, include the particulars set out in column "Entry summary declaration" of Tables 1 to 4.

Where a customs declaration, as referred to in Article 76(1) of the Code, is used as a summary declaration, in accordance with Article 36c(1) of the Code, that declaration must, in addition to the particulars required for the specific procedure in Table 6, include the particulars set out in column "Entry summary declaration" of Tables 1 to 4.

- 2.2. When Article 14b(3) applies and where a customs declaration, as referred to in Article 62(1) of the Code, is used as a summary declaration, in accordance with Article 36c(1) of the Code, that declaration must, in addition to the particulars required for the specific procedure under Annex 37 or Annex 37A, include the particulars set out in column "AEO Entry summary declaration" of Table 5.

When Article 14b(3) applies and where a customs declaration, as referred to in Article 76(1) of the Code, is used as a summary declaration, in accordance with Article 36c(1) of the Code, that declaration must, in addition to the particulars required for the specific procedure in Table 6, include the particulars set out in column "AEO Entry summary declaration" of Table 5.

*Note 3. Customs declaration at export*

- 3.1. Where a customs declaration, as referred to in Article 62(1) of the Code, is required, in accordance with Article 182b of the Code, that declaration must, in addition to the particulars required for the specific procedure under Annex 37 or Annex 37A, include the particulars set out in column "Exit summary declaration" of Tables 1 and 2.

Where a customs declaration, as referred to in Article 76(1) of the Code, is required, in accordance with Article 182b of the Code, that declaration must, in addition to the particulars required for the specific procedure in Table 6, include the particulars set out in column "Exit summary declaration" of Tables 1 and 2.

- 3.2. When Article 14b(3) applies and where a customs declaration, as referred to in Article 62(1) of the Code, is required, in accordance with Article 182b of the Code, that declaration must, in addition to the particulars required for the specific procedure under Annex 37 or Annex 37A, include the particulars set out in column "AEO Exit summary declaration" of Table 5.

When Article 14b (3) applies and where a customs declaration, as referred to in Article 76(1) of the Code, is required, in accordance with Article 182b of the Code, that declaration must, in addition to the particulars required for the specific procedure in Table 6, include the particulars set out in column "AEO Exit summary declaration" of Table 5.

*Note 4. Other specific circumstances in respect of exit and entry summary declarations and particular types of goods traffic. Note to Tables 2 to 4*

- 4.1. The columns "Exit summary declaration — postal and express consignments" and "Entry summary declaration — postal and express consignments" of Table 2 cover the required data which may be provided electronically to Customs authorities for risk-analysis purposes prior to departure or arrival of postal and express consignments.

- 4.2. For the purpose of this annex, a postal consignment means an individual item of a maximum weight of 50 kg, conveyed via the postal system in accordance with the rules of the Universal Postal Union Convention, when the goods are carried by or on behalf of holders of rights and obligations under such rules.

- 4.3. For the purpose of this annex, an express consignment means an individual item carried via an integrated service of expedited/time-definite collection, transport, customs clearance and delivery of parcels whilst tracking the location of, and maintaining control over such items throughout the supply of the service.

- 4.4. The column "Exit — ship and aircraft supplies" of Table 2 covers the data requirements in respect of exit summary declarations for ship and aircraft supplies.

- 4.5. Tables 3 and 4 contain the information necessary for entry summary declarations in the context of road and rail modes of transport.

- 4.6. Table 3 for road mode of transport applies also in case of multimodal transport, unless otherwise provided in Section 4.

*Note 5. Simplified procedures*

- 5.1. The declarations for simplified procedures referred to in Articles 254, 260, 266, 268, 275, 280, 282, 285, 285a, 288 and 289 contain the information detailed in Table 6.

- 5.2. The reduced format for certain data elements provided for simplified procedures does not limit or influence the requirements set out in Annexes 37 and 38, notably in respect of the information to be provided in supplementary declarations.

## 2. Requirements for entry and exit summary declarations

### 2.1. Situation for air, sea, inland waterways and other modes of transport or situations not referred to under Tables 2 to 4 — Table 1

Name	Exit summary declaration (See note 3.1)	Entry summary declaration (See note 2.1)
Number of items	Y	Y
Unique consignment reference number	X/Y	X/Y
Transport document number	X/Y	X/Y
Consignor	X/Y	X/Y
Person lodging the summary declaration	Y	Y
Consignee	X/Y	X/Y
Carrier		Z
Notify party		X/Y
Identity and nationality of active means of transport crossing the border		Z
Conveyance reference number		Z
First place of arrival code		Z
Date and time of arrival at first place of arrival in Customs territory		Z
Country(ies) of routing codes	Y	Y
Customs office of exit	Y	
Location of goods	Y	
Place of loading		X/Y
Place of unloading code		X/Y
Goods description	X	X
Type of packages (code)	X	X
Number of packages	X	X
Shipping marks	X/Y	X/Y
Equipment identification number, if containerised	X/Y	X/Y
Goods item number	X	X
Commodity code	X	X
Gross mass (kg)	X/Y	X/Y
UN Dangerous Goods code	X	X
Seal number	X/Y	X/Y
Transport charges method of payment code	X/Y	X/Y
Declaration date	Y	Y
Signature/Authentication	Y	Y
Other specific circumstance indicator	Y	Y

## 2.2. Postal and express consignments, ship and aircraft supplies — Table 2

Name	Exit summary declaration — postal and express consignments (See notes 3.1 and 4.1 to 4.3)	Exit summary declaration — ship and aircraft supplies (See notes 3.1 and 4.4)	Entry summary declaration — postal and express consignments (See notes 2.1 and 4.1 to 4.3)
Unique consignment reference number		X/Y	
Transport document number		X/Y	
Consignor	X/Y	X/Y	X/Y
Person lodging the summary declaration	Y	Y	Y
Consignee	X/Y	X/Y	X/Y
Carrier			Z
Country(ies) of routing codes	Y		Y
Customs office of exit	Y	Y	
Location of goods	Y	Y	
Place of loading			Y
Place of unloading code			X/Y
Goods description	X	X	X
Equipment identification number, if containerised		X/Y	
Goods item number	X	X	X
Commodity code	X	X	X
Gross mass (kg)	X/Y	X/Y	X/Y
UN Dangerous Goods Code	X		X
Transport charges method of payment code	X/Y	X/Y	X/Y
Declaration date	Y	Y	Y
Signature/Authentication	Y	Y	Y
Other specific circumstance indicator	Y	Y	Y

2.3. *Road mode of transport — Entry summary declaration information — Table 3*

Name	Road — Entry summary declaration (See note 2.1)
Number of items	Y
Unique consignment reference number	X/Y
Transport document number	X/Y
Consignor	X/Y
Person lodging the summary declaration	Y
Consignee	X/Y
Carrier	Z
Identity and nationality of active means of transport crossing the border	Z
First place of arrival code	Z
Date and time of arrival at first place of arrival in Customs territory	Z
Countries of routing codes	Y
Place of loading	X/Y
Place of unloading code	X/Y
Goods description	X
Type of packages code	X
Number of packages	X
Equipment identification number if containerised	X/Y
Goods item number	X
Commodity code	X
Gross mass (kg)	X/Y
Transport charges method of payment code	X/Y
UN Dangerous Goods Code	X
Seal number	X/Y
Declaration date	Y
Signature/Authentication	Y
Other specific circumstance indicator	Y

## 2.4. Rail mode of transport — Entry summary declaration information — Table 4

Name	Rail — Entry summary declaration (See note 2.1)
Number of items	Y
Unique consignment reference number	X/Y
Transport document number	X/Y
Consignor	X/Y
Person lodging the entry <u>summary</u> declaration	Y
Consignee	X/Y
Carrier	Z
Identity and nationality of active means of transport crossing the border	Z
Conveyance reference number	Z
First place of arrival code	Z
Date and time of arrival at first place of arrival in Customs territory	Z
Countries of routing codes	Y
Place of loading	X/Y
Place of unloading code	X/Y
Goods description	X
Type of packages code	X
Number of packages	X
Equipment identification number, if containerised	X/Y
Goods item number	X
Commodity code	X
Gross mass (kg)	X/Y
Transport charges method of payment code	X/Y
UN Dangerous Goods Code	X
Seal number	X/Y
Declaration date	Y
Signature/Authentication	Y
Other specific circumstance indicator	Y

## 2.5. Authorised economic operators — reduced data requirements for exit and entry summary declarations — Table 5

Name	Exit summary declaration (See note 3.2)	Entry summary declaration (See note 2.2)
Unique consignment reference number	X/Y	X/Y
Transport document number	X/Y	X/Y
Consignor	X/Y	X/Y
Person lodging the summary declaration	Y	Y
Consignee	X/Y	X/Y
Carrier		Z
Notify party		X/Y
Identity and nationality of active means of transport crossing the border		Z
Conveyance reference number		Z
First place of arrival code		Z
Date and time of arrival at first place of arrival in Customs territory		Z
Country(ies) of routing codes	Y	Y
Customs office of exit	Y	
Place of loading		X/Y
Goods description	X	X
Number of packages	X	X
Equipment identification number, if containerised	X/Y	X/Y
Commodity code	X	X
Declaration date	Y	Y
Signature/Authentication	Y	Y
Other specific circumstance indicator	Y	Y

## 3. Requirements for simplified procedures — Table 6

Name	Local clearance export (See note 3.1)	Simplified declaration export (See note 3.1)	Incomplete declaration export (See note 3.1)	Local clearance import (See note 2.1)	Simplified declaration import (See note 2.1)	Incomplete declaration import (See note 2.1)
Declaration		Y	Y		Y	Y
Number of items		Y	Y		Y	Y
Unique consignment reference number	X	X	X	X	X	X
Transport document number	X/Y	X/Y	X/Y	X/Y	X/Y	X/Y
Consignor/exporter	X/Y	X/Y	X/Y			
Consignee				X/Y	X/Y	X/Y
Declarant/representative	Y	Y	Y	Y	Y	Y
Declarant/representative status code	Y	Y	Y	Y	Y	Y
Currency code				X	X	X
Customs office of exit	Y	Y	Y			
Customs office for supplementary declaration			Y			
Goods description	X	X	X	X	X	X
Type of packages (code)	X	X	X	X	X	X
Number of packages	X	X	X	X	X	X
Shipping marks	X/Y	X/Y	X/Y	X/Y	X/Y	X/Y
Equipment identification number, if containerised				X/Y	X/Y	X/Y
Goods item number		X	X		X	X
Commodity code	X	X	X	X	X	X
Gross mass (kg)				X	X	X
Procedure	X	X	X	X	X	X
Net mass (kg)	X	X	X	X	X	X
Item amount				X	X	X
Reference number for simplified procedures	X			X		
Number of the authorisation	X	X		X	X	
Additional information				X	X	X
Declaration date	Y	Y	Y	Y	Y	Y
Signature/Authentication	Y	Y	Y	Y	Y	Y

**4. Data elements explanatory notes.***Declaration*

Enter the codes provided for in Annex 38 for SAD Box 1, 1st and 2nd subdivisions.

*Number of items<sup>(1)</sup>*

Total number of items declared in the declaration or in the summary declaration.

[Ref.: SAD Box 5]

*Unique consignment reference number*

Unique number assigned to goods, for entry, import, exit and export. WCO (ISO15459) codes or equivalent shall be used.

Summary declarations: it is an alternative to the transport document number when the latter is not available.

Simplified procedures: the information can be provided where available.

This element provides a link to other useful sources of information.

[Ref.: SAD Box 7]

*Transport document number*

Reference of the transport document that covers the transport of goods into or out of the customs territory.

This includes the code for the type of transport document as provided for in Annex 38, followed by the identification number of the document concerned.

This element is an alternative to the unique consignment reference number [UCR] when the latter is not available. It provides a link to other useful sources of information.)

Exit ship and aircraft supplies summary declarations: invoice or loading list number.

Entry road mode of transport summary declarations: this information shall be provided to the extent available and may include both references to TIR carnet and to CMR.

[Ref.: SAD Box 44]

*Consignor<sup>(2)</sup>*

Party consigning goods as stipulated in the transport contract by the party ordering transport.

Exit summary declarations: this element must be provided when different from the person lodging the summary declaration.

*Consignor/exporter<sup>(2)</sup>*

Party who makes or on whose behalf the export declaration is made and who is the owner of the goods or has similar right of disposal over them at the time when the declaration is accepted.

[Ref.: SAD Box 2]

<sup>(1)</sup> Automatically generated by computer systems.

<sup>(2)</sup> Coded version, where available.

*Person lodging the summary declaration (¹)*

Entry summary declarations: one of the persons mentioned in Article 36b(3) and (4) of the Code.

Exit summary declarations: party defined in Article 182d(3) of the Code. This information shall not be provided where, in accordance with Article 182a(1) of the Code, the goods are covered by a customs declaration.

Note: This information is necessary to identify the person responsible for presenting the declaration.

*Consignee (¹)*

Party to whom goods are actually consigned.

Entry summary declarations: this element must be provided when different from the person lodging the summary declaration. Where the goods are carried under a negotiable bill of lading that is "to order blank endorsed", the consignee is unknown and his particulars shall be replaced by the following code 10600.

Legal basis	Subject	Box	Code
Annex 30A	Situations where negotiable bills of lading that are "to order blank endorsed" are concerned, in the case of entry summary declarations, where the consignee particulars are unknown.	44	10600

Exit summary declarations: In cases referred to in Article 789, this information shall be provided where available.

[Ref.: SAD Box 8]

*Declarant/representative (¹)*

To be required if different from the consignor/exporter at export/the consignee at import.

[Ref.: SAD Box 14]

*Declarant/representative status code*

Code representing the declarant or the status of the representative. The codes to be used are those provided for in Annex 38 for Box 14 of the SAD.

*Carrier (¹)*

Party that transports the goods at entry into the customs territory. This information shall be provided where it is different from the person lodging the summary declaration. This information does not need to be provided where it can be deduced automatically and unambiguously from other data elements provided by the trader.

*Notify party (¹)*

Party to be notified at entry of the arrival of the goods. This information needs to be provided where applicable. Where the goods are carried under a negotiable bill of lading that is "to order blank endorsed", in which case the consignee is not mentioned and code 10600 is entered, the notify party shall always be provided.

*Identity and nationality of active means of transport crossing the border*

Identity and nationality of active means of transport crossing the border of the EU Customs territory. The definitions provided for in Annex 37 for SAD Box 18 shall be used for identity. The codes provided for in Annex 38 for SAD Box 21 shall be used for nationality.

Rail mode of transport: the wagon number shall be provided.

(¹) Coded version, where available.

*Conveyance reference number<sup>(1)</sup>*

Identification of the journey of the means of transport, for example voyage number, flight number, trip number, if applicable.

Rail mode of transport: the train number shall be provided. This data element shall be provided in case of multimodal transport, where applicable.

*First place of arrival code*

Identification of the first arrival location in the Customs territory. This would be a port for sea, airport for air and border post for land crossing.

The code shall adhere to the following pattern: UN/LOCODE (an.5) + national code (an..6).

Road and rail modes of transport: the code shall follow the pattern provided for customs offices in Annex 38.

*Date and time of arrival at first place of arrival in Customs territory*

Date and time/scheduled date and time of arrival of means of transport at (for air) first airport, (land) arrival at first border post and (sea) arrival at first port, code. n12 (CCYYMMDDHHMM) shall be used. Local time of first place of arrival shall be provided.

*Country(ies) of routing codes*

Identification in a chronological order of the countries through which goods are routed between the country of original departure and final destination. This comprises the countries of original departure and of final destination of the goods. Codes provided for in Annex 38 for SAD Box 2 shall be used. This information is to be provided to the extent known.

Exit postal and express consignments summary declarations: only the country of final destination of the goods shall be provided.

Entry postal and express consignments summary declarations: only the country of original departure of the goods shall be provided.

*Currency code*

Code provided for in Annex 38 for SAD Box 22 for the currency in which the commercial invoice was drawn up.

This information is used in conjunction with "Item amount" where it is necessary for the calculation of import duties.

Member States may waive this requirement for simplified declarations and local clearance procedures at import where the conditions prescribed in the authorisations associated with these procedures allow them to defer the collection of this data element in the supplementary declaration. [Ref.: SAD Boxes 22 and 44]

*Customs office of exit*

Code provided for in Annex 38 for SAD Box 29 for the customs office of exit, in accordance with Article 793(2).

Exit postal and express consignments summary declarations: this element does not need to be provided where it can be deduced automatically and unambiguously from other data elements provided by the trader.

*Customs office for supplementary declaration*

Export incomplete declarations: this element may only be used in cases referred to under Article 281(3).

*Location of goods<sup>(1)</sup>*

Precise location where the goods may be examined.

[Ref.: SAD Box 30]

<sup>(1)</sup> Information to be produced where appropriate.

*Place of loading<sup>(1)</sup>*

Name of a seaport, airport, freight terminal, rail station or other place at which goods are loaded onto the means of transport being used for their carriage, including the country where it is located.

Entry postal and express consignments summary declarations: this element does not need to be provided where it can be deduced automatically and unambiguously from other data elements provided by the trader.

Road and rail modes of transport: this can be the place where goods were taken over according to the transport contract or the TIR customs office of departure.

*Place of unloading<sup>(1)</sup>*

Name of the seaport, airport, freight terminal, rail station or other place at which the goods are unloaded from the means of transport having been used for their carriage, including the country where it is located.

Road and rail modes of transport: where the code is not available, the name of the place shall be provided, with the maximum level of precision available.

*Note:* This element provides useful information for procedure management.

*Goods description*

Summary declarations: it is a plain language description that is precise enough for Customs services to be able to identify the goods. General terms (i.e. "consolidated", "general cargo" or "parts") cannot be accepted. A list of such general terms will be published by the Commission. It is not necessary to provide this information where the Commodity code is provided.

Simplified procedures: it is a description for tariff purposes.

[Ref.: SAD Box 31]

*Type of packages (code)*

Code specifying the type of package as provided for in Annex 38 for SAD Box 31 (UN/ECE Recommendation 21 Annex VI)

*Number of packages*

Number of individual items packaged in such a way that they cannot be divided without first undoing the packing, or number of pieces, if unpackaged. This information shall not be provided where goods are in bulk.

[Ref.: SAD Box 31]

*Shipping marks*

Free form description of the marks and numbers on transport units or packages.

This information shall only be provided for packaged goods where applicable. Where goods are containerised, the container number can replace the shipping marks, which can however be provided by the trader where available. A UCR or the references in the transport document that allows for the unambiguous identification of all packages in the consignment may replace the shipping marks.

*Note:* This element helps to identify consignments.

[Ref.: SAD Box 31]

*Equipment identification number, if containerised*

Marks (letters and/or numbers) which identify the container.

[Ref.: SAD Box 31]

<sup>(1)</sup> Coded version, where available.

*Goods item number* (1)

Number of the item in relation to the total number of items contained in the declaration or the summary declaration.

To be used only where there is more than one item of goods.

*Note:* This element, which is automatically generated by computer systems, helps to identify the item of goods concerned within the declaration.

[Ref.: SAD Box 32]

*Commodity code*

Code number corresponding to the item in question;

Entry summary declarations: first four digits of the CN code; It is not necessary to provide this information where the goods description is provided.

Import simplified procedures: 10-digit TARIC code. Traders may supplement this information, where appropriate, with additional TARIC codes. Member States may waive this requirement for simplified declarations and local clearance procedures at import where the conditions prescribed in the authorisations associated with these procedures allow them to defer the collection of this data element in the supplementary declaration.

Exit summary declarations: first four digits of the CN code. It is not necessary to provide this information where the goods description is provided.

Exit ship and aircraft supplies summary declarations: a specific simplified goods nomenclature will be published by the Commission.

Export simplified procedures: 8-digit CN code. Traders may complement this information, where appropriate, with additional TARIC codes. Member States may waive this requirement for simplified declarations and local clearance procedures at export where the conditions prescribed in the authorisations associated with these procedures allow them to defer the collection of this data element in the supplementary declaration.

[Ref.: SAD Box 33]

*Gross mass (kg)*

Weight (mass) of goods including packaging but excluding the carrier's equipment for the declaration.

Where possible, the trader can provide that weight at declaration item level.

Import simplified procedures: this information shall be provided only where it is necessary for the calculation of import duties.

Member States may waive this requirement for simplified declarations and local clearance procedure at import where the conditions prescribed in the authorisations associated with these procedures allow them to defer the collection of this data element in the supplementary declaration.

[Ref.: SAD Box 35]

*Procedure*

Procedure code as provided for in Annex 38 for SAD Box 37, 1st and 2nd subdivisions.

Member States may waive the obligation to provide the codes as defined in Annex 38 for Box 37, 2nd subdivision of the SAD for simplified declarations and local clearance procedures at import and export where the conditions prescribed in the authorisations associated with these procedures allow them to defer the collection of this data element in the supplementary declaration.

(1) Automatically generated by computer systems.

**Net mass (kg)**

Weight (mass) of the goods themselves without any packing.

Member States may waive this requirement for simplified declarations and local clearance procedures at import and export where the conditions prescribed in the authorisations associated with these procedures allow them to defer the collection of this data element in the supplementary declaration.

[Ref.: SAD Box 38]

**Item amount**

Price of the goods for the declaration item concerned. This information is used in conjunction with "Currency code" where it is necessary for the calculation of import duties.

Member States may waive this requirement for simplified declarations and local clearance procedures at import where the conditions prescribed in the authorisations associated with these procedures allow them to defer the collection of this data element in the supplementary declaration.

[Ref.: SAD Box 42]

**Reference number for simplified procedures**

It is the reference number of entry into the records for the procedures described in Articles 266 and 285a. Member States may waive this requirement where other satisfactory consignments tracing systems are in place.

**Additional information**

Enter code 10100 where Article 2 paragraph 1 of Regulation (EC) No 1147/2002<sup>(1)</sup> applies (goods imported with airworthiness certificates).

[Ref.: SAD Box 44]

**Number of the authorisation**

Number of the authorisation for simplified procedures. Member States may waive this requirement where they are satisfied that their computer systems are able to derive this information without ambiguity from other elements of the declaration, such as the trader identification.

**UN Dangerous Goods code**

The United Nations Dangerous Goods Identifier (UNDG) is the unique serial number (n4) assigned within the United Nations to substances and articles contained in a list of the dangerous goods most commonly carried.

This element shall only be provided where it is relevant.

**Seal number<sup>(2)</sup>**

The identification numbers of the seals affixed to the transport equipment, where applicable.

**Transport charges method of payment code**

The following codes shall be used:

- A Payment in cash
- B Payment by credit card
- C Payment by cheque
- D Other (e.g. direct debit to cash account)
- H Electronic credit transfer
- Y Account holder with carrier
- Z Not pre-paid

This information is to be provided only where available.

<sup>(1)</sup> OJ L 170, 29.6.2002 p. 8.

<sup>(2)</sup> Information to be produced where appropriate.

*Declaration date<sup>(1)</sup>*

Date at which the respective declarations were issued and when appropriate, signed or otherwise authenticated.

For local clearance procedures pursuant to Articles 266 and 285a, this is the date of entry into the records.

[Ref.: SAD Box 54]

*Signature/Authentication<sup>(1)</sup>*

[Ref.: SAD Box 54]

*Other specific circumstance indicator*

Coded element that indicates the special circumstance the benefit of which is claimed by the trader concerned.

- A Postal and express consignments
- B Ship and aircraft supplies
- C Road mode of transport
- D Rail mode of transport
- E Authorised economic operators

This element needs to be provided only where the benefit of a special circumstance other than those referred to under Table 1 is requested by the person lodging the summary declaration.

This element does not need to be provided where it can be deduced automatically and unambiguously from other data elements provided by the trader.

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<sup>(1)</sup> Automatically generated by computer systems.'

ANNEX IV

'ANNEX 45c

**EXPORT ACCOMPANYING DOCUMENT**

*Chapter I*

Specimen of the export accompanying document

<b>EUROPEAN COMMUNITY</b>		1 DECLARATION MRN	
<b>EXPORT ACCOMPANYING DOCUMENT</b>	2 Consignor/Exporter <input type="checkbox"/>	No	
	5 Items	6 Total packages	Issuing date: Customs office:
	8 Consignee	No	
	18 Identity of means of transport at departure		15 C. disp./exp. Code a
	29 Office of exit		17 Country destin. Code a
31 Packages and description of goods	Marks and numbers — Container No(s) — Number and kind		32 Item No
			33 Commodity Code
			35 Gross mass (kg)
44 Additional information/ Documents produced/ Certificates and authorizations			38 Net mass (kg)
			40 Summary declaration/Previous document
			46 Statistical value
<b>E CONTROL BY OFFICE OF DISPATCH/EXPORT</b>		<b>K CONTROL BY OFFICE OF EXIT</b>	
Result:		Date of arrival:	
Seals affixed: Number:		Examination of seals:	
Identity:		Remarks:	
Time limit (date):			



*Chapter II***Explanatory notes and particulars (data) for the export accompanying document**

The export accompanying document shall be printed based on data derived from the export declaration, where the case occurs amended by the declarant/representative and/or verified by the office of export, and completed with:

**1. MRN (*movement reference number*)**

The information is given alphanumerically with 18 digits on the following specimen:

	Content	Field type	Examples
1	Last two digits of year of formal acceptance of the export declaration (YY)	Numeric 2	06
2	Identifier of the country of export (alpha 2 code as provided for Box 2 of the single administrative document in Annex 38)	Alphabetic 2	PL
3	Unique identifier for export operation per year and country	Alphanumeric 13	9876AB8890123
4	Check digit	Alphanumeric 1	5

Fields 1 and 2 as explained above.

Field 3 has to be filled in with an identifier for the export control system transaction. The way that field is used is under the responsibility of national administrations but each export transaction handled during one year within the given country must have a unique number. National administrations that want to have the office reference number of the competent authorities included in the MRN, could use up to the first 6 characters to insert the national number of the office.

Field 4 has to be filled with a value that is a check digit for the whole MRN. This field allows for detection of an error when capturing the whole MRN.

The "MRN" shall also be printed in bar code mode using the standard "code 128", character set "B".

**2. Customs office**

Reference number of the office of export.

The export accompanying document shall not be modified nor shall any addition or deletion be made thereto unless otherwise specified in this regulation.'

ANNEX V

*'ANNEX 45d*

**EXPORT LIST OF ITEMS**

*Chapter I*

Specimen of the export list of items





*Chapter II***Explanatory notes and the particulars (data) for the list of items**

When an export consists of more than one item, then the list of items shall always be printed by the computer system and shall be attached to the export accompanying document.

The boxes of the list of items are vertically expandable.

Particulars have to be printed as follows:

1. MRN — movement reference number as defined in Annex 45c.
2. The particulars of the different boxes at item level have to be printed as follows:
  - (a) Item No — serial number of the current item;
  - (b) The remaining boxes are completed in accordance with the requirements in the explanatory notes in Annex 37, if appropriate in coded form.'

**EUROPEAN UNION**

**Aviation rules**

## EUROPEAN UNION

### Policy papers/proposals

#### **Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions: *Proposal for a Regulation of the European Parliament and of the Council on Enhancing Supply Chain Security*<sup>7</sup>**

The proposal begins with an elaboration of the need for transport security. It notes that terrorism is one of the greatest threats to democracy and freedom, and that the risk of a terrorist attack targeting freight transport remains high. As such, transport security has become a vital worldwide issue. It specifically concerns the European Union whose role as trading partner relies on effective and secure transport by all modes and at all levels.

Recently, considerable improvements have been made to transport security in Europe. In 2003 the Commission already pointed to the need for enhanced security in land freight transport. There are currently no rules in place for the European land transport supply chain in its entirety. The supply chain is defined as comprising all the transport and transport related operations and processes beginning at the production site and ending at the cargo's point of destination.

To combat terrorism, the EU Heads of State called for “the strengthening of all forms of transport systems, including the enhancement of the legal framework and the improvement of preventive mechanisms.” To do nothing is not an option. The Commission therefore proposes Community action to enhance the security in the land transport supply chain to complement existing Community transport security rules. This proposal does not cover passenger transport security, in particular in mass transport systems, which could be addressed at a later stage if necessary.

The Communication sets out the essential facts about freight transport security that any initiative in this area must take into account. It discusses the advantages and disadvantages of certain options and the reasons why the legislative measure proposed is the most realistic and focused approach to enhance security for European freight transport. The goal of the proposal is to enhance supply chain security to provide greater protection for all European freight transport against possible terrorist attacks with the following objectives:

- To increase the level of security along the supply chain without impeding the free flow of trade
- To establish a common framework for a systematic European approach without jeopardizing the common transport market and existing security measures

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<sup>7</sup> Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions: *Proposal for a Regulation of the European Parliament and of the Council on Enhancing Supply Chain Security*, [http://eur-lex.europa.eu/LexUriServ/site/en/com/2006/com2006\\_0079en01.pdf](http://eur-lex.europa.eu/LexUriServ/site/en/com/2006/com2006_0079en01.pdf)

- To avoid unnecessary administrative procedures and burdens at European and national levels

The measure proposed by the Commission establishes a mandatory system requiring Member States to create a security (“secure operator”) quality label which can be awarded to operators in the supply chain that meet European minimum security levels, thus allowing mutual recognition of the label on the internal market. It introduces, within the mandatory provisions for the Member States, a voluntary scheme under which operators in the supply chain increase their security performance in exchange for incentives. The proposal makes operators in the supply chain responsible for their security performance in European freight transport and provides for “secure operators”, who benefit from facilitations where security controls are carried out. “Secure Operators” also distinguish themselves positively from other competitors in the area of security, giving them a commercial and competitive advantage. The proposal further allows for regular updating and upgrading of security requirements, including recognized international requirements and standards, through the committee procedure.

The report addresses several key questions. Prominent among these is the question of what security level is needed. The discussion concludes that the security awareness of all actors involved in the intra-EU supply chain should be increased and that, depending on the goods transported, the position of the operator within the chain and the vulnerability of the infrastructure, the level of security needed can be defined. However, it is impossible in practice to establish, in a single all-embracing operation, security rules and measures for the land transport supply chain comparable to those in air and maritime transport. Instead, it is more realistic to establish a framework of minimum-security requirements that can gradually evolve in line with technological progress and risk developments to ensure satisfactory security levels in an operational environment.

The rest of the proposal discusses the finer details of the proposed program. This includes addressing issues of the competent authority for supply chain security; the awarding of “Secure Operator” status and the benefits of that status; the withdrawal or suspension of the status; the focal point for supply chain security; the implementation and conformity checking; the confidentiality and dissemination of information; personnel security; documentation procedures; information security; education and training awareness; risk assessment; and the conditions to be met by a recognized organization for supply chain security.

**Commission of the European Communities, Brussels, 1.8.2006, Report from the Commission to the Council and the European Parliament on Transport Security and its Financing<sup>8</sup>**

The Commission reports its findings on transport security funding:

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<sup>8</sup> Commission of the European Communities, Brussels, 1.8.2006, Report from the Commission to the Council and the European Parliament on Transport Security and Its Financing, [http://eur-lex.europa.eu/LexUriServ/site/en/com/2006/com2006\\_0431en01.pdf](http://eur-lex.europa.eu/LexUriServ/site/en/com/2006/com2006_0431en01.pdf)

- According to studies on aviation and maritime security, security costs can be significant and are currently largely borne by the users
- Increased transparency relating to security taxes and charges would give users of transport services better information and provide insight into possible effects on competition. The current lack of transparency increases the difficulty to identify potential distortions
- The multitude of approaches to the implementation funding of security measures can lead to distortion of competition. This is particularly relevant in cases where Member States require additional, more stringent measures than those imposed by Community legislation
- The Commission's general views set out in its *Communication to the European Parliament and to the Council on “The repercussions of the terrorist attacks in the United States on the air transport industry”* remain valid. In particular, the Commission considers that, because the protection of European citizens against terrorist attacks is essentially a State responsibility, public funding does not constitute state aid as it is associated with the exercise of power typical of a public authority

**Communication of the Commission of 18 July 2005 on Measures to Ensure Greater Security of Explosives, Detonators, Bomb-Making Equipment and Firearms<sup>9</sup>** discusses the European Union's disposition concerning the security of explosives along the transport chain.

The summary clarifies that this Communication provides for the adoption of storage, transportation and traceability measures for explosives at all stages of the supply chain. The ultimate goal remains the fight against terrorism and, in particular, preventing explosives from falling into the hands of terrorists.

The Commission calls for greater coordination between the parties concerned: manufacturers of, and traders in, explosives, experts from Europol and SitCen, national experts from the Member States, the Commission and the Council Terrorism Working Party. It is also considering establishing an expert group to prepare an EU Plan to enhance the security of explosives and firearms.

The Communication concerns commercial explosives, homemade explosives and demilitarized explosives, which present a major risk since they are normally not marked. The measures proposed by the Commission concern several stages of the supply chain from production to commercialization:

- It must be made easier to trace explosives and to check that their movement has been approved by the national authorities
- A policy should be developed for national supply chain security to complement existing legislation in various areas of transport security (air, maritime and port security) and increase security for land transport
- Awareness must be raised within the industry of security in the national supply chain

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<sup>9</sup> Communication of the Commission of 18 July 2005 on Measures to Ensure Greater Security of Explosives, Detonators, Bomb-Making Equipment and Firearms, <http://europa.eu/scadplus/leg/en/lvb/l33221.htm>

- Checks should be made in coordination with the aviation security committee on the implementation of technical specifications and performance criteria of different families of detection equipment used at airports in the Member States

**Commission Staff Working Document - Annex to the Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions on *Enhancing Supply Chain Security and Proposal for a Regulation of the European Parliament and of the Council on Enhancing Supply Chain Security - Impact Assessment*<sup>10</sup>**

The document concludes that freight transport in the EU is at risk, and that intermodal security can best be achieved through a supply chain perspective. Two evaluations of particular note are included in the annexes:

- Annex 1 assesses which transportation elements, that make up the transport systems and supply chains, are the most vulnerable to terrorism. The document observes that cargo and mobile units are particularly vulnerable to misuse by terrorists, as weapons or for transportation of malicious cargo, because of the large number and variety of operators active in the supply chain
- Annex 2 contains numerous measures for mitigating transport security risks, including ways to secure infrastructure and the supply chain. It proposes actions to be taken by all who are associated with transport, suggesting operators first make a risk assessment of their operations, then address security, for instance by denying unauthorized access to their organization and to critical working areas. Measures implementing training and awareness programmes are also proposed

Other suggestions, when deemed appropriate, include: denying unauthorized access to means of transportation; to cargo; confined spaces and steering houses in means of transport; to traffic control systems; information about cargo/routes; inspecting confined spaces in means of transportation; separating dangerous goods from other cargo; and rerouting dangerous cargo.

***Ensuring Better Protection against Terrorism for Freight Transport***<sup>11</sup> includes in its report that the European Commission has proposed new rules aimed at improving protection against terrorist attacks within the inland freight transport sector. Under these rules, operators providing more stringent security will enjoy favorable inspection conditions and improved relations with trading partners.

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<sup>10</sup> Commission Staff Working Document - Annex to the Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions on Enhancing Supply Chain Security and Proposal for a Regulation of the European Parliament and of the Council on Enhancing Supply Chain Security - Impact Assessment, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52006SC0251:EN:NOT>

<sup>11</sup> Ensuring Better Protection against Terrorism for Freight Transport, <http://europa.eu/scadplus/leg/en/lvb/l24462.htm>

The Commission is further proposing a regulation to improve supply chain security without creating a barrier to trade. It wishes to enhance security across the whole supply chain by means of a common framework. This would also avoid unnecessary administrative procedures at European and national levels. The Commission recommends:

- A mandatory system requiring Member States to create a security ("secure operator") quality label to be awarded to operators meeting European minimum security levels, thus allowing mutual recognition of the label across the internal market
- A voluntary scheme under which operators in the supply chain increase their security performance in exchange for incentives
- Making operators in the supply chain responsible for their security performance
- Allowing "secure operators" to benefit from favourable security inspection conditions, giving them a commercial and competitive advantage
- Allowing regular updating and upgrading of security requirements, through the committee procedure, whereby the Commission is assisted by a committee of representatives from Member States

"Secure operator" status is given special consideration. The document stresses that before being granted this status, operators must meet a number of security management requirements relating to the preparation, transportation, forwarding and shipment of merchandise.

Member States must designate a competent authority for granting such a status, which attests to an operator's ability to keep the supply chain for which it is responsible free of security breaches. "Secure operator" status is granted to those operators who can prove that:

- They have established, implemented, and documented a security management system
- They ensure that measures needed to counter possible risks are made available to that part of the supply chain for which they bear responsibility
- Their security management system allows continuous improvements
- They meet specific requirements

"Secure" status can be withdrawn if operators are in serious or repeated breach of security requirements.

According to the Commission, the proposal has the added benefit of increasing security awareness amongst operators, by encouraging them to take a more hands-on approach to security management. The proposed measures would also facilitate interconnection between the different modes of transport: the security standards applied to inland transport would complement the strict Community rules already in place in airports and seaports.

## IAEA

### ***Radioactive Material: Transport Security, Ms. Ann-Margret Eriksson Eklund, IAEA Office of Nuclear Security<sup>12</sup>***

The IAEA has provided a tiered list of security provisions for the transport and safety of nuclear material. They are divided and presented as follows:

#### **General security provisions:**

- The competent Authority, should provide, at its discretion, threat information to operators
- Operators should consider Security Requirements commensurate with their responsibilities
- Transfers limited to appropriately identified carriers/consignees
- Use of appropriate security measures at in-transit storage sites
- Procedures to initiate inquiry for overdue shipments and, if lost or stolen, to initiate efforts to locate and recover
- Security locks
- Security awareness
- Security awareness training of personnel
- Personnel identity verification: Carrier personnel should carry positive identification
- Security verification of conveyances
- Security inspections of conveyances
- Written instructions with required security measures
- Security related information exchange by operators
- Trustworthiness verification

#### **Enhanced Security Measures:**

- Apply to packages exceeding thresholds
- The Competent Authority should identify carriers and consignors
- All operators should develop, implement and periodically review a security plan:
  - Allocation of responsibilities
  - Records of packages/materials transported
  - Review of operations and assessment of vulnerability
  - Identification of measures used to reduce security risks
  - Procedures for reporting and dealing with threats, breaches, and incidents
  - Evaluating, testing and review/update of security plan
  - Measures to ensure information security
  - Measures to limit distribution of sensitive information
  - Measures to monitor the shipment

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<sup>12</sup> Radioactive Material: Transport Security, Ann-Margret Eriksson Eklund, IAEA Office of Nuclear Security, [http://www.unece.org/trans/doc/2007/its/1st\\_ppt07e.pdf](http://www.unece.org/trans/doc/2007/its/1st_ppt07e.pdf)

- The State should assign responsibility for security plans
- The security plan may be incorporated into other plans
- Operators should ensure appropriate response plans
- Advance notification
  - Consignor should notify consignee of planned shipment, mode, and expected delivery time
  - Consignee should confirm receipt/non-receipt
  - Consignor should notify receiving/transit States (if required)
- Tracking devices
  - When appropriate, transport telemetry or other tracking methods or devices should be used, ranging from bar code to more sophisticated near real-time tracking systems
- Carrier should provide ability to communicate from conveyance
- Additional provisions for road, rail, and inland waterway
  - Carriers should ensure operational readiness of devices, equipment, etc.
  - Continuous attendance or secure parking of road conveyance

### **Additional Security Measures**

- States should consider enhancing measures based on a DBT, prevailing threat or nature of the material, inter alia:
  - Additional training
  - Carrier licensing, approval of their security plans, and auditing
  - Use of automated real-time tracking
  - Use of guards
  - Evaluation of potential for sabotage
  - Transfer of security responsibilities during shipment
  - Review of security plans, holding exercises, etc

### **Minimizing the Impact of Radioactive Transport Security Compliance**

- Consistency with other dangerous goods security requirements
- Consistent application
  - National regulations and interpretations that set up unique requirements have caused some carriers to opt out of carrying radioactive material
  - “Context sensitive” (i.e., flexible) application of requirements, for example to air transport
- As requirements are put into place, Competent Authorities and carriers should share experience
  - Consistent interpretation of requirements
  - Application experience and ideas for improvement

## Inter-Parliamentary Union

The Inter-Parliamentary Union produced a resolution entitled ***The Role of Parliaments in Strengthening Multilateral Regimes for Non-Proliferation of Weapons and for Disarmament, in the Light of New Security Challenges.***<sup>13</sup> In this resolution, the Union:

- Calls on all parliaments to provide strong and effective support to all resolutions and recommendations on peace, disarmament and security previously adopted at IPU Conferences and Assemblies
- Urges national parliaments to press their governments to sign, accede to and ratify, as appropriate, all conventions, treaties and other international instruments aimed at ensuring non-proliferation, arms control, disarmament and greater international security, and to implement them fully
- Calls on governments, national parliaments and the international community to address the root causes which create an environment that might lead people to resort to violence at the individual, national and international levels
- Calls for the convocation, under the auspices of the United Nations, of an international conference on combating terrorism, with a view inter alia to establishing a clear-cut definition of this serious problem
- Invites all countries to build on the existing achievements in disarmament, arms control and non-proliferation, so as to ensure that they are sustained processes in the future
- Calls on the United Nations to work more closely with the IPU in reducing tensions, resolving conflicts and fighting terrorism
- Urges parliaments also to focus on particular areas of international tension
- Further urges the bold identification of the most dangerous threats to international order and stability, such as the Arab-Israeli conflict and the conflicts in Iraq and Afghanistan, the situation in the Darfur region and the Great Lakes region of Africa, and other trouble spots that could pose a serious threat and that require urgent political action to prevent conflict
- Encourages parliaments to adopt appropriate national legislation to control the export of armaments of all types, more particularly focusing on items relating to weapons of mass destruction, such as components and precursors
- Calls on European parliaments and Governments to ratify without delay the Adaptation Agreement relating to the CFE Treaty, taking into account its paramount importance for maintaining a high level of security and stability in Europe
- Calls also for accession by States to the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime, with a view to enabling its entry into force
- Further calls on all countries to intensify efforts for the implementation of Security Council resolution 1540 (2004) and of United Nations General Assembly resolution 58/48, to

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<sup>13</sup> The Role of Parliaments in Strengthening Multilateral Regimes for Non-Proliferation of Weapons and for Disarmament, in the Light of New Security Challenges <http://www.ipu.org/conf-e/111/111-1.htm>

prevent the spread of weapons of mass destruction and their means of delivery, and to consolidate policies aimed at preventing the transfer, especially to terrorists, of equipment, materials and technology which may be used for the proliferation of such weapons

- Urges parliaments to enact legislation holding governments responsible when they allow arms to be leaked to terrorists and organized crime groups and prohibiting such leaks

### The NATO Parliamentary Assembly

Two relevant documents were located. The first is document ***036 Cds 07 E - The Protection of Critical Infrastructures***<sup>14</sup>. It states the military must play a more active role in the protection of infrastructure, including the transport infrastructure. It also states that informing the public is crucial, as is coordination with other international organizations. With globalization spreads, the danger to critical infrastructure increases and must be addressed more fully. Finally, it recognizes the existing standards and regulations of the UN and the EU, and recommends their consideration and implementation.

The second document located is the ***060 Cds 06 E - NATO and Civil Protection***<sup>15</sup> report. It gives an account of NATO's involvement with international security in a variety of programs. No suggestions are given, however, concerning transportation security.

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<sup>14</sup> 036 Cds 07 E - the Protection of Critical Infrastructures, <http://www.nato-pa.int/Default.asp?CAT2=0&CAT1=0&CAT0=576&SHORTCUT=1165>

<sup>15</sup> 060 Cds 06 E - Nato and Civil Protection, <http://www.nato-pa.int/Default.asp?CAT2=0&CAT1=0&CAT0=576&SHORTCUT=903>

## OSCE

### ***The Bucharest Plan of Action for Combating Terrorism<sup>16</sup>***

This Action Plan recognizes that terrorism as a threat to international peace and security, in the OSCE area as elsewhere. The OSCE commits to worldwide efforts at combating terrorism and is able to contribute through its comprehensive security concept linking the politico-military, human and economic dimensions; its broad membership; its experience in the field; and its expertise in early warning, conflict prevention, crisis management, post-conflict rehabilitation and building democratic institutions. In addition, many effective counter-terrorism measures fall into areas in which the OSCE is already active and proficient, such as police training and monitoring, legislative and judicial reform, and border monitoring.

The aim of the Action Plan is to establish a framework for comprehensive OSCE action, to be taken by participating States and the organization as a whole, to combat terrorism, fully respecting international law, including the international law of human rights and other relevant norms of international law. The Action Plan seeks to expand existing activities that combat terrorism, facilitate interaction between States and, where appropriate, identify new instruments for action. Recognizing that the fight against terrorism requires sustained efforts the Plan will identify activities to be implemented immediately, as well as over the medium and long term.

The stabilization of governments is discussed as one way of reducing terrorist acts, as are the promotion of human rights and the rule of law, addressing socio-economic needs and preventing violent conflict. The Plan commits to strengthening national anti-terrorism legislation and supporting law enforcement agencies. Notably, it also commits to halting the movement of terrorists.

***The Organization for Security and Co-Operation in Europe 6 December 2005 Ministerial Council Ljubljana 2005: Second Day of the Thirteenth Meeting Mc(13) Journal No. 2, Agenda Item 8 Decision No. 6/05: Further Measures to Enhance Container Security<sup>17</sup>*** proposes the following:

- All OSCE participating States should take measures recommended in the WCO Framework of Standards to Secure and Facilitate Global Trade as soon as possible
- In taking measures foreseen by the Framework of Standards to Secure and Facilitate Global Trade, the OSCE participating States will in particular aim to promptly incorporate into their national procedures and regulations the Seal Integrity Program for Secure Container Shipments, contained in the Appendix to Annex 1 of the Framework
- All OSCE participating States will inform each other on the measures taken to implement the above commitment

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<sup>16</sup> The Bucharest Plan of Action for Combating Terrorism, <http://www.state.gov/coalition/cr/ddr/8833.htm>

<sup>17</sup> Organization for Security and Co-Operation in Europe 6 December 2005 Ministerial Council Ljubljana 2005: Second Day of the Thirteenth Meeting Mc(13) Journal No. 2, Agenda Item 8 Decision No. 6/05: Further Measures to Enhance Container Security, [http://www.osce.org/documents/mcs/2005/12/17430\\_en.pdf](http://www.osce.org/documents/mcs/2005/12/17430_en.pdf)

## OECD

The *Container Transport Security across Modes*<sup>18</sup> report evaluates the weaknesses in the container transport chain, calling on authorities to address container transport by creating an intermodal framework integrating measures across the entire chain. Although there was already an attempt to do this among a variety of agencies, these attempts do not adequately succeed in addressing the issue of container transport security.

The report further states that more specific threat assessments involving transport authorities are needed and that security must be adapted to the threat. Policy must be instituted to allow authorities the necessary power to address threats and emergencies, and principles must be considered when addressing policy issues. Some of these principles include emphasizing that security is a shared responsibility and that security procedures must be more specifically adhered to.

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<sup>18</sup> "Container Transport Security across Modes," OECD, 2005

## United Nations

### ***UN Model Regulations, Chapter 1.4, Security Provisions<sup>19</sup>***

The UN Regulations for transport security are included in their totality for reference purposes.

***NOTE 1: This Chapter provides requirements intended to address the security of dangerous goods in transport in all modes. Mode specific security provisions can be found in Chapter 7.2. National and modal authorities may apply additional security provisions which should be considered when offering or transporting dangerous goods.***

***NOTE 2: For the purposes of this Chapter security means measures or precautions to be taken to minimize theft or misuse of dangerous goods that may endanger persons or property.***

#### **1.4.1 General provisions**

All persons engaged in the transport of dangerous goods shall consider security requirements for the transport of dangerous goods commensurate with their responsibilities.

1.4.1.2 Consignors shall only offer dangerous goods to carriers that have been appropriately identified.

1.4.1.3 Transit sites, such as airside warehouses, marshalling yards and other temporary storage areas shall be properly secured, well lit and, where possible, not be accessible to the general public.

#### **1.4.2 Security training**

1.4.2.1 The training specified for individuals in 1.3.2 (a), (b) or (c) shall also include elements of security awareness.

1.4.2.2 Security awareness training shall address the nature of security risks, recognizing security risks, methods to address and reduce such risks and actions to be taken in the event of a security breach. It shall include awareness of security plans (if appropriate) commensurate with the responsibilities of individuals and their part in implementing security plans.

1.4.2.3 Such training shall be provided or verified upon employment in a position involving dangerous goods transport and shall be periodically supplemented with retraining.

1.4.2.4 Records of all security training undertaken shall be kept by the employer and made available to the employee if requested.

#### **1.4.3 Provisions for high consequence dangerous goods**

1.4.3.1 In implementing national security provisions competent authorities shall consider establishing a programme for identifying consignors or carriers engaged in the transport of high consequence dangerous goods for the purpose of communicating security related information. An indicative list of high consequence dangerous goods is provided in Table 1.4.1.

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<sup>19</sup> Un Model Regulations, Chapter 1.4, Security Provisions  
[http://www.unece.org/trans/danger/publi/unrec/rev14/14files\\_e.html](http://www.unece.org/trans/danger/publi/unrec/rev14/14files_e.html)

### **1.4.3.2 Security plans**

1.4.3.2.1 Carriers, consignors and others (including infrastructure managers) engaged in the transport of high consequence dangerous goods (see Table 1.4.1) shall adopt, implement and comply with a security plan that addresses at least the elements specified in 1.4.3.2.2.

1.4.3.2.2 The security plan shall comprise at least the following elements:

- (a) Specific allocation of responsibilities for security to competent and qualified persons with appropriate authority to carry out their responsibilities;
- (b) Records of dangerous goods or types of dangerous goods transported;
- (c) Review of current operations and assessment of vulnerabilities, including inter-modal transfer, temporary transit storage, handling and distribution as appropriate;
- (d) Clear statements of measures, including training, policies (including response to higher threat conditions, new employee/employment verification etc.), operating practices (e.g. choice/use of routes where known, access to dangerous goods in temporary storage, proximity to vulnerable infrastructure etc.), equipment and resources that are to be used to reduce security risks;
- (e) Effective and up to date procedures for reporting and dealing with security threats, breaches of security or security incidents;
- (f) Procedures for the evaluation and testing of security plans and procedures for periodic review and update of the plans;
- (g) Measures to ensure the security of transport information contained in the plan; and
- (h) Measures to ensure that the distribution of the transport information is limited as far as possible.  
(Such measures shall not preclude provision of transport documentation required by Chapter 5.4 of these Regulations).

*NOTE: Carriers, consignors and consignees should co-operate with each other and with appropriate authorities to exchange threat information, apply appropriate security measures and respond to security incidents.*

## **WORK OF UNCTAD IN THE FIELD OF MARITIME TRANSPORT SECURITY**

In the context of its continuing mandate in the field of transport and trade facilitation, as set out in the Sao Paulo Consensus,<sup>20</sup> UNCTAD has been monitoring current and emerging international developments on transport security, particularly developments at the IMO, the WCO and the EU, as well as in individual countries, and has analyzed some of the possible implications of such measures for developing countries. UNCTAD has issued a number of reports and other relevant publications in this respect, in particular the following:

### **UNCTAD Reports**

- **CONTAINER SECURITY: Major Initiatives and Related International Developments, (UNCTAD/SDTE/TLB/2004/1)**

This report provided an overview over measures, initiatives and international developments relevant to maritime container security and offered some preliminary analysis of their potential impacts for the trade and transport of developing countries.

The full text of the report is available from the UNCTAD website: [www.unctad.org/ttl/legal](http://www.unctad.org/ttl/legal)

- **Maritime Security: ISPS Code Implementation, Costs and Related Financing (UNCTAD/SDTE/TLB/2007/1)**

In 2002, a new international maritime security regime was adopted, under the auspices of the IMO as part of the 1974 Safety of Life at Sea Convention (SOLAS). The International Ship and Port Facility Security Code (ISPS Code) imposes wide-ranging obligations on governments, shipping companies, and port facilities which were required to be implemented by 1 July 2004. In order to help assess the costs associated with the ISPS Code, as well as their potential economic implications, UNCTAD conducted a global study based on a set of questionnaires designed to

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<sup>20</sup> See Sao Paulo Consensus, TD/410, paragraphs 59 and 41.

obtain first hand information from all affected parties. The main objective was to establish the range and order of magnitude of the ISPS Code-related expenditures made from 2003 through 2005 and to gain insight into the financing mechanisms adopted or envisaged. In addition the study sought to clarify matters relating to the implementation process, level of compliance and other less easily quantifiable impacts. The full text of the report, reflecting the results of the survey, is available from the UNCTAD website: [www.unctad.org/ttl/legal](http://www.unctad.org/ttl/legal)

### **UNCTAD Review of Maritime Transport**

In addition to substantive reports, UNCTAD has published some information on international maritime and supply-chain security developments in its annual "**Review of Maritime Transport**". The 2007 issue is expected to be published soon. Copies of the review of Maritime Transport are available to download from the UNCTAD website at: [www.unctad.org/ttl](http://www.unctad.org/ttl). Below are relevant extracts from the 2005 and 2006 issues.

### **Other UNCTAD Publications**

Information on security-related developments is also provided in UNCTAD's quarterly "Transport Newsletter". Full text of the newsletter is available from the UNCTAD website: [www.unctad.org/ttl](http://www.unctad.org/ttl). For some recent security articles see the following issues: No.34, Fourth Quarter 2006, and No.35, First Quarter 2007.

## **Excerpts from Relevant Issues of the Review of Maritime Transport**

### ***Review of Maritime Transport, 2005:***

#### **"Developments in International Maritime Security: Entry into Force of the ISPS Code"**

Internationally, one of the most important recent developments in the field of maritime security was the entry into force, on 1 July 2004, of the International Ship and Port Facility Security Code (ISPS Code).<sup>21</sup> In December 2002, the International Maritime Organization (IMO) had adopted the ISPS Code as part of an additional chapter<sup>22</sup> to the 1974 Safety of Life at Sea Convention (SOLAS). The Code, together with a number of other amendments to SOLAS,<sup>23</sup> provides a new comprehensive security regime for international shipping.<sup>24</sup> It applies to all cargo ships of 500 gross tonnage or above, passenger vessels, mobile offshore drilling units and port facilities serving such ships engaged in international voyages.<sup>25</sup> Part (A) of the Code establishes a list of mandatory requirements, and Part (B) provides recommendations on how to fulfill each of the requirements set out in Part (A).

The new security regime imposes a wide range of responsibilities on governments, port facilities and ship-owning and -operating companies. These responsibilities were described in some detail and with appropriate references to the respective provisions of the Code in an earlier UNCTAD report.<sup>26</sup> However, for ease of reference, the main obligations are briefly summarized here.

#### ***Responsibilities of Contracting Governments***

The principal responsibility of Contracting States under SOLAS chapter XI-2 and Part (A) of the Code is to determine and set security levels. Responsibilities also include, *inter alia*:

- approval of *Ship Security Plans*
- issuance of *International Ship Security Certificates* (ISSC) after *verification*
- carrying out and approval of *Port Facility Security Assessments*
- approval of *Port Facility Security Plans*
- *determination of port facilities* which need to designate a *Port Facility Security Officer*
- exercise of *control and compliance measures*.

Governments may delegate certain responsibilities to Recognized Security Organizations (RSO) outside Government.

<sup>21</sup> For the complete text of the ISPS Code, see SOLAS/CONF.5/34, Annex 1. See also *The International Ship and Port Facility Security Code*, 2003 Edition, ISBN 92-801-5149-5. For further information, see the IMO website ([www.imo.org](http://www.imo.org)). Please note that all ISPS-related circulars issued by the IMO are available on the website under "legal", "maritime security".

<sup>22</sup> Chapter XI-2 on "Special measures to enhance maritime security".

<sup>23</sup> Chapters V and XI of the annex to SOLAS were amended, the latter chapter being renumbered as chapter XI-1.

<sup>24</sup> Cf. ISPS Code (A), Art. 1.2.

<sup>25</sup> See SOLAS, chapter XI-2/2 and ISPS Code (A), Art. 3.

<sup>26</sup> *Container Security: Major Initiatives and Related International Developments*, UNCTAD/SDTE/TLB/2004/1, paras. 80–86 ([www.unctad.org](http://www.unctad.org)).

### ***Responsibilities of vessel-owning and/or -operating companies***

Vessel-owning and/or -operating companies have a number of responsibilities, chief among which is to ensure that each vessel a company operates obtains an *International Ship Security Certificate* (ISSC) from the administration of a flag state or an appropriate RSO, such as a classification society. In order to obtain an ISSC, the following measures must be taken:

- designation of a *Company Security Officer* (CSO)
- carrying out *Ship Security Assessments* (SSA) and development of *Ship Security Plans* (SSP)
- designation of a *Ship Security Officer* (SSO)
- training, drills and exercises

A number of special mandatory requirements in SOLAS chapters V, X-1 and X-2 apply to ships and create additional responsibilities for vessel-owning companies and for Governments. These include in particular the following:

- *Automatic Identification System* (AIS)
- *Ship Identification Number* (SIN)
- *Ship Security Alert System* (SSAS)
- *Continuous Synopsis Record* (CSR)

### ***Responsibilities of port facilities***

Depending on size, there may be, within the legal and administrative limits of any individual port, several or even a considerable number of port facilities for the purposes of the ISPS Code.

- *Port Facility Security Plans* (PFSP): based on the *Port Facility Security Assessment* carried out and, upon completion, approved by the relevant national Government, a *Port Facility Security Plan* needs to be developed.
- *Port Facility Security Officer* (PFSO): For each port facility, a Security Officer must be designated.
- Training drills and exercises

Both Governments and industry faced the challenging task of implementing the various new security requirements within a short timeframe, by 1 July 2004. Full and complete compliance by that date was crucial, as the repercussions of non-compliance could be severe.<sup>27</sup> Efforts to ensure compliance intensified in the weeks and days prior to the deadline date, and continued in the period immediately afterwards. Despite the initially slow progress in implementation of the ISPS Code, figures provided by IMO member Governments indicate that by 1 July 2004, more than 86 per cent

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<sup>27</sup> For further details on control and compliance measures, see UNCTAD report *Container Security: Major Initiatives and Related International Developments*, UNCTAD/SDTE/TLB/2004/1, para. 85 ([www.unctad.org](http://www.unctad.org)).

of ships and 69 per cent of declared port facilities had security plans approved.<sup>28</sup> By August 2004, the IMO reported that 89.5 per cent of over 9,000 declared port facilities had had their Port Facility Security Plans approved and "well beyond 90 per cent" of all ships had been issued International Ship Security Certificates, which indicated that almost complete compliance with the new IMO security measures was being achieved. However, according to the IMO, the picture was uneven, with "regional pockets in which progress had not been as rapid as might be hoped". Africa and the countries of the former Soviet Union and Eastern Europe were described as being slow in implementing the new ISPS security rules.<sup>29</sup>

According to the IMO, national authorities as well as any relevant industries displayed a pragmatic and reasonable attitude towards parties responsible for the implementation of the new security measures in the weeks following the 1 July deadline. No major disruptions to global trade were reported as a result of non-compliance, and, in particular, a responsible attitude was displayed in cases where administrative bottlenecks were to be blamed for any identifiable shortcomings. Nevertheless, there were some reports of ships being detained, cautioned or turned away.<sup>30</sup>

Overall, it appears that the challenge of ensuring compliance with a wide range of requirements and within a tight timeframe has been remarkably well met by Governments and industry alike. However, it needs to be emphasized that the challenge remains, both for Governments and industry, of maintaining substantive compliance with the new international security regime. The ISPS Code is far-reaching, and the scope of the relevant security requirements is wide. In addition to ensuring compliance with the relevant formal requirements of the Code,<sup>31</sup> both Governments and industry are under a continuous obligation to conduct risk assessments and to ensure that effective and appropriate responses to the identified level of risk are taken.

A number of guidance circulars relating to the implementation of the ISPS Code have been issued by the Maritime Safety Committee (MSC) of the IMO. These include in particular the following:

- MSC Circular 1111<sup>32</sup> deals in some detail with the security measures and procedures to be applied at the ship/port interface when either the ship or the port facility do not comply with

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<sup>28</sup> See Press Briefing of 1 July 2004, *Secretary-General Mitropoulos pays tribute to the efforts made to implement the ISPS Code* ([www.imo.org](http://www.imo.org)).

<sup>29</sup> See Press Briefing of 6 August 2004, *Security compliance shows continuous improving* ([www.imo.org](http://www.imo.org)). Regarding ISPS Code compliance by IAPH Member Ports, see the IAPH website ([www.iaphworldports.org](http://www.iaphworldports.org)).

<sup>30</sup> See *Measures to Enhance Maritime Security; Progress Report on the Implementation of the Special Measures to Enhance Maritime Security Detailed in SOLAS chapter XI-2 and the ISPS Code*, MSC 79/5/1, 24 September 2004, paras. 6, 7 ([www.imo.org](http://www.imo.org)).

<sup>31</sup> Note, for instance, a survey on ISPS Code implementation carried out by the European Seaports Organisation (ESPO), which draws attention to the fact that some ships appear to be presenting tonnage certificates of below 500 GT, issued under pre-1969 Tonnage Measurement Rules, and are thus exempt from the ISPS Code requirements. See *ESPO Survey of implementation of ISPS Code/EU Regulation in EU Ports*, of 8 March 2005 ([www.espo.be](http://www.espo.be)).

<sup>32</sup> See *Guidance relating to the Implementation of SOLAS chapter XI-2 and the ISPS Code* MSC/Circ. 1111, of 7 June 2004. The guidelines also provide recommendations for ships calling at the port of a State that is not a Contracting Government and remind all parties that the requirement for ships to keep records of their last 10 calls at port facilities applies only to calls made on or after 1 July 2004.

the requirements of chapter XI-2 and of the ISPS Code.<sup>33</sup> An Annex provides detailed "Interim Guidance on Control and Compliance measures to Enhance Maritime Security".<sup>34</sup>

- MSC Circular 1130<sup>35</sup> contains guidance on security-related information, which must be supplied or may be requested prior to entry of a ship into port.
- MSC Circular 1132<sup>36</sup> provides guidance on a variety of matters, in particular the setting of and response to security levels, the practice of requiring and responding to requests for a declaration of security and matters relevant to access and boarding procedures.
- MSC Circular 1131<sup>37</sup> provides *Interim guidance on Voluntary Self-Assessment by SOLAS Contracting Governments and by Port Facilities*. The guidance contains a questionnaire to allow Governments to assess the effectiveness with which obligations in respect of port facilities are and continue to be fulfilled.

In order to effectively implement the wide range of ISPS Code security requirements, Governments and industry incur significant costs. Attempts have been made to assess the approximate costs involved, both globally and at the national level, but no comprehensive assessment has been published since the ISPS Code entered into force. How costs should be distributed, between Governments and industry and among different parties within the affected industries, remains a matter of debate.

As concerns cost sharing between parties within the affected industries, so far there is a clear trend, particularly among port authorities and terminal operators but also among ship-owning or -operating companies, to pass on the extra costs associated with the new security regime to their customers through the imposition of security fees and charges. While increasingly common, the practice is not yet uniform, and there seem to be considerable variations in the level of charges. While generally accepting the need to recover security costs, shippers are faced with charging practices of both ports and shipping lines that lack transparency and add to transaction costs, particularly for developing-country traders.

For instance,<sup>38</sup> terminal security fees quoted for continental European ports range from around € per container (import and export container, excluding trans-shipment) for Oslo to around €5 for several Spanish ports, €8 for most Italian ports, €8.50 for Rotterdam and €9 for Bremerhaven,

<sup>33</sup> Ibid. Annex 1. The Guidance also addresses the position of ship construction, conversion and repair yards and deals with the requirements of chapter XI-2 and the ISPS Code, when a ship interfaces with a floating production, storage and offloading unit (FPSO) or a floating storage unit (FSU).

<sup>34</sup> Ibid. Annex 2.

<sup>35</sup> MSC/Circ.1130, of 14 December 2004, *Guidance to Masters, Companies and Duly Authorized Officers on the Requirements Relating to the Submission of Security-Related Information Prior to the Entry of a Ship into Port* ([www.imo.org](http://www.imo.org)).

<sup>36</sup> MSC/Circ.1132, of 14 December 2004, *Guidance relating to the Implementation of Solas Chapter XI-2 and the ISPS Code*, ([www.imo.org](http://www.imo.org)).

<sup>37</sup> See *Interim guidance on voluntary self-assessment by SOLAS Contracting Governments and by port facilities*, MSC/Circ.1131, of 14 December 2004.

<sup>38</sup> The information in the text is taken from a table compiled by Hapag-Lloyd Container Line providing details of "Terminal Security Fees" applicable in various European, Australian, US, South American and New Zealand ports ([www.hlcl.com](http://www.hlcl.com)). An informative and useful summary of port security fees and charges assessed by North American port authorities and terminal operators has been published by the American Association of Port Authorities ([www.aapa-ports.org](http://www.aapa-ports.org)).

Hamburg, Le Havre, Antwerp and Zeebrugge. Charges quoted for UK ports range, for export containers, from £4.75 in Thamesport to £7.50 in Felixstowe and, for import containers, from £5.50 in Southampton to £10.50 in Felixstowe. Similar variations may be observed in other parts of the world.<sup>39</sup>

Security charges introduced by some container lines also vary, albeit to a lesser extent. For instance, the Far Eastern Freight Conference (FEFC) announced in August 2004<sup>40</sup> that its members would charge €5 for containers "moved to or from ports in the North Continent of Europe, Scandinavia, the Baltic and the Mediterranean", £1.50 for movements to and from the UK ports of Tilbury, Felixstowe, Southampton and Thamesport (where lines recover the security charge from shippers/consignees), and £3.50 for movements to and from other UK ports. Hapag-Lloyd Container Line charges a "carrier security fee" of \$6 per container,<sup>41</sup> and P&O Nedlloyd announced in December 2004 that it would charge a \$6 carrier security charge on all containers handled by the line from 1 January 2005.<sup>42</sup>

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<sup>39</sup> Ibid.

<sup>40</sup> See announcement of 13 August 2004 ([www.fefclondon.com](http://www.fefclondon.com)).

<sup>41</sup> See [www.hlcl.com](http://www.hlcl.com).

<sup>42</sup> See [www.ponl.com](http://www.ponl.com).

***Review of Maritime Transport, 2006:***

**"Legal Issues Affecting Transportation: An Overview of Recent Developments Relating to Maritime and Global Supply Chain Security, [...]**

**1. Maritime and global supply chain security**

Maritime and global supply chain security continues to remain high on the international agenda, and several international organizations are continuing their work to develop standards and recommended practices in these areas. Important international developments in the field include those described below.

In January 2006, a high-level **Ministerial Conference on International Transport Security** was held in Japan.<sup>43</sup> The conference recognized *inter alia* the serious threat to international maritime transport posed by acts of terrorism, and the continued need to address vulnerabilities. In that connection, it welcomed the activities undertaken by relevant international organizations, particularly the International Maritime Organization and the World Customs Organization,<sup>44</sup> and invited those organizations to consider, in cooperation, the development of appropriate measures to enhance the security of the maritime transport of containers in the international supply chain. In addition, IMO was invited to undertake a study and, as necessary, make recommendations for enhancing the security of ships other than those already covered by SOLAS Chapter XI-2 and the ISPS Code.<sup>45</sup> States were urged to ensure the continued compliance of their port facilities with the requirements of SOLAS Chapter XI-2 and the ISPS Code. Furthermore, it was resolved to share best practices in the implementation of those instruments, to continue to provide assistance and support for capacity building, and further promote international cooperation in the education and training of officers.

In relation to international supply-chain security, a major development was the unanimous adoption in June 2005 of *The Framework of Standards to Secure and Facilitate Global Trade*<sup>46</sup> (*SAFE Framework*) by the Council of the **World Customs Organization**.<sup>47</sup> The SAFE Framework rests on two "pillars", namely Customs-to-Customs Network arrangements and Customs-to-Business partnerships, and consists of four core elements:

1. The Framework harmonizes the advance electronic cargo information requirements concerning inbound, outbound and transit shipments.

2. Each country that joins the Framework commits itself to employing a consistent risk management approach to address security threats.

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<sup>43</sup> The Conference was held in Tokyo on 12 and 13 January 2006. The objective was to exchange views and information on international transport security in the aviation, land and maritime sectors, and to discuss the issues that should be addressed in an internationally coordinated and cooperative manner. For further information, see <http://www.mlit.go.jp/english/>.

<sup>44</sup> For further details, see *Ministerial Statement on Security in International Maritime Transport*.

<sup>45</sup> The reference relates to amendments to the *Safety of Life at Sea Convention* (SOLAS), 1974, which was adopted in 2002. For information on this, see the IMO website at [www.imo.org](http://www.imo.org). See also UNCTAD, *Review of Maritime Transport 2005*, p. 84.

<sup>46</sup> For more information see [www.wcoomd.org](http://www.wcoomd.org).

<sup>47</sup> At that time, the WCO was composed of 166 member States. At the time of writing, that number had risen to 169.

3. The Framework requires that at the reasonable request of the receiving nation, based on a comparable risk-targeting methodology, the sending nation's Customs administration will perform an outbound inspection of high-risk containers and cargo, preferably using non-intrusive detection equipment such as large-scale X-ray machines and radiation detectors.

4. The Framework defines the benefits that Customs will provide to businesses that meet minimal supply-chain security standards and best practices.

The *SAFE Framework* relies on modern Customs principles contained in the revised Kyoto Convention,<sup>48</sup> which entered into force in February 2006, such as risk management based on advance electronic information, use of modern technology and a partnership with trade. It is based on existing supply-chain security and facilitation initiatives and programmes already in place at national levels, for example and in particular, in the United States.

Implementation of the Framework is intended to help Customs authorities to enhance their risk-assessment and risk-management capabilities and adopt an intelligence-based selective approach to targeting closed containers for inspection, primarily on the basis of advance electronic information provided by economic operators involved in the international supply chain. It is designed to improve Customs authorities' abilities to detect and deal with high-risk consignments before their arrival, and thus increase efficiency in the administration of goods by reducing their clearance and release time.

The *SAFE Framework* establishes the concept of the "Authorized Economic Operator" (AEO), who is involved in the trade supply chain and is approved as meeting certain criteria broadly outlined in the standards of the Customs-to-Business pillar of the Framework (Annex 2). Such operators should be entitled to participate in simplified and rapid procedures for the provision of minimum information. Detailed implementation requirements for the *SAFE Framework*, including those for cargo security and for AEOs, are being drawn up by the WCO.

As of June 2006, 135 WCO members had expressed their intention to implement the Framework. Many of those members will require capacity building. In order to assist developing countries in particular in the implementation of the *SAFE Framework*, the WCO's Directorate for Capacity Building has recently launched a major capacity-building programme, known as COLUMBUS, under which diagnostic missions are conducted, a needs assessment is carried out and an action plan is developed, with a view to identifying donors that are willing to fund projects to enable Customs Administrations to become *SAFE Framework* compliant.<sup>49</sup> At present, it is not possible to adequately assess the trade-related impacts of the implementation of the new global supply-chain security framework. Much will depend on whether SMEs, particularly in developing countries, will be able to comply with the requirements, such as those related to the use of electronic communication and modern technology and those related to AEO recognition, and on whether mutual recognition of the AEO status can effectively be achieved.

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<sup>48</sup> International Convention on the Simplification and Harmonization of Customs Procedures (as amended), June 1999.

<sup>49</sup> See the Speech by the Deputy Secretary General of the WCO at the 11<sup>th</sup> WCO Asia Pacific Regional Heads of Administration Conference, 4 April 2006, Beijing China ([www.wcoomd.org](http://www.wcoomd.org)).

The idea of a voluntary framework for the recognition of "secure operators" is also under discussion at the level of the **European Union**. Recently, a Communication<sup>50</sup> was issued by the European Commission, containing a proposal for an EC Regulation to introduce a voluntary security scheme under which operators in the supply chain would increase their security performance in exchange for incentives, such as fast-track treatment both inside the EU and at external borders, and obtain "secure operator" status. For this purpose, member States might either avail themselves of existing systems or procedures or create a specific system for supply-chain security. The scheme would cover intermodal transport and follow previous terrorism legislation in the field of maritime transport and ports. To obtain "secure operator" status, an operator would have to implement a security management system and demonstrate that it covers areas such as protection of buildings, access control and personnel procedures. As with the requirement of the WCO *SAFE Framework*, each member State would have to recognize the "secure operator" status conferred by another member State.

It should be noted that the **International Maritime Organization** (IMO) has begun to consider proposals for integrating, into international legislation,<sup>51</sup> appropriate cargo security procedures based on or compatible with the standards of the WCO's *SAFE Framework*. Thus, key elements of the WCO standards may in due course become part of the international law for maritime cargo transports, such as the 1965 *Convention on Facilitation of International Maritime Traffic* (FAL), as amended, and the 1974 *Safety of Life at Sea Convention* (SOLAS), as amended.

Amendments to SOLAS, which were adopted by the IMO in 2002, including in particular the *International Ship and Port Security* (ISPS) Code, continue to represent the most important international set of rules for the security of ships and port facilities.<sup>52</sup> The ISPS Code entered into force on 1 July 2004, and the IMO's Maritime Safety Committee (MSC) has issued a number of guidance circulars to assist in the implementation of and compliance with the requirements of ISPS Code.<sup>53</sup> Most recently, at its 81st session in May 2006, the MSC adopted a further set of guidance circulars,<sup>54</sup> notably the following:

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<sup>50</sup> Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions on enhancing supply chain security, *Proposal for a Regulation of the European Parliament and of the Council on enhancing supply chain security*, COM(2006), 79, 27 February 2006.

<sup>51</sup> See *Enhancement of security in cooperation with the WCO*, doc. MSC/81/5/4, 9 February 2006. See also *Measures to Enhance Maritime Security*, Report of the Working Group on Maritime Security (Part I), MSC 81/WP.5, of 17 May 2006. The Maritime Safety Committee (MSC), at its 81<sup>st</sup> session, in May 2006, discussed the carriage of closed transport units and of freight containers transported by ships and referred the matter to the Ship/Port Interface (SPI) Working Group of the Facilitation Committee for further consideration, including the development of draft amendments to the SOLAS Convention.

<sup>52</sup> For an overview over the responsibilities of Governments, port facilities and ship-owning and ship-operating companies under the ISPS Code, see UNCTAD, *Container Security: Major Initiatives and Related International Developments*, UNCTAD/SDTE/TLB/2004/1, paras. 80–86. See also UNCTAD *Review of Maritime Transport 2005*, p. 84.

<sup>53</sup> The MSC circulars are available on the IMO website ([www.imo.org](http://www.imo.org)). See also UNCTAD, *Review of Maritime Transport 2005*, p. 87.

<sup>54</sup> Other circulars adopted include MSC.1/Circ.1188, *Guidelines on training and certification for port facility security officers*; MSC.1/Circ.1189, *Guidance on the provision of information for identifying ships when transmitting ship security alerts*; MSC.1/Circ.1190, *Interim scheme for the compliance of special purpose ships with the special measures to enhance maritime security*; and MSC.1/Circ.1191, *Further reminder of the obligation to notify flag States when exercising control and compliance measure*. A full list of all relevant circulars is included in MSC.1/Circ.1194.

- MSC.1/Circ.1192, Guidance on voluntary self-assessment by SOLAS Contracting Governments and by port facilities;<sup>55</sup>
- MSC.1/Circ.1193, Guidance on voluntary self-assessment by Administrations and for ship security;
- MSC.1/Circ.1194, Effective implementation of SOLAS chapter XI-2 and the ISPS Code.

In relation to the ISPS Code, it should also be noted that the **UNCTAD** secretariat is in the process of conducting a large-scale survey that seeks to establish the experiences and views of parties directly affected by the new maritime security regime, especially as regards costs related to the implementation of the ISPS Code. These parties include Governments, shipowning and operating companies engaged in international transport, and ports serving such ships. The results of the survey are expected to be available by the end of 2006.<sup>56</sup>

With regard to other relevant developments at **IMO**, it is also worth drawing attention to progress in relation to the introduction of *Long-Range Identification and Tracking Systems* (LRIT). By way of background, it should be recalled that it is already a special mandatory SOLAS requirement<sup>57</sup> for certain categories of ships to be equipped with *Automated Identification Systems* (AIS). AIS are shipboard automatic electronic reporting devices that communicate basic information regarding the ship's identity, position, course and speed to other AIS transponders and shore-based facilities. The AIS currently used are capable of transmitting information up to a range of around 50 nautical miles offshore. In order to extend significantly the tracking capabilities of SOLAS Contracting Governments, the introduction of LRIT has been proposed.

After extensive discussions,<sup>58</sup> the MSC adopted in May 2006 new regulations for the LRIT, to be included in SOLAS chapter V (Safety of Navigation), together with associated performance standards and functional requirements.<sup>59</sup> The MSC also approved the establishment of an ad hoc Working Group on Engineering Aspects of LRIT.

LRIT will be a mandatory requirement for ships engaged in international voyages, more particularly passenger ships (including high-speed craft), cargo ships (including high-speed craft) of 300 gross tonnage and upwards, and mobile offshore drilling units. The SOLAS regulation establishes a multilateral agreement for sharing LRIT information among Contracting States on the identity, location, date and time of the position of ships for security and search and rescue

<sup>55</sup>The Guidance circular is a revised version of MSC/Circ.1131.

<sup>56</sup>Information on results of another survey conducted by the International Transport Workers' Federation (ICFTU), bringing to the attention of the MSC, inter alia, problems experienced by seafarers in obtaining shore leave following the implementation of the ISPS Code, can be found in IMO document MSC.81/5/8, submitted for consideration at the 81<sup>st</sup> session of the MSC (10–19 May 2006).

<sup>57</sup>SOLAS chapter V/19.

<sup>58</sup>The issue of LRIT has been considered by the Maritime Safety Committee (MSC) and by the Sub-Committee on Radiocommunications and Search and Rescue (COMSAR). For further information, see most recently the COMSAR Report to the Maritime Safety Committee (COMSAR 10/16, section 10, also published as an extract in document MSC.81/5/Add.1, and Annexes 17 and 18) and *Measures to Enhance Maritime Security*, Report of the Working Group on Maritime Security (Part II), MSC.81/WP.5/Add.1. See also the IMO website ([www.imo.org](http://www.imo.org)).

<sup>59</sup>Resolutions MSC.202(81), MSC.210(81) and MSC.211(81).

purposes. It maintains the right of flag States to protect information about ships flying their flag, as appropriate, while permitting coastal States access to information about ships navigating up to 1,000 nautical miles off their coasts.<sup>60</sup> While AIS is a broadcast system, data derived through LRIT will be available only to recipients who are, according to the regulation, entitled to receive the information.<sup>61</sup> Safeguards concerning the confidentiality of data have been built into the relevant regulatory provisions. The regulation provides for a phased-in implementation schedule for ships constructed before its expected entry into force date of 1 January 2008, as well as some exemptions for ships operating exclusively in certain areas and already fitted with AIS.

Efforts are also being made at IMO to incorporate security-related provisions into other international legal instruments, such as the 1978 *International Convention on Standards of Training, Certification and Watchkeeping for Seafarers* (STCW Convention) and the STCW Code.<sup>62</sup>

Finally, it should be noted that amendments to the 1988 *Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation* (SUA Convention)<sup>63</sup> and its 1988 Protocol<sup>64</sup> were adopted on 14 October 2005 under the auspices of IMO. Once widely and uniformly implemented by IMO States Parties, the 2005 SUA Protocols<sup>65</sup> will provide a legal basis for the arrest, detention and extradition of persons in the event of a terrorist attack against shipping. The main amendments effected by the 2005 Protocols include the following:

- A broadening of the list of offences already contained in the 1988 SUA Convention and its Protocol. The offences listed shall be made punishable by each State Party by appropriate penalties that take into account their gravity.
- Inclusion in the 1988 SUA Convention of provisions covering cooperation and procedures to be followed if a State Party desires to board on the high seas a ship flying the flag of another State Party, when the requesting party has reasonable grounds to suspect that an offence under the Convention has been or is about to be committed. The authorization of the flag State is required before such boarding.
- Inclusion in the 1988 SUA Convention of a provision to the effect that none of the offences should be considered a "political offence" for purposes of extradition, and of a

<sup>60</sup> Note that it has been emphasized that the regulation "was not creating or affirming any new rights of States over ships beyond what was existing in international law, particularly UNCLOS, nor altering existing rights, jurisdictions, duties and obligations of States in connection with the law of the sea"; see the note by the Secretary-General for consideration by the Council at its 96<sup>th</sup> session, document C 96/7/Add.1 of 30 May 2006.

<sup>61</sup> While the costs arising for States seeking to receive LRIT information are, at this stage, not yet clear, some reference to various likely charges is provided in COMSAR 10/16 (MSC 81/5/Add 1), at para. 10.50.

<sup>62</sup> For an overview of other amendments to SOLAS and mandatory codes and guidelines adopted by the MSC at its 81<sup>st</sup> session in May 2006, see the IMO website ([www.imo.org](http://www.imo.org)).

<sup>63</sup> *Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation*, 1988 (SUA Convention).

<sup>64</sup> *Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf*, 1988 (SUA Protocol).

<sup>65</sup> 2005 Protocol to the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, 1988 (SUA Convention); and 2005 Protocol to the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf, 1988 (SUA Protocol).

provision dealing with conditions under which a person detained may be transferred to another State Party.<sup>66</sup>

The Protocols were opened for signature on 14 February 2006 and will remain open for signature until 13 February 2007. Thereafter they will remain open for accession. Seventy-one States signed the Final Act of the Conference.<sup>67</sup>"

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<sup>66</sup> For further information, see the IMO website, [www.imo.org](http://www.imo.org).

<sup>67</sup> The 2005 Protocol amending the SUA Convention requires adoption by 12 member States to enter into force. The 2005 Protocol to the SUA Protocol requires adoption by only 3 State Members, but its entry into force is contingent on the entry into force of the amendments to the SUA Convention.

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