

CHAPTER 21

EXPORTS & DISPATCHES TO OTHER MEMBER STATES

21.1 Introduction

In this chapter we are going to have a look at exports. When goods are exported they are liable to export formalities. Certain goods might be **prohibited** or **restricted**, such as firearms or controlled drugs. In addition, some goods might be eligible for **export refunds**. We covered this in the chapter on the **Common Agricultural Policy**.

Goods might also need **export licences** before they can be exported. This generally applies for goods that have strategic significance; UN sanctions imposed on them, or are for National Heritage purposes. Certain agricultural goods need export licences. Export controls also help to provide **overseas trade statistics** and ensure that Customs procedures such as IPR are discharged correctly.

21.2 Penalties for contravention of export formalities

If we don't complete our export formalities correctly, then we could be liable to **penalties**. We have just mentioned that one of the purposes of export formalities is to check that Customs procedures have been discharged correctly. What if we don't actually export those IPR goods and therefore Customs duties have not been paid when the goods have been released to free circulation?

Section 67 of CEMA could apply and says the goods are liable to **forfeiture** and the person is guilty of a **criminal offence**. They could be fined the **greater of 3 times the value of the goods** or **level 3** on the standard scale.

[s. 67
CEMA 1979](#)

The same consequences apply if we export prohibited or restricted goods, without complying with the law. Alternatively, we might incur a civil penalty under the Export (Penalty) Regulations of 2003. They provide for maximum civil fines of £1,000 or £2,500 depending on the rules that are broken.

[s. 68
CEMA 1979](#)

These regulations are similar to the 'Customs Contravention of a Relevant Rule Regulations' that we looked at in Chapter 2. If you need a reminder of other penalties that could apply, look at the chapter on "Prohibitions, Restrictions and Penalties".

[SI 2003/3102](#)

21.3 Export formalities

An **export declaration** is required to be presented with the goods at the time of export. This is lodged at the Customs office where the goods are exported from.

[Art 161-162
2913/92](#)

The export declaration can take many formats. The basic document is the **C88** or **SAD**. CHIEF is used to record all export declarations. Although this is the basic procedure, the legislation allows **simplified export procedures**. We'll take a look at those in a moment. Just before we do that - a quick comment about VAT. In order to encourage EU producers to sell abroad, **exports are zero rated**.

[Art 788-796
2454/93](#)

21.4 Simplified export procedures

Completing paper declarations and presenting goods for export can be time consuming for the regular exporter. Therefore, Customs may authorise someone to use **simplified export procedures**. The legal basis for this is contained in a variety of places. Article 76 of the Code is one, Article 4A of the Implementing Regs talks about modern communication via data processing techniques and Section 53(4) of CEMA talks about simplified presentation procedures.

[Art 76
2913/92](#)

[Art 4A
2454/93](#)

[s. 53\(4\)
CEMA 1979](#)

In addition, as a result of the new modernised Custom Code, it is the intention that electronic declarations will become the norm and that paper declarations will only be completed where the computer systems of either Customs or the trader aren't working.

In the UK, you may see simplified export procedures referred to as the "**New Export System**", or **NES**. The majority of goods are eligible for these simplified procedures **apart from prohibited or restricted goods** and a few other exceptions. Some of the rules relating to this new type of scheme are contained in the Customs (Presentation of Goods for Export) Regulations of 2003. These regulations allow Customs to authorise a person to present goods electronically.

[Customs
\(Presentation
of goods for
export\)
Regulations
2003](#)

The advantage of using the NES is that Customs **clearance for export** is pretty much **instantaneous** and affords exporters a way of **paperless trading**. Instead of paper documents being presented at the time the goods are exported, the exporter uses **electronic declarations**. These will be generated by the exporter's own system. Records still need to be kept for Customs inspection and for **customs duty purposes** the time limit is **4 years**, and for **VAT** the time limit is **6**.

To have a look at some of these simplified procedures in a bit more detail, open up **Schedule 1 of the 2003 regulations**. It provides us with an example declaration that may be used to present goods to Customs electronically. This declaration must be accompanied by a further electronic document that is used to identify the exported goods. **Schedule 2** of the regulations lists the type of information the exporter needs to provide. This includes the following:

[Schedule 1 & 2
Customs
\(Presentation
of goods for
export\)
Regulations
2003](#)

1. The number of packages containing the exported goods;
2. the **marks** and numbers affixed to each package;
3. a **description** of the exported goods;

4. the expected **date of export** of the goods;
5. the final **destination** of each package; and
6. the **name of the ship**, flight number or number of the train etc on which the goods are going to be exported.

Points 4-6 can be omitted if goods are being carried in a freight container or vehicle where the manifest for them shows these details.

21.5 New Export System

The 'New Export System' enables traders to export their goods with the minimum of Customs intervention. We'll look at the main types of procedures under the scheme.

21.6 Standard full entry procedure

The first one is the '**standard full-entry procedure**'. Under this procedure the **exporter completes a full pre-shipment electronic declaration**. The **goods must be presented to Customs and the declaration lodged before the goods are loaded for export**. In the case of controlled goods, the export declaration must be accompanied by all other required documents or information.

21.7 Simplified Declaration Procedure (SDP)

The second one is the '**Simplified Declaration Procedure**' or **SDP**. The SDP may only be used by an **authorised trader**. The SDP allows the exporter to declare his goods for export by **submitting a simplified electronic pre-shipment declaration to CHIEF**. This contains minimal information about the goods. The simplified declaration is then **followed by an electronic supplementary declaration within 14 days of the date of shipment**, which gives more details about the shipment. The authorised trader assigns each consignment a '**Unique Consignment Reference**' number or **UCR**, to be quoted on the declarations to Customs. The UCR provides an audit trail linking the two declarations.

21.8 Local Clearance Procedure (LCP)

The final procedure we're going to look at is the '**Local Clearance Procedure**' or **LCP**. The LCP may also only be used by **authorised traders**. This allows them to have **goods cleared at their own premises**. An LCP trader is still required to advise Customs of the export by an **electronic 'Pre-Shipment Advice'**, which contains minimal information to identify and control the movement and subsequent export of the goods. When the trader has received a '**permission to proceed**' from CHIEF, he can arrange the transport of the goods to the place of loading. Like with the SDP, **within 14 days of departure, the trader must submit an electronic supplementary declaration** containing full details of the consignment and a **UCR** must be quoted on the relevant declarations.

These procedures are similar to the simplified ones available to traders importing products under CFSP. Remember, we looked at this in the chapter on Customs Warehousing.

21.9 Removals to other Member States

Goods being dispatched to other member states **do not need an export declaration**. Goods in free circulation can be dispatched or acquired without any customs duties implications. However, information still needs to be recorded in order that Customs can **monitor trade**. Also, don't forget that **excise duties** and **VAT** may be due on the goods. The monitoring of trade is done via the **Intrastat** system, which records dispatches to and acquisitions from other member states. The legislation on Intrastat is contained in SI 1991/2790.

[SI 1991/2790](#)

21.10 Community Transit

Sometimes, the "**Community Transit**" regime needs to be used when goods are consigned to another member state. For example, the movement of goods that are not in free circulation needs to be monitored, to ensure that if the goods are diverted to free circulation customs duties will be paid. These goods travel under an **External Community Transit procedure**, which is also referred to as **T1**. Sometimes goods in free circulation also need to travel under the Community Transit regime. These goods travel under the **Internal Community Transit** regime, or you may see this referred to as **T2**.

21.11 External Community Transit

We have already said that this regime is used for **goods that are not in free circulation**. This means that customs duties have not yet been paid on the goods. There is therefore a risk that these goods could be diverted to the home market without payment of the required duty. To ensure that this does not happen, the person who is despatching the goods is going to have to comply with a number of conditions.

[Art 91-97
2913/92](#)

[Art 340a
2454/93](#)

Before we go into the conditions, we need to introduce some terminology. The person who is despatching these goods to another member state is referred to as the '**Principal**'. The Principal may need to provide a **guarantee**, so that if the goods happen to go missing on their journey, Customs will recover the duties due on them. This guarantee can take a number of formats.

The main ones are the **single/individual guarantee**, which covers one community transit operation and the **comprehensive guarantee**, which covers a number of community transit operations. You will see in a minute that Customs may waive the requirement for a guarantee in certain circumstances.

You will also see that there are a number of **simplified procedures** available to an importer, but before we go into them - we'll cover the basic procedure.

When the goods are ready to be despatched the **Principal must present them to Customs**. This will usually be at the customs office where the goods are departing from. The customs authorities will set down a **time limit** within which the goods must be presented at the office of destination. This time limit will take into account the itinerary of the goods.

In addition, for most journeys, the **containers containing the goods must be sealed** and the purpose of the seal is to ensure that the goods cannot be tampered with during their journey. Goods are presented to Customs by way of a transit document which essentially is a **type of C88 or SAD**. This transit document must be lodged electronically under the new computerised transit system (NCTS). Customs will authorise the release of the goods by issuing a transit accompanying document (TAD). The goods are then dispatched to the other member state accompanied by the TAD.

[Annex 41](#)
[2454/93](#)

Once the goods arrive at the intended destination, the goods will be presented to the customs authorities there. The customs **authorities will record the date** of the arrival of the goods electronically. This is known as an 'arrival advice'. As the computer systems between the member state of departure and destination are linked, Customs in the UK should know immediately that the procedure has been discharged.

[Art. 353](#)
[2454/93](#)

Where, however, Customs have not received the arrival advice by the time limit laid down for completion of the journey, they must inform the Principal and ask him to produce evidence to show that the procedure ended.

[Art. 359](#)
[2454/93](#)

21.12 Internal Community Transit

We have already mentioned that community goods may sometimes have to travel under the **internal Community Transit** procedure or **T2** procedure. An example is where their journey involves them leaving the territory of the Community before arrival in the destined member state.

[Art 340C](#)
[2454/93](#)

Illustration 1

Goods are consigned from one member state in the territory of the community, for example the United Kingdom, to another member state, Italy. However, the goods travel via Switzerland. Remember, Switzerland is not one of the EU Member States.

As the goods are technically leaving the EU and re-entering it again, then they need to travel under Community transit so that when the goods are consigned from Switzerland to Italy, they are not treated as Swiss goods and declared as an 'import'. They are already Community goods - they were just transiting through an 'external' country. The internal community transit system ensures that documentation accompanying the goods shows the correct origin of the goods, so that the correct formalities are carried out.

21.13 Simplified procedures

Simplified procedures are allowed under the authority of **Article 97** of the Code and **Articles 372** onwards of the Implementing Regs. These simplified procedures are granted to **persons established in the community** who **regularly use** the community transit arrangements. In addition, this person should **not have committed any serious or repeated offences** and if they want to use simplified procedures, they must write to Customs and request them. There is no specific application form for this purpose.

[Art 97
2913/92](#)

[Art 372
2454/93](#)

The types of simplified procedures that Customs might grant are:

1. **Guarantee waivers.**

A guarantee waiver may be granted if Customs are satisfied that the Principal is in command of the transport operation and has **sufficient financial resources** to meet his obligations. In English, this means that provided the person has sound financial backing, then if the goods were to go missing, Customs are happy that the person has enough money to pay any customs duties that become due.

[Art 373
2545/93](#)

2. A person may ask to use **special loading lists** which do not contain all of the details as required by the legislation; and

3. They may also request **special types of seals** to be used on their goods or an exemption from having to follow a prescribed itinerary if the location of any consignments can be ascertained at any particular time.

21.14 Authorised consignors

As well as these derogations, a person could apply to become an **authorised consignor**. To have authorised consignor status means that a person **does not have to present the goods** or transit declaration at the office of departure. Instead, Customs will lay down any rules as to how they should be notified before the goods leave the country.

[Art 398
2545/93](#)

Only persons holding a comprehensive guarantee or guarantee waiver will be granted this status.

The consignor will issue **their own transit declaration** and electronically submit the transit declaration to Customs.

In summary then, by using simplified procedures, an authorised consignor can send goods directly from their premises to the vessel, and use their own documents to accompany the goods as they transit on their journey.

21.15 Authorised consignees

A person may also become an 'authorised consignee'. This means they do not have to present the goods or the TAD at the office of destination. Instead they will electronically inform Customs of the arrival of the goods.

[Art 406
2454/93](#)

21.16 Other issues

There are other various simplified procedures for goods consigned by air, rail and sea.

What if the goods don't arrive and Customs want to retrospectively recover duty? A **Customs debt** is deemed to have been incurred, if the procedure has not been correctly discharged. **The member state of departure must notify the guarantor that this has happened within 12 months.** In addition, there is a **normal 3 year cap** on Customs retrospectively recovering any duty that has been underpaid.

[Art 450c
2454/93](#)

Example 1

Hidden in the grid are 11 words.

The following 11 clues will help you find the words.

1. Goods which cannot be exported
2. Some goods require an export
3. Some goods qualify for export
4. Export controls are needed to ensure Customs.....are discharged correctly
5. If we don't export our goods correctly we could be liable to.....
6. Under Sec 67 CEMA '79, we could be liable to a fine oftimes the value of our goods
7. Exports are rated for VAT
8. The "..... Export System" aims to simplify export formalities
9. Customs documents should generally be kept for years
10. VAT documents should generally be kept for years
11. A Principal may be required to provide a before he can use the Community Transit system

P	E	N	A	L	T	I	E	S	E
R	R	O	A	D	H	N	G	E	I
O	U	O	Z	E	R	T	U	V	G
C	O	R	H	L	E	E	A	S	H
E	F	E	T	I	E	R	R	D	T
D	A	Z	N	C	B	N	A	N	W
U	R	U	O	E	S	I	N	U	O
R	O	A	M	N	E	W	T	F	N
E	I	G	H	C	A	K	E	E	E
S	I	X	T	E	A	T	E	R	D

Answer 1

1. Prohibited
2. Licence
3. Refunds
4. Procedures
5. Penalties
6. Three
7. Zero
8. New
9. Four
10. Six
11. Guarantee

P	E	N	A	L	T	I	E	S	E
R	R	O	A	D	H	N	G	E	I
O	U	O	Z	E	R	T	U	V	G
C	O	R	H	L	E	E	A	S	H
E	F	E	T	I	E	R	R	D	T
D	A	Z	N	C	B	N	A	N	W
U	R	U	O	E	S	I	N	U	O
R	O	A	M	N	E	W	T	F	N
E	I	G	H	C	A	K	E	E	E
S	I	X	T	E	A	T	E	R	D