

Status: Point in time view as at 01/01/2014.

Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EEC) No 2454/93 (repealed). (See end of Document for details)

[^{F1}ANNEX 37d

(referred to in Article 353(2)(b))

Textual Amendments

- F1** Inserted by [Commission Regulation \(EC\) No 1192/2008 of 17 November 2008 amending Regulation \(EEC\) No 2454/93 laying down provisions for the implementation of Council Regulation \(EEC\) No 2913/92 establishing the Community Customs Code.](#)

PART I

FALLBACK PROCEDURE

CHAPTER I

General provisions

1. This Annex lays down specific provisions for use of the fallback procedure, under Article 353(2), in the following cases:
 - (a) for travellers:
 - where the customs authorities' computerised system is not functioning;
 - (b) for principals, including authorised consignors:
 - where the customs authorities' computerised system is not functioning, or
 - where the principal's computerised system is not functioning, or
 - where the network between the principal and the customs authorities is not functioning.
2. Part I, Titles VII, VIII and Part II, Title II, Chapter 4, Sections 1, 2 and 3, subsections 1 to 7 shall apply to the fallback procedure unless otherwise provided in points 3 to 31 of this Annex.
3. Transit declarations.
 - 3.1. The transit declaration used in a fallback procedure shall be recognisable by all parties involved in the transit operation in order to avoid problems at the office(s) of transit and at the office of destination. For this reason the used documentation is limited to the following:
 - use of a Single Administrative Document (SAD),
 - use of a SAD printed out on plain paper by the trader system as foreseen in Annex 37, or
 - the SAD may be replaced by the layout of the [^{F2}Transit accompanying document (TAD) — Transit/security accompanying document (TSAD)] with the agreement of the customs authorities where the trader's needs are considered justified by the customs authorities.
 - 3.2. For the implementation of point 3.1, third indent, of this Annex the [^{F2}TAD/TSAD] shall be completed in accordance with [^{F2}Annex 37, 45a and 45e].

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- 3.3. Where the provisions of this Annex refers to copies of the transit declaration accompanying a consignment, these provisions shall apply, *mutatis mutandis*, to the [F²TAD/TSAD].

CHAPTER II

Implementing rules

4. Unavailability of the customs authorities' computerised system.
- 4.1. The rules shall be applied as follows, irrespective of the document used:
- the transit declaration shall be completed and produced to the office of departure in three copies in accordance with Annex 37 for the SAD and established in conformance with Annexes 37 and 45a for the [F²TAD/TSAD],
 - the transit declaration shall be registered in box C using a system of numbering different from that used in the computerised system,
 - the fallback procedure shall be indicated on the copies of the transit declaration with the stamp, conforming to the specimen in Part II of this Annex, in box A of the single administrative document (SAD) or in the place of the MRN and the barcode on the [F²TAD/TSAD],
 - where a simplified procedure is used the economic operator shall fulfil all the obligations and conditions regarding the entries to be made in the declaration and the use of the special stamp referred to in points 26 to 29, using respectively boxes D and C,
 - the document shall be stamped either by the office of departure in case of the standard procedure or by the authorised consignor where a simplified procedure is used,
 - where the [F²TAD/TSAD] layout is used, no barcode nor Movement Reference Number (MRN) shall appear in the declaration.
- 4.2. Where the decision to follow the fallback procedure is taken, any declaration, which has been entered in the computerised system, but which has not been further processed owing to the failure of the system, shall be cancelled. The economic operator is required to provide information to the customs authorities each time a declaration is submitted to the system but subsequently the fallback procedure shall be used for that declaration.
- 4.3. The customs authority shall monitor the use of the fallback procedure in order to avoid its misuse.
5. Unavailability of the principal's computer system and/or network.
- The provisions set out in point 4 shall apply excluding the provisions of the simplified procedure.
 - The principal shall inform the customs authorities when his computer system and/or network is available again.
6. Unavailability of the authorised consignor's computer system and/or network.
- Where the authorised consignor's computer system and/or network is/are unavailable the following procedure shall apply:
- the provisions set out in point 4 must be applied,

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- the authorised consignor shall inform the customs authorities when his computer system and/or network is available again,
- in these circumstances or in the event of network deficiencies when an authorised consignor makes more than 2 % of his declarations in a year under the fallback procedure, the authorisation shall be reviewed in order to assess whether its conditions are still met.

7. Data-capture by national authorities.

However, in the cases referred to in points 5 and 6, national customs authorities may allow economic operators to present the transit declaration in one copy (making use of the SAD or, where relevant, of the layout of the [F²TAD/TSAD]) to the office of departure in order to have it processed by the customs computerised system.

CHAPTER III

Operation of the procedure

8. Goods placed under the Community transit procedure shall be carried under cover of Copies No 4 and No 5 of the SAD or under cover of the [F²TAD/TSAD] given to the principal by the office of departure.

9. Furnishing of an individual guarantee by a guarantor.

Where the office of guarantee is not the office of departure for the transit operation, it shall keep a copy of the instrument which provides evidence that it has accepted the guarantor's undertaking. The principal shall present the original to the office of departure, where it shall be retained. If necessary the office may request a translation into the official language, or one of the official languages, of the country concerned.

10. Mixed consignments.

In the case of consignments comprising both goods which must be carried under the T1 procedure and goods which must be carried under the T2 procedure, the transit declaration bearing the 'T' symbol shall be supplemented by:

- supplementary forms bearing the 'T1bis', 'T2bis' or 'T2Fbis' symbol, as appropriate, or
- loading lists bearing the 'T1', 'T2' or 'T2F' symbol, as appropriate.

11. Presumption of T1 procedure.

Where the T1, T2 or T2F symbols have been omitted from the right-hand subdivision of box 1 of the transit declaration, or where, in the case of consignments containing both goods carried under the T1 procedure and goods carried under the T2 procedure the provisions of point 10 have not been complied with, the goods shall be deemed to be moving under the T1 procedure.

12. Signing of the transit declaration and principal's undertaking.

By signing the transit declaration the principal assumes responsibility for complying with the provisions of Article 199(1).

13. Identification measures.

Where Article 357(4) is applied, the office of departure shall enter the following phrase against the 'seals affixed' heading in box 'D. Control by office of departure' of the transit declaration:

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- Waiver — 99201.
- 14. Entries in the transit declaration and release of the goods.
 - The office of departure shall record the results of the verification on each copy of the transit declaration.
 - If the findings of the verification are consistent with the declaration the office of departure shall release the goods and record the date on the copies of the transit declaration.
- 15. Office of transit.
 - 15.1. The carrier shall present a transit advice note made out on a form corresponding to the specimen in Annex 46 to each office of transit, which shall retain it.
 - 15.2. Where goods are transported via an office of transit other than that mentioned in Copies No 4 and No 5 of the transit declaration, the said office:
 - shall send the transit advice note without delay to the office of transit originally designated, or
 - inform the office of departure in the cases and according to the procedure defined by the customs authorities in agreement with each other.
- 16. Presentation at the office of destination.
 - 16.1. The office of destination shall register Copies No 4 and No 5 of the transit declaration, record on them their date of arrival and enter the details of controls carried out.
 - 16.2. A transit operation may end at an office other than the one entered in the transit declaration. That office shall then become the office of destination.

Where the new office of destination comes under the jurisdiction of a Member State other than the one having jurisdiction over the office originally designated, the new office shall enter in box 'I. Control by office of destination' of Copy No 5 of the transit declaration the following endorsement in addition to the usual observations it is required to make:

- Differences: office where goods were presented (name and country) — 99203.
- 16.3. Where point 16.2, second paragraph, applies and if the transit declaration bears the following statement, the new office of destination shall keep the goods under its control and not allow their removal other than to the Member State having jurisdiction over the office of departure, unless specifically authorised by the latter:
 - Exit from the Community subject to restrictions or charges under Regulation/Directive/Decision No ... — 99204.

17. Receipt.

The receipt may be made out on the back of Copy No 5 of the transit declaration on SAD, in the space provided.

18. Return of Copy No 5.

The competent authorities of the Member State of destination shall return Copy No 5 of the transit declaration to the customs authorities in the Member State of departure without delay and at most within eight days of the date when the operation ended. Where the [F²TAD/TSAD] is used it is a copy of the [F²TAD/TSAD] presented which is returned under the same conditions as the Copy No 5.

19. Informing the principal and alternative proof of the end of the procedure.

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If Copy No 5 of the transit declaration is not returned to the customs authorities of the Member State of departure within one month of the time limit for presentation of the goods at the office of destination, those authorities shall inform the principal and ask him to furnish proof that the procedure has ended.

20. Enquiry procedure.
 - 20.1. Where the customs authorities of the Member State of departure have not received proof within two months of time limit for presentation of the goods at the office of destination that the procedure has ended, they shall initiate the enquiry procedure immediately in order to obtain the information needed to discharge the procedure or, where this is not possible, to:
 - establish whether a customs debt has been incurred,
 - identify the debtor,
 - determine the customs authorities responsible for recovery.
 - 20.2. If the customs authorities receive information earlier that the transit procedure has not ended, or suspect that to be the case, they shall initiate the enquiry procedure forthwith.
 - 20.3. The enquiry procedure shall likewise be initiated when it is discovered *ex post* that proof of the end of the transit procedure has been forged and that the enquiry procedure is necessary to meet the objectives of point 20.1.
21. Guarantee — Reference amount.
 - 21.1. For the application of Article 379(1) a calculation is made of the amount of the debt which may be incurred for each transit operation by the principal and he shall ensure that the amount at stake does not exceed the reference amount, taking into account also any operations for which the procedure is not yet ended.
 - 21.2. The principal shall inform the guarantee office when the reference amount falls below a level sufficient to cover his Community transit operations.
22. Comprehensive guarantee certificates and guarantee waiver certificates.

On the basis of the authorisation in accordance with Article 372(1)(a) comprehensive guarantee certificates and guarantee waiver certificates issued by the customs authorities shall be presented at the office of departure. Particulars of the certificates shall be entered on transit declarations.
23. Special loading lists.
 - 23.1. The customs authorities may authorise principals fulfilling the general conditions listed in Article 373 to use loading lists which do not comply with all the requirements set out in Annexes 44a, 44b, and 45.

Use of such lists shall be authorised only where:

- they are produced by firms which use an integrated electronic or automatic data-processing system to keep their records,
 - they are designed and completed in such a way that they can be used without difficulty by the customs authorities,
 - they include, for each item, the information required under Annex 44a.
- 23.2. Descriptive lists drawn up for the purposes of carrying out dispatch/export formalities may also be authorised for use as loading lists under point 23.1, even where such lists are produced by firms not using an integrated electronic or automatic data-processing system to keep their records.

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23.3. Firms which use an integrated electronic or automatic data-processing system to keep their records and are already authorised under points 23.1 and 23.2 to use loading lists of a special type, may also be authorised to use such lists for Community transit operations involving only one type of goods if this facility is made necessary by the computer programmes of the firms concerned.

24. Use of seals of a special type.

Principals shall enter, opposite the heading 'seals affixed' in box 'D. Control by office of departure' of the transit declaration, the make, type, and number of the seals affixed.

25. Exemption regarding prescribed itinerary.

Holders of such exemptions shall enter the following phrase in the corresponding attribute box 44 of the transit declaration:

— Prescribed itinerary waived — 99205.

26. Authorised consignor — Pre-authentication and formalities at departure.

26.1. For the application of points 4 and 6, the authorisation shall stipulate that box 'C. Office of departure' of the transit declaration forms must:

— be stamped in advance with the stamp of the office of departure and signed by an official of that office, or

— be stamped by the authorised consignor with a special metal stamp approved by the competent authorities and conforming to the specimen in Annex 62. The stamp may be pre-printed on the forms where the printing is entrusted to a printer approved for that purpose.

The authorised consignor shall complete the box by entering the date on which the goods are consigned and shall allocate a number to the transit declaration in accordance with the rules laid down in the authorisation.

26.2. The customs authorities may prescribe the use of forms bearing a distinctive mark as a means of identification.

27. Authorised consignor — Security measures for the stamp.

27.1. The authorised consignor shall take all necessary measures to ensure the safekeeping of the special stamps and/or forms bearing the stamp of the office of departure or a special stamp.

He shall inform the customs authorities of the security measures he is taking to apply the previous subparagraph.

27.2. In the event of the misuse by any person of forms stamped in advance with the stamp of the office of departure or with the special stamp, the authorised consignor shall be liable, without prejudice to any criminal proceedings, for the payment of duties and other charges payable in a particular country in respect of goods carried under cover of such forms unless he can satisfy the customs authorities by whom he was authorised that he took the measures required of him under point 27.1.

28. Authorised consignor — Information to be entered on declarations.

28.1. Not later than on consignment of the goods, the authorised consignor shall complete the transit declaration and, where necessary, enter in box 44 the itinerary prescribed in accordance with Article 355(2) and, in box 'D. Control by office of departure',

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- the period prescribed in accordance with Article 356 within which the goods must be presented at the office of destination, the identification measures applied and the following endorsement:
- Authorised consignor — 99206
 - 28.2. Where the competent authorities of the Member State of departure check a consignment before its departure, they shall record the fact on the declaration, in box 'D. Control by office of departure'.
 - 28.3. Following consignment, Copy No 1 of the transit declaration shall be sent without delay to the office of departure. The customs authorities may provide in the authorisation that Copy No 1 be sent to the customs authorities of the Member State of departure as soon as the transit declaration is completed. The other copies shall accompany the goods in accordance with point 8 of this Annex.
 - 29. Authorised consignor — Waiver of signature.
 - 29.1. The authorised consignor may be authorised not to sign transit declarations bearing the special stamp referred to in Annex 62 which are made out by an integrated electronic or automatic data-processing system. This waiver shall be subject to the condition that the authorised consignor has previously given the customs authorities a written undertaking acknowledging that he is the principal for all transit operations carried out under cover of transit declarations bearing the special stamp.
 - 29.2. Transit declarations made out in accordance with point 29.1 shall contain, in the box reserved for the principal's signature, the following phrase:
 - Signature waived — 99207.
 - 30. Authorised consignee — Obligations.
 - 30.1. When the goods arrive at his premises or at the places specified in the authorisation the authorised consignee shall without delay, send to the office of destination the [^{F2}TAD/TSAD] or Copies No 4 and No 5 of the transit declaration which accompanied the goods, indicating the date of arrival, the condition of any seals affixed and any irregularity.
 - 30.2. The office of destination shall make the entries provided for in point 16 of this Annex on Copies No 4 and No 5 of the transit declaration.
 - 31. Temporary prohibition of the use of the comprehensive guarantee for a reduced amount or the comprehensive guarantee.

The detailed rules for the application of Article 381(4) as referred to in Annex 47a are supplemented by the following provisions:

- 31.1. The following measures shall apply to transit operations involving goods which are subject to decisions prohibiting use of the comprehensive guarantee.
 - The following phrase, measuring at least 100 × 10 mm and printed in red capital letters, shall be affixed diagonally to all copies of the transit declaration:
 - COMPREHENSIVE GUARANTEE PROHIBITED — 99208.
 - By way of derogation from point 18, the office of destination shall return Copy No 5 of any transit declaration endorsed with this phrase no later than on the working day following that on which the consignment and the requisite copies of the declaration were presented at that office. Where such a consignment is presented to an authorised consignee within the meaning of Article 406, he shall send Copy No 5 to his local

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office of destination no later than on the working day following that on which he took receipt of the consignment.

- 31.2. Measures to alleviate the financial consequences of prohibiting the use of the comprehensive guarantee.

When the use of the comprehensive guarantee has been prohibited temporarily for goods referred to in the list in Annex 44c, holders of comprehensive guarantees may, upon request, use an individual guarantee. However, the following special condition shall apply:

- this individual guarantee can be used, within the framework of the fallback procedure, only within the office of departure identified in the guarantee instrument.

PART II

SPECIMEN OF STAMP

NCTS FALLBACK PROCEDURE

NO DATA AVAILABLE IN THE SYSTEM

INITIATED ON _____

(Date/hour)

(dimensions: 26 × 59 mm, red ink)]

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