

Commission Regulation (EC) No 312/2009 of 16 April 2009 amending Regulation (EEC) No 2454/93 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code

COMMISSION REGULATION (EC) No 312/2009

of 16 April 2009

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

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⁽¹⁾, and in particular Article 247 thereof,

Whereas:

- (1) Annex 37 to Commission Regulation (EEC) No 2454/93⁽²⁾ provides that a number identifying the person concerned is to be entered in the customs declaration in certain cases. However, the type of identification number to be used is established by the Member States and Member States require the person concerned to be registered in their national systems. As a result, economic operators and other persons wishing to import goods, move goods under a transit procedure, export goods or apply for an authorisation to use customs simplifications or customs procedures in different Member States are obliged to register and to obtain a different identification number in each of those Member States.
- (2) The measures to enhance security, introduced by Regulation (EEC) No 2913/92, as amended by Regulation (EC) No 648/2005 of the European Parliament and of the Council⁽³⁾, provide for the analysis of risks and the electronic exchange of risk-related information between customs authorities and between those authorities and the Commission under a common risk management framework, for the customs authorities to receive pre-arrival and pre-departure information on all goods entering or leaving the customs territory of the Community, and for granting the status of Authorised Economic Operator to reliable economic operators who meet certain conditions. In order to enhance the effectiveness of those measures, it should be possible to identify the persons concerned by reference to a common number unique to each of those persons.
- (3) It is therefore necessary to provide for an Economic Operators Registration and Identification number (EORI number) to be assigned to each economic operator and, where appropriate, to other persons to serve as a common reference in their relations with customs authorities throughout the Community and for the exchange of information between the customs authorities and between customs authorities and other authorities. To ensure that it is unique, only one number should be used in respect of a given person.

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- (4) Certain provisions of Regulation (EEC) No 2454/93 may require persons other than economic operators to provide an EORI number where they have relations with customs authorities. Member States must therefore be allowed to register those persons.
- (5) To limit the need for substantial changes to existing national registration systems and legal provisions, and to facilitate the integration of the central system with other national systems, it is appropriate to provide that economic operators, and where appropriate, other persons are to apply for and are to be assigned the EORI number by the Member States.
- (6) In view of the diversity of the authorities involved in the registration of economic operators and other persons in the Member States, each Member State should designate the authority or authorities that will assign the EORI numbers and register the operators and other persons concerned.
- (7) To reduce the administrative burden on economic operators and other persons, they should be able to obtain an EORI number that is valid in other Member States by registering in one Member State. For the purposes of simplifying the processing of information and facilitating contacts with customs authorities, once this number has been assigned, economic operators and other persons should be obliged to use that unique number in all communications with customs authorities where an identifier is required.
- (8) For reasons of administrative simplification and to provide easy and reliable access to data for customs authorities, a central electronic system should be developed for storing and exchanging data on the registration of economic operators and other persons and on the EORI numbers.
- (9) In order to develop a central electronic system and ensure that it operates smoothly and securely, Member States and the Commission should cooperate closely.
- (10) Data available in the central system should be used in the exchange of information between the customs authorities and other national authorities only to the extent that their access to such data is necessary for the purpose of meeting their legal obligations in respect of the movement of goods concerned by a customs procedure.
- (11) Publication of EORI numbers and limited registration data of economic operators and other persons is a tool enabling other parties to verify those data. EORI numbers and some limited registration data should therefore be published. However, taking into account the consequences of publication, it should take place only where the economic operator or other person has freely given specific and informed written consent thereto.
- (12) The protection of individuals with regard to the processing of personal data by the Member States is governed by 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⁽⁴⁾ and the protection of individuals with regard to the processing of personal data by the Commission is governed by 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

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processing of personal data by the Community institutions and bodies and on the free movement of such data⁽⁵⁾.

- (13) Pursuant to Article 28 of Directive 95/46/EC, the national supervisory authorities should monitor the lawfulness of the processing of personal data by the Member States, while, pursuant to Article 46 of Regulation (EC) No 45/2001, the European Data Protection Supervisor should monitor the activities of the Community institutions and bodies in relation to the processing of personal data in view of the limited tasks of the Community institutions and bodies with regard to the data, and these authorities, acting within the scope of their respective competences, should cooperate actively and ensure coordinated supervision of processing carried out in pursuance of this Regulation.
- (14) In the light of the experience gained since the adoption of Commission Regulation (EC) No 1875/2006⁽⁶⁾ amending Regulation (EEC) No 2454/93, it is necessary to adjust and specify certain details concerning pre-arrival and pre-departure declarations to be provided to the customs authorities on goods entering and leaving the customs territory of the Community.
- (15) More detailed rules are in particular required with regard to the information exchange between the operator of the means of transport and the customs office of entry in cases where a means of transport arrives at a port or airport other than that declared in the entry summary declaration.
- (16) Furthermore, it should be specified in which cases and in which form the operator of the means of transport is to notify the customs office of entry of the arrival of the means of transport.
- (17) More detailed rules are necessary defining the person responsible for providing information on non-Community goods which are in temporary storage upon their arrival in the customs territory of the Community. Such information should be derived as much as possible from data already available to the customs authorities.
- (18) Additional cases have been identified in which no pre-arrival or pre-departure declaration is required, in particular with regard to goods destined for drilling or production platforms or coming from such platforms, as well as weapons and military equipment transported by, or on behalf of, the military authorities of a Member State. Furthermore, in order to limit the burden for economic operators, consignments of goods the intrinsic value of which does not exceed EUR 22 should be exempted from pre-arrival and pre-departure declarations subject to certain conditions. Where such exemptions apply, risk analysis should be carried out upon arrival or departure of the goods on the basis of the summary declaration for temporary storage or the customs declaration for the goods concerned.
- (19) It is also necessary to specify the treatment of pre-departure declarations for which no exit confirmation has been sent by the customs office of exit to the customs office of export, and to provide for an enquiry and information procedure between the customs offices of export and exit. Furthermore, it should be possible for the customs office of export to close export movements for which no exit confirmation has been received

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from the customs office of exit, either on the basis of evidence submitted by the exporter or declarant or following the expiry of a specified time limit.

- (20) Regulation (EC) No 1875/2006 introduced in Regulation (EEC) No 2454/93 a number of measures with respect to the data to be collected for entry and exit summary declarations. Certain technical developments in the information technology necessary to implement those measures have shown that some adjustments to those data, set out in Annex 30A to Regulation (EEC) No 2454/93, are necessary.
- (21) In order to better identify cases where simplified data sets can be used for certain categories of declarations, the ‘Mode of transport’ should be a mandatory data element.
- (22) The best method for an unambiguous identification of the means of transport is the use of the IMO ship identification number (Unique European Vessel Identification Number) and of the unique European Vessel Identification Number (ENI). Those data should therefore be provided instead of the name of the vessel.
- (23) Since the carrier has to be informed wherever the entry summary declaration is lodged by another person, it is necessary to collect the reference of the carrier transport document number.
- (24) The possible fluctuations of international transport operations make it necessary to provide for the possibility to lodge diversion requests. For that purpose a new table for diversion requests data requirements should be inserted.
- (25) As a result of the requirement to provide the EORI number there will no longer be a need to use code numbers to identify parties and, as regards postal consignments, references to postal declarations should be replaced by references to the provision of data by postal services.
- (26) As a consequence of the adjustments made in respect of data requirements, the explanatory notes for the data elements concerned should be adjusted accordingly.
- (27) Regulation (EEC) No 2454/93 should therefore be amended accordingly.
- (28) The measures provided for in this Regulation are in accordance with the opinion of the Customs Code Committee,

HAS ADOPTED THIS REGULATION:

Article 1

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

1. in Article 1, the following points 16 and 17 are added:
 16. : a number, unique in the European Community, assigned by a Member State customs authority or designated authority or authorities to economic operators and to other persons in accordance with the rules laid down in Chapter 6.
- EORI
number
(Economic
Operators
Registration
and
Identification

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number)

means

17. : the summary declaration referred to in Article 36a of the Code to be lodged for goods brought into the customs territory of the Community, except where otherwise provided for in this Regulation.;

summary declaration

means

2. in Part I, Title I, the following Chapter 6 is added:

CHAPTER 6

Registration and Identification System

Article 4k

- 1 The EORI number shall be used for the identification of economic operators and other persons in their relations with the customs authorities.

The structure of the EORI number shall comply with the criteria set out in Annex 38.

- 2 If the authority responsible for assigning the EORI number is not the customs authority, each Member State shall designate the authority or authorities responsible for registering economic operators and other persons and assigning them EORI numbers.

The Member State customs authorities shall communicate to the Commission the name and the address details of the authority or authorities responsible for assigning the EORI number. The Commission shall publish this information on the Internet.

- 3 Subject to paragraph 1, Member States may use as an EORI number a number already assigned to an economic operator or to another person by the competent authorities for tax, statistical or other purposes.

Article 4l

- 1 An economic operator established in the customs territory of the Community, shall be registered by the customs authority or the designated authority of the Member State in which he is established. Economic operators shall apply for registration before they start activities referred to in Article 1(12). However, economic operators who have not applied for registration may do so during their first operation.

- 2 In the cases referred to in Article 4k(3), Member States may waive the obligation for an economic operator or another person to apply for an EORI number.

- 3 Where an economic operator not established in the customs territory of the Community does not have an EORI number, he shall be registered by the customs authority or the designated authority of the Member State where he first performs one of the following:

- a he lodges in the Community a summary or customs declaration other than:
 - (i) a customs declaration made in accordance with Articles 225 to 238;
or
 - (ii) a customs declaration made for the temporary importation procedure;
- b he lodges in the Community an exit or entry summary declaration;

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- c he operates a temporary storage facility pursuant to Article 185(1);
- d he applies for an authorisation pursuant to Article 324a or 372;
- e he applies for an authorised economic operator certificate pursuant to Article 14a.

4 Persons other than economic operators shall not be registered unless all the following conditions are met:

- a such registration is required by the legislation of a Member State;
- b the person has not previously been assigned an EORI number;
- c the person engages in operations for which an EORI number must be provided pursuant to Annex 30A or Annex 37, Title I.

5 In the case referred to in paragraph 4:

- a a person established in the customs territory of the Community, other than an economic operator referred to in paragraph 1, shall be registered by the customs authority or the designated authority of the Member State in which he is established;
- b a person not established in the customs territory of the Community, other than an economic operator referred to in paragraph 3, shall be registered by the customs authority or the designated authority of the Member State in which he is involved in activities covered by customs legislation.

6 Economic operators and other persons shall have only one EORI number.

7 For the purposes of this Chapter, Article 4(2) of the Code shall apply *mutatis mutandis* in determining whether a person is established in a Member State.

Article 4m

1 Registration and identification data of economic operators or, where appropriate, of other persons processed in the system as referred to in Article 4o shall comprise the data listed in Annex 38d subject to specific conditions laid down in Article 4o(4) and (5).

2 When registering economic operators and other persons for an EORI number, Member States may require them to submit data other than the data listed in Annex 38d where that is necessary for purposes laid down in their national laws.

3 Member States may require economic operators or, where appropriate, other persons to submit the data referred to in paragraphs 1 and 2 by electronic means.

Article 4n

The EORI number shall be used, if required, in all communications by economic operators and other persons with the customs authorities. It shall also be used for the exchange of information between customs authorities and between customs and other authorities under the conditions laid down in Articles 4p and 4q.

Article 4o

1 Member States shall cooperate with the Commission with a view to developing a central electronic information and communication system which contains the data listed in Annex 38d provided by all the Member States.

2 The customs authorities shall cooperate with the Commission to process and to exchange between customs authorities and between the Commission and customs authorities, the registration and identification data listed in Annex 38d of economic operators and other persons, by using the system referred to in paragraph 1.

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Data other than the data listed in Annex 38d shall not be processed in the central system.

3 Member States shall ensure that their national systems are kept up to date, and are complete and accurate.

4 Member States shall upload on a regular basis to the central system the data listed in points 1 to 4 of Annex 38d concerning economic operators and other persons whenever new EORI numbers are assigned or changes in that data occur.

5 Member States shall also upload on a regular basis to the central system, where available in the national systems, the data listed in points 5 to 12 of Annex 38d concerning economic operators and other persons whenever new EORI numbers are assigned or changes in that data occur.

6 Only EORI numbers assigned in accordance with Article 4l(1) to (5) shall be uploaded to the central system, together with other data listed in Annex 38d.

7 Where it is established that an economic operator or a person other than an economic operator ceases the activities referred to in Article 1(12), Member States shall reflect this in the data listed in point 11 of Annex 38d.

Article 4p

In each Member State the authority designated in accordance with Article 4k(2) shall give the customs authorities of that Member State direct access to the data referred to in Annex 38d.

Article 4q

1 In each Member State the following authorities may give each other direct access on a case-by-case basis to the data referred to in points 1 to 4 of Annex 38d that they have in their possession:

- a customs authorities;
- b veterinary authorities;
- c sanitary authorities;
- d statistical authorities;
- e tax authorities;
- f authorities responsible for the fight against fraud;
- g authorities responsible for trade policy, including agricultural authorities where relevant;
- h authorities responsible for border control.

2 The authorities referred to in paragraph 1 may store the data referred to in that paragraph or exchange the data between themselves only if such processing is necessary for the purposes of meeting their legal obligations in respect of the movement of goods concerned by a customs procedure.

3 The Member States customs authorities shall communicate to the Commission the address details of the authorities referred to in paragraph 1. The Commission shall publish this information on the Internet.

Article 4r

An EORI number and the data listed in Annex 38d shall be processed in the central system for the period of time required by the law of the Member States that uploaded the data referred to in Article 4o(4) and (5).

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Article 4s

1 This Regulation leaves intact and in no way affects the level of protection of individuals with regard to the processing of personal data under the provisions of Community and national law, and in particular does not alter either the obligations of Member States relating to their processing of personal data under Directive 95/46/EC or the obligations of the Community institutions and bodies relating to their processing of personal data under Regulation (EC) No 45/2001 when fulfilling their responsibilities

2 Identification and registration data of economic operators and other persons, constituted by the set of data listed in points 1, 2 and 3 of Annex 38d may be published by the Commission on the Internet only if they have freely given specific and informed written consent. Where granted, such consent shall be communicated, in accordance with the national legislation of the Member States, to the authority or authorities of the Member States designated in accordance with Article 4k(2), or to the customs authorities.

3 The rights of persons with regard to their registration data listed in Annex 38d and processed in national systems shall be exercised in accordance with the law of the Member State which stored their personal data, and in particular, where applicable, the provisions implementing Directive 95/46/EC.

Article 4t

The national supervisory data protection authorities and the European Data Protection Supervisor, each acting within the scope of their respective competences, shall cooperate actively and ensure coordinated supervision of the system referred to in Article 4o(1).;

3. Article 181b is replaced by the following:

Article 181b

For the purposes of this Chapter and Annex 30A:

Carrier means	:	the person who brings the goods, or who assumes responsibility for the carriage of the goods, into the customs territory of the Community, as referred to in Article 36b(3) of the Code. However,
		— in the case of combined transportation, as referred to in Article 183b, carrier means the person who will operate the means of transport which, after having been brought into the customs territory of the Community, will move by itself as an active means of transport,
		— in the case of maritime or air traffic under a vessel sharing or contracting arrangement, as referred to in Article 183c, carrier means the person who has concluded a contract, and issued a bill of lading or air waybill, for the actual carriage of the goods into the customs territory of the Community.;

4. in Article 181c, the first paragraph is amended as follows:

(a) point (e) is replaced by the following:

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- (e) goods covered by customs declarations made by any other act in accordance with Articles 230, 232 and 233, except pallets, containers, and means of road, rail, air, sea and inland waterway transport carried under a transport contract;;
 - (b) point (g) is replaced by the following:
 - (g) goods for which an oral customs declaration is permitted, in accordance with Articles 225, 227 and 229(1), except pallets, containers, and means of road, rail, air, sea and inland waterway transport carried under a transport contract;;
 - (c) point (j) is replaced by the following:
 - (j) goods carried on board vessels of regular shipping services, duly certified in accordance with Article 313b, and goods on vessels or aircraft which are carried between Community ports or airports without calling at any port or airport outside the customs territory of the Community;;
 - (d) the following points (l) to (n) are added:
 - (l) weapons and military equipment brought into the customs territory of the Community by the authorities in charge of the military defence of a Member State, in military transport or transport operated for the sole use of the military authorities;
 - (m) the following goods brought into the customs territory of the Community directly from drilling or production platforms operated by a person established in the customs territory of the Community:
 - (i) goods which were incorporated in such platforms, for the purposes of their construction, repair, maintenance or conversion;
 - (ii) goods which were used to fit to or to equip the said platforms;
 - (iii) provisions used or consumed on the said platforms; and
 - (iv) non-hazardous waste products from the said platforms;
 - (n) goods in a consignment the intrinsic value of which does not exceed EUR 22 provided that the customs authorities accept, with the agreement of the economic operator, to carry out risk analysis using the information contained in, or provided by, the system used by the economic operator.;
 - (e) the second paragraph is deleted;
5. Article 183 is amended as follows:
- (a) in paragraph 2, the introductory phrase is replaced by the following:

The customs authorities shall allow the *lodging* of a paper-based entry summary declaration, or any other procedure replacing it as

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agreed between the customs authorities, only in one of the following circumstances;:

(b) the following paragraphs 6 to 9 are added:

6. The customs authorities shall notify immediately the person who lodged the entry summary declaration of its registration. Where the entry summary declaration is lodged by a person referred to in Article 36b(4) of the Code, the customs authorities shall also notify the carrier of the registration, provided that the carrier is connected to the customs system.

7 Where an entry summary declaration is lodged by a person referred to in Article 36b(4) of the Code, the customs authorities may assume, except where there is evidence to the contrary, that the carrier has given his consent under contractual arrangements and that the lodging has been made with his knowledge.

8 The customs authorities shall notify immediately the person who lodged amendments to the entry summary declaration of the registration of such amendments. Where the amendments to the entry summary declaration are lodged by a person referred to in Article 36b(4) of the Code, the customs authorities shall also notify the carrier, provided that the carrier has requested the customs authorities to send such notifications and is connected to the customs system.

9 Where, after a period of 200 days from the date of lodging an entry summary declaration, the arrival of the means of transport has not been notified to customs in accordance with Article 184g or the goods have not been presented to customs in accordance with Article 186, the entry summary declaration shall be deemed not to have been lodged.;

6. Article 183b is replaced by the following:

Article 183b

In the case of combined transportation, where the active means of transport entering the customs territory of the Community is only transporting another means of transport which, after entry into the customs territory of the Community, will move by itself as an 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 entering the customs territory of the Community, as specified in Article 184a.;

7. Article 183d is replaced by the following:

Article 183d

1 Where an active means of transport entering the customs territory of the Community is to arrive first at a customs office located in a Member State that was not declared in the entry summary declaration, the operator of this means of transport or his representative shall inform the declared customs office of entry by way of a “diversion request” message. This message shall contain the particulars laid down in Annex 30A and shall be completed in accordance with the explanatory notes in that Annex. This paragraph shall not apply in the cases referred to in Article 183a.

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2. The declared customs office of entry shall immediately notify the actual customs office of entry of the diversion and of the results of the safety and security risk analysis.;
8. in Article 184a(1), point (b) is replaced by the following:
- (b) for bulk/break bulk cargo, other than where point (c) or (d) applies, at least four hours before arrival at the first port in the customs territory of the Community.;
9. Article 184d is amended as follows:
- (a) in the second subparagraph of paragraph 2, the second sentence is replaced by the following:
- ‘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 carrier, provided that the carrier is connected to the customs system, that the goods are not to be loaded.’;
- (b) paragraph 3 is replaced by the following:
3. Where goods not covered by an entry summary declaration, in accordance with Article 181c(c) to (i), (l) to (n), are brought into the customs territory of the Community, risk analysis shall be carried out upon presentation of the goods, where available on the basis of the summary declaration for temporary storage or the customs declaration covering those goods.;
10. in Article 184e, the second and third paragraphs are replaced by the following:
- Where a risk is identified, the customs office of the first port or airport of entry shall take prohibitive action in the case of consignments identified as posing a threat of such a serious nature that immediate intervention is required, and, in any case, 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, Article 186 shall apply for goods presented to customs at that port or airport.;
11. Article 184f is deleted;
12. in Part I, Title VI, Chapter 1, the following Section 5 is inserted:

Section 5

Notification of arrival

Article 184g

The operator of the active means of transport entering the customs territory of the Community or his representative shall notify the customs authorities of the first customs office of entry of the arrival of the means of transport. This notification of arrival shall contain the particulars necessary for the identification of the entry

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summary declarations lodged in respect of all goods carried on that means of transport. Wherever possible, available methods of notification of arrival shall be used.;

13. Article 186 is replaced by the following:

Article 186

1 Non-Community goods presented to customs shall be covered by a summary declaration for temporary storage as specified by the customs authorities.

The summary declaration for temporary storage shall be lodged by or on behalf of the person presenting the goods no later than at the time of presentation. Where the summary declaration for temporary storage is lodged by a person other than the operator of the temporary storage facility, the customs authorities shall notify that operator of the declaration provided that this person is indicated in the summary declaration for temporary storage and connected to the customs system.

2 The summary declaration for temporary storage may take one of the following forms, as prescribed by the customs authorities:

- a a reference to any entry summary declaration for the goods concerned, supplemented by the particulars of a summary declaration for temporary storage;
- b a summary declaration for temporary storage, including a reference to any entry summary declaration for the goods concerned;
- c a manifest or another transport document, provided that it contains the particulars of a summary declaration for temporary storage, including a reference to any entry summary declaration for the goods concerned.

3 A reference to any entry summary declaration shall not be required where the goods have already been in temporary storage or have been assigned a customs-approved treatment or use and have not left the customs territory of the Community.

4 Commercial, port or transport inventory systems may be used provided that they are approved by the customs authorities.

5 The summary declaration for temporary storage may be lodged with, or contain, the notification of arrival referred to in Article 184g.

6 For the purposes of Article 49 of the Code, the summary declaration for temporary storage shall be deemed to have been lodged at the date of presentation of the goods.

7 The summary declaration for temporary storage 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.

8 A summary declaration for temporary storage shall not be required where, at the latest at the time of their presentation to customs:

- a the goods are declared for a customs procedure or are otherwise placed under a customs-approved treatment or use; or
- b proof that the goods have Community status is established in accordance with Articles 314b to 336.

9 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

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the goods, and the goods shall be placed directly under the declared procedure subject to the conditions laid down for that procedure.

10 For the purposes of paragraphs 1 to 9, 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 shall be deemed to be the summary declaration for temporary storage.;

14. Article 189 is replaced by the following:

Article 189

Goods brought into the customs territory of the Community by sea or air which remain on board the same means of transport for carriage, without transshipment, shall be presented to customs in accordance with Article 40 of the Code only at the Community port or airport where they are unloaded or transhipped.;

15. in Article 251(2), point (b) is replaced by the following:

(b) in the case of other goods, the customs office of export has been informed, in accordance with Article 792a(1), or considers, in accordance with Article 796e(2), that the goods declared have not left the customs territory of the Community.;

16. Article 592a is amended as follows:

(a) point (e) is replaced by the following:

(e) goods covered by a customs declaration made by any other act in accordance with Articles 231, 232(2) and 233, except pallets, containers, and means of road, rail, air, sea and inland waterway transport carried under a transport contract;;

(b) point (g) is replaced by the following:

(g) goods for which an oral declaration is permitted in accordance with Articles 226, 227 and 229(2), except pallets, containers, and means of road, rail, air, sea and inland waterway transport carried under a transport contract;;

(c) point (j) is replaced by the following:

(j) goods carried on board vessels of regular shipping services, duly certified in accordance with Article 313b; and goods on vessels or aircraft moving between Community ports or airports without any intervening call at any port or airport outside the customs territory of the Community;;

(d) the following points (k) to (m) are added:

(k) weapons and military equipment brought out of the customs territory of the Community by the authorities in charge of the military defence of a Member State, in military transport or transport operated for the sole use of the military authorities;

(l) the following goods brought out of the customs territory of the Community directly to drilling or production platforms operated by a person established in the customs territory of the Community:

Status: Point in time view as at 16/04/2009.

Changes to legislation: Commission Regulation (EC) No 312/2009 is up to date with all changes known to be in force on or before 23 November 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (i) goods to be used for construction, repair, maintenance or conversion of such platforms;
 - (ii) goods to be used to fit or equip the said platforms;
 - (iii) provisions to be used or consumed on the said platforms;
 - (m) goods in a consignment the intrinsic value of which does not exceed EUR 22 provided that the customs authorities accept, with the agreement of the economic operator, to carry out risk analysis using the information contained in, or provided by, the system used by the economic operator.;
17. in Article 592b(1)(a), point (ii) is replaced by the following:
- (ii) for bulk/break bulk cargo, other than where point (iii) or (iv) applies, at least four hours before leaving the port in the customs territory of the Community.;
18. Article 592g is replaced by the following:
- Article 592g*
- Where goods covered by an exemption, under Article 592a(c) to (m), 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, where available on the basis of the customs declaration covering these goods.;
19. in Article 792a(1), the third sentence is deleted;
20. Article 792b is replaced by the following:
- Article 792b*
- Articles 796da and 796e shall apply *mutatis mutandis* in cases where a paper-based export declaration has been lodged.;
21. after Article 796d, the following Article 796da is inserted:
- Article 796da*
- 1 Where, after 90 days from the release of goods for export, the customs office of export has not received the “Exit results” message referred to in Article 796d(2), the customs office of export may, where needed, request the exporter or declarant to indicate the date at which and the customs office from where the goods have left the customs territory of the Community.
- 2 The exporter or declarant may, on his own initiative or following a request made in accordance with paragraph 1, inform the customs office of export that the goods have left the customs territory of the Community indicating the date at which and the customs office of exit from where the goods have left the customs territory of the Community and request from the customs office of export that the exit be certified. In this case, the customs office of export shall request the “Exit results” message from the customs office of exit, which shall respond within 10 days.
- 3 Where, in the cases referred to in paragraph 2, the customs office of exit does not confirm the exit of the goods within the time limit referred to in paragraph 2, the customs office of export shall inform the exporter or declarant.

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

4 The evidence referred to in paragraph 3 may be provided in particular by one of the following means or a combination thereof:

- a a copy of the delivery note signed or authenticated by the consignee outside the customs territory of the Community;
- b the proof of payment or the invoice or the delivery note duly signed or authenticated by the economic operator which brought the goods out of the customs territory of the Community;
- c a declaration signed or authenticated by the company which brought the goods out of the customs territory of the Community;
- d a document certified by the customs authorities of a Member State or a country outside the customs territory of the Community;
- e economic operators records of goods supplied to oil and gas drilling and production platforms.;

22. Article 796e is replaced by the following:

Article 796e

1 The customs office of export shall certify the exit to the exporter or declarant in the following cases:

- a it has received an “Exit results” message from the customs office of exit;
- b it has, in the cases referred to in Article 796da(2), received no “Exit results” message from the customs office of exit within 10 days, but is satisfied that the evidence provided in accordance with Article 796da(4) is sufficient.

2 Where the customs office of export has, after a period of 150 days from the date of release of the goods for export, received neither an “Exit results” message from the customs office of exit nor satisfactory evidence in accordance with Article 796da(4), the customs office of export may consider this as information that the goods have not left the customs territory of the Community.

3 The customs office of export shall inform the exporter or declarant and the declared customs office of exit of the invalidation of the export declaration. The customs office of export shall inform the declared customs office of exit where it has accepted evidence in accordance with paragraph 1(b).;

23. Article 842a is amended as follows:

- (a) point (a) is replaced by the following:
 - (a) the cases listed in Article 592a(a) to (m).;
- (b) point (b) is deleted;

24. in Article 842d(1), the second subparagraph is replaced by the following:

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

25. the following Article 842f is inserted:

Status: Point in time view as at 16/04/2009.

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Article 842f

Where goods subject to an exit summary declaration have, after a period of 150 days from the date of lodging the declaration, not left the customs territory of the Community, the exit summary declaration shall be deemed not to have been lodged.;

26. Annex 30A is amended in accordance with Annex I to this Regulation;
27. Annex 37 is amended in accordance with Annex II to this Regulation;
28. Annex 38 is amended in accordance with Annex III to this Regulation;
29. Annex 38d set out in Annex IV to this Regulation is inserted.

Article 2

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

It shall apply from 1 July 2009.

However, until 1 July 2010 Article 1(2), in so far as it relates to Article 4o(4) and to the data mentioned in point 4 of Annex 38d, shall apply only where those data are available in the national systems.

Article 1(2), in so far as it relates to Article 4o(1), shall apply from the date of entry into force of this Regulation.

A Member State may apply Article 1(2), in so far as it relates to Article 4l, before 1 July 2009. In that case, it shall notify the date of application to the Commission. The Commission shall publish that information.

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

Done at Brussels, 16 April 2009.

For the Commission

László KOVÁCS

Member of the Commission

Status: Point in time view as at 16/04/2009.

Changes to legislation: Commission Regulation (EC) No 312/2009 is up to date with all changes known to be in force on or before 23 November 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

ANNEX I

Annex 30A is amended as follows:

1. Section 1 is amended as follows:
 - (a) in note 1.1, the following sentence is added:

The diversion request that needs to be made where an active means of transport entering the customs territory of the Community is to arrive first at a customs office located in a Member State that was not declared in the entry summary declaration contains the information detailed in Table 6.;
 - (b) note 1.2 is replaced by the following:
 - 1.2. Tables 1 to 7 include all data elements necessary for the procedures, declarations and diversion requests concerned. They provide comprehensive views of the requirements necessary for the various procedures, declarations and diversion requests.;
 - (c) note 1.6 is replaced by the following:
 - 1.6. The descriptions and notes contained in Section 4 in respect of entry and exit summary declaration, of simplified procedures and of diversion requests apply to the data elements referred to in Tables 1 to 7.;
 - (d) in note 2.1, second paragraph, 'Table 6' is replaced by 'Table 7';
 - (e) in note 2.2, second paragraph, 'Table 6' is replaced by 'Table 7';
 - (f) in note 3.1, second paragraph, 'Table 6' is replaced by 'Table 7';
 - (g) in note 3.2, second paragraph, 'Table 6' is replaced by 'Table 7';
 - (h) note 4.1 is replaced by the following:
 - 4.1. The columns "Exit summary declaration — Express consignments" and "Entry summary declaration — Express consignments" of Table 2 cover the required data which shall be provided electronically to customs authorities for risk-analysis purposes prior to departure or arrival of express consignments. Postal services may choose to provide electronically the data contained in those columns of Table 2 to customs authorities for risk-analysis purposes prior to departure or arrival of postal consignments.;
 - (i) note 4.2 is replaced by the following:
 - 4.2. For the purposes 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.;
 - (j) note 4.3 is replaced by the following:

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4.3. 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.;

(k) in note 5.1, 'Table 6' is replaced by 'Table 7';

2. Section 2 is amended as follows:

(a) in point 2.1, in Table 1, between the rows 'Country(ies) of routing codes' and 'Customs office of exit', the following row is inserted:

Mode of transport at the border		Z
---------------------------------	--	---

(b) in point 2.2, Table 2 is amended as follows:

(i) in the second column, the heading 'Exit summary declaration — Postal and express consignments (See notes 3.1 and 4.1 to 4.3)' is replaced by 'Exit summary declaration — Express consignments (See notes 3.1 and 4.1 to 4.3)';

(ii) in the fourth column, the heading 'Entry summary declaration — Postal and express consignments (See notes 2.1 and 4.1 to 4.3)' is replaced by 'Entry summary declaration — Express consignments (See notes 2.1 and 4.1 to 4.3)';

(iii) between the rows 'Carrier' and 'Country(ies) of routing codes', the following rows are inserted:

Conveyance reference number		Z
Date and time of arrival at first place of arrival in customs territory		Z

(iv) between the rows 'Country(ies) of routing codes' and 'Customs office of exit', the following row is inserted:

Mode of transport at the border		Z
---------------------------------	--	---

(c) in point 2.3, in Table 3, between the rows 'Country(ies) of routing codes' and 'Place of loading', the following row is inserted:

Mode of transport at the border	Z
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Status: Point in time view as at 16/04/2009.

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- (d) in point 2.4, in Table 4, between the rows ‘Country(ies) of routing codes’ and ‘Place of loading’, the following row is inserted:

Mode of transport at the border	Z
---------------------------------	---

- (e) in point 2.5, Table 5 is amended as follows:

- (i) between the rows ‘Country(ies) of routing codes’ and ‘Customs office of exit’, the following row is inserted:

Mode of transport at the border		Z
---------------------------------	--	---

- (ii) between the rows ‘Equipment identification number, if containerised’ and ‘Commodity code’, the following row is inserted:

Goods item number	X	X
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- (f) the following point 2.6 is inserted:

2.6. *Requirements for diversion requests — Table 6*

Name	
Mode of transport at the border	Z
Identification of means of transport crossing the border	Z
Date and time of arrival at first place of arrival in Customs territory	Z
Country code of the declared first office of entry	Z
Person requesting the diversion	Z
MRN	X
Goods item number	X
First place of arrival code	Z
Actual first place of arrival code	Z

3. in Section 3, in the heading ‘Requirements for simplified procedures’, ‘Table 6’ is replaced by ‘Table 7’;

4. Section 4, Data elements explanatory notes, is amended as follows:

- (a) before the data element explanatory note ‘*Declaration*’, the following is inserted:
MRN

Diversion request: The Movement reference number is an alternative to the following two data elements:

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- Identification of the means of transport crossing the border,
 - Date and time of arrival at first place of arrival in customs territory.;
- (b) in the data element explanatory note ‘*Transport document number*’, the first paragraph is replaced by the following:
- Reference of the transport document that covers the transport of goods into or out of the customs territory. Where the person lodging the entry summary declaration is different from the carrier, the transport document number of the carrier shall also be provided.;
- (c) the data element explanatory note ‘*Consignor*’ is amended as follows:
- (i) footnote 2 is deleted;
 - (ii) the second paragraph is replaced by the following:

Exit summary declarations: This information must be provided when it is different from the person lodging the summary declaration; this information takes the form of the consignor EORI number whenever this number is available to the person lodging the summary declaration. Where the particulars required for an exit summary declaration are included in a customs declaration in accordance with Article 182b(3) of the Code and with Article 216 of this Regulation, this information corresponds to the “Consignor/Exporter” of that customs declaration.

Entry summary declarations: this information takes the form of the consignor EORI number whenever this number is available to the person lodging the summary declaration.;
- (d) the data element explanatory note ‘*Consignor/exporter*’ is amended as follows:
- (i) footnote 2 is deleted;
 - (ii) after the first paragraph, the following paragraph is inserted:

Enter the EORI number referred to in Article 1(16). Where the consignor/exporter does not have an EORI number, the customs administration may assign him an ad hoc number for the declaration concerned.;
- (e) the data element explanatory note ‘*Person lodging the summary declaration*’ is amended as follows:
- (i) footnote 1 is deleted;
 - (ii) after the words ‘*Person lodging the summary declaration*’, the following paragraph is inserted:

This information takes the form of the person lodging the summary declaration EORI number.;
- (f) between the data element explanatory note ‘*Person lodging the summary declaration*’ and the data element explanatory note ‘*Consignee*’, the following is inserted:

Status: Point in time view as at 16/04/2009.

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Person requesting the diversion

Diversion request: The person making the request for a diversion at entry. This information takes the form of the EORI number of the person requesting the diversion.;

- (g) the data element explanatory note ‘*Consignee*’ is amended as follows:
- (i) footnote 1 is deleted;
 - (ii) after the table, the following paragraph is inserted:

Where this information must be provided, it takes the form of the consignee EORI number whenever this number is available to the person lodging the summary declaration.;
 - (iii) after the paragraph beginning with ‘exit summary declarations’, the following paragraph is added:

It takes the form of the consignee EORI number whenever this number is available to the person lodging the summary declaration.;
- (h) the data element explanatory note ‘*Declarant/representative*’ is amended as follows:
- (i) footnote 1 is deleted;
 - (ii) after the first paragraph, the following sentence is added:

This information takes the form of the declarant/representative EORI number.;
- (i) the data element explanatory note ‘*Carrier*’ is replaced by the following:
Carrier
- This information shall be provided where it is different from the person lodging the entry summary declaration.
- This information takes the form of the carrier EORI number whenever this number is available to the person lodging the summary declaration. However, in situations covered by Article 183(6) and (8), the EORI number of the carrier shall be provided. The EORI number of the carrier shall also be provided in situations covered by Article 184d(2).;
- (j) the data element explanatory note ‘*Notify party*’ is amended as follows:
- (i) footnote 1 is deleted;
 - (ii) after the first paragraph, the following sentence is added:

This information takes the form of the notify party EORI number whenever this number is available to the person lodging the summary declaration.;
- (k) in the data element explanatory note ‘*Identity and nationality of active means of transport crossing the border*’, the first paragraph is replaced by the following:

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Identity and nationality of active means of transport crossing the border of the customs territory of the Community. The definitions provided for in Annex 37 for SAD box 18 shall be used for identity. Where sea and inland waterways transport is concerned, the IMO ship identification number or unique European Vessel Identification Number (ENI) shall be declared. Where air transport is concerned, no information should be provided.

The codes provided for in Annex 38 for SAD box 21 shall be used for nationality where this information is not yet included in the identity.;

- (l) between the data element explanatory note '*Identity and nationality of active means of transport crossing the border*' and the data element explanatory note '*Conveyance reference number*', the following is inserted:
Identification of means of transport crossing the border

Diversion request: This information shall take the form of the IMO ship identification number, the ENI code or the IATA flight number for sea, inland waterways or air transport respectively.

For air transport, in situations where the operator of the aircraft transports goods under a code-share arrangement with partners, the code-share partners' flight numbers shall be used.;

- (m) in the data element explanatory note '*Conveyance reference number*', the first paragraph is replaced by the following:

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

For air transport, in situations where the operator of the aircraft transports goods under a code-share arrangement with partners, the code-share partners' flight numbers shall be used.;

- (n) in the data element explanatory note '*First place of arrival code*', the following paragraph is added:

Diversion request: the code of the declared customs office of first entry must be provided.;

- (o) between the data element explanatory note '*First place of arrival code*' and the data element explanatory note '*Date and time of arrival at first place of arrival in customs territory*', the following is inserted:
Actual first place of arrival code

Diversion request: the code of the actual customs office of first entry must be provided.

Country code of the declared first office of entry

Diversion request: Codes provided for in Annex 38 for SAD box 2 shall be used.;

- (p) in the data element explanatory note '*Date and time of arrival at first place of arrival in customs territory*', the following paragraph is added:

Diversion request: This information shall be limited to the date; code n8 (CCYYMMDD) shall be used.;

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- (q) in the data element explanatory note '*Country(ies) of routing codes*', the second and third paragraphs are replaced by the following:
- Exit express consignments summary declarations — postal consignments: only the country of final destination of the goods shall be provided.
- Entry express consignments summary declarations — postal consignments: only the country of original departure of the goods shall be provided.;
- (r) between the data element explanatory note '*Currency code*' and the data element explanatory note '*Customs office of exit*', the following is inserted:
Mode of transport at the border
- Entry summary declaration: Mode of transport corresponding to the active means of transport in which the goods are expected to enter the customs territory of the Community. In the case of combined transportation, the rules set out in Annex 37 explanatory note for box 21 shall apply.
- Where air cargo is transported on modes of transport other than air, the other mode of transport shall be declared.
- Codes 1, 2, 3, 4, 7, 8 or 9 as provided for in Annex 38 for SAD box 25 shall be used.
- [Ref.: SAD box 25].;
- (s) in the data element explanatory note '*Customs office of exit*', the second paragraph is replaced by the following:
- Exit express consignments summary declarations* — postal consignments: this element does not need to be provided where it can be deduced automatically and unambiguously from other data elements provided by the trader.;
- (t) in the data element explanatory note '*Place of loading*', the second paragraph is replaced by the following:
- Entry express consignments summary declarations — postal consignments: this element does not need to be provided where it can be deduced automatically and unambiguously from other data elements provided by the trader.;
- (u) in the data element explanatory note '*Goods item number*', the first paragraph is replaced by the following:
- Number of the item in relation to the total number of items contained in the declaration, the summary declaration or the diversion request.
- Diversion request: where the MRN is provided and the diversion request does not concern all items of goods of an entry summary declaration, the person requesting the diversion shall provide the relevant item numbers attributed to the goods in the original entry summary declaration.

Status: Point in time view as at 16/04/2009.

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ANNEX II

Annex 37, Title II, is amended as follows:

1. Section A is amended as follows:

(a) in box 2: Consignor/Exporter, the first paragraph is replaced by the following:

Enter the EORI number referred to in Article 1(16). Where the consignor/exporter does not have an EORI number, the customs administration may assign him an ad hoc number for the declaration concerned.;

(b) in box 8: Consignee, the second paragraph is replaced by the following:

Where an identification number is required, enter the EORI number referred to in Article 1(16). If an EORI number has not been assigned to the consignee, enter the number required by the legislation of the Member State concerned.;

(c) in box 14: Declarant/Representative, the first paragraph is replaced by the following:

Enter the EORI number referred to in Article 1(16). Where the declarant/representative does not have an EORI number, the customs administration may assign him an ad hoc number for the declaration concerned.;

(d) in box 50: Principal, the first sentence is replaced by the following:

‘Enter the full name (person or company) and address of the principal, together with the EORI number referred to in Article 1(16). Where the EORI number is provided, Member States may waive the obligation to provide the full name (person or company) and address.’;

2. Section C is amended as follows:

(a) in box 2: Consignor/Exporter, the third paragraph is replaced by the following:

Where an identification number is required, enter the EORI number referred to in Article 1(16). If an EORI number has not been assigned to the consignor/exporter, enter the number requested by the legislation of the Member State concerned.;

(b) in box 8: Consignee, the first paragraph is replaced by the following:

Enter the EORI number referred to in Article 1(16). Where the consignee does not have an EORI number, the customs administration may assign him an ad hoc number for the declaration concerned.;

(c) in box 14: Declarant/Representative, the first paragraph is replaced by the following:

Enter the EORI number referred to in Article 1(16). Where the declarant/representative does not have an EORI number, the customs administration may assign him an ad hoc number for the declaration concerned.

Status: Point in time view as at 16/04/2009.

Changes to legislation: Commission Regulation (EC) No 312/2009 is up to date with all changes known to be in force on or before 23 November 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

ANNEX III

Annex 38, Title II, is amended as follows:

1. the text of box 2: Consignor/Exporter is replaced by the following:

Where an identification number is required, the EORI number shall be used. It is structured as follows:

Field	Content	Field type	Format	Examples
1	Identifier of the Member State assigning the number (ISO alpha 2 country code)	Alphabetic 2	a2	PL
2	Unique identifier in a Member State	Alphanumeric 15	an..15	1234567890ABCDE

Example: ‘PL1234567890ABCDE’ for a Polish exporter (country code: PL) whose unique national EORI number is ‘1234567890ABCDE’.

Country code: the Community’s alphabetical codes for countries and territories are based on the current ISO alpha 2 codes (a2) in so far as they are compatible with the requirements of Council Regulation (EC) No 1172/95 of 22 May 1995 on the statistics relating to the trading of goods by the Community and its Member States with non-member countries⁽⁷⁾. The Commission regularly publishes regulations updating the list of country codes.;

2. the text of box 8: Consignee is replaced by the following:

Where an identification number is required, the EORI number, structured as specified in the description for box 2, shall be used.;

3. in box 14: Declarant/Representative, point (b) is amended as follows:

- (a) the first sentence is replaced by the following:

‘Where an identification number is required, the EORI number, structured as specified in the description for box 2, shall be used.’;

- (b) the second sentence is deleted;

4. the following box 50 is inserted after box 49:

Box 50: Principal

Where an identification number is required, the EORI number, structured as specified in the description for box 2, shall be used.

Status: Point in time view as at 16/04/2009.

Changes to legislation: Commission Regulation (EC) No 312/2009 is up to date with all changes known to be in force on or before 23 November 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

ANNEX IV

ANNEX 38d

(referred to in Article 4o)

Data processed in the central system provided for in Article 4o(1)

1. EORI number as referred to in Article 1(16).
2. Full name of the person.
3. Address of establishment/address of residence: the full address of the place where the person is established/resides, including the identifier of the country or territory (ISO alpha 2 country code, if available, as defined in Annex 38, Title II, box 2.).
4. VAT identification number(s), where assigned by Member States.
5. Where appropriate, the legal status as mentioned in the document of establishment.
6. Date of establishment or, in the case of a natural person, date of birth.
7. Type of person (natural person, legal person, association of persons as referred to in Article 4(1) of the Code) in a coded form. The relevant codes are given below:
 - (1) Natural person
 - (2) Legal person
 - (3) Association of persons as referred to in Article 4(1) of the Code
8. Contact information: contact person name, address and any of the following: telephone number, fax number, e-mail address.
9. In the case of a person not established in the customs territory of the Community: identification number(s), where assigned to the person concerned for customs purposes by the competent authorities in a third country with which an Agreement on Mutual Administrative Assistance in customs matters is in force. This identification number(s) shall include the identifier of the country or territory (ISO alpha 2 country code, if available, as defined in Annex 38, Title II, box 2).
10. Where appropriate, principal economic activity code at 4 digit level in accordance with the Statistical Classification of Economic Activities in the European Community (NACE) listed in the business register of the Member State concerned.
11. Expiry date of the EORI number, where applicable.
12. Consent, if given, to disclosure of personal data listed in points 1, 2 and 3.

Status: Point in time view as at 16/04/2009.

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- (1) OJ L 302, 19.10.1992, p. 1.
- (2) OJ L 253, 11.10.1993, p. 1.
- (3) OJ L 117, 4.5.2005, p. 13.
- (4) OJ L 281, 23.11.1995, p. 31.
- (5) OJ L 8, 12.1.2001, p. 1.
- (6) OJ L 360, 19.12.2006, p. 64.
- (7) OJ L 118, 25.5.1995, p. 10.;

Status:

Point in time view as at 16/04/2009.

Changes to legislation:

Commission Regulation (EC) No 312/2009 is up to date with all changes known to be in force on or before 23 November 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.