

# **KYOTO CONVENTION**

## **GUIDELINES TO SPECIFIC ANNEX C**

### ***Chapter 1***

### ***OUTRIGHT EXPORTATION***

WORLD CUSTOMS

ORGANIZATION



Table of contents

1. Introduction .....	3
2. General principles.....	3
3. Definition .....	4
4. Formalities to be completed under the normal procedure .....	4

## **1. Introduction**

These Guidelines are aimed at developing general principles governing the outright exportation procedure, the export formalities to be completed under the normal procedure and ways of simplifying the formalities and the procedures.

In accordance with the definition of “outright exportation”, this Chapter only applies to goods in free circulation that are intended to be permanently exported. Temporary exportations are dealt with under other Chapters of this Convention.

## **2. General principles**

To place goods under the outright exportation procedure the declarant must make an export declaration. The export declaration is both an instrument by which the declarant states that he wants the goods placed under the outright exportation procedure and a formality enabling Customs to carry out the necessary controls and to collect any duties and taxes payable at exportation.

It should be noted that the exporter is the person on whose behalf the export declaration is made out and who may, in this capacity, enjoy relief from internal taxes and who must pay any export duties and taxes due.

In some countries the competent Customs office for lodgement of the export declaration and presentation of the goods is normally the office closest or most accessible to the exporter's premises. Where applicable, the Customs office may be assigned a geographical area, and the exporters based in this area can be covered by that office. In addition, offices further from the exporter's premises but located on a major trade route (port, airport, railway station, frontier post) selected by the exporter for the transport of the goods, could also be competent to accept the export declaration. In other countries, the office of exit is the only office where the goods are presented and the declaration is lodged for outright exportation. For further details on competent Customs offices, please see the Guidelines to Standard 3.1 of the General Annex.

Standards 3.6 and 3.7 of the General Annex and their Guidelines contain information regarding the declarant. Likewise the General Annex Guidelines for Standards 3.11 and 3.12 give details pertaining to the contents, format and data requirements of a Goods declaration.

It should be noted that Chapter 3 of the General Annex also covers, in particular, facilities for a provisional or incomplete declaration, the lodgement and registration of the Goods declaration, examination and release of the goods. These procedures are especially applicable to this Chapter on outright exportation.

Chapter 6 of the General Annex on Customs control provides that Customs control must be limited to that necessary to ensure compliance with Customs law and that Customs shall use risk management in the application of Customs control. The degree of control with regard to goods to be exported, including means of transport, will depend upon the risk involved and the manner in which the outright exportation is carried out. In some Customs territories the goods and the Goods declaration for export are presented directly to the office of exit. In others the goods and the declaration are presented at an inland Customs office before being moved to the office of exit. Many Customs administrations offer special simplified procedures for outright exportation, for example allowing the export declaration to be lodged at the declarant's premises before the goods are moved to the office of exit. (See Guidelines to Transitional Standard 32 and Standard 3.41 of the General Annex).

A few countries have also entered into bilateral agreements under which they are developing the possibility to use the information submitted on the export Goods declaration as the information for the import Goods declaration. This is commonly referred to as an integrated transaction, and it is particularly pertinent for use by multinational companies in their intra-company international transfers of goods. This is intended to improve both facilitation and compliance by using a single set of the data regarding the goods.

The physical exit of the goods from the Customs territory can be certified by specific reference on the export declaration, either when the goods actually leave the territory or when the goods declared for export are placed under a Customs transit procedure within the Customs territory enroute to the place of exit from that territory.

Goods exported outright are not expected to return to the country of exportation. However, for various reasons the goods, in practice, may be returned and in this case they would normally be treated under the procedure for re-importation in the same state if they meet all the relevant conditions. This procedure is covered in Specific Annex B, Chapter 2. If the conditions for re-importation in the same state are not met, the goods would be treated as foreign goods.

### **3. Definition**

**E1/F1**      *“outright exportation” means the Customs procedure applicable to goods which, being in free circulation, leave the Customs territory and are intended to remain permanently outside it.*

All the definitions of terms necessary for the interpretation of more than one Annex to the Convention are placed in the General Annex. The definitions of terms applicable to only a particular procedure or practice are contained in that Specific Annex or Chapter.

### **4. Formalities to be completed under the normal procedure**

#### **Standard 1**

*Outright exportation shall be governed by the provisions of this Chapter and, insofar as applicable, by the provisions of the General Annex.*

The revised Kyoto Convention has a set of obligatory core provisions that are contained in the General Annex. The General Annex reflects the main principles considered necessary to harmonize and simplify all the relevant Customs procedures and practices which Customs apply in their daily activities.

As the core provisions of the General Annex are applicable to all Specific Annexes and Chapters, they should be applied in full for Outright exportation. Where a specific applicability is not relevant, the greater facilitation principles of the General Annex should always be borne in mind when implementing the provisions of this Chapter. In particular, Chapter 1 of the General Annex on General principles, Chapter 3 on Clearance and other Customs formalities and Chapter 7 on Information technology should be read in conjunction with this Chapter on Outright exportation.

Contracting Parties should particularly note Standard 1.2 of the General Annex and ensure that their national legislation specifies the conditions to be fulfilled and the formalities to be accomplished for Outright exportation.

In line with Article 2 of the Convention, Contracting Parties are encouraged to grant greater facilities than those provided for in this Chapter.

#### **Recommended Practice 2**

## Kyoto Convention – Specific Annex C – Chapter 1 Guidelines on Outright exportation

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*National legislation should provide that goods may be declared in an alternative manner to the standard Goods declaration on the condition that it provides the necessary particulars relating to the goods to be cleared for outright exportation.*

As an additional facilitation to trade many Customs administrations permit goods for outright exportation to be declared in an alternative manner instead of using the official format of the Goods declaration as long as all of the required information pertaining to the goods is included in the alternative document or format. This is a facilitative approach to the acceptance of documentation that would be applicable in both the manual and electronic environments. This alternative format is in lieu of the Goods declaration and is considered to be the only declaration required for the purpose of outright exportation. It is a facility made available to all the declarants, and this procedure therefore differs from the provisions of Transitional Standard 3.32 of the General Annex which are available only to authorized traders.

Customs usually specifies the types of goods that can be declared in this manner and normally extends the facility for goods which are in large volumes and of low risk or are unconditionally free of duties and taxes. This may include, for example, newspapers, journals and periodicals, and certain bulk construction materials such as cement or sand, etc.

The alternative format to the standard Goods declaration could be a commercial document, for example an invoice or a transport document, as long as the necessary particulars relating to the goods to be exported are contained in the commercial document.

Customs is usually satisfied with a commercial document where the goods to be exported are not liable to export duties and taxes and do not give rise to repayment of or exemption from internal duties and taxes, and where the Goods declaration is not used for the compilation of statistics.

A number of international efforts are underway to standardize commercial and transport documents (e.g. International Maritime Organization and International Civil Aviation Organization cargo declaration formats). The United Nations Economic Commission for Europe (UN/ECE) has adopted a Recommendation on an aligned invoice lay-out key for international trade which is an example of a standardized format for a commercial invoice. The use of any of these standardized formats for declaring goods for export in specified cases in lieu of a Goods declaration could be considered by administrations implementing this Recommended Practice.

**Standard 3**

*The Customs shall not require evidence of the arrival of the goods abroad as a matter of course.*

Normally the Customs office of export does not require evidence of the arrival of goods abroad when clearance has been given to goods for outright exportation. In general, the only cases when such evidence would be required are when the goods :

- are subject to special controls,
- require such a notification under certain types of regulations or
- qualify for repayment of or exemption from internal duties and taxes and evidence of exportation is not otherwise available, and there is a reason to fear abuse.

Examples of goods under special export controls or regulations could be arms and ammunition, narcotics exported for the production of medicines and hazardous or precursor chemicals.

When evidence not otherwise available must be furnished, Customs in the country of export would normally accept a statement supplied by the consignee who received the goods and certified by Customs in the country of destination.

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