



Brussels, June 2016

**Reporting of Container Status Messages (CSMs) as
required by
Regulation (EC) No 515/97 as amended by Regulation (EU)
2015/1525**

Compliance Guidance for Sea-Carriers

About the Guidance

This guidance is intended to help sea-carriers to be compliant with the obligation to report Container Status Messages (CSMs), whenever such messages are collected, generated or maintained by the carrier's equipment management system, as stipulated by Regulation 515/97 on mutual assistance in the customs domain.

The guidelines are presented in the form of Frequently Asksed Questions (FAQs) allowing sea-carriers to find answers to particular operational scenarios that are not explicitly described in the legal texts.¹

Technical issues related to the electronic transmission of CSMs remain out of the scope of these guidelines.

This document is a work in progress, in the sense that at any time it can be edited to complement the proposed answers or add new FAQs. As such, the presented list of FAQs should not be considered exhaustive or definitive.

¹ Some of these questions only apply to carriers that have chosen not to submit all CSMs generated or collected by their systems ("global data dump"), but to submit, in accordance with the legal requirements, CSMs for those containers that have an EU nexus.



Legal Disclaimer

This document is intended for informational purposes only and is without prejudice to Regulation (EC) No 515/97 and its implementing acts.

Amendments

1. *After a CSM has been generated and filed, there is an amendment which generates a new CSM. As a carrier, should I report this?*

Yes. If the amendment related to the event generates a new CSM in the carrier's electronic system (or updates the time stamp of the previously sent one) then the normal reporting obligation applies: the new CSM (or the updated one) should be reported within the time limits specified by the legislation.

Acknowledgments

2. *As a carrier, should I expect an acknowledgment certifying that the reported CSMs were properly received?*

You should not expect any type of acknowledgment.

Communication Failure

3. *As a carrier, what should I do if I am not able to transmit CSMs for reasons of technical nature, due to problems arising on the carrier's end or related to the central repository?*

Within 24 hours of the occurrence of the technical communication problem, you should report the issue by e-mail to the Commission's help-service electronic address *olaf-afis-it-help-desk@ec.europa.eu*. You may be requested to retransmit the "missing CSMs", after the communication mechanism has been re-established.

Delegation

4. *As a carrier, can I delegate to a third-party (vessel agent or other) the reporting of CSMs related to events taking place on a specific region or port?*

Yes. You may designate another entity to file CSMs on your behalf, but you remain liable for the completeness, correctness and timeliness of the reported data.

"Destined"

When are containers "destined" to be brought into the EU

5. *The legislation uses the sentence "destined to be brought into customs territory of the Union" to trigger the obligation to report CSMs. Can you please clarify, in operational terms, what is meant by "destined".*

Generally it is up to the carrier to decide the operational conditions considered necessary and sufficient to establish an EU-nexus. However, to illustrate the concept by means of an example: A container is "destined to be brought into the customs territory of the EU", whenever there is a transportation arrangement between the carrier and the shipper (or his representative) specifying that the related cargo is scheduled to be unloaded in the EU². Please note that a container is also considered 'destined' to be brought into the EU, whenever the container is scheduled to be transhipped into a different vessel in an EU port before discharge outside EU.³

Establishment of an "EU Nexus"

6. *When is an EU nexus⁴ established and how does it trigger and affect the CSM filing obligation for maritime carriers?*

CSMs must be filed within 24 hours of the first CSM, establishing the container has an EU nexus, being generated or collected in the carrier's equipment management system or in a system in which such data is stored on his behalf. Following the establishment of the EU nexus, historic CSMs collected or generated in the carrier's equipment management system must be reported from the moment when the container was last reported empty before being brought into the EU until the container is again reported empty. When relevant empty container events are not available in the carrier's equipment management system, the reporting period for such historic CSMs relating to importation is at least three months prior to physical arrival in the EU until one month after the entry into the EU. In case of exportation, the reporting period for historic CSMs is at least three months after exit from the EU.

Example

Carrier A is transporting goods into the EU and a CSM establishing an EU nexus is generated in the carrier's system upon the container arriving full at the terminal. Carrier A is able to identify in its equipment management system that the container had a 'gate out empty' CSM 9 days prior to the establishment of the EU nexus. Consequently, no further 'historic CSMs' need to be retrieved for this container prior to the 'gate out empty' event. However, following the goods' physical arrival in the EU, no corresponding container empty event CSM is recorded in the carrier's equipment system for 41 days.

² Hereinafter, "EU" should be read as "the customs territory of the European Union".

³ See "Transshipments".

⁴ EU nexus refers to the link between the movement of the container and EU customs territory.

Carrier A must therefore report CSMs to OLAF for that container spanning the period: 9 days prior to the EU nexus being established - i.e. from the moment the container was last reported empty - until one month after the goods physically arrived in the EU.

The 'historic' CSMs spanning the 9 days from the identified container empty event until the determination of the EU nexus must be delivered to OLAF within 24 hours of the EU nexus being established since, naturally, at the time of its initial generation or collection in the carrier's equipment management system no EU nexus could be foreseen for the 'gate out empty' CSM. Thereafter, CSMs for subsequent events relating to the container shall continue to be submitted to OLAF within 24 hours of their generation or collection by the carrier's equipment management system until one month after the goods' arrival in the EU.

Emptiness Status

7. *As a carrier, do I have to report CSMs for empty containers?*

Yes, if the empty containers are destined for the EU, they are subject to the CSM filing requirement.

Exit of Goods from the EU and Transhipment

8. *When are EU export goods covered by the Regulation said to have left ("exited") the EU, thus requiring CSMs to be filed, and how is this applied in the case of feeder operations⁵?*

The requirement for maritime carriers to file CSMs that are collected or generated by their equipment management systems applies to those export goods (see "*Export Shipments*"), which are identified in the Regulation. There may be different operational scenarios in which goods will be considered as exited the EU. For example, the obligation to report applies from the moment such goods are loaded onto the vessel that will carry them to a foreign destination outside the EU. If the goods are first transported by feeder ship from one EU port to another EU port for transhipment outside the EU, the goods are not considered to have left ("exited") the EU until they in the EU transhipment port are loaded onto the vessel that is to carry them to a destination outside the EU, irrespective of a possible future change in the route.

Example

Carrier A operates an intra EU feeder service and loads goods subject to the EU CSM export filing requirement in Bremerhaven. Those goods are to be discharged in Antwerp for transhipment onto another vessel operated by carrier B destined for the Port of New York, USA. In this scenario Carrier A transporting the goods from Bremerhaven to Antwerp is not required to file CSMs

⁵ 'Feeder operations' means intermediate transportation of containers between a small port and a major hub-port, using vessels that are normally small in size compared to deep-sea vessels.

because the goods are not yet considered to have physically left the EU. By contrast, once the goods are loaded onto the main haul vessel in Antwerp for transportation to New York, Carrier B becomes subject to the CSM filing requirement because it is the carrier responsible for transporting the goods to a destination outside of the EU and thus which stores the relevant CSMs.

Export Shipments

9. *The regulation stipulates that export shipments from the EU require the provision of CSMs for certain categories of products specified by three EU Council Directives. Can you provide a list of all products (with the respective CN code) that fall within the scope of those directives?*

The scope of excisable products, being the subject of CSM reporting in accordance with the amended Regulation (EC) No 515/97, leaving the customs territory of the European Union to a third country by maritime vessel, is the following:

1) Alcohol and alcoholic beverages

The scope of alcohol and alcoholic beverages includes:

- alcohol and alcoholic beverages;
- intermediate products;
- wine;
- beer.

CN codes at 8-digit level from headings 2203 to 2208 are detailed in the Annex.

2) Tobacco products

The scope of tobacco products includes:

- cigarettes;
- cigars and cigarillos;
- smoking tobacco:
 - fine-cut tobacco for the rolling of cigarettes;
 - other smoking tobacco;
- Including also products consisting in whole or in part of substances other than tobacco but otherwise conforming to the criteria set out in Article 3 or Article 5(1) of Directive 2011/64/EU shall be treated as cigarettes and smoking tobacco.

CN codes at 8-digit level are detailed in the Annex.

3) Energy products

The scope of energy products includes products under the following CN codes:

- CN codes 1507 to 1518, if these are intended for use as heating fuel or motor fuel;
- CN codes 2701, 2702 and 2704 to 2715;
- CN codes 2901 and 2902;
- CN code 2905 11 00, which are not of synthetic origin, if these are intended for use as heating fuel or motor fuel;
- CN code 3403;
- CN code 3811;
- CN code 3817;
- CN code 3824 90 99 if these are intended for use as heating fuel or motor fuel⁶;

CN codes at 8-digit level are detailed in the Annex.

Diversions

10. As a carrier, how should I report when a shipper requests to re-route into the EU a container that was not destined to be brought into EU?

This is considered a cargo diversion. From the moment the carrier acknowledges the shipper's request to discharge the container in an EU port, an EU-nexus is considered to have been established. As such, the carrier shall:

- Within 24 hours of its receipt in the carrier's equipment management system, submit the container unloading CSM to the central repository; and
- Within the same time period, retrieve and submit to the central repository, CSMs generated or collected by the carrier's equipment management system relating to the container from the most recent time when the container was empty or from when CSMs for that container shipment were first created or collected in the carrier's equipment management system before arriving in EU until the container is again reported empty. A In case it is not possible to determine specific "empty-container events", a carrier shall instead report CSMs collected in or generated by the carrier's equipment management system regarding the container corresponding to 3 months prior to discharge in the EU port and until one month after the entry into the EU (i.e., the same reporting time length as for "normal" non-diverted container shipments destined for the EU).

⁶ Please note that, although it is still listed in Article 2(1) of Directive 2003/96/EC, this CN code does not exist any longer and has been replaced by CN code 3826.

Example

Carrier A is carrying cargo destined for Port X outside the EU pursuant to a contract of carriage evidenced by a bill of lading. However, prior to arrival - because a new customer has been found for the goods - the party identified as the shipper on the bill of lading issued by the carrier requests the cargo instead be discharged at Port Z which is located within EU. For those diverted containers that have been unloaded in the EU at the request of the shipper Carrier A must within 24 hours of their receipt in the carrier's equipment management system, submit the containers unloading CSMs to the central repository along with retrieved historic CSMs back to the moment the containers were last identified as empty or, alternatively, CSMs for the three months prior to discharge in the EU port. Carrier A must then continue to submit subsequent CSMs for those containers - within 24 hours of their generation or collection - until the containers are identified as empty or for a period of 1 month after entry in the EU whichever occurs first.

11. *In the follow up of cargo sold on high-sea, the shipper decides that an EU bound container is given a new destination and it is now bound to be unloaded on a third-country port. As a carrier, do I have to keep reporting the CSMs related to this container?*

No. In this case, the EU-nexus is considered to be withdrawn. From this moment on, there is no obligation to keep reporting CSMs, assuming that the container stays on board (see FROB).

12. *What happens if serious difficulties arise (such as weather, mechanical problem, health emergency, port disturbances, for example) a vessel is diverted and makes a port call in the EU that was not foreseen in its published schedule? As carrier, do I have to report CSMs of the transported containers?*

This is considered a vessel diversion.

If serious difficulties are resolved, the vessel sails to its initial scheduled foreign port, the containers that remained on board should be considered FROB cargo, and thus no CSM reporting is needed (see FROB cargo).

In addition, if for logistical reasons, some of the transported containers need to be transhipped to a different vessel for discharge outside EU, no CSM reporting is required given that those containers were not initially "destined" to be brought into the EU. As such, the requirement to report CSMs does not apply as long as any container unloaded at the unscheduled EU port, from the affected vessel, is transhipped to a vessel with a destination outside the EU and is subsequently taken out of the EU.⁷

⁷ Please note that this scenario is different from a normal scheduled transshipment taking place at an EU port (see Transshipments), where the normal obligation to report CSMs applies.

On the other hand, if the containers being unloaded from the diverted vessel are not transhipped to a destination outside the EU, they become subject to the CSM filing requirements in line with the rules for cargo diversion situations.

Example

Carrier A is forced due to port service disruptions in a non-EU Mediterranean port to make an unscheduled emergency port call in a neighbouring EU port. Most of the containers destined for discharge in the non-EU port are then unloaded in the EU port for loading onto another vessel for transhipment to the original or another non-EU destination. By virtue of their intended non-EU destination and subsequent removal from the EU no CSMs need to be filed by the carrier for these containers.

However, Carrier A must file CSMs according the rules governing cargo diversion situations for any containers which, following the vessel diversion, are unloaded from the diverted ship and remain in the EU.

FROB Cargo

13. *What about FROB (Freight Remaining On Board) cargo? Are there any reporting obligations in terms of CSMs?*

No. FROB cargo is exempt from any CSMs reporting. Containers loaded in a third-country and destined to be unloaded in another third-country are exempt from CSM reporting, even when the transporting vessel stops in one or more ports of the EU.

Messages Types

14. *The framework standards (ANSI ASC X12 and UN/EDIFACT) recommend the use of specific message-types to report on specific events. As a carrier, am I obliged to follow this recommended practice?*

No. When reporting CSMs that are generated or collected by its equipment management system, the carrier is free to adopt any message-type, within the prescribed standard, provided that all the mandatory data-elements are coded and included in the message-type(s) the carrier has decided to use.

MIGs

15. *The legal texts do not specify any MIG (Message Interface Guideline) when submitting the required CSMs. As a carrier, can I use the MIG(s) that I have currently adopted to exchange CSMs with my commercial partners?*

Yes, as far as the MIG is compliant with the two accepted standard frameworks: ANSI ASC X12 and UN/EDIFACT. By not imposing a unified MIG for the exchange of CSMs, carriers will not need to re-code their currently generated/exchanged CSMs to be compliant with a specified single MIG.

Repositioning Cargo

16. As a carrier, should I have to report simple repositioning of containers destined to third countries, when this handling operation occurs on a vessel berthed at an EU port?

No. The legal text explicitly exempts carriers to report CSMs of containers when they are unloaded and reloaded on the same vessel. It is considered to be equal to a FROB situation (see *FROB*).

Retention

17. Is there a requirement for carriers to retain or archive transmitted CSMs in their system?

CSMs are operational messages generated by or collected in carriers' equipment management systems. Consequently, there are no EU obligations on carriers to retain or archive CSMs (including transmitted CSMs) for a set period of time, in the way that customs documentation or financial records are legally required to be kept. However, there is a de facto need for "selective filing" carriers to be able to retrieve and file CSMs for up to 3 months prior to the entry of the goods in the EU. This is necessary in order to be able to comply with any filing requirements arising from a variety of situations including the case of cargo diversions (as discussed above) or the need to back-file historic CSMs, potentially covering up till 3 months prior to the determination of an EU nexus.

Transhipments

18. A vessel carrying a container destined for Agadir (Morocco) departs from Hong Kong and it is scheduled to call the port of Algeciras (Spain), where the said container is intended to be transhipped on another vessel with destination Agadir. As a carrier, do I have to report CSMs about this container?

Yes. CSMs are mandatory for containers transhipped at an EU port, even when the final destination of the container is outside EU. The CSM filing requirement applies up to and including the vessel loading CSM in the EU transhipment port, but does not extend beyond that.

For any further information, please contact:

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