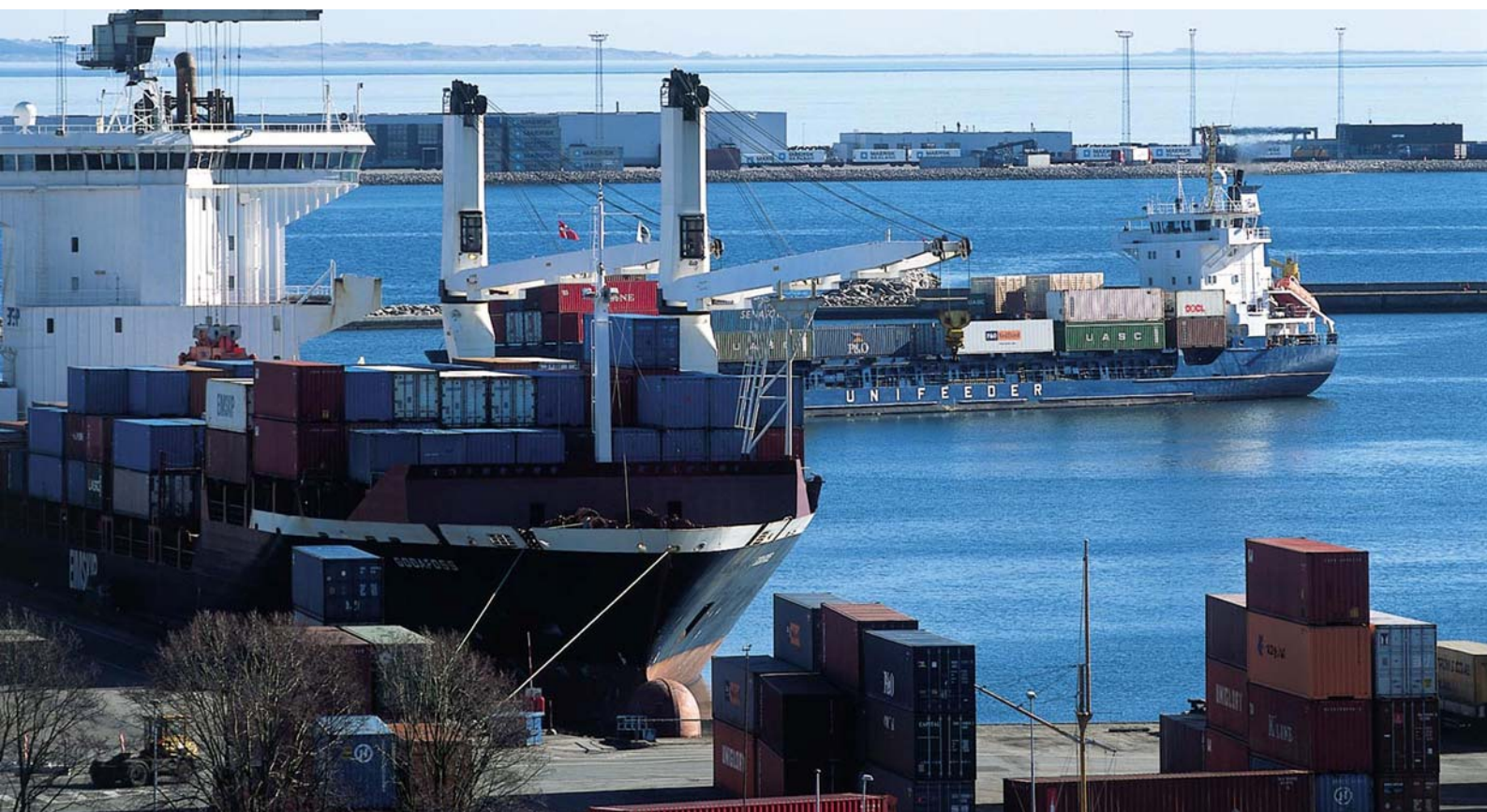




Report on the Use of Electronic Transport Documentation in Connection with the Control of Agricultural Products Exported against Refunds and the Control of Exports of Goods from the Customs Territory of the Community



Ministeriet for Fødevarer, Landbrug og Fiskeri
Direktoratet for Fødevarerhverv

Kolofon

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This report was written by The Danish Directorate for Food, Fisheries and Agri Business.

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0. Summary

This project involving promotion of electronic transport documentation in connection with the export of agricultural products against export refunds is focused, in all simplicity, on the acceptance of documentation in electronic form and was rendered possible gradually as the technological development progressed, where an ever-increasing part of all public and private administration is based on Internet communication. The project was inspired by audit visits and audit reports from the Commission of the EU as well as from the Court of Auditors – but was extended in the light of wishes from, i.a., the common carriers for simplification and efficiency.

Because of its innovative nature (no other Member State has yet introduced such a scheme) and due to the involvement of third parties with regard to the refund rules – the common carriers – in the administration of the scheme, the project has called for meticulous preparation. The Commission of the EU, including the EAGGF (European Agricultural Guidance and Guarantee Fund), have been briefed about the preparations and monitor the implementation of the Project.

The Project comprises two principal components, both of which will streamline and simplify the administration of export subsidies on crucial points in connection with direct exports from Danish ports. Firstly, the control of differentiated refunds for exports from Danish ports under €2,400/12.000 will be transferred from the DFFE to Told•Skat. Secondly, it will now be possible for the authorities - by direct access to electronic registers at the common carriers used by the exporters – to carry out administrative procedures on transport documentation direct via the Internet. For the exporters the results are universal and massive. No longer will they have to send in any sort of documentation to the authorities for the exports in question – and basically the deadlines will have been observed by virtue of the authorities' access. For the carriers and the authorities, too, substantial streamlining is expected because the paper handling is dispensed with.

The basis for the scheme is an approval of interested carriers to supply transport documentation in electronic form. The starting point for the approval procedure is an evaluation of the IT systems and the validity of the electronic information from the carriers, and there is an annually recurring accrediting procedure which is comparable to existing EU arrangements.

The demands from the authorities are focused on access to Bill of Lading details, which is the legal foundation for the scheme and the absolute minimum requirement. In addition, the access to container-tracking systems and to generate statistics and reports will provide the opportunity to perform an updated and follow-up administrative processing of transport information, which provides added assurance of the disbursement basis for differentiated refunds. Therefore,

there will also be significant advantages in the Project in terms of auditing considerations, where the assurance of and the ability to trace the disbursement basis will be substantially enhanced.

The aim is to make the scheme a permanent one which is open to everyone and which will include a very significant portion of all Danish agricultural exports against refund. An evaluation after six months and a renewed approval round after one year are intended to ensure that the scheme is securely anchored in the administration.

1. Background and Scope

a. Background

A legal foundation has been established for the ability to accept electronic transport documentation in connection with validation of the entitlement to refund¹. However, in its discussions with Told•Skat and the DFFE, the Commission has emphasised that it is up to the authorities to ensure that auditing matters are as they should be – including that the control of the electronic data is in accordance with rules and regulations, and that this control can be documented.

Furthermore, any access to historical data and the validity of the data to which electronic access is achieved, are to be ensured by appropriate measures. Thus, it is up to the Danish authorities to lay down the detailed conditions for the use of electronic transport documentation. These include:

- in-house control procedures with the authorities where detailed precepts are to be drawn up
- approval of the carriers supplying the documentation and
- the relations with the exporters, who remain legally responsible for supplying the necessary information in connection with applications for export refund.

The scheme may also be used in connection with the basis for the completion of the export procedure from the EU's customs territory (exports without refund).

The approval procedure proposed by the Danish authorities contains two overall components:

1. A statement in writing indicating that the authorities (Told•Skat and the DFFE) are given access to specified electronic transport information².
2. A recurring approval/accrediting procedure where the authorities test or scrutinize the circumstances on which the approval is based³.

¹ The basis can be found in the Annex to regulation 800/99: "New rules for the application of the provisions in regulation (EC) 800/99", K(2000) 2255 final version.

² The model is based on regulation (EC) No. 456/2003 of 12 March 2003 laying down special rules on the prefinancing of export refunds for certain beef and veal products placed under a customs-warehousing or free-zone procedure, from which appears, i.a., that the operator must agree in writing to maintain an electronic database, etc., and that "the database" may be kept by a third party if the latter is acting on behalf of the operator. It is, however, the operator's responsibility that the information in "the database" is accurate.

³ The model is based on Article 16 (5) of regulation (EC) No. 800/1999 of 15 April 1999 laying down common detailed rules for the application of the system of export refunds on agricultural products, from which appears, i.a., that supervisory agencies are subject to approval by the

The approval procedure is based on applicable EU legislation in the field of export refunds and, thus, complements the obligations incumbent on the exporter pursuant to regulation 800/99 in terms of providing the necessary information.

Purpose and Scope

The purpose of using electronic transport documentation is to simplify the authorities' administration and to limit the exporters' and the carriers' delivery of documentation to the authorities to the bare necessity and to one authority only.

The simplification is as follows:

1. The authorities are given access to the carriers' electronic transport information, so that data may be supplied or retrieved electronically.
2. Delegation of the control of transport documentation from the DFFE to Told•Skat to the extent of refund exports with differentiated refunds entitling to more than € 2,400/12,000 per product code and leaving the EU's customs territory from a Danish port.⁴

The authorities are granted access – normally with the exporter's consent – to the same data regarding the Bill of Lading, transport progress, and container movements as the carriers make available to the exporter. Whether or not the authorities are given such access is a matter between the exporter and its carrier, as it involves their internal customer relations.

The authorities' requirement is, as a minimum, a statement in writing from the carrier allowing such access. There are, however, no restrictions on the form of cooperation. It might also involve an agreement or contract between the relevant parties (carrier and authorities [Told•Skat and the DFFE]).

Restrictions

A revocation of the approval may become relevant if it turns out that the carrier undertakings cannot meet the basic conditions laid down in the approval procedure of which the components are outlined in the subsequent checklist.

authorities of the Member State where they are registered, and that the approval covers a period of three years.

⁴ Exporters are then not normally required to submit transport documentation to the DFFE if the rate of refund per lot of goods does not exceed:

- € 2,400 in the case of exports to European third countries; or
- € 12,000 in the case of exports to other third countries.

However, exporters must still submit transport documentation to the DFFE in connection with exports exceeding this limit. In those cases it is submitted on paper together with the proof of arrival.

It should be emphasised that, even if the authorities are given access to the information without any action being required on the part of the exporter, this does not exempt the exporters from fulfilling their obligations under the customs legislation and the refund regulations. The exporters will still be bound to ensure that the necessary details have been provided within twelve months following the acceptance date.

The granting of approval

The DFFE and Told•Skat will grant their approval, if any, after having paid visits to and processed the information provided by the firms. The approval will apply solely to the authorities' access to information concerning exports made in Denmark (exports or refund exports).

The authorities reserve the right to revert with supplementary questions before any final approval is granted (provisional approval).

Information about approved enterprises will be published in the DFFE's Newsletter, and it is assumed that approved firms will participate in inforamatory meetings with the exporters concerning this scheme.

b. Auditing Considerations

There are two matters which have had a crucial effect on the deliberations about a more appropriate and secure administration of transport documentation in connection with refunds. Both are of an auditing nature and aim to make the administration of the export subsidy scheme more secure. A spin-off from electronic transport documentation are the obvious rationalization advantages arising for carriers, exporters and authorities by replacing paper-based administration with electronically-based administration.

Visits by the Commission's auditors 2001

The Commission's auditors pointed to lacks of expedience in the control of transport documentation in connection with exports from Danish ports. Firstly, the clearance outward control in the case of exports by feeder boat was based on a statement from the carrier to the effect that, subsequently, a through bill-of-lading would be issued. Secondly, it was noted that, contrary to the provisions of the Community Customs Code, no transport document (Bill of Lading) was presented in connection with direct export – where the control of departure was based solely on cargo manifests.

The provisions of the Customs Code were subsequently clarified by the Commission, where the Administrative Committee for Trade Mechanisms distributed contributions to the interpretation of Article 912 of the implementing provisions to the Code in regulation No. 2454/93⁵. Here it was made clear, by

⁵ Partly doc TAXUD/1234/2001 – rev. 3 as well as regulation (EC) No. 444/2002.

means of examples, that the port where exports were made in connection with the completion T5 formalities is also the port in which there must be an overall carriage contract with final destination outside the Community. Legally speaking, this is tantamount to the issuance of a Bill of Lading where a carrier has accepted the financial liability for carrying the goods from the point of departure to a final destination outside the EU.

Special Report of the Court of Auditors No. 7/2001

In 2001 the Court of Auditors issued a Special Report about export refunds – destination and passage to free circulation, where in particular the Court reviewed the transport and arrival documentation and, not least, the validity thereof. The Court of Auditors proposes that transport documentation and access to container movement information should replace proofs of arrival as evidence of the proper arrival of the goods at the destination. One of the results of the Court of Auditors' Special Report was that the Commission adopted regulation 1253/2002 and raised the margins for which a certificate of arrival must be presented in connection with differentiated refunds from € 1,200/6,000 to € 2,400/12,000.

On the other hand, the concept of focusing on container movements found no specific application in the said regulation. Since then – jointly with carriers and shipowners and the EAGGF – the Danish authorities have discussed the prospects of incorporating access to information about container movements into the administration of export subsidy disbursements.

It is a common feature of these two factors that electronic access to transport documentation which is updated in step with the actual transport progress, and especially to container movements, which provide an audit track all the way back to the departure and the basis of declaration (the customs declaration) will be an initiative that will significantly increase the quality and security of the disbursement of export refunds.

Figure: Container tracking picture

| Current tracking | New tracking | Advanced tracking | View | Details (MAEU7828519) | Customise view | My references |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|---------------------------------------------|--------------------------------|-------------------------------|
| CONTAINER INFORMATION | | SHIPMENT INFORMATION | | CURRENT SHIPMENT | | |
| CONTAINER INFORMATION Container number MAEU7828519 Carrier seal DK0326708 | | Size 20' Dry Steel | Height 8' 6" | Cargo weight / payload 21,492 kgs | | |
| SHIPMENT INFORMATION B/I number AAR026363 Place of receipt Saeby, Denmark Place of delivery Aden, Yemen | | Rail pickup number First activity date 22-Dec-2003 Arrival date last terminal 25-Jan-2004 at Aden, Ma'Alla Terminal, Aden, Yemen | | Planned versus actual | | |
| CURRENT SHIPMENT | | | | Release/haulage orders | | |
| Activity | Location | Date and time | Vessel | Voyage | | |
| Gate Out Export Empty | Apm Terminals Aarhus, Aarhus, Denmark | 19-Dec-2003 17:42 | | | | |
| Gate In Export Full | Apm Terminals Aarhus, Aarhus, Denmark | 22-Dec-2003 16:34 | | | | |
| Load Full | Apm Terminals Aarhus, Aarhus, Denmark | 24-Dec-2003 10:10 | MAERSK BRISBANE | 0401 | | |
| Discharge Full | Noordzee Terminal Quay 913, Antwerp, Belgium | 28-Dec-2003 14:04 | MAERSK BRISBANE | 0401 | | |
| Load Full | Noordzee Terminal Quay 913, Antwerp, Belgium | 04-Jan-2004 07:00 | SL MICHIGAN | 0403 | | |
| Expected future moves | Location | Date and time | Vessel | Voyage | | |
| Discharge Full | Salalah Terminal, Salalah, Oman | 15-Jan-2004 | SL MICHIGAN | 0403 | | |
| Load Full | Salalah Terminal, Salalah, Oman | 20-Jan-2004 | MAERSK ATLANTIC | 0404 | | |
| Discharge Full | Aden, Ma'Alla Terminal, Aden, Yemen | 25-Jan-2004 | MAERSK ATLANTIC | 0404 | | |

c. Departure Details in connection with Direct Export

In the case of direct export out of the EU's customs territory, goods exported against refund must be cleared through customs. This clearance includes, at the time of export, a demand for completion of customs formalities by completion of the T5 document. Before the customs authorities can issue a departure certificate, the exporter or its representative will present a transport document with final destination outside the Community. Normally – for direct exports as well as in the case of exports by feeder boat – a Bill of Lading must be shown⁶.

In addition to a scrutiny of the transport document and, in certain cases, a substitution check for goods exported against refund, a check will also be made of the cargo manifests for all ships leaving the EU's customs territory. This check involves an overall and total scrutiny of the ship's manifest, i.e. all goods carried on the vessel. The scrutiny of the cargo manifest largely follows the check of the

⁶ When feeder boats leave a Danish port, the customs formalities (including T5) are completed in Danish port, even though the goods will be transhipped in another EU port. Therefore the Bill of Lading must be presented in Danish port. If the T5 formalities are not completed in Danish port, the T5 and the Bill of Lading must be submitted to the customs authorities in the port – e.g., Hamburg or Bremerhaven – where the goods will be transhipped to an ocean liner. In practice the completion of customs formalities occurs at the rate of 100 % for feeder boat traffic in Danish port.

transport document, where especially the sailing date, names of ships, shipped-on-board date, quantities and product codes are important elements. The control is generally performed as spot checks, but the scrutiny of cargo manifests has been used in connection with control of “refund goods” when the information given on a Bill of Lading has given rise to doubts.

Therefore, at the present control procedure in connection with export there will be a dual check of the information on which export from the EU's customs territory is based. However, the scrutiny of transport documentation in connection with differentiated refunds explicitly implies that not only departure details – but also details of destination and transport route – must be checked; therefore, this appears separately from the instructions applying to the checking of Bills of Lading.

d. Scope and Nature of the Transshipment Control in Regulation (EC) 800/99

Since 1 September 2002 Told•Skat has been in charge of the control of transshipment in another EU port – because, since that date, the Danish authorities have used that model in the regulation which makes the customs authorities responsible for the checking of evidence. The evidence proving that the merchandise is not transhipped in another EU port after the deadlines contained in the regulation is also presented by means of the Bill of Lading. In this context it is especially the shipped-on-board date which is relevant in connection with the control. The model which refers to Article 9 (1) (c) in regulation (EC) 800/99 implies that, in connection with the approval of departure, the customs authorities will require that a Bill of Lading be presented and will in that context check that the deadline has been observed.

There will still be spot checks in the paying agency responsible for checking the validity of the control carried out. Here the target of control is also the Bill of Lading, which is requested from the exporter or its representative.

However, it has been noted that in many cases logistical solutions and business routines are not adapted to regulatory demands that are intended to meet specific and limited purposes. The reality in the field of container traffic is thus that the original route plan stated on the first Bill of Lading to be issued is often amended or corrected because of the carriers' transactions and without the exporters' knowledge – in that the exporters simply pay for carriage of their goods from one place to another. This implies that the basis for the control and, therefore, the entitlement to refund will often be based on a paper document which has been changed after it was issued and sent to the customs authorities or the paying agency. The worst case scenario is that the control of departure, transshipment, and spot checks become worthless because they are based on circumstances which have changed and which cannot be verified by the control carried out. The validity of the details which have been committed to paper and which are

therefore a snapshot of the time when the document was issued, is therefore very low in connection with an audit track for the basis for payments of refunds.

The access to electronic Bill of Lading documents which are continuously updated in accordance with the actual circumstances – and not least the access to container-tracking, where the combined transport progress for each customs declaration (per container number) can be monitored - obviously gives a totally different dimension in connection with the validity of the information on which the payment of refunds is based.

e. Delegation of control duties from paying agency to technical services

The control of transshipment is directly provided for in regulation 800/99, where the model according to which the customs authorities are responsible for transshipment control is mentioned as an option for the Member States⁷.

The control of differentiated refunds for exports of less than € 2,400/12,000, respectively, per product line exported direct from a Danish port out of the EU's customs territory. The guidelines of the EAGGF concerning key and ancillary control contain no authoritative description of the authorities which are to be responsible for partial elements of the control. Being part of the customs check (with departure out of the EU) the scrutiny of Bills of Lading is a natural part of the customs authorities' work. The scrutiny of Bills of Lading will also be part of the control of differentiated refunds for exports under € 2,400/12,000, respectively, per product line exported direct from a Danish port out of the EU's customs territory. A check which is normally carried out as a pre-disbursement check by the paying agency. However, because we are dealing with the same object of control, the same control content, and virtually the same check items in the control, it will be natural to delegate this control to the customs services – as otherwise there would be a considerable element of double control of the same data (and where there is already double administrative processing of the export details).

During discussions with the Danish authorities the EAGGF has made no comments on the proposed delegation model, always provided that the checklist for the scrutiny of Bs/L by the customs authorities also includes the present check in the paying agency, and that there is the customary quality assurance of the control work carried out by the technical services on behalf of the paying agency.

The supervision and quality assurance will consist of ensuring, at regular intervals, that the instructions are being observed on the crucial parameters in relation to the administrative processing of Bills of Lading. Furthermore, the

⁷ The model is referred to in Article 9 (1) (c) of regulation (EC) 800/99.

instructions should include follow-up procedures for declarations that cannot be immediately accepted because of deficiencies or inconsistent information.

Among other things, a precept will be drawn up to the effect that if Told•Skat cannot accept a document because of inconsistencies or other shortcomings, the departure date must be inserted together with a control code, which implies that the DFFE establishes a freeze and carries out the administrative procedures subsequently.

Finally, the area will also be covered by the quality assurance contained in the general agreement between the paying agency and the customs authorities with regard to the combined control assignment which has been delegated to the customs authorities.

In this part of the pre-disbursement control there will, however, be an additional facility enabling extra spot checks to be made in the paying agency by means of the setting-up of special documentation codes where a spot check carried out in accordance with a risk assessment or at random will be a precondition for accepting the disbursement. In terms of system this goes on in the case administration system's spot-check module, which selects transactions after the case processing is completed but before disbursement is made.

2. Control Procedures

a. Altered Control Procedure and Simplification of Authority Access

As from and including the start of the scheme with electronic transport documentation the control procedures as well as access by the authorities to the relevant information will be simplified.

It will still be possible to use both electronic and paper-based transport documentation. The exporter or its representative must indicate, when presenting export papers to the region of departure, if they wish to make use of electronic transport documentation. If they do, they must specify a place, site or homepage where the relevant information can be found. Furthermore, it is up to the exporter or its representative to ensure that the authorities' access to the relevant information is safeguarded by means of user codes, general access, etc. This must be done before the authorities will grant their approval of the procedure.

Delegation of control responsibility to Told•Skat

The delegation of responsibility for the scrutiny of transport documentation from the DFFE to Told•Skat simplifies the administrative routines for paper-based as well as electronic transport documents. For exports against export refund of less than € 2,400/12,000, respectively, per product line from a Danish port,

Told●Skat will henceforth carry out the regulation-specified check of the justification of the applications, which was previously made by the DFFE.

This implies a simplification of the administrative routines for exporters, carriers (third parties) and authorities.

The exporter or its representative must send documentation for transport (or arrange for electronic access to the relevant information with the carrier) to one authority only – namely Told●Skat.

The carrier must arrange for electronic access for the authorities to the relevant information and, thus, is no longer bound to handle paper versions of the documents.

The authorities confine themselves to one check of the same basis – viz., the transport document – whereupon Told●Skat will carry out the control of the transport documentation in accordance with the refund regulations and the control of the export operation in accordance with the customs regulation in one single process.

No discrimination

There will be no discrimination between those exporters who use electronic and paper-based documentation, respectively, as the administrative processing will occur within a certain timespan after receipt of the B/L or the access to an electronic B/L. This means that, if paper-based documentation continues to be used, the exporter will have to ensure that the latter reaches Told●Skat as quickly as possible after the Bill of Lading has been issued – whereupon Told●Skat will be able to check the departure and transport information.

Since Bills of Lading are normally issued at the same time and according to the same guidelines, only the exporter's or the carrier's actions will determine when the relevant details are made available to Told●Skat.

The advantage of electronic transport documentation here primarily benefits the exporter and the carrier – because all paper handling is dispensed with if general or specific access to the information has been arranged prior to the export.

Approval of departure and acceptance of transport documentation

The approval of clearance outward and the acceptance of transport documentation in connection with differentiated refund are combined under Told●Skat, in that the legal foundation for this control is the same, viz. the Bill of Lading. There will be a few additions to the existing control procedures in Told●Skat, where notably the overall transport progress and the transport route as well as the crosschecking of the various types of information on the combined set of documents will also be incorporated into Told●Skat's checklist.

The existing codes for electronic transmission of declarations will be used. When the declaration has been accepted in Told•Skat, and there are no other circumstances that would justify non-acceptance, the declaration will be transmitted to the DFFE. Following receipt in the DFFE there will be made (in the case of differentiated refund) a calculation of the rate of refund, and supplementary documentation codes will be established before any disbursement can be made⁸. For exports with differentiated refund under € 2,400 and € 12,000, respectively, the codes in question will be D2 codes. A global approval of deferred D2 claims in the Department will be made after a short respite (graphics). The global approval will be restricted to declarations where a Danish departure customs office has been stated on the declaration. Other exports under these limits will not be covered by the scheme, as these are in the form of transit through another EU Member State and because, therefore, supplementary D3 codes are established for the administrative processing and approval of T5 documents.

Global approval within the DFFE will occur at relatively short intervals to ensure that disbursements are made on an ongoing and swift basis.

b. Legal Foundation for the Control Procedure

The legal foundation for the application of the scheme in Denmark has been clarified through probings and discussions with the services of the Commission. However, because of the innovative and pilot-like nature of the scheme the Danish authorities have selected a form of pilot arrangement where the administration is being evaluated after a brief period of time. Also, the authorities have attached importance to a formal authorisation arrangement where the principal components have their origin in existing EU legislation in the field of export refunds.

The most important thing, however, is that the EU's audit services as well as the national auditors emphasise the highly positive auditing and security aspects of the scheme as a very real benefit for the authorities.

Below is a specification of the various part items of the existing legal foundation for the scheme:

Delegation of control from the DFFE to Told•Skat

A principal feature of the new control procedure is that Told•Skat will take over part of the administrative subsidy control which has traditionally come under the paying agency DFFE.

⁸ There will be a validation of the declarations in the light of the departure information. Thereafter no D2 demands will be made, as a final payment is made rather than payment in advance. The exception from this is in connection with random sampling (spot checks).

Unlike the greater part of the key controls in the area of export refunds that must be carried out by the customs authorities pursuant to EU legislation, there are no legislative demands as to how the subsidy controls should be arranged in the national sphere. As there is identity of control objects and documents in the existing control between Told•Skat and the DFFE, it will therefore be natural to integrate these two controls under the auspices of Told•Skat.

- EAGGF regulation (EC) 1258/99, regulation (EC) 1663/95, and guidelines for key and ancillary control (Doc. AGRI/17933/2000)

The guidelines here point at the general distinction between key and ancillary control. It is emphasised that the guidelines are by way of recommendations only. During talks with the EAGGF the Danish authorities have been convinced that there are no legal or auditing problems in delegating parts of the subsidy control from the paying agency to the customs services, always provided that such control is carried out in an adequate manner – and that there is normal quality assurance of the control work.

- General agreement and control framework (quality assurance, supervision)

In the general contractual basis between Told•Skat and the DFFE on the performance of control duties in connection with the EU's common organisation of the market for agricultural products, etc., there are provisions governing the distribution of responsibilities and quality assurance of the control carried out. The provisions pursue the guidelines in regulation 1663/95, notably item 4 (iii) in the Annex to that regulation.

- Division of functions, and security

Regulation 1663/95 provides that administrative processes on which the approval of subsidy payments is based should normally be covered by procedures providing a safeguard against inadvertent and conscious errors.

Beside the fact that the control of transport documentation by Told•Skat is carried out by different officers, the control of departure and transport out of the EU's customs territory is seen as an integrated scrutiny by the customs authorities of the overall basis for disbursement. The combined control (which includes advance notification, declaration, physical control, scrutiny of documents, advance notification of exports⁹, substitution control, and control of departure and transport) is made before the customs declaration is sent to the paying agency as an electronic application.

Furthermore, a supplementary control of departure and transport details is carried out in connection with the scrutiny of cargo manifests for ships leaving EU ports.

⁹ Reference is made here to the procedure where the exporter or its representative presents export papers to the departure customs office, which will determine within a certain time horizon whether substitution control is to be performed.

Finally, the access of the paying agency DFFE to the carriers' B/L registers is designed to enable it to make spot checks of transport as well as arrival documentation. It will thus be possible to carry out the mandatory spot checks of compliance with the transshipment provisions in Article 9 of regulation 800/99 by means of efficient methods, namely on-line access to updated transport progresses with a code to each container number appearing from the declaration (container-tracking). It will, however, also be possible to undertake a check of transport progress, transport routes and details specified on the Bill of Lading. Finally, it will be possible to carry out checks of predefined risk areas, such as specific destinations, the validity of notices of arrival, the splitting of declarations on various containers¹⁰, etc.

- Bills of Lading in electronic form (Doc. K(2000) 2255 fin.)

In discussions with the Commission's services it has been made clear that the legal foundation for accepting electronic transport documentation (in the relevant case: the Bill of Lading) can be found in the Annex to regulation 800/99. The annex lists a number of separate conditions for accepting as valid any notices of arrival in electronic form pursuant to Article 16 of the regulation, whereas for transport documentation there are no similar conditions.

Likewise, the EAGGF has indicated that, if an electronic version of the transport document is identical in terms of contents to the paper version, and there is a fixed framework for the assessment of the validity of these documents, there will be no restrictions on the use of electronic documents¹¹.

Scope of the control

When control procedures are initiated, there will be a minor differentiation of the control of departure and differentiated refunds as compared with the existing procedures. In other words, there will be an extension of the specification of requirements for the Bill of Lading and the authorities' control thereof.

A checklist for the scrutiny of Bills of Lading will be commissioned by Told•Skat; on a few points it complements the control hitherto conducted in connection with departure. The checklist¹² is laid out as a comparative analysis of the correlation between the customs declaration and the transport document with

¹⁰ Reference is made here to the provisions in regulation 1253/2002, which amends regulation 800/99, where a raising of the limits for the presentation of certificates of arrival in the case of differentiated refund must not result in the exporters artificially splitting up exports with a view to avoiding the duty to provide certificates of arrival.

¹¹ An example of an electronic Bill of Lading is found under point 6 (page 28).

¹² The checklist is a minor extension of the existing control procedures with the addition of elements from the DFFE's checklists for the control of transport documentation. The checklist is available as crude copy in the Annex but will not become part of the EAGGF manual (the customs authorities' directives in the field of EAGGF) as final instructions until 1 February 2005, when the scheme comes into force.

the following benchmarks: product (KN code), product description, quantity (gross/nett), container No./means of transportation, sailing dates, shipped-on-board date, transshipment date, if any, other references (payment details, etc.), transport route, and destination.

The container No. will be the predominant key to the crucial information, in that the container No. is computer-captured by Told•Skat from the customs declaration, although it is declared later than the time of loading. At the same time, the container No. is the key to the container-tracking systems. If lacking or inconsistent information is noted on the Bill of Lading in connection with the checklist, a check based on container-tracking will be the instrument showing whether to accept the declaration and documentation or, alternatively, request other or complementary information.

A few carriers are already at the present time granting the authorities access to their own systems. If it is ensured that data are retrieved from specified registers (B/L registers) and transferred at specific times, it will be possible to conduct – on the basis of container Nos. – a full electronic processing (computer run) of the Bill of Lading information – in the sense that the information regarding container Nos., product, quantity, destination, etc., which is compared electronically with the information already appearing from the customs declaration/export declaration for departure and differentiated refund under € 2,400/12,000, respectively, can then be applied fully electronically with no need for any further check¹³.

However, this calls for a certain programming of the control where the requirements in the above checklist with the customs authorities are largely incorporated into this control. On the other hand, it will be possible to save many resources by using this procedure; also, the question of trackability and audit tracking from the control will be solved.

There are so many perspectives in this line of thinking that these considerations will become a permanent part of the evaluation and will be an element in the annual approval procedure of carrier undertakings.

Control of differentiated refunds

The control of differentiated refunds where a transport document must be presented, is not governed by separate demands as to when the control must be made. Therefore, there is no demand stating that the documentation is not to be processed until the goods have reached their destination. Most Bills of Lading are issued about five days after the export from Danish port (in the case of feeder service). Even if changes occur after the issuance, there will be no adjustment of

¹³ The overall principle in regulation 1663/95 on "the four eye principle" will lapse in connection with electronic processing, where the risk of inadvertent or conscious typing errors, etc., is eliminated.

the information appearing from the Bill of Lading if the exporter has simply made and sent a copy of the B/L first issued.

A control as contemplated by the new scheme, which is based on a check of the transport route and final destination after 1- 2 weeks following the export, therefore will not be significantly different from the control conducted by paying agencies in all the Member States¹⁴. On the contrary, the control performed in the new Danish scheme will add a new aspect in the form of a subsequent spot check of all the details on the Bill of Lading – based on container-tracking. An amendment of the refund regulation requiring that the transport documentation cannot be presented until it has been updated after the goods have reached their final destination, would seriously enhance the security in connection with disbursement of differentiated refunds¹⁵. Documentation of the control at the customs office is carried out partly in the customs system and partly by stamping the export papers, which are filed¹⁶.

However, without any regulatory amendments and with a voluntary and active participation from exporters and carriers, the Danish scheme can generate this secure basis for the disbursement of export refunds.

c. Exporter's and Carrier's Deadlines and Responsibilities

Basically, the authorities' access to the carriers' information and, thereby, to necessary documentation in connection with the entitlement to export refunds does not alter the exporters' regulation-based responsibility to provide the necessary documentation.

¹⁴ There is, indeed, no demand that the scrutiny of the transport document or the information therein must be made after the time of arrival at the destination. Nor is there any demand that the scrutiny must be made with the most recently issued – and most recently updated – transport document. Therefore the Bill of Lading being processed will probably be the Bill of Lading first issued. A control of this factor could be made only through a third-party hearing of the carrier and an investigation of the terms of payment and contracts for the individual transactions.

¹⁵ The situation might be likened to a demand saying that the transport documentation in connection with road carriage must accompany the goods while they are being transported and under any circumstances be endorsed by the official authorities in the recipient country and often also in the countries of transit (if this is normal practice for goods carriage in those countries). There is no legal basis in Community laws (refund and/or customs regulations) for making such a demand. Nevertheless the Danish authorities have chosen to implement such a rule on a strictly administrative basis.

¹⁶ The departure customs office grants passage on the single administrative document by means of a special stamp containing the following details:

- Date of loading unto feeder boat ("Shipped on board")
- Date of loading unto the ocean liner in the transshipment port ("Shipped on board") for control of the 60- and 28-day rules.
- B/L number by way of proof that the departure customs office has secured the relevant data from the shipowner's homepage (customer database). See the example in the Appendix.

Eventually, it is still up to the exporter to ensure that the necessary documentation is available, including that any changes to the destination and transport route after the export for, e.g., commercial reasons are notified to the authorities. This matter will be emphasised in connection with the launching of the scheme and will be abundantly clear from the relevant guidelines.

The current practice is that it is up to the exporter or its representative to ensure that the Bill of Lading is presented to the departure customs office in connection with direct export out of the customs territory of the Community from a Danish port. To the present arrangement is thus added:

1. In connection with applications for differentiated refund for exports under € 2,400/12,000 per product line the exporter henceforth only needs to present transport documentation in connection with export out of the customs territory of the Community from a Danish port to the departure customs office (and no longer send the same documentation separately to the DFFE).
2. It is possible for the exporter, via its own carrier, to offer electronic access to Bill of Lading details so that no papers need to be delivered subsequently to Told•Skat in connection with the export.

The prerequisite for 1. will always be present, as this comes into force on 1 February 2005. The prerequisite for 2. will be that the exporter makes use of one of the carriers which have been approved by the authorities to deliver/offer electronic documentation, and that the exporter adheres to the practical instructions with regard to the declaration of goods for export from a Danish port¹⁷. The third prerequisite is that the carrier has by agreement arranged for access by the authorities to its IT systems, for example by allocating user codes, passwords or digital certificates.

- The responsibility appears from regulation 800/99

Regulation 800/99 (Article 49) provides that the exporter is granted a period of 12 months following acceptance of the export declaration to submit the requisite documentation to complete the application.

This responsibility is not changed, but in practice the deadline will disappear if the access of the authorities to Bs/L is adequately ensured by the exporter or its representative (the carrier).

¹⁷ Specification of reference to homepage as well as user number/identification for access to the carrier's electronic database. The information must appear from the export papers presented to the departure region – Copy 1, YM shipping note, etc.

- Feedback and possibility of follow-up procedures with authorities and with enterprises

One of the great changes and advantages associated with the scheme is that the exporters no longer need to invest in resources to handle the paper documentation and, especially, to communicate this documentation to and from various authorities. The starting-point for the scheme will be that, when the exporter has submitted his customs declaration plus any accompanying notes and a correct indication of the reference to the relevant carrier, he may reasonably expect that the administrative procedure and subsequently the payment will be made within a moderately brief period of time.

At the same time this implies that initially it will be up to the authorities to ensure that any supplementary details from the exporter or the carrier are obtained as swiftly as possible – so that the processes are not stopped in the customs system as non-approved.

There will be various types of follow-up procedures with the authorities. Normally the administrative processing will be conducted shortly (less than one week) after the export from Danish port, and the exporter will then be able to expect payment a short time thereafter. If the declarations, including the transport documentation, cannot be approved outright, it is up to the authorities to request complementary details and make clear what will be necessary to complete/approve the matter. An extra effort will be made to follow up on "open cases" where supplementary documentation is requested – either via the tracking systems or as written documentation from exporter or carrier¹⁸.

Several situations may arise where the customs services will be unable to accept the declaration on the existing basis:

1. *Failure to submit a B/L (paper).*
The present situation where the exporter or its representative fails to produce a B/L to the departure region.
2. *Lack of access to the B/L (electronic procedure).*
Problems with the path, homepage, site or user name specified.
3. *Inconsistencies (lack of approval of the B/L - paper and electronic procedure).*

¹⁸ This extra follow-up procedure must be notified via the EAGGF manual. Here the aim will be that all cases are processed as quickly as possible, in that basically all relevant details are available at the time when the Bill of Lading is issued. It is furthermore envisaged that, during the 6-month trial period, there will be a steering group or following group which officers at the customs regions may contact if they encounter problems with the approval of transactions on the available basis. In principle, this procedure is intended to avoid transactions being forwarded as non-approved or giving rise to a customs report or other statement, so that they are subject to a far more comprehensive and resource-heavy follow-up procedure.

Information about the port of loading, date, or name of feeder as well as inconsistent details of the goods (quantity, KN-code), export (container No.) or transport (destination, transport route).

- Returns/customs reports (fast track procedure)

The follow-up procedures are intended to ensure that no returns/customs reports are transmitted when there is a chance to have the matter completed within the usual time limits. Here also the relevant exporter and carrier are called upon to respond swiftly to the authorities' follow-up and to arrange for delivery of the information requested (see also footnote 12).

The procedure used previously/hitherto – which saw the making of reports, etc., and a deviating approval code in the case of failure to submit a B/L – can probably be dispensed with if the electronic procedure becomes predominant. For those exporters who may still be using a paper-based procedure it will be stressed in connection with the implementation that responsibility for the presentation of B/L information does not rest with the authorities.

Customs reports should be prepared only when, for example, inconsistencies are still present and it proves impossible to obtain the relevant information within a foreseeable future – despite repeated efforts to get it¹⁹. This may be regarded as a highly service-oriented practice – where the authorities accept a large part of the responsibility for follow-up on the cases. It cannot be denied, however, that this procedure will be preferable to a subsequent procedure where returns or customs reports have been drawn up and it will be associated with additional use of resources to have the information verified.

In terms of administrative law the authorities are bound to receive all information sent to them within the 12/18-month time limit laid down in the regulation (although not to deal with the information within that time limit), whereupon the entitlement to refund will lapse unless an extension has been applied for with regard to the time limit for submitting transport documentation²⁰. Concurrently with the incorporation of the new procedure the authorities' use of resources on follow-up procedures will gradually be reduced.

¹⁹ Instructions will be issued to the effect that, if Told•Skat cannot approve because of inconsistencies, etc., the departure date will have to be inserted together with a special control code indicating that the DFFE introduces a “freeze” and conducts the administrative procedure subsequently.

²⁰ Extension of the time limit may be applied for only for the purpose of submitting the documentation to be delivered in connection with differentiated refunds, cf. Article 16 of regulation 800/99. For other exports and evidentiary documentation therefor, the 12-month time limit applies.

These are the authorities' fixed follow-up procedures:

- The YM system (inquiry access) – access to see if the transaction has been approved or not approved by the customs services, and where the file is (Told•Skat or the DFFE).
- Error lists DFFE – access to see if the file may have been stopped due to an error in handling and/or product line.

In addition, there are in-house follow-up procedures for non-closed cases.

d. Approval Procedure

The approval of carriers to provide electronic transport documentation is based on a procedure having certain similarities with existing Community arrangements within the field of export refunds.

The approval is based on a safeguarding of authority access to electronic information. In addition, the carriers are subject to a recurring accrediting procedure along the lines of similar authorisation schemes provided for in Community legislation.

Checklist

The examination as such of the carriers has been conducted by means of visits and requests for written documentation. Reports on the visits were subsequently drawn up. So as to ensure uniformity and compliance with the accrediting procedure, the starting point was a checklist²¹.

Documentation from carriers

In connection with the visits the carriers have presented their IT systems to a working group composed of representatives of Told•Skat and the DFFE. Besides, they have supplied written documentation – largely concerned with validity, data security, and business routines. In the event of vagueness or inadequate information, supplementary documentation has been requested – and has been delivered within the specified time frame.

The crucial point, however, is that as from the end of December 2004 the members of the working group have been given access to the IT systems in order to carry out tests on specific transactions. Thus, in the end it is "the performance" of each IT system which determines whether the carriers are approved to provide electronic transport documentation from the start of the trial period. The material from the test period becomes a significant part of the basis on which carrier approvals are granted.

²¹ The checklist is attached as an Appendix to this Report.

Debriefing

After the end of the test period there will be a debriefing to the Steering Group (see under point 4b below) as well as to the exporters. In the light of the visit reports, the written documentation, and the testing the Steering Group will grant approval of the carriers. Approvals will be published on the DFFE's homepage by means of Newsletters.

Weaknesses and recommendations

The approvals in question may be temporary or conditional – if the above procedure has failed to show fully satisfactory results. All approvals will therefore be accompanied by possible recommendations and invitations to remedy any such weaknesses as have been noted. It is taken for granted that each carrier has followed up on the areas singled out, when the authorities return in connection with an evaluation, a new approval, or any revision of the scheme.

In most cases, any restrictions on the approval or any supplementary conditions will appear from the letter of approval.

The decision to approve

The approval reflects an administrative decision which is based, however, on principles and guidelines that are likely to be known by all carriers and other interested parties. Conditions for participation in the Project have been communicated to the respective interested parties. The scheme will be open to all parties, who will then have to be examined in accordance with the procedure described in the checklist.

Inquiries from carriers and exporters concerning the implementation of the scheme, including the approval procedure, will obviously be dealt with in the normal manner.

e. Contractual Basis with Carriers and between Carriers and Exporters

The authorities propose that the scheme may be used freely by those carriers who meet the conditions. There will be an option in relation to the use of the scheme as well as the choice of contractual basis. However, the minimum requirement will be a statement in writing on the ability and will to grant access for the authorities to the relevant information in electronic form.

In point of fact the use of the scheme will thus be a matter between the exporter and its choice of carrier – in that the carrier may offer this facility on equal terms with other services. The question of competition associated with this procedure is a matter among the different carriers, in that the conditions for approval have been known and complied with beforehand.

Choice of model

Depending on relationships with customers (exporters), IT system design, homepages, etc., the carrier may choose the model for contractual basis with the authorities. This may be in the form of a statement, but more comprehensive models – such as an agreement or a contract – are also a possibility. If so, agreements or contracts must be concluded among three parties – the carrier, Told•Skat and the DFFE. The carrier will initiate the drawing-up of an agreement or a contract if it is desired to complement the authorities' minimum requirement for a statement in writing.

The carriers' contracts, etc., with the exporters are civil-law matters, which are basically of no concern to the authorities. In relation to the application for refund and the obligations with regard to the necessary documentation, it will still be the exporter who is responsible to the authorities.

Extent of access

The authorities' access to electronic transport information in connection with applications for refunds must be consistent with the requirements of the regulation and should, in the same vein, make the administrative processing more secure and easier.

The minimum requirement is access to the electronic Bill of Lading. In the medium term, access to container-tracking will also be a basic requirement, in that it is assumed that this facility must be used in the event of problems or inadequate information on the Bill of Lading – and in connection with spot checks performed by the paying agency.

In addition it is recommended that, gradually, access is ensured to statistics/reports of historics on Bills of Lading.

The facilities for import of data, such as the transfer of Bill of Lading registers to the authorities via spreadsheets, etc., are aspects which the authorities will recommend and undoubtedly attach importance to in the longer run, as these contain very substantial prospects of streamlining for the public administration – which may also benefit exporters and carriers.

This also provides perspectives for the prospects, as the case may be, of extending the scheme so as to include road carriage, such as to European and Asiatic destinations.

Technical arrangements

Depending on the model chosen – and how access by the authorities is ensured – it will be up to the carriers to make sure that the technical arrangements necessary for delivering the relevant information are present.

This means access to homepages as well as the delivery of user codes, passwords, digital certificates and other arrangements that must be in place before commissioning. It will also be necessary to appoint contact persons with responsibility for IT – with whom the authorities can get in touch if the access fails or there are other problems with the technical facilities.

The test period from the end of December 2004 is intended to ensure, i.a., that these matters are in place before the scheme is implemented/the carriers are approved.

Responsibility for engineering, etc., in connection with the letter of approval

Technical installations and preparatory works are assumed in the letter of approval. It is assumed that any changes to the access, content, etc., with an impact on the refund regulations will be notified to the authorities for the purpose of renewed evaluation/accrediting.

3. Technical procedures with the Authorities

The implementation of the new scheme will call for adjustments of or changes to certain technical procedures with the authorities. On the other hand, the scheme will be based on the use of existing IT facilities with the authorities, so that any expansion of existing IT systems will have to be made only at the carriers and/or exporters.

In this manner the changes on the part of the authorities will basically be budget-neutral, although of course – in the longer term – the general idea is to reduce the total administrative costs by means of a more efficient and contemporary administration.

a. Told•Skat

Initially, it is not a matter of any changes in the legal foundation for the customs services' processing of the transactions. The Customs Code as well as the refund regulation require the presentation of a Bill of Lading²².

The accrediting provisions in regulation 1663/95 imply that the checklist/instruction for the control of departure is incorporated into the contractual basis with the DFFE (control framework). After the scheme with electronic transport documentation has been launched, the same control – with only a few adjustments – will also constitute the foundation for the authorities' control of differentiated refunds for exports from Danish ports with refunds of less than € 2,400/12,000 per product line. In addition, of course, there is the opportunity to avoid submission of paper documentation by offering the authorities access to electronic transport documentation.

Departure control (Dual procedure – Bill of Lading + cargo manifests)

No fundamental changes will have to be made to the manner in which customs control of departure with refund products is conducted. The control will still be a dual one where – primarily – the Bill of Lading details are checked in relation to the customs declaration, and where the ship's overall cargo manifest is scrutinised in relation to the customs declarations (this also applies to non-refund goods).

In-house instructions at Told•Skat (EAGGF Manual)

There will be a need for changes and adjustments to a few of the customs services' existing instructions in the area:

²² I.e., a through bill of lading with final destination outside the customs territory of the Community.

1. Approval of carriers to offer electronic transport documentation. Including practical directions as to how it is used (user codes, contact persons, etc.)
2. Description of the procedure for corrections/reports implying an assessment of the basis for refund. Including a description of the fast track procedure, where most questions can be solved in the short run and before transmitting the declaration to the DFFE (approval code 10).
3. Instructions for formal decisions (e.g. weight adjustments, dates, names of ships) where, despite attempts to obtain supplementary details from the exporter and/or carrier, it has not been possible to establish the basis for refund (deviating approval code + report).

The training of staff

Beside the strictly practical matter of technical installation of IT facilities at the departure regions (such as the downloading of digital certificates, etc.) there will obviously be the task of training employees in the use of the new procedures.

However, an effort has been made to prepare a part of this job by involving the members of the working group in all parts of the implementation of the Project. It is therefore assumed that the members of the working group will become an essential part of the training of employees in Told•Skat.

b. The DFFE

In the DFFE certain technical preparations for the new scheme will also have to be made.

Access to systems

First and foremost, the DFFE will have to prepare access to the various IT systems. The access must ensure that the DFFE can conduct supplementary controls of departure as well as transshipment and destination. The technical preparations comprise the following:

Spot checks – design and risk assessment. The general idea is that employees from the EKSO, the Steering Group, and Internal Audit at the DFFE will take part in this work – notably the definition of risk analysis models.

The training of staff/technical installation .

Responsibility for certification/debriefing/supervision. The preparation of models for this will be arranged between Internal Audit at the DFFE, the EKSO and Told•Skat. The final model for reporting will become part of the general quality assurance in connection with the General Agreement between Told•Skat and the DFFE.

4. The Authorities' Formal Contractual Basis

The contractual basis between Told•Skat and the DFFE reflects the amended distribution of responsibilities for the control tasks which is the result of the arrangement with electronic transport documentation,.

The agreement between Told•Skat and the DFFE defines the areas where the DFFE has delegated the responsibility for planning and implementation of the control tasks to Told•Skat.

a. General Agreement

The General Agreement between Told•Skat and the DFFE will deal with the matter of quality assurance and delegation. If responsibility for the control has been delegated to Told•Skat, the detailed adjustment will occur only in connection with the reporting on the control carried out, which is covered by the overall agreement on quality assurance. Here there is a reference to the fact that Told•Skat annually documents that the control is in accordance with the regulatory rules and guidelines provided for in regulation 1663/95. This is done by signing the audit report from the statement of annual accounts²³.

b. Control Framework for Exports

The practical matters concerning the implementation of the control will be regulated in the control framework for exports, which determines the annual control programme. These include matters such as:

- reporting on declarations
- approval codes
- "fast track procedures" in connection with automatic licence amortization and the two-month rule (proof of utilization)²⁴.

²³ Thus, the General Agreement (draft) says: "To ensure that item 4 (iii) of the Annex to regulation 1663/95 has been fulfilled, Told•Skat shall once annually confirm in writing that they are familiar with the contents of the Commission's guidelines No. 9 concerning "Delegation of tasks to other agencies and services" and No. 10 concerning "Physical inspection", and that the obligations specified in these guidelines and in this Agreement have been complied with".

²⁴ An important reason for ensuring a fast track procedure for all normal transactions is that as from the start of 2005 the DFFE will initiate an ongoing licence amortization implying that the amortization sheet will be dispensed with when exporting from a Danish port. Thus, the declaration serves both as proof of exit from the customs territory of the Community and as proof of the use of the licence. Problems with the DFFE's administrative processing system for continuous and automatic amortization on the licences may occur if the declaration is delayed for, say, more than the 60 days which is the deadline for exit from the customs territory of the

The control framework for exports specifies the starting date for the scheme as 1 February 2005, which is also communicated separately in Newsletters to exporters and others, on the DFFE's homepage. This homepage will also list the carriers who have been approved by the authorities from time to time to provide electronic transport documentation.

c. Steering Group

In connection with the start-up of this scheme a steering group will be formally set up. The foundation for the work of the Steering Group is this Report as well as the letters of approval forming the basis for approval of the relevant carriers. The Steering Group is mentioned specifically in the control framework for 2005 but it is likely to be institutionalised in the ongoing cooperation between Told•Skat and the DFFE during the year.

Members of the Steering Group are appointed by Told•Skat and the DFFE jointly²⁵.

Supervision of the area

The work of the Steering group must be focused on the supervision of the scheme and, in so doing, on whether the practical implementation lives up to the conditions laid down in the Report. It will be up to the Steering Group to conduct the evaluation of the scheme after six months, and to plan for the forthcoming and annually recurring accrediting procedure on the basis of the experience gained during the first six months of 2005.

General questions, and clarifications

In connection with a new form of administration such as this scheme proposes, and in the light of the relatively brief running-in/trial period, there will be an acute need for clarification of legal, administrative and technical correlations for the individual employee at the customs offices. In view of the limited period allowed for training, the pilot-project nature of the scheme, and the constant need to handle the transactions within relatively brief time frames, it has been deemed necessary to establish a forum that can handle ongoing questions and problems in the wake of the new administration.

Written procedure

In the case of fundamental questions and clarifications where there is believed to be, now or later, a need for documentation with regard to legal or auditing

Community – but also the deadline for proof of the use of the licence (the former amortization sheet).

²⁵ These will include members of the working group who have been in charge of the accrediting of carriers as well as representatives of the EKSØ, Internal Audit at the DFFE, and the Central Customs and Tax Administration.

matters, a written procedure must be used, where each customs region contacts the Steering Group to submit a specific problem. The reply and clarification will then be distributed via the usual channels within the forum of Told•Skat (EAGGF Manual).

Meetings

The Steering Group will meet once per month during the first six months following the initiation of the scheme involving electronic transport documentation.

d) Delegation of control tasks

The control tasks related to transport documentation in connection with differentiated refunds for exports under € 2,400/12,000, respectively, per product line has been delegated from the DFFE to Told•Skat. In addition, there is the previous control of exit from the customs territory of the Community.

Debriefing

In accordance with the provisions of the General Agreement and the control framework on the delegation of control tasks, a debriefing must be held concerning the control carried out. It naturally follows that this will include, primarily, listings of the ordinary transactions – in that the reporting on approved departure and transport route/final destination will continue to be made on the customs declarations (YM) transmitted electronically from the customs offices to the DFFE as export subsidy applications.

However, this control will also henceforth have to be part of the ongoing quality assurance agreed between Told•Skat and the DFFE, where it is anticipated that the scrutiny of Bills of Lading will be included in the audit work on an equal footing with other control work being conducted by Told•Skat.

Furthermore, the DFFE's own access to electronic transport documentation and various approved carriers could be seen, on the one hand, as a supplementary check of the applications and, on the other, as supplementary quality assurance of the control work.

Auditing

The scheme involving electronic transport documentation as well as such control tasks in connection with transport documentation as have been delegated to Told•Skat will have to be included in the ongoing audit of the area and, thereby, in the DFFE's combined annual accounts vis-à-vis EAGGF.

Here the quality assurance of the control work performed by Told•Skat's internal audit (TSIR) will follow the guidelines in the General Agreement with the DFFE.

It would be a good idea to include this area in the standing audit planning during the first two calendar years after the scheme has been launched. The evaluation

reports likely to be drawn up in the course of 2005 could form the basis for a more searching audit of the area.

Visits

It is reasonable to assume that, during 2005, notice will be given of audit visits from Brussels (the Commission, the Court of Auditors) for the purpose of examining the scheme and – especially – the documentation and audit tracks. First and foremost on account of the interest generated by the scheme – but also by reason of the perspectives contained in the scheme for adding to or replacing other forms of documentation for exportation against refund, e.g. the proof of arrival.

An effort should be made to ensure that, in these cases, the planning is coordinated by the Steering Group – for example, by prior visits to the control points – so that an overall presentation of the scheme is possible.

5. Evaluation

Because in many ways the scheme can be seen as a pilot project characterised particularly by the fact that the authorities undertake supplementary control tasks in relation to third parties in connection with exportation against refunds, viz. the carriers, an evaluation is to be carried out in connection with the implementation of the scheme and, notably, the approval of the carriers - already when it has been in force for six months.

Within three months after the start-up an evaluation committee appointed by the Steering Group will be set up and approved by the certifying agency .

a. Critical points

The evaluation will have to be focused on the critical points (in terms of audit) as well as benchmarks in the checklist for approval of carriers.

Furthermore, there will be extra focus on carriers with limited approval.

- Recommendations in connection with approval as at 1 February 2005
- Auditing matters

b. The Need for Changes to the Scheme

The evaluation will aim to evaluate the basis for the application of the scheme in practice. In particular, the evaluation will focus on:

- I. Procedures at Told•Skat and the DFFE
- II. The basis for approvals
- III. Audit tracks and historics
- IV. Other aspects (experience and sets of problems from practice)

with a view to identifying any need for changes, adjustments or additions to the existing rules and regulations.

6. Briefing of the Commission

Told•Skat/DFFE will offer (a) meeting(s) with the services of the Commission and, also, emphasise the offer of ongoing briefing of the Commission as well as of other Member States about the arrangement in Denmark.

Figure: Example of electronic Bill of Lading

| Current tracking | New tracking | Advanced tracking | View | Details (AAR026363) | Customise view | My references |
|-------------------------------------------------------------------------------------|---------------------------|------------------------------------|------------------------------------------------|-------------------------------------------------|----------------|---------------|
| Add favourite Help | | | | | | |
| B/L PARTIES | B/L ROUTE | SHIPPERS MEMORANDA | CARGO DETAILS for Commodity: 1 | | | |
| B/L PARTIES To top | | | | | | |
| <input type="button" value="Release/haulage orders"/> | | | | | | |
| Document id AAR026363 | | | | Container MAEU7828519 | | |
| Shipper [REDACTED] | | | | Consignee [REDACTED] | | |
| Outward forwarder [REDACTED] | | | | Inward forwarder | | |
| First notify party [REDACTED] | | | | Second notify party | | |
| Other payer collect | | | | Other payer prepaid | | |
| B/L ROUTE To top | | | | | | |
| Document id AAR026363 | | | | Container MAEU7828519 | | |
| Place of receipt Saeby, Denmark | | | | Place of delivery Aden, Yemen | | |
| First load port Aarhus, Denmark | | | | Final discharge port Aden, Yemen | | |
| Precarriage Yes | | | | Oncarriage No | | |
| Vessel | Voyage | Load ports | | Discharge ports | | |
| MAERSK BRISBANE | 0401 | Aarhus, Denmark 24-Dec-2003 | | Antwerp, Belgium 28-Dec-2003 | | |
| SL MICHIGAN | 0403 | Antwerp, Belgium 04-Jan-2004 | | Salalah, Oman 15-Jan-2004 | | |
| SHIPPERS MEMORANDA To top | | | | | | |
| Document id AAR026363 | | | | Container MAEU7828519 | | |
| Booking number AAR026363 | | | | Consignee reference | | |
| Shippers reference | | | | Inward forwarders reference | | |
| Outward forwarders reference | | | | Other payer prepaid reference | | |
| Other payer prepaid reference | | | | Other payer collect reference | | |
| Point and country of origin | | | | | | |

Appendices:

- Checklist for electronic transport documentation
- List of approved carriers
- Stamping (example)
- Figure: Control Procedure of Bill of Lading
- Figure: Payment Procedure in DFFE (Paying Agency)



DFFE
Export Refund Department

October 2004

Checklist for the Approval of Transport Businesses for the Delivery of Electronic Transport Documentation in connection with Exports Giving Entitlement to Export Refunds

Background

A legal basis has been established for the acceptance of electronic transport documentation in connection with approval of the entitlement to export refunds. However, in discussions with Told•Skat and the DFFE the Commission has emphasised that it is up to the authorities to ensure that matters of auditing are as they should be – including that the control of the electronic data is in accordance with rules and regulations, and that this control can be documented.

Furthermore, any access to historical data and the validity of the data to which access is achieved must be secured by appropriate measures. Thus, it is the Danish authorities' duty to lay down the more detailed conditions for the use of electronic transport documentation. These include: -

- internal control procedures with the authorities, where detailed instructions must be prepared,
- approval of transport businesses delivering the documentation, and
- relations with the exporters, who remain legally responsible for delivering the necessary information in connection with applications for export refund.

The scheme will also be applicable to the basis for completion of the export procedure from the customs territory of the Community (exports without export refund).

The approval procedure proposed by the Danish authorities contains two overall components:

1. An indication in writing stating that the authorities (Told•Skat and the DFFE) are given access to specified electronic transport information
2. A recurring approval/accrediting procedure where the authorities test and scrutinize the factors on which the approval is based .

The approval procedure is based on applicable EU legislation in the field of export refunds and, thus, complements the obligations incumbent on the exporter pursuant to regulation 800/99 in terms of providing the necessary information.

Purpose and Scope

The purpose of using electronic transport documentation is to simplify the authorities' administration and to limit the exporters' and the carriers' documentation to the authorities to the bare necessity and to one authority only.

The simplification is as follows:

1. The authorities are given access to the carriers' electronic transport information, so that data may be supplied or retrieved electronically.
2. Delegation of the control of transport documentation from the DFFE to Told•Skat to the extent of refund exports with differentiated refunds entitling to less than € 2,400/12,000 per product code and leaving the EU's customs territory from a Danish port.

The authorities are granted access – normally with the exporter's consent – to the same data regarding the Bill of Lading, transport progress, and container movements as the carriers make available to the exporter. Whether or not the authorities are granted such access is a matter between the exporter and its carrier, as it involves their internal customer relations.

The authorities' requirement is, as a minimum, a statement in writing from the carrier allowing such access. There are, however, no restrictions on the form of cooperation. It might also involve an agreement or a contract between the relevant parties (carrier and authorities [Told•Skat and the DFFE]).

Restrictions

A revocation of the approval may become relevant if it turns out that the carriers cannot meet the basic conditions laid down in the approval procedure of which the components are outlined in the subsequent checklist.

It should be emphasised that, even if the authorities are given access to the information without any action being required on the part of the exporter, this does not exempt the exporters from fulfilling their obligations under the customs legislation and the refund regulations. The exporters will still be bound to ensure that the necessary details have been provided within twelve months following the acceptance date.

The Granting of Approval

The DFFE and Told•Skat will grant their approval, if any, after having paid visits to and processed the information provided by the firms. The approval will apply solely to the authorities' access to information concerning exports made in Denmark (exports or refund exports).

The authorities reserve the right to revert with supplementary questions before any final approval is granted (provisional approval).

Information about approved enterprises will be published in the DFFE's Newsletter, and it is assumed that approved firms will participate in inforatory meetings with the exporters concerning this scheme.

Basis of Approval/Checklist

Procedure: The checklist will be reviewed in connection with visits to the firm. The reply should be as exhaustive as possible (Yes, No, description). Supplementary material from the firms is requested and received and may be used in connection with the subsequent processing.

Post-processing: Review and status meeting after each visit – approval or refusal. The result will be accompanied by a number of recommendations to be retried in connection with any future accrediting. The firms are requested to notify the authorities of significant changes to matters relevant to the accrediting.

Contents: The checklist is a guideline, and no weighting of the factors has been made beforehand, nor is there any answer book. The approval, if any, will be made in the light of an overall evaluation of the information available.

Name of the firm:

Address:

Person to contact:

Contractual Basis – which is desired?

- Statement
- Agreement
- Contract

The IT system containing the B/L registers (customer information)

- Audit report
- IT systems in general
- The Bill of Lading register
- Standard
- Which?
- Internal supervision/quality assurance
- Description/supplementary material

Validity:

- Approval procedure
- When is the updating of data made in relation to the physical movement?
- When is the B/L issued?
- How are the general access rights?
- Who has access?
- Internal instructions/guidelines
- Amendment of Bs/L after they are issued:
- Who can carry out amendments?
- On what basis?
- How is this documented?
- How is the in-house procedure for amendments laid out?
- Description
- Supervision, if any
- How are historical data stored?
- To this should be added:
- Screen dumps of the system
- Internal descriptions, etc.

Access Rights for Authorities - Contents:

- Bill of Lading register
- Data content (minimum requirements)
- Time frame
- References to other documents (including payment)
- Data storage
- Container system
- Data content
- Time frame
- References
- Tracking system
- Data content
- Time frame
- References
- Cross searches
- Which?
- Downloading
- Limitations, if any.
- Reports
- Statistics
- Historical data
- Paper or electronic form
- Annually recurring inquiry
- Specification, if appropriate (e.g., 50 of them once annually)
- Ad hoc inquiry
- Specification, if appropriate (e.g., annually)

Access Rights - Form:

- Digital certificate
- General access via the Internet
- One password per firm/all firms
- Other forms
- Are the access rights for authorities likely to be improved within one year?

Data Security:

- What sort of in-house security procedure is there?
- In-house security policy
- In-house instructions
- Guidelines
- Material, if any, concerning the above
- What procedure is there for breakdowns?
- External certification
- In-house certification
- Description
- How often are back-ups made?
- How is the accessibility to historical data?
- IT, paper or other means
- Time frame

Other relevant matters

- The authorities' comments
- Comments from the firm/company.

List of Approved Carriers as at 1 February 2005.

The reference here is solely to the Danish divisions of these carrier undertakings.

Approved undertakings as at 10 January 2005:

1. Maersk Sealand
2. P&O Nedloyd
3. Royal Arctic Line

Approved undertakings as at 24 January 2005:

4. Hapag Lloyd - Fellowships

Example of Stamp on Export Papers (Proposed Amendment to the EAGGF Manual)

The departure customs office will grant exit on the single administrative document by means of a special stamp containing the following details:

- Date of loading unto feeder boat ("Shipped on board")
- Date of loading unto the ocean liner in the port of transshipment ("Shipped on board") for control of the 60- and 28-day rules.
- B/L number by way of proof that the departure customs office has obtained the relevant data from the shipowner's homepage (customer database).

Stamp (example):

Copy 1

| Exported out of the Customs Territory of the Community | |
|---------------------------------------------------------------|--|
| B/L No. | |
| Shipped on board ocean liner | |
| Shipped on board feeder boat | |

Copy 2

| Exported out of the Customs Territory of the Community | |
|---------------------------------------------------------------|--|
| B/L No. | |
| Shipped on board ocean liner | |
| Shipped on board feeder boat | |
| Officer's Name: | |

Figure: Control Procedure of Bill of Lading



Procedure

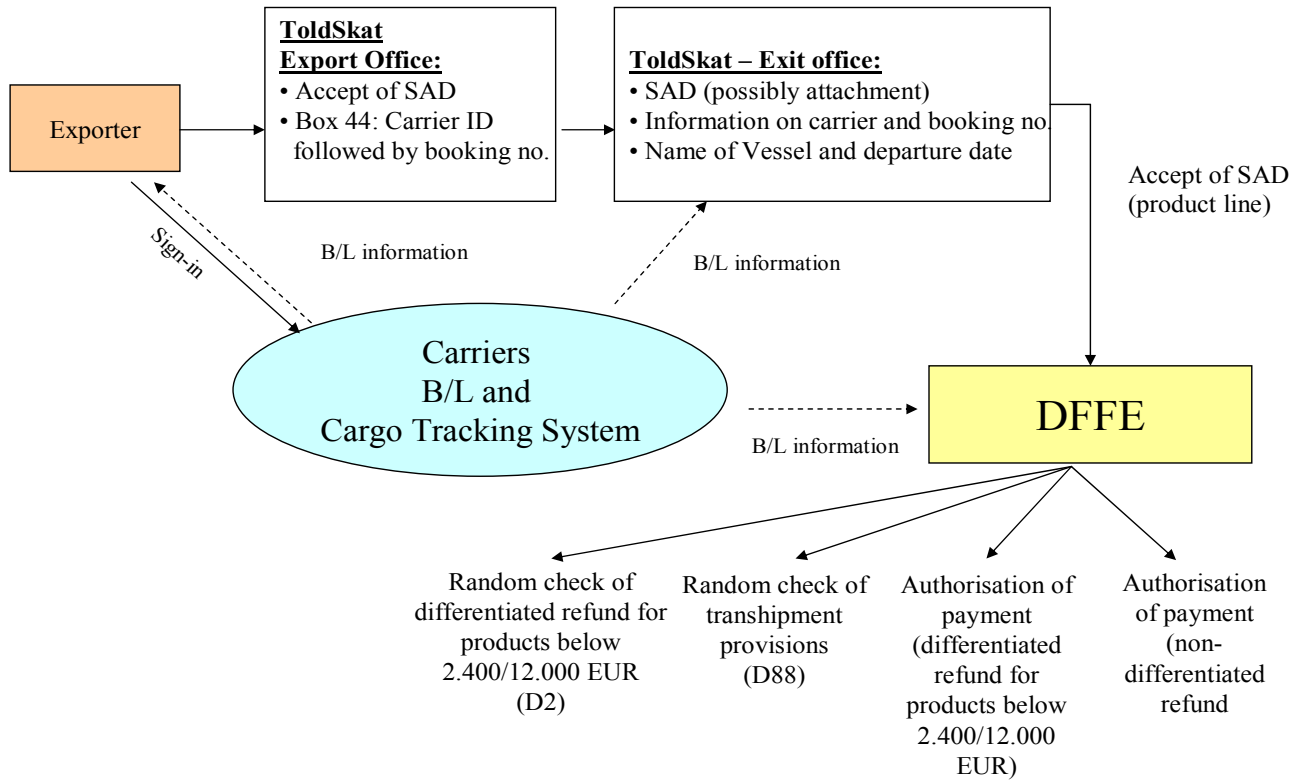
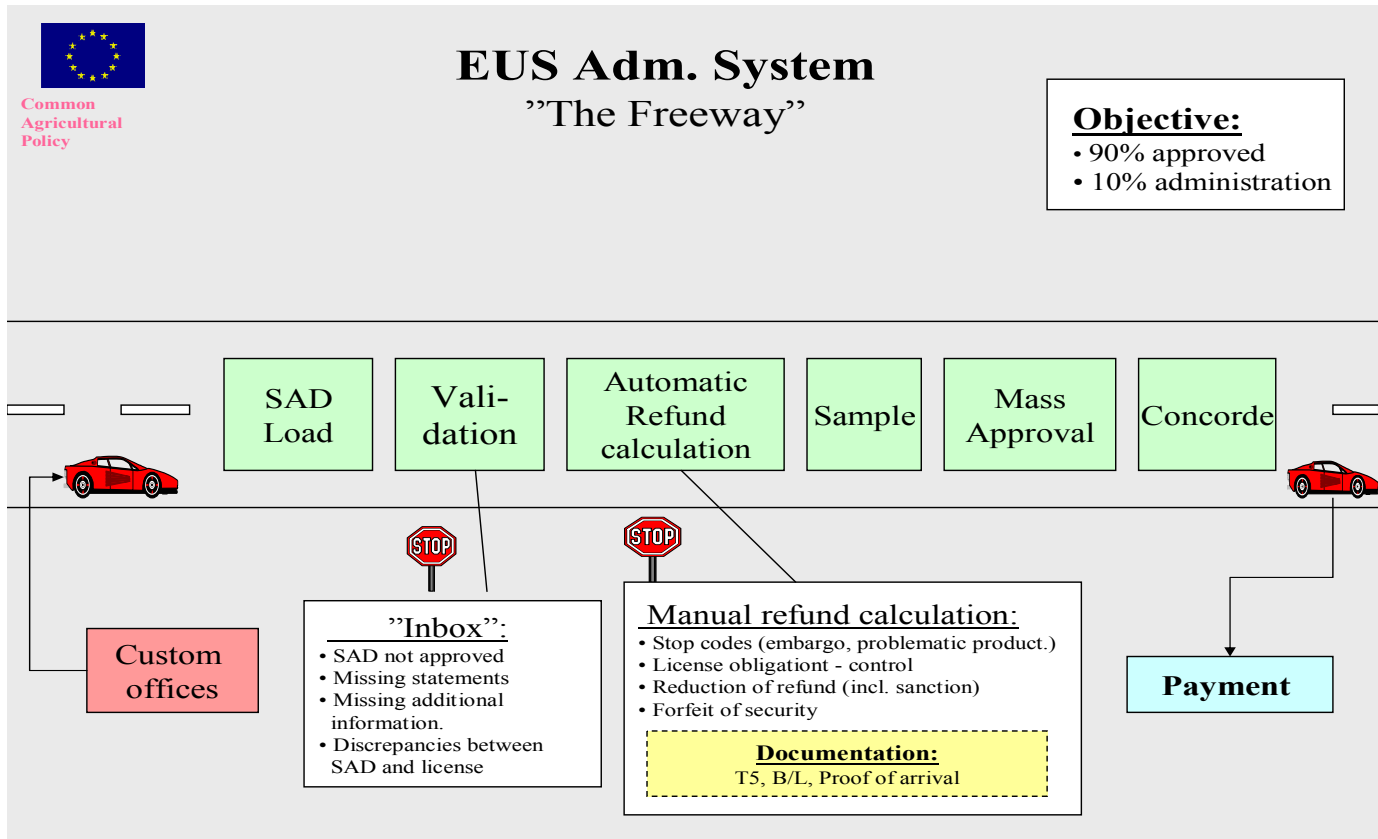


Figure: Payment Procedure in DFFE (Paying Agency)



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