

# **Customs Procedures Today and under the Union Customs Code**

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# Overview

1. Customs policy objectives
2. Key instruments of EU customs policy
3. Customs procedures (purpose, types)
4. The declarant, representative
5. Customs clearance process
6. Simplified clearance procedures
7. Release for free circulation
8. Special procedures
9. Export, re-exportation
10. Questions and answers

# 1. Customs policy objectives (1)

- Implementation of the customs tariff, including tariff preferences, tariff quotas, tariff suspensions, anti-dumping duties at importation
- Implementation of non-tariff measures:
  - at importation (e.g. import quotas, veterinary documents) and
  - at exportation (e.g. export refunds, restrictions on dual-use goods, embargos)
- Integration of other policy requirements
  - use of customs declaration data for VAT, excise duty and external trade statistics (only for certain procedures)
  - Single Window, One Stop Shop

# 1. Customs policy objectives (2)

- efficient management of points of entry and exit
- availability of data for risk analysis prior to arrival or departure of the goods
- rapid release of goods, trade facilitation
- effective relations (partnership) between customs and importers/exporters
- prevention of fraud and irregularities
- effective, risk-based customs controls
- efficient accounting and revenue collection
- deferred periodic payment for persons importing frequently
- suspension of duty liability for certain procedures (e.g. transit, temporary admission, customs warehousing)

## 2. Key instruments of EU customs policy

- Common customs tariff and related rules (e.g. end-use)
- Common rules on duty relief
- Uniform customs legislation (Customs Code and implementing provisions) with uniform customs procedures and processes
- Standard declaration formats (but not standard interface)
- Standard data elements for declarations (with certain additional national data)
- Standard requirements for supporting documents (but margin of manoeuvre for requesting submission)
- Business process modelling, functional and technical specifications for IT systems (e.g. transit, export)

# 3. Customs procedures: types (1)

## CC

- Release for free circulation
- Transit
- Customs warehousing
- Inward processing
- Processing under customs control (PCC)
- Temporary admission
- Outward processing
- Export

## UCC

- Release for free circulation
- Transit
- Customs warehousing
- Inward processing (PCC and destruction included in inward processing)
- Temporary admission
- Outward processing
- Export

# 3. Customs procedures: types (2)

## CC

- Free zone (types I and II)<sup>1</sup>
- Re-exportation<sup>1</sup>
- Destruction<sup>1</sup>
- Abandonment<sup>1</sup>
- Temporary storage<sup>1</sup>

## UCC

- Free zone (former type I)
- Re-export<sup>1</sup>
- Abandonment<sup>1</sup>
- Temporary storage<sup>1</sup>

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[1] This is technically not a customs procedure

# 4. The declarant, representative (1)

- Basic rule: Any person able to present the goods and the required documents may lodge a customs declaration (Art. 64 CC, Art. 170 UCC)
- Exceptions:
  - tariff measures requiring a document issued to the importer (e.g. licence for a tariff quota)
  - non-tariff measures requiring an authorisation or a certificate (e.g. import/export licence, veterinary document)
  - use of binding tariff or origin information
- Additional rule: the declarant must be established in the EU (this excludes foreign exporters who do not have a registered office or permanent business establishment in the EU)



## 4. The declarant, representative (2)

- Exceptions from the requirement to be established in the EU:
  - Transit
  - temporary admission (for this procedure the declarant must normally be established outside the EU)
  - occasional customs declaration
  - customs offices adjacent to Sweden, Switzerland (due to agreements)
- Persons established within and outside the EU may use a representative; however, any authorisation or other documentary requirements must be met by the person represented
- A representative may use an authorisation for simplified clearance (including deferred payment) issued to him on behalf of his clients

## 4. The declarant, representative (3)

- In case of release for free circulation, the declarant/debtor with regard to import VAT may, in accordance with national law, be different from the customs debtor
- A foreign exporter cannot deduct import VAT and is thus dependent on a VAT refund if he acts as importer (Art. 168 VAT Directive, with regard to VAT refund see Article 171 VAT Directive). Only the person receiving the goods (importer) can deduct VAT. That person should therefore lodge the declaration for release for free circulation himself or use a representative in order to avoid a cumbersome repayment procedure for the exporter (which may fail due to lack of reciprocity)
- If goods released for free circulation are destined for another Member State, VAT payment in the first Member State can be avoided under certain conditions (Art. 143 VAT Directive). VAT is then only paid in the Member State of destination by the recipient of the goods (thus the problem of non-deductibility of import VAT is resolved)

# 5. Customs clearance process (1)

## 1. Customs declaration lodged

- by declarant (see point 4 above)
- in the appropriate format and interface
- accompanied by necessary documents (invoice, transport document, authorisation if required); however, in an electronic environment documents must be indicated and made available on request (except where they need to be stamped and/or annotated)
- no customs declaration is required for placing goods in a free zone (current control type I); for temporary storage the entry summary or transit declaration may serve as declaration for this purpose (non-Union goods are automatically in temporary storage once they are presented after entry or the end of a transit procedure or, in maritime and air traffic, once they have been unloaded)

# 5. Customs clearance process (2)

2. Registration and acceptance of the customs declaration by customs (a movement/master reference number is issued)
3. Customs may control the goods, the means of transport, accompanying documents or take samples for examination by a laboratory
4. In case of release for free circulation or temporary admission with partial duty relief, a customs debt is incurred which must be paid or secured; for other procedures any potential customs debt must be secured unless this requirement is waived in the legislation or by customs

## 5. Customs clearance process (3)

5. Release of the goods for the procedure concerned, if the goods are not subject to prohibitive or restrictive measures
6. A customs debt is incurred in case of non-compliance with the rules for the procedure concerned if the goods are dutiable (this entails also a VAT and, where applicable, excise debt)
7. Ex-post audits may lead to a recovery of underpaid duties or a refund; a refund application can be lodged if the customs duties have been assessed incorrectly
8. In certain cases (in particular good faith) a non-recovery or a refund may be requested though the duties are legally due

# 6. Simplified clearance procedures: types

- incomplete/simplified declaration
- entry in the declarant's records
- authorised consignor, authorised consignee (transit)
- other simplifications authorised by customs authorities
  - Single authorisation/centralised clearance
  - Self-assessment (only UCC)

# 6. Simplified and periodic declaration

- Incomplete declaration:  
some data or documents can be omitted where accepted by customs
- followed later by periodic declaration and submission of missing documents
- Simplified declaration:
  - prior approval
  - minimum data and documents
- followed later by periodic declaration and submission of missing documents

## 6. Entry in the declarant's records

- Prior authorisation based on certain AEO criteria or AEO status
- Goods are declared in the records
- Release of the goods takes place on the basis of a minimum of information to customs (exceptionally, a notification waiver may be granted in which case release is automatic, under the UCC, this requires AEO status)
- Customs formalities are completed by a periodic declaration and, where requested, the submission of supporting documents
- For entry and exit, the customs office of entry/exit needs always to be informed

Under the UCC, entry in the records can also be made with a standard declaration; a periodic declaration to customs must follow nevertheless, so that the data can be processed in the customs IT system for the entry into the accounts, and can be transmitted to the national statistical office. Self-assessment is a special form of entry in the declarant's records.



## 6. Authorised consignor/consignee

- Authorised consignor: carries out transit operations without presenting the goods and the transit declaration at the customs office of departure (which receives nevertheless the electronic transit declaration)
- Authorised consignee: receives at its premises or any other specified place transit goods and thus does not need to present them and the transit accompanying document at the customs office of destination (which nevertheless is informed of the arrival of the goods and grants the unloading permission)

# 6. Other simplifications

- Single authorisation/centralised clearance: allows the lodging of the customs declaration at a customs office different from the one where the goods are presented or will be presented (use of this facilitation is currently hampered by the lack of an IT system allowing the exchange of declaration and control data between customs offices situated in different Member States and by separate VAT requirements)
- Single Window: allows lodging all notifications and documents at the same time at the same place (normally a website) though different agencies are competent for different aspects of the transaction
- One Stop Shop: a concept according to which all controls which may be performed by different agencies are made at the same time and the same place
- Self-assessment (UCC): certain customs formalities and controls are performed by the authorised economic operator instead of the customs authorities

# 7. Release for free circulation (1)

Purpose: free circulation of the goods within the EU  
(non-Union goods → Union goods)

- Collection of import duties, VAT, excise duties
- Application of commercial policy measures and other formalities (e.g. veterinary, health, environment)
- 80% of the duties are transferred to the EU budget (20% remain with the collecting Member State, in case of centralized clearance, this amount is shared between the authorizing Member State and the Member State in which the goods have been presented)

# 7. Release for free circulation (2)

Special features:

- Tariff preferences
- Tariff quotas and suspensions
- Favourable tariff treatment by reason of the nature or end-use of the goods

# 7. Release for free circulation (3)

Special features:

- Release
  - after inward processing/processing under customs control/destruction<sup>1</sup> where waste and scrap remains
  - after outward processing
  - of returned goods
  - of fish caught by EU vessels
- Flat rate duties (currently only for non-commercial goods)
- Duty relief

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[1] Under the UCC, inward processing covers also processing under customs control and destruction

# 8. Special procedures: Overview

- Transit
  - External transit
  - Internal transit
- Storage
  - Temporary storage<sup>1</sup>
  - Customs warehousing
  - Free zone<sup>1</sup>
- Specific use
  - Temporary admission
  - End-use
- Processing
  - Inward processing
  - Outward processing

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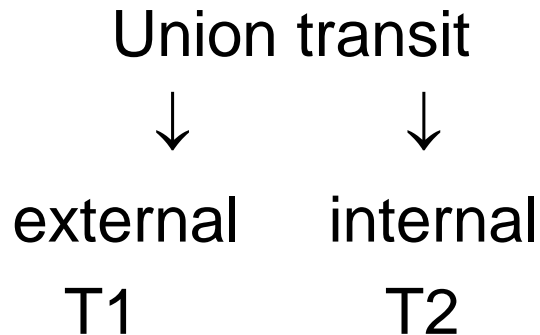
[1] Under the current CC, this is not classified as “customs procedure”

# 8. Special procedures - transit (1)

Purpose:

- movement of non-Union goods under duty and tax suspension (external transit)
- movement of Union goods between two Member States via a non-EU country (e.g. Switzerland) in order to maintain and prove their status (internal transit)

# 8. Special procedures - transit (2)



International Conventions:

- Common transit (T1, T2) with Switzerland, Norway, and Turkey
- TIR, ATA, Rhine Manifest, NATO, Postal Union



## 8. Special procedures - transit (3)

Formalities at departure:

- Transit declaration (normally electronic – NCTS) to be lodged, accepted and registered by issuing a Movement Reference Number (MRN)
- Proof of a guarantee
- Presentation of goods
- Possible control of documents and goods
- Identification of goods, sealing
- Deadline for presentation at destination
- Prescribed itinerary
- Release of goods for starting the transit movement

## 8. Special procedures - transit (4)

Formalities at destination:

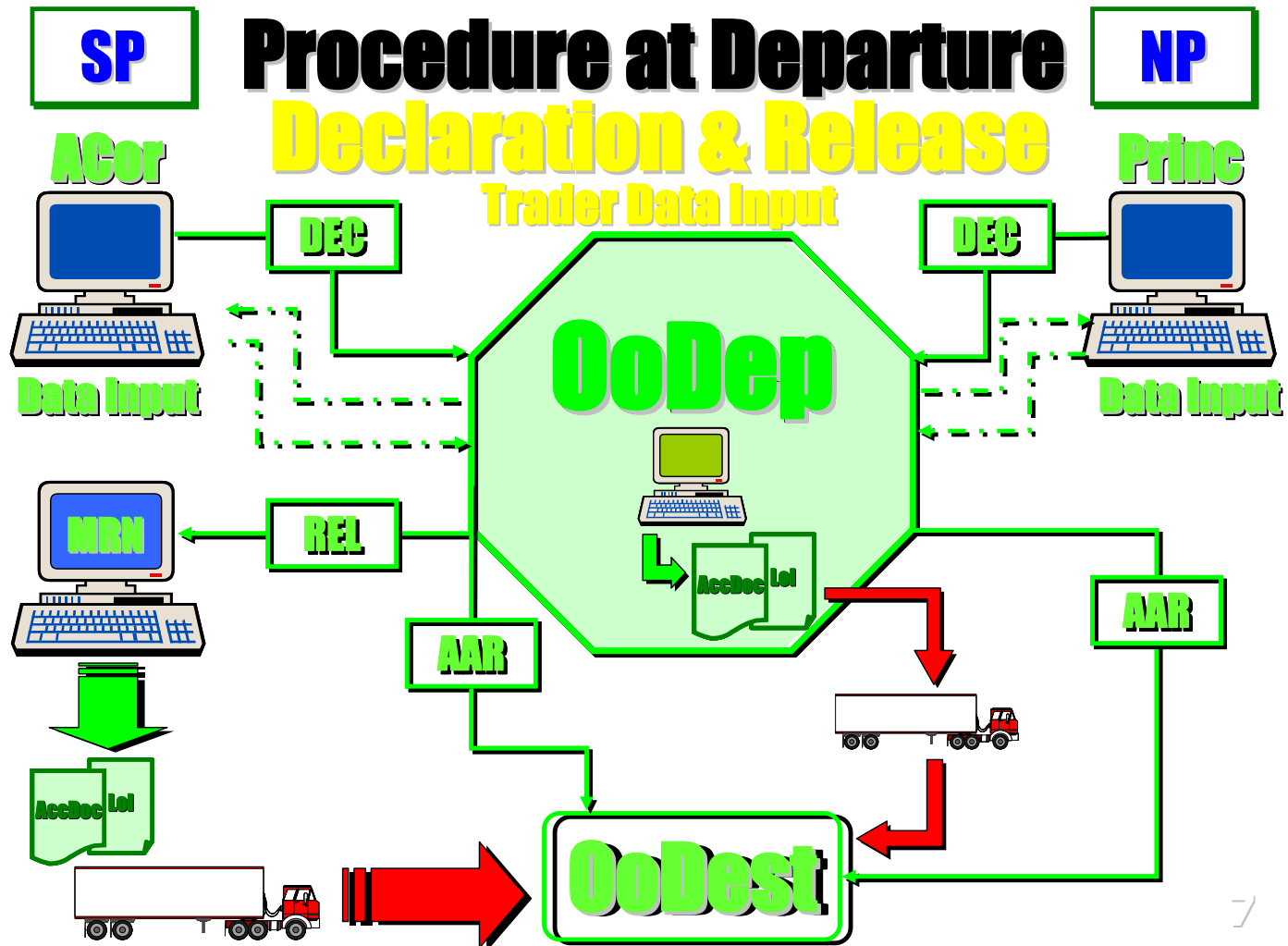
- Reference to transit declaration (MRN)
- Presentation of goods
- Registration of arrival
- Confirmation of arrival to the office of departure
- Enquiry procedure in case the goods do not arrive at destination
- Collection of customs duty and other charges in case the goods do not arrive at destination; if the place where the irregularity occurred cannot be established, the office of departure recovers the customs duty and taxes

# 8. Special procedures - transit (5)

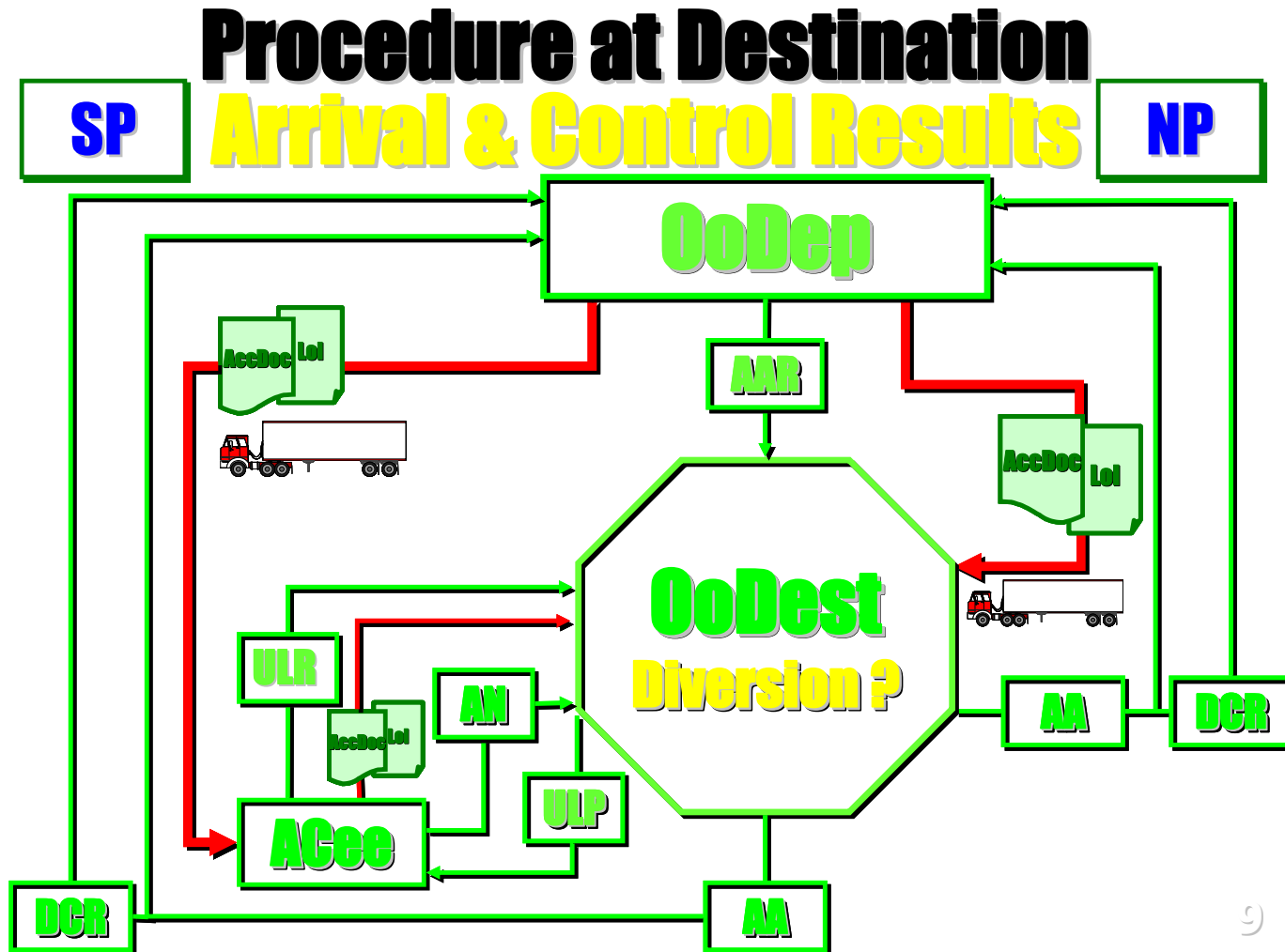
## *Guarantee types:*

- **Individual guarantee:**
  - covers a single operation
  - by cash deposit, by guarantor or by voucher (€ 7000)
  - covers the full amount of potential customs debt
- **Comprehensive guarantee (simplification):**
  - covers several operations
  - calculated as the potential debt of one week's operations (reference amount)
  - guarantee level 100% of potential debt or reduced to 50% or 30% or guarantee waiver (depending on meeting specific criteria)
  - guarantee furnished by guarantor
- **Guarantee waiver**

# 8. Special procedures - transit (6)



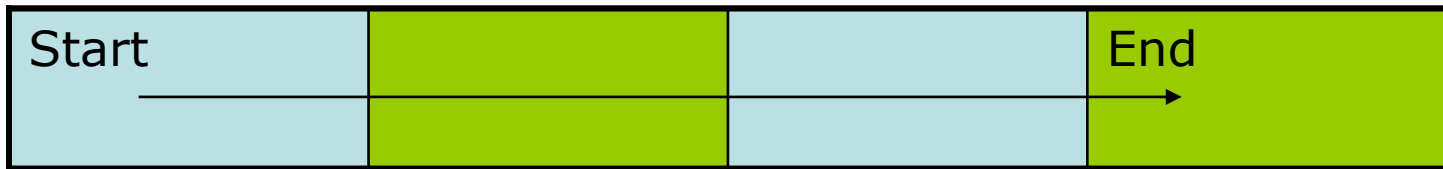
# 8. Special procedures - transit (7)



# 8. Special procedures - transit (8)

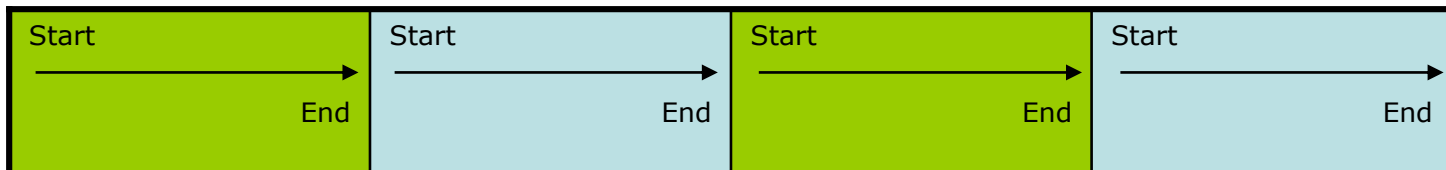
## *Common transit procedure*

One single procedure from start to finish



## *TIR procedure*

a series of standardized national transit procedures and a chain of guarantees

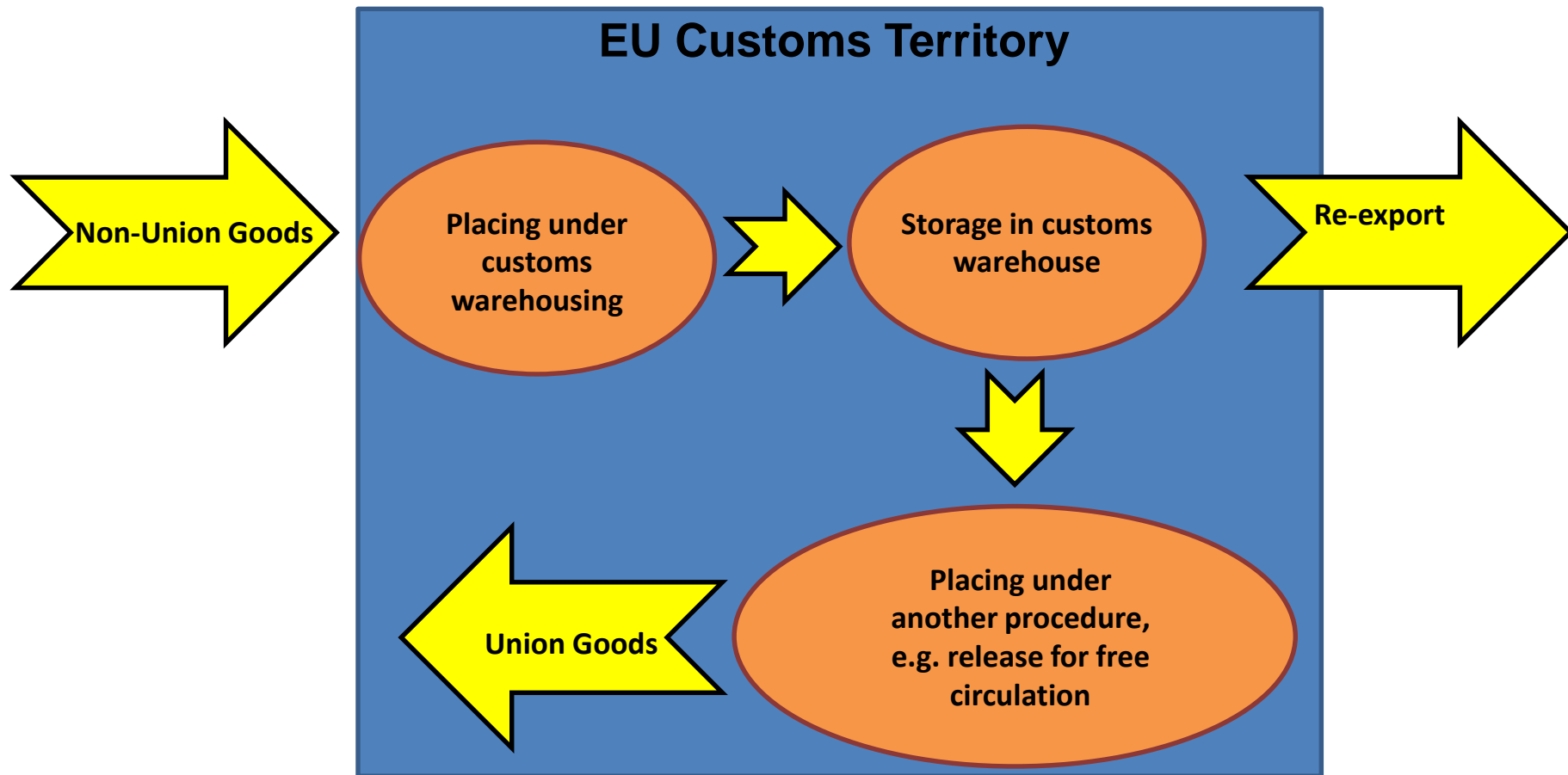


# 8. Special procedures – storage (1)

- Purpose of storage:
  - duty and tax suspension
  - non-application of commercial policy measures linked to release for free circulation
- Types of storage:
  - Temporary storage (under the current CC, this is limited to 20 or, in maritime traffic, 45 days, under the UCC to 90 days)
  - Customs warehousing (public and private warehouses)
  - Free zone (current control type <sup>[1]</sup>)

[1] Current control type II will be abolished under the UCC, and free warehouses will be covered by the term “free zone”

# 8. Special procedures – storage (2)

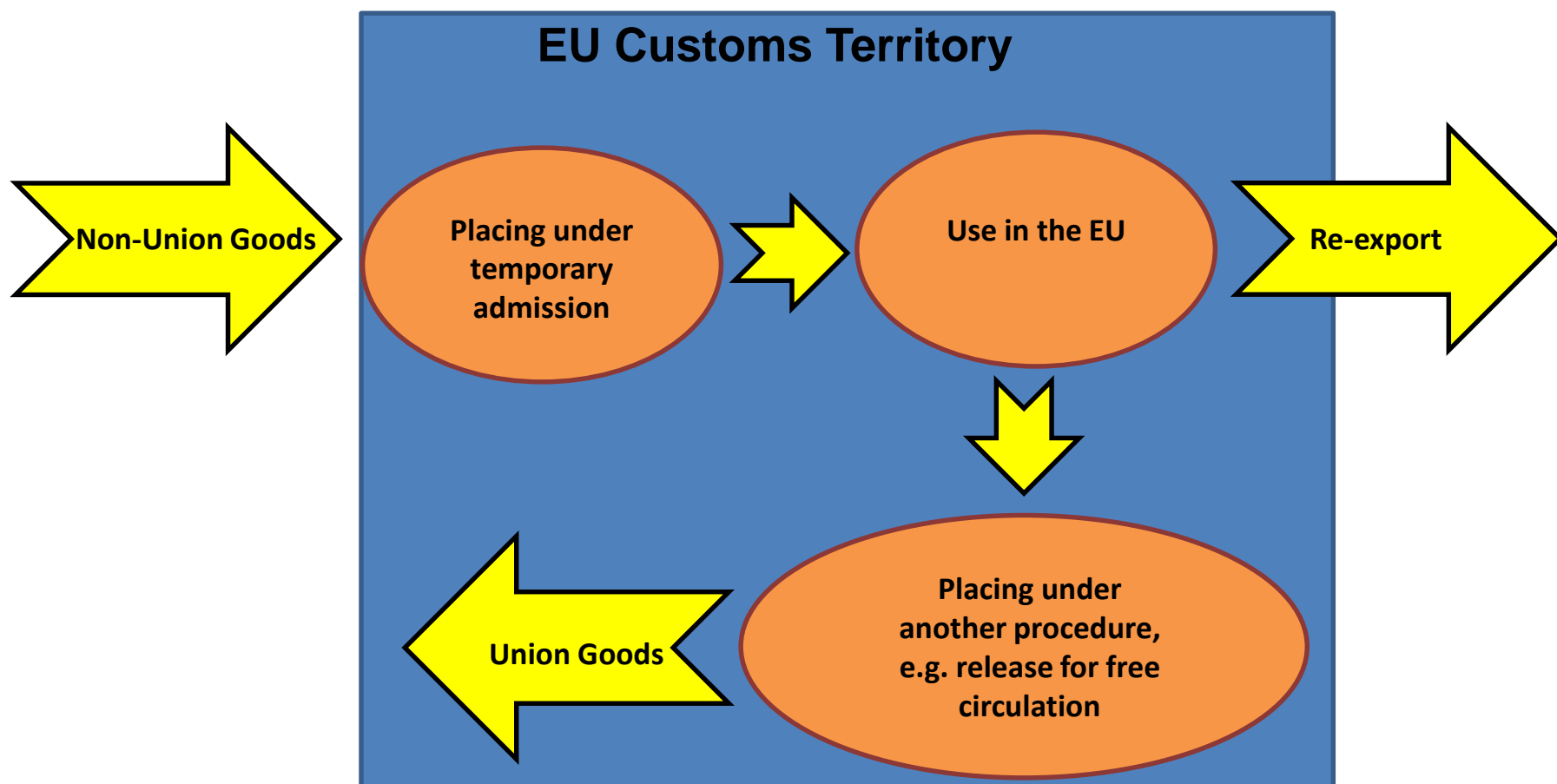




# 8. Special procedures – specific use (1)

- Types of specific use:
  - Temporary admission
  - End-use (special form of release for free circulation)
- Purpose of temporary admission:
  - to allow, for a limited period (maximum 2 years) the use (but not processing) of non-Union goods in the EU
  - to grant a duty exemption or a lower duty for a specific type of temporary use of non-Union goods in the EU (e.g. exhibition at a fair)
- Purpose of end-use:
  - to use or process goods released for free circulation in a specific way within a specific period
  - to grant a duty exemption or a lower duty for a specific end-use (e.g. processing of fish into food preparation); if the conditions are not met, the normal duty becomes payable

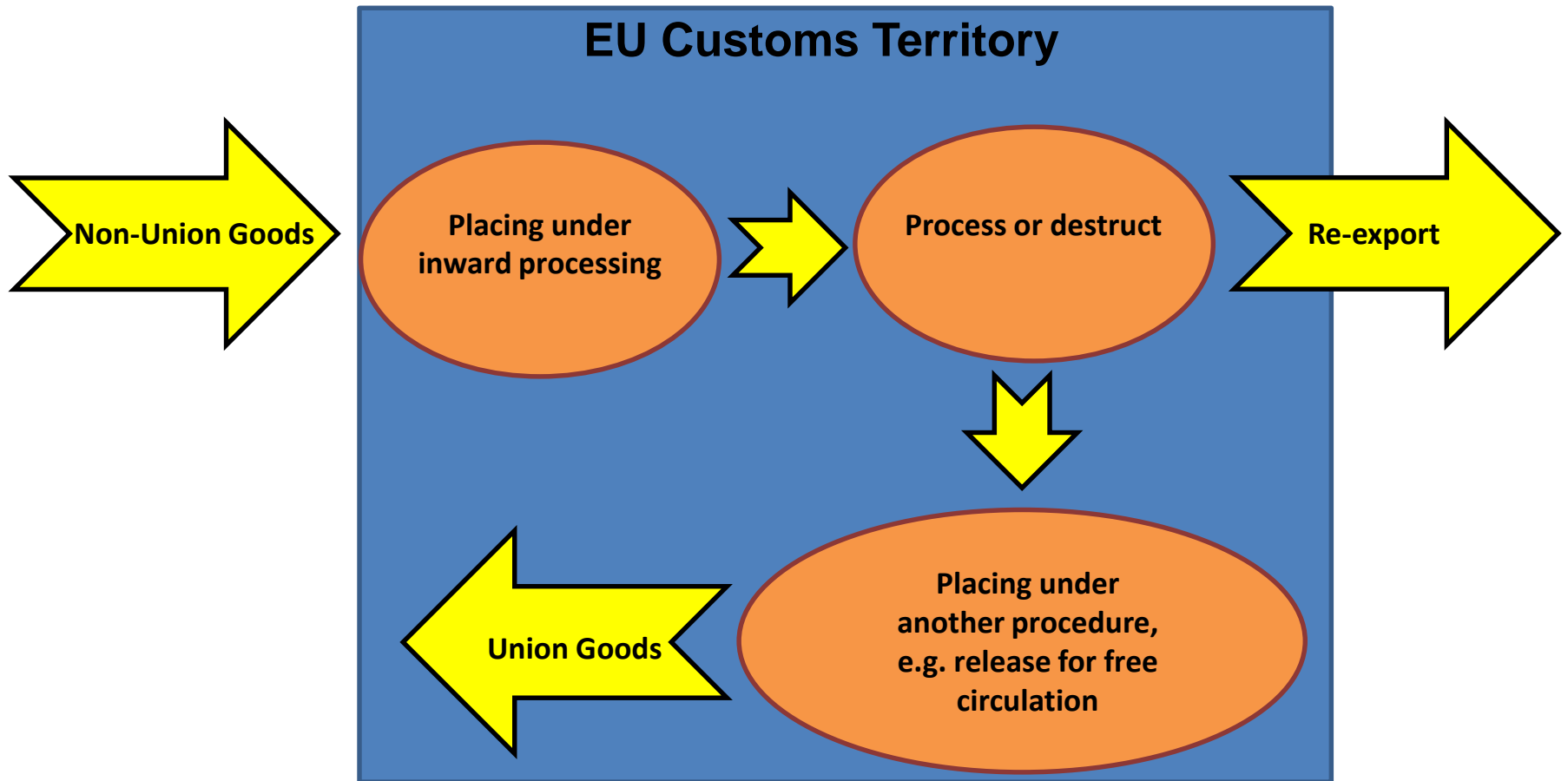
# 8. Special procedures – specific use (2)



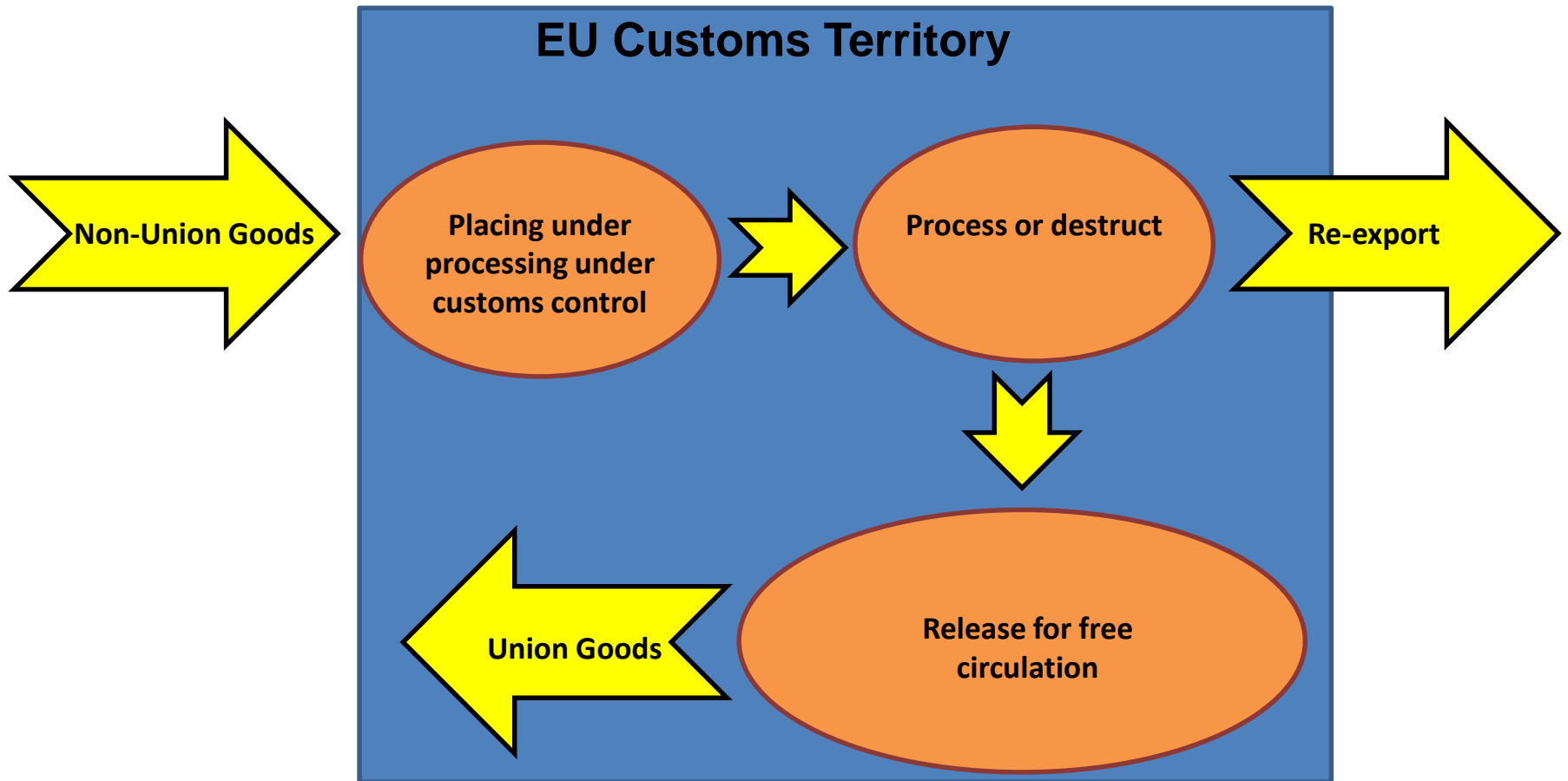
## **8. Special procedures – inward processing/processing under customs control (1)**

- Purpose: to process non-Union goods under duty and tax suspension with a view to
  - re-export the processed products (and thus avoid duty)
  - release the processed (or waste of destroyed) products for free circulation (and thus pay lower duty); the duty is normally paid on the import goods but in certain cases on the processed products
- Changes under the UCC:
  - includes former processing under customs control and destruction, so that the duty is paid either on the import goods or on the processed products
  - intention to re-export the processed products is no longer required
  - inward processing drawback system no longer maintained
  - compensatory interest is abolished
  - standard rates of yield will no longer be laid down in the law; customs authorities have to set the rate of yield, unless a rate of yield has been specified in agricultural legislation

# 8. Special procedures – inward processing/processing under customs control (2)



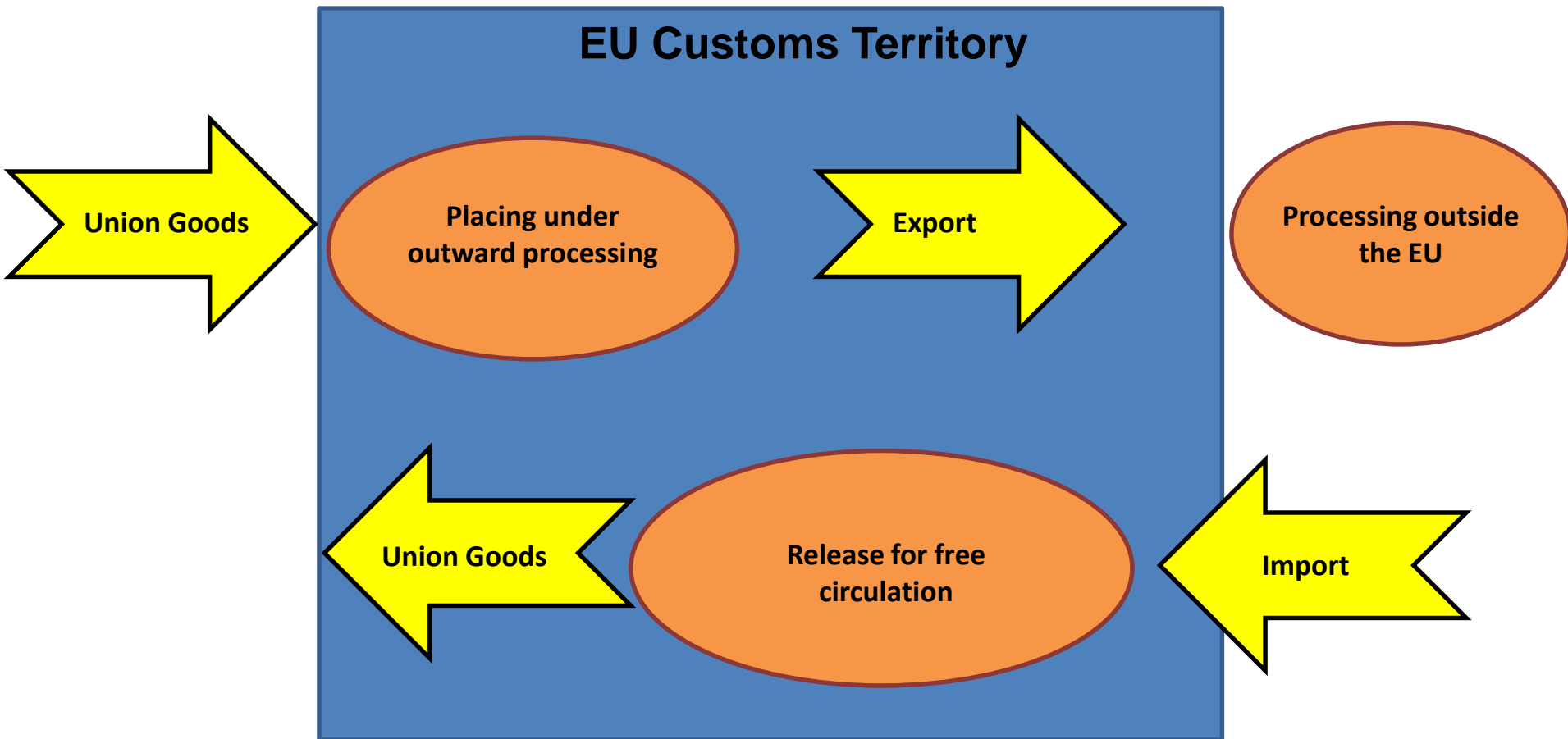
# 8. Special procedures – inward processing/processing under customs control (3)



# 8. Special procedures – outward processing (1)

- Purpose: to process Union goods outside the EU with a view to benefit from a lower, or no, duty when the goods are released for free circulation on re-importation into the EU
- No duty is due on re-importation where
  - the goods are repaired free of charge or
  - defective goods are replaced
- For the other cases, there are currently two ways of calculating the duty benefit:
  - the difference between the duty for the processed products and the duty for the exported goods, or
  - the duty on the value added abroad (only this method will be retained under the UCC)

# 8. Special procedures – outward processing (2)



# 8. Special procedures – economic conditions

- An authorisation for a processing procedure may be granted only where essential interests of producers in the EU would not be adversely affected
- Legal fiction in the UCC: the essential interests of Union producers shall be deemed not to be adversely affected, except where evidence to the contrary exists or where the customs legislation provides that the economic conditions are deemed to be fulfilled (today this fiction applies in less cases)
- Examination in the Customs Code Committee in cases where essential interests may be affected



# 8. Special procedures – equivalent goods, guarantees, discharge

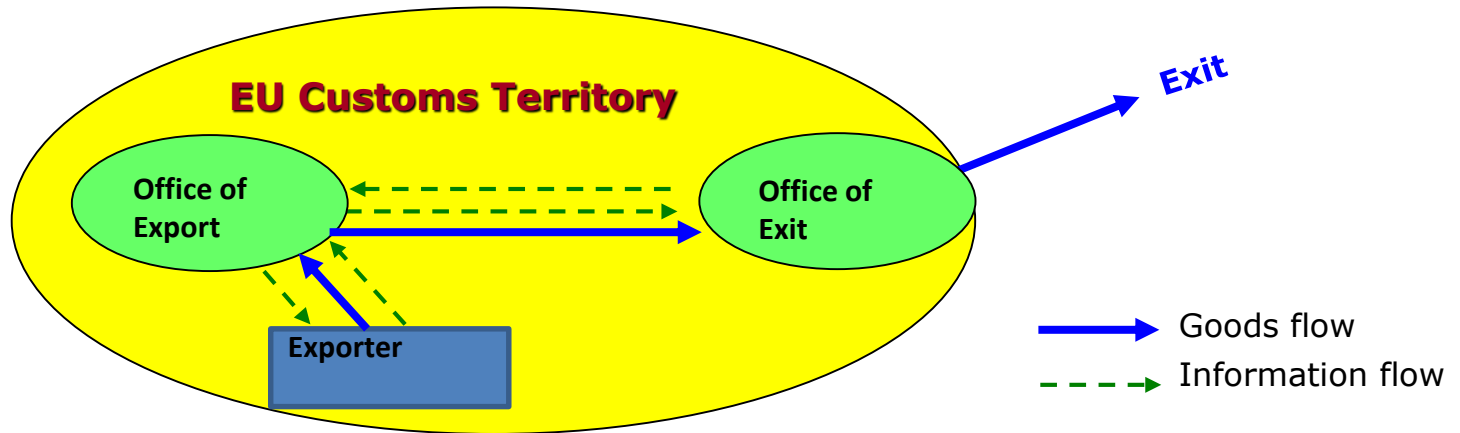
- Scope of the use of equivalent Union goods will be widened under the UCC (equivalent goods may be used also under the customs warehousing and temporary admission procedure and under outward processing)
- The use of a special procedure requires in principle the provision of a guarantee where duties and taxes are at stake
- A special procedure (other than transit) is discharged by
  - placing the goods under a subsequent customs procedure (e.g. release for free circulation)
  - bringing the goods out of the EU
  - destroying the goods or abandoning them to the State

# 9. Export, re-exportation (1)

- Purpose of the export procedure:  
Ensure that the formalities concerning the export of Union goods are respected (e.g. dual-use goods, export refunds, relief from VAT and excise duties)
- Procedure:  
Normally both the customs office responsible for the place where the exporter is established (or where the goods are packed or loaded for export shipment) and the customs office of exit are involved
- The same formalities are required where non-Union goods are re-exported following a special procedure (except transit, temporary storage, free zone); otherwise an exit summary declaration or exit notification is, in principle, required

# 9. Export, re-exportation (2)

The two steps export procedure and the confirmation of exit



# 10. Questions

1. Which procedure(s) can you use if you want to process non-EU goods in the EU and save import duties?
2. Which procedure(s) can you use if you want to process EU goods outside the EU, re-import them and save import duties?
3. Which procedure(s) are available if you want to use non-EU goods in the EU without payment of duties?
4. Under which arrangements can you bring goods to a destination outside the EU?
5. Which procedure is available for goods destined for the EU market?
6. What are the risks if you export to the EU customer under the condition “delivered duty paid” (DDP)?
7. Which arrangements can be used for storing goods under suspension of customs duty, VAT and excise duty?
8. Which alternatives exist to lodging a standard customs declaration for release for free circulation?
9. Your questions?

# 11. Answers (1)

1. For processing in the EU without, or at a reduced amount of, customs duty the following procedures are available:
  - inward processing
  - processing under customs control (under the UCC, this is covered by inward processing)
  - end-use
2. Outward processing allows processing Union goods outside the EU with partial or complete duty relief on re-importation in the EU
3. Temporary admission allows the use of non-Union goods in the EU
4. Goods can be brought to a destination outside the EU under the following arrangements:
  - export (Union goods)
  - re-export (non-Union goods)
  - transit (non-Union goods); normally, the re-export must be notified in addition
  - outward processing (Union goods)
  - exit summary declaration; re-export notification (residual cases)

# 11. Answers (2)

5. Goods destined for the EU market must be released for free circulation
6. Deduction of VAT may be impossible and you may not be able to fulfil the authorisation or documentary requirements
7. The following arrangements allow the storing of goods under duty and tax suspension:
  - temporary storage (under the current CC, only for 20 days or, if carried by sea, 45 days, under the UCC for 90 days)
  - customs warehousing
  - free zone
8. Instead of lodging a standard customs declaration, the declarant can lodge:
  - an incomplete declaration (leaving out some data and/or documents)
  - a simplified declaration (i.e. be authorised to leave out some data and/or documents)
  - a customs declaration by entry in his records

In all three cases a supplementary declaration providing all required data and documents must be lodged