



**COUNCIL OF
THE EUROPEAN UNION**

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NOTE

From: The General Secretariat of the Council
To: Delegations
Subject: Guidelines on the carriage of EUCI by commercial couriers

Delegations will find in Annex "Guidelines on the carriage of EUCI by commercial couriers" as approved by the Council Security Committee on 21 December 2012.

Guidelines on the carriage of EUCI by commercial couriers

I. INTRODUCTION

1. These guidelines, agreed by the Council Security Committee in accordance with Article 6(2) of the Council security rules¹ (hereinafter 'CSR'), are designed to support implementation of the CSR, and in particular section V of Annex III thereto.
2. These guidelines lay down specific standards for protecting EUCI conveyed by commercial courier services within the EU or to EUCI recipients on the territory of a third State.
3. The Council and the General Secretariat of the Council (GSC) will apply these security guidelines in their structures with regard to the protection of such EUCI consignments.
4. When EUCI is handled in national structures, including national CIS, the Member States will use these security guidelines as a benchmark.
5. EU agencies and bodies established under Title V, Chapter 2, of the TEU, Europol and Eurojust should use these security guidelines as a reference for implementing security rules in their own structures.
6. The conditions for the carriage of EUCI released to a third State or international organisation are set out in the respective agreement or administrative arrangement and corresponding implementing arrangements. Such conditions should be in line with these guidelines.

¹ Council Decision 2011/292/EU of 31 March 2011, OJ L 141, 27.5.2011, p. 17.

II. SCOPE OF THE GUIDELINES

7. For the purpose of these guidelines, the term 'commercial couriers' includes national postal services, privatised national postal services and commercial courier companies that offer a service where information is delivered for a fee and is either personally hand carried or tracked. These guidelines do not cover ordinary mail services (i.e. those which do not meet the requirements set out in paragraph 11), diplomatic pouch services or the case of hand carriage by an individual courier employed by an EU institution or by a competent authority of a Member State. Neither do they cover the conditions applicable for the carriage of classified material as freight.
8. In accordance with paragraph 33(c)(i) of Annex III to the CSR, only commercial courier services that are approved by the relevant NSA/DSA in accordance with national laws and regulations may be authorised to convey EUCI.
9. Provided it is permitted under national laws and regulations, and bearing in mind that the degree of protection afforded to each consignment is determined by the highest classification level of the material contained within it:
 - (a) *within a Member State* commercial couriers may convey EUCI up to the level of SECRET UE/EU SECRET;¹
 - (b) *from one Member State to another* commercial couriers may convey EUCI up to the level of CONFIDENTIEL UE/EU CONFIDENTIAL;² and
 - (c) *from a Member State to an EU recipient located on the territory of a third State* commercial couriers may convey EUCI no higher than RESTREINT UE/EU RESTRICTED level.³
10. Commercial couriers must not be used to convey EUCI at the level TRES SECRET UE/EU TOP SECRET.⁴

¹ Source: CSR Annex III, paragraph 33

² Source: CSR Annex III, paragraph 33(c)(ii), second paragraph

³ Source: CSR Annex III, paragraph 39

⁴ Source: CSR Annex III, paragraphs 35 and 40

III. CLASSIFIED CONSIGNMENTS WHICH MAY BE SENT 'INCOGNITO'

11. Classified information up to the level of CONFIDENTIEL UE/EU CONFIDENTIAL may be sent 'incognito' as registered delivery¹ within the EU by uncleared courier companies provided that:
- (a) procedures are in place for forewarning the recipient that a consignment has been sent and for the recipient to subsequently confirm that the consignment has arrived,
 - (b) the courier company has established a protective security programme for handling valuable items, with a signature service, including a record of continuous accountability on custody, through either a signature and tally record or an electronic tracking/tracing system, and
 - (c) the commercial courier can ensure that the consignment will be delivered within 24 hours under normal circumstances, or before a given time and date.

IV. SECURITY CLEARANCE REQUIREMENTS FOR CLASSIFIED CONSIGNMENTS CONVEYED KNOWINGLY BY COMMERCIAL COURIERS UNDER A CONTRACT

12. Only the employees concerned within a commercial courier company that is knowingly handling consignments classified as CONFIDENTIEL UE/EU CONFIDENTIAL or SECRET UE/EU SECRET must hold an appropriate Personnel Security Clearance within the meaning of Article 11 of the CSR or be appropriately security screened in accordance with national laws and regulations.
13. Commercial courier companies knowingly handling consignments containing such information under a contract and which will store the consignment within their facilities must have an appropriate Facility Security Clearance.
14. Commercial couriers handling consignments containing information classified as RESTREINT UE/EU RESTRICTED do not require an FSC or PSC (unless required by national laws and regulations).

¹ 'Registered delivery' mail is trackable through the mailroom and is signed for at the point of delivery.

V. CONTENTS OF CONSIGNMENTS

15. Commercial couriers may convey EUCI in the form of hard copy documents or removable electronic media, such as USB sticks or CD-ROMs. EUCI on removable electronic media that is either unencrypted or protected by encryption products that have not been approved pursuant to Article 10(6) of the CSR is to be handled in the same manner as hard copy documents. However, care should be taken for consignments containing fragile devices, such as magnetic tapes, which might require additional physical protection measures.
16. Further details on encryption requirements are set out in the section on *Requirements for encrypted removable electronic media* below.

RESTREINT UE/EU RESTRICTED consignments

17. If necessary, a consignment may contain more than one RESTREINT UE/EU RESTRICTED document, provided the need-to-know principle is respected. In this context, all the classified documents on a single USB stick, for instance, would have to be intended for the same recipient. It should be borne in mind that when various documents are conveyed together as one consignment it may warrant a higher classification than its component parts.

CONFIDENTIEL UE/EU CONFIDENTIAL consignments

18. If necessary, and provided it does not complicate the subsequent handling of the individual documents, a consignment may contain more than one CONFIDENTIEL UE/EU CONFIDENTIAL document and may also contain RESTREINT UE/EU RESTRICTED documents. All the CONFIDENTIEL UE/EU CONFIDENTIAL documents in the consignment must be intended for the same registrar, who must also be able to distribute any RESTREINT UE/EU RESTRICTED documents in the consignment. Each document within the consignment must in principle be placed within its own inner envelope, but documents intended for the same recipient may be put together in the same inner envelope. In this context, all the classified documents on a single USB stick, for instance, would have to be intended for the same recipient. Further details on the receipt forms to be placed inside consignments are set out in the section *Receipt forms* below. It should be borne in mind that when various documents are conveyed together as one consignment it may warrant a higher classification than its component parts.

SECRET UE/EU SECRET consignments

19. Only one piece of SECRET UE/EU SECRET information may be placed in any one consignment. However, several copies of the same SECRET UE/EU SECRET document intended for the same registry may be placed in individual inner envelopes inside the same outer packaging. Further details on the receipt forms to be placed inside consignments are set out in the section *Receipt forms* below.

Receipt forms

20. Registration receipt forms must be placed in the inner packaging of consignments containing
 - information classified as CONFIDENTIEL UE/EU CONFIDENTIAL, and
 - information classified as SECRET UE/EU SECRET.

21. Registration receipt forms must quote the reference number, date of the consignment, but no information about the classified information itself. In the event that an inner envelope contains more than one document for the same intended recipient, one registration receipt form listing the contents of the inner envelope will suffice even though each document will be registered separately. The registration receipt form is to be signed by the intended recipient and returned to the entity that issued the receipt within 10 working days, failing which the entity that issued the receipt will send a written reminder.

22. A delivery receipt form must be placed inside the outer packaging listing only the following data for each of the documents in the consignment: the envelope number, the document reference, the copy number and the document dispatch date.

23. The courier company must obtain and provide to the consignor proof of delivery on the signature and tally record, or the courier must obtain receipts against package numbers. Delivery receipts retained by the courier for such deliveries must indicate the details of the courier, of the person who received the consignment, the date and time of delivery.

24. Only the intended recipient may open the inner packaging and acknowledge receipt of the contents.

VI. PACKAGING

25. EUCI must be sent in two layers of sturdy, opaque packaging, such as heavy-duty envelopes, in order to respect the need-to-know principle when the consignment is opened.
26. The inner packaging of information, if classified CONFIDENTIEL UE/EU CONFIDENTIAL or SECRET UE/EU SECRET, must be security-sealed to prevent or discourage security scrutiny, and where appropriate inspection *en route* by customs authorities. The seal must be such that any attempt to open the inner packaging will be evident. See the section *Requirements for encrypted removable electronic media* below for encrypted material.

Address details on the packaging

27. Regardless of the classification level assigned to the information, there must be no indication on the outside packaging of consignments that the contents are classified.
28. When classified consignments are being prepared the sender should bear in mind that commercial courier services may deliver RESTREINT UE/EU RESTRICTED consignments to the intended recipient, a duly authorised substitute, the registry control officer or his/her duly authorised substitute or a receptionist.
29. When classified consignments are being prepared the sender should bear in mind that commercial courier services must deliver CONFIDENTIEL UE/EU CONFIDENTIAL or SECRET UE/EU SECRET consignments only to the registry control officer or a duly authorised and appropriately security-cleared substitute, or to the intended recipient.
30. In order to ensure correct delivery of the information, the sender will be responsible for ensuring the consignment is properly and clearly addressed and is responsible for establishing with the commercial courier that delivery must be to only named recipients.
31. The inner layer of packaging must be marked with the appropriate classification and, as far as is possible, the full particulars of the intended recipient's job title and address.

32. On both the outer and inner layers of packaging of the consignment a return address must be included in case delivery cannot be made.

VII. REQUIREMENTS FOR ENCRYPTED REMOVABLE ELECTRONIC MEDIA

33. As a general rule, whenever possible EUCI on removable electronic media should be encrypted using approved cryptographic products within the meaning of Article 10(6) of the CSR. The double packaging requirement can be waived for classified information that is protected by approved cryptographic products. For addressing purposes the electronic medium should nevertheless be carried in at least an ordinary envelope. There must be no indication on the outside packaging of the consignment that the contents are classified. Care should be taken for consignments containing fragile devices, such as magnetic tapes, which might require additional security measures. Any issue regarding the transport of cryptographic material and Crypto Controlled Items must be dealt with in accordance with the "Instruction Manual Crypto and COMSEC Material Management, TECH-I-01, Version 1.0 of 15 January 2007".
34. Services offered by commercial couriers providing electronic transmission of registered delivery documents are not permitted for EUCI.

VIII. SUB-CONTRACTORS

35. Courier companies may use the services of a sub-contractor. However, responsibility for fulfilling the requirements set out in these guidelines remains with the courier company.

IX. EMERGENCY SITUATIONS

36. Commercial couriers knowingly conveying EUCI must have contingency plans for exceptional circumstances, such as strikes, airport closures etc.
37. For commercial couriers knowingly conveying EUCI, if there is an imminent risk of unauthorised disclosure the consignment must be destroyed by the commercial courier in such a way that it cannot be reconstructed in whole or in part. The authority dispatching the consignment must be informed of its destruction by the commercial courier as soon as possible.

X. BREACHES OF SECURITY

38. Personnel knowingly conveying classified information must be informed that any breach of confidentiality may result in disciplinary and/or legal action, and the personnel must give a formal written undertaking to maintain the confidentiality of the consignment. The sanctions applicable to the company in the case of a breach of security must be specified in the classified contract.
39. In the event of loss of consignments containing classified information or unauthorised disclosure, the situation must immediately be reported to the entity dispatching the consignment. The subsequent written report must provide information on the circumstances of the loss or unauthorised disclosure, the consignment reference number, the date and contact details of the dispatching entity.
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