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SIMPLIFIED CUSTOMS PROCEDURES
IN
SHORT SEA SHIPPING:
'AUTHORISED REGULAR SHIPPING SERVICE'

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1. THE BACKGROUND

The Commission presented in May 2002 a Commission Staff Working Paper: Guide to Customs Procedures for Short Sea Shipping (SEC(2002) 632). It had a dual purpose:

- To outline the Customs rules for Short Sea Shipping, including opportunities for using simplified procedures;
- To give a concise basis for identifying possible concrete needs for modifications or further simplifications.

Extensive European-wide consultations were carried out on the Guide. During these consultations it became apparent that problems linked with EU Customs legislation were actually less numerous than was earlier thought. Many perceived problems were of a purely practical nature and could often be simplified or solved by the introduction of electronic transfer of Customs and other administrative data (e-Customs).

Nevertheless, the contributions, where they were fully precise, centred on the Customs concept of an 'Authorised Regular Shipping Service'. This is a simplification regime for regular (short-sea) shipping services carrying primarily Community goods (i.e. goods in free circulation within the Community) between two or more ports in the Customs territory of the Community (with the exclusion of free zones of control type I). Even if goods normally lose their Customs status when a ship sails from one Community port to another, this is not relevant for an 'Authorised Regular Shipping Service' because Community goods carried on that service remain Community goods and their status does not need to be proven to the Customs. Therefore, for Community goods, this Service can be compared to a land bridge between two or more Community ports with no Customs checks on either end of the bridge. This is actually a relaxation that is not even granted to road transport where Community goods lose their status when they are removed from the Customs territory. Obviously, non-Community goods carried on this Service have to be placed under the Customs transit procedure.

Following the consultations on the Guide to Customs procedures for Short Sea Shipping, it was evident that the rules for the 'Authorised Regular Shipping Service' needed further explanation. This Commission Staff Working Document presents the rules in an understandable manner for the Short Sea Shipping industry to benefit from a reduction of necessary Customs formalities.

2. INTRODUCTION

Goods carried on a ship sailing from an EU port for another EU port in the Customs territory of the Community normally leave the Customs territory to enter it again when the ship arrives at the other port. This means in general terms that the Customs status of all goods has to be proven to the Customs (as if the ship entered the Community from a third country). This includes those goods that were in free circulation until they left the port of departure since Community goods lose their status when they are removed from the Customs territory of the Community¹.

For this reason, all goods that are carried by sea are deemed to have non-Community status at the time of introduction into the Customs territory of the Community. In order to prove Community status of goods², where appropriate, the shipping company may use its manifest.³

However, shipping services that operate exclusively between two or more EU ports can apply for the status of an 'Authorised Regular Shipping Service'⁴. Once this status is granted, the Customs authorities consider that the goods carried on those services do not leave the Community Customs territory and the status of Community goods does not need to be proven. Such services can operate as bridges between two or more points in the Customs territory of the Community where there are no Customs checks on either end of the bridge. However, non-Community goods carried by these services must be placed under the Customs transit procedure⁵.

¹ See Article 4(8) of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code, as subsequently amended.

² The status category of 'Community goods' contains goods that have been:

- wholly obtained in the customs territory of the European Community and not incorporating goods imported from countries or territories not forming part of the customs territory of the Community; or
- imported from countries or territories not forming part of the customs territory of the Community which have been released for free circulation; or,
- have been obtained or produced in the Community, either from goods referred to in the second indent or from goods referred to in the first and second indents.

See also article 4(7) of Council Regulation (EEC) No 2913/92, as subsequently amended.

³ See Article 317a of Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92, as subsequently amended.

⁴ See Annex I for the corresponding legal provisions.

⁵ 'Transit' is an important Customs facility available to transport operators and importers to enable goods to cross a given territory without paying the charges normally due or being subject to commercial policy measures when the goods enter or leave that territory ('pure transit'). It also allows for the transport of goods to a point within the Community Customs territory where the Customs clearance procedures (for release into free circulation as Community goods) will be carried out ('inland' or 'proximity transit'). Apart from these two main functions of transit the procedure is also used to transfer goods which are entered for, or have just been removed from another suspensive Customs procedure from one part of the Customs territory to another.

3. WHO CAN BECOME AN ‘AUTHORISED REGULAR SHIPPING SERVICE’?

A regular short-sea service, which operates exclusively between ports situated in the Customs territory of the Community, can apply for the status of an ‘Authorised Regular Shipping Service’. The service may not come from, go to or call at any ports outside the Community Customs territory (e.g. in a third country) or a free zone⁶ of a port (where the free zone is principally segregated by a fence) in this territory.

4. WHAT ARE THE ADVANTAGES OF BECOMING AN ‘AUTHORISED REGULAR SHIPPING SERVICE’?

- Goods carried on an ‘Authorised Regular Shipping Service’ are assumed by the Customs to have Community status (free circulation), unless there is evidence to the contrary. The status of Community goods carried on the service does not need to be proven.
- However, if goods carried on an ‘Authorised Regular Shipping Service’ do not have Community status and, consequently, are not in free circulation, they normally require Community transit documentation and a guarantee (the transit procedure is not used on ‘other’ shipping services). The goods have to be presented to the Customs office of departure and destination. However, an ‘Authorised Regular Shipping Service’ can apply for simplified transit procedures (level 1 or level 2⁷) that entail certain advantages:
 - (a) The system is based on the Shipping Service’s own manifest(s),
 - (b) There is no requirement for a Community transit guarantee for goods carried under T1⁸ or T2F⁹, and
 - (c) Paperwork is reduced because the manifest replaces the various individual Community transit documents.
- An ‘Authorised Regular Shipping Service’ can choose whether it applies for a simplified transit procedure (as mentioned above) or uses the standard transit procedure (using the SAD-based NCTS¹⁰ declaration and a guarantee) for T1 or T2F goods.

5. WHO SHOULD APPLY FOR THE STATUS OF AN ‘AUTHORISED REGULAR SHIPPING SERVICE’?

The status of an ‘Authorised Regular Shipping Service’ can be recommended when the service carries mostly goods that have Community status.

⁶ Free zone of control type I in the meaning of Article 799 of Commission Regulation (EEC) No 2454/93 of 2 July 1993, as subsequently amended.

⁷ For details of these levels see articles 447 and 448 of Commission Regulation (EEC) No 2454/93 of 2 July 1993, as subsequently amended

⁸ Declaration made on a ship’s manifest that the goods are placed under external Community transit.

⁹ Declaration made on a ship’s manifest that Community goods are travelling to, from, or between parts of the Customs territory of the Community where the provisions of Directive 77/388/EEC do not apply under internal Community transit.

¹⁰ NCTS stands for ‘New Computerised Transit System’.
SAD stands for ‘Single Administrative Document’.

If most of the cargo transported contains non-Community goods, operating as an ‘Authorised Regular Shipping Service’ will involve more Customs documentation than operating as an ‘other service’ without this status. Not only would that entail satisfying the conditions for an authorisation (and procedure), the assigning of vessels to the service, but also the placing of these (non-Community) goods under the external Community transit procedure (T1). None of this applies when the shipping service is a service other than the authorised regular shipping service as in such case all goods on board are deemed to have non-Community status. If some of the cargo consists of Community goods, the Community status can be proven.

6. WHERE AND HOW TO APPLY (SEE ARTICLE 313B IN ANNEX I)?

6.1. Basic Requirements for Applying

A shipping company requesting authorisation from the competent Customs authorities to become an ‘authorised regular shipping service’ must fulfil certain conditions:

- Applicant is established in the Community and operates a regular shipping service between ports in the Community Customs territory without intermediate calls outside this territory, including free zones of control type I, or transhipments on the high seas;
- Applicant is free of serious or repeated offences in connection with the operation of a regular shipping service.

6.2. Making an Application¹¹

The application for the status of an ‘Authorised Regular Shipping Service’ has to be in written form, signed and dated. It needs to include all required evidence¹².

The application must contain the following details:

- (a) the ports concerned;
- (b) the names of the vessels assigned to the regular service; and
- (c) any further information required by the Customs authorities, in particular the shipping service's timetable.

In the case of part-charter arrangements, the application is submitted by the lessor or charterer or his representative.

6.3. Where to Apply?

Applications are made to the Customs authorities of the Member State in which the shipping company providing the service is established.

¹¹ For the application to use a simplified transit procedure, obtain authorised consignor/consignee status, etc., see articles 372-448 of Commission Regulation (EEC) No 2454 of 2 July 1993, as subsequently amended.

¹² Advise on how records are kept of the business activity and other information to help the competent authority determine whether the obligations can be fulfilled.

6.4. Administrative Process

The Customs authorities where the application is lodged will notify the other Customs authorities along the route of the service. The applicant will not need to do so.

Once the authorities along the route have acknowledged receipt of the notification, they have 60 days to signify their agreement or refusal.

Where a Member State refuses the application, it will have to state its reasons.

Where no reply is received or there has been no refusal, the authorising authority will issue an authorisation which is accepted by the other Member States concerned. Therefore, when an authorisation certificate¹³ is issued in one country, it will automatically apply to all identified ports of call.

For practical purposes, the ‘Authorised Regular Shipping Service’ may obtain, on its own initiative, certified translations of the authorisation certificate in all languages that are relevant for the service.

6.5. Conditions Linked to the Authorisation

The authorisation certificate has to be carried on board the vessel and presented on request to the competent Customs authorities.

Once a regular shipping service has been authorised, the shipping company concerned is required to use it.

The shipping company has to communicate any changes that might influence the continuation or content of the authorisation (e.g. change of vessel or route) to the Customs authorities that granted the authorisation.

7. CHANGE OF VESSEL

In order to easily identify the status of the service, the authorisation of an ‘Authorised Regular Shipping Service’ is given to named vessels on the route. If a vessel is changed and replaced by another vessel or if vessels are added to the service, the shipping company has to notify the authorising authorities. Such notification must contain the names of vessels concerned. The authorising authorities in turn will inform the corresponding authorities in the other Member States at which the regular shipping service calls. No procedure corresponding to that of applying for a new authorisation is needed.

At practical level, the authorisation certificate including the name of the vessel needs to be amended or a new certificate issued by the authorising authority.

Please note that this procedure refers to changing vessels. In other cases, for instance, if the ports of call need to be changed, a new authorisation has to be applied for.

¹³ See the model in Annex II.

8. WITHDRAWAL OF THE AUTHORISATION

The Customs authorities may require proof that authorised shipping services observe the provisions related to the authorisation.

Where the Customs authorities establish that the provisions on authorised shipping services have not been observed, they will immediately inform all the Customs authorities concerned.

When an authorisation is withdrawn, the authorising authority will notify the corresponding authorities of the Member States concerned.

9. 'AUTHORISED REGULAR SHIPPING SERVICE' AND THIRD COUNTRIES

An authorisation to carry out an 'Authorised Regular Shipping Service' is granted exclusively to services operating between Community ports (ports situated in the Customs territory of the Community with the exclusion of free zones of type I).

Services operating to/from countries that are not part of the Community Customs territory are not able to be 'Authorised Regular Shipping Services'. If they carry Community goods to a Community port, the status of those goods will have to be proven; other goods will have to be given a Customs-approved treatment or use (such as import or transit).

When a vessel operating on an 'Authorised Regular Shipping Service' is forced by circumstances beyond its control to tranship at sea or temporarily put into a third-country port or a free zone of type I of a port in the Customs territory of the Community, the shipping company will immediately have to inform the Customs authorities of the subsequent ports of call along the vessel's scheduled route.

When new countries join the European Union and become part of the Community Customs territory, the Customs territory in which 'Authorised Regular Shipping Service' can be authorised will expand accordingly.

Please note that the Common Transit Procedure, very similar to the Community Transit System, is used for the transit of goods between the EU Member States, EFTA countries and Visegrad countries¹⁴. However, neither 'Authorised Regular Shipping Services' nor (simplified) transit procedure exist in Common transit for maritime transport.

¹⁴ European Free Trade Association: Membership - Iceland, Norway, Switzerland and Liechtenstein. Visegrad: Membership - Hungary, Poland, Czech Republic and Slovak Republic. The accession of these countries to the European Union is scheduled for 1 May 2004 with the effect that they will apply the Community transit rules.

ANNEX I

Legal Provisions

Extract from Regulation (EEC) No 2454/93 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code¹⁵

Article 313a

1. A regular shipping service means a regular service which carries goods in vessels that ply only between ports situated in the customs territory of the Community and may not come from, go to or call at any points outside this territory or in a free zone of control type I in the meaning of Article 799 of a port in this territory.
2. The customs authorities may require proof that the provisions on authorised shipping services have been observed.

Where the customs authorities establish that the provisions on authorised shipping services have not been observed, they shall immediately inform all the customs authorities concerned.

Article 313b

1. Where a shipping company defining its service, makes an application, the customs authorities of a Member State in whose territory that company is established may, with the agreement of the other Member States concerned, authorise the establishment of a regular shipping service.
2. The application shall contain the following details:
 - (a) the ports concerned,
 - (b) the names of the vessels assigned to the regular service, and
 - (c) any further information required by the customs authorities, in particular the shipping service's timetable.
3. Authorisation shall be granted only to shipping companies which:
 - (a) are established in the Community and whose records will be available to the competent customs authorities;
 - (b) have not committed any serious or repeated offences in connection with the operation of a regular shipping service;
 - (c) are able to satisfy the customs authorities that they operate a regular shipping service as defined in Article 313a(1); and
 - (d) undertake that:

¹⁵ The provisions reproduced here were first introduced by Commission Regulation (EC) No 75/98 of 12 January 1998, Official Journal L 007, 13/01/1998 p. 3, and have been subsequently amended.

- on the routes for which authorisation is requested, no calls will be made at any port in a third country or at any free zone of control type I in the meaning of Article 799 in a port in the customs territory of the Community, and that no transshipments will be made on the high seas, and that,
 - the authorisation certificate will be carried on board the vessel and presented on request to the competent customs authorities.
4. When they receive an application for authorisation, the customs authorities of the Member State to whom the application has been made (the authorising authorities) shall notify the customs authorities of the other Member States in whose territories the intended ports of call of the regular shipping service are situated (the corresponding authorities).

The corresponding authorities shall acknowledge receipt of the application.

Within 60 days of receipt of such notification, the corresponding authorities shall signify their agreement or refusal. Where a Member State refuses an application, it shall state the reasons. Where no reply is received, the authorising authority shall issue an authorisation which shall be accepted by the other Member States concerned.

The authorising authorities shall issue an authorisation certificate, in one or more copies as required and conforming to the model set out in Annex [II], and shall inform the corresponding authorities of the other Member States concerned. Each authorisation certificate shall bear a serial number by which it can be identified. All copies of each certificate shall bear the same number.

5. Once a regular shipping service has been authorised, the shipping company concerned shall be required to use it. The shipping company shall communicate any withdrawal or change in the characteristics of the authorised service to the authorising authorities.
6. Where an authorisation is withdrawn, or a regular shipping service ceases operations, the authorising authorities shall notify the corresponding authorities of the Member States concerned. The authorising authorities shall also notify the corresponding authorities of any changes to a regular shipping service.

If the details required in paragraph 2(a) change, the procedure provided for in paragraph 4 shall apply.

7. When a vessel of the type referred to in Article 313a(1) is forced by circumstances beyond its control to tranship at sea or temporarily put into a third-country port or a free zone of control type I in the meaning of Article 799 of a port in the customs territory of the Community, the shipping company shall immediately inform the customs authorities of the subsequent ports of call along the vessel's scheduled route.

ANNEX II

Certificate of an 'Authorised Regular Shipping Service'

EUROPEAN COMMUNITY	<i>ANNEX III</i>	<i>Annex 42 A</i>
<p>1. Applicant (name of the shipping company, or its representative, and full address)</p> <input type="checkbox"/>	<p>Serial number: </p>	<p>CERTIFICATE OF REGULAR SHIPPING SERVICES</p> <p>— Article 313a of Regulation (EEC) No 2454/93</p>
<p>2. Ports concerned (route, with ports of call in order of calling)</p>		
<p>3. Vessels of the shipping service</p>		
<p>4. Other information</p>		
<p>5. Declaration by the shipping company</p> <p>I, the undersigned, hereby declare that the vessels forming part of the regular service in respect of which this application is made:</p> <ol style="list-style-type: none">1. ply solely between ports in Community customs territory;2. do not call at any points outside Community customs territory or at any free zone of a port in Community customs territory; and3. do not tranship cargo on the high seas. <p>Date: (Signature)</p>		
<p>A. Customs authority which issued the certificate authorizing the regular service:</p> <p>Name: Date: Stamp</p> <p>Address:</p> <p>Member State: (Signature)</p>		