



ANNUAL MEETING MIAMI 2019

**ECASBA PLENARY MEETING
1st OCTOBER 2019**

EUROPEAN ISSUES UPDATE

**JONATHAN C. WILLIAMS FICS
GENERAL MANAGER**

ECASBA ACTIONS/ISSUES 2018/19



- European Maritime Single Window environment (EMSWe)
- Customs Single Window
- Transhipment of Cargoes of Animal Origin
- HS-Codes
- European Commission 2019 – 2024
- Agents' Liability for Misdeclared Cargo

EMSWe/1



Over the many years this project has been ongoing, ECASBA's expectations for successful Europe-wide single window regime have remained constant, that it should:

- Harmonise data
- Use existing single window/port community systems
- Ensure technology-neutral platforms
- Retain GUI data entry capability
- Share common dataset with IMO/WCO

EMSWe/2



In our recent discussions with DG-MOVE we have been advised that the current version of the EMSWe will:

- Harmonise data
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EMSWe/2



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Timeline: Data harmonisation by 2021, full implementation by 2025 ??????





Customs Single Window

- Currently under development by DG-TAXUD:
- The Customs Single Window aims to be the single point of entry for all reporting not covered by the Reporting Formalities Regulation/EMSWe
- It will therefore cover customs as well as veterinary, sanitary, phytosanitary, agricultural, fisheries, environmental and others and
- incorporate existing databases such as TRACES, IMSOC etc.
- TAXUD are collaborating with, and benefiting from the work done (and pain endured!), by DG-MOVE in developing the EMSWe. Implementation is therefore expected to be faster
- If we cannot have just one SINGLE window covering all reporting formalities, two will do!

Transshipment of Cargoes of Animal Origin



Revision by DG-SANTE of Directive 97/78/EC:

- Since 2014, ECASBA has expressed concern at the 7 day inspection-free layover limit* at transshipment ports and the need to sight original documents when carrying out inspections because:
 - the reduction in frequency of feeder services has been making more and more containers liable for inspection procedures
 - modern reefer containers can hold their temperatures accurately for extended periods
 - documentation does not move with the cargo but goes straight to the receiver
- ECASBA has therefore regularly called for the inspection-free period to be extended to at least 30 days

* Ports can apply for a 14 day period but only two, Hamburg and Gioia Tauro have

Transshipment of Cargoes of Animal Origin



Draft DG-SANTE Delegated Act issued in August 2019 states:

“Article 13: Documentary checks, identity checks and physical checks of transhipped consignments of products of animal origin.....

1. The competent authorities of the border control post of transshipment shall perform documentary checks on **originals or copies of official certificates or documents**, that accompany transhipped consignments of products of animal origin.....in the following cases:

(a) for the goods subject to the animal health requirements and the rules for the prevention and minimisation of risks to human and animal health arising from animal by-products and derived products referred to in Article 1(2)(d) and (e) of Regulation (EU) 2017/625 where the transshipment period:

(i) at the airport exceeds 3 days;

(ii) **at the port exceeds 30 days;**”





Use of HS Codes

ECASBA wrote to DG-TAXUD to clarify the use of 6-digit HS codes for transit declarations following concerns from some members

- **TAXUD advised that :** “the code will be compulsory only for transit operations covered by the NCTS system. A transit simplification called the ETD (electronic transport document as a transit declaration used for maritime and air transit) is waived from that obligation and should be used by most of your members.

The 6-digit HS code is planned to be implemented together with the deployment of the NCTS phase 5 (2021-2023). Therefore, with proper advance information and planning, the supply chain should not experience delays or disproportionate costs.”

So now you know!

European Commission 2019 - 2024



As this presentation is being written we can confirm that:

- The new Commission President is:
 - Ursula von der Leyen – former German Defence Minister
- The current nominees for relevant Commissioners are:
 - Transport: Rovana Plumb (Romania)
 - Economy: Paolo Gentiloni (Italy)*
 - Trade: Phil Hogan (Ireland)
 - Environment: Virginijus Sinkevičius (Lithuania)



*Note: There is no specific Taxation and Customs Commissioner

The nominated Commission will be subject to ratification by Parliament, starting this week



Agents' Liability for Misdeclared Cargo

- 2018: DG-TAXUD advised that ship agents can mitigate their liability for action following a misdeclaration of cargo under Article 79(3)(b): “was the agent aware, or should they have been aware, of the misdeclaration” and Article 124(7): cooperation with customs authorities
- Unfortunately some customs authorities continue to hold agents liable for misdeclared cargo
- Alex and Hilde will present the recent decision in Germany

Liability of ship agents and carriers for misdeclaration of cargo in ENS or TSD

Why the threat is not removed...

Why ECASBA should work further on this....



Liability of ship agents and carriers for mis- declaration of cargo in ENS or TSD

Problem =

when illicit cargo is not seized

- duties still become due!!!
- when customs establish **on basis of documents** (such as packing lists found at the receivers premises) or **circumstantial evidence** (such as investigations by OLAF) that illicit cargo was imported / released

E.g. Antwerp 2019 – CMACGM (agent + carrier) –
OLAF investigations reveal that 7 containers contained cigarettes i.s.o.
“glasware” → **26 mio euro + fines**



Liability of ship agents and carriers for misdeclaration of cargo in ENS or TSD

The agent (or the carrier) should never be addressed!!!
as he **simply can not know** what is inside a closed and sealed container

→ Carry on fighting until national customs, **European commission** and courts accept this as **general fact** and discontinue addressing the agent (or the carrier)...



Thank you.