

Action plan

Based on the **ECASBA Position Paper** on customs procedures & discussions in the Miami 2019 ECASBA plenary

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Important issues for the ship agent:

- 1) as agents only
- 2) art 124.7 UCC – co-operation in the fight against fraude
- 3) controls

As agents only

All member states and the European Commission should recognise and apply the convention of “**as agents only**”

This applies for instance to the “**Liability for misdeclaration in the ENS and / or temporary storage declaration**”

We need to know what is going on in Europe. Customs authorities are talking to each other, so should we!

- **Info exchange between countries**. How can we do this?
 - ✓ info pool on ECASBA shared platform?
 - ✓ New member survey?
 - ✓ Monitor cases for pre-judicial question (Court of Justice)

As agents only

*We are talking to the national authorities and to the European Commission, but these are **instructed by DG Budget & OLAF**, and **guided by the WCO!***

- **Extend talks to DG Budget & OLAF** (with the consent of the EC)
 - ✓ Good faith: evaluated by customs or court?
 - ✓ “knows or ought to have known” (art 79 UCC) -
presumption of good faith if no indication of fraudulent involvement of the agent
- **Involve WCO more than today**
 - ✓ Application of the Kyoto convention

Art 124.7 UCC – co-operation in the fight against fraude

What does this article say?

*“Where the customs debt was incurred pursuant to Article 79, it shall be **extinguished with regard to the person whose behaviour did not involve any attempt at deception and who contributed to the fight against fraud**”.*

= very important article, it is a way out of the threatening liability for misdeclarations!

- practical requirements for the application of this article are however unclear.
- national customs authorities are not applying this article or are all having their own reading of it.

Art 124.7 UCC – co-operation in the fight against fraude

*We need to work together, ECASBA and national associations, to **bring this article into practice**.*

How can we do this?

- Define the reading and understanding of this article by the European Commission
- Exchange info about practical implementation in different countries (is there a level playing field?)
- Do local cooperation agreements between ship agents / national customs authorities meet the EU requirements?

Controls by customs should be effective, appropriate and relevant to the risk. How can we work towards these goals at a national level?

- Exchange training programmes with customs staff
- Different control regime for AEO ship agents + carrier
- Demand feedback from customs about “main” infringements/problems (“measure”)



Thank you for your attention.