

ECASBA MEMBERSHIP ENQUIRY



ENQUIRY RESPONSE FORM

ORIGINATING ASSOCIATION:	Bulgarian Association of Ship Brokers and Agents (BASBA)
ENQUIRY DETAILS:	<i>In your country:</i> <ol style="list-style-type: none"><i>1. What is the responsibility of direct customs agents for correctly declaring the type and quantity of goods in the container in transit?</i><i>2. Who is responsible when a direct customs agent prepares and submits the customs transit declarations strictly and duly filled in as per the customs code, data and information contained in the respective documents supplied by importer(buyer), but customs officers find discrepancies between declared and real cargo in the containers?</i>
REPLY TO:	admin@fonasba
COPY REPLY TO:	
CLOSING DATE FOR REPLIES:	Tuesday, 1st June 2021
RESPONDING ASSOCIATION:	

RESPONDING ASSOCIATION COMMENTS: (Please include any attachments)

Croatia	Custom agent is considered to be a declarant and therefore is responsible to Customs authorities.
Cyprus	<ol style="list-style-type: none">The responsibility concerns the correct declaration of the type and quantity of goods contained in the container in transit. This information should be included in the ship's manifest lodged with the Customs Administration and Local Port Operators via the Port Community System which is used by all port stakeholders.For all discrepancies between the declared and real cargo in the containers the liability rests with the carrier, the shipping agent and consignee or shipper as the case may be.

Denmark	<ol style="list-style-type: none"> 1. Denmark has a liberal business and labour market and thus anyone can apply customs license to declare cargoes in transit. The declarant is responsible to insert the appropriate data and will liaise with the relevant parties to get the right information to insert in the digital customs systems. 2. In case of discrepancies as per the question, the declarant is responsible according the Union Customs Codex. But Customs authorities will approach matters of discrepancies as the vast majority is either inserting errors and incorrect/insufficient data from the cargo owner. Unless the content is illegal or contraband most such errors are fixed between Customs and the declarant by correcting errors.
France	<ol style="list-style-type: none"> 1. In front of customs authority, custom agent declarant is responsible in his/her owned name. 2. In case of misdeclaration or error, declarant will have to prove its good faith to Customs Authority. In this respect, being AEO certified and having good relationship with local customs office is very important, and so it is highly recommended.
Hungary	<ol style="list-style-type: none"> 1. Direct customs agent is responsible for issued transit docs and declared data of container (ID No., weight, etc.) on transit doc. Direct Customs agent has a legal liability, his customs license is risked by the wrongly declared container. 2. If customs agent prepares and submits the customs transit declarations strictly and duly filled as per information and data from official docs (like as invoice, packing list, B/L), than customs agent are not responsible for discrepancies, and cargo owner has to pay penalty.
Italy	<ol style="list-style-type: none"> 1. The Custom Broker is not directly responsible. It is acknowledged that he acts on behalf of the Carrier under a Power of Attorney given by the Carrier, this as per Italian Civil Code Law. 2. The Custom acts against the Carrier, or ultimately the Shipper seeing that it was the Shipper who gave the wrong information. Needless to say the Custom broker will have to prove the source of wrong information to demonstrate his innocence.
Netherlands	<p>The general answer to the questions raised is that initially and officially the UCC is leading. In case of discrepancies between reporting formalities and actual information, there is always contact between parties involved trying to figure out why there are any discrepancies.</p>
Portugal	<ol style="list-style-type: none"> 1. Full responsibility in case the T1 is not properly closed customs will charge the total amount of customs duties (if any) and VAT. Remark: customs agent should request a liability letter from the parties involved (trucking Company + destination entity responsible to close the T1. 2. The customs agent is fully responsible unless the provided documents contain wrongly declared cargo.

Slovenia	<ol style="list-style-type: none"> 1. Custom agent is responsible to correctly declare to the custom office all information declared on the Bill of Lading, packing list & commercial invoice. Penalties are case by case depending on severeness of the case (from warning, fine to criminal complaint). 2. The cargo is seized until documentation is properly corrected with all necessary proofs to do so.
Sweden	<ol style="list-style-type: none"> 1. A direct representative can lodge customs declarations in the name of and on behalf of his principal. A direct representative is responsible for customs debt only in situations where they were aware or should have been aware of the incorrectness of information provided in the customs declaration. Otherwise, the client alone is responsible for the possible customs debt and post-clearance. 2. That means the principal is responsible in both cases.
UK	<p>With regards to the Direct Representation</p> <p>If the agent has valid direct representation from his Principal then his principal will be liable for any liability (unless the agent had made a mistake).</p> <p>I can see this enquiry is from Bulgaria so if the Principal is EU based then the Direct Rep would cover.</p> <p>(However if Principal was UK based agent would be deemed to be an indirect rep. and therefore joint and severally liable)</p> <p>In UK we have had problems in past where we prepared a transit bond to take the cargo to an inland depot. When the (sealed) container got to the inland depot the cargo was not as manifested. For a while HMRC were looking to take action against us and it was only when we were interviewed by officer who saw the evidence (manifest / bill of lading / invoice) that case was dropped against us but pursued ultimately unsuccessfully against the shipping line who (I am told) that the Line proved that the info came from the shipper - who was deemed outside UK jurisdiction.</p> <p>Customs don't look for the guilty party anymore, just a party to hold responsible. It must improve their clear up rates no end.</p>