

ECASBA POSITION PAPER



CUSTOMS PROCEDURES

BACKGROUND:

This paper relates to the role of the ship agent only. Where the agent also acts as a customs broker or customs agent, additional obligations and responsibilities may apply that are outwith those stated below.

Customs procedures are the foundation, and single most important element, of border controls for both import and export cargoes. Unless delegated to another party, the ship agent is responsible for lodging customs data with the relevant authorities in accordance with the appropriate schedule, clearing cargo for onward movement from the port and payment of any taxes, duties or fines on behalf of the appropriate party.

ECASBA POSITION:

Unless otherwise agreed beforehand, the agent acts at all times “as agent only” for and on behalf of the principal. Accordingly, under customs law, the agent is a direct representative. The agent is not able to independently verify the accuracy of the information that has been provided by other parties and reported in good faith, and therefore should not be held liable for same. The agent’s responsibility is therefore limited to ensuring that the required information is delivered to the appropriate authority at the right time and in the correct format. Should a misdeclaration of cargo arise, the agent will cooperate with the customs authorities to identify the party responsible for the misdeclaration. ECASBA also encourages ship agents to cooperate fully with customs authorities in the fight against fraud, smuggling and the movement of counterfeit goods in the maritime transport chain.

The following issues are important for the agent:

- All Member States should recognise and apply the convention of “as agents only” as well as the provisions of Article 124.7 of the Union Customs Code in respect of the role of the ship agent in fighting customs fraud
- Customs procedures and controls should be appropriate and relevant to the risks involved, and effective risk-analysis based procedures should be put in place to minimise the impact of customs inspections on the efficient movement of goods
- For consistency, there should be a level playing field between Member States in terms of application of regulations, operational and inspection requirements, and sanctions. The provisions of the Union Customs Code should be applied equally and consistently across all Member States

PARTIES INVOLVED:

- ECASBA Secretariat and Member associations
- DG-TAXUD
- Local customs authorities
- Other European associations (especially ECSA/World Shipping Council)

VALIDITY:

Ongoing

RESPONSIBLE ADVISORY PANEL MEMBER:

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