



STEAMSHIP MUTUAL

To the Members

November 2010

Dear Sirs,

THE EUROPEAN UNION ADVANCED CARGO DECLARATION REGIME

The EU Advance Cargo Declaration Regime (the "Regime") is part of the European Community Customs Code. It is set out in Regulation 648/2005, was implemented by Regulation 1875/2006, and amended by Regulation 312/2009. Together these regulations are referred to as "the Security Amendment to the Community Customs Code".

The Regime will come into force on the 1st January, 2011. As from that date any failure to comply with the Regime may result in fines being imposed by the individual members of the EU in accordance with national legislation.

As with the US Regime on Advance Cargo Declaration the primary purpose of the EU Regime is to enhance security within the EU. The Regime applies to the:

- i. Import of goods from third countries to one or more EU member states,
- ii. Export of goods from one or more member states to third countries, or
- iii. Transit of goods, which are not in free circulation, over the territory of one or more EU member states.

The rules on the advance cargo declaration in the case of the transit of goods are not relevant to shipping if those goods are in free circulation. In the case of the import or export of goods between EU member states and third countries, as well as goods that are not in free circulation, the required cargo information must be submitted in electronic form:

1. For deep sea container shipping 24 hours before loading the cargo on board the vessel. In the case of import the obligation applies to each (non EU) port of loading, not just the last port of loading prior to sailing to an EU member state. In the case of the export of goods the 24 hour period applies to the port of departure from the EU.
2. For deep sea bulk shipping 4 hours before arrival of the vessel in the first EU port of arrival, and in the case of exports 4 hours before departure from an EU port.
3. For short sea shipping¹ and combined transport 2 hours before arrival in the first EU port of arrival, and in the case of exports 2 hours before departure from an EU port.

¹ Defined by Articles 284(a) section 1 and 592 (b) section 1(a) of Regulation 1875/2006 but in general terms voyages to neighbouring countries of EU member states in the Baltic Sea and Mediterranean Sea are short sea trade.

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In the case of goods or containers to be transhipped from a different EU port to the port of arrival in the EU, details of the cargo must be submitted in advance of arrival at the first port of entry to the EU.

The relevant cargo information that must be submitted in advance in the case of both the import and export of goods is set down in Annex 30 A to Regulation 1875/2006. The ship operator or his representative is required to submit the specified information in advance and is liable in the event of non-compliance. Provided it is done with the knowledge and consent of the ship operator, third parties (for example an NVOCC) can also submit the relevant information in advance. However the ship operator is still ultimately liable in the event of a failure by that third party to provide advance notification.

In these circumstances, ship operators who wish to provide third parties with authority to submit advance cargo declarations on their behalf are recommended to contract on terms which include an indemnity in the event of a failure to provide advance notification or a late declaration.

The Regime does not define a ship operator. BIMCO will shortly publish a clause for time and voyage charterers modelled on the BIMCO US AMS clauses. Under the former it is the charterer that assumes responsibility for compliance with the Regime, under the latter the ship owner.

Further details and information on the EU Advance Cargo Declaration Regime are set out on the European Community Shipowner's Association's website:

<http://www.ecsa.be/newsletters/EU%20advance%20cargo%20declaration.pdf>

Regulation 1875/2006, including Annex 30A, can be viewed at:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:360:0064:0125:EN:PDF>

Guidance notes and additional information is available on the European Customs Information Portal at:

http://ec.europa.eu/ecip/security_amendment/index_en.htm

Yours faithfully,

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