

The British European & Overseas P&I Insurance



Circular Number 2010/08

EU Advance Cargo Declaration Regime (EUACD)

EU Regulation 648/2005 amending EU Customs Regulation 2913/92.

NEW REGIME

The Amendments to the European Union (EU) Community Customs Code (Regulation 2913/92) came into effect as from the 1st January 2011. It requires all entities within the shipping industry to fully comply with the above mentioned customs code and the associated cargo reporting formalities. The EU Advance cargo declaration regime (EUACD) applies to maritime transport which involve;

- a) The **import** of goods from third countries to one or more EU member states.
- b) The **export** of goods from one or more EU Member states to third countries.
- c) The **transit** of goods, which are not into free circulation, over the territory of one or more EU Member states.

EU Regulation 648/2005 (EUACD) outlines the Security Amendments to the EU Customs Code and has set new legal obligations that are mandatory and have to be complied with by Ship Owners / Operators, Agents and in general the Carriers moving cargo into, out or transiting Europe. The aims of this is to obtain a better control of the movements of cargo through EU Members States thus raising the standards of security and formulating more transparent and uniform practices through which cargo

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information is provided in advance and in an electronic format to customs authorities. This information is vitally important to EU authorities in conducting a Security Risk Assessment and follows similar US legislation, The **Automated Manifest System** (“AMS”) and **Automated Export Systems** (“AES”) models, wherein high risk cargo that potentially endangers EU security are located in advance and appropriate action is taken.

The EUACD sets out the legal responsibilities that lie with the Economic Operator including the Ship Operator in complying with the code and also the implications and penalties that can be enforced in accordance with the national legislation of the particular member state where the breach has taken place.

***The Economic Operator** is a person that in the course of his business is involved in activities covered by Customs Legislation.*

As per EUACD, the person intending to submit the declaration; should obtain an **Economic Operator Registration and Identification number** (EORI). A confirmation receipt (MRN) will be sent back to the person that has made the declaration each time by the relevant Customs Office.

There are two special cases in which the liability for the advanced cargo declaration is not with the carrier (ship operator) these are;

- a) Combined transport of trucks driven into Ro-Ro's. The driver or his company is responsible for issuing the ENS and not the Ship-Operator.

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b) Vessel under Sharing Agreement (slot) between two or more carriers, the B/L issuer is responsible for issuing the ENS and not the Ship-Operator.

Further, provided the Ship-Operator / Carrier are advised and have agreed beforehand then the NVOCC can issue a declaration. A third party can only make an advance cargo declaration provided that he has advised the carrier (ship operator) thereof, beforehand (knowledge) and the carrier (ship operator) has agreed thereof (consent). The "Knowledge and Consent" are cumulative requirements for a third party filing of a declaration.

The Ship-Owners and the Charterers should agree between themselves, who is to submit the required declaration. The attached links to the BIMCO standard clauses may be of assistance.

The Assured, are therefore urged to familiarise themselves with the EUACD. Any **Penalties** imposed by the Custom Authorities for non compliance will be for the assureds' account, with no recourse to the BE&O P&I Club.

Following are the different declarations under the EUACD regime

A. Cargoes that are **imported into EU**, an **Entry Summary Declaration (ENS)** consisting of all relevant information should be communicated electronically to the Customs Office at the port of First entry;

1. At least 24hrs prior to the loading of **deep sea containerised** cargo at a NON EU Country.
2. At least 4hrs prior to arrival for **Deep Sea Bulk / Break Bulk** Shipping.

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3. In cases of the Voyage being less than 24hrs information must be submitted at least 2 hours before arrival.
 4. **Combined transport** requires at least 2 hours notice before arrival.
- B. In cases of **Re-export or export or outward processing of goods** the **Exit Summary Declaration (“EXS”)** should be submitted to the custom authorities.
- C. In case of import of goods, in addition to the Entry Summary Declaration (“**ENS**”) the carrier needs to submit; an **Arrival Notification (“AN”)**. The **AN** needs to be submitted to the customs office of entry immediately upon arrival of the vessel at the first EU port of entry.
- D. A **Diversion Request** has to be issued when the vessel is in need to divert to an EU Member state port, which is different from the Member State port where the Declaration has already been placed. The Custom Office of the initially declared port of Entry will then notify the Custom Office of the actual port of entry diversion relaying all information that they have already received.
- E. With regards to **Temporary Storage** of shipments, the carrier (ship operator) shall submit the advance cargo declaration at the time of presentation of goods at the EU port, although a summary may be lodged before to arrival of the vessel.

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For further information, it is recommended that the assured refer the documents at the following links

a) EU Advance cargo declaration regime (A basic explanatory note) available at:

www.ecsa.be/newsletters/EU%20advance%20cargo%20declaration.pdf

b) BIMCO EU Advance Cargo Declaration Clause for Time and Voyage charter parties available at:

Time

http://editor.bimco.org/Home/Members/Chartering/BIMCO%20Clauses/EU_Advance_Cargo_Declaration_Clause_for_Time_Charter_Parties.aspx

Voyage

http://editor.bimco.org/Home/Members/Chartering/BIMCO%20Clauses/EU_Advance_Cargo_Declaration_Clause_for_Voyage_Charter_Parties.aspx

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