



CLECAT

European association for forwarding, transport, logistic and customs services

New Maritime Challenges in 2010

As seen by

CLECAT

LE RENDEZ-VOUS DE L'ASSURANCE TRANSPORTS

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The Clecat Menu

- CLECAT & logistics: a snapshot
- Changes ahead: no conferences
- Rotterdam Rules, the lesser of the evils?
- Customs 2013 will change the way shipping services meet their customers
- A collaborative environment?

CLECAT & logistics at a glance

- **CLECAT is a non profit association**, registered in the EU register of interest representatives
- **CLECAT constituency:**
 - Freight Forwarders, Logistics and Customs service providers national federations + related Interest representatives as non-voting Members
 - COMPANIES are global players, SME's and regional operators, small & family businesses
- **Policy scope:** EU legislation in transport, logistics and Customs
- **LSP's as trade facilitators:** Freight forwarders evolved to LSP's, using all transport modes to full potential, providing direct link between production and markets, enlarging the commercial horizons, making far away markets accessible to the majority of SME's, providing a practical "single window" for all those who wish to use LSP's services
- **Maritime services are one element** of the big logistic picture

Conferences & Consortia

- Clecat took position in favour of a limitation to the block exemption at the December 4th 2003 hearing held in Brussels
- After the extensive debate, the block exemption was lifted and guidelines were adopted, Clecat provided its opinion and position
- On consortia Clecat was in favour of maintaining the block exemption on conditions

Rotterdam Rules

- On 23rd September 2009, the UN Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea has been signed in Rotterdam, but still not ratified...
 - The intention was to clarify and streamline existing maritime conventions, as well as facilitating trade
 - Clecat Criticism
 - CLECAT's Maritime Institute decided to oppose RR's
 - European forwarders cost/benefits are unfavourable for shippers and forwarders
 - Main concerns:
 - Uncertainty, both in legal and judicial terms, and complication of existing rules
 - Limit to liability only works in one direction, without giving benefits to forwarders
 - Convention is only a partial network system whereas freight forwarders always sought a full network system.
- ⇒ CLECAT position urged the EU and its MS not to ratify

ENS: entry summary declarations

- The lodgement of a security entry summary declaration (ENS) is mandatory as from 1.1.2001.
- The declaration must be lodged
 - for all goods brought into the Community, including goods remaining on board, even if they are not destined to the Community
 - at the first point of entry (at the first port of call)
 - before the arrival of the goods – timelines depend on the mode of transport – or, in the case of deep sea container transport, (24h) before loading at the point of departure

Person responsible for ENS lodging

- The person responsible for lodging the declaration is the carrier, i.e. the person who has issued the (master) bill of lading.
- The declaration may be lodged by a person other than the carrier but it must ensure that all the goods which it brings in the Community are covered.
- If goods are brought in which are not covered by an ENS, the ENS must be lodged immediately and the carrier may be fined.
 - As a consequence a party other than the carrier, for instance a forwarder, if it wishes to lodge the declaration, needs the carrier's knowledge and consent.
 - Neither carriers nor forwarders like the 'knowledge and consent' construct but there is no other way to reconcile the legal responsibility of the carrier and the legal possibility for a party other than the carrier to lodge the declaration without dual filing, which was not adopted by the EU (unlike the US)

The accuracy of the information

- Article 9 (2) MCC: *The lodging of a summary declaration or customs declaration, or notification, or the submission of an application for an authorisation or any other decision, shall render the person concerned responsible for the following:*
 - *the accuracy and completeness of the information given in the declaration, notification or application;*
- The person who effectively lodges the declaration is responsible for the accuracy and completeness
 - Issue for debate: is it enough to pass on the information you have, accurately and completely?
- Dual filing, different parties provide data they already know:
 - Transport transaction related information proper to the carrier submitted by the carrier
 - Trade transaction related information by the importer or its representative (LSP or freight forwarder)
 - This is however not an option for the time being because technically (and legally) unfeasible

Whose Data?

- Why would a person other than the carrier want to lodge the declaration?
 - To have a better risk score (to be less susceptible to controls)
 - To ensure commercially sensitive data are kept confidential
- The carrier can only lodge data which it has, that is data at the level of the transport contract which it issued.
 - These data often do not contain all the elements required
 - Data at the level of the house bill of lading – including trade transaction related data like for instance the name of the importer that are commercially sensitive is interesting from a risk analysis point of view and may give the consignment a lower risk score
- This is the main reason why dual filing was advocated by a large number of stakeholders.

Conclusions

- Traditional maritime arrangements will be shaken by three elements: full market force in commercial dealings, digitalisation of transactions, advance information requirements for safety and security
- To raise to these challenges freight forwarders and shipping lines are best placed if they cooperate on a peer-to-peer level
- At EU level the cooperation has been ongoing for a few years now... it should be adopted also locally
- **Please help us** compile the next editions of the Best Practice in Logistics and Supply Chain Security Handbooks, contact www.clecat.org

Thank you!

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