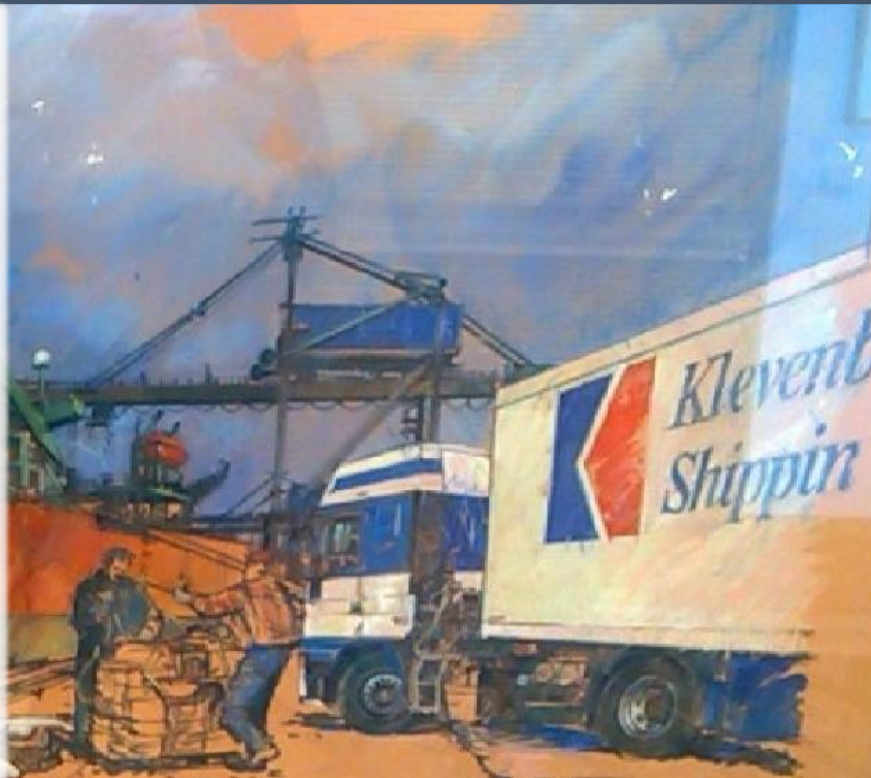


Diploma in World Customs Compliance and Regulations

The impact of customs regulations in the European ship supply sector - a study

Final Project



"Ship suppliers play an essential role for maintaining maritime trade and shipping, enabling the whole system to work smoothly. Without them, the complex world of maritime logistics could not work, as they enable ships, of all sizes and characteristics, with very different schedules and requirements, to be ready for non-stop operation in all our ports"

Dr. Joe Borg, former Member of the European Commission responsible for Fisheries and Maritime Affairs



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SERVING EU SHIP SUPPLY



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Ladies and Gentlemen,

On behalf of the Institute of Export and International Trade it gives me great pleasure to introduce OCEAN's EU study on the ship supply industry in Europe. This was produced by Arne Mielken for his project based assessment as part of the Institute's Diploma in World Customs qualification.

Established in 1935, the Institute of Export and International Trade (IOE) is the UK's professional membership body representing and supporting the interests of everyone involved in importing, exporting and international trade.

A particular feature of the IOE, an OfQual approved awarding organization, is that it offers a world renowned suite of qualifications and training making the Institute the leading authority in best practice and competence for businesses trading globally. OCEAN's EU study is both a practical report as well as an academic piece of writing, linking EU customs theory to day-to-day practical application in a ship supply company operating across the EU and beyond.

It is noteworthy that this piece of work has been submitted to the IOE for formal marking as a project based assessment for the education programme "*Diploma in World Customs Compliance and Regulations*". This diploma covers a comprehensive and in-depth range of topics in global, EU and national customs compliance and regulation, with modular assessments which lead to a full customs qualification. I am pleased to confirm that this study was one of the best assignments submitted in the academic year 2014/2015 and has achieved a grade of **Distinction**.

The focus on ship supply meant that the student chose a niche and difficult topic but showed a clear understanding not only of the EU ship supply sector but also of a wider areas of relevant customs issues. This was an excellent and clear analysis with good recommendations. Though the report did not give a solution to the issues of variants within customs controls in different countries it did suggest some solutions and control mechanisms. A very practical study which truly deserved the high marks it achieved.

For anyone interested in how EU and national customs legislation can practically impact EU companies in the maritime sector, this report is an important read.

Yours Sincerely

Kevin Shakespeare
Director of Education

The Office of Qualifications and Examinations Regulation (Ofqual) regulates qualifications, examinations and assessments in England and vocational qualifications in Northern Ireland.

A word from the OCEAN chairman

Welcome to the world of European ship supply!

It is a great pleasure and privilege to present to you the first ever study on the impact of customs legislation in the European ship supply sector.

Many customs authorities are aware of the importance of the ship supply business. Customs officers often understand that, if crew and vessel do not get their ship supply, their stores and spare parts in time, this might not only negatively impact the economics and reputation of our valued EU ports, but could also jeopardize safety at sea and may even harm the environment.

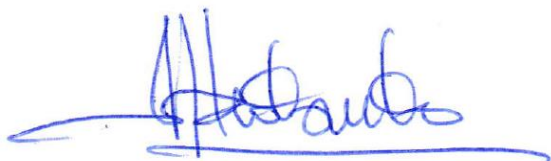
However, as the author of this study shows, EU legislation does not always demonstrate such understanding of our trade.

From 1st May 2016, the Union Customs Code (UCC) is expected to streamline customs legislation and procedures, offer greater legal certainty and uniformity to businesses throughout the EU and bring about the complete shift to a fully electronic environment.

As the examples show in this study, the ship supply sector may not benefit from this fully, as, despite the UCC, EU rules for this sector are not harmonized and national rules continue to be created, often distorting the creation of a genuine EU Single Market for ship supply.

This study, carefully researched and well written, aims to improve the understanding of the key characteristics of ship supply. Drawing from several examples in different EU Member States, we can, despite the UCC, impressively confirm the lack of EU harmonization, and the widening of disparities between purely national customs legislation and daily ship supply practices.

I hope you will find this an interesting read.



Alfredo Tosato

Chairman of OCEAN

About OCEAN

OCEAN – the European Ship Suppliers Organization – is the voice of the Ship Supply Industry of Europe. Founded in 1976 under the French Title: “*Organisation de la Communauté Européenne des Avitailleurs de Navires*”, today OCEAN concentrates its work on achieving an optimum business climate for European ship suppliers and on strengthening the competitiveness of the industry as a whole.

1976



2016

**SERVING EU SHIP SUPPLY
FOR 40 YEARS**

The Organization plays an important role in creating better understanding of the ship supply industry in Europe and is committed to transparent and open communication and inclusive dialogue between its members and European policy-makers.



Today, OCEAN represents over 750 ship chandlers (more than 250,000 jobs) who supply a wide range of goods to several hundred thousand ships annually in most of the 1,200 merchant ports throughout the 70,000 km of the European coastline. Ship suppliers provide a 24-hour service throughout the year and are an essential element of modern maritime trade and a vibrant shipping industry.

OCEAN speaks on European policy matters affecting our daily business, particularly Customs (import, export and transit); Taxation (excise & VAT); Veterinary rules and Maritime affairs.

About the author

Arne Mielken is a specialist in the field of EU customs & export control legislation. He has been advising the European Ship Suppliers Organization since 2005.

In 2011 he took up managerial positions in Deloitte's and Grant Thornton Customs Duties & Export Controls teams, two of the world's leading organizations of independent assurance, tax and advisory firms.



Today, Arne is Senior Trade Specialist at Amber Road, the leading provider of on-demand Global Trade Management software & solutions. He leads a team of trade specialists who monitor and provide update on EU trade regulations in the field of customs and export controls on a daily basis.

Working with the EU in Brussels for over a decade, Arne is still very actively involved in the development of EU customs policy & legislation (Union Custom Code and E-Customs), makes presentations at trade and customs events and publishes articles on global trade matters in the German Journal of Foreign Trade in law and practice (AW PRAX). He has written his final project-based report of the Diploma in World Customs Compliance and Regulations from the UK's Institute of Export on the European ship supply sector.

Assignment brief

Choose a suitable project based on a workplace issue that can demonstrate your application of knowledge learnt on the IOE's Diploma in World Customs Compliance and Regulations course.

Topic

The chosen topic will reflect on the example of a **ship supply business in the European Union**.

- *Evaluate the relevance that EU and national customs regulations have on day-to day business operations and discuss the benefits and disadvantages of operating under EU and national customs legislation for the chosen business. (25 marks)*
- *Reflect on three key areas of EU customs legislation and analyse the practical relevance for the ship supply business chosen. (20 marks)*
- *Assess the potential impact of the Union Customs Code changes will have on the customs procedures and processes used by the business. Produce a plan on how, in the framework of the UCC, harmonised rules for ship supply can be introduced across the EU and explain the advantages of doing so (25 marks)*
- *Conclusion and Recommendations (20 marks)*
- *Style, tone and format (10 marks)*

Educational Requirements

You are to produce a report (not an essay) using report format and style, i.e. include a Table of Contents, numbered sections, AND a full list of references in Harvard format; plus (but only if fully pertinent) appendices. At the same time as being a report, it is an academic piece of work.

Consequently,

- you are to include theory, and link it to practice, implement the Harvard system of referencing, and
- ensure that the work you submit is of a high standard in terms of content and presentation;
- your submission must be an original piece of work researched and written by you individually.

PGT Project Assignment MAXIMUM MARKS

- 30: knowledge, comprehension, and explanation
- 30: application and analysis
- 30: synthesis and evaluation
- 10: presentation, including formatting, clarity, concision, and referencing.

Thanks

I would like to express my sincere gratitude to [Klevenberg Shipping Center B.V.](#), General Management for allowing me to write about the company.

In particular, my thanks go to Mr Dirk Cupido (Finance Director) and Mr Peter de Haas Jr. (Customs Manager) for taking time out of their busy schedule to meet with me over two days in February in Rotterdam and explain their daily customs procedures and processes to me in such detail, for sharing customs relevant documentation with me, for touring the warehouse with me and for answering my endless questions.

Your support has been invaluable for the completion of the study.

Thank you.

Arne Mielken

1st January 2016

Notes for the reader

- Underlined words throughout the text have been explained in the glossary included at the end of the document (page 33).
- Throughout the document, we have applied the future naming convention for specific terms as defined by the forthcoming EU custom legislation, the Union Customs Code (UCC) applicable from 1st May 2016. Where especially relevant, we have also made references to terminology and legislation currently in force, the Community Customs Code (CCC). For ease of understanding, we have provided both terms (old and new) in the glossary.
- For simplification and word-count reasons, when we refer to EU we mean Customs Territory of the Union as defined by EU legislation, unless specifically referred to in a non-customs-law context, such as the introduction to the company and Annex I.
- This report was written in spring 2015.

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PART 1: Introduction to Klevenberg Shipping Center



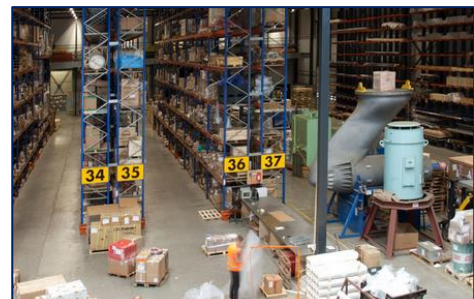
Klevenberg Shipping Center B.V. (Klevenberg) is a Dutch marine ship supplier based in Rotterdam which provides general spares, provisions and ship chandlery.

With the challenging ambition of “*serving the world’s fleet*”¹, Klevenberg must be ready to supply staggering volumes of diverse products on a daily basis to a vessel and within the exact short time window when she calls any port in the European Union (EU). This means that timing, accuracy and speed are essential.

The company

- ✓ handles customs formalities in-house²,
- ✓ manages its own fleet of trucks,
- ✓ operates a customs warehouse,
- ✓ invested in sophisticated customs systems with direct customs declaration filing capabilities,
- ✓ holds over 15 authorisations for simplified customs procedures,
- ✓ has Authorised Economic Operator (AEO) status³.

For more details about the company’s history, key characteristics of ship supply, including a definition of what constitutes ship supply for customs purposes, please refer to **Annex I**.



"No vessel should have to stay in port for longer than strictly necessary, so efficient customs clearance procedures are essential to our business". Peter de Haas Jr., Customs Manager Klevenberg

¹ Motto of Klevenberg, please see www.klevenberg.com

² Klevenberg has its own customs department, led by Mr Peter de Haas Jr.

³ Klevenberg is one of the first ship supply companies in the EU to be accredited the important trusted trader status programme by the customs authorities. Klevenberg has been holding the status since 2011.

PART 2: Impact of EU & national customs regulations on Klevenberg

In this part:

- Evaluate the relevance that EU and national customs regulations have on day-to-day business operations and discuss the benefits and disadvantages of operating under EU and national customs legislation for the chosen business.

2.1 Benefits of EU regulations

The EU's Customs Union⁴, “a cornerstone of the European Union and an essential element in the functioning of the Single Market”⁵ allows Klevenberg to legitimately move its trucks freely between EU ports (**internal free movement**) without incurring additional duties or charges (**common external customs tariff**).



Benefits of operating in the EU Customs Union for Klevenberg include:

Logo of the EU's
Customs Union of 2008

Common External Trade Tariff

- ✓ Uniform import duties, usually low.
- ✓ Free transit through MS to ports for good for which customs has or has not been paid.

Common customs rules

- ✓ Harmonised custom declaration, the Single Administrative Document – (SAD).
- ✓ One EORI for EU-28.
- ✓ Common duty relief scheme (see Part 3.2).
- ✓ Use of EU-28 transit schemes.

Electronic Customs Union

- ✓ Klevenberg can file electronic customs declarations in all 28 MS.
- ✓ The company can benefit from totally interoperable customs systems by 2020 (as foreseen by the UCC).

Customs Union and security

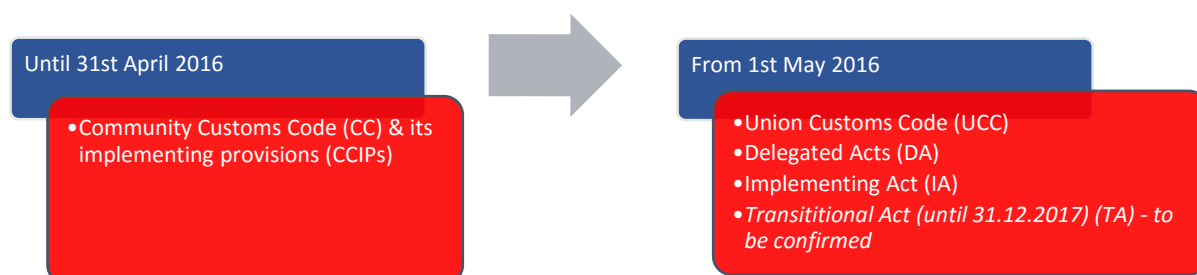
- ✓ EU-wide benefits through Klevenberg's AEO authorisation.

⁴ Excerpt of Article 23 (1) of the EU's Treaty of Rome “The Community shall be based upon a customs union which shall cover all trade in goods and which shall involve the prohibitions between Member States of customs duties on imports and exports [...], and the adoption of a common customs tariff in their relations with third countries”

⁵ Please see study on the Evaluation of the Customs Union (Specific Contract No. 13 implementing Framework Contract No. TAXUD/2010/CC/101) - Final report, accessed online on 6 September 2014, available at: http://ec.europa.eu/taxation_customs/resources/documents/common/publications/studies/evaluation_customs_union_en.pdf

2.2 Challenges of EU regulations for Klevenberg

In a Customs Union, businesses and authorities alike are to follow same⁶ set of customs regulations⁷. In the EU, these are two, soon three (four until the end of the transition period for the UCC):



These legal provisions apply to Klevenberg as for any other EU business. However, in addition, there are articles specific to ship supply:

Community Customs Code ⁸	Union Customs Code ⁹
n/a	TITLE VIII - GOODS TAKEN OUT OF THE CUSTOMS TERRITORY OF THE UNION
	CHAPTER 3 Export and re-export
	Article 269 on export treatment for ship supplies in Union goods
	Article 270 – generic article on re-exportation of non-Union goods, applies to ship supply, as well
Customs Code Implementing Provisions ¹⁰	Delegated Acts / Implementing Acts ¹¹
TITLE IV, IMPLEMENTING PROVISIONS RELATING TO EXPORTATION	n/a
CHAPTER 1 - General provisions for customs declarations. Article 592a (o) providing an exclusion from the customs declaration filing deadlines.	
CHAPTER 2 - Permanent exportation Article 786, 2 (b) describes the formalities concerning the export declaration.	

⁶ In the EU, customs rules are applicable as law in all Member States (MS) simultaneously in its entity.

⁷ According to the aforementioned study on the Evaluation of the Customs Union, 'the Single Market can only function properly with a uniform application of common rules at its external borders'.

⁸ COUNCIL REGULATION (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code, Web link (accessed 25.04.2015): <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:1992R2913:20070101:EN:PDF>

⁹ REGULATION (EU) No 952/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 9 October 2013 laying down the Union Customs Code, Web link (accessed 23.05.2015): <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013R0952&rid=1>

¹⁰ COMMISSION REGULATION (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code, Web link (accessed 24.04.2015): <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:1993R2454:20130131:EN:PDF>

¹¹ Based on draft version III, as presented by the EU Commission to trade representatives in January 2015, not publically published.

A harmonised application of the export procedures is crucial if a genuine EU ship supply single market is to be created, where any EU ship supplier can reach any vessel calling at EU ports without being restricted by national regulations. This goal has not been completely achieved in the UCC legislation.

For instance, Article 269 2 (c) UCC is problematic because it allows MS to maintain a diverse set of national ship supply rules laws and practices, creating the following concerns:

1. The unlucky “marriage” between air- and ship supply continues under the UCC. However, it is apparent that the limited selection of foodstuffs and duty-free items sold on-board an aircraft do not compare with the large variety of union and non-union goods to be supplied aboard vessels and the logistical challenges associated with ship supply.

<p style="text-align: center;">CHAPTER 3</p> <p style="text-align: center;">Export and re-export</p> <p style="text-align: center;">Article 269</p> <p style="text-align: center;">Export of Union goods</p> <p>1. Union goods to be taken out of the customs territory of the Union shall be placed under the export procedure.</p> <p>2. Paragraph 1 shall not apply to any of the following Union goods:</p>	<p>(c) goods delivered, VAT or excise duty exempted, as aircraft or ship supplies, regardless of the destination of the aircraft or ship, for which a proof of such supply is required;</p> <p>3. The formalities concerning the export customs declaration laid down in the customs legislation shall apply in the cases referred to in points (a), (b) and (c) of paragraph 2.</p>
---	--

2. There is no official definition of what constitutes ship supply in the UCC.
3. The legal customs language leaves room for national interpretations and national “solutions” which ship suppliers in other MS often cannot benefit from:
 - a. Unclear definition of terms: Read in combination with Article 269 3. in which situations does the “*export procedures*” apply and in which only the “*export formalities concerning the export customs declaration*”? What is the difference between them?
 - b. Cross-reference to other EU legislation: Why is the VAT or excise duty exemption a requirement for application of this Article?
 - c. Added complication: Why is 269, 2 (c) only applicable if “a proof is required”? When is a proof not required under customs legislation¹²?
4. Given the level of complication and confusion, it is apparent that Article 269 2 (c) ship supply should be clarified in the DA or IA. However, both DA and IA are completely silent as to how ship supply should be treated. Since no explanations are provided, this leaves some discretion to MS in their interpretation of this article.

The practical consequences of this UCC article are analysed further in 2.4 and 3.3.

¹² Article 199 of Commission Regulation 2454/93 states that a customs declaration must be correct in all particulars which indirectly imposes a requirement to proof accuracy of any customs declarations made.

2.4 Challenges of national customs provisions

As beneficial and essential Dutch national customs rules are for Klevenberg, as problematic and challenging other national customs rules are for the company when it wishes to supply vessels in different MS¹⁷.

For example, a specific process¹⁸ needs to be carefully followed in Germany to deliver goods to a vessel in Hamburg harbour, which is based on German national customs law. The German customs authorities, the Zoll, require Klevenberg to:

- provide additional, purely national customs paperwork¹⁹, such as the "Lieferzettel".
- obtain approval to supply vessels from only one of three specific customs offices in Hamburg.

Finally, in order to complete the export procedure, this Lieferzettel must be returned, duly completed, to one specific customs office (Zollamt Waltershof in Hamburg). If it is not received, customs duties and import VAT become payable, even when the actual customs declarations have been successfully cleared.

As such, if ship suppliers outside Germany are not aware of this purely national law, unnecessary charges may accidentally occur.

Lieferzettel für Schiffs- und Reisebedarf gemäß § 27 ZollV		Zutreffendes ist anzukreuzen [X] oder auszufüllen	
gilt auch für Erstattungswaren als Empfangsbestätigung		Hinweise Die 3. Ausfertigung des Lieferzettels mit einer Empfangsbestätigung des Schiffsführers muss unverzüglich bei der Ausgangszollstelle abgegeben werden. 1) Angabe ob - Nichtgemeinschaftware - a. - unbesteuerter Gemeinschaftsware - b. - Erstattungsware - c.	
Blatt 1 - Für den Empfänger		2) Nur bei Wassersportfahrzeugen ausfüllen.	
1. Lieferant (Name, Anschrift)		2. Alterszeichen und Datum der Erlaubnis zum Handel mit Schiffsbedarf	
		3. Auftrags-Nummer	
		4. Schiff (Name)	
		<input type="checkbox"/> Seeschiff <input type="checkbox"/> Binnenschiff <input type="checkbox"/> Wassersportfahrzeug	
5. Liegeplatz		6. Schiffsführer (Name)	
7. Nächster anzuliefernder Hafen		8. Tag und Uhrzeit der Lieferung	
		9. Tag des Auslaufens	
10. Fahrtziel		11. Dauer der Reise (2)	
		12. Anzahl der Teilnehmer (2)	
13. Auftraggeber <input type="checkbox"/> Reederei <input type="checkbox"/> Makler <input type="checkbox"/> Schiffeigentümer <input type="checkbox"/> Schiffsführer (Name, Anschrift)			
14. Warenmenge/Warenbezeichnung/Status der Ware 1) - siehe Anlagen -		15. Anzahl der Anlagen	
15. Verantwortlich für die Lieferung			
Name des Beauftragten			
Empfangsbestätigung und Erklärung des Bezugsberechtigten Receipt and declaration of the consignee		Der Bezug von Reisebedarf für Wassersportfahrzeuge ist ausgeschlossen.	
17. Name des Schiffsführers stets angeben / Always indicate the name of the captain. Name des Schiffsführers (falls abweichend von Nr. 6) / name of the captain (if other than No. 6)		The supply of goods to be sold on board to water sports vessels is excluded.	
18. Name und Funktion (Stellung) des Vertreters an Bord / name and rank (position) of the representative on board			
Ich bestätige, die in den Anlagen aufgeführten Waren als Schiffs- und Reisebedarf erhalten zu haben.			

¹⁷ See also Annex III for practical examples of the impact of such national provisions for Klevenberg.

¹⁸ For a graphical display of the required national procedure, please see:

http://www.zoll.de/SharedDocs/Downloads/DE/Links-fuer-Inhaltseiten/Fachthemen/Zoelle/schaubild_belieferung_schiffs_reisebedarf.pdf?__blob=publicationFile

¹⁹ Examples include the Lieferzettel für Schiffsbedarf HH 0114-E, "Ladungsverzeichnis" or "Vordruck HH 0339". See http://www.zoll.de/DE/Fachthemen/Zoelle/Zollrechtliche-Bestimmung/Verbringen-in-Freizonen-Freilager/Auflösung-Freihafen-Hamburg/Belieferung-von-Schiffs-und-Reisebedarf/belieferung-von-schiffs-und-reisebedarf_node.html (accessed 25.05.2015).

The most disconcerting example of national arbitrariness was created in Spain by national customs law makers. In 2012, Spain passed a controversial law:



• Cuando el destino final del buque o aeronave suministrado sea comunitario, será necesario presentar una declaración de importación.

“When the final destination of the vessel or aircraft is in the Community, it is necessary to present an import declaration” – OFFICIAL JOURNAL OF THE KINGDOM OF SPAIN, 17 July 2012

This rule has serious consequences for Klevenberg:

- Klevenberg has to hand their T1 declaration to the ships agent, who will have to lodge an import declaration on behalf of Klevenberg in Spain²⁰,
- Import duty and import VAT become payable for ship supply²¹,
- Import restrictions and licences apply for import.

“When being forced to lodge an import declaration for certain items, import restrictions now apply, e.g. the requirement to provide a certificate of origin. This is needed because the customs IT systems say so, but in fact, there is no real import, only export. For export, a certificate of origin is not needed. Even more, a ship chandler doesn’t have such certificates of origin and most probably won’t get it, because:

1. *Ship suppliers are not the manufacturer, they just deliver goods.*
2. *It is impossible to request certificates of origin for each and every item which will be ordered (also because we don’t know the next port of call of the vessel).*
3. *Manufacturers or suppliers who deliver to ship suppliers do not provide original certificates of origin. This is due to the fact that a ship supplier is not buying an entire consignment from the supplier, but just a (much) smaller part. Consequently, the supplier refuses to provide an original certificate of origin, because the supplier has to use it for the rest of his stock as well.*

²⁰ Possibly, security data required under the EU’s Import Control System (ICS) also needs to be supplied to timetables defined by EU legislation – that is 24 hours for maritime traffic – unworkable for Klevenberg.

²¹ According to Association Española de Suministradores Marítimos, [Spanish Supply Association AESMAR](#), Spanish customs authorities have conceded that ship supply delivery would not be considered a regular import (the goods will finally be loaded on-board of the vessel), so no import duties have to be paid.

Such rules are contrary to the common EU practice²² and the current and future EU legislation:

Community Customs Code	<p style="text-align: center;">D. Removal of goods from free zones or free warehouses</p> <p style="text-align: center;"><i>Article 177</i></p> <p>Without prejudice to special provisions adopted under customs legislation governing specific fields, goods leaving a free zone or free warehouse may be:</p> <p>— exported or re-exported from the customs territory of the Community, or</p> <p style="text-align: center;">Re-exportation, destruction and abandonment</p> <p style="text-align: center;"><i>Article 182</i></p> <p>1. Non-Community goods may be:</p> <p>— re-exported from the customs territory of the Community;</p>
Union Customs Code	<p style="text-align: center;"><i>Article 270</i></p> <p style="text-align: center;">Re-export of non-Union goods</p> <p>1. Non-Union goods to be taken out of the customs territory of the Union shall be subject to a re-export declaration to be lodged at the competent customs office.</p>

The case of Spain is unfortunately not unique. For further practical examples of Klevenberg confirming the widening disparities among national legislation and practices relevant for the ship-supply industry, please refer to **Annex III**.

Overall, the examples of Germany and Spain show that the consequences of operating different *national* legislations can result in:

- Delays
- Planning uncertainties
- Increased administrative burden
- Increased cost
- Loss of clients / customer satisfaction
- Higher risk of non-compliance
- Higher risk of loss of AEO status and other simplifications.

²² “As regards the discharge of suspensive arrangements by re-exportation, it should be possible to lodge a re-export declaration indicating in box 37 code 3151 (re-export discharging IP) and code 3171 (re-export discharging CW)” – Page 3 - CUSTOMS CODE COMMITTEE -Special Procedures Section - Minutes/summary record of the 42nd meeting of 26 January 2015 (TAXUD/A2/SPE/2015/003-EN).

PART 3: Practical relevance of three areas of EU customs regulations for Klevenberg

In this part:

- *Reflect on three key areas of EU customs legislation and analyse the practical relevance for the ship supply business chosen.*

3.1 Customs classification

Klevenberg needs to hold in stock a large variety of items in order to meet the special requirements of different types of vessels and crews of many nationalities.

The items stored can be broadly summarised in two categories:

a) Provisions

"What our customers require must not only be in stock, it must also be delivered at the agreed time, at the correct location and inclusive of any required assistance and appropriate documentation. We consider the 'one-stop' element in one-stop shopping to be the most important of the entire process."

Source: <http://www.klevenberg.com/our-services/ship-supply/> (accessed 12.04.2015)

These are consumables destined for the crew of the vessel, further refined as:

Food	Drinks	Tobacco Products
•All kinds of foodstuffs from the Dutch domestic or EU market and from outside the EU.	•Spirits, wine, beers, juices and soft drinks of many EU and non-EU brands.	•This mostly includes cigarettes for the crew, EU and non-EU brands.

Alcoholic beverages and tobacco products are subject to excise duty²³.

²³ Provisions subject to excise duty follow indirect tax legislation which is not completely harmonised at EU level. For this reason, the delivery of excise products to vessels is carefully controlled by customs and tax authorities, including the quantities delivered and the completion of the correct excise formalities.

b) Non-food items and spares

Klevenberg also supplies specialised technical equipment and spares²⁴, of many different sizes and values²⁵.

They can be regrouped in the following categories:

Products for personal use	Textiles and synthetic products	Electro-technical products	Machine, cabin and deck stores	Engine spare parts
Critical safety and lifesaving equipment, tarpaulins	Ropes and cables	Paint, varnishes and chemicals	Cleaning and laundry items	Nautical cards, books, software, publications and modern stationary

An impressive example of a high-value item currently stored in Klevenberg's warehouse is the heavy, high-value "*Azipod Propulsion Module*"²⁶ for large container vessels or cruise ships:



²⁴ These can be vessel specific. The owner of a specific spare part would hire a section of Klevenberg's warehouse space to store a replacement part for use at a vessel, if and when she calls the port. This means that a specific item can be stored for many years without use, and, even scrapped if it is never used.

²⁵ A comprehensive listing of the sheer endless list of the provisions and bonded stores a ship is likely to need to order can be seen in the "ISSA Ship Stores Catalogue". The ISSA Catalogue is recognised as the pre-eminent tool when it comes to storing ships. From an anchor to a match, a tea-spoon to a length of steel, the catalogue categorises and numbers some 35,000 line items of ship stores (source: <http://www.shipsupply.org/BuyNow/Catalogues.aspx>), accessed 11.04.2015)

²⁶ This engine powers a wide range of ships today, enhances manoeuvrability and improves fuel economy. It is used by luxury cruise vessels, ferries, drilling rigs, arctic tankers, offshore supply vessels, and icebreakers.

The challenge of customs classification

EU customs law²⁷ requires for the correct CN code to be input, per line item²⁸, in a customs declaration. However, a large vessel can order hundreds of different Union and non-Union goods in small and large quantities:

Klevenberg Shipping Center - LAADLIJST Page 1 of 24

Raderij
Schip
EORI nummer
Ligplaats
Zending
Administratie

VRIJ - NON FOOD - 83461

Ref.	Colli	Verpakking	Omschrijving	Aantal	Eenheid	Land	Bruto	Netto	Waarde (€)
1	1	CART	TOWEL BATH 70x140CM WHITE	24,00	PCE	NL			
2	7	CART	NAPKINS PAPER WHITE 33X33CM 500PCS	60,00	PCK	NL			

This is the beginning of a 24-page loading list (Laadlijst) for **one vessel** for “free – Non Food” (Vrij – non-food) items (Union-goods), which will go on to itemise a total of 1210 different type of products.

In addition, Klevenberg will also produce four additional loading lists:

Name of loading list	Description	Customs status	CN Codes needed
2.Vrij- Spares	Spares in free circulation	Union goods	2
3.Vrij – Food	Food in free circulation	Union goods	184
4.Entreport – Spares	Spares from the customs warehouse	Non-Union goods	10
5.Entrepot – Non-Food	Non-food items from the customs warehouse	Non-Union goods	9

As it becomes apparent, the successful delivery of a single vessel would require the determination of many hundreds of CN codes. Besides the very substantial administrative efforts and costs involved in such undertaking, it is, in fact, the “just-in-time” nature of the Klevenberg’s business model which makes it impossible for the company to clear customs declarations before the vessel is scheduled to leave the harbour again.

It would, therefore, be highly beneficial to allow ship supplies to be delivered on-board a vessel with very limited number of CN codes, one covering all food items and one covering all non-food items.

²⁷ Article 199 of Commission Regulation 2454/93 states that a customs declaration must be correct in all particulars and also states that the person making the declaration, or, in whose name the declaration is made, is responsible for the accuracy of the declaration.

²⁸ The commodity code is to be put into Box 33 of the SAD, forming part of the section of the customs declaration which “is repeated per line item” - see Page 7, Module 2 THE EUROPEAN UNION AS A CUSTOMS UNION, Section C1 EU Customs Procedures (Movement of Goods and Security) of the learning material for the IOE’s Diploma in World Customs Compliance and Regulations, 2015 Edition.

Consequently:

- The European legislation²⁹ considers sufficient capturing external trade statistics for ship stores as either being provisions or technical stores
- No EU export duty³⁰ is levied (means no revenue is at stake)³¹.

(4) Commission Regulation (EU) No 113/2010 of 9 February 2010 implementing Regulation (EC) No 471/2009 of the European Parliament and of the Council on Community statistics relating to external trade with non-member countries, as regards trade coverage, definition of the data, compilation of statistics on trade by business characteristics and by invoicing currency, and specific goods or movements⁽³⁾ and Commission Regulation (EC) No 1982/2004 of 18 November 2004 implementing Regulation (EC) No 638/2004 of the European Parliament and of the Council on Community statistics relating to the trading of goods between Member States and repealing Commission Regulations (EC) No 1901/2000 and (EEC) No 3590/92⁽⁴⁾ allow the Member States to use a simplified coding system for certain goods in the extra-EU and intra-EU trade statistics.

COMMISSION REGULATION (EU) No 1228/2010 of 15 December 2010 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff

Klevenberg is, hence, allowed to use the following simplified combined nomenclature³²:

L 312/658	EN	Official Journal of the European Union	31.10.2014
2. The codes set out in this sub-chapter are subject to the conditions laid down in Regulation (EU) No 113/2010 and Regulation (EC) No 1982/2004.			
CN code	Description		
1	2		
9930	Goods delivered to vessels and aircraft:		
9930 24 00	- Goods of CN Chapters 1 to 24		
9930 27 00	- Goods of CN Chapter 27		
9930 99 00	- Goods classified elsewhere		

Source: Commission Implementing Regulation (EU) No 1101/2014 of 16 October 2014 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff ([link](#)).

This is a major simplification for Klevenberg and it would be impossible for Klevenberg to continue operations without this simplification. Klevenberg simply makes the loading lists available to Dutch customs together with the relevant declaration stating “*van artikelen*” (see list of articles) in case of a T1 Document or “*Ship stores according attachment*” in case of an export (EX A) declaration.

²⁹ COMMISSION IMPLEMENTING REGULATION (EU) No 1101/2014 of 16 October 2014 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff, CHAPTER 99, SPECIAL COMBINED NOMENCLATURE CODES, Sub-chapter II “Statistical codes for certain specific movements of goods”, Point 2 in combination with Regulation (EU) No 113/2010 and Regulation (EC) No 1982/2004.

³⁰ COUNCIL REGULATION (EC) No 1186/2009 of 16 November 2009 setting up a Community system of reliefs from customs duty defines ‘export duties’ to mean agricultural levies and other export charges provided for under the common agricultural policy or under specific arrangements applicable to certain goods resulting from the processing of agricultural products. Klevenberg does not pay this charge.

³¹ Repayment of customs & excise duty and import VAT could nonetheless be at stake, where customs procedures for non-union goods are not correctly discharged.

³² Article 20 of Commission Regulation (EU) No 113/2010 (OJ L 37/1) attributes at harbours or airports and intended for on-board consumption (by persons & engine). These goods are reported with simplified CN codes.

3.2 Customs warehousing

Klevenberg operates a warehouse which has a capacity of 135,000m³.



It is used, principally, in three ways:



To store and replenish permanent provisions, including imported non-EU meat and fish products, which require refrigeration or freezing (in its 800 m² facility).



To store technical and non-technical stores (with capacity for 10,000 full pallets). This includes, for example, a 500 m² bunker storage facility to store hazardous substances and chemicals.



To cater for specific storage needs of Klevenberg's customers even for an extended period.

This enables Klevenberg to:

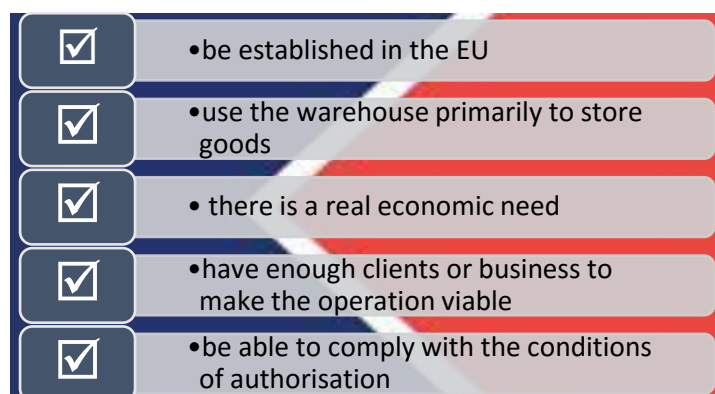
- ✓ deal with smaller individual deliveries from our suppliers at the same time as fulfilling large and complex customer orders,
- ✓ store hundreds of different items, of variant quantities (often small) and values (often high),
- ✓ manage daily fluctuations of stock held, with daily deliveries and departures of goods.

Not just a warehouse – a *customs* warehouse

The ability to store goods customs duty and import VAT free in a customs warehouse for an indefinite time allows Klevenberg to:

- ✓ include a larger variety of products to accommodate international tastes and preferences of the crew,
- ✓ store vessel specific spare parts³³
- ✓ source products at cheaper price as if purchased in the EU
- ✓ store goods on behalf of others (as warehouse keeper).

Klevenberg has been authorised for a premises-based, private “type C” customs warehouse meeting these criteria:



Belastingdienst
Douane Rotterdam Haven

Postbus 3070 6401 DN HEERLEN
Klevenberg Shipping Center B.V.
Postbus 5490
3008 AL ROTTERDAM

Telcel: (010) 290 41 74
Telefax: (010) 290 49 30
Business Unit 4 / Klantenmanagement team 3
Doorkiesnummer (010) 290 49 71

Datum: 4 december 2012
De kenmerk: 12/37914000
Kenmerk: 12/37914000

Bevat:
Vergunning douane-entrepot - vergunningcode: 8.933.902
ENTREPOT TYPE C

Gachte heer/mevrouw,

Op 3 december 2012 heeft u een wijziging aangevraagd voor uw Vergunning douane-entrepot (Type C). Het betreft het toevoegen van een locatie.

Hierbij ontvangt u een herdruk van deze vergunning met de voorwaarden die erbij gelden.

Als u het niet eens bent met deze beslissing:
Bent u het niet eens met deze beslissing? Dan kunt u bezwaar maken. Stuur een brief naar Belastingdienst/Couane/Rotterdam Rijnmond Terugbetaling Bezwaar en Beroep Postbus 3070 6401 DN Heerlen Vermeld altijd de reden van uw bezwaar en het kenmerk van deze brief. Uw bezwaar moet bij ons binnen zijn vóór 18 januari 2013.

Meer informatie:
Heeft u nog vragen over de werking van de vergunning? Kijk op www.douane.nl. Heeft u nog vragen over deze brief en/of bijlagen? Belt u dan uw klantmanager: (010) 290 49 71.

Hoogachtend,
namens de inspecteur
Behandeld door: R.M. de Voigt
Belastingdienst/Couane

Klevenberg's customs warehouse authorisation

Please refer to **Annex IV** for a description of Klevenberg's goods in – storage – goods out process.

From a customs perspective, Klevenberg pays special attention to the compliant removal of non-Union goods from their warehouse, as this discharges Klevenberg's duty liability. Once all items of an order have been picked, Klevenberg's customs department notifies Dutch customs (see 2.3.) and draws up and automatically files customs declarations with the e-Customs systems of Belastingdienst (Dutch customs)³⁴. Loaded goods cannot leave the warehouse until customs clearance in form of a unique bar coded Movement Reference Number (MRN) has been received. Goods are then loaded onto the truck. Equipped with the CMR, the EAD or TAN and other legal documents³⁵, the driver departs for the vessel.

³³ Large and small items may be stored for many years and may only be called upon if a vessel machine part is faulty and requires urgent spares. These goods are not owned by Klevenberg; they belong to a vessel owner and are just stored.

³⁴ Klevenberg uses the “Customs Declaration Service” of Softpak, a Dutch software company which can exchange electronically export, import and Transit (NCTS) declarations with the Dutch Customs department.

³⁵ This includes, for example, delivery notes, delivery receipt confirmation letters, invoices, customs documents (for outside of the Netherlands) and other certificates (e.g. dangerous goods forms, veterinary, technical).



Klevenberg's own customs department generates customs + transport paperwork. All documentation issued is maintained by Klevenberg both electronically and in paper.



Drivers need to sign a check list confirming receipt of all documentation before they can leave the warehouse.

An example of the CMR is provided below:

Exemplaire pour Exemplaar voor Exemplar für		expéditeur afzender Absender		LETTRE DE VOITURE - DOCUMENT DE TRANSPORT VRACHTBRIEF - VERVOERDOCUMENT FRACHTBRIEF - TRANSPORTDOKUMENT		CMR (AVC-2002)		Code transporteur Vervoerderscode Code Frachtführer		No Nr			
1 Expéditeur (nom, adresse, pays) / Afzender (naam, adres, land) Absender (Name, Anschrift, Land) Klevenberg Shipping Center B.V. Bunschotenweg 58 3089 KC Rotterdam The Netherlands				Indien de overeengekomen plaats van inontvangstneming en van aflevering van de zaken zijn gelegen in twee verschillende landen zijn het CMR-Verdrag alsmede in aanvulling daarop de Algemene Vervoercondities 2002, laatste versie, van toepassing. NL 156000596 Indien de overeengekomen plaats van inontvangstneming en van aflevering van de zaken zijn gelegen in Nederland zijn de Algemene Vervoercondities 2002, laatste versie, van toepassing. De Algemene Vervoercondities 2002, laatste versie, zijn door sVa / Stichting Vervoeradres gedeponeerd ter griffie van de arrondissementsrechtbank te Amsterdam en Rotterdam.									
2 Destinataire (nom, adresse, pays) / Geadresseerde (naam, adres, land) Empfänger (Name, Anschrift, Land)				16 Transporteur (nom, adresse, pays) / Vervoerder (naam, adres, land) Frachtführer (Name, Anschrift, Land)									
3 Lieu prévu pour la livraison de la marchandise (lieu, pays) / Plaats (bestemd) voor de aflevering der goederen (plaats, land) / Auslieferungsort des Gutes (Ort, Land)				17 Transporteurs successeurs (nom, adresse, pays) / Opvolgende vervoerders (naam, adres, land) Nachfolgende Frachtführer (Name, Anschrift, Land)									
4 Lieu et date de la prise en charge de la marchandise (lieu, pays, date) / Plaats en dat. v. inontvangstneming der goederen (plaats, land, datum) / Ort und Tag der Übernahme des Gutes (Ort, Land, Datum) Rotterdam, The Netherlands 10-02-2015				18 Réserves et observations du transporteur / Voorbehoud en opmerkingen van de vervoerder Vorbehalte und Bemerkungen des Frachtführers									
5 Documents annexes / Bijgevoegde documenten Beigefügte Dokumente See documentlist, receipts, invoices													
6 Marques et numéros / Merken en nummers Kartzeichen und Nummern		7 Nombre de colis / Aantal coli Anzahl der Packstücke		8 Masse d'emballage / Masse van verpakking An der verpakking		9 Nature de la marchandise / Beschrijving der goederen Beschreibung des Gutes		10 No. statistique / Statistisch nummer, Substanznummer		11 Poids brut, kg / Bruto gewicht n.g. Bruttogewicht in kg		12 Contage m³ / Inhoud in m³ Ladungsm³	
		658		COLLI SHIPSTORES ** VC 7604150231 **						12 920 KOS			
15NL03C26B291558B9		3,011,50 KOS		15NL0363F02FFBD520		7 KOS		+ SEVERAL CERTIFICATES					
15NL03668D29368ED1		1,887,00 KOS		NP 1500000081		31 KOS							
15NL000510169FE152		546,92 KOS		15NL00051016A070A5		7 KOS							
15NL03C26E23F304E0		6,558,14 KOS		15NL00051016A0C391		44 KOS							
15NL00051016A1B517		447,35 KOS											
15NL00051016A1B442		168,30 KOS											
15NL034ECD22D39B80		91,25 KOS											

The multiple MRNs show that many customs declarations have had to be filled in order to deliver all the ordered goods.

3.3 Customs procedure for goods leaving the Union

Some MS do not consider ship supply to be a genuine export operation, and, consequently, do not treat it as such. In 2011, the EU Commission attempted to clarify the customs declaration requirements for ship supply in guidelines³⁶ stating:

3. Export formalities for aircraft and ship supplies

Community goods delivered tax exempt as aircraft and ship supplies are considered to have left the customs territory of the Community once they have been loaded onboard the aircraft or vessel, regardless of the destination of the aircraft or ship. As a result, a customs declaration for aircraft and ship supplies is required following the normal export formalities as outlined in Article 786 2 (b) CCIP.

Dutch customs followed this interpretation and requires Klevenberg to submit export declarations for Union ship supply goods.

For traditional (direct) exports of Union ship supply goods within the Netherlands, Klevenberg lodges export declarations. These will be closed by the software of the Dutch customs authorities once the MRN numbers of the export declarations are supplied. The export declarations will be closed as soon as the customs closes the ship manifest, to which these MRN numbers are connected. For these exports, the customs clearance procedure works without significant difficulties.

The challenge arises when Klevenberg needs to supply a vessel in a different MS. This can make indirect exports very difficult.

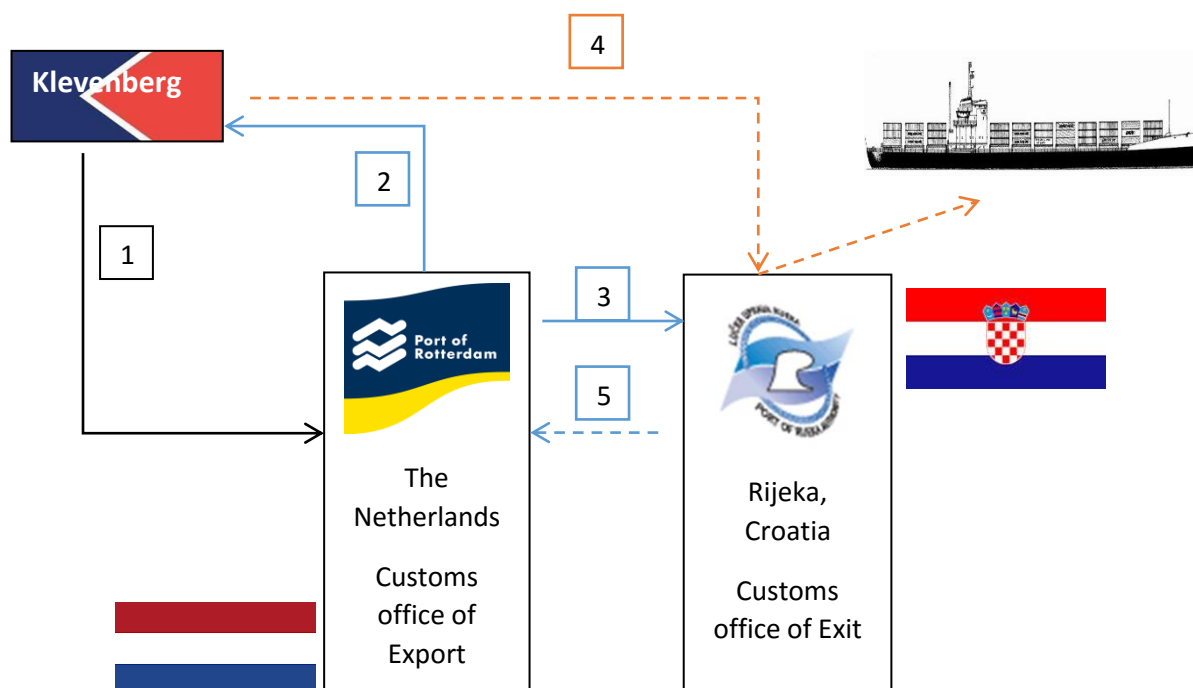
Article 786 CCIPs

1. The **export procedure**, within the meaning of Article 161(1) of the Code, shall be used where Community goods are to be brought to a destination outside the customs territory of the Community.
2. The **formalities concerning the export declaration** laid down in this Chapter shall also be used in cases:
(b) **where Community goods are delivered tax exempt as aircraft and ship supplies, regardless of the destination of the aircraft or ship.**

³⁶ Taken from Annex 3 of the Guidelines for export procedures and exit formalities, "SPECIFIC RULES FOR AIRCRAFT AND SHIP SUPPLIES". See web link at: http://ec.europa.eu/ecip/documents/procedures/annex_3_rules_ship_aircraft_en.pdf (accessed 27.05.2015)

Fundamental challenge 1: Dealing with Indirect Exports

“Indirect export” describes the movement of goods to a non-EU destination that travel through another member state of the EU. For Klevenberg, an ideal scenario³⁷ would be:



Step	Description
1	Klevenberg lodges export declaration electronically.
2	Dutch customs accepts export declaration, opens the export movement, and allows generation of MRN.
3	Office of Export in Rotterdam informs customs office of exit (Croatia) of future arrival of goods in Croatia.
4	Goods travel with <u>EAD</u> through different MS by road. The truck driver presents the EAD to the office of exit ³⁸ in Rijeka.
5	Exit confirmation message is sent from Rijeka customs to Rotterdam customs, which closes the open export movement.

It is the non-closure of the open movements by customs authorities that is Klevenberg’s biggest challenge. Despite a legal requirement to inform the customs office of export about the permanent departure of Klevenberg’s stores, non-closure of open movement commonly occurs.

2. The customs office of exit shall forward the ‘Exit results’ message to the customs office of export at the latest on the working day following the day the goods leave the customs territory of the Community. In cases justified by special circumstances the customs office of exit may forward that message at a later date.

Article 796d, 2 CCIPs requires the Customs office of exit to forward the exit confirmation message in one day.

³⁷ This is a greatly simplified process description. For a more comprehensive analysis of indirect exports, see **Annex V**

³⁸ That is the last country in control of the goods prior to them leaving EU territory.

Reasons include:

- An additional local or national requirement (document, certification, procedure or even law), unknown to the ship supplier, has been imposed. Non-compliance means the movement stays open.
- Non-recognition of ship supply as an export. No export declaration would be required, so an open movement would not be closed.

Overall, it is the lack of the harmonised application of the export procedure for all EU-28 that complicates ship supplies greatly.

Given that vessels do not decide which port to call based on customs authorities understanding of the ship supply industry, Klevenberg had to find practical solutions to deal with this challenge.

A workarounds had to be found. The EU legislation allows Klevenberg to present “*alternative proof*” to evidence exit of goods. Originally intended as a measure of last resort, is now a mandatory daily process for ship supply.

Drivers are instructed, post supply, not to depart from a vessel without having collected sufficient and multiple “*alternative proofs*” that the Dutch customs will accept to close an open movement.

The exporter or declarant may provide the customs office of export with evidence that the goods have left the customs territory of the Community.

4. The evidence referred to in paragraph 3 may be provided in particular by one of the following means or a combination thereof:

- (a) a copy of the delivery note signed or authenticated by the consignee outside the customs territory of the Community;
- (b) the proof of payment or the invoice or the delivery note duly signed or authenticated by the economic operator which brought the goods out of the customs territory of the Community;
- (c) a declaration signed or authenticated by the company which brought the goods out of the customs territory of the Community;
- (d) a document certified by the customs authorities of a Member State or a country outside the customs territory of the Community;

Article 796da, CCIP – Solution for Klevenberg’s open movements

Fundamental challenge 2: Dealing with alternative proof under transit regime

At present, once non-union goods are removed out of Klevenberg's warehouse, the Dutch customs requires Klevenberg to apply the external Union transit (T1) procedure³⁹ to deliver supplies on-board vessels. This procedure is somewhat different than the export procedure⁴⁰. The key challenge for Klevenberg is Article 366 CCIP.

Art. 366, 2 (b) requires Klevenberg to present an alternative proof with a customs stamp. Because of e-Customs, most offices do not stamp customs documents anymore; however, this is still required by legislation. Due to this, many penalties arise for ship suppliers.

When amending the Community Customs Code over the last years, this "last stamp" was clearly overlooked.

The challenges with the transit "alternative proof" provisions show very clearly that reality changes often and much faster than theory (legislation) in the EU.

Article 366

1. The proof that the procedure has ended within the time limit prescribed in the declaration may be furnished by the principal to the satisfaction of the customs authorities in the form of a document certified by the customs authorities of the Member State of destination identifying the goods and establishing that they have been presented at the office of destination or, where Article 406 applies, to an authorised consignee.

2. The Community transit procedure shall also be considered as having ended where the principal presents, to the satisfaction of the customs authorities, one of the following documents:

(a) a customs document issued in a third country entering the goods for a customs-approved treatment or use;

(b) a document issued in a third country, stamped by the customs authorities of that country and certifying that the goods are considered to be in free circulation in the third country concerned.

3. The documents mentioned in paragraph 2 can be replaced by copies or photocopies, certified as true copies by the body which certified the original documents, by the authorities of the third countries concerned or by the authorities of one of the Member States.

Alternative proof procedure under transit does not allow for multiple ways to prove a completed transit movement. It still requires a customs stamp to be a valid alternative proof – an out-dated form for proof. This creates additional challenges for Klevenberg.

³⁹ In this way, Klevenberg can suspend the duties and other charges applicable until the goods reach their destination in the Union. These ship supplies have not been entered for home use and are, therefore, not in free circulation. This is known as goods having "T1 status".

⁴⁰ Please see Annex VI for a detailed description of the T1 procedure.

PART 4: Impact of the UCC & a plan for harmonised rules for the ship supply industry

In this part:

- *Assessment of the potential impact that Union Customs Code changes will have on the customs procedures and processes used by Klevenberg.*
- *Production of a plan on how, in the framework of the UCC, harmonised rules for ship supply can be introduced to access the EU and explanation of the advantages of doing so.*

4.1 Impact of the Union Customs Code on Klevenberg

Time is fast running out for Klevenberg to prepare for the changes that occur on 1 May 2016 with the application of substantive provisions of the UCC⁴¹ once the DA, IA and TA are adopted and in force⁴². In this section, we have focused on the key changes for Klevenberg from a financial and operational perspective.

4.1.1 Mandatory financial guarantees Klevenberg's customs warehouse



A key change for Klevenberg is the new requirement that all customs duties which are potentially due through the operation of a customs duty suspension regime, such as customs warehousing, have to be secured by a guarantee. This could result in a significant cost⁴³ for the company. Typically, banks will provide guarantees, but they may also require additional security in the form of a cash deposit, or by a reduction in lending facilities. As banks have become increasingly reluctant to provide guarantees, it is likely that it will become increasingly difficult and more costly for Klevenberg to obtain the necessary guarantee.

The good news for the company is that Klevenberg, as AEO, will be entitled to a guarantee waiver.

⁴¹ The Union Customs Code (UCC) was adopted on 9 October 2013 as Regulation (EU) No 952/2013 of the European Parliament and of the Council. It entered into force on 30.10.2013.

⁴² IT related changes will be applied in a phased approach from 1 May 2016 to 31 December 2020 and a transitional period is foreseen until 31 December 2017. A transitional act is expected to adopt in the near future.

⁴³ Assuming Klevenberg had an average stock of non-union goods of €25 million, with a potential customs duty liability, at 5%, of €1.25 million. Not only would Klevenberg face bank charges for provision of a guarantee for €1.25m, but the company would also need to deposit the equivalent amount of cash, or face a reduction in working capital.

4.1.2 Focus on Authorised Economic Operator certification

The AEO is a trusted trader status, awarded to businesses that have demonstrated their ability to secure their international supply chain and comply with customs regulations.



Klevenberg has been AEO certified since November 2011⁴⁴:

Last update: 04-04-2015

Authorised Economic Operators - Query page

Retrieve Authorised Economic Operators

Please select any combination of data concerning a certificate holder (country, certificate type, holder name)

Certificate holder name

Issuing country Netherlands - NL - (003)

Certificate type

- ☒ AEOC - Customs simplifications
- ☒ AEOF - Customs simplifications/Security and safety
- ☒ AEOS - Security and safety

Search

Search rules:
 To search for a part of a word in the name box use the percent sign as a wildcard. A search for "Com%" finds all names in which one of the following words appear: "Company", "Component", "Computer", "Common", etc. Search words are not case sensitive; searches for "COMP" and "coMp" are treated the same.

1 results match your search 1 - 1

Holder	Issuing Country	Competent Customs Authority	Certificate Type	Eff. Date
Klevenberg Shipping Center B.V.	Netherlands	NL000383	AEOF - Customs simplifications/Security and safety	24/11/2011

Under the UCC, the requirement to be AEO certified echoes throughout the legal text. For Klevenberg, this can be summarised in the following way:

AEO and customs authorisations	AEO and customs simplifications	AEO authorisation to the re-assessed!
<ul style="list-style-type: none"> •To continue customs warehousing, Klevenberg will have a legal requirement to meet AEO criteria. •The customs warehousing authorisation will need to be re-assessed by Dutch customs under UCC criteria. •The renewal of Klevenberg's existing authorisations will depend on how well the company meets these from 1 May 2016. 	<ul style="list-style-type: none"> •Many future simplifications will require meeting some or all of the AEO criteria. •These include: <ul style="list-style-type: none"> •Centralised Clearance •Entry into Records •Self Assessment • Klevenberg should analyse which of its 15 authorisations have to be re-assessed against UCC criteria and for which Klevenberg can newly apply in 2016. 	<ul style="list-style-type: none"> •Two new AEO criteria are being introduced in the UCC: <ul style="list-style-type: none"> •professional customs competence •adherence to relevant taxation rules. •Klevenberg's AEO authorisation must be re-assessed to ensure the company meets these new criteria (see box below).

⁴⁴ Maintained by the EU Commission and updated by the EU Member States, the AEO-Databases lists the name of AEO certified companies. Accessible here: http://ec.europa.eu/taxation_customs/dds2/eos/aeo_consultation.jsp?Lang=en (accessed 05.04.2015)

Klevenberg is expected to meet the new AEO criteria as follows:

New AEO criteria	Compliance in Klevenberg
Professional customs competence	Klevenberg, from 1 May 2016, needs to show a high level of knowledge with legal and practical customs law. Customs manager Peter de Haas Jr. confirmed that he has worked at the company for over 20 years as customs manager and has a team of competent managers as “back-up”. He is often asked by the Dutch customs for advice on ship supply matters.
Adherence to relevant tax rules	The finance Director Mr Cupido confirmed that their tax accounts are internally and externally audited every year so that adherence with other tax rules can be assured.

4.1.3 Simplified customs declarations

The opportunity to accelerate customs clearance is very important for Klevenberg. New simplifications will be introduced under the UCC, allowing authorised traders to clear goods easier and faster:

Self-Assessment

Being authorised for customs self-assessment means managing and monitoring one’s own customs activities. Klevenberg will gladly take responsibility for and perform certain formalities/controls normally undertaken by the Dutch customs. This could, for example, mean discharging duty liability or even closing its own open movements.

Entry into records

Klevenberg will be able to notify the Dutch customs periodically of the amount of duty payable for the defined period for example monthly. This will move Klevenberg away from transaction-based controls to system-based controls based on risk. This will result in fewer customs interference and faster customs clearance.

Klevenberg is eligible for both simplifications as it holds AEO status.

4.1.4 Re-Export

As explained in 3.3, the Dutch customs requires Klevenberg to apply the T1 procedure and use the New Transit Control System (NCTS)⁴⁵ in order to deliver non-union supplies on-board vessels.

In order to accelerate this process, Klevenberg is both “authorised consignee” and “authorised consignor”, which brings about major additional simplifications⁴⁶.

Furthermore, thanks to the trusted trader status of Klevenberg, the Dutch customs has granted the company a special national authorisation to close open T1 movements used for deliveries on-board of vessels in Dutch harbours.

Under the UCC (and, in fact, the current CCC⁴⁷), Article 270 stipulates that Klevenberg should lodge a re-export declaration going forward from 1 May 2016.

The image shows a Dutch customs T1 transit declaration form (Douaneformulier - BEGELIJDINGSDOCUMENT). The form is filled out for Klevenberg Shipping Center B.V. in Rotterdam. It includes sections for the declarant, the goods (Zie lijst van artikelen), and the destination (Land van bestemming: HR). The form also contains a barcode and a reference number (MRN 15NL00051016A070A5).

⁴⁵ EU's electronic tool to manage and control the EU's transit system.

⁴⁶ For example, Klevenberg can create the transit declaration in their own computer system, carry out all the procedures at its own premises, exchange all information with Dutch customs electronically send the corresponding declaration message electronically to the office of departure without the goods having to be presented there, move T1 ship supplies from or to Klevenberg's premises and ports without the need to present the goods and corresponding documents to the Office of Departure or Destination, print the TAD at their premises, unload (authorised consignees) the ship supplies and send and receive by electronic means subsequent messages, including requests for correction of the declaration, notification of its acceptance and notification of the release of goods.

⁴⁷ To be precise, already the introductory paragraph 7 of Commission Regulation (EU) No 430/2010 of 20 May 2010 amending the CCC stated that "it should be clarified that the export formalities are not only to be used for Community goods which are to be brought to a destination outside the customs territory of the Community, but also with regard to tax exempt aircraft and ship supplies so that persons delivering such supplies can receive a proof of exit from the customs territory of the Community needed for the purposes of tax exemption. The same rules should apply where non-Community goods are to be re-exported under cover of a re-export declaration".

Web link: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:125:0010:0018:EN:PDF> (accessed 30.04.2015)

This would make sense, as vessels calling EU ports:

- often have foreign ownership,
- fly a non-EU flag,
- move into international waters (outside the 12 mile zone) in almost every instance,
- consume all non-union ship supply goods on-board (crew & machinery).

If ship supply goods were taken off the vessel in an EU port, they would lose their designation as ship supply and would need to be imported under standard import procedures for non-union goods.

Article 270

Re-export of non-Union goods

1. Non-Union goods to be taken out of the customs territory of the Union shall be subject to a re-export declaration to be lodged at the competent customs office.
2. Articles 158 to 195 shall apply to the re-export declaration.

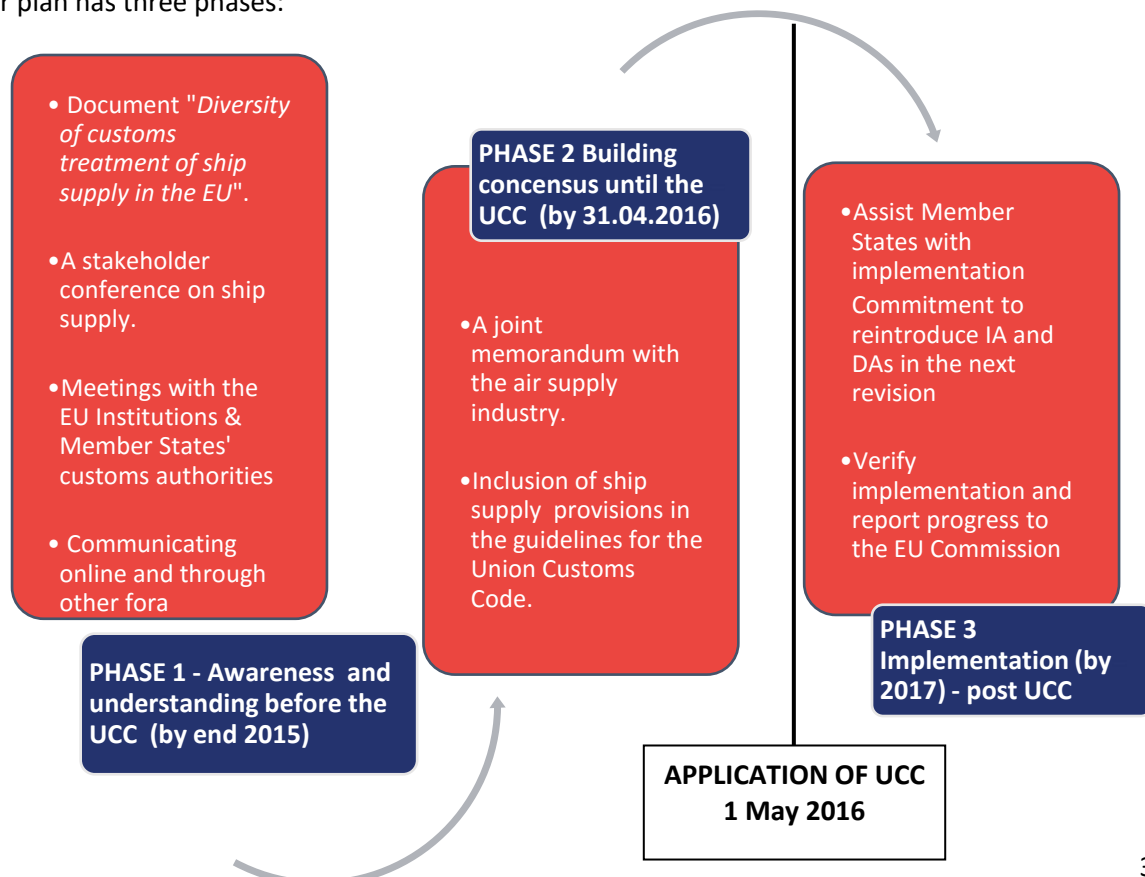
Article 270 UCC clarifies that the re-export procedure is to be used for non-union goods leaving the Union.

4.2 A plan for harmonised customs rules for the ship supply industry

When the UCC is applied in 2016, the ship supply sector will remain a patchwork of EU and national customs legislations, without any tangible harmonisation (for reasons see Part 2.2). A plan is, therefore, needed to bring about a better harmonisation in the ship supply sector. The advantages of doing so are:

- ✓ Lower costs for ship suppliers
- ✓ Being able to face global competition which is not subject to stringent EU rules
- ✓ More competition = faster company development / improvement
- ✓ Faster access to vessel, better service to customer
- ✓ More choice for ship owners / captain
- ✓ Better contingency planning, in case of emergency or vessel re-routing

Our plan has three phases:



4.2.1 PHASE 1 - Raise awareness and understanding

This phase aims at creating a level of basic understanding of what ship supply is, in which international trade context it operates and how it is treated in the UCC. Klevenberg cannot do this alone and should aim to cooperate with other ship suppliers through established trade bodies⁴⁸.

Step 1: Raising awareness

A first step includes raising awareness. Communicating through online media (e.g. Klevenberg's website or the websites of relevant trade associations) allows for interested parties to read about the ship supply sector and its particularities.

Klevenberg, together with its European partners, should also collect cases that clearly demonstrate the diversity of customs treatment of ship supply in the EU and publish its findings.

Step 2: Meetings with EU Institutions & Member States' customs authorities

Equipped with the document *"Diversity of customs treatment of ship supply in the EU"*, it is now important for Klevenberg and others to engage with the decision-makers to make them understand the challenges the sector faces.


<http://www.nvvs-online.nl/>

www.shipsupply.eu
Two trade associations which can help Klevenberg to bring about a more harmonised ship supply sector with equal customs rules.

This should be a well-coordinated effort to ensure that across European capitals and within the EU institutions, the same key messages are being heard. Opportunities could arise in:

- ✓ UCC conferences
- ✓ One-to-one meetings
- ✓ UCC meetings of the EU Commission
- ✓ UCC Events in the Member States / European Parliament
- ✓ Association events which focus on UCC

The key decisions-makers would be:



⁴⁸ Examples include the Dutch Ship Supply Association in the Netherlands or the European Ship Suppliers Organisation (OCEAN).

Step 3: A stakeholder conference

One of the key actions of Phase 1 is to organise a stakeholder conference specifically for ship supply under the UCC. EU and Member States customs officials, customs managers of ship supply companies and other stakeholders will be invited to meet together and try to define ship supply, its governing customs procedures and particularities under the UCC. A fictional draft agenda has been produced in **ANNEX VI**. The photos, videos and results of the conference would be made available for participants and online.

4.2.2 PHASE 2 – Building consensus

The next phase aims to build a consensus that may lead to legislative action. First, meetings with the airline industry should produce a joint memorandum clarifying that air supply and ship supply are different operations and should not be forced into the same legislative framework and that ship supply needs its own rules.



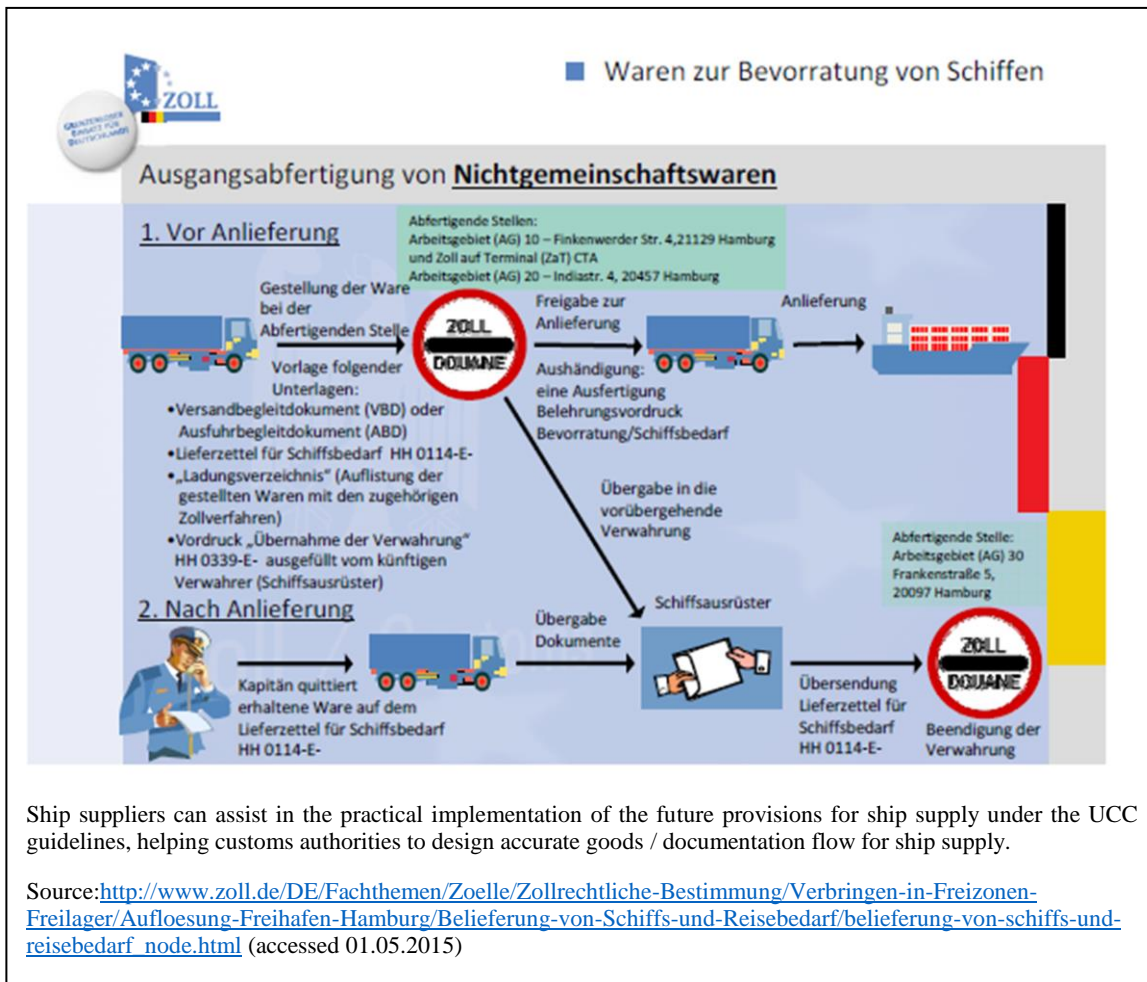
The Association of European Airlines brings together 25 major airlines. The difference between ship and air supply may be discussed with them.

Equipped with better understanding in the MS of limitations in bringing about the harmonisation of the procedures for ship supply⁴⁹, it is only reasonable to assume that the forthcoming guidelines on the UCC should contain specific provisions relating to ship supply. Klevenberg should offer national and EU customs authorities all possible support and information when these guidelines are drafted.

⁴⁹ See 4.1, and the unclear legal language in the UCC's Articles 269 and 270 and the non-existence of explanation and additional rules for ship supply in the DA and IA.

4.2.3 PHASE 3 – Assist implementation by MS

Once ship supply provisions have been successfully added to the guidelines to the UCC, it is important, in the final step, to ensure they are correctly implemented across the MS. Where appropriate, Klevenberg may assist with the implementation by providing the EU Commission and MS examples of challenges encountered.



Ship suppliers can assist in the practical implementation of the future provisions for ship supply under the UCC guidelines, helping customs authorities to design accurate goods / documentation flow for ship supply.

Source:http://www.zoll.de/DE/Fachthemen/Zoelle/Zollrechtliche-Bestimmung/Verbringen-in-Freizonen-Freilager/Aufloesung-Freihafen-Hamburg/Belieferung-von-Schiffs-und-Reisebedarf/belieferung-von-schiffs-und-reisebedarf_node.html (accessed 01.05.2015)

PART 5: Conclusions and Recommendations

The EU Single Market is 23 years old in 2015 and has been providing, together with the 47 year old EU Customs Union, freedom of movements for goods and the harmonised application of customs rules across all EU Member States.

Unfortunately, the ship supply sector has not benefited as much from this freedom as other sectors have. Although subject to the same rules, the unlucky marriage between air and ship supplies in EU customs legislations, the lack of an EU wide definition of ship supply and then question of whether ship supply is a genuine export have left too much discretion to MS to enforce purely national solutions for ship supply, distorting the overall EU ship supply market.

Although national solutions can be helpful where they expedite delivery of goods on-board of vessels, they are often only of benefit to national ship suppliers and, in the worst case, discriminate against other EU ship chandlers. Moreover, the lack of understanding of the key characteristics of ship supply of some customs authorities can have disastrous consequences for the industry. The result is higher operational costs, loss of business to ship suppliers outside the EU, and increased risk of non-compliance. By and large, national customs rules complicate ship supply delivery and the lack of EU harmonisation prevents the sector from reaching its full potential. The EU Single Market is NOT a reality for ship supply due to, partially at least, incomplete customs legislation at EU level. Currently, it looks as if this will not change under the UCC.

For this reason, Klevenberg still regularly finds, even with more than 15 authorisations for simplifications and facilitations and AEO status, that clearing ship supply goods at customs can be a frustrating, time consuming and expensive experience. Too often, workarounds to discriminating rules still need to be found.

Recommendation

In the short term:

- Klevenberg should develop, together with its European partners, a practical customs guide for ship suppliers. Such 'living guide' could inform customs managers about national rules and particularities, propose best practices, suggest workarounds where needed, all of which could make supplying vessels in other MS a little more manageable. Such a guide could also be useful for EU & national customs authorities to inform them on the diversity of customs treatment of ship supply in the EU.
- Klevenberg should request the EU Commission and MS to include a specific section in the UCC guidelines as regards the customs treatment of ship supplies which would:
 - provide an EU-wide definition of ship supply; clearly distinguishing air- and ship supply;
 - give scenarios and illustrative examples for where and how Articles 269, 2 (c) and Article 270 UCC apply;
 - clarify, once again, that regarding customs procedures for ship supply, any subsequent destination of a vessel is irrelevant. Once goods are delivered on-board as ship supply, they are considered to have left the EU.

In the medium term:

- Klevenberg should push for the development of an organised plan to bring about a more harmonised ship supply sector in the EU, aiming for a genuine European Single Market for ship supply. This should be developed with the help of trade associations at national and EU level. Such plan is provided for in this report.

In the long term:

- Klevenberg should assess which national solutions would be helpful to the EU ship supply industry as a whole and which should, consequently, be allowed at European level, as well. As such, the creation of a European “Lieferzettel für Schiffsbedarf” or an EU electronic “Meldingsformular proviand/bunkers” could be an interesting way forward.

Glossary

You will find in this section a glossary of all relevant terms and expressions used in this work in alphabetical order. We have highlighted when the naming convention changes under the Union Customs Code.

Abbreviation	Name under Union Customs Code	Name under Community Customs Code	Explanation
AEO	Authorised Economic Operator		Authorised Economic Operator is an accreditation granted to businesses that satisfy strict customs criteria to demonstrate consistent quality, compliance and trustworthiness in the international supply chain. The AEO is recognized throughout the EU and internationally.
	Approved exporter (export procedure)		A person who has been authorised to use the local clearance procedure for exports, i.e. he places the goods under the procedure by entry in his records and notifies the customs authorities of the removal of the goods from his premises in the manner specified in the authorisation (Arts 283-289 CCIP)
	Authorised Consignee		Person authorised to carry out transit operations without presenting the goods and the transit declaration at the office of departure.
	Authorised Consignor		Person authorised to receive at his premises or at any other specified place goods under a transit procedure without presenting them and the transit declaration at the office of destination.
CCC	Community Customs Code		Regulation 2913/92 of 12 October 1992, OJ L 302, 19.10.92, as amended)
CCIP	Community Customs Code Implementing Provisions		Regulation 2454/93 of 2 July 1993, OJ L 293, 11.10.93, as amended
CMR	<i>Contrat de transport international de Marchandises par Route</i> (International waybill for transport of goods by road)		The CMR Convention (full title Convention on the Contract for the International Carriage of Goods by Road) is a United Nations convention that was signed in Geneva on 19 May 1956. It relates to various legal issues concerning transportation of cargo by road. It has been ratified by the majority of European states.
CN	Combined Nomenclature		The CN is a method for designating goods and merchandise which was established to meet, at one and the same time, the requirements both of the Common Customs Tariff and of the external trade statistics of the Community. The CN is also used in intra-Community trade statistics.

	Customs debt	The obligation on a person to pay import or export duties under the provisions of the Community/Union Customs Code and the Common Customs Tariff
	Customs declaration	The act whereby a person indicates the wish to place goods under one of the customs procedures provided for by the Community Customs Code (Arts 4 (17), 59 - 78 CC)
	Customs procedure	The CCC provides for 8 customs procedures: release for free circulation, transit, customs warehousing, inward processing, processing under customs control, temporary importation, outward processing, and exportation (Art. 4 (16) CC). Under the UCC, this will be reduced to four: transit, storage, processing and special use.
CW	Customs warehousing	Customs procedure allowing the storage of (Art. 98 (1) CC) non-Community goods without subjecting them to import duties or commercial policy measures, and Community goods with a view to applying measures normally requiring the export of such goods
DA	Delegated Act of the Union Customs Code	
EAD	Export accompanying document	The EAD accompanies the goods to the office of exit, after an export declaration is processed at an office of export.
EORI	Economic Operators Registration and Identification number	The EORI scheme is an EU initiative that helps traders to communicate with customs officials when they are importing and exporting goods. Importers and exporters are able to register for an EORI number which is valid throughout the EU.
ERP	Enterprise Resource System	Enterprise resource planning (ERP) is business process management software that allows an organization to use a system of integrated applications to manage the business and automate many back office functions related to technology, services and human resources.
EU or EU-28	European Union	Union of 28 countries on the European continent.
EX	Export	The customs procedure for taking Community / Union goods out of the customs territory in order to ensure compliance with export restrictions (Art. 161 CC).
	Exporter	The person on whose behalf the export declaration is made and who is the owner of the goods or has a similar right of disposal over them (Art. 788 CCIP). Under other Regulations it is the person who is partner of

		the export contract, the holder of an export licence or who is entitled to export refunds
IA	Implementing Act of the Union Customs Code	
MRN	Movement Reference Number	The MRN is a unique number that is automatically allocated by the customs office that accepts the declaration. It contains 18 digits.
NCTS	New Computerised Transit System	A Europe-wide system, based upon electronic declaration and processing, designed to provide better management and control of CT.
OJ	Official Journal of the European Union	The OJ is the official gazette of record for the EU. It is published every working day in all of the official languages of the member states. Legal acts published in the OJ are binding.
	Re-exportation	Customs treatment of non-Union goods that are taken out of the customs territory (Art. 182 CC)
SAD	Single Administrative Document	This is a multi-copy form which is used throughout the Union and EFTA countries for the control of imports, exports and goods in transit
T1		Customs duties and other charges are suspended on non-Community status goods whilst they are under a customs transit procedure (T1 Status).
TA	Transitional Act	Act of the Union Customs Code, providing for transitional measures to apply from 1 May 2016 until, as currently foreseen, 31 December 2017.
TAD	Transit Accompanying Document	The TAD accompanies the goods where a transit declaration is processed at an office of departure by the NCTS. Copies A and B of the TAD replace copies No 4 and No 5 of the SAD.
UCC	Union Customs Code	The Union Customs Code (UCC) was adopted on 9 October 2013 as Regulation (EU) No 952/2013 of the European Parliament and of the Council. Its substantive provisions will apply only on 1 May 2016, once the UCC-related Commission acts (Delegated and Implementing Acts) are adopted and in force and this no later than 1 May 2016.
	Union goods Community goods	Goods which are either wholly obtained in the EU or are imported from outside the EU which have been released for free circulation.

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<http://www.belastingdienst.nl/wps/wcm/connect/bldcontenten/belastingdienst/customs/>
3. Klevenberg Shipping Center (various pages visited) <http://www.klevenberg.com/>
4. European Ship Suppliers Organization (OCEAN) www.shipsupply.eu
5. International Ship Suppliers & Services Association www.shipsupply.org
6. Nederlandse Vereniging Van Scheepsleveranciers (NVVS) <http://nvvs-online.nl/>

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- EU Law of Free Movement of Goods and Customs Union (2009), Oxford European Union Law Library, Laurence W. Gormley.
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- Various documents of modules of the World Customs Diploma course as issued by the Institute of Export in 2013-2015.

Annex I History of Klevenberg, Definition and key characteristics of ship supply

History of Klevenberg, History of ship supply

Klevenberg began its operations more than a century ago, in 1898, when the Norwegian captain, E.C. Klevenberg, founded a Skiphandel (ship trade) business.



Traditionally, customers used to make their purchases with local ship chandlers and, as such, the ship chandlery business was central to the existence and the social and political dynamics of ports and their waterfront areas⁵⁰.

Today, Klevenberg is known as a ship supplier, often also referred to as ship chandler. Generally, a ship chandler can be considered as a unique type of retail dealer who specialises in provisions, food and non-food supplies and/or equipment for ships, known as ship's stores.

Klevenberg's market

Klevenberg's potential places of operation in the EU are more than 1,200 merchant ports across the 70,000 km of the European coastline. This is where several hundred thousand ships call into these ports every year.

In the old days...

The chandler used to bring salted meat, livestock (chickens, pigs etc.), manila ropes, cargo blocks, sail and twine and related stuff, mainly for sailing vessels..

Etymology

Middle English chandeler, from Middle French chandelier, from Old French, from chandelle candle, from Latin candela, Date: 14th century

1: a maker or seller of tallow or wax candles and usually soap

2: a retail dealer in provisions and supplies or equipment of a specified kind

Source: <http://www.merriam-webster.com/dictionary/chandler>

⁵⁰ Stinchcombe, Arthur L. (1995) Sugar Island Slavery in the Age of Enlightenment: The Political Economy of the Caribbean World Princeton University Press, Princeton New jersey, pages 311-318, ISBN 0-691-02995-4

Key characteristics of ship supplies

1. *Just-in-time delivery*

Ships can only be loaded with supplies during the short period they are in harbour so time is of the essence. Access to the vessel is paramount. Klevenberg, therefore, often needs to work against time and put together mixed consignments with thousands of different articles in small quantities, purchased from a larger number of different sources. The company, therefore, is required to operate a unique “just-in-time” business, which encompasses many different transport modes in a myriad of different countries under special time and financial constraints.

2. *Variety of consignments*

Klevenberg needs to be able to supply any item that the ship, its crew and passengers may require during time spent at sea or in port, sometimes to very vessel specific requirements or national tastes of the crew. Consequently, Klevenberg has to stock a large variety of technical and non-technical items to meet the special requirements of different types of vessels and crews of many nationalities. In addition, Klevenberg has to maintain detailed lists of manufacturers and depots in order to be able to obtain rare or unusual items at very short notice.

The company must be ready to supply the entire needs of the ship any time of the day or night.

3. *An (re-)export operation, regardless of the next port of call of the vessel*

Vessels can call different ports whilst in the EU. Klevenberg will not know nor care if the subsequent stop of the vessel is in the EU or not. From a ship supply perspective, this is also irrelevant because ship supply, by nature of its name, leaves the EU as soon as it has been delivered to a vessel (which is often foreign owned). It will never re-enter the EU and goods supplied are consumed exclusively on-board the vessel, by machines or crew. Given that ship supplies have the vessel as final destination, there is no country of import. This has practical consequences for the completion of the export declaration. The name and location of the vessel would function as “consignor” on the SAD and the country code entered in Box 16 is QQ⁵¹ identifying ship supply.

⁵¹ QQ is the code in the EU to indicate “Stores and provisions”. Since 2015, a further distinction was made, code QR is to be used for “stores and provisions within the framework of trade with third countries” and QS is to be used “for stores and provisions in the framework of intra community trade” Source: GENOM 2010 Nomenclature of Countries and Territories or the External Trade Statistics of the Community and Statistics between Member States, see also see Regulation (EEC) No 2454/93, Annex 37c, Point 1 and Annex 38, Title II, box 2: <http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:1993R2454:20090701:en:PDF>)

A (customs law) definition for ship supply under the UCC

Given the lack of definition of what constitutes ship supply in Europe, the following is the author's attempt, using terminology from existing customs legislation, to provide for a simple definition of ship supply for the purposes of customs legislation under the UCC:

For the purpose of Article 269 and 270, we understand the term "ship supplies" to mean ship stores, supplies and spare parts delivered on board of sea-going vessels, used as foodstuffs and other items to be consumed and used by crew as well as for incorporation as part of or accessories in vessels and for the operation of the engines, machines and other equipment on-board. Consumption, use, incorporation and operation must take place during the journey of the vessel and ship supplies are therefore not to be taken off the vessel again (except for items mandatory maintenance and necessary repairs).

Ship supplies are not destined for import into another country.

Examples of ship supply (not exhaustive) include:

- Spare and repair parts intended for incorporation in ships for the purpose of their repair and maintenance
- Motor fuels, lubricants and gas which are necessary for the operation of machines and apparatus used on board of the ship
- Foodstuff used for consumption on board of the ship
- Durable goods and equipment (delivery of bed linen, musical instruments and TV sets for cabins)
- Technical stores

Annex II Legal references to ship supplies in CCC and UCC

COMMUNITY CUSTOMS CODE IMPLEMENTING PROVISIONS

TITLE IV

IMPLEMENTING PROVISIONS RELATING TO EXPORTATION

CHAPTER 1 General provisions for customs declarations

Article 592a

Articles 592b to 592f shall not apply to the following goods:

[...]

(o) goods which are supplied for incorporation as parts of or accessories in vessels and aircraft, motor fuels, lubricants and gas necessary for the operation of the vessels or aircraft, foodstuffs, and other items to be consumed or sold on board;

[...]

Article 592b

1. Whenever goods leaving the customs territory of the Community are covered by a customs declaration, this customs declaration shall be lodged at the competent customs office by the following deadlines:

[...]

Article 768

CHAPTER 2

Permanent exportation

Article 786

1. The export procedure, within the meaning of Article 161(1) of the Code, shall be used where Community goods are to be brought to a destination outside the customs territory of the Community.

2. The formalities concerning the export declaration laid down in this Chapter shall also be used in cases:

(b) where Community goods are delivered tax exempt as aircraft and ship supplies, regardless of the destination of the aircraft or ship.

However, in the cases referred to under points (a) and (b), it shall not be necessary to include in the export declaration the particulars for an exit summary declaration set out in Annex 30A.

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UNION CUSTOMS CODE

CHAPTER 3 Export and re-export

Article 269 Export of Union goods

1. Union goods to be taken out of the customs territory of the Union shall be placed under the export procedure.
2. Paragraph 1 shall not apply to any of the following Union goods:
 - (a) goods placed under the outward processing procedure;
 - (b) goods taken out of the customs territory of the Union after having been placed under the end-use procedure;
 - (c) goods delivered, VAT or excise duty exempted, as aircraft or ship supplies, regardless of the destination of the aircraft or ship, for which a proof of such supply is required;
 - (d) goods placed under the internal transit procedure;
 - (e) goods moved temporarily out of the customs territory of the Union in accordance with Article 155.
3. The formalities concerning the export customs declaration laid down in the customs legislation shall apply in the cases referred to in points (a), (b) and (c) of paragraph 2.

Article 270 Re-export of non-Union goods

1. Non-Union goods to be taken out of the customs territory of the Union shall be subject to a re-export declaration to be lodged at the competent customs office.

Annex III Disparities of national legislation and practices relevant for the ship supply industry

The EU has not tried to harmonize rules for ship supply, stating that current customs rules are sufficient⁵². However, national rules for ship supplies continue to be created, often, it appears without consulting other MS or the EU Commission. Ship suppliers wishing to benefit from the EU single market find this increasingly difficult leading to excessive administrative burdens and complications for ship suppliers and, in some cases, loss of orders in favour of non-EU ports.

The following extract highlights some of the disparities and challenges that Klevenberg has faced, courtesy of Mr Peter de Haas Jr. submitted during the visit to Klevenberg on 12-13.02.2015.

BELGIUM: You deliver only when we are ready!

As a 24/7 business, Klevenberg needs to deliver a vessel as soon as it calls a port. Arrival times of vessels, however, do not confirm with opening hours of customs authorities, especially in smaller ports. For supplies in Belgium, the Antwerp customs office operates 24h/7 days a week. However, in Ghent and Zeebrugge ship suppliers are only possible during opening hours.

Before the delivery, a pre delivery message has to be sent to Belgium customs authorities:

Date	Time
Monday (8am)- Saturday	Between 08.00 and 16.00 and at least one hour before delivery
Saturday – Monday (8am)	At least on Saturday, before 16.00.
Public holidays	at least before 16.00 during the last working day before the public holiday starts

Suggestion for improvement: *It is agreed that customs opening hours are not the competency of the EU legislator, but a system of electronic, automatic acceptance of customs declarations should be considered for Klevenberg and ship suppliers holding AEO status.*

⁵² “4) There is no need to provide instructions through guidelines or a working document about the issue” – Page 3 - CUSTOMS CODE COMMITTEE -Special Procedures Section - Minutes/summary record of the 42nd meeting of 26 January 2015 (TAXUD/A2/SPE/2015/003-EN), (accessed 24.04.2015)

SPAIN: “No EU Single Market in my port”

Some harbours in Spain appear to have own local regulations, which prevents supply to vessels. Access restrictions to vessels were enforced by local Spanish customs officials and the information reached Klevenberg.

Excerpts of the information note sent by local agents to Klevenberg:

DATE: 13-12-2013

FROM: Spanish agents

To: Peter de Haas Jr., Customs Manager Klevenberg

*“Please note that we can’t grant clearance of food products under T1 / EX third countries (non EU). Last supplier was blocked by customs / health authorities and goods finally burned. Pls note that only **AUTHORIZED LOCAL SUPPLIERS** are allowed to come alongside.*

Pls note that in order to get permission to access berth, suggest you contact directly with one of the local suppliers, who are authorized. Any of these suppliers could help you with storage / delivery on board.

*Pls treat this matter as **URGENT**, since truck will be stopped and not allowed to entry into port, unless access is required through one of the authorized suppliers. No any other chance.*

If you want to have permission yourselves, this is a large process, which in some cases takes 2-3 months, with bank guarantees, etc.

Pls note that on this moment, we don’t have any other alternative possible

Our “nice authorities” forced agents and brokers to recreate the T1, which should be made line by line, product by product, before delivery on board. With you 5000+ article s and only 1 hour before the vessel leaves our port, there is little hope for your goods to be delivered.

SPANISH CUSTOMS AT GIBRALTAR BORDER: Chapter 99 CN Codes for ship supplies not allowed

Specific instructions given by agents in Southern Spain to Klevenberg show how local Spanish customs authority ignore EU law as regards the simplified CN code reporting for ship supply (see Part 3.1).

Furthermore, Spanish customs officers do not appear to understand the just-in-time delivery nature of ship supply by requesting unworkable customs clearing times (which benefit themselves, rather than their customers), creating enormous costs to the company. Klevenberg's agent reports:

"Gibraltar is not part of the European Customs Union and so all ship supplies that arrive in Malaga have to be exported from the EU into Gibraltar, when they arrive at the Gibraltar/Spanish frontier. Items arriving from outside the EU, if being forwarded by you, should then be sent to Malaga under a T1 transit. We as agents will then clear the goods for exit.

*The customs house on the Spanish side of the Gibraltar/Spanish border is **NOT a maritime post**, but a terrestrial post and **so the commodity code of the export declaration they should not begin with 99, as these are for maritime posts.***

By the way - Trucks should be at the frontier by 1300 on the last working day before the vessel arrives to be cleared through customs on the same day, should it arrive later then it will be cleared on the next working day"

UK: No export declaration please – super simplification Part I

Klevenberg also experienced problems supplying the United Kingdom, as the country does not follow any kind of export procedure for ship stores and the customs treatment of ship supplies⁵³ is also not detailed in HMRC customs notices⁵⁴. HMRC only has VAT and excise related provisions for ship stores. As such, UK excise rules require the use of form C945 to request the authority for the shipment of spirits and tobacco products for use as stores, free of duty, on a ship. Upon receiving authorisation, the supply can occur.

For Klevenberg's non supplies in a UK port, a pre-notification of goods arriving and being delivered on board the vessel is required in line with Union/Community Transit Procedures.

In order to end the CT procedure in accordance with regulatory requirements, either the Principal / Carrier / recipient, must ensure that the goods and the TAD are notified at the Office of Destination (or an approved sub-place of the Office of Destination), within the required time limit, before they are delivered to the receiving vessel.

Customs will accept pre notifications from ship agencies, advising them of the arrival of goods and also endorsed T1's, by the master of the vessels, once the goods have been delivered on board. If Pre Notification is not received, CT docs will not be discharged.

Finland: No fuss please – super simplification Part II

In Finland, ship supply is considered as an export. A ship supply company applies permission from the Customs for a simplified procedure, with which they are able to deliver vessel products and report only afterwards to Customs on a monthly basis. The ship supplier completed the specific ship supply declaration and prints it from its own computer, asks loading permission from the Customs. Together with the declaration, an invoice, waybill or packing list, the customer delivers the goods to the ship.

The ship signs and stamps the documents of the delivery, i.e. Captain's signature or a person's authorised by the Captain.

The ship supplier goes to Customs or sends the documents in a PDF format so that Customs ends the export procedure.

Annex: Finish Vessel delivery pre-information in sea traffic document

TULLI
TULLI-CUSTOMS

Vessel delivery pre-information in sea traffic document
Alustoituksen ennakkoilmoitus meriliikenteessä

Lomake pyydetään toimittamaan osoitteeseen Etp.alustoimukset@tulli.fi (virka-aikana 8:00 - 16:15)
ETP.pohjoiskeskus@tulli.fi (virka-aika ulkopuolella)

ALUSTOIMITTAJAN TIEDOT *Ship info*

Alustojen nimi <i>company name</i>	Päivämäärä (pp.kk.vvvv) <i>date</i>	Kellon aika (h:mm) <i>time</i>
Pakka <i>box</i>	Ennakkoilmoituksen laji <i>type of piece</i>	Puhelinnumero <i>tel.</i>
		Sähköpostiosoite <i>e-mail</i>

ALUKSEN TIEDOT *Ship information*

Aluksen nimi <i>vessel name</i>	MID-numero	Portti / Tullin kumppani <i>Harbour No.</i>
Matkustajien lukumäärä <i>crew members</i>	Vaihtomatkustajien lukumäärä <i>changes of crew</i>	Matkustajien lukumäärä <i>Passenger</i>
Määrämaa <i>Destination country</i>	Määrämaa <i>country</i>	Määrämaa <i>Destination Harbour</i>
Lähtöpäivä (pp.kk.vvvv) <i>departure date</i>	Alustojen määrä (pp.kk.vvvv) <i>quantity date</i>	Toimituksen kelloaika (h:mm) <i>2 TIME</i>
Matkan kesto <i>time for sailing</i>	Alustojen pakka <i>quantity piece</i>	Satama / satamassa <i>Harbour Harbour</i>

VALMISTEVAROTOMAT TUOTTEET *Excise Products*

	Väkevä alkoholi <i>Strong</i>	Väkevä viini <i>Alc.</i>	Mieto viini <i>Alc.</i>	Olut <i>Beer</i>	Sideri <i>Alc.</i>	Long Drink <i>Alc.</i>	Savuke <i>Cigarette</i>	Tupakka <i>KG</i>	Sikarit <i>KPL</i>	Pikkusikarit <i>KPL</i>
Alustalla oleva määrä <i>quantity on board</i>										
Toimituksessa oleva määrä <i>quantity delivered</i>										
Edustuksessa oleva määrä <i>quantity delivered</i>										
Edustukseen esitellyt määrät <i>quantity delivered (quantity delivered)</i>										
Tullin hyväksymä määrä <i>quantity delivered</i>										
Alustojen perustelut edustukseen <i>Special representation (captain's stamp)</i>										
Alustojen muut huomautukset <i>Other comments</i>										

⁵³ referred to as ship stores in the UK

⁵⁴ From relevant excise and VAT notices, it can be concluded that the UK does not require any kind of customs declaration for the delivery of stores to a vessel. See HMRC's guidance notice 69a – web link: <https://www.gov.uk/government/publications/excise-notice-69a-duty-free-ships-stores/excise-notice-69a-duty-free-ships-stores> (Point 10.2 in combination with 17.01) – accessed 25.04.2015

Croatia: No foreign ship supply please!

In 2012, a ship's agent in Croatia sent Klevenberg's Peter de Haas Jr. information that, as per Croatian Customs regulations, supplying vessels with provisions, bonded stores, deck/engine stores and medicines are not allowed from abroad. These should only be ordered from a local ship supplier. Since Croatia joined the EU, this is now allowed, but clearance remains a challenge.

Greece: Use of customs IT is only for Greek nationals

Klevenberg has to obtain a Greek specific **IciSnet Electronic Authorisation** for supplies of vessels in Greek ports. According to the ships agencies in Greece, Klevenberg has to authorize the agencies through the Internet system (**IciS**). However, the electronic Authorization (e-authorization) service is intended for use only by TAXISnet certified users (only Greek natural persons or legal entities). For Klevenberg to authorise its agent, another TAXISnet certified user has to be found who can authorise the agent so that they can submit Custom documents on Klevenberg's behalf.

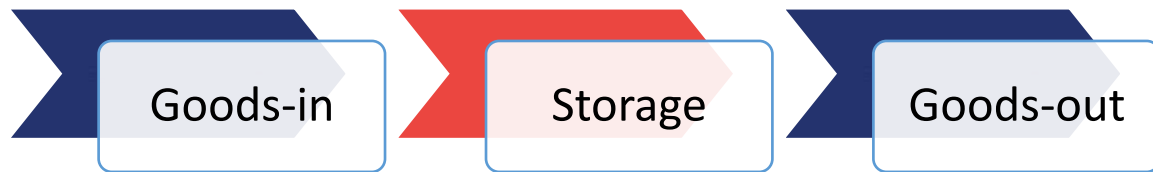
Information about the IciS can be found on: <https://portal.gsis.gr/portal/page/portal/ICISnet>

Romania: Pay me or don't supply!

Cases have been reported that EU ship suppliers were not able to supply a particular vessel berthed at a particular Romanian port, because a Romanian local agent had refused to prepare, sign and stamp a purely national mandatory loading act required by the Romanian customs authorities. This came about after refusal by the ship supplier to give/honour the unofficial commission/fee asked by the agent of the vessel. As a result, most ship suppliers are hesitant to deliver into Romanian ports.

Annex IV Goods-in & out and the storage at Klevenberg

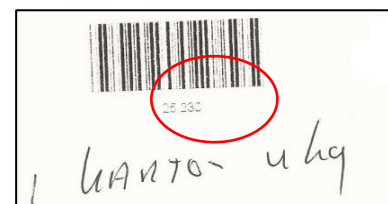
For better understanding of Area II on Part 3 of this essay, in the following, we have summarised how Klevenberg manages its customs warehouse:



Goods-in process

Klevenberg's well-established internal procedures, written manuals and guidelines means that the "goods-in" process allows immaculate recording and registration of new supplies arriving. The process can be summarised by example of a delivery of a hydraulic hose which arrived in the morning for onward supply to a vessel later in the afternoon.

1. The hydraulic hose is delivered in a package to the warehouse. Warehouse staff weighs the package (approximately 4kg) and receive a sticker with a unique barcode (25.230), which is also placed on the delivery note accompanying the goods to match coli with delivery note.



2. The particulars of the delivery note are entered into Klevenberg's IT system and matched with the barcode on the package:

Delivery Note	
Shipping Information	
Delivery Note no./-Da	Order No./-Date
Customer No.	Your Sales Office
Customer Order No.	026/2015e-71830 / RIO DE JANEI
Customer Order Date	Customer support
Customer	Phone
	Sales Rep.
Customer No.	Cellular/Mobile
Terms	Weight
Deliv.Priority	Net weight 3,632 KG
Delivery	Incoterms 2010

3. Once completed, an instruction sheet is automatically produced which will be stuck to the goods. To enable tracking, the customer order number⁵⁵ and the original barcode (25.230) are maintained. In addition, the name of the vessel is prominently displayed.

⁵⁵ The customer order number is also important for the clients receiving the goods to identify their order placed with the supplier



Storage

Goods for storage would receive an identification colour sticker with a warehouse reference number to determine a precise location for storage:



27-08-1 Yellow = Row 27, Shelf 8, first row. Red, orange, green etc. are subsequent rows.

For the Dutch customs, it is the reliability offered by the stock accounts that determines which form of supervision will be exercised⁵⁶. Where stock accounts are maintained to high standards, administrative supervision will be exercised and the goods movements will be followed mainly on paper⁵⁷. Consequently, Klevenberg must allow access to the warehouse, the goods and their records to the Dutch customs officers at any time. A further condition is that Klevenberg's customs warehousing requires the company to take robust steps to ensure that it meets all regulatory health and safety requirements.

To comply with these requirements, Klevenberg has taken the following measures:

⁵⁶ See Dutch customs website (in English):

http://www.belastingdienst.nl/wps/wcm/connect/bldcontenten/belastingdienst/customs/storage/types_of_storage/type_c_customs_warehouse/ (accessed 27.05.2015)

⁵⁷ If the stock accounts are less detailed, the supervision will be mainly physical.

- A customs officer and a veterinary officer visit Klevenberg on a daily basis to verify import health requirements of non-EU meat & fish products that require refrigeration or freezing in their 800m² facility within the warehouse. The customs officer can also, at any time, have access to the stock records.
- The company is considering acquiring an upgrade to its IT system to allow the Dutch customs to connect to their internal warehouse system and view any of the stock records desired. The automated storage systems ensure that the documents are maintained for at least four years.
- However, if physical paper is required for control, Klevenberg also maintains *“approximately 50 pallets in the warehouse full of administrative documents which authorities can view”*⁵⁸.
- Klevenberg has a 500m² bunker storage facility to handle hazardous substances and chemicals.
- As of March 2015, the company has become ISO 22000⁵⁹ certified.



In addition, Klevenberg is certified as Authorised Economic Operator by the Dutch customs.

Goods-out process

An incoming order is entered into Klevenberg's IT system, which connects automatically to the company's electronic inventory system. Shortly before the vessel calls the port, loading lists are generated electronically, allowing warehouse workers to use hand-held scanners to find ordered goods and "check them out". The order is compiled at the loading area and wrapped up in pallets. The order cannot be finalised until all ordered items have been removed from the warehouse.



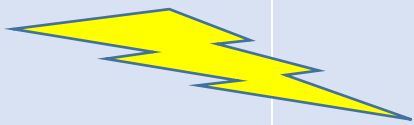
Klevenberg's loading area when a large variety of items are wrapped together on pallets for delivery.

⁵⁸ Comment by Customs manager Peter de Haas Jr. during on-site visit at Klevenberg Shipping Center on 12.02.2015

⁵⁹ ISO 22000 is a standard developed by the International Organization for Standardization dealing with food safety.

Annex V Klevenberg's procedure for indirect exports

The indirect export procedure is, at present, most problematic for Klevenberg. In Area III of Part 3 of this essay, we could only highlight the key aspects of this procedure. Therefore, below we present the process in a more detailed and comprehensive manner.

Step	Klevenberg	Dutch Customs	Croatia Customs
1	Klevenberg lodges an export declaration via CDS system, stating in Box 28 the customs office of exit.		
2		Performs automatic checks, accepts the customs declaration, issues a Permission to Progress (P2P) message to Klevenberg and sends an Anticipated Export Record (AER) message to the Office of exit in the Member States, saying 'the goods are on their way'. This message also includes the MRN and other details that allow the Office of Exit to identify the goods when they arrive at the EU frontier.	
3	Klevenberg is able to generate the MRN in barcode form and to produce the Export Accompanying Document (EAD) which bears the Movement Reference Number (MRN) which is handed to the driver who will transport the goods to the Office of Exit.	Dutch customs can track and trace the goods as they move across the EU to the Office of Exit.	Croatian customs can track and trace the goods as they move across the EU to the Office of Exit.
4			Croatian customs in port (Office of Exit) can scan the EAD and, consequently send notification to the Office of Export that the goods have, in fact, left the EU.
5		Rotterdam customs receives automatic confirmation that the goods have left and closes open MRN export movement.	

Annex VI Fictional agenda of the 1st European ship supply conference

1st European ship supply conference

Klevenberg Shipping Center, Rotterdam
Large conference room
1 May 2016

FICTIONAL AGENDA

Time	Topic
8.45	Coffee
9.15	Introduction & Welcome by Peter de Haas Jr., Customs Manager at Klevenberg and Chairman of OCEAN's Working Group on Customs
9.30	<i>"Finding one set of simplified customs procedures for ship supplies"</i> , Key Note Address by Susanne Aigner, Head of Unit, Customs Legislation, DG TAXUD, <i>the European Commission</i>
10.00	<i>"Attempting a European definition of ship supply in EU customs law"</i> - Thorston Harms, Secretary General of German Ship supply Association, Lawyer
10.30	<i>Presentation and panel discussion: National differences in treating ship suppliers—moderated by Jean-Luc Meriaux, Secretary General of OCEAN</i> <i>Presentation (each 15 min):</i> <i>The Dutch experience, Customs official of Belastingdienst & Dutch ship supplier</i> - <i>The German experience, Customs official & German ship supplier</i> - <i>The Finnish experience, Customs official & Finnish ship supplier</i> - <i>The Spanish experience, Customs official & Spanish ship supplier</i> - <i>The UK experience, Customs official & UK ship supplier</i>
12.30	Lunch
14.00	<i>"Why air supply is not ship supply"</i> , one representative each of both air supply and ship supply industry
14.30	<i>"Global competition – how ship supply contributes to a more competitive maritime EU"</i> , Chairman of OCEAN
15.30	<i>"Options for the UCC guidelines in bringing about a more harmonised ship supply sector"</i> , Jenia Peteva, European Commission
16.00	Guided discussion, by Michael Lux, Lawyer, former Head of EU Commission
16.30	Conclusions and next steps – by Peter de Haas Jr.

Tour of the premises

17.00 End of conference and drinks

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