

ANNEX B

SHIP SUPPLIES

Articles 269 and 270 UCC

I. Definition of ship supplies

Ship supplies are ship stores, supplies and spare parts delivered on board of vessels that are exempted from VAT and where applicable excise duties under Article 14(2) of Directive 2008/118/EC. They cover for instance:

- foodstuffs as well as other items that are consumed or sold on board or used by crew, as well as passengers.
- items 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 of ship supplies must take place on board. Ship supplies are therefore not to be taken off the vessel again, except as part of tax free allowances for passengers leaving the vessel in a third country or third territory.

The following examples, which are not exhaustive, illustrate the use of ship supplies:

Examples

- Spare and repair parts intended for incorporation in ships for the purpose of 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.

The provisions of the UCC distinguish between ship supplies that are Union goods and those that are non-Union goods.

II Ship supplies that are Union goods

1. Applicable rules

When exiting the customs territory of the Union ship supplies are exempted from the obligation to lodge an exit summary declaration (Article 245 (1) (o) UCC DA).

As regards customs clearance, certain conditions must be complied with in order for ship supplies to be subject to the special rules provided under Article 269 (2) (c) UCC, in particular:

- they must be exempted from VAT and excise duties,
- a proof of their delivery on board must be available.

The destination of the vessel is not relevant for the purposes of customs clearance.

2. Export

The special rules on ship supplies that are Union goods, under the UCC are to be found in Title VIII, Chapter 3 of the UCC which provides for rules on export.

3. Customs formalities

Ship supplies are not regular exports and therefore are not subject to the regular export procedure (Article 269 (2) (c) UCC read together with Article 269 (1) UCC). An export declaration, however, must be lodged and all export formalities related to the export customs procedure remain applicable (Article 269 (3) UCC). In particular:

- an export declaration bearing the code EX must be lodged,
- the general customs formalities provided under Articles 158 to 195 UCC remain applicable,
- export movements are registered in the AES and must be properly closed.

The purpose of these legal rules is to ensure that where a tax exempt supply has been granted for ship supplies the delivery of those supplies could be proven and the export movement can be closed once ship supplies are delivered on board the vessel. Without such a proof the ship supplies could not benefit from the exemption from VAT that is usually available for goods which are exported from the EU. Where excise goods to be supplied to ships have been exempted from paying excise duty, their delivery on board the ship must be proved in order to properly close the movement in the EMSC.

Ship supplies conforming to the specific requirements above mentioned should be considered to have left the customs territory of the Union once:

- a proof that they have been loaded on-board the vessel is made available to customs authorities, regardless of the destination of the ship, and
- an export declaration has been submitted.

Although ship supplies are not subject to the regular export procedure the competent customs office must establish that they have left the customs territory of the Union. It must then inform the customs office of export about the exit of the goods once they have been loaded onto the vessel. The office of export shall then certify the exit to the declarant or the exporter.

This exit certification can be used as a proof of exit out of the customs territory of the Union for the purposes of VAT and excise exemption.

For the purpose of the customs and tax controls, the person delivering the ship supplies should keep the delivery note as signed by the consignee.

4. Export of excisable goods

In case of indirect exports Union goods in excise duty suspension move from the Member State of export to the Member State of exit through the EMCS system. The exit result message (IE 518), is needed for the EMCS movement to be closed.

In case of direct exports the Member State on which territory the movement takes place could be allowed to use national simplifications (Article 30 Directive (EC) No 2008/118) instead of EMCS, including use of entry into the declarant records.

5. Examples for the correct application of Article 269 UCC

- a. A ship supplier in Member State A is to supply a vessel in MS A. The economic operator wishing to deliver the goods on-board the vessel lodges an export declaration with the competent office of export. Once the goods are loaded on-board the vessel or at the latest immediately after the vessel has left the respective port, the open export movement should be closed by the office of export in the same Member State.
- b. A ship supplier in Member State A is to supply a vessel in Member State B. The goods to be delivered are Union goods. The economic operator wishing to deliver the goods on-board the vessel in Member State B (office of exit) lodges an export declaration in Member State A (office of export). Once the goods are loaded on-board the vessel or at the latest immediately after the vessel has left the respective port, the open export movement should be closed by Member State A upon the receipt of the exit results message from Member State B.

In both cases, evidence that the goods have left the Union can be submitted pursuant to Article 335 UCC IA if the customs authorities do not close the open movement. If the customs enquiry does not result in closing the export movement, the evidence of Article 335 (4) (g) UCC IA, notably economic operators' records of goods supplied to ships should be allowed in the case of ship supply. The customs authorities in MS A should then close the open movement on the basis of that evidence.

III. Ship supplies with the status of non-Union goods (Article 270 UCC)

These goods are subject to the general rules on re-export.

1. Re-export formalities for ship supplies with the status of non-Union goods

Non-Union goods ship supplies have to be accompanied by re-export declaration. Re-export notification, however, shall be used instead where the following conditions are met:

- ship supplies are transshipped,
- ship supplies are taken out of free zone, or
- ship supplies are directly re-exported from a temporary storage facility.

A waiver from the obligation to lodge an exit summary declaration applies. (Article 245 (1) (o) UCC DA) applies.

In case of external transit procedure where goods only pass through the customs territory of the EU, a re-export declaration must not be used. Customs formalities other than those related to the external transit procedure should not be imposed.

2. Examples for the correct use of re-export declaration/re-export notification

- a. A ship supplier in Member State A wishes to supply a vessel in Member State A. The goods to be delivered are non-Union goods stored in a customs warehouse. The ship supplier removes the goods from the customs warehouse and updates the relevant records in accordance with his customs warehouse authorization. Consequently, a re-export declaration is lodged at the office of export (Member State A). Once delivered on-board a vessel, regardless the destination of the vessel, the re-export movement is closed by the office of export. The duty liability under customs warehousing successfully discharged.
- b. A ship supplier in Member State A wishes to supply a vessel in Member State B. The goods to be delivered are non-Union goods stored in a customs warehouse. The ship supplier removes the goods from the customs warehouse and updates the relevant records in accordance with his customs warehouse authorisation. A re-export declaration is lodged at the office of export (Member State A). Once delivered on-board a vessel in Member State B, regardless the destination of the vessel, the open customs procedure (customs warehousing) is closed by the office of export in Member State A upon a receipt of exit result from MS B) by way of acceptance of the re-export declaration, the duty liability successfully discharged).

Evidence that the goods have left the Union can be submitted through the enquiry procedure pursuant to Article 335 UCC IA if the customs authorities do not close the open movement. In particular, the evidence of Article 335 (4) (g) UCC IA should be allowed in the case of ship supply. The customs authorities in MS A should then close the open movement.

3. Simplification for delivery of ship supplies

Available simplifications for ship supplies should be allowed as much as possible. Operators of ship and aircraft supplies may be authorised by customs authorities to enter in their records the exported goods and to report their export operations on a periodic basis after the goods have left the customs territory of the Union.

In case of excise goods such simplifications could only apply in case of domestic supplies and if the respective MS has provided such a simplification under Article 30 Directive (EU) 2008/118.

4. Pre-departure declaration

Ship supplies are subject to an exemption from the obligation to lodge a pre-departure declaration.

5. Commodity codes to be used for ship supplies

Article 20 of Regulation (EC) No 113/2010 attributes a simplified nomenclature in respect of external trade statistics for goods delivered to vessels at harbours as ship supplies. These goods are reported with simplified CN codes. It does not matter whether the vessels are managed or used for commercial, military or private purposes. The following codes should be used in export and re-export declarations for ship supplies that are not subject to the rules of the Directive 2008/118/EC:

- 99302400: goods from CN chapters 1 to 24,
- 99302700: goods from CN Chapter 27,
- 99309900: goods classified elsewhere.

The use of these CN Codes shall also be permitted for inland customs offices where the customs declaration is lodged for goods to be delivered as ship supply.