

Benvenuti



**Assemblea generale ANPAN
30 aprile 2010
Napoli, Italia**



Impact of European customs and taxation legislation on the Italian ship supply and cruise industry

di Arne Mielken



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Part 1

What is OCEAN?





What is OCEAN ?

- ◆ Was founded in 1976 as the “**O**rganisation de la **C**ommunauté **E**uropéenne des **A**vitailleurs de **N**avires (O.C.E.A.N.).
- ◆ It is the voice of the associations / companies in the ship supplying industry of Europe towards the European institutions and European governments.
- ◆ OCEAN specialises in three key areas:
 - ◆ Veterinary Affairs (Food Safety)
 - ◆ Taxation (Excise & VAT)
 - ◆ Customs Affairs
- ◆ OCEAN Board meets twice a year – at least once a year in Brussels, Belgium
- ◆ OCEAN Secretariats in Brussels & London





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**Arne Mielken
Assistant
Brussels**





Italian Ship Supply in European legislation

Trade: Statistics

Articles 23 and 24 of Regulation (EC) No 1917/2000 (amended by Commission Regulation (EC) No 1949/2005) deal with goods delivered to vessels and aircrafts

Taxation: Excise goods

Article 23(5) Directive 92/12/EEC, OJ 1992 No L 76, p. 1;
as from 1 April 2010 Articles 11, 14 (2), 17a, 3 and 41
of Directive 2008/118/EC



Taxation: VAT exemption

A VAT exemption is granted for "vessels used for navigation on the high sea" (Article 148 a)
Directive 2006/112/EC, OJ 2006 N° L 347, p.1

Food supply: Export refunds on agricultural products

Commission Regulation (EC) No 800/1999 of 15 April 1999 (Article 36)

Veterinary

Council Directive 97/78/EC of 18 December 1997 laying down the principles governing the organization of veterinary checks on products entering the Community from third countries.





Italian Ship Supply in European legislation

Customs

1. Regulation (EEC) No 2913/92
2. Regulation (EEC) No 2454/93
3. "Security Amendment" of the Customs Code (Regulation (EC) No 648/2005)
4. Implementing Provisions (IPs) Regulation No. 1875 / 2006
5. Regulation (EC) No 312/2009
6. Regulation (EC) No 414/2009
7. A transitional period Regulation (EC) No 273/2009
8. Guidelines on export and exit in the context of Regulation (EC) No 648/2005
9. Working Document No 2030/2010 (adopted 16th March)





PART 2:
**Simplifications for Italian ship suppliers under
the EU Customs Code from January 1st 2011**

The new « *Shipsupply Law* »



Amendment of the current Customs Code

- OVERVIEW -

Explanation

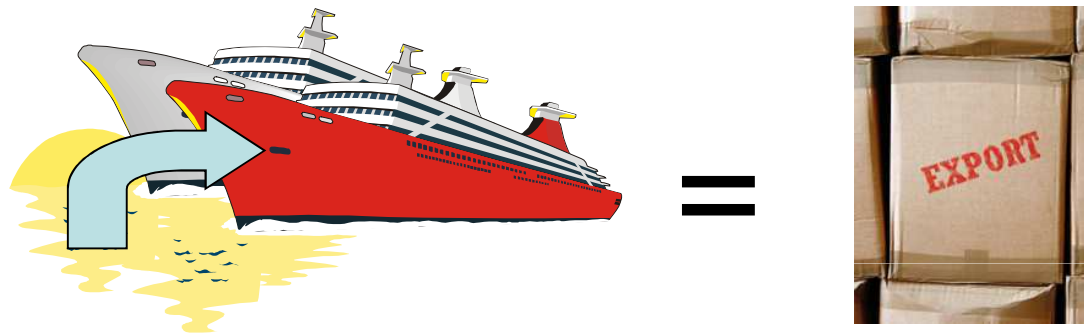
1. Indent (2) – Exemption to lodge an exit summary declaration (EXS)
2. Indent (4) – Entry into records & Periodic Reporting (for AEOs)
3. Indent (7) - Export formalities for Ship Supply
4. Indent (8) – Relationship Customs with indirect taxation (VAT & Excise)
5. Indent (11) – Deletion of the administrative accompanying document

Articles

1. Point 5 - § 253a – Acceptance of other forms of declarations
2. Point 14 - § 285a, paragraph 1a - Entry into records & periodic reporting
3. Point 15 - § 592a (o) – Deletion of the 15 minute rule for EXS
4. Point 18 - § 786, paragraph 2b – Export formalities for Ship Supply
5. Point 28 - § 842a, paragraph 4a – Exemption for lodging EXS



The "Ship Supply Article": § 786



[...] Export formalities are [...] to be used [...] with regard to tax exempt [...] 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. (Indent 7)

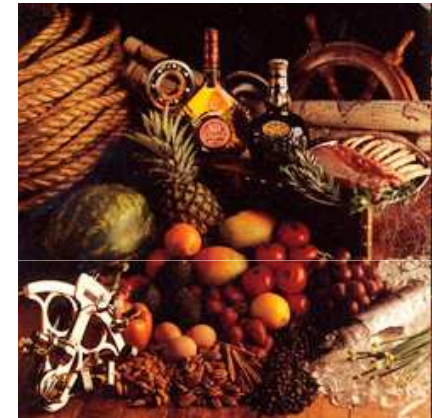
The export procedure [...] shall be used where Community goods are delivered tax exempt as [...] ship supplies, regardless of the destination of the [...] ship.



§ 592a (o) – What are Ship supplies?

Goods...

- *for incorporation as parts of or accessories in vessels*
- *foodstuffs,*
- *other items to be consumed or sold on board*





Simplifications for Italian ship suppliers

§ 253a – Acceptance of other forms of declarations

- Your local customs house **may** accept other forms of declarations or notifications if:
 - You cannot submit your current simplified declaration / notification electronically
 - They can carry out effective risk analysis



§ 285a, paragraph 1a - Entry into records & periodic reporting

- Your customs **may** authorise you
 - to enter in his records immediately each export operation
 - to report all of them in a supplementary declaration
 - periodically, up to one month





A simplified ship supply procedure in 2011

Benefits

- Independent of working hours and the presence of customs
- Efficient reportation
- Enables customs to relatise pre-planned and focused control

Towards a system-based approach

- Control of the warehouses, accounts of supplier & ships
- Control of the supplying action itself

A simplified procedure

A) In regular traffic -> Total power of decision and responsibility to ship supplier

B) In irregular traffic -> Upon request and approval



§ 285a
§ 253a



Proposal from OCEAN for a simplified ship supply procedure from 2011

Acceptable forms of proof of delivery

- The delivering of the goods is carried out by using a waybill, packing list, or other commercial document produced by the supplying company.
- The same document is also used as a proof of delivery of the goods in the account of the suppliers warehouse.
- Because there is no specified format for the documents, every supplier may use the waybill of its own, provided with required information.



PART 3: **Impact of the EU's "VAT directive on services"** **on Italy's cruising industry**





3 rules for VAT

- VAT Directive 2006/112/EC
- COUNCIL DIRECTIVE 2008/8/EC of 12 February 2008
- Draft implementing provisions on COUNCIL DIRECTIVE 2008/8/EC of 12 February 2008



VAT: New rules on the place of supply of services

- Adopted as COUNCIL DIRECTIVE 2008/8/EC of 12 February 2008 amending Directive 2006/112/EC as regards the place of supply of services
- Entry into force January 1st 2010
- General principle: the business-to-business supplies of services will be taxed where the customer is situated, rather than where the supplier is located.



Supply of restaurants and catering services for consumption on board ships

Article 57

The place of supply of restaurant and catering services which are physically carried out on board ships, [...], shall be at the point of departure of the passenger transport operation.

Questions you may ask

- What are restaurant and catering services?
- Restaurant & catering services: Always the same?
- Ships, trains, aircrafts: Always the same?
- “*physically carried out*”: What does it mean?



VAT: § 8 Draft Implementing provisions:

What are catering services?

Catering services = supplied food + support services (immediate consumption)

Conditions:

- Support services must largely predominate !!
- Off the premises of the supplier.

« Physically carried out on board » services could be:

- Transformation of food -> Service of cooking the meal “onboard” - Cook of the vessel
- Serving food on board -> Vessel’s waiters

What is not « catering service »?:

- Delivery of foodstuffs onboard of a vessel for consumption by a ship supplier



VAT: The “Ship Supply Articles ” § 148 & § 37

Article 148

Member States shall exempt [from VAT] the following transactions:

- (a) the supply of goods for the fuelling and provisioning of vessels used for navigation on the high seas and carrying passengers [...]

Article 37

The Commission shall [...present a report...] on the place of taxation of the supply of goods for consumption on board and the supply of services, including restaurant services, for passengers on board ships [...].

Pending adoption [..], Member States **may exempt or continue to exempt, with deductibility of the VAT** [...], the supply of goods for consumption on board [...]

of VAT Directive 2006/112/EC



VAT: what happens in other EU countries

- Survey at the last OCEAN Board meeting & discussion in our WG Customs & Taxation.
- Across the EU, services provided from ship suppliers on board ferry ships do not seem to have an impact on the service directive on VAT.
- When the goods are delivered to the ship destined to sail outside the EU country, (invoiced to “Master and Owners”) the transaction is to be considered “export”, hence, VAT 0 per cent; consequently no INTRASTAT.
- If this is a passenger vessel and goods are sold (fresh, cooked, fried, baked or whatever) this may be considered a service! If the destination of the ship is within the EC the VAT regime of the country of the port of exit is applicable. In the EU Member States OCEAN queried, this was 0.





VAT: what happens in other EU countries

- If the destination is outside the EC, the VAT regime in the actual place of consumption is applicable, in practice: international waters, thus no VAT to be charged.
- No INTRASTAT forms are filled out to include the amount of services provided on board ships when Owners/ Mangers are resident in another member state.





Conclusion

OCEAN

- OCEAN is your active ‘lobby’ in Brussels – Cooperation with ANPAN is excellent

CUSTOMS

- Legal linkage of Ship Supply to export operations & formalities
- Legal definition of what are “Ship Supply goods”
- The exemption to lodge an exit summary declaration
- The possibility to keep current procedures and accept other forms of declarations than IT upon agreement
- The possibility to entry your goods into records & periodic reporting
- To obtain these simplifications, national lobby action will be required.



Conclusion

VAT

- The supply of goods for the fuelling and provisioning of vessels is VAT exempt.
- the simple supply of foodstuffs onboard a vessel is not «catering service».
- The VAT rate applicable to services on board on merchant ships appears to be “0” in the Member States that OCEAN queried.
- No INTRASTAT forms need to be filled out.



European Ship Supply

[The Ship Supply Business](#)

[Definition and characteristics](#)

[Commodities supplied](#)

[News](#)

[Pictures](#)

[Service](#)

[Legislation](#)



Definition and characteristics

In the old days, the chandler used to bring salted meat, live stock (chickens, pigs, etc.), manila ropes, cargo blocks, sail and twine and related stuff, mainly for sailing vessels. Nowadays a ship chandler has a much wider scope of supply. Today, a Shippersupplier (= shipchandler) is a specialised trader or economic operator, who will deliver all goods to a vessel everything that the ship, its crew and passengers may require during time spend at sea or in port[1].

The importance of cooperation and flexibility in Shipstoring

"Storing the ship is teamwork" – This well-known slogan means that ship supplying can only be carried out by smooth co-operation between Shippersuppliers, Ship-owners

www.shipsupply.eu

some flexibility in the regulations to suit the circumstances under which the ship is being supplied, also under an electronic customs and administration environment.

Requirements and skills needed for Shippersupplying

A Ship Supplier must have many skills: He must know the type of materials best suited for the use of on board of the ship, as any error could result in a serious loss to the vessel at sea. The work of the Shippersupplier requires years of experience in the Shippersupply industry. The Shippersupplier must know all the regulations of the national and European Customs Authorities in addition to the port and owners regulations. It is vital therefore, that these regulations be framed in such a way as to be adaptable to suit the circumstances of different ports. This is especially necessary in large port areas where there are large distances between the location of the Shippersuppliers' warehouse and the berths of ships. In some instances, deliveries to ships have to be made by small boats or even by helicopter.

"Just-in-time" business and multiple consignments of small items

The shippersupply business is characterised by the need to work against time and to put together mixed consignments with thousands of different articles in small quantities, purchased from a larger number of different sources. It also means having to access a ship without delay in the case that small individual items need to be brought to the vessel (e.g. a faulty engine part replacement whilst in port or a new microwave for the crew). One can therefore truly say that European Shippersuppliers operate on a "just-in-time" basis 24 hours a day, 7 days a week. Especially customs offices closed on

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News-Ticker

➔ INVITATION: NEW WEB PRESENCE + NEW LOGO OF OCEAN

➔ OCEAN presents work at ISSA Convention

➔ THE SHIP SUPPLIER Magazine - New Edition

Agenda

05.11.2009
INVITATION: NEW WEB PRESENCE / NEW LOGO OF OCEAN + LUNCHTIME DEBATE

06.11.2009
OCEAN Board Meeting

Impressions





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Customs

Taxation

National

Veterinary

Food Supply



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Customs

Arguably, European ship supply is mostly affected by European Customs legislation. This is because of the specialized nature of the ship supply operations: Ship stores and supplies and spare parts for ships being used or consumed on board of vessel and not destined for import into another country! Once onboard, they never leave the vessel again. This concept causes some irritations as to which customs procedure which should apply. For European ship supply, the key European legislation is [Regulation \(EEC\) No 2913/92](#) establishing the Community Customs Code.



European Regulations become immediately enforceable as law in all member states simultaneously. [Regulation \(EEC\) No 2454/93](#) provides the provisions for the implementation of this regulation. Most recently, European ship supply has been mentioned in the so-called "Security Amendment" of Customs Code ([Regulation \(EC\) No 648/2005](#)) of which the implementing provisions are spelled out in [Regulation \(EC\) No 1875/2006](#). These have been further amended by [Regulation \(EC\) No 312/2009](#), and [Regulation \(EC\) No 414/2009](#). Moreover, until 1st January 2011, a transitional period in place Commission derogating from certain provisions of the implementing provisions. This is [Regulation \(EC\) No 273/2009](#) of 2 April 2009. Provisions for ship supply can also be found in guidelines and explanatory notes issued by the European Commission.

An brief overview of the key articles is given below:



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Thank you very much for your attention



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