



**DECEMBER 10, 2010**

**CIRCULAR NO. 32/10**

**TO MEMBERS OF THE ASSOCIATION**

**Dear Member:**

**EUROPEAN UNION ADVANCE CARGO DECLARATION REGIME COMES INTO EFFECT  
ON JANUARY 1, 2011**

**Background**

On January 1, 2011, the European Union advance cargo declaration regime will come into force. These regulations are akin to the U.S. "24 hour rule" automatic manifest system (AMS) and other cargo declaration requirements that were promulgated after the September 11th terrorist attacks.



The EU first adopted its own advance cargo declaration regime in 2005. This was to become effective on January 1, 2009, but implementation was in the result delayed until January 1, 2011. Since July 2009, a transitional period of voluntary compliance has been in effect, but this transitional period expires at the end of this year.

As of January 1, 2011, any failure to comply with the requirements contained in the EU advance cargo declaration regime will result in the imposition of penalties by EU member states. Each EU member state may impose penalties against any party found to be in violation of the regime, and according to its own national legislation. Moreover, such requirements will apply in addition to existing customs requirements set forth in the Community Custom Code.

**Key requirements**

The new advance cargo declaration regime presents the following four major amendments to existing customs requirements of the Community Custom Code:

- It requires traders to provide customs authorities with information on goods [prior to import to or export from the EU](#).
- It allows reliable traders – designated as [Authorized Economic Operator](#), or AEO, which expression includes carriers, importers, exporters, freight forwarders, manufacturers, warehouse keepers, and customs agents – to take advantage of streamlined trade facilitation procedures.
- It introduces [uniform risk-selection criteria](#) for [controls](#), supported by [computerized systems](#) for goods brought into, or out taken of, the EU customs jurisdiction.
- It introduces an EU data base allowing consultation of all relevant national registration numbers ([EORI](#)).

The regulations further require an [entry summary declaration](#)  for imports and an [exit summary declaration](#)  for exports. Such entry and exit summary declarations are electronic

messages that must be sent to EU customs authorities at a prescribed point before goods enter or leave an EU state.

Responsibility for declaring the required cargo information falls upon the carrier, e.g., the party which has assumed the responsibility of the carriage of the goods, or issued the bill of lading. For practical purposes, a vessel owner / operator or its representative would be such an entity bearing such responsibility. Third parties such as freight forwarders are entitled to file the information instead of the carrier, but the carrier will still ultimately remain liable.

Members trading to, from, or within, the EU are encouraged to ensure that they and their agents sufficiently familiarize themselves with the required forms, documentation and procedures of this new regime to ensure that all cargo declarations are submitted in compliance with it so as to avoid unnecessary delays to their shipments, and possible penalties and fines.

### **BIMCO clauses**

Much in the same manner that BIMCO produced charter party clauses to address the US customs advance notification / automated manifest system (AMS) requirements when they were enacted in 2004, BIMCO has prepared a set of clauses for both voyage and time charter parties to address the new EU regime.

A copy of these two proposed BIMCO clauses may be downloaded from BIMCO's website at [www.bimco.org](http://www.bimco.org).

### **Additional guidelines and information**

Additional information and guidelines may be accessed at the following website links.

The European Community Shipowners Association (ECSA) has prepared a comprehensive and detailed explanatory note which can be accessed from the following link:

<http://www.ecsa.be/publications/101.pdf>

The European Commission's customs information portal also provides extensive information and actual examples of how a transaction to import or export goods to or from an EU country in accordance with this new cargo declaration regime may be accomplished. The customs information portal can be accessed through the following link:

[http://ec.europa.eu/ecip/security\\_amendment/index\\_en.htm](http://ec.europa.eu/ecip/security_amendment/index_en.htm)

The customs information portal also provides a country-by-country listing in various languages to assist anyone seeking additional information or clarification regarding the new regime. This listing can be found at:

[http://ec.europa.eu/ecip/information\\_resources/links/index\\_en.htm#gb](http://ec.europa.eu/ecip/information_resources/links/index_en.htm#gb)

### **Inquiries and assistance**

Your Managers will continue to monitor developments regarding the implementation of these customs requirements in the coming weeks as more information concerning its application and enforcement becomes available.



In the meantime, your Managers will be happy to address any questions from Members concerning these issues. In this regard, Members should contact George J. Tsimis, Senior Vice President & Head of Claims (Direct Dial: +1 212 847 4501, e-mail: [george.tsimis@american-club.com](mailto:george.tsimis@american-club.com)).

Yours faithfully,

A handwritten signature in black ink that reads "Joseph E. M. Hughes". The signature is written in a cursive style with a prominent initial "J".

Joseph E. M. Hughes, Chairman & CEO  
Shipowners Claims Bureau, Inc., Managers for  
THE AMERICAN CLUB