



Ottawa, December 6, 2011

MEMORANDUM D3-5-7

In Brief

TEMPORARY IMPORTATION OF VESSELS

1. This memorandum has been revised to update the contact information for the Canada Border Services Agency and the Canadian Transportation Agency.
2. In addition, paragraph 40 of the memorandum has been revised to reflect an exception to the rule that once a vessel leaves Canadian waters and goes International, the Coasting Trade Licence is no longer valid and will be cancelled by the CBSA. The exception to this rule are tankers and cruise vessels that have as part of its licence conditions, potential stops at foreign ports, where the last leg of the transportation is destined for a Canadian location.





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TEMPORARY IMPORTATION OF VESSELS

This memorandum outlines the laws, policies, and procedures governing the temporary importation of vessels into Canada for use in the Canadian coasting trade.

Legislation

Definition – *Vessel Duties Reduction or Removal Regulation*

“Canadian customs waters” means all the waters in the territorial sea, internal waters, and the waters above the continental shelf of Canada within which a vessel falls under Customs jurisdiction by virtue of the *Customs and Excise Offshore Application Act*. (*eaux douanières canadiennes*)

Definitions – *Coasting Trade Act*

“Coasting trade” means

(a) the carriage of goods by ship, or by ship and any other mode of transport, from one place in Canada or above the continental shelf of Canada to any other place in Canada or above the continental shelf of Canada, either directly or by way of a place outside Canada, but, with respect to waters above the continental shelf of Canada, includes the carriage of goods only in relation to the exploration, exploitation or transportation of the mineral or non-living natural resources of the continental shelf of Canada;

(b) subject to paragraph (c), the carriage of passengers by ship from any place in Canada situated on a lake or river to the same place, or to any other place in Canada, either directly or by way of a place outside Canada,

(c) the carriage of passengers by ship from any place situated on the St. Lawrence River northeast of the Saint Lambert lock or on the Fraser River west of the Mission Bridge

(i) to the same place, without any call at any port outside Canada, other than one or more technical or emergency calls, or

(ii) to any other place in Canada, other than as an in-transit call, either directly or by way of a place outside Canada,

(d) the carriage of passengers by ship from any place in Canada other than from a place to which paragraph (b) or (c) applies

(i) to the same place, without any call at any port outside Canada, other than one or more technical or emergency calls, or

(ii) to any other place in Canada, other than as an in-transit call, either directly or by way of a place outside Canada,

(e) the carriage of passengers by ship

(i) from any place in Canada to any place above the continental shelf of Canada,

(ii) from any place above the continental shelf of Canada to any place in Canada, or

(iii) from any place above the continental shelf of Canada to the same place or to any other place above the continental shelf of Canada where the carriage of the passengers is in relation to the exploration, exploitation or transportation of the mineral or non-living natural resources of the continental shelf of Canada, and

(f) the engaging, by ship, in any other marine activity of a commercial nature in Canadian waters and, with respect to waters above the continental shelf of Canada, in such other marine activities of a commercial nature that are in relation to the exploration, exploitation or transportation of the mineral or non-living natural resources of the continental shelf of Canada.

“Canadian ship” means a ship

(a) registered or listed under Part 2 of the *Canada Shipping Act, 2001* and in respect of which all duties and taxes under the *Customs Tariff* and the *Excise Tax Act* have been paid; or

(b) built in Canada and not required or entitled to be registered under Part 2 of the *Canada Shipping Act*; or

“non-duty paid ship” means a ship registered in Canada in respect of which any duties and taxes under the *Customs Tariff* and the *Excise Tax Act* have not been paid;

“Foreign ship”, means a ship other than a Canadian ship or a non-duty paid ship.

GUIDELINES AND GENERAL INFORMATION

Introduction

1. The Canada Border Services Agency (CBSA), in association with the Canadian Transportation Agency (CTA) and Transport Canada, is responsible for administering a temporary admission program for vessels. The program provides temporary, short-term market needs that cannot be filled from the existing capacity in Canada. Under the program, foreign and non-duty-paid vessel operators may apply to operate these vessels temporarily in Canada under a *Coasting Trade Licence* (Form C48) and on a duty-reduced basis when no suitable Canadian vessel is available to carry out a specific movement or provide a particular service.

2. The CTA is responsible for determining whether a suitable Canadian vessel is available to perform the coasting trade activity specified in the application. Once the CTA determines that no suitable Canadian vessel is available, the CBSA issues a letter of authority allowing the applicant to complete the process for a *Coasting Trade Licence* and start operations.

3. Legislative and regulatory requirements covering the program are found in the *Customs Act*, *Customs Tariff*, *Coasting Trade Act*, and in various regulations under these and other Acts.

Reduction or Removal of Duties

4. Duties reduction and removal provisions for vessels are found in the *Vessel Duties Reduction or Removal Regulations*. The Regulations are set under an authority in a supplementary note to Chapter 89 of the *Customs Tariff*. How the provisions are applied depends on the circumstances involved in a given situation.

5. Other regulations under the *Customs Tariff*, such as Memorandum D8-1-1, *Amendments to Temporary Importation (Tariff Item No. 9993.00.00) Regulations*, set the duty reduction and duty removal provisions that may apply to certain vessels temporarily admitted to Canada for repair or alteration.

6. For vessels temporarily admitted to the coasting trade, the *Vessel Duties Reduction or Removal Regulations* provide the reduction or removal of duties that apply under the *Customs Tariff* when certain terms and conditions are met.

7. The duties reduction for vessels authorized to operate temporarily in the coasting trade are under what is referred to as the “1/120 provision” (see paragraphs 29 to 32). The

exceptions to the above are vessels authorized to operate in the coasting trade of Canada in an “intercoastal movement” (see paragraph 42) and cruise ships authorized to operate on condition that no suitable Canadian vessel is available (see paragraph 39). In such cases, duties on the vessel will be reduced to zero for that movement.

8. In addition, the *Vessel Duties Reduction or Removal Regulations*, under specified conditions, reduce or remove duties that apply to vessels temporarily stored in Canada or to certain vessels returning to Canada after being repaired or modified (see paragraphs 43 and 45).

General

9. A carrier who qualifies for a *Coasting Trade Licence* and who desires to transport in bond goods by vessel within Canada must be authorized as a bonded marine carrier. Carriers may apply for bonded status by forwarding a Form E370, in duplicate, together with security in the amount of \$25 000 to the CBSA’s Commercial Licensing and Security Unit. For information on the completion of Form E370 refer to Memorandum D3-1-1. The security may be in the form of cash, certified cheque, registered Government of Canada Bonds, or a bond of a government approved guarantee company in the format prescribed in Memorandum D3-1-1. Information on posting security may be found in Memorandum D1-7-1, *Posting Security for Transacting Bonded Operations*.

10. In the case of vessels operating in the coasting trade, each separate in bond shipment will be re-manifested on a *Cargo Control Document*, Form A8A. The *Cargo Control Document* specifications for private printed documents and the completion requirements for form A8A are in Memorandum D3-1-1.

11. At the point of lading the cargo control documents must be presented to the CBSA for numbering from the local CBSA office series of numbers, except where a carrier has been assigned a series or block of numbers for its own use. In either case, the number will be prefixed by the carrier’s code.

Coasting Trade

12. The term “coasting trade” under the *Coasting Trade Act* covers all commercial marine activities in Canadian waters, including among other things, the carriage of passengers or goods, and offshore exploration and development activities on the Canadian continental shelf (see the section on legislation).

Exceptions to *Coasting Trade Act* Provisions

13. A *Coasting Trade Licence* is not required for a foreign ship or non-duty-paid ship that is:

- (a) used as a fishing vessel, as defined by the *Coastal Fisheries Protection Act*, in any activity governed by that Act and that does not carry any goods or

passengers other than goods or passengers incidental to any activity governed by that Act;

(b) engaged in any ocean research activity commissioned by the Department of Fisheries and Oceans;

(c) operated or sponsored by a foreign government that has sought and received the consent of the Minister of Foreign Affairs to conduct marine scientific research;

(d) engaged in salvage operations, except where such operations are performed in Canadian waters;

(e) engaged, with the approval of a person designated as a pollution prevention officer under section 174 of the *Canada Shipping Act, 2001* or authorized under paragraph 11 (2)(d) of that Act to carry out inspections, in activities related to a marine pollution emergency or to a risk of a marine pollution emergency;

(f) conducting operations permitted by the *United States Wreckers Act*.

14. Although the above vessels do not require a *Coasting Trade Licence*, they remain subject to the provisions of the *Customs Tariff* and may be dutiable, unless excepted by other specific duties relief mechanisms. Under the *Customs Act*, such vessels are also required to report to the CBSA on their arrival in and their departure from Canada.

15. A foreign ship or a non-duty-paid ship does not require a *Coasting Trade Licence* when assisting persons, ships, or aircraft in danger or distress in Canadian waters. The *Goods for Emergency Use Remission Order* provides tariff relief on vessels during these operations.

16. A foreign ship or a non-duty-paid ship does not require a *Coasting Trade Licence* to conduct operations permitted by the *United States Wreckers Act*. While the Act stipulates that vessels are not subject to duty while conducting such operations, they are not excluded from the requirement to make a timely report to the CBSA about their activities in Canada.

Application for a *Coasting Trade Licence*

17. An *Application for Vessel Temporary Admission to the Coasting Trade of Canada* by a foreign or non-duty-paid vessel is, in addition, an application for temporary admission of the vessel on a duty-reduced basis, or in certain circumstances, duty-removal basis. Such applications must:

(a) be made by a person resident in Canada, who is acting on behalf of the ship;

(b) be submitted on a completed Form C47,

Note: The Canadian Transportation Agency guideline which is located at www.cta.gc.ca outlines the various time frames for different types of applications.

18. Applications should be for a specific vessel and usage and be as complete and precise as possible (for example, to use the Canadian registered, non-duty-paid vessel, MV XYZ, to move 300,000 bbls. of light crude, in one movement from the abc refinery located at ___ to the xyz dock at ___, starting on January 1, 20xx, and ending on January 14, 20xx). Incomplete applications, or those containing a very general request will cause delays in processing the application. For the best results, send your fully completed applications and any attachments to the CBSA, and send copies of all documentation to the CTA at the following addresses:

Canada Border Services Agency
Licensing Unit
150 Isabella, 10th Floor
Ottawa ON K1A 0L8

Telephone: 613-952-2734
Fax: 613-957-9717

E-Mail: coastingtrade-cabotage@cbsa-asfc.gc.ca
Web site: www.cbsa.gc.ca

Canadian Transportation Agency
Insurance and Marine Determination Division
15 Eddy Street
Gatineau QC K1A 0N9

Telephone: 819-997-8354
Fax: 819-934-0631

E-mail: maritime@otc-cta.gc.ca
Web site: www.cta.gc.ca

Note: On receipt of a copy of a properly completed application, the CTA will determine if a suitable Canadian vessel is available.

Issuance of the *Coasting Trade Licence*

19. Once the CTA has issued a determination that no suitable Canadian vessel is available, the CBSA will send a letter of authorization to the applicant. This letter outlines the remaining procedures required for the applicant to obtain the *Coasting Trade Licence* for the vessel and begin operations.

20. The applicant will be required to present to the CBSA office specified in the application and named in the letter of authority, the following:

(a) a copy of the letter of authorization;

(b) satisfactory evidence that the vessel complies with safety, pollution prevention, and competency requirements; and

(c) proof of payment of any applicable duties and taxes.

21. The Marine Safety Branch of Transport Canada is responsible for administering provisions regulating safety and competency requirements for vessels and their crews operating in Canadian waters. The *Coasting Trade Act* stipulates that before a *Coasting Trade Licence* can be issued, satisfactory evidence that the vessel complies with all the safety, pollution prevention, and competency requirements for its temporary use in Canada must be submitted to the CBSA. The applicant must submit an “appropriate certificate” from the Marine Safety Branch along with the other documents as described in paragraph 20. Examples of appropriate certificates are S.I.C. 10, Survey, the Ship Safety Record of Exemption or letter of compliance, or S.I.C. 16, Inspection Certificate.

22. For more information on safety, pollution, and competency requirements contact:

Transport Canada
Marine Safety Branch
11th floor
Place de Ville, Tower C
330 Sparks Street
Ottawa ON K1A 0N8

Telephone: 613-998-0612
Fax: 613-954-1032

23. Before the *Coasting Trade Licence* can be issued, the CBSA also requires proof of satisfactory payment arrangements of applicable duties and taxes. Generally, foreign and non-duty-paid vessels that have a letter of authorization for temporary admission to the coasting trade of Canada will submit a Form B3, *Canada Customs Coding Form*, for the payments of duties and taxes on the 1/120 basis.

24. There may be instances where an application for a *Coasting Trade Licence* is made on behalf of a foreign flagged, Canadian-built or duty-paid vessel. Provided that no repairs or modifications to the vessel have been made in a foreign country, there will be no duty liability owing. However, Canadian-built or duty-paid vessels returning to Canadian waters within one year of having repairs done in a foreign country or within three years of having modifications done will have to pay duties and taxes. For vessels entering the coasting trade on a temporary basis, duties and taxes will be assessed on the basis of 1/120 of the full value of the vessel. If a vessel is returning permanently to the coasting trade, duties and taxes will be collected on the value of the repairs or modifications.

Reporting Requirements

25. All vessels, including Canadian vessels, entering Canadian waters are required under Section 12 of the *Customs Act* to report their arrival to the nearest CBSA office using Form A6, *General Declaration*. Vessels authorized to operate in the coasting trade must make a report inward to the coasting trade.

26. As soon as the coasting trade movements set out in the *Coasting Trade Licence* are complete, vessels must report outward using Form A6. This confirmation of the vessel's departure closes the file that was opened by the inward report on arrival and the issuing of the *Coasting Trade Licence*. Vessels that are authorized to continue the coasting trade movement for an additional period will report outward only at the end of the final authorized period. However, an application to continue must be made before the expiry of the previous authorization.

27. Vessels that have completed the coasting trade movement but have been authorized to transfer to a different temporary admission provision to remain in Canada, or are to be fully duty-paid, must complete Form A6 to confirm that the vessel is no longer in the coasting trade. A notation about the change should be made on Form A6 and a copy of that authorization attached, or where applicable, a copy of Form B3 attached.

28. The notification of the vessel's departure is used to confirm the number of reduced duty payments on the basis of 1/120 that are required as a result of the vessel's authorized use in the coasting trade, and to indicate that additional payments on the 1/120 basis are not outstanding.

29. Those who do not use their *Coasting Trade Licence* and approved authorization for temporary admission of a vessel, should advise the CBSA and the CTA in writing to avoid later investigation and requests for additional payment of duties.

Time Periods

30. Under the *Coasting Trade Act*, the maximum period for a *Coasting Trade Licence* is 12 months. This may be extended, upon application, for any number of additional periods of up to 12 months, if a further search of the Canadian marine industry finds that no suitable Canadian vessel is available.

31. Under the *Vessel Duties Reduction or Removal Regulations*, duties on vessels authorized to be temporarily imported for use in Canadian waters will be reduced on the basis of 1/120 for no more than 12 consecutive months. The Regulations also provide duties to be reduced on the basis of 1/120 for additional periods of not more than 12 consecutive months subject to the availability situation.

Accounting Procedures on the 1/120 Basis

32. Where temporary admission of the vessel on the 1/120 basis is authorized, duty will be calculated as follows:

- (a) The value of the vessel in Canadian dollars divided by 120 times the applicable rate of duty, equals the duty payable for each month or part of a month during which the vessel remains in Canada.

(b) The minimum payment under the accounting procedure equals one month (or a 30-day period) of duties. It should be noted that the goods and services tax (GST) is payable.

33. While the minimum payment under this procedure equals one month (or a 30-day period) of duties, it does not mean that a vessel is automatically duty-paid for one month's operation. It means a vessel authorized a temporary admission for less than 30 days must pay the minimum payment. If, within that month or 30-day period, an application is made and approved for the vessel to operate for the full 30-day period, no additional duty payment is required for that period. However, another search for a suitable Canadian vessel is necessary. In this case, the vessel requires an updated *Coasting Trade Licence* to continue operating.

34. Applicants should be aware that a vessel given temporary admission authorization for 15 days cannot automatically apply it to the next 15 days. Similarly, a vessel authorized for use in a particular area or for a specified purpose may not be used elsewhere, or for another purpose, unless an amendment to the original condition is sought, granted, and a new licence issued. Vessels failing to respect these conditions will be subject to payment of additional amounts of duties and enforcement action under the terms of the *Coasting Trade Act*.

35. You may pay customs duties in advance for the entire authorized period or monthly for an authorization covering more than one 30-day period. Monthly payments must be received by the CBSA before each 30-day period. In both cases, duties must be paid before the vessel is used. The *Coasting Trade Licence* is issued to reflect the period of duty payment. Under no circumstances may a *Coasting Trade Licence* be issued for a longer period than the S.I.C. 10 survey document or other appropriate certificate is valid. Transport Canada, Marine Safety Branch, would not normally validate the S.I.C. 10 survey document beyond the earliest expiry date of any of the vessel's safety compliance certificates. You should contact Transport Canada for any extenuating circumstances involving the safety compliance of a ship.

36. If you decide to permanently import a vessel currently operating on a temporary admission authorization, the amount of customs duties payable on the vessel may be reduced by an amount equal to the duty paid under the current authorization. No credit can be given for duty paid on a previous authorization or on an authorization that has lapsed or been terminated.

37. The value of a vessel and the rate of duty under the *Customs Tariff* are fixed at the time of importation. This includes the value of all parts and equipment on the vessel when it arrives in Canada. Parts and equipment imported after arrival are not admissible on a 1/120 basis, nor is the value of the vessel adjusted to take such items into account.

These goods must be accounted for in the usual manner at the time that they are imported.

38. Regulations under subsection 215(2) of Part IX of the *Excise Tax Act* provide that vessels and vessel repairs qualifying for partial duty reduction under the *Vessel Duties Reduction or Removal Regulations*, also qualify for the same proportion of GST relief.

39. Regulations under item 8 of Schedule VII of the *Excise Tax Act* provide that vessels and vessel repairs qualifying for duty removal under the *Vessel Duties Reduction or Removal Regulations*, also qualify for GST removal as non-taxable imports.

Canadian Waters

40. Once a *Coasting Trade Licence* is issued, the vessel must remain within Canadian waters for the *Coasting Trade Licence* to remain valid for the duration of the authorization. Once a vessel leaves Canadian waters and goes International, the *Coasting Trade Licence* is no longer valid and will be cancelled by the CBSA. The exception to this rule are tankers and cruise vessels that have as part of its licence conditions, potential stops at foreign ports, where the last leg of the transportation is destined for a Canadian location.

Two-week Window Respecting the Length of Coasting Trade Licence

41. A company may request a change in the authorization dates by a maximum of two weeks from the beginning or ending dates, however, the length or duration of the permission can not be extended. This type of request often stems from a vessel arriving late in Canada.

42. The CBSA is allowing a two-week window based on the mutual understanding of the Marine Ad Hoc Working Committee. The committee has stated the following: "With respect to the duration or length of the permission, it is recognized that dates could fluctuate and consequently, under normal circumstances, limited changes will be accommodated by two weeks from either the beginning or ending dates, provided the length or duration of the permission is not extended. The question of whether Canadian vessels had been offered in relation to the initial application will be considered in reviewing this type of request.

43. If approved, the CBSA's Licensing Unit will respond by issuing a letter advising the authorization can be amended by a two-week window either from the beginning or ending dates. The Canadian Coast Guard has agreed to the acceptability of the two-week window policy.

Note: All applicants, offerors and/or objectors participating in this process are reminded that, pursuant to sections 18 and 19 of the *Coasting Trade Act*, it is a criminal offence for a person to knowingly make a false or misleading statement, either orally or in writing, as the case may be, in

the course of a *Coasting Trade Licence* proceeding. The following appears in the CTA's guidelines under Appendix A:

18. No person shall knowingly make a false or misleading statement, either orally or in writing, as the case may be,

- (a) in an application for a licence;
- (b) to the CTA pursuant to a request under section 9; or
- (c) to an enforcement officer while the enforcement officer is engaged in carrying out that enforcement officer's duties and functions under this Act.

19. Every person who contravenes section 17 or 18 is guilty of an offence punishable on summary conviction and is liable to a fine of not more than fifteen thousand dollars or to imprisonment for a term not exceeding twelve months or to both.

Cruise Ships

44. Sections 3 and 5 of the *Vessel Duties Reduction or Removal Regulations* provide the removal of customs duties on certain cruise ships that are temporarily imported for use in Canada, on condition that no suitable Canadian vessel is available. Cruise ships are defined in the Regulations as passenger vessels with overnight accommodations for at least 100 people excluding crew accommodations. The definition specifically excludes ships engaged in scheduled passenger or cargo ferry service from qualifying for the duty removal provisions given to cruise ships.

45. You may apply under the vessel temporary admission program for a *Coasting Trade Licence* and payment of duties on the 1/120 basis for passenger vessels with overnight accommodations for less than 100 persons.

Intercoastal Vessels

46. The *Vessel Duties Reduction or Removal Regulations* provide vessels used to transport cargo from one coast to another in Canada within prescribed latitudes and longitudes, to a removal of the duties that would otherwise be payable on the vessel as a result of the movement. The duties removal applies only to vessels moving cargo, but excluding passengers. In general, this would include vessels moving cargo between a point on the west coast of Canada, south of latitude 60 degrees (a line running just south of Seward, Alaska, through Hudson's Bay to the southern tip of Greenland) and a point in the east of Canada that is east of longitude 95 degrees (a line running from approximately Resolute [Iqaluit] on Cornwallis Island, through Manitoba somewhat west of Churchill and west of Kenora onward through the United States). Thus, movements between points such as Churchill and Tuktoyaktuk would be excluded.

Temporary Storage

47. Vessels that have been demobilized, that is removed from active service and not used as a storage facility or as a temporary residence, may be temporarily admitted into Canada for storage in a port facility. The *Vessel Duties Reduction or Removal Regulations* provide that the customs duties shall be removed for a period not exceeding 12 consecutive months subject to renewal for an additional period or periods not exceeding 12 months. An application for storage must be made at the CBSA office where the vessel is to be stored. The Regulations require an importer to deposit satisfactory security in an amount up to that of the customs duties otherwise payable on the vessel. The vessel may be documented on Form E29B, *Temporary Admission Permit*, for control purposes. Requests for storage are to include the following information:

- (a) the vessel name and flag (country of registry);
- (b) the value in Canadian dollars;
- (c) the specific location of the vessel while in storage;
- (d) the duration of the storage; and
- (e) the name, address, and telephone number of a contact for CBSA purposes.

Failure to Meet Conditions

48. Vessels imported under temporary admission authority may be used only for the authorized purpose. On expiration of the authority, the vessel is to be:

- (a) exported from Canada, if they are conditionally exempted from duty under the *Customs and Excise Offshore Application Act* (CEOAA) and are removed beyond the territorial sea;
- (b) fully duty-paid;
- (c) authorized by the Minister to be placed in a Canadian facility for repairs, overhaul, or adjustment; or
- (d) the subject of a further authorization for temporary importation under the Regulations.

49. Where these conditions are not met, or the vessel is used for any purpose other than that set out in the authorization, the duties reduction or removal will be recalculated as follows:

- (a) for a vessel imported on the 1/120 basis, the duties reduction will be recalculated on the 1/50 basis for the total period in default, and
- (b) for a vessel imported under the duty removal provisions, the duties removal will instead be calculated as a duties reduction on the 1/100 basis for the total period in default.

50. A vessel that does not comply with the conditions of its *Coasting Trade Licence*, is in non-compliance with the *Coasting Trade Act* and subject to penalties and fines as well as the cancellation of the *Coasting Trade Licence*.

Repairs or Modifications

51. Repairs or modifications made to a Canadian vessel outside Canada must be reported on Form A6 (inward report) to the local CBSA office at the first port of arrival in Canada. Complementary documentation should be provided to include:

- (a) a complete description of the repairs or modifications;
- (b) name, address, and telephone and fax numbers of people to contact for additional information; and
- (c) supporting documentation in the form of work orders, invoices, receipts, and other related documents.

52. The repair and modification provisions of the Regulations apply only to those vessels that are Canadian-built or duty-paid in Canada, are returning permanently to the Canadian coasting trade, and were not only exported from Canada to obtain repairs or modifications. The exception to this would be unforeseen emergency repairs.

53. For repairs made abroad within one year before the vessel's return to Canada, duties and taxes are to be paid on the total value of the repairs in Canadian dollars at the duty rate applicable to the vessel.

54. For repairs made abroad more than one year before the vessel's return to Canada, duties on the vessel will be removed providing the vessel has not returned to Canadian waters in the interim. This means that if the vessel enters Canadian waters for any reason during the one-year period, duties and taxes on the value of the repairs will be collected.

55. For modifications made abroad within three years before the vessel's return to Canada, duties and taxes are to be paid on the value of the modifications in Canadian dollars at the duty rate applicable to the vessel.

56. For modifications made abroad more than three years before the vessel's return to Canada, the customs duties on the vessel will be removed, providing the vessel has not returned to Canadian waters in the interim. This means that if the vessel enters Canadian waters for any reason during the three-year period, duties and taxes on the value of the modifications will be collected.

57. In the Regulations, repairs is the restoration of a vessel to the condition of the vessel at the time it last departed from Canadian customs waters, including any parts, materials, and labour incurred in making the repairs.

58. The Regulations consider modifications to be any work done on a vessel other than repairs.

59. The Regulations require that essential repairs must result from an unforeseen contingency that occurred outside Canadian customs waters and were necessary to ensure the seaworthiness or safety of the vessel, or to enable the vessel to safely reach its port of destination, or return to Canadian customs waters. A claim for duties removal on essential repairs must be supported by documentary proof that the repairs were essential to the safe return of the vessel.

Accounting Requirements for Repairs or Modifications

60. Use Form B3 to account for duties payable. Field 24 must be completed to show Order in Council P.C. 1990-939 and field 16 must show the vessel's name. Importers have up to two years from the date of accounting to appeal to CBSA for adjustments. The appeal should be written on Form B2, *Canada Customs – Adjustment Request*, to Drawbacks, Refunds and Remission Unit at the regional CBSA office where the duties and taxes were paid.

Canadian Transportation Agency Process

61. Under sections 4 and 5 of the *Coasting Trade Act*, the Minister of Public Safety issues a licence for a foreign or non-duty-paid ship where he is satisfied that the CTA has determined that no Canadian or non-duty-paid ship is suitable and available to provide the service or perform the activity described in the application. The Canadian Transportation Agency Guideline, which outlines the various time frames for different types of applications, is located at www.cta.gc.ca.

62. The CTA's portion of licence applications are processed in the following manner:

- (a) After a thorough assessment of the application to ensure that all necessary material is included, the pertinent information is provided to Canadian ship-owners/operators, and they are given a specified deadline to advise the CTA if they have a ship for the proposed engagement.
- (b) If no offers of ships are received on or before the set deadline, the CTA takes the application for determination. In this instance, since no ships were offered, the CTA normally determines that no suitable Canadian ship is available for the proposed engagement and advises the CBSA accordingly.
- (c) Offers of Canadian or non-duty-paid ships are to be sent at the earliest possible date to the CTA and copied to the applicant, but no later than the set deadline.

(d) Following the above submissions, pleadings are normally considered closed. The application, including all relevant documentation, analysis, and reviews, is taken by the CTA for determination. The letter of decision is sent to the CBSA and copied to the applicant and all parties of record. Although the CTA may have determined that suitable Canadian or non-duty-paid vessels are available, the applicant is not obligated to use the vessels offered.

REFERENCES

<p>ISSUING OFFICE –</p> <p>Licensing Unit Assessment and Licensing Division</p>	<p>HEADQUARTERS FILE –</p> <p>7688-1</p>
<p>LEGISLATIVE REFERENCES –</p> <p><i>Customs Act</i> <i>Canada Shipping Act</i> <i>Vessel Duties Reduction or Removal Regulations</i> <i>Coasting Trade Act</i></p>	<p>OTHER REFERENCES –</p> <p>D2-3-7, D3-1-1, D3-5-1, D3-5-2</p>
<p>SUPERSEDED MEMORANDA “D” –</p> <p>D3-5-7 dated September 16, 2010</p>	

Services provided by the Canada Border Services Agency are available in both official languages.

