# Memorandum D3-5-7: Temporary Importation of Vessels

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## Updates made to this D-memo

1. This memorandum has been revised to update the contact information for the Canada Border Services Agency (CBSA) and Transport Canada.
2. Definitions for “in-transit call” and “place” were added for the purposes of the memorandum.
3. Paragraphs 5 and 6 have been added indicating that if vessels are temporarily imported into Canada for alteration or further processing, customs duty relief may be available through the CBSA’s Duty Deferral program.
4. Information outlining marine bonded carrier requirements and cargo control movements was removed and reference was made to the applicable CBSA D-memorandum in paragraphs 11 and 12.
5. Paragraph 15.*(d)*, reflects the change to the *Coasting Trade Act* to add an exception for vessels engaged in seismic activities in waters above the continental shelf of Canada that are in relation to the exploration for mineral or non-living natural resources of the continental shelf of Canada.
6. Paragraph 23 was modified to include a service standard for the issuance of CBSA letters of authorization and denials for vessel temporary admission to the coasting trade of Canada.
7. Paragraph 26 was added to inform clients that the CBSA will accept a “Certificate of Fitness” issued by a certified authority as defined under the *Canada Oil and Gas Certificate of Fitness Regulations* as evidence that the installation meets the safety and pollution prevention requirements under subsection 4(l)*(d)* and *(e)* of the *Coasting Trade Act* for foreign flagged, offshore drilling, production, diving or accommodation installations.
8. Paragraph 53 provides clarification on temporarily importing demobilized vessels for storage.
9. Border Information Service contact information was added in paragraph 69.
10. Additional revisions to the text do not affect or change any of the existing policies or procedures contained in this memorandum.
11. The reference page was updated to reflect the current issuing office.
12. Paragraphs 37 & 38 have been amended to clarify duties and taxes owed for the 120th is charged for every calendar month and not a 30 day period.

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

# Definitions

For the purposes of this memorandum the following definitions apply:

**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*.

**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.

**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, 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 is,

(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; and,

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;

*(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.

**Foreign ship** – means a ship other than a Canadian ship or a non-duty paid ship.

**In-transit call** – means any call, other than an emergency or technical call, by a ship at any place where passengers go ashore temporarily but who re-board the vessel before the ship leaves that place or are transported by land to another location to re-board the same ship.

**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.

**Place** – means for the purpose of the definition “coasting trade” in subsection (1) of the *Coasting Trade Act*, a location in the territory of Canada or any vessel within the territorial waters of Canada. A place above the continental shelf of Canada includes any ship, offshore drilling unit, production platform, artificial island, subsea installation, pumping station, living accommodation, storage structure, loading or landing platform, dredge, floating crane, pipelaying or other barge or pipeline and any anchor, anchor cable or rig pad used in connection therewith.

# Guidelines

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 commercial vessels. The program provides for

the temporary, short-term market needs that cannot be met from existing fleet capacity in Canada. Under the program, foreign and non-duty paid vessel operators may apply (through a representative Canadian resident) 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.

## Reduction or Removal of Duties

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

4. Duty and tax relief may also be available if vessels are temporarily imported for repair or other work. Tariff item No. 9993.00.00 of the Schedule to the *Customs Tariff* and *Memorandum D8-1-1: Amendments to Temporary Importation (Tariff Item No. 9993.00.00) Regulations*, provide information regarding duty relief for vessels temporarily admitted to Canada for repair or alteration.

5. If vessels are temporarily imported into Canada for further processing, customs duty relief may be available through the CBSA's Duty Deferral program. Further information is available in Memoranda *D7-4-1: Duties Relief Program*, *D7-4-2: Duty Drawback Program* and *D7-4-3: NAFTA Requirements for the Duty Drawback and the Duties Relief Programs*.

6. Tariff item No. 9803.00.00 provides duty and tax relief for non-residents' conveyances and baggage, including non-commercial non-resident vessels imported for leisure use. For additional information see *D2-1-1: Temporary Importation of Baggage and Conveyances by Non-residents*.

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

8. 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 37 to 44). The exceptions to the above are vessels authorized to operate in the coasting trade of Canada in an "intercoastal movement" (see paragraph 52) and cruise ships authorized to operate on condition that no suitable Canadian vessel is available (see paragraph 49). In such cases, duties on the vessel will be reduced to zero for that movement.

9. In addition, the *Vessel Duties Reduction or Removal Regulations*, under specified conditions, reduce or remove duties that apply to certain vessels returning to Canada after being repaired or modified (see paragraphs 59 to 67). These regulations also provide tax relief for vessels temporarily imported for storage (tariff item No 9993.00.00 provides customs duty relief for such vessels).

## Marine Carriers

*10.* A vessel that qualifies for a *Coasting Trade Licence* and whose operator desires to transport in bond goods within Canada must be authorized as a bonded marine carrier. For information on how to become a marine bonded carrier, please consult *Memorandum D3-1-1: Policy Respecting the Importation and Transportation of Goods*.

11. In the case of vessels operating in the coasting trade, each separate in bond shipment will be re-manifested on an *A*8A(B) – In Bond – Cargo Control Document. The Cargo Control Document specifications for private printed documents and the completion requirements for Form A8A-B are outlined in *Memorandum D3-1-1: Policy Respecting the Importation and Transportation of Goods*. This memorandum contains information related to requirements and administrative policies regarding the reporting, transportation of goods being imported into and moving in-transit through Canada.

12. 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

13. The term "coasting trade" under the *Coasting Trade Act*, covers all marine activity of a commercial nature in Canada, including the carriage of passengers or goods, and above the Canadian continental shelf those activities when they are in relation with the exploration, exploitation or transport of the minerals or non-living natural resources of the continental shelf (see the section entitled "Definitions").

## Exceptions to *Coasting Trade Act* Provisions

14. 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 seismic activities in waters above the continental shelf of Canada that are in relation to the exploration for mineral or non-living natural resources of the continental shelf of Canada. This applies only to those vessels that are carrying out the collection of the scientific data and have onboard the data collection and research equipment/staff and therefore excludes vessels that are providing support services like chase vessels, icebreakers and supply (personnel, fuel and other supplies) vessels;

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

    *(f)* 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; or,

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

15. 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.

16. 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.

17. 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

18. An *Application for Vessel Temporary Admission to the Coasting Trade of Canada* for the use of 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; and
    b) be submitted on a completed Form C47, Application for Vessel Temporary Admission to the Coasting Trade of Canada.

19. Applications should be for a specific vessel and its planned activities and be as complete and precise as possible (for example, to use the Canadian registered, non-duty paid vessel, MV AXYZ, 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**
Commercial Registration
Commercial and Trade Operations Division
191 Laurier Avenue W., 12th Floor
Ottawa ON  K1A 0L8
Fax: 613-946-0242
Email: coastingtrade-cabotage@cbsa-asfc.gc.ca

**Canadian Transportation Agency**
Insurance and Marine Determinations Division
15 Eddy Street

Gatineau QC  K1A 0N9
Telephone: 819-997-8354
Fax: 819-934-0631
Email: maritime@otc-cta.gc.ca
Web site: www.cta.gc.ca

**Note:** Upon receipt of a copy of a properly completed application, the CTA will determine if a suitable Canadian vessel is available to perform the activity described on the application.

## Canadian Transportation Agency Process

20. Under sections 4 and 5 of the *Coasting Trade Act*, the Minister of Public Safety and Emergency Preparedness 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's Guidelines Respecting Coasting Trade Licence Applications, outlines the process and various time frames for different types of applications.

21. 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; and,

    *(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.

## Issuance of the Coasting Trade License

22. 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. The CBSA will strive to send a letter of authorization or denial to the applicant within two business days after receiving a decision from the CTA in respect of a *Coasting Trade Licence*.

23. 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.

24. Transport Canada, Marine Safety and Security is responsible for administering provisions regulating safety, pollution prevention 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 applicable safety, pollution prevention, and competency requirements for its temporary use in Canada must be submitted to the CBSA. The applicant must submit a letter of compliance for coasting trade from Transport Canada, Marine Safety and Security along with the other documents as described in paragraph 23.

25. Transport Canada does not inspect foreign registered Mobile Offshore Drilling Unit, production, diving or accommodation installations for the purpose of issuing a letter of compliance. The CBSA will now accept a "Certificate of Fitness" issued by a certified authority as defined under the *Canada Oil and Gas Certificate of Fitness Regulations* as evidence that the installation meets the safety and pollution prevention requirements under subsection 4(l)*(d)* and *(e)* of the *Coasting Trade Act*.

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

**Transport Canada**
Marine Safety (Headquarters) - General Inquiries
Email: marinesafety-securitemaritime@tc.gc.ca
Phone: **1-855-859-3123** (Toll Free) or 613-991-3135 (Local)
Teletypewriter (TTY): 1-888-675-6863
Fax: 613-990-1879

Mailing Address:
Transport Canada, Marine Safety and Security
Place de Ville, Tower C
330 Sparks Street, 11th Floor
Ottawa, ON  K1A 0N8

27. 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 B3-3: Canada Customs Coding Form, for the payments of duties and taxes on the 1/120 basis.

28. There may be instances where an application for a *Coasting Trade Licence* is made on behalf of a foreign registered, Canadian-built or a previously 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. Should a vessel return permanently to the coasting trade of Canada, duties and taxes will be collected on the value of the repairs or modifications.

## Reporting Requirements

29. 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.

30. As soon as the coasting trade movements set out in the *Coasting Trade Licence* are complete, vessels must report outward using Form A6 – General Declaration. 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.

31. 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 B3-3 attached.

32. 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.

33. 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

34. 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.

35. 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. These 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

36. 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 calendar month, or part of a calendar month during which the vessel remains in Canada; and,

(b) the minimum payment under the accounting procedure equals one month of duties. It should be noted that the goods and services tax (GST) is payable.

(c) *the customs duty on 1/120th of the value for duty of the vessel for each calendar month, or part of a calendar month during which the vessel remains in Canadian customs waters.*

37. When the coasting trade activities covers two separate calendar months or more, duties and taxes are charged for each separate calendar month.

38. While the minimum payment under this procedure equals one month of duties, **it does not mean that a vessel is automatically duty-paid for one month's operation**. It means a vessel authorized for a temporary admission for less than one month, a full month of duties/taxes is owed.

39. 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*.

40. You may pay customs duties in advance for the entire authorized period or monthly for an authorization covering more than one calendar month. Monthly payments must be received by the CBSA before each calendar month. 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 and Security, 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.

41. 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 and GST paid on a previous authorization or on an authorization that has lapsed or been terminated.

42. 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.

43. 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.

44. 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

45. 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*

46. 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 cannot be extended. This type of request often stems from a vessel arriving late in Canada.

47. The CBSA is allowing a two-week window based on the mutual understanding of the Ad Hoc Interdepartmental Committee on Coasting Trade Activities. 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".

48. If approved, the CBSA's Commercial Registration 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 sections 18 and 19 of the *Coasting Trade Act*:

"False Statements"

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 Agency 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.

Summary conviction offence and punishment

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

49. 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 the condition that no suitable Canadian vessel is available, as determined through the *Coasting Trade Licence* application process. 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.

50. 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.

51. For information on the processing of cruise ships, please consult *Memorandum D2-3-7: Marine Operations – Canada Border Services Agency Processing of Cruise Ships*.

## Intercoastal Vessels

52. 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 excludes 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

53. Vessels that have been demobilized, that is removed from active service and not used as a storage facility for commercial purposes or as a temporary residence, may be temporarily admitted into Canada for storage in a port facility or other storage location. Tariff item No. 9993.00.00 provides for customs duty relief for up to 18 months. If the vessels cannot be removed by the expiry date, the importer can request an extension (see D8-1-1 for additional information). The *Vessel Duties Reduction or Removal Regulations*(through the *Excise Tax Act,* see paragraphs 43 and 44) provide for GST relief for a period not exceeding 12 consecutive months. The storage period may be extended for an additional period or periods not exceeding 12 months total, however the vessel will be subject to payment of 1/120th GST for each additional month of storage. After 24 months of storage, the balance of the GST is payable.

54. For commercial vessels, 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 if required, in an amount up to that of the duties otherwise payable on the vessel. Non-residents' non-commercial vessels in

Canada for repair or storage are to be documented on a Form E29B, Temporary Admission Permit and, if required, commercial vessels may also be documented on Form E29B, for control purposes. Requests for storage of commercial vessels 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.

55. For non-residents' vessels not subject to pre-approval for storage, the importer or agent should be prepared to provide a copy of the storage contract including location, contact information, and length/expiry of contract. Upon expiry of the storage and/or repair contract, the vessel is to be exported and the Form E29B acquitted.

## Failure to Meet Conditions of a Temporary Admission Authority

56. Vessels imported under a 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 *Vessels Duties Reduction or Removal Regulations* or the *Temporary Importation (Tariff Item No. 9993.00.00) Regulations*.

57. 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.

58. 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* in addition to a recalculation of duties and taxes (as outlined in paragraph 57) for the time the vessel was in non-compliance.

## Repairs or Modifications

59. 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:

*(c)* a complete description of the repairs or modifications;

*(d)* name, address, telephone and fax numbers of people to contact for additional information; and,

*(e)* supporting documentation in the form of work orders, invoices, receipts, and other related documents.

60. The repair and modification provisions of the *Vessels Duties Reduction or Removal 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.

61. 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.

62. 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.

63. 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.

64. 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.

65. In the *Vessels Duties Reduction or Removal Regulations*, repairs are defined as 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.

66. The *Vessels Duties Reduction or Removal Regulations* consider modifications to be any work done on a vessel other than repairs.

67. The *Vessels Duties Reduction or Removal 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

68. Use Form B3-3 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 the CBSA for adjustments. The appeal should be written on Form B2, Canada Customs – Adjustment Request, to Trade Services Division for the regional CBSA office where the duties and taxes were paid.

# References

Consult these resources for further information.

## Applicable legislation

*Coasting Trade Act*
*Customs Act*
*Customs and Excise Offshore Application Act*
*Canada Shipping Act, 2001*
*Coastal Fisheries Protection Act*
*Excise Tax Act*
*United States Wreckers Act*
*Temporary Importation (Tariff Item No. 9993.00.00) Regulations*
*Vessel Duties Reduction or Removal Regulations*
*Canada Oil and Gas Certificate of Fitness Regulations*
*Customs Tariff*

## Related D memoranda

- *D3-1-1: Policy Respecting the Importation and Transportation of Goods*
- D7 Series
- *D8-1-1: Administration of Temporary Importation (Tariff Item No. 9993.00.00) Regulations*

## Related Forms

- C47: Application for Vessel Temporary Admission to the Coasting Trade of Canada
- A6: General Declaration
- A8A(B) : In Bond - Cargo Control Document
- E29B: Temporary Admission Permit

## Superseded D memoranda

D3-5-7 dated December 6, 2011

## Issuing office

**Issuing office:**
Trade and Anti-dumping Programs Directorate

# Contact us

Contact border information services