



*U-161
16 September 2011*

/Coat of arms of the Republic of Croatia/

REPUBLIC OF CROATIA
MINISTRY OF FINANCE
CUSTOMS AUTHORITY
CENTRAL OFFICE
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Zagreb, 5 May 2011

CROATIAN CHAMBER OF COMMERCE

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CROATIAN CHAMBER OF COMMERCE
TOURISM SECTOR
Attn. Mrs Ondina Šegvić
Rooseveltovej trg 2, Zagreb

Subject: Issues of Temporary Importation of Vessels Situated in Croatian Marinas

In response to your Document Class: 050-01/11-01/986, Ref. No. 311-15-11-01 of 11 April 2011

Dear Madam,

Further to your above referenced document in which you have presented the issues encountered by Croatian marinas in the process of accommodation of temporarily imported vessels in the Republic of Croatia, i.e., the obligations they have towards the Customs Office and in which you have requested the cancellation of the obligation of submitting bills/promissory notes as security instruments for outstanding customs duties and of the marinas' obligation to keep books and records on all marina leaving and entering activities; we hereby respond, as follows:

The temporary importation of vessels in the Republic of Croatia has been regulated in the Convention on Temporary */name of the Convention not completely cited, translator's note/* (Official Gazette – Treaties, No. 16/98), in the provisions of the Customs Act (Official Gazette 78/99, 94/99, 117/99, 73/00, 92/01, 47/03, 140/05, 138/06, 60/08, 45/09 and 56/10) and the provisions of the Customs Act Enforcement/Implementation Decree (Official Gazette No. 161/03, 5/07, 70/08, 76/09 and 29/11).

Accordingly, the customs regulations provide for the option of temporary importation of foreign vessels in the Republic of Croatia if the subject vessel has been registered outside the customs territory of Croatia in the name of the person/entity outside that territory, and provided that the vessel has been used by the person/entity with the registered office outside the customs territory.



The vessels in the Republic of Croatia hence may be subject to the temporary importation procedure in the maximum period of eighteen months, as prescribed in the provisions of Article 269, Paragraph 1 Item e) of the Customs Act Enforcement/Implementation Decree. This period may be extended, provided that the good has not been used during the procedure of temporary importation throughout the eighteen-month period, and the extension period may correspond only to the no-use period within the procedure of temporary importation, but the total period of temporary importation may not exceed the period of 24 months.

Moreover, as prescribed in the Customs regulations, in the event of failure by the person/entity that has imported the foreign vessel in the customs territory of Croatia, to re-export the same at the time of its/his/her leaving the customs territory of Croatia, the subject vessel may be left on the customs territory of temporary importation **only at locations specified or approved by the competent customs office**. Therefore, all persons/entities engaged in activities of keeping temporarily imported vessels must have appropriate approvals of competent customs offices, i.e., approvals for customs storage, if they wish to engage in the activities of keeping temporarily imported vessels.

Types of customs warehouses/storage areas have been prescribed in Article 231 of the Customs Act Enforcement Decree, such that they have been defined respectively as customs warehouses/storage areas of the types A, B, C, D, E and F. In terms of the specific procedure of accommodation and keeping of temporarily imported vessels in Croatia, in compliance with the provisions on types of customs warehouses/storage areas, the most suitable is the E-type customs warehouse/storage area.

Therefore, with reference to the part of your query in which you propose that marinas are to be defined as M type customs storage areas, since the proposed type of customs storage has not been prescribed in the customs regulations, there is no option for marinas to be defined as you have suggested.

Also, please note that the customs office has not obligated marinas to use the customs storage procedure, but in the event the marinas wish to engage in activities of keeping foreign vessels left in the Republic of Croatia, after owners' departure abroad, they shall be obligated to comply with the regulations of the Republic of Croatia and implement the procedure as regulated in the customs regulations.

Furthermore, with respect to marinas engaged in activities of keeping or accommodating foreign goods in the Republic of Croatia, these are obligated to meet the conditions prescribed for the accommodation of foreign goods, which among others include the filing of appropriate security instruments for outstanding customs duties. The customs duty security instruments have been prescribed in Article 447 of the Customs Act Enforcement Decree; the bill/promissory note, as one of the security instruments for the customs duty, requires prior approval of the Customs Authority's Central Office in compliance with Article 453 of the Decree.

Therefore, further to your request for the bill/promissory note to be cancelled as the guarantee for payment of any outstanding customs duties that may be incurred on vessels situated in Croatian marinas, i.e., that customs duties are not associated with marinas; please note that except for transit procedures, the customs regulations otherwise do not anticipate the exemption from the security deposit requirement for the goods for which the customs duty is or may be incurred, which indeed is incurred in the temporary importation, i.e. accommodation of temporarily imported vessels.

Also, one of the conditions for the temporary importation procedure is the obligation prescribed for temporarily imported goods that they must be re-exported within the set time period from the customs territory, with the implementation of all the prescribed border formalities. The re-exportation in this case means that the vessel must actually leave the customs territory of the Republic of Croatia. The customs territory of Croatia has been regulated in Article 3 of the Customs Act as the territory that includes the territory of Croatia and that has been marked by the customs line equivalent to the border line of the Republic of Croatia. The border line at sea has been defined in Article 19 of the Maritime Code (Official Gazette No. 158/03, 76/07 and 146/08) as the outside border of the territorial sea, i.e., as the line whose each respective point is at the distance of 12 ocean miles from the nearest point of the starting line, as defined in Article 18 of the same Code. Accordingly, vessels after the set time period must be physically re-exported from the customs territory of the Republic of Croatia.



However, the provisions of the Convention and national regulations of the Republic of Croatia do not prescribe the time period that must elapse such that the vessel thereafter may reenter the customs territory of the Republic of Croatia, i.e. reapply for the temporary importation procedure.

Further to all the above said and based on your request, please note that there is no legal option for the customs office not to apply the set time period for re-exportation relating to temporarily imported vessels, i.e., it should be considered after the expiration of the temporary exportation period that the subject vessel has left the customs territory of the Republic of Croatia and repeat the procedure of temporary importation.

Moreover, the Instruction No. 4/04 of 20 February 2004 on the accommodation of temporarily imported vessels and mobile homes under the customs supervision at appropriately authorized entities, prescribes in more detail the method of accommodation and keeping of temporarily imported foreign vessels, i.e., defines the obligations that must be met by marinas prior to the issuance of approvals authorizing the accommodation and keeping of temporarily imported vessels and the procedure to be applied by the person/entity that has imported the vessel on a temporary basis, if before leaving the customs territory, it leaves the vessel for safekeeping at a marina.

In compliance with the said Instruction, marinas are obligated to register the vessel in their records at the time the vessel is left for safekeeping, i.e., when the vessel owner – the person that has imported on a temporary basis the subject vessel - returns abroad, leaving the subject vessel for safekeeping. In that case from that time on the vessel shall be subject to the procedure of customs storage, under the liability of the holder of the customs storage area - in this actual case - the marina. Based on the customs regulations, foreign goods located in the customs storage area or undergoing other customs procedures or processes/actions, must be under the customs supervision, i.e. the goods may not be put in another procedure or process without the approval of the competent customs office. Also, they may not be relocated from the location approved by the competent customs office without its approval. Accordingly, the vessel that has been left for safekeeping in the marina may not be relocated from that point without the approval of the competent customs office and any relocation of the goods from the approved location constitutes unlawful seizure of the goods, which has been under the customs supervision. Moreover, in the event of theft of the goods subject to any customs procedures or processes, including the temporary importation procedure, it shall be considered that the goods have been excluded from the customs supervision, since they are no longer at the point approved by the competent customs office. Liable for collection of the outstanding customs duty in such event shall be the person/entity that was to ensure for the goods not to be excluded from the customs supervision, i.e., in the actual case, the marina.

Therefore, the marina is obligated to make the appropriate entry in its records as to each vessel taken for safekeeping and to notify accordingly the customs office. Moreover, we presume that the marina and the person/entity that has left the vessel for safekeeping in the customs territory of the Republic of Croatia have regulated in the appropriate contract the marina's obligation of keeping the subject vessel as well as the marina's obligation to prevent the use of such vessels by third parties.

Therefore, if at any point in time such person wishes to use its vessel again it should contact the marina and terminate the vessel accommodation and keeping procedure in order to resume using the vessel subject to the temporary importation procedure. In such case it is also necessary to notify the competent customs office that the procedure of customs storage has been terminated, and make the appropriate entry relating to the subject vessel in the marina's records.

Further to your filing in which you have indicated that the temporary importation period is six months within a single year, please note that this time period was prescribed in the previous customs regulations, while the current time period, as specified above, is eighteen months.

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Finally, please note that the method of regulation of the temporary importation has been defined in the international Temporary Importation Convention and in the national regulations (the Customs Act and the Customs Act Enforcement Decree) and their provisions have been fully aligned with the provisions of the international Convention and the European Customs Regulations. Therefore, there is no option for us to accept your proposals for different regulation of the matter of accommodation of foreign vessels in marinas, as this matter has already been regulated in the said way in the Republic of Croatia. Moreover, please note that the Customs Authority's Central Office has been currently working on the new Instruction for the accommodation and temporary importation of vessels, and before its issuance we will request also your opinion.

Yours truly,

**STATE SECRETARY
CUSTOMS AUTHORITY DIRECTOR**

Hrvoje Čović, M. Sc.

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Cc:

- State Secretary's office, Director's office
- Director Assistants,
- Customs Office Heads,
- Files.

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- by regular mail