



DEPARTMENT OF THE TREASURY

U.S. CUSTOMS SERVICE

WASHINGTON



JUN 7 - 1982

REFER TO

VES-3-01-CO:R:CD:C  
105644 JM

This decision concerns the applicability of the coastwise laws to cable-laying operations by a foreign-built vessel.

ISSUE:

Whether the use of a foreign-built vessel to lay cable between points in the United States and to land surplus cable violates title 46, United States Code, section 883.

FACTS:

Cable will be laden aboard the subject foreign-built vessel at Newington, N.H. and will be transported to Wilmington, N.C. via Port Everglades, Florida, Newington, N.H. and St. Thomas, Virgin Islands. Approximately 1,100 nautical miles of cable will be laid between Vero Beach and St. Thomas, Virgin Islands. The operator of the vessel asks whether a coastwise violation will occur if the unused portion of the cable, as much as 40 nautical miles in length, (less than 5% of the cable laden on the vessel), is unladen at a United States port other than the port at which the cable was laden aboard the vessel.

LAW AND ANALYSIS:

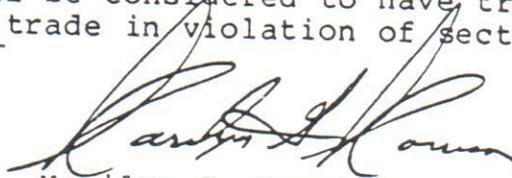
Title 46, United States Code, section 883 provides in pertinent part that, "no merchandise shall be transported ... between points in the United States, including Districts, Territories and possessions thereof embraced within the coastwise laws, either directly or via a foreign port, or for any part of the transportation, in any other vessel than a vessel built in and documented under the laws of the United States...."

The Customs Service has held that the sole use of a vessel to lay cable between points in the United States does not violate the coastwise laws. Such cable is not only laid, and not "transported," between points in the United States, but is also being used in furtherance of the primary mission of the cable-laying vessel and is therefore similar to vessel equipment. Headquarters has ruled that equipment laden on a vessel at a coastwise point and used by the vessel for reasons relating to the operation of the vessel may be later unladen at a second coastwise point without violation of 46 U.S.C. 883. The use of the equipment between American ports will have broken the continuity of the transportation between American ports. This rule applies to any small amount of similar equipment (5% or less of the equipment) that was laden for use but was not in fact needed during the operation of the vessel.

While the use of the cable in connection with the operation of the cable-laying vessel does not violate the coastwise laws, the transportation and landing of cable that was not placed on the vessel to be used in a cable-laying operation, other than cable retrieved to be repaired, at a port in the United States other than at the port at which the cable was laden aboard the vessel constitutes a violation of 46 U.S.C. 883.

HOLDING:

A foreign-built vessel which transports cable used by the vessel in a cable-laying operation is not engaged in the coastwise trade of the United States. If up to 5% of the cable laden on a vessel and intended for use in a cable-laying operation is not used, it may be unladen at a second point in the United States without violation of title 46, United States Code, section 883. Such cable will be treated at the time of unloading as equipment of the vessel. However, if after loading cable at a place in the United States, a foreign-built vessel transports (i.e., does not lay out the cable between places) and lands the cable, other than cable to be repaired, at a second place in the United States, the vessel will be considered to have transported merchandise in the coastwise trade in violation of section 883.



Marilyn G. Morrison

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Dear Mr. Tomalonis:

Your letter dated May 11, 1982, requested a ruling concerning the use of a foreign-built vessel in a cable laying operation.

Our reply to your request is contained in the enclosed ruling.

Sincerely,

Marilyn G. Morrison  
Director  
Carriers Drawback & Bonds Division

Mr. V. P. Tomalonis  
Transoceanic Cable Ship Co.  
201 Littleton Road  
Morris Plains, NJ 07950

Enclosure