

DISCHARGE OF RICE IN BAGS

We have received the following advice regarding precautions in respect of discharge of rice in bags from our representatives at Parangua, Brazil:

Remarkable quantities of rice in bags have been discharged at Parangua during the last few years and very often, owners of vessels carrying mentioned cargo are confronted with a particular problem: shortage of cargo verified upon completion of discharge.

Usually in these cases, consignees of cargoes demand that a Guarantee or Letter of Undertaking for the amount corresponding the cargo short landed is supplied by owners of vessel prior of her sailing, as otherwise, vessel shall be subject to a detention till the demanded security is supplied.

Experiences have shown that in such cases, when discharges are already completed, not much can be done as regards to a proper and accurate investigation in order to ascertain whether mentioned shortages have indeed occurred.

The discharge operations of bagged cargoes are carried out by stevedoring entities usually appointed by consignee of cargoes, which are compulsory employing the tally clerks and labourers from local Unions of Port labours.

In theory, the cargo being discharged is subject to a tally carried out by the stevedoring entity in charge, usually appointed by consignees of cargo and by tally clerks of local Port Administration. In addition, as this type of cargo is always stored in warehouses outside port premises, an additional tally is carried out by tally clerks of said warehouses.

The official figures regarding the quantities discharged, are those ascertained by Port Administration, and it can be concluded that upon completion of discharge, obviously the quantities tallied by Port administration, Stevedoring Entity and warehouses receiving the cargo, are exactly matching/coinciding.

Once in possession of official figures covering the discharge operation, issued by local Port Administration, which are made available immediately upon completion of discharge, when a shortage is verified, consignees then demand the supply of security covering the amount representing the cargo short landed, and at this stage, there are no other alternatives on the side of vessel's



interests, except to comply with such demand and to insert in the security document a clause stipulating that the alleged shortage shall be subject to a joint investigation and in case same is confirmed, the signatory of security shall reimburse consignees for the amount of the shortage in question. However, as previously mentioned, at this stage hardly there will be any possibility to find discrepancies between the three tallies effected which could eventually be used as evidence that mistakes were made when the cargo was tallied during the discharge. In addition, once in possession of figures covering the discharge, issued by local Port Administration, which are the ones considered as official, consignees are entitled to detain the vessel, if necessary, even through local Court.

A solution to avoid such problem would consist in a sequence of actions:

- 1) Since the beginning of discharge, some of vessel's staff should be instructed by Master to carefully tally the cargo.
- 2) In case discrepancies between vessel's and shore's tallies are observed during the first two days, the necessary assistance from local correspondents and/or local owners' representatives should be requested by master in order that a proper investigation is carried out to find out material proofs in that respect, which would mainly consist of the tallies of Stevedoring Entity, Port Administration and Warehouse receiving the cargo. At this stage, it is likely that the figures presented by

mentioned tallies will not match/coincide with each other, therefore, clearly demonstrating that the discharge operation is not being properly tallied by shore side.

- 3) Once mentioned evidences are made available, a document to be prepared in Portuguese language, reporting the discrepancies observed and protesting against the deficient tallies should be signed by Master. The document would be called "Extra Judicial Notice" and enclosed with the evidences, would be registered at local Notary Public and would be tendered by a Court Officer to the following parties: Stevedoring Entity in charge of discharge, Union of tally clerks, Port Administration and Customs.

Notes:

- a) Based on previous experiences, the above procedure can be arranged on a very short notice.
- b) In case, after the parties having been duly notified, the discrepancies are still observed, the same procedure can be adopted again.
- c) In these cases, draft surveys, although the results are never sufficiently accurate, could be of some help to the suggested procedure.

In after all, a shortage is still observed on completion of discharge, there will be elements to defend the vessel's interests.

Needless to mention that good care must be taken by vessel's side on the occasion the subject cargo is loaded at the origin.