

CIRCULAR 02.2026 – BULK CARGO SHORTAGES IN BRAZIL: HOW PARANA COURTS APPROACH NATURAL BREAK ALLOWANCES

AUGUST 2026

Claims arising from alleged cargo shortages in bulk shipments are not new in Brazil. Bulk commodities such as fertilizers, soybeans, sugar and grains are naturally subject to minor variations in weight due to factors inherent to maritime transportation, including moisture, drying, leakage and handling.

The Brazilian Superior Court of Justice has consistently acknowledged that minor shortages may constitute a natural consequence of the carriage of bulk cargo. Its case law recognizes that shortages within accepted tolerance levels may not, by themselves, give rise to the carrier's liability where the loss results from the inherent characteristics of the cargo rather than from any fault in the transportation process.

Recent decisions rendered by the Court of Justice of the State of Parana, however, reveal a different approach.

Rather than presuming that small shortages constitute a natural break allowance, the Court of Justice of the State of Parana has held that the carrier bears the burden of proving that the shortage effectively resulted from the inherent characteristics of the cargo.

According to the Court, neither Brazilian legislation nor the transport contract automatically establishes an acceptable tolerance for shortages in bulk cargo.

Consequently, where the carrier merely alleges that the shortage resulted from a natural or operational break allowance, without producing sufficient technical evidence to support such allegation, the defence has generally not been accepted.

In these circumstances, the Court has recognized the carrier's liability for the shortage.

This divergence is particularly relevant because the Port of Paranaguá is one of Brazil's largest bulk cargo ports and the cases that deal with shortage arising from bulk cargoes will be decided before the courts of the State of Parana.

Although the matter may ultimately reach the Superior Court of Justice, claims are first decided by the Civil courts in Paranaguá and subsequently reviewed by the Court of Justice of the State of Parana.

Consequently, carriers involved in cargo shortages at the Port of Paranaguá face a litigation environment that differs from the interpretation currently adopted by Brazil's Superior Court.

This creates an additional layer of legal uncertainty, since carriers may face adverse judgments at state level even where the defence is consistent with the broader principles recognized.

The current judicial scenario also raises an important strategic question for carriers and their insurers: should relatively small shortage claims be settled at an early stage, or should they be defended through the courts?

Early settlements may reduce litigation costs and provide commercial certainty. On the other hand, routinely settling low-value claims may inadvertently encourage further claims by cargo interests, particularly where even minimal shortages are perceived as likely to result in compensation.

Conversely, pursuing litigation may contribute to the development of more consistent case law. However, this approach inevitably involves higher legal costs, longer proceedings and the risk of unfavorable decisions before the first instances.

In light of the Court of Justice of the State of Paraná's current approach, carriers involved in bulk cargo claims arising from shipments discharged at Paranaguá should consider strengthening the evidentiary basis of any defence relying on natural break allowance.

Rather than relying solely on the general proposition that minor shortages are inherent to the carriage of bulk commodities, carriers should consider producing technical evidence capable of demonstrating that the specific shortage falls within the expected natural variability of the cargo concerned.

Technical reports, expert opinions, scientific literature and operational documentation may become increasingly relevant in supporting such defence.

Furthermore, decisions taken today may influence not only the outcome of an individual dispute but also the expectations of cargo interests regarding future claims.

The approach adopted by the Paraná courts does not necessarily alter the legal principles governing the carriage of bulk cargo. It does, however, change the litigation landscape for cargoes discharged at Paranaguá.

The decision to settle or litigate should not be driven solely by the amount in dispute, but also by its potential impact on future claims and the broader claims-handling strategy adopted.



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21 August 2026

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