

Circular № 02-17-17-02

RE: BULK CARGO SHORTAGE CLAIMS IN TUNISIA

After several approaches from the assureds on different issues regarding bulk cargo shortage claims in Tunisia Ingosstrakh would like to inform the shipowners on some practical and legal issues in this respect based on Ingosstrakh's own experience and recommendations of relevant P&I correspondents – Elias Marine Consultants.

It is known that majority of the grain is imported in Tunisia by Messrs. "L'Office Des Cereales" who are a public sector company. This company usually request for a security from the Shipowners (prior completion of the discharging operation) for "apparent" shortage. Messrs. "L'Office Des Cereales" have always been adopting the same approach on all vessels transporting cargo to their account.

Those receivers are very famous for their claims approach, being the concerns of all P&I Insurers and Clubs, Shipowners and Shipmanagers. Being a government sector (part of the Ministry of Agriculture), none of their employees is obviously able to take a decision by saying that shortage is below permissible allowance, therefore, vessel is free to sail. Claims are dealt with by their legal department.

A Security in the form of an LOU is always demanded and such LOU is be replaced by a BG within normally 7 days.

Since 2010 Messrs. "L'Office Des Cereales" decided not to accept the application of 0.5% as transit allowance on grain shipments. In Tunisia, it is up to the receivers to decide whether to accept the transit allowance or not. Unfortunately, there is no a decision or a circular from the Ministry of Trade or Agriculture or any Governmental Chamber announcing that 0.5% is applicable for grain shipments.

In the event Owners wish to settle the matter with the receivers, the minimum that has recently been accepted by Messrs. "L'Office Des Cereales" was 90% from the claimed amount. It isn't surprise if they ask even 95% or 100% of the claimed amount.

In the event Owners wish to reject to settle, relevant Bank Guarantee must be put in place, usually within 7 days from the date of the rejection and court proceedings based on the transit allowance to be brought. It is up to the Court to decide on the transit allowance by relying on a cargo expert to provide a report in this respect.

It is recommended to Shipowners to have proper clauses included in the Charter-party protecting Owners' interests best terms possible. In this case, Owners will have to deal first with the claim, thereafter, to recover from Charterers.

Following survey recommendations could be given to Shipowners in order to protect their interests in the best way.

The appointment of a court expert in order to carry out:

1. Unsealing of the hatch covers;
2. Initial and final draft survey;
3. Monitoring discharging operation;
4. Tallying the trucks that loaded from the vessel's holds;
5. Register the shore scale weight of each truck (if the cargo will not be discharged into the Silo) ensuring that the trucks tallied next to ship have passed the shore scale;
6. Report to Owners all the developments including any mishandling of the stevedores;
7. Assisting the Master of the vessel as necessary.

Therefore it seems quite reasonable for Shipowners to carefully assess their commercial risks of coming Tunisian ports and take necessary precautionary steps as outlined above.

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P&I DEPARTMENT