



Ship Type: All Trade Area: Brazil

## Bulletin 231- 02/02 - Port Health Fines - Brazil

Referring to our earlier Bulletins – 09 (07/97), 11 (08/97), 35 (02/98) & 155 (09/00), we would like to advise Members of a recent development regarding the fines imposed upon vessels found to have “sanitary infractions” by the Brazilian Port Health Authorities (PHA).

On 20<sup>th</sup> June 2001, the President of the Republic issued an ordinance changing the amounts applying to the various categories of fines. The fines are still categorised as infractions (article 4 of law 6437 of 20.08.1977) as follows:

- Light** Those infractions in which the infractor can benefit of attenuating circumstances – 2,000-75,000 BRC, (US\$810-\$30,364).
- Serious** Those infractions in which is verified an aggravating circumstance – 75,000-200,000 BRC, (US\$30,364-\$80,972).
- Very Serious** Those infractions in which is verified the existence of two or more aggravating circumstances – 200,000-1,500,000 BRC, (US\$80,972-\$607,288).

We suggest that Members ensure that their vessels, when proceeding to Brazilian ports, exercise extreme care so that:

- The entire crew is in possession of valid Yellow Fever certificates, issued in the format recommended by the WHO and with no erasures of any kind;
- All accommodation, galley and hospital spaces are clean and free of insect infestation;
- Hospital medicine lockers are sufficiently stocked and all drugs/medicines on board are *in date*.
- Fresh water tanks are clean and a record is kept of disinfections made;
- All provisions are stored and packaged properly - no foodstuffs out of date.

This list is only to highlight the main points being checked by the local PHA – it is not intended as an exhaustive checklist for vessels entering Brazilian ports.

The Club has opened eight new claims files in the last six months involving port health fines in Brazil. These files include expired Yellow Fever certificates, out of date food and cockroaches being found. In one case, we understand that the fine imposed could fall into three categories – with the maximum fine being US\$650,000.

These fines can obviously be very substantial and it appears that they are being imposed more frequently. There is the risk that local PHA’s will use them as money-making opportunities. Local agents are also concerned as they are, according to local law, co-responsible for the payment of these fines. One of their main worries is that the PHA takes its time informing ships agents’ of the amount of a fine and this may be after the ship has sailed.

These fines can be defended at both administrative and court levels. However, appeals at the administration level are unlikely to succeed, while to appeal such a fine in court requires a cash deposit to be made.

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