



# LP Bulletin

Friday 3<sup>rd</sup> October 2014

## Bulletin 1000 -10/14 - Bulk Cargo Discharge Issues - Algeria

**The following recommendations have recently been received from the Club's correspondent in Algeria.**

It should be remembered that there is always a potential intransit loss of weight due to loss of humidity and dust. Under normal circumstances, the subsequent shortage, if any, should be confined at a very small percentage (below 0.5 %). However, when the cargo is discharged by means of non tight grabs, there is also a further shortage claim as a result of the cargo spillage during the discharging operations. The spillage can be even more aggravated when the trucks are overloaded and when the shore scale is too far from the pier. In addition to these obvious causes of possible shortage, there are also other factors that may contribute to create a paper shortage:

- Lack of accuracy of the shore scale
- Lack of exactness when the weights are not accurately read and recorded at the shore scale.

To face the problem, the steps to be taken during the cargo discharge should be as follows:

### **1st stage:**

Preventing / mitigating any possible shortage claim prior to the ship's departure.

### **2nd stage:**

Resisting any shortage claim later and defending the case before a local court as efficiently as possible.

### **For the purpose of preventing / mitigating any possible shortage claim prior to the ship's departure**

In addition to a joint draft survey, we would recommend a tally of the receiver's trucks at the pier and at the shore scale for the purpose of:

- Hatch unsealing and empty hold inspections with receivers
- Making sure that all loaded trucks are duly weighed and recorded
- Making sure that the trucks are always weighed without the driver (or any other unusual weights) on board when they are empty as well as when they are full
- Making sure that the weights are read and recorded carefully

Prevention advice given by the Club's correspondent

McLeans Algeria P& I Services  
Algiers

[Algeria.pandi@yahoo.fr](mailto:Algeria.pandi@yahoo.fr)

McLeans France

[info@mcleans.fr](mailto:info@mcleans.fr)

### **For the purpose of defending the case**

Experience has shown that the local courts are still more inclined to consider the findings of the receiver's surveyor, based on the outturn of the shore scale. There is unfortunately no decisive defence against this attitude.

However, we have to defend the bona fide carrier by all means and we ought to gather as many arguments as possible. To this end, we would recommend a monitoring of the cargo discharge including the following:

- Performing a joint draft survey or at least an independent draft survey
- Collecting evidence by taking photographs of the cargo spillage from the grabs, hoppers and trucks when permitted in the port (consult the Club's Correspondent)
- Inviting the receiver to note by himself the spillage of his cargo and to take the appropriate measures for preventing or minimising the loss
- Assisting the vessel's Master in drafting appropriate letters of protest.

Before the courts, the draft survey findings cannot override the outturn of the shore scale. However, it is expected that the draft survey would at least give the court the feeling that the carrier was confident in his figures and had actually taken the relevant steps to check the quantity of cargo he was delivering.

Regarding the transit loss, Algeria adhered to the Hague Rules in 1964 and incorporated the provisions of article IV. 2 (m) of the Hague Rules in article 803 of its Maritime Code, which reads as follows:

#### **Article 803: Translation:**

**The carrier is relieved from the responsibility stipulated in the previous article if the losses or damages sustained by the goods arise or result from:**

#### **g) latent defect, particular nature or inherent defect of the goods or loss in transit;**

Unfortunately, the courts are still reluctant to take into consideration any transit loss and therefore there is still no case law on this particular point in spite of the repeated argumentation put forward by all lawyers defending Owners' cases.

### **SUMMARY**

We would recommend the appointment of a surveyor for the purpose of:

1. Performing a joint draft survey or at least an independent draft survey
2. Performing:
  - (a) a tally of the trucks loaded alongside the ship,
  - (b) a tally and control of the weighing of the trucks at the shore scale before and after their taking cargo from the ship.
3. Taking photographs of the cargo spillage from the grabs, hoppers and trucks.

4. Inviting the receiver to note by himself the spillage of his cargo and putting him on notice to take the appropriate measures for preventing or minimising the loss.
5. Assisting the vessel's Master in drafting appropriate letters of protest accordingly.

We have dealt this year with the discharge of a significant number of bulk cargoes (including wheat, yellow corn, soya bean meal, fodder wheat, barley and feed barley,) throughout most of the Algerian ports.

In the rare cases where the above suggested attendance was performed, the receivers did not claim any discrepancies as the final outturn of the shore scale proved to be similar or not too far from the figures entered in the bills of lading.

In the cases where there was no surveyor attending on behalf of the Owners or where the surveyor's attendance was confined at the draft survey, shortage claims have been systematically raised on completion of the cargo discharge.

In addition to a more accurate weight control, this could also mean that the cargo receivers are more careful and cautious when a surveyor acting on behalf of Owners is performing a full monitoring of the cargo discharge.

### **Source of information**

Loss Prevention Department