



Ship Type: All Trade Area: Morocco

Bulletin 360 - 05/04 - Problems with Alleged Shortage Claims - Morocco

We have been advised of several cases of shortage claims on ships discharging bulk cargo in Moroccan ports.

On discharge the cargo is either stored in silos in the port area, or given direct clearance from the port. In all cases the cargo is only weighed on its clearance from the port, while crossing the weighbridge. The result of this weighing is considered as the official delivery weight to the receivers and therefore determines possible short landed quantities.

These losses at the quay are often attributable to the tightness of the grabs during discharge, the overloading of the means of cargo receiving equipment i.e. lorries or trucks, and defects in the weighbridge.

As the courts do not accept a delivered quantity, but only the weight determined by the port weighbridge scales, these losses at the quay subsequent to discharge are often the subject of claims addressed to the carrier, even though he is not responsible.

Despite of the application of Hamburg Rules in Morocco since 01/11/92, the majority of the claims that do not exceed 2% of the b/l quantity have been rejected on the basis of trade allowance (Article 461 of the Moroccan Code of Commerce, applicable to shore transport). This exoneration of the sea carrier from any liability due to trade allowance is recently becoming more contested. The cargo interests are arguing that the sea carrier should prove that the shortages are exclusively attributable to the nature of the cargo in order to invoke the trade allowance and estimate that the trade allowance should not exceed 0.5% of the b/l quantity.

The following steps are recommended:

- 1 The master or ship agent adding, "the declared weight on the B/L by shipper could not be controlled as the cargo was loaded in bulk without possibility of weighing on board" onto the b/l.
- 2 The cargo interests and the carriers to jointly attend:
 - a) A draught survey at the loading and discharge port
 - b) The sealing of holds on the completion of loading at the departure port and the unsealing of holds at the port of discharge

We advise all Members of the above situation and recommend that they inform their ships' masters and operations departments accordingly.

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