

UK P&I CLUB



LP Bulletin

Friday 4th February 2011

Bulletin 741 - 02/11 - Trade allowances - Italy

“ Nowadays, the majority of claims which might be faced by vessel discharging in Italian ports, concerns cargo shortages. There is much confusion and uncertainty about the trade allowances which can be enforced against cargo receivers who are claiming for cargo shortages, so there is a widespread tendency to settle these disputes out of Court, because of the absence of clear and unambiguous judgements in this regard.

Very often the local correspondents (or their surveyors) suggest some criteria to identify the trade allowances to be applied to a certain shortage, which then result devoid of meaning and without any legal acknowledgement and are easily rejected by claimants' solicitors. Recently many correspondents and surveyors do suggest to apply the decree law no. 55 of 13th January 2000, regulation laying down rules on natural and technical losses for goods subject to customs and excise duties bond. This law does not express a will of the legislator to establish the trade allowances to be applied in all Italian ports but, as stated in the title of the law, sets out the exemptions in weight allowed for the payment of taxes and custom duties on goods imported. Therefore this law is not enforceable against claimants.

The Italian law has delegated to the local Chambers of Commerce to issue periodic collection of “Customs and Practices” that should establish trade allowances applicable on goods discharged at ports. Therefore, in order to identify the trade allowance for a given commodity in a given port, reference should be made to the provisions of the Chamber of Commerce of the Province where the port is located. Obviously, this system implies that there are differences between each port and it certainly cannot be drawn as a unique chart of trade allowances for all Italian ports, easily accessible by each foreign operator, Shipowners or P&I Club. This is even more complicated by the fact that not all Chambers of Commerce have drawn up the collection of “Customs and Practices” and, some of those who made it, do not have considered trade allowances for all types of goods. In this case, it's our opinion that, where a Chamber of Commerce has not regulated the trade allowances for a port, it should be applied those provided by the Chamber of Commerce of the nearest port. Unfortunately, here too the doctrine is not helpful, since there are no judgements related to those cases. Anyway, we believe that this approach represents a valid instrument to mitigate or reject a claim, as not many lawyers are willing to undertake legal proceedings in order to obtain a full compensation for a shortage that is considered customary and tolerable in the most of Italian ports. Although, as above stated, trade allowances are not the same in all the ports, for your guide and reference, we here-below report a scheme of average trade allowances for a number of commodities; in case of shortage, we highly recommend that you ask us for confirmation whether or not, as set forth below, apply for a given commodity in a given port.

Bulk Cargoes

Beans	1.0%
Cellulose	4.0%
Cement	1.0%
Coal	1.0%
Coke	3.0%
Fertilizer	2.0%
Grains	0.5%
Kaolin	2.0%
Meals	1.0%
Oils	0.5%
Petrol Coke	0.3%
Pig Iron	1.0%
Steel Scraps	1.5%

We would remind you, as mentioned in our previous bulletins, the best weapon to dismiss claims for shortage is appointing an independent draft surveyor at loading and discharging port. Please also note that, even if the Charterers exempts the Shipowners in the Charter Party from any cargo claims, if the Bill of Lading doesn't contain in the front page the following specific clause: "all terms and conditions of the C/P (place and date of issue) are herewith fully incorporated, including the arbitration clause", according to the Italian Courts, the vessel is responsible for cargo claims (including shortages) and the Charter Party couldn't be enforced against the Cargo Interests. "

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