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**CIRCULAR 049/2023 – IMPORT OF SOYA BEANS TO ARGENTINA –  
SHORTAGES & CUSTOMS FINES**

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As you may know, Argentina is typically a main grain exporter. However, in seasons like the current one, when the harvest is deficient, it becomes necessary to import grains - particularly soya beans - for the local industrial production. Mainly vegoils and by-products which are then exported.

The 2022/23 harvest in Argentina was substantially affected by a historical dry season, estimated in 25 Mn MT compared to the 42 Mn harvested in previous season. According to some media, Argentina would have to import circa 10 Mn of soya beans, half of which, it is expected to come from Brazil.

We have already seen a tendency of shortages upon discharging soya beans in Argentina this year. This has triggered security requests by the ship's agents who are jointly and severally liable with the carrier before Customs House, who applies a NIL allowance when the outturn figures are based on shore scales. So far we have not seen cargo claims from the consignees or their insurers, but this is something we would expect to see in the near future.

The position is explained with further details in our Circular 8/2010 which remains applicable (enclosed).

As mentioned therein, we would emphasise our suggestion to: i. arrange draft surveys and sealing of hatches at the port of loading (jointly with the shippers and Customs when/if possible); ii. Prior to ship's arrival to invite formally to the Customs House and Receivers to attend joint draft surveys and unsealing of hatches; iii. Issuing and "empty holds certificate" jointly when/if possible.

Should you require any clarification and /or additional information in relation to this circular please do not hesitate in contacting us.

Yours faithfully,  
Sebastian Trigub  
Pandi Liquidadores SRL  
Buenos Aires/Argentina

**Encls.**  
**Circular 8/2010**

## FERTILIZERS IN BULK - Circular 8/2010

Dear Sirs,

As introduction for the analysis of this subject, we would like to mention that our Customs Code foresee that shortlanded cargo is assumed to have entered into the local market if the shortages are not properly justified so the carrier and their agents are jointly and severally responsible for the payment of duties as they have been the importers. Moreover, our customs code establish that when the discrepancies are over certain percentages which will be analyzed hereunder, an infringement of customs code is considered due to inaccurate declaration of the cargo manifest which is sanction with a fine equivalent to the CIF value of the goods.

In view of recent cases of shortages of fertilizers in bulk destined to Argentinean ports mainly leading to customs fines, we would like to give the Associations and its members a general briefing of the local scenario bearing in mind the Customs Law and their actual behavior.

Although this is not a new problem, there has been lately an increase of cases related to discrepancies between shore and manifested figures specially in respect of fertilizers.

In general, there is a 2% allowance which applies to bulk liquid cargoes and 4% to bulk solid cargoes both in respect of customs fines only meaning that if, the discrepancies are over those amounts then, a fine could be imposed between 1 up to 5 times the CIF value of the cargo.

Nowadays, the main problem relates to duties for the short landed cargo. There is a tolerance of 0.6% but the Customs authorities consider that such tolerance only applies to weights controlled through the draft survey system but if the weights are controlled through shore scales then, the tolerance would be nil as far as duties is concerned. For the sake of clarity, please note that the tolerance of 0.6% still applies to liquid bulk cargoes.

Having said that, you have that in many occasions the duties were already paid by receivers for the whole declared quantities but, they have certain benefits/exemptions in respect of VAT and Income Tax so nowadays, the customs commence proceedings against the carrier/agents claiming for both the VAT and the Income Tax of the short landed cargo stating that the exemption applies only to importers but not to carriers/agents and this would depend very much on the Customs office involved such as Rosario, San Lorenzo, San Nicolas, Campana and others as it seems sometimes that each Customs office has their own interpretation of Customs Code.

However when charges are imposed most of them are defended at least to try to reduce the imposed charges/fines if, they cannot be dismissed at the end of the day. This would depend very much on the amount at stake.

As you will note it seems that sometimes we are in a "catch 22" situation as far as Customs is concerned. Bearing in mind that in this country agents, are jointly and severally responsible with the carrier for Customs infringements and proceedings are commenced against port agents direct then, it is usual for Agents to require a Club's LOU in case of any discrepancies upon completion of unloading operations which could give room to customs proceedings.

Nowadays we were recommending owners to control the off loading not only through draft survey but also by carrying out an off loading survey by checking each truck alongside the ship and at the shore scale as in this country the official weights for customs purposes are controlled through this method. In general this year this exercise was effected in a number of vessels with good result but unfortunately in a few vessels which discharged at various local ports shortages were ascertained again. We are not completely sure whether the problem took place at disport or whether the cargo was already having any discrepancies from loading port.

As you will realize the draft plus the loading control it is an expensive exercise for owners so it is after them whether they would like to give a try to this exercise. One alternative that we are thinking for future cases is to proceed in the following way:

- 1) Draft survey to be carried out a loading if possible involving local customs and it would be of help if this is inserted in the bills of lading i.e. weight ascertained through draft survey method.
- 2) All access to cargo spaces including hatch covers to be sealed upon completion if possible (recommended) jointly with the customs authorities at the loading port.
- 3) Before ship's arrival to Argentina collated letters to be passed by agents onto Customs/Receivers inviting them to carry out a joint draft survey on arrival and then to jointly proceed with the breaking of seals placed at load port (specially when the weight a loading port was established through draft survey).
- 4) Upon completion "empty holds certificate" to be jointly issued between all parties concerned.

In fact, both the Customs and Shippers will refuse to attend a joint survey as in this country the weighting method as per customs regulations it is chosen by receivers who always does it through shore scales and most probably they will not attend the unsealing of hatches but, if proceedings are commenced for any discrepancies then the attending lawyer would have more elements to try to defend the charges/fines stating that both Customs/receivers were given the opportunity to attend onboard as to comply with the aforementioned steps.

We hope this it is not much confusion but we were trying to give you a general scenario in respect of fertilizers in bulk to be discharged in Argentina and customs lately attitude towards any discrepancies recorded upon completion between shore and manifested cargo (bills of lading).

Perhaps your members would like go at least ahead with a draft survey but, they would have to be ready for a LOU to be issued in agents favor in case of any discrepancies upon completion of discharge and before vessel sails.

Await any comments that you may have and of course, we remain at your disposal for any clarification and/or additional information that you and/or your members may require.

Yours faithfully,

Alberto Trigub  
Pandi Liquidadores SRL