

MEMBER ALERT

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SHORTLOADING OF CARGO IN ARGENTINA

Following shortage claims at destination ports arising from discrepancies between ships and shore figures at loading ports in Argentina, our local correspondents have issued the following advice:

Members should be aware that, where ship's figures indicate shortloading, the only way to avoid claims at discharge ports is to clause the Mate's Receipt and Bills of Lading, rather than issuing Letters of Protest.

Shore figures, which are generally obtained from shore scales or shore tanks controlled by Customs, are used by Customs and shippers for export purposes and are treated as fiscal scales. Mate's Receipts and Bills of Lading are required to be issued clean on the basis that shore scale figures are more accurate and are Customs-controlled.

However, in accordance with Section 299 of the Argentine Maritime Act (20094), the Carrier and/or the Master and/or the agents are legally entitled to clause the B/Ls when they have reasonable doubts that the weight or quantity of the cargo is not in accordance with the cargo actually loaded onboard (i.e. from the results of draft surveys or tank ullages).

Notwithstanding the above, cargo interests will invariably challenge the Master's specific clauses as to quantity and arrest the vessel, obliging Owners to deliver clean B/Ls to the Court under protest and reserving their rights in the event a shortage claim at the destination port. Alternatively, Owners may be able to offer a guarantee to the Court for the alleged shortloaded quantity then await confirmation of the quantity discharged at the destination port.

Under these circumstances, Owners should invite shippers/charterers to conduct a joint draft survey and to jointly seal hatch covers or tanks. Where neither shippers nor charterers are able to attend, Owners should ask for a Court surveyor to attend, also Customs. At the discharge port, Owners should arrange another draft survey and to jointly unseal hatch covers or tanks.

For further information, please contact the Managers.....

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