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MÜMESSİLLİK VE MÜŞAVİRLİK A.Ş.

## CUSTOMS PURSUIT FOR SHORT AND EXCESSIVE DELIVERY IN TURKIYE

I) In case of a shortage or excess on the quantity of discharged cargo beyond the customs trade allowance limits (varies as per the type of cargo), customs serve a notification onto the local Agents of the vessels in order to declare the commencement of the pursuit against them. In the notifying document it is shortly stated that the relevant cargo is short and excessive delivered and the Agents are granted 3 (three) months from the date of the notification to explain the reason for shortage or excess, or to present a Short or Excessive Shipment Certificate.

(It may be possible for the Agents to obtain another 3 months extension at the end of the first one. At the end of the above 2 (two) 3 (three) months time extension as a last time; 1 (one) month time extension may be permitted by the Authority)

II) At the end of this period, being fined is inevitable. The reason of the fine is to compensate Government's loss of Customs' tax, due to shortage or excess. For the Customs Fine, Agents/ Owners/Vessel/Master are jointly and severally responsible; and as the imposition of the Customs fine is related with Public Law, the Authorities, in practice, collect it from the Agents, by force of Law, regardless of the Agents are representing the Owners or the Charterers etc.

III) Customs Pursuit is not a legal action but is an administrative pursuit, at this stage.

IV) Meanwhile please also note that when a Customs shortage or excess fine is served onto the Agents, if it is not opposed and paid within 15 days, 1/4 reduction is benefitted.

V) Following a Customs Pursuit started, imposition of a fine for shortage or excess can only be avoided, by presenting a Short Shipment Certificate/Document to the Local Customs, by the Local Discharge Port Agents, advising that the Cargo already short shipped; that however, erroneously (by secretarial error or by weighing error or wrong tally) was manifested as this. The correct figure should be .....**M.Tons** Please note, mentioned document should be issued and signed either by **Shippers or Load Port Agents** and their signature needs to be legalized (not the contents) by the Local Chamber of Commerce and the Turkish Consulate there. If Consulate is not available there, Chamber of Commerce should state this.

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VI) Failing presentation of such Certificate/Document to the Customs, inevitably will result in being fined.

VII) This is the only loophole in the Customs Law to avoid potential Customs fine.

Mentioned documents is merely necessary to secure closing of the Customs Pursuit file.

VIII) Meanwhile please note that, for the Customs, the shore figures / Customs outturn weighbridge figures are final and definitely binding as per regulations in force; and are taken as a basis for pursuit/fine and the ship's documentation cannot overcome the Customs' establishments and does not enable members to resist Customs fine.

Meanwhile kindly note; the Customs/shore weighbridge figures are the figures binding and accepted in court as opposed to any other figures.

If the above "Short or Excessive Shipment Certificate" could not be obtained through the loading port Agents within (3) month time extension, the Authority's decision can be waited and the Customs Authority's imposed fine be paid asap with a benefit of 25% reduction.

P.S.: Kindly note, after submitting a "Short or Excessive Shipment Certificate" to the Customs Authority, the Authority will examine and give a decision whether they will accept the Certificate or not.

We also recommend, the Members to be ready to remit the funds to the agent for payment of the fine in case above mentioned short or excessive shipment certificate could not be provided in time.

As per Customs Code (Code no: 4458) of Turkey, the general trade allowance limit for bulk cargo is 3% and the natural gas (not imported by pipe line) is 4% and the trade allowance limit of some specific cargoes (some of them based on HS codes of the cargo) like leather, petroleum products and cottons are noted in the attachment 11 of the Customs Regulations of which some of them were noted herein after for ease of reference:-

Cargo	HS Code	Trade Allowance Limit by Seaway
Jet Fuel	2710.11.70.00.00	0.5%*
Gas oil	2710.19.41.00.11	0.5%*
White Oils	2710.19.85.22.11	0.4%*
Salty-dry South America Leather	-	5%*
Cotton	-	1.5%*

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(\*) The penalty amount is calculated based on the figure which is exceeding trade allowance limits of subject cargo. For instance, when the Jet Fuel cargo is short landed or excessively discharged for 0.8% against the declared figure, then the penalty calculations to be made for exceeding 0.3% against the trade allowance limit of the cargo which is 0.5%.

P.S.: The trade allowance limits may change in time and should be controlled for every case as per the regulation in force.

In case of the shortage (beyond the customs trade allowance limits) on the quantity of discharged cargo the fine to be calculated by customs is based on the customs duties of the short cargo.

In case of the excess (beyond the customs trade allowance limits) on the quantity of discharged cargo, the excess cargo will be confiscated and liquidated by the customs and a fine will be calculated by the customs based on the CIF value of the excess cargo.

Meanwhile please also note that when a Customs shortage or excess fine is served onto the Agents, if it is not opposed and paid within 15 days, 1/4 reduction is benefitted. Please note that, if the payment done without prejudice basis to benefit from the reduction, there is still chance to object to fine in the same 15 days.

Above was noted for guidance purpose and please contact with us if you have any further queries.