



ADVICE ON CUSTOMS FINES

CUSTOMS AUTHORITIES IN SEVERAL JURISDICTIONS CONTINUE TO PENALISE VESSELS AND CARRIERS WHEN THE LANDED OR OUTTURN FIGURES DO NOT MATCH THE MANIFEST OR DECLARED CARGO FIGURES. WHILE PRACTICE VARIES FROM PORT TO PORT, THE CLUB'S RECORDS REVEAL A RECURRING PATTERN OF CUSTOMS-RELATED FINES TIED TO CARGO SHORTAGES, OFTEN STEMMING FROM OVER-RELIANCE ON SHORE FIGURES AS THE LEGAL TRUTH, LOW OR ZERO TOLERANCE FOR DISCREPANCIES OR ERRORS AND FINES INDEXED TO MARKET VALUE AND/OR UNPAID DUTIES, OFTEN IN MULTIPLES.

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While not every discrepancy has resulted in a financial penalty, largely due to the effective intervention from the Club's local correspondents, these ports present elevated risks that calls for proactive mitigation strategies from Members.

Customs administrations view cargo shortages with suspicion because they may indicate under-declaration, smuggling, tax evasion or other regulatory breaches. Consequently, customs authorities are empowered under their national laws to impose fines or penalties on responsible parties.

These fines serve multiple purposes such as recouping lost customs duties and taxes, enforcing compliance with import declarations, deterring fraudulent practices and maintaining the customs control system integrity.

Although customs procedures and legal frameworks vary globally, several common principles emerge regarding cargo shortage fines, i.e., reliance on official inspection or survey results to determine if shortages exist. Even minor discrepancies between the cargo manifest and the shore weighbridge and/or stevedore's outturn figures can trigger substantial fines. The figures of a ship are often disregarded in disputes, relying on the accuracy of shore-side measurements and limiting the ship's ability to contest discrepancies.

If a fine is imposed, it is usually based on the unpaid import duties for the alleged missing cargo(es) (estimated local market value), multiplied by a certain factor determined by local custom authorities or some additional applicable custom duties. Given the complexity of import regimes and fluctuating duty rates across countries and ports, even modest shortages can escalate into unexpectedly large exposures if not managed carefully.

Ships are commonly required to post security, i.e., a cash deposit or bank guarantee to cover the potential fine while the matter is being investigated. While these initial demands can be steep, sometimes a more amicable approach can be achieved if carefully dealt with. Therefore, it is advisable to ensure cargo documents and submitted declarations are accurate and precise.

Whether the cargo is bagged, bulk, or liquid, any variance between the declared quantity and the amount recorded by the customs-appointed surveyor can result in fines. No single commodity stands out as uniquely problematic, but commonly affected goods include rice, wheat, corn, soybeans, sugar and fertilizers. These are high-volume, high-value commodities where minor measurement variances can have outsized financial consequences.

Therefore, draft surveys conducted by the ship often serve as our primary line of defence. For packaged cargo, they should be dealt with caution, and goods should be clearly marked and independent surveyors should be engaged where feasible to witness discharge operations.

As an example, Dakar in Senegal has been one of the most stringent ports regarding customs enforcement where seemingly minor documentation errors, minor cargo variances or even typographical errors can trigger significant fines or, in severe cases, ship detention. However, the Club's local correspondent recently reported a noticeable, albeit cautious, softening in enforcement, with authorities appearing more tolerant of minor cargo shortage discrepancies.

References:

1. <https://britanniapandi.com/wp-content/uploads/2024/01/Customs-and-Immigration-Fines-in-Senegal.pdf>

Our Dakar correspondents¹ have compiled a detailed checklist of documentation and declarations that customs officials routinely inspect such as:

- Manifest of cargo to be discharged
- Manifest of the cargo in transit, if any
- Bills of lading
- Crew list
- Port of call list
- Crew effects list
- Arms list (if any)
- Bonded stores
- Narcotics list
- Paints
- Bunker ROB, i.e., fuel oil, diesel oil, LSMGO, VLSFO, etc
- Residual oils in service tanks, sump tanks, hydraulic systems, sludge, etc
- Chemicals
- Lubricants
- Fire extinguishers

Therefore, the Club advises Members to form a consistent approach to each port entry, such as:

- Familiarise with port papers and declaration on cargo, crew effect, consumable and bunkers. Customs notification in relevant jurisdictions is essential, and the ship's master should always consult local agents to obtain the latest port regulations and requirements prior to submitting these declarations.
- Verify and reconciling all cargo documentation (manifest, packing list, commercial invoice, bill of lading, etc) well before arrival to ensure they reflect actual cargo loaded.
- Engage independent surveyors to conduct draft surveys and witness cargo operations and/or tally survey. Where permitted, record photographic or video evidence of sealed holds, weighbridge readings or tally operations.
- Ensure engine room and non-engine consumables (bunkers, lubes, provisions, bonded stores) are accurately declared, customs officials often scrutinise these as closely as cargo.
- Closely communicate with local agents, who aid in navigating bureaucratic expectations. Timely submission of explanations for dispute notices is helpful.
- Avoid signing customs documents without full understanding or verification.
- Receive the custom officers promptly to complete formalities and avoid negotiating any fine amount with custom officers as this may be misinterpreted as a bribery.
- Notify the Club and local correspondent in the event of a likely fine or seek legal and technical advice from experts within that jurisdiction.

While customs fines for cargo shortages remain a persistent risk in certain global ports, they are avoidable. With diligent planning, accurate documentation and strong local support, many of these incidents can be avoided, or resolved with minimal financial impact. As enforcement practices continue to evolve, staying informed, being proactive and aware of specific local custom procedures remains best practice to mitigate custom fines.

For further advice, please contact Britannia Loss Prevention team at lossprevention@tindallriley.com.