Members have previously been alerted to the risk of significant fines being imposed should a vessel fail to properly and accurately declare its cargo, fuel, stores, provisions and other material on board, upon arrival at an Argentinian Port.¹ Lack of a declaration or any inaccuracies in the declaration will constitute an infringement of Argentinean law and entitle the customs authorities to impose a fine and/or confiscate any undeclared goods found on board. Under Argentinean law:

- **Customs Code Section 954** deals with discrepancies between the quantities declared and those verified by customs and the penalty is a fine up to five times the value of the undeclared goods.
- **Customs Code Section 962** deals with goods not declared with customs and are found hidden or in the crew accommodation or in the possession of any crewmember on any means of transport. Any such goods will be confiscated and the carrier will be liable to pay a fine equalling the market value of the goods.
- **Customs Code Section 922** deals with cases where confiscation applies as a penalty, but the owner or lawful holder of the goods cannot be subject thereto or the goods are not apprehendable. This penalty will then be substituted with a fine equalling the market value of the goods.

Local port agents are held jointly liable with the shipowners for infringement of the above sections of the Argentinean Customs Code. In Gard’s experience, issuance of a P&I Club Letter of Undertaking (LOU) to the port agent has normally been accepted as adequate guarantee in order to avoid arrest and detention of the vessel. It has, however, come to our attention that customs officials in Argentine ports are now applying a new practice in the execution of their duties. In one of Gard’s recent cases, confiscation of the undeclared goods was not possible. Thus customs officials demanded a cash deposit as a guarantee pending the commencement of the administrative enquiry, an enquiry that may take up to six years. The value of the cash deposit was set by the Customs officials and was based solely on the officials’ own perception of the market value of the undeclared goods. In addition, an LOU had to be issued to the port agent in the event any future fine exceeded the value of the initial cash deposit. The vessel was advised that it would be held under arrest until customs had received confirmation that the money had been transferred to the designated bank account. The vessel was also advised that the administrative proceedings for releasing the vessel could take 48 to 72 working hours to complete after receipt of the payment.

Gard therefore repeat our advice for Members and clients to be extremely cautious when preparing customs declarations for Argentinian ports. With customs officials’ enforcement of a practice similar to that outlined above, the potential consequences for the vessel involved may be very serious. The return of any cash deposit is very difficult to achieve even where a good defence can be established, and just as serious is the increase in risk of delays in Argentinian ports due to the extended period needed for the completion of administrative proceedings. This may create challenges, and potential losses, in relation to the vessel’s next fixture.

Members and clients should inform their Masters of vessels calling Argentinean ports to be particularly vigilant and attentive when filling in the customs declaration and ship stores list in order to prevent any future misunderstanding or confusion. The accuracy of all numbers is crucial! If customs officials issue a record due to any alleged undeclared goods, Masters should contact the local correspondent immediately. It is also very important that Masters check that the undeclared goods are duly detailed in the record.

We would like to thank Gard’s correspondent in Argentina, Sigvart G.J. Simonsen & Cia. S.R.L., for their assistance in the preparation of this alert.