

## Argentina – Local customs regulations

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### Background

Argentine Customs Search Gangs have become a regular practice when calling at Argentinean ports; especially for vessels calling at more than one port in Argentina. Particular problems are the misdeclaration of bunkers, lube oil and duplicate declarations.

The misdeclaration of bunkers and duplicate declarations occur when vessels enter the Common Roads and then proceed to Upriver Ports; especially San Nicolas and San Lorenzo. Customs Search Gangs carry out the inspections in these ports and appear to be actively looking for incorrect declarations, which can lead to substantial fines. This is a particularly common occurrence in San Nicolas Port.

A recent Gard case involved a vessel arriving at San Lorenzo. During inward clearance, the Customs officer received from the Master the Ship's Stores Declaration, containing two pages of annexes where all required articles including Engine Chemicals and Lube Oil were listed. Customs Search Gang officers were on board during the loading operation, and found differences between the quantities declared of Lube oil and grease in the Ship's Store Declaration and the quantities found during the inspection. Additional pages were presented as an annex to the Ship's Store list containing detailed listings of all chemicals and grease in the Engine Department, but Custom's officers considered these as a second declaration and the vessel may therefore be fined.

### Local Custom regulations

According to local customs regulations, the Master should declare to Customs the cargo and also the ship's store and bunkers during inward clearance. For Customs in Argentina, the ship's stores and bunkers fall into the same category as cargo and thus any differences detected between the quantities declared and the quantities found during inspection by Customs onboard will give rise to large fines and/or confiscation of the items.

The law provides two penalties for wrong declaration. The first states that Customs is entitled to impose a fine of 1 to 5 times the cargo cif (cargo, insurance and freight) value for inaccurate declarations as it is presumed that without proof to the contrary that such cargo has been released into the market without the payment of duties and taxes.

The second option is for Customs to confiscate the undeclared goods found on board and to impose a fine up to the full cif value of the cargo. Where confiscation of the goods is not possible, Customs may be entitled to impose a fine in the amount of double the cif value of the cargo.

In accordance with the Customs and Navigation law the port agent is jointly liable for Customs fines and where proceedings are initiated against the vessel, the agent may be at risk of being subject of fines. Therefore, when proceedings are brought by Customs, the port agent will seek security from the owners, usually in the form of a P&I Club Letter of Undertaking.

### Recommendations

In order to properly address the situation and provide a possible solution, Gard believes it is necessary to consider the following:

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For more information please contact Loss Prevention Manager Terje R. Paulsen, email [terje.paulsen@gard.no](mailto:terje.paulsen@gard.no) or Loss Prevention Executive Marius Schønberg, email [marius.schonberg@gard.no](mailto:marius.schonberg@gard.no)

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In the event of shortages at discharge operations, assess whether they exceed the tolerances set out in the Customs Code, check whether they refer to a fine and dues or to dues only, evaluate the costs involved and thereafter decide whether it is possible to present a defence that renders a successful outcome when taking into consideration costs and benefits.

One alternative is to proceed as follows:

- Draft survey to be carried out at loading<sup>1</sup>, if possible involving local Customs, and loaded quantity according to draft survey recorded in the B/L.
- All accesses to cargo spaces including hatch covers to be sealed upon completion of loading, if possible, (recommended) jointly with the Customs authorities at the loading port.
- Before ship's arrival in Argentina collated letters to be passed by agents to Customs/Receivers inviting them to carry out a joint draft survey upon arrival and then to jointly proceed with the breaking of seals placed at the load port.
- Upon completion, "empty holds certificate" should be jointly issued by all parties concerned.

In the event of misdeclaration of goods; care should be taken when issuing Customs statements in connection with misdeclarations and incorrect declarations of bunkers, lube oil and stores. Besides, a thorough verification of the contents is also appropriate.

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<sup>1</sup> The cost of a draft survey will be for the owners' account and the local correspondent can assist in obtaining quotations from surveyors.

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