CIRCULAR REGARDING MISDECLARATION OF BUNKER FIGURES FROM THE VESSELS IN TURKIYE (Rev.1)

Under the applicable international reporting framework and Turkish customs requirements, vessels are required to declare the bunker quantities on board upon arrival at and prior to departure from Turkish ports. The relevant declarations are generally submitted to the authorities by local agents as part of the pre-arrival formalities, based on the figures provided by the vessel's crew or prepared with the agents' assistance, depending on the vessel's status and circumstances.

Subject to voyage duration, the vessel's operational status, the location of sounding pipes, the sounding systems available on board and weather conditions, bunker quantities may occasionally be estimated based on daily consumption or incorrectly calculated by the vessel's crew due to measurement errors or malfunctioning sounding equipment. Even, the figures could be declared mistakenly due to typo while writing on the documents. Consequently, the quantities declared to the authorities may differ from the actual quantities remaining in the vessel's tanks.

As part of local practice in Türkiye, the Customs Authorities may attend vessels at random and without prior notice to physically sound the bunker tanks and verify the accuracy of the declared quantities.

Where a significant shortage or surplus is identified compared with the declared figures, the Customs Authorities may request the vessel or local agents to arrange a bunker survey or may directly appoint an independent bunker surveyor to verify the actual quantities on board. If the survey findings confirm the alleged discrepancy, the Customs Authorities may refer the matter to the Public Prosecutor for further investigation under Turkish Anti-Smuggling Law No. 5607. As part of the initial procedures, the Master and Chief Engineer may be requested to provide statements to Customs. In particular, undeclared surplus bunkers may give rise to allegations of smuggling.

1. Confiscation of Surplus Bunkers and Cash Deposit

Where the quantity actually found on board exceeds the declared figure, the alleged surplus bunkers may become subject to confiscation under the applicable procedures. In practice, the Customs Authorities may require the surplus bunkers to be discharged (confiscated) from the vessel before departure. The confiscation of bunkers from the ship's tanks can be difficult and prolonged due to pump capacities on board and can pose risk to marine pollution if the connections are made not proper or the hoses that used for transfer can not resist to back pressure Alternatively, the authorities may allow vessel interests to make a cash deposit in lieu of physically discharging the surplus bunkers.

According to current practice, the amount of the cash deposit is calculated by the Customs Authorities based on the CIF value of the alleged surplus bunkers and the applicable customs duties, in accordance with the relevant provisions of Turkish customs legislation. The required amount is then deposited into the designated account of authorities.

The vessel may be prevented from sailing until the required discharge or cash deposit formalities have been completed. The availability and terms of this alternative must be confirmed with the authorities in each case. Acceptance of a Letter of Undertaking should not be assumed, as the authorities currently accepts cash deposits.

Where a judicial order is issued in connection with the confiscation of the surplus bunkers, the concerned parties may challenge it within the applicable statutory period. Even if an objection does not immediately result in the return of the bunkers or the cash deposit, it may provide an early opportunity to submit the vessel interests' explanations and supporting evidence in defence of the crew members.

2. Criminal Investigation Against the Master and Chief Engineer

Bunker misdeclarations, particularly where undeclared surplus bunkers are found on board, may not necessarily result in the detention of the vessel but may give rise to allegations against the crew members under Turkish Anti-Smuggling Law No. 5607. However, a discrepancy between the declared and measured quantities does not, by itself, necessarily constitute a smuggling offence. The reasons for the discrepancy and the legal elements of the alleged offence must be considered.

The Public Prosecutor may conduct an investigation and, upon reviewing the evidence, either issue an indictment for consideration by the competent criminal court or decide not to prosecute. If criminal proceedings are initiated, the concerned crew members may face imprisonment and a judicial monetary fine, depending on the applicable legal provisions.

Criminal proceedings may take approximately two to three years, or longer, depending on the circumstances and developments of the case. Accordingly, any eventual sentence of imprisonment would ordinarily be determined through subsequent judicial proceedings rather than during the vessel's port stay. However, any immediate measures affecting the crew members would need to be assessed separately.

In such cases, the authorities or the court may rely on technical expert examination of bunker records, tank soundings, fuel characteristics, consumption records and other relevant documents. An independent technical report from a qualified marine engineer or bunker expert may assist in explaining the discrepancy and supporting the vessel interests' position.

3. Customs Fines and Taxes

Apart from possible confiscation measures and criminal proceedings, the Turkish Customs Authorities may separately assess customs duties, taxes or administrative fines, depending on the circumstances and the legal basis of the alleged violation.

Any such decision may be notified to the Master or local agents, including after the vessel has departed from Türkiye. For decisions falling under Article 242 of Turkish Customs Law No. 4458, an administrative objection is generally available within 15 days of notification. The applicable remedy and deadline should nevertheless be checked against the particular decision, and further judicial remedies may be available.

It is therefore important that local agents promptly forward any notification to the vessel interests to avoid missing payment or objection deadlines. Based on our understanding of current practice, the likelihood of customs fines and taxes being imposed in such cases appears relatively low, although this cannot be ruled out.

4. Recommendations

We recommend that bunker quantities on board be carefully checked before submission of the relevant declarations, with particular attention to tank soundings, calibration tables, fuel density and temperature, consumption records and the calculation methods used. The vessel's crew should not rely solely on estimated consumption figures or tank gauging systems and should carry out physical measurements whenever practicable.

Where reliable bunker measurements cannot be carried out due to weather conditions, the vessel's operational status, sounding system malfunctions or other practical difficulties, we recommend that the measurements be repeated as soon as practicable, preferably before submission of the declaration.

Where this is not possible, vessel interests may consider arranging for an independent surveyor to carry out the measurements upon arrival, subject to obtaining the necessary permissions from the authorities.

We believe that such a proactive approach may also demonstrate the Members' good faith and be viewed favorably by the relevant authorities.

However, the necessary permissions should be obtained from the authorities beforehand, as they may not be willing to wait for the measurements to be completed. Furthermore, operational constraints and the timing of arrival formalities may not allow sufficient time for an independent surveyor to carry out the measurements after berthing. Therefore, the feasibility of this option should be confirmed with the local agents and relevant authorities in advance.

Where a discrepancy is identified, the vessel should promptly preserve the relevant records and seek clarification with the local agents. If the Customs Authorities commence measurements or an investigation, immediate involvement of the local P&I Correspondent and, where necessary, a marine lawyer is advisable. Particular care should be taken before statements are provided by the Master or Chief Engineer, as the initial records and explanations may become important evidence in any subsequent proceedings.

Submitted for your kind info.

Please contact us if you have any further queries and if you / your members need our assistance, we are always at your disposal.

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Best regards,

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