

## Iraq - Grain Shortage and Damage Claims at Umm Qasr

3rd April 2013

Translations: Chinese



Vietnamese



Baghdad correspondents Sadiq Jaafar & Associates have advised the Club of a new development in Iraq regarding wheat and other grain cargoes consigned to the Iraqi Grain Board (IGB) at the port of Umm Qasr.

Before permission to discharge is granted, IGB representatives draw cargo samples from each hold which are then sent to Baghdad for analysis. This usually takes place while the vessel is at anchor. If the analysis results are satisfactory, the ship is allowed to berth. Owners may also take samples if they wish.

The cargo is discharged into trucks on the quay. The trucks are weighed on entering the port when empty and re-weighed when leaving. The official outturn is based on the weighbridge figures. Our correspondents advise that the port and silo weighbridges have not been calibrated for some time; therefore it is unclear whether or not the weighbridge results are accurate.

Damaged cargo cannot be discharged. Consequently ships are required to sail from Umm Qasr with any damaged cargo still on board.

The IGB has recently introduced a new policy regarding cargo it considers to be damaged, or if the weighbridge figures indicate a shortage. In such cases the IGB now requires the vessel's local P&I representative to sign the following documents on behalf of the owner:

- The outturn report
- The statement of facts
- The IGB's shortage or damage report and letter of protest

Sadiq Jaafar & Associates advise that the IGB will not accept these documents if signed "for receipt only", or under protest, or with any reservation of owner's rights. Although the IGB was previously willing to accept a Club Letter of Undertaking as security for any damage or shortage claims, this currently appears to be unacceptable.

Should an owner fail to authorise its local P&I representative to sign the IGB documentation, permission to sail is refused. According to reports, challenging this decision in the local courts is unlikely to be quick or successful

as although the IGB may impede the vessel's departure, the ship itself is not under arrest. Consequently the courts may not consider this to be a legal matter.

In practice the new policy has resulted in ships being delayed at Umm Qasr while discussions and negotiations take place with the IGB.

If the IGB's documents are signed without reserve and without protest, the owner's legal position following any cargo claims is uncertain. However, it is suspected that the local courts may treat the documents as an admission by the owner that the shortage or damage allegations made by the IGB are correct. In such an event it may be difficult to defend such claims, even if the findings of the owner's surveyor contradict the statements made in the IGB documentation.

Sadiq Jaafar & Associates are currently trying to persuade the IGB to withdraw its new policy in favour of the previous one, namely to request security from the owner's P&I Club in the event of shortage or damage allegations and to claim against the owner thereafter, thereby allowing the issue to be reviewed and handled in the normal manner.

In the meantime Members who are considering cargoes of grain to Umm Qasr should check whether the receivers include the IGB. If so, they should bear in mind that any shortage or damage claims may result in the vessel being delayed on completion of discharge. Members should also ensure that the master and the vessel's port agent are aware of the IGB's new policy and be alert to the possibility of shortage and/or damage claims, particularly the requirement for the IGB's outturn documentation to be signed by the local P&I representative on the owner's behalf.

Should such a situation arise, the Managers should be notified immediately. Moreover, when fixing a vessel to load grain destined for Umm Qasr, a charter party clause may be considered holding charterers responsible for cargo claims.

If further information or advice is required, please contact the Managers.

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