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Circular for P & I Clubs

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Correspondents for:

British Marine Mutual P&I Insurance Association Limited, North of England P&I Association with Newcastle P&I Association (through Associated Maritime Consultants), Through Transport Club, The Charterers Mutual Assurance Association Limited and Assuranceforeningen SKULD.

Recent Amendments to the Navigation Law, Law for the Protection and Development of the Merchant Marine, Pilotage Law and Organic Customs Law

Amendments to the Venezuelan Navigation Law, Law for the Protection and Development of the Merchant Marine, Pilotage Law and the Organic Customs Law have been recently passed. The following is a summary of the main provisions inserted in the mentioned laws, leaving aside the new fines and its values that will be treated in another **Circular**.

1.- Changes introduced in **the Navigation Law** and the **Law for the Protection and Development of the Merchant Marine** were published in the Official Gazette No. 5,263 of 17 September 1998, according to which Venezuelan registry is opened to foreign investors, since article 15 of the new Law states that for a vessel to be registered in the Venezuelan registry, it must be:

- a) Property of Venezuelan citizens;
- b) Property of legal entities duly incorporated and domiciled in the country;
- c) Property of foreign legal entities that comply with the regulations applicable to the participation of foreign capital, duly incorporated and domiciled in this country;
- d) Foreign registry bareboat chartered for periods of time over two (2) years for any of the persons mentioned in the points a), b) and c);
- e) Vessel given under leasing agreement to any of the persons mentioned in the points a), b) and c);

- f) Vessels or accessories of navigation (e.g. Barges) built in national drydocks.

Besides, according to article 152, ship registration is now exempted from payment of the 16.5% of IGV, a tax that used to be applied plus import duties on vessels for registration.

2.- The new **Pilotage Law** was published in the Official Gazette No. 36,558 of 13 October 1998, being its main features:

- (a) In art. 2, a Unique Paragraph has been introduced allowing the possibility for a Captain of the vessel, the First Mate or any other Captain with his respective Pilot Certificate navigate within a pilot area without pilot licence in cases of emergency or when the pilot authority (Harbour Master) does not have an available certified pilot for any reason. This Paragraph did not exist in the previous Law; however, it is not clear the Harbour Master's role in these situation, as well as neither what it is understood for "Captain with his respective Pilot Certificate", something that will have to be necessarily clarified through the Regulation before implementing this article.
- (b) Article 34 updates pilotage tariff that now are worked out in Tributary Units equivalent to Bs. 7,400 (1 US\$= Bs. 570). Vessels will pay the pilotage dues for every "navigation cycle", i.e. the round trip within the pilotage area comprising the activities of anchoring, lifting anchor, berthing, unberthing and other manoeuvrings. Tariff to be paid is:

Vessels up to 2,000 GTR: 16 T.U.

Vessels from 2,001 GTR to 5,000 GTR: 25 T.U.

Vessels from 5,001 GTR to 10,000 GTR: 40 T.U.

Vessels from 10,001 GTR to 30,000 GTR: 100 T.U.

Vessels from 30,001 GTR to 50,000 GTR: 130 T.U.

Vessels over 50,001 GTR: 150 T.U.

The former tariff is set up for Normal Working Hours (0700 to 1100 and 1300 to 1700 MON THRU FRI) and one round trip (in/out). Services rendered during overtime hours, holidays, Saturdays and Sundays will be subject to an overcharge equivalent to 50% of the applicable tariff.

- (c) Article 39 prescribes a penalty applicable in those cases where pilotage service suffers a delay more than one hour from the time it was asked for, equivalent to 40% overcharge to the ordinary tariff and overtime. In the same way, pilotage tariff will be reduced by 40% when the delay is attributable to the pilotage service. This means that when a service for pilotage has been already requested either to dock or undock and for any reason other than one attributable to pilotage service, the service

has to be postponed or aborted, a 40% of the tariff will be added as a penalty for having made a pilot standby.

3.- Amendments to the **Organic Customs Law** were published in the Official Gazette No. 36,575 of 5 November 1998. Changes are basically intended to speed up customs procedures as well as to reduce smuggling. Impact of the new rules on the reception and delivery of cargo in Venezuelan ports will be dealt with in a next issue of our **Circular**; however, among the main provisions concerning the carriers could be mentioned:

- (a) According to article 22 the cargo shall be delivered by the carriers to those in charge of authorised areas, warehouses and bonded deposits, public or private, or to whom duly shows to be the owner or authorised representative of the consignee, not later than the next working day after discharge, with the precise specification of cargo shortage and that discharged in excess (bultos faltantes y sobrantes), which have to be notified to the customs.
- (b) Art. 24 states that once the cargo has been received, the responsible party shall elaborate a detailed relation of this goods effectively delivered, with precise indication of the elements for identification in quantity and quality and the number and date of the document of transport, the said relation shall be concluded and notified to the customs not later than the second working day after reception of cargo.
- (c) An important change is the one inserted in article 27, according to which when the document of transport does not indicate the warehouse of delivery, the merchandise could remain deposited while the respective customs diligence and prior to the compliance of the conditions prescribed by the Regulation, in the places indicated by the seller or shipper, the consignee, exporter or sender, unless that the competent customs authority decides the contrary or when the interested party does not manifest his willing in that respect, in which case the merchandise will be deposited in the primary zone immediate to the customs.
- (d) Article 46 prescribes that the cargo for importation, exportation or transit, shall be transhipped in national customs offices, in compliance with the relevant Regulation.
- (e) Article 57 states that customs dues will be payable even where there has been shortage of cargo or merchandise presents damages, decomposition signals, failures, losses or other irregularities.

Should you need any assistance or further information regarding the topic stated above, please feel free to contact:

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