

# GLOBALPANDI

## *Circular for P & I Clubs*

*DATE: 25<sup>th</sup> JUNE 2009*

*Correspondents for:*

*North of England P&I Club, The Steamship Mutual P&I Club, The American Club, The London Club, GARD, Britannia, Nordisk Defence Club (Through Sabatino Pizzolante), British Marine Luxembourg, Charterers P&I Club, Through Transport Club (TTC), ITIC, Raets Club and Navigators.*

### *Private Port Operators contractual arrangements under revision*

As part of the recentralization process the Venezuelan ports are going through, and the tasks assigned to the new port authority the so-called Bolivariana de Puertos, S.A. (Ascribed to the Ministry of Public Works and Housing), contractual arrangements between the port operators and the repealed regional port authorities through which port operators have control on warehouses, container yards and silos are currently under revision.

The port scheme adopted in Venezuela towards the end of 1991, gave rise to regional port bodies acting as “landlord port authorities” with the presence of “port operators” in charge of stevedoring and warehousing or terminal services. Consequently, carriers are obliged to handle cargo to a registered private port operator, since the public port authority does not perform handling operations. Generally speaking since then port operators are free to arrange their stevedoring and warehousing services, they have been also able to agree with the carriers on procedures for reception and delivery of cargoes, entering into terminal contracts to this end. This mechanism, on the other hand, allows so far the carriers to recover unpaid freight, demurrage and other charges as well as to ensure delivery of cargo to the person entitled to.

Nevertheless, it is important to point out that reception and delivery of cargo and the operations in general may be subject to important changes in the coming months, as the Venezuelan port system is advancing through significant organizational changes.

Thus, on 10<sup>th</sup> June 2009 the Ministry of Public Works published the Resolution No. 112 (Official Gazette No. 39,197) whereby a process of revision of the existing contracts for warehouses and container terminals within the ports is in effect. However, it is important to point out that in the port of Maracaibo Bolivariana de Puertos instead of advancing a process for the revision of the said contracts, it has

simply proceeded with the intervention of the terminals taking complete control of the operations, to the extent that the procedures for reception and delivery of cargo in that port are under review. In other words, in the port of Maracaibo storage is now being performed by the public port authority, the so-called Bolivariana de Puertos, S.A. and it is not in the hands of the private sector anymore. It is suggested, therefore, for Members to discuss with local agents the changes for reception and delivery of cargo in this port, insurance aspects, etc. following the intervention of the yards.

It is not clear whether the same will happen at other ports such as Puerto Cabello and La Guaira, but the possibility might be for private terminals to disappear or to reduce in number, since at the port of Puerto Cabello there are at least 30 warehouses and container yards within the port area, whereas in the port of La Guaira the number is 42. However, it is important to point out that the new port authorities at Puerto Cabello have insisted that there will be no intervention process like the one that took place at Maracaibo; instead, the authorities there are said to be embarked in the revision of the existing contracts for a period of 30 days to take decisions then, which may involve the permanence of few port operators or to take full control of operations by the public port authority.

If this is the case, and only if container yards come under control of Bolivariana de Puertos, S.A. no doubt the whole process for reception and delivery of cargo will need to be reviewed, and the Members are suggested to discuss this matter with their agents. Again, as port operations at Puerto Cabello and La Guaira are still in the hands of the private port operators there are literally no changes, but this could vary overnight.

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

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