

FONASBA MEMBERSHIP ENQUIRY



RESPONSE SUMMARY

ORIGINATING ASSOCIATION:	Kenya Ships Agents Association
ENQUIRY DETAILS:	<p><i>A new development is taking shape in Kenya where consolidators are shipping in to Kenya motor vehicles in PCC (break-bulk) for various importers but all covered under one bill of lading and treat the units as consolidation cargo. Ideally, this is to enable the Consolidator split the bill, lodge a house manifest to Customs for the individual shipments and levy delivery order fees which should in fact be levied by Shipping Agents. We are currently locked in a dispute with the Consolidators Association which dispute is being arbitrated by the Kenya Maritime Authority (KMA), a government body empowered to regulate marine transport in the country. Current practice is for the shipping agents to split the bill of lading, lodge the carrier manifest to Customs and issue carrier delivery orders. But one Consolidator is trying to be smart and insist on splitting the bill, lodge their house manifest and issue the delivery orders.</i></p> <p><i>We would be grateful if you could check practice in the Member Countries.</i></p>
Date:	November 2014

ASSOCIATION	RESPONSE
ARGENTINA	We have a Delivery Order for Bulk operations. The value is 7USD per TON up to a máx. of USD 130 per B/L. We have an additional category for LCL cargo of 7 USD per ton.

<p>BRAZIL</p>	<p>We believe we have no conditions to reply this question considering that here in Brazil there is no DELIVERY ORDER system or process issued by or under the control of the Ship Agent.</p> <p>For import cargo we have a National Electronic System (controlled by Customs) which the Ship Agent can mark that the freight was / was not paid, but, this remark do not prevent the Terminal to deliver the import cargo to the importer or Transportation company nominated by the Importer.</p> <p>In Brazil the NVOCC operates regularly on the container import cargo by issuing their House BLs with no problem.</p> <p>At Breakbulk Import cargo in Brazil this is not so common to have NVOCC involved but when it happens the procedure is the same applied to Container system and no problem has been reported to us.</p>
<p>DENMARK</p>	<p>Customs procedures in Denmark are mainly based on digital registration and that can be done either by liner agent, consolidators, forwarders or persons/companies representing the consignee and therefore, splitting up cargo commodities on the B/L or delivering order can be done without involving the liner agent.</p> <p>That does not leave any room for profit by the liner agent any longer.</p>
<p>FRANCE</p>	<p>The legal practice is in principle to issue delivery orders to the parties shown as consignees on the manifests /legal holders of the b/l's which are responsible vis a vis the carriers /various authorities. Up to them then to issue their own delivery orders. To be also noted that in France there is no governmental body interfering in the private/commercial dispute.</p>

<p>CYPRUS</p>	<p>The Carrier's Agent is responsible to issue the delivery orders to the consignees/consolidators after having secured the approval of his Principals.</p> <p>Once a delivery order is issued by the Agent, the holder of such order is automatically the owner of the goods who personally or any other authorized person can receive the goods.</p> <p>Consolidators or NVO (Non Vessels Operators) only after they receive the general delivery order issued by the carrier's agent are allowed to subsequently issue their own delivery orders to their customers.</p> <p>It should be noted that unless the clearance of goods by the Customs Administration is escorted by the general delivery order, the goods cannot be released.</p> <p>As a result, Consolidators cannot and should not be allowed to issue any delivery orders unless a general delivery order is issued to them by the Shipping Agents who are acting on behalf of the carriers.</p>
<p>ITALY</p>	<p>It is normal practice in Italy for the Shipping Agent to issue the delivery order and charge for same to the Receivers. However, when a consolidator is involved, regardless if this is on Container shipping or Break-Bulk, it is usual for the consolidator to be charged by the Shipping Agent for the release of the Bill of Lading as a single one, but then the consolidator charges each single Receiver for the release as well with a Delivery Order Fee. Normally what the Shipping Agents are charging is higher than what the consolidators are, just as an indication Consolidators' Fee normally is around 70% of the Shipping Agent.</p>

<p>SPAIN</p>	<p>We inform that current practice in Spain in relation to a.m. delivery orders is different than it is in Kenia.</p> <p>As far as receipt and delivery are concerned, who collects the fees is the stevedoring Company. Independently of how is issued the bill of lading, the stevedoring company collects for the stowage/unstowage, loading/unloading, etc., usually per ton and in most cases it charges the ship agent, although it may also be the case that the stevedoring Company charges the receiver directly.</p> <p>It could be the case that a bill of lading would be issued for each motor vehicle with a specific shipper and consignee, or that consolidator or shipper in origin would issue one bill of lading for all vehicles with one consignee (consolidator in destination) and later the latter would deliver the vehicles to each owner. In Spain there is no difference for the purpose of reception and delivery fees.</p> <p>We understand that in order that consolidator can lodge manifests to Customs, the ship agent should have 'released' the goods previously. And we also suppose that the freight's terms would affect, whether are included delivery expenses or not, ...</p>
<p>TUNISIA</p>	<p>Delivery orders accepted by port and Customs should be only the ones issued by the vessel agent.</p> <p>However, based on the Global Delivery Order (issued by the vessel agent), a consolidator can issue it own split delivery orders if and only if he has a Ships agent quality. He has to provide a copy of the global DO with every part of DO issued by him self.</p> <p>The Ships agents have to be recorded in the Merchant marine registered. Consequently consolidators without this quality can't interfere in port and delivery process.</p>