

FONASBA MEMBERSHIP ENQUIRY



ENQUIRY RESPONSE FORM

ORIGINATING ASSOCIATION:	LEBANESE SHIPPING AGENTS SYNDICATE
ENQUIRY DETAILS:	<p><i>The Lebanese Customs is calling on shipping agents to release delivery orders* of shipments 1 to 2 working days ahead of the actual ship's arrival at national ports.</i></p> <p><i>*The delivery order referred to in our query is the legal document issued by the shipping agent in control of the cargo to consignee of the cargo to enable him take delivery of his cargo at destination. Per common practice, a delivery order is released to consignee (receiver) after the bill of lading is surrendered either at load or discharge ports. Without a delivery order in his possession, the Lebanese customs do not allow consignee or his appointed clearing agent to perform customs formalities for eventual cargo delivery.</i></p> <p><i>This practice meant to the benefit of stakeholders in terms of quicker formalities, less storage, improved port space, faster turnaround for non-liner ships and shorter container dwell time.</i></p> <p><i>Our syndicate is calling on the customs to upgrade the existing regulations to limit carriers' liabilities in case of short shipped cargo, description amendment and so on after manifest declaration to the customs.</i></p> <p><i>We wish to know if similar practice is in place at members' countries and whether the local regulations hold the carrier/agent responsible at a given situation under this practice.</i></p>
REPLY TO:	admin@fonasba.com
CLOSING DATE FOR REPLIES:	Monday 30th October 2017

RESPONDING ASSOCIATION COMMENTS: (Please include any attachments)

Algeria	<p>In Algeria the customs do not instruct the ship agent to release the delivery order.</p> <p>The maritime law in Algeria hold the carrier responsible for any damage/shortage of cargo, unless he can prove he is not responsible.</p> <p>The physical delivery of the cargo is the only way to say that the cargo has been delivered to the consignee.</p>
Argentina	<p>a) In Argentina, the Delivery Order is a private document which allow consignees to take possession of cargo (general cargo or containers). The actual party controlling the physical delivery is the Port Terminal as sub-contractor of shipping line. At the same time the Customs check the fulfilment of legal requirements for clearance but do not check/ intervene the delivery order.</p>

	<p>b) On the other side Argentina is one of the most punitive country with regards to Short shipped/ Overlanding cargo. Customs fine carrier agent with a value from 1 to 5 times the cargo value, plus duties in case of a wrong declaration of cargo in the manifest (overlanding or short shipped). The only chance to avoid penalty is to justify the reasons of difference with documents form the Port of Origin within 10 days since the vessel operated. In case of fuel this is not possible.</p> <p>Do not hesitate to ask for clarifications.</p>
Belgium	<p>In Belgium there is no legal form prescribed for the delivery order / delivery instruction. The way the commercial release happens nowadays has grown in day-to-day practice. The paper delivery order has been replaced by an electronic release instruction which is activated by a unique pin code that the consignee receives as soon as all costs resting on the cargo are paid. The customs have no control over the moment that the electronic release instruction is sent or activated, this is a matter between the carrier/the agent and the consignee only.</p> <p>The commercial release process so runs entirely separate from the customs declaration and release of the vessel's customs manifest. In the normal course of matters, the vessel's customs manifest needs to be cleared before the consignee takes delivery of the cargo and picks up the cargo at the terminal, but sometimes this is not the case. It is the terminal (holder of the temporary storage facility) that will be liable in such case. Most agents are checking if the vessel's customs manifest is cleared before handing over the unique pin-code to the consignee, but this is not obligatory.</p> <p>We agree that there is a huge liability risk in releasing a delivery order before the cargo hits the terminal. For short shipped cargo no delivery order should be handed out. For a description amendment we have a period of 20 days available - which is presently under discussion with the customs who want this to be much shorter.</p>
Brazil	<p>Despite all efforts to improve the customs processes over the years, there is nothing in Brazil like what is supposed to be implemented in Lebanon.</p> <p>The most similar is a project called "clearance over water" which, in the first stage, will allow companies certified as AEO (Authorized Economic Operator) to make all the clearance before the cargo arrives in the country.</p> <p>However, the project is still being developed and it is expected to be launched in the coming months.</p> <p>Even so, the cargo release will be conditioned to the presentation of the original Bill of Lading and this implies in the payment of the expenses incurred and not only in the clearance by the Customs.</p> <p>For the time being, container loads are only released upon arrival and this takes a few days, although the process has become less bureaucratic compared to a few years ago.</p> <p>It is worth mentioning, however, that the shipping agent act at all times for and on behalf of the Principal within the limits of its powers. The agents are part of the whole and therefore "local regulations" should not appoint them as responsible for the delay in releasing the goods.</p>

Bulgaria	There is currently no similar practice used in Bulgaria
Cote D'Ivoire	<p>The delivery order issued by shipping agent is not required by customs to perform customs formalities for cargo delivery.</p> <p>The delivery order is released to consignee after the original bill of lading is surrendered by shipping agent, vessel being or not yet being in the port or after vessel's departure from port.</p> <p>Note also that customs here, allows consignee or his appointed clearing agent to perform customs formalities before vessels arrival, during or after vessels' call in port, delivery orders being or not being issued by shipping agents.</p>
Croatia	In Croatia, delivery order may be released only after cargo was discharged against Original BL presentation and freight was paid in accordance with agreed financial terms.
Cyprus	<p>1. Customs legislation/regulations do not allow the agents under any circumstances to release the d/o of cargo prior to the ship's arrival.</p> <p>2. Such an action is considered as a fraud.</p>
Denmark	<p>In Denmark, Manifest information, whether import or export, are provided in digital form via Customs IT Systems. The notification is min. 24 hours.</p> <p>The agent is not requested to provide a delivery order, but is pending status in the Customs IT systems, whether cargoes are released or subject to inspections.</p> <p>According to EU's Union Customs Codex, agents or other third parties acting directly or indirectly can be held responsible for the inserted data in the Customs system.</p>
Dubai	<p>Release of Delivery Order is subject to Original Bill of Lading being surrendered.</p> <p>Delivery Order in most/normal circumstances is not available until this is done or indeed until the Vessel has arrived. We release Delivery Order 1 to 2 working days ahead of the actual ship's arrival.</p>
Egypt	<p>Normally it is possible:</p> <ol style="list-style-type: none"> 1- For general cargo and bulk shipments which are released and discharged by the consignee from the ships holds they need a delivery order before vessel arrival to start custom procedures. 2- For containers, it is not so common but it is also applicable for DG and ISO tanks in case of containers.

Greece	<p>In Greece the situation is as follows:</p> <ol style="list-style-type: none"> 1. Delivery order: <ol style="list-style-type: none"> a. Delivery order is given to the consignee by the agent. b. The consignee presents the original bill of lading to the agent and receives the delivery order (provided always that there are no instructions by the principal to the contrary for any reason). 2. Liability on shortage of cargo: Customs hold the agent liable for shortage of cargo and the penalties are sent to the agent. <p>We hope to have informed you well.</p> <p>If any more clarifications are required please feel free to contact us.</p>
Hungary	<p>We do not have this practice.</p>
Iran	<p>We have a same procedure in Iran and the delivery order referred to in our query is the legal document issued by the shipping agent in control of the cargo to consignee of the cargo to enable him take delivery of his cargo at destination. Per common practice, a delivery order is released to consignee (receiver) after the bill of lading is surrendered either at load or discharge ports. Without a delivery order in his possession, the Lebanese customs do not allow consignee or his appointed clearing agent to perform customs formalities for eventual cargo delivery.</p>
Israel	<p>We are really not sure that we clearly understood the Lebanese requirement from us.</p> <p>So we apologize up front if we did not reply to his question.</p> <ol style="list-style-type: none"> 1) The Delivery Order is released to Consignee only after the original B/L is submitted/surrendered to the Shipping Agent (Either Manually or Electronically) irrelevant of vessel's date of arrival. 2) The local Practice/Regulation in Israel also holds the Carrier/Agent responsible under this practice. <p>The process in Israel is that the Shipping Line through their respective agent are transmitting electronically the manifests to the Customs Authorities.</p> <p>The Customs Authority are checking the manifests and thereafter are issuing a release order of the Manifests to the Ports and the respective agent. Starting at the moment the agent is permitted to hand over Delivery orders (Electronically or Manually) to the respective Custom Brokers/Consignees. This process is totally independent of the Vessel's arrival date at the Ports. At this point the Agent is transmitting electronically to the port the vessel's discharging list.</p>
Italy	<p>In Italy, delivery order is released by the ship agency when the ship has arrived at port and the container has been discharged. In order to enhance the efficiency of ports in terms of quicker formalities, less storage, improved port space, faster turnaround for non-liner ships and shorter container dwell time, our Custom has adopted pre-cleaning operation at sea (in most Italian ports), 48 hours before the ship reach the port the ship agency can send the documentation and, if there is no need of further controls, the container is ready to leave the port as soon as it has been discharged. We are now</p>

	<p>discussing with all the stakeholders and the Custom Authority the possibility of completing Custom formalities inland in order to avoid ports congestion. Some ports are testing in these days the delivery orders' digitalization, but still once the ship has arrived at port and containers have been discharged.</p>
Japan	<p>YES! Here in Japan the D/O can be issued one or two days ahead to ship's arrival at destination port. Ordinary case, however, the D/O will be issued after ship's arrival at destination port in accordance with common practice, which settlement of ocean freight including local charges to be confirmed together with redemption of original b/ladings, etc.</p> <p>In parallel, Cargo receiver or his agent has to apply customs procedure against customs office at his account and risks.</p> <p>As to short and/or over-landed consignment if happen, ship's agents is obliged to notice same to customs office in due time that relevant boat note put remarks.</p>
Kenya	<p>In Kenya Customs release of cargo is based on receipt of delivery order as well, subject to finalizing other customs procedures.</p> <p>99 per cent of Shipping Lines and agents issue delivery order prior to vessels arrival to enable forwarders process customs documentation before vessels arrival, but 1% issue delivery order only after vessel's cargo discharge to avoid liabilities in case of short shipment. Local regulation does not hold the carrier /agent liable - the practice is that in case of a short shipment, validation of the delivery order will be done on the on-carrier vessel remarking the situation. With improved agent to agent data interchange, such cases are minimal.</p> <p>The normal Practice in Kenya: Delivery can be issued to the Receiver / Importer or his appointed Clearing & Forwarding Agent after submission of the manifest to Customs Department of Kenya Revenue Authority. This can be even before vessel arrival but subject to surrender of the Original Bill of Lading. The Delivery Order therefore enables the importer or his appointed Agent to take delivery of the cargo from the Terminal Operator. Consequently, Customs formalities can be effected without release of the delivery order. In fact some importers collect the delivery order after completion of Customs formalities.</p>
Libya	<p>In general the same procedure is possible in Libya but not a must. It's mostly used during government projects clearance to facilitate and speed up cargo delivery/pick up.</p>
Malta	<p>Please note that this practice is not in place in Malta, as delivery orders are only issued upon ship's arrival. (Please note the size of our Island), and the responsibility of the carrier / agent could arise only if the delivery order is released prior to ship's arrival.</p>
Mexico	<p>In Mexico, shipping agencies/companies release cargo directly to the consignees without Customs' intervention. Consignees in turn need to show the cargo release to the terminals (fiscal areas) who in turn are responsible vis a vis the shipping agencies/companies for proper delivery of cargo. Some shipping agencies have established electronic delivery order procedures, making the process safer.</p>

Montenegro	Common practise in Montenegro is that agent in charge is issuing delivery order to the consignee or his representative as soon as vessel discharge the cargo to Port of destination assuming that duly endorsed Bill of landings are at agent possession.
Morocco	The “Delivery Order” is usually issued locally after vessel’s arrival at port.
The Netherlands	We are not familiar with the situation as described above. A delivery order is a B-t-B document and has nothing to do with B-t-G. Cargo will be only released in case of a ‘commercial release’ by the agent and ‘Customs release’ by the Customs once all parties have fulfilled their obligations. As long as cargo / container has not been picked-up by the consignee, the agent will remain responsible as per ATO (Aangifte Tijdelijk Opslag - Temporary Storage Declaration).
Portugal	NO.
Serbia	Serbia using official procedures of loading ports (countries). Serbia is hinterland country and follows loading ports procedures (Montenegro, Croatia, Greece, Slovenia...) Principle of delivering order for cargo in river transport doesn’t exist as such.
Slovenia	In Slovenia we operate a “pre-arrival customs clearance” procedure that allows the cargo to be cleared, and the delivery order issued to the receiver or forwarder, up to 72 hours prior to the vessel’s arrival at the port of Koper.
Sweden	As from Swedish perspective: A free storage period allowed by the shipping company/terminal should be sufficient for the customer to take care of everything in a timely manner to collect the containers. If, for any reason, the customer fails, the importer will be liable for all costs incurred in the form of Demurrage / Detention.
Tunisia	It is a problem in TUNISIA. We have to provide BAD (Delivery order) 24h after vessel arrival and customs are waiting to find any discrepancy to issue a fine. The fines doesn’t have a proper scale and can move from USD 100 to 2000. Agents has to pay and then recover from Owner. We are trying to build a “fine/penalty schedule” based on number of containers/ Tonnage etc. Our work is mainly to follow with POL what was loaded finally and correct manifest accordingly to avoid the Fines.