

ANGOLAN CUSTOMS RULING AS SHIPPING LINES ISSUING

CAUTIONARY NOTES TO CLIENTS

In April 2015 the Angolan General Tax Administration ("GAT") issued new Container Release Procedures No. 003258/DNPA/BSA/AGT/2015 ("the procedures"). The procedures, apparently aimed at clearing the backlog of containers not cleared and released at Angolan Ports due to the shortage of foreign currency in Angola, permits clearance of goods in Angola without presentation of an original bill of lading on application by an importer to the GAT.

The procedure in Angola, prior to issuing of this new regulation, was for receivers to obtain a delivery release authorisation ("DRO") ("Bom de Despacho") from the shipping line. Such DRO would only be issued by the shipping line on presentation of an original bill of lading. Having obtained release from the shipping line the receiver would then seek clearance of the goods through customs. Accordingly terminal operators in Angola would release cargo to receivers on proof of customs clearance in the knowledge that such clearance could not be obtained without the requisite approval from the shipping line.

It is not clear whether the receivers can now effectively bypass the shipping lines and obtain delivery of cargo once customs clearance is obtained utilising mere copies of bills of lading.

Shipping lines, including; Mediterranean Shipping Company ("MSC"), Maersk Line and CMA CGM have issued notices to their customers advising, that as they (seemingly) have no control over cargo once discharged in Angola they accept no liability for misdelivery of cargo in these circumstances and have included, or intend to include, exculpatory provisions in their bills of lading to this effect.

The ability of the shipping lines to rely on these exculpatory provisions will depend on whether factually the shipping lines, by discharging cargo, relinquish control thereof. If this is the case, which is not clear, then the consequences for exporters to Angola could be significant in that importers could obtain possession of goods prior to payment thereof having been made. Finance institutions rely on possession of bills of lading as security under letters of credit and may accordingly not be willing to finance transactions into Angola. The shipping lines have in fact advised their clients to obtain payment for goods prior to shipment in light of the GAT ruling. Given the uncertainty this may be prudent, but we appreciate not always practical in international trade.

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