

06.04.2010

SUBJECT: LATEST AMENDMENT ON THE CUSTOMS CODE REGARDING THE CUSTOMS ALLOWANCE

We would like to advise your good selves that the Customs Code numbered 4458 has been amended with the Code numbered 5911, which was promulgated in the Official Gazette numbered 27281, dated as 07.07.2009. After briefly outlining the relevant articles, we will explain the amendment by comparing it with its former version.

Please note that until the above amendment, the 1<sup>st</sup>, 4<sup>th</sup> and 5<sup>th</sup> sub paragraphs of the Article 237 of the Customs Code numbered 4458, which governed the fines for both short and over landed cargoes, read as follows:

*1. In the default of demonstrating within the period prescribed by the customs administration, that the packages, proved to be deficient as a result of the amount registered in the summary declarations or the commercial or official papers used as summary declarations submitted to the customs administration by the owners, captains and agents of the vehicles, have not been loaded from their provenance or have been unloaded in another port or lost or stolen due to any accident or average; and provided that the tariff classification of the goods kept within these deficient packages can not be determined, a fine shall be charged on these goods, at an amount under their tariff classification or if tariff classification can not be determined, under the highest dutiable classification of the chapter in accordance with the nature and the description of the goods.*

...

*4. No proceeding shall be applied where deficiency and excessiveness in goods in bulk, do not exceed 3%.*

...

*5. The fines referred to hereunder shall be received from the owners, captains or agents of the vehicles.*

**Whereas, in pursuance of the 4<sup>th</sup> sub paragraph of the Article 237 of the Custom Code numbered 5911 (the amended version):**

***'No proceeding shall be applied where deficiency and excessiveness in goods in bulk do not exceed the rates to be determined by the Council of Ministers provided that the rates do not exceed the rate of 3%. This rate herein shall apply as so the rate shall not exceed the rate of 4% with the exclusion of the gas products which are imported through the carriage by means of pipe lines''***

**As you can see from the sub paragraph above, for the time being, as distinct from the above cited ruling, bulk cargoes has been classified in two categories as general bulk cargoes and natural gas products with the customs allowance rate of 3 and 4% respectively. In addition to this, the**

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**legislative department has conferred the authority upon the Council of Ministers to adjust these limits up to the above mentioned rates.**

With reference to the aforementioned authority of the Council of Ministers, a decree numbered as 2009/15481 introducing a list named "Enclosure-13" was issued on 07.10.2009. We have attached herewith free translations of the subject decree's relevant parts and enclosure 13, for your easy reference. According to the list, the allowance rates of almost 70 products varying between 0,4 per cent and 1 per cent have been determined particularly for bunkers, oil and petroleum products, whereas there is nothing as regards typical bulk cargoes such as wheat, maize.. etc. In other words, the allowance rate of 3 percent is still valid for the bulk cargoes, which are not listed in Enclosure-13, until a relevant decree is issued by the Council of Ministers.

We also hereby present our brief legal advice as regards the elimination of liability for shortage or excess fines as per the applicable code for your detailed information:

In order to have the proceedings revoked by the customs authorities, the liable parties, namely owners/ masters/ agents/ carriers of a vessel shall provide a certificate from the loading port for the shortlanded cargo quantity stating that the cargo was not loaded mistakenly and/or the vessel was not loaded with the amount as mentioned and such certificate approved by the Chamber of Commerce and Turkish Embassy or Consulate and submitted to customs within three (3) months. Please bear in mind that in cases where owners achieve to obtain neither a correction manifest nor an explanation letter, fine will be materialized. Afterwards, if amount of fine is paid within a period of 30 days, a reduction of %25 will be granted to owners.

Last but not least, we consider it being useful to advise you of some practical precautions so as to diminish the possibility of being punished with fine for shortage or excess. In general terms, it is our humble suggestion that different kinds of surveys, depending on a type of cargo and of vessel, such as ullage survey for tankers, draft survey for bulk cargoes, tally survey for coil, bundle etc., should be carried out by independent surveyors at both loading and discharging ports, they do not constitute decisive evidence though.

Yours faithfully,

OMUR MARINE LTD

Attachments: 1- Free translation of the Decision on the Enforcement of  
Certain Provisions of The Customs Code No. 4458  
2- Free translation of Enclosure 13



## **Attachment 1**

FREE TRANSLATION

### **Decision on the Enforcement of Certain Provisions of The Customs Code No. 4458**

Official Gazette dated 07 October 2009  
Number: 27369

Decision number: 2009/15481

Implementation of 'Decision on the Enforcement of Certain Provisions of the Customs Code No. 4458' was decided by the Council of Ministers on 29/09/2009 according to articles 16,74,131,132,141,167,169,195,202,214,215,221,225 and 237 of the Customs Code No.4458, upon the letter of Ministry of State dated 15/09/2009, numbered 20299.

Abdullah GÜL

President of the Republic

### **Decision on the Enforcement of Certain Provisions of The Customs Code No. 4458**

#### **Excess and shortage rates regarding bulk goods**

Article 131- (1) Without prejudice to the differences arising from the nature of goods, for bulk goods;

- a) Concerning the ones listed in the appendix 13, regarding differences which do not exceed the rates stated within the same appendix,
- b) Concerning the ones that are not listed in the appendix 13, differences which do not exceed 3%,

no further legal proceedings shall be conducted arising due to excess or shortage as regards summary declaration.

#### **Effect**

Article 136- (1) This Decision shall enter into force on 07/10/2009.

#### **Enforcement of the legislation prior to decision**



PROVISIONAL ARTICLE 1- (1) With regard to goods entered into the Turkish Customs Territory before the effective date of this Decision, the provisions in favour of the incumbent shall be transacted.

**Attachment 2**

## FREE TRANSLATION

**ENCLOSURE 13**

<u>Customs tariff statistics position</u>	Sea Transportation %	Land Transportation %
BENZOL (BENZENE) - TO BE USED FOR SUPPLYING POWER OR AS FUEL OIL	0.5	0.4
TOLUOL(TOLUEN) TO BE USED FOR SUPPLYING POWER OR AS FUEL OIL	0.5	0.4
SOLVENT NAPHTA - TO BE USED FOR OTHER PURPOSES	0.5	0.3
CONDENSES OF NATURAL GAS (PETROLEUM, MINERAL WITH BITUMEN, ACQUIRED OIL -ROW)	1	0.5
LIGHT OIL AND PROPRIETARIES (EXCL. RAW OIL)- ONES THAT WILL BE SPECIALLY PROCESSED	0.5	0.3
COMBUSTIBLE NAPHTA	0.5	0.3
LIGHT OIL - TO BE SUBJECT TO CHEMICAL MUTOTATON VIA OTHER PROCESS	0.5	0.3
WHITE SPIRIT	0.5	0.3
OTHER SPECIAL FUEL OILS	0.5	0.3
AVIATION GASOLINE	0.5	0.3
HAVING OCTANE LESS THAN 95	0.5	0.3
UNLEADED GASOLINE 95 OCTANE	0.5	0.3
COMPOUNDED UNLEADED GASOLINE 95 OCTANE	0.5	0.3
OTHER TYPE OF GASOILINES HAVING 95 OCTANE OR MORE THAN BUT LESS THAN 98 OCTANE	0.5	0.3
UNLEADED GASOILNE 98 OCTANE	0.5	0.3
OTHER TYPE OF GASOILINES HAVING OCTANE MORE THAN 98	0.5	0.3
WITH OCTANE BELOW THAN 98 (LEAD	0.5	0.3



PERCENTAGE IS OVER THAN 0.013 GR/ LT.)		
98 OCTANE OR MORE THAN 98 (LEAD PERCENTAGE IS OVER THAN 0.013 GR / LT)	0.5	0.3
JET FUEL OIL LIKE GASOLINE	0.5	0.3
OTHER SOLVENTS	0.5	0.3
OTHER LIGHT OILS	0.5	0.3
MEDIUM OILS - WILL HAVE SPECIAL PROCESS	0.5	0.3
MEDIUM OILS - TO BE SUBJECT TO CHEMICAL MUTOTATON VIA OTHER PROCESS	0.5	0.3
KEROSENE - JET FUEL	0.5	0.3
KEROSENE	0.5	0.3
KEROSENES - OTHER	0.5	0.3
MEDIUM OILS - OTHER	0.5	0.3
GASOLINES - TO BE SUBJECT TO SPECIAL PROCESS	0.5	0.3
GASOLINES - TO BE SUBJECT TO CHEMICAL MUTOTATON VIA OTHER PROCESS	0.5	0.3
DIESEL OIL - PERCENTAGE OF SULPHUR = < %0.05	0.5	0.3
RURAL DIESEL OIL - PERCENTAGE OF SULPHUR = < % 0.05	0.5	0.3
OTHER GASOLINES - PERCENTAGE OF SULPHUR = < %0.05	0.5	0.3
RURAL DIESEL OIL - %0.05< PERCENTAGE="	0.5	0.3
MARINE DIESEL OIL (DMX)- % 0.05< PERCENTAGE OF SULPHUR = < % 0.2	0.5	0.3
MARINE DIESEL OIL (DMA)- % 0.05 < PERCENTAGE OF SULPHUR = < % 0.2	0.5	0.3
MARINE DIESEL OIL (DMB)- % 0.05< PERCENTAGE OF SULPHUR = < % 0.2	0.5	0.3
MARINE DIESEL OIL - % 0.05 < PERCENTAGE OF SULPHUR = < % 0.2	0.5	0.3
DİĞER GAZ OİLLER - %<0.05	0.5	0.3
MARINE DIESEL OIL (DMX) - PERCENTAGE OF SULPHUR >%0.2	0.5	0.3



MARINE DIESEL OIL (DMA) - PERCENTAGE OF SULPHUR >%0.2	0.5	0.3
MARINE DIESEL OIL (DMB) - PERCENTAGE OF SULPHUR >%0.2	0.5	0.3
MARINE DIESEL OIL (DMC) - PERCENTAGE OF SULPHUR >%0.2	0.5	0.3
OTHER GASOLINES - PERCENTAGE OF SULPHUR > %0.2	0.5	0.3
FUEL OILS - - TO BE SUBJECT TO SPECIAL PROCESS	0.4	0.3
FUEL OILS - TO BE SUBJECT TO CHEMICAL MUTOTATION BY OTHER PROCESS	0.4	0.3
FUEL OIL 3	0.4	0.3
Not available in the table	0.4	0.3
FUEL OIL 4 (HEATING OIL)- %1< PERCENTAGE="	0.4	0.3
	0.4	0.3
FUEL OIL 5	0.4	0.3
MARINE OIL (RMA-30) - % 2 < PERCENTAGE OF SULPHUR =< % 2.8	0.4	0.3
MARINE OIL (RMB-30)- %2 < PERCENTAGE="<" %2.8>	0.4	0.3
MARINE OIL (RMD-80) %2 < PERCENTAGE OF SULPHUR =<%2.8	0.4	0.3
MARINE OIL (RME-180) - %2 < PERCENTAGE OF SULPHUR =< %2.8	0.4	0.3
MARINE OIL (RMF-180) - %2 < PERCENTAGE OF SULPHUR =< %2.8	0.4	0.3
MARINE OIL (RMG-380)- %2 < PERCENTAGE OF SULPHUR ="<" 2.8>	0.4	0.3
MARINE OIL (RMH-380)- %2 < PERCENTAGE OF SULPHUR =< %2.8	0.4	0.3
MARINE OIL (RMK-380) - %2	0.4	0.3
MARINE OIL (RMH-700)- %2< PERCENTAGE OF SULPHUR =<%2.8	0.4	0.3
MARINE OIL (RMK-700) - %2	0.4	0.3



FUEL OILS - % 2 < PERCENTAGE OF SULPHUR = < % 2.8	0.4	0.3
FUEL OIL 6 PERCENTAGE OF SULPHUR > % 2.8	0.4	0.3
MARINE OIL (RMA-30) - PERCENTAGE OF SULPHUR > % 2.8	0.4	0.3
MARINE OIL (RMB-30) - PERCENTAGE OF SULPHUR > % 2.8	0.4	0.3
MARINE OIL (RMD-80) - PERCENTAGE OF SULPHUR > % 2.8	0.4	0.3
MARINE OIL (RME-180) - PERCENTAGE OF SULPHUR > % 2.8	0.4	0.3
MARINE OIL (RMF-180) - PERCENTAGE OF SULPHUR > % 2.8	0.4	0.3
MARINE OIL (RMG-380) - PERCENTAGE OF SULPHUR > % 2.8	0.4	0.3
MARINE OIL (RMH-380) - PERCENTAGE OF SULPHUR > % 2.8	0.4	0.3
MARINE OIL (RMK-380) - PERCENTAGE OF SULPHUR > % 2.8	0.4	0.3
MARINE OIL (RMH-700) - PERCENTAGE OF SULPHUR > % 2.8	0.4	0.3
MARINE OIL (RMK-700) - PERCENTAGE OF SULPHUR > % 2.8	0.4	0.3
FUEL OILS - PERCENTAGE OF SULPHUR > % 2.8	0.4	0.3
LUBRICATION OIL, OTHER OILS - TO BE SUBJECT TO SPECIAL PROCESS	0.4	0.3
LUBRICATION OIL , OTHER OILS - TO BE SUBJECT TO CHEMICAL MUTOTATION BY OTHER PROCESS	0.4	0.3
MOTOR OILS COMPRESSOR LUBRICATION OILS, TURBINE LUBRICATION OILS	0.4	0.3
LIQUOD OILS TO BE USED FOR HYDRAULIC PURPOSES	0.4	0.3
WHITE OILS, LIQUOD PARAFFIN	0.4	0.3
GEAR OILS AND REDUCER	0.4	0.3





OILS		
COMPUNDS SUBJECT TO METAL WORKING, MOULD OILS, ABBRASIVE OILS	0.4	0.3
SUBJECT TO ELECTRICAL INSULATION	0.4	0.3
OTHER LUBRICATION OILS AND OTHER OILS	0.4	0.3
Not available in the table	0.5	0.3
Not available in the table	0.5	0.3
LIQUIFIED PETROLIUM GAS (L.P.G.)	0.5	0.3
PETROLEUM COKE - NOT CALCINED	0.4	0.3
OTHER PETROLIUM BITUMENS	0.4	0.3
Not available in the table	0.4	0.3
OTHER ACYCLIC HYRDOCARBONS FOR POWER SUPPLY OR FUEL OIL. SATURATED	0.4	0.3
HEXANE - SATURATED, FOR OTHER PURPOSES	0.5	0.4
HEPTANE-SATURATED, FOR OTHER PURPOSES	0.5	0.4
PENTANE-SATURATED, FOR OTHER PURPOSES	0.5	0.4
CYCLO HEXANE	0.5	0.4
BENZENE (BENZOL)	0.5	0.4
TOLUENE (TOLUOL)	0.5	0.4
O - XYLENE	0.5	0.4
M - XYLENE	0.5	0.4
P - XYLENE	0.5	0.4
XYLENE ISOMERS MIXTURES	0.5	0.4
METHYL TERTIARY BUTYL ETHER (MTBE)	0.5	0.4
Not available in the table	0.5	0.4
PREPARATION ADDITIVES FOR LIGHT MINERAL OILS	0.5	0.4
Not available in the table	0.5	0.4
INORGANIC COMPOSITE SOLVENTS AND DILUENTS FOR LACQUERS AND SIMILAR PRODUCTS	0.5	0.4

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