December 2024

Dear All,

BRAZIL – maritime drug trafficking update – North / Northeast

The utilisation of cargo vessels for drug smuggling from Brazil to Europe and Asia has been a long-standing concern, primarily associated with the Southeastern ports. However, our offices have recently observed an increase in cases originating from the North and Northeast regions. Due to their strategic geographical locations and growing roles as hubs for commodity exportation, these regions have become focal points for smugglers exploiting maritime trade routes.

In the Southeast, we understand that smugglers traditionally conceal drugs within containers or attach them to the vessel's external hull (e.g., in sea chests below the waterline). In contrast and whilst these general tactics also apply, in the North and Northeast, larger bulk carriers are frequently targeted, with smugglers also utilising the vessel's deck, including void spaces, to hide the drugs.

Our lawyers highlight that drug trafficking penalties locally range from 5 to 15 years in prison, in addition to fines. For interstate or transnational trafficking, penalties increase by one sixth to two-thirds. Further charges, such as association to commit crime, typically would also apply adding to the penalty.

When drugs are discovered on board a vessel in circumstances where the location of the drugs suggests potential crew involvement, the crew is typically taken ashore for questioning. It is reasonable to anticipate that a crew change will be necessary before the vessel is allowed to sail. Investigations are usually conducted under the jurisdiction of the Federal Police, and if no initial arrests are made, the investigations will have an allowed period of 90 days which can be extended by an equal period. Based on our experience, if no crew connection to the drugs is evident, the crew's stay in Brazil averages 30 to 45 days.

As part of the investigatory steps, the Federal Police will generally file a request with the Federal Court for the retention of crew's passports and access to their phone / communication records. It is also usual for the crew's electronic devices (such as computers) to be taken for analysis.

The Federal Prosecutors, who typically hold the power of indictment, are also involved in the process. Nevertheless, the crew members are typically afforded due process and, barring exceptional circumstances, are allowed to be accommodated in hotels with freedom of movement within Brazil during the investigations. Arrests in the North / Northeast remain rare and are usually reserved for extreme cases.

The evolving nature of these smuggling methods highlights the importance of heightened vigilance and tailored security measures, particularly for the larger vessels operating in the North and Northeast. Enhanced watchkeeping, thorough inspections, and strict control of access points are crucial to mitigate these risks.

Based on the above, please find below a set of general guidelines for security measures to be implemented by vessels calling in ports located in the North and Northeast regions of Brazil.

Before arrival

- **Obtain Security Updates:** Ensure the latest port security information is obtained from local agents or P&I correspondents;
- **Crew Awareness:** Ensure the crew is fully briefed on the procedures for reporting the discovery of drugs or any suspicious activities on board;
- **Seal Critical Areas:** Secure void spaces and storage rooms on the deck with tamper-evident seals, and ensure that rounds are carried out by the crew to check such seals and areas;

At anchorage and alongside

- **Enhanced Vigilance:** The Master should remind the crew to remain alert to the approach of small vessels;
- **ISPS Code Compliance:** Although ports in the North and Northeast of Brazil are classified as Level 1 (no identifiable threats) under the ISPS Code, it is essential to always maintain strict and vigilant watchkeeping. It is also advisable to have additional lighting on the vessel (deck and otherwise) as a deterrent measure;
- **Private Security:** If the crew size is insufficient to secure the ship's perimeter, consider hiring private security personnel to remain on board;
- **CCTV Monitoring:** Where available, ensure the CCTV system is operational and actively monitored throughout. This is likely one of the key steps to take in relation to the production of evidence with regards to the vessel's stay locally. In

case drugs are eventually found on board, CCTV footage should also be able to allow a swift release of the vessel and crew;

- **Securing Access Points:** Keep the gangways, pilot ladders, and anchor hawse pipes secured and inaccessible when not in use;
- **Visitor and Contractor Control:** Implement strict entry and exit controls for visitors and service providers. Maintain a detailed log of all individuals boarding or disembarking the vessel. CCTV at the gangway should also be helpful in this respect;
- **Patrols and Inspections:** Include the inspection of seals on void spaces and similar areas as part of the regular security patrols;
- **Industry guidance:** if possible and as already recommended by various insurers, the ICS Guidance on Drug Trafficking and Drug Abuse on Board Ship, the International Ship and Port Facility Security (ISPS) Code and the Code of Practice on Security in Ports should be incorporated into the company's SMS, security procedures and guidance to the Company Security Officer / Designated Person Ashore (DPA) as applicable;
- **IMO Guidance:** if possible and as already recommended by various insurers, reference should be made to the IMO's Maritime Safety Committee (MSC) - 82/24/Add.2, ANNEX 14 and Facilitation Committee - FAL 34/19, ANNEX 2 attempting to ensure that such guidance is implemented and incorporated to extent possible into the company's SMS to evidence due diligence, whilst maintaining detailed ship and shore records;
- **Charterparty clauses:** Due to disputes that might arise, where possible it is advisable that Members consider incorporating appropriate anti-drug clauses within the charterparty to ensure that allocation of liability between Owners and Charterers is clear;

Before departure

- **Thorough Search and Documentation:** Conduct a detailed and documented search of all areas that could potentially be used as hiding places. Insurers generally recommend to include areas such as, but not limited to the void spaces, ballast tanks cofferdams, funnels, chain lockers, ducts and ventilation trunking, , bow thruster compartments, pump rooms, storerooms, mast houses, cranes, satellite domes and machinery spaces;
- **Underwater Inspections:** Arrange for an underwater inspection of the vessel's hull and sea chests to check for any attached packages or concealed compartments. This would have to be considered on a case-by-case basis as waster visibility can be a challenge in certain Terminals in the North / Northeast regions;
- **Use of Sniffer Dogs:** If any suspicious behaviour is identified on board, conduct a general search of the vessel using sniffer dogs. Most ports in the North /

Northeast region would have private contractors available for this type of work. Generally, this is likely to be one of the most effective steps to locate drugs on board;

Basic responsive measures in case of drug discovery

- If drugs are discovered, it is advisable to have the Master notifying the relevant authorities as soon as possible. Prior communication with Owners and their P&I Clubs and Club's correspondents is advisable before any steps are taken so that specific consideration can be given to the scenario;

We trust that the above comments are helpful and, as usual, our multidisciplinary team remains at your disposal for clarifications.

Please note that this circular is issued for guidance purposes only without any liability whatsoever for BRAZMAR. It is also not advisable to act based on this circular without further verification and consultation with the relevant experts or authorities.

Best regards,

The Team

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