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Oasis Circular No.: 2408

Subject: Surge of heat damage claims for Brazilian soybean at Chinese ports since June 2024

Brief

Soybean heat damage claims have always been an ongoing topic in recent years in China due to its size, frequency, and controversy about the cause of the damage as well as disputes over how to ascertain the actual extent and amount of the damage.

Since this June, we have seen an obvious surge of soybean heat damage cases. In almost all the cases, the cargo were loaded at Brazil and discharged at various Chinese ports, mostly in Shanghai, Qingdao, Rizhao, Tianjin, Dalian, and ports along the Yangtze River.

According to news report, it has been very rainy in Brazil in April and May this year. In the cases we have handled, the quality certificate issued at the loading port usually shows the moisture content is between 12% and 13%.

At the discharge ports, in the cargo holds where heat damage cargo is found, the cargo hold temperature is usually above 40 °C, sometimes even reaching as high as 50 °C. Some cargo looks normal from their appearance but is brown or red in color after being cut apart. Some shipments were found to be mixed with many foreign materials such as sands, bean pods or other types of grain, e.g. corn or wheat.

Claims handling

If the percentage of heat damaged kernels exceeds the Chinese national standard, the consignee will likely bring a claim against the vessel for the cargo damage and demand a security to be provided before the ship's departure, in some cases in the form of a P&I Club security and in some others a security issued by a domestic financial institution, with the amount ranging from hundreds of thousands of US dollars to millions of US dollars.

In order to ascertain whether the cargo indeed suffers from the alleged damage, SGS or ITS is usually appointed to take samples during the discharging operation following FOSFA rules. If the chance to take samples during discharging operation is lost, sampling operation may be arranged during transferring operation or even production, which may take more time as the transferring and production process usually lasts for a long time.

In recent years, most of the consignees agree to blend the cargo and put the heat damaged cargo into production together with sound cargo, and then build up their formal claim on basis of the losses in the final products and the additional expenses incurred during production. It is therefore usually recommended to follow up with the progress of production if possible in order to ascertain the reasonableness of the final claim. This year, due to high frequency of the heat damaged shipments, it has been noted that some small and middle sized consignees may not have enough sound cargo to blend with the heat damaged cargo even if they agree to, and therefore have no other option but to put the heat damaged cargo only into production, which may mean higher claims in the end than if they have sound cargo to blend with.

Suggestions

As the cargo quality varies greatly at the loading port, it is advisable for the carrier to be careful in checking the condition of the cargo that is loaded on board and take appropriate measures to protect their interests when it is found to be already damaged or discolored or mixed with foreign materials.

Although it has been argued that ventilation may have very little effect on prevention of heat damage of soybean cargo, in Chinese jurisdiction practice, judges are still not well convinced of this point. Therefore, in order to prove that the carrier has properly and carefully taken care of the cargo during the voyage, the crew members are suggested to ventilate the cargo hold as and when appropriate and keep a detailed temperature and ventilation record. Generally speaking, if the temperature is checked and recorded only once a day, it is likely to be considered by the court as insufficient in consideration of the changing weather and temperature at sea. As such, it is recommended that the checking and recording be done as frequent as possible, e.g., every four hours.

We hope the above is of assistance. If there is any query, please feel free to contact us at oasis@oasispandi.com any time.

Best regards,

Oasis P&I Services Company Limited