

BILLS OF LADING – ACCEPTANCE OF DIGITALIZED DOCUMENTS IN BRAZIL

This circular is intended to provide guidance and recommendation regarding the acceptance of digitalized documents according to new Brazilian legislation, Decree 10.278, from 18th March 2020.

This new regulation has established the normative and requirements for the digitalization of public and private documents, in order to digitalized documents, produce same legal effects as physical originals.

The decree also expresses that the individual signing the document thru a digital certificate is officially corroborating to be in possession of the original document, and in case of any false declaration, the signer is entitled to respond against civil and criminal processes.

Following publication of the decree, Brazilian Customs issued a report clarifying its effectiveness for bonded warehouses and terminals, formally considering the terms and conditions of the new legislation as an alternative to the standard current procedure, validating presentation of documents signed by attorneys.

Despite the referred decree has become effective during the COVID19 quarantine period, it does not express any connection to the pandemic neither restricts its effectiveness to a temporary validity. Anyway, considering this pandemic, due to difficult from consignees receiving cargo documents, Brazilian Customs are considering use of digitalized documents signed by attorneys.

Our recommendation is by advising members of the possibility from consignees claiming for the use of digitalized documents, with the risk of filing a court claim, applying for a writ of mandamus for cargo release, addressing future claims in connection with additional storage, detention, demurrage, loss of profit and others.

Brazil P&I is at your disposal for further information regarding this matter.

References:

Decree 10.278 (attached free translation)

http://www.planalto.gov.br/ccivil_03/_Ato2019-2022/2020/Decreto/D10278.htm

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