



TCGL - Terminal de Carga Geral e de Granéis de Leixões, SA

Operating Regulations (1)

(Para. 27(1) of the Concession Contract)

[1] This is a free translation of the “Regulamento de Exploração” of the TCGL-Terminal de Carga Geral e de Graneis de Leixões, SA duly approved by Leixões Port Authority (APDL) according to the contents of Concession Contract dated 30th March 2001. If any dispute arises on the content of this document the original, in Portuguese language, as approved by APDL, shall prevail.

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CHAPTER I GENERAL DISPOSITIONS

ARTICLE 1 PURPOSE AND EXTENT OF APPLICATION

1 - These regulations establish the operational rules of the TCGL- Terminal de Carga Geral e de Graneis de Leixões, SA – henceforth referred to as the TCGL - and apply to all of the conceded area – henceforth designated the Breakbulk and Bulk Terminal, or Terminal -, defined in the Concession Contract celebrated with APDL- Administração dos Portos de Douro e Leixões, S.A., on 30 March 2001 and in accordance with the contents of Annex I.

ARTICLE 2 COMMERCIAL EXPLOITATION

1 - Commercial exploitation of the activity of breakbulk and bulk cargo handling in the port of Leixões conventional quays that form part of the area defined in article 1 may only be carried out by the TCGL, without prejudice to the following provisions.

2 - The regime of exclusivity referred to in the previous paragraph does not prejudice the possibility of cargo handling operations being carried out in the Breakbulk and Bulk Terminal by other bodies according to the terms and conditions established by the statutory scheme of Article 26, para. 2 of Decree-Law no. 298/93, of 28 August and in the Concession Contract.

ARTICLE 3 SCOPE OF PUBLIC SERVICE CONCEDED

1 - The conceded public service entails the carrying out of all services inherent in shipment and discharge handling operations for breakbulk and bulk cargo in the Conceded Area, also including the containers which make up part of the ships' cargo.

2 - According to the terms of the Concession Contract, the complement of cargo per ship to be handled in the Breakbulk and Bulk Terminal is considered to be up to 20 units of cargo.

3 - Container handling within the conceded area above and beyond the limits established in the Concession Contract, is subject to prior authorisation by the APDL- Administração do Porto de Douro e Leixões, S.A, in response to the request of the TCGL, which pre-supposes the prior agreement of the concessionaire.

ARTICLE 4 SUPPLEMENTARY SERVICES

1 - The TCGL may provide, within the scope of the Concession, services that are supplementary to its main concern, provided that they are necessary for the accomplishment of that concern, that they comply with the rules in force covering the provision of such services and that they are authorised in writing by the APDL, without prejudice to the provisions of the following para.

2 - The TCGL is authorised to provide the supplementary services of supplying water and electricity to ships berthed in the terminal, at rates to be approved by the APDL.

3 - In the case of the TCGL not being able to provide the services mentioned in the previous paragraph, the APDL might authorise them to be provided by other duly licensed bodies, in which case, the TCGL may not block or hinder in any way the carrying out of said services.

ARTICLE 5 SUBJECTION TO TARIFF REGULATIONS

The TCGL Tariff Regulations shall establish the rules of incidence and the tariffs payable for the provision of services in the conceded area.

ARTICLE 6 PAYMENT GUARANTEES

1 - Should there be any unpaid due invoices or a risk of non-recovery for services provided or to be provided, the TCGL may take adequate measures to protect its credits, namely, those established in the following paras.

2 - Before beginning any service, the TCGL may demand advance payment for services to be provided, as well as the immediate settlement of all invoices falling due and not contested according to the terms of the Tariff Regulations.



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3 - Once any operation has begun, the TCGL may stop work or refuse withdrawal of goods if the client fails to pay the sums owing according to the terms of the previous para.

4 - Within the permitted legal limits, the TCGL may request the competent authorities to refuse authorisation for the departure of any ship whose owner or operator is responsible for payments owed to the TCGL, until such time as said payments are made or are guaranteed by collateral or suitable surety.

ARTICLE 7 HOURS OF OPERATION

1- Cargo handling operations in the Breakbulk and Bulk Terminal will be done in normal working hours, Monday to Friday, according to the following timetable:

8 a.m. to 12 noon

1 p.m. to 5 p.m.

5 p.m. to 8 p.m.

9 p.m. to 12 midnight

2 - Any work outside of normal working hours can only be carried out as overtime, at the express request of the client, subject to staff availability and in compliance with the legal and contractual provisions on the carrying out of supplementary work, with the shipowner or his Representative and the cargo owners being responsible for the extra costs incurred through the application of Portuguese law and other regulations of the sector, including the rules of working collective agreement applicable.

3 - The periods from 12 noon to 1 p.m. and 8 p.m. to 9 p.m. constitute meal breaks, whereby work shall, in principle, be interrupted during these times.

4 - In principle there will be no working between midnight and 8 a.m. from Monday to Sunday. However, when it becomes imperative to do so in the face of obvious prejudice to ship, cargo or the owners thereof, it may be carried out, at the express request of the client, as overtime.

5 - Saturday work may be carried out as overtime.

6 - Work on Sundays and holidays may be carried out as overtime.

CHAPTER II BERTHING AND UNBERTHING OF VESSELS

ARTICLE 8 ADVICE OF ARRIVAL

1 - The shipping agents must, in advance and according to the terms established in the APDL Operating Regulations, include in the application to the APDL's "Gestão Comercial Portuária", the data required for planning the operations to be carried out in the Breakbulk and Bulk Terminal.



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2 - At the same time, the shipping agents must advise the TCGL in writing, whenever possible via electronic technology, of the ship's expected date and hour of arrival, the nature and quantity of cargo to be unloaded and/or loaded, as well as all other information necessary for complete knowledge of the operations to be carried out, which information will only be effective when the provisions of the previous paragraph have been met.

3 - Whenever there occur alterations to any of the elements previously supplied, the TCGL must be informed immediately.

4 - Loss or damage of any kind resulting from false information will be the entire liability of the body responsible for providing said information.

ARTICLE 9 BERTHING OF VESSELS

1 - The order for berthing of ships is as per the terms of the APDL Operating Regulations and berthing is determined by the Port Authority, in conjunction with the TCGL, which will inform the APDL in advance of the expected operations for the ships berthed in the terminal.

2 - The TCGL may, for sound reasons, request from the APDL a change in ships' berthing priority, or that berthing be dependent upon the client's effective assumption of minimum rates of cargo reception or delivery

3 - No ship may berth or unberth at the quays of the Breakbulk and Bulk Terminal without the prior authorisation of the APDL and the knowledge of the TCGL.

4 - All services included in berthing and unberthing of ships will be supplied by the APDL, according to the terms established by that Port Authority, to whom the shipping agents must present the respective requisition

5 - The APDL shall ensure the existence of the services foreseen in the previous paragraph, including operation of the swing bridge, so as to guarantee full operability of the Breakbulk and Bulk Terminal.

ARTICLE 10 OBLIGATION TO WORK DURING NORMAL WORKING HOURS

1 - Whenever there are ships waiting to berth, the TCGL may exact continuous working on berthed ships throughout the entire period of normal working hours, duly informing the APDL.

2 - Berthed ships that fail to comply with the resolution referred to in the previous paragraph must unberth in order to give place for others presenting themselves for work.

3 - In the case of any ship refusing to comply with the obligation referred to in the previous paragraph, the TCGL may request the recourse to coercive means from the APDL to ensure respecting of said obligation.

4 - If failure to comply with the provisions of the previous paragraphs should result in loss or damage to the TCGL or to third parties, the failing ship shall be liable.

5 - Ships unberthed according to the terms of the previous paragraphs will subsequently be allotted the first vacant places, and each shall be responsible for defraying the costs resulting from its displacement from and to the quay.

ARTICLE 11 UNBERTHING AND SHIFTING OF QUAY

1 - Without prejudice to the provisions of the APDL Operating Regulations, the TCGL may request from the APDL, for sound reasons, the unberthing or shifting of any vessel berthed, whenever this is in the interests of the port.

2 - Each ship shall defray the costs arising from its own displacement to or from the quay according to the terms of the previous paragraph.

3 - Whenever failure to observe the provisions of paragraph 1 result in damage or losses for the TCGL or for third parties, the failing ship shall be liable.

ARTICLE 12 DETERMINATION OF BERTHING PLACE

The berthing place shall be determined by the APDL, in conjunction with the TCGL, taking into consideration the established operational plan, the ship's characteristics, length and draught, the depth of the quay, the nature and quantity of goods to be handled, the appropriate equipment for the service to be carried out, warehousing areas available and other relevant factors.

ARTICLE 13 SHIP BERTHING MANOEUVRES

1 - Ships shall berth at the allocated quay in such a way as to avoid damage or injury to work, buildings or equipment and in accordance with all the rules issued by the Port and Maritime Authorities, and shall be responsible for any damage they cause.

2 - During berthing manoeuvres and whilst berthed, all ships must obey the rules established in the APDL Operating Regulations.

3 - When the fenders are inadequate for protecting the vessel, works or buildings, the vessel shall request the appropriate fenders from the APDL, since lack of these items will not be acceptable justification for damage caused.

4 - For operational purposes, a ship is considered to be berthed when it is ready for work, cleared by the authorities and free from any obstructions that might impede not only boarding by TCGL staff, but also the use of the equipment necessary for cargo handling.

ARTICLE 14 OBLIGATIONS OF BERTHED SHIPS

1 - Berthing of ships in the Breakbulk and Bulk Terminal is exclusively for the purposes of loading and unloading goods, it being expressly forbidden for ships to be immobilised or performing engine testing, except in cases of acts of God and with the prior and express authorisation of the APDL and the TCGL.

2 - Whenever, for reasons not ascribable to the TCGL, there is insufficient output in loading or discharging operations, the TCGL may request the respective unberthing from the APDL, with the resulting costs being attributed to the entity responsible for the low productivity.

3 - The ship unberthed according to the provisions of the previous paragraph, shall have the right to take first place on the list of ships waiting berthing, from the moment when it presents the guarantee that the conditions exist to achieve the required output in the operations to be carried out.

4 - A ship's remaining berthed in the Breakbulk and Bulk Terminal after completion of operations is subject to the terms of the APDL Operating Regulations.

CHAPTER III CARGO HANDLING

ARTICLE 15 CARGO HANDLING OPERATIONS

The carrying out of cargo handling operations in the conceded area, which is the responsibility of the TCGL, shall be preceded by a request to that end by the client and is subject to the rules of law, of the APDL Operating Regulations and these Regulations.

ARTICLE 16 IDLE TIME

1. It is considered idle time and, as such, is subject to the penalties set out in the Tariff Regulations, i.e. that which is beyond the control of the concessionaire and which he is unable to overcome with due diligence, namely:

- 1.1 Delays in the ship's arrival or berthing;
- 1.2 Opening and closing of hatches;
- 1.3 Preparation of ship's gear or other ship's equipment;
- 1.4 Lashing or unlashng of cargo;
- 1.5 Breakdowns in ship's gear;
- 1.6 Shifting of ship's berth during the working period;
- 1.7 Lack of cargo during loading or lack of transport during discharge, when the goods do not pass through port stacking or warehouses.

ARTICLE 17 CUSTOMS SITUATION

Goods passing through or deposited in the conceded area are subject to the provisions of the Operating Regulations (Customs Section) that are annexed to and form an integral part of these Regulations.



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ARTICLE 18 CARGO DOCUMENTATION

- 1 - The agents of the ships that wish to berth at the Terminal to discharge cargo, even in transit or transshipment must present the respective Cargo Manifest and Stowage Plan until mid day on the last working day before operations begin.
- 2 - The agents of the ships berthed or that wish to berth at the Terminal to load cargo, even in transit or transshipment, must present the itemised List of Cargo until mid day on the last working day before operations begin, and the respective Cargo Manifest by the end of the working day following close of operations.
- 3 - The documents referred to in paragraphs 1 and 2 must be presented to identify the goods also in accordance with the classification of the Harmonised System (NC) to 4 digits.
- 4 - The TCGL may refuse to provide the service requested if the documents referred to in the previous paragraphs are not presented in due time.
- 5 - The refusal referred to in the previous paragraph must be communicated immediately to the APDL.
- 6 - When a shipping agent has failed to meet the deadlines for complying with the obligation mentioned in paras. 1, 2 and 3, with regard to any ship, and, having been requested to rectify that omission, has failed to do so, the TCGL is exonerated from any obligation to pass on data to the APDL with respect to the exact quality of the cargo handled and shall notify the fact to the APDL so that it can take any measures it considers to be appropriate.
- 7 - The obligations referred to in paragraphs 1, 2 and 3 of this article must be effected via electronic data interchange (EDI) as soon as the APDL establishes the same obligation for presenting the said documents.
- 8 - The declarants are responsible for all of the constituent elements of the documentation presented, and for all consequences resulting from error or omission, without prejudice to the right to appeal against third parties

ARTICLE 19 DANGEROUS CARGOES

- 1 - The transit, handling and storage of dangerous cargo in the Breakbulk and Bulk Terminal are subject to legal standards, to the APDL's Safety Manual and to the concessionaire's Integrated Environment, Quality and Safety Management System.
- 2 - The shipping agent must present to the TCGL, by mid day on the working day before the ship berths, a copy of the Notification of the Carriage of Dangerous or Polluting Goods by Sea, along with the despatches/information affixed on them by the Port and/or Maritime Authorities

ARTICLE 20 SHORE OPERATIONS

Without prejudice to the powers of the APDL, in carrying out the technical management of its operations, the TCGL may determine, for any type of goods or operation, the type of shore operations that will be effected.

ARTICLE 21 LABOURERS EMPLOYED IN PORT OPERATIONS

1 - For port operations, the TCGL shall employ labourers according to the legal, regulatory and contractual provisions by which it is bound.

2 - The TCGL assumes no responsibility for inability to provide any service in the terms requested due to shortage of dockworkers legally competent to carry it out.

ARTICLE 22 RESPONSIBILITY FOR EQUIPMENT BREAKDOWN

The TCGL is not responsible for damage and losses resulting from work stoppage due to unforeseeable equipment breakdown that occurs while the service is being provided.

ARTICLE 23 STORAGE OF CARGO

1 - The storage of any cargo in the Breakbulk and Bulk Terminal depends upon prior requisition to the TCGL, which is responsible for the respective management.

2 - In exceptional situations of congestion in the Terminal, the TCGL, with the prior agreement of the APDL, may demand the removal by the consignee, within 48 hours, of cargo left for more than 30 days.

3 - The TCGL may also demand the removal of goods, according to the terms set out in the previous paragraph, in exceptional cases of physical degradation of said goods.

ARTICLE 24 CONTAINERS

1 - The management of container parking is the responsibility of the TCGL, aiming for space and operational maximisation.

2 - Bearing in mind the interests and organisation of the port, all containers to be loaded must be delivered at the Leixões Container Terminal (area conceded to the TCL), if the TCGL believes it to be appropriate, it being the responsibility of the TCGL to establish the sub-contracting conditions for these services with the TCL.

3 - Containers unloaded or to be loaded at the Breakbulk and Bulk Terminal and parked or received in the Leixões Container Terminal, are subject to the provisions of the Operating Regulations of the Leixões Container Terminal for those operations.

4 - Exceptionally, when for sound reasons and so long as doing so does not prejudice ship or port operations, direct unloading or loading of the containers in question may be authorised.

CHAPTER IV

ACCESS, TRANSIT AND PARKING IN THE TERMINAL

ARTICLE 25

GENERAL RULE

The access of personnel and vehicles and the circulation and sojourn of the same within the conceded area shall accord with the rules of the Access Regulations, Circulation and Parking in Port Areas, approved by the APDL and, in addition, with the provisions of the following articles.

ARTICLE 26

VEHICULAR ACCESS

1 - Access to the Terminal is done via the zones provided for that purpose, and, whenever possible, the port ring road should be used for movement between different zones.

2 - Physical and administrative control of vehicles and cargo takes place at the main port gate, in the space marked there.

3 - Entry is only allowed into the terminal to:

3.1 - Vehicles delivering or receiving goods;

3.2 - Ships' suppliers vehicles, duly authorised by the APDL;

3.3 - Vehicles belonging to the concessionaire;

3.4 - Port Authority vehicles in pursuit of their duties;

3.5 - Vehicles carrying members of bodies with jurisdiction in the port area, when they are specifically in pursuit of their duties;

3.6 - In-service ambulances, first aid and assistance equipment;

3.7 - Vehicles that have been exceptionally authorised for terminal services;

3.8 - Vehicles belonging to representatives of berthed ship owners, when acting in specific capacities connected with the respective crew, ship or cargo;

4 - In exceptional circumstances, and with a view to ensuring safety and efficiency of work, the terminal services may impose conditions on access and/or parking to any work zone for the vehicles mentioned in the previous paragraph, with the exception of Port Authority vehicles carrying out inspection and examination duties and in-service ambulances or first aid vehicles or in-service vehicles from other public institutions.

ARTICLE 27
TRANSIT OF VEHICLES

- 1 - The transit of vehicles dedicated to cargo handling or others with permitted access, is only authorised within the defined transit zones and according to established circulation.
- 2 - For the regulation of traffic, the terminal has appropriate markings, whether painted on the ground or traffic signs as established in the Highway Code.
- 3 - Rail tracks, along with the dock crane rolling tracks, are, to all extents and purposes, regarded as an unguarded level crossing.
- 4 - Vehicles in the terminal may not drive on the wrong side of the road.
- 5 - Non-operation-specific vehicles of any kind are forbidden to remain within the terminal, without prejudice to the pervious article.
- 6 - The rules of the Highway Code apply to vehicles driving within the terminal.

ARTICLE 28
PARKING OF VEHICLES

- 1 - Parking of vehicles is forbidden in the zones for work and storage, even if at the time no port operations are in progress, unless they are vehicles involved in carrying goods from/to the ship/site in question.
- 2 - The vehicles mentioned in the last part of the previous paragraph must stop or park in such a way as not to prejudice the normal flow of operations and the manoeuvring of equipment, in addition to following other instructions given them by terminal services.
- 3 - All other vehicles are only authorised to park in the areas defined for that purpose.

ARTICLE 29
ACCESS FOR PERSONNEL

- 1 - Access for personnel is via the zones provided for that purpose.
- 2 - Except in situations expressly authorised by the TCGL, the passage of people on foot is forbidden within the operational area of the terminal, with the exception of Port Authority agents.



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CHAPTER V FINAL DISPOSITIONS

ARTICLE 30 SUSPENSION OF OPERATIONS

For safety reasons and in accordance with the terms established in the Port of Leixões Safety Plan and/or in the Terminal's Integrated Environment, Quality and Safety Management System, the TCGL, having won the agreement of the APDL, may suspend operations in the terminal.