



TRADE LOGISTICS

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GUIDE TO Cargo Insurance

Insurance, in the widest sense of the word, is a Contract whereby one person (called the Insurer) undertakes, in return for an agreed consideration (called the Premium), to pay another person (called the Assured) a sum of money or its equivalent on the happening of a specified event. The specified event must have some element of uncertainty about it and must be adverse in the interest of the Assured.

Previously all transport of good was done via sea freight and therefore the term Marine Insurance was coined to as the insurance of transported goods. This term is often still used to day, however modern international trade now involves modes of transport other that sea freight and it is more appropriate to use the expression 'cargo insurance' which covers road, rail and air freight movement, as well as the common combinations of transport modes now used.

Marine Insurance Act

A Contract of Marine Insurance is based on the principle of "utmost good faith". If utmost good faith is not observed by either party, the Contract may be voided by the non-offending party. Utmost good faith is broken when fraud is committed. Utmost good faith also implies a full disclosure of all material facts known to the assured or his broker concerning the insurance and visa versa. The underwriter needs to be acquainted with all the information necessary to enable her to form an opinion of the acceptance or rejection of the insurance and the rate to be charged.

Examples of material facts, which should be disclosed to the underwriters, include:

- The shipment of deck cargo which would normally be carried under deck.
- Is the consignment new or second hand.
- Poor previous insurance record.

Formation of the Contract:

The following points must be agreed upon before a valid Insurance Contract comes into being:

- The property insured
- The risk insured against
- The amount payable by the insurer on the happening of the risk insured against
- The premium payable by the insured
- The period of insurance

The policy is the exclusive memorial of the contract, and may not ordinarily be altered or varied. The insured is presumed to have read the policy on receipt, and to know what the provisions of the policy are. Rectification of the policy can be effected after issue if mutually agreed upon. Unless otherwise agreed to, it is the duty of the assured or his agent to pay the premium and the duty of the insurer to issue the policy to the assured or his agent on concurrent conditions, and the insurer is not bound to issue the policy until payment or tender of the premium.

Non payment of claims:

There are a number of areas that insurance does not cover against. The two main areas to look out for are poor packing and inherent vice.

1) Poor Packing: The cargo is meant to be sufficiently protected by packing from any normal outside strains. However, should the cargo become damaged through insufficient support by the packaging then the insurance does not have to pay out. It is the duty of the exporter to ensure that the cargo is appropriately packed.

2) Inherent Vice: If there cargo is already damaged in some way or if something is included in the consignment that could damaged the value of the cargo then the insurance does not have to pay out. An example of an something added to the cargo that could damage the cargo is moisture. Moisture can be added in the form of moist wood or other material. Moisture can cause rust or decay.

3) Other items that the standard marine insurance cover does not cover:

- 1) Losses not arising during the period of the policy
- 2) Ordinary loss, i.e. the natural loss in weight to drying out.
- 3) Consequential losses, i.e. expenses in returning goods.
- 4) War risks

Claims:

Any claims have to be properly substantiated and documented. If a claim is likely to exceed a certain amount, then Insurers require that immediate notice be given to the underwriters or their agent, at the port or place where the loss or

damage is discovered, in order that they may examine the goods and issue a survey report.

To enable claims to be dealt with promptly, the assured or their agents are advised to submit all available supporting documents without delay to the Insurer. The documents required in this event are:

- 1) original policy or certificate of insurance
- 2) copy of the shipper's invoices
- 3) original transport contract of carriage
- 4) the survey report or other documentary evidence to establish the extent of the loss or damage
- 5) a landing account at final destination
- 6) copies of correspondence exchanged with the carriers and other parties regarding their liability for loss or damage.

The assured must in all cases take reasonable measures to prevent or minimize loss and ensure that all rights against carriers or other third parties are properly preserved and exercised. In particular, the assured or their agents are required to claim from the carriers, port authorities, or other third parties for any missing packages. Immediate application should be made for an investigation by carriers or third parties if any loss or damage is apparent, following this with a claim on the carriers or third parties for any loss or damage found in the course of the survey.

The assured should never report a clean receipt of cargo when goods are in doubtful condition. If loss or damage was not apparent at the time of taking delivery, written notice must be given to the carriers or other third parties within three days of taking delivery.

Types of Marine Insurance cover:

Traditional forms of Insurance cover may be referred to as:

Free of Particular Average (FPA): This is a limited form of cover, basically meaning that no partial loss or damage is recoverable from Insurers, unless the vessel or craft is stranded, sunk or burnt.

With Average (WA): This is a slightly wider cover as it covers loss or damage caused by perils of the sea or any other general perils in transport subject to the ones specified in the policy.

All Risks (AR): This cover is well defined by the paramount clauses in the policy, which reads: "This insurance is against all risks of, or damage to, the subject matter insured, but shall in no case be deemed to extend to cover loss, damage or expense proximately caused by delay or inherent vice or nature of the subject matter insured."

Modernised forms of Insurance cover may be referred to as:

Marine All Risks (MAR): the cover being expressed in new clauses which are now (A), (B) or (C), plus War Clauses and Strikes Clauses. In simple terms, Cargo Clauses (A) are the equivalent of the 'All Risks' in insurance mentioned above. (B) covers less than (A) and (C) cover less than (B), with a corresponding decrease in the insurance premiums. There are also an Institute Cargo Clauses (Air) which are equivalent of the (A) clauses but only for air carrier movements.

C : General Average cover including jettison, fire, explosion, stranding, sinking, capsizing, collision of vessel and discharge port of distress.

B: Covers all of C AND covers washing over board, earthquake, volcanic eruption, heavy weather, entry of sea water and total loss of package during loading or unloading.

A: Covers all of B AND C AND covers theft, breakage, leakage and contamination.

Meeting your specific requirements:

Having taken the above into account one must ensure that the terms and conditions of the insurance policy meet with your specific requirements for your consignment. This is most important as far too often a consignee will insure a consignment under certain terms and conditions without fully understanding them, thus resulting in an eventual claim being repudiated by Underwriters.

General Average:

General average can be conveniently defined as: "Loss arising in consequence of extraordinary and intentional sacrifices made, or expenses incurred, for the common safety of the ship and cargo." For example, if there is damage to the ship/carrier vessel or loss of some of the cargo, all cargo holders on the ship may be charged a fee to cover that loss - even if a specific cargo is unaffected by the peril giving rise to General Average, a contribution will have to be made.

Contributions towards General Average losses can be either in the form of a General Average Guarantee provided by Insurers, or a cash deposit by the Importer. Any standard marine policy will cover General Average losses. Should an importer receive notification that the vessel carrying his cargo has declared

General Average, immediate notice must be given to the party who arranged the marine insurance. Should an importer hold an insurance certificate provided by the overseas shipper, application should be made to the insurance company or their agent to provide a General Average Guarantee.

An importer may be required to sign a General Average Bond form. By doing so he agrees to pay any amounts irrecoverable from Insurers, although in most cases this is purely academic, since most marine insurance provide for full indemnity.

Sometimes a Cargo Valuation form will have to be completed with itemised values of goods, freight charges and the amount of damage (if any) together with details of insurance cover. It is worth noting that, in all cases of General Average, release of cargo will not be given until completed Guarantees and Bond forms are in the hands of the appointed Average Adjusters, or a cash deposit has been paid. Immediate action by the importer is vital as soon as any notification of General Average is received.

Where an importer requires a consignment particularly urgently, and elects to pay a cash deposit, and the insurance policy covers General Average, then a refund of the amount paid may be obtained from the Insurers on submission of the General Average Deposit Receipt supporting documents of title.



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