

# 5 Powerful Reasons why your clients need cargo insurance

Cargo Insurance – The missing link



# Learning Objectives

The basics of Institute Cargo clauses A including what is covered, what is not covered and cover duration.

A brief view of General Average and Salvage – Understand the financial obligations of your clients under carriage contracts when a vessel founders

Understand the major hazards for containerised cargo

The basics of international Carriage Conventions - Understand why carriers don't pay full value if they lose or damage cargo

The basics of international sale terms (Incoterms) – Learn which international sale terms either transfer risk to your client or obligate them to insure

# About the presenters

## **Alan Wilkins**

- 30 years insurance experience (last 20 in marine insurance)
- Bsc (Hons) International Transport
- LLM Maritime Law
- Former employers – AXA, Aviva, CNA, Zurich, Arthur J Gallagher

## **Henry Haystead**

- Former Merchant Navy Officer
- 22 Years Marine Insurance experience
- Former employers - Aviva, Amlin, Cornish Insurance



# Institute Cargo Clauses

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- Grouped into standard cargo and speciality clauses
- Standard cargo
  - Clauses A – “All Risks”
  - Clauses B&C – Specified perils
- Speciality clauses, including
  - Frozen food and meat clauses
  - Timber
  - Bulk commodities

# Clauses A

- What is covered?
  - “This insurance covers all risks of loss of or damage to the subject-matter insured except as excluded by the provisions of Clauses 4, 5, 6 and 7”
  - British & Foreign Marine Insurance Company v Gaunt 1921
    - In this case the House of Lords held that the words "all risks" do not cover all damage however caused and specifically held that the words would not cover damage caused by wear and tear, inevitable deterioration or inherent vice. The court further held that "All Risks" policies cover only damage caused by an accident or due to some fortuitous circumstance or casualty.

# General Average and Salvage

General Average:

(Not a mediocre soldier)

“The apportionment of financial liability for the loss arising from the jettisoning of cargo by dividing the costs among all those whose property (ship or cargo) was preserved by the action.”

May also include additional crew costs, operational costs and port dues if vessel is forced to take a port of refuge.

Salvage:

“To rescue (a wrecked or disabled ship or its cargo) from loss at sea.”

- Salvage costs commensurate with skill and knowledge exercised in the salving of the cargo. Could be up to 80% of the cargo value.



# What is not covered? Clauses 4, 5 6 & 7

- Wilful misconduct of the Assured
- Ordinary leakage, ordinary loss in weight or volume, or ordinary wear and tear
- Insufficiency or unsuitability of packing or preparation to withstand the ordinary incidents of the insured transit – waived if by third party contractor
- Inherent vice or nature of the subject-matter insured
- Delay,
- Insolvency or financial default of the owners managers charterers or operators of the vessel where – unless no knowledge by the assured
- Use of any atomic/ nuclear weapon or device
- Unseaworthiness or unfitness of vessel or craft or unfitness of vessel or craft – waived where no knowledge of the assured or where claimant has bought the goods in good faith, or where insurers waive the breach.
- Unfitness of container or conveyance – Waived where no knowledge of the assured
- War civil war revolution rebellion insurrection, or civil strife\*
- Capture seizure arrest restraint or detainment – But piracy is covered
- Derelict mines torpedoes bombs or other derelict weapons of war\*
- 7.2 resulting from strikes, lock-outs, labour disturbances, riots or civil commotions\*\*
- 7.3 caused by any act of terrorism\*\*
- 7.4 caused by any person acting from a political, ideological or religious motive\*\*

\*Added back in with Institute War Clauses

\*\* Added back in with Institute Strikes Clauses

# When is cover operative? Clause 8 Duration

- Insurance attaches from the time first moved in the warehouse or at the place of storage for the purpose of the immediate loading into or onto the carrying vehicle or other conveyance for the commencement of transit, continues during the ordinary course of transit and terminates either:
  - On completion of unloading in or at the final warehouse or place of storage at the destination named in the contract of insurance,
  - On completion of unloading at any other warehouse or place of storage. i.e. Assured changes mind and redirects to another location.
  - When the Assured or their employees elect to use any carrying vehicle or other conveyance or any container for storage other than in the ordinary course of transit or i.e. Transit has ceased.
  - On the expiry of 60 days after completion of discharge from the overseas vessel at the final port of discharge, whichever shall first occur.
  - Or when it is moved to a destination other than the intended destination.
- Cover remains in force during delay beyond the control of the Assured, any deviation, forced discharge, reshipment or transshipment and during any variation of the adventure arising from the exercise of a liberty granted to carriers under the contract of carriage.



An aerial photograph of a large container ship sailing on a deep blue ocean. The ship is viewed from above, showing its long deck covered with numerous colorful shipping containers in shades of orange, blue, and red. The ship's wake is visible in the water. The text "Major Hazards for containerised cargo" is overlaid in white on the right side of the image.

# Major Hazards for containerised cargo



# Damage

The highest frequency of cargo losses are for damage claims and these typically occur because cargo is not sufficiently packed to withstand the normal rigours of transit, or the container lets in water.

n.b. Under 2009 ICC Cargo clauses, no loss paid if insufficiency of packing or stowing is carried out by assured or its employees. OK if third party i.e. seller or packing contractor.

By Astrid Groeneveld - Own work, CC BY-SA 3.0,  
<https://commons.wikimedia.org/w/index.php?curid=8643294>





# Fire

US\$130M of cargo was damaged last 12 months in four container ship fires underwritten in London. These were on ER Kobe, APL Vancouver, Maersk Honam and Yantian Express.

- Maersk Honam March 2018 – Arabian Sea
- 7860 containers aboard
- Highly likely cause - Chemical Fire in a container in no3 hold
- Possible misdeclaration?



# Theft – Total estimated \$30bn

Hijack 31%  
Theft from facility 25%  
Theft of vehicle 12%  
Theft from vehicle 9%  
Theft from container 8%  
Other 15%



## *Case Study*

*Assured brought 25 tons (one container) of aluminum scrap from a supplier in China and personally supervised the loading of the scrap into the container. Seals were placed on the container doors and the container was followed to the port of Xingang and handed to the shipping company's warehouse on July 16.*

*The container was loaded on board the vessel on July 20.*

*When the container arrived in Santos, Brazil, it was weighed and found to be 2.9 tons light.*

*The seals were both intact.*

*When the container was opened by the Brazil Customs and Pest Inspection agents, there was no aluminum scrap inside – Just bricks!*

Source:

<https://www.shippingandfreightresource.com/cargo-theft-a-readers-experience-and-dilemma/>



Source: Twitter / @nobuya0827

**Containers overboard!**  
10 yr average – 1600 per year but  
worrying trend

### **30/11/2020**

- ONE APUS a 14,052 TEU containership built in 2019 and operating on Ocean Network Express's (ONE) Far East Pacific Service suffered multiple stack collapse on board due to severe weather conditions while the vessel was en route from Yantian in China to Long Beach in USA. 1816 containers lost.

### **16/1/2021**

- Maersk Essen en route China to Los Angeles, shed around 750 containers during heavy seas en route to Los Angeles.

### **18/2/2021**

- The 13,092 teu Maersk Eindhoven lost “several hundred containers overboard” as it suffered an engine blackout in bad weather, near Japan, en route from Xiamen, China to Los Angeles.

# Carriage Conditions

- Domestic carriage - Liability governed by common law (bailment) or by contract between the parties
- International carriage – Liability governed by international conventions
  - Liability based on weight not value
  - Strict notice of claim periods
  - Time bars
- 1 SDR - £ 1.02 as at 12/3/2021

Mode	RHA	FTA	CMR	Hague Visby	Warsaw as amended by Hague protocol	Warsaw as amended by Montreal protocol
Road Domestic	£ 1300 p/t	£2000 p/t				
Road International			8.33 SDR per KG			
Sea				2 SDR per Kg Or 666.67 per package or unit whichever the greater		
Air					17 SDR per Kg	Was 19 but now 22 SDR per Kg

# Incoterms

- Standard form contracts created by the International Chamber of Commerce which set out obligations and rights parties in international contracts in relation to :
  - Which party is responsible for transport
  - Which party is responsible for insurance
  - At what point risk of loss or damage passes from seller to buyer



# Incoterms® 2020 Rules Responsibility Quick Reference Guide



	Freight Collect Terms						Freight Prepaid Terms				
Groups	Any Mode or Modes of Transport		Sea and Inland Waterway Transport				Any Mode or Modes of Transport				
Incoterm®	EXW	FCA	FAS	FOB	CFR	CIF	CPT	CIP	DAP	DPU	DDP
	Ex Works (Place)	Free Carrier (Place)	Free Alongside Ship (Port)	Free On Board (Port)	Cost and Freight (Port)	Cost Insurance & Freight (Port)	Carriage Paid To (Place)	Carriage & Insurance Paid to (Place)	Delivered at Place (Place)	Delivered at Place Unloaded (Place)	Delivered Duty Paid (Place)
Transfer of Risk	At Buyer's Disposal	On Buyer's Transport	Alongside Ship	On Board Vessel	On Board Vessel	On Board Vessel	At Carrier	At Carrier	At Named Place	At Named Place Unloaded	At Named Place

## Obligations & Charges:

Export Packaging	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller
Loading Charges	Buyer	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller
Delivery to Port/Place	Buyer	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller
Export Duty, Taxes & Customs Clearance	Buyer	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller
Origin Terminal Charges	Buyer	Buyer	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller
Loading on Carriage	Buyer	Buyer	Buyer	Seller	Seller	Seller	Seller	Seller	Seller	Seller	Seller
Carriage Charges	Buyer	Buyer	Buyer	Buyer	Seller	Seller	Seller	Seller	Seller	Seller	Seller
Insurance	Negotiable	Negotiable	Negotiable	Negotiable	Negotiable	*Seller	Negotiable	**Seller	Negotiable	Negotiable	Negotiable
Destination Terminal Charges	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Seller	Seller	Seller	Seller	Seller
Delivery to Destination	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Seller	Seller	Seller
Unloading at Destination	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Seller	Buyer
Import Duty, Taxes & Customs Clearance	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Buyer	Seller



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\*CIF requires at least an insurance with the minimum cover of the Institute Cargo Clause (C) (Number of listed risks, subject to itemized exclusions)  
 \*\*CIP now requires at least an insurance with the minimum cover of the Institute Cargo Clause (A) (All risk, subject to itemized exclusions)  
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## Take Away

5 Powerful  
Reasons why  
your clients need  
cargo insurance

- Carriers and freight forwarders limit their liability based on weight
- Risk of loss or damage may pass to buyer before goods are delivered or International purchase/ sale terms may obligate seller to insure
- General Average is regularly declared by vessels in distress
- Salvage awards can be a substantial portion of the value of goods
- Cargo cover provides comprehensive cover providing full compensation for loss or damage in accordance with the basis of valuation –cover for GA and Salvage costs included and no need to claim against the carrier!

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# Q&A



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