

CHUBB®

# Marine Cargo and Haulier's Liability

- 1) Basic “Marine” Covers
  - What are they?
- 2) Current Issues / Risk Management
  - including container risks / cargo theft / load securing / SOLAS VGM
- 3) Marine Cargo
  - Incoterms
  - Institute Cargo Clauses
  - Extensions to cover
  - What information do I need to get a quote?
  - How does Marine Cargo relate to Haulier’s Liability? Is it double insurance?
- 4) Haulier’s Liability (aka GIT)
  - Trading Conditions. Why?
  - What if the haulier fails to tell their client that they trade under RHA?

# What covers do we write in the regional marine market?

- Marine Cargo
- UK Goods In Transit
- Stock Throughput
- Hauliers Liability (Including Freight Forwarders, Couriers & Warehouse Keepers)
- Hull and Liability
- Others covers...

# Marine Cargo

- Own Goods
- Usually buying or selling
- Imports/Exports
- Institute Cargo Clauses Cover
- Often containerised

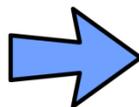


## UK Goods In Transit

- (Not to be confused with hauliers liability)
- Own Goods
- Usually buying or selling
- UK to UK transits
- Often Institute Cargo Clauses Cover but sometimes insured on commercial combined (or the customer relies on their haulier! NOT GOOD!)

# Stock Throughput

- Import
- Storage
- Onward UK Inland Transits or Export
- Seamless cover on one policy
- Seamless cover from Start to Finish!
- No disputes over whether a transit claim or a property claim
  
- Can be capacity issues in the marine market
- We are not property underwriters!!!



# Hauliers Liability

Hauliers are NOT Insuring the goods!!

This type of policy is covering the liability of the Haulier for any loss or damage to the goods that may occur whilst in their custody and control when they are moving the goods for hire and reward



# Freight Forwarders – They arrange for the goods to be moved! (usually internationally)

Often they do not operate their own vehicles but will still be liable for the goods they arrange the movement of.

They will give assistance in and arrange:

- Packing
- The most appropriate mode of transport (ship/air/rail/post etc or a combination of these).
- Warehousing if necessary
- Customs Clearance
- Insurance
- Organisation of groupage i.e. the assembly of goods from a number of consignors to make a full container load (which means cheaper shipping costs)
- Provisions of carriers' and forwarders' documentation.
- Compliance with regulations and letter of credit requirements.

Couriers – Smaller, lighter deliveries (sometimes time critical)



## Warehouse keepers Liability

They store other people's goods. Sometimes they also act as a haulier, sometimes purely as a warehouse keeper.



# The others...

- **Hull & Liabilities** (written by Chubb in London)
- **Household Removals** - We can cover the haulier's liability (the removal company's liability for the goods). We can no longer cover the goods owner under a cargo policy due to FCA complications.
- **Private and Commercial Motor Vehicles**
- **Fine Arts and Specie** - Mostly written in London but some can be written in the regions
- **Project Cargo** – Windfarms, Power stations, Oil rigs etc - this includes delayed start up cover (cons loss)



# Current Issues

- Threats to shipping containers
- Cargo theft
- Load securing
- Solas container weighing regulations

# Threats to Shipping Containers Types



DRY VAN



REEFER



TANK o CISTERNA



FLEXITANK



OPEN SIDE



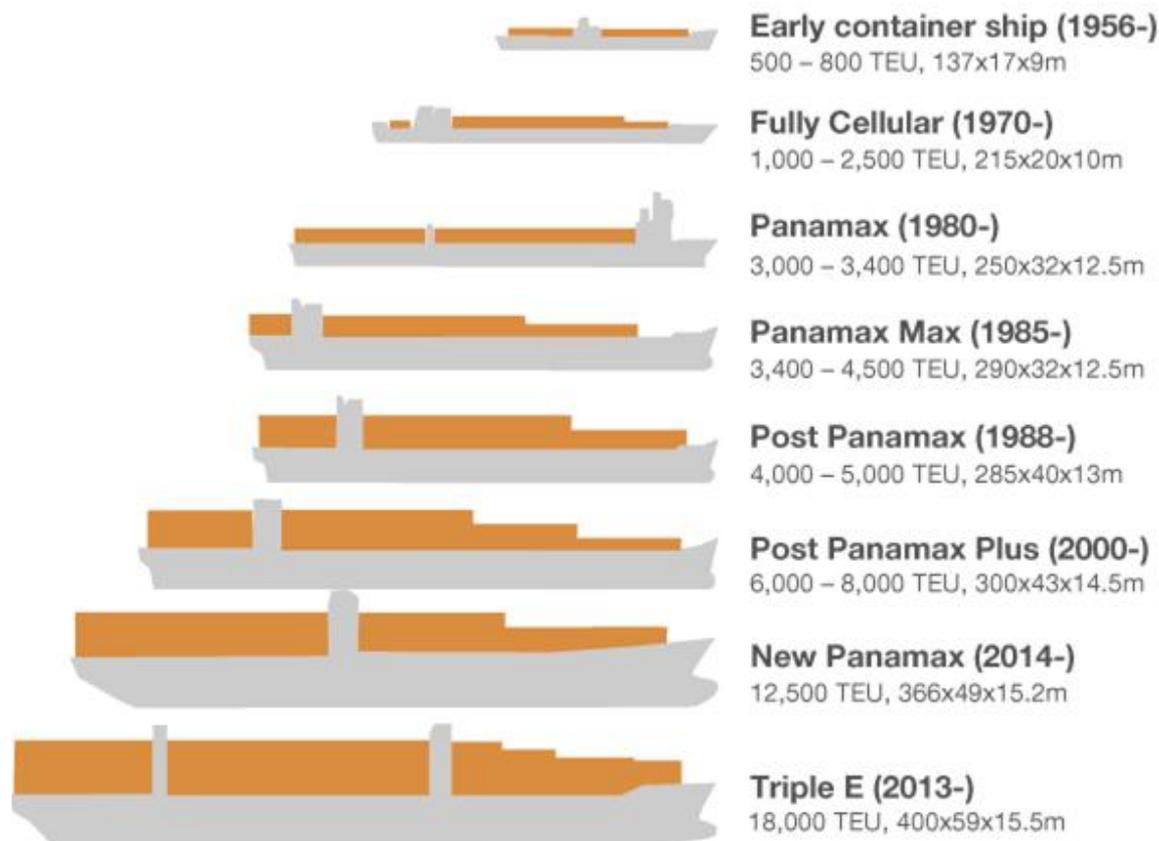
OPEN TOP



FLAT RACK

# Threats to Shipping Containers

## The rise and rise of the container vessel



# Threats to Shipping Containers Size matters.....



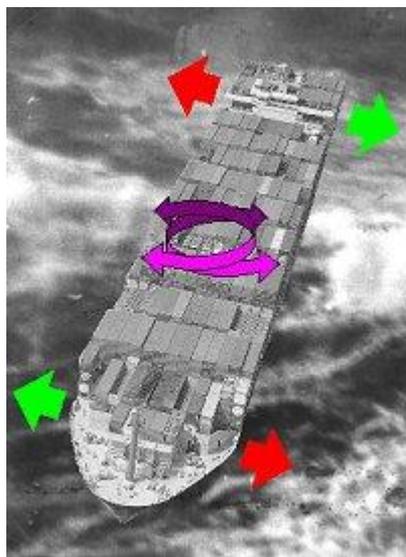
# Threats to Shipping Containers

## Containers - some facts

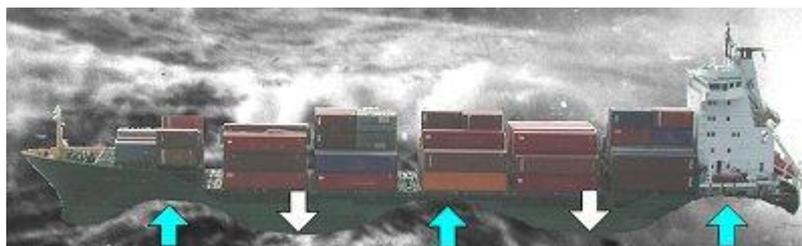
- Invented in 1956
- 17 million containers in use
- 6 million on vessels, trucks and trains
- 10,000 lost at sea every year
- 97% made in China
- Felixstowe handles around 4 million TEU's annually
- Shanghai handles 35 million !!
- Every container has its own unique serial number
- Britain's largest containerised export commodity is.....?



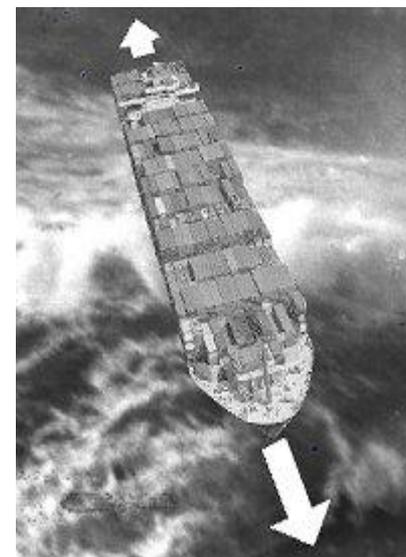
# Threats to Shipping Containers Movement at sea



Yawing

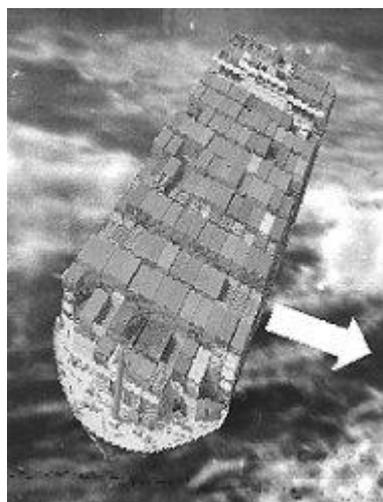


Heaving

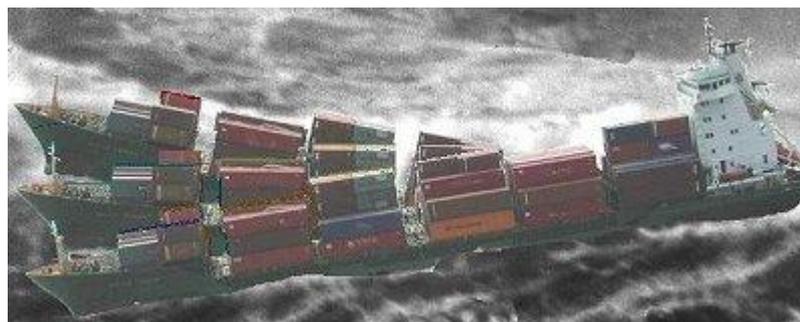


Surging

# Threats to Shipping Containers Movement at sea



Swaying



Pitching



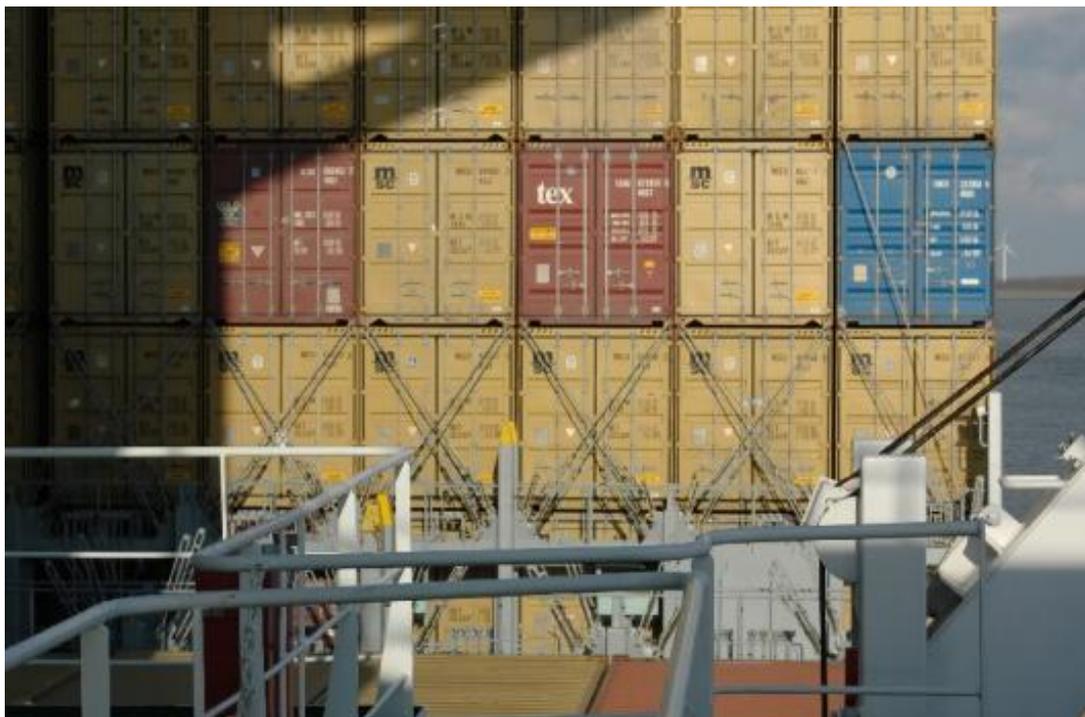
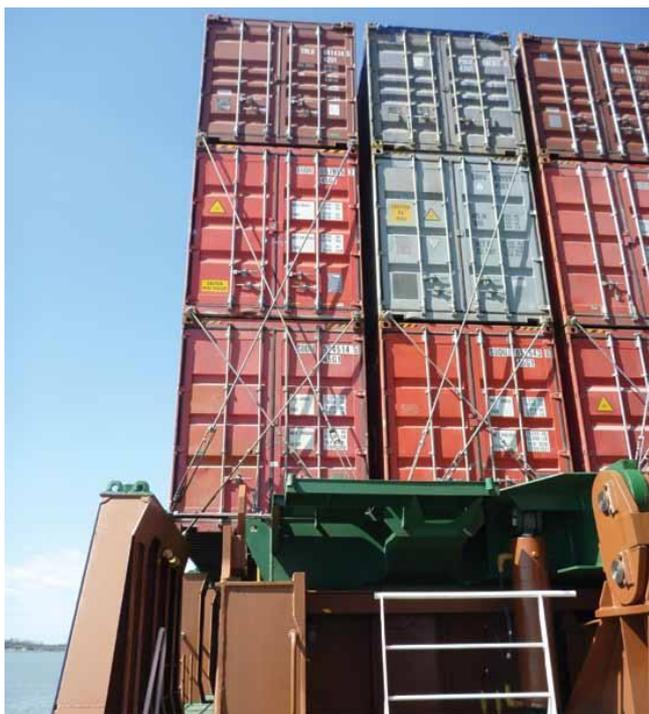
Slamming

# Threats to Shipping Containers Movement at sea



Rolling at 30 degrees common in heavy weather

# Threats to Shipping Containers Lashing



# Threats to Shipping Containers Loss over the side



# Threats to Shipping Containers

## Heavy weather damage



# Threats to Shipping Containers

## Dangerous goods – mis-declared cargo



MV MSC Flaminia

- 3 dead
- \$40mill hull
- \$50mill+ cargo (estimated)



# Threats to Shipping Containers

## Dangerous goods – mis-declared cargo



### MV Hanjin Pennsylvania

- 2 dead
- \$60mill hull
- \$170mill cargo (estimated)



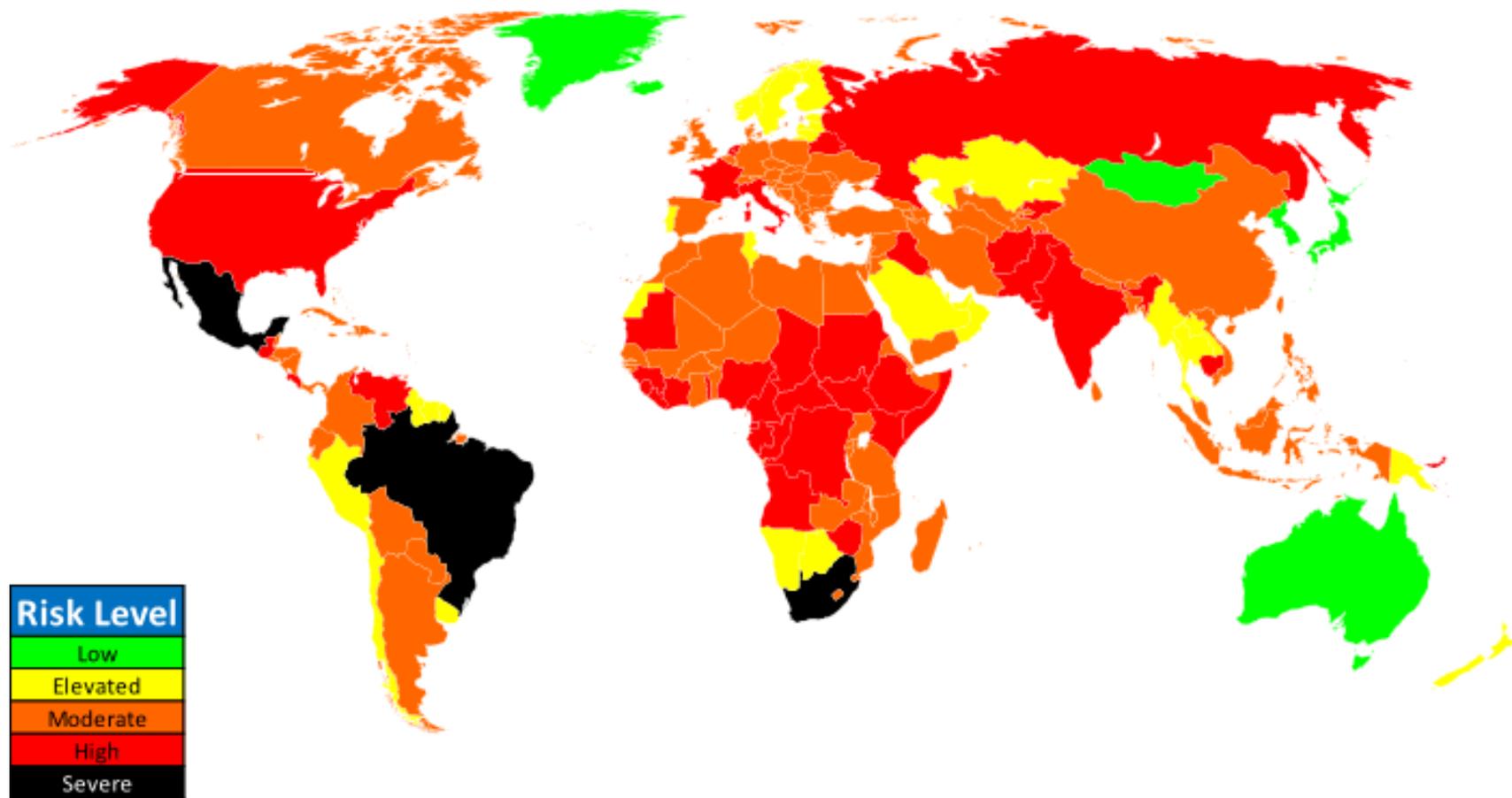
# Threats to Shipping Containers

## Poor securing of cargo



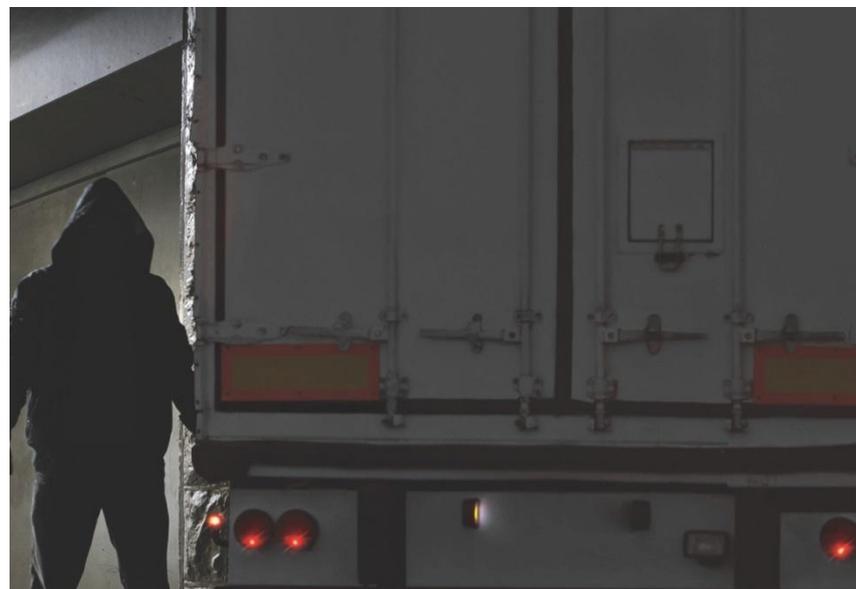
# Cargo Theft

## Where is cargo at risk?



# Cargo Theft Europe

- Reporting of stats notoriously poor
- No single FEA / governmental body collating info
- Only large losses tend to be reported
- Best estimate? **€8.2 billion** (2007)
- Transported Asset Protection Association - TAPA



# 2015 CARGO CRIMES IN EMEA

## +37.4%

Rise in the number of cargo crimes reported to IIS vs. 2014

## -55.4%

Reduction in the number of reported crimes with losses of more than €100,000

## 4.6%

Of all incidents in 2015 were classed as major losses with a value over €100K

-50.7% reduction in average losses in 2015 vs. 2014

# 60

Hijackings were reported to IIS, 4% of all incidents.

€22,791  
The equivalent average loss for all 1,515 cargo crimes reported to TAPA EMEA

# 458

Most recorded cargo crimes in 2015 occurred in the Netherlands, accounting for 30.2% of all incidents and representing a rise on the 258 crimes reported in 2014.

9 Theft from Moving Vehicle cargo thefts were reported to IIS in 2015

# 1,515

Total number of incidents recorded by TAPA EMEA's Incident Information Service in 2015

# €14,885,586

Combined loss for the top 10 reported cargo crimes in 2015, 43.1% of all thefts that stated a loss value

# 70

Number of cargo thefts with a loss value in excess of €100,000

# €34,528,558

Total loss for the 22.5% of crimes reporting a value

# 29

The number of countries in the EMEA region reporting cargo crimes in 2015

# 4.4%

Or 67 of all 2015 crimes stated Violent or Threat with Violence as the criminals' M.O.

# 139

Food & Drink was the product category with the highest number of recorded losses in 2015 featuring in 139 or 9.2% of incidents.

# 57.2%

Of all cargo crimes captured by TAPA EMEA in 2015 took place at unsecured parking locations, representing 866 of the 1,515 incidents

# 181

March 2015 was the highest month for cargo crime incidents with 181 reports to IIS, followed by November with 164 and May with 152.

# 22.5%

Number of recorded cargo crimes stating a loss value

# 58.1%

Intrusion was the most frequently reported M.O. used by cargo thieves and was seen in a total of 880 crimes

# 807

Or 53.3% of incidents during the year involved Theft from Vehicle, followed by 205 (13.5%) of Theft of Vehicle crimes, and 145 (9.6%) cases of Theft from Trailer.

# 341

TAPA was able to report a far more accurate picture of cargo crime in Belgium for 2015 thanks to data supplied by Belgian police. The 341 incidents in 2015 compared to 12 in 2014.

# €101,256

Average loss for cargo crimes reporting a value

# €3,000,000

The biggest single loss recorded by IIS in 2015 was the theft of pharmaceuticals from a Services 3rd Party Facility in Settala, Milan in Italy



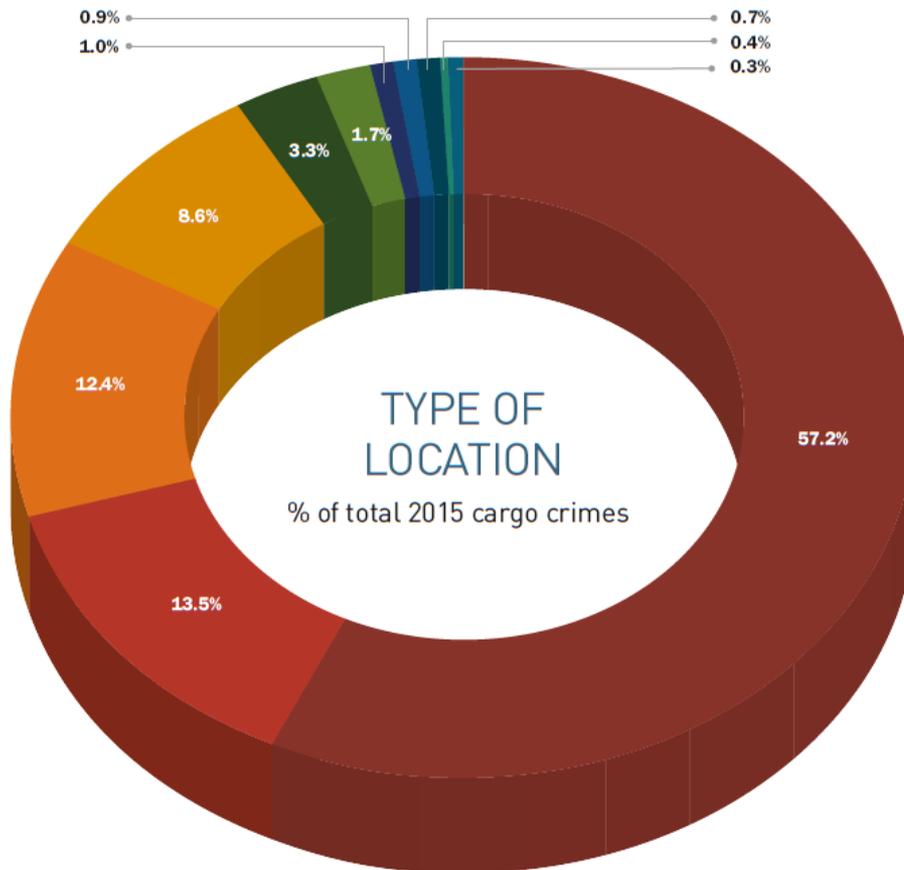
# Cargo Theft Target Goods

**2015**  
CARGO CRIMES  
IN EMEA

|                                | Number of incidents | % of total |
|--------------------------------|---------------------|------------|
| Food & Drink                   | 139                 | 9.2%       |
| Clothing & Footwear            | 104                 | 6.9%       |
| Cosmetics & Hygiene            | 84                  | 5.5%       |
| Furniture/Household Appliances | 80                  | 5.3%       |
| Computers/Laptops              | 77                  | 5.1%       |
| Tools/Building Materials       | 54                  | 3.6%       |
| Car Parts                      | 49                  | 3.2%       |
| Tobacco                        | 39                  | 2.6%       |
| Metal                          | 34                  | 2.2%       |
| Phones                         | 30                  | 2.0%       |
| Pharmaceuticals                | 18                  | 1.2%       |

# Cargo Theft Location of theft

**2015**  
CARGO CRIMES  
IN EMEA



Number of incidents

|                             |             |                                  |           |
|-----------------------------|-------------|----------------------------------|-----------|
| Unsecured Parking           | 866 (57.2%) | Aviation Transportation Facility | 15 (1.0%) |
| Origin Facility             | 205 (13.5%) | Destination Facility             | 13 (0.9%) |
| Unknown                     | 188 (12.4%) | Railway Operation Facility       | 10 (0.7%) |
| En Route                    | 130 (8.6%)  | Authorised 3rd Party Facility    | 7 (0.4%)  |
| Secured Parking             | 50 (3.3%)   | Maritime Transportation Facility | 5 (0.3%)  |
| Services 3rd Party Facility | 26 (1.7%)   |                                  |           |

# Cargo Theft Countries

## TOP 11 COUNTRIES REPORTING CARGO CRIMES IN THE EUROPE, MIDDLE EAST & AFRICA REGION IN 2015

**2015**  
CARGO CRIMES  
IN EMEA

- |  |   |
|--|---|
|  Netherlands    |  Sweden   |
|  UK             |  Italy    |
|  Belgium        |  Spain    |
|  Germany        |  Denmark  |
|  France       |  Norway |
|  South Africa |   |

**84.8%**  
OF ALL CARGO CRIMES  
OCCURRED IN JUST 4  
COUNTRIES; NETHERLANDS,  
UNITED KINGDOM,  
BELGIUM &  
GERMANY.

# Cargo Theft Trends

- Increasing violence
- Increasing sophistication
- GPS jammers
- Severe lack of secure parking
- Transient gangs vs country specific LEA's
- Patchy / poor LEA engagement on cargo crime
- Terrorism threats stretch LEA resource even further
- Crime displacement
- Load is subcontracted, then subcontracted, then subcontracted etc etc.
- Online "freight exchanges"
- Cyber crime / open source



# Load Securing Issues to consider

- Regulations vary across Europe
- Driver training
- Drivers picking up sealed trailers
  
- Cargo Claim
- Clean up costs
- EL + PL Claim
- Vehicle Claim



# Load Securing Why bother?



# Load Securing Why bother?



# Load Securing Why bother?



# Verification of Container Weights Solas Amendments Effective 1 July 2016

- What is SOLAS?
- International Convention for the Safety of Life at Sea
- First adopted in response to the Titanic disaster
- Main objective:

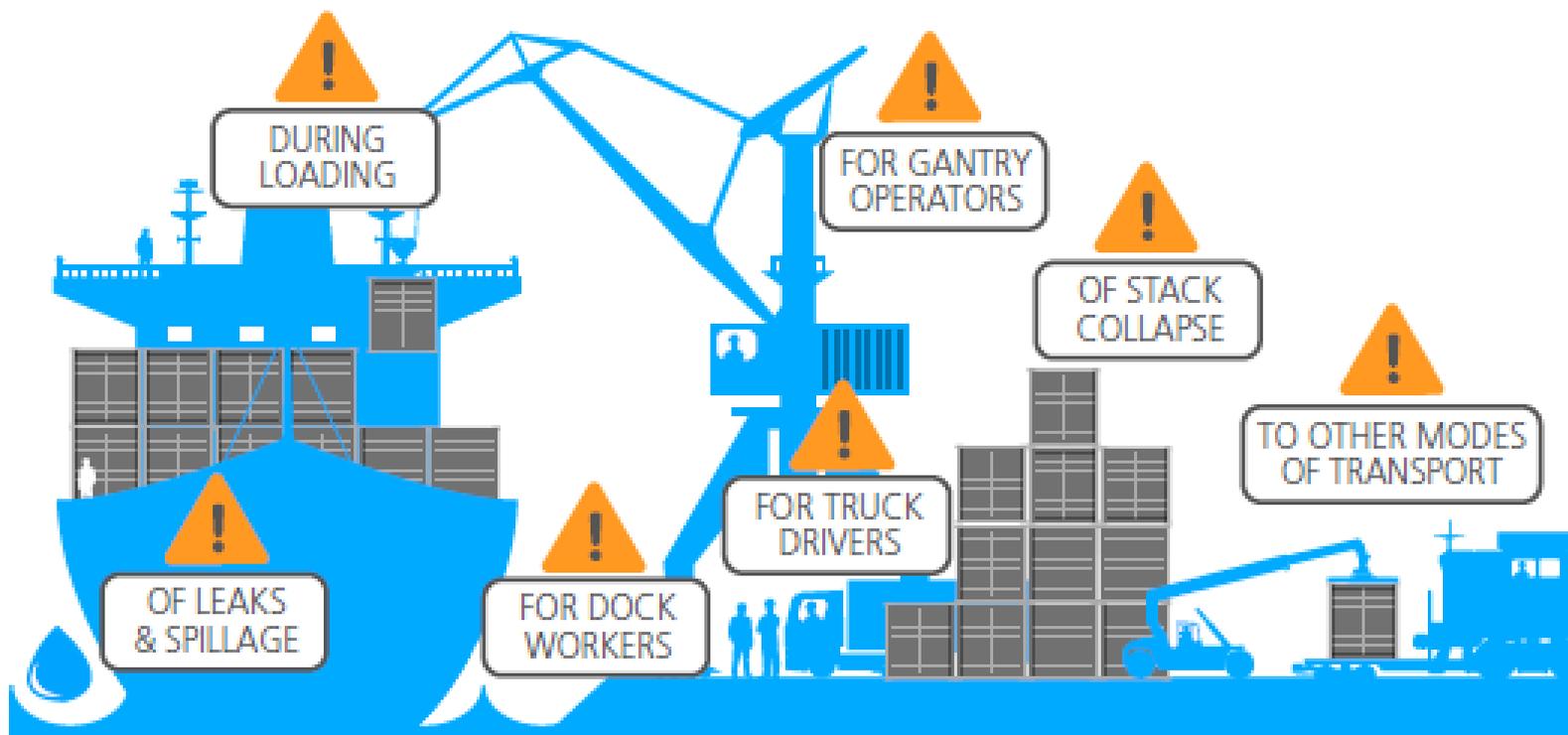
**To specify minimum standards for the construction, equipment and operation of ships, compatible with their safety.**

# Verification of Container Weights

## Solas Amendments Effective 1 July 2016

### The issue.....

- Misdeclared weights can have a serious impact on the stability of vessels, trucks and lifting equipment



# Verification of Container Weights Solas Amendments Effective 1 July 2016 The issue.....

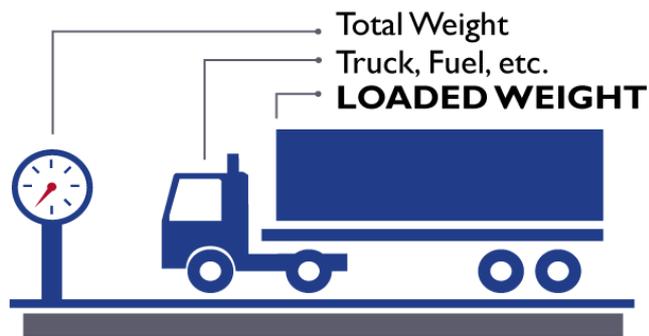


# Verification of Container Weights Solas Amendments Effective 1 July 2016 The issue.....



# Verification of Container Weights Solas Amendments Effective 1 July 2016 The solution.....

- All deep sea containers must have their gross mass verified by **THE SHIPPER**
- How:



## METHOD 1

*Requires weighing the container after it has been packed*



## METHOD 2

*Requires weighing all the cargo and contents of the container and adding those weights to the container's tare weight as indicated on the door end of the container.*



# Verification of Container Weights Solas Amendments Effective 1 July 2016 The solution.....

|  |                   |  |             |              |  |
|--|-------------------|--|-------------|--------------|--|
|    |                   | <b>BILL OF LADING FOR OCEAN TRANSPORT<br/>OR MULTIMODAL TRANSPORT</b>                                  |             | SCAC: MAEU   |  |
|  |                   |  |             | B/L No.      |  |
| <div style="border: 2px solid red; height: 150px; width: 100%;"></div>               |                   | Booking No.<br>65058542  |             |              |  |
|  |                   | Transport references   |             | Svc Contract |  |
|  |                   | Forward inland routing (Not part of Carriage as defined in clause 1. For account and risk of Merchant) |             |              |  |
|  |                   | Notify Party (see clause 22)   |             |              |  |
| Vessel (see clause 1 + 19)   | Voyage No.        | Place of Receipt. Applicable only when document used as Multimodal Transport B/L. (see clause 1)       |             |              |  |
| Port of Loading  | Port of Discharge | Place of Delivery. Applicable only when document used as Multimodal Transport B/L. (see clause 1)      |             |              |  |
| <b>PARTICULARS FURNISHED BY SHIPPER</b>  |                   |  |             |              |  |
| Kind of Packages; Description of goods; Marks and Numbers; Container No./Seal No.    |                   | Weight   | Measurement |              |  |
|  |                   |  |             |              |  |

# Verification of Container Weights Solas Amendments Effective 1 July 2016

The solution.....



# Verification of Container Weights Solas Amendments Effective 1 July 2016 Problems.....

- Consequences:
  - **Delays**
  - **Increased costs – storage / unpacking / repacking / transport**
  - **Damage to goods e.g. deterioration**
  - **Unhappy customers**



# Transport Risk Management

- Offer free practical advice based on life experiences.
- Developed in consultation with global clients and logistics professionals.
- Bespoke handling & packing spec's
- Stock surveys
- Security solutions
- Training to clients – claims, risk management, logistics
- Aid client retention
- Aim to reduce likelihood of claims



## Marine Cargo

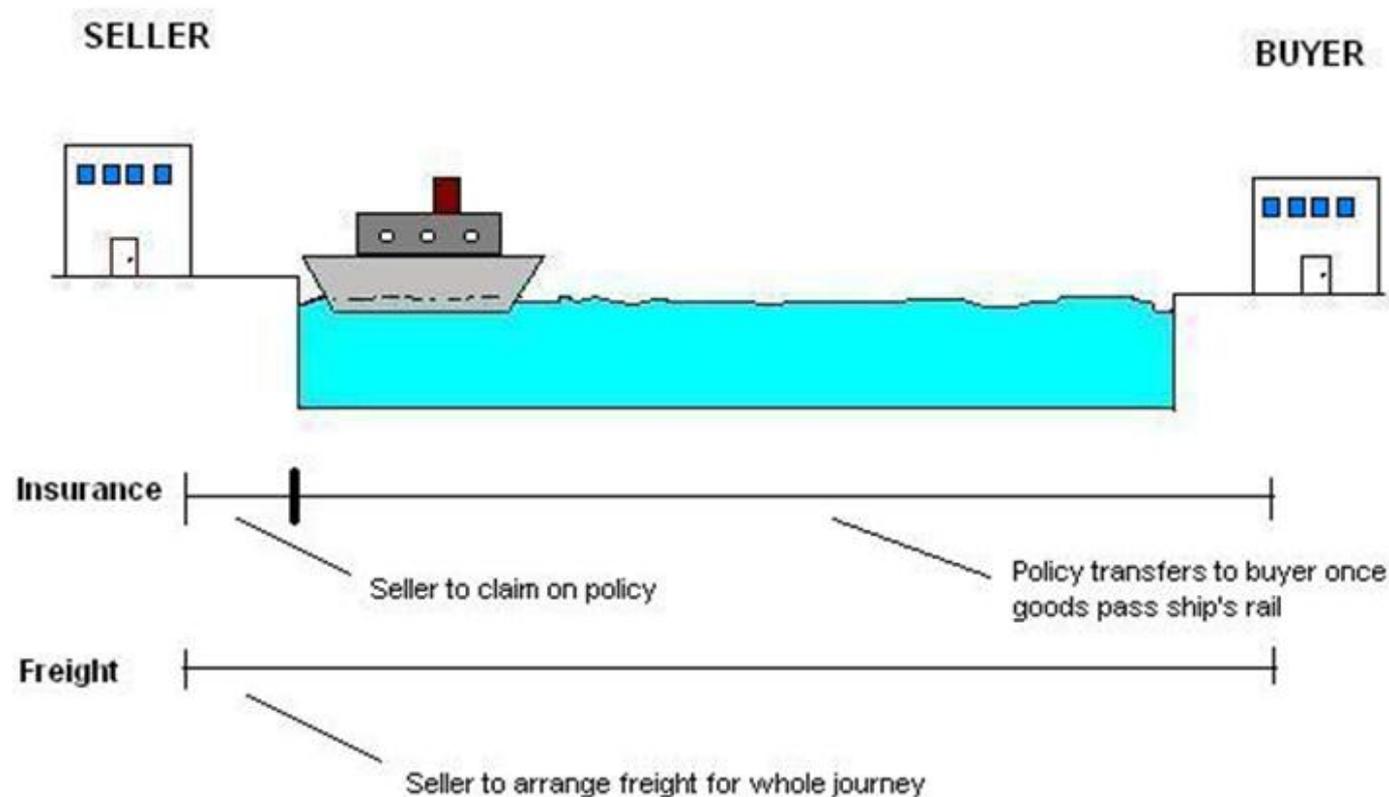
- Incoterms
- Institute Cargo Clauses (brief overview)
- Extensions to cover
- What information do I need to get a quote?
- How does Marine Cargo relate to Haulier's Liability? Is it double insurance?

# Incoterms

- Incoterms are a series of pre-defined commercial terms published by the [International Chamber of Commerce](#) and are widely used in international commercial transactions.
- They are intended to reduce or remove altogether uncertainties arising from different interpretation of the rules in different countries.
- There are 4 main incoterms which are the most commonly used and will give you a good understanding of the others.

# CIF – Cost Insurance and Freight

- Buyer pays for the costs, freight and insurance to bring the goods to the port of destination. These are arranged by the Seller



# CIF – Cost Insurance and Freight

## **Selling CIF**

Cover for warehouse to warehouse (unless specifically agreed to different destination)

Seller arranges the Insurance and the Freight (full transit)

At the ship's rail the policy and title to the goods transfers to the Buyer.

Claims before the ships rail made by the Seller.

Claims after the ships rail made by the buyer.

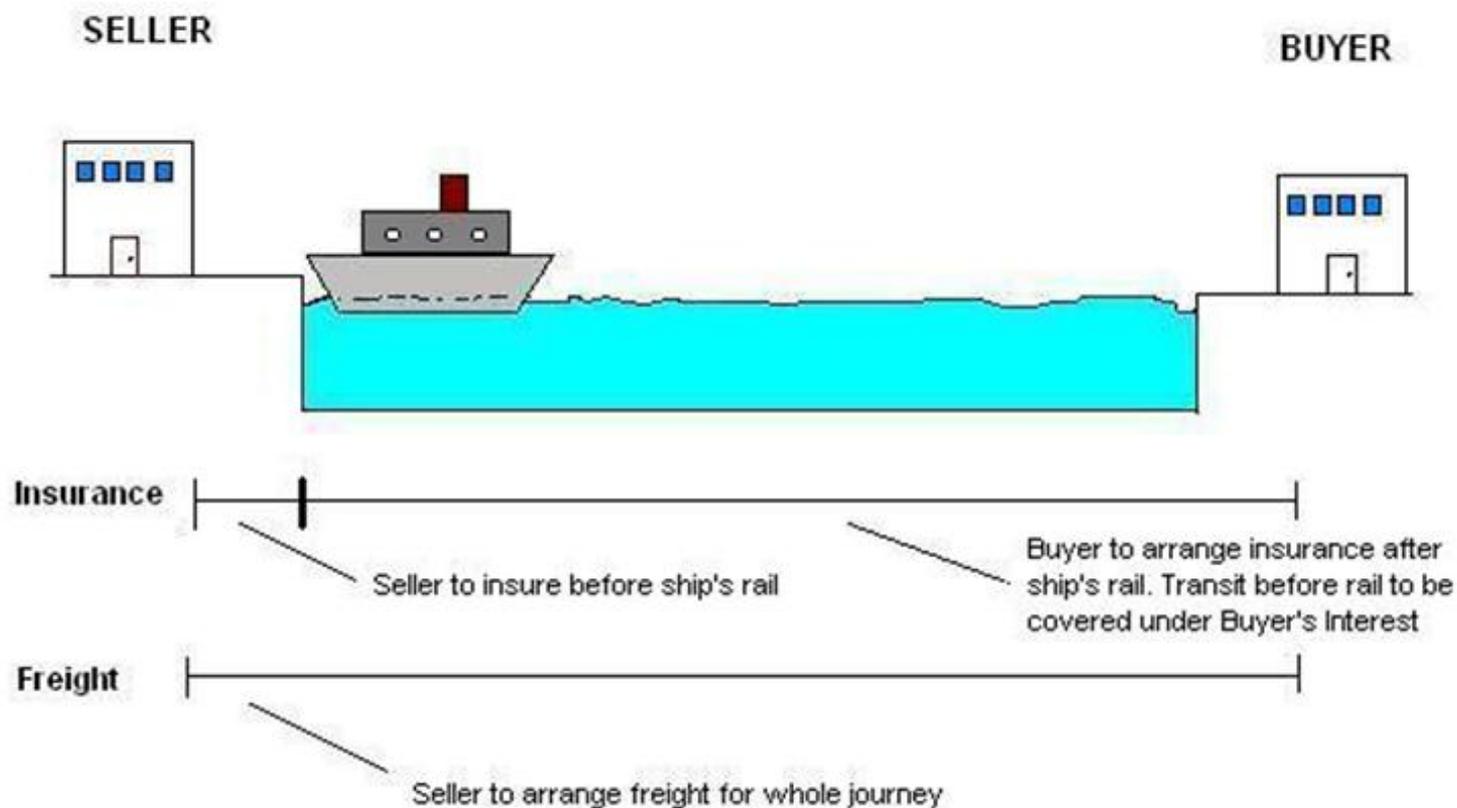
## **Buying CIF**

Buyer has no obligation to arrange Insurance or Transits.

Buyer will claim on the policy for any claims after the ships rail.

## CFR – Cost and Freight

- Seller must pay the costs and freight to bring the goods to the port of destination. Insurance responsibilities rest with buyer after goods have passed the ship's rail.



# CFR – Cost and Freight

## **Selling CFR**

Insurance Cover for warehouse to ship's rail

Seller arranges the Freight (full transit) to final warehouse or port

Buyer has to arrange insurance from the ship's rail

At the ship's rail the title to the goods transfers to the Buyer.

Claims before the ships rail made by the Seller on their policy.

Claims after the ships rail made by the buyer on their policy.

Unlike CIF the policy does not transfer.

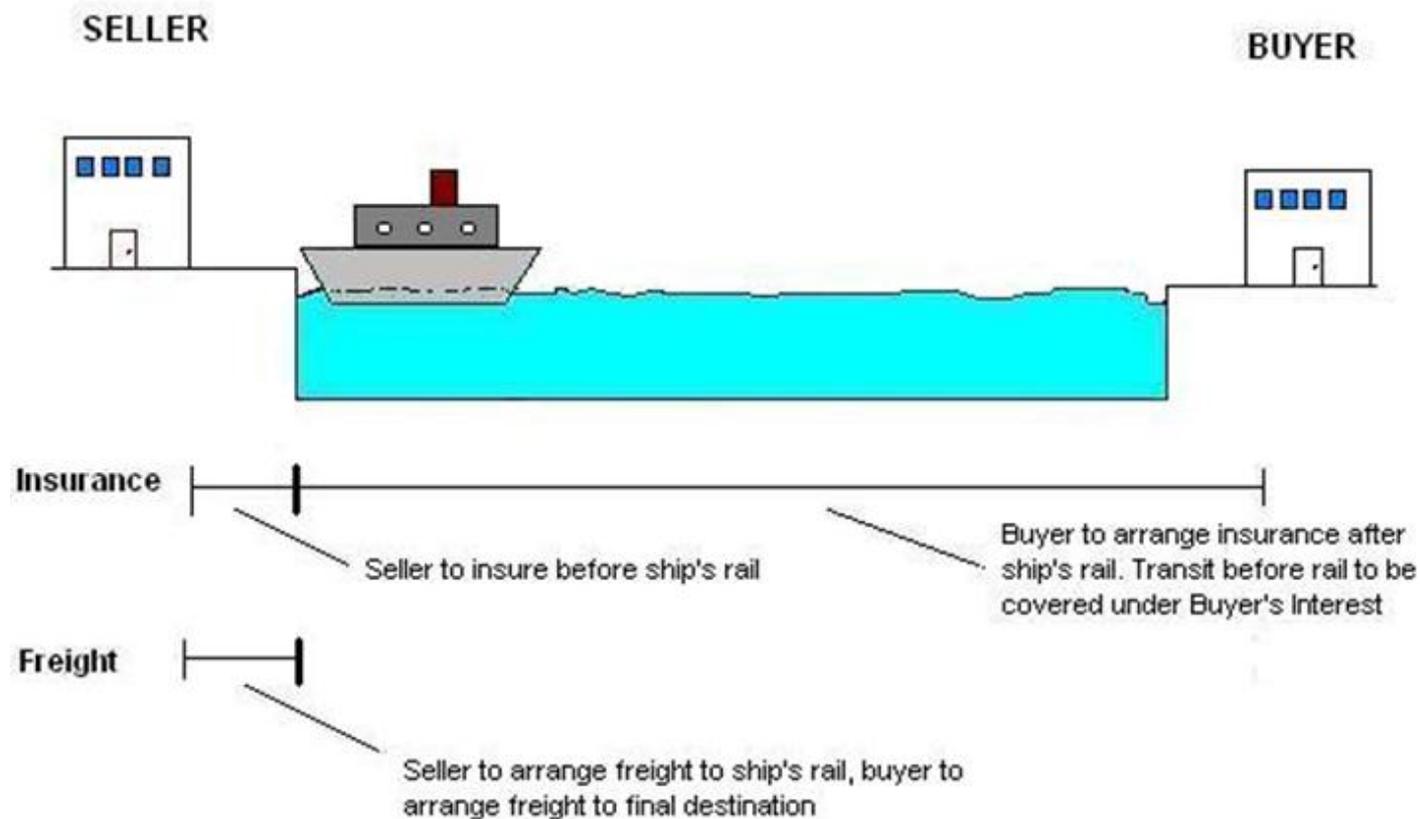
## **Buying CFR**

Buyer has no obligation to arrange Transits.

Buyer must arrange Insurance cover for any claims after the ships rail.

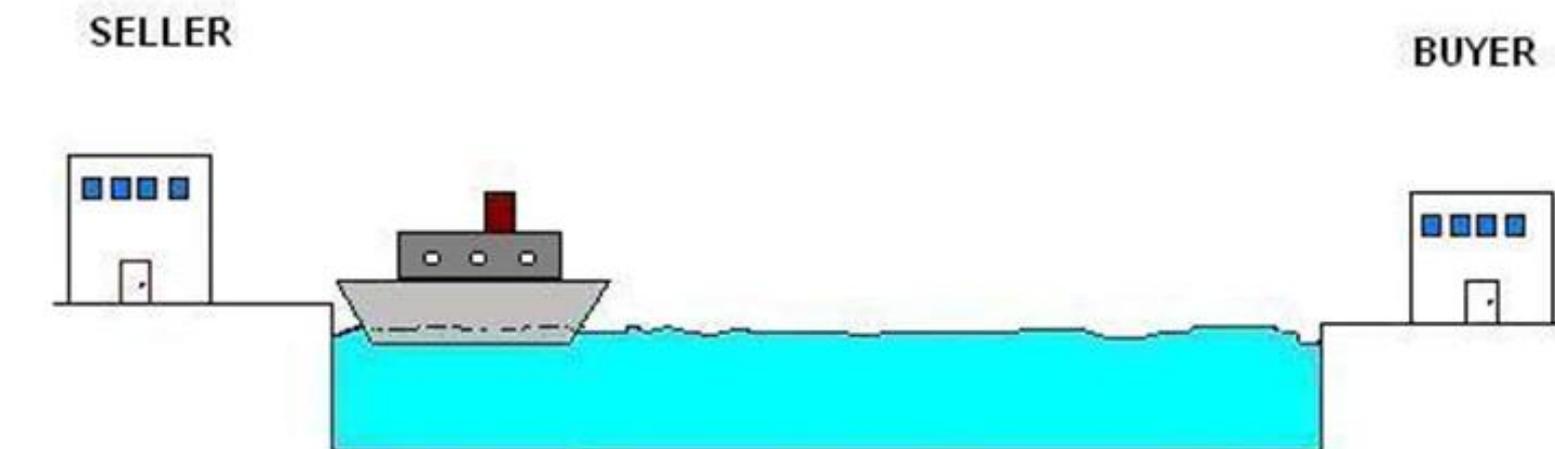
# FOB – Free On Board

- Seller must load the goods on board the ship nominated by the buyer at which time seller's responsibility ends. Buyer must arrange remaining insurance and transportation costs.



# Ex Works

- The seller makes the goods available at his premises and takes no further responsibilities. Buyer to arrange freight and full insurance



**Insurance** | Buyer to arrange insurance from time goods leave seller's premises

**Freight** | Buyer to arrange freight from seller's premises to final destination

# Incoterms – Buying goods (imports)

As a general rule if your clients are importing goods they are generally best insuring them themselves on a **CFR, FOB** or **Ex Works** basis as opposed to buying the goods with insurance (CIF). The main benefits are:

- **LANGUAGE**
  - Policy wording & schedule is in English
- **PRICE**
  - How much is your client paying? - If they obtain a quote for CFR and one for CIF they will then know how much they are paying for the insurance. It is more than likely that the premium charged by a UK Insurer will be less. Especially as the Seller may be adding on a fee.
- **CLAIMS**
  - Claims would be dealt with by yourselves (broker)
- **BROKER SUPPORT**
  - Cover would be arranged by yourselves (broker). Therefore ensuring that the client has the best possible cover in place
- **COVER**
  - What cover is the seller offering? – Some countries do not offer Strikes cover! Does the cover include General Average?
- **NON RELIANCE ON SELLER**
  - Has the seller actually arranged the cover and/or paid their premium?
- **CONTROL**
  - The Client has complete control and their premiums are dependent on THEIR claims experience, not somebody else's!!
- **HELP, ADVICE & SUPPORT**
  - Chubb and their brokers can offer loss prevention techniques and practical advice on all insurance matters. Amendments and extensions to cover can be easily arranged in the UK. Chubb can offer a specialist Transport Risk Management service to your client, for free, which can help improve

# Incoterms – Selling Goods (exports)

As a general rule your clients would benefit from insuring their exports on a **CIF** basis (ie Sell their goods with the Insurance included). Benefits:

- **COVER**
  - Fully covered from A to B - Peace of mind
- **PRICE**
  - Insurance and Freight Costs covered by Buyer
- **CLAIMS**
  - Claims dealt with by yourselves (broker)
- **POSSIBLE REBATE**
  - On larger cases the client may have a claims rebate clause. They may be due a lump sum rebate at year end but would have paid no money towards it (as the buyer is paying).
- **CLAIMS ABROAD**
  - Claims occurring overseas and any necessary sale of damaged goods are dealt with by UK Insurer representatives and/or settling agents on the spot rather than a foreign underwriter acting for your customer.
- **SERVICE**
  - By selling CIF you provide your buyer with a complete service

# ICC(A) - All Risks!! (or as near as you will get)

## 1/1/09 - INSTITUTE CARGO CLAUSES (A)

### **RISKS COVERED**

#### Risks

1. 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 below.

#### General Average

2. This insurance covers general average and salvage charges, adjusted or determined according to the contract of carriage and/or the governing law and practice, incurred to avoid or in connection with the avoidance of loss from any cause except those excluded in Clauses 4, 5, 6 and 7 below.

#### "Both to Blame Collision Clause"

3. This insurance indemnifies the Assured, in respect of any risk insured herein, against liability incurred under any Both to Blame Collision Clause in the contract of carriage. In the event of any claim by carriers under the said Clause, the Assured agree to notify the Insurers who shall have the right, at their own cost and expense, to defend the Assured against such claim.

## General Average & Both to Blame Collision – Covered!

- Your client can be liable for costs even if their goods are not damaged. If they do not have an insurance certificate they may not be able to take their goods unless they give a bond to guarantee payment.

### What is General Average?

The first codification of general average was the York Antwerp Rules<sup>[1]</sup> of 1890. American companies accepted it in 1949. General average requires three elements which are clearly stated by Mr. Justice Grier in *Barnard v. Adams*:

- "1st. A common danger: a danger in which vessel, cargo and crew all participate; a danger imminent and apparently 'inevitable,' except by voluntarily incurring the loss of a portion of the whole to save the remainder."
- "2nd. There must be a voluntary jettison, jactus, or casting away, of some portion of the joint concern for the purpose of avoiding this imminent peril, periculi imminentis evitandi causa, or, in other words, a transfer of the peril from the whole to a particular portion of the whole."
- "3rd. This attempt to avoid the imminent common peril must be successful".

# Cargo Clause Exclusions look worse than they are!

## EXCLUSIONS

4. In no case shall this insurance cover
  - 4.1 loss damage or expense attributable to wilful misconduct of the Assured
  - 4.2 ordinary leakage, ordinary loss in weight or volume, or ordinary wear and tear of the subject-matter insured
  - 4.3 loss damage or expense caused by insufficiency or unsuitability of packing or preparation of the subject-matter insured to withstand the ordinary incidents of the insured transit where such packing or preparation is carried out by the Assured or their employees or prior to the attachment of this insurance (for the purpose of these Clauses "packing" shall be deemed to include stowage in a container and "employees" shall not include independent contractors)
  - 4.4 loss damage or expense caused by inherent vice or nature of the subject-matter insured
  - 4.5 loss damage or expense caused by delay, even though the delay be caused by a risk insured against (except expenses payable under Clause 2 above)
  - 4.6 loss damage or expense caused by insolvency or financial default of the owners managers charterers or operators of the vessel where, at the time of loading of the subject-matter insured on board the vessel, the Assured are aware, or in the ordinary course of business should be aware, that such insolvency or financial default could prevent the normal prosecution of the voyage  
This exclusion shall not apply where the contract of insurance has been assigned to the party claiming hereunder who has bought or agreed to buy the subject-matter insured in good faith under a binding contract
  - 4.7 loss damage or expense directly or indirectly caused by or arising from the use of any weapon or device employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter.
  
5. 5.1 In no case shall this insurance cover loss damage or expense arising from
  - 5.1.1 unseaworthiness of vessel or craft or unfitness of vessel or craft for the safe carriage of the subject-matter insured, where the Assured are privy to such unseaworthiness or unfitness, at the time the subject-matter insured is loaded therein
  - 5.1.2 unfitness of container or conveyance for the safe carriage of the subject-matter insured, where loading therein or thereon is carried out prior to attachment of this insurance or by the Assured or their employees and they are privy to such unfitness at the time of loading.

5.2 Exclusion 5.1.1 above shall not apply where the contract of insurance has been assigned to the party claiming hereunder who has bought or agreed to buy the subject-matter insured in good faith under a binding contract.

5.3 The Insurers waive any breach of the implied warranties of seaworthiness of the ship and fitness of the ship to carry the subject-matter insured to destination.
  
6. In no case shall this insurance cover loss damage or expense caused by
  - 6.1 war civil war revolution rebellion insurrection, or civil strife arising therefrom, or any hostile act by or against a belligerent power
  - 6.2 capture seizure arrest restraint or detainment (piracy excepted), and the consequences thereof or any attempt thereat
  - 6.3 derelict mines torpedoes bombs or other derelict weapons of war.
  
7. In no case shall this insurance cover loss damage or expense
  - 7.1 caused by strikers, locked-out workmen, or persons taking part in labour disturbances, riots or civil commotions
  - 7.2 resulting from strikes, lock-outs, labour disturbances, riots or civil commotions
  - 7.3 caused by any act of terrorism being an act of any person acting on behalf of, or in connection with, any organisation which carries out activities directed towards the overthrowing or influencing, by force or violence, of any government whether or not legally constituted
  - 7.4 caused by any person acting from a political, ideological or religious motive.

## ICC(A) General Exclusions

In no case shall this insurance cover

4.1 loss damage or expense attributable to wilful misconduct of the Assured

4.2 ordinary leakage, ordinary loss in weight or volume, or ordinary wear and tear of the subject-matter insured

4.3 loss damage or expense caused by insufficiency or unsuitability of packing or preparation of the subjectmatter insured to withstand the ordinary incidents of the insured transit where such packing or preparation is carried out by the Assured or their employees or prior to the attachment of this insurance (for the purpose of these Clauses "packing" shall be deemed to include stowage in a container and "employees" shall not include independent contractors)

4.4 loss damage or expense caused by inherent vice or nature of the subject-matter insured

4.5 loss damage or expense caused by delay, even though the delay be caused by a risk insured against (except expenses payable under Clause 2 above)

4.6 loss damage or expense caused by insolvency or financial default of the owners managers charterers or operators of the vessel where, at the time of loading of the subject-matter insured on board the vessel, the Assured are aware, or in the ordinary course of business should be aware, that such insolvency or financial default could prevent the normal prosecution of the voyage

This exclusion shall not apply where the contract of insurance has been assigned to the party claiming hereunder who has bought or agreed to buy the subject-matter insured in good faith under a binding contract

4.7 loss damage or expense directly or indirectly caused by or arising from the use of any weapon or device employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter.

## Unseaworthiness of vessel??

5.1 In no case shall this insurance cover loss damage or expense arising from

5.1.1 unseaworthiness of vessel or craft or unfitness of vessel or craft for the safe carriage of the subject-matter insured, where the Assured are privy to such unseaworthiness or unfitness, at the time the subject-matter insured is loaded therein

5.1.2 unfitness of container or conveyance for the safe carriage of the subject-matter insured, where loading therein or thereon is carried out prior to attachment of this insurance or by the Assured or their employees and they are privy to such unfitness at the time of loading.

5.2 Exclusion 5.1.1 above shall not apply where the contract of insurance has been assigned to the party claiming hereunder who has bought or agreed to buy the subject-matter insured in good faith under a binding contract.

5.3 The Insurers waive any breach of the implied warranties of seaworthiness of the ship and fitness of the ship to carry the subject-matter insured to destination.

Excludes loss or damage caused by unseaworthiness of vessel. But ONLY if the insured was privy to the unseaworthiness!

# War Exclusion

In no case shall this insurance cover loss damage or expense caused by

- 6.1 war civil war revolution rebellion insurrection, or civil strife arising therefrom, or any hostile act by or against a belligerent power
- 6.2 capture seizure arrest restraint or detainment (piracy excepted), and the consequences thereof or any attempt thereat
- 6.3 derelict mines torpedoes bombs or other derelict weapons of war.

Written back in by Institute War Clauses.

(note that it does not exclude piracy and the war clauses do not cover war on land! Piracy is excluded under ICC(B) and ICC(C) )

# Strikes Exclusion

In no case shall this insurance cover loss damage or expense

7.1 caused by strikers, locked-out workmen, or persons taking part in labour disturbances, riots or civil commotions

7.2 resulting from strikes, lock-outs, labour disturbances, riots or civil commotions

7.3 caused by any act of terrorism being an act of any person acting on behalf of, or in connection with, any organisation which carries out activities directed towards the overthrowing or influencing, by force or violence, of any government whether or not legally constituted

7.4 caused by any person acting from a political, ideological or religious motive.

Written back in by Institute Strikes Clauses

# ICC(C)

## 1/1/09 - INSTITUTE CARGO CLAUSES (C)

### RISKS COVERED

#### Risks

1. This insurance covers, except as excluded by the provisions of Clauses 4, 5, 6 and 7 below,
  - 1.1 loss of or damage to the subject-matter insured reasonably attributable to
    - 1.1.1 fire or explosion
    - 1.1.2 vessel or craft being stranded grounded sunk or capsized
    - 1.1.3 overturning or derailment of land conveyance
    - 1.1.4 collision or contact of vessel craft or conveyance with any external object other than water
    - 1.1.5 discharge of cargo at a port of distress,
  - 1.2 loss of or damage to the subject-matter insured caused by
    - 1.2.1 general average sacrifice
    - 1.2.2 jettison.

#### General Average

2. This insurance covers general average and salvage charges, adjusted or determined according to the contract of carriage and/or the governing law and practice, incurred to avoid or in connection with the avoidance of loss from any cause except those excluded in Clauses 4, 5, 6 and 7 below.

#### "Both to Blame Collision Clause"

3. This insurance indemnifies the Assured, in respect of any risk insured herein, against liability incurred under any Both to Blame Collision Clause in the contract of carriage. In the event of any claim by carriers under the said Clause, the Assured agree to notify the Insurers who shall have the right, at their own cost and expense, to defend the Assured against such claim.

# ICC(B) - A few more named perils!!!

## 1/1/09 - INSTITUTE CARGO CLAUSES (B)

### RISKS COVERED

#### Risks

1. This insurance covers, except as excluded by the provisions of Clauses 4, 5, 6 and 7 below,
  - 1.1 loss of or damage to the subject-matter insured reasonably attributable to
    - 1.1.1 fire or explosion
    - 1.1.2 vessel or craft being stranded grounded sunk or capsized
    - 1.1.3 overturning or derailment of land conveyance
    - 1.1.4 collision or contact of vessel craft or conveyance with any external object other than water
    - 1.1.5 discharge of cargo at a port of distress
    - 1.1.6 earthquake volcanic eruption or lightning,
  - 1.2 loss of or damage to the subject-matter insured caused by
    - 1.2.1 general average sacrifice
    - 1.2.2 jettison or washing overboard
    - 1.2.3 entry of sea lake or river water into vessel craft hold conveyance container or place of storage,
  - 1.3 total loss of any package lost overboard or dropped whilst loading on to, or unloading from, vessel or craft.

#### General Average

2. This insurance covers general average and salvage charges, adjusted or determined according to the contract of carriage and/or the governing law and practice, incurred to avoid or in connection with the avoidance of loss from any cause except those excluded in Clauses 4, 5, 6 and 7 below.

#### "Both to Blame Collision Clause"

3. This insurance indemnifies the Assured, in respect of any risk insured herein, against liability incurred under any Both to Blame Collision Clause in the contract of carriage. In the event of any claim by carriers under the said Clause, the Assured agree to notify the Insurers who shall have the right, at their own cost and expense, to defend the Assured against such claim.

## ICC(B) & ICC(C) – Theft?

- Theft is not an included Peril
- Need to request Theft, Pilferage and Non-Delivery!
- Piracy is not covered under ICC(C) or ICC(B)!!
- You may be able to persuade the underwriter to extend clause 1.3 of ICC(B) to include cover for any loss or damage (not just total loss) while being loaded/unloaded.
- Also, they may extend it from just loading/unloading from the vessel or craft to loading/unloading from vessel, craft or conveyance

## What information do I need to get a quote?

Description of the goods and how packed (Are they containerised or going as a groupage load on a lorry etc?)

Limits in transit (limits can be different for own vehicles, any one vessel, any own 3<sup>rd</sup> party vehicle, exhibition, reps vehicles etc)

Annual values in transit split between territories eg:

UK to/from UK

UK to/from Western Europe

UK to/from North America

China to/from Australia

Etc

Technically as the basis of valuation is typically Cost, Insurance and Freight + 10% all these costs should be included (as well as the 10%!)

Eg

UK/Western Europe Cost of Goods + Freight = GBP 1m, the estimates should be GBP 1.1m!

Details of any losses (generally in the past 3 years)

# Extensions to cover

Common extensions on a Marine Cargo Policy are:

Engineers Reps/Samples

Exhibitions (UK and Abroad)

Intercompany Movements

Unusual goods like prototypes will need to have the basis of valuation looked at and specifically agreed.

Deterioration Cover under the Institute Frozen Food Clauses

## How does Marine Cargo relate to Haulier's Liability? Is it double insurance?

“My Haulier / Forwarder is responsible for insurance of my goods”

- Does the haulier have a policy in place? Have you seen it? Have they paid the premium?
- What cover do they actually have?
- Are they arranging insurance or are they limited by their Trading Conditions?
- Who is the cover insured with?
- What security clauses do they have? Have they breached them?
- Do they have an “All Risks” average wording?
- Have they obtained proper written references for drivers?
- Have they subcontracted the load? Do the subcontractors have cover?

Etc

Is it double insurance?

It is not double insurance. The cargo policy should pay out in the first instance and the cargo underwriters will subrogate against any third parties responsible for the loss to recoup as much of the claims as possible depending on the circumstances and the third parties legal liability.

Client's who move goods around should be considering if they can afford to lose a consignment and pay General Average costs.

## Things to remember/look out for!

- Are the client's current Incoterms in their best interests?
- ICC(B) and ICC(C) – Theft cover? Piracy?
- Does your client need a Marine Cargo policy? Are you arranging it for them or are they relying on their freight forwarder / haulier?

# Haulier's Liability (aka GIT)

- Trading Conditions. Why?
- What if the haulier fails to tell their client that they trade under RHA?

## Common Law

- If you are a bailee for reward in the UK and do not have a contractual agreement with the goods owner you will be liable under Common Law.
- This means you will be liable for the full value of the goods lost or damaged IF you are deemed to be negligent!
- Normally the person claiming from you would have to prove you were negligent. However, under Common Law the onus of proof is on You to prove You were NOT negligent!
- This means if your Cargo customer has a loss and there was no contract in place they (or their insurer) should make every effort to recover the claim in full.

# Trading Conditions

Q) What are trading conditions there for?

A) A haulier/warehouse keeper etc will incur a liability for goods in their custody and control. Their trading conditions make all parties aware of their obligations, what they are liable for and to what extent.

Q) Why should a haulier/warehouse keeper use them?

A) To protect their business

They set out:

- A set of obligations on the part of the customer
- A set of obligations on the part of the carrier
- What constitutes the 'transit'
- How freight charges are to be paid to the Carrier
- Details of what the carrier accepts liability for and details of what the carrier will not accept liability for
- Details of the carriers financial liability to the customers in the event of loss or damage
- Consequential loss liability
- Set time limits for making a claim against the haulier

# Hauliers Liability Cover Policy based upon Insured's Liability

- If no conditions of contract then the carrier will incur a liability under Common Law
- Frequently used conditions include:
  - RHA (GBP 1,300 per tonne)
  - FTA (GBP 1,300 per tonne)
  - CMR (8.33 SDRs per kilo)
  - “All Risks” (Full value agreed)
  - BIFA (2 SDRs per kilo)
  - UKWA / RHA Storage (GBP 100 per tonne)

# What if the haulier fails to tell their client that they trade under RHA?

If a Haulier fails to tell their client they trade under RHA (or any other conditions) there will be no contract in place and they will find themselves liable under Common Law and will be liable for the full value of the goods.

## CMR

The only exception to this is if the transit is between 2 contracting nations of the CMR Convention (Western Europe) then CMR will apply. CMR is statutory and restricts the Haulier's liability to 8.33 SDRs per kilo.

An SDR is a Special Drawing Right and is worth about GBP 1.00

Therefore under CMR the liability is set at around GBP 8,330 per tonne but this does fluctuate daily.

## Any questions?

Chubb Marine are:

Leeds

|                 |               |
|-----------------|---------------|
| Craig Irvine    | 0113 296 1208 |
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Transport Risk Management

|               |               |
|---------------|---------------|
| Phil Skelton  | 0121 234 1147 |
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