



Cargo Claims

ESS, Lund

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A business of Marsh McLennan



1. Cargo Insurance Coverage
2. Cargo Claims Adjusting Process
3. More Scrutinized Claims Adjusting
4. New Cargo Risk Exposures

Agenda

Cargo Insurance Coverage



Cargo Insurance

Subject-matter Insured

*All types of property, goods, merchandise, machinery, including tools and equipment, within the frame of the Named Insured's business activity (Nature of Business), carried by all means of conveyance, (cf. Modes of Transport) within the Territorial Scope of Cover, always **provided the Insured has an insurable interest or is bound to provide insurance**, hereinafter referred to as the “Subject-Matter Insured”.*

Who has the insurable interest (risk) at the time of the loss or damage?

Cargo Insurance

Risk / Insurable Interest

- Risk and ownership is not (always) the same.
- Risk/transfer of risk is agreed between the seller and the buyer
 - Sales contract
 - order confirmation
 - frame agreement
 - invoice etc.
- It is highly recommended to use ICC's Incoterms®2020.



Incoterms® 2020

The Incoterms Rules have guided, facilitated, and assisted in standardizing sale purchase agreements by allowing parties to incorporate general responsibilities for each party, including the transfer of risk from seller to buyer, as well as specify the loading and unloading responsibilities of the buyer and seller.

These terms are recognized as the international standard and are accepted by governments, legal authorities, practitioners, and custom authorities worldwide for use in international trade.

Cargo Insurance

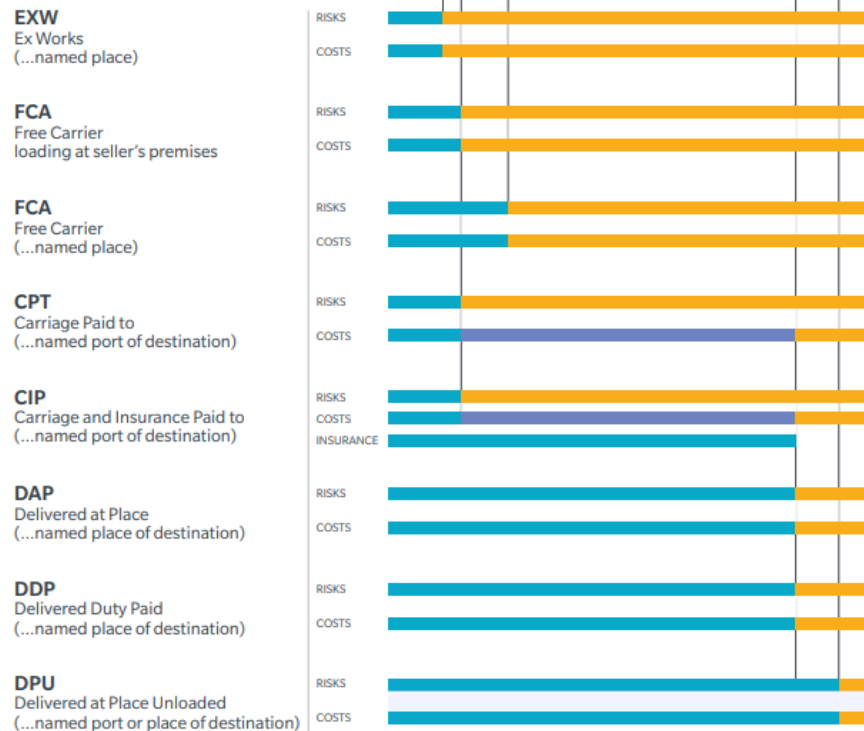
Incoterms

Incoterms® 2020

Transport Obligations, Costs and Risks

■ Indicates Seller ■ Indicates Buyer ■ Indicates Mixed or Shared

All Modes of Transport



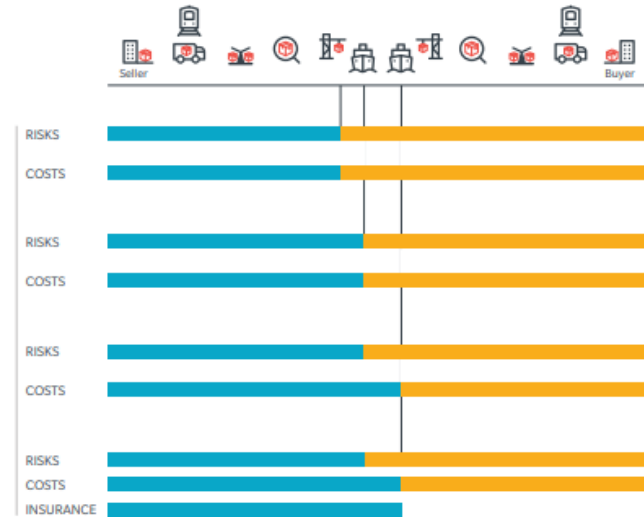
Maritime and Inland Waterway Transport Only

FAS
Free Alongside Ship
(...named port of shipment)

FOB
Free on Board
(...named port of shipment)

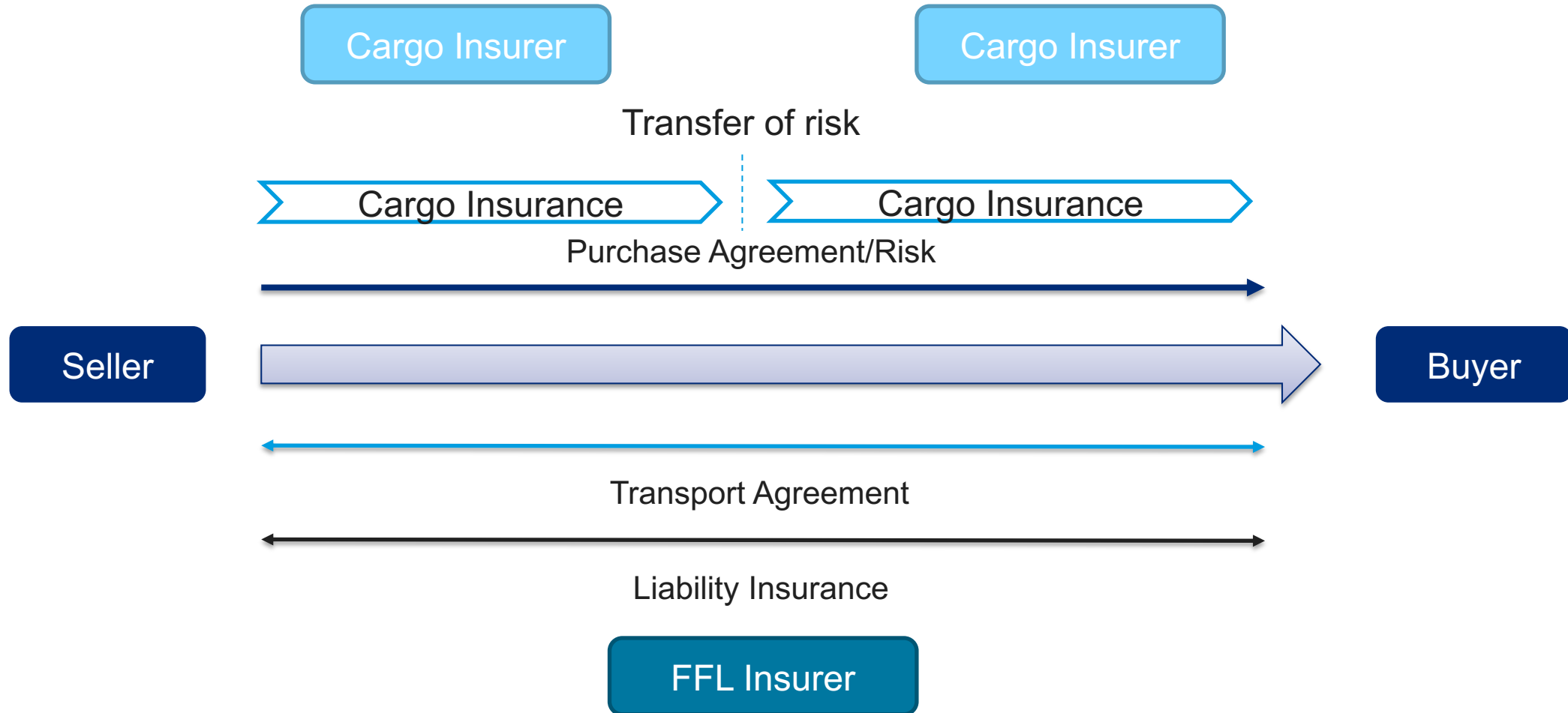
CFR
Cost and Freight
(...named port of destination)

CIF
Cost, Insurance, and Freight
(...named port of destination)



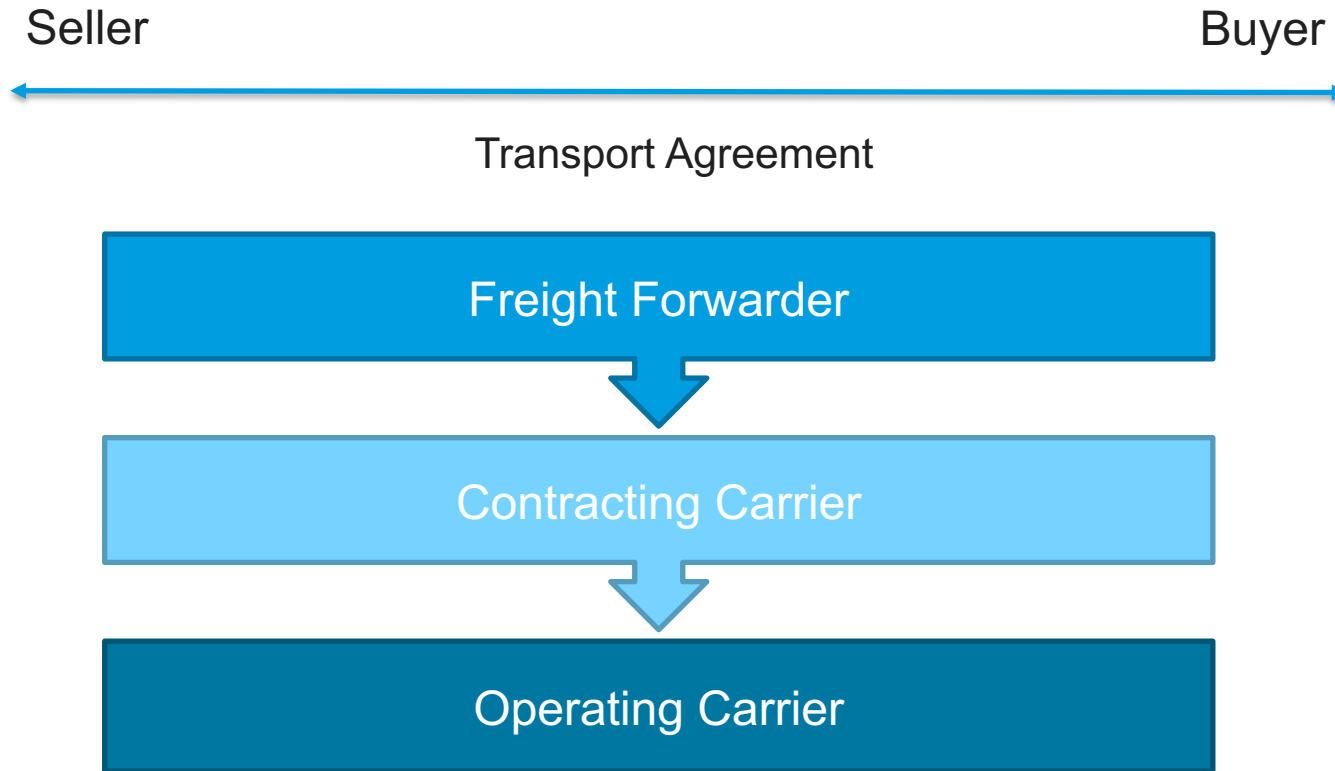
Transport Agreement

Stakeholders

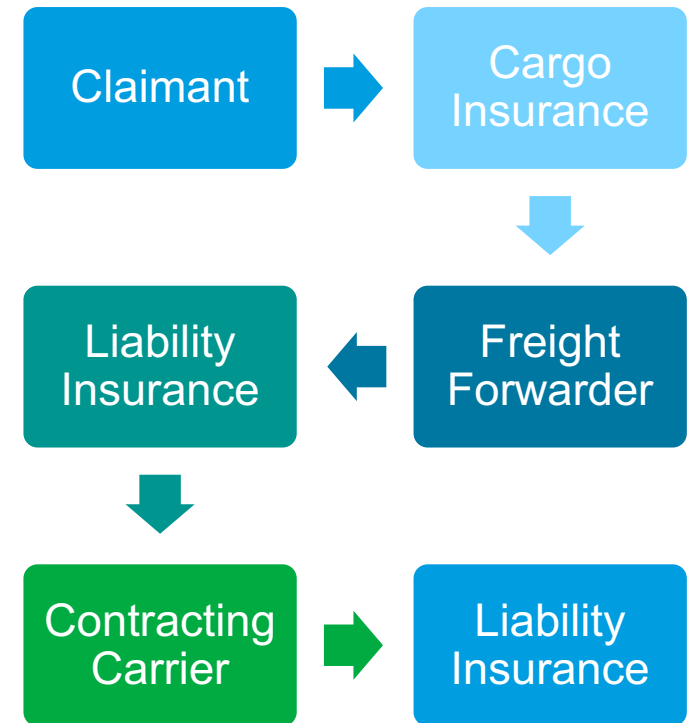


Transport Agreement

Stakeholders



Loss or Damage



Cargo Insurance

Coverage and Exemptions

- Typical reasons for rejections under customer's cargo insurance.
 - The Insured did not have the insurable interest (risk) at the time of the loss or damage.
 - The loss did not occur within the duration of the cargo insurance (ICC(A)).
 - 8.1 [...] insurance attaches from the time the subject-matter insured is **first moved** in the warehouse or at the place of storage (at the place named in the contract of insurance) 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
 - 8.1.1 on completion of unloading from the carrying vehicle or other conveyance in or at the **final warehouse or place of storage at the destination** named in the contract of insurance, 8.1.2 on completion of unloading from the carrying vehicle or other conveyance in or at any other warehouse or place of storage, whether prior to or at the destination named in the contract of insurance, which the Assured or their employees elect to use either for **storage other than in the ordinary course of transit** or for **allocation or distribution**, or 8.1.3 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 8.1.4 on the expiry of 60 days after completion of discharge overside of the subject-matter insured from the oversea vessel at the final port of discharge, whichever shall first occur.
 - Typical Exclusions
 - 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)

Cargo Claims Adjusting Process



Cargo Insurance

Coverage and Exemptions

- Cargo insurance before liability insurance
 - A cargo insurer will investigate, adjust and possibly survey. They will also ensure loss mitigation and validate the claim amount etc. Weight limitation will not be applied – and imaginary profit will be added on import consignments. Customer can possibly obtain indemnity for losses and expenses for which the freight forwarder is not liable.
 - When the claim is paid out the cargo insurer will seek recourse against the freight forwarder. Title to claim requires a subrogation form/indemnity receipt.



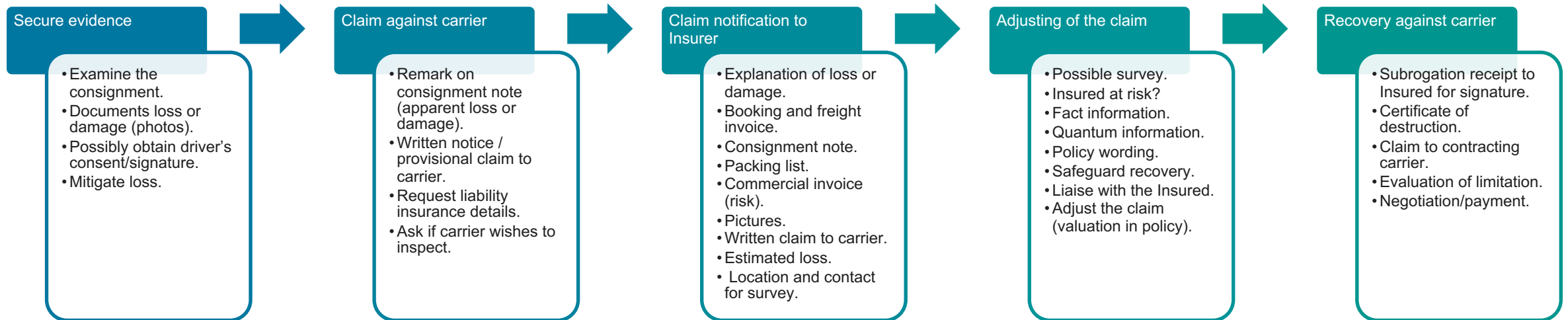
Claims

Deadlines, Time-Bars and Limitation Amounts

Liability Regime	Deadline Apparent	Deadline Non-Apparent	Time-Bar	Limitation amount
Various				
NSAB2015	Without undue delay	7 days	1 year	8.33 SDR/kg
Road				
CMR-Convention	Immediately upon receipt	7 days	1 year	8.33 SDR/kg (mandatory)
Lag om inrikes vägtransport	Immediately upon receipt	Without undue delay	1 year	150 kr./kg
Sea				
Haag-Visby Rules	Immediately upon receipt	3 days	1 year	2 SDR/kg or 666,67 SDR/colli
Air				
Montreal Convention	Immediately upon receipt	14 days	2 years	19 SDR/kg
Rail				
CIM Convention	Immediately upon receipt	7 days	1 year	17 SDR/kg
Järnvägstrafiklagen	Immediately upon receipt	Without undue delay	1 year	150 kr./kg

Cargo Claim

Process



**More Scrutinized Claims
Adjusting**



Market Update – Claims Adjusting

Introduction

From a national based (soft) market with standardized products/terms to a multinational based (hard) market with manuscript/bespoke wordings and terms & conditions.

Insufficient focus on increased technical level and specialist resources in claims departments.
High employee turnover – switch to other roles/positions.

Insurers have often reduced claim resources to a minimum.
Lack of/insufficient training combined with an excessive case load.
Claim adjusters look for exemptions/rejections.
Outsourcing to external consultants or lawyers.

Market Update – Claims Adjusting

Unfortunate Trend

Common examples of typical issues which lead to potential conflicts, possibly bad claim experiences for the clients and a need for the involvement of Marsh Claims Solutions:

Delayed response/adjusting time	Consultants roles are not explained/defined	Pure written correspondence
Questions are continuously presented	Questions are not motivated/explained	Incorrect interpretation of terms
Acceptance of the clients (incorrect) valuation/calculation	Unjustified rejections or reductions	Rejections does not refer to facts and policy/terms and conditions

More Scrutinized Claims Adjusting

If it's Grey – We (Don't) Pay

- Hard market and focus on profitability/portfolio loss ratio also reflects on the claims handling.
- Documentation and evidence.
- Safeguarding of recovery potential.
- Physical impact vs. fear of loss.
- Loss mitigation/salvage value.
- Reduction of indemnity payments.

Claims

Typical Issues & Discussions

- What was agreed?
 - Ensure that agreements are in writing and valid (terms & conditions legally agreed/accepted by the customer).
- What has happened?
 - Evidence is king! Cases are won and lost by securing (or lack hereof) evidence of facts.
 - Bookings, instructions, pre-shipment evidence, consignment notes, pictures, surveys etc.
- Who does what?
 - Loss mitigation (expenses).
- Liability?
 - Liability or exemptions from liability?
- Who had the risk at the time of the loss or damage?
 - Title to claim? Insurable interest?
 - Agreement between seller and buyer, INCOTERM®, when did the loss occur.
- Extent of loss?
 - Repairable or not, calculation of loss, extra expenses, brand & trademarks etc.

Our Capabilities

Claims Solutions

- 1** | **Certainty, Straight Talking Advice, Speed/Agility, and Direction** – We know what you value when a disaster strikes. Our Claims Solutions Team is positioned to deliver this value across all elements of major loss management in one seamless solution.
- 2** | **Project Management** – From day one, we listen to you to understand your key drivers and build a project plan from deliverables and milestones through to claims resolution, putting you in charge every step of the way.
- 3** | **Claims preparation** – Our team of adjusters, accountants, engineers, and lawyers are experts at building your claim to ensure all losses are captured and presented in the optimum way.
- 4** | **Coverage Analysis** – We analyse all available coverage options, anticipating hurdles and setting a path to avoid them before they are raised.
- 5** | **Market Management** – Our deep market relationships enable us to corral and galvanize multiple markets behind a course of action
- 6** | **Settlement Negotiation** – We are creative negotiators, skilled in making sure your success factors are realised



We have encountered and solved some of the world's largest and most complex claims to date. Our team is solutions focused not process orientated, enabling us to design the right solution for our clients, whatever the claim scenario.



New Risk Exposures

4

Container/Vessel Shortage

Possible Consequences

- Shortage of vessels and containers (in needed geographical areas) caused by bottlenecks in international trade. This can potentially cause material change of risks and jeopardize insurance coverage.
- Clients have increased transport on pallets (breakbulk) via general cargo ships instead of container ships.
 - Rates, terms and conditions normally based on expectation of containerized transports.
 - Breakbulk is a different risk exposure – not the inherent protection of a container.
 - Change of risk?
- Meeting delivery deadlines can force shippers to accept containers in poor condition.
 - A client informed that they rejected 7 containers in a row at one point.
 - Procedure/due diligence when receiving/stowing containers.
 - (Pre)shipment evidence needs to be kept/secured for a longer period due to longer transit times.
 - Exclusions in Institute Cargo Clauses.

Chartering of Vessels

Review of Exposure

- Some clients have started to engage in chartering of large portions or entire vessels.
- Increase in insurance limit likely needed.
- Cargo insurance wordings can exclude vessels chartered by the Insured.
 - Chartering not in the risk information provided to the insurer.
 - Material change of risk.
 - Vessel qualification clauses.
- Charterer's liability coverage might be needed for the unique liabilities assumed as a charterer of a vessel.
 - Can be difficult due to lack of history and lack of quantum/premium turnover.
 - Act early – placement can take time! (and can be impossible)



Accumulation in Cargo Values

Is the Limit Sufficient?

- Disruption of the global supply chain can cause congestion/accumulation throughout the supply chain.
 - Warehouses, distribution centres etc. with greater capacities.
 - Storage in ports (e.g. open air) – NATCAT/climate changes (top 10 risk ranking).
- Inflation and increased prices of commodities cause more expensive losses.
 - Review valuation clauses.
 - Coverage for increased shipping expenses.
- Clients ship in larger quantities when the capacity is available.
 - Container losses due to heavy weather is increasing.
 - Felicity ACE (4,000 luxury cars), ONE Apus (1,816 containers).
- Vessels are continuously increasing in size and capacity.
 - Cargo policies are subject to a limit of liability per any one conveyance/consignment note and/or any one place.
 - Very important to continuously review the PML (Probable Maximum Loss) scenarios.

Increased Transit Time

Delays More Common/New Normal

- Transit times decreasing post COVID-19 challenges but are still longer than normal.
 - Insurer will potentially increase rates due to increased risk exposure.
 - Increased need for risk control procedures/information.
- Delays more common due to various logistic challenges.
 - Fortuitous vs. expected (geopolitical risks, rerouting, lack of space).
 - Suez II? ICC(A) section 4.5.
- Possible increased requirements to packing and preparation.
 - Exclusions in Institute Cargo Clauses.
- Review of need for expedited shipping.
 - Repair and/or replacement goods.
 - Alternative suppliers – ESG benefit?



War & Sanctions

New View on Risk Exposure

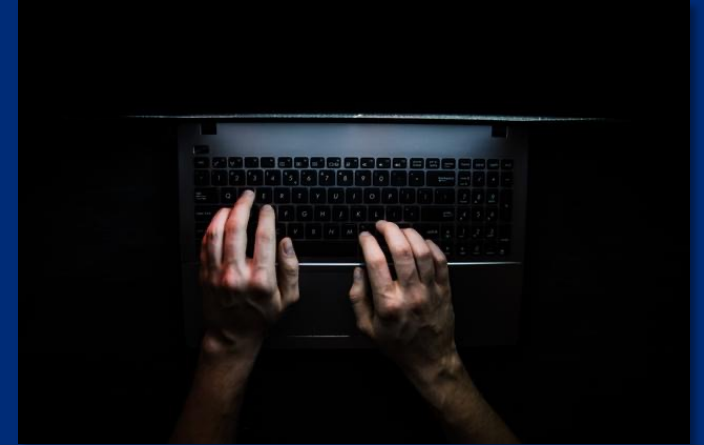
- Cancellation of war coverage post Russia's invasion.
- Political risk and violence (terrorism, sabotage, strike, riot, malicious damage) new entry on top 10 risk concerns (no. 4 in the Nordics).
- The war between Russia and Ukraine has shed new light on war coverage.
 - 5 Powers War Exclusion (United States of America, United Kingdom, France, the Russian Federation, the People's Republic of China).
 - Removal of war on land coverage.
- Sanctions Clauses
 - Focus on geographical exposure (Russia and Belarus).
- Link between war exclusion and cyber attack exclusion.



Cyber Risk

Top Concern for Insurers

- The concern for cyber risks (cumulative) is increasing.
 - No. 1 risk concern in the UK and Nordics.
 - Still a broad variety of clauses being used in the market.
- What is the key concern?
 - Underwriters interpret differently.
 - Coverage for 'normal' claim incidents should be maintained.
 - Use of Clarification Clauses.
- Supply chain attacks increasing (in line with ransomware attacks).
- Higher exposure for temperature regulated storage/cross docking.
 - Pharma.
 - Frozen/refrigerated food.





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