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The Risks Freight Forwarders & Cargo Owners Face

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2010: 82 sank

*Lloyd’s List
2010: 2,702 reported vessel casualties

*Lloyd’s List
445 reported piracy attacks or attempted attacks: IMB
Average vessel detention: 255 days
Average ransom: USD5.4m
Rough Handling Damage
Wet Damage
Shortage
If you don't pass the ball, I will hold my breath.
LOST DOG

"RITA"
Boxer
Brown/White
Pink Collar
Rear limp
11 yr old
Female
One cloudy eye

Contact: Lisa Dunn

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REWARD
Risks that Cargo Owners Face Today

Casualties are not restricted to **bad weather miles away from shore** but also:

- Calm inland waterways
- On the road
- In warehouses
- Air cargo - 4% of all air traffic, but an astonishing 24% of all air accidents.

All marine cargo owners can be subjected to a **General Average ("GA") claim**, even if their cargo is undamaged.
General Average

General Average (GA)

GA is used as a way of sharing the costs of saving a vessel and its cargo equally amongst all parties even if the incident does not affect them equally.
GA is declared when a vessel encounters a problem that **threatens the completion** of the journey.

The journey itself is considered a “**common venture**” between all parties, including the cargo owners and shipowner.

So, if the journey is threatened, for example by the vessel running aground or containers catching on fire, it means **each party must provide their share of security** to cover the cost necessary to save the “**common venture**”, even if their cargo is not damaged.

This share is **divided equally**, based on the value of the cargo (not on weight or volume).
General Average

**With adequate Marine Cargo Insurance:**

Insurer guarantees the security, so the cargo can be released relatively quickly.

**Without adequate Marine Cargo Insurance:**

The cargo is held until the GA Adjuster calculates the necessary share owned by each party, and the relevant money is paid by the cargo owner or until a full cash guarantee is provided.

The calculation is laborious and can lead to cargo being held for many months or years.
How does GA affect cargo owners?

If your cargo is on board a vessel when the shipowner declares General Average, you, as a cargo owner, will need to find the security to guarantee its release (sometimes up to 20% of the value of your cargo). If you are unable to raise this security, your cargo will be held indefinitely.
What can be done?

**Cargo insurance**

- Covers physical loss of or damage to the cargo
- Piracy
- General Average (GA)

- Initial cost of survey is covered under cargo insurance

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Risks that Freight Forwarders Face Today

• Loss or damage to cargo
• Inappropriate stowage arrangements
• Loss of important documents
• Accidental interruption of business
• Delay, misdirection, mislabeling
• Failure to follow instructions
• Non-delivery or improper release of goods
• Negligent selection of sub-contractor(s)
• Inappropriate preparation of customs entry
The forwarder’s role

- Arranging payment of freight and other charges
- Research & plan suitable shipment route
- Keep updated on legislation, political situations, etc
- Arranging charters for large volume, out of gauge or project movements by air or sea
- Delivery or warehousing of goods
- Acting as broker in customs negotiations
- Organising documentation for customs, insurance, packing, and overseas compliance
- Special arrangements for delicate cargoes
- Consolidation services
- Arranging courier and specialist hand-carry services
- Working closely with all parties to meet deadlines
- Management reports, statistical and unit cost analysis
- Liaising with third parties
- Collection of payment on behalf of the client
- Assisting in claims
- Air transport for urgent and high value freight
- IT solutions and EDI connections
- Arranging insurance
- Transmitting data
- Arranging packaging
- Act as consultant on customs matters
- Keep updated on legislation, political situations, etc
- FP Marine Risks

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Freight Services Liability (FSL) Insurance

I’m a freight forwarder. Why do I need insurance?

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Freight Services Liability (FSL) Insurance

Many freight forwarders protect their company’s future and their employees’ future by insuring the liabilities they incur whilst going about their business as an international freight forwarder.

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What is FSL insurance?

• Covers the freight forwarder against Legal Liability, Errors & Omissions and Defence Against Claims

• This class of insurance protects against claims brought against freight forwarders by any parties who, for whatever reason, are seeking compensation for loss and/or damage they believe they have suffered
Who needs FSL insurance?

Any entity involved in the transportation, storage and/or handling of other people’s goods and/or merchandise.

- Freight Forwarders
- Shipping Agents
- NVOCCs (Non-vessel Operating Common Carriers)
- Custom Brokers/Agents
- Multi-Modal Transport Operators
- Logistic Service Providers
- Warehouse Operators
- Packers
- Transport Operator
- Couriers
- Consolidators

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What can be covered?

- Owned or Leased Equipment
- Third Party Liability
- Warehouse Liability
- Ground-up Defence
- Legal Liability
- E&O

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Errors & Omissions (E&O)

Covers consequential or financial loss suffered by insured’s customers resulting from insured’s negligence, errors or mistakes due to:

• Delay of freight due to negligence
• Negligent selection of an airline, ocean carrier, packer, subcontractor, etc.
• Misdirection /mis-delivery
• Improperly completed documentation
Legal Liability

Covers the legal liability of the insured under contract (such as own trading conditions, domestic or international trading conditions or international convention) for loss and/or damage to customers goods.
Types of cover available

**Warehousing**

Covers liability for physical loss or damage to the property of others while in the insured’s care, custody and / or control when either in a warehouse or in transit e.g. while in a vehicle owned or leased by the insured at, or within, the warehouse premises.

There are specific warehouse storage conditions in some countries, e.g. NAWK (National Association of Warehouse Keepers) in the UK, where the warehouse operator has been requested to store goods which are not deemed to be in the normal course of transit.

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Types of cover available

Packing

Covers liability for loss or damage to the customer’s goods as a result of insufficient packing, crating or container-filling activities performed by the insured or the insured’s subcontractors or agents.
Types of cover available

**Customs Broking**

Covers liability for fines or penalties (customs duty, sales tax, value added tax or similar monetary charges) assessed against the insured by any regulatory agency for alleged or proven violations of transportation laws or regulations.
General Extensions to cover:

• Third party liability
• Container and Equipment (owned and leased)
• Charterer’s Liability
Fundamental role

- Receipt for goods taken in charge
- Evidence of Terms and Conditions of contract of carriage
- Document of title to the goods
International Transportation Convention - with examples:

**Transport by Sea**
- Hague Rules 1924
- Hague / Visby Rules 1968
- COGSA (US etc)
- Rotterdam Rules (new)

**Transport by Air**
- Warsaw Convention 1929
- The Hague Protocol 1955
- Montreal Protocol No. 4 1975
- The Montreal Convention 1999

**Standard Trading Terms of Freight Forwarder Association**
- FIATA / IATA
- HAFFA
- CIFA

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International Transportation Convention – with examples:

**Transport by Sea**
- Carriage of Goods by Sea Act: USD500 per shipping package
- Hague/Visby Rules: 2SDR per kg or 667SDR per unit (highest)

**Transport by Air**
- Warsaw Convention: USD20 per kg
- The Montreal Convention: 17SDR per kg

**FIATA/CIFA**
- Loss: 2SDR per kg
- Delay: Not exceeding the remuneration
- Other type of loss: No limit, usually 10,000 SDR per event

**HAFFA**
- Loss: HKD200 per shipping package/unit or HKD10 per kg

*Note: 1 USD = SDR 0.640019 at 15th November 2010*
Standard Trading Conditions

- Evidences the terms and conditions of contract between the parties
- Sets out the rights and obligations of both parties
- Must be visible on transaction documents (invoices etc.)
- Clearly referenced on letterheads, emails and websites etc.
- Provides details of the Forwarder’s exclusions and limitations of liability
- All STCs must be approved by insurers
- STCs are binding in law in most countries

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Standard Trading Conditions

Clearly defined, STCs can assist the forwarder to:

• Exclude liability, if and when applicable
• Reduce or limit liability, if and when applicable
• Minimise claims and improve the loss ratio under the policy
• Maximise both the Freight Forwarder and the Insurer’s profitability

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Claims can occur as a result of:

- Loss or damage to cargo
- Inappropriate stowage arrangements
- Loss of important documents
- Accidental interruption of business
- Delay, misdirection, mislabelling
- Failure to follow instructions
- Misdelivery or improper release of goods
- Negligent selection of sub-contractor(s)
- Inappropriate preparation of customs entry

REMEMBER - Never admit liability, verbally or in writing – always send all claims documents immediately to your insurer, broker or agent
The Uninsured

The cost of not insuring:

- Impacts on cashflow
- Impacts on profitability
- Increases exposure to consequential loss
- Loss of customers to competitors
- Impacts on reputation and credibility
- Disrupts business activities
- Loss of employee time
- Worst case scenario = **business closure**
The Uninsured

*We don’t need insurance because...*

- We’ve never had a big claim
- We know all our customers personally – they’d never sue us!
- We’ll blame it on our sub-contractors
- Our employees never make mistakes
- We cannot afford insurance
- Our STCs will protect us

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Thank you for your attention.