



Risk of Transport and Cargo Insurance

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Carrier's liability

- The Carrier is in principle responsible for the arrival of the goods at their destination at normal speed, undamaged and without losses.
- **However this liability is limited** through international conventions and through national legislations and regulations.

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Carrier's liability

- The principal rule is that carriers are responsible for loss caused by **negligence**.
- Because of problems related to the burden of proof, this responsibility is sometimes considerably reduced.
- It is also very **limited in terms of money**

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Carrier's liability

- Many owners of goods are under the delusion that if goods are lost or damaged during transport, this will be made up or dealt with by the Carrier.
- **This is a natural and logical presumption, but unfortunately this is not the case.**
- Because of insufficient knowledge of these aspects too often goods are sent uninsured.

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Risks and insured interest

- The purchase agreement on delivery term determines, who has to bear the risk of loss or damage during transportation, i.e. who has to assume liability for fortuitous loss or damage to the goods.
- **If the Seller and the Buyer have agreed on specific Incoterms clause, which is to apply for shipment, this clause determines, who has to bear the risk for any given leg of transport.**

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Insurance Clauses

- The main topic during negotiations with an insurance company is the choice of insurance clauses. They form the framework for what type of damage is covered under the insurance and what is required from the policy holder and the insurance company.
- Alternative insurance terms are designated in **Institute Cargo Clauses** as follows:

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Institute Cargo Clauses

- **Institute Cargo Clauses (A)**
- **Institute Cargo Clauses (B)**
- **Institute Cargo Clauses (C)**
- The (A) clauses are most comprehensive while (C) is regarded as minimum cover.
- The (A) (B) and (C) clauses exclude loss and damage due to wars, strikes, riots and civil commotion. These have to be covered separately.

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Institute War Clauses (Cargo)

- **Risk covered:**
 - War, civil war, hostile act, etc.,
 - Capture, seizure, arrest arising from the above,
 - Derelict mines, torpedoes, etc.
- **Exclusions:**
 - the loss, damage or expense arising from any hostile use of any weapon of war employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter.
 - Only for ocean transport leg.

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Institute Strikes Clauses (cargo)

- **Risks covered:**
 - Loss of or damage to the subject matter insured caused by:
 - Strikes, locked out workmen or persons taking part in labour disturbances, riots or civil commotions.
 - Any terrorist or person acting on political or religious motives.
- **Exclusions:**
 - delay, inherent vice or nature of the property insured and the loss or damage caused by hostilities, warlike operations, civil war, revolution, rebellion, insurrection or civil strife arising therefrom.

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INCOTERMS 2010 INSURANCE

- Similarly as in Incoterms 2000, also in the new edition 2010, there are only two terms which deal with insurance, namely CIF and CIP.
- Under these terms the Seller is obliged to procure insurance for the benefit of the Buyer, whilst in cases of other terms, it is for the parties themselves to decide whether and to what extent they want to cover themselves by insurance.
- Since the Seller takes out insurance for the benefit of the Buyer, he would not know the Buyer's precise requirements.

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CIP and CIF INSURANCE

- The Seller must obtain at its own expense cargo insurance complying at least with the minimum cover as provided by **Clause C of the Institute Cargo Clauses (LMA/IUA)** or any similar clauses. The insurance shall be contracted with the underwriters or an insurance company of good repute and entitle the Buyer, or any other person having an insurable interest in the goods, to claim directly from the insurer.

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CIP and CIF INSURANCE

- When required by the Buyer, the Seller shall, subject to the Buyer providing any necessary information requested by the Seller, provide at the Buyer's expense any additional cover, if procurable, such as cover as provided by Clauses (A) or (B) of the Institute Cargo Clauses (LMA/IUA) or any similar clauses, and/or cover complying with the Institute War Clauses and/or Institute Strike Clauses (LMA/IUA) or any similar clauses.

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- The insurance shall cover, at a minimum, the price provided in the contract plus 10 percent (i.e.110 percent) and shall be in the currency of the contract.
- The insurance shall cover the goods from the point of delivery set out in A4 and A5 to at least the named place of destination.
- The seller must provide the Buyer with the insurance policy or other evidence of insurance cover.
- Moreover, the seller must provide the Buyer, at the Buyer's request, risk and expense (if any), with information that the Buyer needs to procure any additional insurance.

CIP and CIF INSURANCE

- When deciding on clauses, it is important to consider, what damage may occur to the goods during the transport. One can say, that processed and manufactured goods, where the risk of theft, pilferage, improper handling or custody of goods, should have the best insurance cover available under Clause A, while in transport of raw materials, which can stand more stress the less comprehensive clauses B or C could be used.
- It is upto the Buyer to observe this and should he require additional cover, he should agree with the Seller to take out additional insurance or alternatively, arrange for extended insurance cover himself.

CARGO INSURANCE v. LIABILITY INSURANCE

- Owners of goods often refuse the cargo insurance considering same unnecessary pointing out that the risk of loss or damage to the goods is sufficiently covered by the insurance cover of the Carrier or Forwarder.
- They do not know or realise that this kind of insurance covers the liability of the Carrier or Forwarder and that they have the chance to obtain remedy for the cargo lost or damaged if they are able to proof the failure or negligence of the Carrier or Forwarder in casual relation with caused loss or damage.
- This is the basic difference between the Cargo insurance in which case the mere fact of loss or damage to the goods entitles the insured to the compensation.

MAIN DIFFERENCE	
CARGO INSURANCE	CARRIER LIABILITY INSURANCE
Each consignment has its insured value	Limit for all claims for losses and damages happened within 1 year
Insurance cover for actual value of cargo plus further costs (freight, insurance)	Limitation of the liability of the carrier for the loss/damage as per international convention (weight, unit)
Covers „vis major“, i.e. risks carrier is not responsible for	Excluding „vis major“ (force majeure)
Possible to obtain on commencement of the transport voyage („at last moment“)	Insurance cover not possible to obtain on the day of commencement of transport
Without franchise/excess (depends on type of cargo, destination, etc.)	Always subject to excess/deductible
Insurance of War and Strikes risks	

RISK/INSURANCE per INCOTERMS

- **EXW** ex works (place of delivery) INCOTERMS 2010
- **Cargo insurance is to be taken out by the Buyer**
- If goods are not collected at the agreed delivery date due to error or negligence by the Buyer, or someone who is responsible for it, the risk may be transferred to the Buyer already when the goods are placed in the Seller's warehouse. The Buyer's cargo insurance should cover such risk.

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RISK/INSURANCE per INCOTERMS

- **FCA** Free carrier (named place of delivery) Incoterms 2010
- **The Buyer pays for cargo insurance**
- The Seller should take out insurance from the time of shipment up to delivery of the goods to the Carrier chosen by the Buyer or up to delivery to other place which is made by the Seller's means of transport.
- **Damage to goods that is visible upon delivery to the Carrier should be noted in consignment note to avoid disputes as to when and how the goods were damaged and whose insurance covers it.**

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RISK/INSURANCE per INCOTERMS

- **CPT** carriage paid to (named place of destination) Incoterms 2010
- The Seller takes out the insurance for the first leg of the journey up to the first Carrier
- The Buyer takes charge and must take the insurance cover for the transport to the agreed destination.

RISK/INSURANCE per INCOTERMS

- **CIP** carriage and insurance paid to (named place of destination) Incoterms 2010
- The Seller is obliged to take out insurance in Buyer's favour up to the named destination.
- The Buyer should make sure that the insurance terms are acceptable for him.
- If they have not agreed on insurance terms, the Seller is only obliged to take out cargo insurance in favour of the Buyer up to the named destination at so-called minimum terms, (which does not cover partial loss) and the price provided in the contract plus 10% arranged in the currency of the contract.

RISK/INSURANCE per INCOTERMS

- **DAT** delivered at terminal (named terminal at the port or place of destination) Incoterms 2010
- The Seller takes out insurance cover until the goods are discharged at terminal
- The Buyer takes out cargo insurance from the point the goods are delivered at the terminal at the port or place of destination.
- The parties could also agree that the Seller's insurance shall cover the entire transport.

RISK/INSURANCE per INCOTERMS

- **DAP** delivered at place (named place of destination) Incoterms 2010
- The Seller takes out the cargo insurance up to the designated customs location in the import country if outside EU or to the named place of destination in the EU ready for unloading.

RISK/INSURANCE per INCOTERMS

- **DDP** delivered duty paid (named place of destination) Incoterms 2010
- The Seller takes out cargo insurance to the whole transport up to the point within the agreed place of destination when the goods are placed at the disposal of the Buyer cleared for import on the arriving means of transport ready for unloading.

RISK/INSURANCE per INCOTERMS

- **FAS** free alongside ship (named port of shipment) Incoterms 2010
- The Seller covers insurance for the carriage to the quay by the ship's loading berth or by lighter alongside ship.
- The Buyer takes out cargo insurance from the moment goods are delivered alongside ship.
- If the ship is delayed in relation to the agreed loading date, the Buyer is responsible for storage on the quay.

RISK/INSURANCE per INCOTERMS

- **FOB** free on board (named ship. port) Incoterms 2010
- The Seller pays for cargo insurance that covers the goods by placing them on board the vessel nominated by the Buyer at the loading point, if any, at the named port of shipment.
- The Buyer takes out insurance for the main leg of the transport, i.e. from the cargo loaded on board the vessel in the port of shipment.
- If the ship is delayed, the Seller may incur storage costs in the port of shipment. In principle this is the Buyer's duty since he is responsible to the Seller for the ship's arrival at the agreed time. Nevertheless, in practice it is the Seller who bears such costs and he should therefore make sure that his insurance covers this storage risk.

RISK/INSURANCE per INCOTERMS

- **CFR** cost and freight (named port of destination) Incoterms 2010
- The Seller takes out cargo insurance until delivery the goods on board the vessel
- The Buyer takes out cargo insurance for the carriage after the goods were delivered on board the vessel in the port of loading.
- In case the ship is delayed, the Seller should make sure that the cargo insurance covers storage risk in the port of loading.

RISK/INSURANCE per INCOTERMS

- **CIF** cost insurance and freight (named port of destination) Incoterms 2010
- The Seller is obliged to contract for insurance cover against Buyer's risk of loss of or damage to the goods during the carriage to destination from the delivery the goods on board the vessel in the port of shipment.
- The Seller is only obliged to take out insurance at the Institute Cargo Clauses (C), i.e. that the insurance does not cover partial loss and damage and shall cover the price provided in contract increased by 10% in the currency of contract.
