Transport insurance Guide

Whether you are buying or selling goods from or to the international market, there is always a risk that they may be damaged, lost or delayed in transit.

Most people in the supply chain who facilitate the movement of goods operate under conditions limiting their liability in cases of loss, damage or delay. Traders should therefore insure their goods against loss, damage or delay in transit.

This guide will help you understand the importance of transport insurance to your business. It explains how to ensure appropriate insurance is in place and that you don't assume another party has made the necessary arrangements, leaving you liable in the event of a claim. The guide looks at the different clauses in insurance contracts, contains details about finding the right policy and how to make a claim.

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The importance of insuring

If you're moving goods to or from the UK, it's advisable to ensure there is adequate **insurance cover**. This safeguards against the risk that goods may be lost, damaged or delayed because you can claim compensation if there's any resulting financial loss to your business.

Cargo insurance

A typical cargo insurance policy covers goods in transit via road, rail, sea or air. In its simplest form it provides cover against accidental damage and other risks. The other extreme is a comprehensive all-risk policy, covering a range of specified accidents - including damage during loading, theft and negligence.

The cost of your insurance and in which circumstances you'll receive compensation will depend on:

- the value of the goods in transit
- the expiry date of the insurance policy
- whether the journey is domestic or international

Limited liability

Without insurance you have only the minimum protection for your goods because freight forwarders and carriers typically have limited liability in the event of loss, or damage or delay. This comes from internationally ratified conventions - see your bill of lading or sea waybill for details - and the standard trading conditions of transport associations. You can also download BIFA Limits of Liability PDF

http://www.bifa.org/_attachments/Resources/1126_S4.pdf

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Different guidelines apply to different transportation:

- **find out about goods transported by sea and the Hague Visby Rules** - http://www.jus.uio.no/lm/sea.carriage.hague.visby.rules.1968/portrait.pdf
- **find out about goods transported by sea and the Hamburg Rules** - http://www.jus.uio.no/lm/un.sea.carriage.hamburg.rules.1978/portrait.pdf
- **find out about limited liability for goods transported by air under the Montreal Convention on the Lex Mercatoria website** - http://www.jus.uio.no/lm/air.carriage.unification.convention.montreal.1999/portrait.pdf
- **read the rules for international carriage by air under the Warsaw Convention** - http://www.jus.uio.no/lm/air.carriage.warsaw.convention.1929/portrait.pdf
- **find information on goods transported by road and the Convention Merchandises Routiers (CMR)** - http://www.jus.uio.no/lm/un.cmr.road.carriage.contract.convention.1956/portrait.pdf
- **download information about goods transported by rail and the CIM rules from the Intergovernmental Organisation for International Carriage by Rail (OITF)** -
- **download BIFA (British International Freight Association) Information about Limits of Liability for Cargo Claims -** http://www.bifa.org/_attachments/Resources/1126_S4.pdf

The consequences of not insuring your goods

Many events can occur during transit that could lose you money if you're uninsured. For example, your haulier may be involved in an accident whereby your goods are destroyed, or your goods might be stolen. The result can be loss of profits, productivity and buyer goodwill. You can minimise the impact of such incidents on your business by being properly insured.

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Insurance terms and duties

If you use an insurance underwriter or broker, it's important to keep in mind some of the basic insurance principles.

Contract of indemnity

This is the **amount of compensation** agreed by you and your insurer in case your goods are lost or damaged.

Duty of utmost good faith

This means you must supply all relevant information about your cargo and its journey at the outset. The underwriter needs this information to calculate an appropriate **premium** - ie the price of your policy.

This duty also applies to underwriters and brokers. They must inform you of any **exclusion** clauses in your policy - the circumstances whereby you won't receive compensation - so always read the small print of the policy document.

Duty to act as though uninsured

Arranging insurance for your cargo doesn't mean you can neglect your normal duty of care regarding its transportation. You should act to minimise the chance of a payout by:

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- ensuring goods are packed safely and securely - you'll only be insured against risk, not certain disaster, which poor packaging makes more likely
- maintaining the upkeep of vehicles used for transportation
- having a robust selection policy for drivers of these vehicles and for contractors involved in loading and storage
- making sure the buyer of the goods provides information on any loss or damage to goods within a short period of time

Insurable interest

You must be able to demonstrate an insurable interest in your goods in order to trigger any policy you take out on them. This means you'll either benefit financially from their safe arrival or you'll lose out in the event of loss, delay or damage. The point at which the insurable interest passes from supplier to buyer is determined by the sale of contract used.

For more information, see the section below Managing the Risk

Managing the risk

The **terms of sale** agreed in a commercial transaction outline who is responsible for the cost of goods being transported. In other words, they clarify to what extent the buyer or seller pays for:

- the procurement of documents
- licences and permits
- the use of a freight forwarder

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The terms also cover how the risk of loss or damage to the goods will be managed. They specify cargo delivery points and at what point the risk is transferred from one party to another.

The most commonly used terms for delivery in an international sales contract are those found in Incoterms. For detailed information, see our guide to **International Commercial Contracts - Incoterms**.

There are two Incoterms that require the seller to take out insurance for the benefit of the buyer:

- Cost, Insurance and Freight (**CIF**) - under these terms the seller takes out insurance on an 'open cover' basis. They pay for the cost of the goods, cargo insurance and all transportation charges up to a named sea port (destination). Unless otherwise agreed, they also provide war risk insurance, passing on the cost to the buyer.
- Carriage and Insurance Paid To (**CIP**) - as above except this applies to all forms of transportation to a named inland destination (CIF terms apply to vessel shipments only).

Both the above terms will continue to apply under Incoterms 2010, which applies as of 1 January 2011.

According to Institute Marine Cargo Clauses (ICC) 'A' and 'B', under these Incoterms the seller must take out insurance for 110 per cent of the value of the consignment. **Download information about ICC 'A' -** http://www.jus.uio.no/lm/institute.marine.cargo.clauses.a.1982/portrait.pdf

Other Incoterms place no obligation on either buyer or seller to provide insurance only guarantee minimum cargo coverage if the seller is required to arrange for insurance coverage under ICC clause 'C'. However, depending upon the actual term used for each shipment, the seller or buyer bears responsibility for loss or damage to the goods at some point during transit. You are therefore strongly advised to insure against this exposure to financial loss.

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Risk coverage options

You can cover the risk of loss or damage to your goods with **marine insurance**. This can cover the whole journey - over land as well as sea. The most common form of marine policy in the UK is that used by Lloyd's of London. In addition to a basic contract form, various clauses can be added to provide coverage that best suits your business needs and trading patterns.

Institute 'A' clauses

These provide the most coverage to traders at the highest premium (price). They cover practically all risks - except, for example, wars and strikes. These can, however, be reinstated by including appropriate clauses.

Similar clauses are used for movement of goods by air.

Institute 'B' and 'C' clauses

These provide coverage for a number of risks on a 'reasonably attributable' basis - meaning responsibility for damage or loss can be reasonably attributed to a particular party. Less coverage is provided under the 'C' clauses, but the price is lower.

General average

A standard marine insurance policy covers claims under general average. This applies when some cargo is lost or damaged through efforts to salvage a ship in distress. It provides for all cargo owners to collectively compensate whoever of them loses out in such circumstances.

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Acts of God and acts of war

Under international law, transport carriers aren't liable for acts of God, ie **unforeseen acts of nature** such as lightning - or acts of war or civil unrest. Piracy, which is very common in some waters, is also considered an act of war. If you send goods to a region where piracy is common (eg some of the waters off Indonesia, Republic of the Philippines East Africa), it would be prudent to consider additional coverage. If you want cover for acts of God or for acts of war, make sure you inform your broker.

Terrorism

Acts of terrorism are usually excluded - cover has to be bought for an additional premium.

Excess and franchise

Some policies include either an excess or franchise clause. Excess represents a predetermined amount that is deducted from a claim and is used to discourage irresponsible, malicious and small claims. Franchise means a percentage of the value of a loss, below which no payment is made but above which total compensation is paid.

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Liability insurance for freight forwarders

Many traders use freight forwarding companies. As well as transporting goods to and from specified locations, freight-forwarding includes booking the movement of goods, storage and customs clearance activity.

Freight forwarders, by applying their **Standard Trading Conditions** (STC), usually have limited liability for any claim for loss or damage to goods while in their care. When other parties (such as shipping lines, airlines or truck operators) are entrusted to complete all or part of the transportation movement and where a combined transport waybill or bill of lading is used, the exporter agrees in turn to accept these operators' STC, which override those set by the freight forwarder. So it is important that you read the STC of both the freight forwarder and the transport operator. Once you have chosen a freight forwarder, you should receive or ask for a copy of the British International Freight Association (BIFA) STC as soon as possible. You can download a copy of BIFA terms from the Intercargo Services Ltd website http://intercargoservices.com/pdf/Standard_Trading_Conditions.pdf

It's often difficult to prove that liability for a mishap lies with a freight forwarder (it could be the responsibility of any party across the supply chain) and, even if it does, the forwarder's liability will be limited. It is therefore advisable to arrange **separate cargo insurance**. Many forwarders will offer to act as a broker in obtaining this. They can be instructed to make insurance arrangements at any time, but preferably prior to booking the shipment.

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Insurance Mediation Directive (IMD)

The Financial Services Authority (FSA) regulates the conduct of any company or individual who provides insurance brokerage services, through the IMD. An exemption from the IMD for freight forwarders or storage firms means that those conducting insurance mediation with **commercial** customers no longer need to be registered with the FSA.

The exemption does not apply if freight forwarders or storage firms conduct insurance business with **individual** or **retail** clients.

Advising the freight forwarder

You should provide clear instructions to the forwarder, including your terms of sale and delivery. Establish if you need special risk insurance if your goods are subject to specific or unusual risks, eg temperature-controlled commodities that require special trade clauses. You can instruct your freight forwarder by completing an Export Consignment Shipping Instruction (ECSI), or an equivalent such as a generic 'exporter's instructions' document.

Right of lien

If you're unhappy with the service provided by a freight forwarder, you may be unwilling to pay them. Be aware, however, that they're likely to have a right of lien - that is, a right to keep your goods until

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they receive payment. A forwarder who takes this action should inform their liability insurer and insure your goods against their potential liability. This may not be to the full value of the goods, so ensure you are aware of any potential risks.

Obtaining cargo insurance

There are a number of possible options when deciding where to go for a cargo insurance policy:

- a marine insurance broker
- a general insurance business
- a freight forwarder View Intercargo Insurance rates
- your bank
- your local Chamber of Commerce

Enterprises with specialist knowledge of this type of insurance are likely to have more claims experience and value-added services; although this may be reflected in any premium (price) you pay.

You'll also need to decide the form your policy should take. This will generally depend on your trade patterns.

Open cover

This is the most common form of policy. It provides great **flexibility** - coverage can apply to either an unlimited number of shipments within an agreed timeframe or for an indefinite period until either party cancels the agreement. Alternatively, it can cover shipments up to an agreed value. You pay an annual premium based on an initial deposit and make a final adjustment according to the actual turnover value of goods you export.

An open policy should contain:

- a description of each shipment and the departure and destination points, often completed in retrospect as part of a regular (usually monthly) reconciliation
- the maximum value payable in the event of a claim
- information on the method of valuing the goods
- terms and conditions

Voyage policy

If you don't export often, you may prefer to buy an insurance policy for a particular consignment. A voyage policy literally refers to the specific shipment for which cover is sought.

How to claim on your policy

Under Incoterms or other terms of sale, the seller takes out insurance for the benefit of the buyer. For other insurance claims (excluding the seller making a claim for the buyer), you should follow the guidelines below.

In the event of damage or loss to goods in transit, the consignee (or buyer) should follow these guidelines:

- carry out a thorough inspection of all the goods and note damaged or missing items
- take any steps necessary to minimise or prevent further damage
- make a note of any expenses incurred in carrying out the above for the insurer to reimburse

- keep as evidence the shipping container, packing materials, damaged merchandise and shipping documents
- contact the insurer (or broker if appropriate) so that a survey of damage can be arranged

The consignee should then file a letter of claim against the freight forwarder or carrier - this should include:

- its company name and (if applicable) voyage or flight number
- sea waybill or bill of lading or air waybill number (if applicable)
- date of arrival at destination
- description of cargo
- container numbers
- the amount being claimed

At the same time, the consignee should send full details of the claim to the insurer (through the seller, if you're using the Incoterms Cost, Insurance and Freight (CIF) or Carriage and Insurance Paid To (CIP)) - this should include:

- a commercial invoice
- insurance policy details and certificate number
- bill of lading or air waybill number (as applicable)
- standard terms and conditions of the carrier/forwarder
- any correspondence with the carrier/forwarder concerning loss or damage
- survey report

A similar procedure should be followed by the seller if, under the terms of sale, they carried the risk at the time of loss or damage.

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Pursuing litigation

If your insurers refuse to pay a claim when a covered cargo loss occurs, you can pursue claims against both them and/or the carrier/forwarder. If you pursue litigation on two fronts, costs incurred in the action against the carrier/forwarder are recoverable if the other action is successful. This is because the costs are seen as a direct result of the insurance company's breach of contract.

Insurance Rates

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