

# WHY INSURE?

Shipments in transit are subjected to numerous perils. Goods may be damaged in a storm or fire, stolen, involved in a collision or just mishandled. To protect against financial loss, consider obtaining Shipper's Interest Cargo Insurance.



In addition to covering loss or damage, Cargo Insurance also protects against General Average, pays for the costs to minimize a loss (sue and labor), and pays for damage inspection (survey). Carriers also have limited liability and are provided legal defenses which absolve them of responsibility entirely. Cargo Insurance pays covered claims without the need to prove fault. Why not insure?

### WHAT IS GENERAL AVERAGE?

General Average is a concept incorporated into most ocean bills of lading. It is used when a voluntary sacrifice is made to save the vessel, cargo or crew from a common peril (e.g., jettison of cargo to extinguish a fire). If the sacrifice is successful, all parties contribute to the loss based on their cargo's value. If the cargo isn't insured, it won't be released until the shipper posts a guarantee (cash, bank guarantee or bond). If the cargo is insured, the insurance company will handle all arrangements on the shipper's behalf.

### HOW ARE CARRIERS LIABLE?

Carriers do not pay claims unless they directly cause or contribute to the loss. Even when carriers are legally liable for loss or damage, however, the amount they will pay is limited based on the mode of transport.

#### Ocean

The Carriage of Goods by Sea Act (COGSA) governs carrier liability for goods shipped via ocean to/from the United States. Recovery is limited to \$500 per customary freight unit, and only when the carrier is negligent. A "freight unit" can vary from one container to one pallet.

#### International Air

For air carriers, two liability conventions exist. The Warsaw Convention limits liability to \$9.07 per pound or \$20 per kilogram. The Montreal Convention (used in the United States), changed this limitation to 19 Special Drawing Rights (SDRs), or about \$30 per kilogram.

#### Domestic

Many domestic air, intrastate road carriers and warehouse operators limit their liability to \$0.50 per pound or \$50 per shipment, based on their bill of lading or warehouse receipt. Interstate truckers are governed by the Carmack Amendment, which dictates full value, but allows for limitations of liability in bills of lading, tariffs or contracts. Some carriers will also have inadequate or no liability insurance and may be unable to fund a loss out of pocket.

### WHAT ABOUT CARGO THEFT?

Estimates of cargo theft in the United States range from \$25-\$50 billion annually. Officials estimate that nearly 80% of cargo thefts involve collusion of employees. Drivers are often paid to leave their truck unattended at a specific place and time.

#### Statistics

- **Within 24 hours of theft:** The goods are already delivered to an alternate location. Thieves are no longer in possession of the merchandise.
- **Within 48 hours of theft:** Cargo is split into about five consignments and distributed.
- **Within 72 hours of theft:** Goods are being marketed and sold.



# SHIPPER'S INTEREST CARGO INSURANCE



## CARGO INSURANCE COVERAGE OPTIONS

We can offer comprehensive “All-Risk” coverage for cargo in transit, including Free of Particular Average and With Average alternatives.

- **“All-Risk”:** Provides the broadest form of protection available. Goods are covered for loss or damage without the need to prove liability. An easy way to remember “All-Risk” coverage is “everything is covered, except what is excluded.” Typical exclusions include improper packing, inherent vice or rejection of goods by Customs.
- **Free of Particular Average (FPA):** Offers less protection than “All-Risk” coverage, but is a good option for commodities like used goods, waste materials and scrap metal. A good way to remember FPA coverage is “the only covered losses are specifically named.” Perils covered under FPA include: sinking, collision, General Average, fire and washing overboard, to name a few.
- **With Average (WA):** Extends FPA to cover heavy weather. Many shippers choose to add theft, pilferage and non-delivery to WA and FPA.

## DECLARED VALUE VS. CARGO INSURANCE

Declaring value to a carrier is not the same as Cargo Insurance. To claim against a carrier, the shipper must prove that the cargo was damaged in the carrier’s care, custody or control. The carrier then has multiple defenses to prove they weren’t liable, which makes recovery difficult. Cargo Insurance provides protection without having to prove carrier liability. This is particularly important in instances where a loss is attributable to an “Act of God.” The following sample claims illustrate the difference between declaring value and Cargo Insurance:

DESCRIPTION OF LOSS	DECLARED VALUE FOR CARRIAGE	CARGO INSURANCE
While a trucker was en route, the truck was struck by lightning. The lightning caused a fire and resulted in a total loss to the cargo.	Even if a value is declared, there would be no automatic right of recovery because the trucker did not act negligently. The loss was considered an “Act of God.”	This type of claim would be paid under “All-Risk” Cargo Insurance coverage.
Several days after an ocean vessel left the port, it ran into heavy weather. A large wave hit the vessel and containers were washed overboard.	“Heavy Weather” is excluded under COGSA. The ocean carrier would deny liability and no payment would be forthcoming.	This type of claim would be covered by “All-Risk” Cargo Insurance as well as WA coverage.



For more information contact us - [docs@cssbrokers.com](mailto:docs@cssbrokers.com)

# GENERAL AVERAGE & THE NEED FOR CARGO INSURANCE

Imagine receiving a message from an ocean carrier that all cargo aboard the vessel has been impounded and you need to post cash or a guarantee to retrieve it. This may sound like extortion, but it's actually a common maritime event known as General Average.

General Average is declared when an intentional sacrifice is successful in preserving the common safety of the ship, persons or property while at sea.

## SAMPLE GENERAL AVERAGE LOSS

General Average claims require all cargo owners on a vessel to contribute to the loss. Even if your cargo isn't damaged, you still need to make a financial contribution (based on the total value of the ship's cargo) for your goods to be released.

### HERE'S HOW IT WORKS:

Value of vessel	= \$60 million
Value of cargo	= \$140 million
Total value of voyage	= \$200 million

- Assume cargo loss and vessel repairs total \$20 million.
- Therefore, \$20 million out of \$200 million, or 10%, of the voyage suffered a loss.
- Each cargo owner must contribute 10% of the value of their cargo.
- A cargo owner with a \$100,000 shipment would have to put up \$10,000 to get the cargo released.



Photo Credit: Cameron Brunick

### Yantian Express declares General Average

On January 25, 2019, due to a deck fire that spread to containers, Hapag-Lloyd formally declared General Average for the container ship Yantian Express.

As of February 12, 2019, 202 containers are a total loss and around 460 containers have yet to be surveyed. Salvage operations are still ongoing. Security for uninsured cargo requires a cash deposit of 28%.

### What would you do if your cargo was on board this vessel?

#### IF CARGO ISN'T INSURED

Cargo will not be released until the shipper posts a guarantee, which must be in the form of a cash deposit, bank guarantee or bond.

#### IF CARGO IS INSURED

The marine cargo insurer should be notified immediately.

The insurance company will post the General Average Guarantee to meet the cargo owner's contribution and facilitate release of the cargo.



For more information contact us - [docs@cssbrokers.com](mailto:docs@cssbrokers.com)



## **MARINE CARGO INSURANCE**

Please see the following 3 page flyer regarding Marine Cargo Insurance and then please select an option below to be applied to future import shipments:

- We would like all import shipments to be covered under Marine Cargo Insurance.
- We decline cargo insurance for all import shipments.
- We will review our cargo insurance needs on a shipment by shipment basis and confirm.

**Company Name:** \_\_\_\_\_

**Printed Name:** \_\_\_\_\_

**Signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_

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