

Description: United Nations Cargo Insurance, All Risks

Cargo Insurance - All Risks Cover
A. - COVERAGE

1 This insurance covers all risks of physical loss of or damage to the insured cargo, unless the insurer proves that one of the exclusions in Part B applies.

2 This insurance also covers loss of or damage to the insured cargo caused by any act of any governmental authority to prevent or minimize pollution resulting from damage to the carrying vessel, provided such act of government authority has not resulted from want of due diligence by the assured.

B. - GENERAL EXCLUSIONS

3 This insurance does not cover:

3.1 loss, damage, liability or expense caused by:

3.1.1 war, hostilities or warlike acts

3.1.2 civil war, revolution, rebellion, insurrection, or civil strife arising therefrom

3.1.3 mines, torpedoes, bombs or other weapons of war

3.1.4 capture, seizure other than by pirates, masters, officers or crew, arrest, restraint or detention, and the consequences thereof or any attempt thereat

3.1.5 sabotage or terrorism committed from a political motive

3.1.6 detonation of an explosive caused by any person acting maliciously or from a political motive

3.1.7 strikes, lock-outs or other similar labour disturbances

3.1.8 civil commotions, riots or other similar events

3.1.9 confiscation, requisition, or other similar measures taken or attempted by any government or other similar organization assuming or wielding power

3.2 loss, damage, liability or expense resulting from the personal act or omission of the assured done with the intent to cause such loss, damage, liability or expense, or recklessly and with knowledge that such loss, damage, liability or expense would probably result

3.3 ordinary leakage, ordinary loss in weight or volume, or any other ordinary loss of or damage to the insured cargo

3.4 loss, damage, liability or expense caused by insufficiency or unsuitability of packing or preparation of the insured cargo

3.5 loss, damage, liability or expense caused by inadequacy or unsuitability of the stowage of the insured cargo in a container or liftvan where such stowage is carried out prior to attachment of this insurance

3.6.1 loss, damage, liability or expense caused by

3.6.1.1 unseaworthiness of vessel or craft, or

3.6.1.2 unfitness of vessel, craft, conveyance, container or liftvan for the safe carriage of the insured cargo, where the assured knew of or had recklessly refrained from obtaining knowledge of such unseaworthiness or unfitness by the time the insured cargo was loaded therein.

3.6.2 This exclusion 3.6 shall not be invoked against a party claiming under this insurance to whom the insurance has been assigned and who has bought the insured cargo in good faith without notice of such unseaworthiness or unfitness

3.7 loss, damage, liability or expense caused by inherent vice or nature of the insured cargo

3.8 loss, damage, liability or expense caused by delay, even though the delay is caused by a peril insured against, except liability or expense payable under clause S (the General Average and Salvage Clause)

3.9

Alternative A

loss, damage, liability or expense caused by insolvency or financial default of the owners, managers, charterers or operators of the vessel

Alternative B

3.9.1 loss, damage, liability or expense caused by insolvency or financial default of the owners, managers, charterers or operators of the vessel, where the assured has failed to take all necessary and prudent measures to establish, or to ensure that his agents establish, the financial reliability of those parties.

3.9.2 This exclusion 3.9 shall not be invoked against a party claiming under this insurance to whom the insurance has been assigned and who has bought the insured cargo in good faith without notice of such insolvency or financial default and without notice that the original assured has failed to take such measures.

3.10 Additional exclusion clause (if expressly agreed by the parties): loss, damage, liability or expense caused by piracy.

3.11 Additional exclusion clause (if expressly agreed by the parties): loss, damage, liability or expense arising directly or indirectly from or in connection with nuclear, radioactive or similar material or from the use of or accidents in nuclear installations or reactors.

C. - ADDITIONAL COVERAGE

4 Both to Blame Clause Where the insured cargo is shipped under a contract of carriage or affreightment containing a "Both to Blame Collision" Clause, the insurer also agrees, as to all losses covered by this insurance, to indemnify the assured for the insured cargo's proportion of any amount up to the sum insured which the assured may be liable to pay to the shipowner or carrier under such clause. In the event of any claim by the shipowner or carrier under the said clause, the assured agrees to notify the insurer who shall have the right, at his own cost and expense, to defend the assured against such claim.

5 General Average and Salvage Clause

5.1 This insurance covers the insured cargo's proportion of general average, salvage and/or salvage charges, adjusted or determined according to the contract of carriage or affreightment and/or the governing law and practice. In case of general average sacrifice of the insured cargo, the assured has the right to recover in respect of the whole of such loss.

5.2 No claim under this clause shall in any case be allowed unless the general average act or salvage was undertaken to avoid, or in connection with the avoidance of, a peril insured against.

5.3 Where all the contributing interests are owned by the assured, the provisions of the York-Antwerp Rules, 1974, or similar provisions of other rules if expressly agreed, shall be applied as if the interests were owned by different persons, and the insurer shall pay the insured cargo's proportion as so calculated.

6 Sue and labour and forwarding charges clause

6.1 Where there has been loss of or damage to the cargo from a peril insured against, or where the cargo is in danger from such a peril, and as a result reasonable expenditure is incurred by the assured in order to avert or minimize a loss which would be recoverable under this insurance, the insurer shall pay to the assured the expenditure incurred.

6.2 Where, as a result of the operation of a peril insured against, the transit is terminated at a port or place other than the destination to which the cargo is insured hereunder, the insurer will reimburse the assured for any extra charges properly and reasonably incurred in unloading, storing and forwarding the cargo to that destination.

6.3 This clause shall not apply to general average, salvage or salvage charges.

6.4 The insurer's liability under this clause is in addition to his liability under the other provisions of this insurance, but shall not exceed an amount equal to the sum insured hereunder in respect of the cargo.

D. - PERIOD OF COVERAGE

7 Commencement and duration The insurance commences from the time the insured cargo leaves the ware house or place of storage at the place named in this insurance for the commencement of the transit and shall continue during the ordinary course of transit.

8 Termination This insurance shall terminate

8.1 on delivery of the insured cargo to the consignee's or other final warehouse or place of storage at the destination named in the insurance

8.2

Alternative A

on delivery of the insured cargo to any other warehouse or place of storage, whether prior to or at the destination named in the insurance, which the assured chooses to use either

8.2.1 for storage other than in the ordinary course of transit, or

8.2.2 for allocation or distribution

8.2

Alternative B

on any taking of delivery of the insured cargo by the assured, the shipper, the consignee or their representatives or other authorized persons before the time when the insurance would otherwise terminate as stipulated in 8.1 above

8.3 when . . . days have elapsed after completion of discharge of the insured cargo from the oversea vessel at the final port or place of discharge

8.4 when the insured cargo has been discharged from the oversea vessel at the final port or place of discharge, and transit commences to a destination other than that named in this insurance

9 Continuation

9.1 The insurance shall remain in force, subject to termination as provided by clauses 8 and 9.2, during delay beyond the control of the assured, any deviation, forced discharge, reshipment or transhipment, and during any variation of the adventure arising from the exercise of a liberty granted to shipowners or charterers under the contract of carriage or affreightment.

9.2 When, owing to circumstances beyond the control of the assured, the contract of carriage or affreightment is terminated at a port or place other than the destination named therein, or the transit is otherwise terminated before delivery of the insured cargo as provided for in clause 8 above, this insurance shall also terminate unless prompt notice is given to the insurer and continuation of cover is requested. In that case this insurance shall remain in force, subject to an additional premium if required by the insurer, either

9.2.1 until the insured cargo is sold and delivered at such port or place or, unless otherwise specially agreed, until the expiry of . . . days after its arrival at such port or place, whichever shall first occur, or

9.2.2 if the insured cargo is forwarded within the above . . . day period (or any agreed extension thereof) to the destination named in this insurance or to any other destination, until terminated in accordance with clause 8 above.

4{ E. - MEASURE OF INDEMNITY <~66> 10 General Rules

10.1 Agreed and insurable value

10.1.1 Where an agreed value is stated in this insurance this agreed value shall be conclusive between the assured and the insurer as to the value of the insured cargo in the absence of fraud.

10.1.2 Where there is no agreed value, the insurable value of the cargo is

Alternative A

the commercial invoice value or, if there is no such invoice, the market value of the cargo at the time and place of commencement of the cover, plus

10.1.2.1 if not already included, freight and other expenses incidental to the transport, customs duties, insurance costs, and

10.1.2.2 an expected profit of . . . %

Alternative B

the market value at the place of destination at the time of the arrival of the cargo or, if the cargo does not arrive, at the time it should have arrived at the place of destination.

10.1.3 Where there is no agreed value and the term "agreed value" is used in other provisions of this insurance, this term shall be deemed also to cover the insurable value, as defined in 10.1.2 above.

10.2 Sum insured The insurer's total liability under Part A and clauses 4 and 5 of Part C shall be limited to the sum insured. A separate limit shall apply to claims under clause 6 of Part C as provided therein.

10.3 Under- and over-insurance

10.3.1 Where the sum insured is less than the agreed value, the insurer is only liable to pay that proportion of any loss covered by this insurance that the sum insured bears to the agreed value.

10.3.2 Where the sum insured is higher than the agreed value, the assured may not recover more than the agreed value.

10.4 Under-valuation

Alternative A

Where the assured has a claim under Part C, clauses 5 and/or 6, the indemnity payable under this insurance shall not be reduced by reason of the agreed value being less than the actual or contributory value of the insured cargo.

Alternative B

10.4.1 Where the assured has a claim under Part C, clause 5, of this insurance other than for general average sacrifice of the cargo, and the agreed value is less than the full contributory value of the cargo, the insurer shall only pay such proportion of general average, salvage and salvage charges as the agreed value bears to the full contributory value.

10.4.2 Where the cargo has suffered damage covered by this insurance and such damage constitutes a deduction from the contributory value, the same amount must be deducted from the agreed value when determining whether the agreed value is less than the contributory value.

10.5 Co-insurance Where two or more insurers are liable under this insurance,

10.5.1 each insurer is liable only for his proportion of the claim, which is the proportion that his subscription bears to the sum insured, and shall on no account be held jointly liable with his co-insurers.

10.5.2

Alternative A

each insurer agrees to be subject to the jurisdiction of the courts applicable to the leading insurer for all disputes under this insurance. The leading insurer is authorized by his co-insurers to accept and conduct legal proceedings on their behalf.

Alternative B

No provision.

11 Total losses

11.1 A claim for loss by a peril insured against may be for a total loss, as herein defined, or otherwise for a partial loss.

11.2 Actual total loss occurs where the insured cargo is irretrievably or so damaged as to cease to be a thing of the kind insured or where the assured is irretrievably deprived of the cargo.

11.3 Presumed total loss occurs where the carrying vessel is missing with the insured cargo and no news of the vessel or the cargo has been received within a reasonable time but not to exceed . . . months.

11.4 Constructive total loss occurs:

11.4.1 where the assured has been deprived of the free use and disposal of the insured cargo, and

11.4.1.1 it is unlikely that he will be able to recover it within a reasonable time but not to exceed . . . months, or

11.4.1.2 he could not recover it without incurring an expenditure which would exceed its value on recovery

11.4.2 where the insured cargo has been damaged and it cannot be repaired or reconditioned and forwarded to its destination without:

11.4.2.1 becoming an actual total loss before arrival, or

11.4.2.2 incurring an expenditure which would exceed its value on arrival.

11.5 Where there is a valid claim for a total loss recoverable under this insurance, the amount payable by the insurer is the sum insured in respect of the cargo.

12 Abandonment

12.1 Where the assured elects to claim for a constructive total loss rather than for a partial loss, or where there is a presumed total loss, the assured shall with reasonable diligence notify the insurer that he wishes to abandon what remains of the cargo to the insurer.

12.2 Unless otherwise directed by applicable law, no notice of abandonment need be given if, at the time when the assured receives reliable information of the loss, there would be no possibility of benefit to the insurer if notice were given to him or where the insurer has expressly waived the need for such notice.

12.3 Notice of abandonment may be expressed in any terms which indicate the intention of the assured unconditionally to abandon his interest in the cargo to the insurer. The insurer shall advise the assured whether he accepts or rejects the notice of abandonment within a reasonable time from the date on which the notice is tendered.

12.4 Where notice of abandonment is given as provided herein, the rights of the assured shall not be prejudiced by the refusal of the insurer to accept the abandonment.

12.5 Where notice of abandonment is accepted, the abandonment is irrevocable and the acceptance of the notice of abandonment conclusively admits liability for the loss and the sufficiency of the notice. Upon acceptance of abandonment, the insurer may, if he so wishes, take over whatever may remain of the cargo, with all the rights and obligations attached thereto.

13 Partial losses

13.1 Total loss of part Where part of the cargo is totally lost, the assured is entitled to be indemnified for such proportion of the agreed value, if a value has been agreed, or of the insurable value, if no value has been agreed, as the insurable value of the part lost bears to the insurable value of the whole.

13.2 Damage

13.2.1 Where the whole or any part of the cargo has been delivered damaged at its destination, the assured is entitled to be indemnified for such proportion of the agreed value, if a value has been agreed, or of the insurable value, if no value has been agreed, as the difference between the gross sound and damaged values at the place of destination bears to the gross sound value.

13.2.2 If the assured chooses to recondition or to repair any part of the cargo which has been delivered damaged at its destination he may, alternatively, claim the reasonable cost of such reconditioning or repair at the time of arrival at its destination.

F. - INSURABLE INTEREST

14.1 In order to recover under this insurance the assured must have an insurable interest in the insured cargo at the time of the loss.

14.2 Subject to 14.1 above, the assured shall be entitled to recover in respect of a loss occurring during the transit covered by this insurance, notwithstanding that the loss occurred before the contract of insurance was concluded, unless the assured was aware of the loss and the insurer was not.