



Contents

1. TT Club boosts loss prevention management team
2. Loss of B/L - mere advertisement doesn't help!
3. IMO establishes maritime security division
4. Recovery of container detention charges by delivery agents
5. Conclusion

1. TT Club boosts loss prevention management team

January 11, 2007 – TT Club, the specialist transport insurance provider, has further strengthened its loss prevention team through the appointment of Laurence Jones to the new position of Manager Risk Assessment. Based in Sydney, Australia, Mr Jones will work to a global remit, working with TT Club offices and client sites worldwide to manage third-party risk assessment surveys and work with members to identify areas where risk profiles can be improved. He will also provide advice and support in underwriting decisions and claims assessment.

Mr Jones, a qualified engineer with extensive engineering and operational experience in the global ports and terminals industry, joins TT Club from P&O Ports, where most recently he was General Manager, Global Engineering and Asset Management. In addition to his eight years in the container terminal industry, he also has 15 years' experience in bulk materials terminals gained with BHP Billiton.

The TT Club already maintains a structured programme of risk assessment surveys for all port and terminal facilities that it insures, in order to validate its underwriting assessments and identify areas where the risk may be improved, both operationally and in terms of the insurance. Peregrine Storrs-Fox, TT Club's Risk Management Director, commented: "Laurence's breadth of ports and terminals experience will be a great asset to our membership and within the Club itself. We are delighted to have attracted such a high-calibre individual to enhance our service capability to this important segment of the Club's business." 

2. Loss of B/L - mere advertisement doesn't help!

That the bill of lading is said to have been lost is no excuse for delivering the shipment without production of the original document. The reality is one can never be 100% sure what has happened to the original set of bill(s) of lading: are they indeed lost, or has someone just overlooked the business of paying the seller? If the carrier releases cargo without firm evidence of the consignee's right to take delivery, the carrier does so entirely at its peril.

English law - and that of many other nations - provides that the carrier is not bound to deliver the cargo to any person other than the lawful holder of the relevant bill of lading - unless, in a given case, the court so orders. If the difficult situation arises where the bill is missing but the importer is desperate for the cargo, the recommended solution for the

carrier is to require a bank guarantee (or a company letter of undertaking countersigned by a bank, which thus agrees to "join in") in its favour.

It is sometimes said that an advertisement in the local press about the "loss" or "nullification" of the original bill is an adequate and simple remedy and once that has been done the carrier is able to issue a replacement set without hesitation (or even release the goods without production of the "lost" bill of lading). DO NOT simply rely on this!

Advertisement per se never serves as a complete defence as regards liability for wrongful delivery. At best, it is evidence that the relevant parties did have an intention to cancel the original bills of lading. Rather, when the parties have agreed to deliver cargo against a proper letter of guarantee (in lieu of the original bill of lading), the most important thing is to communicate to the delivery agent this new arrangement for the release of the cargo. This is to avoid the agent meanwhile delivering the cargo to a third party who happened to have in its possession the void/cancelled bill of lading.

The whole question of the delivery of cargo without production of the corresponding original bill of lading is fraught with danger for the carrier since it is standard practice for insurers, such as the P&I Clubs and the TT Club, to exclude from cover liabilities that a carrier incurs by delivering the cargo in these circumstances. **TTI**

3. IMO establishes maritime security division

The International Maritime Organisation has set up a new sub-division within the UN secretariat's maritime safety division in response to enhanced focus on maritime security.

As announced by the IMO secretary general, Efthimios Mitropoulos, in early January, the new body will address the issue of facilitating maritime traffic, under the leadership of Nicolaos Charalambous of Cyprus, who has become the new deputy director from January 1.

Mr Mitropoulos said the formation of the new sub-division reflects the continuing need for the IMO and the maritime industry as a whole, to sustain efforts in improvement of security in all aspects of ship and port operations, whilst at the same time to facilitate the movement of people and goods by ship. **TTI**

4. Recovery of container detention charges by delivery agents

Alison Cook of the Club's Sydney office helpfully draws readers' attention to a problem faced by the local transport operators relating to recovery of container detention charges:

"We have noticed a recent increase in the number of instances of container detention charges from shipping lines being incurred by our Australian forwarding members. This is where containers are being detained by consignee customers for longer than the free period allowed by the lines. A number of members have expressed an interest in how they might better protect their businesses from incurring these charges when really they have no control over the boxes once they are delivered to their customers.

The problem often encountered is that the member is named as consignee on the ocean bill of lading and so becomes contractually liable for charges to the shipping line under that bill. However, as far as the contract of carriage with the cargo interests is concerned the member acts as an agent only for his (foreign) principal who issues the house bill of lading. Not being a party to the house bill of lading contract means that the member will not be able to rely upon the contractual rights available in it, such as, - and typically stated in most bills of lading - the right to recover container detention charges.

We recommend that members insert a clause into the arrival documentation to the effect that the container is released into the customer's care on the basis that the customer agrees to indemnify the member for any fees, charges and other

liabilities arising from the customer's use of the container. This then gives the member a contractual basis upon which to pursue a recovery if charges are incurred through the customer's delay.

The Club's members who are interested may like to contact our Sydney office for a full version of the recommended wording for the arrival notice." 

5. Conclusion

We hope that you will have found the above items interesting. If you would like to have further information about any of them, or have any comments you would like to make, please email the editor at tt.talk@ttclub.com. We look forward to hearing from you.

David Martin-Clark
Acting Editor
On behalf of
TTMS (UK) Ltd, London

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