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### 1. Thomas Miller Risk Management conference

Risk management is often confused with insurance but they are two distinct things. In a nutshell, risk is the reason why you need insurance. Most organisations wish to minimise the amount of insurance they need to buy and to reduce the amount and cost of claims they face and so it makes sense to identify risks and try to minimise their impact (and as a consequence the amount of insurance required). While insurance can be used to finance the cost of dealing with the consequences of risk, it doesn't in itself manage the risk.

Many of the issues surrounding effective risk management will be discussed in detail at the conference organised by our friends at Thomas Miller Risk Management. The 2006 Risk Management conference will be held on 4th October at the Crowne Plaza Hotel at Blackfriars in the city of London.

The keynote speaker will be Anthony Carey who (amongst many other things) was project director on the original Turnbull report on Internal Control and subsequently wrote the London Stock Exchange publication "Corporate Governance: A Practical Guide". He will be talking about corporate governance and strategic risk with the focus on the importance of strategy and board effectiveness, and will be supported by a number of other experts discussing the practical aspects of risk management.

Essentially the organisers are hoping to create a practical "masterclass" in risk management from people who all have the necessary hands-on experience to be able to share valuable lessons.

Full details of the conference, including booking details, are available from the TMRM website at:  
[http://www.tmr.com/TMRM\\_C.nsf/vDOC/952CAF7C76E44B8580256C6A003867D2?OpenDocument](http://www.tmr.com/TMRM_C.nsf/vDOC/952CAF7C76E44B8580256C6A003867D2?OpenDocument) 

### 2. What is "apparent good order and condition"?

In a previous edition of TT Talk, Harry Lee of the Club's Hong Kong office stressed how disadvantageous it can be to carriers if the shipment details entered on bills of lading do not correspond to the actual state of the goods received. On the other hand most bills of lading or transport documents for international sale and carriage are subject to the Hague or Hague-Visby Rules. Article III Rule 3 of the rules stipulates that carriers must at least state on the bill of lading the "apparent order and condition" of the goods shipped if the shippers so demand. In this

article, Harry discusses how members can balance their duty to customers and their right to protect themselves from cargo claims.

"Apparent order and condition" refers to the condition of the goods as would be apparent on reasonable examination, and not the internal condition of the goods on shipment or their quality. If you receive consignments in irregular or doubtful condition, the Club recommends the following guidelines:

Firstly you should note that when a shipment is stated to be in "apparent good order and condition", it is also taken to mean it is properly packed and in such condition as to withstand the ordinary incidents of the voyage. If you receive a consignment which is obviously insufficiently packed, you must not issue a bill of lading without reservation.

Secondly, the terms of reservation must be as clear as desirable. If they are too general or ambiguous, the courts may presume that the goods are represented to be in apparent good order and condition. For example, in the 1946 case of Potts (AE) v Union Steamship Company of New Zealand, the packages of a shipment were damaged and it was subject to pilferage. The carriers had only claused the bill of lading "packages insufficient" and this was held an ineffective qualification of apparent good order and condition. The Club recommends that clausing or reservation be as specific as possible (say "58 cartons crushed"), though sometimes it is necessary to give fair estimates (for example "about 20% torn").

Moreover, any reservations or clauses must be placed on the front of the bill of lading, and not elsewhere. In an old 1935 case, *The Skarp*, the carriers received a shipment of damaged timber and entered a correct qualification but only on the reverse of the bill of lading. This was held not enough to contradict the status of the document as a "clean" bill. A member recently advised us that they recorded the damaged condition of the goods only on their warehouse receipts, believing that the documents could be used to defend any subsequent cargo claims. This approach clearly would not help! Neither should you follow the example of another member who entered reservations about the state of the cargo on the bill, and then stamped it "CLEAN ON BOARD".

In a nutshell, the whole requirement is an "accurate statement of fact" by exercising judgement on the appearance of the cargo so as to give the shipper, the consignee and anyone else who becomes a holder of the bill reasonable notice that there is some defect or shortage in the goods.

Finally, most bills of lading contain a printed clause such as "all particulars as furnished by the shippers but unknown to the carrier"; or "weight, measure, quality, quantity, condition, contents, and value unknown" (see the Club's 100 series model B/L). These statements are helpful to protect the carriers when the cargo details cannot be verified by reasonable shipping practices and members should make sure that their standard transport documents do contain such clauses.

Of course, if you are unhappy about the state of cargo received in your warehouse for shipment, it is probably better to discuss your concerns with the shipper at that stage, rather than stuff the items into a container and give the shipper a claused bill. **TTT**

### **3. Keep documents safe!**

Dutch police sources have stated that poor document control, lax information security and failure to carry out proper procedures is contributing to the theft of whole trailer loads in the Netherlands. Several instances have been quoted in which thieves have managed to acquire fully loaded trailers with the use of forged documents, fraudulently acquired documents or in some cases, no documents at all.

Truckpol comments that failure to apply proper document and information security procedures is one of the key weak spots in the supply chain and one which thieves exploit time and again. Even documents that appear genuine should not be the only means by which an unknown driver should gain access to your cargo.

These warnings are by no means new, and it is depressing that the police should have to repeat them yet again. The Club has repeated this message on many occasions. Nobody would give their keys to a total stranger, yet far too many people are prepared to hand over documents – essentially the keys to thousands of dollars-worth of someone else's cargo – to anyone who turns up with a plausible story.

We urge all members to review their internal security procedures, and to make sure that all employees, and particularly new ones, undergo regular training in security issues. **TTT**

#### **4. Extensive Changes to EU Commodity Codes**

The commodity codes used when importing and exporting goods are usually amended and updated in a five-year cycle to reflect the changes and developments of products traded.

The World Customs Organisation has already agreed the revisions for the January 2007 Harmonised System (HS) which impacts upon the EU's Combined Nomenclature (CN). This is in fact the third major revision of the HS since it was approved in 1983 and includes 354 sets of amendments.

The changes to the CN have now been agreed and are expected to be published in the EU Official Journal late next month. Informal estimates suggest that some 10% of the CN codes will be affected, with most changes occurring in Chapters 28, 29, 44, 61, 62, 63, 68, 73, 74, 84, 85, 90 and 95.

Members are recommended to alert their clients to this change so that they may re-classify any affected products in accordance with the new HS2007 headings in order to be ready for the 1 January 2007 deadline. Customers may have to make consequent changes to documentation, including commercial invoices, letters of credit, licensing data, labelling and other systems. **TTT**

#### **5. Nuntii latini**

Our Finnish readers will no doubt be among the first to agree with us if we say that their mother tongue is not one of Europe's most widely-spoken languages. Indeed there are probably more people who understand Latin than there are Finnish speakers. We are sure that they will therefore, join with us in welcoming an effort by two Finnish academics who, by publishing a newsletter in Latin, want to make news about their country's presidency of the EU more widely available.

Professor Tuomo Pekkanen and Dr Reijo Pitkaranta of the University of Helsinki have been running a weekly programme of news in Latin on the Finnish radio station YLE. They have now turned their attention to such exciting subjects as the Common Agricultural Policy (*ratio communis agros colendi*)

The bulletins can be seen on the internet pages (in paginis interretiaris) of the Finnish presidency [http://www.eu2006.fi/news\\_and\\_documents/newsletters/vko26/en\\_GB/1151597708295\\_1/](http://www.eu2006.fi/news_and_documents/newsletters/vko26/en_GB/1151597708295_1/)

For those readers who have the time and inclination to correspond in Latin, the two academics also operate an Internet chatroom: <http://chat.yle.fi/ylerradio1/latini/>

There are currently no plans for TT Talk to be published in Latin. **TTT**

#### **6. And finally ... the stories you may have missed**

Finally, we bring you two stories that you may have missed during the holiday period.

Firstly, to the police department in Scottsdale, a suburb of Phoenix, Arizona for the understatement of the month. A local mortgage broker, Francesca Cisneros racked up no fewer than 70 speeding tickets in five months, a record for the town.

"She told arresting officers she was speeding because she seemed to be late for client meetings all the time," Mark Clark, a spokesman for the Scottsdale Police Department told Reuters. "I guess she's got some time management issues."

Secondly news reaches us from the HazCheck website, of a promotional give-away in Milwaukee, that went spectacularly wrong. To mark the low vehicle accident rate in the city, an insurance company offered USD 30.00 worth of petrol (gasoline) to local motorists, but its generosity resulted in two road traffic accidents and four arrests. Hundreds of drivers queued for hours to receive free fuel and the line stretched over 1.5 km (a mile) into a residential area where it blocked several people's driveways. Fights broke out, and police made a number of arrests for public disorder. Three police officers were hospitalised after being splashed with blood from the nose of one of those arrested. Two collisions occurred when drivers tried to let their friends enter the queue. The city is classed as having the safest drivers in middle America (well, it used to be, anyway).

[http://www.hazcheck.com/general.asp?np=news\\_idx#newstop](http://www.hazcheck.com/general.asp?np=news_idx#newstop) 

## 7. 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](mailto:tt.talk@ttclub.com). We look forward to hearing from you. 

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