

Welcome to TT Talk, No. 84 in the series.

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1. A.M. Best upgrades TT Club ratings

The TT Club is extremely pleased to announce that the world-renowned insurance industry ratings agency AM Best has upgraded its financial strength rating from B++ ("Very Good") to A- ("Excellent") and declared the outlook for the rating as "stable". This recognition comes after four years of improving financial results from the Club that has taken its total surplus and reserves to USD112.7 million. The ratings agency also expects that the Club's excellent recent performance will continue in 2006 and 2007.

Paul Neagle, chief executive of the Club, commented: "The return to an 'A-' rating after four years is the result of sustained effort by everyone at the Club and we are delighted that the outcome of Best's latest review recognises their hard work.

"We have achieved consistent improvements in the key areas of an insurer's performance: underwriting, expense ratio, surplus, reserves and net worth. Every staff member has worked hard to deliver a service that has resulted in a consistently high membership retention rate of more than 90 per cent. This demonstrates the high level of loyalty and customer satisfaction shown by TT Club members and their brokers over the last four years."

For more information, visit A.M. Best's website at www.ambest.com

2. The receipt function of a bill of lading, and the status of a "clean" bill

Harry Lee, from the Club's office in Hong Kong has provided this look at one of the important functions of a bill of lading.

In previous editions, TT Talk has addressed the function of bill of lading as a document of title. We would now like to look at another important function of a bill of lading, namely its use as a cargo receipt.

A bill of lading serves as an acknowledgement by the carriers as to the quantity, condition, and quality of the consignment. This information about the cargo is cardinal to sale of goods. It also forms the evidential basis on which cargo owners can prove their loss.

A "clean" bill of lading, in contrast to a "clausued" bill, bears no reservation as to the apparent good order and condition of the goods received by the carriers. A carrier thus admits to the shipper that he has received the goods in the stated quantity and condition, unless evidence to the contrary can be adduced.

However, to a third party (say the endorsee or consignee) who has obtained the bill of lading in good faith, a "clean" bill of lading becomes conclusive evidence that the quality of the cargo was as described. At common law, this means the carriers are prevented (or, as lawyers say, "estopped") from providing evidence to demonstrate that the cargo was not in that condition at the time it was received for carriage; this rule is generally also upheld in most other legal systems. The Hague and Hague-Visby Rules, which apply to most bills of lading, have codified the position in Article III, Rule 4.

As banks would normally reject a "claused" bill of lading, the shipper will normally want to obtain a "clean" bill from the carriers. Frequently, shippers who fail to provide a shipment in entirely sound condition may offer the carrier a letter of indemnity in exchange for a "clean" bill of lading, agreeing to compensate him for any cargo claims. It is dangerous for any carrier, whether a shipowner or an NVO, to accept such an arrangement and members should not do so for the following reasons:

Firstly, as explained above the carrier has no defence to cargo claims brought about by the consignees or holders of the bill of lading, even if they can show that the damage existed before the cargo was shipped.

Secondly, it may turn out to be difficult to enforce a letter of indemnity if it comes from a shipper who never intended to compensate you. In the 1957 case of *Brown Jenkinson & Co Ltd v Percy Dalton (London) Ltd* the English High Court held that a letter of indemnity or undertaking produced by the shippers constituted a fraud on subsequent buyers. The letter was void for illegality and the carriers could not sue on it.

Lastly, members may prejudice their liability insurance cover if they knowingly ship damaged goods but do not clause their bill of lading.

In a future edition, Harry will consider how reservations on a bill of lading may be made if the shipper insists that his goods be shipped.

3. Tank containers expand

The International Tank Container Organisation, ITCO, recently released a study which found that chemical producers' use of tank container transport is likely to increase by as much as 10% a year in key markets for the foreseeable future.

The study, which surveyed senior logistics, supply chain and procurement managers at nine of the largest chemical producing companies in Europe, also forecasts that chemical companies will continue to outsource to tank container operators and lease in tanks rather than build their own in-house fleets. Tank container lessor TML reports that it has embarked on an ambitious newbuilding programme for 2006 that includes adding standard 20-foot tanks, CO2 tanks and cryogenic tanks. The newbuild programme is being partly driven by what the company says were record profits during the 2005 financial year. The company is also in the process of establishing a facility in the UAE, which it hopes to bring into operation in the second half of 2006.

4. How a boarding pass stub could lead to identity theft

Many readers of this newsletter will no doubt be aware of the risks of identity theft, and take appropriate measures, such as shredding, when disposing of sensitive documents.

Many readers no doubt also fly regularly and are probably members of one or more airlines' frequent flyer clubs. If so, how do you dispose of the boarding pass stub at the end of your journey? Do you shred that too, or just dump it in a handy litter bin? I mean, it's not that important is it? It's only a used boarding pass stub, after all.

A UK newspaper recently showed how frighteningly easy it is to build up a complete profile on a total stranger just from the information on a discarded boarding pass. Apart from the flight information and the seat number, the boarding pass of course also showed the passenger's name, his frequent flyer status and his card number. Armed only with that detail, on a stub that he had picked out of a litter bin on the train from Heathrow airport to central London, the reporter was able to establish, within half an hour and from publicly-available sources, the passenger's passport number, his date and place of birth, his

nationality, where he worked, where he lived (and how much he had paid for the house when he bought it a few years ago), and what university he attended.

So, when you leave the plane, please be careful what you do with the stub of the boarding pass.

The full story is available on

<http://www.guardian.co.uk/airlines/story/0,,1766267,00.html>

5. GHS reissued, now in Chinese and Russian

The first revised edition of the Globally Harmonized System of classification and labelling of chemicals (GHS) has been published in Chinese and Russian. Copies are available from the usual sources or through the UNECE website, www.unece.org/trans/danger/publi/ghs/ghs_pubdet.html.

The document is also available in English, French, Spanish and Arabic and (in CD-ROM format) in a bilingual English/French edition.

6. Malcom McLean

An eagle-eyed reader of TT Talk has pointed out that we misspelled the name of the "father of containerisation" in TT Talk 83, as Malcolm McLean. Why his first name was spelt with only one "l" is unclear: one version has it that his mother (or, perhaps, the registrar in his birthplace of Maxton, North Carolina) could not spell; another says that McLean himself changed his name in later life to a traditional Scottish spelling. Whatever the reason, the facts remain that he started the container trade as we know it today and he still only had one "l" in his first name.

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. We look forward to hearing from you.

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