

## Welcome to the latest edition of TT Talk, number 59 in the series

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### 1. Ship it, bill it and forget it?

An increasingly regular occurrence in the Club's mail bag is the arrival of tales of woe from members who have found themselves faced with enormous bills for container detention or demurrage charges, quay rent and other similar costs. The background is generally the same: several years ago the member sent a container-load of cargo to some distant destination. He booked the cargo with the line, issued the bills of lading, alerted the agent at destination, invoiced the freight, filed the job away and forgot all about it. Then out of the blue, the shipping line writes to him to say that the containers have, unknown to him, been on the terminal at destination ever since they got there. Nobody has shown the slightest interest in them. In the meantime detention charges have been incurred, which now amount to several thousand dollars, and would the member kindly send a cheque for this amount?

Investigations then show that the consignee has gone into liquidation and probably so has the shipper. The cargo is effectively worthless and certainly is not enough to meet the accumulated charges. The administrators running the bankrupt companies have, of course, no interest in taking on additional liabilities. The member can perhaps negotiate with the line to achieve a reduction in the detention charges, but is still faced with the costs of disposing of the cargo. The member is looking into a substantial black hole and, while the Club may be able to offer some assistance under the heading of "uncollected cargo costs" this is usually limited to USD 25,000 in any year.

While this scenario can happen with all sorts of customers, the Club's experience is that it is more likely with "one-off" shippers, and also with movements to areas where the member is not particularly specialised. It may be that the member has had previous dealings with the agent at destination, but often the name is picked almost at random, so there is no continuing relationship between the two companies. Although the agent has probably breached his obligation to protect his principal's rights, there is often very little that can be done to pursue him through the courts of his home country.

The Club suggests that the key to avoiding these disputes arising is pro-active management of shipments. There are simple measures that can be introduced:

a. It is not really sufficient to think that the job has been completed when the ship has disappeared over the horizon and the freight invoices sent out. Monitoring should be extended to the port of arrival. You should maintain a record of each NVOC bill that you issue and insist that your agents report back to you when the bills have been surrendered to them. Anything that is still open a certain time (say, about four weeks) after the consignment has reached destination should be followed up. Keeping these records in electronic format will ensure that you automatically get a reminder for any overdue reports. Simple routine action now by a junior member of staff will avoid a lot of expensive management time being tied up some time in the future, dealing with a major problem.

If you are alerted by your agent (or your client) to a potential problem, work together with them to find a solution. Some of the bigger claims have been made much worse by the two sides bickering endlessly with each other about fault, rather than taking the sensible step of collaborating to resolve the problem. Even worse, some of these arguments have been between companies in the same group, but their

misguided attempts to protect their individual profit centres led inevitably to a huge bill for the organisation as a whole.

Remember that the Club's local representative may be able to help by carrying out investigations or giving advice to the parties concerned.

b. If you are acting as an agent, you must monitor the flow of paperwork, and ensure that the consignees are coming forward with their documents reasonably quickly after the notice of arrival has been sent out. If nothing has been heard from the consignee within say two weeks, give them a call to find out what the problem is. Remember that you have responsibilities to your principal, and that if you do not act to protect his interests you could end up being fully liable for the costs incurred.

If there are particular reasons why the consignee cannot produce the bills (perhaps they are still held by the seller), keep the situation under close control, and tell your principal what is happening. Send regular reminders!

c. Shipping lines, too, can help by more regular billing of container demurrage costs. An invoice is a most potent form of reminder, and billing costs on a monthly basis does draw people's attention to a problem and concentrate their minds on finding a solution. Many of the current claims have arisen because nothing has been billed for a year or more, by which time the costs are so enormous that an argument is inevitable.

## **2. TT Talk's message endorsed by PM's wife**

Extraordinary evidence reaches us that TT Talk is taken note of in high places: the message in edition No. 58 has received welcome endorsement from no less an address than 10 Downing Street.

A picture in last Saturday's Daily Telegraph showed Mr Tony Blair ceremonially signing an application form for a credit union in his County Durham constituency, while his wife, a celebrated barrister, looked on. The accompanying caption noted that the Prime Minister admitted that, without his glasses, he could not read the document. Mrs Blair was reported as saying "I'm a lawyer. Don't sign it if you haven't read it".

Our sentiments entirely.

## **3. Is a container a package?**

As regular readers of this newsletter will know, judges in many countries are constantly being asked to decide whether a container is a "package", or whether it is rather the items inside that count for limitation purposes. Perhaps the British Department of Health can help.

Each December, the UK's Plain English Campaign makes a number of awards to companies and organisations that have produced outstanding examples of clear English in their publications. It also makes several awards for the worst examples of gobblydegook during the year. This year one of its Golden Bull awards went to the department of health for this definition of a container (admittedly a slightly different type to the ones the Club insures) in the Medicines for Human Use (Clinical Trials) Regulations 2004:

"'Container', in relation to an investigational medicinal product, means the bottle, jar, box, packet or other receptacle which contains or is to contain it, not being a capsule, cachet or other article in which the product is or is to be administered, and where any such receptacle is or is to be contained in another such receptacle, includes the former but does not include the latter receptacle."

So now you know.

#### **4. Keep the brain cells active: become a codebreaker**

If you feel in need of some sort of cerebral activity over the holiday period, to counteract all the feasting and general merrymaking, perhaps the UK Government Communications Headquarters (GCHQ) can help. This previously ultra-secret intelligence-gathering operation has made itself a little more public and has developed its own website. The organisation has launched a challenge to would-be codebreakers to take part in a competition to decipher 40 names, establish a link between them and find a hidden quotation. Full details are available on the website at <http://www.gchq.gov.uk/codebreaking/index.html>

(The presence of an apostrophe apparently helps.)

Good luck!

#### **5. And finally (for this year)**

This is the last edition of TT Talk in 2004. We hope that you have enjoyed reading the newsletter in the past year; we will be back in early January with our usual mix of stories. Until then, on behalf of everybody at the TT Club, we wish you a happy holiday season and every success in the coming year.

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