Freight Forwarder's Guide To

Marine Cargo Insurance

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To my daughter Rachael and to my son Matthew.

I would like to give special thanks to Linda Louise Dowd and to Julia Melges-Brenner
for their inspiration and encouragement to follow my dreams and to share over
35 years of experience and knowledge in the field of marine insurance.

This ebook is one of many publications addressing this very important field and,
on a personal level, represents the beginning of a very exciting journey.

I am honoured and privileged to be in a position to share this knowledge
and experience with others so that they may benefit.

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Welcome to the World of Marine Cargo Insurance for Freight Forwarders!

Introduction

From the very moment your customer's overseas bound cargo leaves their warehouse, it is at risk.

Depending on the type of commodity or merchandise your freight forwarding customers are shipping overseas, their cargo can be subject to over 20 types of transit loss or damage ranging from partial losses such as pilferage, rough handling or water damage, on the one hand, to total loss arising from a major casualty such as a fire or a vessel sinking, a truck overturn or a derailment, on the other.

With all these transit risks in mind, your customers are wise to protect their investment. Before their cargo even leaves the warehouse at the point of origin, they will have already expended thousands, hundreds of thousands or even, in some cases, millions of dollars in product research, manufacture, testing, marketing, quality control, packing protection and freight costs.

The cost of securing proper marine insurance protection is only a fraction of the overall cost of the finished product delivered to the receiver's door overseas. Yet having transit protection in place is an important investment, one that plays a pivotal role within the international trade cycle. In effect, marine insurance in general is inextricably linked to international trade and, therefore, should be an integral part of your customer's trading cycle.

The whole concept behind insurance in general is to transfer risk and there can be no other area of insurance where the seeking of protection through a marine cargo insurance policy is so vital. Moving cargo overseas brings about risks that are often extremely unpredictable and completely outside the control of the exporter or importer. Fundamentally, why should a cargo owner absorb the risk of an entire gauntlet of potential losses ranging from the minute to the catastrophic when at such little cost, insurance protection is readily available?

Just as it is important to have marine insurance in place to protect the cargo during the various stages of its journey overseas, so too one must ensure, as a freight forwarder, that the insurance you are about to offer to your customers meets their needs.

The purpose of this publication, therefore, is to offer all the important reasons for arranging proper and adequate cargo insurance. It will offer an explanation of the types of cover available in the marketplace, ranging from "named perils" to "all risks". You will also be introduced to little known policy extensions or additional grants of coverage that may be available from insurers. Such extensions may offer businesses additional protection when things go wrong during the course of an international sale or transaction, particularly in situations where, for example, the buyer overseas fails to meet its contractual obligations to the seller following a claim. (Or vice versa)

The publication will explain what is and what is not normally covered under a freight forwarder open cargo policy. It will provide important tips and guidelines that you, the forwarder should look for in arranging transit insurance on behalf of your customers. It will also discuss the pitfalls that are to be avoided particularly those that will leave your customers uninsured, inadequately insured or overexposed for certain types of risks. Furthermore, guidance will be offered on how to avoid insuring conditions that may be too onerous on your customer's business.

This publication will also introduce you to the claims handling, survey and adjusting process. Again, we will offer guidelines and tips to assist you or your customer in expediting the claim and avoid pitfalls that may delay or even impede an early settlement. Finally, we will guide you through the lesser known areas of transportation risks such as the very old principle of General Average and the procedures to be followed to secure release of the cargo and how, having a marine cargo policy in place, provides relief from such eventualities.

Lastly, you will note from the introductory pages of this publication, I have included some frequently asked questions. I trust these will help you find what you are looking for.

A Little History

It is said that the first form of marine insurance goes back as far as around 3000 BC when merchants dispersed their shipments amongst several vessels so as to address the possibility of damage to their products. But the earlier account of insurance came in the form of bottomry, a monetary payment that protected traders from debt in the event of loss or damage to cargo.

Although primitive forms of marine insurance existed in Europe in the 11th to 14th century, it was not until 1688 that the risky business of marine underwriting began in the form of Lloyds of London, named after the coffee merchant Edward Lloyd, thus beginning an institution that has evolved over the last centuries into the modern marine insurance market.

One can certainly go back over 70 years to focus on the earliest type of freight forwarding operation. The role of the freight forwarder has evolved significantly since the 1940s to become a highly sophisticated logistics professional in today's marketplace. Just as the role of this transport intermediary has redefined itself to meet the ever changing demands of international trade, so too the type of services offered to its customers has also evolved including the offering of cargo (or shipper's interest) insurance.

As computer technology has advanced in leaps over the past 2 decades in particular, the freight forwarder's offering of cargo insurance has become a very easy fit from an administrative standpoint. Many insurance companies offer online systems and as a result, a certificate of insurance no longer has to be manually prepared. No longer do cumbersome monthly declaration forms have to be completed. Shipments are now reported online and the insurance of customers' shipments has become so much easier over the last decade.

Just as every freight forwarder should have their own liability errors and omissions insurance, it is equally important that the freight forwarder also has an open cargo policy in place for the benefit of its customers. It is a given that most customers require insurance on their shipments and what better way than to have their shipments insured though a freight forwarder open cargo policy.

What is Marine Cargo Insurance?

The term "marine cargo insurance" also referred to as "wet marine" or "ocean marine" is somewhat of a misnomer. It may lead you to believe that it only embraces shipments by ocean going vessel. Such an understanding is quite incorrect. The method of transport is not the only criteria for determining whether your shipment is one to be covered by a marine cargo policy as opposed to any other type of policy. What is important in determining whether a marine cargo insurance policy would be the proper cover for your business is whether the shipment in question is of an international nature, typically – but not always – across a body of ocean between countries and or entire continents. Hence, a marine cargo policy would contemplate insurance protection for a shipment of say, consumer goods, by ocean going container vessel from China to New York. But it would also just as readily contemplate cover for a shipment of computer equipment, by an entirely different means of transportation, namely by air, from Tokyo to Paris. It could also possibly contemplate a shipment consisting of machinery, for example, moving by barge from Seattle to Hawaii.

On any one international shipment, there is, most often, a combination of different types of conveyance employed. Hence on a shipment of cargo by sea from say Berlin to Toronto, the cargo may first move by truck to the port of Hamburg at which point it is loaded on an ocean going container vessel. After a 10 day voyage across the Atlantic, the vessel arrives at the port of Montreal and, following discharge, the goods are then moved by train to Toronto. From the rail terminal, the goods are then delivered by a local cartage company to the final warehouse at destination. This is all part of an international transit covered by a marine cargo policy and, provided that you have an insurable interest throughout the transit, your goods will be covered from door to door.

On the other hand, inland shipments of cargo moving by truck within the geographical parameters of a state, country or continent (For example, shipments confined to inland Continental Europe or shipments within Canada and the United States) would not normally be classified as marine cargo insurance. Such shipments would rightfully fall within the ambit of an inland cargo policy. The former is often referred to as "wet marine" whereas the latter is often referred to as "dry marine."

Often, your freight forwarding customers may require cargo insurance for both international shipments as well as domestic truck shipments. Your freight forwarder open cargo policy will typically cover both types of shipment.

From time to time, your customers may also require temporary storage cover either prior to a shipment leaving or, after a shipment arrives at the country of destination. Such periods of storage are not generally covered under your freight forwarder open cargo policy. However, cover is normally granted on application to insurers through your insurance broker upon payment by your customer of an additional premium, usually charged on a monthly basis, provided that the conditions surrounding the storage constitute an acceptable risk.

Retain a Qualified and Experienced Insurance Broker

Your insurance broker is normally equipped with the skills and knowledge to ensure that you have the best cover available to match your marine insurance needs as well as the needs of your customers. Part of those skills involves the placement of a policy with an insurance company that is financially sound. Having a policy placed with an insurer that is based (or has an office) in your home country most probably means that the insurer, in order to operate, must meet solvency criteria imposed by the local regulatory body. As a resident business owner, you and your freight forwarding customers will enjoy the insurance protection of what is most frequently a highly regulated insurance institution in your own country. This will ensure that if your customer does have a claim that the insurer will always have sufficient funds to pay it. Depending on the insurance laws and regulations within your country, you will also likely have the additional protection of ensuring that your business is treated fairly in the manner in which the policy is underwritten and the manner in which your or your customer’s claim is handled and paid. On the other hand, if you decide to place your cargo policy with a foreign, non admitted, overseas based insurer, it is likely to fall outside the protective net of your local insurance regulatory body and consequently, you do not enjoy the same financial protection. It may also just as easily fall outside the jurisdiction of the regulatory body that governs the foreign insurer, on the grounds that you are not a resident business owner of that particular country. Hence, if you or your customer has an issue on a claim with an insurer based overseas, your customer has no access to anyone that can advocate (or stand up for) their rights. Remember that when things go wrong, your insurance broker is your advocate. An experienced broker will be able to advocate your and your customer’s rights in the event of a dispute over an underwriting issue or an unresolved claim.

Why do your Freight Forwarding Customers need Cargo insurance? How to Address Resistance from your Customers to Purchasing Cargo Insurance?

Whether your customer is new to importing or exporting or, whether your customer is a seasoned, well established business, a customer needs marine cargo insurance protection on the movement of its goods. The freight forwarder open cargo policy that you have in place offers that protection. In fact it is a very easy and convenient vehicle for insuring your customer's cargo. As and when you move your customers' freight, you can also arrange insurance on their behalf. If you do not offer insurance, then another freight forwarder will!

Your customer may offer the following arguments for not purchasing cargo insurance through your freight forwarder open cargo policy. As you can see, the standard arguments for resisting the purchase of cargo insurance are poorly founded.

Objection Number One: "My customer tells me that it does not need cargo insurance as the shipment is insured with the buyer or seller overseas!"

There are many reasons why it is not a good business practice for your customer to rely on its buyer's or seller's cargo insurance policy overseas. Firstly, your customer may be unaware of the terms and conditions of the overseas policy. There may be insurance protection in place but the cover could be very restrictive and your customer will not know of the policy's limitations until it is too late! Namely, when a claim occurs! There may well also be a very high deductible that has not been brought to your customer's attention. The policy overseas may also contain warranties (i.e. promises that have been made by your buyer or seller) that have been broken thus denying your customer the right to claim under the policy.

Secondly, your customer should have concerns if the overseas policy is expressed in the local currency of the policy. If your customer is a company based in Canada and the USA, for example, it may not take too kindly if payment of a claim is in Russian Roubles (Or any other foreign currency)which, like any other currency, will be subject to daily currency fluctuations and may adversely affect the monetary amount of the claim settlement.

Thirdly, if your customer does select to rely on its buyer's or seller's policy overseas, it may also mean that the claim will be handled, adjusted and settled through an overseas claims handling office. That office could be located as many as several thousand miles away in different time zones. For logistical reasons, therefore, this may result in delays in processing your claim. Whereas, on the other hand, a claim processed on a policy issued by an insurer based out of your own city, region or country may be handled more expeditiously. Lastly, if your customer does rely on their seller's or buyer's insurance policy overseas to respond to a claim for loss or damage, your customer has no or little leverage to bring a controversial claim to resolution. If, for example, the claim is denied, your customer may not have any regulatory protection, it will not have an insurance broker to advocate its position and if the denial is being contested, suit will have to be filed in the insurer's home jurisdiction, an action that can bring both uncertainty in its result as well as significant legal fees.

In short, for all the above reasons, your customer would be wise to purchase insurance through your organization, with the backing of a local marine cargo policy. Your customer should be wary of relying on an overseas cargo policy based on price alone. The customer may save money on premiums with an overseas policy but you it may not enjoy the cover and protection it had expected!

Objection Number Two: "My customer tells me they have never had a claim and their goods are resistant to loss or damage!"

These are very poor reasons for not purchasing marine cargo insurance. World climatic conditions are changing to such a degree that natural disasters affecting shipping are substantially on the increase. The Japan Tsunami of 2011 and Hurricane Sandy in 2012 are prime recent examples of natural disasters that caused losses of a catastrophic nature to shipments of cargo.

But even if your customer's business is fortunate enough to escape losses resulting from natural disaster, the customer can never be too prepared for other events outside everyone's control: Vessel sinking, grounding, collision, fire, truck overturn and derailment all constitute risks to the safety of your cargo.

There is also a lesser known type of casualty called a General Average. If the vessel carrying your customer's cargo encounters problems at sea, the shipowner may declare a General Average. Under the principles of this very old doctrine, each party to the venture – cargo, ship and freight – must contribute to the costs of saving it. If your customer is not insured, the customer will have to pay a deposit in cash to secure the release of their cargo. Sometimes, the cash deposit can be quite significant.

On the other hand, if your customer is insured, your policy's underwriters will provide the shipowners with a guarantee to facilitate the expeditious release of your customer's cargo. Likewise, if your customer's cargo is damaged or lost as a result of the General Average casualty, the insurance policy will indemnify your customer against such loss or damage. This means a happy customer!

Lastly, although attempts have been made to reduce cargo losses from theft over the years, cargo crime has become both very sophisticated and expensive. Your customer's cargo is not immune to theft! Moreover, piracy on the High Seas continues to be an occurrence that even the best international security forces have not been able to prevent.

Objection Number Three: "My customer tells me it does not need cargo insurance as it relies on its transportation company to pay for loss or damage to its goods!"

Transportation companies – such as steamship companies, airlines, rail companies and truckers – will only pay for loss or damage to your customer's goods if they are legally responsible. What is particularly challenging about this is that the onus is on your customer, the cargo owner to prove that the loss or damage occurred whilst the cargo was within the custody and control of the transportation company. This may be difficult to prove in cases of concealed damage for example.

It may also be a heavy burden for your customers if, as is frequently the case, there are multiple carriers involved in the transportation of their cargo with no evidence as to which point in transit the damage occurred. But even if negligence can be proven on the part of the transportation company, transportation companies normally have the privilege and protection of being able to rely on both exclusions and limitations of liability under the contract of carriage. Under its conditions of carriage, the shipowner, trucker or airline may rightfully decline all liability based on contractual exclusions. But even if exclusions do not apply to the situation at hand, it is more likely than not that the carrier may nonetheless be able to restrict the amount of the payout to your customer, the cargo owner.

For example, an ocean carrier can potentially limit its liability to only $ 500 per package on a shipment of cargo moving in or out of the USA by sea. Likewise, in relation to international shipments of cargo by air, an airline may be able to restrict its liability to approximately US $ 20 per kilo. In practice, it is extremely difficult to break such limitations. Hence, any payment your customer receives from the transportation company is likely to fall far short of the monetary loss your customer has incurred as a result of damage to the cargo.

Hence, without the benefit of cargo insurance in place and relying solely on the transportation company to respond to your customer's claims, your customer is likely to find itself seriously out of pocket and may even look to you, its freight forwarder to make good its losses! Also, transportation companies are not regulated in the same way as insurance companies and as a result, there is a greater risk of insolvency or bankruptcy of a shipowner, airline or trucking company. Further, even if there is liability, there is no guarantee that your customer will be reimbursed quickly. The customer may even have to wait months for a settlement from the transportation company. Having cargo insurance in place (through your freight forwarder cargo policy) avoids delays and customer dissatisfaction.

If your customer has an "all risks" policy with a local insurer, neither you, its freight forwarder, nor your customer need be concerned with proving liability against the transportation company nor will your customer have to wait inordinate amounts of time for the settlement. The insurance company will indemnify your customer for its loss based on the terms of the policy and in most jurisdictions, is duty bound, within reason, to bring the claim to an early conclusion.

Some cargo owners have attempted to overcome transportation company limitations of liability by purchasing full value declared cover from the transport company. Firstly, this can be quite expensive. But more importantly, full value declared protection is not the same as – nor is it as broad as – an "all risks" insurance policy. What full value declared protection means is that in the event that the transportation company is liable, it will pay up to the value declared protection that has been purchased. But the transportation company will not respond unless it is legally liable. The practical effect of this is that the onus of proving the transport company's liability falls on your customer's shoulders. Not always an easy burden! In short, have your customer purchase all risks cargo insurance through your freight forwarder open cargo policy.

Objection Number Four: "My customer tells me it has its own open cargo policy in and therefore has no need to purchase cargo insurance through my freight forwarder cargo policy!"

Whilst it is true that there are advantages for your larger customers to have their own open cargo policy, it is certainly more advantageous for your smaller customers to have insurance placed through your organization's freight forwarder open cargo policy. There are several reasons for this. Firstly, if they insure through you, they will not have to pay a deposit premium. On the other hand, having their own open cargo policy means that they have to meet minimum premium criteria. In effect, they will have to pay a deposit. That does not work well at all if your customer is only moving one or two shipments per year.

Secondly, as a freight forwarder, you have the potential to insure a far greater number of shipments than any individual customer. Hence, through the economies of scale you have far more buying power to achieve lower rates and even better terms.

Hence, your customers will generally pay lower premiums if they insure through your forwarder cargo policy as opposed to insuring shipments by purchasing their own open cargo policy separately. Thirdly, in the event that your customer has a claim that may not be recoverable under the policy, your office will have more leverage to successfully seek an ex gratia settlement under your own policy. Fourthly, if you have a large customer that wants its own open policy, you can request that a separate policy be issued. You will still have control as shipments will still be insured through your office.

Lastly, as a freight forwarder, you can request a profit commission provision in your policy. This means that if you have a good loss experience in any given year, your insurers will issue a profit commission cheque in your favour in recognition of your contribution to maintaining good quality business on your policy. To most freight forwarders, this can represent a good source of income.

Objection Number Five: "My customer tells me that insuring its cargo is too expensive!"

This particular statement could not be further from the truth! Cargo insurance is relatively inexpensive and represents only a small, insignificant fraction of the cost of the cargo.

When does my Customer have to insure its Cargo?

The quick answer to this question is: When your customer has insurable interest!

Your customer has "Insurable interest" when your customer stands to gain from the cargo arriving safely, or, stands to lose by the cargo suffering loss or damage. (Or not arriving at all)

As a matter of both law and practice, your customer must have insurable interest at the time of the loss, not necessarily at the time the risk commences.

Whether your customer has the responsibility to insure the cargo it is shipping or importing depends largely on the terms of sale. The international language that defines the respective responsibilities of the buyer and seller in any specific transaction is commonly known as the INCO terms. Originally, the list of INCO terms used by importers and exporters was very short and most international transactions were generally on a cif, fob, ex works or c&f basis. These terms are still frequently employed in international commerce. However, new INCO terms have been introduced over the years to match the ever changing nature of international transactions. From a risk management standpoint, each term, new or old, clearly defines at what stage in the transit the buyer or seller is responsible for insuring the cargo. Under cif terms, for example, the shipper (exporter) is responsible for insuring the cargo to the *cif* point overseas, against the buyer's risk of loss or damage during transit. If, on the other hand, the terms of sale are *ex works* or *ex factory*, then the buyer overseas is responsible for insuring the cargo from the point the goods leave the supplier's warehouse or factory all the way to final destination. In the case of the latter, it is the receiver or importer that has the insurable interest. As always, marine insurance follows international trade.

Even in cases where it is not your customer's responsibility as shipper or buyer to insure the cargo in a given case, it may be wise to secure a form of contingent cover. It is said to be "contingent" because the cover will only trigger if the overseas policy does not respond to a covered claim. More about this later!