

New Institute Cargo Clauses – what and why?

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Background



- First change in the cargo clauses since 1982.
 - Familiar
 - Tried and tested
- Came into effect on 1st January, 2009
- Transport and logistics have developed over this period.
- The basic clauses regularly amended by some “standard” additional clauses and coverage found in brokers clauses / insurers terms and conditions.
- General updating of language and wording.

Language update



- Underwriters -> Insurers
- Cargo -> Subject matter insured
- Servants -> Employees
- Attributable to -> Caused by

Duration of transit



- Cover commences:-
 - Was:-
 - From when the goods leave the warehouse for the commencement of transit,
 - Now:-
 - From the time the subject-matter insured is first moved in the warehouse or at the place of storage.. for the purpose of the immediate loading into or onto the carrying vehicle or conveyance for the commencement of transit.

Duration Clause



- End of cover (3 old triggers – whichever occurs first):-
 - No. 1 was:-
 - On delivery to the Consignee's or other final warehouse.
 - No. 1 is now:-
 - On completion of unloading from the carrying vehicle....in or at the final warehouse or place of storage at the destination....
 - No.2 was:-
 - On delivery to another warehouse or place of storage which the Assured elects to use either
 - For storage other than in the ordinary course of transit or
 - For allocation or distribution
 - No. 2 is:-
 - No substantive change

Duration Clause



- End of cover (3 old triggers – whichever occurs first):-
 - No. 3 was:-
 - On expiry of 60 days after completion of discharge from the overseas vessel at the final port of discharge
 - No. 3 is now:-
 - No substantial change
 - No.4 NEW:-
 - When the Assured or their employees elect to use any carrying vehicle or other conveyance or any container for storage other than in the ordinary course of transit..

Unseaworthiness - Protection of innocent buyers / assignees of policies



- Was:-
 - No cover for loss or damage arising from unseaworthiness of vessel or craft where the Assured are privy to such unseaworthiness at the time of loading.
- Is Now:-
 - As above but with addition that:-
 - The exclusion does not apply where a contract of insurance has been assigned to the party making the claim who has bought or agreed to buy the subject-matter insured in good faith under a binding contract.

Insufficient packing



- Was:-
 - loss damage or expense cause by insufficiency or unsuitability of packing or preparation of the subject-matter insured (for the purpose of this clause 4.3 “packing” shall be deemed to include stowage in a container or liftvan but only when such stowage is carried out prior to the attachment of this insurance by the Assured or their servants)
- Is now:-
 - loss damage or expense cause by insufficiency or unsuitability of packing or preparation of the subject-matter insured to withstand the ordinary incidents of the insured transit where such packing or preparation is carried out by the Assured or their employees or prior to the attachment of this insurance (for the purpose of these Clauses 4.3 “packing” shall be deemed to include stowage in a container and employees shall not include independent contractors)

Change of Voyage



- Was:-
 - Where, after attachment of this insurance, the destination is changed by the Assured, held covered at a premium and on conditions to be arranged subject to prompt notice being given to the Underwriters.
- Is now:-
 - Where, after the attachment of this insurance, the destination is changed by the Assured, this must be notified promptly to insurers for rates and terms to be agreed. Should loss occur prior to such agreement being obtained cover may be provided but only is cover would have been available at a reasonable commercial rate on reasonable market terms.

Change of Voyage



- NEW part to clause:-
 - Where the subject-matter concerned commences the transit contemplated by this insurance (in accordance with Clause 8.1), but, without the knowledge of the Assured or their employees, the ship sails for another destination, this insurance will nevertheless be deemed to have attached at the commencement of such transit.

 - MIA (1908) section 45 (Sailing for different destination)
 - ***Where the destination is specified in the policy, and the ship instead of sailing for that destination sails for any other destination, the risk does not attach.***

 - “Prestroika”

Thank you