

PRACTICAL ASPECTS IN DOING INTERNATIONAL BUSINESS

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Chapter 5

Insurance in international business transactions

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Insurance is a form of risk transfer onto another economic entity (an insurance company), in return for an appropriate price (an insurance premium). Such a solution is of particular importance in international business, because it allows businesses to calculate in detail the profitability of the planned transactions (including their costs) with the use of the fixed costs of insurance (the insurance premium) instead of calculating financial consequences of various risks, which are usually difficult to assess. By concluding the insurance contract and paying the insurance premium, the insured entity is relieved of the risk. Should the risk occur, the insured party will receive the financial means to cover the loss.

The risk is when the decision maker cannot predict with certainty future events that are known and can be determined statistically, so the risk is called the statistical probability of random negative events for the affected entity or defined situations in which the probability of at least one of the elements occurring is known. The effects of such a decision for the company will be adverse. The risk is measurable, can be estimated. It is common and it differs from uncertainty, which is incalculable, because there is a lack of statistical parameters for estimating a random event, and it occurs when decision makers know that all events are possible, but they do not know the probability of the elements involved. It is not possible to determine the probability of a random individual events that are unusual

5.1. Classification of risks and risk management

International business transactions usually involve a greater risk than business activities run by companies solely on domestic markets. This is mainly because of the differences in economic, political, social, legal or cultural systems, but it may also result from quite a large geographical distance between the home and host countries. The risk consisting of the possibility of the occurrence of events that are independent of the economic entities involved, and which cannot be foreseen or prevented, is usually related to assets. In this case, it mainly concerns goods, subject to export-import transactions and the processes relating to their movement (transportation, storage, presentation), although the risk may also be associated with the rendering of services or with capital flow. Thus, the risk-charged assets include the goods themselves, means of transport, unexpected additional costs or necessary financial inputs related to the storage of goods, their transportation and inspection.

Different types of risk associated with running an international business originate from various sources and can be classified according to a number of different criteria.

Risk management, aimed at reducing the possibility of risk occurrence and at alleviating its consequences, usually involves: risk identification, estimation and steering as well as, supervision of undertaken measures. Risk identification is meant to enumerate the types of risk that may occur in relation to international business activities.

Country risk is associated with the basic infrastructure essential for the company's operations: transport, telecommunications or the laws in force, but also with the economic situation (GDP growth rate, inflation, unemployment or debt). Other factors related to country risk may involve: crime, corruption, internal conflicts, civil unrest, strikes or terrorism in the host country. All these exert a strong influence on the security, efficiency and profitability of the business activities run. Therefore, managers need to take into account all possible consequences of political decisions taken in the host country, and to make appropriate political risk analysis prior to the commencement of their activities abroad.

Political risk involved in international business transactions concerns the type of, and general stability of, the socio-economic, political and legal systems in the host country. The increase of trade protectionism (including embargos) after the conclusion of a contract, introduction of payment restrictions, fluctuations of currency exchange rates or nationalisation may all lead to lower profitability, delays, freezing and termination of already concluded transactions, or even to the partial or total loss of property (resulting from confiscation or damage).

Technology risk, particularly likely to occur in the e-business era of today, is linked to the lack of security of electronic transactions, disturbances in electronic data processing, absence of appropriate IT infrastructures, as well as the costs of rapidly developing technologies that, at the same time, are subject to unexpected failures or major breakdowns. All these may cause serious problems affecting the business activities undertaken in the host country.

Environmental risks, such as air, water or soil pollution (due to the company's activities) may – under the pretext of breaching the laws or executive and ecological regulations – lead to protests of neighbours, ecological organisations or other groups, thus freezing the planned investment or exploitation of the company's facilities. Consequently, this may result in hindering the business activities completely, even to the point of premature closure which, in turn, leads to the loss in assets and the company's reputation.

Economic and financial risk is linked to the developments in fiscal and monetary policy, interest and currency exchange rates fluctuations, but also to the inflation rate, GDP, unemployment, financial liquidity of the host country (capability of settling foreign liabilities) or with the freedom to transfer profits. International transactions and investments undertaken by a company may be affected intensely by fluctuating exchange rates, which may exert a negative impact on the value of income transferred to the home country at a time of currency depreciation in the host country.

The risk subject and source are often used as criteria for risk categorisation. According to the risk subject criterion, we can distinguish two basic types: commodity risk – related to the state of the goods, and commercial risk, which, in turn, may be divided into: market risk, related to difficulties in sales due to adverse conditions on the recipient market. and transaction risk, directly related to the concluded contract. The principal risks, which may occur due to the ill will of the contractor, include: a breach of the contract, delay, refusal to deliver or receive the merchandise, or deliberate provision of a smaller quantity or lower quality goods than agreed under the contract. Contractual obligations may also be infringed by falsifying the documents relating to the commodities traded, delays in and a partial or total refusal of payments due. A failure to meet contractual obligations may, however, result from objective reasons, such as an act of God – extraordinary forces of nature: earthquakes, hurricanes, fog, sea storms, volcanic eruption, lightning, avalanche. Exercise of powers by the authorities, such as - previously mentioned - the imposition of trade restrictions, confiscations or changes in the exchange rate can also affect execution of the contract. Finally, the reasons for non-performance of contract may result from human activity: warfare, revolutions, industrial actions, riots or terrorist acts.

Specific types of transaction risks may be associated to particular categories of contracts. In re-export transactions, for example, the risk may consist in limitation, or the denial, to claim damages, if the commodities have been transferred to a destination other than the country of destination precisely set in the re-export clause. Switch transactions bear the inherent exchange rate risk, since their essence lies exactly in the exploitation of exchange rates and price differences. In the case of tied and compensation transactions, whose essence lies in one contract's execution being dependant on another, substantial differences in times and values of mutual deliveries may occur (although, as a rule, this generally should not take place under these type of contracts). In the most extreme cases, a contractor may fail to fulfil his/her obligations, despite proper execution of the contractual commitments by the other party. Some kind of agreements accompanying the main (trade) contract may also cause exposure to risk, e.g. agency, commission or consignment risk.

Price risk concerns the likelihood of movements in commodities prices that may occur – to the detriment of one of the parties – between the conclusion of the contract and its settlement. Exchange rate risk or currency risk is involved in the case of exchange rate fluctuations (appreciation/revaluation or depreciation/devaluation). Efficient management of this risk is very often of key importance for a company's survival on the market. Commodity theft risk has always been associated with all types of commercial transactions.

Risk related to the choice of distributions channels may take the form of an intermediary illegally transferring information and data to competitors or presenting the goods inappropriately, thus leading to lower sales. Commodity risk is associated with the possibility of loss or damage of goods, change in their numbers, shape or quality, or with the necessity to incur additional costs to prevent (or reduce) these losses at every stage of the goods transfer.

Transport risk is quite specific in relation to foreign trade. This is because the goods are often moved over long distances and therefore the cost of transport and the associated transfer of the risk from the seller to the buyer constitutes a vital part of the contract price. The costs of transport depend not only on the distance but also on the modes of transport employed (by air, rail, road, sea or by inland waters). The moment of

transfer of risk and the mode of transport are agreed under the contract within the terms of delivery. This can be done either indirectly – by use of one of the Incoterms, applicable only to water transport (FAS, FOB, CFR, CIF) or directly, in the mode of transport clause. Thus, the seller loses the freedom to choose the mode of transport, which is not the case when CPT, CIP, DAT, DAP and DDP are used. It is of vital importance for the buyer under the CPT and CIP formulas, since the risk is transferred to him/her before consignment starts (at the moment of loading into the means of transport), while the seller – enjoying the freedom of choice – could choose the least expensive means of transport, usually incurring the highest risk.

Damage to the goods or their loss may be caused by various factors. In all branches of transport this may result from improper loading, unloading, packaging, stowage, accident of the means of transport, uncontrolled movement of the load within the means of transport, fire, or theft. Some kinds of goods are more prone to damage, due to their natural features, e.g. dangerous goods (explosives, chemicals), perishable goods (fresh vegetables, fruit, flowers, meat, natural leather) or fragile items (glass, ceramics, eggs) and therefore, if not properly secured, are more exposed to damage in the case of transport accident.

Additionally, in the case of sea transport, the damage can be caused by constant movements (due to swinging), soaking with water, sinking of the vessel, stranding, piracy (near Indonesia, Bangladesh, Nigeria, Somalia), theft or ransom demands. Other possible causes of damage or loss include: collision, containers falling overboard (due to improper fixing), bankruptcy of the ship-owner, closure of the port, storm and unfavourable weather conditions delaying loading or unloading. A General Average act may occur, when the captain intentionally decides to sacrifice part of the cargo or to incur extraordinary costs in order to save the whole load in the case of an emergency. Part of the cargo can be thrown overboard to save the crew, the vessel or the rest of the cargo, when, for example, the loosened containers become dangerous. Under the General Average rules, the loss or the costs are shared proportionally by all parties with a financial interest in the voyage. The General Average claims are settled by average adjusters or dispatchers, according to the rules codified in the York-Antwerp Rules.

The damage or loss risk factors in air transport, usually lower than those in sea freight, are usually associated with the changes in pressure during the flight, differences in temperature or dampening of goods on the airport apron. Risks in road transport, more frequent than under other modes, are usually associated with road accidents or soaking of goods during carriage, loading or unloading. Loss or damage to the goods, resulting from negligence, mistake or failure to act by the party involved in a given phase of transaction, are not recognised as risk-driven.

From a quantitative point of view, damage claims may be divided into partial damage, whereby only part of the indemnified assets are damaged, and two types of total loss. Actual total loss occurs when the commodity is no longer the same, having lost its properties and function, while the owner is deprived fully of his/her assets. In the case of constructive total loss, the commodities are not entirely lost and can be recovered, however, at a cost disproportionate to the value of the goods. The notion of constructive total loss is closely linked to the abandonment instrument, that is yielding the property rights to the benefit of the insurer in return for the payment of the total insurable value to the insured.

5.2. Liability of carriers in international transport

As a general rule, the carrier is liable for all risks related to loss or damage to the goods from the moment of taking over the commodities until their delivery to the recipient. The fault of the carrier is presumptive, i.e. it is assumed that the carrier has not exercised due diligence. The damages for lost or damaged goods may be claimed from the carrier or the insurance company by the owner, provided that the commodities have been indemnified. The responsibilities of carriers for loss in international transport are, however, limited by the provisions of the relevant international conventions.

5.2.1 Liability of carriers in maritime transport

In accordance with the Hague-Visby Rules, the liability of the carrier is limited both to the scope and the total value of damages due, and calculated as 666.67 SDR (Special Drawing Rights) multiplied by number of packaging units, or 2 SDR per kilo of gross weight (whichever one is the higher). The carrier is not responsible for damage caused by: a) an act of neglect or default of the captain, crew members, pilot, or the employees of the carrier in the navigation or in the management of the ship, b) perils, dangers and accidents of the sea or other navigable waters, c) fire, unless caused by the actual fault of the carrier, d) wars, acts against public order, riots, strikes or lockouts, or other conditions hampering

the carrier's operations partially or generally, e) attempts to save life or property at sea, f) latent defects of the vessel, not discoverable by due diligence, g) any other cause arising without the actual fault of the carrier, his agents or employees.

5.2.2 Liability of carriers in road transport

Under the CMR (Convention on the Contract for the International Carriage of Goods by Road), the carrier is relieved of responsibility if loss, damage or delay has been caused by: a) wrongful act or neglect of the claimant or instructions given by him/her without any fault on the side of the carrier, b) inherent defects of the goods or circumstances which the carrier could not avoid and the consequence of which could not be prevented, c) use of open, unsheeted vehicles, when their use has been expressly agreed and specified in the consignment note, d) the lack of, or defective condition of packing in the case of goods which, by their nature, are liable to wastage or to be damaged when not packed or when not properly packed, e) handling, loading, stowage or unloading of the goods by the sender, the consignee or person acting on behalf of the sender or the consignee, f) the nature of certain kinds of goods which particularly exposes them to total or partial loss or to damage. especially through breakage, rust, decay, desiccation, leakage, normal wastage, or the action of moth or vermin, g) insufficiency or inadequacy of marking, h) carriage of livestock.

The amount of damages due (with the exception of the case when the consignment note contains a declaration of the value of the goods and the amount representing special interest in delivery, relating to loss, damage or delay) cannot exceed 8.33 SDR per kilo of missing gross weight and the total value of the shipment at the place and time of acceptance for carriage. Additionally, the carrier is obliged to return the carrying charges (or refrain from claiming them) as well as to refund the customs duties and other charges related to the shipment in full or in proportion to the loss incurred. These obligations are also of compensatory nature.

5.2.3. Liability of carriers in rail transport

Compensation for the damage to a consignment is set as an equivalent of percentage loss in value, although it may not exceed the amount of compensation which would be payable in the case of the loss of the entire load, calculated according to the stock exchange value, or in its absence, according to the market price. If the market price cannot be established, the reference price is that of the usual value of the goods of the same kind or type on the day and at the place where the load was taken over by the carrier. In accordance with the CIM Rules (Uniform Rules Concerning the Contract of International Carriage of Goods by Rail), the compensation should not exceed 17 SDR per kilogramme of gross mass short. Apart from the compensation, the carrier must refund the carriage charge, customs duties paid and other sums paid in relation to the carriage of the lost goods, with the exception of excise duties on goods carried under a procedure suspending these duties. In respect to goods which are subject to wastage by reason of their nature, the carrier, regardless of the length of the route, is only liable to the extent to which wastage exceeds the following allowances: a) 2% of the mass for liquid goods or goods consigned in a moist condition, b) 1% for the mass of dry goods. Such limitation of liability cannot be invoked if the loss was not due to causes which would justify the allowance when the loss has been caused deliberately or by obvious negligence, recklessness or omission of the carrier, from whom the authorised person may claim damages in the full amount, covering both the loss related to the goods and the lost benefits that the party could gain, provided that the goods have not been lost.

5.2.4. Liability of carriers in air transport

The carrier is not liable to the sender, recipient or other parties, if the destruction, loss or damage to cargo results from an inherent defect, quality or type of the cargo, or if the loss, delay or destruction was not due to negligence or omission by the carrier and when the damage or loss was caused by the negligence or omission by the sender, recipient or another claimant party. The carrier's liability, in accordance with the Warsaw and the Montreal Conventions, is limited to 17 SDR per kilogramme of the gross mass of the cargo lost, damaged or delayed. If the sender has submitted a declaration of the cargo value, and paid additional charges related thereto, the carrier's liability is limited to the amount declared in the Air Waybill.

Summing up, the carrier's liability covers exclusively the damage caused by the carrier's fault, but cannot exceed the limits laid down by international conventions. The carrier's responsibility does not cover

the loss or damage occurring due to circumstances the carrier could not avoid. When the value of goods exceeds the liability limits specified by relevant conventions, the liability for the loss, damage or wastage exceeding the limits falls on the sender/recipient.

5.3. Methods for mitigation of risk

Risk assessment, conducted with the use of various criteria, enables identification of the risk factors to which particular attention should be paid. In turn, steering means undertaking preventive measures aimed at protection against the risk or – at least – at bringing it down to acceptable levels. One can actively exert influence on the sources of particular risks or concentrate passively on protecting oneself against potential loss.

There are active and passive techniques of risk mitigation in international business.

Exerting active influence may consist in: a) avoiding, which is turning down contracts exposed to excessive risk, b) undertaking preventive measures precluding the occurrence of random events, c) transfer of risk and responsibility for covering potential damages onto other entities by: insurance, warranties, guarantees or forward contracts, d) concluding hedging (protective) transactions, to protect oneself against disadvantageous price developments in the future. A hedging transaction is concluded in parallel with a real futures contract (e.g. future purchase) as a reverse transaction (future sell). A selling hedge is used for the purpose of insuring against a possible decrease in commodity prices, while a buying hedge protects against price increase, e) diversification, leading to alleviation of the risk level by concluding transactions and running the business in various countries, with different partners and in several branches. A passive approach to risk steering consists in setting up the appropriate financial reserves to cover potential future losses.

The main objective of risk supervision is to assess the efficiency of undertaken risk mitigating measures and drawing conclusions as to the necessity to take adequate decisions and actions.

5.4. Types of insurance contracts

An insurance policy – a basic type of standard insurance document which confirms the conclusion of an insurance contract. It contains a number of essential clauses, such as the name of the insurer and

insurant/insured (or assured), the quantity, quality and type of property insured, the scope of the insurer's liability, the policy period, type of risks covered, the policy limits (amount/value of insurance), the modes for documenting and submitting claims, the modes and means of transport, signature of the insurance company's representative. There are several types of insurance policies:

A single policy - confirming the conclusion of an insurance contract covering a specific subject during the period fixed in the policy. The liability of the insurer expires at the time stipulated in the policy or when the shipment has been delivered to its final destination. This type of policy is less and less popular and serves mostly the purpose of indemnifying single shipments, while general framework policies are by far the more popular. In the latter case, one insurance contract covers all or selected types of goods that the insured has sent or received within the period fixed under the contract. The general policy confirms the conclusion of the insurance contract, under which the insured undertakes to indemnify all shipments covered by the contract and the insurer takes on an obligation to accept all these shipments for insurance. We can distinguish between the general floating policies and general block policies. Under a floating policy regime, the insured submits to the insurer the specification of export and import consignments/cargos at fixed times. Their value is deduced from the face amount of the policy. This procedure is repeated until the insured sum is exhausted and the new contract is concluded. In the case of a block policy, the insurance covers under uniform conditions the entire course of trade and not single shipments. The parties agree as to the total volume of transactions under the entire course of trade and the insurance premium is calculated proportionally to that volume and paid in instalments specified in the contract. This type of policy is used when the goods traded by the insured are rather homogenous in nature and the shipments are exposed to similar risks of damage or loss. The insurer is often obliged to issue insurance certificates for individual shipments, in particular when the trade contract obliges the exporter to submit such a document to the importer (in the case of contracts concluded under CIF or CIP formulas). An insurance policy is a valuable document and can be transferred by giving, endorsement and assignment of rights.

A certificate of insurance is a document issued under the general policy and verifies the existence of coverage under an insurance policy

contract. The document stipulates that the person indicated (insurant) has concluded a general policy, under which the subject named in the certificate has been covered. The certificate also contains the clause confirming that, in the case of loss or damage, the certificate holder is entitled to receive compensation. The insurer usually designates the body which should be informed about the damage done and provides an instruction detailing the procedures related to the calculation of the compensation due, securing recourse rights and listing the documents required for dealing with the claims. The certificate of insurance is usually issued when there is no time to issue the general policy or when the certificate is used as a confirmation of conclusion of the insurance contract by the seller for the benefit of the buyer. It is transferrable (to the buyer) via indorsement or giro, but can be also issued on request

A cover note – is one of the documents confirming the conclusion of an insurance contract and issued temporarily by the insurer, by which the insurer guarantees the insurance cover until the moment when the full policy is issued, until a framework insurance contract is concluded or finally negotiated and only minor provisions are being discussed. The note includes the key elements of the insurance contract, that is: the names of the insured and the insurer, the date of issue and expiry of the note, the subject and scope of insurance (types of risks covered) and provides the same level of risk coverage as the full insurance policy, sometimes with some restrictions only. The insurers may grant the holder of the cover note the right to withdraw the policy within a fixed period and to receive a refund of the premium paid, on condition that during this period no claim for damages has been made. A cover note is sometimes issued within the framework of a general insurance policy to confirm that for a particular subject-matter of insurance the parties agreed to apply specific conditions, different from the ones provided for in the general policy. Some insurance companies issue certificates of insurance instead of cover notes.

A **broker's slip** is prepared by a broker, who participates in the preparation of an insurance contract or facilitates its conclusion, and who also takes part in its management and execution – in the name of, and on behalf of, a subject intending to conclude a policy. The slip, containing the key elements of the future policy (the names of the insured and the insurer, subject and types of risk, insurance amount and the rate of insurance premium) is submitted to the insurer whose signature on

the documents equals his/her acceptance to take over the risk. Within a specified time – until the policy is issued – the parties may resign from the conclusion of the contract.

The subjects of insurance contracts in maritime transport may be every financial interest related to sea transport that can be expressed in monetary terms, such as the vessel and the cargo with the expected profit on it, freight, charter fees, commissions, general average expenditure or fees for passengers' carriage. Contracts can be concluded in respect to a particular voyage, for a fixed time, as well as for the time and the voyage (mixed contracts). The parties to the contract are the insurer and the insurant (not the insured), to whom the policy is presented and who pays the insurance premium. The insurant can conclude the contract with the insurer in three forms: for his/her own account, to the benefit of a third party (the insured) and to the benefit of the person concerned, in the case when the insured is not named in the contract. Thus, a third party, who is not party to the contract, may still be entitled to compensation.

The right to compensation depends on the existence of the financial interest on the side of the party submitting a claim. Therefore, this may be the insurant, until the moment of risk transfer to another entity, the person named in the insurance contract, to whom the rights resulting from the contract have been transferred, or the person submitting the policy issued to the bearer or on request.

The sum insured cannot exceed the value of the subject of insurance and the compensation cannot be higher than the loss suffered. The settlement of the claim may take the form of payment of compensation, payment of the full amount insured without transfer of ownership rights to the insurer, or with such a transfer, that is, with abandonment. The application of abandonment procedure may accelerate the claims settlement under constructive total loss, in particular when: the vessel is missing without a trace, has been captured and it is not worth the price of its recovery, was involved in an accident and is not worth the price of the repair, or when the cost of cargo delivery would exceed its value. Abandonment is not compulsory and, even when declared by the insured, may sometimes not be accepted by the insurer.

The insurers often tend to transfer part of the loss or damage suffered onto the insurant by introducing a franchise, which is the minimum value of a loss, below which no payment is made. The limit of this minimum can be set as a fixed amount or as a percentage of the sum insured. If the loss exceeds the agreed minimum, then – in the case of

an integral franchise (conditional) – the total amount insured is paid. In turn, in the case of deductible franchise (unconditional), regardless of the actual value of the loss suffered, the insurer deducts this minimum amount (franchise) from the total amount of compensation. Thus, the insurer may exempt from liability some petty losses or damages not related to random events.

As mentioned, the franchise can be suggested in the form of a quota, for example 1000 EUR, or as a percentage of the sum insured, for instance 2% – for the sum insured in the amount of 1000000 EUR, the franchise will be 20000 EUR.

Example:

For the integral franchise of 20000 EUR, the insurer has no obligation to repair the damage worth 19900 EUR, but absolutely it will have to pay compensation in full for the damage 30000 EUR.

In the case of deductible franchise of 20000 EUR, similarly, the insurer has no obligation to repair the damage of 19900 EUR, but for the damage 30000 EUR pays compensation of 10000 EUR (30000–20000).

5.5. Policy insurance conditions

In practice, three sets of cargo clauses known as the **Institute Cargo Clauses** (ICC) are used when concluding the insurance contracts. These are the A, B and C cargo clauses model insurance conditions, formulated by the Institute of London Underwriters. The clauses are of universal nature and can be applied to most types of cargo and means of transport. Originally, the clauses used to be applied to maritime carriage and, therefore, for rail and road shipments, the clauses are used with the exclusion of those provisions which are not applicable to these modes of transport. The scope of insurance coverage depends on the agreed set of clauses. The widest scope, based on the 'all risk' rule, is offered by the ICC (A), while the B and C sets offer coverage limited only to the named types of risk. On 01.02.2009, the Institute of London Underwriters published the Institute Cargo Clauses (A), (B) and (C), the Institute War Clauses (Cargo) and the Institute Strikes Clauses (Cargo) Each set contains 10 clauses which differ as to the risk clause – provided for under number 1.

In the A set of Clauses – insurance covers the risk of loss or damage with the exception of those resulting from: wilful misconduct, normal wear, insufficient or unsuitable packing, unseaworthiness of the vessel, wars, strikes or lockouts.

Under the B Clauses – the insurance covers loss or damage due to: fire or explosion, stranding, the sinking or capsizing of a vessel, the overturning or derailment of land vehicle, collision or contact of a vessel, craft or vehicle with any external object, the discharge of cargo at a port of distress, earthquake, volcanic eruption, lightning, general average sacrifice, jettison or washing overboard of the subject-matter, entry of water into the vessel, vehicle or container or place of storage and total loss of cargo during loading or unloading.

The C Clauses provide for coverage of loss or damage caused by: fire or explosion, stranding, the sinking or capsizing of a vessel, the overturning or derailment of land vehicle, collision or contact of a vessel, craft or vehicle with any external object, discharge of cargo at a port of distress, earthquake volcanic eruption, lightning, general average sacrifice, jettison or washing overboard, etc. Under the Institute Strike Clauses (Cargo) of 1.1.09, the insurance covers the loss or damage related to the subjectmatter insured caused by: strikers, locked-out workmen, or persons taking part in labour disturbances and riots or civil commotions; acts of terrorism or deeds by persons acting on political, ideological or religious motives. The insurance also covers: general average and salvage costs, settled or agreed in accordance with the freight contract and/or the law and practice applicable, incurred in order to avoid or in relation to attempt at avoidance of the loss or damage covered under the clauses in question. The **Institute** War Clauses (Cargo) of 1.1.09 provide for coverage of the loss or damage to the subject-matter insured due to: a) war, civil war, revolution, rebellion, insurrection or civil strife arising therefrom, or any hostile act by or against a belligerent power, b) capture, seizure, arrest restraint, or detainment, arising from risks covered under point a), c) derelict mines, torpedoes, bombs or other derelict weapons of war. The insurance also covers general average and salvage costs settled or agreed in accordance with the freight contract and/or the law and practice applicable, incurred in order to avoid, or in relation to attempt at avoidance of, the loss or damage covered under the clauses in guestion. Apart from the foregoing clauses, a number of additional clauses are applied, such as: the general average clause, the both-to-blame collision clause, which provides that the liability of the insurer (underwriter) covers the period from the release of the cargo from a warehouse until the time of delivery of the cargo to a warehouse (until the expiry of a 60-day period after unloading).

The Change of Voyage clause provides that in the case of changed destination, the insurance contract is valid in return for an additional premium

and on condition of immediate notification of the change to the insurer. The Forwarding Charges clause concerns the situation where the transit of cargo terminates at another port than the originally agreed port of destination. The insurer returns the costs of unloading, warehousing and forwarding the subject-matter to the destination to which it is originally insured. The clause exempting the transfer of insurance rights (benefit of insurance clause) protects the insurers against a situation in which the carrier makes a reservation in the contract of carriage that he/she will not be liable for the loss or damage covered by the insurance. The Duty of Assured clause puts on the insured an obligation to undertake all possible measures in order to avert or minimise the loss, while any costs or charges related to the fulfilment of these duties will be returned by the insurer. The Avoidance of Delay clause requires the insured to undertake prompt action in the case of an emergency, to avoid or minimise the loss or damage.

Insurance of containers and the goods carried in containers includes specific types of losses or damage related to improper loading and stowage of goods in a container, placing different goods in one container, improper handling of the container or a prolonged absence of inspection of the state of the goods.

Insurance of exhibits presented at fairs and exhibitions – usually concluded in the form of a package including: a) insurance of exhibits in transport (covering all kinds of exhibits and exhibit booths and equipment transferred by various means of transport, b) insurance during the exposition and storage, covering such risks as fire, theft, robbery and other random events, c) insurance of civil liability arising out of use of the display space. The insurance covers the loss or damage related to the assembly, dismantling and display of exhibits. Financial compensation is due in the case of bodily harm, health disorders or death of a third party, or for the loss or damage to the possessions belonging to third parties. Additionally, it includes the costs of legal protection in the case of a lawsuit brought against the exhibitor.

The credit insurance secures the covering of financial losses of debtors that may occur in the case of non-repayment of the loans.

5.6. Procedures for settlement of claims

A typical procedure for the insurance claims, in the event of loss or damage, starts with: 1) immediate notification addressed to the insurer or – when it is not possible – to the average agent named in the policy

or the certificate of insurance: alternatively, if such a certificate has not been issued or no agent has been designated, an average agent accredited by the insurer should be employed in order to organize the investigation aiming at the determination of the circumstances, cause, kind and scope of loss or damage to goods; 2) if it is not possible to appoint an average agent accredited by the insurer, or he cannot come within 24 hours, an independent agent should be appointed; 3) the insured and their subordinates or representatives are obliged to undertake any necessary steps to minimise the loss or prevent further damage; 4) the insured is also responsible for securing all rights against the carrier or forwarder who were dealing with the cargo. In particular, the insured. their subordinates or their representatives should: a) submit a written claim to the carrier or any other entity responsible for loss or damage; b) submit a written order for the investigation of the cargo by the carrier's representative or other party if the loss or damage is apparent c) immediately notify the police if it is suspected that the loss, destruction or damage to the insured property has resulted from negligence or a wilful act aimed at inflicting damage, or if other attributes of criminal acts are observed; d) in the case of objections concerning the condition of goods, a written complaint should be lodged immediately; e) if the loss or damage to the cargo was not apparent during the delivery, the carrier or other responsible entity should be informed within a few days of the receipt of the goods. The insurer may reject to pay a claim in full or in part if the insured party does not fulfil the above mentioned requirements which results in: a) the increase of the insurer's liability for loss or damage; b) making it difficult to determine the circumstances, the cause and the scope of damage and c) making it not possible to secure recourse rights against carriers or other entities responsible for the damage or loss.

In order to launch the procedure of the claim, the insured should send the insurer or the average agent the following documents: a) the original copy of the policy/certificate or reference data of the policy and number of registration for insurance, b) a document confirming shipment, such as a consignment note (in original), CMR, AWB, CIM or other transportation documents, c) a document confirming the delivery of goods (in the case when possible loss has been noticed, the document should bear the annotation relating to the missing or damaged goods), d) an invoice and specification (or packing list), e) a claim accompanied by the calculation of the loss, f) if possible, a report on the cause, nature and scope of

the loss or damage, drawn up to the order of the insured or the carrier (or any other entity responsible for the loss), g) documents attributing the loss or damage to carriers, port authorities or other bodies, h) any other documents concerning the claim and requested by the insurer.

Questions and assignments

- 1. Name types of risk involved in international business transactions.
- 2. Discuss methods of currency risk mitigation in international business transactions.
- 3. What is abandonment and why it is used?
- 4. Name types of damage/loss in insurance.
- 5. List types of risk excluded from insurance in Set A of the Institute Cargo Clauses.
- 6. Name basic types of insurance documents.

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Running a business on an international scale requires not only a substantial body of knowledge but also the ability to apply it in practice. That is why our textbook, with a vast collection of practical examples, discusses a wide variety of pertinent issues connected with business operations in international markets, from international market analysis, drafting business plans, concluding business transactions and the insurance of goods through to customs clearance procedures and professional etiquette. We also explain the specificity of doing business online.

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Project: The creation of new interdisciplinary curricula in the field of economics of environmental protection (in Polish and English) at the University of Łódź. Project supported by a grant from Norway through the Norway Grants and co-financed by the Polish funds.

The aim of the project is to improve the knowledge and awareness of Polish and foreign students, the faculty and alumni of the University of Łódź in the fields of sustainable development, ecology, international business and finance.

Grant amount: 533 083 PLN



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