



Japan-ASEAN Cooperation



AFFA

Sustainable Human Resource Development in logistics services for ASEAN Member States

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Cargo Claims



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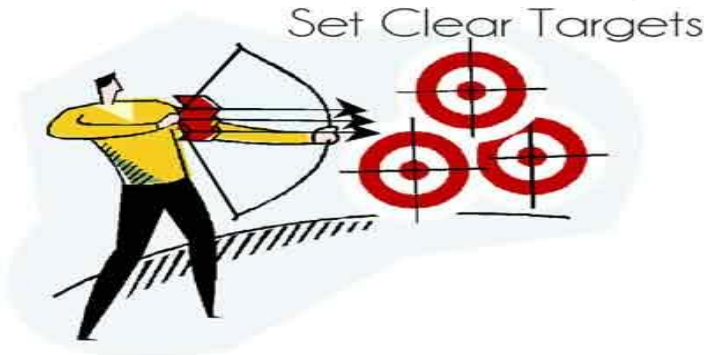


* Dry bulk and general cargo vessels (The London Club)



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Objectives



- Understanding the concept of sue and labour and duties of the Insured
- To gain a working knowledge claims procedures and documentation
- To apply concepts to a claims situation

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Classes of Loss

Total losses can be sub-divided into

- Absolute or actual total losses
- Constructive total losses (including salvage losses)





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Total Loss

Actual total loss

- Where the subject matter is totally destroyed
- Cease to be a thing of the kind insured
- Irretrievably deprived thereof

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Total Loss

Subject matter is totally destroyed



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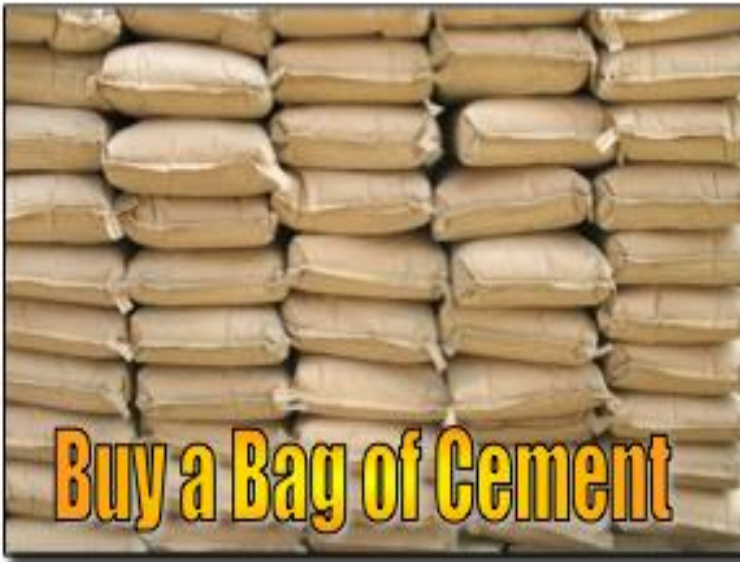
Total Loss Irretrievably deprived thereof



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Total Loss

Cease to be a thing of the kind insured



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Total Loss

Constructive total loss

- Reasonable abandonment of the subject matter insured
- Deprivation of possession of ship or goods
- Damage to ship
- Damage to goods

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Constructive Total Loss

Constructive total loss of cargo

- It is unlikely he will recover it
- The cost of recovery will exceed he value of the goods when recovered
- Where the goods are damaged and cost of re-conditioning and forwarding to destination will exceed their value on arrival

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Partial Loss

Particular Average Loss

- Partial loss of a ship
- Partial loss of goods
- Partial loss of freight



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Constructive Total Loss



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Loss other than total losses



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Loss other than total losses

- Particular Average (partial loss accidental)
- General Average (partial loss voluntary sacrifice)
- Particular Charges
- Sue & labour charges
- Contributions to GA and salvage

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Loss other than total losses

Particular Average

Is partial loss caused accidentally and exclude:

- Damage by wear and tear, gradual deterioration by normal use and ordinary action of wind and waves
- Defects in existence at the time insurance attaches
- Damage done voluntary for common safety in time of peril (which constitutes a general average sacrifice)

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Loss other than total losses

General Average arises whenever a sacrifice of property or an extraordinary expenditure is reasonably and voluntarily made or incurred for the common safety of the interests concerned in a maritime adventure, e.g. in a port of refuge, in order to make the ship fit to proceed after having sustained accidental damage during the voyage.

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Loss other than total losses

Difference between General Average Loss and Particular Average Loss

1. General average is incurred for the benefit of all interests but the particular average is in connection with any of the interests.
2. General average is always voluntary and intentional but the particular average is an accidental or fortuitous.
3. General average is shared by all those who are benefited by the general average act. Particular average is paid by the insurer.
4. General average may include expenditure and sacrifice along with loss, whereas the particular average results from a loss or damage.

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Loss other than total losses

Salvage Charges comprise the sum or sums paid in settlement of a claim by salvors for remuneration for salving the ship or both ship and cargo, from a position of danger, together with legal costs and other charges which maybe incurred. The amounts paid will be brought into the general average adjustment and treated as general average expenditure.

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Whose liability?

- General burden – onus on insured that there was a loss during transit
- “A” Clauses – insured does not have to prove peril which caused loss, it’s for insurer to prove an exclusion
- “B” & “C” Clauses – need to prove peril



**burden
of proof**

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Sue & Labour

Duty of Insured is to act as uninsured i.e.

- Take steps to minimize or avert loss
- Ensure rights of recovery against carriers and bailees are not prejudiced



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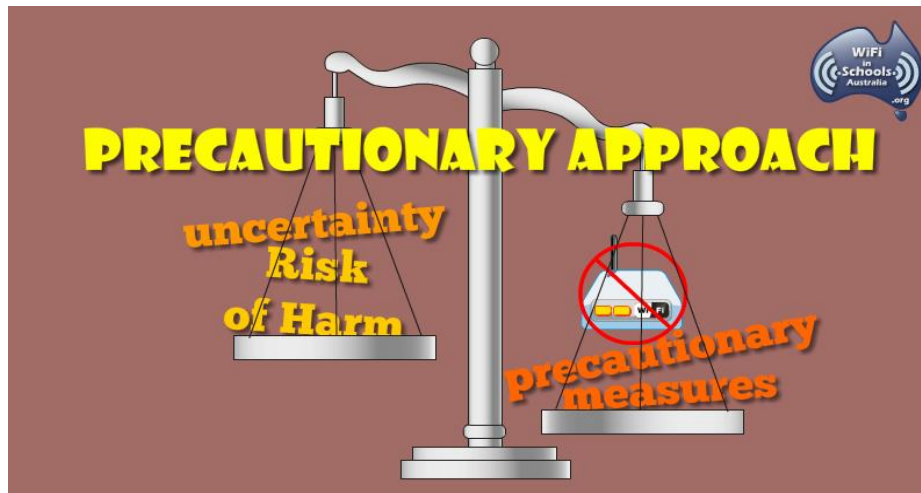
Sue & Labour

Notice period – Preservation of subrogation rights

Sea Carriage – Hague/Hague Visby Rules – 3 days

Air Carriage – Warsaw Convention – 7 days

Other Claims – Contractual Terms e.g. std trading conditions
of SLA within 14 days



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Basic of Adjustment

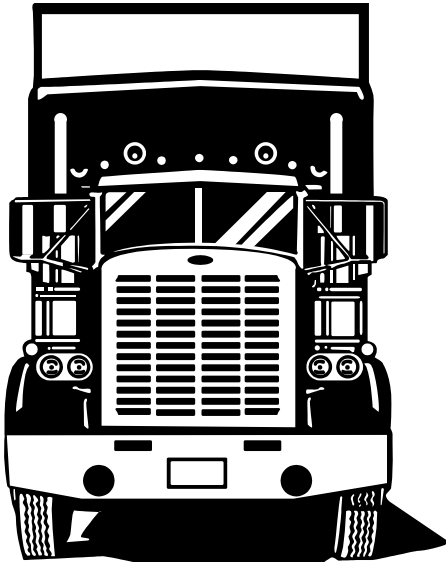
Sue & Labour:

- Reasonable expenses incurred to prevent or minimize a loss
- Supplementary in nature i.e. claimable on top of sum insured
- Efforts need to be reasonable; not successful
- Loss must first be covered by policy



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Illustration



Sue & Labour – Damaged machinery (USA – Singapore)

- Costs of assessment by local engineers
- Costs of replacement parts
- Freight and insurance for such parts
- Labour costs of repair in Singapore
- Costs of supervising engineer from USA – labour, travelling, accommodation and living expense

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Sue & Labour

Guidelines:

- File notice of claim immediately against all parties
- Do not clear cargo against clean receipts
- Arrange joint survey with carrier, if possible
- Preserve all evidence, e.g. broken seal



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Sue & Labour

Missing Cargoes:

- Importance of early notification
- Immediate tracer actions



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Illustration

- Cargo weighs 50 kg
- Joint survey with SATS
- Notice not filed against SATS or airline
- Cargo claim \$5,000
- Potential recovery rights: $50\text{kg} \times \$49.58 = \$2,470$
- Insurer can pay: $\$5,000 - \$2,470 = \$2,530$

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Surveyors & Adjusters

Fundamental functions of adjusters:

- Adjust quantum of loss within specific terms of insurance policy
- Examine cause of loss and apply terms of insurance policy to that cause
- Negotiate claim settlement acceptable to the various parties
- Pursue recovery against parties who could have caused loss



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Claims

What can you claim?

Material damage or loss

And

Sue & labour expenses



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Even Chances



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**"And then a sign popped up from
nowhere!"**



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Claims

Scenario 1

- Semi-conductor arrived by air from Japan
- Before unloading at the consignee's premises, impact indicator found activated
- No local facilities for repairs
- Machinery shipped back to Japan for repairs

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Claims

Consignee claims for:

- Cost of materials used to damaged the parts in Japan
- Cost of engineers in attending to the damages
- Testing cost upon arrival in Japan
- Freight cost in bringing the equipment and return
- Administration charges incurred by Insured in handling the claim

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Claims computation

Scenario 2

- Insured value of 5 cartons of clothing: US\$1,100
- 1 out of 5 cartons wet
- 1 carton contains 50 pcs
- 25 pcs wet and considered damaged
- CIF value of one carton/50pcs: US\$1,000
- Salvage value of 25 wet pcs: US\$50

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Claims computation

CIF value of 25 pcs = US\$500

@ 110% = US\$550

Less salvage value = US\$ 50

Net amt claimable = US\$500

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Claims computation

Scenario 3

- Insured machine valued at \$100,000 damaged during transit
- Cost of replacement parts with freight and insurance : \$25,000
- Cost of engineer's assessment & testing: \$500
- Labour costs : \$1,000
- Spray painting costs : \$250
- Less scrap value of damaged parts: \$50

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Claims computation

Cost of replacement parts	= \$25,000
Cost of engineer's fee	= \$ 500
Labour costs of repair	= \$ 1,000
Spray painting cost	= <u>\$ 250</u>
Total costs	= \$26,750
Less scrape value	= <u>\$ 50</u>
Policy pays	= <u>\$26,700</u>

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Surveyors & Adjusters

Role:

- Independent party
- Surveyors not always associated with claims
- Difference:

Surveyor – nature & extent of loss

Adjuster – in addition, policy terms
and subrogation



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Surveyors & Adjusters

Attributes:

- Independence
- Integrity
- professionalism



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Surveyors & Adjusters

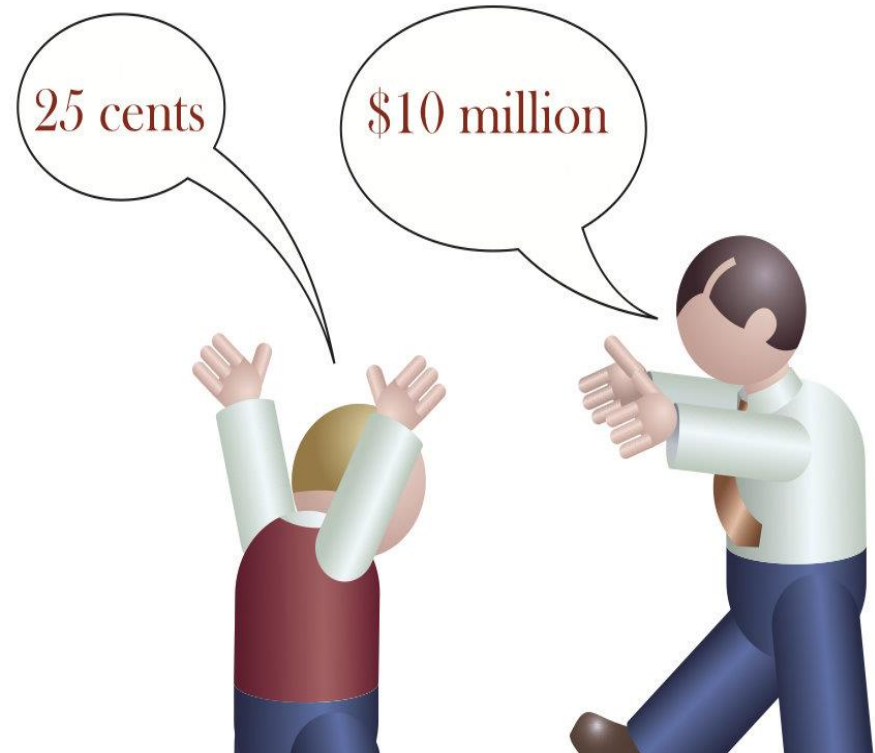
Litigation support/Dispute resolution



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Surveyors & Adjusters

Commercial negotiation



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Surveyors & Adjusters

Disaster management



Surveyors & Adjusters

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FCL/LCL container trucking, stuffing and unstuffing



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Surveyors & Adjusters

Supervision of movement of project cargo



**Sustainable Human Resource Development in logistics services
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Surveyors & Adjusters

Cargo escort





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