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THEFT FROM SEALED CONTAINERS

Readers may recall that in our earlier issues we had reported incidents of theft from sealed containers in various jurisdictions. Such thefts are still continuing despite all precautions taken by the Carriers. It is an organised crime in many countries, well planned and executed.



During road transportation in African countries, the Trucks/ Trailers are hijacked at gun point even in broad day light. We are not aware of any cases where the authorities have managed to apprehend the criminals and recover the stolen cargo. The Liability Insurer in UK whom we represent has imposed strict conditions in their policy for the movement of cargo by road in African countries.

Frequent thefts have been reported from Mexico, sometimes during transportation by Rail. WWCS was involved in respect of two incidents wherein consignments of brand new tyres were shipped in sealed containers from Qingdao, China to Monterrey, Mexico. In both cases, the containers were discharged at Manzanillo port and thereafter transported by Rail to the final destination, Monterrey.

“Don’t strive to make your Presence noticed; Make your Absence felt”

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The Rail Road Company's Inland Freight Bill at Manzanillo indicated the original seals of the containers and no discrepancies were noted in respect of the weights of the containers. However, on arrival at Monterrey, the seals of the containers were found to have been changed. In both instances, joint surveys were carried out with the Railway authority and more than 200 tyres were found missing from each shipment. Though we investigated the incidents through a representative in Mexico, it was not possible to ascertain who perpetrated the crime and at what stage during the rail transportation. The Railway Authorities were also unable to throw any light on the incidents though it happened while the containers were in their care and custody. It would have taken considerable time for anyone to remove as much as 200 tyres from the containers. It is difficult to believe that theft of such massive scale could have taken place without the knowledge of any of the Authorities. The original sea Carrier is liable for such claims in the first instance as their bills of lading are usually issued up to delivery at Monterrey. The Combined Transport Documents issued by most Carriers limit their liability as per the National Law applicable to the particular mode of transport under which the loss occurred. Since the limits of liability as per the Mexican Railroad Service Law is very minimal, recovery from the Carrier is severely limited.

This is a heads up for Cargo Underwriters while issuing Policies covering land transportations in such jurisdictions.

"Never look down on anybody unless you are helping them up"



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DISPOSAL OF DAMAGED CARGOES

Once cargo damages are assessed by surveyors, the next step is usually to find out the salvage possibilities. This is important as the consignee has a legal obligation to mitigate losses. If the cargo can be repaired, such repairs may be undertaken provided it is economical.

If the cargo is beyond repair, salvage options have to be explored. It is advisable to obtain salvage quotes from more than one buyer and sell at the best available price. It is also advisable to keep the liable party informed so as to avoid disputes later on. There was one instance when a consignee disposed of a cargo of seamless casings to a salvage buyer without obtaining quotations from anyone else and without informing the Carrier. Later on, when the claim recovery was taken up with the Carrier, they questioned the salvage price obtained by the consignee. To prove their point, the Carrier produced information from London Metal Exchange about the value of such cargo during that particular period. They also produced quotation from another salvage buyer. These evidences indicated a higher salvage value than what was obtained by the consignee. Needless to say, this led to a dispute/arguments which had a negative impact on the final recovery.

Sometimes, damaged cargoes are destroyed especially in the case of branded items and edible cargoes. Here again, the liable party should be advised of the intention to destroy the cargo. A destruction certificate should also be obtained. In Dubai, there are designated companies approved by the Municipality who carry out the destructions and issue their certificate. It is necessary to ensure that the particulars of the destroyed cargoes are incorporated in the certificate. Some consignees dispose of such cargoes by themselves in order to avoid paying the destruction charges. This could lead to dispute with the Liable parties when taking up recovery with them.

Insurers should impress upon their Insureds/surveyors to always keep the Liable parties informed of the salvage or destruction of cargoes. More than one Salvage quotation should be obtained in order to achieve the best possible price. There should also be documentary evidence of the destruction of cargoes.



“Be selective with your battles. Sometimes, peace is better than being right ”



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