



WORLD WIDE CLAIMS SERVICES

THEFT OF CONTAINERS / CARGO

A Merchant in Fujairah shipped 12 containers containing copper wire rods to a buyer in Kuala Lumpur, Malaysia. The containers were discharged from the vessel at Port Klang. The consignee had appointed a Clearing Agent to take delivery of the 12 containers from the Port. However, only 8 containers were received by the consignee. The Clearing Agent advised that someone had broken into their office, stole the Operations Planning Records and Gate passes for the 4 containers. Upon checking with the Port, it was learnt that the said 4 containers were cleared from the Port on different dates using the Port passes of an existing employee and an ex-employee of the Clearing Agent. Both the consignee and the Clearing Agent lodged separate complaints with the police. The suspect employee was taken into custody though he maintained that his Gate pass was stolen from him. The ex-employee could not be traced. Criminal proceedings were commenced against both of them.

The value of the cargo in the 4 containers amounted to approx. USD 800,000. The Cargo Underwriters in Dubai settled the Insured's claim and appointed WWCS for the recovery. We took up the matter through our Associate in Malaysia, but the Clearing Agent tried to avoid liability by directing us towards the two individuals against whom criminal proceedings were initiated by the Police. They also admitted that their Insurers are not covering them due to a breach of Policy terms. We consulted our lawyers in Malaysia who investigated the incident and confirmed that our right to claim lies against the Clearing Agent. In the circumstance and fearing that they may close down their operations without settling the claim due to lack of financial capacity, we instructed the lawyers to initiate recovery action against them immediately. After protracted discussions between our lawyers and lawyers representing the Clearing Agent, agreement was reached for a settlement at RM 540,000 (USD 130,000 approx.).



“ The measure of Success is Happiness and Peace of mind ”



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Though the settlement offered was not substantial compared to the claim amount, it was decided to accept it, considering the difficulties of pursuing in a foreign jurisdiction and the potential risk of the liable party going bankrupt in the near future. The settlement was eventually made by them in 10 equal monthly installments.

Recovering the claim from a Freight Forwarder in Malaysia was not an easy task, but we were able to accomplish it with the assistance of WWCS network of Associates in that jurisdiction.

CARGO DELIVERY FROM PORT

In order to recover cargo claims from the Carrier, it is necessary to prove that the cargo was indeed delivered in damaged condition. We have seen that in many instances, cargoes are cleared from the Port without documenting their damaged condition. The consignee's Clearing Agent may not have checked the cargo properly while taking delivery or may not have bothered to take it up with the port. This would cause difficulties when recovering from the Carrier.

If a consignee or their Clearing Agent notices damages to their cargo while taking delivery, they should bring it to the attention of the Port and obtain remarks on the Delivery Record. Though the Port will make only general remarks about the condition of the cargo, it is sufficient to establish that there was some damage at the time of taking delivery. Subsequently a detailed survey can be carried out at the consignee's premises to verify the actual extent of damages.

In the case of LCL shipments, the container is usually brought to the CFS where it is destuffed and the cargoes delivered to the respective consignees. Damages, if any, to the cargo would be clearly visible while taking the delivery from the CFS. Appropriate remarks should then be made on the Delivery Note.



“ Be thankful to your mistakes... because they teach you valuable lessons”



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In one instance, a consignment of chrome laminated glass which arrived in Jebel Ali in a LCL container was taken delivery from the CFS by the consignee's Clearing Agent. Though the cartons were externally torn / damaged, the Clearing Agent did not register any protest and signed for clean receipt of the goods. When recovery was taken up against the Carrier, it was rejected on the ground that the cargo was delivered in sound condition as evidenced by the clean receipt signed by the Clearing Agent. As a result, a claim of AED 72,000 could not be recovered.

*The consignees should instruct their Clearing Agent to be vigilant and check the cargo thoroughly while taking delivery from the Port. If there are any visible damages, they should obtain remarks on the **Port's Delivery Record** or insert remarks on the **CFS Delivery Note**.*

Unwind

Paraprosdokian is a figure of speech in which the latter part of a sentence or phrase is surprising, unexpected or humorous. Examples —

- The last thing I want to do is to hurt you. It is at the bottom of my list.
- Some cause happiness wherever they go – some cause happiness whenever they go.
- If I agreed with you, we would both be wrong.
- Always borrow money from a pessimist - he will not expect it back.
- War does not determine who is right – only who is left.

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***“ Thinking positively is not about expecting the best to happen everytime,
but accepting that whatever happens is the best for the moment ”***



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