MINIMIZING LOSSES

Avoid Gaps in Supply Chain Coverage

By Richard Council

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Understanding how terms of sale, insurance coverage, and warehouse arrangements interact is of critical importance to importers.

These important details can help identify and eliminate coverage gaps that could lead to uninsured losses. This practice is especially significant for importers purchasing insurance directly from the seller, as this coverage may not be the best option.

Many foreign sellers insure cargo under the modern London Institute Cargo Clauses (A). These clauses allow flexibility by endorsement and modification to provide coverage. But in their most basic form, they may lack the scope of coverage needed by U.S. importers.

The problem with the "A" clauses – along with the terms of sale that consider delivery to be accomplished at the port – is that they leave importers on their own for insurance at the warehouse and during inland transit to final destination.

Truckers and warehousemen generally carry liability insurance for damage to goods in their care, but this coverage is meant to protect them and not the cargo owner. Various causes of loss could be excluded under these policies and recoverable amounts may be limited.

Another potential risk for uninsured loss that importers often overlook is for cargo temporarily staged at a port warehouse. Although the warehouseman creates a commercial bailment by accepting the cargo for a fee, various states allow that liability to be limited to a small amount by issuing a warehouse receipt referencing these limitations.

Additionally, warehousemen are not liable for damages caused by flood or earthquake and other acts of God. These perils often create catastrophic losses.

Some warehousemen can provide additional coverage in the form of bailee's customer or bailee's legal liability. However, these policies vary and may contain exclusions that could result in unrecoverable losses; theft by employees is usually not covered under these policies.

Truckers are another potential risk for uninsured loss and coverage gaps. Truckers generally carry Motor Truck Cargo Legal Liability insurance, but the limits are often at a basic amount of $100,000 per truckload. The same act of God perils, such as flood and earthquake, are left uncovered as well. Furthermore, the trucker's liability is likely limited by their bill of lading – resulting in a payment far less than the true cargo value.

Warehousemen and truckers do not intentionally create these potential problems for importers – the basic structure of the association creates a legal liability relationship.

Their insurance is not the same as shipper's interest cargo insurance purchased by the importer. Liability insurance protects the trucker and warehouseman in the event that they are sued for damages in connection with the freight they carry and store.

Think of it as if these parties were liable for the full invoice value of every customer's cargo. If this were the case, then freight and storage rates would skyrocket, increasing the cost of doing business for everyone.

The importer can purchase an open marine cargo policy with broader coverage that protects all shipments, including shipments insured by the seller. An ocean cargo policy extended for inland transit and warehouse coverage together with an appropriate duration of risk clause can cover the entire transit, avoiding coverage gaps.

While it might cost slightly more to secure this form of coverage, the extra expense is nominal compared to the potential costs and consequences of uncovered losses.

Controlling cargo insurance is especially important for importers whose goods are subject to the added risks of warehousing and inland transit upon arrival at the port of destination.

Truckers and warehousemen provide invaluable services, but the warehouse and cargo insurance they purchase is for their protection and not directly for the cargo itself. The owner of the cargo is in the very best position to purchase the proper coverage for the entire transit and thereby avoid the risk of uncovered losses. BB

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