

TYPES OF MARINE CARGO INSURANCE

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No doubt that Marine Cargo Insurance is one of the most important and vital branches of insurance, and is considered an indispensable aid to international trade.

Marine Cargo Insurance affords the insured a great diversity of cover. The insurance markets do in fact offer their clients numerous forms of cover which are highly diverse in character and capable of covering the risks to which the goods are exposed during transit. Marine insurance has become progressively adapted to the needs of commerce, and the flexibility it has acquired now allows it to satisfy all requirements, both with respect to the coverage offered and to the extension in time of the insurance. This great flexibility goes with the enormous variety of cargoes to be transported ranging as they do from raw materials in bulk to the highly sophisticated machine which embodies the latest technology.

However, most of marine cargo covers are standardised owing to the universal nature of said contracts; being exchangeable between exporters and importers all over the continents of the world.

I think you will agree with me that the British Insurance Market - being the pioneer in this respect - established its longstanding practice in the field of Marine Cargo Insurance, and we find now that the cargo covers used in the London Market are the same covers used in most insurance markets including our African Countries.

We will therefore confine our study of the different topics of this paper, to the English practice, i.e. Marine Cargo Covers issued by the London Market and other insurance markets that use the same documents of cover.

Under the heading of this paper - Types of Marine Cargo Covers we will deal with four topics, i.e. :

1. Different Forms of Cargo Policies,
2. Analysis of Marine Cargo Institute Clauses,
3. Trade Clauses, and
4. War S.R. c.c. Risks.

I. DIFFERENT FORMS OF CARGO POLICIES

1. The S.G. Policy Form :

In the London Market, the basic form for all marine insurances is the S.G. Form, as set out in the first schedule of the Marine Insurance Act 1906. It follows that the perils covered by the insurance are those set out in the S.G. form, which may be varied by attached, typed or handwritten clauses ; by the addition of extra perils, or on the other hand, by the exclusion of certain perils named in the S.G. Form.

We will now go through the policy wording to study only the peculiar clauses therein.

The Assignment Clause : allows for the use of the policy by any person as a principal or as an agent, or by any assignee, or any person who at any time during the currency of the policy acquires interest in part or in all. A cargo policy is freely assignable as it is necessary in many cases for the policy to pass from hand to hand with the goods as a collateral security asked for by the banks.

"Lost or not Lost" : phrase which follows the Assignment Clause makes the policy retrospective, and the insurance contract which is accepted after sailing of the carrying vessel, or even after loss, becomes operative and the policy valid, provided there is no breach of utmost good faith.

Cargo policies are often for the voyage contemplated. The risk commences, under the clean form of policy, from the loading of the cargo aboard the ships, thus the craft risk at port of loading is not embraced. The risk terminates when the goods are discharged and safely landed at the port of destination.

The description of the voyage follows the words at ~~and from~~ (Transit Clause), then is inserted the name of carrying vessel, the sum insured, the subject-matter insured and the insured perils which correspond closely with the definition of maritime perils in the Marine Insurance Act 1906.

The Sue and Labour Clause : is a supplementary agreement to the policy, and so entirely separate from the conditions of the policy that where such expenses are properly incurred they are paid in full, even in addition to a total loss. The object of the clause is to encourage the assured to take all possible steps to prevent or minimize loss.

The Waiver Clause : is then inserted to make it clear that neither assured nor insurer is to be prejudiced by an action taken by either to safeguard the property insured.

The S.G. Form ends with the Memorandum which was inserted in the policy form, to relieve underwriters of many trivial claims that in many cases were less than the expenses of its settlement. It actually consists of a "Free of Particular Average Clause" and two "With Average Clauses". In each case general average is payable irrespective of percentage (i.e., without reference to the franchise).

The F.P.A. clause is in respect of corn, fish, salt fruit, flour and seed which are warranted free of particular average unless the vessel is stranded, in which event particular average loss or damage is payable in full provided the goods are on board the vessel at the time of the casualty, even though the loss or damage is not caused by it.

The W.A. clauses warrant (1) sugar, tobacco, hemp, flax, hides and skins free from particular average under 5% and (2) all other goods under 3% unless the vessel is stranded, sunk or burnt, when P.A. loss or damage is payable in a similar manner as in the F.P.A. part of the memorandum.

If the required percentage is reached, the loss is paid in full, not simply the excess of the percentage. It is necessary to note this carefully, as the memorandum percentage is called a franchise. This term however has a different meaning in other countries. A policy may be so worded as to be subject to an excess, which means that insurers pay only the excess of the specified percentage or amount.

2. The Floating Policy :

It is a policy which describes the insurance in general terms, and leaves the name of the ship or ships and other particulars to be defined by subsequent declaration.

The floating policy is issued for a fixed amount. This amount is estimated to cover a number of shipments and the policy remains in force until sufficient shipments have taken place to use up the sum insured.

As each shipment goes forward it is declared to the insurer who reduces the outstanding balance of the sum insured by the amount of the declaration. It follows that the life of a floating policy depends, not on a period of time, but on the number and size of declarations made on it. The declarations may be made by endorsement on the policy, or in other customary manner, and must include all consignments coming within the terms of the policy. However, should a declaration be omitted or erroneously made, this may be rectified, even after loss, provided it was made in good faith.

A schedule of voyages and rates is usually attached to the floating policy, which clearly indicates its scope and the premium rates applicable to ~~any~~ sendings coming within that scope. The policy may provide alternative conditions with a schedule of rates applicable to each set of conditions, from which the assured can select when making a declaration.

The floating policy expires when the sum insured is exhausted, that is to say when the total value of declarations made, equals the sum insured.

3. Open Covers

The open cover is probably the most advantageous form of effecting cargo insurance in modern commerce. It is effected on a time basis, providing forward cover for all the assured's shipments during a specified period, usually twelve months. The premium rates are fixed and the insured cannot, in good faith, refuse to accept a shipment coming within the scope of the cover at the fixed cover rate.

With the open cover system, shipments are automatically covered by an open cover even if declared late or after a loss occurred. However, this contract is not legally enforceable, it is binding in honour only and the assured must rely on the insurer to adhere to his obligation in good faith.

The open cover is effected for a period of time and has no aggregate limit such as the sum insured in a floating policy. Declarations are made in the same manner as in a floating policy, ~~subject to a limit per bottom,~~ i.e. the amount insured carried by any one vessel.

The open cover generally has a location clause limiting the underwriter's liability at any one location prior to shipment at the loading port.

It is customary for both floating policies and open covers to be subject to the classification clause which limits carriage, at the agreed rate, to certain types of good class vessels. The provisions of the classification clause - which was amended as from 1st July 1978 - are a very important factor in the operation of any long term cargo contract. The effect of this clause is to restrict cover rates to apply only to goods carried on vessels fully classed, as per the clause, provided the vessel is not over 15 years old, or 25 years old for liners. Chartered vessels, as well as vessels under 1000 G.R.T., attract an additional premium if over 15 years old. There is an agreed scale of additional premiums for goods carried on average vessels, which varies according to the age and flag of vessel, and the type of cargo.

Open Covers are usually subject to a cancellation clause which gives either party the option of cancelling the cover instead of waiting for the natural expiry. Either party could give the other party thirty days notice of cancellation for marine risks, which is reduced to seven days notice in respect of War and Strikes Risks.

4. Block Policies :

This type of policy is mainly used for goods sent overland or by inland waterways in small consignments, also for valuable goods, and books sent by hand or by post. The block policy is issued for a limit per sending, but with no aggregate limit. The policy is usually issued on a twelve months basis, but no declarations are made. A lump sum premium is paid annually and claims are collected periodically. When the policy is reviewed annually, the figures are reviewed and the premium rate is adjusted if necessary to ensure a reasonable profit to the insurer.

II. ANALYSIS OF MARINE CARGO

INSTITUTE CLAUSES

It has taken many years to adapt the old form of policy to present-day needs. Each development in Mercantile practice has had its influence on the insurance cover required, and whenever the shipowner annulled his obligations as a common carrier, the underwriter generally had to extend the scope of the Marine Policy in order to safeguard the assured.

The Cargo clauses in almost universal use are the Institute Cargo Clauses (F.P.A.), the Institute Cargo Clauses (W.A.) and the Institute Cargo Clauses (All Risks).

All three sets of clauses are identical in their fourteen sub-clauses with the exception - as the difference in title indicates - of the Average Clause (No.5) which we will start to study in this analysis.

F.P.A. Clause and Average Clause (No.5) :

The abbreviation F.P.A. means "free of particular average", thus, the F.P.A. policy does not cover particular average, that is fortuitous partial loss.

The abbreviation W.A. is well known as representing the term "with average", "Average means partial loss. Therefore, the W.A. clauses cover partial loss, in addition to the total loss which is covered by all cargo policies. As it is customary for all cargo policies to cover general average, so the term "with average" is intended to refer to particular average.

Whilst the W.A. Policy covers both total loss and partial loss, the F.P.A. Policy covers only total loss and general average. As we will notice, so many concessions have been made over the years, in both sub-sections (No.5) of the two sets, that very little difference remains between the two types of policy.

The commencing words of the F.P.A. clause read :

"Warranted free from particular average unless the vessel or craft be stranded, sunk or burnt....."

The commencing words of the Average Clause (W.A. Clause) read :

"Warranted free from average under the percentage specified in the policy unless general or the vessel or craft be stranded, sunk or burnt....."

We can see that neither sub-clause restricts the settlement of general average claims, and they both pay particular average claims irrespective of percentage should the vessel or craft sustain one of the casualties mentioned. The Cargo, however, must have been on the vessel or craft at the time of the casualty and the risk must have attached.

Under both sub-clauses, underwriters will also pay :

- i. Total loss of any package in (a) loading, (b) transhipment, or (c) deck discharge;
- ii Loss or damage attributable to (a) fire, (b) explosion, (c) collision, (d) contact, (e) discharge of cargo at port of distress;
- iii F.P.A. clause only includes the expenses of landing, warehousing and forwarding, provided they are incurred at an intermediate port of call or refuge and would be recoverable under W.A. policy.

Subject to these concessions by Insurers and in the absence of the happening of one of the named events, both clauses warrant that the policy shall be free of particular average, but with this difference, that in the F.P.A. clause the insurance is warranted free from particular average entirely, whilst in the Average Clause the policy is warranted free from particular average only in the event of losses below a certain percentage named in the policy. Some commodities are more susceptible to damage than others, as is illustrated by the terms of the Memorandum.

In the absence of any clause to the contrary, the percentage of the Memorandum would prevail, but when particular average is included, it is more usual to insert as a special clause in the policy the franchise and the method of its application, as agreed by the underwriters; e.g. average payable if amounting to 5% each 10 Days.

All Risks Clause (No.5):

This clause covers All Risks (including extraneous risks) of loss of or damage to the subject-matter insured, irrespective of percentage, but does not extend to cover loss, damage or expense proximately caused by delay, inherent vice or the nature of the subject matter insured.

"Risk" is defined as "something which may happen but not something which must happen". The term emphasises that the loss or damage must be the result of a fortuitous happening, and due to some external cause. The term does not embrace inevitabilities. Therefore, loss in quantity of a liquid by reason of evaporation is not covered by an All Risks Policy.

Apart from the average clause explained above, the other important clauses in the three sets of Institute Cargo clauses are those dealing with the duration of Cover (Transit Clause). We will deal in detail with the Transit Clause, as well as the Strikes Exclusion Clause, leaving the Free of Capture Clause (No.12) to be dealt with later, when discussing the War Clauses.

Transit Clause (No.1):

Under the ordinary form of policy the risk on cargo commences from the time the goods are actually placed on board the vessel, and ceases when they are discharged overseas at the port of destination (craft risk is only covered at ports where this is customary method of discharge). Modern commercial practice requires insurance cover for goods from the time they commence their journey which may be from the port of shipment at some inland place until actually delivered to the final warehouse at the destination named in the policy, which may also be far from a sea-port.

The transit clause extends the policy to provide this necessary cover, subject to the proviso that in no case shall the period of cover after discharge overseas from the overseas vessel at the final port of discharge exceed 60 days.

The risk does not attach until the goods leave the warehouse, or place of storage, at the place named in the policy.

The risk continues during the ordinary course of transit until terminated by delivery to the consignees or other final warehouse or place of storage at the policy destination or to any other warehouse or place of storage (either at policy destination or before that place is reached) which the assured elects to use

1. for storage other than in the ordinary course of transit; or
2. for allocation or distribution; or
3. by the expiry of 60 days after completion of discharge overseas of the goods insured from the overseas vessel at the final port of discharge whichever first occurs.

If, after discharge overseas from the overseas vessel but before the policy terminates by one of the occurrences listed above, the goods are to be forwarded to a different destination from that named in the policy, then the insurance terminates on the commencement of the transit to the new destination, subject always to termination as above.

Free of Strikes, Riots and Civil Commotions Clause (No.13)

This clause excludes loss or damage caused by strikers or locked-out workmen or persons taking part in labour disturbances, riots or civil commotions. The clause stipulates that if the strikers or a riotous mob should damage the goods insured, the loss would not be recoverable unless the F.S.R. & C.C. clause were deleted. Further, the clause also includes loss or damage resulting from these events; that is to say, losses consequential upon shortage of labour, etc..... during such occurrences.

It will be noted that a provision follows the clause, making the appropriate Institute Strike Clauses apply if the F.S.R. & C.C. Clause should be deleted.

Air Transport :

More recently a demand for separate air cargo clauses was created by the development of the carriage of cargo by air-craft, and therefore the Institute Air Cargo Clauses (All Risks) were issued in 1965 to cope with this demand.

Institute Air Cargo Clauses (All Risks) :

These clauses follow the general pattern of the Institute Cargo Clauses with suitable amendment where necessary by omitting clauses not applicable to air sendings and adjustments in phraseology.

The Transit Clause provides that cover shall not continue for a period exceeding 30 days after unloading from the aircraft in order to ensure the quick handling needed for air cargo.

"All Risks" Clause remains unchanged, and F.C. & S. as well as S.R. & C.C. Clauses are almost the same as in the Institute Cargo Clauses.

III. TRADING CLAUSES

Whilst the Institute Cargo Clauses, in conjunction with the various ancillary clauses fulfil the insurance requirements of cargoes of a general nature, there are a number of foodstuffs and commodities which require a special clause to provide for the particular hazards of the subject matter insured and the usages of the trade concerned. Trade Associations on behalf of their members have negotiated with Underwriters' representatives a number of sets of Trade Clauses which are used almost exclusively for shipments in such trades.

The following clauses are the important ones in current use in the insurance of the subject-matter indicated in the title :

1. Corn Trade F.P.A. Clauses
2. Flour "All Risks" Clauses
3. Jute Clauses
4. Rubber Clauses
5. Timber Trade Federation Clauses
6. Raw Sugar Clauses
7. Frozen Food Clauses

We will now analyse the above Trade Clauses in the same way that was done when analysing the Institute Cargo Clauses, that is by dealing with the average, and the Transit Clauses of each set of clauses, as well as any other special clauses not included in the Institute Cargo Clauses.

1. Corn Trade F.P.A. Clauses :

The Transit Clause in this set of clauses provides almost the same period of cover as that in I.C.C. in a simple wording and it reads as follows:

"From the time the goods leave the warehouse at the place named in the policy for the commencement of the transit and continues until the goods are delivered to the consignees, or other final warehouse at the destination named in the policy".

The Average Clause is similar to F.P.A. Clause of the I.C.C., but includes collision with ship or vessel in perils which break warranty, also pays for any cargo condemned at ports of distress, or in perils insured against.

The Corn Trade Clauses includes a special clause not included in I.C.C., i.e. the Increased Value Clause which stipulates :

"Should additional insurance be placed on cargo hereby insured, the insured value in this policy shall in event of claim be deemed increased to total amount insured at time of loss or accident".

The purpose of inserting this clause in the Corn Trade - as well as the Rubber, Timber and Jute Clauses - is that the market value of said commodities may increase considerably during its transit, and every merchant through whose hands the transaction passes may find it necessary to obtain further insurance cover to satisfy his contract of sale.

Increased Value policies are usually "honour" policies and are clausured "without benefit of salvage". When a loss occurs the original insurer is entitled to any salvage, and is also liable for all the charges incurred in proving the claim.

2. Flour "All Risks" Clauses :

The Transit Clause provides cover "from time flour leaves mill or shipper's warehouse at place named in policy, until delivered to consignees, or other final warehouse at policy destination or until expiry of 30 days from midnight on day vessel reports to Customs at port of discharge, whichever first occurs. Delay in excess of 30 days beyond control of assured to be held covered".

The Average Clause reads as follows :

"All claims whatsoever for damage from hazards of transportation irrespective of percentage, including loss from short weight due to bags broken or torn in transit. Franchise of £. 2 any one brand any one vessel. Excluding damage caused by weevils, insects, worms, grubs or inherent vice".

3. Jute Clauses

Transit Clause provides for following cover :

"From the time the goods are loaded on board the overseas vessel at port of shipment to commence transit, until it is discharged overseas from the overseas vessel at destination and until delivered (i) to consignees or other final warehouse or place of storage there or (ii) until on board on-carrying vessel or conveyance if forwarded to other destination, but if it is awaiting sale, until expiry of 15 days from midnight on day discharge completed. If sold before expiry of such 15 days cover continue until delivery as in (i) or (ii) above.

Average Clause is the same as in I.C.C. (F.P.A.) but does not include total loss of package in loading.

The Jute Clauses also incorporate an Increased Value Clause, as in Corn Trade Clauses.

4. Rubber Clauses :

The Transit Clauses provides for following period :

"From time goods leave warehouse or place of storage at port of shipment and continue during the ordinary course of transit until delivered to warehouse or place of storage at port of destination and whilst there, provided not in manufacturer's warehouse, for not exceeding 30 days. If goods are to be forwarded outside limits of port of destination cover continues until loaded onto vessel, craft or conveyance or the expiry of 30 days after the completion of discharge whichever first occurs. Extensions to limits held covered subject to notice prior to expiry".

The Average Clause provides the following extended cover :

"Average irrespective of percentage. Also covers theft, pilferage and non-delivery of an entire package, explosion, fresh water, condensation in ship's hold, hooks, spillings or leakage of any substance or liquid damage by other cargo (excluding rubber), damage by moisture from wet or damp dunnage. Excluding mould or mildew unless arising from actual contact (during the insured transit) with sea-water, fresh water, condensation of ships hold, spillings or leakage of any substance or liquid or moisture from wet or damp dunnage. Excluding loss, damage or expense proximately caused by delay, inherent vice or nature of subject-matter insured".

The Increased Value Clause is also included in this set of clauses.

5. Timber Trade Federation Clauses :

The period of cover provided by the Transit Clause is as follows :

"Subject to assured having an insurable interest insurance attaches at any time the goods are loaded on water or land conveyance or are floated at will, etc. (even though policy only shows port of shipment or discharge) until delivered at mill, etc., at destination (or elsewhere provided no further sea voyage involved) and are there made available to assured or receiver. If stored at place of lading, fire risk not covered after 15 15 days even though not made available to assured or receiver".

The Average Clause reads as follows :

(a) All Risks of loss or damage to the subject-matter insured but excluding loss, damage or expense proximately caused by delay inherent vice or nature of the subject-matter insured.

(b) Deck Load F.P.A. unless vessel stranded sunk, burnt, on fire or in collision, but to pay insured value of any portion of cargo lost by jettison or washing overboard or in loading, transshipment or discharge. Also damage attributable to fire, explosion, collision or contact and warehousing or special charges, etc. which would be payable on washing overboard policy.

(c) Each raft or craft or deckload of each bill of lading to be ~~a separate~~ insurance if assured requires.

(a), (b) or (c) all subject to franchise of half percent of insured value or £ 10 whichever is the less.

Likewise, the Trade Clauses include an Increased Value Clause similar to Corn Trade Clauses.

6. Raw Sugar Clauses :

The Transit Clause in this set of Trade Clauses is the same as in I.C.C. but commences at port of shipment.

The Average Clause stipulates for the following cover :

"To pay average irrespective of percentage, but subject to deduction for ordinary loss; also covers :

(a) Bagged Shipments : risks of theft, pilferage, short and non-delivery, explosion, fresh-water, oil, damage by other cargo.

(b) Bulk Shipments risks of theft, pilferage, explosion, fresh-water, oil, damage by other cargo and shortage, provided shortage arises from accident during loading, transshipment or discharge. Excluding loss, damage or expense proximately caused by delay or inherent vice".

7. Frozen Food Clauses :

There are three sets of these clauses which grant different limits of cover according to the wording of the Average Clauses.

The first set is subject to Full Conditions, and covers loss of, deterioration of, or damage to the interest from any cause arising during the currency of the insurance. It thus provides the widest scope of cover.

The second set is subject to All Risks Clause which covers the interest insured against all risks of loss of or damage thereto other than loss or damage resulting from any variation in temperature however caused but excludes loss, damage or expense proximately caused by delay, inherent vice or the nature of subject-matter insured. Nevertheless, the policy does extend to cover loss of, deterioration of or damage to the interest insured resulting from any variation in temperature which is attributable to :

- (a) Breakdown or stoppage of the refrigerating machinery for a period of not less than 24 consecutive hours, or,
- (b) Stranding, sinking, burning or collision of the vessel, craft or conveyance, or,
- (c) Contact of the vessel, craft or conveyance with any external substance (ice included) other than water, or,
- (d) Fire or explosion, or,
- (e) Discharge of the interest insured at a port of distress.

The third set provides more limited cover, and the F.P.A. Clause therein warrants the policy free from particular average but like the All Risks Clause extends to cover loss of, deterioration of or damage to the interest insured attributable to the causes (a), (b), (c) and (d) above but not if due to "Discharge of the interest insured at a port of distress".

The three sets of clauses are otherwise similar. The second part of all the clauses described above warrant that the goods are in sound condition and properly prepared, packed and frozen at the time of attachment of insurance

and that the time between the goods first passing into a freezing chamber and shipment on board the overseas vessel shall not exceed 60 days. It is also a provision that the assured shall take all precautions to ensure that the goods remain in refrigerated or insulated space throughout the period of insurance except during actual loading and unloading operations. The discovery of any loss, damage or deterioration of the interest insured by the assured, his agents or servants must be immediately notified by the underwriters and in no case will a claim be payable if notice is given to underwriters more than 30 days after the termination of the insurance.

The Transit Clause follows the pattern of that in the Institute Cargo Clauses except that the risk attaches either:

- (i) on loading on conveyance at freezing works or cold store at place where transit commences, or
- (ii) on loading on board the overseas vessel

and continues until terminated as in the Institute Cargo Clauses but delivery has to be cold store or place of storage and only 5 days are allowed after discharge overseas from overseas vessel.

IV. WAR, S.R. & C.C. RISKS

War risks exist almost all waters in the shape of direct mines, torpedoes, etc., from the world wars as well as the more local conflicts which occur from time to time, producing active hazards from bombing and similar war-like operations. In view of these hazards most cargo shipments are covered against war and strikes risks. In fact, the contracts of sale, as well as the banks demand this cover in addition to the normal marine risks.

The plain form of policy (S.G. Form), includes war perils in a limited form as such "Men of War, enemies, arrests, restraints and detentions of all kings, princes, and peoples of what nation, condition or quality soever". It also embraces similar risks, i.e. "pirates, rovers, letters of mart and counter-mart, surprisals and takings at sea".

The F.C. & S. Clause

This clause appears in the Institute Cargo Clauses (Clause 12), as previously referred to when analysing the I.C.C., and it reads as follows:

"Warranted free of capture, seizure, arrests, restraint or detention, and the consequences thereof or of any attempt thereat; also from the consequences of hostilities or warlike operations, whether there be a declaration of war or not; but this warranty shall not exclude collision, contact with any fixed or floating object (other than a mine or torpedo),

stranding, heavy weather or fire unless caused directly (and independently of the nature of the voyage or service which the vessel concerned, or in the case of collision, any other vessel involved therein, is performing) by a hostile act by or against a belligerent power; and for the purpose of this warranty power includes any authority maintaining a naval, military or air forces in association with power.

"Further warranted free from the consequences of civil war, revolution, rebellion, insurrection, or civil strife arising therefrom, or piracy."

It can readily be seen that the clause excludes more than the war perils specified in the plain policy form. This is, of course, to make it applicable to modern warlike acts, thus ensuring that all war perils are excluded by the clause.

Upon examining the clause, we will note that it does not exclude perils which are essentially marine in nature and specified as stranding, heavy weather, fire, contact or collision except where the peril is directly caused by the hostile act by, or against belligerent power. The term "contact" applies to contact with any fixed or floating object other than a mine or torpedo. Further, if either vessel in collision is on an engagement of a warlike nature, the loss shall not be deemed a war loss simply on the grounds of the engagement of either vessel.

Institute War Clauses

Immediately below the F.C. Clause in the I.C.C. the following provision is inserted:

"Should Clause 12 be deleted, the relevant current Institute War Clauses shall be deemed to form part of this insurance".

It is common practice to delete the F.C. & S. Clause when war cover is required to attach to the policy.

When separate policies are required for the marine and war risks, it is obviously necessary that those policies should be complementary.

The Institute War Clauses are in fact a self-contained set of clauses requiring no additional clauses should the policy be against war risks. They contain 8 sub-clauses which modify the scope of the policy in the same manner as the I.C.C.

The first sub-clause is in two sections :

(a) relates to the war perils excluded from the marine policy, by the insertion of the F.C. & S. clause.

(b) relates to war perils which are not covered by the plain policy.

These include hostilities, warlike operations, civil war, revolution, mines, torpedos, bombs and other engines of war.

The actual perils covered by the above sections of the clauses are payable irrespective of percentage (sub-clause 6).

Probably, the most important part of the War Clauses is the second sub-clause which consists of three sections :

A. The Waterborne Clause

This is always contained in the War Clauses, following the Waterborne Agreement. By this agreement, of worldwide application, underwriters agreed not to insure goods against war risks whilst on shore, unless at a port of transshipment and then only for limited number of days.

By this clause cover does not attach until the goods are loaded on the overseas vessel and it ceases when the goods are discharged from the overseas vessel. If the vessel arrives at her destination, but unloading is delayed, cover is limited to 15 days counting from midnight on the day of arrival.

Should the goods be transhipped, cover continues during the transshipment but subject to a limit of 15 days counting from midnight on the day of arrival of the ship at the transshipping port. If the fifteen days limit expires before the goods are loaded onto the on-carrying vessel the war cover is suspended until the goods are loaded onto the on-carrying vessel, when it reattaches.

B. The Mines and Derelict Torpedoes Extension :

Clause 2 (b) provides an extension to the pre-war waterborne clause, the effect of which is that the insurance against the risks of mines and derelict torpedoes, whether floating or submerged, commences when the interest insured is first loaded on the vessel or craft and ceases when the interest insured is finally discharged overside from the vessel or craft at destination.

C. Frustration Clause :

By this clause the policy is "warranted free of any claim based upon loss of, or frustration of, the insured voyage or adventure caused by arrests restraints or detentions of kings, princes, peoples, usurers or persons attempting to usurp power".

Clause two of the Institute War Clauses, is so important that it is ended with a provision that any clause in the policy which is inconsistent with this Clause 2 is null and void.

The other important sub-sections are clauses 3 and 4 which specify the exclusions under the War Clauses. Clause 3 excludes loss, damage or expense arising from nuclear risks, and Clause 4 warrants that loss or damage proximately caused by delay, inherent vice or loss of market are excluded from war policy.

Institute Strikes Riots and Civil Commotions Clauses :

This set of clauses is also self-contained and includes eight sub-clauses which appear in the Institute Cargo Clauses.

The first clause sets out the perils covered by the clauses as being loss of or damage to the insured property caused by

- (a) Strikers, locked out workmen, or persons taking part in labour disturbances, riots or civil commotions, and
- (b) Persons acting maliciously.

It will be observed that persons mentioned in (a) above are precisely the same as those referred to in F.S.R. & C.C. Clause. Malicious damage by strikes - on the other hand - is not covered by the S.G. form and is an addition to cover provided by the policy.

There follows the Exclusions Clause which frees the policy from loss or damage which is proximately caused by absence or shortage of labour should it not be available or withheld during any strike, lock out, labour disturbance or civil commotion. It also makes the following exclusions :

Loss or damage proximately caused by delay, inherent vice or nature of the subject-matter insured.

Any claim for expenses arising from delay other than those recoverable in principle under York/Antwerp Rules 1950.

Loss or damage arising from hostilities, warlike operations, etc.

The third clause is the Transit Clause, by which the policy remains subject to the same attachment and termination conditions as provided by the Inst. Cargo Clauses. Claims under the Strikes Clauses are, however, payable irrespective of percentage, as in the Inst. War Clauses.

The general effect of the clauses is that the strikes, etc., cover is limited to physical loss of or damage to the goods directly caused by the strikers etc., and that loss arising indirectly from the strikers' actions is not embraced in the cover. Some goods such as fresh fruit, are subject to deterioration if delayed in delivery beyond a reasonable time. Such goods when delayed at a strikebound port, or when in a vessel delayed by strikes, can become a total loss by deterioration, and the loss is to be considered caused by inherent vice and by delay both of which perils are specifically excluded from the Strikes Cover in the policy.

References :

1. Marine Insurance - Cargo Practice
By R.H. Brown
2. Marine Underwriting
CII TUITION SERVICE 75 a.