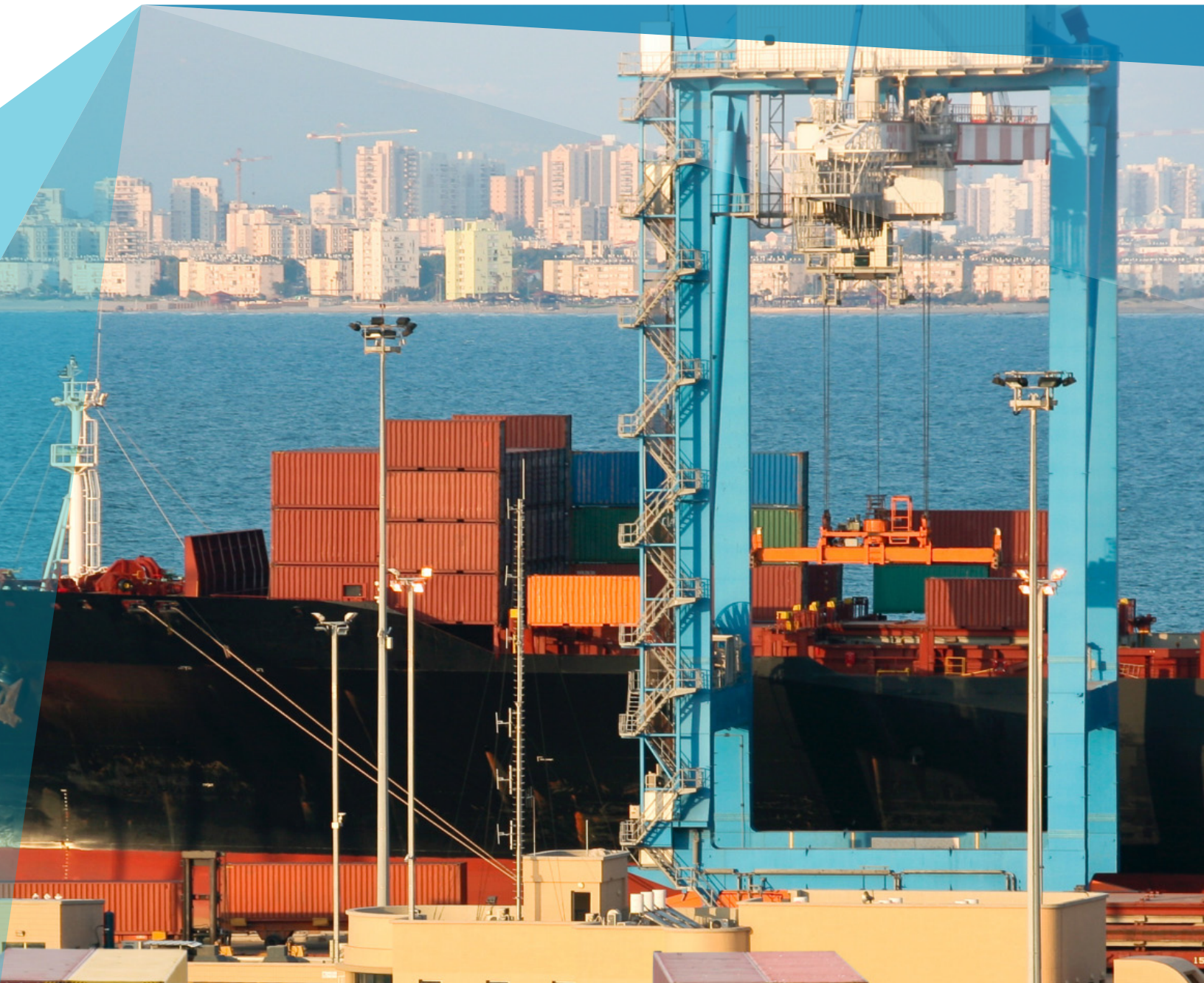


# MARINE CARGO CLAIMS GUIDEBOOK

TO REPORT A CLAIM PLEASE GO TO [WWW.MARSHCARGO.COM](http://WWW.MARSHCARGO.COM)





# MARINE CARGO CLAIMS GUIDEBOOK



This booklet has been prepared as a guide and information tool to help you and your personnel handle loss or damage to property in transit. To report a claim please go to [www.marshcargo.com](http://www.marshcargo.com).

A cargo policy provides coverage for physical loss or damage to the insured property from a fortuitous, external cause. The three words, physical, fortuitous and external are key words in your insurance policy.

The word **physical** means the cargo must be actually lost or damaged. Intangibles such as loss of market, losses due to delay or business losses such as loss of profit are usually not covered unless specifically insured.

The word **fortuitous** means the loss must be accidental. Inevitable losses such as those that occur because of improper packing, goods being stored in a manner which can only result in a loss from the elements, and other losses of this nature are not covered.

The word **external** means the loss must be caused by some event occurring outside of the property insured. Natural deterioration of the property itself or a loss caused by something inherent to the product is usually not covered unless specifically insured.

## YOUR RESPONSIBILITIES UNDER A MARINE CARGO POLICY

In the event of a claim, an insured (or a party presenting the claim) has the responsibility to mitigate the extent of damage, taking all reasonable measures to minimize and prevent further loss or damage where possible. (Refer to the "Sue and Labour" or "Perils" clause of your cargo policy). This responsibility exists in your policy and in law.

It is also important to remember that the regulations governing various modes of transportation carry strict limitations on the time in which you must notify the carrier of loss or damage. Failure to provide notification within those time limitations can allow the carrier to avoid liability, and may prejudice your ability to recover the claim from your insurer.

When cargo arrives at the final destination you should:

- Count, weigh, tally, and examine the cargo before you sign for it; with Container Shipments, an examination of the container should be made and damage or holes listed;
- On sealed shipments, examine and record the seal number. If the seal has been changed, is broken, or missing, record this on the delivery receipt. Retain the seal in all cases (where possible).

If damaged or short:

- Give an explicit, detailed delivery receipt, noting all damages or shortage. Be as specific as possible;
  - Under **no circumstances** should you sign a clean delivery receipt for damaged or short shipments;
  - If the carrier refuses to deliver the goods unless a clean receipt is issued, immediately file a written protest with the head office or local office of the carrier. Notify your freight forwarder (if using one), import agent or other agent acting on your behalf in respect to the shipment; and
  - Keep a copy of the delivery receipt.
- Contact all carriers and parties who handled the shipment, advising them of the loss or damage and invite their inspection. Follow this notification with a formal letter or facsimile letter of intent to claim.
- Keep copies of all correspondence with the carriers and all other parties, as they are required when a claim is presented to your insurer:
  - If a carrier is not able to deliver your shipment, request that it confirms in writing that all efforts have been made to locate the missing shipment, and that it is unable to complete the delivery;
  - If concealed or hidden damage or shortage is discovered, take all steps as noted above; however, immediately notify, in writing, the carrier and all parties who handled the shipment.
- Immediately contact Marsh Canada or the insurer's representative, and provide full details of the claim. Marsh (or the insurer's representative) will report the potential claim to your insurer, and if necessary a surveyor will be appointed in order to determine the nature, cause, and extent of the loss or damage.
- Compile and forward all documentation for the shipment to Marsh Canada, or the insurer's representative, (refer to "Summary of Documentation").

### DO NOT

- **Do not sign a clean delivery receipt for damaged or short shipments.**
- **Do not destroy or dispose of damaged property or packing material until survey has been completed.**
- **Do not accept offers of settlement from carriers without insurers' approval.**

Your consignee should take written exceptions when any property they receive is damaged or is only partially delivered at the time they take delivery.

## EXPORT SHIPMENTS

If you are an exporter providing insurance for the benefit of your buyer, it may be a good idea to include, with each set of shipping documents, a simple set of procedures to follow in the event there is a loss. If you issue a certificate of insurance, very often such information is printed on the certificate, and this should be highlighted to your buyer. Also, please visit [www.marshcargo.com](http://www.marshcargo.com) for online claims reporting.

Your consignee should take written exceptions and take pictures when any property they receive is damaged or is only partially delivered at the time they take delivery. At the same time they should contact the surveyor/settling agent named in the certificate of insurance or a survey agent approved by the underwriter. They should also inform the steamship line and inland carrier to give it an opportunity to attend the survey.

For higher value claims, promptly contacting the survey agent is important as they can be most helpful in assisting your consignee in determining the cause and extent of the loss, which is essential to the ultimate settlement of the claim.

## IMPORTS AND SHIPMENTS WITHIN NORTH AMERICA

If you are an importer, or the shipment is within North America, the same actions as those taken for export shipments should be taken by yourself. The one difference in procedure is to contact the Marsh office handling your account and notify them of the possible claims and ask them to assist in arranging a survey, if required.

## SUMMARY OF DOCUMENTATION

Usually the following documents are required for submission to the insurer's local settling agent in order to receive payment:

- In the event of a partial loss - a certified copy of all bills of lading; in the event the shipment is totally lost - all original copies of bills of lading, properly endorsed;
- Delivery receipt noting damage, or proof of delivery;
- Original or copies of the commercial invoice;
- Original survey report and associated invoice;
- Copy of the written notice of claim to carriers;
- The original or duplicate copy of the certificate of insurance, properly endorsed.

Other documents which may be required in certain instances:

- Copy of master's protest if available;
- Short-landed certificate of steamship company if non-delivery of an entire package;
- Copies of receipted bills for any repair or reconditioning of property;
- If household goods or personal effects, a valued inventory of articles making up shipment;
- Parcel post mailing receipt and post office tracer and reply if shipped via parcel post;
- If duty is insured, a copy of the consumption entry report, or Canada Customs B3.

- Container consolidation and out turn report.
- Pictures of the damage can also help underwriters appreciate the extent of the damage incurred.

For **bulk cargo shipments**, documents should also include:

- Loading tally and/or loading survey reports indicating the cargo loaded on board the vessel at the port of loading;
- Discharge tally and/or discharge survey reports indicating the amount of cargo off-loaded at the port of discharge;
- Condition survey of the vessel prior to loading.

## TIME LIMITATIONS AND SUIT TIME EXTENSIONS

**Until such time as your insurer settles a claim, the onus of protecting the right to claim against the party(ies) responsible for loss or damage rests with you.** Your insurer does not have any title or interest in the cargo until after it has settled your claim, and until then it cannot act on your behalf. Your insurer does not have any rights or obligations to preserve the right to claim prior to settlement.

Once the time limitation for filing an intent to claim or final claim against a carrier or your freight forwarder has passed, the matter becomes “Time Barred,” that is, the carrier and/or your freight forwarder will be protected from any action which might find it responsible for the damage or loss of the shipment. Please note that different carriers have different time limitation periods, as do freight forwarders. This is especially important to consider in multi-modal shipments.

Failure to protect against your claim from becoming time barred may prejudice your rights, and your insurer’s rights, to recover from the responsible party(ies). This may affect your claim settlement from Insurers.

For more details about the time limitations which apply to various methods of transit, as well as carrier’s limitation of liability, please visit [www.marshcargo.com](http://www.marshcargo.com) or contact RECLAIM (refer to last page).

## THE SUBROGATION PROCESS

Once your claim has been settled with your insurer, an insurer receives the “right of subrogation”. This means that the Insurer may choose to take action against carriers or other parties involved with the transit to recover the amount of a claim paid. Underwriters will not subrogate against an insured under the policy or those parties who have been given a written waiver of subrogation prior to the loss taking place per the “Waiver of Subrogation and Release Clause”, to recover the amount of a claim paid to a covered insured if the loss was caused by a third party.

You will be provided with a subrogation form which generally must be signed and returned before settlement of the claim. This form evidences the transfer of your rights of claim against responsible third parties to the insurers who have paid your claim. After insurers have paid your claim, they may pursue subrogation against responsible third parties to attempt to recover their losses.

## BENEFITS OF SUBROGATION

- Amounts recovered will reduce the claims amount paid by the insurer, improving your loss ratio (claims/premiums) and possibly helping alleviate potential premium increases.
- Depending on the policy wording, the amount recovered after expenses will be divided between the insured and insurer in the same proportion that the deductible applies to the claim.

## GENERAL AVERAGE CLAIM — WHAT DO YOU DO?

A general average loss arises when certain perils have been encountered during the voyage which have threatened or put at risk the safety of the entire “adventure”, that is the ship, cargo and freight.

The sacrifice of cargo or the vessel’s material and gear may be made, and extraordinary expenses incurred, for the preservation of the ship and cargo. These are known as general average losses and expenditures. You will be required to contribute a proportional share to these losses and expenditures, even if your cargo has not sustained damage.

Following the declaration of a general average, it is customary for the vessel owner to appoint an average adjuster to protect all interests. Cargo will not be released to consignees or their agents until security has been obtained (the security is a guarantee that the cargo interest will contribute to the general average). The average adjuster will notify all cargo interests and obtain the security, which will be held until all facts and figures are obtained, and a Statement of General Average has been prepared.

Generally, two forms of security are required in a general average situation:

- **General Average Guarantee:** This is a guarantee from your cargo insurance company that, in effect, promises to pay the general average contribution required from your cargo interest (subject to policy limits). This guarantee will avoid you having to make a cash deposit; and
- **General Average Bond and Valuation Form:** This is your agreement to pay the proportion of the general average loss required by your cargo shipment. In addition, this agreement provides information to enable the average adjuster to determine your contributing value. This form should be completed and





signed by a partner or corporate officer of your firm, and that person's title should be identified under his/her signature.

**Note that delay in executing the necessary documentation to allow the release of your cargo could result in storage/demurrage charges which you must pay, but you may not be able to recover in your insurance claim.**

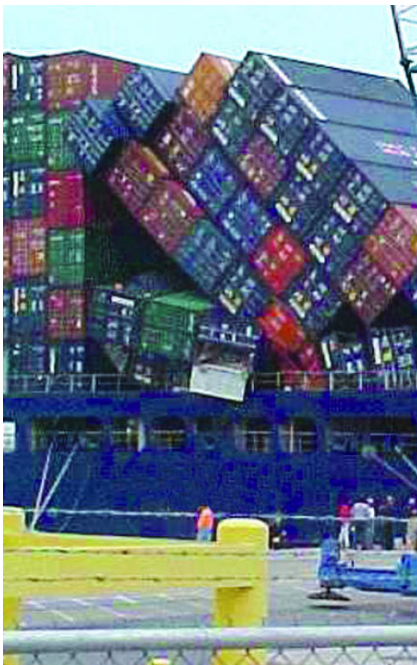
When you receive notification of a general average, contact Marsh Canada immediately. We will assist you in obtaining the guarantee from your insurer, and provide you with advice on how to proceed.

In rare instances, when timing or other circumstance requires, a cash deposit may be requested as security for your cargo interest. Do not give a cash deposit without consulting with Marsh Canada Limited. Most insurers will reimburse cash deposits on presentation of proper documentation.

Once your cargo has been released and is delivered, you should immediately inspect for loss or damage. If you discover loss or damage, follow the procedures for cargo claims outlined previously.

In order to obtain prompt release of the cargo and to assist insurers in posting their guarantee in lieu of a cash deposit from cargo interests, you should contact Marsh Canada Limited as soon as possible after learning of the general average and provide the following documents:

- Copy of the completed General Average Bond and any correspondence received from the ship owners or their general average adjusters;
- Copy of the commercial invoice;
- Copy of the ocean bill of lading;
- Copy of the insurance certificate, or declaration if no certificate was issued.



## CLAIMS UNDER POLICY DEDUCTIBLE? UNINSURED LOSSES?

If you have suffered a loss which is under your policy deductible or if your loss is not covered by your policy (not insured, loss due to delay etc.) RECLAIM Canada can pursue recovery against responsible third parties on your behalf. RECLAIM provides a benefit to you in taking over all of the critical issues that need addressing to maximise recoveries from third parties.

RECLAIM Canada, Marsh Canada's in-house claims and recoveries department specializes in all areas of transportation-related claims, including ocean, air and inland transit, and can also coordinate physical risk management services through our business relationships.

Recoveries are handled on a "no win, no fee" scale. This means that they only charge a fee if successful. If they are unsuccessful, there is absolutely no charge to you for their efforts on your behalf.

Since RECLAIM is not a party to your transportation contracts, RECLAIM would require a letter of authority from you to demonstrate to third-party interests that RECLAIM is authorized to pursue the claim on your behalf.

**For additional RECLAIM information, please contact your local Marsh Marine Office.**

## SAMPLE LETTERS

(These Sample Letters should be typed on your corporate letterhead, and include a return address, facsimile, and telephone number)

### Notice of Intent to Claim

To: (insert name and address of ship owner/shipping line)

Att: Claims Department

RE: Vessel Name:  
Voyage Number:  
Place of Origin to Place of Destination:  
Shipper:  
Bill of Lading No. and Date:  
Description of Claim and Cargo:

The captioned shipment has been received short and/or damaged for which we hold you fully responsible. As soon as the extent of the loss is determined, a detailed claim will be submitted.

Please acknowledge receipt of this letter by return facsimile/letter.

Yours Faithfully,

### Extension of Suit Time (for Ocean Shipments Only)

To:(insert name and address of ship owner / shipping line)

Att: Claims Department

RE: Vessel Name:  
Voyage Number:  
Place of Origin to Place of Destination:  
Shipper:  
Bill of Lading No. and Date:  
Description of Claim and Cargo::

We request that you, on behalf of the owners and/or charterers of the vessel \_\_\_\_\_  
(insert name of vessel)

Provide us with an extension in which to commence suit up to and including \_\_\_\_\_  
(insert date)

Kindly acknowledge agreement and sign the enclosed copy, and return to our offices as soon as possible.

Yours Faithfully,

The documents and procedures outlined in this brochure are generally required to process normal losses. The Marsh Canada office handling your account or the representative of your insurance company will indicate any additional requirements that may be necessary. All losses of a serious nature, wherever they occur in the World, should be reported immediately to the office handling your account. Your claim can then be handled expeditiously to assure that you are properly protected and receive the proper claim settlement in accordance with all of the terms, conditions, exclusions and limitations of the insurance coverage in place. If you have any questions concerning your transportation claims, please call the Marsh Canada office handling your account for assistance and guidance.



To learn more about how Marsh can help with managing your organization's marine risks, please contact your Marsh representative, email us at [questions@marsh.ca](mailto:questions@marsh.ca), or visit our Web site at [www.marsh.ca](http://www.marsh.ca).

#### TORONTO MARINE OFFICE

Marsh Canada Limited  
70 University Avenue, Suite 800  
Toronto, Ontario M5J 2M4  
Tel: 416 349 4700  
Fax: 416 349 4562

#### VANCOUVER MARINE OFFICE

Marsh Canada Limited  
550 Burrard Street, Suite 800  
Vancouver, B.C. V6C 2K1  
Tel: 604 685 3765  
Fax: 604 685 3112

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