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IMLARCO GUIDELINES 01

Cargo Claims, Survey & Recovery Guidelines

Institute Cargo Clauses 2009 – Practical Coverage, Adjustment & Recovery

First Edition | 2025

MARINE SURVEYS | CLAIMS INVESTIGATION | TECHNICAL EXPERTISE | RECOVERY SUPPORT

ACROSS THE REGION. BEYOND BORDERS.

PUBLICATION NOTE

About This Guide

Institute Cargo Clauses 2009 - Practical Coverage, Adjustment & Recovery

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This book is an IMLARCO professional practice guide for marine surveyors, loss adjusters, claims handlers and recovery professionals. It connects insurance cover, factual investigation, loss measurement, mitigation and third-party recovery so that each discipline strengthens the others rather than operating in isolation. It is intentionally written at more than one level: the junior handler should understand why evidence is requested, the surveyor should be able to turn the reasoning into an evidence plan, and the senior professional should be able to use the same material as a review and challenge framework.

The guide deliberately addresses the Institute Cargo Clauses dated 1 January 2009. It does not reproduce the official clause wordings. The policy, certificate, schedules, endorsements and current authorised market clauses must always be read in full before a coverage or settlement decision is made.

PROFESSIONAL BOUNDARY

A surveyor establishes facts, evidence, causation, extent and practical loss mitigation. A surveyor should not purport to bind an insurer on coverage, waive rights, admit liability, compromise a recovery or commence legal proceedings unless expressly authorised to do so.

Legal and Publication Disclaimer

DOCUMENT CONTROL

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CONTENTS

A Practical Route from Policy Wording to Evidence, Adjustment and Recovery

The chapters follow the life of a cargo claim: contract and cover, evidence and causation, quantum, recovery, maritime consequences and final quality control.

APPENDICES & WORKING TOOLS

Reference Tools for Survey, Adjustment and Recovery

The appendices are practical working aids. They support - but do not replace - professional judgment, the operative contract or applicable law.

FOREWORD

A Survey Is Part of the Claim, Not an Isolated Inspection

The value of a survey is measured by what the evidence can support after the attendance is over.

Cargo claims often appear simple at first sight: a wet carton, a warm reefer, a missing pallet, a dented machine. The difficulty begins when the file must answer several different questions at once. What physically happened? Is the resulting loss capable of falling within the insurance? What is the reliable financial measure of that loss? Can the responsible third party be identified and pursued before rights expire?

IMLARCO treats those questions as one connected system. Evidence gathered for causation may determine cover. Evidence gathered for cover may decide recovery. A small omission during attendance - a missing seal photograph, no joint-survey invitation, no temperature download request, no note of a clean delivery receipt - can later become the decisive weakness in a claim worth many times the survey fee.

> **IMLARCO PRINCIPLE**
>
> The strongest claim file is built from the first hour. Investigate the loss as though the insurer may need to pay it, defend it and recover it - because any of those outcomes may ultimately be required.

For that reason, these guidelines place professional fact-finding before conclusion, chronology before assumption, and rights preservation before negotiation. The chapters combine continuous professional discussion with practical tables, checklists and models. Narrative explains the reasoning; structured tools are retained where speed, comparison or field use genuinely benefits from them. The book is not intended to read like an examination note or a list of disconnected bullet points. It is intended to show how experienced cargo claims thinking moves from fact to decision.

HOW TO USE THIS BOOK

Three Layers of Practice

Read the guide as a decision system rather than a collection of isolated rules.

Junior claims handlers will benefit from reading Chapters 1-7 sequentially before moving into field survey and recovery practice. Surveyors can use Chapters 1, 8, 9 and 10 as the core field-and-reporting route, referring back to coverage chapters whenever a fact may affect the insurance analysis. Senior claims and recovery professionals can use the chapter perspectives, practice scenarios, advanced sections and chapter standards as rapid review points, then move into the detailed tables and appendices when a live file requires them.

The book should therefore be used twice: first as continuous professional reading to understand why a fact matters and how one decision influences another; second as a working reference. A checklist is most valuable after the professional understands the reasoning behind it. Otherwise it risks becoming a substitute for judgment.

Layer	Core question	Where to look
Insurance	What is insured, for what period, against which risks and subject to which exclusions?	Chapters 2-6
Investigation & quantum	What happened, what evidence proves it, what is the extent, and what is the defensible measure of loss?	Chapters 7-10
Recovery & maritime consequences	Who may be liable, what regime applies, what deadlines or security matter, and how are GA/salvage handled?	Chapters 11-15

THE CLAIMS DECISION SEQUENCE

1. Confirm the appointment, interest, policy wording and scope of authority.
2. Map the insured transit and establish when and where the loss probably occurred.
3. Identify the physical mechanism of loss and preserve evidence before it changes.
4. Test the facts against the grant of cover and exclusions - without making an unauthorised coverage decision.
5. Measure the loss using the correct indemnity method and test mitigation options.
6. Identify potential third-party responsibility and preserve rights immediately.
7. Present a clear factual report, transparent quantum analysis and separate recovery strategy where appropriate.

USE POLICY WORDING, NOT LABELS

The words “all risks”, “warehouse to warehouse”, “total loss” or “carrier liable” are not conclusions. They are starting points. The actual wording, facts and governing law determine the result.

PRACTICE UPDATE

What This Edition Brings Up to Date

Cargo claims practice evolves. Live files must always be checked against the operative contract, law, treaty status and current market documents.

Date-sensitive legal, treaty and market references reviewed September 2026.

Area	Current position reflected in this guide
English insurance law	Marine Insurance Act 1906 remains foundational. Non-consumer disclosure, warranties and remedies must also be read with the Insurance Act 2015. Late payment is addressed through section 13A, inserted by the Enterprise Act 2016.
Electronic trade documents	Under the Electronic Trade Documents Act 2023, qualifying electronic trade documents can be legally possessed and transferred under English law.
Incoterms	Incoterms 2020 remain the current ICC rules. CIF and CIP allocate risk and insurance obligations differently; neither replaces the policy transit wording.
Air cargo liability	The Montreal Convention Article 22(3) cargo limit is 26 SDR per kilogram from 28 December 2024, subject to the Convention and any special declaration.
General average	The current CMI-recommended York-Antwerp Rules are YAR 2016 with the 2022 technical alteration to Rule XXI; the contract of carriage still determines the applicable version.
Salvage	LOF 2024 remains current. Lloyd’s Salvage Arbitration Clauses 2024 were revised in May 2026. SCOPIC Clause 2020 remains in use with the current published Appendix A tariff valid from 1 January 2026.
Rotterdam Rules	The Rotterdam Rules remain not in force internationally; treaty status should be checked rather than assumed from signature.
Digital road documents	The 2008 e-CMR Additional Protocol supports electronic CMR consignment notes for participating states; state and protocol status must be checked.

DATE-SENSITIVE LAW

Liability limits, treaty participation, procedural rules, sanctions and market forms can change. Verify them at the time a live claim is handled.

CHAPTER 01

Claims Architecture

Build the claim as one connected evidence system

IN THIS CHAPTER

TRUSTED WHEN IT MATTERS MOST.

CHAPTER PERSPECTIVE

Why this chapter matters

Cargo claims become difficult when the file is treated as a sequence of disconnected tasks: the surveyor records damage, the claims handler later looks at coverage, the adjuster then measures the loss, and recovery is considered only after settlement. That sequence looks orderly, but it often destroys value. Evidence is perishable. A seal is replaced, a reefer download is overwritten, damaged packaging is discarded, CCTV cycles out, a delivery receipt is filed away, or the cargo is reconditioned before the responsible party is invited. By the time the legal or recovery question is asked, the fact that would have answered it may no longer exist.

A stronger approach is architectural. The claim is built around a small number of connected questions: what contract governs; who has the insured interest; when and where the loss probably occurred; what physical mechanism produced the condition; whether an exclusion may be relevant; how the financial loss should be measured; and which third party, if any, may be responsible. These questions should not be investigated in isolation. A photograph can be relevant to causation, policy response and carrier liability at the same time. A clean interchange receipt can narrow the damage window, strengthen recovery and undermine an allegation of pre-shipment damage.

For a junior handler, this architecture prevents the file from becoming a pile of documents. For the surveyor, it converts an inspection into evidence gathering with a purpose. For the senior claims professional, it provides an audit trail: every important conclusion can be traced to a fact, document, measurement or reasoned inference, and every important uncertainty is visible rather than buried. The aim is not to force an early answer. It is to ensure that when an answer is required, the file is capable of supporting it.

> **PRACTICE SCENARIO**
>
> A refrigerated shipment is delivered warm. At first glance the file appears to be a temperature claim. A disciplined handler immediately widens the frame: policy and set-point wording are obtained; the custody timeline is mapped; controller and independent logger data are preserved; seal history and power records are requested; product temperatures are measured; and the carrier is invited. Weeks later the coverage question turns on timing, while recovery turns on a power interruption during terminal custody. The same early evidence answers both. The lesson is not that every file needs more paperwork. It is that the right evidence must be identified before it disappears.

1.1 The Seven Gates of a Cargo Claim

The seven gates are best used as a live file-control system, not a sequence of boxes to tick once. New evidence can reopen an earlier gate. A revised delivery chronology may change the insured-period analysis; a laboratory result may alter the probable peril; a repair quotation may reveal that a supposedly total loss is economically recoverable. Senior review should therefore ask whether the gates still align with one another as the file develops.

Gate	Core question	Surveyor / adjuster focus
1 - Contract	What policy and endorsements govern?	Obtain the full policy/certificate, clause date, special clauses, deductible, valuation and insured transit.
2 - Interest	Did the claimant have insurable interest when the loss occurred?	Review sale terms, risk transfer, ownership and any assignment of insurance.
3 - Time & place	Did the loss occur while the insurance was on risk?	Build the physical transit chronology, including storage, transhipment and unloading.
4 - Peril	What physical event or mechanism caused the loss?	Separate observed condition from mechanism, initiating event and alternatives.
5 - Exclusion	Does an exclusion potentially remove the loss?	Collect facts on packing, inherent vice, delay, ordinary loss, unfitness, war/strikes and misconduct.
6 - Quantum	What is the defensible measure of indemnity?	Quantify affected units, repair, depreciation, salvage, reasonable charges and deductible.
7 - Recovery	Who may be liable and what rights/deadlines must be preserved?	Identify custody, correct contractual defendant, notices, evidence and time bars.

The gates are not sequential in the sense that one must be completed before the next begins. In live claims, they are investigated in parallel. A surveyor may discover a possible packing issue while measuring damage; that same observation may affect both insurance cover and the carrier's defence. Equally, a clean handover receipt may narrow the period of damage and strengthen recovery against a later custodian.

1.2 Observation, Information and Opinion

This distinction is central to credibility because every later reader needs to know how close the author was to the fact being described. Direct observation has one evidential weight; a statement from a warehouse manager has another; a technical inference drawn from both is different again. Clear attribution allows the reader to test the conclusion without assuming that all information was personally witnessed.

Professional reports become unreliable when these three categories are blended. IMLARCO uses a strict distinction:

Category	Meaning	Preferred language
Observed	Personally seen, measured, tested, photographed or witnessed by the attending surveyor.	"We observed...", "We measured...", "The seal was found intact..."
Reported	Information supplied by another person or document and not independently witnessed.	"We were advised...", "The terminal record states...", "According to the consignee..."
Assessed	A reasoned technical conclusion drawn from the available evidence.	"The condition is consistent with...", "On the evidence presently available...", "The probable mechanism is..."

NEVER CONVERT ABSENCE OF EVIDENCE INTO EVIDENCE OF ABSENCE

If a logger was not produced, report that it was not produced. Do not write that no logger existed. If a seal was already broken, report its status and the source of any explanation. Precision protects credibility.

1.3 Causation as a Hierarchy

Causation is clearer when the condition, physical mechanism, initiating event and contributing factors are separated in words. The visible condition is often the end of the story rather than the cause. Describing those levels forces the investigator to explain how one event led to another and prevents a symptom such as rust, thawing or breakage from being presented as a complete causal conclusion.

Cargo claims often involve several causes at different levels. A useful analysis separates the damage mechanism from the event that created it and from any background vulnerability. For example, frozen food may be found thawed. Thawing is the condition; elevated product temperature is the mechanism; prolonged power interruption may be the initiating event; poor airflow may be a contributing factor; inherent product characteristics may influence the rate of deterioration.

Start with the immediate physical cause - the mechanism that directly produced the observed condition, such as impact, water contact, heat, contamination, compression, vibration, shortage or theft. Then identify the initiating event that set that mechanism in motion: a collision, power loss, improper handling, leakage, fire, equipment failure or unauthorised access. These two levels should not be collapsed into one label.

Next consider contributing factors that increased severity without necessarily being sufficient on their own, for example weak packaging, blocked airflow, delayed mitigation, poor stowage or pre-existing deterioration. Finally, keep genuinely plausible alternatives open where decisive evidence is missing. A professional causation section should show this hierarchy explicitly so that the reader can see both the main chain and the remaining uncertainty.

1.4 The Minimum Viable Claim File

Minimum does not mean minimal paperwork. It means the smallest coherent record from which the claim can be understood without relying on the case handler's memory. A compact file can be excellent if identity, chronology, condition, causation, quantum, mitigation and rights preservation are each evidenced; a much larger file can still be weak if those links are missing.

Even a small claim should be capable of answering the following without guesswork:

What happened?	Why does it matter?
Chronology, location, custody, physical observations, measurements, photographs, samples and witness information.	Policy terms, insured transit, potential exclusions, financial effect, mitigation, responsible parties and deadlines.

> **IMLARCO FILE RULE**
>
> Every material conclusion in a report should be traceable to an observation, document, measurement, test result or clearly identified professional inference.

1.5 Claim Integrity and Documentary Red Flags

A professional investigator should test whether the claim file is internally coherent without treating every inconsistency as dishonesty. Red flags justify verification, not accusation. Sensitive concerns should be reported privately to the principal rather than expressed casually in a survey report.

Dates or custody records that cannot be reconciled with gate, vessel, warehouse or delivery evidence.

Container numbers, seal numbers, serial numbers or package counts that change across documents without explanation.

Photographs, temperature files, repair quotations or invoices whose metadata or chronology is inconsistent with the stated event.

Claims for the whole consignment where the physical evidence shows damage confined to a smaller, identifiable portion.

Salvage bids, repair quotations or disposal arrangements involving related parties without transparent market testing.

Retrospective witness accounts that conflict with contemporaneous receipts, logs or messages.

1.6 The Commercial Transaction Behind the Claim

A cargo claim sits inside a commercial transaction. The insurance certificate is only one layer. The sale contract allocates commercial obligations; an Incoterms rule may allocate delivery, risk and carriage costs; the transport document records or evidences the carriage contract; custody documents show who physically held the goods; and the cargo policy determines the insurance response. These layers interact, but they are not interchangeable.

This distinction matters most when the file appears deceptively simple. A buyer may bear transit risk under the sale contract while the seller arranged the insurance. Title may pass at a different moment from risk. The person holding a bill of lading may have contractual rights against a carrier even though another party funded the cargo. The insurance may attach before or continue after the commercial risk transfer. Senior handling therefore begins by drawing the transaction as a map rather than assuming that one document answers every question.

For junior handlers, the practical discipline is to ask four separate questions: who bore the commercial risk at the time of the loss; who had an insurable interest; who can enforce the carriage contract; and who is entitled to claim under the policy. For surveyors, the same map identifies which documents and handover records must be preserved. For senior reviewers, it prevents a common category error: treating ownership, risk, title to sue and insurance entitlement as if they were the same concept.

CHAPTER 02

ICC 2009 - Scope of Cover

Read the whole contract before applying familiar labels

IN THIS CHAPTER

ICC(A) and fortuitous physical loss

ICC(B)/ICC(C) named-perils reasoning

War, strikes, piracy and special clauses

Policy mapping for senior review

TRUSTED WHEN IT MATTERS MOST.

CHAPTER PERSPECTIVE

Why this chapter matters

The phrase 'all risks' is one of the most misunderstood expressions in cargo insurance. It is broad, but it is not a substitute for reading the policy. Cargo certificates frequently sit on top of a wider contract containing deductibles, warranties, temperature provisions, storage extensions, brands clauses, machinery clauses, war and strikes cover, manuscript endorsements and declarations that can alter the practical result. The professional starting point is therefore the entire contract, not the familiar label printed most prominently on the certificate.

The evidential burden also changes with the form of cover. Under a broad all-risks grant, the exact accident may not always need to be identified with the precision demanded by a named-perils policy, but physical loss, fortuity and timing still have to be established. Under ICC(B) or ICC(C), the handler normally needs a positive evidential bridge between the damage and a listed peril. A wet carton is a condition. It is not, by itself, proof of ingress of sea, lake or river water; a missing package is a fact of delivery, not proof of a particular insured event.

Experienced claims handling therefore separates three tasks: identify the wording; identify the physical facts; then map one onto the other. This prevents two opposite mistakes - assuming that every accidental-looking loss is covered under ICC(A), or assuming that a visible casualty automatically satisfies a named-perils wording. The clause map is a decision aid, not a conclusion.

> **PRACTICE SCENARIO**
>
> Two consignments arrive with wet packaging. One is insured under ICC(A); the other under a restricted named-perils wording. The visual condition is almost identical, but the evidential problem is not. In the first file, the handler still needs to prove physical loss during the insured transit and test exclusions. In the second, source identification becomes central because the loss must be connected to an insured peril. A chloride test, roof puncture, rain record or hold inspection may therefore have very different significance depending on the wording.

2.1 Read the Whole Contract

For practical handling, create a short policy map before analysing the facts. Record the insured interest, voyage or transit description, valuation basis, deductible, ICC form and date, war/strikes clauses, warranties and every endorsement that could change the standard position. This prevents a later discovery that the entire investigation was organised around a clause label while a manuscript condition controlled the real issue.

The Institute Cargo Clauses (A), (B) and (C) dated 1 January 2009 are standard market wordings, but they rarely operate alone. A cargo certificate may also contain war and strikes clauses, trade clauses, storage extensions, brands clauses, replacement clauses, temperature conditions, warranties, deductibles and broker manuscript clauses. A claims professional should therefore begin with the complete policy or certificate - front and reverse, schedules and endorsements - rather than with the clause label alone.

2.2 ICC(A): Wide Cover, Not Unlimited Cover

The useful professional question under a broad all-risks grant is not simply 'was the event accidental?' It is whether there is evidence of physical loss or damage to the insured subject-matter during the insured period and whether the circumstances are fortuitous rather than the inevitable operation of the cargo's own nature or an excluded process. The grant is broad, but the evidential foundation still matters.

ICC(A) operates on an “all risks” basis for physical loss of or damage to the insured subject-matter, subject to the exclusions and other conditions in the clauses. “All risks” is therefore a wide grant of cover, not a promise that every economic disadvantage is insured.

The subject-matter requirement matters: damage caused by the cargo to somebody else's property is ordinarily a liability question rather than physical loss of or damage to the insured cargo. Fortuity also matters. The loss should arise from an accidental, unexpected or chance event rather than from inevitable deterioration or a certainty inherent in the adventure.

Pure loss of market, missed sales, lost profit and other consequential financial disadvantage do not become physical cargo damage merely because the commercial outcome was unexpected. The claimant still needs to establish physical loss or damage during the insured period. Under ICC(A) the exact accident may not always need to be identified with the same precision as under a named-perils form, but proof of loss, timing and the wider policy conditions remains essential.

2.3 ICC(B) and ICC(C): Named-Perils Logic

Named-perils analysis should identify the exact connection required by the wording rather than rely on the drama of the event. A major casualty may occur without proving that the particular cargo damage was caused by the insured peril, while a less dramatic event may satisfy the wording if the causal chain is documented. Build the sequence from event to mechanism to physical damage and keep the contractual language visible beside it.

ICC(B) and ICC(C) are restricted covers. A claimant must positively connect the loss to a peril included in the wording. That makes cause evidence particularly important. A wet package, for example, does not by itself establish that external water from the sea, a lake or a river entered the carrying environment; equally, unexplained non-delivery does not identify a named insured peril.

Peril / event	ICC(B)	ICC(C)	Practical point
Fire or explosion	Covered	Covered	Loss must be reasonably attributable to the event.
Stranding / grounding / sinking / capsizing	Covered	Covered	A major marine casualty peril.
Overturning / derailment of land conveyance	Covered	Covered	Requires a causal connection to the cargo loss.
Collision / contact with external object	Covered	Covered	Distinguish external contact from internal handling damage.
Discharge at port of distress	Covered	Covered	The loss must be connected with the insured peril as worded.
Earthquake / volcanic eruption / lightning	Covered	Not base cover	Check the exact ICC(C) wording and any extension.
Entry of sea, lake or river water	Covered	Not base cover	Source identification can be decisive.
Jettison / washing overboard	Covered	Limited base cover	Read the exact named-perils grant.

2.4 Theft, Pilferage and Non-Delivery

Shortage claims benefit from disciplined language. 'Not delivered', 'missing', 'pilfered', 'stolen' and 'misdelivered' are not interchangeable descriptions. The file should first establish loaded quantity, delivery quantity, seal and access history, custody records and any evidence of diversion or unauthorised entry. The legal or policy characterisation can then follow from facts rather than from the claimant's initial label.

Theft and unexplained non-delivery naturally sit within the broad fortuitous cover of ICC(A), subject to exclusions. They are not stand-alone named perils in base ICC(B) or ICC(C). Restricted policies may therefore carry an additional theft, pilferage and non-delivery extension. Its precise wording matters, particularly where only part of a package is missing, goods are misdelivered rather than lost, or the package is known to have been destroyed for another reason.

2.5 Malicious Damage

Where deliberate third-party conduct is suspected, the technical report should describe the physical indications and source of the allegation with care. Tool marks, intentional punctures, broken locks or witness accounts may be relevant, but motive and legal characterisation are different questions. Preserve the evidence and allow the policy wording to determine how deliberate conduct is treated.

ICC(B) and ICC(C) contain an exclusion for deliberate damage or deliberate destruction by the wrongful act of a person. An Institute Malicious Damage extension may alter that result, subject to the remaining exclusions. ICC(A) is structurally different because deliberate third-party damage can fall within the all-risks grant unless removed by another exclusion, such as the strikes/terrorism provisions.

2.6 War, Strikes and Piracy

Base ICC cover excludes war risks and strikes/terrorism-type risks under Clauses 6 and 7. Separate Institute War and Institute Strikes clauses are commonly used to buy back specified risks, but the buy-back wording does not necessarily mirror every loss excluded from the base policy. The claim handler must read both the exclusion and the extension.

Under ICC(A), piracy is specifically carved out of the war capture/seizure exclusion and therefore remains capable of falling within the all-risks grant, subject to the rest of the policy. ICC(B) and ICC(C), being named-perils covers, do not respond simply because a piracy event occurred unless the resulting loss is otherwise within an insured peril or an additional extension applies.

2.7 General Average and the Both-to-Blame Collision Provision

These protections illustrate why cargo insurance is wider than simple repair of damaged goods. A cargo interest may face a financial demand arising from the maritime adventure even though its own cargo is physically sound. The adjustment should therefore identify these heads separately, retain the supporting average or collision documentation and avoid merging them into ordinary physical-damage quantum.

All three standard ICC forms separately address general average and salvage charges, subject to the policy exclusions, and also provide an indemnity mechanism for liability arising under a Both-to-Blame Collision clause where relevant. These are contractual protections distinct from ordinary physical damage to the cargo and should be identified separately in the claim calculation.

2.8 Special Clauses Can Change the Answer

Endorsements are often where experienced claims work becomes most important. A temperature clause may introduce a duration threshold; a brands clause can affect salvage; a machinery clause can change the repair basis; a storage extension can alter transit duration. The claims handler should therefore read special wording as an instruction to investigate different facts, not merely as text to be considered after the survey is complete.

A professional should never assume that the standard ICC result survives an endorsement. Temperature variation, concealed damage, brands, labels, machinery replacement, duty, debris removal, sorting, guaranteed outturn and storage extensions can materially alter the measure or scope of cover. The role of the adjuster is to map every relevant clause to the facts, not to force the claim into a familiar template.

2.9 Fortuity and the Burden of Explanation

All-risks cover is broad because the assured does not normally need to name a listed peril in the way required under a named-perils form. Broad cover does not, however, relieve the claimant of proving a fortuitous physical loss during the insured period. A file that proves only that the cargo is now damaged may still leave open when the damage arose, whether the condition was inevitable, and whether an exclusion is engaged.

The senior claims question is often not 'can we name the accident?' but 'does the evidential record support a fortuitous external occurrence rather than ordinary deterioration, inherent behaviour or an excluded process?' That question should shape the survey plan. The more the cargo is naturally susceptible to moisture, temperature, corrosion, fermentation or shrinkage, the more important it becomes to distinguish its normal behaviour from an abnormal transit event.

CHAPTER 03

ICC 2009: Exclusions

Investigate the facts that activate - or defeat - exclusions

IN THIS CHAPTER

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CHAPTER PERSPECTIVE

Why this chapter matters

An exclusion is not an accusation and should never be investigated as though the claimant is presumed to have done something wrong. It is a contractual boundary that identifies facts the file may need to prove or disprove. Packing, delay, inherent vice, ordinary loss, unfitness, wilful misconduct and war or strikes issues are therefore evidential subjects before they are coverage conclusions. A disciplined survey asks who packed, when, to what standard, what changed during transit and whether an external event operated on the goods.

The most difficult files are rarely pure. Perishable cargo may have an inherent tendency to deteriorate but also experience a power interruption. Machinery may have pre-existing wear but also sustain an impact. Steel may be susceptible to oxidation but also be exposed to a specific water ingress. The task is to identify the causal chain and the contribution of each factor, not to choose the first convenient label. In many cases the technical question - what physically happened - can be answered more confidently than the legal question of how concurrent causes interact under the governing wording.

Senior review should therefore focus on whether the report has preserved the distinction between fact and legal consequence. A surveyor can say that a crate lacked internal blocking, that the defect existed before loading and that movement marks are consistent with cargo shift. Whether that evidence engages a policy exclusion is a separate decision for the authorised claims function.

> **PRACTICE SCENARIO**
>
> A palletised food cargo shows deterioration after an extended voyage. The carrier alleges poor pre- shipment condition; the assured points to a period without refrigeration. The surveyor does not choose a coverage label. Instead, the report records production and loading dates, pre-loading temperatures, power history, airflow, product condition and the chronology of deterioration. The file then allows the principal to assess whether an external event, inherent characteristics, delay, or a combination of causes best explains the loss.

3.1 The Exclusion Discipline

A useful exclusion review begins with an open evidential question: what facts would have to be true for this exclusion to matter? That question determines what should be photographed, measured or requested. It also guards against confirmation bias, because the investigator collects evidence that can support or refute the possible exclusion rather than looking only for material that points in one direction.

A covered peril does not end the analysis. A claim can involve an insured event and an exclusion at the same time. The correct approach is to identify every material cause, determine how the wording connects that cause to the loss, and then refer legal or coverage questions to the principal where the outcome is not straightforward.

3.2 Clause 4 - General Exclusions

Clause 4 covers very different mechanisms, so the same investigation pattern cannot be applied to every item. Ordinary loss is a baseline question; packing is a design, timing and responsibility question; inherent vice can require commodity science; delay requires chronology and causation; insolvency turns on knowledge and contractual events. The table below should therefore be read as an evidence plan, not as a list of automatic declinature grounds.

Topic	What the exclusion addresses	Survey evidence to secure
4.1 Wilful misconduct	Loss, damage or expense attributable to wilful misconduct of the Assured.	Instructions, knowledge, decisions, contemporaneous communications and other reliable evidence; avoid allegations without evidence.
4.2 Ordinary leakage / ordinary loss / wear and tear	Normal voyage shrinkage, leakage or deterioration through ordinary use or time.	Expected trade allowance, loading/discharge weights, calibration, voyage duration, commodity characteristics and prior condition.
4.3 Insufficient or unsuitable packing/preparation	Packing or preparation that falls within the exclusion as worded, including relevant pre-attachment packing/container stowage.	Packing design, who packed and when, photographs, lashing, dunnage, stuffing plan, standards and expected transit rigours.
4.4 Inherent vice / nature	Deterioration generated by the cargo own characteristics rather than an insured fortuity.	Commodity science, moisture/temperature history, age, shelf life, pre-shipment tests, ventilation and evidence of any external event.
4.5 Delay	Loss or expense attributable to delay, subject to the exact wording and causation analysis.	Chronology, physical deterioration mechanism, periods of delay, cargo care during delay and proximate-cause evidence.
4.6 Insolvency / financial default	Specified consequences of carrier insolvency/default, with knowledge and assignment qualifications under the wording.	Booking knowledge, notices, timing of financial distress and purchase/assignment documents.
Nuclear / radioactive device exclusion	Loss connected with the specified atomic/nuclear reaction or radioactive force/matter.	Event source and official technical evidence; refer immediately because of the specialist nature.

Packing: who did it and when can be decisive

Packing evidence must identify the actor and timing, not merely the quality of the packing. Under ICC 2009, the clause distinguishes packing or container stowage performed by the Assured or its employees, and packing carried out before the insurance attached, from work later performed by an independent contractor. The factual record should therefore name the packing party and establish whether that party was an employee, contractor, forwarder or other entity.

> **PACKING PHOTOGRAPHS NEED CONTEXT**
> A photograph of a broken crate proves condition, not necessarily insufficiency. Record dimensions, materials, fastenings, dunnage, blocking/bracing, centre of gravity, handling marks and the ordinary forces expected on the intended route.

Inherent vice versus external event

The distinction is often scientific rather than visual. Fruit can decay naturally, steel can oxidise, hygroscopic cargo can exchange moisture and biological products can self-heat. The question is whether an external accidental event operated on the goods or whether the loss emerged from their natural condition under the expected transit environment. Expert laboratory, meteorological or commodity evidence may be needed.

3.3 Clause 5 - Unseaworthiness and Unfitness

ICC 2009 protects an innocent cargo Assured more than a simple statement that an unseaworthy vessel defeats the claim would suggest. Loss from vessel unseaworthiness or unfitness is excluded where the Assured is privy to that condition at the relevant loading time. The clause also addresses unfitness of containers and conveyances where loading occurs before attachment or is performed by the Assured or its employees with relevant knowledge.

A surveyor should therefore investigate the actual defect, whether it existed at loading, whether it caused the loss, and what the Assured knew. The technical finding “container floor holed before stuffing” is useful; the legal conclusion “coverage excluded” is ordinarily for the insurer.

3.4 Clause 6 - War Exclusion

Where war-related circumstances exist, precise event description is essential. Operational disruption, delay, detention, physical attack and derelict weapons can raise different issues, and separate war cover has its own attachment and duration provisions. The factual report should identify what actually occurred and avoid compressing complex circumstances into the single word 'war'.

The base ICC wording excludes the specified war, civil war, rebellion/insurrection, hostile acts by or against a belligerent power, capture/seizure/restraint/detainment within the wording, and derelict weapons of war. War cover, if purchased, must be examined separately for its own attachment, duration and exclusions.

3.5 Clause 7 - Strikes, Terrorism and Politically Motivated Acts

The same discipline applies to civil disturbance and politically motivated acts. A port closure, labour shortage or delayed sailing may be commercially connected to a strike without the cargo having suffered direct physical damage from a participating person. Record the direct mechanism of loss and the role of the event so that the extension and exclusions can be applied accurately.

Base ICC cover excludes losses connected with strikers, locked-out workers, labour disturbances, riots or civil commotions, as well as defined terrorism and acts motivated politically, ideologically or religiously. Separate strikes cover generally restores specified direct physical damage caused by persons participating in those activities; it does not automatically reinstate every financial consequence of a strike or closure.

3.6 Concurrent Causes

Real losses are rarely single-cause. A storm may delay a vessel; the delay may allow a perishable cargo to decay. A collision may damage a reefer power socket; the loss may then manifest as temperature deterioration. A packing weakness may combine with rough handling. Record each causal step. The legal effect of competing insured and excluded causes can depend on wording and governing law and should not be simplified in the field report.

3.7 The Borderline Between Inherent Vice and External Fortuity

Inherent vice should not become a convenient label for every loss involving a sensitive commodity. The proper analysis asks whether the loss arose from the cargo's own natural tendency in the ordinary circumstances of the insured adventure, or whether an external fortuity operated on the cargo. The same commodity can produce either answer on different facts.

Condensation illustrates the difficulty. Moisture may arise because warm, humid cargo was packed into a closed environment and naturally cooled, because external temperature changes crossed the dew point, because rain or sea water entered, or because ventilation was inappropriate. The visible mould or rust is not the cause. The professional task is to reconstruct the moisture source, thermal history and ventilation environment before using policy labels.

Packaging raises a similar boundary. The question is not whether stronger packaging could have prevented the loss in hindsight. The investigation should ask what packaging was used, what transit it was intended to withstand, whether it was customary and suitable for the ordinary rigours of that transit, and whether the loss mechanism exceeded those ordinary conditions.

CHAPTER 04

Transit, Interest & Change

Map the insured journey against the commercial journey

IN THIS CHAPTER

Attachment, ordinary transit and termination

Storage, deviation and change of destination

Insurable interest and sale terms

Incoterms 2020 versus insurance duration

TRUSTED WHEN IT MATTERS MOST.

CHAPTER PERSPECTIVE

Why this chapter matters

Transit analysis is a chronology exercise before it is a clause exercise. The same cargo can be physically at the same warehouse or terminal under very different insurance circumstances depending on why it is there, who decided it should remain there and whether the stop forms part of the ordinary course of the insured journey. Geography alone does not answer the question. The file must reconstruct purpose, custody and movement.

This is why the beginning and end of transit deserve the same evidential care as the casualty itself. The first movement within the origin premises may be relevant where it is undertaken for immediate loading, while unrelated stock handling is not the same thing. At destination, cover may end on completion of final unloading, but it may also terminate earlier when the Assured elects commercial storage or allocation that is no longer part of the transit. The familiar 60-day long-stop should not be treated as free storage cover detached from the other termination events.

The practical discipline is to build a timeline with reasons, not merely dates. For every stop, diversion, storage period or change of destination, ask who decided, why, under what transport document, with what notice to insurers and what evidence records the decision. That chronology often becomes decisive months later when the physical damage itself is no longer disputed.

> **PRACTICE SCENARIO**
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> Cargo is discharged at the destination port and remains in the same sealed container for three weeks. That fact alone does not establish whether cover continued. The question is why it remained there. If customs formalities and onward transit prevented movement, the analysis may differ from a buyer who deliberately used the container as convenient commercial storage. Emails, delivery instructions, terminal status and forwarder records can therefore be more important than the physical location itself.

4.1 Clause 8 - When ICC 2009 Transit Starts

Evidence of the first movement can be surprisingly important in warehouse losses. Loading instructions, pick records, CCTV, forklift logs and vehicle arrival times can show whether the goods had genuinely entered the outbound transit process or were still within ordinary stock handling. The distinction should be established from operations rather than inferred from a convenient timestamp.

Under ICC 2009, cover may attach before the goods physically leave the origin warehouse. The critical question is whether the insured goods have begun their first movement within the named origin premises with the immediate purpose of being loaded onto the outbound vehicle or conveyance for the insured journey. Stock rotation, picking without prompt dispatch, manufacturing activity or unrelated internal handling does not, by itself, mark the start of the insured transit.

4.2 The Ordinary Course of Transit

The ordinary course is defined by the commercial and logistical purpose of the journey. A stop that is routine or necessary for transhipment can remain part of transit, whereas a decision to hold cargo for allocation, price reasons or unrelated convenience may point in a different direction. The file should record the reason for each material interruption and the person who controlled it.

After attachment, cover follows the goods while the insured journey remains within its normal transit progression. Whether a particular movement, stop or storage period forms part of that progression is fact-sensitive. Normal intermediate handling, transhipment and reasonable waiting inherent in the route can fall within it; an unrelated diversion, storage for the Assured's own commercial convenience or an unreasonable interruption may not.

Map every custody transfer and material storage period, even where the goods remain sealed in the same container. For each interruption, record why the goods stopped, who made the decision, how long the stop lasted and whether it was necessary for the intended journey. This allows the file to distinguish delay or handling that is inherent in the transit from deliberate commercial storage, allocation or diversion.

4.3 Where Transit Ends

The 2009 transit provision ends cover when the first applicable termination event occurs. Most commonly, that is when unloading from the final carrying vehicle or conveyance has been completed at the destination storage location identified by the insurance. Cover can also end earlier where the Assured chooses another warehouse for non-transit storage or allocation/distribution, or uses a container or conveyance as storage rather than as part of the continuing insured journey.

A separate long-stop also applies. Unless continuation has been agreed, cover will generally end 60 days after the overseas vessel has completed discharge at the final discharge port, if another termination event has not already brought the insurance to an end.

4.4 Forced Deviation and Delay Beyond the Assured’s Control

Deviation and delay beyond the Assured's control should be documented contemporaneously because the same facts may later affect coverage, mitigation and recovery. Obtain carrier notices, port or authority instructions, revised routing, transhipment arrangements and communications showing who made the decision. That record helps distinguish an imposed operational change from a voluntary commercial choice.

Clause 8.3 preserves cover, subject to the rest of the clauses, during delay beyond the Assured’s control, deviation, forced discharge, reshipment, transhipment and certain variations of the adventure arising from liberties granted to the carrier. This protects the cargo interest when the transport pattern changes without a voluntary commercial decision by the Assured.

4.5 Clause 9 - Premature Termination of the Adventure

When the contractual adventure ends unexpectedly, speed of communication matters. The claims professional should identify the place where the carriage ended, the reason, the condition of the cargo, the onward options and the time at which insurers were notified. Continuation questions should be escalated before irreversible forwarding or storage decisions are made where practicable.

If, for circumstances beyond the Assured’s control, the contract of carriage ends at another port/place or the transit otherwise terminates before the normal Clause 8 endpoint, the insurance can itself terminate unless the insurer is promptly notified and continuation is requested. Continuation may be subject to additional premium and will then operate within the alternatives and periods specified by the clause.

4.6 Clause 10 - Change of Destination

A change of destination is both an operational event and a knowledge question. Record when the new destination was proposed, who requested or knew of it, what the carrier actually did and when insurers were informed. The same movement can have different policy consequences depending on whether it was an Assured-directed commercial change or a carrier action outside the Assured's knowledge.

If the Assured changes the destination after cover has attached, insurers must be notified promptly so rates and terms can be agreed. If the carrier sails for a different destination and neither the Assured nor its employees knew of that change, the 2009 wording preserves the attachment of cover for the transit originally contemplated by the insurance. Again, the facts of who knew what and when should be recorded carefully.

4.7 Clause 11 - Insurable Interest

Insurable interest should be analysed at the time of the loss, not simply by asking whose name appears on the invoice or certificate. Sale terms, contractual risk transfer, title documents, payment arrangements and

assignments may point in different directions. Where the file is complex, the surveyor should collect the relevant documents and leave the ultimate legal analysis to the authorised claims function.

A claimant can recover only if the required insurable interest exists when the insured loss occurs. That is separate from the question of who bought the policy. Sale terms, risk transfer, title documents and assignment of the insurance may all matter. ICC 2009 also accommodates an insured loss occurring during the covered period before the insurance contract is concluded, provided the Assured was not aware of the loss while the insurer was unaware, and subject always to the insurable-interest requirement.

Incoterms are evidence of the sale allocation, not the insurance policy

Terms such as CIF, CIP, FOB and FCA help identify contractual risk allocation between seller and buyer but do not themselves rewrite the cargo policy. Use the applicable Incoterms edition and the actual sale contract; do not infer ownership, risk or insurance rights from a trade acronym alone.

4.8 Transit Chronology Template

The chronology template is most useful when every row contains both a fact and its source. 'At terminal for five days' is descriptive; 'terminal storage from 12-17 March pending customs release, supported by gate record and broker email' is evidential. Adding purpose and source turns a timeline into a coverage and recovery tool.

Stage	Date/time	Custodian	Document / evidence	Cover question
Origin warehouse movement				Was movement for immediate loading?
Loading to first conveyance				Had cover attached and did claimant have interest?
Inland leg				Ordinary course or deviation?
Port / terminal storage				Transit necessity or elected storage?
Ocean carriage				Casualty / carrier custody evidence?
Discharge / transhipment				Any forced change or port of refuge?
Final inland leg				Any diversion or allocation?
Final unloading				Exact moment unloading completed?

CHAPTER STANDARD

By the end of the transit analysis, every significant movement, stop, storage period and change should have a date, custodian, purpose and source. That chronology should make it possible to identify the likely damage window and whether the insurance was still on risk at the relevant time.

4.9 Incoterms 2020: Commercial Risk Is Not Insurance Duration

Incoterms 2020 are sale-contract rules. They help allocate delivery obligations, transport costs and the point at which risk passes between seller and buyer. They do not determine the attachment or termination of an ICC policy, and they do not by themselves decide who can sue the carrier. Those questions remain governed by the insurance and carriage arrangements.

The distinction is particularly important under CIF and CIP. Under CIF, used for sea or inland-waterway trade, risk transfers when the goods are delivered on board at the port of shipment even though the seller pays freight and procures insurance to the destination; the default insurance level is comparatively limited. Under CIP, risk passes when the goods are handed to the carrier, while the seller procures carriage and a higher default level of insurance to the named destination. In both cases, the fact that a seller pays for carriage or insurance does not mean that the seller carries the transit risk all the way to destination.

A claims file should therefore record the named Incoterms rule and edition, but then separately map policy attachment, actual custody and the transport contract. This prevents the frequent mistake of using a sale term as a substitute for the ICC transit clause.

CHAPTER 05

Mitigation, Charges & Duties

Separate reasonable mitigation from unrelated expense

IN THIS CHAPTER

Duty to avert or minimise

Forwarding and preservation charges

Reasonable despatch

Mitigation, sue and labour, GA and salvage

TRUSTED WHEN IT MATTERS MOST.

CHAPTER PERSPECTIVE

Why this chapter matters

Mitigation is where technical judgment, commercial judgment and policy discipline meet. After damage is discovered, the most expensive decision may not be the original casualty but what happens next: whether cargo is segregated, repaired, cooled, dried, reconditioned, sold, forwarded or destroyed. Those decisions can preserve value or magnify the claim. They can also affect evidence and recovery against third parties.

Reasonableness is therefore best documented prospectively. The file should record the options that were realistically available, the value at risk, anticipated cost, time sensitivity, regulatory constraints and who authorised the course adopted. A costly action is not automatically unreasonable if it protects a much larger value; a cheap action is not automatically prudent if it destroys recoverable evidence or delays treatment until deterioration becomes irreversible.

Good claims practice also separates different financial categories. Forwarding charges, loss-mitigation expenses, repair costs, ordinary business costs, general average contributions and salvage charges do not become interchangeable merely because they arise after the same incident. Clear classification makes the adjustment easier to audit and protects against double recovery or omission.

PRACTICE SCENARIO

A damaged machinery shipment can be repaired locally for USD 35,000 or returned to the maker for USD 70,000. The cheaper option appears obvious until the maker confirms that local work would void certification and could leave hidden alignment damage. A sound mitigation file records both quotations, the technical risk, time consequence, insured value and authority obtained. Reasonableness is demonstrated by the decision process, not by selecting the lowest number after the event.

5.1 Clause 16 - The Duty of Assured

The ICC 2009 duty requires the Assured, its employees and agents to take reasonable measures to avert or minimise a recoverable loss and to preserve and exercise rights against carriers, bailees and other third parties. Proper and reasonable charges incurred in performing those duties are addressed separately from the underlying physical loss.

The duty has two practical dimensions. The first is physical: protect, segregate, dry, cool, repair, recondition, tranship or sell damaged property where a prudent uninsured owner would do so. The second is legal/evidential: issue notices, invite responsible parties, obtain receipts and preserve contractual rights before they expire.

5.2 Clause 12 - Forwarding Charges

Forwarding expenditure should be tested against the counterfactual: what would have been spent if the insured event had not caused the premature end of transit? Only the additional, properly connected cost should be considered under the clause. This avoids treating ordinary freight or handling charges as loss merely because they were paid after a casualty.

Where an insured risk causes the insured transit to end at a place short of the insured destination, Clause 12 can reimburse properly and reasonably incurred extra costs of unloading, storage and forwarding to the insured destination, subject to the clause exclusions and qualifications. The clause is not a general travel-expense account: the costs must be extra, tied to the specified forwarding purpose and economically reasonable.

Charge type	Typical treatment question	Evidence
Emergency unloading	Was the expense necessary because the insured adventure ended prematurely?	Port invoice, incident report, cargo plan and authority.
Temporary storage	Was it extra, reasonable and connected to preservation/forwarding?	Storage period, rates, condition controls and reason for delay.
On-carriage / re-forwarding	Was cargo being sent to the insured destination and was the cost reasonable?	Alternative quotations, route and final delivery proof.
General average / salvage charge	These are not Clause 12 forwarding charges; treat under the relevant GA/salvage provisions.	GA demand, salvage security and adjustment/award.

5.3 Charges After Damage

The classification of post-loss costs should be decided by purpose and policy connection. Sorting can be part of mitigation when it separates sound from damaged goods; the same labour can become ordinary commercial handling if it would have been incurred anyway. A short explanation of why each significant cost was necessary is often more valuable than the invoice alone.

Not every expense that follows damage is insured. A useful test is whether the expense was reasonably incurred because of insured physical loss in order to reduce, repair or manage the claim, or whether it is simply an ordinary business cost that became more expensive because the cargo was damaged.

Often capable of allowance*	Often requires caution or specific wording*
Reasonable sorting to segregate sound from damaged cargo.	Routine discharge/handling that would have been incurred anyway, merely increased by difficulty.
Necessary repair or reconditioning that reduces the indemnity.	Pure commercial upgrade, improvement or betterment.
Repacking needed to prevent further loss or restore insured saleable packaging.	Cosmetic repacking after risk has ended where packing was only transport protection.
Reasonable salvage sale costs where disposal is part of mitigation.	General overhead, management time and internal administration unless expressly provided.
Survey/adjustment costs where payable under policy, instruction or established practice.	Testing/opening sound goods unless reasonably necessary or an applicable clause supports it.
Emergency transport to an approved reconditioning location.	Disposal/debris costs unless they fall within cover or an extension.

*These are practice indicators only. The policy wording, special clauses, instructions and local law control.

5.4 Packaging Costs

Packaging should be analysed by function. Retail presentation, branded containers and product packaging can form part of the commercial subject-matter, while crates, pallets and dunnage may exist mainly to protect the goods in transit. The financial treatment can therefore differ, and the report should explain whether replacement restores the insured product, prevents further damage, or merely improves presentation after transit has ended.

Packaging can be part of the insured subject-matter where it forms part of the product sold - for example branded retail packaging - while purely transit packaging may be only a protective medium. Even if transport packaging is not itself insured property, reasonable replacement during the continuing insured transit may still be justified where it is necessary to avert further insured damage. The report should explain the commercial and protective function of the packaging rather than simply listing its replacement cost.

5.5 Clause 17 and Preservation Measures

Protective action should not be delayed simply because the parties have not yet agreed the legal character of the loss. Where reasonable measures are required to save or preserve property, record the authority, purpose and condition before and after the action. This creates a neutral record while rights and abandonment issues remain reserved.

Measures taken by the Assured or insurer to save, protect or recover the insured property do not, merely by being taken, amount to acceptance of abandonment or a waiver of rights. This allows practical loss-control action to proceed without automatically determining the legal character of the loss.

5.6 Clause 18 - Reasonable Despatch

Delay within the Assured's control can increase deterioration and charges even where the original event was insured. The chronology should therefore explain significant periods of inactivity and distinguish decision delay from external obstacles such as customs, testing, port restrictions or authority instructions. That distinction is important both to adjustment and to any later recovery argument.

The Assured is expected to act with reasonable despatch in circumstances within its control. Slow decisions can magnify deterioration, storage charges and recovery prejudice. The file should therefore explain significant gaps in chronology and identify any external reason for delay, such as customs hold, authority restrictions, laboratory lead time or court/port process.

5.7 Mitigation, Sue and Labour, General Average and Salvage Are Different Buckets

When money is spent after a casualty, the label attached to the invoice is not decisive. A claim handler should first identify why the expense was incurred. Was it a reasonable step taken by or for the assured to avert or minimise an insured loss? Was it an extraordinary common-safety expenditure that belongs in general average? Was it remuneration for successful salvage services? Or was it an ordinary cost of completing the commercial transaction? The answer affects both adjustment and documentation.

The distinction is practical. Emergency sorting and drying undertaken to prevent progressive wet damage may be a mitigation expense if reasonable and connected with the insured loss. A contribution demanded under an average adjustment is different in character. A salvage security demand protects a salvor's maritime claim and should not be collapsed into ordinary survey or handling charges. Keeping these heads separate makes the adjustment easier to audit and avoids double counting.

Senior review should test three things: authority, necessity and proportionality. The fact that a cost was actually incurred proves expenditure, not recoverability. Equally, delay in authorising sensible preservation can turn a manageable partial loss into a much larger claim. The file should show what was known at the time the decision was made, not judge the decision solely with hindsight.

CHAPTER 06

English Insurance Law Context

Use legal principles as a disciplined framework, not slogans

IN THIS CHAPTER

Marine Insurance Act 1906 foundations

Insurance Act 2015 reforms

Proximate cause and indemnity

Late payment, fraud and subrogation

TRUSTED WHEN IT MATTERS MOST.

CHAPTER PERSPECTIVE

Why this chapter matters

Cargo claims handled under ICC 2009 sit within a legal framework that cannot be reduced to a single historic statute. The Marine Insurance Act 1906 remains fundamental, while the Insurance Act 2015 and the late-payment provisions introduced through the Enterprise Act 2016 materially affect modern non-consumer insurance practice. For a claims professional, however, the practical challenge is not to become a substitute for legal counsel. It is to understand which facts the law makes important and to preserve them accurately.

That distinction matters in areas such as fair presentation, warranties, fraudulent claims, insurable interest and subrogation. The field surveyor may be the first person to encounter an inconsistency, a breached temperature instruction or a document that raises questions about ownership. The appropriate response is normally to preserve the evidence, record the source and escalate the issue - not to announce a legal conclusion in a public report.

A senior claims file should also show procedural discipline. Requests for information should be connected to a genuine decision point. Repeated broad requests can slow a valid claim without improving the analysis, while failure to request decisive evidence early can make later assessment impossible. Good legal awareness therefore improves claims handling even before a lawyer becomes involved.

> **PRACTICE SCENARIO**
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> A surveyor finds that a temperature warranty may not have been complied with and also sees inconsistent loading records. The correct report does not declare the policy void or the claim fraudulent. It records the actual settings, data source, discrepancy and chronology, preserves the original files and informs the principal privately. The legal significance can then be assessed under the operative wording and law without contaminating the factual report with an unauthorised conclusion.

6.1 The Legal Framework in Practical Terms

The table below is a map of the legal landscape, not a substitute for the statutes or policy wording. For live claims, identify which issue is actually in dispute before reaching for legal doctrine. A fair-presentation question calls for placement and disclosure evidence; a warranty issue calls for the exact term and compliance chronology; subrogation requires title and recovery documents. Legal relevance should sharpen the evidence plan.

Instrument	Why it matters to a cargo claim
Marine Insurance Act 1906	Foundational marine insurance concepts including insurable interest, indemnity, total loss, abandonment and subrogation remain central, subject to later amendments.
Insurance Act 2015	Modern rules for non-consumer fair presentation, warranties, risk-reducing terms and fraudulent claims materially changed some historic consequences.
Enterprise Act 2016	Inserted section 13A into the Insurance Act 2015, implying a term that sums due are paid within a reasonable time, including reasonable investigation/assessment time.
Policy wording / contracting out	Commercial insurance contracts can in specified circumstances contract out of parts of the statutory default regime if transparency requirements are met. Always review the actual wording.

DO NOT USE AN "OLD LAW / NEW LAW" SHORTCUT

For a current professional guide, the starting point is the current law applicable to the contract. Historic rules remain relevant only where the contract, date or valid contracting-out provision makes them relevant.

6.2 Duty of Fair Presentation

Before a non-consumer insurance contract is entered into, the insured must make a fair presentation of the risk. In practical terms, material circumstances known or that ought to be known after a reasonable search should be presented clearly and accessibly, and material factual representations must be substantially correct while expectations or beliefs must be made in good faith.

The remedies for a qualifying breach depend on whether the breach was deliberate/reckless and on what the insurer would have done had a fair presentation been made. The remedies can include avoidance, insertion of different terms or proportionate reduction of claims depending on the statutory conditions.

6.3 Warranties and Risk-Reducing Terms

Under the Insurance Act 2015, breach of warranty generally suspends the insurer’s liability during the period of breach rather than automatically discharging the insurer from all future liability. If the breach is remedied, cover can revive for later events. Section 11 can also restrict reliance on certain risk-reducing terms where the insured demonstrates that the particular non-compliance had no capacity to increase the risk of the loss that actually happened, subject to the section's statutory boundaries.

The practical task is therefore to identify the exact term, what it required, the period of non-compliance, whether it was remedied, and the relationship - if legally relevant - between non-compliance and the actual loss. Do not apply the label “warranty” casually; the policy wording and the Act must be read together.

6.4 Fraudulent Claims

Inconsistency is not the same as fraud. Cargo files often contain clerical errors, different measurement systems, translated documents and retrospective estimates. The professional response is verification: preserve originals, reconcile versions, identify metadata and report material discrepancies privately. Escalation should be proportionate to the evidence and handled under the principal's instructions.

The Insurance Act 2015 contains specific remedies for fraudulent claims. Deliberately exaggerating quantum, fabricating documents or knowingly presenting a dishonest claim can have consequences beyond the disputed item. Surveyors should preserve original evidence, identify alterations or inconsistencies neutrally, and escalate concerns to the principal rather than confront a claimant with allegations unless instructed.

6.5 Late Payment of Insurance Claims

For insurance contracts governed by UK law and within the statutory regime, section 13A of the Insurance Act 2015 requires insurers to pay sums due within a reasonable time. A reasonable time includes the period reasonably needed to investigate and assess the claim; complexity, location and factors outside the insurer’s control can be relevant. A reasonable dispute as to validity or quantum can provide a defence, but the manner and speed of handling still matter.

The operational lesson for surveyors and adjusters is simple: document requests should be focused, material and timely. Repeated requests for information that cannot affect the decision are poor claims practice; equally, a claimant who does not produce essential evidence can legitimately slow the assessment.

6.6 Insurable Interest, Indemnity and Subrogation

These concepts connect the insurance claim to the recovery claim. The party entitled to insurance indemnity and the party holding contractual rights against a carrier may require different documents, particularly after assignments or payment. Recovery documents should therefore be anticipated early rather than assembled only after settlement, when signatures, originals and corporate authority may be harder to obtain.

Marine insurance aims to indemnify the insured interest rather than create a profit from loss. After indemnifying a covered loss, the insurer can acquire subrogation rights to pursue responsible third parties to the extent permitted by law and the policy. In practice, subrogation receipts, assignments or powers of attorney may be required depending on jurisdiction and the chosen defendant. Preservation of recovery should start before payment; it is too late to reconstruct evidence after indemnity has been paid and the time bar is approaching.

6.7 Proximate Cause: The Effective Cause, Not Simply the Last Event

English marine insurance analysis uses proximate cause as a legal filter between the physical history and the insured response. In practical terms, the task is to identify the cause that was effective or dominant in producing the loss, rather than mechanically selecting the event closest in time. A chain may contain several events, but their legal significance can differ.

This is why a survey report should describe the factual chain with more precision than a coverage conclusion requires. Consider wet cargo after heavy weather: the report should establish the weather, hatch or container condition, water pathway, distribution of damage and timing. Whether the legally proximate cause is an insured peril, whether an exclusion interrupts the chain, and whether concurrent causes alter the result can then be assessed from a reliable technical record.

For senior handlers, proximate cause is also a warning against single-word causation. 'Delay', 'rust', 'condensation', 'poor packing' and 'power failure' may describe different levels of the chain. The file should explain how the loss developed before deciding which level is legally decisive.

6.8 Insurance Act 2015: Claims-Relevant Practical Effects

For non-consumer insurance under English law, the Insurance Act 2015 modernised several areas that still appear in older marine insurance study texts. The duty of fair presentation replaced the former pre-contract disclosure regime with a structured duty and proportionate remedies. Breach of warranty generally suspends liability while the breach continues rather than automatically discharging the insurer from all future liability, and 'basis of contract' clauses were abolished. The Act also gives statutory remedies for fraudulent claims.

These reforms do not make pre-placement information irrelevant to a cargo claim. A claims handler may still need to understand what was represented about packing, storage, commodity, route or risk controls, especially where an endorsement or risk-reducing term is material. The surveyor's role is to establish facts and preserve evidence; policy remedies remain a decision for the authorised claims function or legal adviser.

The late-payment regime introduced by the Enterprise Act 2016 inserted section 13A into the Insurance Act 2015. It implies a term requiring sums due to be paid within a reasonable time, while recognising that a reasonable period includes investigation and assessment and that genuine disputes can justify delay. In a complex cargo loss, disciplined evidence gathering is therefore not only about proving the claim; it also helps the insurer investigate efficiently and explain why further time is reasonably required.

CHAPTER 07

Measuring Loss & Quantum

Make every number traceable to evidence and method

IN THIS CHAPTER

TRUSTED WHEN IT MATTERS MOST.

CHAPTER PERSPECTIVE

Why this chapter matters

Quantum is often presented as the easy part of a claim because it ends in a number. In practice, the number is only as reliable as the method underneath it. A percentage depreciation, repair cost, damaged sale, replacement cost or total-loss analysis each answers a different economic question. The appropriate method depends on the subject-matter, the policy wording, the market evidence and what can actually be proved.

The distinction between physical loss and commercial disappointment is especially important. Damaged goods may still have value. Repair may restore function but include an element of improvement. A distressed sale may be a useful measure of damaged value, but only if the sale process is commercially credible and comparable with the sound market. Salvage proceeds, deductibles and reasonable charges must be treated consistently so that the calculation neither understates nor overstates the indemnity.

A senior reviewer should be able to reconstruct the adjustment from primary evidence without asking the author what was intended. The affected quantity, sound value, damaged value, repair scope, salvage, charges and deductible should each have a source. If the figure cannot be audited, it is not yet a professional adjustment.

> **PRACTICE SCENARIO**
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> A machine with an insured value of USD 500,000 suffers impact damage. A repair quotation totals USD 110,000, but USD 25,000 relates to upgrading obsolete controls. A second quotation repairs only the damaged components, and the damaged unit still has salvage value. A professional adjustment separates restoration from betterment, tests whether repair is economically rational, identifies salvage and applies the policy basis. The arithmetic is easy; deciding what the arithmetic should include is the real claims work.

7.1 Partial Loss

Partial-loss measurement should reflect the real economic effect on the affected goods and should not spread loss across sound property for convenience. Before applying a percentage, define the damaged population, the valuation point and the evidence of reduced value. Where repair is possible, compare the proposed scope with the pre-loss condition so that betterment and unrelated maintenance are not silently included.

A partial loss exists where only part of the insured interest is lost or damaged, or where the affected property retains value. Common approaches include an agreed depreciation, a comparison between sound and damaged market values, or the reasonable cost of repair/reconditioning. The chosen method should match the nature of the goods and the policy.

Agreed depreciation

A percentage depreciation should reflect the reduction in value caused by insured damage, not a negotiating convenience. Apply it only to the insured value attributable to the affected units unless the whole consignment is demonstrably affected. The survey file should state how the percentage was derived: market evidence, repair cost, grade reduction, buyer quotations, laboratory results or another objective basis.

Sale of damaged goods

Where damaged goods are sold to establish residual value, compare like with like: the damaged sale value should be measured against the sound market value of comparable goods at the same place and time. A rising or falling commodity market is a commercial movement, not physical cargo damage. Use gross sale proceeds to determine depreciation and treat properly incurred sale charges separately in the adjustment where recoverable.

Repair or reconditioning

For machinery, equipment and repairable goods, the reasonable cost of restoring the insured item can be the clearest measure. Obtain scope, quotations, repair methodology, lead time, transport cost, testing and any betterment. Manufacturer warranty concerns may be commercially important but do not automatically make a technically repairable machine a total loss. Check any replacement or proportional-valuation clause.

7.2 Actual Total Loss

Actual total loss is a legal and factual category, not a synonym for 'very badly damaged'. Complete destruction, loss of essential identity or irretrievable deprivation require clear evidence. Regulatory destruction can be decisive in some circumstances, but the report should preserve the authority's order, reason and identification of the goods rather than relying on a later statement that disposal occurred.

An actual total loss may arise where the insured property is destroyed, loses its essential identity as the insured thing, or is lost to the Assured beyond practical recovery. A cargo can therefore be physically present and still be totally lost in the legal sense if it has lost its essential identity or utility, although residual salvage proceeds can remain relevant to the settlement.

7.3 Constructive Total Loss and Notice of Abandonment

Constructive total loss requires a forward-looking economic and legal assessment. Repair, recovery, forwarding and value estimates should be supported by realistic quotations and conditions, not worst-case assumptions. Where notice of abandonment may be required, timing and legal advice are important because the surveyor's technical estimate is only one part of the decision.

Under ICC 2009 Clause 13 and the underlying marine insurance principles, a constructive total loss may arise if an actual total loss appears unavoidable, or if the reasonable combined cost of recovering the goods, restoring or reconditioning them and carrying them onward to the insured destination would be greater than their value on arrival. The comparison must be evidence-based and should include realistic recovery, repair and forwarding costs.

A constructive total loss is not merely “repair costs are high”. Formal abandonment issues may arise under English law and should be handled by the principal/broker/counsel. A surveyor can support the decision by documenting condition, residual value, repairability, cost estimates and practical feasibility.

7.4 Sale Short of Destination

A distressed sale can both mitigate loss and provide evidence of damaged value, but only if the process is transparent. Record why the sale was necessary, where it took place, who was invited to bid, any relationship between buyer and seller, and the costs deducted. A hurried or related-party sale without market testing may create a weak valuation reference even if disposal was sensible.

Damaged cargo sold at an intermediate port because forwarding is uneconomic or likely to worsen the loss may be settled on a salvage-loss basis where appropriate: the insured value is compared with the net proceeds of sale. This is conceptually different from a depreciation sale at destination. Record why the intermediate sale was prudent and obtain approval where time permits.

7.5 Increased Value Insurance

Increased-value cover should not be treated as a second opportunity to recover the same loss. The claims handler should understand the relationship between the primary policy and the increased-value interest, the applicable valuation provisions and any contribution or coordination mechanism. Keep the calculations separate until the contractual interaction is clear.

Where additional Increased Value insurance exists, ICC 2009 Clause 14 coordinates the agreed value across the primary and increased-value covers and allocates liability proportionately. Do not assume the policies have identical conditions, deductibles or responsive perils. The claimant should disclose the full insurance structure so the adjustment can be allocated correctly.

7.6 The Quantum Evidence Ladder

The evidence ladder reflects reliability rather than convenience. Contemporaneous invoices, independent market transactions, maker repair specifications and documented salvage sales generally provide a stronger basis than retrospective estimates. Where the file must rely on a lower rung, explain why higher-quality evidence is unavailable and test the estimate against independent benchmarks.

Stronger evidence	Examples
Primary transactional evidence	Commercial invoice, packing list, payment proof, freight/duty invoice, sales contract and insured-value basis.
Physical evidence	Count, weight, measurements, photographs, test results, samples and repairability assessment.
Independent market evidence	Comparable sound-value quotations, tender bids, salvage offers, commodity prices and independent repair quotations.
Claimant estimates	Internal worksheets, expected margin and management estimates - useful but should be corroborated.
Unsupported assertion	"Unsaleable", "100% loss" or "cannot be repaired" without evidence - insufficient on its own.

REJECTING A CLAIM ITEM REQUIRES THE SAME DISCIPLINE AS ALLOWING IT

If an adjustment disallows a cost, explain the contractual or evidential reason. A transparent disallowance is stronger than a silent deletion.

7.7 Worked Quantum Examples

The examples below are deliberately simple. Their purpose is to show the logic of the calculation and the evidential questions behind it. Policy wording, valuation basis, special clauses, deductible structure, tax/duty and local law may change the result in a live claim.

WORKED EXAMPLE | Agreed depreciation on part of a shipment

Four hundred cartons are insured for USD 132,000. Eighty cartons are physically damaged and a 30% depreciation is supported by market evidence.

Calculation Amount

Insured value per carton: 132,000 / 400 USD 330.00

Insured value of 80 affected cartons USD 26,400.00

30% depreciation USD 7,920.00

Less deductible USD 1,500.00

Net claim USD 6,420.00 Practice note: Apply the percentage only to the affected insured value unless evidence shows the entire interest has depreciated.

WORKED EXAMPLE | Damaged sale at destination

A damaged parcel has a sound market value of USD 28,000 at the place and date of sale. It realises gross proceeds of USD 17,500. The insured value attributable to that parcel is USD 30,800.

Calculation Amount

Market depreciation: (28,000 - 17,500) / 28,000 37.50%

37.5% of affected insured value USD 11,550.00

Calculation Amount

Add sale charges USD 500.00

Add reasonable sorting charges USD 350.00

Less deductible USD 2,000.00

Net claim USD 10,400.00 Practice note: Use gross sale proceeds to measure depreciation; separately account for properly recoverable sale charges.

WORKED EXAMPLE | Sale short of destination

A parcel insured for USD 90,000 is landed damaged at an intermediate port. Forwarding would probably worsen the condition and is uneconomic. With approval, the parcel is sold there for USD 32,000 gross, with USD 1,200 sale charges.

Calculation Amount

Gross sale proceeds USD 32,000.00

Less sale charges USD 1,200.00

Net proceeds USD 30,800.00

Insured value less net proceeds USD 59,200.00 Practice note: Document why the intermediate sale was prudent and why forwarding was not the better mitigation option.

WORKED EXAMPLE | Repairable machinery

An insured machine has a sum insured of USD 240,000. An insured event damages a replaceable assembly. The technical repair restores the machine without betterment.

Calculation Amount

Replacement / repair of damaged assembly USD 31,500.00

Dismantling and refitting USD 8,400.00

Carriage of repair parts USD 2,600.00

Testing and recommissioning USD 1,800.00

Less identified betterment USD 3,000.00

Adjusted repair cost USD 41,300.00

Less deductible USD 5,000.00

Net claim USD 36,300.00 Practice note: Check any Institute Replacement Clause, proportional valuation wording, duty provision or manufacturer-specific endorsement before finalising the adjustment.

7.8 Salvage, Betterment and the Economics of Repair

Physical damage and financial loss are not identical. A machine can be physically repairable but economically unreasonable to repair; branded goods can retain technical utility but have little legitimate secondary-market value; wet packaging can be replaced while the product itself remains sound. Quantum therefore needs an economic analysis anchored to the policy, not merely a repair quotation.

Repair should restore the insured property to its proper pre-loss position, not create an unexamined improvement. If new components materially enhance life, capacity or specification, betterment may need to be considered unless the policy or a replacement clause provides otherwise. Conversely, refusing a necessary modern replacement because the exact obsolete part no longer exists can understate a genuine indemnity. The file should explain the technical necessity and economic effect of the proposed solution.

Salvage should also be treated as evidence, not just a credit. A transparent salvage process can test residual value and mitigation. But a distressed sale to a related party, a bid obtained before the extent is established, or a forced sale in a restricted market may not represent fair residual value. Senior adjustment should record how the salvage market was tested and whether brand, safety, regulatory or warranty constraints legitimately limited disposal.

CHAPTER 08

IMLARCO Field Survey Protocol

Turn attendance into a reproducible evidential record

IN THIS CHAPTER

TRUSTED WHEN IT MATTERS MOST.

CHAPTER PERSPECTIVE

Why this chapter matters

A cargo survey is a temporary opportunity to create a permanent record. The cargo will be moved, unpacked, repaired, sold or destroyed; seals will change; personnel will leave site; electronic data may be overwritten. The quality of the eventual claim therefore depends on decisions made while the evidence is still physically available.

The strongest attendances are planned around hypotheses rather than a generic photography routine. Before travelling, the surveyor should understand the shipment, suspected loss, policy-sensitive issues, possible responsible parties and evidence at risk. On site, identity and chronology come before detailed damage measurement. The surveyor establishes what is being examined, who is present, what has changed since discovery and what cannot be inspected. Only then should the technical sequence move into condition, cause, extent and mitigation.

Good field practice also recognises limits. A surveyor should not imply that an inaccessible lower tier was examined, that a sample represents an entire consignment without a defensible method, or that a temperature controller display proves product temperature. Explicit limitations do not weaken a report; they tell the reader exactly how far the evidence can safely be taken.

> **PRACTICE SCENARIO**
>
> At a joint survey, damaged cartons are about to be destroyed following a food-authority instruction. The surveyor has a narrow window to identify lots, photograph condition, record temperatures, take authorised samples, preserve labels and invite the other interests to observe. Once destruction occurs, no later report can recreate what was not recorded. The attendance plan therefore prioritises irreversible evidence before routine descriptive photography.

8.1 Before Attendance

Preparation determines what can be achieved on site. Review the appointment, shipment identity, suspected loss and any policy-sensitive instructions before travel, then convert them into an evidence plan. The plan should identify what can disappear quickly - seals, logger data, packaging, CCTV, samples or witness availability - so that the survey begins with priorities rather than with routine photography.

1. Read the instruction carefully and confirm who appointed IMLARCO, whose interest is represented, and the exact scope of work.

2. Obtain core carriage and cargo documents available at that stage: bill/waybill, invoice, packing list, delivery/outturn record, container/seal details and damage notice.

3. Ask for the applicable insurance wording if coverage or adjustment assistance is within scope; do not delay urgent evidence preservation merely because the policy has not yet arrived.

4. Identify potentially responsible parties and request that they be invited to a joint survey where appropriate.

5. Determine access, safety, customs/port permissions, sampling authority and whether specialist equipment or laboratory support is needed.

6. Create an evidence plan: what could disappear, be repaired, thaw, dry, corrode, be disposed of or be overwritten before a later visit?

8.2 Opening Conference at Site

A short opening conference can prevent major later disputes. Confirm who owns or controls the premises, who represents each interest, what has happened since discovery, what cargo has been moved or opened, and what restrictions apply to sampling, testing or photography. Record disagreements and access limitations contemporaneously rather than trying to reconstruct them in the report.

- Record full names, organisations, roles and contact identifiers of attendees in the working notes.
- Confirm who has custody and authority to open packages, seals, containers, tanks or machinery.

• Record the pre-opening condition before anything is moved: doors, seals, locks, external impact, reefer display, packaging and stow face.

• Establish what has already happened before attendance - opening, sorting, disposal, repair, testing or seal replacement - and mark such information as reported if not witnessed.

8.3 The Evidence Sequence

The sequence is designed to protect context. Identity and chronology should be fixed before close-up damage work begins; otherwise a technically excellent photograph may later be impossible to tie to the correct package, lot or position. Moving from context to detail also makes the report easier for a non-attending reader to follow.

Step	What to secure	Why it matters
1. Identity	Marks, serials, seal/container numbers, package IDs, model/part numbers.	Prevents evidence being disconnected from the insured subject.
2. Condition before disturbance	Wide-angle and contextual photographs before unpacking or moving.	Preserves stow, packing and custody condition.
3. Measurements	Temperature, dimensions, weights, clearances, moisture, quantity, pressure or other relevant readings.	Creates objective data capable of later verification.
4. Close condition evidence	Damage details, fracture surfaces, water lines, stains, residues, deformation and corrosion patterns.	Supports physical mechanism and extent.
5. Samples / components	Representative sample, retention item or failed part where authorised, labelled and sealed.	Enables laboratory/expert work and protects chain of custody.
6. Records	Downloads, logs, CCTV, gate records, EIR, tally, PTI, power logs, alarms and statements.	Builds chronology and links condition to custody.

8.4 Photography Standard

Photographs should prove a fact, not decorate a report. Capture context first, then detail. Use scale where size matters. Photograph identifying marks with the damage. Avoid repetitive images that do not add information. Keep original files with metadata where possible and maintain a complete photo register separate from the selected report images.

8.5 Sampling and Chain of Custody

Sampling becomes evidential only when identity and integrity can be defended. A laboratory certificate cannot repair a gap in the chain between the cargo and the sample tested. Use unique seals where appropriate, record transfers and storage conditions, and preserve control or counterpart samples when the issue is likely to be disputed.

Where samples may influence safety, contamination, quality or causation, agree the sampling protocol with the principal and, where appropriate, invite other interests. Record who selected the sample, method, location, quantity, container, seal number, date/time, storage condition, transfers and laboratory receipt. A technically perfect test can be challenged if sample identity is not defensible.

8.6 Statements

Human recollection is useful but fragile. Early factual statements can explain who changed a setting, opened a container or observed the first damage, but the report should distinguish memory from

contemporaneous records. Where accounts conflict, preserve each version and identify the documentary evidence capable of resolving the difference.

Take statements early where human actions matter, but distinguish a factual witness account from technical opinion. Record the witness’s role and whether the statement was contemporaneous. Do not coach language. Where a signed statement is required, preserve the original and any translation methodology.

8.7 Survey Limitations

A limitation should tell the reader what conclusion is affected. 'Lower tiers inaccessible; full extent cannot be confirmed' is more useful than 'survey limited'. This allows the principal to decide whether further inspection, destructive testing or a reserve for uncertainty is justified. Precision about limitations is part of technical transparency.

Limitations should be precise and consequential. Instead of writing “limited survey”, state what could not be examined and what conclusion that prevents. Examples include inaccessible lower tiers, sealed packages not authorised for opening, absence of logger data, no pre-shipment photographs, no destructive testing permission or lack of competent-authority release.

8.8 At the End of Attendance

• Confirm urgent mitigation and any proposed movement, repair, sale or destruction; request notice before irreversible action where further inspection may be required.

• List outstanding evidence and preserve recovery through written notice, delivery reservations, joint- survey records and evidence-hold requests where appropriate.

• Back up photographs, notes and digital downloads immediately and preserve original filenames/metadata.

8.9 Evidence That Disappears First

Modern cargo claims increasingly depend on evidence that is overwritten automatically. CCTV, terminal gate records, reefer controller data, telematics, electronic interchange records and messaging-platform communications may have retention periods measured in days or weeks. Physical cargo can be reworked or disposed of just as quickly.

The survey instruction should therefore trigger an evidence-preservation review before attendance. Ask which records are volatile, who controls them, what identifier is needed to retrieve them, and whether a formal preservation notice is required. A photograph of a computer screen is rarely an adequate substitute for the underlying export if metadata, clock settings or data continuity may later matter.

This is a point where junior and senior practice meet. The junior handler can protect the file by using a disciplined first-notice checklist; the senior professional adds judgment about which data source is likely to decide causation or liability. The objective is not to collect everything. It is to preserve the evidence that cannot be recreated.

CHAPTER 09

Specialist Cargo Investigations

Follow the physical behaviour of the cargo, not a generic checklist

IN THIS CHAPTER

TRUSTED WHEN IT MATTERS MOST.

CHAPTER PERSPECTIVE

Why this chapter matters

Specialist cargo work begins with a simple principle: the same visible symptom can arise from very different mechanisms. Wet cartons can result from rain, seawater, condensation, pipe leakage, adjacent cargo or firefighting water. Warm reefer cargo can reflect pre-loading condition, airflow restriction, power interruption, machinery failure, door opening or an incorrect set point. A damaged machine can have obvious external impact with hidden alignment or electrical consequences that appear only during testing.

The survey plan must therefore follow the physical behaviour of the goods. Temperature-controlled cargo requires aligned time data and an understanding of thermal inertia. Machinery requires component- level inspection and, where appropriate, maker tolerances and functional tests. Bulk shortage requires a disciplined measurement reconciliation before the book-to-book difference is called a physical loss. Contamination requires source-pathway analysis, control samples and defensible chain of custody.

For senior professionals, the key question is not whether the report contains many measurements. It is whether the measurements answer the causal question. Data that are technically correct but disconnected from the failure mechanism can create an appearance of precision without proving the claim.

> **PRACTICE SCENARIO**
>
> A reefer controller shows the correct set point when the container is opened, yet product temperatures are materially elevated. Treating the display as proof of proper carriage would be an evidential error. The investigation aligns set-point history, supply and return air, alarms, power events, cargo probes, loading temperature and stowage. The final analysis may reveal a short power interruption, restricted airflow or warm loading - each of which can produce a different data pattern and recovery position.

9.1 Reefer and Temperature-Controlled Cargo

A reefer claim is a time-temperature investigation, not a single thermometer reading. The container display, supply-air temperature, return-air temperature and product temperature answer different questions. A unit displaying the correct set point at the moment of survey does not prove that the cargo remained within temperature throughout the voyage.

Evidence	What it can establish
Set-point history	Controller target and any changes or intervention.
Supply / return-air data	Unit performance and heat-load pattern, interpreted in the relevant reefer mode.
Product probe / core temperature	Actual cargo condition at defined sampled points.
Controller download	Temperature history, alarms, defrost cycles and operating events.
Power / plug records	Periods of connection, disconnection and custody handover.
PTI / maintenance	Equipment condition before use and subsequent machinery faults or repairs.
Independent logger	Independent chronology if identity, placement, calibration and clock are reliable.
Stowage / airflow	T-floor, red-load line, ceiling clearance, pallet pattern, vent and return-air pathway.
Product records	Required range, pre-cooling, production/freezing date, loading temperature and shelf-life evidence.

SET POINT IS NOT CARGO TEMPERATURE Never state that cargo was maintained at the set point merely because the controller displays that value at survey. Distinguish controller target, air temperatures and measured product temperature explicitly.

For frozen food, visual thawing indicators - soft product, liquid drainage, refrozen residue, carton moisture damage or ice patterns - can be technically important but should not be used to determine microbiological safety. Fitness for human consumption belongs to the competent authority or appropriately accredited laboratory.

9.2 Wet Damage

Source identification should combine pattern, pathway and testing. A chloride result is rarely decisive in isolation, just as a roof defect does not prove that water entered during the insured period. Relate the wetting pattern to container or hold geometry, weather, drainage, adjacent cargo and custody timing, and use testing as one strand in the wider causal chain.

Wet damage requires source identification. Record whether water is fresh, sea, rain, condensation, pipe leakage, firefighting water, adjacent cargo leakage or unknown. Chloride or salinity testing can support an assessment but should be interpreted with controls because many products, packaging materials and industrial environments contain background salts.

Map the wetting pattern vertically and horizontally and relate tide marks, roof drip paths, floor accumulation or isolated staining to the geometry of the carrying unit. Inspect likely pathways - roof and side panels, doors and gaskets, ventilators, drains and prior repairs - and use controlled water testing only where it is authorised and technically safe.

For vessel cargo, the same reasoning should extend to hatch condition, bilge records, hold condition, ventilation, weather and stow position. The strongest source opinion normally comes from several consistent strands of evidence rather than from a single test or visual feature.

9.3 Machinery and Manufactured Equipment

Machinery damage requires separation of visible transport damage from functional consequence. A dented frame may be cosmetic, or it may alter alignment; an impact can leave no dramatic external mark while damaging bearings, insulation or control electronics. Where tolerances matter, obtain maker criteria or a competent specialist opinion rather than relying on appearance alone.

Machinery claims require a damage map by component, not a single statement that the machine is “damaged”. Record transport securing, shock/tilt indicators, frame distortion, shafts, bearings, alignments, insulation tests, control electronics, contamination and hidden-damage risk. Obtain maker repair specifications where available. Distinguish pre-existing wear from transit damage.

9.4 Shortage and Non-Delivery

The first question in a shortage claim is whether the loaded and delivered figures are genuinely comparable. Different scales, moisture content, temperature correction, tare assumptions or counting methods can create an apparent loss. Reconcile the measurement system before attributing the difference to theft, leakage or short delivery.

A shortage file must establish the measurement system before calculating the difference. Counted packages, weighbridge quantities, draft survey, tank gauging, flow meter, scale calibration and theoretical package weight are not equivalent evidence. Build the loaded-versus-delivered reconciliation using the same measurement basis where possible and account for tare, moisture, temperature correction, free water, damaged packages and legitimate operational losses.

9.5 Theft and Tampering

Seal evidence is powerful but not absolute. Record seal type, number, condition and who applied or removed it, then test that record against gate logs, EIRs, door hardware, access points, route and CCTV. An intact seal can narrow hypotheses, but it should not be treated as conclusive proof that no unauthorised access occurred.

Preserve seal numbers and seal type, door/locking-bar condition, cut marks, replacement seals, EIR/gate records, GPS route, parking locations, CCTV, police report and the last confirmed count. Avoid assuming that an intact seal proves absence of theft; seal substitution, door removal, roof/side access and misdeclaration are possible. Equally, do not allege tampering without a physical or documentary basis.

9.6 Contamination and Taint

Contamination analysis should state the suspected substance, how it could have reached the cargo and whether the distribution pattern supports that pathway. Control samples and cleaning or previous-cargo records can be as important as the affected sample. Because regulatory and product-liability consequences can be significant, laboratory method and chain of custody should be particularly rigorous.

Identify the contaminant hypothesis, source pathway and distribution. Secure control samples of unaffected material where possible. Review previous cargo, tank/hold cleaning records, coatings, hoses, pipelines, sampling points, odours, incompatible adjacent cargo and laboratory methods. Chain of custody is especially important where contamination has regulatory or product-liability consequences.

9.7 Bulk Cargo and “Paper” Shortages

Bulk measurement is an uncertainty problem as much as a quantity problem. The surveyor should identify the method, calibration, correction factors and expected tolerance, then reconcile ship, shore and contractual figures on a common basis. Only the residual difference that cannot reasonably be explained by measurement should be considered as evidence of physical shortage.

Bulk claims can arise from measurement uncertainty rather than physical loss. Temperature correction, density, water/sediment content, scale accuracy, draft-survey constants, vessel experience factors, line contents and calibration can create apparent differences. The surveyor should quantify measurement uncertainty and avoid presenting the entire book-to-book difference as proven physical shortage without reconciliation.

9.8 Commodity-Specific Loss Mechanisms

Specialist cargo investigation becomes more reliable when the surveyor understands how the commodity fails. The same water mark, temperature reading or impact mark has a different significance depending on the goods. The purpose is not to turn the surveyor into a commodity scientist, but to know which questions require specialist evidence and which observations carry real causal weight.

Steel and other ferrous products require differentiation between pre-existing oxidation, fresh-water wetting, seawater contamination, condensation and mechanical scoring. The survey should map rust distribution, packaging condition, hold or container environment, chloride evidence where appropriate, and the commercial significance of staining versus pitting. A declaration that steel is 'rusty' is not an adjustment.

Electronics and precision equipment create a different problem. External packaging may show limited damage while internal boards, insulation, bearings, optics or alignment are affected. Moisture exposure may also create latent reliability concerns. Maker inspection, insulation or functional testing and a documented repair specification are often more probative than external appearance.

Bagged agricultural commodities, coffee, nuts and similar hygroscopic goods require attention to moisture migration, ventilation, mould, infestation, odour and weight variation. Chilled fruit and vegetables require an understanding of respiration, water loss, shelf life, ventilation and temperature history rather than a simple comparison between one probe reading and a contractual number. Bulk liquids and oils require reconciliation of gauging, temperature correction, pipelines, retained quantities and contamination pathways before a book difference is called a shortage.

Cargo family	Common failure mechanisms	Evidence that often decides the issue
Steel / ferrous products	Corrosion, condensation, seawater/fresh-water wetting, scoring, deformation	Rust distribution, packaging, chloride context, hold/container condition, weather and pre-shipment condition.
Electronics / precision equipment	Impact, moisture, latent electrical or alignment damage	Maker inspection, insulation/functional tests, shock/tilt indicators, internal examination and repair specification.
Bagged agricultural goods	Moisture migration, mould, infestation, odour, natural weight change	Moisture readings, ventilation/stowage, bag condition, pre-shipment quality, sampling and laboratory evidence.
Chilled produce	Temperature excursion, respiration, dehydration, shelf-life deterioration	Full time-temperature chronology, ventilation, loading condition, product temperatures and quality/shelf-life evidence.
Bulk liquids / oils	Shortage, temperature-volume effects, contamination, retained quantities	Tank tables, gauging, temperature correction, line displacement, seals, samples and custody records.

9.9 Condensation, Ship Sweat and Cargo Sweat

Condensation claims are among the easiest to oversimplify. Water can condense on the carrying unit or vessel structure and drip onto cargo, or it can form on the cargo itself when a sufficiently cold surface meets warmer humid air. Both depend on temperature, humidity and dew point. Neither should be diagnosed from a photograph of wet packaging alone.

The useful investigation combines route and weather history, stuffing conditions, cargo temperature, packaging permeability, ventilation settings, stowage position and the distribution of wetting. In containers, inspect roof and wall patterns, floor condition, desiccants, ventilation apertures and whether cargo was packed warm or with elevated moisture. In vessel holds, consider ventilation practice, hold condition, bilges, hatch integrity and the temperature relationship between cargo, sea and ambient air.

This analysis matters to both coverage and recovery because condensation may represent normal cargo behaviour, inadequate preparation, inappropriate ventilation, or a consequence of an external transit event. The surveyor should establish the mechanism and facts without converting a moisture pattern into a policy verdict.

CHAPTER 10

Reporting & Claim Adjustment

Write so another professional can reproduce the reasoning

IN THIS CHAPTER

TRUSTED WHEN IT MATTERS MOST.

CHAPTER PERSPECTIVE

Why this chapter matters

A survey report has more than one future audience. It may first be read by a claims handler deciding what to do next, then by an underwriter reviewing coverage, a recovery team negotiating with a carrier, a P&I correspondent testing causation, or counsel preparing a dispute years later. The report should therefore remain useful outside the context in which it was written.

That requires separation of functions. The public survey report should state facts, sources, methods, limitations and calibrated technical conclusions. Sensitive recovery strategy, reserve considerations, allegations of dishonesty and legal tactics may belong in separate privileged or internal communications. Mixing them can weaken both documents: the public report becomes argumentative, while the strategy note becomes constrained by language drafted for disclosure.

Cause wording deserves particular discipline. 'Caused by' should not be used merely because one explanation appears plausible. The report can distinguish what is observed, what is reported, what is technically consistent with the evidence, what is probable and what cannot yet be resolved. Calibrated confidence is not hesitation; it is a statement of how strongly the evidence supports the conclusion.

> **PRACTICE SCENARIO**
>
> A preliminary report is required within 24 hours of a complex machinery survey. Some tests are complete; alignment data and maker comments are pending. Instead of forcing a final cause, the report distinguishes observed impact, measured damage and the present technical hypothesis, then lists the evidence still required. The principal can act immediately without later having to defend a premature categorical statement that the evidence did not yet justify.

10.1 IMLARCO Report Architecture

Architecture should mirror the reader's decision process. Start with appointment and scope, then identity and chronology, followed by observations, cause analysis, extent, mitigation and outstanding evidence. Quantum and recovery implications can then be understood in context. This sequence reduces the risk that a conclusion appears before the facts supporting it.

Report component	Purpose
Appointment and scope	Identify principal, instruction, authority and limitations.
Shipment identity	Reconcile B/L, invoice, container/seal, vessel/voyage, quantity and dates.
Chronology	Separate source-reported history from events witnessed by IMLARCO.
Survey method	Explain attendance, sampling, measurements and tests so the work is reproducible.
Findings	Describe condition before causation.
Cause analysis	State mechanism, initiating event, alternatives, evidence gaps and confidence.
Extent and quantum	Separate observed damage, extrapolation, claim presentation and adjustment.
Mitigation and recovery	Record action taken, rights preserved and outstanding evidence.

10.2 Separate the Survey Report from Sensitive Strategy

A survey report can circulate beyond the instructing principal and may eventually be disclosed in litigation or arbitration. Keep it factual, technically reasoned and professionally neutral. Tactical recovery analysis, settlement thresholds, legal weaknesses and counsel-directed material should normally be communicated separately and handled in accordance with the principal’s legal privilege protocol. Marking a document “privileged” does not itself create privilege.

10.3 Cause Wording: Calibrated Confidence

Confidence language should correspond to evidential strength. 'Consistent with' identifies compatibility, 'probable' expresses a stronger reasoned view, and a categorical causal statement should be reserved for circumstances where the evidence genuinely excludes material alternatives. The report should also identify what new evidence could change the assessment.

Evidence level	Appropriate wording
Directly established	"The damage resulted from..." where the mechanism is objectively demonstrated.
Probable	"On the balance of the available technical evidence, the most probable cause is..."
Consistent but not conclusive	"The condition is consistent with...; confirmation requires..."
Competing explanations	"The available evidence does not presently distinguish between A and B. The following records are required..."
Insufficient evidence	"The cause cannot be reliably determined from the evidence presently available."

10.4 Adjustment Layout

A professional adjustment separates assumptions from calculations. State the policy basis being used, identify affected quantity and valuation method, show each allowance or deduction and keep disputed or pending items visible. The reader should not have to reverse-engineer a net figure to discover what was included.

A separate claim adjustment should allow an underwriter to follow the calculation without reverse-engineering the survey file. Use the policy currency unless instructed otherwise and state the exchange-rate date and source where conversion is necessary.

Adjustment block	Minimum content
Insured cargo	Description, quantity/weight, invoice basis and shipment identification.
Insurance	ICC form/date, special clauses, insured value, valuation basis and deductible.
Coverage facts	Concise transit/cause summary and relevant reservations; do not repeat the entire report.
Physical loss	Affected quantity and selected indemnity method: depreciation, repair, total loss, etc.
Residual value	Gross salvage/tender proceeds and treatment of sale charges.
Charges	Each additional cost with reason for allowance/disallowance.
Deductible / franchise	Apply exactly as worded, including aggregate or percentage basis where relevant.
Net recommendation	Amount presented for insurer consideration, subject to authority and outstanding points.

10.5 Quality-Control Questions Before Issue

1. Do shipment identifiers, quantities, dates and names agree across the report?
2. Are observations clearly separated from reported information and technical inference?
3. Does the cause conclusion go further than the evidence supports?
4. Is every material number traceable to a source or calculation?
5. Are photos captioned accurately and do they correspond to the text?
6. Are survey limitations and outstanding evidence explicit?
7. Are recovery rights/time-sensitive actions flagged to the principal?
8. Has confidential legal/negotiation strategy been kept out of the disclosable survey report?
9. Has the document been proof-read for unit, sign, decimal, temperature and currency errors?
10. Would another competent professional understand the file without speaking to the attending surveyor?

10.6 Presenting the Adjustment

Presentation influences review quality. Significant figures should be supported close to where they appear, currencies and exchange-rate dates should be explicit, and rounding should not conceal material differences. Where more than one adjustment scenario is possible, show the alternatives rather than embedding an unresolved assumption in a single total.

A good adjustment should allow a senior claims examiner to understand the insured interest, policy basis, material facts, causation assumption, affected quantity, valuation method, extra charges, deductible and final amount without reconstructing the arithmetic from raw documents. The worked example in Appendix I shows a complete presentation format.

10.7 One-Page Adjustment Snapshot

Before issue, a claim adjustment should be capable of being reduced to one disciplined snapshot. If any line below cannot be completed, the file may not yet be ready for a final figure.

ADJUSTMENT SNAPSHOT

Review line	Minimum content
Interest & policy basis	Cargo identity, insured value, valuation basis, applicable clauses, deductible and material endorsements.
Event & causation	What physically happened, what is proven, what remains assumed, and any material alternative cause.
Affected quantity	Exact units, weight or volume damaged, short, repaired, sold, destroyed or still under investigation.
Measure of loss	Depreciation, repair/reconditioning, total loss, sale short of destination or another justified method.
Charges & credits	Reasonable extra charges, salvage/sale credit, betterment, duty/tax treatment and deductible.
Recovery status	Potentially responsible party, notice/joint survey, evidence holds, title documents and time-bar control.

Reviewer test: Can another claims professional reproduce the amount and understand the assumptions without calling the adjuster? If not, the presentation needs another pass.

MINIMUM ADJUSTMENT PACK

The final figure should be traceable to a compact evidence pack. The exact documents vary by claim, but the following sources usually form the minimum audit trail.

Evidence block	Minimum file content
Policy & endorsements	Operative certificate/policy, valuation basis, deductible, special clauses and any authority limits.
Commercial documents	Invoice, packing list, purchase/sale terms and evidence needed to establish interest and value.
Survey evidence	Attendance notes, photographs, tallies, measurements, samples, test data and material statements.
Quantum evidence	Repair quotations/invoices, market evidence, tender/sale documents, destruction records and residual value.
Charges & mitigation	Invoices and proof that additional expenditure was reasonable, claim-related and not duplicated.
Recovery record	Notices, joint-survey invitations, custody documents, admissions/denials and current time-bar diary.

Control point: every material number in the adjustment should have a source that another reviewer can locate quickly.

PRELIMINARY ESTIMATE / RESERVE DISCIPLINE

When requested, an estimate should be reproducible and explicitly provisional. State the as-of date; separate known from contingent items; identify deductible, salvage/residual value, duty/tax and currency assumptions; do not net speculative recovery unless instructed; and revise when material evidence changes. A reserve is not an admission of coverage, liability or final quantum.

CHAPTER STANDARD

The final report should state what happened, how the conclusion was reached, the level of certainty, what the loss comprises and what remains outstanding. Sensitive strategy can be developed separately without weakening the neutrality of the technical record.

CHAPTER 11

Recovery Strategy

Preserve rights while facts are still available

IN THIS CHAPTER

TRUSTED WHEN IT MATTERS MOST.

CHAPTER PERSPECTIVE

Why this chapter matters

Recovery should be treated as a parallel workstream, not an afterthought that starts when underwriters have paid. Notice periods can expire, contractual time bars can approach, data can be overwritten and the party who physically handled the cargo may not be the party legally responsible. By the time the insurance adjustment is complete, the best recovery evidence may already be gone.

A strong recovery file maps two systems at once. The first is physical custody: who possessed or controlled the goods at each stage. The second is contractual responsibility: who issued the transport document, who contracted as principal, which terms were incorporated and what subcontracting structure existed. The two maps may overlap, but they should never be assumed to be identical.

Negotiation becomes more effective when the demand is evidence-led. The claimant should be able to show title to sue, duty, breach or relevant event, causation, recoverable quantum and preservation of rights. A long letter cannot compensate for a missing delivery reservation, absent joint-survey invitation or expired time bar. Recovery strength is built in the file before it is expressed in correspondence.

PRACTICE SCENARIO

Cargo damage is discovered after delivery from a container that passed through two terminals and a final haulier. The insurer can investigate coverage for weeks, but the CCTV and gate data may be retained only briefly. A recovery-minded handler sends evidence-hold requests, joint-survey invitations and notices while the quantum is still being assessed. The later demand becomes stronger because the physical and contractual chain was protected before the settlement figure existed.

11.1 What Recovery Is Trying to Prove

Recovery is a separate cause of action or contractual claim, even where it relies on the same survey evidence as the insurance file. The recoverable heads of loss, burden of proof and limitation regime may differ from the insurance adjustment. Keep that distinction visible so that paying a policy claim does not automatically define what can be recovered from a third party.

A successful recovery normally requires a coherent answer to five questions: who has the right to claim, who owed the relevant duty, when and where the breach or negligent act occurred, what loss was caused by it, and whether the claim was preserved within the applicable notice and limitation regime. The policy claim and the recovery claim may use much of the same evidence but they are legally distinct.

11.2 Recovery Starts with the Custody Map

A custody map becomes much stronger when each handover is tied to a document: EIR, delivery note, terminal tally, warehouse receipt, GPS event, seal record or electronic timestamp. Gaps should be highlighted rather than smoothed over. A visible gap often tells the recovery team exactly where additional evidence is needed.

International cargo may pass through seller, haulier, terminal, ocean carrier, transhipment terminal, feeder carrier, customs warehouse, depot, last-mile haulier and consignee. A contractual carrier may be responsible for subcontractors even where the physical damage occurred while another company had custody. Build two maps: the physical custody chain and the contractual chain.

Map	Questions
Physical custody	Who physically held the cargo at each point? What seals, receipts and tallies exist? When was damage first visible?
Contractual carriage	Who issued the master bill, house bill, sea waybill, air waybill, CMR note or multimodal document? Who is named as carrier?
Operational responsibility	Who controlled refrigeration power, lifting, stowage, terminal storage, warehousing, inspection or delivery?
Insurance / P&I response	Which liability insurer or P&I correspondent is handling the potentially responsible party? This may identify a negotiating channel but not the legal defendant.

11.3 Ten Steps to Preserve and Pursue

1. Identify the claimant and title to sue. Confirm who suffered the loss and who holds contractual rights.

2. Identify all potentially responsible parties. Do not rely on a trade name where the contract identifies a different legal entity.

3. Diary every notification and suit/arbitration deadline immediately, using a conservative date until the rule is confirmed.

4. Send a timely written notice of loss/claim and reserve all rights without unnecessary admissions.

5. Invite the relevant carrier/bailee to a joint survey where practical and record attendance, non- attendance or refusal.

6. Issue evidence-preservation requests for data that can be overwritten: reefer downloads, CCTV, EIR/gate logs, GPS, electronic messages and maintenance records.

7. Build causation and breach from primary evidence, not solely from the cargo insurer’s survey conclusion.

8. Quantify the recoverable loss under the liability regime, recognising that carrier limits, deductible, salvage and excluded heads may differ from the insurance settlement.

9. Present a reasoned demand with the essential evidence and keep negotiations moving while the time-bar clock is controlled.

10. Obtain a valid extension, security or commence protective proceedings in sufficient time and only with the principal’s authority.

11.4 Notice of Loss versus Quantified Claim

Early notice should preserve rights without waiting for a final figure that may take months to establish. The later quantified demand can then present the calculation and evidence in full. Treating the two communications as different tools avoids the common mistake of missing a notice deadline because quantum was still under review.

Do not delay preservation because final quantum is unknown. The first notice should identify the shipment, nature of loss, relevant event/date and the fact that the carrier or bailee is held responsible or that rights are reserved pending investigation. A later quantified demand can follow once the evidence and claim figure are complete. The wording should comply with the relevant convention, contract and jurisdiction.

11.5 Title to Sue and Subrogation

Payment by the cargo insurer does not remove the need to prove who can sue under the carriage contract. Depending on the document and governing law, rights may vest in a lawful holder, consignee, shipper, contracting party or another person with statutory rights. Subrogation gives the insurer the benefit of the Assured's rights after indemnity, but procedural law may still require proceedings in the Assured's name or documentary authority such as a subrogation receipt, assignment or power of attorney.

Under English law, the Carriage of Goods by Sea Act 1992 governs transfer/vesting of contractual rights under bills of lading, sea waybills and ship's delivery orders. Since the Electronic Trade Documents Act 2023, qualifying electronic trade documents can be legally possessable and perform equivalent legal functions. Recovery teams should therefore preserve the electronic-system audit trail, not simply print a screenshot of an e-bill.

11.6 Evidence Holds for Digital Claims

- Reefer controller raw download and event/alarm logs, including software/time-zone information.
- Terminal plug-in/plug-out and monitoring records, gate timestamps and EIRs.
- Vessel stow position, power logs, deck/reefer monitoring reports and incident reports.
- Warehouse WMS history, scanner logs and user access records.
- CCTV preservation identifying exact camera/location/time window before routine overwrite.
- Vehicle telematics/GPS, temperature telemetry, electronic proof of delivery and driver app records.
- Original e-bill/e-CMR/e-AWB transaction history and platform authentication records where relevant.

11.7 Negotiation Discipline

Good negotiation is cumulative. Each exchange should either narrow a factual issue, test a defence, secure evidence, clarify quantum or move the matter toward settlement. Repeating the same demand with stronger adjectives rarely improves the position. Maintain the time-bar diary independently of the tone or apparent progress of negotiations.

A recovery letter should be firm without overclaiming. Lead with the contract, chronology, physical evidence and quantified loss. Anticipate the defendant's strongest defences and address them with documents. Avoid unsupported accusations or threatening proceedings too early; equally, do not allow friendly dialogue to consume the limitation period.

11.8 Privilege and Sensitive Analysis

Sensitive legal strategy, fraud concerns and settlement evaluations should be handled with the principal and counsel under the applicable privilege rules. Do not assume that marking a document 'privileged' creates protection. The safest operational practice is to keep the public technical report neutral and route genuinely sensitive analysis through the instructed legal or claims channel.

Recovery strategy can become contentious. Keep factual survey material separate from counsel-directed legal analysis where the jurisdiction recognises legal professional privilege. Privilege depends on legal tests, not a stamp. When counsel is instructed, follow counsel's protocol for document creation, distribution and expert communications.

11.9 The Recovery Clock

Limitation control should be conservative until the governing rule is verified. Record the earliest plausible expiry date, responsible owner and reminder dates, then update the diary when the contract, convention,

jurisdiction or valid extension is confirmed. Negotiations, acknowledgements or requests for documents should never be assumed to stop time without a clear legal basis.

Recovery management is a deadline-control exercise as much as a liability exercise. The first notice, evidence hold, quantified claim, negotiation and protective procedural step should be planned from the limitation date backwards.

DISCOVERY NOTICE EVIDENCE DEMAND PROTECT

Record condition Notify and invite joint Preserve logs, CCTV Quantify and present Extension, security and custody survey and originals the claim or proceedings

11.10 The Documentary Hierarchy of a Recovery

A strong recovery is normally built from contemporaneous documents before it is built from argument. The transport document identifies the contractual framework; delivery receipts and outturn records establish what was recorded at handover; equipment interchange records can locate container damage; seal records and gate logs narrow access; survey evidence establishes condition and causation; and commercial invoices and repair evidence prove the financial loss.

No single document should be asked to prove more than it can. A clean bill of lading is important evidence of apparent order and condition at shipment, but it does not prove hidden internal condition. An unclaused delivery receipt can create a difficult evidential starting point but does not make concealed damage impossible. A seal record can support continuity but does not conclusively exclude every form of unauthorised access. Senior recovery work is the disciplined combination of these strands.

CHAPTER 12

Sea Carriage Recoveries

Start with the contract, then identify the regime

IN THIS CHAPTER

Hague-Visby duties and limits

Hamburg and alternative regimes

Bills of lading and electronic trade documents

Forum, limitation and container issues

TRUSTED WHEN IT MATTERS MOST.

CHAPTER PERSPECTIVE

Why this chapter matters

Sea carriage recovery is vulnerable to shortcut reasoning. The vessel carried the cargo, therefore the shipowner is liable; the bill says Hague-Visby, therefore every limit and defence follows automatically; the cargo arrived wet, therefore seaworthiness failed. Each of those statements can be wrong because the contractual carrier, incorporated regime, mandatory law, jurisdiction, package definition and factual burden must first be identified.

The correct sequence is contract-first and evidence-second. Establish the operative bill of lading or sea waybill, the carrier named or evidenced by it, the relevant clause paramount and forum provisions, and whether mandatory national law changes the contractual position. Then analyse carrier duties and exceptions against the factual chronology. In refrigerated cargo, for example, the decisive evidence may lie in settings, power records, ventilation instructions, maintenance history and delivery condition rather than in a generic allegation that the container was warm.

Limitation should also be treated as a calculation supported by shipment facts, not a number copied from a manual. Package or unit counting, weight-based alternatives, declaration of value, container wording and applicable regime can materially change the result. The file should preserve the data needed to calculate the limit before negotiations harden around an assumed figure.

> **PRACTICE SCENARIO**
>
> A container arrives with water damage after ocean carriage. The master bill, house bill and booking documents name different entities; the clause paramount points to a particular regime and the forum clause selects arbitration. Before discussing negligence or package limitation, the recovery team identifies the contractual carrier and governing terms. That first step prevents months of correspondence with the wrong defendant and ensures the limitation analysis is based on the correct contract.

12.1 Which Liability Regime Applies?

The regime analysis should be documented as a short decision tree: contract, carrier, clause paramount, place of shipment and discharge, relevant national enactment, mandatory application and forum. This prevents a later reviewer from seeing only the result without understanding why a particular ruleset was selected.

The common international regimes remain the Hague Rules, Hague-Visby Rules and Hamburg Rules, as implemented by national law and contractual incorporation. The Rotterdam Rules were adopted in 2008 but, as of this edition, have only five parties and require twenty actions to enter into force. They must therefore not be treated as an operative global mandatory regime.

12.2 Hague-Visby: Core Carrier Duties

Where the Hague-Visby Rules apply, the carrier is required to exercise due diligence in relation to seaworthiness at the voyage's outset, including adequate manning, equipment and supplies and the fitness and safety of cargo spaces, refrigerated spaces included. The Rules also impose duties of proper and careful cargo handling throughout loading, stowage, carriage, custody and discharge, subject to the available rights, defences and exceptions.

For a claimant, a conventional starting case is proof that cargo was delivered to the carrier in apparent good order/condition and was delivered short or damaged. The carrier may then rely on an applicable defence or contest causation, timing, package count or quantum. The evidential burden can be complex, particularly for concealed pre-shipment defects and containerised cargo.

English-law burden note: Volcafe Ltd v Compania Sud Americana De Vapores SA [2018] UKSC 61 is a key authority when Hague/Hague-Visby cargo-care issues are litigated under English law. Once cargo interests establish a prima facie case of cargo received in apparent good order and delivered damaged, the evidential analysis must address the carrier's Article III rule 2 cargo-care duties and any relied-upon Article IV exception, including the role of negligence where relevant. For recovery purposes, preserve shipment condition, delivery condition, stowage, ventilation or temperature-control records and the carrier's contemporaneous care evidence.

12.3 Hague-Visby Notice, Time Bar and Limits

Notice, suit time and limitation are different controls. A timely damage notice does not preserve a claim indefinitely, and a valid suit or extension does not by itself establish the amount recoverable. Keep each requirement on a separate diary line and preserve package, unit and weight data from the outset so that limitation can be calculated accurately.

Issue	Quick reference	Practice note
Notice of loss/damage	Apparent damage: notice before or at removal. Non-apparent: written notice within 3 days, subject to the applicable Rules/enactment.	Failure does not automatically extinguish the claim but can create evidential difficulty; joint survey provisions and local enactment may affect the position.
Suit time bar	Generally 1 year from delivery or the date goods should have been delivered.	Treat the deadline as critical. Obtain an effective extension from the correct defendant before expiry, or commence protective proceedings with authority.
Package/weight limit	666.67 SDR per package or unit, or 2 SDR per kg of gross weight of goods lost/damaged, whichever is higher.	Subject to declarations, package enumeration, container analysis and loss-of-limit provisions.

The limit is not calculated from the cargo insurer’s insured value. Determine the gross weight of the goods actually lost or damaged and the number of packages/units legally counted under the bill. Container claims can turn on whether packages inside the container are enumerated in the bill of lading. The legal analysis should be documented rather than assumed.

12.4 Refrigerated Sea Cargo

Reefer recovery should focus on the carrier's custody obligations and the actual technical history rather than the mere fact of temperature deviation. Align instructions, set point, ventilation, alarms, power, PTI or repair records, cargo condition at loading and delivery, and any independent loggers. Thermal response should be interpreted by a competent person where duration and product effect are disputed.

In reefer recovery, the decisive issue is often custody and power chronology rather than the existence of warm cargo alone. Request the carrier’s full reefer download, alarm/event data, vessel/terminal monitoring, stow position, PTI, set-point instructions, power connection history and any emergency work order. Compare those records with independent logger data and product loading condition. Do not treat a late low temperature reading as proof that the carrier maintained the cold chain throughout.

12.5 Exceptions and Causation

A carrier exception is not a shortcut around causation. The file still needs to ask what event caused the damage, whether carrier duties were met and how the applicable burden operates under the governing law. Technical evidence should be framed so that either party's legal argument can be tested against a reliable factual record.

Hague-Visby contains carrier defences and exceptions, historically including nautical fault, fire, perils of the sea, act of shipper, insufficiency of packing and inherent defect/vice among others. The availability of any defence depends on facts and legal prerequisites. A claimant should therefore develop the physical cause first and address the defence that actually fits the evidence, rather than responding to a generic list quoted by the carrier.

12.6 Hamburg Rules

Where the Hamburg Rules may apply, confirm treaty and national status for the relevant jurisdiction rather than assuming that a familiar Hague-Visby analysis can be reused. The practical file should still preserve the same essentials - contract, custody, notice, cause, quantum and limitation - while the legal framework is verified.

The Hamburg Rules take a different liability approach and cover the period while the goods are in the carrier’s charge as defined by the Convention. Where applicable, the commonly relevant limitation for cargo loss/damage is 835 SDR per package or other shipping unit or 2.5 SDR per kilogram of gross weight, whichever is higher; the action time bar is two years. Notice rules also differ, including a 15-day period for non-apparent damage and 60 days for delay. Always verify the exact national implementation.

12.7 Bills of Lading and Electronic Documents

Electronic trade documents do not reduce the need to identify the operative document and rights holder. Preserve the authoritative electronic record, endorsement or transfer history and system evidence needed to show control or possession where legally relevant. Screenshots alone may not demonstrate the status of a transferable electronic document.

The bill of lading is evidence of the carriage contract, a receipt and - for negotiable bills - a document with title/possession functions. Examine both the face and reverse: carrier identity, signature, clause paramount, Himalaya clause, jurisdiction/arbitration, deck carriage, package count, temperature instructions, declared value and multimodal clauses may all influence recovery.

For English-law electronic trade documents, the 2023 Act means a qualifying electronic bill can be possessed and transferred in law. Secure platform-level evidence showing control, transfer and integrity where title to sue is contested.

12.8 Time Extensions

An extension should be obtained from the party that can legally grant it and should identify the claim, period, new expiry date, parties and any reservation of rights. Ambiguous email assurances such as 'we are reviewing' are poor substitutes for a clear extension. The recovery diary should retain the original time bar as well as the extended date.

A voluntary extension is useful only if it is effective. It must be obtained from the correct defendant, by a person with the right to seek it, within time, and in wording recognised by the governing law. Where the contractual carrier is unclear, consider protective extensions from multiple parties. If an extension cannot be secured safely, obtain authority and legal advice early enough to commence the required court or arbitration process.

12.9 Forum, Law and Arbitration Clauses

Forum provisions affect practical strategy before proceedings are contemplated. They influence counsel, evidence form, cost, service and security. Identify them early and avoid threatening proceedings in a jurisdiction that the contract does not support. Where mandatory law may override the clause, obtain specialist advice rather than assuming either outcome.

A meritorious cargo claim can be lost by proceeding against the right party in the wrong forum. Review the bill of lading, sea waybill, booking terms and any incorporated charter terms for governing law, jurisdiction, arbitration, service provisions and contractual time limits before the limitation date approaches. Never commence proceedings or appoint lawyers without the principal's authority.

12.10 Hague-Visby Limitation - Worked Example

Assume a bill of lading enumerates 20 packages inside a container and the gross weight of the damaged goods is 12,000 kg. Ignoring any declaration of value or loss-of-limitation issue, compare the two statutory limbs:

Calculation	Amount
Package limb: 20 x 666.67 SDR	13,333.40 SDR
Weight limb: 12,000 x 2 SDR	24,000.00 SDR
Higher amount for initial limitation analysis	24,000.00 SDR

CONTAINER CAUTION

If the bill does not enumerate the packages inside the container, or local law treats the package/unit issue differently, the package analysis may change. Always test the exact bill wording, applicable enactment and relevant case law.

LIMITATION CHECKLIST

Check	Question
Regime	Is Hague-Visby actually applicable by contract, statute or compulsory law?
Packages / units	How are packages or shipping units described on the face of the bill?
Container wording	Does the bill enumerate packages inside the container, or describe only one container?
Gross weight	What is the gross weight of the goods physically lost or damaged - not automatically the whole shipment?
Declared value	Was a higher value declared in the bill and, if required, additional freight paid?
Loss of limit	Is there a properly evidenced argument that the carrier lost the right to limit under the applicable law?
SDR conversion	What date and legal rule determine conversion of the SDR amount into the claim currency?

Limitation is a cap on recoverable damages where available; it is not an admission of liability. First establish the defendant, applicable regime, breach, causation and recoverable loss.

CHAPTER STANDARD

Before pursuing sea recovery, confirm the operative contract and regime, correct carrier, breach and causation, notice and time-bar status, and limitation data.

12.11 Clean, Claused, House, Master and Electronic Bills

The words 'bill of lading' can conceal materially different documents. A master bill issued by the ocean carrier, a house bill issued by a freight forwarder or NVOCC, a sea waybill and a multimodal transport document may identify different contracting parties and different routes to recovery. The face of the document should be read together with its terms, signature, carrier identity, clause paramount, jurisdiction or arbitration provision and any Himalaya protection.

A clean bill records no adverse notation as to the apparent condition or quantity at the relevant receipt or shipment stage; a claused bill records an exception. Because the description is generally limited to apparent condition, the absence of a clause is not a warranty about latent quality. Conversely, a meaningful pre-shipment clause may become critical evidence on causation and the carrier's starting condition.

Electronic trade documents require the same legal discipline with a different evidential trail. Under English law, the Electronic Trade Documents Act 2023 enables qualifying electronic trade documents to be possessed and transferred. Where title to sue or control is disputed, preserve the platform audit trail, transfer history and integrity evidence rather than relying on a static screenshot.

CHAPTER 13

Air & Road Recoveries

Treat each transport mode as a distinct liability system

IN THIS CHAPTER

Montreal Convention air cargo

CMR road carriage and reservations

Wilful misconduct and successive carriers

Rail and courier movements

TRUSTED WHEN IT MATTERS MOST.

CHAPTER PERSPECTIVE

Why this chapter matters

Air and road recoveries often punish delay more quickly than marine cargo professionals expect. Conventions can impose short notice requirements and liability limits, while multimodal movements create an additional threshold problem: which legal regime governed the stage on which the loss occurred? A claim that is technically strong can still be commercially weakened if notice or suit requirements are not controlled from the outset.

The first task is therefore to identify the movement accurately. An air waybill does not necessarily answer every issue outside the airport-to-airport segment, and a road movement performed under a wider forwarding contract may require analysis of the actual carriage arrangement. For CMR claims, the locations of taking over and delivery, contracting parties and international character of the road carriage are essential facts.

Limits expressed in SDR or changed by formal periodic review should always be verified for the relevant date. The professional habit is to record the source and calculation date in the file rather than treating a printed guide as permanently current. That discipline is particularly important in a public reference book intended to remain useful beyond its publication date.

> **PRACTICE SCENARIO**
>
> A high-value air shipment is carried by truck from the shipper to an airport, flown internationally and then delivered by road. Damage is first noticed at destination, but the exact stage is uncertain. The recovery strategy therefore preserves evidence across all legs rather than assuming the air convention resolves the entire movement. Handling records, warehouse timestamps, air waybill data and road receipts are aligned before the legal regime is selected.

13.1 Montreal Convention 1999 - International Air Cargo

Air cargo investigation should preserve the air waybill, handling chain, warehouse scans, condition at acceptance and delivery, and any irregularity reports. Because high-value goods can exceed weight-based liability limits by a wide margin, the file should also check whether a special declaration or other contractual arrangement may be relevant before settlement assumptions are made.

Where the Montreal Convention 1999 applies between relevant States Parties, it provides the principal international liability regime for air cargo. The carrier is liable for destruction, loss or damage occurring during carriage by air, subject to the Convention’s defined exceptions. Cargo exceptions include inherent defect/quality/vice, defective packing performed by someone other than the carrier or its servants/agents, acts of war/armed conflict, and acts of public authority connected with entry, exit or transit.

13.2 Current Montreal Cargo Limit and Deadlines

The table is a current reference point for this edition, not a permanent number. For every live claim, verify the convention limit and the date on which the relevant revision took effect. Record the calculation source in the recovery file so that the monetary position can be audited later.

Issue	Current reference	Operational rule
Cargo liability limit	26 SDR per kg effective 28 December 2024.	Unless a valid special declaration of interest and any required supplementary payment alter the limit.
Damage complaint	At the latest 14 days from receipt of cargo.	Written complaint; preserve evidence immediately.
Delay complaint	At the latest 21 days from the date cargo was placed at the consignee disposal.	Written complaint required.
Action period	2 years.	Right to damages is extinguished if action is not brought within the Convention period calculated under Article 35.
Jurisdiction	Article 33 forums for cargo.	Verify the Convention forum rules and State Party status for the live file.

AIR LIMIT CHANGED

Any guide still using 19 or 22 SDR/kg is out of date for the current Montreal Convention cargo limit. This edition uses the ICAO revision effective 28 December 2024: 26 SDR/kg.

Carriage outside the airport

The Convention air-carriage period and presumptions should be checked where loss appears during road transport performed for loading, delivery or transhipment under an air contract. Multimodal facts can shift the applicable regime. Secure handover records at the airport boundary and do not assume that an air waybill makes every road-leg loss an air-convention claim.

13.3 CMR - International Carriage by Road

CMR analysis begins with the carriage facts: places of taking over and delivery, contracting carrier, road consignment note and whether the movement falls within the convention's territorial scope. The absence or imperfection of a consignment note does not necessarily end the analysis; the underlying contract and factual carriage still require review.

The CMR Convention applies to a contract for carriage of goods by road in vehicles for reward where the taking-over place and delivery place are in different countries and at least one is a CMR Contracting State, subject to the Convention’s terms. The 2008 e-CMR Additional Protocol enables electronic consignment notes between participating states.

13.4 CMR Quick Reference

Use the quick reference to control deadlines and evidence, then return to the convention and applicable national law for the live file. Weight data, reservations, delivery condition and the circumstances of loss should be preserved before debating the carrier's defences or limitation.

Issue	Reference	Caution
Loss/damage limit	Where the 1978 Protocol applies: 8.33 SDR per kg of gross weight short/lost/damaged.	Protocol status and implementing law must be verified for the states involved.
Apparent loss/damage	Reservation no later than delivery.	Taking delivery without reservation is prima facie evidence of receipt as described.
Non-apparent loss/damage	Written reservation within 7 days, Sundays/public holidays excluded.	The date of delivery/checking is excluded from the calculation under Article 30.
Delay	Written reservation within 21 days after goods are placed at the consignee disposal.	No delay compensation without timely reservation.
Action limitation	Generally 1 year; 3 years for wilful misconduct or equivalent default under forum law.	Written claims can suspend limitation under Article 32 mechanics; verify proof, rejection status and applicable law.

13.5 CMR Investigation

- Obtain the signed consignment note/e-CMR, taking-over condition, reservations and delivery record.
- Map each carrier and successive carrier; identify subcontractors but preserve the contractual route of claim.
- Secure vehicle/trailer identity, seal, GPS/telematics, parking and security records for theft.
- For reefer road cargo, secure calibrated temperature data from both trailer unit and any independent logger; note door openings and defrost cycles.
- For impact/overturning, secure police report, recovery/towing photos and load-securing evidence before the trailer is cleared.

13.6 Rail and Courier Movements

Rail, postal and courier networks can sit inside wider multimodal arrangements and may be governed by specialised terms or conventions. Do not assume that a road or air framework applies simply because those modes appear elsewhere in the journey. Identify the contractual leg and governing conditions before sending a recovery demand.

Rail liability may be governed by CIM/COTIF or regional/national regimes; express/courier services often operate under standard trading terms combined with air or road conventions for particular legs. Do not force these claims into CMR or Montreal solely because a road vehicle or aircraft appeared somewhere in the route. Identify the actual carriage contract and mandatory regime first.

13.7 CMR: Liability Analysis Beyond the 8.33 SDR Figure

The frequently quoted 8.33 SDR per kilogram figure is only one part of a CMR analysis and depends on the applicable protocol position. The first questions are whether CMR applies, when the carrier took charge, when delivery occurred, what reservations were made and whether the claimant can establish loss, damage or delay during the period of responsibility.

Article 17 provides the liability framework and recognised defences, while the special-risk provisions can shift the evidential analysis for matters such as defective packing, sender loading, inherent characteristics or open vehicles. Temperature-controlled carriage requires particular care because equipment selection, maintenance, use and compliance with instructions can become central. Article 29 can remove the carrier's entitlement to rely on defences or limits where the required level of misconduct is established under the applicable law.

For surveyors, this means recording the road facts with convention questions in mind: who loaded and secured; which tractor and trailer carried the goods; where the vehicle stopped; whether the cargo remained on the same trailer during ferry movements; security arrangements; refrigeration settings; seals; consignment-note reservations; and the exact time the goods were placed at the consignee's disposal.

CHAPTER 14

Multimodal & Other Custodians

Identify who contracted, who held the goods and on what terms

IN THIS CHAPTER

- Freight forwarders: agent or principal
- Terminals, stevedores and warehouses
- Network analysis and trading conditions
- Misdelivery, bailment and subcontractors

TRUSTED WHEN IT MATTERS MOST.

CHAPTER PERSPECTIVE

Why this chapter matters

Multimodal claims are difficult because the commercial party visible to the customer is not always the legal party that assumed responsibility for the loss. A freight forwarder may act as agent in one transaction and contracting carrier in another. A terminal may physically damage cargo while benefiting from protections incorporated through the carrier's contract. A warehouse may operate under trading conditions containing limitation, notice and jurisdiction provisions that materially alter the recovery route.

The claims handler should resist the temptation to follow only the physical chain. For each stage, identify possession, contractual role, applicable terms, receipts, subcontracting arrangements and any clause that extends defences to servants or independent contractors. This often reveals that the best defendant is not the person who touched the cargo, or that a direct action against the physical custodian does not avoid contractual limitations as easily as first assumed.

The commercial dimension also matters. A technically valid claim against an insolvent or unreachable entity may have little practical value. Security, insurance response, assets, sanctions and forum enforceability can therefore influence strategy alongside legal merits.

PRACTICE SCENARIO

A freight forwarder issues its own house bill and subcontracts the ocean carriage. Damage occurs at a terminal operated by a separate company. A claim sent only to the terminal may overlook that the forwarder contracted as principal and that the carrier terms extend protections to subcontractors. The recovery team maps the contract chain first, then decides which party should be pursued and under which terms.

14.1 Freight Forwarder: Agent or Contracting Carrier?

The forwarder's role is evidenced by the contract it made, not merely by its business description. Own-document issuance, freight invoicing, promises of carriage, subcontracting terms and standard trading conditions can all indicate whether it contracted as principal or acted as agent. Capture those documents before deciding whom to pursue.

A forwarder may act only as an arranging agent, may contract as principal/NVOCC, or may perform different roles on different legs. Examine the house bill, quotation, booking confirmation, standard trading conditions, invoice and actual performance. The commercial label “freight forwarder” does not decide liability.

14.2 Terminals and Stevedores

Terminal and stevedore liability can depend on direct contracts, port conditions and protections incorporated through the carrier's terms. Preserve handling records, equipment identity, operator details, damage reports and CCTV while separately analysing whether a direct claim is contractually available.

Terminal/stevedore claims can involve direct contracts, bailment/tort, carrier subcontracting and Himalaya-clause protections. Key evidence includes EIR/gate records, lift records, stack position, crane/straddle-carrier data, CCTV, damage reports, terminal terms and whether the ocean carrier’s contractual responsibility had begun or ended.

14.3 Warehouses

Warehouse claims turn on custody, condition on receipt and release, storage instructions and the warehouse's contractual terms. Inventory logs, temperature or humidity records, access control and incident reports can be decisive. Where goods remain in storage after transit, the insurance and recovery analyses may also diverge.

Warehouse liability often turns on receipt condition, agreed storage conditions, security, inventory controls, temperature/humidity monitoring, pest/fire systems and contractual limits. Preserve WMS transaction logs and access records where stock shortage or substitution is alleged.

14.4 Customs and Public Authorities

Claims involving customs or public authorities can raise immunity, statutory power and procedural issues that vary materially by jurisdiction. The technical file should preserve the order, seizure or inspection record, identity of officials or contractors and physical condition before and after intervention, then obtain local legal advice where recovery is contemplated.

Seizure, inspection, detention or destruction by public authorities raises distinct questions: was the action caused by a regulatory non-compliance attributable to the cargo interest, by carrier documentation error, or by an insured external event? Obtain the formal authority order and legal basis. Do not describe regulatory destruction as “theft” or “non-delivery” without analysing the cause.

14.5 Multimodal Network Analysis

A network analysis should place the physical and contractual chains side by side. Mark the point of first damage evidence, then identify which contract covered that stage and whether responsibility was assumed door-to-door or segmented. This structure helps the team avoid inconsistent allegations against multiple parties and supports a coherent primary and alternative recovery case.

A multimodal document may provide a network liability clause: if the stage of loss is known, the mandatory law governing that mode may apply; if the stage is unknown, a contractual default regime may apply. The wording varies widely. Build the stage-of-loss evidence before calculating limits because the same physical loss can produce different legal limits depending on where it occurred.

Known / unknown stage	Recovery approach
Known stage	Identify mandatory convention/local law for that leg, then test the multimodal contract and incorporated terms.
Unknown stage	Apply the contract unidentified-loss regime subject to mandatory law; focus on evidence that may locate the loss.
Multiple contributing stages	Consider separate breaches/causes, concurrent liability and contribution rights; obtain legal advice early.

14.6 Standard Trading Conditions

Standard trading conditions can contain short time bars, monetary limits, lien rights, jurisdiction clauses and definitions of the forwarder's role. Obtain the version incorporated at contract formation rather than a current website copy that may have changed. The incorporation evidence can be as important as the clause text itself.

Forwarders, warehouses, terminals and survey/service providers often rely on standard terms containing low monetary limits, short notice periods, jurisdiction clauses or exclusions. Obtain the version incorporated at the date of contract and test incorporation. A website version downloaded after the loss may not be the version that governed the transaction.

14.7 Security and Insolvency

Commercial recoverability should be assessed early for major claims. If assets are mobile or solvency is doubtful, security options may matter before liability is finally agreed. Any arrest, guarantee or P&I undertaking strategy should be authorised by the principal and local counsel, with sanctions and enforcement issues checked before action.

A technically strong recovery has little value against an insolvent defendant. For major losses, consider whether security is commercially and legally available - P&I Club letter, bank guarantee, undertaking, arrest security or other form - and obtain principal/counsel authority. Asset or sanctions issues may require specialist advice before any demand or settlement.

14.8 Himalaya Clauses and Subcontractor Protections

The practical question is whether the physical custodian can rely on protections derived from the main carriage contract and whether local law recognises that mechanism. Preserve all contract layers and avoid assuming that suing the terminal or stevedore directly automatically bypasses the carrier's defences.

Carriage terms may extend contractual defences, exclusions or limitation rights to servants, agents, independent contractors, terminals or stevedores. Before pursuing a physical custodian separately, examine whether a Himalaya-type clause or other contractual mechanism may be relied upon and whether mandatory local law changes the result. The existence of physical custody does not automatically mean that a direct claim avoids the carrier's contractual protections.

14.9 Bailment, Misdelivery and the Freight Forwarder Problem

Cargo does not need to be physically damaged for a serious transport claim to arise. Misdelivery can deprive the person entitled to the goods even where the cargo itself is sound. Freight forwarders are particularly sensitive to this issue because their legal role can change from transaction to transaction: they may act as arranging agent, contractual carrier, warehouse operator or issuer of a house transport document.

The investigation should establish who accepted the goods, whose document was issued, who selected and contracted the performing carrier, who invoiced the freight, what standard trading conditions were incorporated, and to whom the goods were released. Release instructions, delivery orders, original/electronic bill controls, identity checks and warehouse records can be more important than physical survey evidence.

Senior recovery review should resist labels such as 'forwarder' or 'agent' until the contract is examined. Liability frequently turns on the capacity in which the party contracted and whether protective terms were effectively incorporated, not on its trading description.

CHAPTER 15

General Average & Salvage

Separate common-safety contribution from salvage remuneration

IN THIS CHAPTER

- York-Antwerp Rules and GA procedure
- Cargo security and survey role
- LOF 2024, LSAC and SCOPIC
- Five tests of general average

TRUSTED WHEN IT MATTERS MOST.

CHAPTER PERSPECTIVE

Why this chapter matters

General average and salvage often arise from the same maritime emergency, which is precisely why they are frequently confused. General average is a system for sharing qualifying sacrifice or expenditure for the common safety where the applicable contract incorporates the relevant rules. Salvage is remuneration for services rendered to property in maritime danger. They can coexist, but they arise from different legal and accounting mechanisms and require different evidence and security.

For cargo interests, the first practical consequence is that ordinary claim handling may be interrupted by security requirements. Average bonds, guarantees, valuations, invoices and declarations may be needed before cargo can be released. In salvage, security may also be required and values can influence the eventual award or settlement. A surveyor's role is normally evidential: identify cargo condition, sacrifice, damage, values and relevant chronology without purporting to perform the average adjuster's or tribunal's function.

Senior review should keep three numbers separate: the physical cargo loss, any general average contribution or allowance, and any salvage liability or security. Combining them too early obscures the contractual basis and creates avoidable confusion in both the insurance adjustment and recovery file.

> **PRACTICE SCENARIO**
> Following an engine-room casualty, cargo is discharged at a port of refuge and salvage services are rendered. Soon afterwards the shipowner declares general average. Cargo interests receive security requests relating to both processes. The claims team keeps the streams separate: cargo condition and sacrifice are documented, general average papers are reviewed, salvage security is handled on its own basis and values are verified consistently. The emergency is one; the legal mechanisms are not.

15.1 General Average - The Core Concept

General average is a shared-adventure mechanism, so the cargo file should distinguish loss suffered by the goods from contributions requested because of sacrifices or expenditure elsewhere in the adventure. The applicable York-Antwerp Rules depend on contractual incorporation; the latest published rules are not automatically the rules governing every voyage.

General average is a system for sharing extraordinary sacrifice or expenditure intentionally and reasonably made for the common safety in a maritime adventure. A classic example is cargo intentionally sacrificed or extraordinary port-of-refuge expenditure incurred to save vessel and cargo from a common peril. Whether an item is allowable and how contributions are calculated depend on the governing contract, York-Antwerp Rules version and applicable law.

15.2 Current York-Antwerp Reference

When handling a live casualty, identify the version incorporated into the bill of lading or charterparty chain and obtain the average adjuster's instructions. A technical alteration or newer set of rules may be market-recommended without replacing the version chosen by the contract.

The Comité Maritime International identifies the York-Antwerp Rules 2016 as the most recent Rules and recommends the version incorporating the technical alteration made to Rule XXI in 2022. Older YAR versions remain relevant where a bill of lading or charterparty expressly incorporates them, so the contract - not the publication date of this guide - determines the applicable adjustment rules.

15.3 What Cargo Interests Receive After GA Is Declared

- Notice from shipowner/average adjuster and a request for cargo particulars/value.
- General average bond from cargo interest and, where insured, an insurer’s average guarantee or other acceptable security.
- Potential salvage security if salvage services are also involved - this is separate from GA security.
- Requests for commercial invoice, insurance particulars and delivery arrangements before cargo is released.

15.4 Surveyor Role in a GA Casualty

The surveyor's most useful contribution is a reliable factual record of cargo condition, sacrifice, damage and mitigation. Avoid expressing whether an item is allowable in general average unless specifically appointed for that function. Clear separation protects the evidential report for later use by the average adjuster and insurers.

The cargo surveyor should document the condition and cause of cargo damage, identify any cargo physically sacrificed, distinguish pre-existing/particular-average damage from GA sacrifice, record handling at the port of refuge and protect recovery against responsible parties. The average adjuster determines the GA adjustment; the surveyor supplies factual and valuation evidence.

15.5 Salvage

Salvage should be distinguished from the everyday use of 'salvage value' for damaged-goods proceeds. In maritime law it concerns services to property in danger and remuneration for those services. Using precise terminology prevents confusion when both a marine salvage claim and a later sale of damaged cargo appear in the same file.

Salvage rewards voluntary services that successfully save maritime property from danger. Cargo can become liable for its proportion of salvage remuneration even if it suffers no physical damage. Salvors commonly require security before releasing cargo because salvage gives rise to strong maritime security rights.

15.6 LOF 2024 and Current Lloyd’s Practice

Where LOF is used, obtain the executed agreement and current procedural materials rather than relying on an earlier form kept in a precedent folder. Salvage practice evolves through form revisions and procedural updates; the contractual documents in the casualty file control the immediate analysis.

At the September 2026 practice review, Lloyd's lists LOF 2024 as the current Standard Form of Salvage Agreement, together with the Lloyd's Salvage Arbitration Clauses 2024 revised in May 2026. The Fast Track Documents Only procedure remains the streamlined documents-only route under the current framework. LOF retains the traditional 'no cure - no pay' property-salvage basis, subject to the Salvage Convention and the contract terms.

15.7 SCOPIC

SCOPIC is primarily relevant to the relationship between salvors and ship interests under the salvage framework, but cargo professionals should recognise it when reviewing casualty papers. Do not treat SCOPIC remuneration as an ordinary cargo damage head; obtain specialist advice where its financial implications intersect with the wider casualty.

At the September 2026 practice review, Lloyd's lists SCOPIC Clause 2020 together with SCOPIC Appendix A 2022 valid from 1 January 2026, the associated appendices, codes of practice and guarantee form. SCOPIC primarily concerns the salvor/shipowner/P&I relationship but can materially affect casualty operations, security, information flow and the wider salvage environment in which cargo interests operate.

15.8 Cargo Values and Salvage Security

Value declarations should be consistent across insurance, general average and salvage processes unless there is a reasoned basis for difference. Preserve commercial invoices, insured values, damaged condition and any post-casualty sale evidence. Inconsistent values can create unnecessary dispute at the security and adjustment stages.

Cargo salvage liability is value-sensitive. Provide accurate salved values and identify whether duty, freight or other elements are included under the applicable salvage procedure. Do not sign security wording, guarantees or undertakings beyond authority. Confirm whether insurers or brokers are arranging security centrally and preserve copies of all forms submitted.

15.9 GA versus Salvage - Quick Distinction

The comparison table is intended as a first orientation. In a real casualty, both mechanisms can operate together and additional contractual or jurisdictional issues may arise. Keep separate file headings, security documents and financial calculations so that one process does not obscure the other.

General average	Salvage
Internal sharing among interests in the maritime adventure under contract/rules.	Remuneration to an external or qualifying salvor for successful services to property in danger.
Requires extraordinary sacrifice/expenditure for common safety under the applicable principles.	Requires a salvage service and maritime danger; the award considers recognised salvage factors.
Adjusted by an average adjuster; security commonly involves bond/guarantee or deposit.	LOF or other salvage contract/arbitration may apply; the salvor commonly demands salvage security.
Cargo can contribute even if physically sound.	Cargo can owe salvage even if physically sound, based on the salved property interest/value.

CHAPTER STANDARD

The casualty file should keep physical damage, general average and salvage analytically separate while ensuring that values and factual chronology are consistent across all three. Clear separation prevents duplicated allowances and confused security handling.

15.10 The Five Questions Behind a General Average Act

A practical way to analyse a potential general average act is to test five propositions. Was there an extraordinary sacrifice or expenditure? Was it intentionally and reasonably made? Was there a real common peril? Was the action taken for the common safety of the maritime adventure rather than for one interest alone? And is the loss or expenditure of a type allowed under the contractual general-average regime? These questions convert an abstract doctrine into an evidential framework.

The same casualty can generate several different claims. Cargo physically damaged by firefighting may have a direct cargo claim; cargo sacrificed for common safety may generate a general-average allowance; undamaged cargo may still have to provide GA security; and professional salvors may have a separate salvage claim. The headings should not be merged simply because they arise from the same incident.

As at September 2026, the current CMI-recommended York-Antwerp Rules remain the 2016 Rules with the 2022 technical alteration to Rule XXI, but the contract of carriage decides which version applies. For Lloyd's salvage practice, LOF 2024 remains current, the Lloyd's Salvage Arbitration Clauses 2024 were revised in May 2026, and the SCOPIC framework uses the current published tariff/appendices. Live files should always be checked against the current documents.

CHAPTER 16

IMLARCO Quality Standard

Make the file strong enough to survive independent challenge

IN THIS CHAPTER

TRUSTED WHEN IT MATTERS MOST.

CHAPTER PERSPECTIVE

Why this chapter matters

Quality in claims work is not the same as confidence of tone. A report can sound decisive and still be technically weak if its measurements cannot be reproduced, its sources are unclear or its conclusion goes further than the evidence. Conversely, a careful report that states limitations, alternatives and probability can be far more useful because another professional can understand exactly how the conclusion was reached.

The IMLARCO standard therefore treats neutrality, traceability and reproducibility as operational controls. Identity data should reconcile. Units should be consistent. Photographs should have evidential purpose. Calculations should be auditable. Reported information should be attributed. Technical opinion should show the evidence on which it rests. Significant evidence that was unavailable should be identified rather than silently ignored.

The final quality check is also a publication check. A technically correct report that contains a broken table, unreadable figure, inconsistent page reference or clipped paragraph is not ready for issue. The reader should experience the same discipline in presentation that the file demonstrates in investigation.

> **PRACTICE SCENARIO**
>
> Two surveyors inspect the same loss a year apart using the same file. If the first report records sample identity, measurement method, photo references, source documents and calculation steps, the second professional should be able to understand how the conclusion was reached even if they disagree with it. That reproducibility is a practical test of quality. A conclusion that depends on what only the original author remembers is not a durable professional record.

16.1 Professional Conduct

Professional conduct becomes visible in small decisions: attributing information to its source, refusing to overstate a measurement, declaring a conflict, protecting original data and separating fact from advocacy. Those habits are more reliable indicators of quality than the confidence of the final wording.

- Act independently within the instruction and disclose conflicts promptly.
- Do not manufacture certainty. A qualified reservation is more professional than a confident unsupported conclusion.
- Protect originals. Never alter source photographs, logs, statements or documents in a way that obscures provenance.
- Treat all parties courteously; technical independence does not require aggressive communication.
- Do not admit liability, waive rights, approve disposal, compromise a claim or instruct legal action outside authority.
- Use “without prejudice” and confidentiality labels only when legally/strategically appropriate; labels do not create their own legal effect.

16.2 Report Language Standard

Language should be precise enough to survive quotation outside the report. Avoid absolute expressions where the evidence is conditional, define technical terms that can be misunderstood and use the same description for the same item throughout. Consistency reduces the risk that a later reader mistakes drafting variation for factual contradiction.

Prefer	Avoid
"The evidence presently available indicates..."	"Obviously..."
"We were advised by the warehouse manager that..."	Presenting third-party information as personal fact.
"The cause cannot yet be determined without the controller download."	Guessing between unverified alternatives.
"Approximately 18% of the accessible sample exhibited..."	Extrapolating a limited sample to 100% without method.
"Potential recovery should be investigated against..."	Declaring a party legally liable without mandate/evidence.
"Subject to competent authority/laboratory determination..."	Giving food-safety, regulatory or specialist certifications outside competence.

16.3 Unit and Data Discipline

Data errors often arise at interfaces - converting Celsius and Fahrenheit, gross and net weights, local currency and USD, or timestamps from different zones. Record the original unit, conversion basis and time zone where material. A calculation should be reproducible from the values actually observed or supplied.

- State units every time ambiguity is possible: kg, MT, °C, mm, bar, litres, m^3, hours.
- State whether temperature is set point, supply air, return air, ambient, surface, probe or product core.
- Record time zone for electronic data and convert only with a documented method.
- Retain raw values; rounding belongs in presentation, not in the source record.

• When sampling, state sample size, selection method and population against which any percentage is expressed.

- Distinguish gross, net, tare and corrected quantities in shortage work.

16.4 Internal QA Before Public Issue

Internal review should be substantive as well as grammatical. The reviewer should test identity, chronology, causal reasoning, extent, calculations, limitations, photographs, cross-references and the boundary between technical opinion and unauthorised legal conclusion. The final PDF render should then be inspected page by page as part of the same quality process.

QA gate	Reviewer question
Identity	Are references, transport documents, container/seal, vessel/voyage, parties and dates consistent?
Evidence	Can every material factual statement be traced to a source?
Causation	Is the confidence level appropriate and are alternatives/limitations stated?
Coverage sensitivity	Have transit, packing, inherent vice, delay and other relevant facts been captured without unauthorised coverage conclusions?
Quantum	Are quantities, rates, currencies, salvage, deductibles and calculations transparent?
Recovery	Are notice, title, correct defendant, evidence preservation and time bar addressed?
Language	Is the document neutral, concise, attributed and free of speculation?
Presentation	Do tables, photographs, cross-references and pages render correctly?

16.5 The IMLARCO Claim Standard in One Sentence

16.6 Senior Review: The Red-Team Test

A senior reviewer adds value by trying to disprove the file before the opposing party does. The exercise is not adversarial for its own sake. It identifies where a conclusion depends on an unstated assumption, a single fragile document or a measurement that cannot be reproduced.

Read the report once as an insurer deciding cover, once as a carrier defending recovery, once as counsel looking for an evidential gap and once as the assured asking whether the loss has been measured fairly. If the same sentence means something different to each reader, it may need clarification. If a conclusion survives all four readings because the evidence and limitations are explicit, the file is usually strong.

The final standard is therefore not length, number of photographs or technical vocabulary. It is reproducibility. Another competent professional should be able to understand what was observed, what was reported, how the cause was assessed, how the figure was calculated and which rights were preserved - and should be able to challenge any of those steps from the record alone.

IMLARCO GUIDELINES 01

REFERENCE TOOLS & APPENDICES

Working tools for survey, adjustment and recovery

PRACTICAL REFERENCE. PROFESSIONAL JUDGMENT STILL REQUIRED.

Appendix A - ICC 2009 Working Clause Map

This is a navigation aid only. It deliberately paraphrases the structure. Always read the authorised clauses and endorsements in full.

USE THE CONTRACT, NOT THIS TABLE

A manuscript endorsement can change the standard result. Use the map to identify questions, not to decide coverage by shorthand.

Area	Working concept	Claims / survey question
ICC(A)	Broad all-risks grant for physical loss/damage, subject to exclusions and conditions.	Prove physical loss, insured period, fortuity and facts relevant to exclusions.
ICC(B)	Named-perils form with wider list than ICC(C).	Prove causal connection between loss and a named peril.
ICC(C)	More restricted named-perils form.	Do not infer cover from the seriousness of the casualty; map the exact peril.
Clause 4	General exclusions.	Misconduct, ordinary loss, packing/preparation, inherent vice, delay, insolvency/default conditions and nuclear-type risks require fact-specific review.
Clause 5	Unseaworthiness / unfitness exclusion.	Capture condition of vessel/conveyance/container and the assured’s knowledge where relevant.
Clauses 6-7	War and strikes/terrorism exclusions.	Check separate buy-backs and their own duration/terms.
Clause 8	Duration of transit.	Map actual movement, storage, distribution and unloading.
Clauses 9-10	Termination/change of voyage or destination.	Notify underwriters promptly and record the altered adventure.
Clause 11	Insurable interest.	Separate interest, sale risk, title and policy entitlement.
Clause 12	Forwarding charges.	Identify qualifying extra expenditure and the event that triggered it.
Clause 16	Duty of assured.	Avert/minimise loss and preserve rights, subject to reasonableness and authority.
Clauses 17-18	Waiver / reasonable despatch concepts.	Preserve rights without treating protective steps as admissions; act reasonably promptly.

Appendix B - First 24 Hours - Cargo Survey Checklist

The first day should protect identity, chronology, evidence, mitigation and recovery simultaneously. Adapt the checklist to the cargo and instruction.

	Action
☐ 1	Confirm principal, authority, policy/certificate and scope of attendance.
☐ 2	Identify B/L or other transport document, container/trailer/tank identity, seals, package count and commercial invoice.
☐ 3	Establish the custody timeline and exact location of the cargo.
☐ 4	Invite relevant carrier/bailee or record why a joint survey is impracticable.
☐ 5	Photograph overall condition before goods are moved; preserve identity and seal evidence.
☐ 6	Record delivery/outturn receipts and any reservations or clauses made at handover.
☐ 7	Identify volatile digital evidence - CCTV, reefer download, EIR/gate, telematics, power logs - and request preservation.
☐ 8	Determine safe and representative survey/sampling method; record sample population and selection.
☐ 9	Separate observed facts from reported history.
☐ 10	Identify immediate mitigation needs and obtain authority before destructive, expensive or irreversible steps.
☐ 11	Preserve damaged packing, parts, seals or samples where they may decide causation.
☐ 12	Issue prompt notice to potentially responsible parties without waiting for final quantum.
☐ 13	Calendar the most conservative recovery deadline and escalate any uncertainty.

Appendix C - Claim Documentation Matrix

File area	Core documents	What they should prove
Identity / interest	Policy/certificate, invoice, packing list, sale contract, Incoterms reference, assignment if any	What is insured, value, interest and commercial risk context.
Carriage	B/L, sea waybill, AWB, CMR note, house/master bills, booking, carriage terms	Contractual carrier, route, shipment particulars and forum/terms.
Custody	EIR, gate records, warehouse receipts, delivery notes, outturn reports, seal records	Where and when the goods changed hands.
Condition / cause	Survey report, photographs, lab reports, temperature data, repair reports, statements	Physical condition, mechanism, timing and extent.
Quantum	Claim statement, invoices, repair/reconditioning, salvage bids, destruction/sale records	How the financial loss is calculated and mitigated.
Recovery	Notice letters, joint survey invitations, carrier responses, extensions, subrogation/authority	Rights preserved, defendant identified and deadline controlled.

Appendix D - Notice of Loss/Damage & Joint Survey Invitation

Model wording - adapt to the contract, convention and jurisdiction.

WITHOUT PREJUDICE / RIGHTS RESERVED

This model preserves a professional neutral tone. It is not a substitute for a convention-specific notice requirement or legal advice.

Particulars

Particular	Entry
To	[Carrier / bailee / representative]
From	[IMLARCO / principal]
Date	[dd month yyyy]
Shipment	[B/L / AWB / CMR / shipment reference]
Container / unit	[container / trailer / package / tank reference]
Survey	[location] - [date/time]

Subject: Notice of loss/damage and invitation to joint survey - [shipment / B/L / container]

Dear Sirs,

We act on behalf of interests concerned in the above shipment. Loss/damage has been reported following delivery at [place] on [date].

Please take notice that you and all parties for whom you may be responsible are held responsible for the loss/damage to the extent established by investigation and applicable law. All rights are reserved.

A joint survey is proposed at [location] on [date/time]. Please confirm attendance and identify your appointed representative.

Please preserve all relevant records, including custody and gate records, EIRs, seals, photographs, CCTV, temperature or equipment data, maintenance records and communications.

This notice is issued without admission as to coverage, liability or quantum and without prejudice to all rights and remedies.

Yours faithfully,

IMLARCO

Appendix E - Model Quantified Recovery Demand

Section	What the demand should contain
Reference	Identify shipment, transport document, incident/date and earlier notice.
Liability basis	State the factual breach or custody failure and the applicable contractual/convention basis at a reasoned level.
Evidence	List the critical documents: survey, delivery receipt, photographs, data logs, expert/lab evidence and carrier records.
Quantum	Show the recoverable figure transparently, including salvage/credits and any liability-limit analysis.
Demand	State the amount demanded, currency, supporting calculation and requested response date.
Rights	Reserve interest/costs where applicable and all rights, including proceedings before expiry of the time bar.

TIME-BAR CONTROL

A demand letter, survey attendance or continuing negotiation does not normally stop a contractual or statutory limitation period. Obtain a valid extension or commence proceedings in time and with the principal's authority.

Appendix F - Recovery Time-Bar & Limitation Quick Reference

Regime	Notice	Suit / time bar	Indicative liability limit
Hague-Visby	Apparent damage: notice before/at removal; non-apparent generally within 3 days, subject to applicable law.	Generally 1 year from delivery or when goods should have been delivered.	666.67 SDR per package/unit or 2 SDR/kg gross weight lost/damaged, whichever is higher, subject to package/container rules and loss of limitation.
Hamburg Rules	Apparent: not later than working day after handing over; non-apparent 15 consecutive days; delay 60 days.	2 years under the Convention, subject to implementation.	835 SDR/package or shipping unit or 2.5 SDR/kg, whichever is higher, subject to Convention rules.
Montreal 1999 - air	Damage complaint within 14 days; delay within 21 days from cargo being placed at disposal, in writing as required.	Right to damages extinguished if action not brought within 2 years under Article 35.	26 SDR/kg from 28 Dec 2024, subject to special declaration and Convention provisions.
CMR - road	Apparent reservation at delivery; non-apparent written reservation generally within 7 days excluding Sundays/public holidays; delay 21 days.	Generally 1 year; 3 years for qualifying wilful misconduct/equivalent default, subject to Article 32 and local law.	Where the 1978 SDR Protocol applies: 8.33 SDR/kg gross weight short/lost/damaged.

NEVER MANAGE A RECOVERY FROM THIS TABLE ALONE

A bill of lading can alter forum and notice mechanics; mandatory law may override contract terms; house and master bills can involve different defendants; local enactments differ; and voluntary extensions are not equally effective everywhere. Calendar conservative internal dates and obtain legal advice well before expiry.

Appendix G - Reefer & Temperature Claim Evidence Protocol

G.1 Data to Preserve

Data source	Minimum points to preserve
Carriage instruction	Contractual set point; fresh-air/ventilation; humidity/CA settings; commodity; pre-cooling; loading temperature.
Controller	Raw download; set-point changes; supply/return air; alarms; defrost; probe configuration; controller clock/time zone.
Power history	Terminal plug/unplug; genset; vessel monitoring; interruption/alarm acknowledgement; transfer periods.
Equipment condition	PTI; maintenance/repair; machinery alarms; door/seal; evaporator/condenser observations where competent.
Cargo evidence	Product temperatures at defined locations; core/probe method; thaw/refreeze indicators; carton condition; lab evidence when needed.
Stowage / airflow	Red-line compliance; T-floor; pallet orientation; ceiling clearance; blocked return-air path; vent setting.
Independent logger	Raw data; serial; placement; calibration; clock/time zone; custody.
Pre-loading baseline	Quality/health certificates; production/packing; cold-store records; stuffing photos; pre-load product temperature.

G.2 Interpretation Discipline

- Separate set point, supply air, return air, ambient and product temperature. They answer different questions.
- Plot the full chronology and identify continuous excursions; duration above a relevant threshold may matter more than a single peak.
- Align controller, logger, port and vessel events in one time zone before drawing causal conclusions.
- Consider thermal inertia: controller air can recover quickly while product remains warm; a short air excursion may have limited product effect.
- Do not infer food safety from appearance or temperature alone. Use competent authority/laboratory evidence where fitness is in issue.
- Where data are incomplete, state exactly what evidence would resolve the uncertainty.

G.3 Recommended Report Wording at Preliminary Stage

PRELIMINARY WORDING

The physical condition observed is consistent with a material temperature excursion. The precise timing, duration and initiating cause cannot presently be established without review of the controller download, alarm history, power/plug records and other continuous temperature evidence. These records have therefore been requested.

Appendix H - IMLARCO Report Release Checklist

	Release test
☐	Title, report status, IMLARCO reference and issue date are consistent.
☐	Appointment, principal and scope are accurate; limitations/unavailable evidence are stated early.
☐	Shipment identity reconciles across transport documents, invoice, container/seal, vessel/voyage, quantity and dates.
☐	Attendees and their capacity are correctly described.
☐	Chronology is factual and source-attributed; reported matters are not presented as witnessed facts.
☐	Survey method, sample size and measurements are reproducible.
☐	Photographs are captioned to explain what they demonstrate.
☐	Cause opinion does not exceed the evidence; alternatives and further evidence are stated.
☐	Extent/quantum separates observed damage from extrapolated or merely claimed quantities.
☐	Mitigation and authority are recorded; disposal/repair decisions are not implied to be IMLARCO approvals unless instructed.
☐	Recovery identifies possible responsible parties, evidence gaps, notice status and time-bar risk without unsupported admissions.
☐	Technical terms, units, temperatures, currencies and calculations are consistent.
☐	Final render has been checked page by page for clipping, overlap, broken tables and cross-references.

Appendix I - Worked Claim Adjustment

Fictional training example - partial wet damage to cargo.

A shipment of 360 cases of stainless-steel pump components is carried in one 40-ft container. The CIF value is USD 180,000 and the insured value is USD 198,000. The policy uses ICC(A) 1/1/09, subject to full terms, with a USD 2,500 deductible. On joint inspection, a roof puncture is documented and 72 cases are found wet affected.

The technical evidence shows that 48 cases can be cleaned, dried, tested and repacked without loss of function; 24 cases contain components with corrosion or contamination that cannot be economically restored to the required specification. Market-tested salvage is available for the irreparable components. Sorting and testing are reasonable because they avoid treating the full 72 cases as a total loss.

Calculation	Amount
Reconditioning 48 cases	USD 8,640
Replacement value of irreparable 24 cases	USD 12,000
Reasonable sorting/testing	USD 1,250
Repacking	USD 720
Subtotal	USD 22,610
Less salvage	USD 2,100
Adjusted loss before deductible	USD 20,510
Less deductible	USD 2,500
Net adjusted claim	USD 18,010

WHY THIS ADJUSTMENT WORKS

It separates sound, repairable and irreparable property; uses a supported mitigation route; credits salvage; and makes every figure traceable. A different policy valuation or replacement clause could change the result.

Appendix J - Glossary

Term	Working meaning
ATL	Actual Total Loss.
CTL	Constructive Total Loss.
EIR	Equipment Interchange Receipt / Report.
GA	General Average.
ICC	Institute Cargo Clauses.
LOF	Lloyd’s Open Form of Salvage Agreement.
NOA	Notice of Abandonment.
P&I	Protection and Indemnity.
PTI	Pre-Trip Inspection of reefer equipment.
SCOPIC	Special Compensation P&I Club Clause.
SDR	Special Drawing Right.
VGM	Verified Gross Mass.
Waybill	Non-negotiable transport document identifying the consignee; legal effect depends on mode and governing law.

Appendix K - Authorities & Practice References

Date-sensitive legal, treaty and market references were reviewed September 2026. Live files must still be checked against current authoritative sources.

Topic	Reference / practice point
Cargo clauses	Institute Cargo Clauses (A), (B), (C) 1/1/2009 and relevant Institute War / Strikes clauses - use authorised current copies.
English marine insurance	Marine Insurance Act 1906; Insurance Act 2015; Enterprise Act 2016 (late payment provisions).
Trade documents	Carriage of Goods by Sea Act 1992; Electronic Trade Documents Act 2023.
Sea carriage	Hague/Hague-Visby Rules as enacted or incorporated by applicable law; Hamburg Rules where applicable; contractual bills of lading and local mandatory law.
Air	Montreal Convention 1999; ICAO 2024 revision of liability limits effective 28 December 2024.
Road	CMR 1956, 1978 SDR Protocol where applicable, and 2008 e-CMR Additional Protocol for participating states.
General average	York-Antwerp Rules 2016 with 2022 technical alteration to Rule XXI, where incorporated by the contract.
Salvage	Salvage Convention 1989; LOF 2024; Lloyd’s Salvage Arbitration Clauses 2024 revised May 2026; SCOPIC Clause 2020 and current appendices/tariff.
International sale terms	ICC Incoterms 2020.
Further reading	Institute of Chartered Shipbrokers, Marine Insurance (2015 edition), and professional cargo / goods-in-transit training materials. These are learning references, not substitutes for current law or operative wordings.

Appendix L - Cargo Loss Mechanism Reference

Symptom	Possible mechanisms	Primary evidence	Common trap
Wet cartons	Rain / sea water / fresh-water leak / condensation / adjacent cargo / firefighting water	Pattern and pathway; unit/hold geometry; weather; salinity/chloride with controls; custody timing.	Calling all wetting “sea water” from one test.
Warm reefer	Warm loading / power interruption / airflow restriction / machinery failure / door opening / wrong settings	Full time-temperature chronology; power; controller; product temps; stowage; PTI.	Treating current set point as proof of voyage condition.
Rust on steel	Pre-existing oxidation / fresh water / seawater / condensation / chemical contamination	Rust distribution, packing, pre-shipment condition, chloride context, hold/container environment.	Equating surface staining with total commercial loss.
Machinery impact	Frame distortion / misalignment / bearing or shaft damage / insulation or control failure	Component map, maker tolerances, functional/electrical tests, shock indicators and repair specification.	Relying on exterior appearance alone.
Shortage	Short loading / measurement basis / tare or moisture difference / leakage / theft / misdelivery	Comparable measurement systems, calibrations, counts, seals, delivery records and custody reconciliation.	Calling a book difference a physical loss before reconciling methods.
Contamination	Adjacent cargo / previous cargo / tank/line residue / water / chemical exposure	Source-pathway analysis, representative/control samples, chain of custody and laboratory method.	Testing without a hypothesis or control sample.

Appendix M - Commercial & Transport Document Map

Document	What it can establish	What it does not automatically prove
Sale contract / Incoterms	Commercial delivery, cost and risk allocation between seller and buyer.	Does not by itself determine policy duration or title to sue carrier.
Insurance policy / certificate	Insured interest, wording, valuation, transit, deductibles and endorsements.	Does not prove the physical cause or carrier liability.
Ocean B/L	Evidence of carriage contract, receipt; negotiable bills also perform title/possession functions.	Clean wording addresses apparent condition, not latent quality.
House / multimodal bill	May evidence a forwarder/NVOCC contract and different contracting carrier.	Do not assume the ocean carrier is the only defendant.
Sea waybill	Non-negotiable carriage document identifying delivery party.	Does not function identically to a negotiable B/L.
AWB	Air carriage evidence and shipment particulars.	Check Montreal applicability and complaint deadlines separately.
CMR note	Road carriage particulars, reservations and parties.	CMR can apply even if the note is imperfect or absent, subject to Convention conditions.
EIR / gate record	Condition and custody of the equipment/container at interchange.	Describes equipment condition, not necessarily hidden cargo condition.
Delivery receipt / outturn	Condition/quantity recorded at handover.	An unclaused receipt is important evidence, not an absolute bar to concealed damage.

Appendix N - Senior Claim Review - Red-Team Questions

Review gate	Question
Contract	Have we read every endorsement and manuscript clause, or are we reasoning from the ICC label alone?
Interest	Are risk, title, insurable interest, policy entitlement and title to sue being kept distinct?
Chronology	What is the narrowest evidence-supported window in which the damage could have occurred?
Causation	Are condition, mechanism, initiating event and contributing factors separated? What credible alternative remains?
Exclusions	Have we gathered the facts needed to test packing, inherent vice, delay, ordinary loss and unfitness without prejudging cover?
Quantum	Can an independent reviewer rebuild the figure from quantities, values, repair, depreciation, salvage and deductible?
Mitigation	Were decisions reasonable on the facts available at the time, and is authority documented?
Recovery	Do we have the correct defendant, legal regime, notice, title and time-bar control?
Evidence	Which conclusion depends on a single fragile document or unverified statement?
Report	Would the wording still be fair and accurate if read by the assured, insurer, carrier, P&I Club and court?

FINAL STANDARD

The file is strong when another competent professional can understand, reproduce and challenge the work from the record alone. Length is not the standard. Evidential traceability is.

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