

ZARA



INSTITUTE CARGO CLAUSES

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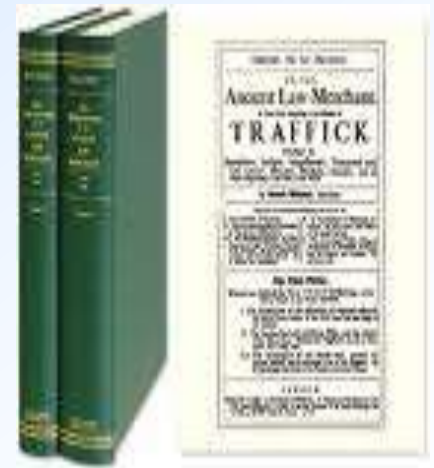


HISTORY OF LLOYD'S



To start with...

- ◆ In Common Law countries there is no proper Mercantile Law.
- ◆ All the ‘mercantile rules’ come from:
 - The Law Merchant (S. XVIII)
 - Mercantile Customs
- ◆ There isn't any Uniform Code.



To start with...

- ◆ In Continental Law countries, the Mercantile Law is a different branch of the legal system.
- ◆ A Uniform Code called ‘Código de Comercio’ regulates all these commercial transactions.



To start with...

- ◆ In the commercial context, lots of efforts have been made to reach homogeneization regarding documents.
- ◆ In the maritime scope, the **Institute Cargo Clauses** are the internationally recognized insurance policies.
- ◆ What is their origin?

Lloyd's

A little bit of History....



- ◆ **Edward Lloyd's**
- ◆ **Coffee House in London**
- ◆ **Meeting point of:**
 - Merchants**
 - Underwriters**
 - Brokers**
- ◆ **1989, a Committee was elected and they moved to **The Royal Exchange.****

Lloyd's



Lloyd's building

Lloyd's

The most important insurance Market

Lloyd's List



Lloyd's Market Association



Lloyd's underwriters association



ICC changes

1. A committee tried to abolish the Ship Cargo policy.
2. It was included in the Maritime Insurance Act of 1906 with “an interpretation guide”
3. In 1912, ICC FPA, ICC WA and ICC ALL RISK were included.
4. In 1982, Marine Policy Form and Institute Cargo Clauses A, B, C, War and Strike.

ICC DEFINITION AND TYPES



DEFINITION

- ◆ The **Institute** Cargo Clauses (ICC) =
Set of terms for cargo insurance policies adopted as standard terms by many international marine insurance organizations.
- ◆ Institute = The Institute of London Underwriters (Instituto de Aseguradores de Londres)

The Written Legal Discourse



Private Legislation



Contract



Insurance Policies



The Institute Cargo Clauses

Nowadays...

...two thirds of the world's countries make use of the ICC.

- ◆ When translating them into another language
 - Informative
 - Non-binding



1912

1. The ICC Free of Particular **Average** (FPA)

= Libre de avería particular

- ◆ No cover for partial losses.
- ◆ Conditions applied where the goods are hugely susceptible to damage.



1912

2. The ICC With **Average** (WA)

= Con avería particular

- ◆ Risk of small partial losses below 3% or 5%.



AVERAGE = LOSS OR DAMAGE

- ◆ All
- ◆ To
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1963

ALL RISKS:

This clause covers all risks of loss or damage with some specific exclusions.

= Seguro a todo riesgo

- ◆ SG Policy form (Lloyd's Ship and Goods Policy) made use of these three Institute Cargo Clauses.



COMPARISON

Loss Caused By or Resulting From:	Free of Particular Average	With Average	All Risks
Stranding	YES	YES	YES
Sinking	YES	YES	YES
Burning	YES	YES	YES
Collision	YES	YES	YES
Faults or errors in the management of the vessel	YES	YES	YES
Bursting of boilers	YES	YES	YES
Latent defects in hull or machinery	YES	YES	YES
Explosion	YES	YES	YES
Jettison	YES	YES	YES
Heavy weather*	NO*	YES	YES
Seawater as a result of heavy weather*	NO*	YES	YES
Freshwater	NO	NO	YES
Improper stowage by the carrier	NO	NO	YES
Hook damage, mud and grease	NO	NO	YES
Theft of an entire shipping package	NO	NO	YES
Non-Delivery of an entire shipping package	NO	NO	YES
Pilferage	NO	NO	YES
Leakage	NO	NO	YES
Breakage	NO	NO	YES

1982

1. MAR form (Marine Policy Form)

- Document which validated the existence of an insurance contract.
- A clause that forced the assured to fulfill the contract.
- MAR form made use of the new Institute Cargo Clauses.



1982

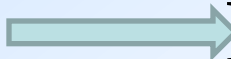
2. The Institute Cargo Clauses

OLD INSTITUTE CARGO CLAUSES (1912 / 1963)	NEW INSTITUTE CARGO CLAUSES (1982 / 2009)
ALL RISKS	A
WITH AVERAGE	B
FREE OF PARTICULAR AVERAGE	C

TYPES

1. Institute Cargo Clauses A
2. Institute Cargo Clauses B
3. Institute Cargo Clauses C
4. Institute War Clauses
5. Institute Strike Clauses

Institute Cargo Clauses A

- ◆ The insurance covers all risks of loss or damage.
- ◆ Exclusions: loss due to delay or damage due to inadequate packing.
- ◆ Duration: From the time the goods leave the warehouse  Port of destination

Institute Cargo Clauses B

◆ Perils covered are:

- Fire (Incendio)
- Explosion (Explosión)
- Stranding (Encallar / Varar)
- Sinking (Hundirse)
- Overturning (Volcar)
- Collision (Abordaje)
- Jettison (Arrojar mercancías al mar / Echazón)



Institute Cargo Clauses C

- ◆ The most restricted form of cover.
- ◆ The same as B, but with minimal differences of risks covered.



COMPARISON

INSTITUTE CARGO CLAUSE (A), (B) & (C) CLAUSES SUMMARY CHART - RISK COVERED / EXCLUDED

RISKS	'A' Clauses	'B' Clauses	'C' Clauses
• Fire or Explosion	✓	✓	✓
• Vessel/Craft being stranded, grounded, sunk or capsized	✓	✓	✓
• Overturning or derailment of land conveyance	✓	✓	✓
• Collision or contact of vessel, craft or conveyance with external object other than water	✓	✓	✓
• Discharge of cargo at a port of distress	✓	✓	✓
• Earthquake, Volcanic eruption or Lightning	✓	✓	X
• General Average Sacrifice	✓	✓	✓
• Jettison	✓	✓	✓
• Washing Overboard	✓	✓	X
• Entry of sea, lake or river water into vessel, craft, hold, conveyance, container, liftvan or place of storage	✓	✓	X
• Total loss of any package lost overboard or dropped whilst loading on to or unloading from vessel or craft	✓	✓	X
• General Average and Salvage Charges	✓	✓	✓
• Pirates, Thieves and Non-delivery	✓	X	X
• Rough Handling	✓	X	X
• Contamination	✓	X	X

KEY: ✓ - Covered X - Not covered or excluded

Institute Cargo Clauses (War)

Risks covered:

- ◆ 1.1 war civil war revolution rebellion insurrection, or civil strife arising therefrom, or any hostile act by or against a belligerent power
- ◆ 1.2 capture seizure arrest restraint or detainment, arising from risks covered under 1.1 above, and the consequence thereof or any attempt thereat
- ◆ 1.3 derelict mines torpedoes bombs or other derelict weapons of war.

Institute Cargo Clauses (Strikes)

Comparison between the risks covered

1/1/82 - 1/1/09

- ◆ 1.1 strikers, locked-out workmen, or persons taking part in labour disturbances, riots or civil commotions
- ◆ 1.1 strikers, locked-out workmen, or persons taking part in labour disturbances, riots or civil commotions

Institute Cargo Clauses (Strikes)

Comparison between the risks covered

1/1/82 - 1/1/09

- ◆ 1.2 any terrorist or any person acting from a political motive.

- ◆ 1.2 any act of terrorist being an act of any person acting on behalf of, or in connection with, any organization which carries out activities directed towards the overthrowing or influencing, by force or violence, of any government whether or not legally constituted

Institute Cargo Clauses (Strikes)

New Clause:

- ◆ 1.3. any person acting from a political, ideological or religious motive.



Most Noteworthy Changes Among the 1982 ICC & 2009 ICC

Institute Cargo Clauses (A):

◆ Clause 6.2 covers **piracy**



Most Noteworthy Changes Among the 1982 ICC & 2009 ICC

Institute Cargo Clauses (A):

- ◆ Clause 10.2 covers the “**phantom ship**” situations
- ◆ “Phantom ship”: The vessel has no valid classification, is not registered with any recognized ship registry and is usually operated by criminals.
 - Well known in Far East shipping circles.

Most Noteworthy Changes Among the 1982 ICC & 2009 ICC

VOCABULARY:

- ◆ “Assured” → “Benefit of Insurance”
- ◆ “Goods” → “Subject-matter insured”
- ◆ “Underwriters” → “Insurers”
- ◆ “Servants” → “Employees”



LANGUAGE AND TRANSLATION



Attempt of Translation

- ICC (A)
- ICC (B)



Lexical Level

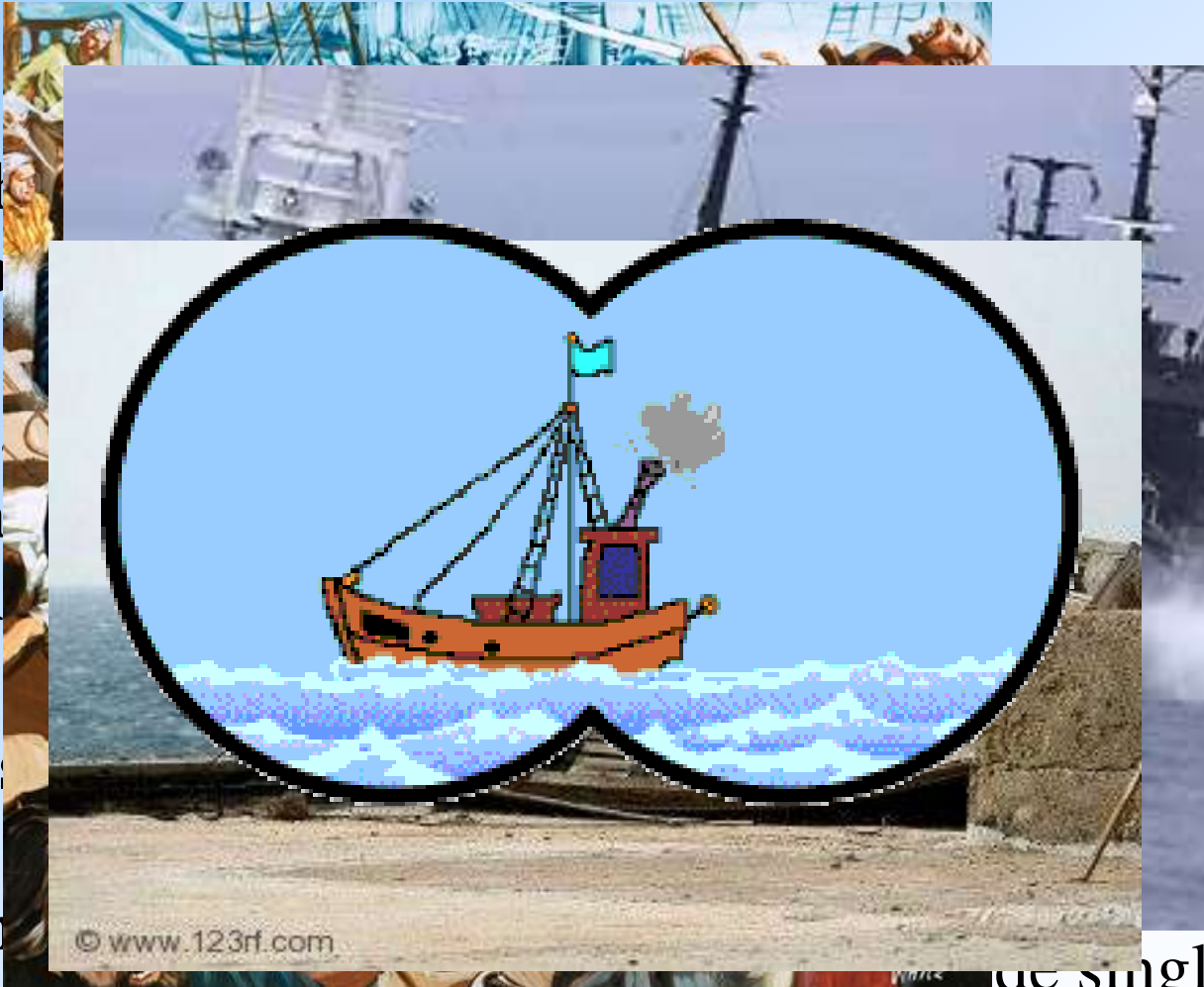
NAME OF CLAUSES

◆ "Both
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◆ Unse
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◆ Tran

◆ Chan
Clause



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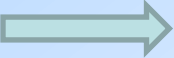
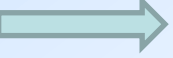
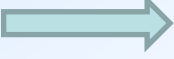
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Lexical Level

MARITIME INSURANCE

- ◆ **Attaches**  cobra vigencia
- ◆ **Terminates**  se extingue/ cesa
- ◆ **Reaches maturity**  Vence
- ◆ **Effect (insurance)**  Suscribir/contratar

Lexical Level

MARITIME INSURANCE

◆ **Adventur**

◆ **Recover**

◆ **Overside**

◆ **Abandon**



ntura

mnizar

ostado

ndono/cese

Lexical Level

MARITIME RISKS

- ◆ Stranding/ Running aground



Encalladura



Varadura

Lexical Level

◆ Capsizing/ overturning



Zozobra

Lexical Level

◆ Jettison



Echazón



Lexical Level

◆ Washing overboard



Barrida de cubierta por las olas

Macrostructure and Syntax

◆ Complex syntax

- Long sentences: coordination & embedding
- Use of the passive and impersonal forms

SG POLICY

FPA/ WA

ICC A, B, C, WAR, STRIKE

Textual Level

Above, below	→	Spanish- OMISSION (overload of information)
Herein		Por la presente
Hereby	→	En virtud de esta póliza
Hereunder		En virtud de este documento
Thereof		A raíz de tales circunstancias
Therein	→	Derivado de tales actos
Therefrom		En dicho contrato
Thereat		

ANALYSIS OF THE LANGUAGE OF LEGAL TEXTS

FO



STICS



Thank you for
your attention

