

NSOCC GREEN CARD 2011 NORTH SEA OPERATOR'S CLAIMS CONFERENCE

NSOCC Green Card 2011 (1st Edition)

Guidelines for the settlement of claims relating to Articles of Transport carried under the Carriers' Standard Terms of Carriage.

This sixth edition of these Guidelines is issued to indicate to the trade the parameters that have been agreed between the Carriers and Protection & Indemnity (P&I) Clubs, over the years, for the settlement of claims for damage to Articles of Transport ("AoT") and similar carried under the Carriers' Standard Conditions of Carriage.

These Guidelines do not vary or prejudice the parties respective legal positions under the Carriers' Standard Conditions of Carriage in any way. AoT includes, unless otherwise indicated, any vehicle, container, Flat, pallet, trailer, TUV-certified unit, transportable tank and/or similar items used for the consolidation of goods, as well as mobile plant. Trailers and similar road vehicles must comply with the International Standard ISO 9367-1 and ISO 9367-2, in respect of "Lashing and Securing arrangements on road vehicles for sea transportation on ro/ro ships".

Special attention is drawn to the Carrier's Standard Conditions of Carriage and nothing contained in these Guidelines shall be construed as a waiver or surrender of any of the carrier's rights and/or defences. The Carrier shall not undertake any greater liability or responsibility than exists under those standard conditions.

Normal Wear and Tear and Handling Damage

Alleged damage to the AoT is frequently found, on inspection, to be wear and tear. AoT are susceptible to damage despite due care being taken during loading, handling, stowing, storing, and discharge, and terminal operations. Carriers shall not accept such wear and tear and such "handling damage" as a valid claim.

Claim Settlement

The intention of these Guidelines is to establish the basis for an amicable resolution of any claims arising in respect of loss of or damage to an AoT allegedly sustained whilst in the custody of the carrier. Simplified procedures have been adopted for settlement of valid claims for AoT.

Except where the damaged material is less than 3 months of age, all claim settlements shall be subject to a reduction, in accordance with industry practice to reflect wear and tear depreciation (W&T Clause). Where the damaged material is proven to be less than 3 months of age, loss or damage will be fully reimbursed (Material Lifetime Clause).

Valid Claims

Claims will only be accepted where:

1. it can be clearly established that the loss or damage occurred whilst the AoT was in the custody of the Carrier; and
2. the loss or damage was caused by the fault or neglect on the part of the Carrier, their Subcontractors, their Servants or their Agents; and
3. it is supported by documentary evidence, specifically:
 - a) Copy invoice or estimate for repair and/ or replacement costs.
 - b) Written confirmation that the costs paid have not been claimed from or paid by any other party.

Claimants are expected to mitigate the loss at all times. Where any of the specific items detailed in paragraphs A to E below form part of a larger claim, consideration may be given to settlement without the application of the stated limitations in paragraphs A to E.

As a general principle, carriers shall not accept liability for the following:

A: Damage to parts not visible on delivery through reasonable inspection methods, such as video gates and visual manual delivery checks (depending on port facilities).

B: Roof damages except where damage occurs by external impact whilst the AoT was in the custody of the carrier only if clearly and evidently visible from ground level or, where quay facilities are available for "proper and efficient" roof damage control, as recorded thereon.

C: Decals, Logos and Advertising except for repair or replacement in the immediate damage area.

D: Trailers and similar items

D1: Any damage caused by shifted cargo within or on the AoT.

D2: Tilts & Curtains except holes and tears in tilts and/or curtains (items not subject to the W&T Clause) where they are significant and were caused as a result of tear or chafe against external objects whilst the AoT was in the custody of the carrier.

Examples of such situations, where liability shall not be accepted, are holes and tears as a result of:

a) Tearing or chafing against the framework of, or objects within, the AoT.

b) Tearing or chafing against cargo within the AoT, excessive tension in the canopy due to side boards, stanchions or cargo extending beyond the cargo loading platform.

c) Knife cuts and tilt damages caused by stowaways. Unless the cost of repair exceeds the cost of replacement, holes and tears will not be accepted as justifying the complete renewal of the tilt and/or curtains, even if the damage endangers the legitimacy of a certification policy (such as, but not limited to, a TUV Certificate) In the exceptional case of a justified complete renewal of the tilt, any claim settlement will reflect the depreciated replacement value of the tilt and/or curtains at the time that the damage occurred.

D3: Bumpers, Sidebars and Cargo Lifts touch ramps, bollards and other objects. Any related minor damage shall be treated as fair wear and tear, unless they are fully retracted and secured prior to presentation for shipment.

D4: Buffer blocks which are customarily fitted to protect the AoT, or any parts of it, from frequent contact with hard objects. Any damage shall be deemed to be fair wear and tear.

D5: TIR Wires, Eyelets & Curtain Buckles are in excess of the width of the AoT and are subject to damage in normal use. All damage to these and other such items shall be considered as fair wear and tear.

D6: Tyres, flat tyres, punctures or damages to the tread of the tyres. Damage will only be compensated where there is clear visible impact to the sidewall of the tyres and then only according to the following criteria:

a) If the remaining tread is known, compensation shall be calculated pro rata per mm.

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b) If the remaining tread is unknown, compensation shall be maximum 50%.

However, no liability shall be accepted for any tyre with a tread below 4mm or where the tread peels away from the tyres.

D7: Spare wheel carriers and storage boxes are often positioned close to the ground and any damage shall be considered as inherently occurring due to their location.

D8: Wheel rims Any damages.

D9: Air suspension bags and related parts
Any damages, except where it can be clearly established that the damage occurred whilst the AoT was in the custody of the carrier.

D10: Mudguards and anti-spray equipment are inherently vulnerable to contact with external objects. Any damage shall be considered fair wear and tear, except where it can be clearly established that the damage occurred whilst the AoT was in the custody of the carrier.

D11: Loose equipment
Loss of or damage to lamps, lamp lenses, reflectors and other loose equipment, such as, but not limited to, removable trailer light boards, spare tyres, winding handles, brake couplings, tools, tarpaulin covers, spansets, etc.

D12: Landing legs and stays except where bent by external impact to such an extent that they are no longer able to serve their intended purpose.

D13: Landing legs wheels and feet
Any damage to these items having regard to their function and to the heavy stress to which they are regularly subjected, except where it can be clearly established that they were damaged by external impact to such an extent that they are no longer able to serve their intended purpose.

D14: Side board & door hinges and locks Side board & door hinges and locks wear out due to normal handling and corrosion.

D15: Side boards and trailer superstructure
Chafing, denting, splitting of side boards (covered side boards are not subject to the W&T Clause) and superstructures, except where it can clearly be established that the damage occurred whilst the AoT was in the custody of the carrier.

D16: Rear board and rear doors
Chafing, denting, splitting of the rear board and rear doors, except where it can be clearly established that the damage occurred whilst the AoT was in the custody of the carrier.

D17: Aluminium and other light-weight constructions except frame and sub-frame damage caused by external impact occurring whilst the AoT was in the custody of the carrier.

D18: Curtain-winding and tensioning mechanism except where damage occurs by external impact whilst the AoT was in the custody of the carrier and caused the system to malfunction.

E: Box, Bulk, Reefer, and Tank, Containers
Dents, scratches and any other cosmetic damages to any outer casing, panels, framework, corner posts, and castings, where the normal operation of the unit is not impeded (Cosmetic damage Clause). Malfunction of temperature gauges, valve covers, box lids etc.

Damage to ladders and walkways which does not affect their ability to be used safely.

Temperature settings or the malfunction of thermostats, heating or refrigeration units.

Claims in relation to tank containers shall be subject to the right of inspection of the damage and any claim settlement will reflect the depreciated replacement value of the tank container at the time that the damage occurred.

As approved by the North Sea Operator's Claims Conference (NSOCC) Members 2010.

Securing of cargo within vehicles and AOT for carriage by sea

The object of multimodal transport is to carry goods from the place of consolidation in AoT to their final destination without interference during the carriage.

It is in the interest of all parties involved for the goods to out-turn at the receivers premises in sound condition and it is therefore essential that the goods are properly stowed and secured in the AoT from the outset. Failure to do so may well be illegal and also cause delay and additional expense for shippers as well as endanger life.

Therefore, it is essential for the goods to be properly stowed and secured in the AoT, to safeguard the goods and the AoT against natural and man-made circumstances that may arise during the carriage. Shippers must comply with stowage guidelines and standards (and any amendments thereto) which have been drawn up by various organizations over the years, including but not limited to:

- The European Standard EN 12195-1 as approved by CEN members (Comité Européen De Normalisation) on 1 September 2003.

- The manual "Loading and securing Cargo on Load Carriers" published by the Transport Research Institute (TfK), Stockholm, Sweden.

- Securing of loads on road vehicles. (VDI manual Securing of Loads), VDI 2700 published 2004-11.

- The British Merchant Shipping Notice no.M.1445 of April 1991. It's associated "Roll On /Roll Off Ships Stowage and Securing of Vehicles Code of Practice" (ISBN 0 11 550995 X) issued by the Department of Transport, Marine Directorate, London, is published by Her Majesty's Stationary Office and contains lists of related publications.

- The IMDG Code Supplemental (Amdt. 34- 08) titled "Guidelines for the packing of cargo, other than bulk cargo, into or onto cargo transport units (CTUs) applicable to transport operations by all surface and water modes of transport".

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