

### What's Happening with Ocean Carrier's Limits of Liability

Various groups have been pressing for more uniform and relative laws and rules involving cargo liability and loss and damage claims for ocean shipping.

Enacted in 1936, the liability limits of the "Carriage of Goods by Sea Act (COGSA) have never been amended from the \$500.00 "per package" set more than 60 years ago. Most other countries have modified the liability limits established by the Hague Convention. The Hague rules followed in most countries a carrier's limit of liability to 666.67 "Special Drawing Rights " (SDRs), approximately (\$870 USD) per package or 25 DRs per kilo.

From a practical matter, these limits are not reasonable compensation. It is estimated the buying power of the dollar is now roughly 1/12 of what it was in 1936. If you follow this reasoning, the liability limits of today would be \$6000 if Congress had amended COGSA throughout the years to keep up with inflation.

Several interested parties and organizations and admiralty lawyers drafted a new version of COGSA that provided significant changes and referred to as "COGSA99", as it relates to limits of liability. It proposed to increase to the same level as the Hague/Visby provision (\$870 per package or 25DR's per K; whichever is greater). The number of packages listed on the bill of lading would be the number of packages for calculating liability limits.

This draft has not been introduced into Congress as a bill and has frankly created some unrest with others in the International shipping community. As a result, various organizations began studying these issues by holding meetings. A workshop was held in January of this year. There was much discussion and review to the issue of limits of liability and various other issues relating to the review of the act.

There seemed to be an agreement between the various government representatives to endorse a middle ground on liability limits in which any new regime would necessarily have minimum guidelines that could not be changed by a carrier's contract. It was felt, at least at this point that there needed to be protection for smaller shippers.

At this point, the Organization for Economic Corporation and Development (OECD) role in this program is complete and it will move forward with any approach in the fall of 2001 to the various countries to modernize or alter the existing cargo liability laws and conventions.

Stay Tuned!

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