

# IUMI 2017 TOKYO



## Freight Forwarders Liability Insurance: Multiple aspects of the risk & solutions in a non-standardised Market

### **Frédéric Bécard**

Cargo Practice Leader & Head of Cargo  
International Underwriting at AXA Corporate  
Solutions



2017 TOKYO  
September 17-20

# Freight Forwarders Liability Insurance: Multiple aspects of the risk & solutions in a non-standardised Market



- FFL Insurance: principles and basis
- Diversity of activities in an international environment
- Multiple risk & solutions

00:10

Questions / please vote



1. Do you have experience in Freight Forwarding Liability Insurance?

A. No

B. A little bit

C. I am an expert

00:10

Questions / please vote



2. Who are the main players in the FFL market?

- A. The TT Club
- B. The Big International Insurance Groups
- C. Local players

# FFL: Principles and basis

## FFL: basis of liability

- The Freight Forwarder or « Forwarder », « forwarding agent » or Non Vessel Operating Carrier (NVOCC) is a company/person that **arranges shipments of goods on behalf of its clients** (ie : *the shippers*).
- The Freight Forwarder can use its own means of transportation and/or contract with one or multiple carriers to transport the goods.
- Contracting and organizing the entire supply chain process, the Freight Forwarder is **liable for goods during shipments** towards Shipper's Interest.

Liability arises according to:



Contrary to cargo risks, **liability has to be proven**, and the Insured can **defend itself to reject liability** (e.g.: « *Force Majeure* », « *Inherent vice* »...)

- Based on national laws/international conventions (ie *CMR*, *Brussels convention*) and/or *STC*, the **Insured will oppose the limit of liability**
- On the contrary, **some cases set aside the legal & conventional limits** (ie: *Gross negligence/willful misconduct*)

# FFL: Principles and basis

## Typical cover granted within an FFL Insurance policy

Freight Forwarder's Liability (FFL) also called Freight Liability Insurance (FLI) or Haulage contractor's liability Insurance aims to cover the **Insured's liability for financial losses** resulting from :

- Loss and/or damage to entrusted goods whilst in the **custody and control**
- Errors & Omissions

The Insured may cause these financial losses to its clients and/or ordering party as a result of non-performance and/or the incorrect performance of the Insured contractual obligation.

### Main exclusions (as generally provided by other policies):

- ✓ bodily injury
- ✓ damage caused by cargo
- ✓ damage to third parties other than the customer
- ✓ damage to the property of the Insured
- ✓ liability as a vessel charterer
- ✓ Product liability

# Diversity of activities in an international environment



From a mere **haulage contractor's activities** to a complex supply chain logistics services provider:

- Road haulier
- Sea, Air, Inland waterway or railway common carrier
- Freight forwarder, NVOCC
- Third party logistics services provider
- Warehouse-keeper
- Logistics operator
- Custom agent
- 4PL Provider...

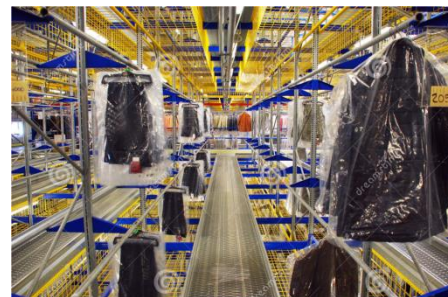
International Forwarders have expanded their traditional activities of carrying goods from one place to another into new areas of the supply chain such as:



**Warehouse-keeping operations:** The Forwarder is not only carrying goods but storing them into logistics platforms, sometimes with processing operations on the goods entrusted.





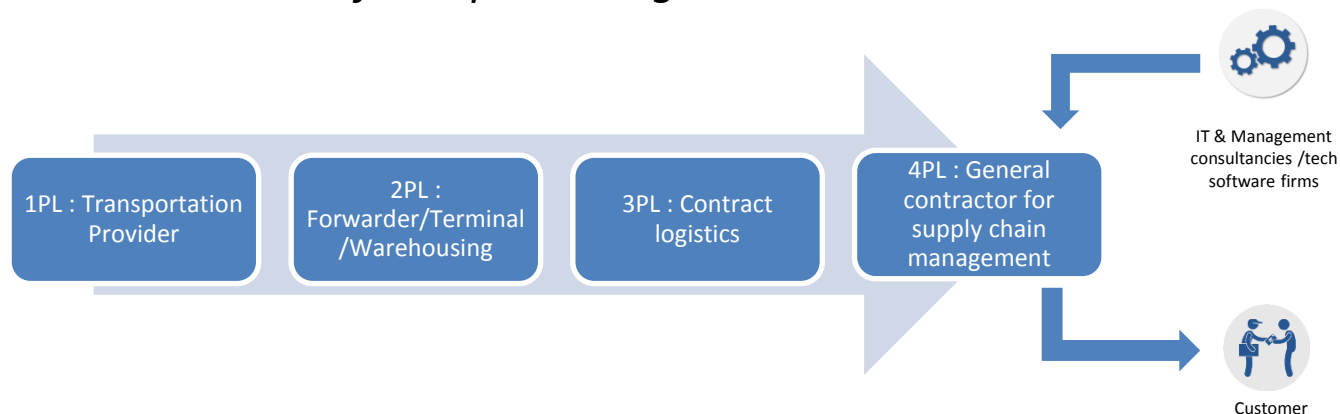
traditional logistics platform



logistics platform with processing of goods

## Diversity of activities in an international environment

- 
**Customs agents:** acting as the customs agent/broker, the freight forwarder on behalf of the shipper (importer/exporter) clears the goods in respect of local taxes, authorities and customs representatives.
- 
**4PL provider:** As a result of economic globalization and the development of NICT, the logistics chain has become more and more complex. 4PL is the latter stage of freight forwarding operations, whereby the Forwarder is in charge of the entire integrated supply chain process: *from material flows to non material flows processing*.





## Diversity of activities in an international environment

-  **International footprint:** As global player, the International freight forwarder has developed worldwide network of integrated logistics solutions and ensuring the distribution of goods in all continents.
-  In contrast with Cargo insurance, **there are no standardised Market conditions:** each country has a heterogenous legal approach with differing levels of maturity and thus requires a complex insurance solution

# Multiple risks & solutions



**Enhancement of liabilities due to activity expansion:** the Freight Forwarder is not only liable for goods in transit but also liable for warehousing/storage operations, customs agents/broker's activity, non material organization of flows (ie : 4PL)...



**Contractual agreement:** based on legal/conventional limits, liability of the carrier is often lower than loss or damage incurred by the shipper. Consequently, the shipper is requesting for more demanding contractual liability enhancements to get full value from the carrier.



**Local legal environment:** The Freight forwarder does not always have a legal status and/or specific liability approach from one country to another. As a result, some countries do not have a dedicated Insurance product, thus creating a gap of cover within an international insurance programme.



**Longtail risks basis:** contrary to Cargo Insurance, liability is longtail and should be analysed on results and profitability over a long term period. A need of triangulation is important to identify claims trends.

## Multiple risk & solutions



**Cargo Insurers must remain focused on cargo related risks liabilities:** Insurers must closely monitor and follow Insured liabilities. In no case Insurers should grant General liabilities cover. Boundaries between cargo related risks to others is not always very clear.



Cargo Insurers must review specific commercial contract or general sales conditions which potentially **enhance the Insured's liability** (ie: *enhancement and/or derogative liabilities, new logistics contracts with particular storage conditions, new activities declared...*) in order to adapt and determine additional premium if needed.



**Rating practice is mainly based on GFR** (« *Gross freight receipt* ») representing the risks of the Insured split between the different risk exposures. Premium could be :

- ✓ Based on numbers of vehicles
- ✓ Based on Adjustable premium using rates per type of activity covered
- ✓ Fixed annually with adjustment only at renewal anniversary for the coming year



**Shipper's Interest Insurance** is a good way to balance risks exposure and results of FFL cover



**Risk assessment** would need precise knowledge of the legal/contractual environment with close monitoring of liabilities related to Insured's activities negotiated with their clients. Key topics to be tackled are:



A dedicated skilled dept



Updated review of Insured commercial contracts



Accumulation risks must be well monitored (FFL + SII)

## Key points



FFL cover is more complex and extensive than Cargo Insurance



There is no standard policy wording for FFL



Marine cargo Insurers must increase their knowledge and experience



FFL is a good leverage of growth and must remain in the Marine Cargo Insurance Market

## Conclusion:

*“So far within IUMI, FFL is not really represented, neither in the Cargo nor in the Legal and Liability Committee”  
Matthias Kirchner dixit, Member of the IUMI Cargo Committee.*



Based on this observation, it would be interesting to specifically address this “growing” topic amongst IUMI representatives

00:10

Questions / please vote



1. Do you think that IUMI should represent more than in the past FFL Insurance interests?

A. Yes

B. No

00:10

Questions / please vote



## 2. Which IUMI Committee should take care of FFL insurance

- A. Cargo Committee
- B. Legal and Liability Committee

Thank you

Frédéric Bécard, Cargo Practice Leader &  
Head of Cargo International Underwriting

