

tackling *cargo* misappropriation

Cargo misappropriation is on the rise due to socio-economic turbulence in Europe and beyond. With effective deterrents, companies can reduce the risks and receive quicker settlements when making a claim.

Words by TIM EVERSHED



Cargo claims are on the increase due to falling commodity prices and wider concerns over the state of the global economy – the classic factors behind rises in cargo theft or misappropriation.

Contributory factors include the conflict in Ukraine, falling oil prices and continued stagnation in the eurozone. Elsewhere, the emerging markets of Brazil, India and China are prone to cargo misappropriation with local warehouse owners vulnerable to the temptation that hundreds of millions of dollars' worth of goods can cause.

Misappropriation is the illegal use of another's property for an unauthorised purpose, by any person with a responsibility to care for and protect those assets. It may involve the theft or physical removal of goods but is more often perpetrated as a documentary fraud.

The intention of the person misappropriating the cargo is not necessarily to deprive the owner of that cargo forever, says Jay Payne, Senior Partner in the Cargo team at JLT Specialty. "They may be trying to raise capital to pay off bills and hoping that by the time the owner wants their cargo they've replenished it. The downside is that they get caught too early or their actions to raise capital are not successful so there ends up being a shortfall."

Easy targets

Those misappropriating cargo typically look for products that can be quickly sold and converted into cash. Food products such as grain, rice or sugar are popular targets, as are high-value but low-quantity cargoes like petroleum products.

UK law is straightforward in these matters, with all possible definitions, including misappropriation, bundled together as theft. This is not the case in all legal jurisdictions, however, and there may be a legal distinction between theft and misappropriation in some countries. JLT uses its international network so that local policy wordings reflect local laws

but are kept as simple and inclusive as possible.

Insurers' overriding concern is often the behaviour of the insured company and the efforts they have, or have not, taken to safeguard cargoes against the risks of misappropriation.

Pay attention

It is commonplace for goods to be audited when entering and exiting storage but cargo owners must make frequent and thorough inspections of stock, says Payne. "If you can demonstrate that you've been auditing your cargo, you will be better positioned to make a claim than someone who has bought a cargo and then not checked its status for six months."

“If you can audit your cargo, you will be better positioned to make a claim than someone who hasn't checked its status for six months.”

Jay Payne, Senior Partner at JLT Specialty

Several measures can be taken to make a cargo a less attractive target, including unannounced physical stock control inspections, which should include a detailed review of stock inventory lists or video surveillance.

Inspectors must be wary of ruses like empty box constructions where a façade of products in fact hides empty boxes. It is imperative that stacks of boxes are checked, using mirrors on sticks if necessary, rather than inspectors simply rubberstamping warehouse operations.

Commingled cargoes give rise to potential issues so, wherever possible, owners should seek to use dedicated warehouse space that allows them sole usage.

It is also vital that goods are not sitting unlabelled and anonymous in a warehouse: every bundle

should be labelled with its own unique number to aid identification and tracking.

The digital world has allowed operations to grow larger and for physical distances between deskbound staff and stocks to grow wider, creating more opportunities for misappropriation.

"The cargo owner might be thousands of miles away and lots of things are now done remotely. However, it is always good to have a local presence rather than trying to do everything from a desk somewhere," says Payne. "Having trusted local colleagues and local operations is important, rather than just in the core trading hubs like London, Geneva and Singapore."

Electronic trading

Sales that don't involve the physical movement of stocks also create the conditions for fraud, as does the lack of evidence required for some forms of electronic trading. Documentation attached to emails or sent by fax with electronic signatures can be easily falsified. Instead, cargo owners should insist on using original documents with signatures and stamps at all possible times.

"Some banks and trading houses are now saying no to electronic trading – they want a physical piece of paper as proof," says Payne. "It slows down the trading but the electronic trading of warrants and warehouse procedures has made misappropriation easier." ■



Held in storage

A cargo owner with a long-term storage agreement with a Bailee (an individual who temporarily gains possession, but not ownership, of goods under a bailment) requested that its cargo was released under the terms of the storage agreement.

The owner was unaware that, due to an economic downturn in that region and consequent withdrawal of credit insurance from local retailers, the Bailee was over-stretched by its financial commitments and overwhelmed by debts.

The Bailee gave the cargo owner several excuses why its cargo could not be released, including ongoing maintenance and transport logistical issues. The Bailee was simply stalling the owner, however, as it had used the cargo to honour other release obligations – to other cargo owners.

By this point the Bailee was effectively bankrupt, so the cargo owner had no recourse against it despite being deprived of access to its cargo.

The claim the cargo owner presented to its cargo underwriters was complex, as the owner had not relied on regular physical and independent inspection of its cargo. To complicate matters further the cargo had been commingled with other cargoes.

Although insurers paid the claim, it took longer than normal to settle as the owner was challenged on its storage practices and handling procedures.

For more information
jay_payne@jltgroup.com

Tim Evershed is a freelance journalist, who has written for national newspapers and trade publications.