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Contracts of carriage and bills of lading

Split bills of lading and ship's delivery orders

When can split bills of lading or a ship's delivery order be used?

Owners sometimes face a situation where the charterer asks the owner to discharge the cargo to more than one receiver, even though only one bill of lading has been issued for the full quantity loaded. In this case it is necessary for the original bill of lading issued for the full loaded quantity to be split into several bills of lading, corresponding to each individual consignment/parcel which is to be discharged.

The two main ways in which one consignment can be discharged to different receivers – even though originally only one bill of lading was issued – is either for the original bill of lading to be split into several bills of lading or, alternatively, for discharge to take place against a ship's delivery order.

This article will deal with both split bills of lading and discharge against ship's delivery orders.

What are split bills of lading?

Split bills of lading are bills that are issued for only part of the cargo originally carried on board the ship even though the cargo was initially carried under one single set of bills of lading. Under the original set of bills, delivery can only take place to the named consignee. In the event that the owner is asked by the charterer to deliver the cargo to more than one consignee, split bills of lading can be used to achieve this aim.

Often the reason for charterer's request for delivering to more than one consignee is that there has been a change in the sale contract so that more than one receiver is to take delivery of the consignment – albeit divided up into parcels.

Cancelling the original bills of lading

In the event that an owner is requested to split the bills of lading or issue ship's delivery orders (discussed below), the owner must make sure that the original set of bills of lading is surrendered and cancelled. By handing over the original set of bills, this act by itself can be treated as an irrevocable confirmation from the holder of the bill of lading that they agree for split bills of lading to be issued.

Without such consent, owners run the risk that more than one set of bills is in circulation which increases the risk of a misdelivery claim, with the consequence that the owner could find itself outside of club cover. It is therefore important for the owner to ensure that only one set of bills is in circulation to avoid the risk of cover being prejudiced.

Information to include on the split bills of lading

When requested to split bills, care must be taken to ensure that the total aggregate quantity of cargo stated in all the split bills of lading is equal to the quantity stated in the original set of bills. The description of the cargo, date of loading, load and discharge port should be identical to the original set of bills.

It is advisable that the split/replacement bills of lading are claused as there is an existing risk that a receiver may get more or less cargo than they are due. For example, if acceptable, the bill can be claused as follows:

'original bill No. [insert bill No.] has been cancelled and replaced with this switch/split bill of a quantity of [insert quantity]'.



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Example of split bills of lading

mv Standard loaded a quantity of 50,000mts of wheat from Odessa, Ukraine to be discharged in Alexandria, Egypt.

mv Standard issued one set of bills of lading No. 1 for the entire consignment of 50,000mts. The date and place of issue on the bill is Odessa, Ukraine, 1 January 2018 and the consignee on the bill is Grain Import S.A.

During the voyage, the owner is told by the charterer that 20,000mts of the cargo has been sold to a new receiver called Wheat Egypt B.V. The charterer therefore asks that the owner agrees to split the bills of lading into two bills of lading. The owner agrees to charterer's request and the original set of bills of lading No. 1 with a quantity of 50,000mts is returned to the owner and cancelled.

Following cancellation of the original bills of lading No. 1, the owner agrees to issue two split bills of lading as follows:

- 1. Bill of lading No. 2 is for a quantity of 30,000mts with consignee being Grain Import S.A.*
- 2. Bill of lading No. 3 is for a quantity of 20,000mts with the consignee being Wheat Egypt B.V.*

All other terms of the split bills of lading remain the same as in the original bills of lading, except the new bill of lading will have a new issue date and will need to record the original loading date on the front of the bill of lading. The load port therefore remains as Odessa, Ukraine and discharge port is Alexandria, Egypt. The total quantity combined on the two split bills of lading amounts to the quantity on the original bill of lading No. 1, namely 50,000mts (being 30,000mts on Bill No. 2 + 20,000mts on Bill No. 3).

On the front of the split bill of lading No. 2 the owner inserts a remark as follows:

'cargo originally loaded at Odessa, Ukraine on 1 January 2018 and the original bill No.1 has been cancelled and replaced with this switch/split bill of a quantity of 30,000mts'

And on front of Bill of lading No.3 a remark is inserted:

'cargo originally loaded at Odessa, Ukraine on 1 January 2018 and the original bill No.1 has been cancelled and replaced with this switch/split bill of a quantity of 20,000mts'

Delivery orders

A second way in which delivery to several consignees can take place, even though only one bill of lading was initially issued, is by using a ship's delivery order. In this case it is also necessary for the original bills of lading to be surrendered and cancelled.

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Often the bill of lading is exchanged in return for the ship's delivery order. A ship's delivery order is a legitimate way for a shipowner to deliver cargo under the Carriage of Goods by Sea Act 1992 (COGSA 1992).

For a ship's delivery order to have legal effect, it is pivotal that the ship's delivery order contains an undertaking by the carrier to deliver the cargo to the receiver specified in the delivery order. It is also recommended that the terms of the bill of lading is contained in the ship's delivery order, including that the Hague/Hague Visby rules apply.

To enable the carrier to deliver the cargo in parcels to more than one receiver, the carrier will issue one ship's delivery order to each receiver with the quantity to be delivered stipulated on the ship's delivery order.

P&I cover for ship's delivery order

In terms of the P&I cover, cover is available for delivery of cargo by means of a ship's delivery order since the delivery order is one of the accepted methods of delivery under COGSA 1992, Article 1(4), provided that two conditions are satisfied.

Firstly, the delivery order must contain an undertaking from the carrier to the party to whom delivery is to take place.

Secondly, the ship's delivery order is on terms no more onerous than the Hague/Hague Visby rules – unless the Hamburg rules are compulsorily applicable – in which case P&I cover is available even if the Hamburg rules govern the ship's delivery order.

Letter of Indemnity (LOI)

In the event that an owner is under no contractual obligation to replace bills of lading, it is recommended that owners request charterers to issue an LOI in exchange of complying with charterers orders to issue split bills of lading or a ship's delivery order. Whilst there may very well be legitimate reasons behind such a request, an owner should always exercise caution and take great care if they comply with such a request. For example, they should make sure that the LOI is properly worded and, wherever possible, counter-signed by a first-class bank.

This article intends to provide general guidance on the issues arising. It is not intended to provide legal advice in relation to any specific query. The law is also not static. If in doubt, The Standard Club is always on hand to assist.

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