

P90

Diploma in Insurance

Unit P90 – Cargo and goods in transit insurances

October 2013 examination

Instructions

- Three hours are allowed for this paper.
- **Do not begin writing until the invigilator instructs you to.**
- **Read the instructions on page 3 carefully before answering any questions.**
- Provide the information requested on the answer book and form B.
- You are allowed to write on the inside pages of this question paper, but you must **NOT** write your name, candidate number, PIN or any other identification anywhere on this question paper.
- The answer book and this question paper must **both be handed in personally by you** to the invigilator before you leave the examination room. **Failure to comply with this regulation will result in your paper not being marked and you may be prevented from entering this examination in the future.**

Unit P90 – Cargo and goods in transit insurances

Instructions to candidates

Read the instructions below before answering any questions

- **Three hours** are allowed for this paper which carries a total of 200 marks, as follows:

Part I	14 compulsory questions	140 marks
Part II	2 questions selected from 3	60 marks

- You should answer **all** questions in Part I and two out of the three questions in Part II.
- You are advised to spend no more than two hours on Part I.
- Read carefully all questions and information provided before starting to answer. Your answer will be marked strictly in accordance with the question set.
- The number of marks allocated to each question part is given next to the question and you should spend your time in accordance with that allocation.
- You may find it helpful in some places to make rough notes in the answer booklet. If you do this, you should cross through these notes before you hand in the booklet.
- It is important to show each step in any calculation, even if you have used a calculator.
- If you bring a calculator into the examination room, it must be a silent, battery or solar-powered non-programmable calculator. The use of electronic equipment capable of being programmed to hold alphabetic or numerical data and/or formulae is prohibited. You may use a financial or scientific calculator, provided it meets these requirements.
- Answer each question on a new page. If a question has more than one part, leave six lines blank after each part.

PART I

Answer ALL questions in Part I

Note form is acceptable where this conveys all the necessary information

1. Identify the Conventions that govern liability for loss or damage to goods between the following places and state the level of compensation that each carrier may be required to pay.
 - (a) Frankfurt to Rotterdam by road and then to New York by sea. (4)
 - (b) Rotterdam to Frankfurt by road and then to Sydney, Australia by air. (4)
 - (c) London to Paris by rail. (2)

2. The following description contains a number of errors. Re-write it showing the correct description of a bareboat charter.

‘Under the terms of a bareboat charter, the charterer shares equal responsibility for the ship and its cargo with the owners of the vessel, leaving the owner responsible for the crew and the charterer takes no responsibility for the provisioning of the vessel. The owner of the vessel retains responsibility for pollution caused by the escape of oil or any other pollutant.’

(8)

3. You are a claims handler for an insurance company which has issued a policy for 100% of a valuable cargo on board a vessel that is being held by pirates demanding a ransom. Your Claims Director offers to take the lead by conducting negotiations directly with the leader of the pirates, who he knew as a political activist from their days together at university. The Claims Director is confident that their friendship will allow him to persuade the leader of the pirates into an early and less costly ransom settlement.

Advise your Claims Director against taking the course of action he proposes by:

 - (a) identifying the legal sanctions that may be imposed on him if he negotiates directly with the leader of the pirates; (4)
 - (b) recommending the correct procedure, citing relevant case law on piracy. (6)

4.
 - (a) Outline how risk accumulation arises on transits involving:
 - (i) a RO/RO vessel; (2)
 - (ii) a container ship. (2)
 - (b) Describe briefly **two** alternative ways an assured cargo owner can protect itself against the risk of accumulation during normal transit operations. (4)

5. (a) State the meaning of particular charges as defined in the Marine Insurance Act 1906. (3)
- (b) Explain briefly the purpose of particular charges. (2)
- (c) Outline the actions for which particular charges are allowed in respect of:
- (i) damaged cargo; (1)
 - (ii) wet clothing; (1)
 - (iii) infested beans; (1)
 - (iv) damage to the original packaging of machinery. (1)
6. A consignment of heavy machinery is transported by road from a factory in central England to a buyer in Kansas City, USA, which includes carriage by road and rail after arrival at the overseas port.
- List **ten** stages in handling and transit of this consignment during which damage may occur and for which a claim may be made under Institute Cargo Clauses (A) 1/1/09. (10)
7. A machine is dropped whilst being loaded on a ship at a UK port. The damage represents 25% of the sale price of the machine. Cover is provided under Institute Cargo Clauses (B) 1/1/09. Insurers have rejected the claim from the assured.
- (a) State, with reasons, whether insurers are correct in their rejection. (7)
- (b) Explain briefly what the position would be if cover had been provided by either the (A) or (C) Institute Cargo Clauses. (4)
8. State the reasonably attributable causes of loss or damage recoverable under the Institute Cargo Clauses (B) 1/1/09. (10)
9. Outline the duties of the seller under the following Incoterms:
- (a) CFR. (3)
 - (b) CIF. (4)
 - (c) DDP. (2)
 - (d) DAT. (4)
10. A Dublin based haulage contractor, travelling from the Republic of Ireland to Germany, has been involved in an accident on the M25 London orbital motorway. The contractor has been advised not to put up any defence under CMR as that convention does not apply to traffic between Great Britain and the Republic of Ireland.
- Explain, giving reasons, whether this advice is correct or incorrect. (8)

Questions continue over the page

11. A freight forwarder in London, trading under British International Freight Association Standard Trading Conditions, has collected goods from a customer 20 miles away and brought them to its depot, where they are consolidated into a groupage container and carried by lorry to Rotterdam. At that port, they are loaded on board a ship bound for India.
- Identify the conditions of carriage for each mode of transport to the port in India and state the standard compensation payable by each carrier for loss or damage to the goods. (6)
12. (a) Describe the alternative points in which cover terminates under the duration clause of the Institute Cargo Clauses 1/1/09. (8)
- (b) State the position of cover if, after discharge from the overseas vessel, the subject-matter-insured is to be sent to a different place from that to which it is insured. (1)
- (c) State what happens to the insurance if the goods are stored during transit upon instructions from the seller or the buyer. (2)
13. During the sending of goods from a port in Europe to various inland destinations in the USA, via New York, there is a catalogue of incidents which cause loss or damage. The vessel encounters heavy seas and some of the goods are washed overboard, whilst some suffer damage from ingress of sea water. A machine is dropped during unloading from the vessel at the port in New York, some goods are damaged in a road accident en route to the buyer and one consignment is stolen from the carrier's vehicle during the final delivery journey.
- Identify for **each** cause of loss or damage which of the three Institute Cargo Clauses, (A), (B) and (C) 1/1/09, would cover these losses and state where some of the causes would not be covered. (15)
14. Goods are sent from one country to another under Cost, Insurance and Freight 2010 terms where the sale price of the goods is €500,000 and the advance freight paid is €20,000. 30% of those goods have been damaged.
- (a) Calculate, **showing all your workings**, the claim if it occurred:
- (i) on the journey to the port of departure; (3)
- (ii) during the sea voyage. (4)
- (b) Explain the reasons for your calculation in part (a) (i) and (ii) above. (4)

Part II questions can be found on pages 8 and 9

PART II**Answer TWO of the following THREE questions
Each question is worth 30 marks**

15. You are a broker whose client has bought goods from a supplier in Japan under CIF Incoterms 2010, believing he had maximum cover from the premises of the supplier to his own premises in the UK. The goods have arrived at their premises in a damaged condition but the insurer in Japan has refused your client's claim, alleging that the damage occurred during the final leg of transit, as evidenced by the claused final delivery note. The certificate of insurance was issued to only the UK port and that cover was against Institute Cargo Clauses (C) 1/1/09.

Discuss the issues involved in the claim and explain how you might argue against the rejection of the claim by the insurer in Japan. Your answer should include a transit documentary trail from delivery at your client's premises back to the supplier's premises and your knowledge of the CIF Incoterm.

(30)

16. Flat Wagon Carriers Ltd (FWC) have been contracted to carry a large machine by road from the UK to Spain. The senders, Specialist Machines Ltd, (SM) instruct the driver to secure the machine to the trailer using heavy duty chains, in place of the driver's preferred use of securing straps. SM dismiss the driver's arguments that chains can twist slightly and work loose in road movement. Whilst driving on a motorway just twenty miles from the start of the journey one of the chains slips allowing the machine to move on the bed of the lorry and to fall off, resulting in it becoming a total loss. SM hold the driver responsible, alleging that reckless driving, which they say amounted to wilful misconduct, caused the chain to become over-stressed and slip. They plan to sue FWC at common law for the full value of the machine and the substantial consequential losses of their customer, claiming that CMR had not even commenced, because the driver had not crossed an international boundary, or that if the driver had, the circumstances of the loss would allow common law to supersede CMR.

Advise FWC of their legal position and explain any defences they may have to liability.

(30)

17. An industrial dispute suddenly breaks out in a European country and results in strikers blockading fuel stations, in addition to causing reckless damage in an attempt to force their employers into giving in to their demands. The strike action and the blockade last for a week in the middle of a summer heat wave, before it is called off and the blockade is lifted. The claims for damage to goods caused by the strikers are put to insurers but a number of unusual claims are rejected on the grounds that they are too remote from the original strike action. These involve the deterioration of temperature controlled goods. The refrigeration units in the vehicles, which were powered by diesel, ran out of fuel. Drivers trying to replenish supplies were denied by the blockade and their lorries and cargoes were damaged.

The haulage contractors refuse to accept any claims for the deterioration of the temperature controlled goods, arguing that they were entitled to avail themselves of the Article 17.4 defence in CMR, relating to the nature of certain kinds of goods which particularly exposes them to loss or damage. Cargo insurers also refuse to accept these claims on the grounds that the actions of the strikers were remote from the subsequent deterioration of the frozen goods.

Assume that cover is provided by the Institute Cargo Clauses (A) 1/1/09 plus War & Strikes (Cargo) Clauses 1/1/09, whilst the frozen goods are insured under the Institute Frozen Foods and Frozen Meat Clauses 1/1/86 and the Strikes (Frozen Foods) Clauses 1/1/86.

- (a) State, considering the cargo aspect first, which claim can be made and the clause under which the claim is to be made. **(3)**
- (b) State whether you agree or disagree with cargo insurers regarding the frozen goods and identify under which of the clauses you would pay those claims. **(7)**
- (c) (i) Discuss whether any claims against the carriers are likely to succeed. **(16)**
- (ii) Identify any carriers who could not put forward a CMR defence. **(4)**

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