

## The MSC Flaminia Is on Fire and I Have Cargo Onboard!

by Rich Roche - Monday, July 23, 2012



When fire overtook the containership MSC Flaminia earlier this month, shippers with cargo onboard wanted to know: What's the impact of my cargo?

The answer is: It depends.

First, is your cargo insured through an *all risk* policy? If so, you can relax. Regardless of the outcome of this fire, your underwriters have you covered. Fire is one of the primary marine perils covered by the standard marine all risk insurance policy. So, if your cargo burns, you're covered. If the vessel sinks, you're covered. If your cargo is damaged by efforts to put out the fire or bring the ship to safety, you're covered.

Next, you will want to know if the ship owners declare a *general average*. This is an old (originated approximately 800 BC) maritime concept that is based on three requirements:

1. Your cargo is onboard a vessel afflicted with a maritime peril.
2. Some loss or sacrifice of vessel or cargo is made, on a voluntary basis, to save the voyage or lives onboard.
3. If that sacrifice is successful, then all parties involved in the voyage will contribute a proportional share of their cargo value to cover the loss or sacrifice.

The vessel is considered sacrificed if it hires firefighting ships or tugboats to come to its aid. Burning containers that are cut loose and jettisoned over the side are considered a voluntary loss.

Again, if you are covered by an *all risk* policy, your underwriters will front any deposit due to the ship owner now, and settle these amounts at the conclusion of the *general average* case. Such cases may take up to ten years for final liquidation.

## **What if you don't have a marine insurance policy in place?**

This can become problematic in a hurry. In the case of a total loss from a maritime peril, your goods would be lost and you would have no one to turn to for recovery. Bills of lading issued by Mohawk or any other carrier have specific limits of liability that are internationally recognized under The Carriage of Goods by Sea Act (COGSA) limits. Marine perils are not covered, and any such loss is for the account of the cargo. Freight payment—if not already paid—would still be due and collectable, even if your cargo was lost or damaged.

For cases where there is no damage to your cargo but *general average* is claimed, you would have to put up a cash deposit in order to gain release of your freight. In some maritime perils, such as grounding or loss of propulsion, this release could be at a remote location not previously contemplated as part of the voyage. The required deposit would be equivalent to the expected pro rata value of your cargo to the total cost of the sacrifice and/or loss total. This deposit would be paid in advance and then adjusted at final settlement some ten years down the road.

This kind of scenario reminds us of the importance of maintaining adequate coverage in the form of an all risk policy.

*Rich Roche is Director of International Transportation for Mohawk Global Logistics.*



<http://mohawkglobal.com/global-news/the-msc-flaminia-is-on-fire-and-i-have-cargo-onboard/>