

TIME BAR IN CARGO CLAIMS HANDLING PROCESS. CAN IT BE AVOIDED?



What is time bar in cargo claims?

A clause in a contract or law of general application sets a strict deadline within which either party may dispute either a court or arbitration. In other words, a time bar is a limit in time as to when an action may be taken, such as claims against a carrier for transit-related damage.

Parties who fail to act within a determined period, suffer the consequence of losing their rights to commence legal actions or claims. Because it is considered expunged against all third parties. Most actions for cargo damage generally involve four major actors in the cargo transport market. Which are the Shipper, consignee, transporter, and insurance entities.

Insurance entities in most cases obtain right/ title to claim based on the below conditions:

- The consignee or shipper has taken up valid insurance cover with them.
- The insurance cover should cover that loss.
- The insurer has indemnified the insured for damage, evidenced by a document of title that uses a subrogation.

Relevance to the cargo claimant or insurance companies.

Ensuring that the time bar of cargo claims has been properly protected is a fundamental aspect. It will normally not be possible for the claim handling process to be pursued further after the time limit has passed. A cargo owner who files a claim but fails to act within the prescribed period loses his right to benefit from the party liable for the loss.

The same is the case with insurance entities who are bringing a claim on basis of subrogation. They must act within the prescribed period which depends on the applicable law, or contract.

However, a note should be taken that Time Bars can be extended such that the claimant's interests are protected.

This is either by serving summons to the party liable for loss or by the grant of time extension on common accord by parties involved in the subject claim.

How to avoid getting to time bar/prescription.

- Start the claims handling process immediately after the cargo damage occurs.
- Send reminder emails to opponents who are hesitating to reply.
- Negotiate and recover your loss and avoid the need for legal action.