

The Legal Matters relating to the Freight Forwarders' Liability for the Cargo Claims in Taiwan

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1. The Freight Forwarders' Liability for the Cargo Claim under Taiwan law:

The freight forwarder shall be exempted from all liability if it could be proved that he **has exercised due diligence/care** in respect of:

- 1.1 the reception and custody of the goods;
- 1.2 the selection/appointment of the carrier;
- 1.3 the delivery of goods at the destination; and
- 1.4 any other matters relating to the forwarding agents.

2. The Freight Forwarders May be deemed as carriers and responsible for cargo claims as carriers:

2.1 The situations where the freight forwarders would be deemed as the carriers:

2.1.1 The freight/price for the whole voyage of transportation of goods has been negotiated and agreed upon by and between the freight forwarder and the assigner/shipper;

2.1.2 A Bill of Lading or Waybill for the shipment has been issued by the freight forwarders.

2.2 The Liability of a freight forwarder when it is deemed as an Ocean Carrier:

The Ocean Carriers shall be held liable for the loss of or damage to goods occurred during the shipment **unless it could be proved** that:

- 2.2.1 the proximate cause of the loss of or damage to the goods is one of the exceptions as provided by Article 69 of Maritime Act, which is in line with Paragraph 2 of Article 4 of Hague-Visby Rules;
- 2.2.2 the carriers had exercised due diligence in making the ship and holds etc. seaworthy before and at the beginning of the voyage;
- 2.2.3 the carriers have exercised due diligence in properly and carefully loading, handling, stowing, carrying and discharging the goods.

2.3 The Liability of a freight forwarder when it is deemed as an Air Carrier:

The **Air Carriers** shall be held liable for the loss of or Damage to the goods occurred during the shipment **unless it could be proved that the loss of or damage to goods was caused by** either:

2.3.1 the force majeure/act of god; or

2.3.2 the nature of the goods; or

2.3.3 the fault/negligence of the shipper and/or the consignee.

3. The Freight Forwarders May be held jointly and severally responsible for the cargo claims with their foreign principals (e.g., airlines, shipowners):

The situations where the Freight Forwarders would be held responsible severally and jointly with their foreign principals:

- 3.1 acting as agents to conclude a contract of carriage or a forwarding contract for and on behalf of a foreign Shipowner, Airline or Freight Forwarder; and
- 3.2 the establishment/incorporation of such a foreign principal has not been recognized by the Taiwan Authority.

4. The Limitation of Liability for cargo claims available to a freight forwarder:

4.1 Ocean freight forwarder:

4.1.1 No limitation of liability is available to a freight forwarder;

4.1.2 If the freight forwarder **be deemed as the ocean carrier**, the package/kilo limitation of liability available to the ocean carriers, i.e., **666.67 SDR per package or 2 SDR per kilo**, which is in line with Paragraph 5 of Article 4 of Hague-Visby Rules, will be available to such a freight forwarder.

4.2 Air freight forwarder:

- 4.2.1 The kilo limitation of liability, i.e., **NTD1,000 per kilo**, will be *mutandis mutatis* applied and available to the air freight forwarder;
- 4.2.2 If the freight forwarder **be deemed as the air carrier**, it will be entitled to invoke the kilo limitation of liability, i.e., **NTD1,000 per kilo**, in accordance with Article 93-1 of Civil Aviation Act.

5. The Time Limit for the Cargo Claims against a Freight Forwarder and Time Extension under Taiwan law:

5.1 Time limit:

5.1.1 One Year: the cargo claim under the **air or ocean forwarding contract.**

5.1.2 One Year: the cargo claim under the contract of ocean carriage if it is deemed as an Ocean carrier;

5.1.3 One Year: the cargo claim under contract of air transportation if it is deemed as an Air carrier;

5.2 Time Extension: No time extension under Taiwan law