

Chinese national rules on marine insurance are contained in the Maritime Code of PR. China (MC),
as the Chapter XII "Contract of Marine Insurance

Chapter XII Contract of Marine Insurance

Section 1 Basic Principles

Article 216 A contract of marine insurance is a contract whereby the insurer undertakes, as agreed, to indemnify the loss to the subject matter insured and the liability of the insured caused by perils covered by the insurance against the payment of an insurance premium by the insured.

The covered perils referred to in the preceding paragraph mean any maritime perils agreed upon between the insurer and the insured, including perils occurring in inland rivers or on land which is related to a maritime adventure.

Article 217 A contract of marine insurance mainly includes:

- (1) Name of the insurer;
- (2) Name of the insured;
- (3) Subject matter insured;
- (4) Insured value;
- (5) Insured amount;
- (6) Perils insured against and perils excepted;
- (7) Duration of insurance coverage;
- (8) Insurance premium.

Article 218 The following items may come under the subject matter of marine insurance:

- (1) Ship;
- (2) Cargo;
- (3) Income from the operation of the ship including freight, charter hire and passenger's fare;
- (4) Expected profit on cargo;
- (5) Crew's wages and other remuneration;
- (6) Liabilities to a third person;
- (7) Other property which may sustain loss from a maritime peril and the liability and expenses arising therefrom.

The insurer may reinsure the insurance of the subject matter enumerated in the preceding paragraph. Unless otherwise agreed in the contract, the original insured shall not be entitled to the benefit of the reinsurance.

Article 219 The insurable value of the subject matter insured shall be agreed upon between the insurer and the insured.

Where no insurable value has been agreed upon between the insurer and the insured, the insurable value shall be calculated as follows:

- (1) The insurable value of the ship shall be the value of the ship at the time when the insurance liability commences, being the total value of the ship's hull, machinery, equipment, fuel, stores, gear, provisions and fresh water on board as well as the insurance premium;
- (2) The insurable value of the cargo shall be the aggregate of the invoice value of the cargo or the actual value of the non-trade commodity at the place of shipment, plus freight and insurance premium when the insurance liability commences;
- (3) The insurable value of the freight shall be the aggregate of the total amount of freight payable to the carrier and the insurance premium when the insurance liability commences;
- (4) The insurable value of other subject matter insured shall be the aggregate of the actual value of the subject matter insured and the insurance premium when the insurance liability commences.

Article 220 The insured amount shall be agreed upon between the insurer and the insured. The insured amount shall not exceed the insured value. Where the insured amount exceeds the insured value, the portion in excess shall be null and void.

Section 2 Conclusion, Termination and Assignment of Contract

Article 221 A contract of marine insurance comes into being after the insured puts forth a proposal for insurance and the insurer agrees to accept the proposal and the insurer and the insured agree on the terms and conditions of the insurance. The insurer shall issue to the insured an insurance policy or other certificate of insurance in time, and the contents of the contract shall be contained therein.

Article 222 Before the contract is concluded, the insured shall truthfully inform the insurer of the material circumstances which the insured has knowledge of or ought to have knowledge of in his ordinary business practice and which may have a bearing on the insurer in deciding the premium or whether he agrees to insure or not.

The insured need not inform the insurer of the facts which the insurer has known of or the insurer ought to have knowledge of in his ordinary business practice if about which the insurer made no inquiry.

Article 223 Upon failure of the insured to truthfully inform the insurer of the material circumstances set forth in paragraph 1 of Article 222 of this Code due to his intentional act, the insurer has the right to terminate the contract without refunding the premium. The insurer shall not be liable for any loss arising from the perils insured against before the contract is terminated.

If, not due to the insured's intentional act, the insured did not truthfully inform the insurer of the material circumstances set out in paragraph 1 of Article 222 of this Code, the insurer has the right to terminate the contract or to demand a corresponding increase in the premium. In case the contract is terminated by the insurer, the insurer shall be liable for the loss arising from the perils insured against which occurred prior to the termination of the contract, except where the material circumstances uninformed or wrongly informed of have an impact on the occurrence of such perils.

Article 224 Where the insured was aware or ought to be aware that the subject matter insured had suffered a loss due to the incidence of a peril insured against when the contract was concluded, the insurer shall not be liable for indemnification but shall have the right to the premium. Where the insurer was aware or ought to be aware that the occurrence of a loss to the subject matter insured due to a peril insured against was impossible, the insured shall have the right to recover the premium paid.

Article 225 Where the insured concludes contracts with several insurers for the same subject matter insured and against the same risk, and the insured amount of the said subject matter insured thereby exceeds the insured value, then, unless otherwise agreed in the contract, the insured may demand indemnification from any of the insurers and the aggregate amount to be indemnified shall not exceed the loss value of the subject matter insured. The liability of each insurer shall be in proportion to that which the amount he insured bears to the total of the amounts insured by all insurers. Any insurer who has paid an indemnification in an amount greater than that for which he is liable, shall have the right of recourse against those who have not paid their indemnification in the amounts for which they are liable.

Article 226 Prior to the commencement of the insurance liability, the insured may demand the termination of the insurance contract but shall pay the handling fees to the insurer, and the insurer shall refund the premium.

Article 227 Unless otherwise agreed in the contract, neither the insurer nor the insured may terminate the contract after the commencement of the insurance liability.

Where the insurance contract provides that the contract may be terminated after the commencement of the liability, and the insured demands the termination of the contract, the insurer shall have the right to the premium payable from the day of the commencement of the insurance liability to the day of termination of the contract and refund the remaining portion. If it is the insurer who demands the termination of the contract, the unexpired premium from the day of the termination of the contract to the day of the expiration of the period of insurance shall be refunded to the insured.

Article 228 Notwithstanding the stipulations in Article 227 of this Code, the insured may not demand termination of the contract for cargo insurance and voyage insurance on ship after the commencement of the insurance liability.

Article 229 A contract of marine insurance for the carriage of goods by sea may be assigned by the insured by endorsement or otherwise, and the rights and obligations under the contract are assigned accordingly. The insured and the assignee shall be jointly and severally liable for the payment of the premium if such premium remains unpaid up to the time of the assignment of the contract.

Article 230 The consent of the insurer shall be obtained where the insurance contract is assigned in consequence of the transfer of the ownership of the ship insured. In the absence of such consent, the contract shall be terminated from the time of the transfer of the ownership of the ship. Where the transfer takes place during the voyage, the contract shall be terminated when the voyage ends. Upon termination of the contract, the insurer shall refund the unexpired premium to the insured calculated from the day of the termination of the contract to the day of its expiration.

Article 231 The insured may conclude an open cover with the insurer for the goods to be shipped or received in batches within a given period. The open cover shall be evidenced by an open policy to be issued by the insurer.

Article 232 The insurer shall, at the request of the insured, issue insurance certificates separately for the cargo shipped in batches according to the open cover. Where the contents of the insurance certificates issued by the insurer separately differ from those of the open policy, the insurance certificates issued separately shall prevail.

Article 233 The insured shall notify the insurer immediately on learning that the cargo insured under the open cover has been shipped or has arrived. The items to be notified of shall include the name of the carrying ship, the voyage, the value of the cargo and the insured amount.

Section 3 Obligation of the Insured

Article 234 Unless otherwise agreed in the insurance contract, the insured shall pay the premium immediately upon conclusion of the contract. The insurer may refuse to issue the insurance policy or other insurance certificate before the premium is paid by the insured.

Article 235 The insured shall notify the insurer in writing immediately where the insured has not complied with the warranties under the contract. The insurer may, upon receipt of the notice, terminate the contract or demand an amendment to the terms and conditions of the insurance coverage or an increase in the premium.

Article 236 Upon the occurrence of the peril insured against, the insured shall notify the insurer immediately and shall take necessary and reasonable measures to avoid or minimize the loss. Where

special instructions for the adoption of reasonable measures to avoid or minimize the loss are received from the insurer, the insured shall act according to such instructions.
The insurer shall not be liable for the extended loss caused by the insured's breach of the provisions of the preceding paragraph.

Section 4 Liability of the Insurer

Article 237 The insurer shall indemnify the insured promptly after the loss from a peril insured against has occurred.

Article 238 The insurer's indemnification for the loss from the peril insured against shall be limited to the insured amount. Where the insured amount is lower than the insured value, the insurer shall indemnify in the proportion that the insured amount bears to the insured value.

Article 239 The insurer shall be liable for the loss to the subject matter insured arising from several perils insured against during the period of the insurance even though the aggregate of the amounts of loss exceeds the insured amount. However, the insurer shall only be liable for the total loss where the total loss occurs after the partial loss which has not been repaired.

Article 240 The insurer shall pay, in addition to the indemnification to be paid with regard to the subject matter insured, the necessary and reasonable expenses incurred by the insured for avoiding or minimizing the loss recoverable under the contract, the reasonable expenses for survey and assessment of the value for the purpose of ascertaining the nature and extent of the peril insured against and the expenses incurred for acting on the special instructions of the insurer.
The payment by the insurer of the expenses referred to in the preceding paragraph shall be limited to that equivalent to the insured amount.
Where the insured amount is lower than the insured value, the insurer shall be liable for the expenses referred to in this Article in the proportion that the insured amount bears to the insured value, unless the contract provides otherwise.

Article 241 Where the insured amount is lower than the value for contribution under the general average, the insurer shall be liable for the general average contribution in the proportion that the insured amount bears to the value for contribution.

Article 242 The insurer shall not be liable for the loss caused by the intentional act of the insured.

Article 243 Unless otherwise agreed in the insurance contract, the insurer shall not be liable for the loss of or damage to the insured cargo arising from any of the following causes:
(1) Delay in the voyage or in the delivery of cargo or change of market price;
(2) Fair wear and tear, inherent vice or nature of the cargo;
(3) Improper packing.

Article 244 Unless otherwise agreed in the insurance contract, the insurer shall not be liable for the loss of or damage to the insured ship arising from any of the following causes:
(1) Unseaworthiness of the ship at the time of the commencement of the voyage, unless where under a time policy the insured has no knowledge thereof;
(2) Wear and tear or corrosion of the ship.
The provisions of this Article shall apply mutatis mutandis to the insurance of freight.

Section 5 Loss of or Damage to the Subject Matter Insured and Abandonment

Article 245 Where after the occurrence of a peril insured against the subject matter insured is lost or is so seriously damaged that it is completely deprived of its original structure and usage or the insured is deprived of the possession thereof, it shall constitute an actual total loss.

Article 246 Where a ship's total loss is considered to be unavoidable after the occurrence of a peril insured against or the expenses necessary for avoiding the occurrence of an actual total loss would exceed the insured value, it shall constitute a constructive total loss.

Where an actual total loss is considered to be unavoidable after the cargo has suffered a peril insured against, or the expenses to be incurred for avoiding the total actual loss plus that for forwarding the cargo to its destination would exceed its insured value, it shall constitute a constructive total loss.

Article 247 Any loss other than an actual total loss or a constructive total loss is a partial loss.

Article 248 Where a ship fails to arrive at its destination within a reasonable time from the place where it was last heard of, unless the contract provides otherwise, if it remains unheard of upon the expiry of two months, it shall constitute missing. Such missing shall be deemed to be an actual total loss.

Article 249 Where the subject matter insured has become a constructive total loss and the insured demands indemnification from the insurer on the basis of a total loss, the subject matter insured shall be abandoned to the insurer.

The insurer may accept the abandonment or choose not to, but shall inform the insured of his decision whether to accept the abandonment within a reasonable time.

The abandonment shall not be attached with any conditions. Once the abandonment is accepted by the insurer, it shall not be withdrawn.

Article 250 Where the insurer has accepted the abandonment, all rights and obligations relating to the property abandoned are transferred to the insurer.

Section 6 Payment of Indemnity

Article 251 After the occurrence of a peril insured against and before the payment of indemnity, the insurer may demand that the insured submit evidence and materials related to the ascertainment of the nature of the peril and the extent of the loss.

Article 252 Where the loss of or damage to the subject matter insured within the insurance coverage is caused by a third person, the right of the insured to demand compensation from the third person shall be subrogated to the insurer from the time the indemnity is paid.

The insured shall furnish the insurer with necessary documents and information that should come to his knowledge and shall endeavour to assist the insurer in pursuing recovery from the third person.

Article 253 Where the insured waives his right of claim against the third person without the consent of the insurer or the insurer is unable to exercise the right of recourse due to the fault of the insured, the insurer may make a corresponding reduction from the amount of indemnity.

Article 254 In effecting payment of indemnity to the insured, the insurer may make a corresponding reduction therefrom of the amount already paid by a third person to the insured.

Where the compensation obtained by the insurer from the third person exceeds the amount of indemnity paid by the insurer, the part in excess shall be returned to the insured.

Article 255 After the occurrence of a peril insured against, the insurer is entitled to waive his right to the subject matter insured and pay the insured the amount in full to relieve himself of the obligations under the contract.

In exercising the right prescribed in the preceding paragraph, the insurer shall notify the insured thereof within seven days from the day of the receipt of the notice from the insured regarding the indemnity. The insurer shall remain liable for the necessary and reasonable expenses paid by the insured for avoiding or minimizing the loss prior to his receipt of the said notice.

Article 256 Except as stipulated in Article 255 of this Code, where a total loss occurs to the subject matter insured and the full insured amount is paid, the insurer shall acquire the full right to the subject matter insured. In the case of under-insurance, the insurer shall acquire the right to the subject matter insured in the proportion that the insured amount bears to the insured value.