

# FRENCH MARINE INSURANCE POLICY (CARGO)

(Policy form dated 10 Aug. 1968 revised on the 14 Sept. 1970)

The present contract is governed by the Code des Assurances, articles L 171.1 to L 173-26 and R 171-1 R 173-7, In so far as there is no derogation from the non-obligatory provisions thereof in the following conditions. Attention is particularly drawn to the obligatory provisions set out in article L 171-2 01 the Code and in particular to those of articles L 172-2 and L.172-3 (omissions and inexact declarations by the insured, and declaration of increase of risk arising during the period of validity of the contract) ; articles L 172-6 and L 172-8 {fraudulent over-valuations) ; article L 172-9, paragraph 1 (obligation to reveal cumulative insurances to insurer to whom the claim is made) and article L 172-28 (forfeiture of rights of an assured having in bad faith made an inaccurate declaration relating to a loss).

## GENERAL CONDITIONS

### CHAPTER I -OBJECT AND EXTENT OF THE INSURANCE

#### ARTICLE 1 -Modes of transport Insured.

The insurance provided by the present policy applies to cargo which is the subject of marine transport, and, where applicable, land, river or air transport incidental to marine transport covered by this policy. The contract is subject to the rules of marine insurance and the following provisions.

#### ARTICLE 2 –

1° -**Principal modes of insurance** -The cargo covered by the present policy can be insured either under “all risks” conditions or else “F.A.P. Sauf”,. (free of particular average unless). Unless “all risks” is specifically stipulated the cargo is deemed to be insured under “F.A.P. Sauf” conditions.

2° - “**All risks**” Insurance -In "all risks " cover are included at the risk of insurers in the conditions as set out in the present policy material damage and loss as well as loss of weight or quantity caused to the insured interests either by one of the hazards set out in paragraph 3 of the present article or generally by perils of the sea or events constituting force majeure.

3° -“**F.A.P. Sauf** ” Insurance- In the "FAP. Sauf " cover are included in the risks insured within the conditions of the present policy material damage and loss as well as loss of weight or of quantity caused to the insured goods by one of the hazards set out in the following limiting list :

Collision, stranding or wrecking of the craft or carrying vessel, collision of this vessel or this craft with a fixed, mobile or floating object including ice; leakage of water causing the vessel to enter a port of refuge and there having to discharge at least three-quarters of its cargo; fire, explosion, dropping of the insured package itself during marine operations of loading; transshipment or unloading; derailment, collision, overturning, falling or breaking of the transporting vehicles ; collapse of buildings, bridges, tunnels or other constructions, trees falling, breach of dykes or aqueducts, caving-in, avalanches, lightning, flooding, overflowing of streams or rivers, breaking up of ice, tidal waves, cyclones or waterspouts, volcanic eruptions or earthquakes.

4° -**Provisions common to both modes of Insurance** -Expenses incurred following a covered risk in order to preserve the insured interest from damage or material loss covered by the policy or to limit them, are also included in the insurance.

In addition, insurers guarantee the contribution of the insured interests towards general average arising from any event other than an expressly excluded risk.

The risks insured remain covered under the same terms even in case of the carrying vessel having to put into a port of refuge or being forced to change route, voyage or transshipment as well as in case of fault of the master, crew or pilots.

All other provisions of the general conditions of the policy are, unless otherwise indicated, equally applicable to both modes of insurance.

5° -The parties concerned remain free to agree upon any other form of cover .

**ARTICLE 3 -On deck shipments.**

Cargo loaded on deck or on the superstructure is only covered on "FAP Sauf" conditions. It can be covered, in addition subject to the payment of an additional premium, against loss of quantity arising from jettison or washing overboard, subject to the assured informing insurers of the mode of loading as soon as he is aware of it.

**ARTICLE 4 -Excluded cargo and cargo subject to special rules.**

The present policy does not cover transport of bank-notes, coupons, bonds, valuables, securities, coin, precious metals, pearls, precious stones, jewellery or plate unless specifically declared and subject to a special acceptance.

Postal packages, even with a declared value. are only covered by special agreement and at special rates. - Packing materials are only insured "F.A.P. Sauf" and provided they are declared under a specific and separate insurance.

For cargo liable to leaking or melting, cargo in bags or cargo sent in containers liable to breakage. "all risks", cover can only be granted if risks of partial theft are covered; reciprocally on said cargo the risks of partial theft can only be covered if "all risks " cover has been written.

**ARTICLE 5 -Cargo shipped without bill of lading.**

When the insured interests have been loaded without a bill of lading or contract of carriage or if it is not included in the manifest, insurers will not take advantage of this fact in case of loss but evidence of the goods having been forwarded must be provided by all other possible means. in particular by the production of the books and correspondence of the shipper and of the assured and by a statement from the carrier.

**ARTICLE 6 -Clauses in the document of carriage.**

The underwriters accept the consequences of clauses in bills of lading. receipts and contracts of carriage in so far as they are valid in law, but with the specific exception of such clauses as refer to risks not covered by the present policy and of such as would have the effect of relieving the carriers, in whole or in part, from their legal liability on the grounds that the assured, the shipper or their representatives or any other authorised persons had knowingly made an inaccurate (declaration as to the nature or the value of the goods. .

**CHAPTER II -EXCLUDED RISKS**

**ARTICLE 7 -Risks excluded in all cases.**

The underwriters are free from all liability for claims arising from the following causes or from their consequences :

1° .Fines, confiscations, sequestrations, requisitions, violation of blockade, contraband, forbidden or clandestine trade, legal damages, distraint, seizures in execution and other seizures, the insurers also remain completely unaffected by any security which might have to be provided to relieve the insured packages from such seizures.

2° -Inherent vice of the insured object; grubs and vermin; sanitary measures or those taken for disinfection; effect of temperature; fermentation of liquids in barrels or drums unless it is established that this results from one of the risks covered by the policy.

3° -Acts, or faults of the assured, the shipper, the consignee or of their servants. Representatives or other authorised persons ; Inadequacy or bad condition of the packaging.

4° -Delays, in the forwarding or arrival of the insured interest; differences of market price; any expenses of quarantine, or wintering, of lay-days or demurrage; warehousing, storage or any other expenses except those indicated in article 2 ; claim resulting from the prohibition of export or import as well as from all obstacles preventing the business or commercial operations of the assured or of his representatives or other authorised persons.

5° -Damage caused by the insured objects to other goods or to persons.

6° -Damage caused directly or indirectly by explosion, release of heat, irradiation from transmutations of the nucleus of atoms or from radioactivity as well as damage due to the effects of radiation caused by the artificial acceleration of particles.

**ARTICLE 8- Risks excluded unless otherwise provided for.**

Unless specifically agreed, and with a special premium, insurers are also free from liability for the following risks and their consequences .

A -Civil or international war, hostilities, reprisals, torpedoes, mines and all other engines of war, and generally all accidents and fortunes of war as well as acts of sabotage or terrorism having a political character or relating to war.

It is specifically provided that if it is not possible to ascertain whether an accident arises from a war risk or a sea risk it is to be considered as arising from a sea risk.

B – 1° Piracy. .

2° Capture, prize, arrest, seizure, distraint, molestation or detention by any government and other authorities.

3° Riots, civil commotions, strikes, lockouts and other similar events.

C -Risks of theft in general and looting; disappearance of all or part of the insured objects unless such disappearance arises from a covered risk.

**CHAPTER III -TIME AND PLACE OF RISKS COVERED**

**ARTICLE 9 -**

1° -**Duration of risk** : The underwriters are on risk for the period starting at the time when the insured cargo, ready for forwarding, leaves the warehouses at the first starting point of the insured voyage and ending when the said cargo enters the warehouses of the consignee or his representatives or other authorised persons at the place of destination of the said voyage. The expression “warehouses of the consignee or his representatives or other authorised persons” shall include any place, whether belonging to them or not, where they place cargo on arrival.

In any case, at the place of destination, the cover by insurers, in warehouses, public or private docks, bonded warehouses or on the quayside, cannot, without special agreement and premium, exceed a period of thirty days counting from the moment when the insured cargo has been discharged from the transporting vessel or other means of transport, this period is reduced to fifteen days when the place of destination is an inland place.

2° -**River plate ports**: For goods unloaded in ports on the River Plate, the risk of fire will cease to be covered on the arrival of the insured cargo in warehouses, stores, public or private docks, customs warehouses, etc...and at the latest after ten days from their being placed on shore in the said ports if entry into these different places has not taken place within this period.

**ARTICLE 10 -Advance delivery.**

Any taking of delivery of the insured goods by the assured, the shipper, the consignee or their representatives or other authorised persons before the time when the period of being on risk should normally end under the terms of the present chapter shall end such period for insurers.

**ARTICLE 11 -Extension of the duration of the. Insured voyage.**

The risks insured remain covered under the same conditions without additional premium In the case of direct calls, and, where appropriate, with additional premium in the case of all other calls, deviations or transshipment as well as in all cases of extension of the normal duration of the insured voyage. No additional premium shall be due when these facts arise from a risk covered by the policy.

## **CHAPTER IV -THE INSURED VALUE**

### **ARTICLE 12 -**

1° **-Authorised proportions of over-valuation:** Notwithstanding all agreed values, Insurers may in case of any claim for damage or loss require justification of the actual value and in case of exaggeration reduce the amount of the insured value to the that of the true value plus twenty per centum thereof.

The effective value is determined by the invoice on purchase (or, failing that, by the current prices of the insured goods at the time and place of consignment), as well as by the charges, insurance premiums included, relating to the insured consignment.

2° **-Value at place of destination:** If nevertheless the claimant can demonstrate that the actual value of the insured cargo as defined in the preceding paragraph is less than its value at the place of destination of the insured voyage the amount of the insurance will be reduced to this value at place of destination without any increase of any sort.

The value at the place of destination is ascertained by the prices, at the date of arrival or failing that on the date of the loss, fixed by the public authorities or the qualified associations or, failing these, by sworn or otherwise officially qualified brokers, etc...

3° **- Goods sold:** If the assured establishes that the goods have been sold by him, the value of the insurance shall be that resulting from the obligations arising from his contract of sale.

4° **-Final declaration of value after loss :** Where the final declaration of value shall not have been made until after loss, the value which shall be taken as a basis for settlement in accordance with the three preceding paragraphe can in no case be greater than that which would result from the mode of calculation normally used by the assured for previous consignments of the same nature.

## **CHAPTER V -DUTIES OF THE ASSURED**

### **ARTICLE 13 -Premium.**

The whole premium is due to insurers as soon as the risk has attached. It is payable in cash to insurers at the place where the insurance has been underwritten, at the moment of the delivery to the assured or to his representatives or other authorised persons of the document under which it arises. A sworn broker can deliver: a valid discharge for such payments.

### **ARTICLE 14- Taxes. charges and duties.**

Existing or future taxes, charges and duties as well as the cost of the policy are due from the assured and are payable under the same conditions as the premium itself.

### **ARTICLE 15 -Information concerning the consignment.**

The assured must give insurers all useful information concerning the consignment.

In particular he must let them know the insured voyage, the name of the carrying vessel or vessels and declare to them the amount at risk on each vessel which must comply with the conditions set forth in the first paragraph of article 35. shipments per vessels mentioned in other paragraphs of article 35 are not covered unless specifically agreed and according to the terms of article 35 relating to open policies.

### **ARTICLE 16 -Measures of preservation, salvage and recovery.**

1° **-All rights being reciprocally reserved, the assured must, and insurers may, take, cause or require all measures of preservation, watch or salvage of the insured goods without insurers being thereby held to have exercised any act of ownership or to have admitted their liability.**

In particular. insurers may proceed with all investigations, take any legal steps and. in case of loss or unseaworthiness of the vessel, attend themselves to the re-forwarding of the insured goods to their destination, the assured being bound to give his full co-operation, particularly in supplying them with all documents and useful information in his possession in order to help in the carrying out of these measures.

2° -The assured must also take, in time, all necessary steps to preserve, possibly for the benefit of insurers, his rights and recovery action against the carrier and all other responsible third parties and cooperate with Insurers without restriction in taking, where appropriate, any necessary proceedings.

3° -The assured is responsible, to the extent of the loss caused to insurers, for his negligence or for that of the shipper, the consignee, their servants, representatives or other persons entitled in taking the preservative measures referred to in the present article.

4° -Any indemnity received from any responsible person for the benefit of the assured, the shipper, the consignee or their representatives or other qualified persons entitled shall be deducted from the sums due from insurers in the proportion of the respective interests of each.

#### **ARTICLE 17 -Subrogation.**

After settlement of a claim insurers are subrogated to all the rights and action recourse of the assured against all persons responsible. The assured undertakes, if requested by insurers, to repeat this subrogation on the claim statement or receipt for the insurance monies or by separate document. This subrogation is valid up to the total of the insurance monies paid.

### **CHAPTER VI -SURVEY IN ORDER TO ASCERTAIN DAMAGE AND LOSS**

#### **ARTICLE 18 -Contradictory survey.**

The consignees must apply, for surveys, to the commissaires d'avaries (claims agents) of the Comité Central des Assureurs Maritimes de France and failing them to those of Lloyd's of London in order to obtain an amicable or judicial survey. Failing such claims agents they must apply to the Tribunal de Commerce in French ports or to the French Consul in foreign ports; failing them to the competent local authorities.

The underwriters are entitled to decline liability if the survey has not been held in accordance with the preceding paragraph.

The survey held, with the consignee's agreement, by the claims agents or by the expert appointed by them has for both parties, the effect of an amicable contradictory survey, the purpose of which is to determine the nature, the cause and the amount of the damage and loss.

The parties are entitled to ask, within fifteen days following such survey for an amicable or judicial counter-survey, which both parties shall accept.

The intervention of the claim agent is always subject to the clauses and conditions of the policy. His expenses and fees, as well as those of the expert, are paid by the consignee and reimbursed in full by the insurers if the damage and loss as ascertained arise in full or in part from a covered risk, and this remains so even when they are led to pay, owing to these expenses and fees, a sum exceeding the insured value.

#### **ARTICLE 19 -Time limit for survey.**

The consignees are bound, under penalty of the claim not being admitted, to take the necessary steps for the survey as provided for in the first paragraph of article 18 within thirty days from the moment within the Insured cargo has been unloaded at destination from the carrying vessel or other means of transport. This period is reduced to fifteen days when the place of destination is inland.

However, when, exceptionally, the stay at the place of destination has been covered for a period longer than the afore mentioned thirty or fifteen days the period allowed for the survey is extended until expiry of the period of insurance.

The period referred to in the two preceding paragraphs are extended by three days for damage and loss occurring less than three days before their expiry.

### **CHAPTER VII -SETTLEMENT OF DAMAGE AND LOSS**

#### **ARTICLE 20 -Method of settlement.**

In all cases giving rise to claims against insurers, settlement will be made separately on each package whether or not it forms part of a load except for cargoes shipped in bulk, on which it will be calculated per hold and per individual account.

**ARTICLE 21 –Determination of the amount to be settled by Insurers.**

1° -The extent of the loss ascertained in accordance with article 18 is determined by a comparison between the value which the insured goods would have had in sound condition at their place of destination and their value in their damaged state, the rate of depreciation being then applied to their insured value.

The value of damaged goods may also be determined by means of a public sale mutually agreed between the parties.

In either case the comparison between the value in sound condition and the value in the damaged state must be made on basis of these values in bonded warehouse if the sale or the survey takes place there, or ex-bond if the sale or survey takes place ex-bond.

2° -When the value of freight has not been included in the insured value of the insured goods, but has been covered by a separate insurance, the amount devolving upon insurers in respect of this latter insurance shall be determined, in so far as the freight has been paid, by application to the value for which the freight was insured of the percentage of depreciation of the insured goods ascertained in accordance with the preceding paragraph.

3°- Where goods contained in one or several packages form one whole, and where insurers consider it desirable to return to the places of manufacture all or part of these goods, damaged or not, the risks of return and re-shipment as well as the expenses of transport and repair are to be charged to insurers, if the damage as ascertained is itself to be charged to them, even if they are led to pay both for expenses or damage a sum exceeding the insured value of the whole, notwithstanding article 27 herein-after contained. This is, however, not to be deemed to be a derogation from the other provisions to the policy, nor of the proportional rule, where the goods are insured for a sum inferior to their true value.

**ARTICLE 22 -Franchise**

Franchise is always independent of ordinary leakage, wastage or ordinary or natural loss, in so far as they are accounted for the trade contract or, if not, by trading practice and which shall never be charged to insurers.

It is calculated on the insured value, which is used as a basis for settlement in accordance with article 20.

In the absence of agreement to the contrary, material partial losses will be settled subject to the deduction of a franchise of five per cent. Nevertheless those which arise from one of the events referred to in paragraph 3 of article 2 shall be settled without franchise on all packages other than those containing liquids. Particular average charges and general average contribution will also be settled without franchise.

**ARTICLE 23 -General average contribution.**

1° -General average contributions devolve on underwriters in proportion to the value insured by them subject to the deduction of particular averages if any which are to be charged to them, the responsibility of insurers being limited to the sum obtained by the application of the rate of general average contribution to the insured value, thus possibly reduced, if appropriate, although this sum cannot exceed the sum actually paid by the assured by way of contribution.

2° -General average deposit shall be reimbursed by insurers in accordance with conditions set out in the preceding paragraph only upon production of the receipt in respect thereof, endorsed in blank by the Assured who has made the respective payment it being understood that the position of insurers must remain ultimately the same as if they had awaited the general average adjustment in order to reimburse only the closing contribution. Consequently, the assured and the holder of documents to whom the general average deposit are reimbursed by insurers undertake jointly and severally to refund to them the total amount if there is no general average or If, for any cause whatsoever, this adjustment has not been drawn up, and to refund them the difference between the closing contribution and the provisional deposit as resulting from the adjustment, if the closing contributions are less than the deposits.

**ARTICLE 24 -Abandonment**

1° -Abandonment of the insured cargo is only permitted in the following cases :

a) In case of loss without news -In deep-sea voyages, after three months for steam or fully powered motor vessels, after six months for sailing vessels or those with auxiliary motor; for coastal voyages alter two months for steam ships or fully-powered motor vessels, alter four months for sailing vessels or those with auxiliary motor.

The periods run from the date of the last news, and the loss, as regards insurers under the present policy, shall be deemed to have occurred at the date of such news.

The onus is on the assured, to prove the date of departure of the carrying vessel and of its non-arrival.

If for any reason there is any hindrance to normal transmission of news, the periods as set out above shall not begin to run and the abandonment shall not be permissible as long as such hindrance lasts.

b) In case of sale because of material damage to the insured goods caused by a covered risk, which has been decided upon elsewhere than at the port of departure or that of delivery of the goods, unless the carrying vessel, after having left the port of departure, was forced to re- enter it as a port of refuge.

c) Where owing to a covered risk, the carrying vessel shall be admitted to be definitely not in a condition to continue her voyage, if after the periods hereinafter fixed have lapsed, the insured goods have not been transported to their destination, or, at least, have not begun to be re-loaded for this purpose on another vessel or another means of transport.

These periods of time are: four months, if the event takes place on the coasts or islands of Europe or on the Mediterranean or Back Sea coasts of Asia or Africa or on the Atlantic coasts or islands outside Europe; six months if the event occurs elsewhere.

These periods of time run from the date of notification of the unseaworthiness of the vessel given by the assured to insurers.

If the event has occurred at a place where navigation has been interrupted by ice or any other cause, the periods of time herein before mentioned shall be extended by the time during which access to this place shall have been known to be prevented.

d) Where independently of all expenses of any sort, the sum to be charged to the insurers in respect of damage and material loss resulting from a covered risk and ascertained in accordance with articles 18.21 inclusive attains at least three-quarters of the insured value.

2° -When notifying the abandonment, the assured is bound to declare ail insurance policies which he has taken out or which he is aware of.

3°- In every case giving rise to abandonment, insurers, to whom the insured goods shall have been abandoned, shall always have the option either to accept abandonment or to settle a total loss without transfer of property.

Nevertheless, radioactive goods can only be the subject of a total loss settlement without transfer of property.

**ARTICLE 25 -**

1° **Payment of the Insurance monies.** : The settlement monies due from underwriters are payable cash thirty days, at the latest, after all necessary documents shall have been supplied, to the bearer of such documents, without need of any proxy, and against handing over of the original policy or endorsement, or alter such payment shall have been endorsed on these documents,

2° **.Set-off against premium.** : When paying any sums due from them, insurers will set off against sums all premiums due from the assured

Nevertheless when the policy or endorsement has been transferred to a third party who is a holder in good faith under a document issued prior to the loss, the insurers can only set off the premium in respect of such policy or endorsement, but such set-off cannot be made against a third party holding an endorsement

unless the possibility of set-off in case of non payment of the premium in respect of such endorsement has been expressly mentioned in such endorsement

**ARTICLE 26 -Time bar .**

Proceedings arising from the present insurance contract shall be barred after two years, under the provisions as set out in articles L 172-31 and R 172-6 01 the Code des Assurances.

**ARTICLE 27 -Limitation of Insurers' liabilities.**

There is no joint liability between the insurers, each of them only being bound, prorata on the total of the indemnity falling upon them to the sum for which he has written the insured goods, this sum being in any case the limit of his liability.

Subject only to the provisions of the last paragraph of article 18 and paragraph 3 of article 21, insurer cannot be held liable to pay beyond such sum and this remains so, except for open policies, even though the value insured shall only have been declared by the assured on a provisional basis.

**CHAPTER VIII -NULLITY OR CANCELLATION OF THE INSURANCE****ARTICLE 28 -Risks that have not attached within two months.**

The contract is of no effect after two months from the date of its signature for any insurance, the risks of which have not started to run during this period, unless a further period Should have been expressly agreed.

This provision only applies to a first declaration under an open policy.

**ARTICLE 29 -**

1° **-Non payment of a premium due:** In the case of non payment of premium due, the risk shall be suspended for eight days after Insurers shall have sent to the assured, at his address last known to them, by registered letter, a formal notice requiring payment Such suspension shall apply automatically for all risks then running and also, if under an open policy, for all declarations subsequent to the expiration of the said period of eight days, until midnight following the late payment of the premium. Consequently, for all accidents occurring during this suspension of risks, insurers will have no indemnity to pay, although their rights against the assured in compliance with the contract, and in particular, their right to recover the entire stipulated premium, remain nevertheless expressly reserved. Insurers can equally, in case such as provided for in the present paragraph, require, if they so prefer, the cancellation of the insurance under the same conditions and in the same period of time, but they then renounce their claim to the premium proportionally to the period during which the risks remained to run, and to the same extent, if it relates to an open policy, to all later declarations.

**2° -Bankruptcy, judicial liquidation, and Insolvency.**

a) In case of bankruptcy, judicial liquidation or insolvency of the assured, insurers can cancel the policy by sending the assured at his address last known to them, by registered letter, a formal notice requiring payment. The cancellation will occur automatically at the expiration of a period of eight days after the sending of such letter, but insurers thereby renounce their claim to the premium, proportionally to the period during which the risks remained to run, and to the same extent, if it relates to an open policy, to the premium relating to all later declarations.

The receiver in bankruptcy or the liquidator can cancel the policy forthwith by registered letter posted to insurers.

If not cancelled an open policy shall remain in force for the benefit of all creditors in respect of declarations made after the assured shall have been adjudged bankrupt or have been placed in liquidation, the creditors thereby becoming debtors to insurers for the amount of the respective premiums

b) **Reciprocity of rights:** In case of bankruptcy. judicial liquidation or insolvency of insurer, the assured has, in respect of such Insurer, the right to exercise the powers given to insurers by paragraph 2 of this present article.



3° **-Election of domicile:** The receiver in bankruptcy and the liquidator resident outside continental Franca shall be presumed, whenever the assured placed the policy of insurance through a broker, to have elected domicile at the address of such broker

4° **.Complete withdrawal of governmental licence:** In the case of complete withdrawal of governmental licence the policy will cease to have any effect under the term. of articles L 326-12 and R 326-1 of the Code des Assurances, in respect of the company which has been the subject of such proceedings.

5° **-Third parties acting in good faith :** Suspension or cancellation notified by the insurers shall remain of no effect in respect of third parties acting in good faith to whom the policy or any endorsement shall have been transferred under a document prior to the loss and to the notification of the suspension or cancellation, but insurers shall be entitled to claim from the assured reimbursement of any indemnity paid by them to such third party holder. Insurers are entitled to claim the respective premium of the policy or endorsement transferred to such third party.

**ARTICLE 30 -Presumption of immediate knowledge of news concerning the insured goods.**

Every insurance, even if it contains provisions in respect of good or bad news, entered into after the arrival of the insured goods or of the carrying vessel or vehicle or after a loss affecting them, is void if the news has, by any means, before the conclusion of the contract reached the place where it was signed or the place where the assured or insurers were, even if the news reached third parties unknown to the parties to the insurance and without need to provide any direct proof of knowledge of the news having been acquired by the insured or insurers

The present article only applies to open policies in respect of risks already running at the time of its being underwritten and for the declarations hereafter referred to, in paragraph 1 (b) of article 32.

**CHAPTER IX -JURISDICTION**

**ARTICLE 31 -**

1° -Notwithstanding all provisions to the contrary in any laws relating to jurisdiction insurers, even if there are more than one defendants or policies involved can only be made parties to proceedings before the Tribunal de Commerce of the place where the policy was written. Nevertheless a company that has underwritten a contract through an agent or attorney can also be made a party to proceedings before the Tribunal de Commerce of the place where it has its registered office.

2° -If more than half of the insured value of the insured goods has been underwritten at the same place, the assured can take proceedings against the others insurers, before the Tribunal de Commerce of such place, if proceedings have already been started there, in order that such dispute may also be settled in so far as such other insurers are concerned

3° -The assured, even if not in trading business, can always be sued by insurers before the Tribunal de Commerce of the place where the policy was underwritten, in which place the assured will be deemed to have elected domicile.

**CHAPTER X --SPECIAL CONDITIONS RELATING TO OPEN POLICIES**

**ARTICLE 32 -operation of the Policy.**

1° -The assured binds himself to make declarations to interest to insurers, and insurers are committed to accept during the period of the validity to the policy, and in so far as they are applicable thereto :

All consignments made on his account or in fulfilment of a contract of sale or purchase whereby he is bound to insure. These consignments are covered automatically from the time when they are subject to the risks insured against, subject to the normal provision that a declaration of interest in respect thereof should be made to insurers within eight days at the latest from receipt of the necessary notice; This period is reduced to three days (Sunday's and legal holidays not included) for French coastal voyages

b) All consignments made on behalf of third parties who would normally have given the assured authority to see to the insurance, on condition that, the assured has an interest in the consignment as commission agent, consignee, or otherwise. These consignments are only covered following a declaration of interest made to insurers.

2° -Any interest of the assured which only consists in the execution of an order to insure given by a third party gives no right to claim under the policy.

3° -Where the assured does not carry out his obligations under the terms of the present article under which the open policy is underwritten, any claim arising under the policy shall not be acceptable, whatever may be the date the event which is the object of it and insurers may cancel the policy forthwith without prejudice to their right to claim the payment of premiums relating to consignments not declared as well as to the repayment of sums paid by them for losses occurring after the failure of the assured to observe the said obligations.

4° .Insurers may always demand the production of the books and correspondence of the assured to ensure that he has always complied with his obligations,

#### **ARTICLE 33 -Rail journey. before the sea voyage**

The assured is not required to declare rail journeys from the first point of departure of the insured goods to their first Port of loading on the carrying vessel, where these journeys are within Belgium, France, Germany, Italy, the Grand Duchy of Luxembourg, the Netherlands, Switzerland or the United Kingdom of Great Britain and Northern Ireland.

#### **ARTICLE 34 -Accumulation of the Insured Interests.**

Without prejudice to the provisions of article 27, the maximum limits underwritten per consignment and per vessel constitute the limit of insurers' liability. In case of accumulation of the interests insured, for whatever reason, even though force majeure, in any place before loading at the port of departure or after unloading at the final port of destination, insurers cannot be held liable beyond this maximum limit.

Goods which, unknown to the assured, are loaded on to a vessel other than that stated on the bill of lading, or which are transhipped either before or after departure of the vessel remain validly insured, even though, by this fact, the maximum limit fixed per vessel should be exceeded ; the same provisions apply in the case of accumulation, unknown to the assured, in any place other than those referred to in the previous paragraph.

#### **ARTICLE 35 -Carrying vessels**

1° .The rates of premium fixed otherwise only apply, in respect of sea voyages, to shipments by iron or steel vessels, driven by steam or exclusively by motors and classified as follows in one of the registers hereinafter listed, and which are less than 15 years old or which, being over 15 but under 30 years old, belong to regular lines.

Bureau Veritas 3/3 I.I.  
Lloyd's Register 100 A.I.  
American Record A.I.  
British Corporation B.S.  
Register of Shipping of the U.S.S.R.

Bureau Germanischer Lloyd 100 A.  
Japanese Corporation N.S.  
Norske Veril8s I.A.I.  
Registro Italiano 100 A.I.I.

provided always that these vessels are engaged in the trade of which they are Classified.

By "Ship belonging to a regular line, it meant one which belongs to a shipowner who places it normally and regularly at the disposal of shippers following fixed routes at dates fixed in advance.

2° Special premiums are to be quoted for all loading made :

a) On all vessels not complying with the conditions hereinbefore set out.

b) On all chartered vessels more than fifteen years old & although they are used on regular journeys.

c) On vessels of Argentine, Brazilian, Chilean, Greek, Lebanese, Liberian, Panamanian, Peruvian, Turkish or Uruguayan nationality whatever their classification or their age. The same provisions apply in the case of all vessels which have sailed under the Greek flag whatever the flag under which they now sail, or if they belong to Greek shipowners or are managed by persons of Greek nationality.

d) On vessels of a gross displacement of less than 500 gross tons.

3° Shipments on wooden vessels, sailing vessels and vessel with auxiliary motor, are only covered by special agreement.

#### **ARTICLE 36 Duration of the Policy**

Unless otherwise provided the policy is underwritten for a period of one year and will be extended from year to year by tacit renewal. The assured and insurers mutually reserve the right to cancel it at any moment by simple letter with one month's notice, unless otherwise provided. This period of the time running from the date of posting or sending of the letter. The policy shall then only have effect with effect with regard to the cargoes in respect of which the insured risks will have attached before the expiry of this period of time.

Where the insured shall have negotiated through a broker, insurers may validly notify the cancellation to the broker.

#### **ARTICLE 37 –Declaration policies**

Declaration policies are subject to the same provisions as open policies.

### **CHAPTER XI –ARBITRATION CLAUSE**

#### **ARTICLE 38**

Where, by application of article L 172-2, paragraph 2, or of article L 172-3, paragraph 1, of the Code des Assurances, the assured whose good faith been proved, has to suffer a proportional reduction of the insurance monies, either for omission or inaccurate declaration such as to noticeably reduce insurers evaluation of the risk, or for non declaration to insurers within three days of an alteration which has occurred during the cover resulting in a noticeable increase in the risk arises, any dispute between the parties on the extent of said reduction be settled by arbitration.

Also all disputes are to be settled by arbitration which relates to the question of whether insurers would have refused to cover the risks had they known them exactly (article L 172-2, paragraph 2, hereinbefore referred to).

To this effect, if the parties fail to agree on the choice of a sole arbitrator each of them shall nominate one arbitrator and, if the two arbitrators cannot agree on the decision to be made, they shall nominate a third arbitrator, or if no agreement can be made in choosing such third arbitrator, he shall, at the request of the most diligent party, be appointed by way of “référé” (in chambers), by the chairman of the Tribunal de Commerce to which reference is made in article 31 of these General Conditions. The arbitrator or arbitrators shall have the powers of “amiables compositeurs” in the matters referred to them in accordance with the first paragraph of the present article.