

Perishable: Cargo Recovery on Delay

Given the significant disruptions experienced in the supply chain over the past years, caused primarily by the impact of COVID-19, the M/V Ever Given incident, and the Russia-Ukraine conflict, there has been a substantial increase in delay claims.

These situations made it difficult to deliver goods on time. The approach by our team was to carefully study and handle each situation as an unique one (*case-by-case* approach), finding new ways to solve these matters and arrive to favorable solutions for our clients.

Case: Chilean Avocados

Regarding the case of avocados shipped from Chile to China, the cargo was found damaged upon arrival at port of destination. The quality and condition of the avocados was impacted by 11 days of delayed delivery.

This situation was attributed to adverse weather conditions at the port of loading (POL) in Chile.

The opponents involved in the transport process argued that they should not be held liable for the damages arising from delays, quoting their Bill of Lading (BL) Terms and Conditions. They argued that the bad weather at the origin was beyond their control.



With the firm idea of addressing the challenges encountered during the sea transport, the team employed three strategies:

- The case involved three jurisdictions: Chile (POL), France (BL), and China (POD). Each jurisdiction had its own set of legal regulations governing the sea transport process.
- In order to reach a fair resolution, local pressure was used on the carrier through their hub in India and our office in Chile. This aimed to ensure that the concerns related to the damaged cargo and delayed deliveries were addressed effectively.
- The Hamburg Rules, which mandate international sea cargo transportation, applied to this shipment as Chile has ratified them and had applicable jurisdiction as POL. According to these rules, carriers can be held liable for delays providing a basis for seeking compensation.

After negotiations took place, an amicable settlement was reached in this case. As a result, 60% of the claimed amount was obtained as compensation for the damage and delay suffered during the sea transport of avocados from Chile to China.

Case: Spoiled Tangerines

Tangerines transported by sea from Peru to Hong Kong arrived 21 days late to destination, and thus, in a damaged condition impacting in their quality, and influencing on the sales chances.

In 2021 the COVID-19 pandemic caused disruptions in global supply chains, impacting various industries, including sea transport.

Key terminals in China, such as Yantian, Ningbo, Shenzhen, and Guangzhou, faced partial closures leading to additional disruptions in the Global supply chain.

The opponents involved in the transport process stated that they should not be held liable for the delays, citing their Bill of Lading (BL) Terms and Conditions. They argued that the supply chain disruptions in China were beyond their control.



Which was the strategy implemented?

The case involved three jurisdictions: Peru (POL), Germany (BL), and Hong Kong (POD). Each jurisdiction had its own legal regulations regarding the sea transport process.

Seeking a fair resolution, local pressure was used on the carrier at their hub in Germany as well as in Latin American countries (LATAM) involved in the transport process.

Although the Hamburg Rules did not apply to this specific case, as they entered into force in Peru on 01/04/2022, local Peruvian law included similar provisions favoring cargo interests in delay cases. This allowed for the possibility of holding carriers liable for delays.

As a result, an amicable settlement was reached in this case. The resolution resulted in obtaining 20% of the claimed amount as compensation for the damage and delay experienced during the sea transport of tangerines from Peru to Hong Kong.

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