

UNIT TEN

FUNCTION OF THE BILL OF LADING

From our study of the bill of lading, it will be appropriate to record the four functions of this document. Broadly it is a **receipt** for the goods shipped, a transferable **document of title** to the goods thereby enabling the holder to demand the cargo, **evidence of the terms** of the contract of affreightment but not the actual contract, and a **quasi negotiable instrument**.

Once the shipper or his agent becomes aware of the sailing cards or some form of advertisement, he communicates with the shipowner with a view to booking cargo space on the vessel or container. Provided satisfactory arrangements have been concluded, the shipper forwards the cargo. At this stage, it is important to note that the shipper always makes the offer by forwarding the consignment, whilst the shipowner either accepts or refuses it. Furthermore, it is the shipper's duty, or that of his agent, to supply details of the consignment; normally this is done by completing the shipping company's form of bill of lading, and the shipping company then signs the number of copies requested.

The goods are signed for by the vessel's chief officer or export wharfinger, and in some trades this receipt is exchanged for the bill of lading. If the cargo is in good condition and everything is in order, no endorsement will be made on the document, and it can be termed a clean bill of lading. Conversely, if the goods are damaged or a portion of the consignment is missing, the document will be suitably endorsed by the Master or his agent, and the bill of lading will be considered «claused» or «unclean».

Bills of lading are made out in sets, and the number varies according to the trade. Generally it is three or four – one of which will probably be forwarded immediately, and another by a later mail in case the first is lost or delayed. In some trades, coloured bills of lading are used, to distinguish the original (signed) bills from the copies which are purely for record purposes.

Where the shipper had sold the goods under a letter of credit established through a bank, or when he wishes to obtain payment of his invoice before the consignee obtains the goods, he will pass the full set of original bills to his bank, who will in due course arrange presentation to the consignee against payment.

The shipowner or his agent at the port of destination will require one original bill of lading to be presented to him before the goods are handed over. Furthermore, he will normally require payment of any freight due, should this not have been paid at the port of shipment.

When one of a set of bills of lading has been presented to the shipping company, the other bills in the set lose their value.

In the event of the bill of lading being lost or delayed in transit, the shipping company will allow delivery of the goods to the person claiming to be the consignee, if he gives a letter of indemnity; this is normally countersigned by a bank, and relieves the shipping company of any liability should another person eventually come along with the actual bill of lading.

Along with the Bill of Lading the Dock Warrant and Delivery Order are some of the most important documents of title to the goods. The Dock Warrant is a document acknowledging that the goods have been deposited with a dock or port company, a wharfinger, or a warehouse. The Delivery Order is a document issued by the shipping company to the port of discharge. By handing this document over to the ship officer the consignee can obtain the cargo.

QUESTIONS

1. What are the four principal functions of the bill of lading?
2. Explain the procedure of issuing B/L: the role of the Shipper, Owner.
3. Who issues, fills in, and respectively, signs the B/L
4. What is the B/L exchanged for in some trades?
5. When will a B/L bear an endorsement?
6. To whom are copies (how many) of the B/L given or sent?
7. When does the shipper pass a full set of bills of lading to his bank?
8. What does the Master or the shipowner's agent require at the port of destination before handing the goods over?
9. What procedure is normally followed if the B/L has been lost or delayed?
10. Why must the bank countersign the letter of indemnity?

EXERCISES

I COMPREHENSION

1. State (or insert) an appropriate headline for each of the following passages (see a copy of B/L above): **Demurrage, Delay, Loading-Discharging-Delivery, Freight, General Average, Both-to-Blame Clause:**

1. If the vessel comes into collision with another vessel as a result of the Negligence of the other vessel, or default of the Master or the Servants of the Carrier, the Merchant will indemnify the Carrier against all loss or liability to The other or non carrying vessel
2. The Carrier shall be paid _____ at the daily rate of 45\$ per ton of the vessel's GT if the vessel is not loaded or discharged with the despatch set out in Clause 8; and delay in waiting for berth or off the port to count.
3. The Carrier shall be responsible for any loss sustained by the Merchant through _____ of the goods unless caused by the Carrier's personal gross negligence.
4. The merchant or his Assign shall tender the goods when the vessel is ready to load and as fast as the vessel can receive: _____
5. Prepayable _____: whether actually paid or not, shall be considered as fully earned upon loading and non-returnable in any event.
6. _____ to be adjusted at any port or place at Carrier's option and to be settled according to York-Antwerp Rules 1950.

2. Supply the missing word (or verb form) from the brackets:

(GIVE, PAYS)

F.A.S.: Under Free alongside ship, the seller _____ all the costs for getting the goods to the place before loading them on board the vessel. The custom of the port may _____ f.a.s. a special meaning.

(PRODUCE, IMPLIES, SEE, BEARS, GET, PLACED, CEASE, PAYS)

F.O.B.: This quotation – Free on Board - _____ that the duty of the seller is to _____ the goods, _____ them to the port and _____ that they are actually placed on board the vessel, which the buyer provides.

The seller, therefore, _____ all the charges preceding the loading of the goods on the ship, such as cartage, insurance, handling and lighterage. When the goods _____ on board the ship and the seller has obtained the receipt for the goods, the responsibility of the seller _____. Thereafter the buyer _____ all the cargoes including insurance of the goods from departure to the port of destination and _____ the freight.

(PROVIDES, REACH, INCURRED, COST, BOOKS, LIABLE, PAYS)

C.I.F. : Undoubtedly the most popular quotation is cost, insurance freight..

Under a c.i.f. contract the seller _____ the goods, _____ cargo space on the vessel _____ freight for the carriage to the buyer's port which is named, etc. He is _____ for any loss or damage before the goods _____ the ship. The seller is entitled to payment in exchange for the documents –including bill of lading and insurance policy – relative to the shipment. The buyer will be responsible for the charges _____ in getting the goods off the ship to his warehouse, such as lighterage, dock dues and custom duties.

3. State which parties engaged in the transport by sea are defined below: (shipowner, mate, stevedore, forwarding agent, ship-broker, shipper, owner of the goods, master)

1. Company that undertakes transport by sea on its own account.
2. Company that owns the goods destined for transportation by sea or land.
3. The captain of a ship.
4. Agent arranging collection, forwarding and delivery of the goods.
5. Company or agents securing shipping space and placing them on board a ship

for transportation.

6. An agency engaged by the shipowner to perform various services in obtaining cargo, offering shipping space, insurance, arranging freight rates, issuing B/L's etc.
7. Ship's officer responsible for loading and delivery of the cargo.
8. Company that carries out stowage of a ship's cargo, and its loading/discharge.

4. Make up an outline, i.e. headings or label that may best express the main idea of each of the eight passages in the reading text.

II GRAMMAR

1. Word forms. Supply the appropriate word listed in the brackets:

(ship, shipper, shipping, shipment)

1. The agent promised to _____ the goods immediately.
2. Warnings to _____ are transmitted every day.
3. The _____ of the cargo is the responsibility of the shipper.
4. The goods were _____ on board in apparent good order and condition.
5. _____ technology has been much improved lately.
6. We received the goods for further _____ to Austria.
7. A _____ note is given to the port and contains details of the cargo to be loaded on a named ship.

2. Condition II. In addition to the conjunction IF and auxiliary SHOULD, clauses of condition can be introduced by:

Provided ..., Provided that ..., In the event that

2.1. Find all the examples of the clauses of condition in the text above (5 examples) and rewrite them.

2.2. Transform each of the sentences below by introducing them with:

Should ...

Provided (that) ...

In the event that/In case that ...

1. If the cargo is damaged, a survey must be called at once.
2. If the number of bags is not correct, you must endorse the B/L suitably.

3. The goods cannot be delivered in the original B/L has not been presented to the carrier.

III TRANSLATION

1. Translate the following sentences into english using the Verb + Noun (Object) collocations in brackets:

1. Teret se neće predati prije nego što se izvrši plaćanje (*effect payment*).
2. Na teretnici je upisana opaska u vezi s kvalitetom pakovanja (*endorse the Bill of Lading*).
3. Da bi preuzeo (in order to ...) pošiljku, primalac mora brodu prezentirati teretnicu (*present the B/L*).
4. Odredba «Freight Pre-paid» označuje da je vozarina ubrana prije otpremanja (*collect the freight*).
5. Nakon što je predana originalna kopija teretnice, sve ostale kopije teretnice gube svoju vrijednost (*lose value*).

2. Translate into English:

1. Vozar ima pravo zalogu (*lien*) na svaki iznos koji proizlazi (*due*) iz ovog ugovora, te na troškove za ishođenje (*recover*) tog iznosa.
2. Vozar ima pravo (*entitle*) da proda robu sam (*privately*) ili na dražbi (*auction*) da bi pokrio svoja potraživanja.
3. Pod uvjetom da je zakašnjenje nastalo uslijed (*due to*) razloga koji su izvan moći Trgovca, od prekostojnica odbit će se (*deduct*) 24 sata.
4. Naručitelj će snositi (*bear*) sve troškove prekovremenog rada (*overtime*) u vezi s dopremom (*tendering*) i preuzimanjem robe.
5. Vozar može (*at liberty*) prevesti robu do luke odredišta svojim ili drugim brodom, ... , te prekrcati jer, iskrcati i uskladištiti na teret Trgovca (*at risk*).
6. Ovaj ugovor uključuje (*include*) normalne, uobičajene, i oglašene luke ticanja, ali i luke izvan redovnih (*ordinary*) ruta.
7. Zapovjednik može iskrcati teret u luci ukrcaja ili bilo kojoj drugoj sigurnoj i pogodnoj (*convenient*) luci, ako epidemije, karantena, štrajkovi, ..., ili teškoće u prekrcaju onemogućue brod da isplovi (*leave*) iz luke ukrcaja.

APL FACT SHEET. DOCUMENTATION

When it comes to Bills of Lading, you
have more options than you think.

What is a Bill of Lading ?

There are several types of Bills of Lading, each of which serves a different function. Because of this range of functionality, it's important to understand how each works to identify the right document for your needs.

In general, a bill's consignment is the key to understanding how it works. The most common type of Bill of Lading is known as a «**To Order**» Bill-is consigned «To Order» or «**To Bearer**» and is therefore a negotiable document that confers title. A «**Straight**» Bill of Lading and the Sea Waybill are consigned to a named consignee, and are therefore non-negotiable under the law of most, but not all countries in the case of Straight Bills of Lading.

Knowing which document to use can save time and money, eliminate documentation problems and streamline your transportation process. Let's start with the negotiable «To Order» Bill of Lading, which serves the following five main business purposes:

- 1) A document of title representing ownership
- 2) A negotiable document to be exchanged for money
- 3) A contract of carriage between the carrier and the cargo owner
- 4) A receipt by the carrier for the cargo
- 5) An invoice from the carrier

How does a «To Order» Bill of Lading work?

Because the «To Order» Bill is negotiable, it's the document of choice when third-party financing (through a bank, for example) is an issue. Say you're a buyer in Asia who wants to purchase goods and import them from a seller in the U.S. Before the seller arranges to ship the cargo to you, you'll need to demonstrate that you can pay for the shipment.

To do this, you'd open a letter of credit from a bank after proving that you have the necessary funds to repay the bank. The letter of credit is a loan for the value of the incoming shipment, and the shipment itself is one form of security for the loan. So the bank actually owns your shipment until you pay off the loan.

Because the bank is involved, the seller has a guarantee that the shipment will be paid for. The seller is therefore willing to tender the shipment to the carrier, and receives a «To Order» Bill in exchange. Because the Bill serves as title to the cargo, as part of the payment process, the seller is paid the selling price by the bank holding the letter of credit in exchange for the endorsed Bill. The Bill is then forwarded to the buyer's correspondent bank at origin. Once the shipment arrives at its destination, the bank surrenders the original Bill to the buyer, who then presents it to the carrier to receive the cargo.

1. Buyer opens Letter of Credit (L/C), Buyer's Bank confirms L/C to Seller's Bank.

3. Seller's Bank forwards original B/L to Buyer's Bank, which then provides it to Buyer.

2. Seller tenders shipment to carrier and receives original «To Order» B/L. Seller takes B/L to Bank and Bank examines B/L and L/C.

4. Buyer presents original B/L to carrier to collect shipment.

When should I use a Straight Bill or Sea Waybill?

You'll want to use one of these two documents whenever you don't need the Bill to function as a financial instrument – in a case in which you've arranged credit or financing that is independent of traditional trade financing via a letter of credit. Like the negotiable «To Order» Bill, these documents serve as contract of carriage, receipt of goods and as invoices. The big difference is negotiability, or whether or not the document must function as a financial instrument.

For example, you're transporting goods to a buyer with whom you have a long-standing relationship (and who always pays for the goods to your satisfaction). Or, perhaps you're shipping product one division of a company to another, so financing is an intracompany formality.

In either case, you're confident that you'll be paid for what you are selling. This isn't the type of transaction that requires a letter of credit, so you don't need the Bill to function as title – and it need not be negotiable. This is when you should consider using either a Straight Bill or a Sea Waybill.

What's the difference between these two documents and how do they work?

The main differences between these two documents are 1) appearance, because they are printed on slightly different forms; 2) negotiability, as interpreted by some countries (other than the U.S.).

The Straight Bill uses the same pre-printed form as a negotiable «To Order» Bill, except the term «To Order» is not entered in the consignee block. The Sea Waybill uses a different pre-printed form, which has many of the same terms and conditions as the «To Order» Bill. However, all references to «Bill of Lading» and negotiability are removed and no «originals» are issued.

Although neither document is considered negotiable in the U.S., the Straight Bill is considered negotiable in some countries, for example, India, Indonesia, Korea and certain

European countries. Because of this, we recommend using the Sea Waybill instead of a Straight Bill because local law will permit its use as a non-negotiable instrument.

Because a non-negotiable document does not function as a document of title, the consignee need only present proper identification and pay any charges that are due in order to pick up the cargo. This eliminates the need for surrender of an original Bill of Lading prior to cargo while the buyer waits for the chain of negotiation to be completed. In the case of Straight Bills of Lading issued in the countries identified above, this fundamental benefit of a non-negotiable form of Bill of Lading is frustrated. Bills issued in such countries will be treated as negotiable.

