

29 July 2002

To: Transport Industry Operators

Ref : Chans advice/19

## Neutral AWB - appeal

In this issue, we have some good news. Remember the Australian Court case discussed in our Chans advice/11 dated 26/11/2001 that the forwarder was held to pay the cargo value of DM1,600,000. On 6/8/2001, Supreme Court of New South Wales held that the forwarder could not rely on its HAWB terms of US\$20/kg to limit its liability for the cargo damage happened outside the airport.

In its Judgment delivered on 11/6/2002, Court of Appeal in Supreme Court of New South Wales set aside the lower Court's Judgment. It agreed with the lower Court that the Warsaw Convention did not apply to the carriage to the forwarder's warehouse to the extent that it was outside the boundary of Melbourne airport. However, it held that the forwarder's HAWB remained the contract for carriage that governed the road transportation from the airport to the forwarder's warehouse. Since it was the road carriage to which the Warsaw Convention did not apply, Clause 4 of liability limitation of US\$20/kg in the HAWB did. Court of Appeal ordered the forwarder to pay the liability limitation amount of US\$74,680 plus interest.

We think this case has now clarified the applicability of IATA AWB terms as far as the carriage outside airport is concerned.

Please feel free to contact us if you have any questions or you would like a copy of the Judgment.

Simon Chan and Richard Chan

A normal claim cycle is like the following:-

Cargo damaged/lost. Potential claim is imminent.

Worry starts. Where does the company stand? What should be the most appropriate next step? Is a survey required? What surveyor? How to respond to a claim notification from client? **Should the claim be reported to my insurer?** What documents to gather? What are the key aspects to look for to protect the company's interest? Could I pass the ball down the line? Do I forget to hold someone responsible? Should a time extension be granted? What should be an appropriate claim handling strategy? Who monitors the claim progress? Who does the co-ordination with my insurer ensuring the company's interests is not prejudiced? **When would the company get reimbursed for a valid claim?**

Report the claims to Sun Hing and you are worry free. Your Claims Handling could never be easier!

Professional risk management consultants take care of your worry and trouble (deleted above) in case of a claim, even if you do not carry liability insurance - Feel Free to discuss your needs with Simon or Richard.