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Insurance of cargo containers and the marine environment against pollution under Saudi Maritime Law

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Abstract
The risks associated with the carriage of goods by sea, and the damage they may cause to the cargo or the marine environment, make marine insurance particularly important as a legal mechanism for allocating risks and providing financial protection to affected parties. This importance is heightened by the variety of forms of marine damage, which are not confined to the loss of or physical damage to a vessel or cargo, but may extend to marine pollution and the resulting costs of containment, combating pollution, removing pollutants and remediating environmental damage. From this perspective, the research examines the legal regulation of insurance of cargo containers and the marine environment against pollution under the Saudi Maritime Trade Law, focusing on the provisions governing the marine insurance contract, the scope of the risks it may cover, the obligations of the parties to it, and the rules relating to the assessment and indemnification of losses.
The research also adopts an analytical approach to examining the relevant Saudi statutory provisions and explaining their meaning and the limits of their application to risks arising from carriage by sea, drawing on legal analysis of the provisions relating to cargo insurance, voyage policies and floating policies, reinsurance, and the settlement of marine losses.
The research also distinguishes between cover for damage to insured cargo and cover for civil liability for damage caused to third parties or to the marine environment; the fact that an insurance policy covers cargo does not, in itself, mean that protection automatically extends to all pollution costs or liabilities arising from pollution, unless this is supported by an applicable statutory provision or clear terms of insurance cover.
The research concludes that it is important to define the scope of insurance cover precisely, specify excluded perils and limits of indemnity, and ascertain the extent to which the provisions governing marine insurance are adequate to address environmental damage arising from incidents involving carriage by sea. It also emphasises the need to distinguish between insurance of movable property and insurance of pollution liability, and to strengthen coordination between the relevant maritime and supervisory regulatory frameworks, thereby contributing to clearer legal protection for cargo and the marine environment and reducing disputes concerning the determination of liability and the scope of indemnity.

Keywords: Marine pollution, marine insurance, marine environnement, reinsurance

Introduction
The Saudi Maritime Trade Law, issued by Royal Decree No. (M/33) dated 5/4/1440 AH, devotes Chapter Seven to the marine insurance contract, without prejudice to the relevant provisions of the Law on the Supervision of Cooperative Insurance Companies. Article 293 provides that the provisions of the Chapter on marine insurance apply to an insurance contract whose subject matter is the provision of cover against marine perils, subject to other relevant statutory provisions. Article 294 also requires that the insurance contract and any changes to it be evidenced in writing, and that the insurance policy contain particulars including the subject matter insured; a description of the cover, its limits, exclusions, duration and geographical scope; the sum insured; and the premium. These provisions are of direct importance when examining insurance against pollution damage, because identifying the subject matter insured, the scope of cover and the exclusions determines whether the policy covers liability arising from the leakage of oil or harmful substances, or is confined to physical damage to the vessel itself, its cargo or its containers. Hull insurance does not necessarily entail insurance against the owner's liability to third parties for environmental damage, nor does cargo insurance, in itself, establish cover for the costs of combating pollution or compensation for damage to marine resources. The type of policy should therefore be identified precisely, and a distinction drawn between property insurance and civil liability insurance.
This distinction is supported by Article 296 of the Saudi Maritime Trade Law, which permits the subject matter of marine insurance to be the vessel and its equipment, the cargo, goods and property on board, as well as certain remuneration and monetary sums, and any liability that may arise in relation to the property referred to in paragraphs 1 and 2 of the aforementioned Article.
This means that the Law permits, in principle, insurance against marine liability within the limits laid down by the provision and the contract. However, this general rule should not be interpreted as itself establishing comprehensive compulsory insurance against all forms of marine pollution; compulsory insurance requires a specific statutory basis identifying the vessels or activities covered and the type of security required.
Cargo insurance applies whether the cargo has actually been loaded on board the vessel, is on the port quay or is being delivered to the port of shipment. The marine bill of lading is evidence of its receipt on board the vessel, as well as an instrument evidencing the contract of carriage by sea and the loading of the cargo on board, and representing the cargo. Alternatively, the insurance may cover cargo that will

subsequently be loaded on the vessel, provided that the insurance covers the voyage through all its land and sea stages. Passengers' luggage, fish and other items are treated in the same way as cargo as regards their eligibility for insurance... Qayid [1].

It is apparent from the definition that insurance is marine insurance where its object is to protect against damage arising from a marine peril. A marine peril is one arising from navigation at sea, during a sea voyage or in connection with such a voyage. Whenever property is exposed to a peril during its carriage by sea, insurance of that property is marine insurance and is subject to the provisions governing marine insurance. In that case, neither the type of damage nor the nature of the insured property is material, whether it is cargo, a ship or something else... Awad [2].

Cargo is covered by insurance without interruption wherever it is located during the voyage as defined by the contracting parties in the insurance policy.

Nevertheless, the insurer may request an increase in the premium if the cargo remains in a port or if the vessel is delayed by putting into ports of refuge or changing its usual route, pursuant to Article (301) of the Saudi Maritime Trade Law, which provides: "1- The insured must notify the insurer of circumstances arising during the currency of the insurance policy which are such as to increase the risk borne by the insurer, within three working days of becoming aware of them. If the insured fails to give notification within that period, the insurer may terminate the contract". 2- If notification is given within the period prescribed in paragraph (1) of this Article, and it becomes apparent that the increase in risk did not arise from an act of the insured, the insurance shall remain in force in return for an increase in the premium. 3- If the increase in risk arises from an act of the insured, the insurer may terminate the contract within three working days of being notified of the increase in risk, or maintain the contract while demanding an increase in the premium in return for the increase in risk. In the former case, the competent judicial authority may, at the insurer's request, award the insurer an amount equal to the premium". Notification is a form of notice commonly received by debtors. It serves as a formal demand or warning from the creditor to the debtor to pay the debt, and may obviate the need to bring proceedings.

Since insurance is not intended as a means of enrichment, Article (374) of the Saudi Maritime Trade Law provides that the sum insured may not exceed the highest of the following amounts:

1. The purchase price of the cargo at the time and place of shipment, or its current price at that time and place if it was not purchased, plus the costs of transporting the cargo to the port of arrival and the anticipated profit.
2. The value of the cargo at the time and place of arrival, or on the date on which it should have arrived in the event of its loss.
3. The sale price of the cargo if the insured has sold it, plus any other sums that may be agreed upon in the contract of sale.

This means that the sum insured must not exceed the original purchase price of the cargo, whether at the time of purchase or at the prevailing current price, nor exceed the price of the cargo at the time or date of its loss, nor exceed the sale value of the cargo if the insured has sold it. In this case, indemnity is commensurate with the damage, since shippers aim, by shipping their cargo, to obtain a price higher than its value at the port of departure, in addition to the expenditure they have incurred to enable its shipment, such as licensing and health inspection costs, customs duties, packaging, crating and other expenses.

Accordingly, we shall examine how containers used to carry cargo by sea and the marine environment are insured. This will include explaining insurance cover under policies in their two forms—a single-voyage policy or a joint policy—and how reinsurance is effected by reference to the particulars in the bill of lading, before considering how losses are compensated.

Research Problem:

The research problem lies in determining the extent to which the legal framework governing marine insurance in the Kingdom of Saudi Arabia is adequate to address the risks arising from the carriage of cargo in containers, and any associated damage to the insured cargo or the marine environment resulting from incidents of marine pollution.

The issue arises particularly in relation to the scope of insurance cover for environmental damage and the costs of containing and removing pollution, and to how cargo insurance is distinguished from insurance against civil liability arising from damage to third parties or the marine environment. It also concerns determining the obligations of the parties to the insurance contract and the rules governing the assessment of losses and the indemnity payable for them, in light of the relevant Saudi statutory provisions.

Accordingly, the research problem centres on the following principal question:

To what extent does the legal framework governing marine insurance in the Kingdom of Saudi Arabia provide adequate insurance protection for cargo carried in containers and for the marine environment against pollution risks arising from maritime transport?

The following subsidiary questions arise from this principal question:

- What is the legal framework governing marine insurance for cargo carried in containers in the Kingdom of Saudi Arabia?
- What is the scope of the perils that may be included in insurance cover, and what obligations arise for the parties to the marine insurance contract?
- To what extent can environmental damage arising from marine pollution and the costs of containing and removing it be covered under marine insurance policies?
- What distinctions are there between cargo insurance and insurance against civil liability for marine pollution?
- To what extent are the relevant Saudi regulations adequate in determining liability for damage to the marine environment and ensuring compensation for such damage?

Significance of the Research

The significance of the research stems from the growing importance of marine insurance in protecting maritime trade and limiting the financial and legal effects of risks that may arise from the carriage of cargo in containers, as well as the need to protect the marine environment from damage caused by marine pollution, through an analysis of the provisions governing insurance relating to the marine environment and cargo.

Research Methodology

The research adopts the analytical method as its principal methodology, analysing the relevant Saudi statutory provisions concerning marine insurance, the carriage of cargo by sea and the protection of the marine environment from pollution, and explaining the scope of their application to risks that may arise from the carriage of cargo in containers, while identifying the provisions governing the marine insurance contract, the obligations of its parties, the scope of covered perils, and the rules governing the assessment of losses and the indemnity payable for them.

The research also employs the descriptive method to clarify the fundamental legal concepts relating to marine insurance, cargo insurance and insurance against civil liability for marine pollution, and to explain the differences between them in terms of the nature of the insured peril and the scope of insurance protection.

The research also draws on the critical evaluative method when examining the adequacy of the relevant Saudi statutory provisions in addressing damage arising from marine pollution, distinguishing between the insurance cover provided under insurance policies and the obligations imposed by law on those responsible for pollution, with a view to drawing conclusions and proposing recommendations that would enhance insurance protection for cargo and the marine environment in the Kingdom of Saudi Arabia.

- **First Framework: Insurance under Insurance Policies**

It has been customary to insure the marine environment and cargo under two categories of policies: the first is called a voyage policy for a single voyage, and the second is called a floating policy. The Saudi Maritime Trade Law addresses cargo insurance in Chapter Four of Part Seven, in Articles 343 to 353. The statutory provisions relating to these two categories are set out as follows:

First: Single-Voyage Insurance Policy

It is the policy whose duration is defined by the commencement and conclusion of a single sea voyage. This policy, known as a cargo insurance policy, is among the most widely used policies, whatever the nature of the cargo carried. The two contracting parties determine the time at which the voyage commences and ends; the policy stipulates the insurer's undertaking and acceptance that the insurance shall take effect from the time the cargo is loaded onto the vessel and continue throughout its carriage until it is safely unloaded ashore at the place of arrival... Ata [3].

Insurance cover applies only to the vessel specified in the insurance policy. This is the general rule; however, as an exception to this principle, cover may apply to another vessel in the case of transhipment, where the carrier reserves in the contract the right to change the vessel en route. The second vessel must, however, be seaworthy, and the carrier must notify the shipper if carriage takes place on another vessel and send the shipper the bill of lading issued by the master of the second vessel, so that the shipper can take delivery of the cargo upon arrival.... Khalid. Insurance remains in effect even if the vessel is changed because the first vessel has sustained damage rendering it unable to continue the voyage. It is customary to add the phrase "or another vessel agreed upon" to the contract. The sum insured for the cargo must not exceed the purchase price of the cargo at the time and place of shipment, plus carriage expenses and anticipated profit, or the value of the cargo at the time and place of arrival, or the sale price of the cargo if the insurer sells it, with the addition of the other amounts. All of this is agreed upon in the contract of sale..... Sabrinah [4, 5].

Article 346 of the Saudi Maritime Trade Law is of central importance to our research, as it requires vessels carrying oil to or from the Kingdom to carry a certificate of civil liability insurance covering liability for any damage arising from the carriage operation.

This provision constitutes a direct statutory basis for compulsory insurance cover within the scope defined by the text. Its importance is apparent in that the carriage of oil entails serious environmental risks, as an accident involving collision, grounding or leakage may lead to the spread of pollutants in marine waters and damage to natural resources, property and coastal activities.

In this context, the insurance certificate performs an evidential and regulatory function, as it indicates the existence of insurance cover for the civil liability encompassed by the text. Nevertheless, when applying Article 346, it is necessary to determine the scope of the damage covered, the terms of the policy, the financial limits of cover, and any implementing rules or international conventions applicable to the vessel and the incident in question.

It is also necessary not to extend the interpretation of the provision to encompass all vessels and all types of pollutants without a basis, as the provision referred to concerns vessels carrying oil from or to the Kingdom of Saudi Arabia. It cannot be asserted with certainty that the provision itself imposes the same compulsory insurance requirement on every merchant vessel or every activity that may cause marine pollution.

In this context, on 4 October 2023, the Saudi Central Bank announced the issuance of instructions on marine insurance cover, which established a regulatory framework for compulsory and non-compulsory marine insurance and prescribed minimum limits of cover and insurance benefits, in coordination with the Transport General Authority.

The importance of these instructions stems from their role in regulating marine insurance cover and determining insurance requirements. However, whether a particular form of cover is compulsory, and whether it extends to specific environmental damage, must be determined by reference to the text of the instructions themselves and their annexes, rather than merely by reference to the announcement of their issuance.

Secondly: Floating or Joint Insurance Policy

This is the policy under which the insurer undertakes to cover, up to a specified sum, all cargo shipped for the account of the insured during a specified period. A floating policy is often associated with insurance for the benefit of an unspecified person, as transport agents and major shipping companies have customarily taken out floating policies covering all cargo that they ship for the account of others during a specified period, and then offer shippers the benefit of this insurance in return for a sum added to the freight charge.....Taha [6].

As for the statutory provisions relating to the floating insurance policy, it must set out the conditions binding on both the insurer and the insured, the premiums payable, and

the maximum amount payable by the insurer in respect of each consignment. Other particulars are to be specified in an annex to the policy. Article (350) of the Saudi Maritime Trade Law states: "Where insurance is concluded under a floating policy, it must include the conditions binding upon both the insurer and the insured, the maximum amount which the insurer undertakes to pay in respect of each consignment, and the premiums payable by the insured. The insured cargo, voyages, ships and other particulars shall be specified in annexes for each consignment separately".

The consignments which must be notified to the insurer where insurance is effected under a floating policy are those made for the account of the insured. If an insured peril occurs, the insurance automatically covers these consignments, provided that the insured gives notification of them within the agreed period. They also include consignments made for the account of third parties which it has been agreed to insure, in which the insured has an interest. For the insurance to cover such a consignment, the insurer must be notified of it, as the insured is obliged under the floating insurance policy to notify the insurer of the following consignments, which the insurer is obliged to accept for insurance:

1- All consignments made for the account of the insured, or in performance of contracts of purchase or sale requiring the insured to effect insurance. The insurance automatically covers these consignments if an insured peril occurs, provided that the insured gives notification of them within the period stipulated in the insurance policy. 2- All consignments made for the account of a third party who has entrusted the insured with effecting insurance on them, provided that the insured has an interest in the consignment as a commission agent, a custodian of the cargo or otherwise. The insurance covers these consignments only from the time the insurer is notified of them.

If the insured breaches the obligations stipulated in Article (351) of the Saudi Maritime Trade Law, the insurer may seek immediate rescission of the contract and claim compensation equivalent to the premiums relating to the consignments of which the insurer was not notified.

If the insured's bad faith is established, the insurer may recover the amounts paid in respect of events relating to consignments subsequent to the insured's first intentional breach. The Saudi Maritime Trade Law establishes a legal presumption that the insured cargo was received undamaged unless the insured notifies the insurer of any damage within fifteen days of receiving the insured cargo, specifying the damage, as provided in Article (353) of the Saudi Maritime Trade Law. Otherwise, the insured is presumed to have received it undamaged, unless the insured proves otherwise.

The importance of the floating policy lies in saving effort and expense, as it relieves the insured of the need to conclude a separate policy for each marine shipment that the insured imports or exports; the insured need only send the insurer a notification specifying the type and quantity of the cargo during the term of the contract. The French Court of Cassation has held that it is the act of shipment that brings the insurance into effect, without the need for any further expression of the contracting parties' intention. It further added that the insurance remains open for the benefit of the insured and is sustained by successive shipments made for the insured's benefit, within the limits of the agreed amount.... Algamiel [7].

The floating policy offers many advantages: it enables those engaged in maritime trade, including exporters and importers, to obtain insurance cover for all the cargo and consignments dispatched by the insured, and a single policy is issued without the effort of issuing a separate policy for each consignment ..... Sabrinah [8].

- **Second Framework: Reinsurance by Reference to the Particulars in the Bill of Lading**

The diversification and development of insurance business, together with the expansion of insurance cover, created a need for insurers to reinsure the risks they had assumed, thereby providing greater security and confidence. A principal objective of reinsurance is to protect insurance companies against potential losses under their policies by transferring those losses to a reinsurer, from whom the insurer may recover them, in return for a premium paid to the reinsurer. Insurance companies have therefore resorted to reinsurance to protect their policies against loss.

Reinsurance is insurance taken out by an insurer in respect of the indemnity it undertakes to pay to the insured when the insured peril occurs. Its subject matter is itself a value exposed to the perils of maritime navigation.... al-Barudi [9].

The system of reinsurance is founded on the same bases and principles that govern other insurance contracts: there must be an insurable interest in relation to the reinsurance, and it must be a contract of good faith and a contract of indemnity. The insured subject matter must exist at the time the contract is concluded, because the subject matter of the reinsurance contract is, in reality, no different from that of the original insurance contract..... Algamiel [10].

Under the insurance contract, insurance companies are obliged to indemnify the insured if the insured peril materialises. The value of the insured property may be so high that the insurance company is unable to meet the indemnity, in which case it resorts to a larger insurance company with substantial financial resources, from which it obtains reinsurance cover for its liabilities against the possibility of a peril of the sea affecting the insured property. This is known as a reinsurance contract.

Reinsurance is therefore defined as an agreement whereby the insurer or cedant transfers all or part of the insured risks to a reinsurer or cessionary. That is, the transfer to another insurance company of the entire sum insured initially underwritten by the insurance company, or part of that sum.... Sabrinah [11].

The reinsurance contract remains in force only while the original insurance contract remains in force and the insured subject matter exists. The insurer must also have an interest in the insured subject matter and is accordingly entitled to reinsure it with another insurer. The insurer is, in turn, obliged to provide the reinsurer with all information relating to the subject matter being reinsured. The reinsurance contract is void if it is established that the insurer deliberately concealed material information from the reinsurer. All marine insurance contracts are contracts of indemnity, and the reinsurance contract is likewise a contract of indemnity; it does not depart from this framework. The reinsurance contract need not state the insurer's name, nor need it identify itself as a reinsurance contract.... al-Hakim [12].

The insurer resorts to reinsurance in order to avert the effects of major catastrophes. The benefit accruing to the insurer from reinsurance is apparent in the fact that the

reinsurance premium is lower than the insurance premium. The reason for this is that the reinsurer bears lower costs and expenses than those borne by the insurer.... al-Sharqawi [13].
The insurer must therefore spend substantial sums on advertising and brokerage and have agents in the various ports to seek out suppliers and shippers and enter into contracts with them.
The reinsurer, however, has no need to do so, since it is sufficient to send a circular to insurers, who are few in number, thereby reducing its expenses and making the reinsurance premium lower than the original premium..... Algamiel [14].
Reinsurance takes two specific forms, namely:
First: the individual insurance contract. This is the oldest and simplest form of reinsurance: an insurer that has insured a maritime consignment seeks insurance for the total indemnity it has undertaken to pay in the event of loss or damage. However, this type has disappeared in practice.

Second: a general agreement to cover all risks borne by the insurer, meaning that it applies automatically, for a specified period, to a group of insurance contracts concluded by the direct insurer. This is the form adopted and used in practice.... Sabrinah [15].

- **Third Framework: Assessment and Indemnification of Losses**

The marine insurer covers physical damage or loss affecting the insured property as a result of the occurrence of a marine peril covered by the insurance. From a legal and practical perspective, a distinction may be drawn between three types of damage that may arise from a marine pollution incident.
First, physical damage affecting the vessel, equipment or cargo, which may be covered by marine property insurance policies in accordance with their terms. Secondly, civil liability towards third parties, such as damage to third parties' property or economic interests resulting from pollution. The scope of cover for such liability depends on the type of civil liability policy, its limits and terms, and the applicable statutory and treaty provisions. Thirdly, direct environmental costs, such as the expenses of containing a spill, collecting pollutants, cleaning affected areas and rehabilitating marine habitats. It should not be assumed that all policies cover these costs; the specific policy provisions must be examined to determine whether they cover such costs as indemnifiable expenses or whether they are excluded liabilities.
It follows from this distinction that the existence of insurance on the vessel does not necessarily ensure the availability of sufficient resources to address all environmental damage, nor does the existence of civil liability insurance mean that the sum insured equals the full actual cost of removing pollution and rehabilitating the environment.
This highlights the importance of setting financial limits proportionate to the scale of the risks, taking into account the nature of the cargo, the quantity of oil carried, the voyage route and the potential effects of the incident. Damage or loss affecting the insured property is divided into general average and particular average.

First: General Average
General average consists of extraordinary sacrifices and expenditure intentionally and reasonably made for the common safety to avert an imminent peril threatening the vessel or its cargo. General average arises when the master intentionally sacrifices part of the cargo or causes physical damage to the vessel in order to protect the voyage from a peril threatening it. Such losses may also consist of additional expenditure incurred to protect the vessel, such as the costs of seeking refuge in a port to confront unusual circumstances threatening the vessel and everything on board. Accordingly, it is equitable that all parties should bear the losses sustained by the vessel or the goods as a result of that sacrifice, if it was made to protect the voyage..... Hamdi [16].
Only physical damage sustained by the vessel or the goods on board, and sums expended in respect of them, are admissible in general average, provided that the damage or sums arise directly from the sacrifice which the master decided to make or the expenditure which he incurred. Damage arising from delay—such as the vessel being rendered idle—and indirect damage, such as differences in the prices of goods, are not admissible in general average.
Nor is it a requirement for general average that the loss to which the maritime voyage is exposed should be a total loss; it is sufficient for the voyage to be exposed to a partial loss for the sacrifice to be regarded as general average... Abd al-Rahim [17].
The debtor group consists of the elements required to contribute towards bearing the loss, namely the interests which benefited from the general average act, comprising the vessel, the goods and the freight. However, the debtor group does not include human lives saved as a result of the voluntary sacrifice, nor passengers' luggage and seafarers' belongings in respect of which no bill of lading has been issued, nor postal items of any kind. Such luggage and belongings nevertheless participate in the creditor group at their estimated value if they are sacrificed for the common safety.
On the other hand, the value of the cargo sacrificed is included in the debtor group. The reason for its inclusion in the debtor group is that it must bear a proportion of the loss incurred, so that its owner does not receive full compensation; otherwise, that owner would be better placed than the owner of the cargo saved. It should be noted that Article (280/2) of the Saudi Maritime Trade Law states that the value of the sacrificed cargo included in the creditor group differs from its value included in the debtor group: in the former case, it is included at its value plus freight, less unloading expenses and customs duties, whereas in the latter case, it is included at its value less all expenses borne by the cargo owner, including freight.
The creditor group, meanwhile, consists of the aggregate losses resulting from the master's act intended to secure common safety, whether physical or monetary. Physical loss may affect the cargo or the vessel itself. Loss affecting the cargo consists of its destruction or damage, while loss affecting the vessel itself comprises any destruction or damage sustained by it, or the cost of repairing the damage. The damage sustained by the vessel as a result of the voluntary sacrifice is valued and included in the creditor group. In the event of total loss, the vessel is included in the creditor group at its full value immediately before the casualty, less the estimated value of repairs which do not constitute general average and the proceeds, if any, from the wreckage. As for monetary losses, their calculation raises no difficulty. In this case, the shipowner is included in the creditor group for an amount equal to the expenses actually

incurred which constitute general average, provided that those expenses are reasonable and not excessive. The shipowner is also included in this group for the freight lost as a result of general average, as where cargo for which freight is payable upon arrival has been sacrificed.

The insurer bears the insured property's share of general average losses unless they arise from an excluded peril. This is because the voluntary sacrifice benefits the insurer: without it, the insured property would not have been preserved from destruction, and the insurer would not have been spared payment of the insurance indemnity.... Algamiel [18].

Secondly: Total losses

Total losses are divided into actual total losses, meaning the complete destruction of the insured property, such as the sinking of a vessel or the complete burning of cargo, and constructive or presumed total losses. The latter refers to the disappearance of a vessel which has undertaken a voyage or sailed in an area designated for warfare or piracy and has not returned; the vessel is then presumed lost and treated as destroyed or as a total loss.... Taha [19].

A total loss is constructive (or deemed) where the cost of repairing the insured property, or taking measures to prevent its actual total loss, exceeds its value. The sale of insured property at a loss constitutes a physical loss, most commonly in relation to cargo: the master may sell the cargo during the voyage to meet an unforeseen necessity, and the cargo may be sold because it is impossible to deliver it to the intended port owing to the vessel's unseaworthiness and the inability to find another vessel to carry the cargo to that port.... al-Sharqawi [20].

In these cases, the sale of the cargo at a loss causes damage to the insured for which the insurer is liable. Under exemption clauses, the insurer is exempt from liability for certain perils or losses, or from paying part of the indemnity, if the damage sustained by the insured property does not exceed a specified threshold (3% or 5%).... Algamiel [21].

The assessment of cargo loss is based on the difference between its value in its damaged condition and its value in its sound condition at the same time and place. Any diminution in value is taken into account in calculating the insurance indemnity.

Article (348) of the Saudi Maritime Trade Law provides that: 'Losses sustained by cargo shall be assessed by reference to the difference between its value in its damaged condition and its value in its sound condition at the same time and place, and the percentage diminution in value shall be applied to the sum insured'. The difference between its value in its damaged condition after the damage it sustained and its actual value before that damage occurred is the basis upon which the sum insured is assessed.

Since abandonment is an exceptional procedure to which recourse may be had only where expressly provided for or agreed, the Saudi Maritime Trade Law exhaustively sets out the cases in which cargo may be abandoned to the insurer: where no news of the vessel has been received for three months, leading to the belief that it has perished; and where the vessel is unseaworthy, that is, unable to withstand the perils of navigation at sea, irrespective of its size or carrying capacity. Seaworthiness is what determines, in legal terms, the beginning and end of a vessel's life: it is regarded as a vessel from the time it becomes seaworthy and loses its status as a vessel when it becomes unfit for such navigation, that is, when it becomes a wreck. Thus, a vessel's loss of seaworthiness or its becoming a wreck removes its status as a vessel and takes it outside the scope of maritime law..... Abd al-Rahim [22].

Abandonment may also be available where it is impracticable to carry the cargo on the vessel to the agreed destination. It may also be available where the cargo has been lost (that is, has disappeared or been destroyed and cannot be found) or has been damaged to an extent equal to at least three-quarters of the value stated in the insurance policy. For this purpose, cargo is regarded as damaged even if it arrives complete in weight, volume or other respects, if it is defective or has a particular fault.

The insured may exercise the right of abandonment where the cargo is sold during the voyage because it has sustained physical damage arising from an insured peril. Where the insurance covers war risks, the insured may also exercise the right of abandonment if the vessel is captured, detained or stopped by order of a public authority. War risks comprise damage to insured property resulting from hostile or retaliatory acts, capture, seizure, stoppage or coercion by governments or public authorities, whether recognised or unrecognised, or from the explosion of mines and other weapons of war.

Where the cargo has not been placed at the disposal of the insured within four months from the date on which the insured notified the insurer of the occurrence of the incident, this is provided for in Article (349) of the Saudi Maritime Trade Law, which states: 1- The insured may abandon the cargo to the insurer in the following cases: a - If no news of the vessel has been received for three months after the receipt of the last news of it, and it is presumed to have been lost on the date on which that news was received. b - If the vessel becomes unseaworthy during the voyage, and it is impossible to transport the cargo by any other means to the agreed destination within three months from the date on which the insured notified the insurer of the vessel's unseaworthiness. c - If the cargo is lost, or damaged to an extent equivalent to at least three-quarters of its value stated in the insurance policy. d - If the cargo is sold during the voyage because it has sustained physical damage, where the damage arose from a peril covered by the insurance. 2- If the insurance covers war risks, the insured may exercise the right of abandonment of the cargo where the vessel is captured, detained or stopped by order of the public authorities, if the cargo has not been placed at the disposal of the insured within four months from the date on which the insured notified the insurer of the occurrence of the incident.

Conclusion

This research examines the legal regulation of insurance for cargo containers and the protection of the marine environment from pollution in the Kingdom of Saudi Arabia, in light of the risks that may arise from maritime transport and the resulting physical damage to cargo, or environmental damage necessitating expenditure on containment, combating pollution and removing pollutants. The research has shown that marine insurance is an important legal means of distributing risks and providing financial protection; however, its effectiveness depends on defining the scope of insurance cover, the nature of the perils covered and the obligations of the parties to the insurance contract.

The importance of distinguishing between insurance of cargo carried by sea and insurance against civil liability arising from marine pollution also becomes apparent: insurance of cargo does not, in itself, entail cover for damage sustained by third parties or the marine environment unless the terms of cover or the relevant statutory provisions so provide. Accordingly, effective protection requires examination of the relationship between the provisions governing marine insurance and the rules governing pollution liability, and an assessment of whether the insurance cover is adequate to address the financial and environmental consequences of maritime accidents.

The research concluded that clarity in the provisions governing insurance cover, identification of excluded perils and limits of indemnity, and enhanced coordination among the authorities concerned with insurance, maritime transport and environmental protection are essential to reducing disputes and ensuring a more effective distribution of risks.

Accordingly, we recommend greater legislative and contractual clarity concerning insurance against liability for marine pollution, thereby contributing to the safe conduct of maritime trade, protecting the rights and interests of those adversely affected, and preserving the marine environment in the Kingdom of Saudi Arabia.

Findings

- Marine insurance is a legal means of distributing the financial risks arising from the carriage of cargo by sea.
- Insurance cover for damage to cargo is not identical to cover for liability for marine pollution.
- The determination of the scope of insurance protection for cargo containers depends on the content and terms of the insurance policy.
- Damage arising from marine pollution raises a legal issue that extends beyond merely compensating the cargo owner for material loss.
- Entitlement to insurance indemnity depends on the fulfilment of its legal and contractual conditions.
- The legal treatment of marine pollution risks requires a distinction between the obligation to compensate for environmental damage and the contractual obligation arising under the insurance policy.
- Effective legal protection of cargo and the marine environment requires clarity in the relationship between the provisions governing marine insurance and the regulations concerning the prevention and control of marine pollution and liability for the damage it causes.

Recommendations

- We recommend reviewing and developing the legal framework governing marine insurance in the Kingdom of Saudi Arabia.
- It is advisable to enhance contractual clarity in marine insurance policies covering cargo or civil liability.
- We hope that the suitability of regulating separate insurance cover for marine pollution liability will be examined.
- Coordination should be strengthened among the authorities responsible for maritime transport, insurance and environmental protection in the Kingdom of Saudi Arabia.

We recommend formulating clear rules for assessing losses and damage arising from marine pollution and settling the related compensation claims.

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