



Claim & Coverage Overview

Grounding of m/v EVER GIVEN in Suez Canal

March 2021




P.L. FERRARI & CO.

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The Facts

The recent grounding of one of the world's largest vessels in the Suez Canal, and its immediate impact on maritime trade between Asia, the Middle East, Europe and the East Coast of the United States, brings to bear the devastating impact that an incident involving a single vessel can have on the global supply chain. It also gives rise to a number of questions over the recoverability of losses sustained by vessel owners, vessel charterers, cargo owners, logistics providers and countless other entities extending well beyond the maritime sector.

At 1,312ft (400m) in length, and weighing nearly 220,000 gross tons, the 20,000 TEU m/v *EVER GIVEN* is one of the largest vessels at sea, it is however in good company within an ever-growing world fleet of oversize vessels designed to maximize efficiencies in order to compete on a global scale. With such immense size comes not only efficiency but also significant exposure to risk, as made evident by recent events.

With approximately 19,000 one-way transits per annum through the Suez Canal, roughly 12 percent of all global trade passes through this crucial 120-mile (192km) artery, meaning even the smallest delay can have a significant impact on worldwide markets. Despite the *EVER GIVEN* having been refloated after only six days in situ, resulting in an estimated cost to global trade of \$6-8bn, it is unclear when the backlog of more than 360 vessels awaiting transit will be exhausted, further exacerbating already substantial damages across markets worldwide. With seemingly significant losses yet to be quantified, a key question is how much of these losses are in fact recoverable and from whom. Below is a summary of the insurance position and default legal position regarding the anticipated losses and where they may be recoverable from the perspective of any of the interests described above who have been impacted by this unfortunate event.

Insurance position:

Insurance coverage:	Type of loss:	Insurance cover:
Hull & Machinery (H&M)	Physical damage to the vessel	Coverage available for any potential structural damage to hull as a result of the incidents (although reports to date indicate that no damage has been sustained).
	Salvage award	Coverage available for the costs incurred with respect to the re-floating efforts.
	General average	Potentially available for the ship's proportion of General Average, subject to the terms of the insurance policy, applicability of a General Average absorption clause.
	Physical damage to the Suez Canal	Coverage available for allision / Fixed & Floating Objects (if not covered under P&I).
Protection & Indemnity (P&I)	Fines	Coverage available on a discretionary basis for fines levied by relevant authorities, where permissible by law.
	General Average	Unrecoverable General Average contributions (Cargo, H&M etc.) are covered.
	Cargo on board vessel (first party)	Coverage available for liabilities arising from damage to or delayed / non-delivery of cargo; for example, perishable goods.
	Cargo on board other vessels	Coverage available for any legal liabilities to third parties.
	Delay claims from impacted third party vessels (stationary vessels awaiting transit)	Cover available where there is a breach of duty of care and legal liability to indemnify for those losses.
	Delay claims from impacted third party vessels (following voluntary deviation around Cape of Good Hope)	Cover available where there is a breach of duty of care and legal liability to indemnify for those losses.
	Lost revenue for missed contracts / opportunities	Cover potentially available
	Loss of revenue for Suez Canal Authority (SCA)	Cover available if vessel owner determined legally liable for lost revenue (note; the SCA have indicated they have sustained upwards of \$13 million of transit toll losses per day).
	Physical damage to the canal	Coverage available under Fixed & Floating Objects (FFO), where not covered under H&M.
	Loss of use to ports / business serviced by the Suez Canal	Coverage not available unless local law permits a claim in damages from facilities without direct physical damage, in which case damages would be solely and directly caused as a result of the blockage would need to be quantified.
	Legal expenses for uninsured losses	Coverage available under Freight, Demurrage & Defence (FD&D) insurance, where purchased.
Consequential first party losses, including loss of hire	Potentially available, subject to the time-based deductible.	
Strikes & Delay cover	All first party losses arising from delay	Coverage available, subject to time-based deductible.
Trade Disruption Insurance ('TDI')	For the <i>EVER GIVEN</i>	Coverage available, subject to time-based deductible. Often purchased alongside H&M cover or as part of a specialized cargo market cover.
Loss of Hire ('LOH')	For third party vessels	Limited chance of recovery due to no physical damage sustained to the third-party vessels as a result of this incident.

As vessels continue to increase in size and complexity to accommodate the rapidly growing demand for goods from all corners of the globe, the infrastructure which is relied upon so heavily to facilitate the movement of cargoes has become increasingly valuable to global trade, while at the same time significantly more vulnerable to disruption. Moreover, the facilities enabling the movement of goods around the world (e.g. Panama Canal, Port of Shanghai, Mississippi River, etc.), are under ever-increasing strain as a result of various other factors such as inadequate maintenance, political instability, and climate change to name a few.

While a more catastrophic long term disruption to the global supply chain was fortunately averted in the case of the *EVER GIVEN*, this should be seen as an alert to encourage risk management and planning for future events which may not be so quickly resolved, and vessel owners and operators must thoroughly evaluate their exposures in order to ensure they are adequately insured against unforeseen future calamities. Please contact the following Lockton / P.L. Ferrari team members with any additional questions or to discuss further.

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TECHNICAL SIDENOTE: When permitted under the Law and Jurisdiction Agreement, a Limitation of Liability action, such as the London Convention for Limitation of Liability (LLMC 1976, amended 1996) could be filed by the vessel owner, subsequently capping total damages to the value of the vessel plus pending freight. In the case of the *EVER GIVEN*, or any vessel transiting the Suez Canal, SCA rules specifically prohibit the invocation of such limitations, effectively ensuring the SCA's ability to fully recover any loss of income and expenses resulting from damage and/or business interruption. If, however a Limitation of Liability were established in the case of a similar future incident, any claim successfully filed against the vessel owner would be payable on a pro rata basis of the established fund. For additional information/detail, please contact your local Lockton or P.L. Ferrari associate.

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