LCTA Lugano Commodity Trading Association

TRAINING COURSE
LEGAL+CONTRACTUAL

LUGANO - JANUARY 28, 2027

COMMODITY CLAIMS MANAGEMENT: FROM BREACH TO RECOVERY

Managing claims effectively in physical commodity transactions

1. RECOGNIZING AND ASSESSING A CLAIM

- From operational problem to contractual claim
- Identifying the relevant contractual relationship
- Who has breached what?
- Claim vs potential exposure: looking at both sides of the transaction
- Identifying the correct counterparty
- Preliminary assessment of liability and recoverability
- Considering whether any parties involved in the chain of events might be sanctioned, as this may complicate a claim
- Assessing whether a force majeure incident might frustrate an otherwise valid claim
- When to involve legal counsel, insurers or other specialists

Practical focus: an operational issue has just been reported — what should happen in the first 24–48 hours?

2. PROTECTING YOUR CONTRACTUAL POSITION

- Contractual notices and notification requirements
- Time bars and deadlines
- Reservation of rights
- Avoiding inadvertent waiver of rights
- Admissions of liability: risks in operational correspondence
- Mitigation: what actions are expected from the affected party?
- Managing communications while the facts are still developing

What you write in an email today may become evidence tomorrow.

3. EVIDENCE AND DOCUMENTATION

- Building the claim file
- Contracts, confirmations and amendments
- Bills of Lading and transport documents
- Inspection and quality/quantity certificates
- Statements of Facts, time sheets and operational records
- Emails, messages and internal records
- Expert evidence and third-party reports
- Preserving evidence (in line with data regulations) and establishing a reliable chronology
- Documentary gaps: what happens when evidence is incomplete?
- Ensuring that evidence is stored appropriately and in a format that will allow counsel to access it easily and cost-effectively

Practical focus: how to use documents such as B/Ls, inspection certificates and Statements of Facts, etc **to support or defend a claim.**

4. QUANTIFYING THE CLAIM

- From breach to financial loss
- Identifying recoverable losses
- Direct and consequential losses
- Market-related losses
- Additional operational and logistical costs
- Liquidated damages
- Interest and other contractual amounts
- Causation and evidencing the loss
- Mitigation and its impact on quantum
- Avoiding inflated or poorly substantiated claims

How to turn a loss into a properly documented claim?

5. MANAGING MULTI-PARTY CLAIMS

- Identifying all potentially responsible parties
- Coordinating claims against counterparties and third parties
- Carrier, inspector, warehouse and insurer claims
- Monitoring proceedings involving different parties but arising out of the same incident
- Avoiding inconsistent positions and double recovery.

6. NEGOTIATING AND RESOLVING CLAIMS

- Presenting a persuasive claim
- Responding to and challenging a claim
- Commercial negotiation vs legal positioning
- Without prejudice communications
- Settlement strategies
- Settlement agreements and releases
- Preserving commercial relationships
- When negotiation should stop and formal proceedings begin.

7. FROM CLAIM TO DISPUTE

- Preparing the file for external counsel
- Arbitration vs litigation
- Specialist commodity arbitration
- GAFTA/FOSFA and other industry mechanisms where relevant
- Costs, timing and enforceability
- Commercial considerations before commencing proceedings
- Lessons learned: feeding claims experience back into contracting and operations.

8. RECOVERY AND ENFORCEMENT

- Obtaining pre-award/judgment security (injunctions, freezing orders, arrests, guarantees, etc.)
- The framework for enforcing a judgment in litigation vs. enforcing an award in arbitration
- How the underlying contractual architecture can affect enforceability
- The importance of the awarding jurisdiction and the situs of assets
- Dealing with asset dissipation (tracing remedies)
- How to coordinate with colleagues, advisors and counsel across jurisdictions when seeking enforcement.

9. PRACTICAL WORKSHOP - BUILD THE CLAIM

Participants receive a simplified claim file containing, for example, a contract, correspondence, an inspection report, operational records and invoices.
Working through the file, they determine:

- What happened?
- Is there a contractual claim?
- Against whom?
- What evidence is available?
- What additional evidence is needed?
- Have all notification requirements been met?
- What loss can be claimed?
- How should the claim be presented?
- Should it be negotiated, settled or escalated?

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