

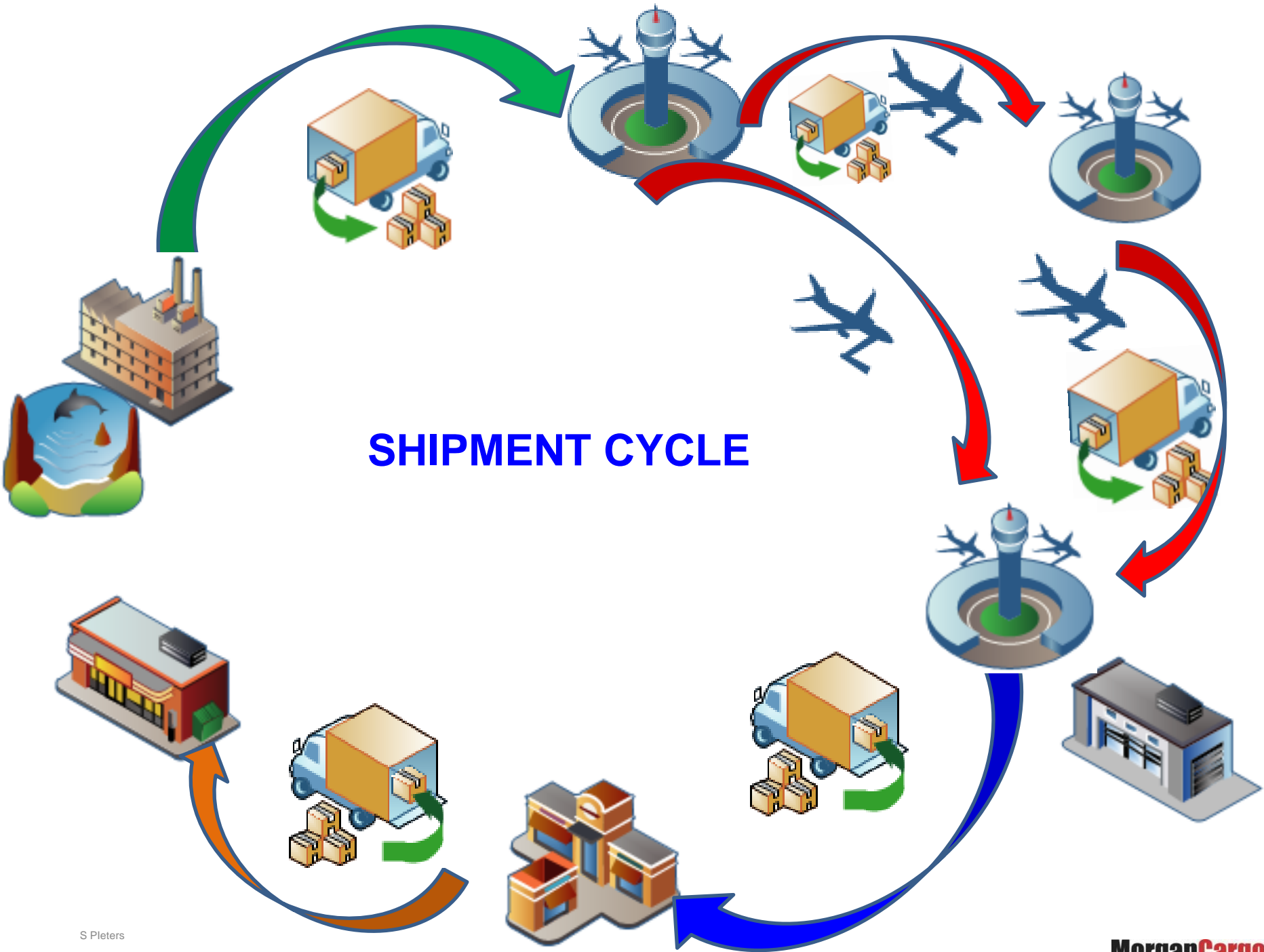
CLAIMS

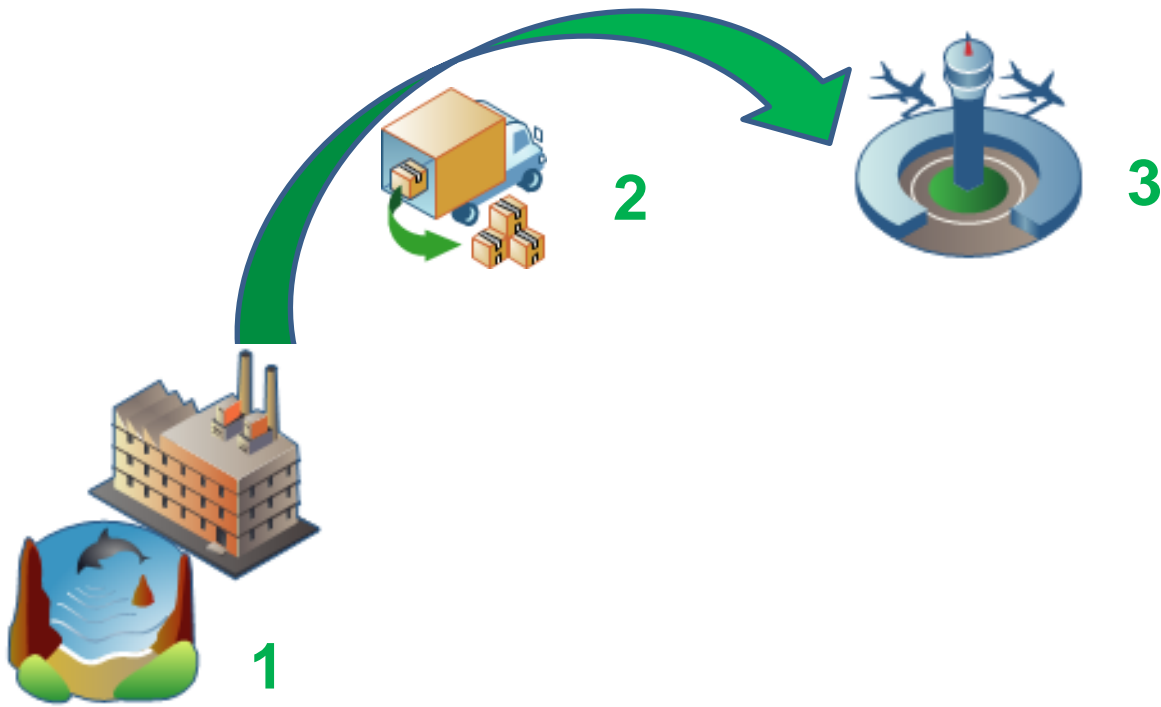
- **Shipment cycle**
- **Documentary/basic requirements**
- **Scenarios to keep in mind**
- **Aim**

Article 26 of the Conventions – Time limits that must be observed

- ❑ Receipt by the person entitled to delivery of luggage or goods without complaint is prima facie evidence that the same have been delivered in good condition and in accordance with the document of carriage.
- ❑ In the case of damage, the person entitled to delivery must **complain** to the carrier **forthwith** after the discovery of the damage, and, at the latest, within **7 days** from the date of receipt in the case of luggage and **14 days** from the date of receipt in the case of **goods**. In the case of **delay** the complaint must be made at the latest within **21 days** from the date on which the luggage or goods have been placed at his disposal.
- ❑ Every complaint must be made in writing upon the document of carriage or by separate notice in writing dispatched within the times aforesaid.
- ❑ Failing complaint within the times aforesaid, no action shall lie against the carrier, save in the case of fraud on his part.

SHIPMENT CYCLE





FIRST LEG OF THE CYCLE

- 1: SUPPLIER → TRANSPORTER
- 2: TRANSPORTER → AGENT / AIRPORT / MORGAN CARGO
- 3: AGENT / CARRIER / MORGAN CARGO

Parties during the first leg of transport cycle

➤ 1: SUPPLIER

- ❖ Loading of the cargo into truck
- ❖ Cargo could be damaged/mishandled

➤ 2: TRANSPORTER

- ❖ No discrepancies / irregularities en route
- ❖ Discrepancies/irregularities en route
 - Theft
 - Accident
 - Delays
 - Reckless driving
 - Temperature deviation

➤ 3: AGENT / CARRIER/ MORGAN CARGO

- ❖ Receive cargo damaged – discrepancies noted
- ❖ Receives cargo in good condition from transporter

➤ 3:AGENT / CARRIER/ MORGAN CARGO

- ❖ Receive cargo damaged – discrepancies/irregularities noted
 - ❑ Discrepancy/irregularity noted on delivery sheet/MAWB - *preferred*
 - ❑ **OR** send notification to carrier/GHA in writing
 - ❑ **AND** complete cargo damage report
 - ❑ Client/consignee notified of damage
 - ❑ Photos /temperature readings taken and documented
 - ❑ Claim department notified and documents furnished to lodge pro-forma claim
 - Transport documentation
 - Claim letter from shipper
 - Signed Cession
 - Photos
 - Temp readings
 - ❑ Cargo either
 - send back to supplier, or
 - forwarded on as booked
 - ❑ Boxes repacked/fixed for on forwarding
 - Photos taken of repacked/fixed boxes
 - ❑ If damage severe – survey cargo at either
 - Supplier/client's premises, or
 - At the agent/MC

3: Continued

- ❑ Request price claim from client/supplier
 - Price claim invoice
 - QC report and or survey report + costs
 - If sold to recover costs = copy of salvage invoice
 - If destroyed – copy of destruction certificate + cost / or proof of dumping or collection by recycle co
 - Copy of insurance certificate if insured
- ❑ Price claim submitted to transporter and insurance company
- ❖ Receives cargo in good condition from transporter
 - ❑ Cargo prepared for hand in to carrier/GHA
 - ❑ Photos and temp reading taken of shipment + product and forwarded to all relevant parties along with full set of documents – **especially shipper built units**

SECOND LEG OF THE CYCLE

4

4: AGENT / MORGAN CARGO → CARRIER/GHA

CARRIER

5: DIRECT FLIGHT TO DESTINATION

6: FLIGHT/TRANSPORT VIA ANOTHER AIRPORT TO DESTINATION – includes domestic flights
7: TRUCK/ TRANSPORTER – Transport via another airport to destination

8: DESTINATION AIRPORT/AGENT/CONSIGNEE/MORGAN CARGO



Parties during the second leg of transport cycle

4: AGENT / AIRPORT/ MORGAN CARGO

- Cargo received in good order and dispatched to carrier
- Cargo received in good order but
 - ❖ Sustains forklift damage
 - ❖ Not stored correctly
 - ❖ Pilferage
 - ❖ Water damage
 - Incident investigated
 - Commercial claim
 - Documentary evidence submitted to claims department

5: CARRIER – DIRECT FLIGHT TO DESTINATION

- GHA/carrier mishandles cargo
- Cargo arrives damaged/pilfered/short/wet/temperature abused/collapsed at destination

6: CARRIER – FLIGHT /AND OR TRANSPORT VIA ANOTHER AIRPORT TO DESTINATION

- GHA/carrier mishandles cargo
- Cargo arrives damaged/pilfered/short/wet/temperature abused/collapsed at destination

7: TRUCK/TRANSPORTER – Transport via another airport to destination

- Fish trucks from UK /AMS / CDG to Spain  commercial claim with MC **OR** airline claim
- Norbert / Sotracom / Malenstein / Leopreox etc

8: DESTINATION AIRPORT/AGENT/CONSIGNEE/MORGAN CARGO

- Endorse MAWB/complete cargo damage report/notify carrier
- Record temperature/take photos/survey cargo
- Consignee/ buyer
 - ❖ Has the responsibility to note discrepancies and notify agent forthwith
 - ❖ Store product correctly
- Notify claims department and submit documentary evidence

Steps to be followed if carrier/GHA/transporter damaged/mishandled cargo

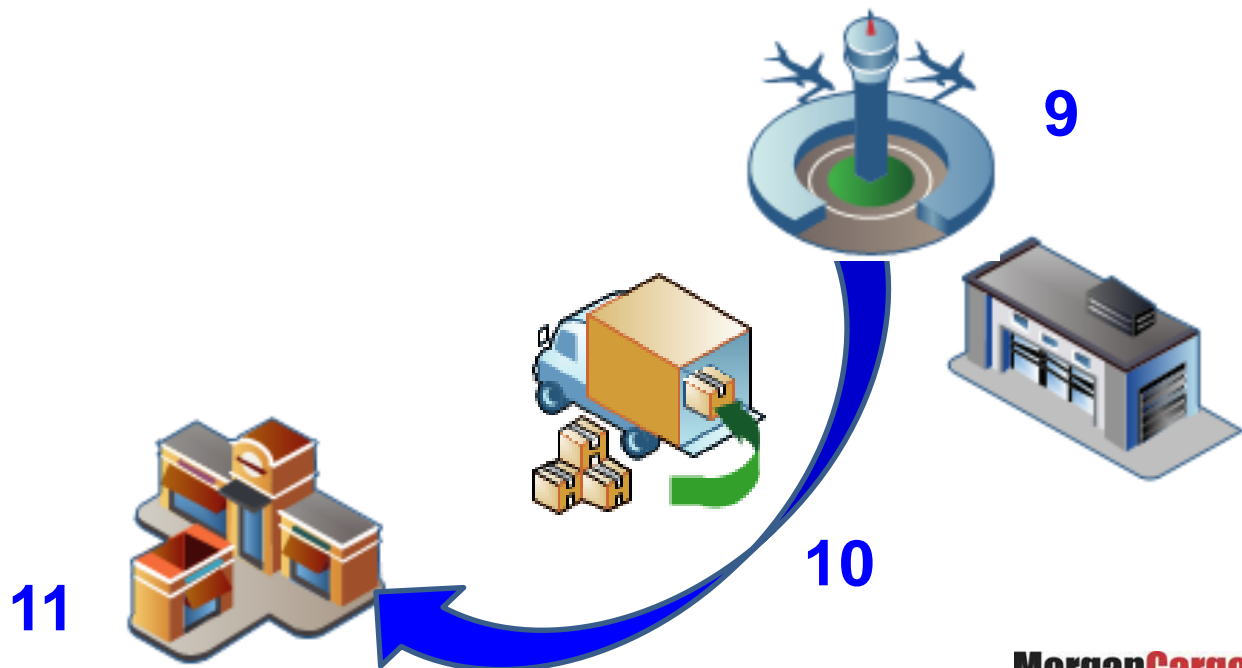
- Discrepancy/irregularity noted on delivery sheet/MAWB - *preferred*
- OR** send notification to carrier/GHA in writing
- AND** complete cargo damage report
- Client/consignee notified of damage
- Photos /temperature readings taken and documented
- Claim department notified and documents furnished to lodge pro-forma claim
 - Transport documentation
 - Claim letter(s) from consignee(s)
 - Signed Cession(s) from consignee(s)
 - Photos – in order to compare with departure/outgoing photos
 - Temp readings
- Cargo either
 - delivered to consignee or
 - held to be surveyed / destroyed
- Boxes repacked/fixed for on forwarding/delivery
 - Photos taken of repacked/fixed boxes
- If damage severe – survey cargo at either
 - Supplier/consignee's premises, or
 - At the agent/MC/carrier
- Request price claim from client/supplier
 - Price claim invoice
 - QC report and or survey report + costs
 - If sold to recover costs = copy of salvage invoice
 - If destroyed – copy of destruction certificate + cost
 - If the consignee requires carrier to destroy the cargo, letter to be sent on their letterhead instructing carrier to do so – copy of letter to be sent to MC claims dept too (MUST FOR TURKISH AIRLINES)
 - Copy of insurance certificate if insured
- Price claim submitted to carrier/transporter and insurance company

THIRD LEG OF THE CYCLE

➤ **9: DESTINATION AIRPORT/AGENT/MORGAN CARGO/CONSIGNEE** →
TRANSPORTER

➤ **10: TRANSPORTER** → **CONSIGNEE / BUYER**

➤ **11: CONSIGNEE/BUYER**



Steps to be followed if carrier/GHA/transporter damaged/mishandled cargo

- Discrepancy/irregularity noted on delivery sheet/MAWB - *preferred*
- Send notification to carrier/GHA in writing
- AND** cargo damage report completed
- Copy of the Delivery Order/delivery slip issued at the time of delivery
- Client/consignee notified of damage
- Photos /temperature readings taken and documented (**especially if survey pending**)
 - Take photos of the cargo as well as photos of the arrival temps.
 - Obtain proof of the temps the cargo was stored @ while waiting for survey to be done otherwise carrier can say cargo went off/ got hot while waiting for survey.
 - So temps on receipt, temps before stored & temps upon putting in storage waiting for survey.
- Claim department notified and documents furnished to lodge pro-forma claim
 - Transport documentation
 - Claim letter(s) from consignee(s)
 - Signed Cession(s) from consignee(s)
 - Photos
 - Temp readings
- Cargo either
 - delivered to consignee or
 - held to be surveyed
- Boxes repacked/fixed for on forwarding/delivery
 - Photos taken of repacked/fixed boxes

Steps to be followed if carrier/GHA/transporter damaged/mishandled cargo - continued

- ❑ If damage severe – **Appointment of an independant surveyor** -Survey report assessing the damage and salvage value of the perished shipment + cost of survey / invoice (DEPENDING ON COST COMPARED TO PRODUCT VALUE)
 - Supplier/consignee's premises, or
 - At the agent/MC/carrier
- ❑ Request price claim from client/supplier
 - Price claim invoice
 - QC report and or survey report + costs
 - If sold to recover costs = copy of salvage invoice
 - If destroyed – copy of destruction certificate + cost
 - If the consignee requires carrier to destroy the cargo, letter to be sent on their letterhead instructing carrier to do so – copy of letter to be sent to MC claims dept too
 - Copy of insurance certificate if insured
- ❑ Price claim submitted to carrier/transporter and insurance company
- ❑ Consignee/ buyer
 - Has the responsibility to note discrepancies and notify agent forthwith
 - Store product correctly
 - Record temperature/take photos/survey cargo
- ❑ Signed Cession / subrogation letter

Basic requirements

In order to submit and administer a claim either yourself or on your behalf, the following mandatory information is required. Some of the information may be available on file but in order to prevent confusion and misunderstandings, the following needs to be supplied in writing, either by letter, fax or e-mail by the claimant within **14 days** from date of flight:

Documentation shipper to submit/provide

- AWB
- Commercial invoice
- Packing list
- Bill of Entry / DA
- Health certificates, sanitary documents, customs documents
- Photos of outgoing cargo & product - in the event of pilferage/loss to compare with arrival photos
- Signed Cession
- Credit note / Price claim invoice if consignee cannot produce same
- Information about involvement of insurance companies or other parties

Documentation consignee to submit/provide

- Letter - Written complaint of discrepancy on letterhead – **NB – to be submitted first thing**
- Copy of the MAWB/HAWB and or Transfer Manifest endorsed with discrepancy
- Health certificates, sanitary documents, customs documents
- Discrepancy/ irregularity report by GHA
- Temp recorder readings/print outs
- Delivery documents, statements of fact, notification of damage – cargo delivery slip/POD issued at the time of delivery (if any)
- QC report
- Survey report
- Survey invoice – cost of survey – is claimable from carrier
- Destruction letter – where required
- Destruction certificate – when cargo destroyed
- Destruction invoice - is claimable from carrier
- Proof of salvage sale proceeds
- Price claim invoice
- Photos upon arrival of:
 - unit before broken down – in the event of pilferage/loss to compare with departure photos
 - damage sustained
 - temperature readings
- Information about involvement of insurance companies or other parties
- Settlement Draft: Proof of payment to ultimate consignee
- Signed Cession - will be provided for signature

Scenarios to keep in mind

Damaged cargo & deteriorated product

1. What happened to the cargo?
 - Was it sold to salvage costs, or
 - Was it destroyed as it was either not fit for human consumption, or it had possibly been contaminated or it completely unusable
2. Depending on the answer from 1, you will need either
 - Copy of the survey report
 - Copies of the salvage invoices
 - Reflecting amount product sold for
 - How much of the product was sold / salvaged
 - To whom had it been sold
 - Destruction certificate / proof of dumping / collection for destruction or recycling
3. Consignee or handling agent to
 - note discrepancy immediately
 - to take photos of cargo
 - to note temperature on arrival
4. The above will assist in trying to prove when & who is responsible for the damage / loss

Cargo short landed – presumed missing / stolen

1. Consignee or handling agent
 - to note discrepancy immediately &
 - advise either the carrier & shipper immediately in writing, or
 - endorse the AWB with discrepancy and furnish shipper with a copy of the endorsed AWB
2. Notification of amount to be claimed for, e.g. credit note request

Flight cancellation & offloads – cargo not sent

1. Why was the flight cancelled?
 - Weather conditions
 - Weight restrictions
 - Technical
 - Damage to cargo / cargo collapsed
2. Depending on the answer you get from 1, you only have recourse as follows:
 - None against weather conditions & weight restrictions
 - Technical – falls under the immediate cause of delay
 - Ultimate cause of the failure can be tracked to poor maintenance prior to transportation
 - Carrier should have done everything possible to avoid it
 - No claim as long as the cargo is stored correctly while in their care
3. What happened to the cargo after the flight was cancelled or the cargo was offloaded?
 - Did the carrier store the cargo until the next flight?
 - Did the carrier take the cargo back to the shipper's agent for storage until the next flight?
 - Did the shipper collect the cargo?
4. Depending on the answer you get from 3, you need to consider the following:
 - If the carrier / agent stored the cargo, did the cargo arrive at destination
 - in a satisfactory condition
 - no claim
 - in a bad condition
 - refer damaged cargo & deteriorated product scenario
 - If the shipper collected the cargo
 - did they store it themselves until the next flight, or
 - did they sell it to the local market & sent replacement cargo to be dispatched on the next flight
 - no claim

Delay & documentation lost / misplaced

1. What is the reason for the delay
 - Technical / cancelled flight
 - Weather
 - Lost / misplaced documentation
2. Depending on the answer you get from 1, you have to consider
 - How was the cargo stored
 - By whom was the cargo stored
 - How long was the cargo delayed due to either reason
3. Refer previous scenario & questions
4. A claim can really not be instituted for the first two reasons but one has to look at the events after that and before the cargo is dispatched again i.e. handling & storage of the cargo
5. A claim can be instituted when the cargo cannot be customs cleared at destination due to lost or misplaced documentation - delay

Truck accidents, pallet / cargo substitution & cargo not sent / returned

1. Claims due to these reasons are not governed by The Warsaw Convention as emended at The Hague and The Montreal Convention
2. Trucking claims – one has to rely on the trucking contract and the terms thereof.
 - Follow the same protocol as for any airfreight claim
3. Cargo substitution – each instance has to be judged on its own merit
4. Cargo not sent / returned – again each instance has to be judged on its own merit

AIM:
TO PROVIDE A SMOOTH & AND AS
PAINLESS AS POSSIBLE
TRANSITION AND SERVICE TO OUR
CLIENTS WHEN FACING CLAIMS