

Ad Valorem Bills of Lading

1. Many a times, cargo interests request the Shipping Agents / Carriers to mention the value of the cargo in the body of the Bill of Lading. Often this request is passed to us so that we could comment on the same. Our response has generally been that the Shipping Agent / Carrier should not mention the value of the cargo in the Bill of Lading as indicating the value would turn the Bill as an *Ad Valorem* Bill of Lading. The purpose of this paper is to define what an *Ad Valorem* Bill of Lading is and the issues related to it.
2. *Ad Valorem* is Latin means “According to the Value”. As you would be aware, Carriers contract on the basis their Bills of Lading terms incorporate The Hague or The Hague Visby Rules either contractually or by force of law (if the place of shipment has given effect to these conventions in their legislation). This being the case, if there is a loss, Carrier can either exclude and / or limit liability. With respect to exclusions, it is our understanding that the provision of value would make no difference to the defences available to the Carrier. However, if the cargo interests wish to increase the liability of the carrier beyond what is provided in the terms of the Bill of Lading (limitation amount), then they would state the value of the cargo in the Bill of Lading. In these cases, if there is a loss, the Carrier would be liable for the value of the cargo shown in the Bill of Lading and perhaps the only defense the Carrier would probably have is if he could prove that the value shown in the Bill is incorrect by way of fraud, etc.
3. The obvious question is why do cargo interests seek an *Ad Valorem* Bills of Lading? The general answers we receive from our clients are that the shipments are on Letter of Credit terms and therefore the Shipper is bound to seek a Bill of Lading showing the value. Otherwise the Shipper may be in breach of his obligation under the relevant contract of sale.

4. If the Carrier obliges and issues an *Ad Valorem* Bill of Lading, then they may be in breach of their liability cover. This is because the Carrier's liability cover would generally make it a condition that the Carriers would contract in no greater terms than that compulsorily applicable by law and or The Hague / The Hague Visby Rules (if no compulsory law is applicable).
5. So what should the Carrier do? The Carrier must inform their liability Insurers and seek confirmation that they would be held covered for issuing *Ad Valorem* Bills of Lading. The Insurers would generally charge an additional premium from the Carriers for this additional cover. In turn, the Carriers could charge a higher freight rate to offset the additional costs incurred for issuing such Bills of Lading.
6. The obvious advantage for the cargo interests in getting an *Ad Valorem* Bills of Lading is that they may be reducing their insurance costs and transferring it to the Carriers. However, if the Carrier does notify his Insurers, the increase in premium would generally be more than any savings of premiums by the cargo interests i.e. in the normal scheme of things, if the Carrier increases the freight rate to add in the additional insurance costs, the cargo interests will not have any savings but may face additional costs.
7. In summary, if a request is made to the Carrier to issue an *Ad Valorem* Bills of Lading, they should
 - i) Advise their clients that they would have to charge higher freight for issuing such Bills of Lading and that it might be best for the clients to insure by themselves.
 - ii) If the clients still insist on an *Ad Valorem* Bills of Lading, the Carrier should inform their liability insurers and seek confirmation that the cover is in place (with any additional premiums to be paid). The Carriers could then consider as to whether they would wish to charge this additional premium to their clients as "additional freight".