



The Hong Kong  
Shippers'  
Council  
香港付貨人委員會



Willy Lin  
Chairman

## Caution is name of the trade war game

I urge Hong Kong importers, exporters, and shippers to take all precautionary measures against intensification of trade conflicts, especially in the trade with the United States.

I believe trade conflicts would expand and could be long lasting. Although I cannot be sure of what exactly are going to happen, as the issue is complex and there are bound to be substantial changes in due course, I tend to believe that the present conflicts are only the beginning of what is to come.

We have to put the trade war (or trade conflicts) into a much wider context to understand the real magnitude and scale of all the challenges.

The Trump administration has taken a very drastic change in national strategy and policy. The objective is explicit – America First – and it is not only on the economic front, but on political, military, social, and even future development fronts as well.

Perhaps only the first half of Wikipedia's initial attempt to define the policy as "nationalism and anti-interventionism" is correct. The Trump administration is going to reshape the world order and the rules of the game, and China will certainly be one of its main targets. Therefore, I am not under the illusion that the differences can be resolved and settled easily.

What should traders and shippers do to counter this unfavourable situation?

Traders and shippers should be most watchful of upcoming developments. While I believe that trade conflicts will intensify and drag on for a while, the likelihood of a full blown trade war leading to drastic measures like embargo, etc. is not high, unless things escalate beyond control. Traders have to be particularly careful with risk assessment, management, and mitigation in conducting business.

Traders have to understand the nature of the risks and decide on the level of risk that they are willing to take. It is necessary to know what products would be affected, and likely to be affected in case conflicts intensified. Exporters need to seek protection through proper contract terms, and especially incoterms terms to ensure that the risks – including a sudden increase in tariffs, delivery delay due to customs and other authorities' inspections and scrutiny, imposition of quota and sanctions, etc – are borne by overseas buyers. If this is not feasible, then other mitigation measures to reduce risk must be considered.

Exporters may also explore options of outsourcing production, or supply of products to countries like ASEAN countries that are, at present, unaffected.

Traders should liaise closely with their overseas trading partners to keep abreast of the latest developments. In other words, close communication is the key to expecting the unexpected.

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Those exporters committed to delivery-to-door terms would be most exposed. These exporters should examine whether there are any exit terms.

I wish to stress that there are usually a lot of casualties during any trade war. Traders should spend more efforts and resources on credit assessment of their trading partners or potential trading partners. It is advisable to seek protection through credit insurance.

Some credit insurance policies cover pre-shipment risks, including cancellation of orders, change of trading terms, etc. On this, I have to reiterate that traders have to be very careful with the details of their contracts with their trading partners, and also the terms and conditions of the insurance policies. There are conditions that must be fulfilled for the protection to become effective. Once more, traders are reminded to liaise closely with their insurance companies.

In the wake of the 2008 credit crunch, a lot of overseas companies ran into difficulties and many of them were forced to declare bankruptcy.

Traders could consider bill factoring, or credit insurance in case of default of payment. Again, the devil is in the details and Hong Kong traders have to be particularly careful with fulfilment of such requirements in their contract with their trading partners and their insurance companies.

Regarding shipment arrangements, traders and shippers should be careful with use of waybills, or telegraph transfer. Traders and shippers have to, in their course of dealing with carriers, be they shipping lines or freight forwarders, be cautious of the case of release of cargo without endorsed bill of lading.

Traders and shippers should understand their full rights, and at the same time remind their carriers that they ship in line with the proper practices. Moreover, traders and shippers should be vigilant in keeping document trails to safeguard their own interests for possible disputes.

We must also be reminded that when a shipper has to launch a claim or take legal action against a carrier, it is important for the shipper to pay attention to time bar (i.e. deadline), as well as the requirements for launching claims.

In many cases, simple claim letters or e-mails may not suffice to effect a claim. The deadline for an ocean shipment claim is usually 12 months, which is substantially shorter than the time bar for normal commercial disputes, and that the time bar for freight forwarders is usually even shorter.

Traders and shippers have to check this very carefully, as the specific time bar is part of the contract of carriage, which is stipulated on the bill of lading. In addition, how and where to launch such cases, especially for litigation, are important. Shippers have to be particularly careful to choose lawyers who are familiar with shipping claims. We have come across many cases that shippers' interests are compromised because of incompetent or ignorant lawyers.

Remember shippers, remain vigilant, and take the utmost care and caution; there are trying times that lay ahead of us.

