

The method of proof - surveyors

The cargo claimant makes his proof by having surveyors study the damage as soon as possible after its discovery. If possible, the surveyor should attend on board the vessel and inspect the cargo there. If the carrier refuses permission to the consignee or his agent to attend on board, this refusal should be noted on the survey. While the Hague and Hague/Visby Rules do not specifically give the consignee or his agent the right to attend on board, such permission, on the other hand, seems to be presumed in art. 3(6), fifth paragraph, which reads (Trad: Mientras las Reglas de La Haya y Hague/Visby específicamente no dan el derecho para asistir a bordo al consignatario o a su agente, tal permiso, por otro lado, parece ser presumido en el art. 3(6), quinto párrafo, que se lee):

“In the case of any actual or apprehended loss or damage the carrier and the receiver shall give all reasonable facilities to each other for inspecting and tallying the goods.” (Trad: En el caso de cualquier real o aparente pérdida o daño el transportista y el receptor darán todos los medios razonables a la otra parte para inspeccionar y contar las mercancías).

The failure of one party to invite another party to attend a survey may affect the outcome of litigation instituted by the first party.^{1[24]} Similarly, the failure of a party to attend a survey to which it *has* been invited may result in the admissibility in evidence of the survey carried out unilaterally in that party's absence.^{2[25]} (Trad: El fracaso de una parte para invitar a otra para asistir a una inspección puede afectar el resultado del litigio instituido por la primera parte. Semejantemente, el fracaso de una parte para asistir a una inspección a la que ha sido invitada puede producir la admisibilidad en la evidencia de la inspección llevada a cabo unilateralmente en la ausencia de esa parte).
