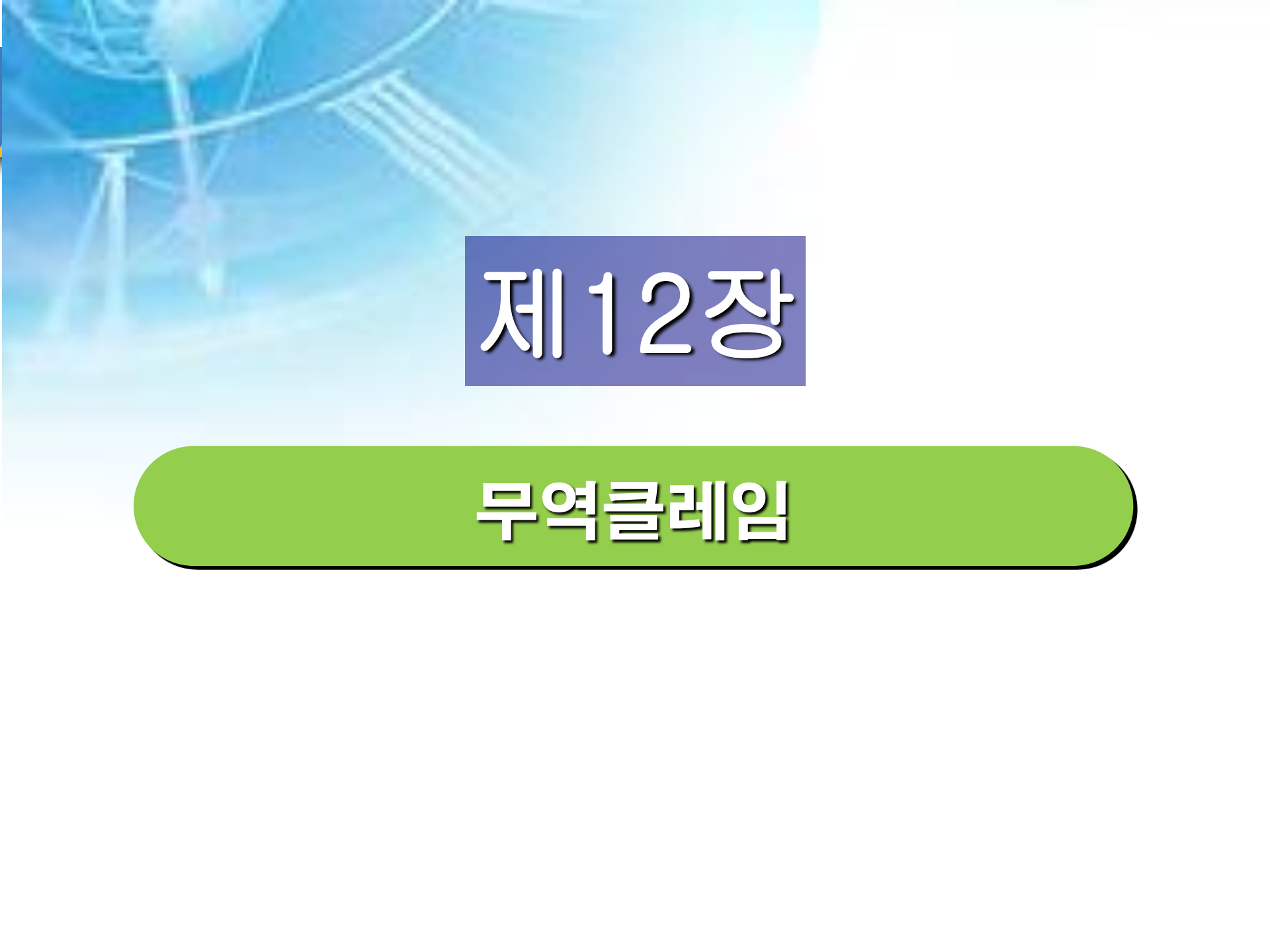


국제통상영어

제12장 무역클레임



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제12장

무역클레임

목 차



무역클레임의 의의



무역클레임 통신문



● 1. 무역클레임의 의의

일방이 매매계약의 내용을 충실히 이행하지 않음으로 인하여 손해를 입은 당사자가 상대방에 대하여 손해배상을 청구하는 것

- 손해화물에 관한 클레임(claim on damaged cargo) : 운송중의 사고에 의하여 화물에 손해가 생겼을 때 손해배상을 청구하는 것
- 무역거래상의 클레임(business claim) : 매매계약상의 위반행위에 의한 손해에 관하여 당사자 간에 일어나는 당사분쟁의 구상, 일반적인 클레임, 무역클레임이라 고 함
- 무역클레임에서의 청구내용
 - 첫째, 금전배상을 청구하는 것, 손해배상금, 예약 변상금 또는 가격인상 또는 인하를 요구하는 경우
 - 둘째, 금전 이외의 방법으로 손해배상을 청구하는 것, 계약의 해제, 화물의 반환, 부족분의 추가송부 등을 요구하는 경우
 - 셋째, 두 가지 내용의 병행을 요구하는 경우

● 2. 무역클레임의 종류

(1) 마켓클레임

계약 당사자 일방이 상대방의 사소한 결점을 구실삼아 고의적으로 제기하는 클레임

(2) 상품에 관한 클레임

- ① 품질불량 : 클레임의 대부분은 이에 속한다. 견본에 의한 매매의 경우 발생할 가능성이 많다.
- ② 품질상위, 불량품 혼입, 변질 및 변색, 규격상위 등의 품질에 대한 클레임 등이 있다.
- ③ 수량상이, 증량상이 등 수량과 관련된 클레임 등이 있다.

(3) 선적에 관한 클레임

선적지연, 선적불이행, 완적 등의 선적에 대한 클레임 등이 있다.

(4) 포장 및 하인에 관한 클레임

불량포장, 부정포장, 포장결함, 불완전포장 등의 포장에 관한 것과 하인누락, 하인의 혼입 등이 있다.

● 3. 무역클레임의 해결방법

- 당사자간 해결 : 청구권의 포기(waiver of claim), 화해(amicable settlement)
- 제3자에 의한 해결 : 알선(intercession), 조정(conciliation 또는 mediation), 중재(arbitration), 소송(litigation)

(1) 청구권 포기과 화해

- 청구권 포기(waiver of claim)란 클레임을 청구할 수 있는 자가 클레임 금액이 미미하거나 미래의 원만한 거래를 위해 스스로 클레임 청구를 포기하는 것
- 화해(amicable settlement)란 당사자 간의 자주적인 교섭으로 원만하게 해결하는 것

(2) 알선

- 알선(intercession, recommendation)이란 공정한 제3자적인 기관이 당사자 일방 또는 쌍방의 의뢰에 의하여 사건에 개입하여 해결을 조언을 하는 것
- 상업외의소(chamber of commerce) 등의 주로 이용
- 강제성이 없으므로 쌍방이 협력이 있어야 실효를 거둘 수 있음

● 3. 무역클레임의 해결방법

(3) 조 정

- 조정(conciliation)이란 양당사자가 공정한 제3자를 조정인(conciliator, mediator)으로 선임하고, 조정인이 제시하는 해결안에 대하여 합의함으로써 클레임을 해결하는 것
- 일방이 조정을 신청하여도 상대방이 응하지 않으면 조정이 개시될 수 없으며, 조정인이 제시한 조정안은 쌍방 모두가 승복하여야 효력이 발생

(4) 중 재

- 중재(arbitration)란 양당사자가 공정한 제3자를 중재인(arbitrator)으로 선임하고 이 중재인의 판정에 복종함으로써 클레임을 해결하는 방법
- 중재에 의해 해결할 것을 양당사자 모두 합의해야 한다는 점에서는 조정과 같으나, 일단 조정에 의해 해결하기로 합의한 후에 내린 중재인의 판정은 당사자가 거부할 수 없고 강제집행력이 있다는 점에서 다름
- 1심에서 최종판정이 내려진다는 점과 뉴욕협약 가입국 사이에 서는 상호 강제력이 보장된다는 점에서 소송과는 다름

● 3. 무역클레임의 해결방법

(5) 소 송

- 소송(litigation)이란 당사자의 일방이 상대방에게 강제를 가하기 위하여 국가 기관인 법원에 제소함으로써 국가공권력발동을 요청하는 것
- 자국의 재판권이 상대국에 미치지 않으므로 강제력을 보장받기 위하여는 반드시 상대국의 법원에 제소하여야만 실효를 거둘 수 있음

● 1. 상이한 모델의 선적에 대한 클레임 제기

We have just received the shipments covering our Purchase Order No. 100 for Cassette Radio and are pleased to inform you of safe arrival by s.s. Arirang-ho.

But regretfully we are bound to say that some of the goods are different from the model on which we have ordered.

When we opened the cases delivered to us, we found Case No. 5/20 and 8/20 were packed wrong in type.

According to the Purchase Order, we ordered 200 sets of KM-300 packed in wooden case containing 10 sets each. But unpacking the said cases, we were surprised to find KM-400.

● 1. 상이한 모델의 선적에 대한 클레임 제기

We have no wish to embarrass you, for we think there must have been a mistake in executing our orders, and all we would ask is that you will give prompt attention to this matter and provide us with a prompt solution.

제12장 무역클레임

notes

- be bound to (= be certain to, be obliged to, be compelled to ~) : 틀림없이 ~하다, ~하지 않을 수 없다
Such a person is bound to get on in life. (그런 사람은 틀림없이 잘세한다.)
- packed in wooden case containing 10 sets each 나무상자에 각각 10대씩 포장하여
- unpacking the said cases 해당(전술한) 상자를 풀어 보았을 때,
- Embarrass 당혹(당황)하게 하다. 난처하게 하다., 곤경에 빠트리다
- we think there must have been an error in ~을 함에 있어서 실수가 있었음이 틀림이 없다고 생각한다.
- as we would ask is that 당사가 요구하는 것은 ~뿐이다. ~만 해주시기 바랍니다.

2. 클레임 제기에 대한 답변

We are very sorry to learn from you letter of April 10 that we have shipped different models against your order.

Upon tracing our records, we have discovered that, owing to a rush of orders, employees of our warehouse made an error to pack Model KM-400 instead of KM-300 as pointed out in your letter.

We are very sorry for this carelessness on our part and in order to settle the matter amicably, we decided to suggest two alternatives as belows :

One : We would ask you to accept KM-400 at an allowance of 30% off the invoice price though the price of KM-300 is lower by 20% than that of KM-400

Two : We will send you the right goods at any earliest vessel with a special discount of 5 percent subject to all of KM-400 to be returned at our own expense.

● 2. 클레임 제기에 대한 답변

We will do our best in executing any alternative which you may choose. But if you don't mind, we prefer the first one rather than the second, since redispaching KM-300 and returning KM-400 is a matter of troublesome work.

We apologize again for the inconvenience we have caused and shall appreciate your courtesy in accepting our proposal.

We are looking forward to receiving your favorable reply.

제12장 무역클레임

notes

- **Against** ~에 반대하여, ~에 거슬러서, 맞지않게
- **upon tracing our records** 당사의 기록을 추적해보니
- **as pointed out in your letter** 귀사의 서한에서 지적하신 바와 같이
- **carelessness** 부주의, 소홀
- **Amicable** 우호적인 친화적인 평화적인
- **off the invoice price** 송장가격에서 할인한 가격으로
- **Make no(never) mind** 아무래도 좋다.
- **prefer ~ rather than** 차리리 ~을 택하다.
- **troublesome** 귀찮은 일, 골치 아픈 일

● 3. 불평에 대한 해결노력

Your complaint regarding your receipt of unordered merchandise has been forwarded to me. I am looking into the situation and hope to resolve it quickly. I will certainly be sharing with you the results of my investigation when it is finished.

I assure you that we are taking this matter seriously. You are a valuable customer, and your dissatisfaction is an indication of the need for improvement on our part.

It is possible that I may be contacting you for further information to help me resolve this matter. In the meantime, thank you for your patience.

제12장 무역클레임

notes

- Hope 희망을 갖다. 기대하다
- resolve 해결하다
- in the meantime 한편, 그때까지
- patience 인내

● 4. 품질검사 후 배상결정 제의

We regret to learn from your letter of March 10 that you are not satisfied with the textiles supplied to your order N o. 200

As the complaints for color are apt to be influenced by aesthetic sense, it is very difficult to adjust a divergence of opinion. We trust that you may understand, as a special list of textile, owing to the technical limitations, a slight shade of color is unavoidable.

Moreover, we must remind you of the article 7 in Agreement on General Terms and Conditions that the Sellers shall supply the Buyers with the materials which are identified to be equal to the sample : we understand this article means not “just same as samples” but “about to be equal” .

After careful investigation of the cuttings you sent to us, we could not find any differences in color with regard to the cutting Nos. 11, 12, 13 and 16, which are indisputable.

제12장 무역클레임

● 4. 품질검사 후 배상결정 제의

And about cutting Nos. 14 and 15, it seems possible that some mistakes have been made in our selection of the materials.

For a close examination, we have decided to arrange for Mr. Park to call on you to compare the supplied materials with the samples. As he is a staff member and expert in technical fields, we believe that we will be able to extract a desirable result.

As we quite understand your difficulties as a trader dealing in fashion-conscious commodities like these, you can most certainly rely on us to replace the materials if there is any serious mistake in executing your order.

And if it proves to be insufficient to some extent, we are prepared to allow you a special discount in accordance with the inspection result.

However, we are very sorry for the inconvenience you have suffered.

제12장 무역클레임

notes

- be apt to do ~ 하기 쉽다(be liable(likely) to do)
- aesthetic sense 미적 감각
- adjust a divergence of opinion 견해 차이를 조정하다.
- a slight shade of color 색상의 경미한 차이
- identified to be equal to 동일한 것으로 인정되는
- Nos. 번호(number)의 복수형
- indisputable 논议의 여지가 없는(incontestable)
- extract 뽑아내다. 발췌하다. 인용하다.
- difficulties 곤란, 역경
- fashion-conscious 유행에 민감한
- the inconvenience you have suffered 귀사에서 겪으신 불편



품질과 관련된 표현

품질과 관련하여

- quality to be same as sample이나
- quality to be equal to sample라는 표현은 피하는 것이 좋다.

왜냐하면 이러한 표현은 strictly same as sample을 의미하는 것으로 해석될 수 있기 때문이다. 그런데 실제로 샘플 그 자체를 선택하는 것이 아닌 한 견본과 동일한 물품을 선택하는 것은 불가능하다.

따라서 다음과 같이 표현하는 것이 좋다.

- quality to be about the same as sample,
- quality to be about equal to the sample,
- quality to be similar to the sample

● 5. 회신

We were very surprised to learn from your fax letter of yesterday that the sixty copies of English and Business Correspondence ordered on 25th July have not reached you.

We received your order on the 27th and, as the books were in stock, we passed it to our warehouse the same day

We phoned our warehouse manager this morning and he confirms that the books were collected by DHL on 25th August, for delivery to you.

We very much regret the delayed delivery and the inconvenience it is causing you. We have already taken the matter up with DHL at this end and as soon as we have any information for you we will fax you.

Meanwhile, may we suggest that you make similar enquiries at your end

제12장 무역클레임

notes

- **warehouse** : 창고
- **regret** : 후회하다
- **delayed delivery** : 인도지연

● 6. 품질에 대한 불평

After carefully examining the dress materials supplied to our order of 15th April, we must express surprise and disappointment at their quality.

They certainly do not match the samples you sent us. Some of them are so poor that we cannot help feeling there must have been some mistake in making up the order.

The materials are quite unsuited to the needs of our customers and we have no choice but to ask you to take them back and replace them by materials of the quality ordered. If this is not possible, then I am afraid we will have to ask you to cancel our order.

We have no wish to embarrass you and if you can replace the materials we are prepared to allow the stated time for delivery to run from the date you confirm that you can supply the materials we need.

제12장 무역클레임

notes

- **examine** : 검토하다
- **material** : 재료, 옷감
- **match** : 어울리다. 걸맞다
- **can not help ~ing** : ~하지 않을 수 없다
- **have no choice but to** : ~하지 않을 수 없다
- **embarrass** : 당황하게 하다
- **replace** : 대체하다

7. 회신

We very much regret to learn from your fax letter of 2nd May that you are not satisfied with the dress materials supplied to your order No. 87.

From what you say it seems possible that some mistake has been made in our selection of the materials and we are arranging for our shipping manager to call on you later this week to compare the materials supplied with the samples from which you ordered them.

If it is found that our selection was faulty, then you can most certainly rely on us to replace the materials.

In any case, we are willing to take the materials back and, if we cannot supply what you want, to cancel your order, though we should do this reluctantly since we have no wish to lose your custom.

제12장 무역클레임

notes

- **call on** : 방문하다
- **selection** : 선정
- **faulty** : 잘못된
- **rely on** : 신뢰하다. 의지하다
- **reluctantly** : 마음에 내키지 않게

● 8. 배상요청액 지불방법통지

First of all, let us apologize for the poor packings which have caused you such inconvenience.

We accept your claim of USD 670.00 in principle but must ask you to allow us to give sufficient time to reimburse them due to the strict foreign exchange control regulation of Korea.

May we propose to overship the merchandise in the next order by the claim amount? That is to say we ship the goods worth of USD 670.00 more than our contracted amount.

Or else, for the next order you can open a letter of credit by deducting USD 670.00, and we ship the goods according to the original contract.

● 8. 배상요청액 지불방법통지

In this way, we can reimburse your claim without going through all the red tapes required.

If you agree to our proposal, please cable us to such effect so that we can prepare accordingly.

Apologizing once again for the mistake we made, we are.

제12장 무역클레임

notes

- **sufficient** 충분한
- **overship** 초과선적하다
- **go through** 겪다
- **red tape** 관료적 형식주의, 관공서 서식
- **to such effect** 본 취지로
- **goods** 물리적 형태의 상품을 말함(통조림 제품, **canned goods**)

제12장 무역클레임

9. 클레임 산정에 대한 해명과 사과

We have received your claim form Ref. Korea 99,01, and it has been forwarded to our quality control team in our plant in Salindres.

We are sorry concerning this quality failure, which happened in 20-- due to the following reasons:

The origin of the dust, which was noticed in some drums of ADS 2-5, was carefully checked and analyzed by the quality team.

The first action was a careful review of all the plant. It was finally discovered that some powder could accumulate in the curve of a transfer pipe. This accumulation of dust suddenly spills during the packaging operation.

Two countermeasures were decided upon:

- 1. To re-sieve all the products we had in stock.**
- 2. To put on stream a systematic and periodic cleaning procedure, including an improvement of the dust removal apparatus.**

제12장 무역클레임

9. 클레임 산정에 대한 해명과 사과

In addition it was decided to improve the basic mechanical properties of ADS 2–5 to avoid any possibility of dust accumulation. We have implemented the most recent innovations of our R. and D. teams, who work in close contact with the industrial division.

A new statistical process control is now on stream. All this was successfully completed by the end of 1998 and we enclose our new data sheets for ADS 2–5 and New ADS 2–5 which show the improvements that have been achieved.

In conclusion, we are grateful for the remarks from our customers that have helped us to find, understand and improve our global quality level.

Please convey our apologies and be sure that the confidence of our customers is the most important factor for us. All our efforts are aimed toward this end.

If you need further information, please let us know.

제12장 무역클레임

notes

- Salindres 프랑스 지역명, 살랑드르
- analyze 분석하다
- spill 옆질러지다 ; 흘러나오다
- Seive 체로 치다
- Put on (기관차 등을) 운행하다,
- Stream 흐름
- Systemic 체계
- Periodic 주기적인, 정기적의, 간헐적인, 이따금의
- apparatus 기구 ; 장치
- implement 이행하다 ; 충족하다
- innovation 혁신
- on stream 생산 중에 ; 가동하여

● 10. 클레임조정 거절

We are sending back to you under separate cover the five ligree tourmaline earrings ordered through the Gem House catalog last month. We are happy to explain the company's policy on returning earrings for pierced ears.

Because we want our customers to be aware that for hygienic reasons—that is, for their own protection—pierced earrings cannot be returned, we include a statement to that effect at the top of each page of our catalogs. We certainly have no intention of surprising our customers with policies hidden in fine print.

Since the Gem House is a mail—order company, our catalog is, in a sense, our sales staff. Because of this, we take a great deal of care with it.

● 10. 클레임조정 거절

The colors of the gemstones pictured in it represent as accurately as possible the colors of our gems in stock. However, colors are notoriously difficult to reproduce exactly; in addition, they vary slightly from stone to stone.

Because of these factors, it is true that the tourmalines in your earrings do differ somewhat in color from those shown in our catalog.

If you are ordering jewelry to complement a specific garment and the exact shade is important, why not send us a sample of the material? Just a small swatch would be enough to allow a member of our staff to match the color precisely.

● 10. 클레임조정 거절

I wish it were not necessary to return these earrings to you, but unfortunately our company policy dictates that we must. I'm sure you can understand this necessity, and I hope we can serve you in a less inconvenient way in the future.

제12장 무역클레임

notes

- Filigree (금, 은 등)의 세공, 섬세한 가공물, 깨지기 쉬운 장식물
- tourmaline 전기석(電氣石)
- under separate cover 별봉으로 separately
- pierced ears 꿰뚫은 귀
- hygienic 위생적인 ; 건강에 좋은
- fine print 매우 작은 활자체
- gemstone 보석의 원석
- Notoriously (나쁜 의미로) 소문난, 유명한, 주지의, 이름난
- Reproduce 재생, 재현하다.
- swatch 견본
- company 기업(=firm, house, concern)

● 11. 사고통지

2nd December, 20--

Messrs : The Hanabi Navigation Co., Ltd.
Seoul, Korea
Dir Sirs,

Notice of Claim

Please be advised that we have found the shortage and damage in connection with the under-mentioned cargo as follows :

Name of vessel : M/S "TANAKA MARU" Voy No. 123

Loading port : Long Beach, California, USA.

Discharging port : Busan

Arrived at Busan : 23rd Dec. 20--

B/L number : KERP-1234

Kind of cargo and quantity : Milk powder 2,000bags I total.

● 11. 사고통지

**Remarks of Boat Note : 10 bags slightly cover torn
30 bags slightly wet and stained
50 bags wet and stained**

faithfully,

● 11. 사고통지

For the above shortage and damage, we reserve the right to file a claim with you when ascertained, You are requested to inform us in writing your option on your investigation into this matter at your early date.

Yours faithfully,

**c.c : Shipper
Business Dept.**

**Han Kook Nam
Han Kook Nam
General Manager
Traffic Department
Seoul Trading Company**

제12장 무역클레임

notes

- Stained 오염된
- File 신청하다
- Ascertain 확인하다, 규명하다

● 12. 클레임 제기

25th December, 20--

Messrs. The WATANABE Shipping Co., Ltd.

Dear Sirs,

Claim for Shortage

Referring to our claim notice dated 25th Nov. 20--, we wish to advise you that we have found, to our surprise, the contents of 4 gunny bags repacked at Busan, saying with running out content from one drum which top was taken there due to Stevedore's rough handling, are entirely of different quality.

The content should be used Faucet and Cock as noted on the invoice which copy was attached herewith for your reference.

● 12. 클레임 제기

And the fact was recognized by a staff of Kwang Dong Warehouse Co., your landing agents who was present at the reweighing time. As the content of 4 bags being the lowest class of Brass Scrap, we are not in a position to accept it as for the substitute of our Goods.

● 12. 클레임 제기

We are therefore, enclosing herewith our Debit Note, claiming for the shortage of one drum, and ask you kindly to settle the claim at your earliest convenience.

Yours faithfully,

**Encl. Debit Note
Copy Commercial Invoice
Certificate of Weight
B/L, Statement of Account**

**ABC General Manager
Seoul Trading Company**

제12장 무역클레임

notes

- Running out **을러나오다**
- Stevedore **하역인부**
- Landing agent **하역대리점**
- Esteemed

감사합니다

