



CMR

Convention on the contract for the
international carriage of goods by road

In Stichting vervoeradres, established in 1946, the following bodies work together:

EVO, the Employers' Organisation for logistics and transport

Goederenvervoer Nederland (*Goods Transport, the Netherlands*)

NBB, Nederlandsch Binnenvaartbureau (*Inland Navigation Bureau, The Netherlands*)

Transport en Logistiek Nederland, the employers' organisation for goods transport

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Convention on the contract for the international carriage of goods by road (CMR)

Preamble

The contracting parties, having recognized the desirability of standardizing the conditions governing the contract for the international carriage of goods by road, particularly with respect to the documents used for such carriage and to the carrier's liability, have agreed as follows:

Article 1

1. This Convention shall apply to every contract for the carriage of goods by road in vehicles for reward, when the place of taking over of the goods and the place designated for delivery, as specified in the contract, are situated in two different countries, of which at least one is a Contracting country, irrespective of the place of residence and the nationality of the parties.
2. For the purposes of this Convention, "vehicles" means motor vehicles, articulated vehicles, trailers and semi-trailers as defined in article 4 of the Conventions on Road Traffic dated 19th September 1949.
3. This Convention shall apply also where carriage coming within its scope is carried out by States or by governmental institutions or organizations.
4. This Convention shall not apply:
 - a) to carriage performed under the terms of any international postal convention;
 - b) to funeral consignments;
 - c) to furniture removal.
5. The Contracting Parties agree not to vary any of the provisions of this Convention by special agreements between two or more of them, except to make it inapplicable to their frontier traffic or to authorise the use in transport operations entirely confined to their territory of consignment notes representing a title to the goods.

Article 2

1. Where the vehicle containing the goods is carried over part of the journey by sea, rail, inland waterways or air, and, except where the provisions of article 14 are applicable, the goods are not unloaded from the vehicle, this Convention shall nevertheless apply to the whole of the carriage.

Provided that to the extent that it is proved that any loss, damage or delay in delivery of the goods which occurs during the carriage by the other means of transport was not caused by an act or omission of the carrier by road, but by some event which could only have occurred in the course of and by reason of the carriage by that other means of transport, the liability of the carrier by road shall be determined not by this Convention but in the manner in which the liability of the carrier by the other means of transport would have been determined if a contract for the carriage of the goods alone had been made by the sender with the carrier by the other means of transport in accordance with the conditions prescribed by law for the carriage of goods by that means of transport. If, however, there are no such prescribed conditions, the liability of the carrier by road shall be determined by this Convention.
2. If the carrier by road is also himself the carrier by the other means of transport, his liability shall also be determined in accordance with the provisions of paragraph 1 of this article, but as if, in his capacities as carrier by road and as carrier by the other means of transport, he were two separate persons.

Article 3

For the purposes of this Convention the carrier shall be responsible for the acts and omissions of his agents and servants and of any other persons of whose services he makes use for the performance of the carriage, when such agents, servants or other persons are acting within the scope of their employment, as if such acts or omissions were his own.

Article 4

The contract of carriage shall be confirmed by the making out of a consignment note. The absence, irregularity or loss of the consignment note shall not affect the existence or the validity of the contract of carriage which shall remain subject to the provisions of this Convention.

Article 5

1. The consignment note shall be made out in three original copies signed by the sender and by the carrier. These signatures may be printed or replaced by the stamps of the sender and the carrier if the law of the country in which the consignment note has been made out so permits. The first copy shall be handed to the sender, the second shall accompany the goods and the third shall be retained by the carrier.
2. When the goods which are to be carried have to be loaded in different vehicles, or are of different kinds or are divided into different lots, the sender or the carrier shall have the right to require a separate consignment note to be made out for each vehicle used, or for each kind or lot of goods.

Article 6

1. The consignment note shall contain the following particulars:
 - a) the date of the consignment note and the place at which it is made out;
 - b) the name and address of the sender;
 - c) the name and address of the carrier;
 - d) the place and the date of taking over of the goods and the place designated for delivery;
 - e) the name and address of the consignee;
 - f) the description in common use of the nature of the goods and the method of packing, and, in the case of dangerous goods, their generally recognised description;
 - g) the number of packages and their special marks and numbers;
 - h) the gross weight of the goods or their quantity otherwise expressed;
 - i) charges relating to the carriage (carriage charges, supplementary charges, customs duties and other charges incurred from the making of the contract to the time of delivery);
 - j) the requisite instructions for Customs and other formalities;
 - k) a statement that the carriage is subject, notwithstanding any clause to the contrary, to the provisions of this Convention.
2. Where applicable, the consignment note shall also contain the following particulars:
 - a) a statement that transshipment is not allowed;
 - b) the charges which the sender undertakes to pay;
 - c) the amount of "cash on delivery" charges;
 - d) a declaration of the value of the goods and the amount representing special interest in delivery;
 - e) the sender's instructions to the carrier regarding insurance of the goods;
 - f) the agreed time-limit within which the carriage is to be carried out;
 - g) a list of the documents handed to the carrier.
3. The parties may enter in the consignment note any other particulars which they may deem useful.

Article 7

1. The sender shall be responsible for all expenses, loss and damage sustained by the carrier by reason of the inaccuracy or inadequacy of:
 - a) the particulars specified in article 6, paragraph 1, (b), (d), (e), (f), (g), (h) and (j);
 - b) the particulars specified in article 6, paragraph 2;
 - c) any other particulars or instructions given by him to enable the consignment note to be made out or for the purpose of their being entered therein.
2. If, at the request of the sender, the carrier enters in the consignment note the particulars referred to in paragraph 1 of this article, he shall be deemed, unless the contrary is proved, to have done so on behalf of the sender.
3. If the consignment note does not contain the statement specified in article 6, paragraph 1 (k), the carrier shall be liable for all expenses, loss and damage sustained through such omission by the person entitled to dispose of the goods.

Article 8

1. On taking over the goods, the carrier shall check:
 - a) the accuracy of the statements in the consignment note as to the number of packages and their marks and numbers, and
 - b) the apparent condition of the goods and their packaging.
2. Where the carrier has no reasonable means of checking the accuracy of the statements referred to in paragraph 1 (a) of this article, he shall enter his reservations in the consignment note together with the grounds on which they are based. He shall likewise specify the grounds for any reservations which he makes with regard to the apparent condition of the goods and their packaging. Such reservations shall not bind the sender unless he has expressly agreed to be bound by them in the consignment note.
3. The sender shall be entitled to require the carrier to check the gross weight of the goods or their quantity otherwise expressed. He may also require the contents of the packages to be checked. The carrier shall be entitled to claim the cost of such checking. The result of the checks shall be entered in the consignment note.

Article 9

1. The consignment note shall be prima facie evidence of the making of the contract of carriage, the conditions of the contract and the receipt of the goods by the carrier.
2. If the consignment note contains no specific reservations by the carrier, it shall be presumed, unless the contrary is proved, that the goods and their packaging appeared to be in good condition when the carrier took them over and that the number of packages, their marks and numbers corresponded with the statements in the consignment note.

Article 10

The sender shall be liable to the carrier for damage to persons, equipment or other goods, and for any expenses due to defective packing of the goods, unless the defect was apparent or known to the carrier at the time when he took over the goods and he made no reservations concerning it.

Article 11

1. For the purposes of the Customs or other formalities which have to be completed before delivery of the goods, the sender shall attach the necessary documents to the consignment note or place them at the disposal of the carrier and shall furnish him with all the information which he requires.
2. The carrier shall not be under any duty to enquire into either the accuracy or the adequacy of such documents and information. The sender shall be liable to the carrier for any damage caused by the absence, inadequacy or irregularity of such documents and information, except in the case of some wrongful act or neglect on the part of the carrier.
3. The liability of the carrier for the consequences arising from the loss or incorrect use of the documents specified in and accompanying the consignment note or deposited with the carrier shall be that of an agent, provided that the compensation payable by the carrier shall not exceed that payable in the event of loss of the goods.

Article 12

1. The sender has the right to dispose of the goods, in particular by asking the carrier to stop the goods in transit, to change the place at which delivery is to take place or to deliver the goods to a consignee other than the consignee indicated in the consignment note.
2. This right shall cease to exist when the second copy of the consignment note is handed to the consignee or when the consignee exercises his right under article 13, paragraph 1; from that time onwards the carrier shall obey the orders of the consignee.
3. The consignee shall, however, have the right of disposal from the time when the consignment note is drawn up, if the sender makes an entry to that effect in the consignment note.
4. If in exercising his right of disposal the consignee has ordered the delivery of the goods to another person, that other person shall not be entitled to name other consignees.
5. The exercise of the right of disposal shall be subject to the following conditions:
 - a) that the sender or, in the case referred to in paragraph 3 of this article, the consignee who wishes to exercise the right produces the first copy of the consignment note on which the new instructions to the carrier have been entered and indemnifies the carrier against all expenses, loss and damage involved in carrying out such instructions;
 - b) that the carrying out of such instructions is possible at the time when the instructions reach the person who is to carry them out and does not either interfere with the normal working of the carrier's undertaking or prejudice the senders or consignees of other consignments;
 - c) that the instructions do not result in a division of the consignment.
6. When, by reason of the provisions of paragraph 5(b) of this article, the carrier cannot carry out the instructions which he receives, he shall immediately notify the person who gave him such instructions.
7. A carrier who has not carried out the instructions given under the conditions provided for in this article, or who has carried them out without requiring the first copy of the consignment note to be produced, shall be liable to the person entitled to make a claim for any loss or damage caused thereby.

Article 13

1. After arrival of the goods at the place designated for delivery, the consignee shall be entitled to require the carrier to deliver to him, against a receipt, the second copy of the consignment note and the goods.

If the loss of the goods is established or if the goods have not arrived after the expiry of the period provided for in article 19, the consignee shall be entitled to enforce in his own name against the carrier any rights arising from the contract of carriage.

2. The consignee who avails himself of the rights granted to him under paragraph 1 of this article shall pay the charges shown to be due on the consignment note, but in the event of dispute on this matter the carrier shall not be required to deliver the goods unless security has been furnished by the consignee.

Article 14

1. If for any reason it is or becomes impossible to carry out the contract in accordance with the terms laid down in the consignment note before the goods reach the place designated for delivery, the carrier shall ask for instructions from the person entitled to dispose of the goods in accordance with the provisions of article 12.
2. Nevertheless, if circumstances are such as to allow the carriage to be carried out under conditions differing from those laid down in the consignment note and if the carrier has been unable to obtain instructions in reasonable time from the person entitled to dispose of the goods in accordance with the provisions of article 12, he shall take such steps as seem to him to be in the best interests of the person entitled to dispose of the goods.

Article 15

1. Where circumstances prevent delivery of the goods after their arrival at the place designated for delivery, the carrier shall ask the sender for his instructions. If the consignee refuses the goods the sender shall be entitled to dispose of them without being obliged to produce the first copy of the consignment note.
2. Even if he has refused the goods, the consignee may nevertheless require delivery so long as the carrier has not received instructions to the contrary from the sender.
3. When circumstances preventing delivery of the goods arise after the consignee, in exercise of his rights under article 12, paragraph 3, has given an order for the goods to be delivered to another person, paragraphs 1 and 2 of this article shall apply as if the consignee were the sender and that other person were the consignee.

Article 16

1. The carrier shall be entitled to recover the cost of his request for instructions and any expenses entailed in carrying out such instructions, unless such expenses were caused by the wrongful act or neglect of the carrier.
2. In the cases referred to in article 14, paragraph 1, and in article 15, the carrier may immediately unload the goods for account of the person entitled to dispose of them and thereupon the carriage shall be deemed to be at an end. The carrier shall then hold the goods on behalf of the person so entitled. He may however entrust them to a third party, and in that case he shall not be under any liability except for the exercise of reasonable care in the choice of such third party. The charges due under the consignment note and all other expenses shall remain chargeable against the goods.
3. The carrier may sell the goods, without awaiting instructions from the person entitled to dispose of them, if the goods are perishable or their condition warrants such a course, or when the storage expenses would be out of proportion to the value of the goods. He may also proceed to the sale of the goods in other cases if after the expiry of a reasonable period he has not received from the person entitled to dispose of the goods instructions to the contrary which he may reasonably be required to carry out.

4. If the goods have been sold pursuant to this article, the proceeds of sale, after deduction of the expenses chargeable against the goods, shall be placed at the disposal of the person entitled to dispose of the goods. If these charges exceed the proceeds of sale, the carrier shall be entitled to the difference.
5. The procedure in the case of sale shall be determined by the law or custom of the place where the goods are situated.

Article 17

1. The carrier shall be liable for the total or partial loss of the goods and for damage thereto occurring between the time when he takes over the goods and the time of delivery, as well as for any delay in delivery.
2. The carrier shall however be relieved of liability if the loss, damage or delay was caused by the wrongful act or neglect of the claimant, by the instructions of the claimant given otherwise than as the result of a wrongful act or neglect on the part of the carrier, by inherent vice of the goods or through circumstances which the carrier could not avoid and the consequences of which he was unable to prevent.
3. The carrier shall not be relieved of liability by reason of the defective condition of the vehicle used by him in order to perform the carriage, or by reason of the wrongful act or neglect of the person from whom he may have hired the vehicle or of the agents or servants of the latter.
4. Subject to article 18, paragraphs 2 to 5, the carrier shall be relieved of liability when the loss or damage arises from the special risks inherent in one or more of the following circumstances:
 - a) Use of open unsheeted vehicles, when their use has been expressly agreed and specified in the consignment note;
 - b) the lack of, or defective condition of packing in the case of goods which, by their nature, are liable to wastage or to be damaged when not packed or when not properly packed;
 - c) handling, loading, stowage or unloading of the goods by the sender, the consignee or persons acting on behalf of the sender or the consignee;
 - d) the nature of certain kinds of goods which particularly exposes them to total or partial loss or to damage, especially through breakage, rust, decay, desiccation, leakage, normal wastage, or the action of moth or vermin;
 - e) insufficiency or inadequacy of marks or numbers on the packages;
 - f) the carriage of livestock.
5. Where under this article the carrier is not under any liability in respect of some of the factors causing the loss, damage or delay, he shall only be liable to the extent that those factors for which he is liable under this article have contributed to the loss, damage or delay.

Article 18

1. The burden of proving that loss, damage or delay was due to one of the causes specified in article 17, paragraph 2, shall rest upon the carrier.
2. When the carrier establishes that in the circumstances of the case, the loss or damage could be attributed to one or more of the special risks referred to in article 17, paragraph 4, it shall be presumed that it was so caused. The claimant shall however be entitled to prove that the loss or damage was not, in fact, attributable either wholly or partly to one of these risks.
3. This presumption shall not apply in the circumstances set out in article 17, paragraph 4(a), if there has been an abnormal shortage, or a loss of any package.
4. If the carriage is performed in vehicles specially equipped to protect the goods from the effects of heat, cold, variations in temperature or the humidity of the air, the carrier shall not be entitled to claim the benefit of article 17, paragraph 4(d), unless he proves that all steps incumbent on him in the circumstances with

respect to the choice, maintenance and use of such of such equipment were taken and that he complied with any special instructions issued to him.

5. The carrier shall not be entitled to claim the benefit of article 17, paragraph 4(f), unless he proves that all steps normally incumbent on him in the circumstances were taken and that he complied with any special instructions issued to him.

Article 19

Delay in delivery shall be said to occur when the goods have not been delivered within the agreed time-limit or when, failing an agreed time-limit, the actual duration of the carriage having regard to the circumstances of the case, and in particular, in the case of partial loads, the time required for making up a complete load in the normal way, exceeds the time it would be reasonable to allow a diligent carrier.

Article 20

1. The fact that goods have not been delivered within thirty days following the expiry of the agreed time-limit, or, if there is no agreed time-limit, within sixty days from the time when the carrier took over the goods, shall be conclusive evidence of the loss of the goods, and the person entitled to make a claim may thereupon treat them as lost.
2. The person so entitled may, on receipt of compensation for the missing goods, request in writing that he shall be notified immediately should the goods be recovered in the course of the year following the payment of compensation. He shall be given a written acknowledgement of such request.
3. Within the thirty days following receipt of such notification, the person entitled as aforesaid may require the goods to be delivered to him against payment of the charges shown to be due on the consignment note and also against refund of the compensation he received less any charges included therein but without prejudice to any claims to compensation for delay in delivery under article 23 and, where applicable, article 26.
4. In the absence of the request mentioned in paragraph 2 or of any instructions given within the period of thirty days specified in paragraph 3, or if the goods are not recovered until more than one year after the payment of compensation, the carrier shall be entitled to deal with them in accordance with the law of the place where the goods are situated.

Article 21

Should the goods have been delivered to the consignee without collection of the "cash on delivery" charge which should have been collected by the carrier under the terms of the contract of carriage, the carrier shall be liable to the sender for compensation not exceeding the amount of such charge without prejudice to his right of action against the consignee.

Article 22

1. When the sender hands goods of a dangerous nature to the carrier, he shall inform the carrier of the exact nature of the danger and indicate, if necessary, the precautions to be taken. If this information has not been entered in the consignment note, the burden of proving, by some other means, that the carrier knew the exact nature of the danger constituted by the carriage of the said goods shall rest upon the sender or the consignee.
2. Goods of a dangerous nature which, in the circumstances referred to in paragraph 1 of this article, the carrier did not know were dangerous, may, at any time or place, be unloaded, destroyed or rendered harmless by the carrier without compensation; further, the sender shall be liable for all expenses, loss or damage out of their handing over for carriage or of their carriage.

Article 23

1. When, under the provisions of this Convention, a carrier is liable for compensation in respect of total or partial loss of goods, such compensation shall be calculated by reference to the value of the goods at the place and time at which they were accepted for carriage.
2. The value of the goods shall be fixed according to the commodity exchange price or, if there is no such price, according to the current market price or, if there is no commodity exchange price or current market price, by reference to the normal value of goods of the same kind and quality.
3. Compensation shall not, however, exceed 8.33 units of account per kilogram of gross weight short.
4. In addition, the carriage charges, Customs duties and other charges incurred in respect of the carriage of the goods shall be refunded in full in case of total loss and in proportion to the loss sustained in case of partial loss, but no further damages shall be payable.
5. In the case of delay, if the claimant proves that damage has resulted therefrom the carrier shall pay compensation for such damage not exceeding the carriage charges.
6. Higher compensation may only be claimed where the value of the goods or a special interest in delivery has been declared in accordance with articles 24 and 26.
7. The unit of account mentioned in this Convention is the Special Drawing Right as defined by the International Monetary Fund. The amount mentioned in paragraph 3 of this article shall be converted into the national currency of the State of the Court seized of the case on the basis of the value of that currency on the date of the judgement or the date agreed upon by the Parties. The value of the national currency, in terms of the Special Drawing Right, of a State which is a member of the International Monetary Fund, shall be calculated in accordance with the method of valuation applied by the International Monetary Fund in effect at the date in question of its operations and transactions. The value of the national currency, in terms of the Special Drawing Right, of a State which is not a member of the International Monetary Fund, shall be calculated in a manner determined by that State.
8. Nevertheless, a State which is not a member of the International Monetary Fund and whose law does not permit the application of the provisions of paragraph 7 of this article may, at the time of ratification of or accession to the Protocol to the CMR or at any time thereafter, declare that the limit of liability provided for in paragraph 3 of this article to be applied in this territory shall be 25 monetary units. The monetary unit referred to in this paragraph corresponds to 10/31 gram of gold of millesimal fineness nine hundred. The conversion of the amount specified in this paragraph into the national currency shall be made according to the law of the State concerned.
9. The calculation mentioned in the last sentence of paragraph 7 of this article and the conversion mentioned in paragraph 8 of this article shall be made in such a manner as to express in the national currency of the State as far as possible the same real value for the amount in paragraph 3 of this article as is expressed there in units of account. States shall communicate to the Secretary-General of the United Nations the manner of calculation pursuant of paragraph 7 of this article or the result of the conversion in paragraph 8 of this article as the case may be, when depositing an instrument referred to in article 3 of the Protocol to the CMR and whenever there is a change in either.

Article 24

The sender may, against payment of a surcharge to be agreed upon, declare in the consignment note a value for the goods exceeding the limit laid down in article 23, paragraph 3, and in that case the amount of the declared value shall be substituted for that limit.

Article 25

1. In case of damage, the carrier shall be liable for the amount by which the goods have diminished in value, calculated by reference to the value of the goods fixed in accordance with article 23, paragraphs 1, 2 and 4.
2. The compensation may not, however, exceed:
 - a) if the whole consignment has been damaged the amount payable in the case of total loss;
 - b) if part only of the consignment has been damaged, the amount payable in the case of loss of the part affected.

Article 26

1. The sender may, against payment of a surcharge to be agreed upon, fix the amount of a special interest in delivery in the case of loss or damage or of the agreed time-limit being exceeded, by entering such amount in the consignment note.
2. If a declaration of a special interest in delivery has been made, compensation for the additional loss or damage proved may be claimed, up to the total amount of the interest declared, independently of the compensation provided for in articles 23, 24 and 25.

Article 27

1. The claimant shall be entitled to claim interest on compensation payable. Such interest, calculated at five per centum per annum, shall accrue from the date on which the claim was sent in writing to the carrier or, if no such claim has been made, from the date on which legal proceedings were instituted.
2. When the amounts on which the calculation of the compensation is based are not expressed in the currency of the country in which payment is claimed, conversion shall be at the rate of exchange applicable on the day and at the place of payment of compensation.

Article 28

1. In cases where, under the law applicable, loss, damage or delay arising out of carriage under this Convention gives rise to an extra-contractual claim, the carrier may avail himself of the provisions of this Convention which exclude his liability or which fix or limit the compensation due.
2. In cases where the extra-contractual liability for loss, damage or delay of one of the persons for whom the carrier is responsible under the terms of article 3 is in issue, such person may also avail himself of the provisions of this Convention which exclude the liability of the carrier or which fix or limit the compensation due.

Article 29

1. The carrier shall not be entitled to avail himself of the provisions of this Chapter which exclude or limit his liability or which shift the burden of proof if the damage was caused by his wilful misconduct or by such default on his part as, in accordance with the law of the court or tribunal seised of the case, is considered as equivalent to wilful misconduct.
2. The same provision shall apply if the wilful misconduct or default is committed by the agents or servants of the carrier or by any other persons of whose services he makes use for the performance of the carriage, when such agents, servants or other persons are acting within the scope of their employment. Furthermore, in such a case such agents, servants or other persons shall not be entitled to avail themselves, with regard to their personal liability, of the provisions of this Chapter referred to in paragraph 1.

Article 30

1. If the consignee takes delivery of the goods without duly checking their condition with the carrier or without sending him reservations giving a general indication of the loss or damage, not later than the time of delivery in the case of apparent loss or damage and within seven days of delivery, Sundays and public holidays excepted, in the case of loss or damage which is not apparent, the fact of his taking delivery shall be prima facie evidence that he has received the goods in the condition described in the consignment note. In the case of loss or damage which is not apparent the reservations referred to shall be made in writing.
2. When the condition of the goods had been duly checked by the consignee and the carrier, evidence contradicting the result of this checking shall only be admissible in the case of loss or damage which is not apparent and provided that the consignee has duly sent reservations in writing to the carrier within seven days, Sundays and public holidays excepted, from the date of checking.
3. No compensation shall be payable for delay in delivery unless a reservation has been sent in writing to the carrier, within twenty-one days from the time that the goods were placed at the disposal of the consignee.
4. In calculating the time-limits provided for in this Article the date of delivery or the date of checking, or the date when the goods were placed at the disposal of the consignee, as the case may be, shall not be included.
5. The carrier and the consignee shall give each other every reasonable facility for making the requisite investigations and checks.

Article 31

1. In legal proceedings arising out of carriage under this Convention, the plaintiff may bring an action in any court or tribunal of a contracting country designated by agreement between the parties and, in addition, in the courts or tribunals of a country within whose territory:
 - a) the defendant is ordinarily resident, or has his principal place of business, or the branch or agency through which the contract of carriage was made, or
 - b) the place where the goods were taken over by the carrier or the place designated for delivery is situated, and in no other courts or tribunals.
2. Where in respect of a claim referred to in paragraph 1 of this article an action is pending before a court or tribunal competent under that paragraph, or where in respect of such a claim a judgment has been entered by such a court or tribunal no new action shall be started between the same parties on the same grounds unless the judgment of the court or tribunal before which the first action was brought is not enforceable in the country in which the fresh proceedings are brought.
3. When a judgment entered by a court or tribunal of a contracting country in any such action as is referred to in paragraph 1 of this article has become enforceable in that country, it shall also become enforceable in each of the other contracting States, as soon as the formalities required in the country concerned have been complied with. The formalities shall not permit the merits of the case to be re-opened.
4. The provisions of paragraph 3 of this article shall apply to judgments after trial, judgments by default and settlements confirmed by an order of the court, but shall not apply to interim judgments or to awards of damages, in addition to costs against a plaintiff who wholly or partly fails in his action.

5. Security for costs shall not be required in proceedings arising out of carriage under this Convention from nationals of contracting countries resident or having their place of business in one of those countries.

Article 32

1. The period of limitation for an action arising out of carriage under this Convention shall be one year. Nevertheless, in the case of wilful misconduct, or such default as in accordance with the law of the court or tribunal seised of the case, is considered as equivalent to wilful misconduct, the period of limitation shall be three years. The period of limitation shall begin to run:
 - a) in the case of partial loss, damage or delay in delivery, from the date of delivery;
 - b) in the case of total loss, from the thirtieth day after the expiry of the agreed time-limit or where there is no agreed time-limit from the sixtieth day from the date on which the goods were taken over by the carrier;
 - c) in all other cases, on the expiry of a period of three months after the making of the contract of carriage.The day on which the period of limitation begins to run shall not be included in the period.
2. A written claim shall suspend the period of limitation until such date as the carrier rejects the claim by notification in writing and returns the documents attached thereto. If a part of the claim is admitted the period of limitation shall start to run again only in respect of that part of the claim still in dispute. The burden of proof of the receipt of the claim, or of the reply and of the return of the documents, shall rest with the party relying upon these facts. The running of the period of limitation shall not be suspended by further claims having the same object.
3. Subject to the provisions of paragraph 2 above, the extension of the period of limitation shall be governed by the law of the court or tribunal seised of the case. That law shall also govern the fresh accrual of rights of action.
4. A right of action which has become barred by lapse of time may not be exercised by way of counter-claim or set-off.

Article 33

The contract of carriage may contain a clause conferring competence on an arbitration tribunal if the clause conferring competence on the tribunal provides that the tribunal shall apply this Convention.

Explanatory note

As from 1 September 2011, cases submitted for arbitration to the Arbitration Institute for Logistics will be referred to the arbitration body, TAMARA.

TAMARA specialises in arbitration in the areas of transport, storage, logistics, international trade, and in the shipping and shipbuilding industry. In order to ensure that the interests of road transport and logistics services are safeguarded, Stichting Vervoeradres sits on the Board of TAMARA.

Do you wish to avail of the services of TAMARA? If yes, you will need to include the following arbitration clause in your contract of carriage:

'Any dispute arising in connection with this Agreement between the Parties established in the Netherlands shall be settled in compliance with the CMR Convention and in accordance with the regulations of the TAMARA foundation based in Rotterdam.'

Article 34

If carriage governed by a single contract is performed by successive road carriers, each of them shall be responsible for the performance of the whole operation, the second carrier and each succeeding carrier becoming a party to the contract of carriage, under the terms of the consignment note, by reason of his acceptance of the goods and the consignment note.

Article 35

1. A carrier accepting the goods from a previous carrier shall give the latter a dated and signed receipt. He shall enter his name and address on the second copy of the consignment note. Where applicable, he shall enter on the second copy of the consignment note and on the receipt reservations of the kind provided for in article 8, paragraph 2.
2. The provisions of article 9 shall apply to the relations between successive carriers.

Article 36

Except in the case of a counter-claim or a set-off raised in an action concerning a claim based on the same contract of carriage, legal proceedings in respect of liability for loss, damage or delay may only be brought against the first carrier, the last carrier or the carrier who was performing that portion of the carriage during which the event causing the loss, damage or delay occurred; an action may be brought at the same time against several of these carriers.

Article 37

A carrier who has paid compensation in compliance with the provisions of this Convention, shall be entitled to recover such compensation, together with interest thereon and all costs and expenses incurred by reason of the claim, from the other carriers who have taken part in the carriage, subject to the following provisions:

- a) the carrier responsible for the loss or damage shall be solely liable for the compensation whether paid by himself or by another carrier;
- b) when the loss or damage has been caused by the action of two or more carriers, each of them shall pay an amount proportionate to his share of liability; should it be impossible to apportion the liability, each carrier shall be liable in proportion to the share of the payment for the carriage which is due to him;
- c) if it cannot be ascertained to which carriers liability is attributable for the loss or damage, the amount of the compensation shall be apportioned all the carriers as laid down in (b) above.

Article 38

If one of the carriers is insolvent, the share of the compensation due from him and unpaid by him shall be divided among the other carriers in proportion to the share of the payment for the carriage due to them.

Article 39

1. No carrier against whom a claim is made under articles 37 and 38 shall be entitled to dispute the validity of the payment made by the carrier making the claim if the amount of the compensation was determined by judicial authority after the first mentioned carrier had been given due notice of the proceedings and afforded an opportunity of entering an appearance.
2. A carrier wishing to take proceedings to enforce his right of recovery may make his claim before the competent court or tribunal of the country in which one of the carriers concerned is ordinarily resident, or has his principal place of business or the branch or agency through which the contract of carriage was made. All the carriers concerned may be made defendants in the same action.

3. The provisions of article 31, paragraphs 3 and 4, shall apply to judgments entered in the proceedings referred to in articles 37 and 38.
4. The provisions of article 32 shall apply to claims between carriers. The period of limitation shall, however, begin to run either on the date of the final judicial decision fixing the amount of compensation payable under the provisions of this Convention, or, if there is no such judicial decision, from the actual date of payment.

Article 40

Carriers shall be free to agree among themselves on provisions other than those laid down in articles 37 and 38.

Article 41

1. Subject to the provisions of article 40, any stipulation which would directly or indirectly derogate from the provisions of this Convention shall be null and void. The nullity of such a stipulation shall not involve the nullity of the other provisions of the contract.
2. In particular, a benefit of insurance in favour of the carrier or any other similar clause, or any clause shifting the burden of proof shall be null and void.

Article 42

1. This Convention is open for signature or accession by countries members of the Economic Commission for Europe and countries admitted to the Commission in a consultative capacity under paragraph 8 of the Commission's terms of reference.
2. Such countries as may participate in certain activities of the Economic Commission for Europe in accordance with paragraph 11 of the Commission's terms of reference may become Contracting Parties to this Convention by acceding thereto after its entry into force.
3. The Convention shall be open for signature until 31 August 1956 inclusive. Thereafter, it shall be open for accession.
4. This Convention shall be ratified.
5. Ratification or accession shall be effected by the deposit of an instrument with the Secretary-General of the United Nations.

Article 43

1. This Convention shall come into force on the ninetieth day after five of the countries referred to in article 42, paragraph 1, have deposited their instruments of ratification or accession.
2. For any country ratifying or acceding to it after five countries have deposited their instruments of ratification or accession, this Convention shall enter into force on the ninetieth day after the said country has deposited its instrument of ratification or accession.

Article 44

1. Any Contracting Party may denounce this Convention by so notifying the Secretary-General of the United Nations.
2. Denunciation shall take effect twelve months after the date of receipt by the Secretary-General of the notification of denunciation.

Article 45

If, after the entry into force of this Convention, the number of Contracting Parties is reduced, as a result of denunciations, to less than five, the Convention shall cease to be in force from the date on which the last of such denunciations takes effect.

Article 46

1. Any country may, at the time of depositing its instrument of ratification or accession or any time thereafter, declare, by notification addressed to the Secretary-General of the United Nations that this Convention shall extend to all or any of the territories for the international relations of which it is responsible. The Convention shall extend to the territory or territories named in the notification as from the ninetieth day after its receipt by the Secretary-General or, if on that day the Convention has not yet entered into force, at the time of its entry into force.

2. Any country which has made a declaration under the preceding paragraph extending this Convention to any territory for whose international relations it is responsible, may denounce the Convention separately in respect of that territory in accordance with the provisions of article 44.

Article 47

Any dispute between two or more Contracting Parties relating to the interpretation or application of this Convention, which the parties are unable to settle by negotiation or other means may, at the request of any one of the Contracting Parties concerned, be referred for settlement to the International Court of Justice.

Article 48

1. Each Contracting Party may, at the time of signing, ratifying or acceding to this Convention, declare that it does not consider itself as bound by article 47 of the Convention. Other Contracting Parties shall not be bound by article 47 in respect of any Contracting Party which has entered such a reservation.
2. Any Contracting Party having entered a reservation as provided for in paragraph 1 may at any time withdraw such reservation by notifying the Secretary-General of the United Nations.
3. No other reservation to this Convention shall be permitted.

Article 49

1. After this Convention has been in force for three years, any Contracting Party may, by notification to the Secretary-General of the United Nations, request that a conference be convened for the purpose of reviewing the Convention. The Secretary-General shall notify all Contracting Parties of the request and a review conference shall be convened by the Secretary-General if, within a period of four months following the date of notification by the Secretary-General, not less than one-fourth of the Contracting Parties notify him of their concurrence with the request.
2. If a conference is convened in accordance with the preceding paragraph, the Secretary-General shall notify all the Contracting Parties and invite them to submit within a period of three months such proposals as they may wish the Conference to consider.
The Secretary-General shall circulate to all Contracting Parties the provisional agenda for the conference together with the texts of such proposals at least three months before the date on which the conference is to meet.
3. The Secretary-General shall invite to any conference convened in accordance with this article all countries referred to in article 42, paragraph 1, and countries which have become Contracting Parties under article 42, paragraph 2.

Article 50

In addition to the notifications provided for in article 49, the Secretary-General of the United Nations shall notify the countries referred to in article 42, paragraph 1, and the countries which have become Contracting Parties under article 42, paragraph 2 of:

- a) ratifications and accessions under article 42;
- b) the dates of entry into force of this Convention in accordance with article 43;
- c) denunciations under article 44;
- d) the termination of this Convention in accordance with article 45;
- e) notifications received in accordance with article 46;
- f) declarations and notifications received in accordance with article 48, paragraphs 1 and 2.

Article 51

After 31 August 1956, the original of this Convention shall be deposited with the Secretary-General of the United Nations, who shall transmit certified true copies to each of the countries mentioned in article 42, paragraphs 1 and 2.

In witness whereof, the undersigned, being duly authorized thereto, have signed this Convention.

Done at Geneva, this nineteenth day of May, one thousand nine hundred and fifty-six, in a single copy in the English and French languages, each text being equally authentic.

Protocol of signature

On proceeding to sign the Convention on the Contract for the International Carriage of Goods by Road, the undersigned, being duly authorized, have agreed on the following statement and explanation:

1. This Convention shall not apply to traffic between the United Kingdom of Great Britain and Northern Ireland and the Republic of Ireland.
2. Ad article 1, paragraph 4.

The undersigned undertake to negotiate conventions governing contracts for furniture removals and combined transport.

In witness whereof, the undersigned, being duly authorized thereto, have signed this Protocol.

Done at Geneva, this nineteenth day of May, one thousand nine hundred and fifty-six, in a single copy in the English and French languages, each text being equally authentic.

Stichting Vervoeradres facilitates the logistics chain with widely accepted bilateral general terms and conditions (such as the General Conditions of Transport, AVC). Key to this is the principle of a well-balanced distribution of risks, sectoral acceptance and transparency regarding the legal status both of the sender (shipper), the logistics service provider and the consignee. The Foundation maintains contacts on an international level for purposes of enhancing the legal status of the various parties in the logistics chain (as formulated in the CMR Convention).

Beurtvaartadres

Beurtvaartadres facilitates the logistics chain in the mutual exchange and storage of data on logistics transactions, for purposes of reducing the overall transaction costs. Its expertise, solutions and products are made available to this end. Beurtvaartadres expressly strives to provide services which apply corporate social responsibility and aims to raise awareness of its CSR policy among its colleagues, customers and suppliers. Beurtvaartadres is independent and acts on behalf of the employers' organisations EVO, Goederenvervoer Nederland, Nederlandsch Binnenvaartbureau and Transport en Logistiek Nederland.

Beurtvaartadres provides its logistics services through the following entities:

Beurtvaartadres document

Beurtvaartadres document ensures that businesses can send their goods with the correct legal documents, via road, water or by air.

Beurtvaartadres digitaal (Beurtvaartadres digital)

Beurtvaartadres digitaal facilitates the logistics chain, and with its online platform makes it possible for the business community to draw up, print out, send or exchange ongoing transactions (such as digital freight documents) in a simple and effective manner. The integrity of data is paramount, not to mention the reduction of the overall transaction costs and the reliance on the latest technologies.

Beurtvaartadres douane (Beurtvaartadres customs)

Beurtvaartadres douane facilitates importers and exporters by enabling the (digital) processing of customs declarations and other customs obligations as efficiently as possible.

If you have any queries regarding the CMR Convention or the CMR consignment note please contact one of our specialists on +31 (0)88 552 21 00 or email us at sva@beurtvaartadres.nl. If after office hours, you may find the answer to your query on our website: www.sva.nl



Stichting  vervoeradres



Item number: 6041
11-2011



AVC

General Transport Conditions 2002

Deposited at the clerk to Amsterdam court (no. 81/2014)
and to Rotterdam court (no. 2/2015).

In Stichting vervoeradres, established in 1946, the following bodies work together:

EVO, the Employers' Organisation for logistics and transport

Goederenvervoer Nederland (*Goods Transport, the Netherlands*)

NBB, Nederlandsch Binnenvaartbureau (*Inland Navigation Bureau, The Netherlands*)

Transport en Logistiek Nederland, the employers' organisation for goods transport

Full text deposited at the clerk to Amsterdam court (no. 81/2014) and to Rotterdam court (no. 2/2015).

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Article 1

Definitions

In these conditions the following will mean:

1. **Contract of carriage:** the contract by which the carrier undertakes towards the sender to carry goods by road.
2. **Sender:** the contractual other party of the carrier. If a sender is referred to in the consignment note this does not automatically mean that the sender referred to is the contractual other party of the carrier.
3. **Consignee:** the person who by virtue of the contract of carriage is entitled to delivery of the goods by the carrier.
4. **The consignment note:** the document drawn up in three original copies, one of which (evidence of receipt) is destined for the sender, the second (evidence of delivery) being destined for the carrier, and the third being destined for the consignee.
5. **Servants and agents:** employees of the carrier as well as persons whose services the carrier uses for the completion of the contract of carriage.
6. **Force majeure:** circumstances which a diligent carrier is unable to avoid and in so far as a carrier is unable to prevent the consequences thereof.
7. **Loss due to delay:** financial loss arising from delay in delivering goods.
8. **Written or 'in writing':** in writing or electronically.
9. **BW:** Burgerlijk Wetboek (Netherlands Civil Code).
10. **CMR:** Convention on the Contract for the International Carriage of Goods by Road (CMR) (Geneva 1956), as supplemented by the 1978 Protocol.
11. **'Algemene Veerboot- en Beurtvaartcondities'** the Dutch General Ferry Boot and Regular Barge Terms and Conditions), most recent version, as deposited by Stichting vervoeradres at the registry of the District Courts of Amsterdam and Rotterdam.
12. **General Storage Terms and Conditions:** the General Storage Terms and Conditions, most recent version, as deposited by Stichting vervoeradres at the registry of the District Courts of Amsterdam and Rotterdam.

Article 2

Electronic messages

1. If data, including those relating to the consignment note, are exchanged electronically, parties shall not dispute the admissibility of electronic messages as evidence in the event of a mutual conflict.
2. Electronic messages have the same evidential value as written documents, unless these messages were not sent, saved and registered in the format as agreed on between the parties and in accordance with the security level and manner agreed on by parties.

3. A consignment note drawn up and signed electronically via the TransFollow platform has the same evidential value as the consignment note referred to in section 1. The electronic signature placed via the TransFollow platform is recognised as sufficiently reliable.

Article 3

Scope of application

The General Transport Terms and Conditions apply to the contract of carriage of goods by road; if the CMR applies, then the General Transport Terms and Conditions also apply.

Article 4

Obligations of the sender;

notice of termination of the contract of carriage

1. The sender is required:
 - a) concerning the goods and the treatment of same, to timely supply the carrier with all data and information as he is able to or ought to be able to, and of which he knows or ought to know that such data and information are important to the carrier, unless he may assume that the carrier is already aware of this data;
 - b) to make the agreed goods available to the carrier at the agreed location and time and in the agreed manner, accompanied by the consignment note as required by article 5 and by any further documents as required by law from the sender;
 - c) to clearly and appropriately address each package to be carried and, in so far as reasonably practicable, to affix or append the required information and address to the packages or their packaging in such a manner that under normal circumstances it remains legible until the end of the carriage. The sender may agree in writing with the carrier that addresses on the packages can be substituted by a statement of numbers, letters or other symbols;
 - d) to report the total weight of the goods to be carried on the consignment note;
 - e) to load and to stow the goods as agreed in or on the vehicle, and to have them unloaded, unless parties agree otherwise, or unless other obligations arise from the nature of the intended carriage, considering the goods to be carried and the vehicle made available.
2. The sender is not allowed to back out of his obligations mentioned in section 1 a, b, c, and d irrespective of the circumstances he may invoke and the sender is required to compensate the carrier for the damage arising from non-compliance with the obligations mentioned.
3. Without prejudice to the provisions of section 2, the carrier may terminate the contract without any notification if the sender does not fulfil his obligations referred to in section 1a and b; however the carrier may only do so after he has set a final deadline for the sender in writing and the sender fails to meet its obligation by the expiry of that deadline. If setting such a deadline would mean that the business operations of the carrier would be unreasonably affected, then the carrier may terminate the contract without granting a deadline as mentioned. The sender may likewise terminate the contract, if he does not fulfil his obligation as mentioned in section 1b.

Termination is effected by written notice and the agreement is terminated when this notice is received. After termination the sender owes the carrier 75 percent of the agreed freight rate but cannot be held liable for further compensation. If no freight rate was agreed, the applicable freight rate will be as per the law, respectively as per custom, respectively in fairness.

4. The carrier may also give notice of termination of the contract, in case of defective loading or stowing or in case of overloading, but not until the sender has been given the opportunity to rectify the defect or the overloading. If the sender refuses to rectify the defective loading and/or stowing or the overloading, the carrier may either give notice of termination of the contract, or rectify the defects and/or the overloading himself; in both cases the sender is required to pay the carrier an amount of € 500, unless the carrier proves that the damages suffered are in excess of that amount; section 3 does not apply.
5. The sender must repay to the carrier any fine imposed on him as a result of overloading, unless the carrier has fallen short in fulfilling his obligations pursuant to article 9 sections 1 and 5 or the carrier has not given notice of termination of the contract of carriage on the ground of the previous section, without prejudice to his right to invoke bad faith on the part of the sender. In case the sender can show proof of any fine resulting from violation of article 2.6 section 2 of the Wet Wegvervoer Goederen (Law roadtransport of goods), this stipulation is deleted.
6. Notwithstanding the other sections of this article the sender must compensate to the carrier the damages suffered in so far as caused by the circumstance that the carriage of the goods is or will be fully or partially prohibited or restricted by public authority; however this liability will not exist if the sender proves that the carrier was or could have reasonably been aware of the prohibition or restriction at the time of the contract of carriage being concluded.

Article 5

The consignment note

1. When making the goods available the sender is obliged to submit a consignment note to the carrier which states that these General Terms and Conditions apply to the contract of carriage concluded.
2. The sender is required to complete the consignment note truthfully and in full according to the instructions, and when making the goods available to the carrier he warrants the correctness and completeness of the data supplied by him.
3. The carrier is required to clearly identify himself as the carrier in the consignment note presented by the sender and to sign it and return it to the sender. If the carrier so requires, the sender is required to sign the consignment note. The signature may be printed or substituted by a stamp or any other mark of origin.
4. The consignment note may also be drawn up in the form of an electronic message in accordance with the format and security level as agreed between the parties and in accordance with the manner of sending, saving and registering as agreed between the parties.

Article 6

Evidential value of the consignment note

1. When accepting the goods the carrier is obliged to check the correctness of the statement of the quantity of goods in the consignment note as well as the outward good condition of the goods and their packaging, and in case of deviation to make a note of that on the consignment note. This obligation does not exist if in the opinion of the carrier this would considerably delay the carriage.
2. The consignment note is prima facie evidence, subject to evidence to the contrary, of the conditions of the contract of carriage and the parties to the contract of carriage, and of the receipt of the goods and their packaging in outwardly good condition, and of the weight and quantity of the goods. If the carrier has no

reasonable means to check the correctness of the entries referred to in section 1, then the consignment note will not be evidential of these entries.

Article 7

Freight payment

1. The sender is obliged to pay the freight and further expenses attached to the goods at the time that the consignment note is handed over or the goods are received by the carrier.
2. If freight payable at destination has been agreed, the consignee is obliged to pay the freight, the costs due owing to other reasons relating to the carriage and further charges attached to the goods on delivery of the goods by the carrier; if the consignee does not pay these upon the first reminder, he and the sender are jointly and severally obliged to pay. If, in the case of freight payable at destination, the sender has mentioned in the consignment note that no delivery may be performed without payment of the freight costs, the costs due owing to other reasons relating to the carriage and further expenses attached to the goods, the carrier, if no payment is made, must ask the sender for further instructions which he is obliged to follow up, in so far as reasonably possible, against compensation of costs and damage and possibly payment of a reasonable fee, unless these costs were incurred by his own fault.
3. The carrier has the right to charge all extrajudicial and judicial costs incurred to collect the freight and other amounts, as mentioned in sections 1 and 2, to the parties required to pay the freight and other costs. The extrajudicial collection costs are due as from the time that the debtor is in default. The extrajudicial collection costs are calculated on the basis of the Extrajudicial costs compensation decree (*Besluit voor buitengerechtelijke incassokosten*, Bulletin of Acts, Orders and Decrees 2012/141) or the most recent version of that decree.
4. The freight, the costs due owing to other reasons relating to the carriage and further expenses attached to the goods are due also if the goods are not delivered at their destination or only partly, damaged or delayed.
5. An appeal to set off claims to pay freight, costs due owing to other reasons relating to the carriage and further expenses attached the goods against claims for any other reason is not permitted.
6. If the sender does not fulfil his obligations referred to in this article, then the carrier is entitled to suspend departure of the vehicle, and in this event the damage arising will be considered as expenses attached to the goods.

Article 8

Instructions of the sender

1. The sender is entitled to change the location where the goods are made available, to designate himself or somebody else as consignee, to change a designation given of the consignee as well as to give orders concerning delivery or to change the place of delivery, provided these instructions do not impede the normal business operations of the carrier. Instructions concerning non-delivery which reach the person having to carry them out on time, must still be carried out however.
2. Instructions may also be given after receipt of the goods by the carrier.
3. The sender is required to compensate the carrier for any damage and costs caused by following the instructions. If as a result of the instructions given the vehicle has been driven to a location which was

not previously agreed on, then the sender is required to pay a reasonable fee in this respect as well as compensating the damage suffered and expenses incurred.

4. The right to give instructions lapses as soon as the consignee accepts the goods at the place of delivery or the consignee claims compensation from the carrier because the latter did not deliver the goods.

Article 9

Obligations of the carrier

1. The carrier is required to accept the goods agreed on at the place and time and in the manner agreed as well as to communicate the loading capacity of the vehicle to the sender, unless it can be presumed that the sender is aware of this.
2. The carrier is obliged to deliver the goods received for carriage at the destination in the condition in which he has received them.
3. The carrier is obliged to deliver the goods received for carriage within a reasonable time period; if a period of delivery has been agreed in writing delivery must be carried out within this period.
4. If the carrier does not fulfil the obligation referred to in section 1, either party may give notice of termination of the contract in respect of the goods not yet accepted by the carrier. However, the sender may do so only after having set a deadline in writing for the carrier and the carrier does not fulfil his obligation at the expiry of it.

Notice of termination is given by a written communication to the other party and the contract terminates when this notice is received.

After termination the carrier is required to compensate the sender for the damage which he has suffered as a result of the termination. This compensation, however, cannot amount to more than twice the freight and the sender owes no freight.

5. The carrier is obliged to check the loading, stowing and any overloading by or on behalf of the sender if and in so far as circumstances permit this. If the carrier considers that the loading and stowing is defective, he is obliged, notwithstanding the stipulation in article 4 section 4, to make a note of this on the consignment note. If he is not able or in a position to fulfil his control obligation, he may make a note of this on the consignment note.
6. If delivery domicile has been agreed, the carrier must deliver the goods to the door of the address mentioned in the consignment note or to the door of an address which the sender has provided in good time instead of the one in the consignment note pursuant to article 8. If the address is not reachable via a surfaced road or any other reasonable manner, it must be delivered to a location, which is as close as possible to the address originally indicated.

Article 10

Liability of the carrier

1. Except in the case of force majeure the carrier is liable for damage to or loss of the goods and for damage due to delayed delivery in so far as the carrier has not fulfilled the obligations referred to in article 9, sections 2 and 3.

2. The carrier is also liable for acts and omissions of his agents and servants in the same way as for his own acts and omissions..
3. The carrier cannot relieve himself of his liability by invoking the defective condition of the vehicle or of the equipment which he uses unless this was made available to him by the sender, the consignee or the receiver. Material will not mean a ship or a railway carriage containing the vehicle.

Article 11

Special risks

Notwithstanding article 10, the carrier, who does not fulfil his obligations pursuant to article 9 sections 2 and 3, will nevertheless not be liable for the damage arising from this, in so far as the non-observance is the result of the special risks related to one or more of the following circumstances:

- a) the carriage of the goods in an open uncovered vehicle, if this was explicitly agreed and specified in the consignment note;
- b) absence of or defective condition of packing of the goods which considering their nature or the manner of carriage should have been sufficiently packed;
- c) handling, loading, stowing or unloading of the goods by the sender, the consignee or persons acting on account of the sender or the consignee;
- d) the nature of certain commodities which owing to causes related to this nature are exposed to total or partial loss or to damage, particularly through combustion, explosion, melting, breakage, corrosion, decay, desiccation, leakage, normal reduction of quality or presence of vermin or rodents;
- e) heat, cold, temperature variations or air humidity, but only if it has not been agreed that the carriage would be performed by means of a vehicle especially equipped to protect the goods from the effects of such conditions;
- f) incompleteness or inadequacy of the address, numbers, letters or signs on the packages;
- g) the fact that it concerns carriage of a live animal.

Article 12

Presumption of exonerating circumstances

1. If the carrier proves that, considering the circumstances of the case, the non-compliance with his obligations pursuant to article 9 sections 2 and 3 may have been a consequence of one or more of the special risks specified in article 11, it will be presumed that the non-compliance was indeed such a consequence. However, the person who is entitled to receive the goods from the carrier may prove that this non-compliance was not wholly or partly caused by one of these special risks.
2. The presumption referred to here above does not apply in the event mentioned in article 11a, if there is an abnormal shortage or an abnormally large loss of packages.
3. If, in accordance with what the parties had agreed, the carriage is performed by means of a vehicle especially equipped to protect the goods from the effects of heat, cold, temperature variations or air humidity, the carrier for the purpose of exoneration of his liability as a result of these effects may only invoke article 11d if he proves that all measures had been taken, which he was obliged to take considering the circumstances, with respect to the choice, the maintenance, and the use of such equipment and that he acted in accordance with the special instructions referred to in section five.

4. The carrier may only invoke article 11g, if he proves that all measures had been taken which he was normally obliged to take, considering the circumstances and that he acted in accordance with the special instructions referred to in section five.
5. The special instructions referred to in sections three and four of this article must have been given to the carrier before the start of the carriage and must have been explicitly accepted by him and must be specified in the consignment note if one has been issued for the carriage concerned. Merely the specification of them in the consignment note constitutes no evidence in this event.

Article 13

Compensation

1. The compensation owed by the carrier on the ground of non-compliance with his obligation pursuant to article 9 section 2 is limited to an amount of € 3.40 per kilogram; the carrier is not liable on the grounds of the contract of carriage for other damage than that arising from loss of or damage to the goods, such as consequential damage, business stagnation or immaterial damage.
2. The number of kilograms as basis for the calculation of the amount specified in section 1 is the weight of the damaged or not delivered object as specified in the consignment note.
3. If the carrier is liable because he did not deliver within the reasonable period specified in article 9 section 3, the compensation for delay in delivery is limited to once the freight; if the period specified in article 9 section 3 has been agreed in writing, the compensation is limited to twice the freight.
4. The costs of expertise research, salvage and other costs which are incurred to establish and realise the value of the damaged or lost goods and of those delivered with delay are considered as depreciation of the object.
5. If the carrier is liable because of non-compliance with his obligation stemming from Sections 8:1115 para 2 and 8:1118 para 3 BW, or the articles 6 section 1, 19 sections 4, 21 or 25 of these terms and conditions, compensation due by the carrier in this respect shall not exceed the compensation which he would owe in the event of total loss of the goods concerned.

Article 14

Intention to cause damage and wilful recklessness

An act or an omission by whomever, except the carrier himself, carried out either with the intention to cause damage, or recklessly and in the knowledge that this damage would ensue, does not deprive the carrier of his right of appealing to any exoneration or limitation of his liability.

Article 15

Notice of damage

1. If the goods are delivered by the carrier showing obvious damage or loss and the consignee does not, on receipt of the goods or immediately thereafter, communicate to the carrier a reservation in writing, specifying the general nature of the damage or the loss, then the carrier is presumed to have delivered the goods in the same condition as in which he received them.

2. If the damage or the loss are not externally visible and the consignee has not, within one week of acceptance of the goods, communicated to the carrier a reservation in writing, specifying the general nature of the damage or the loss, then the carrier is likewise presumed to have delivered the goods in the same condition as in which he has received them.
3. If the goods are not delivered within a reasonable or an agreed period and the consignee has not, within one week of acceptance of the goods, communicated to the carrier a reservation in writing, specifying that the goods were not delivered within this period, then the carrier is presumed to have delivered the goods within this period.

Article 16

Right to claim

Both the sender and the consignee are entitled to demand delivery of the goods in accordance with the obligations of the carrier from the carrier.

Article 17

Cash on delivery (COD)

1. Parties may agree that the goods will be charged with a COD amount which, however, shall not exceed the invoice value of the goods. In that case the carrier may deliver the goods only after advance payment of the COD amount in cash, unless the sender has authorised the carrier to accept some other form of payment.
2. If after notice of arrival the consignee does not pay the COD amount in accordance with the form of payment as prescribed by the sender to the carrier, then the carrier must ask the sender for further instructions. The costs related to asking for instructions are for account of the sender. The carrier must follow up the instructions given to him, in so far as this is reasonably possible, in return for reimbursement of costs and possibly a reasonable fee, unless these costs were incurred by his own fault. If the sender gives instructions to the effect that delivery must be carried out in deviation to instructions previously given relating to payment, then these instructions must be given in writing to the carrier. In the absence of instructions the stipulations of article 21 apply mutatis mutandis.
3. The carrier is obliged after delivery of a COD consignment and transfer of the amount to him to remit the COD amount without delay but in any event within two weeks to the sender or to transfer it to his bank or giro account.
4. The period of two weeks specified in section 3 starts on the day that the goods are delivered.
5. The consignee who at the time of delivery knows that the goods are burdened by a COD amount is obliged to pay to the carrier the amount which the latter owes to the sender.
6. If the goods have been delivered without the COD amount having been collected in advance, the carrier is obliged to compensate the sender for the damage to the maximum of the COD amount, unless he proves that there was no fault on his part or on the part of his employees. This obligation does not affect his right of recourse against the consignee.
7. The COD fee due accrues to the sender.

8. All claims against the carrier stemming from a COD condition are limited to one year, counting from the commencement of the day following the day when the goods were delivered or ought to have been delivered.

Article 18

Reservations of the carrier

In application of the present conditions the carrier reserves the right:

- a) to carry the goods by means of the vehicles which are appropriate in his opinion and to keep them if necessary in such vehicles, storage rooms or warehouses as he thinks fit, irrespective of whether these vehicles, storage rooms or warehouses belong to the carrier or third parties;
- b) to have the free choice of the route for carriage, and likewise to deviate from the customary route. He is also entitled to call on places as he thinks fit for the operation of his enterprise.

Article 19

Prevention after receipt

1. If upon receipt of the goods by the carrier the carriage cannot reasonably be effected, continued or completed or within a reasonable time period, the carrier is obliged to communicate this to the sender. Both carrier and sender are then entitled to give notice of termination of the contract.
2. Notice of termination shall be given by notifying the other party in writing and the contract will terminate when this written notification is received.
3. The carrier is not obliged to effect further carriage to the place of destination and is entitled to unload the goods and store these at a place fit for the purpose; the sender is entitled to take possession of the goods. The costs incurred with respect to the goods in connection with the termination are for account of the sender, under reservation of section 4.
4. Without prejudice to force majeure the carrier is obliged to compensate the sender for the damage which he suffers as a result of the termination of the contract.

Article 20

Stack-on transport, through transport

1. If part of the carriage, whether or not after transshipment of the goods, takes place on inland waterways, the liability of the carrier for this part is defined by articles 9 and 13 of the Algemene Veerboot- en Beurtvaartcondities.
2. If, after delivery of the goods which he has carried, the carrier undertakes to have the goods carried onwards, he does so in the capacity of a forwarding agent and his liability in this capacity is then limited to € 3.40 per kilogram for lost or damaged goods; no further compensation for any kind of damage shall be owed.

Article 21

Storage in the event that the consignee does not show up

1. If the consignee does not show up after notice of arrival of the goods, , if he does not begin taking delivery of the goods, if he does not continue to accept delivery of the goods regularly and with appropriate haste, if he

refuses to accept the goods or to sign for receipt, the carrier may store the goods for account and risk of the sender, observing due care, in a manner and location of his determination, if necessary also in the vehicle in which the goods were carried; the carrier is obliged to inform the sender.

2. The carrier, taking section 1 into consideration may also proceed to storage or garaging, if furnishment of security as specified in article 23 section 5 is refused, or if a dispute arises over the amount or the nature of the security to be furnished.
3. Except in the event of seizure, the goods may be sold publicly or privately for account of the sender without any legal authorisation being required, but only after expiry of one week after a notice in writing by registered mail to the sender of the intention to sell.
4. The sale may be effected without observing any term and without prior notice if the goods are perishable or storage may be detrimental or give rise to damage or danger for the vicinity. If prior notice was not given, the carrier is obliged to inform the sender of the sale afterwards.
5. With regard to livestock the term specified in section 3 is three days, subject to the right of the carrier to proceed to the sale without respecting any term and without prior notice if the condition of the livestock so warrants. If prior notice was not given, the carrier is obliged to inform the sender of the sale afterwards.
6. The carrier will retain the proceeds from the goods sold, after deduction of the amount of any COD and a fee due to the carrier in connection therewith and of everything due to the carrier in connection with the goods sold, both for freight as well as the costs or storage and parking and other costs and damages, for the sender for six months following the acceptance of the goods for carriage, at the expiry of which term he shall put the amount retained in judicial custody.

Article 22

Storage before, during and after carriage

If sender and carrier agree that the carrier will store the goods before or during the carriage as agreed, or will do so on completion of the carriage, such storage is effected under application of the General Storage Terms and Conditions, pursuant to which sender and carrier are respectively considered as the depositor and the custodian.

Article 23

Right of lien

1. The carrier has a right of lien on goods and documents in his possession in connection with the contract of carriage towards any person who demands delivery of same. This right does not accrue to him if, at the time of receipt of the goods for carriage, he had reason to doubt the right of the sender to make the goods available for carriage to him.
2. The right of lien applies likewise to charges attached to the goods by way of COD as well as to the COD fee to which he is entitled, for which he is not obliged to accept security.
3. The carrier may also exercise the right of lien against the sender for reason of what is still owed to him with respect to previous contracts of carriage.
4. Likewise, the carrier may exercise the right of lien against the consignee who in this capacity became a party to previous contracts of carriage for reason of what is still owed to him with respect to these contracts.

5. If when settling the invoice a dispute arises over the amount due or if there is a need for a calculation to be made for the determination of what is due that cannot be made quickly, then the party demanding delivery is obliged to pay forthwith the part which the parties agree is due and to furnish security for the part in dispute or for the part for which the amount has not yet been established.

Article 24

Right of pledge

1. All the goods, documents and monies in possession of the carrier in connection with the contract of carriage serve as pledge for all claims which he has against the sender.
2. Except for the cases where the sender has been declared bankrupt, has been granted moratorium of payments or in has been declared subject to a debt reorganisation scheme for natural persons, the carrier shall never be entitled to sell the pledged objects without permission from the Court in accordance with Section 3:248 para 2 BW.

Article 25

Lost goods

If the goods have not been delivered within thirty days from the day when they were accepted for carriage and if their whereabouts is unknown, the goods will be considered as lost.

If within one year after the carrier has paid compensation for non-delivery of the goods to the person who was entitled to delivery of same, these goods or some of them appear to be (again) in possession of the carrier, the latter is obliged to communicate this circumstance to the sender or the consignee in writing, whichever has expressed the wish to this effect in writing, and then the sender respectively the consignee has the right for thirty days from receipt of such communication to demand as yet delivery of these goods against reimbursement of the compensation he has received. The same applies if the carrier has paid no compensation for non-delivery, subject however to the period of one year to start from the day after the day when the goods ought to have been delivered. If the sender or the consignee respectively does not avail himself of this right, article 21 applies.

Article 26

Indemnification; Himalaya clause

1. The sender who fails to meet any obligation which the law or these conditions impose on him is obliged to indemnify the carrier against all damages which he might suffer as a result of this non-compliance when he is held liable by a third party on account of the carriage of the goods.
2. When servants and agents of the carrier are held liable on account of the carriage of the goods, these persons may invoke each liability limitation and/or exoneration which the carrier can invoke pursuant to these conditions or any other legal or contractual provision.

Article 27

Default interest

Pursuant to Section 6:119 BW, parties owe statutory default interest on any amounts owed.

Article 28

Limitation period

1. All judicial claims based on or related to the contract of carriage are limited to one year.
2. In so far as a carrier seeks recourse against a person whose services the carrier has used in completing the contract of carriage to recoup what the carrier is due to the sender or the consignee a new limitation period of three months begins from the time as stipulated in Section 8:1720 para 1 BW.

Article 29

Choice of court; choice of law

1. All disputes arising from or relating to domestic carriage by road between parties residing in the Netherlands can exclusively be adjudicated by the competent court in Rotterdam, unless the parties agree otherwise in writing.
2. All legal relationships ensuing from or relating to the contract of carriage are governed by Dutch law.

Explanatory note

Instead of a judicial decision, parties can also opt to submit their dispute to arbitration. TAMARA specialises in arbitration in the areas of transport, storage, logistics, international trade, and the shipping and shipbuilding industries. Stichting vervoeradres sits on the board of TAMARA to represent the interests of road transport and logistics services. Since September 2011 it is no longer possible to submit cases for arbitration to the Stichting Arbitrage voor Logistiek.

If you wish to make use of the arbitration services of TAMARA, then include the arbitration clause below in your contract of carriage.

'All disputes ensuing from or connected to this contract will be subject to Arbitration in Rotterdam in accordance with the TAMARA Arbitration Regulations. Article 29 Paragraph 1 AVC 2002 does not apply to this contract.'

The parties can also decide after the conflict has arisen to submit the case for arbitration. This requires a written agreement between the parties.

Stichting vervoeradres

Stichting Vervoeradres facilitates the logistics chain with widely accepted bilateral general terms and conditions (such as the General Conditions of Transport, AVC). Key to this is the principle of a well-balanced distribution of risks, sectoral acceptance and transparency regarding the legal status both of the sender (shipper), the logistics service provider and the consignee. The Foundation maintains contacts on an international level for purposes of enhancing the legal status of the various parties in the logistics chain (as formulated in the CMR Convention).

Beurtvaartadres

Beurtvaartadres facilitates the logistics chain in the mutual exchange and storage of data on logistics transactions, for purposes of reducing the overall transaction costs. Its expertise, solutions and products are made available to this end. Beurtvaartadres expressly strives to provide services which apply corporate social responsibility and aims to raise awareness of its CSR policy among its colleagues, customers and suppliers. Beurtvaartadres is independent and acts on behalf of the employers' organisations EVO, Goederenvervoer Nederland, Nederlandsch Binnenvaartbureau and Transport en Logistiek Nederland.

Stichting  **vervoeradres**

Beurtvaartadres provides its logistics services through the following entities:

Beurtvaartadres document

Beurtvaartadres document ensures that businesses can send their goods with the correct legal documents, via road, water or by air.

TransFollow

TransFollow supports the logistics chain with common, user-friendly ICT systems for data exchange and to improve data quality. The emphasis is placed on data integrity and the reduction of overall transaction costs with the use of new technologies.

Beurtvaartadres douane (Beurtvaartadres customs)

Beurtvaartadres douane facilitates importers and exporters by enabling the (digital) processing of customs declarations and other customs obligations as efficiently as possible.

If you have any queries regarding the General Transport Conditions 2002 please contact one of our specialists on +31 (0)88 552 21 00 or email us at sva@beurtvaartadres.nl. If after office hours, you may find the answer to your query on our website: www.sva.nl

Stichting  **vervoeradres**



Stichting  vervoeradres



Item number: 6012
January 2015