

UNCTAD/ICC Rules for Multimodal Transport Documents

1. Applicability

1.1. These Rules apply when they are incorporated, however this is made, in writing, orally or otherwise, into a contract of carriage by reference to the "UNCTAD/ICC Rules for multimodal transport documents", irrespective of whether there is a unimodal or a multimodal transport contract involving one or several modes of transport or whether a document has been issued or not.

1.2. Whenever such a reference is made, the parties agree that these Rules shall supersede any additional terms of the multimodal transport contract which are in conflict with these Rules, except insofar as they increase the responsibility or obligations of the multimodal transport operator.

2. Definitions

2.1. Multimodal transport contract (multimodal transport contract) means a single contract for the carriage of goods by at least two different modes of transport.

2.2. Multimodal transport operator (MTO) means any person who concludes a multimodal transport contract and assumes responsibility for the performance thereof as a carrier.

2.3. Carrier means the person who actually performs or undertakes to perform the carriage, or part thereof, whether he is identical with the multimodal transport operator or not.

2.4. Consignor means the person who concludes the multimodal transport contract with the multimodal transport operator.

2.5. Consignee means the person entitled to receive the goods from the multimodal transport operator.

2.6. Multimodal transport document (MT document) means a document evidencing a multimodal transport contract and which can be replaced by electronic data interchange messages insofar as permitted by applicable law and be,

- (a) issued in a negotiable form or,
- (b) issued in a non-negotiable form indicating a named consignee.

2.7. Taken in charge means that the goods have been handed over to and accepted for carriage by the MTO.

2.8. Delivery means

- (a) the handing over of the goods to the consignee, or
- (b) the placing of the goods at the disposal of the consignee in accordance with the multimodal transport contract or with the law or usage of the particular trade applicable at the place of delivery, or
- (c) the handing over of the goods to an authority or other third party to whom, pursuant to the law or regulations applicable at the place of delivery, the goods must be handed over.

2.9. Special Drawing Right (SDR) means the unit of account as defined by the International Monetary Fund.

2.10. Goods means any property including live animals as well as containers, pallets or similar articles of transport or packaging not supplied by the MTO, irrespective of whether such property is to be or is carried on or under deck.

3. Evidentiary effect of the information contained in the multimodal transport document

The information in the MT document shall be prima facie evidence of the taking in charge by the MTO of the goods as described by such information unless a contrary indication, such as "shipper's weight, load and count", "shipper-packed container" or similar expressions, has been made in the printed text or superimposed on the document. Proof to the contrary shall not be admissible when the MT document has been transferred, or the equivalent electronic data interchange message has been transmitted to and acknowledged by the consignee who in good faith has relied and acted thereon.

4. Responsibilities of the multimodal transport operator

4.1. Period of responsibility

The responsibility of the MTO for the goods under these Rules covers the period from the time the MTO has taken the goods in his charge to the time of their delivery.

4.2. The liability of the MTO for his servants, agents and other persons

The multimodal transport operator shall be responsible for the acts and omissions of his servants or agents, when any such servant or agent is acting within the scope of his employment, or of any other person of whose services he makes use for the performance of the contract, as if such acts and omissions were his own.

4.3. Delivery of the goods to the consignee

The MTO undertakes to perform or to procure the performance of all acts necessary to ensure delivery of the goods:

- (a) when the MT document has been issued in a negotiable form "to bearer", to the person surrendering one original of the document, or
- (b) when the MT document has been issued in a negotiable form "to order", to the person surrendering one original of the document duly endorsed, or
- (c) when the MT document has been issued in a negotiable form to a named person, to that person upon proof of his identity and surrender of one original document; if such document has been transferred "to order" or in blank the provisions of (b) above apply, or
- (d) when the MT document has been issued in a non-negotiable form, to the person named as consignee in the document upon proof of his identity, or
- (e) when no document has been issued, to a person as instructed by the consignor or by a person who has acquired the consignor's or the consignee's rights under the multimodal transport contract to give such instructions.

5. Liability of the multimodal transport operator

5.1. Basis of Liability

Subject to the defences set forth in Rule 5.4 and Rule 6, the MTO shall be liable for loss of or damage to the goods, as well as for delay in delivery, if the occurrence which caused the loss, damage or delay in delivery took place while the goods were in his charge as defined in Rule 4.1., unless the MTO proves that no fault or neglect of his own, his servants or agents or any other person referred to in Rule 4 has caused or contributed to the loss, damage or delay in delivery. However, the MTO shall not be liable for loss following from delay in delivery unless the consignor has made a declaration of interest in timely delivery which has been accepted by the MTO.

5.2. Delay in delivery

Delay in delivery occurs when the goods have not been delivered within the time expressly agreed upon or, in the absence of such agreement, within the time which it would be reasonable to require of a diligent MTO, having regard to the circumstances of the case.

5.3. Conversion of delay into final loss

If the goods have not been delivered within ninety consecutive days following the date of delivery determined according to Rule 5.2., the claimant may, in the absence of evidence to the contrary, treat the goods as lost.

5.4. Defences for carriage by sea or inland waterways

Notwithstanding the provisions of Rule 5.1. the MTO shall not be responsible for loss, damage or delay in delivery with respect to goods carried by sea or inland waterways when such loss, damage or delay during such carriage has been caused by:

- act, neglect, or default of the master, mariner, pilot or the servants of the carrier in the navigation or in the management of the ship,
- fire, unless caused by the actual fault or privity of the carrier,
- however, always provided that whenever loss or damage has resulted from unseaworthiness of the ship, the MTO can prove that due diligence has been exercised to make the ship seaworthy at the commencement of the voyage.

5.5. Assessment of compensation

5.5.1. Assessment of compensation for loss of or damage to the goods shall be made by reference to the value of such goods at the place and time they are delivered to the consignee or at the place and time when, in accordance with the multimodal transport contract, they should have been so delivered.

5.5.2. The value of the goods shall be determined according to the current 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.

6. Limitation of liability of the multimodal transport operator

6.1. Unless the nature and value of the goods have been declared by the consignor before the goods have been taken in charge by the MTO and inserted in the MT document, the MTO shall in no event be or become liable for any loss of or damage to the goods in an amount exceeding the equivalent of 666.67 SDR per package or unit or 2 SDR per kilogramme of gross weight of the goods lost or damaged, whichever is the higher.

6.2. Where a container, pallet or similar article of transport is loaded with more than one package or unit, the packages or other shipping units enumerated in the MT document as packed in such article of transport are deemed packages or shipping units. Except as aforesaid, such article of transport shall be considered the package or unit.

6.3. Notwithstanding the above-mentioned provisions, if the multimodal transport does not, according to the contract, include carriage of goods by sea or by inland waterways, the liability of the MTO shall be limited to an amount not exceeding 8.33 SDR per kilogramme of gross weight of the goods lost or damaged.

6.4. When the loss of or damage to the goods occurred during one particular stage of the multimodal transport, in respect of which an applicable international convention or mandatory national law would have provided another limit of liability if a separate contract of carriage had been made for that particular stage of transport, then the limit of the MTO's liability for such loss or damage shall be determined by reference to the provisions of such convention or mandatory national law.

6.5. If the MTO is liable in respect of loss following from delay in delivery, or consequential loss or damage other than loss of or damage to the goods, the liability of the MTO shall be limited to an amount not exceeding the equivalent of the freight under the multimodal transport contract for the multimodal transport.

6.6. The aggregate liability of the MTO shall not exceed the limits of liability for total loss of the goods.

7. Loss of the right of the multimodal transport operator to limit liability

The MTO is not entitled to the benefit of the limitation of liability if it is proved that the loss, damage or delay in delivery resulted from a personal act or omission of the MTO done with the intent to cause such loss, damage or delay, or recklessly and with knowledge that such loss, damage or delay would probably result.

8. Liability of the consignor

8.1. The consignor shall be deemed to have guaranteed to the MTO the accuracy, at the time the goods were taken in charge by the MTO, of all particulars relating to the general nature of the goods, their marks, number, weight, volume and quantity and, if applicable, to the dangerous character of the goods, as furnished by him or on his behalf for insertion in the MT document.

8.2. The consignor shall indemnify the MTO against any loss resulting from inaccuracies in or inadequacies of the particulars referred to above.

8.3. The consignor shall remain liable even if the MT document has been transferred by him.

8.4. The right of the MTO to such indemnity shall in no way limit his liability under the multimodal transport contract to any person other than the consignor.

9. Notice of loss of or damage to the goods

9.1. Unless notice of loss of or damage to the goods, specifying the general nature of such loss or damage, is given in writing by the consignee to the MTO when the goods are handed over to the consignee, such handing over is prima facie evidence of the delivery by the MTO of the goods as described in the MT document.

9.2. Where the loss or damage is not apparent, the same prima facie effect shall apply if notice in writing is not given within 6 consecutive days after the day when the goods were handed over to the consignee.

10. Time-bar

The MTO shall, unless otherwise expressly agreed, be discharged of all liability under these Rules unless suit is brought within 9 months after the delivery of the goods, or the date when the goods should have been delivered, or the date when in accordance with Rule 5.3, failure to deliver the goods would give the consignee the right to treat the goods as lost.

11. Applicability of the rules to actions in tort

These Rules apply to all claims against the MTO relating to the performance of the multimodal transport contract, whether the claim be founded in contract or in tort.

12. Applicability of the rules to the multimodal transport operator's servants, agents and other persons employed by him

These Rules apply whenever claims relating to the performance of the multimodal transport contract are made against any servant, agent or other person whose services the MTO has used in order to perform the multimodal transport contract, whether such claims are founded in contract or in tort, and the aggregate liability of the MTO of such servants, agents or other persons shall not exceed the limits in Rule 6.

13. Mandatory law

These Rules shall only take effect to the extent that they are not contrary to the mandatory provisions of international conventions or national law applicable to the multimodal transport contract.