



The United Nations Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea (the “Rotterdam Rules”)

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UNCITRAL United Nations Commission on International Trade Law

Compelling Reasons

- **Pursuit of Harmonization**
 - **Lack of a universal system:**
 - Hague Rules – 1924 (4* formal Latin American Contracting Parties)
 - Visby Protocol – 1968 (1** formal Latin American Contracting Party)
 - Hamburg Rules - 1978 (3*** Latin American Contracting Parties)
 - Domestic gap-filling legislation and Regional attempts
 - Achieve a **global** regime

*Argentina, Belize, Bolivia, Peru

**Ecuador

***Chile, Dominican Republic, Paraguay

Compelling Reasons

- **Pursuit of Modernization**
 - **No current regime takes into account modern container transport**
 - **No current regime provides for electronic commerce**

Origin of the Convention

- **34th Session of UNCITRAL – 2001**
 - **Consultations had indicated that work could usefully commence towards an international instrument that would:**
 - Modernize the law of carriage
 - Take into account the latest technological developments
 - Eliminate legal difficulties that had been identified
 - **UNCITRAL established the Working Group on Transport Law to consider the project**
 - Consider the preliminary text received from CMI
 - Broad mandate: including liability issues and the feasibility of door-to-door coverage
 - Moved the project from the industry phase to the intergovernmental negotiation stage

Time frame and Stakeholders

- **Time frame**

- 9th Session of WG III (Transport Law), April 2002
- 21st Session of WG III, January 2008
- 25 weeks of intergovernmental deliberations

- **Stakeholders**

- **UNCITRAL Member and Observer States**
- **IGOs:** UNCTAD, UNECE, European Commission, MOWCA
- **NGOs:** CMI, ICC, IUMI, FIATA, ICS, Bimco, International Group of P&I Clubs, IAPH, Association of American Railroads, OTIF, European Shippers' Council, el Instituto Iberoamericano de Derecho Marítimo, IRU, IMMTA
- **Domestic industry consultations**

Adoption of the Convention

- **Draft Approved – July 2008 – 41st session of United Nations Commission on International Trade Law (UNCITRAL)**
- **Adopted – 11 December 2008– 63rd Session of United Nations General Assembly**
 - **Opened for signature 23 Sept 2009 in Rotterdam**
 - **Recommended Convention be known as the Rotterdam Rules**
 - **Called upon all Governments to consider becoming party to the Convention**



VAN NELLE

ROTTERDAM
RULES

20-23
SEPTEMBER 2009

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Signing Ceremony – 23 Sept 2009

- 16 States signed:

Congo	Ghana	Nigeria	Spain
Denmark	Greece	Norway	Switzerland
France	Guinea	Poland	Togo
Gabon	Netherlands	Senegal	United States

- World Trade Volume: **Over 25%***
- Compare: Hamburg Rules – 34 Contracting Parties: **5%***

*According to UN United Nations 2008 International Merchandise Trade Statistics Yearbook



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Additional Signatures since 23 Sept

- **Madagascar** 25 Sept 09
- **Armenia** 29 Sept 09
- **Cameroon** 29 Sept 09
- **Niger** 22 Oct 09
- **Mali** 26 Oct 09
- **Luxembourg** 31 Aug 10
- **Democratic Republic of Congo** 23 Sept 10

TOTAL:

23

The 23 Signatory States

Armenia

Cameroon

Congo

Denmark

DRC

France

Gabon

Ghana

Greece

Guinea

Luxembourg

Madagascar

Mali

Netherlands

Niger

Nigeria

Norway

Poland

Senegal

Spain

Switzerland

Togo

United States

Intriguing mix:

- strong maritime and trading nations
- shipper and carrier states
- developing and developed countries

Process toward ratification underway in a number of States, including Denmark, Spain and US



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Advantage for Shippers / Disadvantage for Carriers

- **Increased monetary limits on carrier's liability for loss or damage**
- **Carrier liability for delay**
- **Deletion of the carrier's nautical fault exception**
- **Circumscription of fire exception**
- **Due diligence obligation of the carrier for seaworthiness and cargo-worthiness of the ship now a continuing obligation**

Advantage for Shippers / Disadvantage for Carriers

- **Inclusion of deck cargo so carrier not automatically exonerated from responsibility for loss or damage to cargo carried on deck**
- **Clarification of liability of maritime performing parties**
- **Extension of the notice period for loss or damage to goods to 7 days**
- **Carrier can no longer hide its identity in transport document**
- **Limitation period extended to 2 years**

Advantage for Carriers / Disadvantage for Shippers

- **Clear articulation of the shipper's obligations**
- **Clear rules for delivery**
- **Clear articulation of basis of liability of carrier**
- **Improved regime for deviation**
- **Clear rules for undelivered goods**
- **Solution to problem of concealed damage in multimodal carriage**
- **Solution to problem of delivery without presentation of negotiable document**



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Win-Win for ALL Stakeholders

- **Clear, harmonized global regime for maritime transport**
- **Electronic commerce for modern, efficient shipping practices**
- **Door-to-door shipments under a single contract of carriage and a single legal regime**
- **Modern containerized shipping accounted for throughout**
- **Inclusion of incoming and outgoing maritime carriage**

Win-Win for ALL Stakeholders

- **Use of a well-known limited network liability system**
- **Coverage of ALL transport documents in liner trade, not just B/Ls**
- **Limited freedom of contract, where appropriate, with mandatory protection where needed**
- **Comprehensive and more systematic provisions on carrier and shipper liability and balanced allocation of risk**

Win-Win for ALL Stakeholders

- **Right of control, to assist shippers and financing institutions, and to pave way for e-commerce**
- **Clarification of numerous legal gaps that exist under current conventions**
- **Codification of existing industry practice to provide legal certainty**
- **General adoption of commercially practicable solutions**

Strong support from:

- **International Chamber of Shipping (ICS)**
- **Bimco**
- **International Group of P&I Clubs**
- **World Shipping Council (WSC)**
- **US Shippers' Organization (National Industrial Transportation League)**
- **European Community Shipowners' Associations (ECSA)**
- **American Bar Association**
- **European Parliament**
- **Arab League Workshop**

Conclusion

- **A Win-Win approach**
- **Industry-driven project**
- **Global solution**
- **Comprehensive instrument**
- **Modernizes**
- **Harmonizes**
- **Preserves existing unimodal transport regimes**
- **Commercial and Legal Predictability and Transparency**
- **Enhanced efficiency**
- **Reduced transaction costs**



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The Rotterdam Rules

For further information on the work of UNCITRAL
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THANK YOU FOR YOUR ATTENTION

