

## **C-8: UNITED NATIONS CONVENTION ON THE LIABILITY OF OPERATORS OF TRANSPORT TERMINALS IN INTERNATIONAL TRADE**

**Name of the convention:** United Nations Convention on the Liability of Operators of Transport Terminals in International Trade

Lia **Acronym or short name:** Liability of terminal operator

**International organisation in charge of it:** United Nations Commission on International Trade Law (UNCITRAL)

**Summary description (in plain language):** The convention was signed in response to the problem of the practice by terminal operators of limiting or excluding conventionally their liability while handling goods. The legal regime created by this convention establishes a balance, on the one hand, between the interests of the carrier, the consignor or the consignee and on the other, the interests of the terminal operator. The convention establishes a uniform legal regime governing the liability of operator of a transport terminal for loss and damage to goods and for delay in handling goods over ([art.5](#)). Terminal operators are commercial enterprises that handle goods before, during or after the carriage of goods. Their services may be contracted for by the consignor, the carrier or the consignee. Typically, an operator performs one more of the following transport-related operations: loading, unloading, storage, stowage, trimming, dunnaning or lashing. The terms used in practice to refer to such enterprises are varied and included, for example: warehouse, depot, storage, terminal, port, dock, stevedore, longshoremen's or dockers' companies, railway station, or air-cargo terminal. The applicability of the convention is determined on the basis of the transport-related services such enterprises perform, irrespective of the name or designation of the enterprise( [art.2](#)).

For the convention to apply, the transport in question should be regarded as international at the time the operator takes charge of the goods in question. International transport means that point of departure and point of destination must be located in different states.

The issue of a document acknowledging receipt of goods is not mandatory under this Convention unless the customer requests it. No specific form is specified as long as the document issued is done in any form that preserves a record of the information contained therein.

Once the goods are taken in the custody of the terminal operator, his responsibility begins and does not end until he has delivered them accordingly to the transport agreement. The fulfillment of the above mentioned obligations will liberate the terminal operator from his possible liability to the loss or damage to the goods and for, if it is the case, delay in handing goods over.

Since the operator's liability is based on the principle of presumed fault or neglect, the claimant's obligation is solely to prove that the loss or damage to the goods occurred while they were under the care of the terminal operator. Nevertheless, this presumed negligence imposed on the terminal operator can be reversed if he proves that he, his servants or agents took all measures possibly required to avoid the loss or damage.

The terminal operator's liability is limited to different amounts depending on the mode of transport used and on the weight of the goods. However, the operator's liability is unlimited in case a damage results from a single event to goods pertaining to a number of different owners or if it is proved that the damage resulted from reckless behavior of the operator.

All actions brought against the operator must be filed within two years of the birth of the claim with an additional 90 days granted if the action is instituted after the carrier of the goods has been held liable in an action.

**Date of first approval:** 19 april 1991

**Date of coming into force:** not yet in force

**Dates of revision:** no

**Reasons of revisions:** no

**Applicability (situation of ratification):** This convention shall enter into force the day of the month following the expiration of one year from the date of deposit of the fifth instrument of ratification, acceptance, approval or accession (art.22). No reservations may be made to this convention (art.21).

**Stakes for ports:** This convention is of relevance for ports concerning the liability of terminal operator:

- According to article 1, a terminal operator is a commercial enterprise that handle goods before, during or after the carriage of goods. Ports have to be deemed as a terminal operator notably when it is a stevedore company.

- Port's responsibility for goods begins when the operator has taken them in charge, and ends when the operator has handed them over to, or has placed them at the disposal of, the person entitled to take delivery of them ([art.3](#)). The concept of "taking goods in charge" should be seen in the light of the types of services that an operator might perform. When the operator takes goods in order to put them in a warehouse, he would be in charge of the goods from the time he has the custody of or control over the goods. When, however, the operator begins to handle goods by performing services such as loading, unloading, storage, trimming, dunnaging or lashing, the operator's services may be performed while the goods are "in charge" of the carrier. Being "in charge" in these cases may be considered to start when the operator comes in physical contact with the goods.

- The convention deals with the operator's liability for loss resulting from physical loss of or damage to goods as well as from delay in handing over the goods ([art.5](#)). So, the liability of the operator under the convention is based on the principle of presumed fault or neglect. This means that, after a claimant has established that the loss or damage occurred during the operator's period of responsibility, it is presumed that the loss or damage was caused by the operator's negligence. The operator can be relieved of his liability that he, his agents or servants, or other persons of whose services the operator makes use for the performance of the transport-related services, took all measures that could reasonably be required to avoid loss or damage.

**Links with other conventions:** [Hamburg Rules](#), [Hague Rules](#), [Visby Rules](#), [United Nations Convention on International Multimodal Transport of Goods \(Geneva 1980\)](#)

**Key-words:** operator of transport terminal, terminal, liability, responsibility, dangerous good, transport-related services

**Internet hyperlink with other website:**

<http://www.imo.org/>

<http://www.uncitral.org/>

<http://www.un.org/>

(full text) <http://www.admiraltylawguide.com/conven/terminals1991.html>