



International Logistic Conference SpeedCHAIN 2017

1 November 2017

Prague

Multimodal Transport in Logistic Chain

Presentation

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Introduction

Legal provisions:

Dutch Civil Code, book 8, articles 40 - 43

Article 8: 40 DCC:

“The contract of combined carriage of goods whereby the carrier (combined transport operator) binds himself towards the consignor in one and the same contract, to the effect that the carriage will take place in part by sea, inland waterway, road, rail, air, pipeline or by means of any other mode of transport”



network-systeem/chameleon system

vs.

uniform liability system.

Article 8: 41 DCC:

“In a contract of combined carriage of goods each part of the carriage is governed by the judicial rules applicable to that part”.

Important to determine where damages did occur.

If this is not possible what then?

Article 8: 42 DCC:

If the combined transport operator does not deliver the goods to destination without delay and in the state in which he has received them and if it has not been ascertained where the fact causing the loss, damage or delay has arisen he is liable for the damage resulting therefrom, unless he proves that he is not liable therefore on any of the parts of the transport where the loss, damage or delay may have occurred.

Article 8: 43 DCC

If the combined transport operator is liable for the damage..... and if it has not been ascertained where the fact leading hereto has arisen his liability is determined according to the juridicial rules which apply to that part or to those parts of the transport where this fact may have arisen and from which the highest amount of damage results.



The timebar: 1 year (article 8:1722 DCC).

Decision of the Dutch Supreme Court dated 1st June 2012

Transport of a container containing fish by sea from Reykjavik to Rotterdam and by lorry from Rotterdam to Napels, Italy.

Carrier issues a combined transport document containing a jurisdiction clause in favour of the courts in Iceland

During transport by road the cargo is stolen

Cargo underwriters initiate a recovery action in the Netherlands on the basis of article 31 CMR against the carrier.

Carrier invokes the jurisdiction-clause.

Dutch Supreme Court:

CMR Treaty is not applicable to multimodal transport unless of course the situation as contained in article 2 CMR arises.

Consequence: the Dutch Courts are not competent to hear this claim.



Thank you for your attention.