

# 1990 年國際海事法委員會海運單統一規則

1990 年 6 月 29 日 巴黎 (第 34 屆大會通過)

## 1990 CMI Uniforms Rules for Sea Waybills

29th June 1990 Paris

### 1990 CMI-SWB

#### 1 Scope of Application

- (i) These Rules shall be called the "CMI Uniforms Rules for Sea Waybills".
- (ii) They shall apply when adopted by a contract of carriage which is not covered by a bill of lading or similar document of title, whether the contract be in writing or not.

#### 2 Definitions

In these Rules:

"Contract of carriage" shall mean any contract of carriage subject to these Rules which is to be performed wholly or partly by sea.

"Goods" shall mean any goods carried or received for carriage under a contract of carriage.

"Carrier" and "Shipper" shall mean the parties named in or identifiable as such from the contract of carriage.

"Consignee" shall mean the party named in or identifiable as such from the contract of carriage, or any person substituted as consignee in accordance with rule 6(i).

"Right of Control" shall mean the rights and obligations referred to in rule 6.

#### 3 Agency

- (i) The shipper on entering into the contract of carriage does so not only on his own behalf but also as agent for and on behalf of the consignee, and warrants to the carrier that he has authority so to do.
- (ii) This rule shall apply if, and only if, it be necessary by the law applicable to the contract of carriage so as to enable the consignee to sue and be sued thereon. The consignee shall be under no greater liability than he would have been had the contract of carriage been covered by a bill of lading or similar document of title.

#### 1. 適用範圍

- (i) 本規則定名為「國際海事法委員會海運單統一規則」。
- (ii) 本規則於非以載貨證券或類似證券為憑之運送契約採用時始得適用，不論該契約是否以書面訂立。

#### 2. 定義

於本規則：

「運送契約」係指受本規則拘束並全部或部分經海上履行之任何運送契約。

「貨物」係指依據運送契約所運送或收受管待運之任何貨物。

「運送人」及「託運人」係指運送契約所載明或自運送契約可識別為運送人及託運人之當事人。

「受貨人」係指運送契約所載明或自運送契約可識別為受貨人之當事人，或依據規則 6 第(i)項可代替作為受貨人之任何人。

「支配權」係指規則 6 所規定之各項權利及義務。

#### 3. 代理

- (i) 託運人訂立運送契約，既代表其自己，亦同時作為受貨人之代理人及代表人，且向運送人保證其具有權為之。
- (ii) 本條於且僅於依據適用運送契約之法律，為使受貨人能起訴或被訴必需者時，始予以適用。受貨人所承擔之責任，不得超過由載貨證券或類似證券為憑之運送契約時，其所應承擔之責任。

## 4 Rights and Responsibilities

- (i) The contract of carriage shall be subject to any International Convention or National Law which is, or if the contract of carriage had been covered by a bill of lading or similar document of title would have been, compulsorily applicable thereto. Such convention or law shall apply notwithstanding anything inconsistent therewith in the contract of carriage.
- (ii) Subject always to subrule (i), the contract of carriage is governed by:
  - (a) these Rules;
  - (b) unless otherwise agreed by the parties, the carrier's standard terms and conditions for the trade, if any, including any terms and conditions regarding to the non-sea part of the carriage;
  - (c) any other terms and conditions agreed by the parties.
- (iii) In the event of any inconsistency between the terms and conditions mentioned under subrule (ii)(b) or (c) and these Rules, these Rules shall prevail.

## 5 Description of the Goods

- (i) The shipper warrants the accuracy of the particulars furnished by him relating to the goods, and shall indemnify the carrier against any loss, damage or expense resulting from any inaccuracy.
- (ii) In the absence of reservation by the carrier, any statement in a sea waybill or similar document as to the quantity or condition of the goods shall
  - (a) as between the carrier and the shipper be prima facie evidence of receipt of the goods as so stated;
  - (b) as between the carrier and the consignee be conclusive evidence of receipt of the goods as so stated, and proof to the contrary shall not be permitted, provided always that the consignee has acted in good faith.

## 6 Right of Control

- (i) Unless the shipper has exercised his option under subrule (ii) below, he shall be the only party entitled to give the carrier instructions in relation to the contract of carriage. Unless prohibited by the applicable law, he shall be entitled to change the name of the consignee at any time up to the consignee claiming delivery of the goods after their arrival at destination, provided he gives the carrier reasonable notice in writing, or by some other means acceptable to the carrier, thereby undertaking to indemnify the carrier against any additional expense caused thereby.
- (ii) The shipper shall have the option, to be exercised not later than the receipt of the goods by the carrier, to transfer the right of control to the consignee. The exercise of this option must be noted on the sea waybill or similar document, if any. Where the option has been exercised the consignee shall have such rights as are referred to in subrule (i) above and the shipper shall cease to have such rights.

## 4. 權利及義務

- (i) 運送契約或該運送契約係以載貨證券或類似證券為憑之運送契約應適用任何應強制適用之國際公約或國內法。運送契約內任何規定與該公約或法律不相一致之處，公約或法律應適用之。
- (ii) 於適用前(i)項規定之情況下，運送契約應受下列規定之適用：
  - (a) 本規則；
  - (b) 除當事人另有協議外，運送人之標準運送條款及條件(如有)，包括任何有關非海上運送部分之條款及條件；
  - (c) 當事人所協議之任何其他條款及條件。
- (iii) 於第(ii)項(b)款或(c)款之條款及條件與本規則有不一致之處，本規則應優先適用。

## 5. 貨品陳述

- (i) 託運人保證其提供有關貨品資料之正確無誤，並同意賠償運送人因任何不正確所致之任何滅失、損壞或費用。
- (ii) 於運送人未為保留，海運單或類似文件中有關貨物數量或情狀之任何記載，
  - (a) 於運送人與託運人間，應是收受該記載之貨品之表面證據；
  - (b) 於運送人與受貨人間，應是收受該記載之貨物之絕對證據，且不得提出反證，然受貨人善意為限。

## 6. 控制權

- (i) 除託運人已依下列(ii)項規定行使其選擇權，否則其應是唯一有權依運送契約給予運送人為指示之人。除應適用之法律予以禁止，託運人有權於貨物運抵目的地後，受貨人請求提領貨物前之任何時候，變更受貨人之姓名，然其應以書面方式或為運送人所接受之其他方式，合理通知運送人，並同意承擔賠付運送人因此造成之任何額外費用。
- (ii) 託運人具有將控制權轉讓給受貨人之選擇權，應在運送人收受貨物前行使之。該選擇權行使，應於海運單或類似文書上(如有)予以註明。選擇權一經行使，受貨人便具有上述(i)項所規定之各項權利，而託運人該項權利便行中止。

## 7 Delivery

- (i) The carrier shall deliver the goods to the consignee upon production of proper identification.
- (ii) The carrier shall be under no liability for wrong delivery if he can prove that he has exercised reasonable care to ascertain that the party claiming to be the consignee is in fact that party.

## 8 Validity

In the event of anything contained in these Rules or any such provisions as are incorporated into the contract of carriage by virtue of rule 4, being inconsistent with the provisions of any International Convention or National Law compulsorily applicable to the contract of carriage, such Rules and provisions shall to that extent but no further be null and void.

## 7. 交貨

- (i) 運送人應憑受貨人出示適當身份證明為貨物之交付。
- (ii) 如運送人證明其已合理克盡職責，核實自稱為受貨人之人確係事實上之受貨人，則對錯誤交貨無須承擔責任。

## 8. 效力

如本規則任何規定，或依據規則 4 併入運送契約之任何規定，與強制適用於運送契約之國際公約或國內法不相一致時，就該不相一致且僅於該範圍內，該規則及規定應屬無效。

