



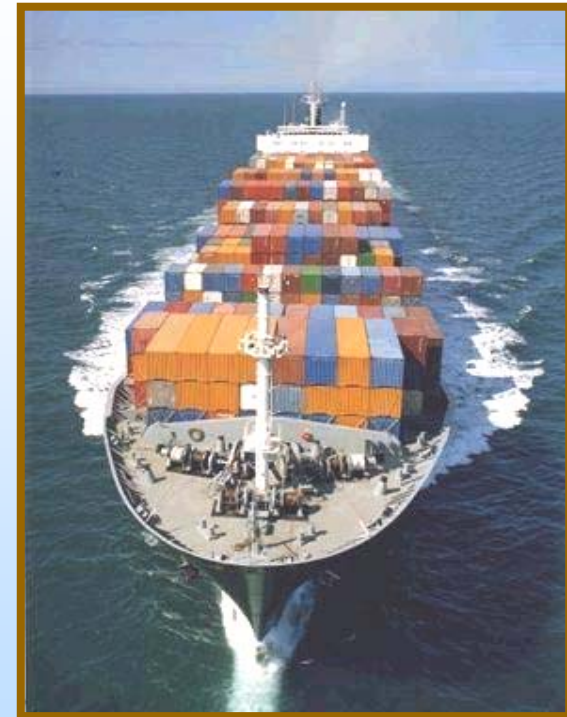
PIPER RUDNICK
GRAY CARY

IUMI CONFERENCE AMSTERDAM 2005

LIMITATION OF LIABILITY: SEA CARRIAGE

1957 LIMITATION CONVENTION

- Claims subject to limitation
- Limits
- Loss of the right to limit



1976 LIMITATION CONVENTION

- Claims subject to limitation
- Limits and 1996 Protocol
- Loss of the right to limit

HAGUE & HAGUE VISBY RULES

- Package limitation regimes
- Loss of the right to limit



HAMBURG RULES

- Package limitation regimes
- Loss of the right to limit

ATHENS CONVENTION 1974

- Claims subject to limitation
- Limits and Athens Protocol 2002
- Loss of the right to limit





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LIMITATION OF LIABILITY: ROAD / AIR CARRIAGE

INSURANCE: ESSENTIAL TO GLOBAL TRADE

- The total logistic chain
- There is more to it than port to port carriage by sea
- Road haulage
- Carriage by air

THE CMR LIABILITY MODEL

- Scope of the convention
- Basis of liability
- General exoneration grounds (17.2 CMR)
- Compensation - limits (23.3 CMR)
- 8,33 SDR per kg lost or damaged
- Remaining damage factors (23.4 CMR)



BREAKING THE LIMIT(S)

- Wilful misconduct or default equivalent to wilful misconduct
- In accordance with the law of the court or tribunal seized of the case
- Several jurisdictions
- Differences in legislation
- Differences in interpretation

JURISDICTION

- The jurisdiction rule (art. 31(1) CMR)
- Courts referred to by the Convention (art. 31(1) a, b CMR)
- Choice of Court (art. 31(1) opening words CMR)
- Forum shopping
- Negative "Feststellungsklage"

DUTIES AND EXCISE

- Charges cumstoms duties and other charges incurred in respect of carriage of the goods
- Other charges?
- On top of the limitation amount?
- Necessary to break the limitation amount?
- Last of the Mohicans?

CLOSING REMARKS CMR

- No uniformity
- Do not sit idly by
- The profit is out there
- Go out and get it!

MONTREAL CONVENTION VS. W / W + HP

- Limit MC → 17 SDR per kg lost or damaged
- Unbreakable in case of cargo
- Scope of the convention
- Timely notification



CLOSING REMARKS AIR CARGO

- "Breakability" depends on "applicability"
- Untimely notification as deadly as expiration of the time limitation period
- Be aware and - again - do not sit idly by



THANK YOU FOR YOUR ATTENTION