Freight forwarders: Terms and statutes

Exchange of views on national practices

UNECE
Working Party on Intermodal Transport and Logistics (WP.24)

2014-06-12
The role of the Freight Forwarder

National practices

- In transport – most Rules and Regulations are international
  - Particularly liability regimes
  - But also DGR, Security, Customs,

- A ’national transport’ can be part of an international transport
  - In which case international Regulations apply

- Intermodal transport – Several International Conventions
  - CMR (Road), COTIF (Rail), Hague-Visby (Sea) Montreal (Air)
The role of the Freight Forwarder

- Shipper
- Intermediary
- Agent of the carrier
- Contracting carrier
- Principal
The role of the Freight Forwarder

- Affects the Forwarders position v. the cargo owner and / or the carrier

- Affects the Forwarder ’possibility’ to perform contracted transport services
The role of the Freight Forwarder

Agent

- Creates a legal / contractual relationship between the actual carrier and the Cargo owner

Intermediary / Principal

- Creates a legal / contractual relationship between the Forwarder and the actual carrier and between the Forwarder and the Cargo owner
The role of the Freight Forwarder

In Intermodal transport

- Does the Forwarder contracts with **one** carrier for the entire transport (involving multiple modes of transport) ?

  Or,........

- Does the Forwarder contracts with **one** carrier **separately** for **each** mode of transport ?
The role of the Freight Forwarder

In Intermodal transport

- Different modes of transport have different liability regimes
  - and most importantly, different levels of liability
  - Road by rail or sea is ”road”
  - Rail by sea is ”rail”
  - Air by road, sea or rail is not air
The role of the Freight Forwarder

In Intermodal transport

Is this the ”problem” of the Forwarder ?

- Depends on the art and nature of the Forwarder

  ✓ Agent
  ✓ Intermediary
  ✓ Principal

Potential gap in liability of Forwarder towards cargo owner and actual carrier towards Forwarder

✓ The ”problem” is then the Forwarders
The role of the Freight Forwarder

In Intermodal transport

Forwarders Standard Trading Terms (Conditions)

- Most often contains a ‘network’ principle
  - Liability of ‘actual’ mode of transport if more than one is contracted for
  - Difficult for cargo owners or their insurers to estimate recovery of damages

- The ”problem” is now the cargo owners…
The role of the Freight Forwarder

In Intermodal transport

Enhanced Uniformed liability

The solution?

- Equal level of liability of Forwarder regardless of mode of transport

  - Must mean that carrier’s liability is uniform as well regardless of mode of transport
  - Otherwise Forwarder must insure the ‘gap’
    - (may lead to) Increased freight rates

  - The ”problem” is now the Regulators
The ’wish-list’ of the Freight Forwarder

In Intermodal transport

Uniformed set of Intermodal Rules and Regulations

- Liability rules and levels ”most difficult” to achieve

✓ But at the same time may ”hold the key”....
Final words of the Freight Forwarder

In Intermodal transport

TRANSPORT IS TRANSPORT

➢ Regardless of mode of transport

Or at least it should be……
Thank you for your attention

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