

# Switzerland and the Carriage of Goods on the River Rhine

Vesna Polić Foglar

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# Overview

- 1 The Rhine River in Switzerland

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- 2 Application of Swiss law

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- 3 The Code of Obligations

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- 4 The Federal Act on Maritime Navigation
- 5 The CMNI Convention
- 6 The SRTB Conditions
- 7 Conclusion

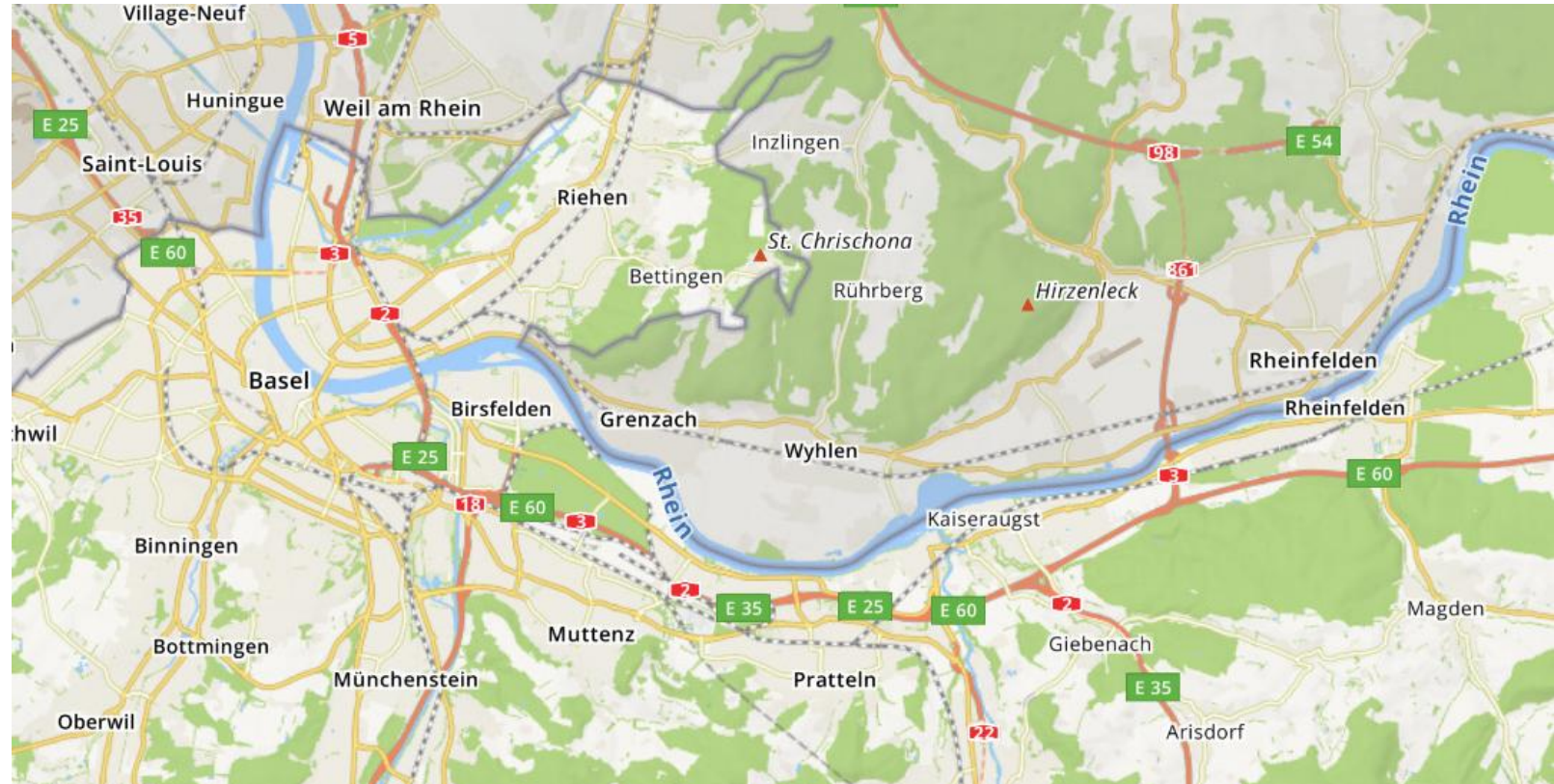
# 1 The Rhine River in Switzerland

- The Rhine's source is in the Swiss Alps, in the canton of Graubünden, where several streams form its two headwaters: the Upper and Lower Rhine. Lake Toma, at the Oberalp Pass, is considered to be the river's source.
- The river then flows north through Switzerland, forming part of the country's borders with Austria, Liechtenstein, and Germany. After flowing through Lake Constance (Bodensee), the river passes the city of Basel and turns northwards as it continues towards the North Sea.
- In Switzerland the Rhine is 376km long, making up about 30% of its total length of 1,232.7 km, and is the country's longest river.



# 1 The Rhine River in Switzerland

- The Rhine becomes navigable for commercial shipping at Rheinfelden, to the east of Basel.
- The stretch of navigable waterway on Swiss territory is rather short, extending for around 20 km (12 miles) between Rheinfelden and the border with France and Germany at Basel-Kleinmünchen.



- All major Rhine shipping and port activity in Switzerland is centred on the Basel region and its nearby terminals: Muttenz Auhafen, Birsfelden, and Kleinmünchen.

# 1 The Rhine River in Switzerland

- The Port of Basel is a major logistics hub for river-based imports and exports, accounting for over 10 per cent of all Swiss foreign trade.
- Around 8 million tons of goods and 125,000 containers are handled at Swiss Rhine ports each year. Cargo traffic to or from the North Sea is extremely important for the national economy.
- The Basel ports are Switzerland's key trading gateway because they are directly linked to major European deep-sea ports, such as Rotterdam and Antwerp, via the Rhine.
- Therefore, despite being landlocked, Switzerland has access to the sea.



# 1 The Rhine River in Switzerland

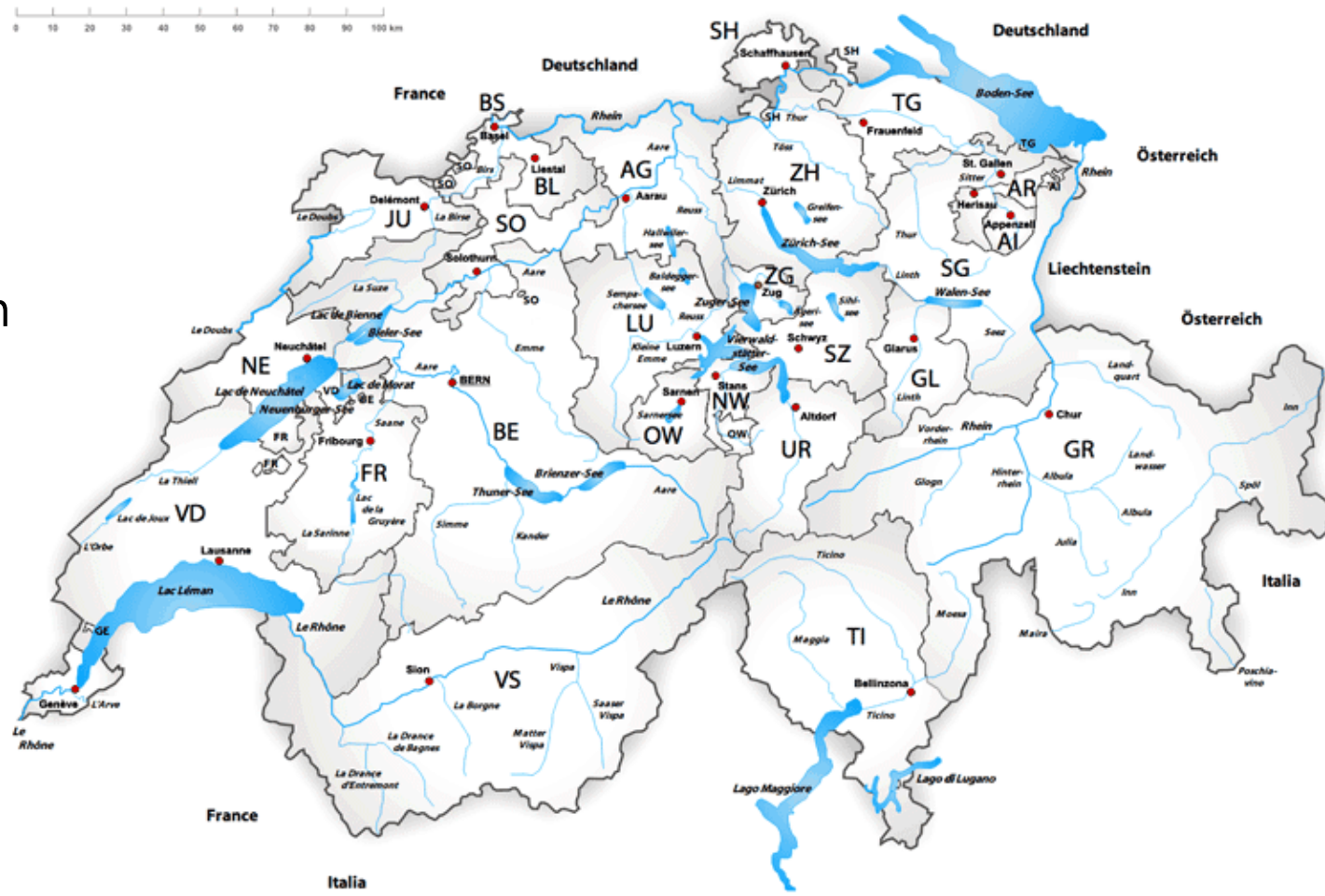


- The list of Swiss Rhine shipping companies is considerable.
- Some operate passenger services.
- Others operate ships that primarily transport **general and bulk cargo, as well as containers and liquid goods.**
- Currently, 61 cargo vessels are registered with the **Swiss Rhine Register.**
- These vessels are authorized to sail on the Rhine and its tributaries under the Swiss flag.



## 2 Application of Swiss law

- Switzerland is criss-crossed with rivers and lakes, some of which it shares with neighbouring countries: Lake Constance with Germany, Lake Geneva with France and Lake Maggiore with Italy.
- Although twelve major lakes are navigable, only a limited amount of freight is transported on them.
- When it comes to transporting goods by vessel, three areas should be distinguished:
  - navigation on **lakes and inland canals**;
  - navigation on the **Rhine River**;
  - **ocean** shipping.



- The regulation of the carriage of goods is different when it concerns the navigation on **domestic** rivers, canals, and lakes as compared to the **navigable waters connecting Switzerland to the sea**.

## 2 Application of Swiss law

When does **Swiss law** come into effect?

- Firstly, the parties to a commercial contract are permitted to select the applicable law.
- If the parties to a contract have not chosen applicable law, the contract shall be governed by the **law of the state with which it is most closely connected**.
- It is presumed that the closest connection exists with the state in which the party responsible for performing the contractual obligation is habitually resident, or with the state in which they have their **place of business** if the contract was concluded in the course of a professional or commercial activity.

291

*English is not an official language of the Swiss Confederation. This translation is provided for information purposes only and has no legal force.*

### Federal Act on Private International Law

(PILA)

of 18 December 1987 (Status as of 1 January 2025)

*The Federal Assembly of the Swiss Confederation,*

based on the responsibility of the Confederation for foreign relations<sup>1</sup>  
and on Article 64 of the Federal Constitution<sup>2</sup>,  
and having considered the Federal Council Dispatch of 10 November 1982<sup>3,4</sup>,

*decrees:*

<sup>1</sup> This wording corresponds to Art. 54 para. 1 of the Federal Constitution of 18 April 1999 (SR 101).

<sup>2</sup> [BS 1 3]. This provision corresponds to Art. 122 of the Federal Constitution of 18 April 1999 (SR 101).

<sup>3</sup> BBl 1983 I 263

<sup>4</sup> Amended by Annex No 1 of the FA of 8 Oct. 1999 on Workers posted to Switzerland, in force since 1 June 2004 (AS 2003 1370; BBl 1999 6128).

-  [Chapter 1 General Provisions](#)

-  [Section 1 Scope of Application](#)

- For the contract of carriage, the **place of business of the carrier** is decisive.
- Therefore, Swiss law applies to contracts where **the carrier's place of business is in Switzerland**.

## 2 Application of Swiss law

The carriage of goods on the Rhine River may be governed by

- the **Code of Obligations**,
- the **CMNI Convention**,
- the **Federal Law on Maritime Navigation under the Swiss Flag**, and
- the **Swiss Rhine Transport Conditions (SRTB)**, or other similar conditions.

If no *lex specialis* applies or if it does not cover a particular issue, this may be regulated by the Code of Obligations or even by the Swiss Civil Code.

As a rule, special laws and international conventions in the field of transportation do not address issues such as:

- the legal capacity of the parties;
- the conclusion and the validity of the contract of carriage,
- the carrier's right to receive payment of the agreed price,
- its right of retention,
- the consequences of non-fulfilment of the contract other than the right to claim compensation for damage, and
- termination of the contract.

# 3 The Code of Obligations

- If the Code of Obligations governs a contract for the carriage of goods, the (non mandatory) provisions of Title Sixteen (Articles 440–457) shall apply.
- This Title defines the **carrier** and sets out, among others, the **consignor's and carrier's duties**, as well as the **carrier's liability** for **loss or damage** to goods and for **delays** in delivery.
- In a rare decision relating to transport, the Swiss Federal Supreme Court ruled that the relevant provisions of the Code of Obligations also apply to **multimodal transport**.






220

## Bundesgesetz betreffend die Ergänzung des Schweizerischen Zivilgesetzbuches (Fünfter Teil: Obligationenrecht)

vom 30. März 1911 (Stand am 1. Oktober 2025)

*Die Bundesversammlung der Schweizerischen Eidgenossenschaft,  
nach Einsicht in die Botschaften des Bundesrates vom 3. März 1905 und  
1. Juni 1909<sup>1</sup>,  
beschliesst:*

<sup>1</sup> BBl 1905 II 1, 1909 III 725, 1911 I 845

-  **Erste Abteilung: Allgemeine Bestimmungen**
-  **Erster Titel: Die Entstehung der Obligationen**
-  **Erster Abschnitt: Die Entstehung durch Vertrag**
-  **A. Abschluss des Vertrages**
-  **I. Übereinstimmende Willensäußerung**

# 3 The Code of Obligations


- The parties to the contract of carriage agree that the carrier will **transport the goods** and the shipper will **pay the freight charge**. The carrier is **responsible for carrying out the transport**, but does **not have to perform itself**.
- There are no specific rules regarding the form of a contract of carriage. It is a **consensual** contract, not a real one. Its conclusion is not dependent on the handover of goods.
- The contract usually **ends** when the goods are **delivered** to the consignee.
- The contract of carriage is a contract for the benefit of a third party: the consignee.
- If Title Sixteen contains a rule specific to a particular situation, that rule shall **prevail** over any rule in the General Part of the Code..
- For example, the CO in Art. 454, para. 1, states that claims for damages against the carrier become **time-barred one year after** the scheduled delivery date. This provision therefore applies to claims against the carrier and not, for example, to the provision of Art. 127 CO, which provides for a general limitation period of ten years.

### 3 The Code of Obligations

- The liability of the carrier attaches only if it has **taken over** the goods.
- The carrier does **not need to be at fault** for liability to exist.
- If the carrier has not limited its liability in another way, the **full value of the goods** is the limit. In most cases, this value is evidenced by a commercial invoice.
- If the carrier **intentionally** caused the damage, it cannot limit its liability. It is generally accepted that the same applies if the carrier acted with **gross negligence**.



# 3 The Code of Obligations

-  **2. Haftung des Frachtführers**
-  **a. Verlust und Untergang des Gutes**
-  **Art. 447**

<sup>1</sup> Wenn ein Frachtgut verloren oder zugrunde gegangen ist, so hat der Frachtführer den vollen Wert zu ersetzen, sofern er nicht beweist, dass der Verlust oder Untergang durch die natürliche Beschaffenheit des Gutes oder durch ein Verschulden oder eine Anweisung des Absenders oder des Empfängers verursacht sei oder auf Umständen beruhe, die durch die Sorgfalt eines ordentlichen Frachtführers nicht abgewendet werden konnten.

<sup>2</sup> Als ein Verschulden des Absenders ist zu betrachten, wenn er den Frachtführer von dem besonders hohen Wert des Frachtgutes nicht unterrichtet hat.

<sup>3</sup> Verabredungen, wonach ein den vollen Wert übersteigendes Interesse oder weniger als der volle Wert zu ersetzen ist, bleiben vorbehalten.

-  **b. Verspätung, Beschädigung, teilweiser Untergang**
-  **Art. 448**

<sup>1</sup> Unter den gleichen Voraussetzungen und Vorbehalten wie beim Verlust des Gutes haftet der Frachtführer für allen Schaden, der aus Verspätung in der Ablieferung oder aus Beschädigung oder aus teilweisem Untergange des Gutes entstanden ist.

<sup>2</sup> Ohne besondere Verabredung kann ein höherer Schadenersatz als für gänzlichen Verlust nicht begehrt werden.

The Code distinguishes between

- **total** loss and
  - **partial** loss
- of goods.

# 3 The Code of Obligations

- The carrier is liable if the goods entrusted to it are **lost or destroyed** (Art. 447), as well as for **any damage resulting from** delay in delivery, damage in transit or partial destruction of the goods (Art. 448).
- The Code thus distinguishes between **two types of transport damage**.

The **first** is the total loss and destruction of the goods:

- If the goods are **lost**, they cannot be delivered to the consignee, and the contract of carriage cannot be fulfilled.
- If the goods are **destroyed**, they are considered to be a **constructive total loss**, and their delivery is in most cases economically unreasonable.

If a **total loss** occurred, only **physical damage** will be compensated because the **value of the goods** exhausts the amount of the limitation of liability.

# 3 The Code of Obligations

- The **second** type is the partial damage:
  - **delay in delivery,**
  - **damage in transit and**
  - **partial destruction of the goods.**
- In the event of partial destruction, damage or loss, the carrier must pay an amount corresponding to the **depreciation** resulting from the difference in value of the goods at the time of handover and after the damage occurred.
- In the event of **partial damage**, including **delay**, the carrier is liable not only for the actual damage to the goods, but also for any **consequential losses** arising from the damage, such as clean-up costs, service interruption, loss of earnings and wasted effort, up to the **full value** of the goods.
- It is a rare peculiarity that a carrier is liable for consequential damage.

### 3 The Code of Obligations

The carrier may invoke the same **grounds for exoneration** in both cases of damage.

It may exempt itself from liability if it can prove that the loss, destruction or delay resulted from:

- the **nature** of the goods, or
- through the **fault** of the consignor or consignee.
- occurred as a result of **instructions** given by either of them, or
- **circumstances** that could not have been prevented, even with the diligence of a prudent carrier.



# 4 The Federal Act on Maritime Navigation

- **The navigation under the Swiss flag** is codified in the **Federal Act on Maritime Navigation under the Swiss Flag (MNA)** and governed by the Swiss legislation, insofar as it is compatible with the principles of international law.
- Swiss maritime law also applies to **inland navigation** on waters connecting Switzerland with the sea, i.e. to the navigation on the **Rhine**.

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## Bundesgesetz über die Seeschifffahrt unter der Schweizer Flagge (Seeschifffahrtsgesetz)

vom 23. September 1953 (Stand am 1. Juli 2023)

*Die Bundesversammlung der Schweizerischen Eidgenossenschaft,*

gestützt auf die Artikel 87 und 122 der Bundesverfassung<sup>1,2</sup>  
nach Einsicht in eine Botschaft des Bundesrates vom 22. Februar 1952<sup>3</sup>,




*beschliesst:*

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<sup>1</sup> SR 101

<sup>2</sup> Fassung gemäss Anhang 3 Ziff. II 4 des Wappenschutzgesetzes vom 21. Juni 2013, in Kraft seit 1. Jan. 2017 (AS 2015 3679; BBl 2009 8533).

<sup>3</sup> BBl 1952 I 253

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-  **Erster Titel: Allgemeine Ordnung und Behörden**
  -  **Erster Abschnitt: Allgemeine Grundsätze**
  -  **Schweizerisches Recht und Völkerrecht**

# 4 The Federal Act on Maritime Navigation

The MNA regulates

- the flag legislation and the registration of ships,
  - the organization of the relevant authorities,
  - the operation of maritime shipping,
  - the contracts for the use of a seagoing vessel, etc.
- With regard to questions of the carrier's liability for goods, the Act incorporates the **Hague Rules**, the **Visby Protocol** and the **SDR Protocol**.
  - Where the MNA contains no specific provisions, the **Code of Obligations** applies to contracts for the use of a seagoing ship.

## 4 The Federal Act on Maritime Navigation

There is also a

- Federal **Act on Inland Navigation**

and the corresponding

- Ordinance on Navigation on Swiss Waters - **Inland Navigation Ordinance**

which do not deal with the carrier's liability for the goods carried.

They apply to issues such as

- the exercise of navigation,
- the construction and operation of harbour facilities,
- ships and their crews,
- traffic regulations,
- rules for navigating and lying still,
- the liability of licensed shipping companies and
- insurance obligation.

# 4 The Federal Act on Maritime Navigation

- When it comes to questions of **liability for the transported goods**, the **Seventh title** (of 3 Articles only) of the MNA applies to navigation by inland waterway vessels on the **Rhine**, its **tributaries and side canals and on other navigable waters linking Switzerland to the sea**.
- Navigation on these waters shall be **treated in the same way as maritime navigation** in so far as the provisions of this Act are declared applicable in this Title.

## - **Siebenter Titel: Die Anwendung seerechtlicher Bestimmungen in der Binnenschifffahrt**

### - **Voraussetzungen**

#### - **Art. 125**

<sup>1</sup> Die mit Binnenschiffen betriebene Schifffahrt auf dem Rhein, seinen Nebenflüssen und Seitenkanälen sowie auf andern schiffbaren Gewässern, welche die Schweiz mit dem Meer verbinden, ist der Seeschifffahrt gleichgestellt, soweit in diesem Titel Bestimmungen dieses Gesetzes als anwendbar erklärt werden. Besondere gesetzliche Erlasse für die Binnenschifffahrt bleiben vorbehalten.

<sup>2</sup> Binnenschiffe sind die in einem öffentlichen Register eingetragenen Schiffe, mit oder ohne eigene Antriebskraft und mit einer Tragfähigkeit oder Wasserverdrängung von 15 t oder mehr, welche zur gewerbs-mässigen Beförderung von Personen oder Gütern verwendet werden oder hiefür bestimmt sind.

<sup>3</sup> Die Bestimmungen dieses Gesetzes finden jedoch keine Anwendung auf Schiffe, mit denen die Schifffahrt gestützt auf eine Bundeskonzession betrieben wird.

### - **Begriff und Haftung des Binnenreeders**

#### - **Art. 126**

<sup>1</sup> Binnenreeeder ist, wer ein Binnenschiff als Eigentümer, Nutzniesser oder Mieter in seinem Besitz hat und damit den Betrieb der Binnenschifffahrt ausübt.

<sup>2</sup> Der Binnenreeeder haftet nach Artikel 48 Absätze 1 und 2. Für die Beschränkung seiner Haftung sind die Bestimmungen des Strassburger Übereinkommens vom 4. November 1988<sup>136</sup> über die Beschränkung der Haftung in der Binnenschifffahrt anwendbar.<sup>137</sup>

<sup>3</sup> War ein Schubboot im Zeitpunkt der Verursachung des Schadens starr mit Schubleichtern zu einem Schubverband verbunden, so berechnet sich der Haftungsbetrag gesamthaft nach der Maschinenleistung des Schubbootes und der Tragfähigkeit der Schubleichter.<sup>138</sup>

# 4 The Federal Act on Maritime Navigation

- One of the exceptions mentioned in Art. 127 concerns the rule whereby, once the goods have been taken on board, the **shipper is entitled to a bill of lading** (on-board bill of lading) (Art. 113). Shippers in inland navigation **do not have** such an automatic right.
- The obligations and liability of the sea carrier and the issue of the bill of lading are, among other things, regulated in the Fourth Section of the Fifth Title, The Contract of Carriage by Sea, of the MNA.



## 4 The Federal Act on Maritime Navigation

- The Hague-Visby Rules apply to any **bill of lading** relating to the carriage of goods between ports in two different states, providing that the bill of lading is issued in a Contracting State, the carriage originates from a port in a Contracting State, or the contract of carriage stipulates this.
- The nationality of the vessel, the carrier, the shipper, the consignee or any other person involved is irrelevant.
- The period of application is **from the loading to the unloading of the goods**.
- Unlike the Hague-Visby Rules, the MNA contract for the carriage of goods by sea does **not only** cover carriage under a **bill of lading or similar document of title**, nor does it only cover **the period from when the goods are loaded onto the ship until they are discharged**.
- It covers the **entire contract of carriage from the time of acceptance of the goods by the carrier until delivery**.

## 4 The Federal Act on Maritime Navigation

- The **carrier's duties** under the MNA are the same as those under the Hague-Visby Rules.
- **Before and at the beginning of the voyage**, the sea carrier is bound to exercise due diligence to make the ship seaworthy, to man, equip and supply it properly, and to make the holds, refrigerating and cool chambers, and all other parts of the ship in which goods are carried, fit and safe for their reception, carriage and preservation.
- The **carrier** shall properly and carefully load, stow, carry, store, handle and discharge the goods, **unless** these operations are to be performed by the **shipper or consignee**.
- In other words, the operations of **loading, stowing and discharging** can be contractually left to the party interested in the cargo.
- If these services are not to be provided by the shipper or consignee, the carrier is responsible them **throughout the entire carriage**.

## 4 The Federal Act on Maritime Navigation

- **Freight charge** is only due if the goods are **delivered or made available** to the consignee at the port of destination, the provisions on the impossibility of execution being reserved.
- Full freight shall also be due if delivery of the goods is not made because of **acts or omissions of the shipper or consignee** or because of the nature or natural condition of the goods, or if dangerous or prohibited goods have been put ashore, destroyed or thrown overboard.
- The **debtor of the freight** and any other claims adhering to the goods is the consignee, i.e. the person who requests delivery of the goods.
- This person shall only be liable for demurrage and other claims arising in the **port of loading** if these are recorded in the bill of lading, or if it can be shown to have been aware of these claims in some other way.

## 4 The Federal Act on Maritime Navigation

- The provisions on the sea carrier's **liability for physical damage** to the goods are of **mandatory** nature, with a few exceptions.
- For damages caused by **delay** the full **freedom of contract** applies.
- The period of the carrier's liability spans the **entire time** from the taking over of the goods until their delivery. However, following the provisions of the HVR, the law expressly makes the carrier's liability **mandatory for the time the goods are on board the ship**, but **deviating agreements** are permitted for the time before loading and after discharge.

## 4 The Federal Act on Maritime Navigation

- The sea carrier must compensate for **total loss** at the **full value** of the goods.
- In case of **partial loss, damage or delay**, it is liable for the **depreciation** of the goods without any further compensation.
- It is **not** liable for any **consequential damages**.
- Contrary to the HVR, the MNA provides that the sea carrier is liable for **delay in delivery**. This liability is **dispositive**, and if not excluded by contract, it exists.
- If a **delay causes damage** to the goods – physical damage, loss of value due to spoilage, etc. - the sea carrier has a **mandatory** liability for this **damage**.
- If a **delay causes consequential damage**, the carrier shall only be liable if it consists of a **depreciation** in value without damage to the goods.
- Thus, the only possible **type of damage caused by delay** is a **drop in price**, e.g. a drop in prices on the stock market or when the buyer no longer accepts and pays for the goods so that they can only be sold at a lower price.

## 4 The Federal Act on Maritime Navigation

- If **damage** occurs and a **reservation** is made, the **liability** of the sea carrier is **presumed**.
- It can **free** itself from its liability if it can prove that the damage is due to a **cause for which neither** the carrier, the captain, the ship's crew or other persons in the service of the sea-going vessel, nor any person used by the carrier in the performance of the carriage, **are at fault**.
- The exemptions for **error in navigation** and **fire** are regulated separately:
- If the loss, destruction or damage of the goods or the delay were caused by the **actions, negligence or omissions** of the master, pilot or other persons in the service of the sea-going vessel in the course of its navigational or technical command or by **fire**, the carrier shall be **relieved** of its liability, **provided that it is not at fault**.
- The remaining exemptions, the so-called **excepted perils**, provide that the sea carrier shall neither be liable for loss, destruction or damage of the goods or delay if it proves that these consequences are due to one of the listed causes.

## 4 The Federal Act on Maritime Navigation

- The **limits of liability** are taken from the Hague-Visby Rules.
- They are not fixed in the MNA, but instead, the Federal Council has fixed them in the Ordinance on Maritime Shipping (OMS).
- The carrier shall in no case, and on whatever legal grounds, be liable for amounts exceeding **666.67** units of account per package or other transport unit or **2** units of account per kilogram of gross weight of the lost or damaged goods, whichever is the higher.
- The provisions relating to **relief** or **limitation** of liability **shall not apply** if the sea carrier or its auxiliaries have caused damage by an **intentional** or **reckless** act or omission that was likely to result in damage.
- In other words, **full liability** shall apply if damage is caused in this way.
- For **loss of the right to limit liability**, the requirement for **subjective consciousness** of the probability of damage must be met. A mere fact that the probability of damage 'should have been recognised' is insufficient.

# 5 The CMNI Convention

**Budapest Convention on the Contract  
for the Carriage of Goods  
by Inland Waterway  
(CMNI)\***

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\* Adopted by the Diplomatic Conference Organized Jointly by CCNR, the Danube Commission and UN/ECE, held in Budapest from 25 September to 3 October 2000.

- The Convention applies to contracts of carriage in which a carrier undertakes to transport goods **exclusively by inland waterways**, in exchange for payment of the freight.
- To avoid conflict with maritime law in cases of transport **by sea and inland waterways without transshipment**, this Convention does not apply if a **maritime bill of lading** has been issued or if **the sea route is longer**.
- Contracts relating to **pushing and towing**, as well as the carriage of passengers' **luggage and vehicles**, are expressly **excluded** from the scope of this Convention.

# 5 The CMNI Convention

- The Convention applies to any contract of carriage where the port of loading or the place where the goods are **taken over**, and the port of discharge or the place where the goods are **delivered**, are located **in two different States**, at least one of which is a Party to the Convention.
- At the time of ratification, Switzerland **declared** that it would apply the Convention to the carriage of goods between the Swiss border and Rheinfelden, i.e. even to **national contracts**.



## 5 The CMNI Convention

- The carrier shall only issue a **bill of lading** if the shipper requests it and this has been agreed before the goods are loaded or taken over for carriage.
- However, the absence or incompleteness of a transport document shall **not affect** the validity of the contract of carriage.
- The CMNI does **not address** the issue of **payment of freight and demurrage**. Therefore, these issues shall be governed by the provisions of the MNA.
- The Convention contains provisions on carrier's liability, ist liability for servants or agents, exoneration from liability, calculation of compensation, maximum limits of liability, loss of right to limit liability, etc.

## 6 The SRTB Conditions

- Swiss carriers generally incorporate the **Swiss Rhine Transport Conditions (SRTB)** into their contracts.
- Any agreements that **deviate** from these conditions must be **agreed in writing** at the time the contract is concluded.
- If the SRTB do not contain a rule, the **MNA**, as well as other Swiss legal provisions and commercial customs, shall apply.

### Schweizer Rheintransport-Bedingungen (SRTB) 2002

#### Revidierte Fassung vom 1. Januar 2019

##### Begriffsbestimmungen

1. **Frachtführer** bedeutet jede Person, von der oder in deren Namen ein Vertrag über die Beförderung von Gütern auf Binnenwasserstrassen mit einem Absender abgeschlossen worden ist.
2. **Hilfspersonen** des Frachtführers sind der Schiffsführer, die Mitglieder der Schiffsbesatzung und alle weiteren Personen, deren sich der Frachtführer zur Durchführung des Transportes bedient. Der Schiffsführer ist Vertreter des Frachtführers und kann alle Rechte, die nach diesen Bedingungen dem Frachtführer zustehen, in dessen Namen geltend machen und ausüben.
3. **Ausführender Frachtführer** bedeutet jede Person, welcher der Frachtführer die Ausführung der Güterbeförderung ganz oder teilweise übertragen hat.
4. **Absender (Auftraggeber)** bedeutet eine Person, von der oder in deren Namen oder für die ein Vertrag über die Beförderung von Gütern auf Binnenwasserstrassen mit einem Frachtführer abgeschlossen worden ist.
5. **Empfänger** bedeutet die zur Empfangnahme der Güter berechtigte Person.
6. **Frachtvertrag** der Binnenschifffahrt bedeutet jeder Vertrag, gleichgültig, wie er bezeichnet wird, in dem sich ein Frachtführer gegen Bezahlung der Fracht verpflichtet, Güter auf Binnenwasserstrassen zu befördern.
7. **Frachtpapier** bedeutet eine Urkunde, durch die ein Frachtvertrag der Binnenschifffahrt und die Übernahme oder Ladung der Güter durch einen Frachtführer bewiesen wird und die in der Form eines Konnossements oder eines Frachtbriefes oder jeder anderen im Handel gebräuchlichen Urkunde ausgestellt wird.
8. **Güter** schliessen geschleppte oder geschobene Schiffe nicht ein und umfassen nicht Gepäck und Fahrzeuge der beförderten Personen. Sind die Güter in einem Container, auf einer Palette oder in oder auf einem ähnlichen

## 6 The SRTB Conditions

- The SRTB regulates the duties and obligations of the consignor and the carrier, loading and unloading of the goods, shipping documents, the calculation of freight, low water surcharges, permissions of the carrier in cases of obstruction of shipping, the **liability of the carrier, its auxiliaries and agents**, the general average, court jurisdiction etc.
- After loading has been completed, the carrier shall issue a **consignment note** or, if expressly agreed upon when the contract is concluded, a **bill of lading**.
- The carrier shall **take over** the goods at the agreed place of loading, **transport** them to the agreed destination and **make them available** there to the consignee **for unloading**.
- It is the **shipper's responsibility to deliver the goods into the ship** and to **stow, trim and secure** them according to the carrier's instructions.
- Unless otherwise agreed, the **unloading of the vessel is the responsibility of the consignee**, but in tanker shipping, pumping out the cargo with on-board pumps is the responsibility of the carrier.

## 6 The SRTB Conditions

Both the **scope and the amount of liability** vary depending on which **transport document** has been issued.

- If a **bill of lading** has been issued, the question of liability shall be governed by the MNA.
- Liability shall be limited to the amounts specified in the **Ordinance** on Maritime Shipping.
- The carrier shall not be liable for amounts exceeding **666.67 units of account per package** or other transport unit or **2 units of account per kilogram** of gross weight of the lost or damaged goods, whichever is the higher.
- In cases of **delay**, the **depreciation** of the goods is the only type of damage for which the carrier is liable.
- The **value of the goods** is the highest limitation of liability in any case.

## 6 The SRTB Conditions

- If, for example, a **consignment note** has been issued, the carrier shall be liable for **loss of or damage** to the goods between the time they were taken over for carriage and delivery, or if the **delivery time is exceeded, unless** it can be proven that the loss or damage was caused by **circumstances that a diligent carrier could not have avoided or prevented**.
- Liability for delayed acceptance or delivery of the goods only exists if a specific date has been expressly agreed in writing.
- If damage occurs that could be caused by one of the **enumerated reasons** for **liability exclusion** or one of the associated risks, **it is assumed** that the damage arose from this circumstance or risk.
- These grounds for exemption also apply expressly to the liability for **damages caused by delay**.
- **Proof to the contrary is permitted**.
- **Nautical fault is not mentioned** in the SRTB as a disclaimer.

## 6 The SRTB Conditions

- The carrier shall be liable for the acts and omissions of its **servants and agents** of whom it makes use for the performance of the contract of carriage, as for its own acts and omissions, if such persons have **acted within the scope of their employment**.
- A **pilot** who is appointed by the Authority and cannot be freely chosen shall **not be considered a servant or agent** of the carrier.



## 6 The SRTB Conditions

The carrier's liability shall be limited:

- to **250 units of account** for each **package** or other **cargo unit** or to **one unit of account per kilogramme** of gross weight of the lost or damaged goods mentioned in the transport document, whichever is the higher;
  - to **1,500 units of account** for a **container without goods**; and
  - to **20,000 units of account** for a **container including the goods** stowed therein.
  - The maximum liability per event of loss is **500,000 units of account**.
- For damages due to **delayed delivery**, the carrier is only liable up to the simple **amount of the freight**.
  - It is liable for **all types of damage** resulting from a delay.
  - As already said, in cases of delay when bill of lading has been issued, the depreciation of the goods is the only type of damage for which the carrier is liable, up to the full value of the goods. It is difficult to justify this differentiation in practice.

## 6 The SRTB Conditions

- The **aggregate amount** of liability shall not exceed the amount of liability for total loss of the goods.
- The parties may **agree to higher** liability amounts.
- The exemptions from liability and limitations of liability shall not apply if it is proven that the carrier or the actual carrier has caused the damage by an act or omission done **with intent** to cause such damage or **recklessly and with knowledge** that such damage would probably result.
- The SRTB regulates further in detail the questions of the reservation, the forfeiture and the statute of limitations of the claims, both for damage of goods and for delay, and the place of jurisdiction and applicable law.
- They were developed and adopted by the Swiss Shipping and Port Association (SVS) in Basel.

## 7 Conclusion

- Imagine an export shipment of 10-ton machinery parts, where **1 ton, packed into 10 units**, arrives damaged to the consignee.
- Let us assume that this is only a **partial damage**, since the remaining 9 tons are usable normally.
- How would **compensation** be calculated?



# 7 Conclusion

- If a **through bill of lading** has been issued at the exporter's premises for door-to-door carriage (i.e. including the land leg) and the **place** where the damage occurred is **unknown**, the claimant is entitled to compensation according to the **terms of the TBL** (which, as a rule, take over the limitation of the HVR):
  - 10 units x 666.67 SDR x 1.2 € = **8,000 €** (which is higher than 1,000 kg x 2 SDR x 1.2 € = 2,400 €).
  - If the place of the damage is **known**, compensation will usually be granted **in accordance with the relevant rules**. For transport by rail or road this amount may be considerably higher.
- If a **bill of lading** has been issued at the port of loading (for Rhine carriage only or for ocean carriage as well), the compensation will most likely be calculated in the same way as under the TBL.
- If a **consignment note** has been issued, the claimant shall be entitled to 10 units x 250 SDR x 1.2 € = 3,000 € (which is higher than 1,000 kg x 1 SDR x 1.2 € = 1,200 €).

# 7 Conclusion

- Navigation and the carriage of goods on the Rhine are of the **utmost importance** to Switzerland.
- Parties to a contract of carriage enjoy considerable **freedom** in this respect.
- As with other modes of transport, the regulation of carriers' liability for goods transported on the Rhine is **complicated and multifaceted**. This involves defining the **types of damage** and the **compensation** for them, setting **liability limits**, and determining the conditions for **exoneration** and **loss of the right to limit liability**.
- As most claims are settled through **negotiations**, there are practically **no court decisions** that shed light on the matter.
- Nevertheless, the industry copes well and is clearly not troubled by the situation!

# Thank you!

**Vesna Polić Foglar**

polic@gbf-legal.ch

**Zürich**

gbf Rechtsanwälte AG  
Hegibachstrasse 47  
8032 Zürich  
T +41 43 500 48 50

**Genf**

gbf Avocats SA  
Route de Pré-Bois 20  
1215 Genève Aéroport  
T +41 22 533 48 50

**Notariat Bern**

Notar Stauffer von May  
Von-Werdt-Passage 3  
3011 Bern  
T +41 43 500 48 50

**Notariat Olten**

Notar Novoselac  
Solithurnerstrasse 235  
4600 Olten  
T +41 43 500 48 50

**gbf** Attorneys-at-law  
Rechtsanwälte  
Avocats