

Unofficial Translation*

CARRIAGE OF GOODS BY SEA ACT,
B.E. 2534 (1991)

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BHUMIBOL ADULYADEJ, REX;

Given on the 14th Day of November B.E. 2534;

Being the 46th Year of the Present Reign.

His Majesty King Bhumibol Adulyadej is graciously pleased to proclaim that:

Whereas it is expedient to have the law on carriage of goods by sea;

Be it, therefore, enacted by the King, by and with the advice and consent of the National Legislative Assembly, as follows.

Section 1. This Act is called the “Carriage of Goods by Sea Act, B.E. 2534 (1991)”.

Section 2.¹ This Act shall come into force after ninety days as from the date of its publication in the Government Gazette.

Section 3. In this Act:

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* Translated by Associate Professor Dr. Pinai Nanakorn, and reviewed by Professor Vichai Ariyanuntaka under contract for the Office of the Council of State of Thailand's Law for ASEAN project. – Tentative Version – subject to final authorisation by the Office of the Council of State.

¹ Published in Government Gazette, Vol. 108, Part 203, dated 22nd November 1991.

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“carrier” means a person who undertakes to carry the goods by sea for remuneration in the usual course of his business under a contract for the carriage of goods by sea made with a shipper;

“actual carrier” means a person, not being a party to a contract for the carriage of goods by sea with a shipper, to whom the performance of the carriage of the goods, or even part of the carriage, has been entrusted by the carrier and also includes any other person to whom such performance of the carriage of the goods has been entrusted by other carriers, irrespective of the numbers of occasions of such entrustment, but excludes any person who is authorised, expressly or impliedly in the usage applicable to the business of carriage of goods by sea, to act as the carrier’s or the actual carrier’s agent in business operations incidental to the carriage of goods by sea such as immigration formalities, customs formalities, pilotage, port entering, port departure, loading, unloading or delivering the goods to a consignee and so forth;

“shipper” means the person who is a party with the carrier in a contract of carriage of goods by sea;

“consignee” means:

(a) the person named in a bill of lading as a consignee or as a receiver of the goods, in the case of a bill of lading issued to a named person;

(b) the last endorsee, in the case of a bill of lading issued to order or a bill of lading issued to a named person without any indication prohibiting endorsement; or

(c) the person named as a receiver of the goods, in the case where no bill of lading is issued or where a document otherwise called is issued;

“goods” means movable property and live animals and includes articles of transport supplied by the shipper for use in the carriage;

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“article of transport” means a container, pallet or similar article used for containing or supporting the goods or used for consolidating several shipping units for the purpose of the carriage by sea;

“shipping unit” means such unit of the goods to be carried by sea as to be counted as one, each of which is capable of being carried on its own such as a sack, a piece, a tank, a container, a roll, a box, a chunk, a package, a case, an item or any unit otherwise called;

“contract of carriage of goods by sea” means a contract whereby the carrier undertakes against payment of freight to carry goods by sea from one port or place in one country to another port or place in another country;

“freight accessories” means any expenses which are reasonably incurred by the carrier during the carriage and which, according to the usage applicable to the carriage by sea, are deemed to form part of the freight, and shall include extra money which the carrier need to collect in addition to the normal rate of freight in compensation for the expenses incurred in services rendered by the carrier in consequence of events beyond the carrier’s control and of which collection is, according to the usage in the carriage by sea, allowed to be made such as expenses from the escalation of fuel oil prices or additional expenses due to congestion at a port or a loading or unloading place or fluctuation in currency exchange rates;

“bill of lading” means a document which is issued by the carrier to the shipper as evidence of a contract of carriage of goods by sea and as evidence that the carrier has taken over the goods as therein described or has loaded the goods onto the ship, and by which the carrier undertakes to deliver such goods, against surrender of the document, to the person entitled to receive the same.

Section 4. This Act shall apply to the carriage of goods by sea from one place within the Kingdom to another place outside the Kingdom or from one place outside the Kingdom to another place within the Kingdom except that, in the case where it is indicated in

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the bill of lading that the law of another country or international law shall apply, such law shall apply, provided that notwithstanding such indication, this Act shall apply if it is apparent that any party is of Thai nationality or is a juristic person established under the law of Thailand.

If it is agreed in writing that the carriage of goods by sea within the Kingdom shall be governed by this Act, this Act shall apply thereto *mutatis mutandis*.

In the case of the carriage without charging any freight, the carrier is not liable under this Act but if a bill of lading, a document acknowledging receipt of the goods or any other document of similar nature is issued, the carrier must make a notation in such bill of lading, receipt or other document that the carrier shall not bear liability, failing which it may not be set up against a third party who is a consignee or transferee under such bill of lading, receipt or document.

Section 5. This Act does not apply to the carriage of goods by sea under a charterparty, whether it is a charterparty of the whole or part of the ship. But, if a bill of lading is issued for the goods carried under such charterparty, obligations and rights of the carrier and the consignee not being the charterer shall be governed by this Act.

Section 6. A contract of carriage of goods consisting of the mode of transport by sea in combination with any other mode of transport shall be subject to this Act only insofar as it deals with the mode of transport by sea.

Section 7. The Minister of Transport shall have charge and control of the execution of this Act.

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CHAPTER I
OBLIGATIONS AND RIGHTS OF THE CARRIER

Section 8. Before loading the goods onto the ship or before the departure of the ship, the carrier is under obligations to:

- (1) make the ship safely seaworthy during its navigation route;
- (2) secure that the ship is so properly manned, equipped and supplied as to meet its need; and
- (3) make the holds and all other parts of the ship, such as refrigerating and cool chambers, in which goods are carried fit and safe for their reception, carriage and preservation.

In performing the obligations under this section, the carrier must do all acts normally and reasonably expected of a person engaging in the occupation of the carriage of goods by sea.

Section 9. If any of the defects under section 8 has occurred after the goods have been loaded onto the ship or the ship has departed, the carrier must correct such defect as soon as practicable for a person engaging in the occupation of the carriage of goods by sea in such condition.

Section 10. The carrier must exercise proper care and perform proper acts in loading, lifting, moving, storing, looking after and unloading the goods.

Section 11. The carrier is entitled to carry the goods on deck only in the case where it has been so agreed with the shipper or it is such act as required by law or it is the performance in accordance with the usage of the particular trade relating to the carriage of such goods.

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If the carrier and the shipper have made an agreement allowing the goods to be carried on deck, the carrier must make a notation of such agreement in the bill of lading or, in the case where no bill of lading is issued, in any other document evidencing the contract of carriage of goods by sea.

In the absence of any notation in the bill of lading or other document under paragraph two, if the carrier claims that such agreement exists, the burden of proof of such agreement shall be on the carrier, provided that this may not be set up against the consignee or any third party who has acquired the bill of lading or other document without the knowledge of such agreement.

If the goods have been carried on deck contrary to the provisions of paragraph one or in the case where no notation of the agreement is made in the bill of lading or other document under paragraph three, the provisions of section 51, section 52, section 53, section 54, section 55 or section 56 shall not apply.

In the case where an express agreement between the carrier and the shipper has been made requiring the carriage of the goods in the hold, any carriage by the carrier of such goods on deck shall be deemed to be an act or omission under section 60 (1).

Section 12. When the carrier has received the goods into his charge, the carrier shall, if demanded by the shipper, issue a bill of lading.

Section 13. Upon completion of the loading of the goods onto the ship, the carrier must, if so demanded by the shipper, issue a "shipped" bill of lading.

Section 14. If the goods have been carried to the port of discharge or such destined place as agreed upon and are ready for delivery, the carrier is entitled to receive freight and freight accessories, unless it is otherwise stipulated in the bill of lading or otherwise agreed in a contract of carriage of goods by sea.

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Section 15. The carrier is entitled to retain the goods until freight and freight accessories have been received or until reasonable security has been given by the consignee.

Section 16. Upon arrival of the goods at the port of discharge or such destined place as agreed upon, the carrier must notify it to the consignee without delay.

Section 17. Any term, in a contract of carriage of goods by sea, which contains any of the following objects or produces any of the following effects, whether directly or by way of implication, shall be void:

- (1) absolving the carrier from any obligation or liability as provided in this Act;
- (2) fixing the carrier's liability in a manner lesser than that provided in section 58 or section 60;
- (3) shifting the onus of proof, placed by this Act on the carrier, to the shipper or any third party;
- (4) making the carrier the beneficiary under an insurance contract for which the goods under the contract of carriage of goods by seas constitute the subject of the insurance.

The voidness of the term under paragraph one has no prejudice to the validity of other terms in such contract and it shall be deemed that the parties to the contract have intended such other terms to be severable from the terms which are void under paragraph one.

The provisions of this paragraph do not preclude the parties from, by an agreement, fixing the carrier's obligations and liability exceeding those provided for in this Act.

CHAPTER II BILLS OF LADING

Section 18. A bill of lading shall show the following particulars:

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(1) the general nature of the goods, marks necessary for identification of the goods, statements notifying the dangerous nature of the goods, if any, the number of shipping units and the weight or other quantity of the goods, as notified or furnished by the shipper;

(2) the apparent order and condition of the goods;

(3) the name and office of the carrier;

(4) the name of the shipper;

(5) the name of the consignee, if it is indicated by the shipper;

(6) freight payable by the consignee or a statement that the consignee is liable for payment of freight and demurrage at the port of loading;

(7) the port of loading under the contract of carriage of goods by sea and the date on which the carrier has received the goods into his charge;

(8) the port of discharge under the contract of carriage of goods by sea;

(9) the statement that the goods are to be carried on deck or are allowed to be carried on deck;

(10) the date and period of delivery of the goods at the port of discharge, if it has been agreed upon by the parties;

(11) limitations of liability exceeding those provided in section 58;

(12) the place and date of issuance of the bill of lading;

(13) the number of originals of the bill of lading issued;

(14) the signature of the carrier or the carrier's agent.

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Section 19. The “shipped” bill of lading under section 13 shall also indicate, in addition to the particulars under section 18, the name of the ship on which the goods are to be carried and the date of completion of loading the goods onto the ship.

Section 20. In the case where the carrier has previously issued to the shipper a bill of lading or any other document of title with respect to the goods before loading, the shipper must, if he requests the carrier to issue a “shipped” bill of lading, surrender such bill of lading or document to the carrier in exchange for a “shipped” bill of lading. For this purpose, the carrier may meet such demand by amending such bill of lading or document in order to become a “shipped” bill of lading, if such bill of lading or document, as amended, includes all particulars required to be contained in a “shipped” bill of lading.

Section 21. In the case where the bill of lading issued by the carrier fails to contain full particulars as indicated in section 18 or section 19, such bill of lading retains its legal character as a bill of lading provided that the statements therein meet such requirements of a bill of lading as set out in section 3.

Section 22. If a bill of lading does not contain the statement under section 18 (6), it shall *prima facie* be presumed that the consignee is not liable for payment of freight and demurrage at the port of loading. But, if such bill of lading has been transferred to the consignee or a third party who in good faith has acted in reliance on such bill of lading, proof to the contrary by the carrier is not admissible.

Section 23. In the case where the shipper has notified or furnished the statements, in the bill of lading, with respect to the general nature of the goods, marks necessary for identification of the goods, the number of shipping units and the weight or other quantity of the goods, if the carrier or other person issuing the bill of lading on behalf of the carrier knows or has reasonable grounds to suspect that such statements do not accurately

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represent the goods actually taken over or, where a “shipped” bill of lading is issued, do not accurately represent the goods loaded or has no reasonable means of checking accuracy of such particulars in the bill of lading in accordance with the nature and circumstances of the case, such person must insert in the bill of lading a reservation specifying the inaccuracies, grounds of suspicion or the absence of reasonable means of checking the accuracy, as the case may be.

Section 24. If the carrier or other person issuing the bill of lading on behalf of the carrier fails to note on the bill of lading the apparent condition of the goods, it shall be deemed that the goods under such bill of lading were in apparent good condition.

Section 25. If no reservation is inserted in the bill of lading under section 23, it shall *prima facie* be presumed that the carrier has taken the goods or, in the case of a “shipped” bill of lading, has loaded the goods onto the ship in accordance with the particulars shown in such bill of lading. But, if such bill of lading has been transferred to the consignee or a third party who in good faith has acted in reliance on the statement in such bill of lading, proof to the contrary by the carrier is not admissible.

Section 26. In the case where a bill of lading is issued, the relationship as between the carrier and the consignee in all matters in relation to the carriage of the goods indicated in such bill of lading shall be in accordance with the terms of the bill of lading.

Section 27. Any bill of lading, even if issued to a named person, is transferrable by way of endorsement, unless a term prohibiting endorsement is contained in such bill of lading.

Section 28. When a bill of lading has been issued, the consignee may demand the delivery of the goods only against surrendering such bill of lading to the carrier or giving reasonable security.

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Section 29. In the case where more than one original of a bill of lading have been issued and the goods have arrived the port of discharge or the destined place, then:

(1) the carrier must deliver the goods although he consignee surrenders only one original of the bill of lading and, when the carrier has delivered the goods, other originals of the bill of lading not yet surrendered shall cease to have legal effect;

(2) if, prior to or during the delivery of the goods, it appears that more than one consignee demand the delivery of the same goods, each having the original of the bill of lading for its surrender, the carrier shall deposit the whole or part of the goods not yet delivered at the Deposit of Property Office and the provisions of section 333 of the Civil and Commercial Code shall apply *mutatis mutandis*.

Section 30. In the case where more than one original of a bill of lading have been issued, the carrier is not, as long as the goods have not yet arrived the port of discharge or the destined place, obligated to deliver such goods to any person unless all originals of the bill of lading previously issued have been surrendered.

If the carrier has delivered the goods without all originals of the bill of lading having been surrendered, the carrier must be liable to the consignee possessing the original of the bill of lading not yet surrendered.

CHAPTER III

OBLIGATIONS AND RIGHTS OF THE SHIPPER

Section 31. The shipper is not liable for loss sustained by the carrier or the actual carrier or caused to the ship unless it was caused by the fault or negligence of the shipper or his agent or employee or from the nature of the goods themselves, whilst the shipper has failed to comply with the law or trade usage relating to the carriage of such goods.

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Section 32. If the shipper has notified or furnished the statements under section 23 in order for the carrier to note them in the bill of lading, the shipper shall, upon their being so noted, be deemed to have guaranteed to the carrier that the statements so notified or furnished represent in all respects accuracies in relation to the goods.

If there occurs any loss resulting from inaccuracies of the statements under paragraph one, the shipper must indemnify the carrier against the loss even if the shipper has transferred the bill of lading to a third party, but the carrier remains liable to a third party under the contract of carriage of goods by sea.

Section 33. In the case of the goods of a dangerous nature, such as an inflammable or explosive or otherwise dangerous nature, the shipper must mark or label them as is reasonable for the purpose of the identification of their dangerous character.

When the goods under paragraph one have been handed over to the carrier or the actual carrier, the shipper must inform the carrier or the actual carrier of the dangerous character of such goods and, where so requested by the carrier or by the actual carrier, the shipper must also inform the precautions to be taken and the means for preventing the dangers.

Section 34. If the shipper fails to comply with section 33 and the carrier or the actual carrier does not otherwise have knowledge of the dangerous character of the goods, the rights and obligations of the shipper, the carrier and the actual carrier are as follows:

(1) the carrier or the actual carrier may, at any time, unload or destroy the goods or render them innocuous, as the circumstances may require, without payment of compensation;

(2) the shipper remains liable for the loss or all expenses, other than the expenses under (1), occasioned by or resulting from the carriage of such goods.

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Section 35. Notwithstanding that the shipper has complied with section 33 or the carrier or the actual carrier has taken the goods under section 33 paragraph one for the carriage with the knowledge of their dangerous character, if it is thereafter obviously apparent that such goods become an actual danger to life or property, the carrier or the actual carrier may unload or destroy such goods or render them innocuous, as the circumstances may require, without payment of compensation, except where the carrier must be liable under section 39 without being entitled to invoke exclusions of liability under section 51, section 52, section 53, section 54, section 55 or section 56.

Section 36. While the goods remain in charge of the carrier, the shipper may instruct the carrier to stop the shipping of the goods, return the goods, withhold delivery of the goods to the consignee or deal with the goods in any other manner provided that all originals of the bill of lading issued must be surrendered to the carrier. In such case, the carrier is entitled to be indemnified against expenses incurred in handling the carriage or in the compliance with the shipper's instruction and is *pro rata* entitled to freight for the distance of the carriage thus far performed.

In the case of any act carried out in accordance with the shipper's instruction without all originals of the bill of lading being surrendered, the carrier must be liable to the consignee possessing the original of the bill of lading not yet surrendered.

Section 37. If the carrier or the actual carrier sustains loss resulting from the fault or negligence of the shipper or the shipper's agent or employee, such carrier or actual carrier must give the shipper or the shipper's agent a written notice of the loss specifying the general nature of such loss within ninety days as from the date of the occurrence thereof or the date of the delivery of the goods in accordance with section 40, whichever is later; failing such notice, it shall *prima facie* be presumed that the carrier or the actual carrier has sustained no such loss.

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Section 38. In the case where the shipper has requested the carrier or the carrier's agent to issue a bill of lading to him without inserting therein any reservations relating to any particulars and with the statements as notified or furnished by the shipper being contained therein or with no reservations as to the apparent order and condition of the goods being inserted therein and the shipper has represented or agreed that he shall make compensation for loss resulting from an issue of such bill of lading, such representation or agreement may not be invoked against the consignee or a third party to whom the bill of lading has been transferred.

CHAPTER IV LIABILITY OF THE CARRIER

Section 39. Subject to section 51, section 52, section 53, section 54, section 55, section 56 and section 58, the carrier must be liable for loss resulting from loss of or damage to the goods taken from the shipper or from delay in delivery, if the occurrence which caused the loss, damage or delay took place while the goods were in his charge.

For the purpose of this section, the carrier is deemed to be in charge of the goods as from the time at which the carrier has taken them from the shipper or the shipper's agent or from any authority or person to whom, pursuant to law or regulation applicable at the port of loading, the shipper is required to hand over the goods for shipment until the time at which the carrier has delivered such goods at the port of discharge or the destined place as provided in section 40.

Section 40. In the following cases, the carrier is deemed to deliver the goods he has taken:

- (1) the carrier has handed over the goods to the consignee;

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(2) in cases where the consignee does not receive the goods from the carrier, the carrier has dealt with such goods in accordance with the provisions in the contract of carriage of goods by sea or in accordance with the applicable law or trade usage applicable at the port of discharge; or

(3) the carrier has handed over the goods to any authority or person to whom, pursuant to law or regulation applicable at the port of discharge, the carrier is required to hand over the unloaded goods.

Section 41. Delay in delivery under section 39 occurs when:

(1) in the case where the time of delivery has been agreed with the shipper, the carrier has not delivered the goods within such time as agreed upon;

(2) in the case where the time of delivery has not been agreed upon, the carrier has not delivered the goods within the time which it would be reasonable to require of a diligent carrier for delivery in pursuit of the performable duty, having regard to the circumstances of the case.

Section 42. If the period of not less than sixty days as from the date of the expiry of the time for delivery or the time within which delivery should have been made under section 41 (1) or (2), as the case may be, has elapsed, the person entitled to claim compensation may take the goods and claim damages for loss resulting from the delay in delivery or may claim compensation for loss as if such goods had totally been lost. In such case, the provisions of section 227 of the Civil and Commercial Code shall apply *mutatis mutandis*.

Section 43. Notwithstanding that the carrier has entrusted to an actual carrier the performance of the carriage of the goods which the carrier has agreed to carry, the carrier remains liable for loss of, damage to or delay in delivery of such goods and must also be liable

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for the acts of the actual carrier as well as the actual carrier's employee and agent done in the course of employment or within the scope of the authority of agency.

Section 44. The provisions on liability of the carrier shall also apply to the actual carrier only with respect to the part of the carriage the performance of which has been entrusted to the actual carrier.

Section 45. Where the carrier must be liable and the actual carrier must also be liable in the same case, such carrier and actual carrier shall be treated as joint debtors.

Section 46. Subject to section 47 and section 48, the right to claim damages for loss of, damage to or delay in delivery of the goods carried under a contract of carriage of goods by sea is barred by prescription if judicial or arbitral proceedings have not been instituted within one year as from the day on which the carrier has delivered the goods or, in the absence of delivery, as from the day on which the time for delivery under section 41 (1) or the reasonable time under section 41 (2) has elapsed.

Section 47. Before the expiry of the period of prescription under section 46, if the party against whom the claim is made gives consent, in writing signed by him, to the effect that he shall not set up the period of prescription against the party entitled to make a claim in the case where the latter institutes judicial or arbitral proceedings, this consent shall be enforceable.

Section 48. The right to claim damages for loss resulting from delay in delivery lapses if the consignee fails to give a written notice to the carrier within sixty days as from the day on which he has taken delivery of the goods.

Section 49. When the consignee has taken delivery of the goods from the carrier or from the person under section 40 (3), it is *prima facie* presumed that the carrier has

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handed over the goods in such condition and in accordance with such quantity, weight and other particulars as indicated in the bill of lading or, if no bill of lading has been issued, it shall be presumed that the carrier has delivered the goods in good condition, as the case may be, unless:

(1) if the consignee or the person under section 40 (3) and the carrier had conducted a joint survey or inspection of the state of the goods and noted the loss or damage before the consignee took delivery of the goods;

(2) in the case of no joint survey or inspection of the state of the goods under (1), the consignee had, before taking delivery of the goods under paragraph one or within one working day following the date of taking delivery of the goods, given the carrier, at the port of discharge, a written notice of the loss of or damage to the goods, specifying also the nature of such loss or damage or, in the case where the loss or damage could not be discovered or seen from an inspection of an apparent condition of such goods, the consignee had given a notice within fifteen days as from the date of taking delivery of the goods.

Section 50. In the case of where a notice under section 48 or section 49 (2) is to be given, the following rules, if the notice is not given to the addressee personally, shall apply:

(1) if a notice has been given to the carrier's agent or the master or the officer in charge of the ship used by the carrier for the carriage, such notice is deemed to have been given to the carrier;

(2) if a notice has been given to the actual carrier's agent or the master or the officer in charge of the ship used by the actual carrier for the carriage, such notice is deemed to have been given to the actual carrier;

(3) if the actual carrier has delivered the goods under section 40, a notice given to such actual carrier shall have the same effect as if it had been given to the carrier, and any notice given to the carrier shall have effect as if given to such actual carrier.

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CHAPTER V
EXCLUSIONS OF LIABILITY OF THE CARRIER

Section 51. The carrier is not liable for loss, damage or delay in delivery resulting from non-conformity with section 8 paragraph one if the carrier can prove that he has performed the obligations in accordance with section 8 paragraph two or section 9.

Section 52. The carrier is not liable for loss, damage or delay in delivery if it is proved that such loss, damage or delay arose or resulted from:

- (1) *force majeure*;
- (2) perils or accidents of the sea or other navigable waters;
- (3) act of war or battle of armed forces;
- (4) civil wars, riots, terrorism or civil commotions;
- (5) seizure, arrest, restraint or any interference made in any manner against the ship by rulers of the State or the territory or in accordance with the provisions of law, provided that it has not resulted from the fault or negligence of the carrier;
- (6) the employment of communicable-disease quarantine restrictions;
- (7) strikes, lockouts, stoppage or deliberate go-slow actions at the port causing impediment to loading or unloading or to the ship's entry into or departure from such port;
- (8) acts of piracy;
- (9) fault of the carrier or the consignee such as packing or baling in a manner insufficient or inappropriate for the condition of the goods or marking the goods or packages in an unclear or insufficient manner;
- (10) the condition of the goods themselves;

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(11) latent defects of the ship not discoverable or known by due diligence in inspection and by such normal and proper skills as expected of a person engaging in the occupation of ship inspection;

(12) such errors in the navigation as resulting from deficiency in any act done in the performance of duties or in accordance with instructions of the pilot;

(13) any other cause arising without fault or negligence or privity of the carrier and without fault or negligence of the carrier's agents or employees.

Section 53. The carrier is not liable for loss, damage or delay in delivery caused by fire unless the claimant proves that the fire arose from fault or negligence on the part of the carrier or the carrier's agents or employees.

Section 54. The carrier is not liable for loss, damage or delay in delivery resulting from all measures that could reasonably be required to put out the fire and avoid or mitigate its injurious consequences unless the claimant proves that it resulted from the fault or negligence on the part of the carrier or the carrier's agents or employees in taking such measures.

Section 55. The carrier is not liable for loss, damage or delay in delivery if it is proved that such loss, damage or delay in delivery resulted from measures taken to save human life at sea or from reasonable measures to save property at sea, but the carrier remains *pro rata* liable in general average, if any.

Section 56. In the carriage of live animals, the carrier is not liable for loss, damage or delay in delivery resulting from any special risks inherent in the carriage of live animals or from the conditions of such animals, if it is proved that:

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(1) the carrier has complied with any special instructions given to him by the shipper respecting such animals; and

(2) in the circumstances of the case, the loss, damage or delay in delivery could be attributed to such risks or conditions of the animals.

The provisions of paragraph one shall not apply if it is proved that all or a part of the loss, damage or delay in delivery resulted from fault or negligence on the part of the carrier or the carrier's agents or employees.

Section 57. If the goods carried are money, bank notes, negotiable instruments, bonds, share certificates, debenture certificates, warrants, jewels or other valuables, the carrier is not liable for loss of or damage to such goods unless the shipper has notified the carrier of their nature and value at the time of handing over the goods.

In the case where the value of the goods has been notified, the carrier shall be liable only in an amount not exceeding the value so notified.

CHAPTER VI

LIMITATIONS OF LIABILITY OF THE CARRIER AND CALCULATION OF DAMAGES

Section 58. Subject to section 60, in the case where the goods taken by the carrier have been lost or damaged in whole or in part, the carrier's liability shall be limited to ten thousand Baht per shipping unit or thirty Baht per kilogramme of gross weight of such goods, whichever is the higher.

In the case where the value of the lost or damaged goods has been calculated in accordance with section 61 and it appears that the value thereof is lower than the limitation of liability under paragraph one, the value revealed by such calculation shall apply.

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In the case of delay in delivery of the goods, the carrier's liability shall be limited to an amount equivalent to two and a half times the freight payable only for the goods delayed, but not exceeding the total freight payable under the contract of carriage of goods by sea.

In the case where the carrier is liable under both paragraph one and paragraph three for the same shipping unit with respect to which such liability was incurred, the carrier's liability shall be limited to an amount not exceeding that provided under paragraph one.

Section 59. For the purpose of calculating which amount is the higher in accordance with section 58, the following rules apply:

(1) in the case where goods identified by several shipping units are consolidated into the same shipping unit, whether an article of transport is used for packing or supporting the goods or not, the goods under the bill of lading, if the quantity and the nature of the consolidated shipping units are indicated in the bill of lading, shall be deemed to have such number of shipping units as indicated therein but, if no such indication is made, all the goods consolidated into the same shipping unit shall be deemed one shipping unit;

(2) in the case where the article of transport itself has been lost or damaged, that article of transport, if not owned or otherwise supplied by the carrier, shall be deemed one separate shipping unit independently of the goods in or on such article of transport.

Section 60. The limitation of liability of the carrier under section 58 shall not apply to the following cases:

(1) the ensuing loss, damage or delay in delivery resulted from an act or omission of the carrier or the carrier's agent or employee done with the intent to cause such loss, damage or delay in delivery, or recklessly and with knowledge that such loss, damage or delay in delivery would probably result;

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(2) the agreement between the shipper and the carrier fixes the carrier's liability exceeding the limits provided for in section 58, provided that an indication to such effect is made in the bill of lading;

(3) the carrier has entered in the bill of lading particulars as notified or furnished by the shipper without inserting therein reservations relating to such particulars, with the intent to defraud the consignee or a third party acting in reliance on the particulars in such bill of lading;

(4) the shipper has notified the carrier of the value of the goods to be carried and the carrier has accepted such value by indicating it in the bill of lading.

In the case under (4), if the value revealed by the calculation under section 61 is lower than the value indicated in the bill of lading, the carrier shall be liable only in an amount equivalent to the value revealed by such calculation and if the value revealed by the calculation under section 61 is higher than the value indicated in the bill of lading, the carrier shall be liable only in an amount equivalent to the value indicated in the bill of lading.

Section 61. For the purpose of calculating the value of the goods lost or damaged in accordance with section 58, the following rules apply:

(1) if the goods have been wholly lost or damaged, the calculation shall be made by reference to the value of such goods at the time at which the goods are to be delivered at the port of discharge;

(2) if the goods have been partly lost or damaged, the calculation shall be made on a *pro rata* basis by reference to a comparison with the value of the goods of the same kind and of comparable quality remaining at the time of delivery at the port of discharge.

Countersigned by:

Anand Panyarachun

Prime Minister

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