

# **DOCUMENTARY REQUIREMENTS IN INTERNATIONAL CARRIAGE**

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# PASSENGERS

The Warsaw Convention<sup>4</sup> specified five items to be included in the passenger ticket:

- (a) The place and date of issue;\*
- (b) The place of departure and of destination;
- (c) The agreed stopping places, provided that the carrier may reserve the right to alter the stopping places in case of necessity, and that if he exercises that right, the alteration shall not have the effect of depriving the carriage of its international character;
- (d) The name and address of the carrier or carriers;\*
- (e) A statement that the carriage is subject to the rules relating to liability established by this Convention.

Failure to do so resulted in the carrier losing its liability limitations.

\* = eliminated by the Hague Protocol.

# PASSENGERS

The Montreal Convention of 1999 requires the listing of only two items in the “document of carriage”:

- 1. “an indication of the places of origin and destination”; and
- 2. at least one agreed stopping place if the point of origin and destination are within the same State Party, and the “agreed stopping place” is in another State. . . .
- 4. The passenger shall be given written notice to the effect that where this Convention is applicable it governs and may limit the liability of carriers in respect of death or injury and for destruction or loss of, or damage to, baggage, and for delay.
- 5. Non-compliance with the provisions of the foregoing paragraphs shall not affect the existence or the validity of the contract of carriage, which shall, nonetheless, be subject to the rules of this Convention including those relating to limitation of liability.

Failure to do so has no effect on liability.

Electronic ticketing is permitted.

# BAGGAGE

The Warsaw Convention<sup>15</sup> required delivery of a “luggage ticket” in

- duplicate, containing eight specific pieces of information:<sup>16</sup>
- (a) the place and date of issue;
- (b) the place of departure and of destination;
- (c) the name and address of the carrier or carriers;
- *(d) the number of the passenger ticket;*
- (e) a statement that delivery of the luggage will be made to the bearer of the luggage ticket;
- *(f) the number and weight of the packages;*
- (g) the amount of the value declared in accordance with Article 22(2);
- *(h) a statement that the carriage is subject to the rules relating to liability established by this Convention.*

Failure to deliver a luggage ticket, or if the luggage ticket failed to include the italicized information above, eliminates the Convention’s liability ceiling.

# BAGGAGE

The Hague Protocol provides that the baggage claim check need not be provided if it is “combined with or incorporated in a passenger ticket”, which complies with the following baggage claim check notification requirements:

- (1) “an indication of the places of departure and destination;”
- (2) if the origin and destination are in a ratifying State, and there is one or more agreed stopping places in a third State, it must specify at least one of those intermediate stopping places; and
- (3) an indication that if the ultimate destination is in a country other than the nation of departure, the Warsaw Convention and its liability provisions govern.

The Hague Protocol also specifies that the baggage check constitutes prima facie evidence of the registration of the baggage and the contract of carriage.

Failure to advise the passenger that the Warsaw limitations may apply to the baggage claim check does not affect the existence of said contract of carriage, though such failure deprives the carrier of the liability limitations of Article 22(2).

# BAGGAGE

The Montreal Convention provides

- 3. The carrier shall deliver to the passenger a baggage identification tag for each piece of checked baggage.
- 4. The passenger shall be given written notice to the effect that where this Convention is applicable it governs and may limit the liability of carriers in respect of death or injury and for destruction or loss of, or damage to, baggage, and for delay.
- 5. Non-compliance with the provisions of the foregoing paragraphs shall not affect the existence or the validity of the contract of carriage, which shall, nonetheless, be subject to the rules of this Convention including those relating to limitation of liability.

# AIR FREIGHT

Article 8 of the Warsaw Convention<sup>41</sup> set forth 17 distinct categories of information that are required to be included in the "air consignment note" (air waybill):

- (a) the place and date of its execution;
- (b) *the place of departure and of destination;*
- (c) *the agreed stopping places, provided that the carrier may reserve the right to alter the stopping places in case of necessity, and that if he exercises that right the alteration shall not have the effect of depriving the carriage of its international character;*
- (d) *the name and address of the consignor;*
- (e) *the name and address of the first carrier;*
- (f) *the name and address of the consignee, if the case so requires;*
- (g) *the nature of the goods;*
- (h) *the number of the packages, the method of packing and the particular marks or numbers upon them;*
- (i) *the weight, the quantity and the volume or dimensions of the goods;*
- (j) the apparent condition of the goods and of the packing;
- (k) the freight, if it has been agreed upon, the date and place of payment, and the person who is to pay it;
- (l) if the goods are sent for payment on delivery, the price of the goods, and, if the case so requires, the amount of the expenses incurred;
- (m) the amount of the value declared in accordance with Article 22(2);
- (n) the number of parts of the air consignment note;
- (o) the documents handed to the carrier to accompany the air consignment note;
- (p) the time fixed for the completion of the carriage and a brief note of the route to be followed, if these matters have been agreed upon;
- (q) *a statement that the carriage is subject to the rules relating to liability established by this Convention.*

Non-compliance with any of the ten italicized requirements above results in the carrier losing the liability limitations of the Convention.

The Hague Protocol reduced the items that, if omitted, break the liability ceiling to (c) above.

# AIR FREIGHT

To make it clear that electronic transmission of documents is permitted, Montreal Protocol No. 4 provides that any “other means” that would preserve a record of the contract of carriage may be substituted for the written air waybill.

The air waybill, or receipt for cargo if other means are used, need only specify three items:

- (1) the places of origin and destination;
- (2) if those places are in the territory of a single ratifying State, and a stopping place is within a third State, an indication of at least one such stopping place; and
- (3) the weight of the shipment.

Montreal Protocol No. 4 also deleted the requirement that the air waybill “accompany the goods”, a change adopted by the Montreal Convention.



# AIR FREIGHT

The Montreal Convention of 1999 replaces the long list of particulars specified in the Warsaw Convention with a brief waybill or cargo receipt that specifies only the routing and weight of the shipment.

Specification of the weight of the shipment is important for determining maximum liability, specified as 17 Special Drawing Rights per kilogram in Article 22(3).

The Conventions also specify what may not be included in the air waybill, or other contract of carriage. Under both Article 23 of the Warsaw Convention and Article 26 of the Montreal Convention, the carrier may not include a “provision tending to relieve the carrier of liability or to fix a lower limit than that which is laid down in this Convention . . . .”

Any such provision is null and void.

# AIR FREIGHT

- The air waybill constitutes *prima facie* evidence of the existence of a contract between the parties, the receipt of the goods, the conditions of transportation, the weight, and the apparent condition of the goods.

# CUSTOMS

- Article 9 of the Montreal Convention affirms that a failure to provide customs documents does not affect the validity of the contract of carriage.
- However, Articles 10 and 16 impose an obligation of indemnification upon the consignor if the carrier suffers liability as a result of the deficiency of such documents.
- It differs little from its earlier Warsaw Convention and Montreal Protocol No. 4 formulations.