

# WHAT DOES “CARRIAGE BY SEA” MEAN FOR ITALIAN COURTS?

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**ARE LANDING, WAREHOUSING  
AND FORWARDING OPERATIONS  
COVERED BY THE HAGUE VISBY  
RULES?**

# Facts

- In October 1991 a gas turbine shipped in container was carried by sea from Kobe (Japan) to Genova (Italy), discharged at the port and stored in a container freight station for the delivery to receivers.
- During shifting of the container in the warehouse, due to bad handling, the container fell from the forklift and the gas turbine was damaged.
- On January 1995 receivers summoned before the Tribunal of Genova the carrier and the warehouse requesting compensation of damages

# Carrier's package limitation

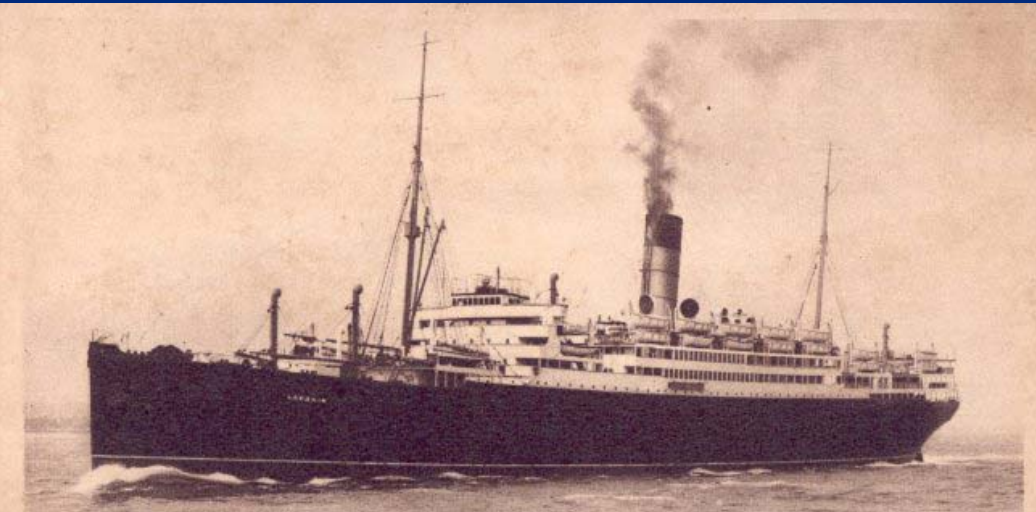
- The Tribunal of Genoa : limitation is applicable to carriage of goods up to a warehouse outside the port.
- Hague Visby rules article IV bis limitation of carrier's liability shall apply in any action in respect of loss or damage to goods covered by a contract of carriage

- The Court of appeal of Genoa: the limitation is not applicable as the carriage by sea ends with discharge of the cargo from the ship and further operations for delivery to consignees fall outside the scope of sea carriage provisions. Combined transport?
- Court of Cassation: confirmed the judgment of the Court of Appeal of Genoa

# What does carriage by sea mean

- Hague Visby rules article 1 (e) “*Carriage of goods by sea covers the period from the time when the goods are loaded on to the time they are discharged from the ship*”
- The carriage by sea ends with discharge or with redelivery to consignees?

# Things changed





# Is delivery beyond discharge included? Why yes

- Unity of the economical operation of carriage and unity of the legal regime of the contract
- Carrier's liability does not end with discharge of cargo from the ship, but continues up to delivery to the consignee
- As the cargo remain in the custody of the carrier until delivery, carrier's liability is the same for all carriage and has to be governed by the provisions applicable to the carriage, namely the provisions governing the carriage of goods by sea.



# Is delivery beyond discharge included? Why not

- Carrier's liability under Hague Visby rules ends with discharge of cargo from the ship. All subsequent operations to deliver the cargo to consignees are not to be considered carriage of goods by sea unless continuous and performed immediately after discharge
- Custody at warehouse in a place outside port area. The delivery to consignees is not effected immediately after discharge.

# Court of Cassation

- Judgment n. 13253 of 2006 held that the carriage of goods falling within the scope of the HV rules ends with the discharge of the cargo from the ship at the port of destination or the delivery of the cargo to consignees at the port of destination, as continuous and carried out immediately after discharge. Other operations carried out after discharge to deliver the cargo to consignees, including transport in a place different from the port of destination, are not covered by the HV rules.

# Consequences

- The Italian Civil Code is applicable to the leg of the transport further to discharge from the ship
- Art. 1696 of the Italian Civil Code on carriage of goods as amended in 2006: in case of damage, carrier's liability shall not exceed 1€ per kilo of cargo in national transports and 8,33 SDR per kilo (equal to the limit set out in CMR convention) for international transports