



CMR – Frequently Asked Questions

Road carriers are often confronted to practical questions that could be answered with the help of certain international legal instruments.

In order to assist them, IRU lists in this document some frequently asked questions and provides the appropriate replies.

1. What is the CMR Convention?

The CMR Convention is an instrument of international private law adopted on 19 May 1956 governing the contractual relations for the international carriage of goods by road between the sender, the carrier and the consignee. It is important to note that the provisions of the CMR Convention prevail even if the parties concerned have stipulated the contrary in their contract.

2. Who are the countries which have accessed to the CMR Convention? Where can I find the last version of the CMR Convention?

The [list of the countries that are Contracting Parties to the CMR Convention](#) and the [text of the CMR Convention](#) (in English, French and Russian) are available on the UNECE site. The text of the CMR Convention has never been altered.

On the same site you will find the [1978 Protocol to the Convention](#) and the [list of the Contracting Parties thereto](#). This Protocol concerns the monetary units to be used for calculating compensations (also see Questions 16, 17 and 18).

In February 2008 a new [Protocol to the CMR Convention concerning the electronic consignment note](#) was adopted by the relative UN organs. The Protocol entered into force on 5 June 2011 and has been adopted by 11 States (Bulgaria, Czech Republic, Denmark, Estonia, France, Latvia, Lithuania, Netherlands, Slovakia, Spain and Switzerland).

3. Where can I find CMR Jurisprudence?

The IDIT website (France) has a database relating to the CMR Convention. This database collects and makes available abstracts of jurisprudence.

Link:

http://www.idit.fr/_private/moteur_cmr/jurisprudence

4. What are the criteria for application of the CMR Convention to carriage of goods?

Cumulative conditions (Article 1):

- At least one of the two countries (country of taking over of the goods or the country designated for delivery of the goods) must be a signatory party to the CMR Convention

- The place of taking over of the goods and the place designated for delivery must be two different countries
 - The carriage of goods must be performed for a person other than the carrier (i.e. carriage for financial reward)
 - At least one portion of the transport must be carried out by a road vehicle
 - These conditions are not applicable to funeral consignments, postal carriage or furniture removals.
5. **Is the carriage of goods by road between two places in the same country subject to the provisions of the CMR Convention, if the carriage passes through a foreign territory during the whole carriage (e.g. : transport between Russia and the Kaliningrad region, which is a Russian enclave separated from the rest of Russian territory)?**

No, because the place of taking over of the goods and the place designated for delivery of the goods are in the same country (even though the goods pass through several borders). This type of carriage is governed by national law (in the example: Russian law), not the CMR Convention.

6. When might national/domestic carriage of goods be subject to the provisions of the CMR Convention?

Certain countries (e.g. Belgium, Austria) have transposed the provisions of the CMR Convention in their national law, thereby rendering the provisions of this Convention applicable to the national/domestic carriage of goods in these countries.

If this is not the case, the parties to the transport contract may expressly state in the contract their desire that it be subject to the CMR Convention. In this case, the CMR Convention shall be applicable in as far as it does not contradict the mandatory corresponding provisions of the national law.

7. If the carriage of goods also includes other means of transport (ship, rail, etc.), what is the scope of application of the CMR Convention?

There are 2 situations possible:

- If the goods loaded on the vehicle remain in the same vehicle, no matter what the means of transport, then the provisions of the CMR Convention shall be applicable **for the whole of the carriage** (door-to-door): truck on a boat (ferry, “ro-ro”), truck on a train (ferroustage), etc. However, if damage to the goods occurs during a portion of the carriage other than by road, and if the damage has not been caused by an act or omission on the part of the carrier by road, and the damage has been caused by a factor which could occur in non-road transport, the liability of the road carrier to the client shall not be determined by the provisions of the CMR but by the prescribed provisions applicable to that means of transport. In other words, in this case the carrier by road is liable for damages in accordance with the existing mandatory regulations for sea, rail, inland waterway or air transport (in particular regarding the causes of exoneration and the limits of compensation applicable to these means of transport). The road carrier may appeal against the shipping, rail, waterway or air carrier having completed this portion of transport.
- If the goods initially transported by a road vehicle are unloaded for carriage by another means of transport: the provisions of the CMR Convention shall apply to the portions of carriage by road, on condition that the prescribed terms of Article 1 of the Convention are respected for the carriage by road (see question 4). It should be noted that in certain cases, a semi-trailer has not been considered as an independent vehicle, meaning that the disengagement is considered as break-bulking.

8. What is the purpose of the CMR Consignment Note?

The CMR Consignment Note serves both as an evidential document (at a civil level) and a control document (at an administrative level, its absence may lead to an administrative or criminal sanction).

The CMR consignment note is considered as a proof of the contract of carriage but the absence, irregularity or loss of the consignment note does not affect the existence or the validity of the contract of carriage, which shall remain subject to the provisions of the CMR Convention (Article 4). In other words, the taking over of goods by a carrier

from the sender without drawing up a written contract or CMR consignment note does not mean that a contract of carriage has not been concluded.

In general, in order to avoid any problems concerning the contract of carriage, it is highly recommended to demand that the consignment note be duly drawn up, as the indications in this document determine the attribution of liability within the scope of the CMR.

The CMR consignment note serves also as proof of the reception of the goods by the carrier.

Finally, most countries consider that the CMR consignment note is a control document which must be in the vehicle whilst carrying goods. In this regard, its absence could lead to a sanction. Attention: a Consignment Note must be carried on board the vehicle because it will be requested in the case of a control and in particular during cabotage.

9. Is the CMR consignment note valid if some of its boxes are not filled in?

Yes, it remains valid provided that it is duly signed (stamped) by the carrier or the sender. But if the consignment note is not signed, it does not affect at all the validity of the contract of carriage itself (cf. previous question).

10. What is the required form of the CMR consignment note?

The CMR Convention does not require any specific form for the CMR consignment note; however, Article 6 stipulates precisely which data must be included therein.

To provide assistance to carriers of goods, in 1976 IRU drew up a model for the consignment note that satisfies all the requirements of the CMR Convention. In 2007, this model was brought up to date to better satisfy the needs of the contracting parties of carriage of goods and simplify the use of the consignment note. [This model may be downloaded from the IRU web site](#). It should also be noted that certain countries (including Belgium) have imposed their own model Consignment Note for use in administrative controls.

11. How do you fill in the consignment note?

[IRU has written guidelines](#) indicating exactly how to fill in the IRU CMR consignment note.

12. What parameters should the carrier check when taking over the goods?

The CMR Convention (Article 8) states that the carrier must check: the accuracy of the declarations in the consignment note regarding the number of packages, as well as their marks and numbers; the apparent condition of the goods and their packaging.

If the carrier is not satisfied with the checks, he must enter the appropriate reservation, sufficiently detailed, in the CMR consignment note. Attention: the reservations must be entered on all the copies of the consignment note, not only on the carrier's copy. The carrier must also demand that the sender countersign the reservations.

It must be noted that the sender can expressly impose to the carrier the verification of other parameters such as the gross weight (or a quantity expressed in another way) of the goods and the content of the packages. The results of the verifications must also be indicated on the consignment note and be countersigned by the sender.

13. What to do if the carrier cannot make the necessary checks (e.g., the goods are taken over in a sealed container)?

He absolutely must enter his reservation on all the copies of the CMR consignment note.

14. What to do if the sender refuses to countersign the reservations entered by the carrier when loading the goods?

The CMR Convention does not have any rule on this subject. However, it is important to know that according to the Convention (Article 8), the sender is not bound by the reservations unless he has expressly agreed to them.

In cases of litigation, a reservation on the consignment note which was not accepted by the sender may have some value in front of a Court during the examination made and depending on the circumstances of the case. The refusal must be recorded by the carrier and the sender, if possible. This reservation will have all the more value if it is endorsed by an official representative (e.g. a Customs officer).

15. What are the carrier's rights if he has incurred some losses (payment of a fine) because of the sender?

The carrier may avail himself of the right to make a claim against the sender and to ask for compensation for all and any damages resulting

from the absence, inadequacy or irregularities of the documents and information provided (Article 11).

16. How is compensation for goods lost by the carrier calculated?

The CMR Convention (article 23) stipulates that the compensation is calculated in accordance with the value of the goods, which is determined by the commodity exchange price or, if there is no such price, by the current market price, or if neither exists, by the normal value of goods of the same kind and quality at the place and time of taking them over.

In other words, the calculation will be made in accordance with the corresponding applicable laws of the country where the take-over of the goods occurs.

Article 23 also refers to a maximum limit to the compensation:

- 8.33 SDR (Special Drawing Rights – see next question) per kilo short (if the country where the take-over occurred is a Party to the 1978 Protocol to the CMR Convention),
- 25 gold monetary units per kilo short (if the country where the take-over occurred is not a Party to the 1978 Protocol to the CMR Convention).

Nonetheless, the amount of compensation may exceed this limit if there has been:

- Wilful or gross misconduct by the carrier (gross negligence or inexcusable fault according to national legislation) or
- declaration of value of the goods or a declaration of special interest in delivery, in which case, however, it must be specifically mentioned in the CMR consignment note.

In addition, the carrier may be liable to refund the cost of carriage, customs duties and other expenses incurred in regard of the carriage of goods. The full amount shall be refunded in the event of total loss of the goods or pro-rata in the event of partial loss.

17. What exactly is the SDR?

SDR – Special Drawing Right, “DTS/”Droits de triage spéciaux” in French, is a unit of account of the International Monetary Fund (IMF) and of some other international bodies. Its value is determined in relation to a basket of currencies, currently including

the US dollar, the Euro, the pound sterling and the yen. The SDR value in US dollars is quoted daily on the [IMF website](http://www.imf.org). The SDR value in other currencies is also available on the IMF website (by clicking on the “see more” text next to the value in US dollars and obtaining the rapport (“get report” link) by currency per SDR through “currency units per SDR” link).

Link:

http://www.imf.org/external/np/fin/data/param_rms_mth.aspx

18. What is a gold monetary unit?

A gold monetary unit corresponds to 10/31 gram of gold of 0.900. The gold rate is fixed by national banks in relation to the national currency in use. Ever since the Jamaica Agreements of 1978, it has been forbidden to make monetary references to gold. It is for this reason that an additional protocol to the CMR has substituted the SDR for the gold monetary unit (see question 16).

19. Does the carrier have the right to decline his responsibility for the lost goods because his insurance company refused to indemnify him (or paid an inferior amount)?

No, because 2 contracts are concerned here: a contract of carriage, which is regulated by the CMR Convention and whose parties are the carrier, the sender and the consignee, and an insurance contract which is governed by national law and whose parties are the carrier and the insurance company. In such case, the carrier will be obliged to bear the financial consequences which may result from the loss of the goods.

20. Does a theft of goods always exonerate the carrier from his responsibility towards the sender?

The CMR Convention (article 17) foresees that the carrier is exonerated from his responsibility towards the claimant for the lost goods if the circumstances in connection with this loss cannot be linked with misconduct from the carrier and could not be avoided by him. So the theft can belong to such circumstances, provided of course that the carrier can demonstrate that the incident could really not be avoided: parking on a secure parking area, use of anti-theft devices, etc. Even in these circumstances is it still possible that the ‘force majeure’ may not be withheld by the national court as the carrier could have taken alternative precautions to prevent the theft.

However it must be noted that the legal systems of various countries can assess a theft in very different ways. In some countries the theft may be considered as resulting from a gross negligence by the carrier, with all connected consequences (cf. question 16 on the consequences concerning the limitation of compensation).

21. If the theft of goods exonerates the carrier from his responsibility in accordance with the CMR Convention, does it also relieve the carrier of liability to pay Customs taxes and duties?

If the theft of the transported goods leads to the occurrence of a customs debt incumbent on the carrier, as this debt is generally of an administrative nature the CMR Convention shall not relieve the carrier of his obligation to pay customs taxes and duties. Of course, one cannot exclude that the carrier will be exonerated on the basis of national law, however this is a rather exceptional situation.

22. Who can address a claim to the carrier: the sender, the consignee or both?

The CMR Convention refers to the “claimant” in such cases. The claimant will be generally the sender, but the consignee will qualify from the moment the goods were delivered at destination (if of course the consignee accepted to receive the goods or it was agreed when the CMR consignment note was drawn up that he would have the right of disposal of the goods and an entry to that effect was entered in the consignment note – article 12.3). The sender and the consignee cannot claim simultaneously the same amount for the same goods. The carrier must only pay damages once. From this point on, provided the carrier has paid the amount due to the sender in accordance with the CMR Convention, the carrier owes no payment to the consignee should the consignee request the same damages for the same goods.

23. What is the difference between a successive carrier and a sub-contracted carrier?

At first glance, the role of a successive carrier and a sub-contracted carrier is similar: each executes a part of the road transport. It should be noted that the Dutch Supreme Court recently ruled that the necessary conditions for being considered a successive carrier under Article 34 of the CMR Convention are also met in the case where the main carrier (and other carriers) are uniquely contracted carriers and have not in fact completed a portion of transport themselves.

The difference thus lies in the responsibility of each towards its partners:

- Successive carriers are parties to the same and unique contract of carriage. Each carrier is totally liable to the sender and to the consignee for the execution of the transport operation. The carriage is undertaken with only one CMR consignment note, which covers the entirety of the transport, in which the successive carriers enter their names and addresses (cf. also question 11).
- Sub-contracted carriers are not parties to the same contract of carriage. There are consequently several contracts: a contract of carriage between the principal and the contracted carrier and a contract of sub-carriage between the contracted carrier and the sub-contracted carrier. A new consignment note must be drawn up for each sub-contracted carrier, where the sub-contracting carrier is entered as the sender. The sub-contracted carrier is liable only to the initial carrier, whilst the latter is liable to the sender and the consignee for acts and omissions on the part of other parties he may use for the transport operation (including the sub-contracted carriers).

24. Does the sender have the right to demand that the carrier obtain payment for the carriage from the consignee?

Yes, such a request is legal on condition that the consignment note includes an express declaration of the amount to be paid upon delivery of the goods.

25. What to do if the consignee refuses to pay the refund despite the declaration of the amount to be paid upon delivery in the CMR consignment note?

In accordance with the CMR Convention (Article 13.2), the carrier has the right to withhold the goods and is not required to deliver them unless the consignee provides security/guarantee of payment.

26. What to do if the carrier receives a claim referring to damages to the goods and the carrier does not agree with this claim?

The best solution would be to answer as quickly as possible by expressly refusing the claim and returning to the claimant the documents attached to his claim.

In such a case the deadline during which the opposing party may engage in proceedings against the carrier is not suspended but continues to run. This is in the interest of the carrier since once this deadline is over any claim against the carrier shall be deemed void (Article 32.2).

27. Is it illegal in the context of the CMR Convention for a transport order from a shipper / forwarder to contain a clause according to which the invoice will be paid within X number of days after the receipt of the invoice but only if a proof of delivery of the goods is attached to the invoice?

The CMR Convention does not contain any provisions forbidding such an agreement between parties. It is thus up to the applicable national legislation to determine whether or not this type of clause is acceptable.

In principle, it may be proven by any means that the order has been executed. In commercial matters, proof is non-specified. Whilst a Consignment Note is no doubt the most substantial form of proof, it is thus not the only one. Attention: in some countries, only the Consignment Note is considered proof of delivery.

IRU introduced, in its model CMR Consignment Notes of 1976 and 2007, the items "*Marchandises recues/Goods received, Lieu/place, le/on, Signature et timbre du destinataire/Signature and stamp of the consignee*", "*Heure d'arrivée/time of arrival*" and "*Heure de départ/Time of departure*".

As a consequence, the transport operator just has to annex to the invoice a copy of the consignment note confirmed by the consignee.

However, some countries do not use the IRU model consignment note, but other models which do not allow the consignee to confirm the receipt of the goods. Therefore, consignees request proof of delivery.

With the development of the use of electronic consignment notes, the consignor can, in the context of a consignment note based on the IRU model, check, at any time, the receipt of the goods by the consignee.

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