

# TRANSPORTATION RECOVERIES IN MEXICO

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## INTRODUCTION

- Trade between Mexico & USA
  - Mexico is the third most valuable commercial partner of the USA
  - NAFTA
  - Currently, U.S.–Mexico trade is rising at an annual rate of 13.5 percent since January 2008

# Maritime Losses

## Maritime Cases Applicable Law

- Applicable Maritime Law in Mexico
  - 1) Navigation & Maritime Commerce Act
  - 2) Hague-Visby Rules

## Maritime Cases

### What to do?

- What to do in case of a potential claim?
  - 1) Contact Maloof Browne & Eagan
  - 2) Appoint local surveyor
  - 3) Contact P&I → Joint Survey
  - 4) File claim to Master of vessel (Hague-Visby, Art.3.6)
  - 5) Obtain a LOU (Assured cooperation is required)
    - Through stopping discharge operations
    - Through legal procedures

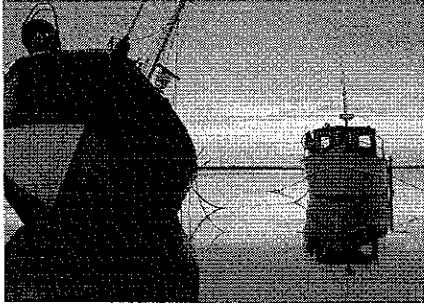
## Maritime Cases

### Limitation of Liability

- **Limitation of liability**
  - Hague-Visby Rules Art. 5(a), whichever is higher:
    - 666.67 SDR per package/unit
    - 2 SDR per kilogramme of gross weight of goods damaged or lost
- **Statute of limitations**
  - Twelve (12) months from:
    - a) Date goods were delivered to Consignee
    - b) Date vessel arrived to port

## Maritime Cases

### Possibilities of recovery



- Possibilities of recovery:
  - Very good
  - Subject to a complete documentation to support the claim

## INLAND CASES

INLAND HAULAGE BY  
TRUCK AND RAILROAD

## Haulage by Truck Applicable Law

- Applicable law for inland haulage by truck in Mexico
  - 1) Roads, Bridges and Federal Trucking Transportation Act (The Trucking Act)
  - 2) Commercial Code

## Haulage by Truck Limitation of Liability

- **Limitation of liability**
  - Trucking Act, Art. 66, section 5
    - 15 daily minimum wages (approx. \$68 USD) per metric ton.
- **Statute of limitations**
  - 6 months for national shipments
  - 1 year for international shipments

## Haulage by Truck

### Breaking the limitation of liability

- Supreme Court of Justice Decision (Oct 2006): No chance to break the limitation of liability under bill of lading
- Unless the value of goods is declared by shipper and inserted in Bill of Lading

## Haulage by Truck

### Possibilities of recovery

- Possibilities of recovery:
- 50% chance with small amounts to be recovered



# INLAND CASES

## INLAND CARRIAGE BY RAILROAD

### Carriage by Railroad Applicable Law

- Applicable law for inland carriage by railroad in Mexico
  - 1) Railroad Service Act
  - 2) Commercial Code

## Carriage by Railroad Limitation of Liability

### ■ Limitation of liability

- Railroad Service Act, Art. 52
  - 15 daily minimum wages (approx. \$68 USD) per metric ton.

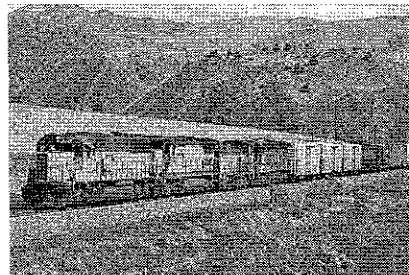
### ■ Statute of limitations

- 6 months for national shipments
- 1 year for international shipments

## Carriage by Railroad Possibilities of recovery

### ■ Possibilities of recovery:

- Good but low amounts
- Subject to a complete documentation to support the claim



# CARRIAGE BY AIR

## Carriage by air Applicable Law

- Applicable law for carriage by air in Mexico
  - 1) Civil Aviation Law (only for local cases)
  - 2) Convention for the Unification of Certain Rules Relating to International Carriage by Air (for international cases). MONTREAL

## Carriage by air Limitation of Liability

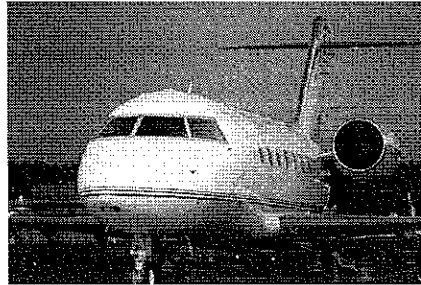
- **Under the Civil Aviation Act**
- **Limitation of liability**
  - Art. 63
    - 10 daily minimum wages (approx. \$45 USD) per kilogramme
- **Statute of limitations**
  - 90 days

## Carriage by air Limitation of Liability

- **Under the International Convention**
- **Limitation of liability**
  - Art. 22
    - 17 SDR per kilogramme
- **Statute of limitations**
  - 2 years

## Carriage by air Possibilities of recovery

- Possibilities of recovery:
- Good possibilities, subject to a complete documentation to support the claim.



## Multimodal Transport

## Multimodal Transport Applicable Law

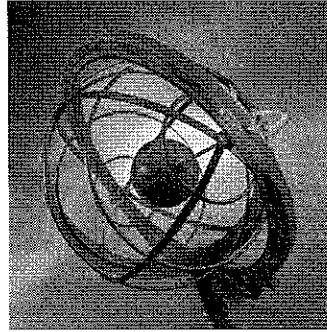
- U.N. Convention on International Multimodal Transportation of Goods
  
- Terms and conditions of the Multimodal Bill of Lading

## Multimodal Transport Limitation of Liability

- **Limitation of liability**
  - U.N. Convention
    - 920 SDR per package/unit
    - 2.5 SDR per kilogramme of gross weight
    - Whichever is higher
  
- **Statute of limitations**
  - 2 years

## Multimodal Transport Possibilities of recovery

- The recovery possibilities rely on the terms and conditions set forth in the Bill of Lading applicable to each case.



PORT  
OPERATORS

## Port Terminals

### Basis of claims

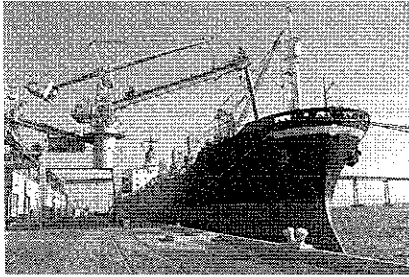
- Tort actions
  - Strict Liability Regime when damages are caused when using “dangerous” instruments (cranes, etc)
  
- Actions under the Contract of Services

## Port Terminals

### Limitation of Liability

- Tort actions
  - Liable party is not entitled to limit its liability
  - Time bar.- 2 years
  
- Contractual actions
  - Liability can be limited as per agreement
  - Time bar.- 10 years

## Port Terminals Possibilities of recovery



- Very high, insurance coverage

## Garza Tello & Asociados

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