

Table of Contents

The Author	3
List of Abbreviations	13
General Introduction	15
§1. GEOGRAPHY AND DEMOGRAPHY OF FRANCE	15
I. Geography	15
II. Demography	15
§2. OVERVIEW ON TRANSPORT ACTIVITY IN FRANCE	16
I. Maritime Transport and Ports	16
II. Transport by Road and Road Network	17
III. Transport by Rail and Railway Infrastructure	18
IV. Transport by Waterways	18
V. Transport by Airways and Airports Infrastructures	19
§3. INTRODUCTION TO TRANSPORT LAW	20
§4. SOURCES OF TRANSPORT LAW IN FRANCE	20
I. Sources of Maritime Law	20
II. Sources of Law Related to Other Modes of Transport	21
III. International Conventions	23
Selected Bibliography	25
Part I. The Law of Carriage of Goods by Sea	29
Chapter 1. The Ship	30
§1. DEFINITION OF SHIP	30
§2. STATUS OF SHIP	31
§3. OWNERSHIP OF SHIP	34
I. Construction of Ship	35

Table of Contents

II. Sale of Ship	37
III. Modalities of Ownership	40
Chapter 2. Maritime Liens and Mortgages	43
§1. LIENS	43
I. Privileged Claims or Liens	43
II. Enforcement of Liens	47
A. Basis of Liens	47
B. Effect of Liens	47
C. Extinction of Liens	48
D. Classification of Liens	49
§2. MORTGAGES	49
I. Constitution of the Maritime Mortgage	50
II. Publication of the Maritime Mortgage	51
III. Effects of the Maritime Mortgage	52
IV. Extinguishing the Mortgage	54
Chapter 3. Master and Crew	55
§1. COMPOSITION AND NATIONALITY OF THE CREW	55
I. The Metropolitan Register	55
II. The French International Register (Abridged as 'RIF' in French)	55
III. The French Southern and Antarctic Lands Register (Abridged as 'Registre TAAF' in French)	56
§2. THE MASTER	57
I. Qualifications	57
II. Duties	57
III. Appointing the Master	60
IV. Liability	60
§3. OTHER MEMBERS OF THE CREW	61
I. Recruitment	61
II. Employment Agreement	61
Chapter 4. Shipowner's Liability	64
§1. GOVERNING RULES	64
§2. CONDITIONS OF THE LIMITATION	65
I. Scope of Application	66
II. Persons Entitled to Limit Liability	67
III. Claims Subject to Limitation	69
A. Claims Concerned by Limitation	70

Table of Contents

B. Claims Excluded from Limitation	70
§3. THE LIMITATION FUND	70
I. Amount of the Limitation Fund	70
II. Setting Up the Limitation Fund	71
III. Distribution of the Fund	72
Chapter 5. Charter Parties	74
§1. GENERAL RULES	74
§2. VOYAGE CHARTER PARTY	75
§3. TIME CHARTER PARTY	76
§4. BAREBOAT CHARTER PARTY	76
Chapter 6. Transport Under Bills of Lading	78
§1. LEGAL REGIME OF MARITIME CARRIAGE CONTRACT	78
I. Existing Instruments	78
A. International Conventions	78
1. Hague-Visby Rules	78
2. Hamburg Rules	79
3. Rotterdam Rules	79
B. French Law	80
II. Scope of Application	80
A. Original Brussels Convention	80
1. Geographic Scope	80
2. Material Scope	80
B. Brussels Convention as Amended in 1968	81
1. Geographic Scope	81
2. Material Scope	81
C. Hamburg Rules	81
1. Geographic Scope	81
2. Material Scope	82
D. French Act of 18 June 1966 (Transp. c., Articles L. 5422-1 to L. 5422-26)	82
§2. TRANSPORT DOCUMENTS	82
I. Bills of Lading	83
A. Types of Bills of Lading	83
B. References on the Bill of Lading	83
1. References with Respect to the Parties:	84
2. References with Respect to the Goods	84
3. Date and Signature	84

Table of Contents

4. Other Points	85
C. Evidence Function of the Bill of Lading	85
1. Duty of Sincerity	86
2. Carrier's Reservations	86
3. Effects of Reservation	88
D. Purpose of the Bill of Lading	89
1. Evidence	89
2. Document of Title upon the Goods	90
II. Through Bill of Lading	90
III. Multimodal or Combined Transport Bill of Lading	91
IV. Other Documents	92
§3. PERFORMANCE OF THE CONTRACT	94
I. Carrier's Obligations	94
A. Handing Over and Declaring the Goods	94
B. Payment of Freight	94
II. Carrier's Duties	94
A. Regarding the Ship	94
B. Performance of the Carriage	95
1. Taking Over and Loading the Goods	95
2. Special Case: Loading on Deck	95
3. Carriage and Care of the Goods	97
4. Unloading and Delivery	97
5. Terminal Agents Intervention	98
6. Beneficiary of Delivery	99
7. Accomplishment of the Bill of Lading	99
§4. CARRIER'S LIABILITY	99
I. Liability Period	99
II. Liability Grounds and Conditions	100
A. Brussels Convention and French Law	100
1. Unseaworthiness of the Ship	100
2. Nautical Fault	101
3. Fire	102
4. Events not Imputable to the Carrier	102
5. Strikes, Lock-outs, Work Stoppages	103
6. Causes Related to the Goods: Loss in Volume or Weight, Inherent Vice or Special Nature of the Goods	103
7. Shipper's Faults	103
8. Inherent Defect of the Ship	104
9. Salvage and Deviation	104
B. Hamburg Rules	104
C. Rotterdam Rules	105
III. Loss and Damage	105
A. Compensation of Damages	105
B. Compensation Limits	106
C. Loss of Liability Limitation Benefit	107

Table of Contents

1. Carrier's Fault	107
2. Declaration of Value	108
IV. Liability for Delay	108
§5. PROCEDURE	108
I. Right of Action	108
II. Qualifying Information	109
A. Qualifying the Information Relating to the Goods on Delivery	110
B. Time for Suit	110
1. Action Against the Carrier	110
2. Action for Indemnity	111
III. Jurisdiction	112
A. French Law	112
B. European Instruments	112
C. International Instruments	113
D. Jurisdiction Clauses	113
1. Conditions of Validity	113
2. Enforcement against Third Parties	114
E. Arbitration Clauses	115
Chapter 7. Pilotage	116
§1. STATUS OF PORT PILOTAGE	116
§2. LIABILITY	118
Chapter 8. Towage	120
§1. DEFINITION	120
§2. LEGAL REGIME	120
I. Status of Towage	120
II. Liability	121
Chapter 9. Salvage and Assistance	124
§1. LEGAL REGIME	124
§2. REWARD	125
§3. CONDITIONS OF PERFORMANCE OF THE SALVAGE OPERATIONS	127
§4. SALVOR'S LIABILITY	127
Chapter 10. General Average	128

Table of Contents

§1. CHARACTERISTICS	128
§2. CONTRIBUTION TO GENERAL AVERAGE	129
Chapter 11. The Arrest of Ships	131
§1. PROCEDURE	131
§2. CONDITIONS	132
§3. EFFECT OF THE ARREST	133
Chapter 12. Carriage of Passengers by Sea	135
§1. FRENCH LAW	135
I. Contract of Carriage	135
II. Luggage	136
III. Maritime Cruise Operators	137
§2. EUROPEAN REGULATIONS	138
I. Liability of Carriers of Passengers by Sea in the Event of Accidents	138
II. Rights of Passengers when Travelling by Sea or Inland Waterway	139
§3. INTERNATIONAL LAW	141
Part II. Other Modes of Transport	143
Chapter 1. Transport by Road	143
§1. LEGAL REGIME OF CARRIAGE OF GOODS BY ROAD	143
§2. CONCLUSION OF THE CONTRACT	144
§3. TRANSPORT DOCUMENTS	146
I. Waybill	146
II. Tracking form (<i>document de suivi</i>)	147
§4. PERFORMANCE OF THE CONTRACT	147
I. Taking Over of the Goods	147
II. Loading and Unloading	149
III. Route	149
IV. Modification of the Contract	150

Table of Contents

V. Delivery	150
VI. Price Payment	151
§5. LIABILITY REGIME	152
I. Assessment of Damages	152
II. Liability of the Carrier	153
§6. PROCEDURE	156
I. Right of Action	156
II. Time for Action	157
III. Jurisdiction	158
Chapter 2. Rail Transport	159
§1. LEGAL REGIME AND THE STRUCTURE OF THE FRENCH RAIL TRANSPORTATION SYSTEM	159
§2. CONCLUSION OF RAIL TRANSPORT CONTRACTS	160
I. Carriage of Goods	160
II. Carriage of Passengers	161
§3. PERFORMANCE OF THE CONTRACT	162
I. Carriage of Goods	162
II. Carriage of Passengers	163
§4. COMPENSATION OF DAMAGES	164
I. Carriage of Goods	164
II. Carriage of Passengers	165
Chapter 3. Inland Navigation	167
§1. LEGAL REGIME OF CARRIAGE OF GOODS	167
§2. CONCLUSION OF THE CONTRACT	168
§3. DRAFTING THE TRANSPORT DOCUMENTS	168
§4. PERFORMANCE OF THE CONTRACT	169
§5. COMPENSATION OF DAMAGES	170
§6. COMPENSATION FOR DELAY	170
§7. CARRIAGE OF PASSENGERS BY WATERWAY	171
Chapter 4. Air Transport	172

Table of Contents

§1. LEGAL REGIME	172
I. Carriage of Goods	172
II. Carriage of Passengers and Luggage	172
§2. CONCLUSION OF THE CONTRACT	173
I. Carriage of Goods	173
II. Carriage of Passengers and Luggage	173
§3. COMPENSATION OF DAMAGES	174
I. Period of Liability	174
II. Establishing and Declaring Damages	175
III. Extent of Liability	176
§4. PROCEDURE	178
I. Right of Action	178
II. Prescription	179
III. Jurisdiction	179
Chapter 5. Combined Rail-road Transport	181
Chapter 6. Freight Forwarding	183
§1. LEGAL REGIME AND CHARACTERIZATION OF THE CONTRACT	183
§2. PERFORMANCE OF THE CONTRACT	183
§3. DAMAGES	184
I. Personal Liability of the Forwarding Agent	185
II. Liability for the Acts of the Performing Carriers	186
Index	189