

Erasmus  
School of  
Law

# Transport and Transit of Arms

## By Road and Air

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# Agenda

- I. Relation between Transport Law and Transit Regulation
- II. International Transport Law
- III. Transport of Arms by Road
- IV. Transport of Arms by Air
- V. Multimodal Transport of Arms

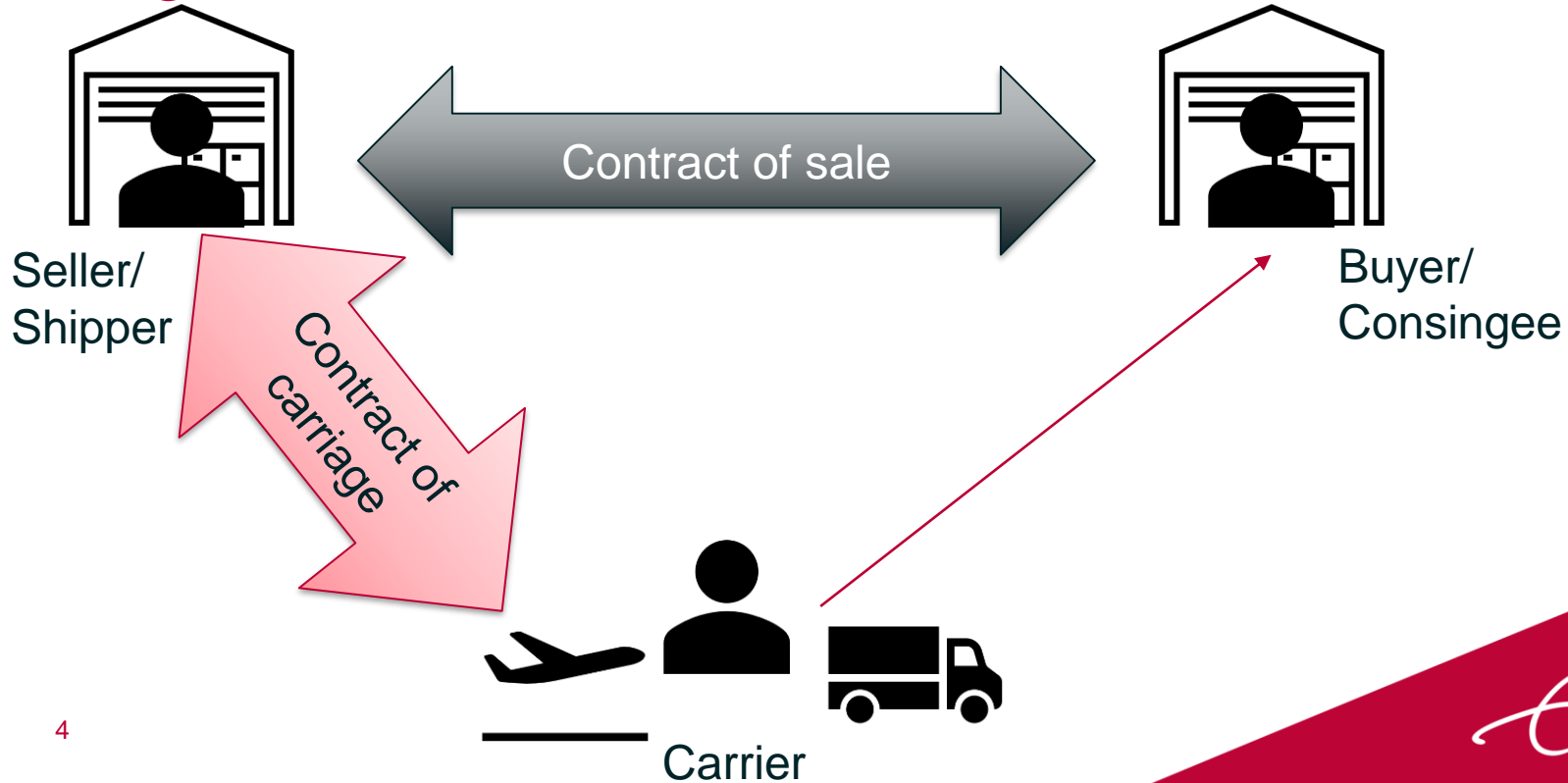
# I. Relation between Transport Law and Transit Regulation

- **If?**
  - Whether permission is given to start an arms transport
  - Whether all involved countries of the transit or transshipment gave permission
- **If yes, under which conditions?**
  - Requirements regarding documentation and information
  - Requirements regarding training of employees
  - Requirements for safety of the voyage
- **How?**
  - Obligation and rights of parties to a transport contract
    - Information
    - Labelling, Packing, Storing and Lashing
    - Duty of care during the transport

Transit Regulation

Transport Law

# I. Relation between Transport Law and Transit Regulation



# I. Relation between Transport Law and Transit Regulation

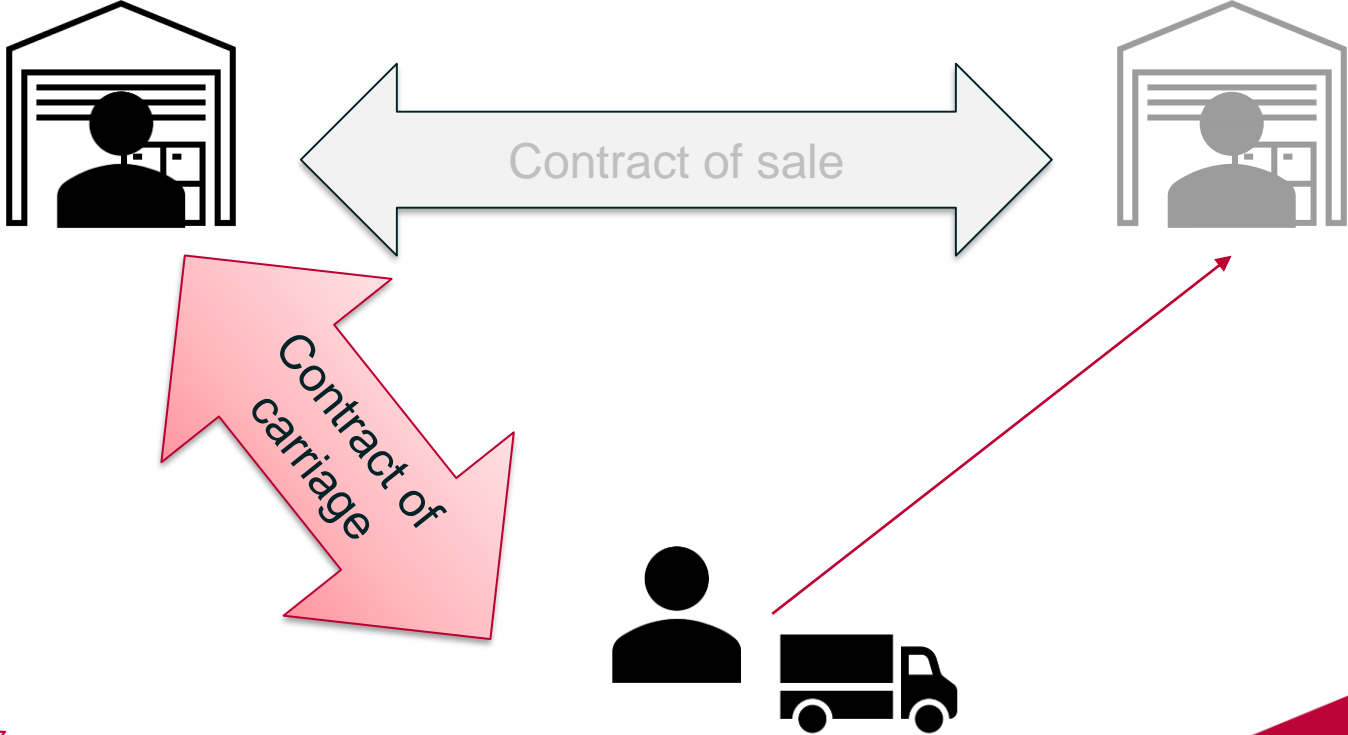
Overview about relevant duties in Transport Law

- Shipper
    - Duties to pack
    - Duties to inform the carrier
    - Duties to provide the necessary documentation
  - Carrier
    - Duty of care for the cargo
    - Duty of care for other cargo on board/ in the truck
    - Public duty regarding traffic
- Transit Regulation influence the obligation to pack, to label, to inform and to safeguard the transport
- Concerns both: shipper's and carrier's duties

## II. International Transport Law

- International Transport Conventions
  - Uniform Law
    - without national law to implement rules
    - Applies between private parties
  - Mandatory Law
  - Only within their application scope and for particular issues
    - International transport – route decisive
    - Contract of carriage – not freight forwarding or logistics

# III. Transport by Road



# III. Arms Transport by Road

## International

- Convention on the Contract for the International Carriage of Goods by Road (**CMR**) - (Geneva, 19 May 1956)
  - Only regional impact:
    - 58 member states
    - Only Countries in Europe, some Countries in North-Africa, Middle-East and North Asia
    - No Ratification by North-or South American Countries
  - Applies only to international transport, whereby the place of departure or the place of delivery is located in a member state



# III. Arms Transport by Road

## Regional

- Inter-American Convention on Contracts for the International Carriage of Goods by Road
  - **Very similar to the CMR**
- Convention Regulating Inter-State Road Transportation between ECOWAS Member States Convention relating to Inter-States Road Transit of Goods (ECOWAS)
  - **Focusses on regulation – not transport law**
- Agreement on the Adoption of the Inter-American Manual on Traffic Control Devices for Streets and Highways
  - **Focusses on regulation – not transport law**
- Intergovernmental Agreement on the Asian Highway Network
  - **Focusses on regulation – not transport law**

# III. Arms Transport by Road

## National

- i.e. freight forwarding law – no international instrument
- Domestic Transport: domestic transport law

# III. Arms Transport by Road

## Relevance of Dangerous Goods Regulations?

- International Law: Agreement concerning the International Carriage of Dangerous Goods by Road (ADR)
  - General Rule: relevant for explosive goods: e.g. Ammunition
  - Shipper is obliged to provide special information on nature of cargo
  - Special labelling, marking and stowing as well as security measures and training of staff members

# III. Arms Transport by Road

Different in case of Article 9 ATT (only refers to article 2 ATT):

- (a) Battle tanks;
- (b) Armoured combat vehicles;
- (c) Large-calibre artillery systems;
- (d) Combat aircraft;
- (e) Attack helicopters;
- (f) Warships;
- (g) Missiles and missile launchers; and
- (h) Small arms and light weapons

→ Ammunition in article 3 ATT

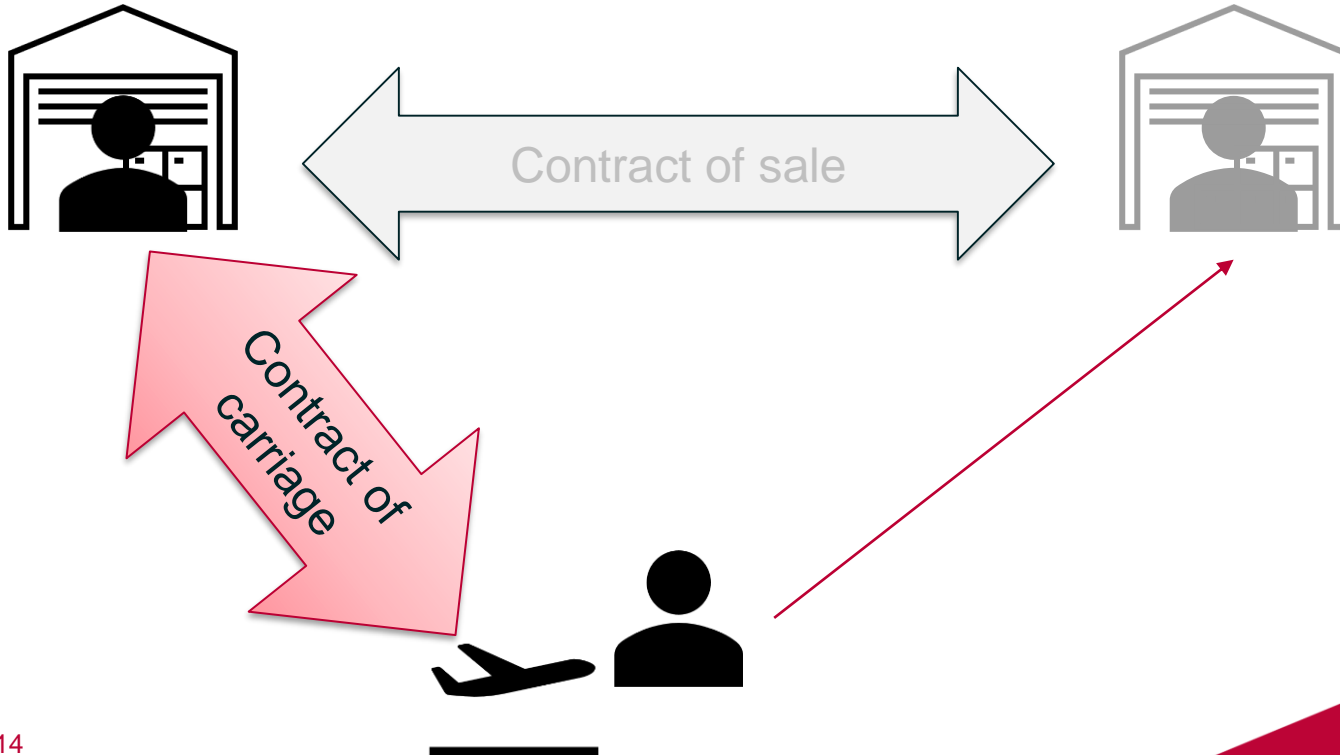
→ **Exception: where loaded weapons are transported (rare exception)**

# III. Arms Transport by Road

## Important Provisions for Transit Regulations

- International:
  - Wassenaar Agreement
  - 2001 Firearm Protocol
- Mainly Regional and National:
  - EU Law:
    - Directive 2009/43/EC of the European Parliament and of the Council of 6 May 2009 simplifying terms and conditions of transfers of defence-related products within the Community: inter alia **safety of transport; i.e. information to be provided by supplier**
    - Regulation (EU) No 258/2012 of the European Parliament and of the Council of 14 March 2012

# IV. Arms Transport by Air



# IV. Arms Transport by Air

## Important Provisions in Transport Conventions

### **International:**

- Convention for the Unification of Certain Rules for International Carriage by Air (the Montreal Convention), 1999
  - Aims on replacing the so-called Warsaw System
  - 136 member states + European Union
  - Application scope: “[...] *place of departure and the place of destination, whether or not there be a break in the carriage or a transshipment, are situated either within the territories of two States Parties or within the territory of a single State Party if there is an agreed stopping place within the territory of another State, even if that State is not a State Party*”

## IV. Arms Transport by Road

### Relevance of Dangerous Goods Regulations?

- International Law: Chicago Convention Annex 18 & Technical Instructions For The Safe Transport of Dangerous Goods by Air (Doc 9284)
- Industry Standards: IATA Dangerous Goods Resolution
  - General Rule: relevant for explosive goods: e.g. Ammunition
    - In principle same as Road Transport: only loaded arms



# IV. Arms Transport by Air

Important Provisions in Transit

Regulations Convention

- i.e. Article 3 and 6 of Chicago Convention
- i.e. Article 4.6. of Annex 17 to Chicago Convention
  - Secured transport chain
  
- Regional (non-legislative act): EU Commission Regulation No 965/2012 of 5 October 2012

# V. Multimodal Arms Transport

Carrier

consignor

consignee



**CMR**



**Montreal Convention**



Unimodal, mandatory	Unimodal, mandatory (room for contractual freedom)
8, 33 SDR/ kg limit (except: wilful misconduct)	22 SDR/ kg limit (unbreakable)
Differentiated grounds for exclusion	4 grounds for exclusion

# V. Multimodal Arms Transport

## Remaining uncertainties

- Transport Conventions apply only to one means of Transport
- Montreal Convention applies to all operations within the Airport premises regardless of the means of Transport
- Outside Airport:
  - Uncertainty when one scope of the Conventions starts and when the other ends
- Transit regulation:
  - Secured Documentation Chain required
  - Secured Transport

# Thank you for your attention!

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