TRANSPORT LAW IN SWEDEN

THIRD EDITION

HUGO TIBERG JOHAN SCHELIN



Transport Law in Sweden

Third Edition

This book was originally published as a monograph in the International Encyclopaedia of Laws/Transport Law.

General Editors: Roger Blanpain, Frank Hendrickx Volume Editor: Eric Van Hooydonk



Published by:

Kluwer Law International B.V. PO Box 316

2400 AH Alphen aan den Rijn

The Netherlands

Website: www.wklawbusiness.com

Sold and distributed in North, Central and South America by:

Wolters Kluwer Legal & Regulatory U.S.

7201 McKinney Circle Frederick, MD 21704

United States of America

Email: customer.service@wolterskluwer.com

Sold and distributed in all other countries by:

Turpin Distribution Services Ltd.

Stratton Business Park

Pegasus Drive, Biggleswade

Bedfordshire SG18 8TQ United Kingdom

Email: kluwerlaw@turpin-distribution.com

DISCLAIMER: The material in this volume is in the nature of general comment only. It is not offered as advice on any particular matter and should not be taken as such. The editor and the contributing authors expressly disclaim all liability to any person with regard to anything done or omitted to be done, and with respect to the consequences of anything done or omitted to be done wholly or partly in reliance upon the whole or any part of the contents of this volume. No reader should act or refrain from acting on the basis of any matter contained in this volume without first obtaining professional advice regarding the particular facts and circumstances at issue. Any and all opinions expressed herein are those of the particular author and are not necessarily those of the editor or publisher of this volume.

Printed on acid-free paper

ISBN 978-90-411-8272-2

e-Book: ISBN 978-90-411-8301-9 web-PDF: ISBN 978-90-411-8317-0

This title is available on www.kluwerlawonline.com

© 2016, Kluwer Law International BV, The Netherlands

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording, or otherwise, without the prior written permission of the publisher.

Permission to use this content must be obtained from the copyright owner. Please apply to: Permissions Department, Wolters Kluwer Legal & Regulatory U.S., 76 Ninth Avenue, 7th Floor, New York, NY 10011-5201, USA. Website: www.wklawbusiness.com

Printed and Bound by CPI Group (UK) Ltd, Croydon, CR0 4YY.

The Authors	3
List of Abbreviations	13
Preface—	15
General Introduction	1,7
§1. GENERAL BACKGROUND OF THE COUNTRY I. Geography and Demography II. Political System	
§2. GENERAL INTRODUCTION RELATING TO TRANSPORTATION I. Inland Waterways and Ports II. Railroads III. Road Systems IV. Airports V. Pipelines	18 19 20 20 21 21
Part I. Introduction	23
Chapter 1. Maritime and Transport Law	23
Chapter 2. History of Transport Law	25
§1. MARITIME LAW I. Introduction II. Antiquity III. Emerging lex mercatoria IV. Maritime Triangle V. Swedish Codifications	25 25 25 25 26 28
82 OTHER TRANSPORT I AW	30

Chapter 3. Sources of Transport Law	31
§1. Maritime Law	31
§2. Other Transport Law	32
Chapter 4. Jurisdiction and Courts	33
§1. MARITIME CASES I. General Maritime Cases II. Maritime Declarations III. Average Adjuster IV. Arrest and Attachment Forum V. Administrative Decisions	33 33 34 35 35
§2. Other Transport Law Cases	36
Part II. Maritime Law	37
Chapter 1. Waterways	37
§1. Introduction	37
§2. LAW OF THE SEA I. Law of the Sea Convention II. Zones Recognized under UNCLOS A. Internal Waters B. External Waters C. Straits Used for International Navigation D. Contiguous Zone E. Continental Shelf and Economic Zone F. High Seas	37 37 38 38 39 40 40 41 42
§3. DOMESTIC RULES I. Passage under Swedish Public Law II. Internal Waters III. Passage under Swedish Private Law IV. Traffic Rules and Passage Limitations V. Charges for the Use of Waters VI. Liability in Respect of Water Areas VII. Pollution Jurisdiction	42 42 43 44 45 47 48 51
Chapter 2. Vessels	54
§1. Nationality	54

Table	of	Contents

§2.	VESSEL, SHIP AND BOAT	56
§3.	OWNERSHIP AND REGISTRY	57
§4.	MORTGAGES AND OTHER REAL RIGHTS	58
	I. General	58
	II. Maritime Liens	59
	III. Legal Seizure	60
	A. General	60
	B. Arrest	61
	C. Distraint	62
§5.	SALE OF VESSELS	63
	I. Merchant Vessels	63
	II. Pleasure Vessels	64
	III. VAT on Vessels	65
§6.	VESSEL SAFETY	66
Ch	apter 3. Master and Seamen	* 68
§1.	HISTORICAL BACKGROUND	68
§2.	SWEDISH SHIPPING TODAY	71
§3.	LEGAL REGULATION	72
	I. Applicable Rules	72
	II. Qualifications	73
	III. Employment	73
	A. General	73
	B. Obedience and Loyalty	75
	C. Hours of Work	76
		77
	D. Wage Advantages	77
	E. Medical Care F. Repatriation	77
§4.	MASTER'S SPECIAL POSITION	78
§5.	GENERAL APPRECIATION	80
Ch	apter 4. Vessel Owners and Operators	82
§1.	TERMINOLOGY	82
§2.	OWNERSHIP I. Individual Ownership	82 82

 II. Corporate Ownership or Participation III. Shipping Partnerships A. General Characteristics B. Formation, Form and Function of Shipping Partnership C. Shipping Partners' Liability 	83 83 83 84 86
§3. LIABILITIES I. Vicarious Liability in Contract and Tort II. Criminal Liability	86 86 88
Chapter 5. Limitation of Ship Owner's Liability	90
§1. Types of Limitation	90
§2. Short History	90
§3. WHO CAN INVOKE LIMITATION?	92
§4. WHAT KINDS OF VESSELS ARE SUBJECT TO LIMITATION?	92
§5. What Claims Are Limited?	93
§6. Limitation Amounts	94
§7. Loss of Limitation	95
§8. Cross or Single Liability?	96
§9. L'IMITATION FUND	96
§10. GENERAL LIMITATION AND SPECIAL LIMITATION SCHEMES	96
Chapter 6. Maritime Transport Contracts	98
§1. General	98
§2. Bareboat Charters	98
§3. TIME CHARTERS I. General II. Delivery and Redelivery III. Employment IV. Hire Payment and Time Risk V. Trip Charters	100 100 101 101 102 103
84 VOYAGE CHARTERS	103

	I. GeneralII. Time Sharing in Voyage CharteringIII. Consecutive Voyages	103 104 105
§5.	QUANTITY CONTRACTS	105
§6.	CONTRACTS OF CARRIAGE	106
§7.	CARGO DOCUMENTATION I. Bill of Lading Basics II. Transfer Qualities	108 108 109
§8.	Passenger Carriage	110
Ch	apter 7. Carrier's Liability for Cargo	112
§1.	WHO IS LIABLE?	112
§2.	WHAT IS THE LIABILITY?	114
§3.	TRANSPORT LIABILITY I. General II. Liability Period III. Goods Covered by the Rules IV. Liability Rule V. Loss Calculation VI. Limitation of Liability VII. Liability for Cargo Statements A. General Principle B. Nordic Law VIII. Delivery Liability IX. Notice of Loss and Time-Bar	114 114 115 116 116 118 118 119 119 119 120 121
Ch	apter 8. Collisions	122
§1.	COLLISION AVOIDANCE RULES I. History II. The 1972 Rules III. Applicability IV. Swedish Case Law	122 122 122 124 124
§2.	LIABILITY RULES I. General II. Both-to-Blame III. Cross or Single Liability A. Cross Liability B. Single Liability	125 125 125 127 127 127

Chapter 9. Salvage	128
§1. Introduction	128
§2. HISTORY OF SALVAGE AND SEA FINDS	128
§3. Traditional Salvage Law	129
§4. RESCUE OF SHIPS AND OTHER PROPERTY IN DANGER	131
§5. 'No Cure No Pay'	133
§6. Life Rescue	135
§7. LEGAL SALVAGE REMUNERATION	136
§8. Environmental Salvage	140
§9. Contract Salvage	140
§10. SECURITIES FOR SALVAGE I. Short Evaluation	141 142
Chapter 10. Marine Insurance	144
§1. THE INSURANCE MARKET	144
§2. Types of Marine Insurance	144
§3. LEGISLATION AND OTHER SOURCES	145
§4. HULL INSURANCE	145
Part III. Other Transport	147
Chapter 1. Transport by Road	147
§1. Introduction	147
§2. Carriage of Passengers	148
§3. CARRIAGE OF GOODS I. The Consignment Note: Way Bill II. Rights and Obligations A. Carrier B. Sander	149 149 149 149

C. Consignee III. Liability of the Carrier	154 154
A. Basis of Liability	154
	155
B. Exoneration of Liability C. Sharing of Liability between the Claimant and the Carrier	
C. Sharing of Liability between the Claimant and the Carrier	157
D. Compensation	159
IV. Time Limits for Complaint and Action	161
A. Complaints	161
B. Actions	162
Chapter 2. Transportation by Rail	166
§1. STATUTORY PROVISIONS: LEGISLATION	166
§2. Carriage of Passengers	166
§3. Carriage of Goods	167
I. General	167
II. The Liability of the Carrier	,168
Chapter 3. Inland Navigation	170
Chapter 4. Air Transport	171
§1. Introduction	171
§2. Carriage of Passengers	171
§3. Carriage of Goods	172
§4. CLAIMS AND ACTIONS	172
Chapter 5. Multimodal Transportation	173
§1. Introduction	173
I. The Concept	173
II. The Multimodal Problem	173
§2. STATUTORY PROVISIONS	174
I. General Regime	174
II. Specific Regimes	174
A. Carriage by Road	174
B. Carriage of Goods by Rail	175
C. Carriage of Goods by Air	176
D. Carriage of Goods by Sea	176

§3. COMMERCIAL PRACTICES			176
Selected Bibliography			179
Table of Cases	ä	*	183
Index			187

12

Transport Law in Sweden

Third Edition

This book was originally published as a monograph in the International Encyclopaedia of Laws/Transport Law.

General Editors: Roger Blanpain, Frank Hendrickx Volume Editor: Eric Van Hooydonk





The Authors



Hugo Tiberg, born in 1929, is the former professor of maritime and transport law at Gothenburg University and of private law at the Stockholm University. He has a long experience of maritime law, both theoretically and practically.



Johan Schelin, born in 1966, works as associate professor in private law at the Stockholm University. He is also the director of the Axel Ax:son Johnson Institute of Maritime Law and other Transport Law at Stockholm University. He has also acted as arbitrator in cases on transport law.

The Authors

The Authors	3
List of Abbreviations	13
Preface—	15
General Introduction	1,7
§1. GENERAL BACKGROUND OF THE COUNTRY I. Geography and Demography II. Political System	
§2. GENERAL INTRODUCTION RELATING TO TRANSPORTATION I. Inland Waterways and Ports II. Railroads III. Road Systems IV. Airports V. Pipelines	18 19 20 20 21 21
Part I. Introduction	23
Chapter 1. Maritime and Transport Law	23
Chapter 2. History of Transport Law	25
§1. MARITIME LAW I. Introduction II. Antiquity III. Emerging lex mercatoria IV. Maritime Triangle V. Swedish Codifications	25 25 25 25 26 28
82 OTHER TRANSPORT I AW	30

Chapter 3. Sources of Transport Law	31
§1. Maritime Law	31
§2. Other Transport Law	32
Chapter 4. Jurisdiction and Courts	33
§1. MARITIME CASES I. General Maritime Cases II. Maritime Declarations III. Average Adjuster IV. Arrest and Attachment Forum V. Administrative Decisions	33 33 34 35 35
§2. Other Transport Law Cases	36
Part II. Maritime Law	37
Chapter 1. Waterways	37
§1. Introduction	37
§2. LAW OF THE SEA I. Law of the Sea Convention II. Zones Recognized under UNCLOS A. Internal Waters B. External Waters C. Straits Used for International Navigation D. Contiguous Zone E. Continental Shelf and Economic Zone F. High Seas	37 37 38 38 39 40 40 41 42
§3. DOMESTIC RULES I. Passage under Swedish Public Law II. Internal Waters III. Passage under Swedish Private Law IV. Traffic Rules and Passage Limitations V. Charges for the Use of Waters VI. Liability in Respect of Water Areas VII. Pollution Jurisdiction	42 42 43 44 45 47 48 51
Chapter 2. Vessels	54
§1. Nationality	54