

# True/False Questions: Rotterdam Convention - Maritime Carrier Liability

## Master 2 - Maritime Law and Transport Law

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### Question 1

The Brussels Convention of 1924 established a clear principle for the basis of maritime carrier liability in Article 3.

**Answer:**

**FALSE**

**Justification:**

The Brussels Convention did not establish the basis of liability in a clear principle. Instead, it addressed the carrier's obligations in Article 3, paragraphs 1 and 2, and listed cases where the carrier is exempted from liability in Article 4, paragraphs 1 and 2. The convention focused more on establishing exemptions rather than clearly defining the liability basis. This approach was considered one of the weaknesses of the Brussels system, leading to the development of subsequent conventions.

### Question 2

Under the Brussels Convention, if the cargo owner proves loss or damage, the carrier's liability is presumed, but the carrier can defend against liability by proving an exemption case.

**Answer:**

**TRUE**

**Justification:**

This statement accurately describes the Brussels Convention system. When a cargo owner proves loss or damage, the carrier's liability is presumed under the convention. However, the carrier can defend against this liability by proving that the cause of damage is due to one of the exemption cases contained in paragraph 2 of Article 4. Legal doctrine suggests that the carrier's means of avoiding liability is based on identifying the incident that led to the damage as one of the exemption cases and establishing the causal relationship between that incident and the damage to the cargo.

### Question 3

The Hamburg Convention of 1978 was developed under the demand of shipping nations to favor carriers' interests.

**Answer:**

**FALSE**

**Justification:**

The Hamburg Convention came under the demand of shipping nations, but it favored shippers' interests, not carriers' interests. The convention tightened the maritime carrier's liability by generally establishing it on the basis of presumed fault, except in two cases: fire and on-deck carriage. The drafters adopted the argument presented by shippers that carriers should be liable for loss or damage to cargo arising from their fault, thus creating a more shipper-friendly regime compared to the Brussels Convention.

### Question 4

The Hamburg Convention established liability based on presumed fault and abolished the list of exemptions contained in the Brussels Convention.

**Answer:**

**TRUE**

**Justification:**

This statement is correct. The Hamburg Convention established a positive liability rule based on presumed fault as stated in paragraph 1 of Article 5. The convention adopted a unified rule for burden of proof based on presumed fault in all cases of damage or loss to cargo, thus imposing a unified burden of proof on the carrier as the party most knowledgeable about the facts and events. The Hamburg Convention effectively abolished the extensive list of exemptions that carriers enjoyed under the Brussels Convention.

### Question 5

Under the Hamburg Convention, the carrier is liable unless they prove that they and their servants and agents took all reasonable measures to prevent the damage.

**Answer:**

**TRUE**

**Justification:**

This accurately describes the Hamburg Convention's liability regime. According to paragraph 1 of Article 5, the carrier is liable for damage arising from loss, damage, or delay in delivery of goods if the incident causing the damage occurred while the goods were in the carrier's custody, unless the carrier proves that they and their servants and agents took all reasonable measures to prevent the damage. This represents a significant shift from the Brussels Convention's extensive exemption list to a more restrictive defense based on reasonable care.

**Question 6**

The Rotterdam Convention was developed because countries were satisfied with the existing Brussels and Hamburg Conventions.

**Answer:**

**FALSE**

**Justification:**

The Rotterdam Convention was developed precisely because countries were not satisfied with the existing situation. With two international conventions regulating maritime goods transport, countries interested in maritime navigation were divided between membership in each convention. The United Nations, represented by the International Trade Law Commission, felt the urgent need for updated and unified international legal rules governing maritime transport contracts. This division and the need for harmonization led to the development of the Rotterdam Convention.

**Question 7**

The Rotterdam Convention merged elements from both the Brussels and Hamburg Conventions to establish a new basis for maritime carrier liability.

**Answer:**

**TRUE**

**Justification:**

This statement is accurate. During the preparatory work for the Rotterdam Convention, choosing the basis of carrier liability raised significant debate. Some participants recommended choosing presumed liability, while others preferred liability based on presumed fault. The Rotterdam Convention ultimately merged elements from both previous conventions and established a new

basis for maritime carrier liability with detailed provisions and rules regarding burden of proof, creating a hybrid system that balanced elements from both predecessor conventions.

### Question 8

Article 17 of the Rotterdam Convention establishes a two-round burden of proof system.

**Answer:**

**TRUE**

**Justification:**

This is correct. Article 17 of Chapter 5, titled "Basis of Liability," established a two-round system that achieved balance for both carrier and shipper in matters of burden of proof and rebuttal of proof. In Round 1, the claimant proves loss/damage/delay occurred during the carrier's custody period, and the carrier must choose between two defenses. In Round 2, depending on the carrier's chosen defense, the claimant can counter-prove various elements, followed by the carrier's final defense opportunities.

### Question 9

In the Rotterdam Convention's two-round system, if the carrier chooses to prove an exemption case under Article 17(3), the claimant cannot counter-prove.

**Answer:**

**FALSE**

**Justification:**

This statement is incorrect. If the carrier chose defense (b) - proving damage due to exemption cases in Article 17(3), the claimant can indeed counter-prove in several ways: (a) that the carrier's fault caused or contributed to the incident, (b) that another cause not listed in exemptions caused the damage, or (c) that unseaworthiness, improper manning, or unsafe cargo spaces caused the damage. This counter-proof mechanism is a key feature of the Rotterdam Convention's balanced approach to burden of proof.

### Question 10

The Brussels Convention included nautical fault and unseaworthiness as exemption cases for carriers.

**Answer:**

**TRUE**

**Justification:**

According to the comparison table in the document, the Brussels Convention 1924 included a long list of exemption cases, specifically mentioning nautical fault, unseaworthiness, and hidden defects. This extensive list of exemptions was one of the key characteristics that favored carriers under the Brussels regime and was criticized for providing too much protection to carriers at the expense of cargo interests, leading to the development of subsequent conventions with more balanced approaches.

**Question 11**

The Hamburg Convention recognizes fire and on-deck cargo as special exemption cases.

**Answer:**

**TRUE**

**Justification:**

This is correct. While the Hamburg Convention generally established liability on the basis of presumed fault and abolished most general exemptions from the Brussels Convention, it retained two specific cases as exceptions: fire and on-deck cargo carriage. These represent the only special cases where the Hamburg Convention's general rule of presumed fault does not apply, maintaining some limited exemptions for carriers in these particular circumstances.

**Question 12**

The Rotterdam Convention abolished all exemption cases that carriers could rely on to defend against liability.

**Answer:**

**FALSE**

**Justification:**

This statement is incorrect. The Rotterdam Convention retained the long list of cases that carriers can rely on to defend against liability, approximately those provided for in the Brussels Convention. However, these do not represent cases of absolute exemption from liability but rather circumstances

that would reverse the burden of proof. The Rotterdam Convention maintained these exemption cases but modified their effect within the context of its two-round burden of proof system.

### Question 13

Under the Brussels Convention, if the cause of damage remains unknown, there is no exemption for the carrier.

**Answer:**

TRUE

**Justification:**

This statement is accurate according to the legal doctrine described in the document. The carrier's means of avoiding liability under the Brussels Convention is based on identifying the incident that led to the damage as one of the exemption cases and establishing the causal relationship between that incident and the damage to the cargo. If the cause of damage remains unknown, there is no exemption for the carrier, meaning they would remain liable under the presumed liability system.

### Question 14

The Rotterdam Convention established maritime carrier liability in some cases on the basis of presumed fault, in other cases on presumed liability, and also on the basis of fault requiring proof.

**Answer:**

TRUE

**Justification:**

This statement accurately reflects the mixed system approach of the Rotterdam Convention. The convention provisions established maritime carrier liability using different bases depending on the circumstances: some cases are based on presumed fault, other cases on presumed liability, and also on the basis of fault requiring proof. This multi-faceted approach represents the Rotterdam Convention's attempt to balance the interests of both carriers and shippers by incorporating different liability standards as appropriate to specific situations.

### Question 15

The Rotterdam Convention abolished the nautical fault exemption that carriers enjoyed under the Brussels Convention.

**Answer:**

TRUE

**Justification:**

This is correct. The Rotterdam Convention abolished what the carrier enjoyed under the Brussels Convention regarding loss or damage to goods caused by acts, neglect, or fault of the master, crew, pilot, or carrier's servants in navigation or ship management. This elimination of the nautical fault exemption was described as "a step forward in favor of shippers," representing a significant improvement in cargo interests' protection compared to the Brussels regime.

### Question 16

Under the Rotterdam Convention, the carrier's obligation to provide a seaworthy ship is limited to the beginning of the voyage only.

**Answer:**

FALSE

**Justification:**

This statement is incorrect. Unlike the Brussels Convention, the Rotterdam Convention made the carrier's obligation to provide a seaworthy ship a continuous obligation covering the entire maritime voyage. This represents an increase in the material scope of maritime carrier liability, as the seaworthiness obligation extends throughout the voyage rather than being limited to the vessel's condition at the start of the journey, providing enhanced protection for cargo interests.

### Question 17

The Rotterdam Convention expanded the legal meaning of maritime carrier liability period by referring it to the will of both parties to the transport contract.

**Answer:**

TRUE

**Justification:**

This statement is accurate. The Rotterdam Convention expanded the legal meaning of maritime carrier liability period within its rules, referring this period to the will of both parties to the

transport contract - the carrier and shipper. This approach provides greater flexibility in determining the liability period compared to the more rigid timeframes established in previous conventions, allowing the contracting parties to define the scope of the carrier's responsibility period according to their specific commercial arrangements.

### Question 18

The Rotterdam Convention imposed a general obligation on the maritime carrier that is closer to an obligation to achieve a result rather than an obligation of due care.

**Answer:**

TRUE

**Justification:**

This statement is correct. The Rotterdam Convention imposed a general obligation on the maritime carrier to transport and deliver goods in sound condition to the consignee at the agreed time or reasonable time, thus adopting an approach closer to making it an obligation to achieve a result rather than an obligation of due care. This represents a stricter standard for carriers, as they are held responsible for achieving the specific outcome of safe delivery rather than merely exercising due care in their performance.

### Question 19

The Hamburg Convention imposes the burden of proof on the claimant to prove the carrier's fault in all cases.

**Answer:**

FALSE

**Justification:**

This statement is incorrect. The Hamburg Convention adopted a unified rule for burden of proof based on presumed fault, which places the burden on the carrier, not the claimant. Once the claimant proves that damage occurred while cargo was in the carrier's custody, the carrier's fault is presumed, and the carrier must prove that they took all reasonable measures to prevent the damage. This system imposed a unified burden of proof on the carrier as the party most knowledgeable about the facts and events.

### Question 20

The development from Brussels to Hamburg to Rotterdam Conventions represents a progressive evolution toward balancing the interests of carriers and shippers.

**Answer:**

TRUE

**Justification:**

This statement accurately describes the evolutionary development of maritime liability conventions. The Brussels Convention favored carriers with extensive exemptions, the Hamburg Convention swung toward favoring shippers with presumed fault liability, and the Rotterdam Convention represents a balanced approach that incorporates elements from both systems. The Rotterdam Convention's mixed system, two-round burden of proof mechanism, and balanced approach to exemptions demonstrate an attempt to fairly address the concerns of both carriers and shippers in modern maritime commerce.