

Volume contracts under the Rotterdam Rules: One Step Forward or Two Steps Backward?

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Résumé *Les dispositions relatives aux contrats de volume sont à ne pas douter une des clés des Règles de Rotterdam mais également une des innovations les plus controversées. C'est la raison pour laquelle le présent article se propose d'analyser la controverse autour de cette question. Les chargeurs sont-ils suffisamment protégés ?*

“A new and puzzling concept”¹, “a small revolution”, “a rather curious set of clauses”², “the single most inexplicable part”³ of the Rotterdam Rules⁴. Numerous are the expressions used to describe “volume contract”⁵, a subject which generates considerable controversy and represents a major source of concern for States⁶, scholars and practitioners. In this regard, articles 1 (2) and 80 of the Rotterdam Rules governing volume contracts are at the

¹ Rhidian THOMAS, “And then there were the Rotterdam Rules”, *14 Journal of International Maritime Law*, 2008, pp. 189-190.

² Linda JACQUES, “United Kingdom – The Rotterdam Rules – How Are they Different from the Hague-Visby Rules”, 8 July 2009, available at <http://www.mondaq.com/x/81002/Marine+Shipping/The+Rotterdam+Rules+How+Are+They+Different+From+The+Hague+Visby+Regime>.

³ Svante JOHANSSON, Barry OLAND, Kay PYSDEN, Jan RAMBERG, Douglas SCHMITT, William TETLEY, “A Response to the Attempt to Clarify Certain Concerns over the Rotterdam Rules Published 5 August 2009”, 1 September 2009, available at <http://www.mcgill.ca/maritimelaw/sites/mcgill.ca.maritimelaw/files/Summationpdf.pdf>.

⁴ *United Nations Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea* (Rotterdam Rules), Rotterdam, adopted on 23 September 2009, not yet in force.

⁵ For a comprehensive and in-depth analysis of volume contracts see the doctoral thesis of Wei Hou, Wei HOU, *La liberté contractuelle en droit des transports maritimes de marchandises - L'exemple du contrat de volume soumis aux Règles de Rotterdam*, Thèse, Université Paul Cézanne - Aix-Marseille III, Faculté de Droit et de Science Politique, France, 2010, 536 p.

⁶ Volume contract constitutes one of the bones of contention within the Rotterdam Rules. Some countries, such as Australia, have considered the insertion of volume contract as a major hurdle for their ratification of the convention. Indeed, such provision appears clearly incompatible with fundamental principles of national law, A/CN.9/612 - Transport Law: Preparation of a draft convention on the carriage of goods [wholly or partly] [by sea]: Joint proposal by Australia and France on freedom of contract under volume contracts, paragraph 6.

heart of such controversy. Pursuant to article 1 (2) of the Rotterdam Rules, a volume contract⁷ refers to “a contract of carriage that provides for the carriage of a specified quantity of cargo in a series of shipments during an agreed period of time [and] [t]he specification of the quantity may include a minimum, a maximum or a certain range”. Thus, a contract of carriage constitutes a volume contract if three requirements are met namely a specified quantity of goods, a specified period of time and a series of shipment.⁸

Strongly inspired by the American “service contract”⁹ and adopted with the impetus and the insistence of the United States¹⁰, volume contract represents one of the major innovations of the Rotterdam Rules.¹¹ Despite some similarities, volume contracts must be distinguished from service contracts. One of the main differences lies in the fact that service contracts are subject to mandatory regime whereas volume contracts allow derogations to the mandatory regime. This is the reason why volume contracts constitute one of the novelties of the Rotterdam Rules. Indeed, while The Hague¹², Hague-Visby¹³ and Hamburg Rules¹⁴ have established a mandatory regime of liability, the Rotterdam Rules innovate by introducing contractual freedom through volume contracts.

Why has it been deemed relevant to insert provisions on volume contract in the Rotterdam Rules? What justifies the introduction of provisions allowing freedom of contract, provisions which represent a significant change from the existing sea carriage conventions? It should be borne in mind that the *rationale* behind the establishment of an imperative regime by The Hague, Hague-Visby and Hamburg Rules lies in the protection of the weaker party, namely the shipper. As Henri Lacordaire observed “[b]etween the strong and the weak, [...] it is freedom which oppresses and the law which sets free”. The question arises whether a

⁷ For a distinction between volume contract and related concepts see Wei HOU, *La liberté contractuelle en droit des transports maritimes de marchandises - L'exemple du contrat de volume soumis aux Règles de Rotterdam*, Thèse, Université Paul Cézanne - Aix-Marseille III, Faculté de Droit et de Science Politique, France, 2010, 536 p.

⁸ Pursuant to article 6 of the Rotterdam Rules, only volume contract for liner transportation is governed by the convention.

⁹ The notion of “service contract” was introduced by section 3 (19) of the 1984 *Shipping Act* as amended by the Ocean Shipping Reform Act of 1998. Under such service contract, shippers and carriers are given the possibility to negotiate freight rate as well as transport conditions.

¹⁰ Originally the draft convention excluded volume contracts from its scope of application in the same way as charter party but it was suggested that “*volume contracts should be subject to the draft instrument as a default rule, but that the parties to these contracts should have the freedom to derogate from the terms of the draft instrument*”, see A/CN.9/WG.III/WP.21 - Transport Law - Preliminary draft instrument on the carriage of goods by sea, draft article 3.3.1. and paragraph 41.

¹¹ Volume contracts are not expressly governed by the existing sea carriage conventions. Nevertheless, it should be noted that they are indirectly regulated by the Hague, Hague-Visby and the Hamburg Rules. Indeed, the existing sea carriage conventions may apply to bills of lading issued under a charter party governing each voyage under a volume contract (article 5 of the Hague, Hague-Visby Rules and article 2 (3) of the Hamburg Rules) and shipments under a volume contract (article 2 (4) of the Hamburg Rules).

¹² *The International Convention for the Unification of Certain Rules Relating to Bills of Lading* (Hague Rules), Brussels, adopted on 25 August 1924, entered into force on 2 June 1931.

¹³ *The International Convention for the Unification of Certain Rules Relating to Bills of Lading*, as amended by the Brussels Protocol 1968 (Hague-Visby Rules), Brussels, adopted on 25 August 1924, entered into force on 2 June 1931.

¹⁴ *United Nations Convention on the Carriage of Goods by Sea* (Hamburg Rules), Hamburg, adopted on 31 March 1978, entered into force on 1 November 1992.

mandatory regime still appears relevant even though the parties are on an equal footing. Indeed, the era during which shippers are deemed to be the weaker party is over. Henceforth, some shippers are multinational companies endowed with a real influence in terms of bargaining power.¹⁵ Given the existence of a balance between the shipper and the carrier in terms of bargaining power¹⁶, it was considered that the introduction of contractual freedom in the Rotterdam Rules appears particularly relevant.¹⁷

From the point of view of big shippers, the introduction of freedom of contract through volume contract does not pose great difficulties. On the other hand, such change poses a particular challenge against small and medium sized shippers. That is the reason why the issue of volume contract arouses much controversy. The opponents to volume contracts have argued that they actually constitute a return to the practice of “negligence clauses”.¹⁸ Their supporters, on the contrary, have underlined that they are rather a necessary shift to meet current commercial needs. Do volume contracts represent “two steps backward” in that they constitute a return to the practice of “negligence clauses”? Or rather do they correspond to “a step forward” in that they allow adaptation of maritime law to commercial practice? As far as volume contracts are concerned, do the Rotterdam Rules offer sufficient guarantees in terms of protection of small and medium shippers?¹⁹ The weight of the arguments suggested by the opponents of volume contracts will be analyzed [1] before studying the relevance of the arguments advanced by its proponents [2].

1. Two step backwards: the “comeback” of negligence clause?

One argument which is often raised against the introduction of volume contract is the risks of abuse from carriers to the detriment of medium and small shippers owing to the possibility to depart from the provisions of the Convention [1.1].²⁰ Moreover, the risks of abuse are increased by the overly broad definition of volume contract [1.2].

¹⁵ As for Johan Schelin, “*a more realistic picture of the transport market today is perhaps that it is rather the carriers that use the Hague Visby Rules as a sort of protection than the other way around*”. ohan SCHELIN, “Shipper’s obligations under the Rotterdam Rules – A fundamental change of view?”, January 2013, Maritime Law Library.

¹⁶ Francesco BERLINGIERI, “The UNCITRAL Draft Convention On The Carriage Of Goods (Wholly Or Partly) (By Sea), *Zbornik Pravnog Fakulteta u Zagrebu*, 2008, volume 58, number 1-2, pp. 47-76, p. 53.

¹⁷ Francesco Berlingieri specifies that volume contracts are usually concluded by big shippers. Francesco BERLINGIERI, “The UNCITRAL Draft Convention On The Carriage Of Goods (Wholly Or Partly) (By Sea), *Zbornik Pravnog Fakulteta u Zagrebu*, 2008, volume 58, number 1-2, pp. 47-76, p. 53.

¹⁸ Negligence clauses are clauses inserted by carriers in transport contracts and bills of lading (liner transportation) and aimed at exempting their liability in case of loss or damage.

¹⁹ Despite the practical and theoretical significance of the question, the legal qualification of volume contract will not be treated in the context of this article. For an in-depth analysis of the issue, reference should be made to the thesis of Wei Hou. Wei HOU, *La liberté contractuelle en droit des transports maritimes de marchandises - L'exemple du contrat de volume soumis aux Règles de Rotterdam*, Thèse, Université Paul Cézanne - Aix-Marseille III, Faculté de Droit et de Science Politique, France, 2010, 536 p., paragraphs 154-184.

²⁰ See David Maloof Report before the American Association of Maritime Law, David MALOOF, *Concerns about volume contract*, 9 April 2008; See also David MALOOF, *Questions and Answers Why the MLA Needs An Open Debate Concerning the “Volume Contracts” Exception to the Proposed Rotterdam Rules*, 5 November 2008; Michel NEUMEISTER, *Règles de Rotterdam: trois bonnes raisons pour ne pas les ratifier*, JMM 2009, n° 4678, p. 4.

1.1. The possibility to opt out from the Rotterdam Rules

As for a French scholar, the Rotterdam Rules mark the return of “negligence clauses” which were commonplace before the Hague Rules.²¹ Such criticism is often addressed against the introduction of contractual freedom, the latter is considered to constitute a step backward, “an erosion of a long-standing, international, mandatory liability regime”.²² During the drafting of the convention, Australia and France have already highlighted that volume contract would “leave a loophole in the convention that would enable the parties to release themselves from the binding provisions of the Instrument”.²³ Besides, practitioners have drawn attention to the fact that within the framework of a volume contract it is possible to derogate from nearly all of the provisions of the convention.²⁴ As for scholars, they have pointed out that “opting out are one of the egregious defects of the Rotterdam Rules and ‘volume contracts’ are perhaps the opting out with the broadest effect”.²⁵ Indeed, under volume contracts the parties have the possibility to waive almost all the provisions of the Rotterdam Rules and stipulate disclaimer clauses or clauses relieving the carrier from a number of his obligations.²⁶ As for the European Shippers’ Council, in order to attract the shipper, the carrier may offer lower rate in exchange of his minimal liability and “[a]t a time of considerable economic stress in the world today, [small] shippers will be under huge pressure to accept greater risk in return for promises of price reductions”.²⁷

As to the argument according to which volume contracts constitute a return to negligence clause, it needs qualifying. Indeed, under negligence clause, the shipper did not have choice but to accept, whereas under the Rotterdam Rules, the shipper is given the choice to

²¹ Philippe DELEBECQUE, « L’évolution du transport maritime », Brèves remarques, *Droit Maritime Français*, 2009, No. 699, paragraph 6 ; Anastasiya KOZUBOVSKAYA-PELLE, « Le contrat de volume et les Règles de Rotterdam », *Droit Maritime Français*, 2010, No. 712.

²² A/CN.9/658 - Draft convention on contracts for the international carriage of goods wholly or partly by sea: Compilation of comments by Governments and intergovernmental organizations, paragraph 9.

²³ A/CN.9/612 - Transport Law: Preparation of a draft convention on the carriage of goods [wholly or partly] [by sea]: Joint proposal by Australia and France on freedom of contract under volume contracts, paragraph 7.

²⁴ European Shippers’ Council, “View of the European Shippers’ Council on the Convention on Contracts for the International Carrying of Goods Wholly or Partly by Sea also known as the ‘Rotterdam Rules’”, March 2009, 7 p., p. 2, available at http://www.uncitral.org/pdf/english/texts/transport/rotterdam_rules/ESC_PositionPaper_March2009.pdf.

²⁵ Svante JOHANSSON, Barry OLAND, Kay PYSDEN, Jan RAMBERG, William TETLEY, Douglas SCHMITT, “A Response to the Attempt to Clarify Certain Concerns over the Rotterdam Rules 5 August 2009”, 1 September 2009, 12 p., p. 6, available at <http://www.mcgill.ca/maritimelaw/sites/mcgill.ca.maritimelaw/files/Summationpdf.pdf>; see also William TETLEY, “A summary of General Criticism of the UNCITRAL Convention (The Rotterdam Rules)”, 20 December 2008, p. 2: “Multiple exceptions are made to explicit rules. An example is the exception for volume contracts, which most commentators conclude are wide exit door for many, many persons”.

²⁶ Philippe DELEBECQUE, « L’évolution du transport maritime », Brèves remarques, *Droit Maritime Français*, 2009, No. 699, paragraph 6 ; Anastasiya KOZUBOVSKAYA-PELLE, « Le contrat de volume et les Règles de Rotterdam », *Droit Maritime Français*, 2010, No. 712.

²⁷ European Shippers’ Council, “View of the European Shippers’ Council on the Convention on Contracts for the International Carrying of Goods Wholly or Partly by Sea also known as the ‘Rotterdam Rules’”, 2009, 7 p., p. 2.

accept or refuse derogations.²⁸ Besides, the recourse to contractual freedom is subordinated to the respect of cumulative conditions. Moreover, pursuant to article 80 (4), certain fundamental obligations of the shipper and the carrier cannot be subject to derogation. Such is the case of the obligation of seaworthiness, the obligation to provide information instructions and documents (article 29) and the obligation concerning dangerous goods (article 32).

1.2. A risk amplified by an overly broad definition

The risks of abuse are clearly amplified by the “vagueness” of the definition of volume contract²⁹ since the possibility that numerous contracts will fall within its scope of application are higher.³⁰ The absence of a minimum quantity, period of time or frequency in the definition of volume contracts is considered to represent an open door to abuse. In this regard, it has been argued that “*it is quite conceivable, from a legal point of view, that the carriage of two containers over a period of one year could be governed by a volume contract*”.³¹ As a consequence, some delegations, namely New Zealand and Australia³², have suggested a more restrictive definition of volume contract but such propositions have not been retained.³³ The real stake of the definition of volume contract lies in the willingness of some delegations (Australia, New Zealand and France) to limit the freedom of contract to large shippers so that the parties will be on an equal footing during the negotiation of the contract. Although it is true that the definition of volume contract is relatively broad, it remains that risks of abuse is limited by the existence of extremely strict conditions of application. Moreover, as to the possibility of waiving the Rotterdam Rules, article 80, 3-c, makes clear that the shipper has always the possibility to accept or refuse derogation.

2. One step forward: an attempt to modernize maritime law?

²⁸ Wei HOU, *La liberté contractuelle en droit des transports maritimes de marchandises - L'exemple du contrat de volume soumis aux Règles de Rotterdam*, Thèse, Université Paul Cézanne - Aix-Marseille III, Faculté de Droit et de Science Politique, France, 2010, 536 p., p. 450.

²⁹ United Nations General Assembly, UNCITRAL, Draft convention on contracts for the international carriage of goods wholly or partly by sea – Compilation of comments by Governments and intergovernmental organizations Addendum, Forty-first session, New York, 16 June-3 July 2008, A/CN.9/658/Add.11 (Germany), paragraph 21. The German delegation has observed that the definition of volume contract is “*very vague*” and “*it seems advisable for the definition to be made more precise*”; see also Gaston NGAMKAN, “La nouvelle Convention des Nations Unies sur le contrat de transport des marchandises effectué entièrement ou partiellement par mer – dite “Règles de Rotterdam” 2008.

³⁰ United Nations General Assembly, UNCITRAL, Draft Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea, Compilation of Comments by Governments and Intergovernmental Organizations, Forty-first session, New York, 16 June-3 July 2008, A/CN.9/658 (Australia), paragraph 11.

³¹ A/CN.9/612 - Transport Law: Preparation of a draft convention on the carriage of goods [wholly or partly] [by sea]: Joint proposal by Australia and France on freedom of contract under volume contracts, paragraph 7.

³² Owing to the fact that medium and small shippers are important in Australia and New Zealand, the two countries have expressed their disappointment on the provisions concerning volume contract.

³³ United Nations General Assembly, UNCITRAL, Draft Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea - Compilation of Comments by Governments and Intergovernmental Organizations, Forty-first session, New York, 16 June-3 July 2008, A/CN.9/658 (Australia), paragraph 12; United Nations General Assembly, UNCITRAL, Draft convention on contracts for the international carriage of goods wholly or partly by sea – Compilation of comments by Governments and intergovernmental organizations Addendum, Forty-first session, New York, 16 June-3 July 2008, A/CN.9/658/Add.2 (New Zealand), paragraph 12.

The proponents of volume contracts argue that the introduction of such provisions represent an answer to actual commercial needs [2.1]. As for the broad definition and the risks of abuse, they put forward the argument according to which the risks are reduced by the existence of strict conditions of application [2.2].

2.1 An answer to actual commercial need

What could explain the insertion of the notion of volume contract in the Rotterdam Rules? For some, the introduction of volume contracts corresponds to a willingness to adapt to new economic realities in which the carrier is no longer the only one to have bargaining power. In this regard, it has been underlined that the carrier is no longer the party to have strongest bargaining power and “*transport contracts are [not] always adhesion contracts, which the shipper must take or leave.*”³⁴ Henceforth, some “big” shippers have important bargaining powers. The proponents of the introduction of the contractual freedom has supported that a mandatory regime is not sufficiently adapted to actual commercial needs.³⁵ Indeed, the concept of volume contract allows more flexibility so that large shippers could obtain “tailor made” contracts which will meet their needs.³⁶

2.2 The risks of misuse reduced by sufficient guarantees

Several safeguards have been instituted in article 80 (2) of the Rotterdam Rules to avoid any risk of misuse of volume contracts. This is a compromise aimed at reassuring States who were reluctant to the introduction of the principle of contractual freedom. However, as pointed out by Johan Schelin, “*even though consensus was reached, it is likely that this issue will pose a major obstacle to some states in ratifying the Convention.*”³⁷

The implementation of this derogatory regime is subject to four cumulative conditions. These formal requirements are designed to avoid that volume contract are becoming contract of adhesion. Firstly, the derogation should be prominent. In this regard article 80 (2) (a) provides that a volume contract must contain “*a prominent statement that it derogates from the [Rotterdam Rules]*”. The notion of “prominent statement of derogation” will undoubtedly give rise to litigation on its interpretation. During the drafting, Australia and France have suggested that the derogation should be “*set forth in highly visible type*”.³⁸ Secondly, the derogation should be direct and the incorporation of a derogation clause by reference to another document is forbidden (article 80, 2-d). Such provision intends to ensure that the shipper has

³⁴ Mary Helen CARLSON, “U.S. Participation in the International Unification of Private Law: The Making of the UNCITRAL Draft Carriage of Goods by Sea Convention”, *Tulane Maritime Law Journal* 615, volume 31, 2007, p. 636.

³⁵ Proshanto K. MUKHERJEE, Abhinayan Basu BAL, “A Legal and Economic Analysis of the Volume Contract Concept under the Rotterdam Rules: Selected Issues in Perspective”, *40 Journal of Maritime Law and Commerce* 579, October 2009.

³⁶ Knud PONTOPIDDAN, “Shipowner’s on the UNCITRAL Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea”, Summary and speech, *CMI Yearbook*, 2009, pp. 282-291, p. 289.

³⁷ JOHAN SCHELIN, “The UNCITRAL Convention on Carriage of Goods by Sea: Harmonization or De-Harmonization?”, *Texas International Law Journal*, 2009, volume 44, pp. 321-327, p. 326.

³⁸ A/CN.9/612 - Transport Law: Preparation of a draft convention on the carriage of goods [wholly or partly] [by sea]: Joint proposal by Australia and France on freedom of contract under volume contracts, paragraph 15.

been given a prior informed consent to derogatory provisions and he is fully aware of the derogation to the Rotterdam Rules when concluding a volume contract. Thirdly, the volume contract must have been individually negotiated or it should prominently mention which sections of the contract derogates from the Rotterdam Rules (article 80, 2-b). Fourthly, the shipper must be given the choice to accept or refuse derogatory provisions. In this regard the Rotterdam Rules state that the shipper should be offered the opportunity to conclude a contract in conformity with the Rotterdam Rules without any derogation to it and the shipper should be notified of the existence of such opportunity (article 80, 2-c).

Although guarantees are offered by the Rotterdam Rules, they are judged insufficient to protect shippers and to avoid strategy to circumvent the Convention.³⁹ The criticism leveled towards the Rotterdam Rules is that in practice “creative” carriers could draft volume contracts in accordance with the requirements of the Rotterdam Rules but without real negotiation.⁴⁰ Indeed, article 80, 2-b, requires either that the contract is individually negotiated or prominently specifies the sections of the volume contract containing derogations. Nevertheless, national judges are likely to cancel such contract so as avoid that some carriers will “*turn the spirit of the Rotterdam Rules*”⁴¹ and circumvent the convention. In this regard, national judges may choose a teleological interpretation of article 80 over a textual interpretation detrimental to small shippers. One might think that a domestic court will adopt a similar reasoning as that of the Federal Court of Appeal of New Orleans which refused the legal qualification of voyage charter for a contract concerning a liquid cargo which represents only 10% of the carrying capacity of the ship.⁴²

Some scholars have considered that the guarantees offered by the Rotterdam Rules as regards volume contracts are sufficient owing to the provisions protecting shippers.⁴³ Others, on the contrary, have argued that the convention does not offer enough protection for small shippers.⁴⁴ The provisions relating to volume contracts are undoubtedly far from being

³⁹ International Multimodal Transport Association, “Final text of the UNCITRAL Draft Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea”, 2008, *IMMTA – News*, 2nd Issue, p. 6; see also Belgian Maritime Law Association, “The Belgian Position on the New UNCITRAL Convention – Position Paper by the Belgian Maritime Law Association regarding the UNCITRAL Draft Convention on the Carriage of Goods Wholly or Partly by Sea”, 2 p., p. 2: “*the resulting rules do not offer sufficient protection to smaller shippers and freight forwarders who may be forced into contracts offering less legal certainty than the present Hague Visby regime*”.

⁴⁰ Svante JOHANSSON, Barry OLAND, Kay PYSDEN, Jan RAMBERG, Douglas SCHMITT, William TETLEY, “A Response to the Attempt to Clarify Certain Concerns over the Rotterdam Rules Published 5 August 2009”, 1 September 2009, p. 7, available at <http://www.mcgill.ca/maritimelaw/sites/mcgill.ca/maritimelaw/files/Summationpdf.pdf>.

⁴¹ « La ‘Convention des Nations Unies sur le contrat de transport international de marchandises entièrement ou partiellement par mer’, *Droit Maritime Français*, 2010, N° 14 Supplément. For a similar point of view see Hannu HONKA, “United Nations Convention On Contracts For The International Carriage Of Goods Wholly Or Partly By Sea Scope Of Application And Freedom Of Contract”, CMI , Colloquium on the Rotterdam Rules - Rotterdam, 21 September 2009, 20 p., p. 14.

⁴² Federal Court of Appeal of New Orleans, 18 July 1969, ship *Grena*, *Droit Maritime Français*, 1971, 307.

⁴³ « La ‘Convention des Nations Unies sur le contrat de transport international de marchandises entièrement ou partiellement par mer’, *Droit Maritime Français*, 2010, N° 14 Supplément.

⁴⁴ Position Paper of the Belgian Maritime Law Association – Regarding the UNCITRAL Draft

satisfactory owing to the possibility to derogate from the convention and the risks of abuse related to the existence of an overly broad definition. However, one should be realistic when considering the Rotterdam Rules. On one hand, the introduction of provisions on volume contract is an answer to actual commercial needs. On the other hand, one must keep mind that such imperfections are unavoidable since the convention is the result of a compromise.⁴⁵ As Wei Hou astutely observed, “[w]e wonder if it was possible to do better. It is doubtful. It is difficult to make a satisfactory text for everyone”.⁴⁶ Anyway, for this step forward to be “a giant leap” for maritime law, the entry into force of the Rotterdam Rules is necessary, which is somewhat doubtful.

Convention on the Carriage of goods Wholly or Partly by Sea signed by the President of the Belgian Maritime Law Association Guy van Doosselaere and the Chairman Ralph de Witt, Antwerp, 10 October, 2008, available at http://www.mcgill.ca/maritimelaw/sites/mcgill.ca.maritimelaw/files/Belgian_Position_Paper.pdf.

⁴⁵ Wei HOU, *La liberté contractuelle en droit des transports maritimes de marchandises - L'exemple du contrat de volume soumis aux Règles de Rotterdam*, Doctoral Thesis, University Paul Cézanne - Aix-Marseille III, Faculty of Law and Political Science, France, 2010, 536 p., p. 6, p. 153 ; Anastasiya KOZUBOVSKAYA-PELLE, « Le contrat de volume et les Règles de Rotterdam », *Droit Maritime Français*, 2010, No. 712.

⁴⁶ Wei HOU, *La liberté contractuelle en droit des transports maritimes de marchandises - L'exemple du contrat de volume soumis aux Règles de Rotterdam*, Doctoral Thesis, University Paul Cézanne - Aix-Marseille III, Faculty of Law and Political Science, France, 2010, 536 p., p. 153 .