

Proinde Circular 20-09-2017: Electronic bills of lading (CT-e) in the Brazilian cabotage

1. Introduction

Although the use of electronic bills of lading (*Conhecimento de Transporte Eletrônico*, in Portuguese, best known for its short “CT-e”) have been around for a decade¹, there is a rise in the number of queries from foreign shipowners and operators regarding the use of the CT-e to cover domestic cargoes carried in the cabotage (coastalwise) trade within Brazil.

2. Nature of the Ct-e

The CT-e is a paperless tax document created by the Brazilian Ministry of Finance in 2007 to replace the need for issuance of multiple documents to cover domestic cargo transported within Brazil. The provider of services or goods and the consignee are linked to the system and accessible by way of digital certification and permission issued by the state tax authority where the supplier is domiciled.

All goods carried by road, waterways, air, rail, pipeline and in the multimodal system must be covered by a CT-e, which, in addition to some of the functions of a bill of lading or a sea waybill, is used for control of taxes over the circulation of goods and supply of services. For this reason, the value of the goods and freight rate are necessarily inserted in the virtual document, without it meaning to be an *ad valorem* B/L.

The printable, abridged version of the CT-e is the bill of lading’s auxiliary document (*Documento Auxiliar do Conhecimento de Transporte – DACTE*) which purpose is to follow with the goods physically, to collect the signature of the consignee/service hirer after delivery of the goods. The DACTE is also used to support the bookkeeping of the service hirer who does not use electronic tax documents.

The CT-e is not a document of title and its surrendering to obtain the delivery of the goods is not required. It is purely a means of controlling circulation and taxation of goods.

3. Terms and conditions

In the carriage of goods by sea within Brazilian ports, the CT-e circulates electronically between the authorised parties, such as the carrier, shipper and consignee and the state and federal tax authorities involved. The authenticity and integrity of the CT-e are verifiable in the federal revenue department’s electronic portal².

As there is no ‘reverse side’ on the CT-e and DACTE forms, the terms and conditions applicable to the carriage are typically referred to in the ‘Observation’ field of the printable form or accessible through a hyperlink to the carrier’s website. Noting that the clauses that clash with the principles of Brazilian Law, or unilaterally elect foreign law and jurisdiction, are rendered unwritten.

¹ The CT-e and DACTE were created by National Council of Finance Policy (*Conselho Nacional de Política Monetária – CONFAZ*) of the Brazilian Ministry of Finance through Adjustment SINIEF 09/07 of 25/10/2007, which has since been amended by subsequent Adjustments issued by the CONFAZ.

² Federal Revenue’s portal: www.cte.fazenda.gov.br

The terms of the C/P must be incorporated into the appropriate field of the form and spelt out. Should there be a divergence between the clauses of the C/P and those of the CT-e, the terms of the latter will prevail.

4. Limitation clauses

None of the limitations available under international cargo conventions is enforceable in Brazilian jurisdiction. Equally, or clauses that limit or exclude carrier's liability are repelled by the Brazilian courts as not written because of their adhesive nature.

Under the Brazilian Civil Code, the liability of the carrier shall be limited to the cargo value, as shown in the bill of lading³. In the multimodal trade, the freight value and the cost of the insurance will be added to the cargo value to form the amount of the compensation due. Where the consignee of the multimodal carriage has not declared the cargo value, the indemnity will be limited to 666.67 SDR⁴ per package or unit; or to 2 SDR per kilogram of gross weight of goods short-delivered or damaged, whichever amount is higher⁵.

5. Conclusion

Although the acronym CT-e stands for "electronic bill of lading" in Portuguese, the Bill of Lading Sub-Committee of the International Group of P&I Clubs (IG) does not consider it an electronic bill of lading in its definition of an electronic trading system. Therefore, there is no need for a paperless trading endorsement in the P&I cover. Nevertheless, the IG also advise its Clubs' Members to also issue an actual bill of lading, either in paper or through any of its approved electronic platforms.

An specimen of a CT-e (for waterway carriage) is attached.

Further information can be found on the website of the CT-e at <http://www.cte.fazenda.gov.br/portal/> (in Portuguese only).

Santos, 20 September 2017.

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www.proinde.com.br

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³ Art. 750 of the Civil Code

⁴ Special Drawing Right - SDR (as at 19/11/2017, the currency value of the SDR was equivalent of BRL 4,6261 (about USD 1,4708)

⁵ Arts. 17 and 38 of Law 9,611 of 19/02/1998 – Law of Multimodal Transport (*Lei do Transporte Multimodal de Cargas*) and art. 16 of Decree 3,411 of 12/04/2000 which regulated the Law of Multimodal Transport

DECLARO QUE RECEBI OS VOLUMES DESTE CONHECIMENTO EM PERFEITO ESTADO PELO QUE DOU POR CUMPRIDO O PRESENTE CONTRATO DE TRANSPORTE			
NOME		TÉRMINO DA PRESTAÇÃO - DATA / HORA	
RG		INÍCIO DE PRESTAÇÃO - DATA / HORA	
ASSINATURA / CARIMBO		CT-E	
		NRO. DOCUMENTO	
		SÉRIE	

	IDENTIFICAÇÃO DO EMITENTE NOME OU RAZÃO SOCIAL, ENDEREÇO, BAIRRO, MUNICÍPIO, UF, TELEFONE/FAX E CEP		DACTE Documento Auxiliar do Conhecimento de Transporte Eletrônico			MODAL AQUAVIÁRIO	
	TIPO DO CT-E	TIPO DO SERVIÇO	MODELO	SÉRIE	NÚMERO	FL.	DATA E HORA DE EMISSÃO
TOMADOR DO SERVIÇO		FORMA DE PAGAMENTO		Chave de acesso para consulta de autenticidade no site www.cte.fazenda.gov.br ou da Sefaz Autorizadora			
GFOP - NATUREZA DA PRESTAÇÃO		Protocolo de Autorização de Uso					

INÍCIO DA PRESTAÇÃO				TÉRMINO DA PRESTAÇÃO			
REMETENTE: ENDEREÇO: MUNICÍPIO: CEP: CNPJ/CPF: UF: PAÍS:				DESTINATÁRIO: ENDEREÇO: MUNICÍPIO: CEP: CNPJ/CPF: UF: PAÍS:			
INSCR. EST.: FONE:		INSCR. EST.: FONE:		INSCR. EST.: FONE:		INSCR. EST.: FONE:	

EXPEDIDOR: ENDEREÇO: MUNICÍPIO: CEP: CNPJ/CPF: UF: PAÍS:				RECEBEDOR: ENDEREÇO: MUNICÍPIO: CEP: CNPJ/CPF: UF: PAÍS:			
INSCR. EST.: FONE:		INSCR. EST.: FONE:		INSCR. EST.: FONE:		INSCR. EST.: FONE:	

TOMADOR DO SERVIÇO:		MUNICÍPIO:		UF:		PAÍS:		CEP:	
ENDEREÇO:		INSCR. EST.:		FONE:					
CNPJ/CPF:									

PRODUTO PREDOMINANTE			OUTRAS CARACTERÍSTICAS DA CARGA			VALOR TOTAL DA MERCADORIA		
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QTD.	TIPO MEDIDA	QTD/UN. MEDIDA	TIPO MEDIDA	QTD/UN. MEDIDA	TIPO MEDIDA	QTD/UN. MEDIDA	CUBAGEM (M³)	QTD.	VOL.	NOME DA SEGURADORA:	NÚMERO DA APÓLICE	NÚMERO DA AVERBAÇÃO
CARGA										RESPONSÁVEL		

COMPONENTES DO VALOR DA PRESTAÇÃO DE SERVIÇO												
NOME	VALOR	NOME	VALOR	NOME	VALOR	NOME	VALOR	NOME	VALOR	NOME	VALOR	VALOR TOTAL DO SERVIÇO
												VALOR A RECEBER

INFORMAÇÕES RELATIVAS AO IMPOSTO											
SITUAÇÃO TRIBUTÁRIA						BASE DE CÁLCULO			AL. ICMS	VALOR ICMS	% RED. BC.

OBSERVAÇÕES											

DOCUMENTOS ORIGINÁRIOS						INFORMAÇÕES ESPECÍFICAS DO MODAL AQUAVIÁRIO (I)					
TP DOC.		CNPJ / CPF EMITENTE		SÉRIE / NRO. DOCUMENTO		NRO. LACRE			NRO. CONTAINER		

INFORMAÇÕES ESPECÍFICAS DO MODAL AQUAVIÁRIO (II)											
PORTO DE EMBARQUE						PORTO DE DESTINO					
IDENTIFICAÇÃO DO NAVIO / REBOCADOR						VR. DA B. DE CALC. AFRMM		VLR. DO AFRMM		TIPO DE NAVEGAÇÃO	
IDENTIFICAÇÃO DA BALSA											

USO EXCLUSIVO DO EMISSOR DO CT-e						RESERVADO AO FISCO					

