

ANALYSIS OF THE CONVENTION ON THE CARRIAGE OF GOODS BY SEA

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Abstract: *Since their adoption, one by one, each of the aforementioned conventions have suffered criticism, the aim of creating the Rotterdam Rules being to impose a unitary legal regime for the carriage of goods by sea. If the Hague Rules and Hague - Visby were favorable to shipowners and their carriers in terms of the limits of liability, Hamburg Rules have tipped the balance in favor of shippers of goods, with then a real schism between exporting – importing goods countries and nations with major commercial fleets. Depending on economic interests, they either maintained Hague-Visby Rules or introduced Hamburg Rules.*

Keywords: *Marine environment, International conventions, Transport*

1. INTRODUCTION

The study aims to achieve an unbiased comparison between the two classical conventions, Hague and the Hague - Visby Rules and Hamburg Rules on the one hand and the Rotterdam Rules, or the United Nations Convention on Contracts for the International Carriage of Goods wholly or partly by sea, convention recently came into force.

Container multimodal transport development and the emergence of electronic commerce has created the need for a new international convention, as the Hague Rules and the Hamburg Rules are considered obsolete in modern transportation. Rotterdam Rules, whose writing has lasted more than ten years have been eagerly awaited by both carriers and shippers. UNCTRAL, the organization responsible for drawing up these rules, produced a document that was hit by criticism from both sides, a review of which is inevitable.

UNCTRAL did not achieve its stated purpose, which is to standardize and regulate international maritime law, Rotterdam Rules deepening divergences between the parties, moreover, introducing new factors with phrases as "other performing parties" basically making reference to any part involved in sea transport.

2. ANALYSIS OF THE CONVENTIONS ON THE CARRIAGE OF GOODS BY SEA

Hamburg Rules were designed in order to replace the Hague - Visby rules, but failed to impose in states with major maritime interests, both conventions still being functional.

Rotterdam Rules have failed to emphasize the complexity of the industry of maritime transport.

Drafting an international agreement that satisfies all parties involved in a wide industry such as maritime transport, with a suite of actors involved in a complex process, with different and often antagonistic interests, still remains an unachieved goal. Rotterdam Rules have been eagerly awaited, and perhaps with too much confidence. In its current form, this document succeeded to incur criticism from all parties.

Hamburg Rules, although developed under the auspices of the United Nations have failed to gather enough acceding countries to become an important legislative tool.

About the Hague Rules and the Hague - Visby one may say to have been a success. Today, over 80 states use them in one form or another. Their attributes were simplicity, an equilibrium of responsibilities between carrier and charger, maybe with a plus for carrier. Yet their

age of nearly a century makes them discordant in electronic commerce and multimodal transport era.

Besides the normal disputes between shippers and shipowners, Rotterdam Rules were able to divide even owners of the various states. The general trend is support from major companies, which operate line ships, on the basis of standardized contracts and are less or not at all affected by the Convention. Small or medium-sized companies are deprived of both Hamburg and Rotterdam conventions and want a revision of the rules Hague - Visby, possibly supplemented by a separate convention on multimodal transport.

At present it is difficult to predict which the fate of Rotterdam rules will be. Until the adoption by countries like the U.S. and China, they will not have a significant impact than perhaps that of conflict of laws and jurisdiction.

Whether they will be revised and especially what rules will know revision in order to achieve efficiency are questions that yet remain with no foreseen answer.

3. CONCLUSIONS

In light of this study we can conclude that for the foreseeable future at least, the uniformity in maritime law will not be reached. Without a major overhaul Rotterdam Rules will not be able to impose, their supporters camp is quite thin. However, it seems that some of the states that have adopted the Hamburg Rules, adopt rules and Rotterdam. It can be said with certainty that states maintained Hague Visby rules will continue to do so, the lack of provisions on electronic commerce being covered by national laws

For effective implementation the law requires a system of effective sanctions. One of the ways you can get uniformity in maritime law would be to create an international tribunal to function as a marine first court of appeal for decisions of the various states.

The advantage of such a tribunal is easy to see. Judges would be specialized in shipping matters, which does not always happen in national courts system.

A final noteworthy aspect is related to the Rotterdam Rules. To date, only Spain has ratified this Convention. Its effectiveness can only be tested in courts, where new issues can arise. Without a minimum of jurisprudence one can not say with certainty what their level of functionality is. Given that until now Rotterdam Rules have not been applied in any major litigation in any jurisdiction, it is difficult to predict what the effects of their application will be.

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