

Report of the Standing Committee on Carriage of Goods (including Rotterdam Rules)

Introduction

International Working Group (IWG) on the Rotterdam Rules was reformed as Standing Committee on Carriage of Goods (including Rotterdam Rules). The purpose of the reformation is to expand the scope of its work to cover all issues relating to the carriage of goods by sea while the Committee continues to monitor the promotion of the Rotterdam Rules.

1. Current Status of the Rotterdam Rules

The situation of the Rotterdam Rules remains almost the same since the Genoa Assembly in 2017 except the Cameroon's ratification on October 11, 2017. Twenty-five States have signed, and four have ratified, the Rotterdam Rules.

2. Possible Agenda for the Committee (1): "Blockchain" Bills of Lading

(1) "Blockchain" Bills of Lading

The "blockchain" technology, which is the basis of virtual currency such as "bitcoin", may be available to create a new type of electronic bills of lading. The "blockchain" can guarantee the "uniqueness" of the digital data and may provide the basis of "token" type of electronic bills of lading. If the system is well designed, such "blockchain" bills of lading will be regarded electronic transport records under the Rotterdam Rules.

The blockchain technology may be used even more ambitious manner. There are several experimental projects under way in several places of the world in which many trade documents including custom documents, letters of credit and their accompanying documents and others are digitalized and shared among the relevant parties. If bills of lading are incorporated into such a comprehensive system, it is vital to make sure that the information shared under the blockchain is recognized "electronic transport records" under the Rotterdam Rules. There are many questions which need further examination in this context.

(2) "Blockchain" Bills of Lading and Promotion of the Rotterdam Rules

The relevant industries as well as some governments are interested in the "blockchain"

bills of lading, whether incorporated in the comprehensive system or not. Since the Rotterdam Rules. Since Rotterdam Rules is, at this stage, the only international convention which includes the feasible rules on electronic bills of lading, they will look attractive. CMI may wish to take advantage of the industries' and governments' interest in the new technology to promote the ratification of the Rotterdam Rules. If it does so, CMI should move quickly before many states implement their domestic legislations for the electronic bills of lading (whether based on UNCITRAL' model law or not) rather than joining the Rotterdam Rules.

It issue of "blockchain" bills of lading is worth exploring as a new work for the Committee. Although it may not require a new instrument, we can introduce the new technology in connection with the possible promotion of the Rotterdam Rules.

(3) The Meeting in London

Depending on the developments of "blockchain" bills of lading in practice, the Committee has a meeting in London. It is an open session which invites several experts in this field are.

3. Possible Agenda for the Committee (2): Jurisdiction and Arbitration Clause on Bills of Lading

We had a very active session on the issue of jurisdiction and arbitration clauses in a bills of lading in New York conference. The success suggests significant degree of interests on the topic and it may be worth investigating whether the Committee should work on the issue further. It was confirmed that the Polish MLA still shows its interest in this issue.

As I already indicated in the previous ExCO meetings, CMI should be careful to handle the topic. First, the issue is explicitly addressed in the Rotterdam Rules although the chapters on jurisdiction and arbitration are optional. If CMI launches a project on this topic, it might be wrongly interpreted as CMI has given up the promotion of the Rotterdam Rules or it is not satisfied with the solution in the Rotterdam Rules on this particular issue. Second, it is highly unlikely that the Committee can reach an agreement on the validity of jurisdiction and arbitration clauses in bills of lading because the views have been and are so sharply divided and they cannot easily be compromised.

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