

TRANSFER OF RIGHTS INCORPORATED INTO A BILL OF LADING AS A TYPE OF COMMODITY SECURITY

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Abstract

Transport documents play a crucial role in international trade of goods. Their role is particularly evident in the area of massive, rapid and reliable supply of goods worldwide. Among many diversity and heterogeneous issues related to the transport documents, the question of transfer of rights incorporate into a bill of lading has a particular meaning.

In this paper we'll try to make analysis of some legal and economic aspects of transport documents. Through analysis of this issue, we will try to point out their function in international trade, their perception from the banking sector, and ultimately, their contribution to the rapid and stable international trade of goods.

The complexity of the issue stems from the existence of multiple legal relations and the participation of multiple stakeholders in the transport and sale agreement. Although the law explicitly governs this issue, the practice raises more contentious situations that generate numerous arbitration and litigation cases. In this sense, the question is: which of the transport document has the status of proprietary document, which of them has the status of security, and finally, which of the issued documents are legal basis for the implementation of the letter of credit, prior to the banking sector!? On the other hand, the question of the reliability of these legal documents, justification and validity of electronic waybill is raised.

Attitude towards the practice of transport documents, and resolving the issue of the responsibility of the parties, for the most part are based on the type of bill of lading issued by the carrier. Numerous judicial and arbitral decisions that determine the liability of the carrier, forwarder and logistics provider are based on the status of the transport documents issued by them. Theoretical analysis and positive law are only solutions on paper. In reality, business practice and autonomous commercial law are key instrument for executions of sale contracts.

Key words: *transport documents, bill of lading, commodity security etc.*

1. TRANSPORT DOCUMENTS IN DOMESTIC AND INTERNATIONAL TRADE

1.1 Definition, role and importance of transport documents in domestic and international trade

Studying the legal quality of transport documents,¹ their role and importance in domestic and international operations, requires deep analysis of the legislation, conventions, theoretical standpoints, and finally, an critical analysis of court and arbitration practice related to this issue. The importance of transport documents is due to their role in mass and fast transfer of goods worldwide. In the process of transferring goods, transport documents acts as a “facilitators of transferring goods worldwide.”²

¹In the category of transport documents, according to Rotterdam Rules art.1/14 fall: documents issued by the carrier based on the contract of carriage that a) record the receipt of goods by the carrier or the person who realize the carriage, b) record or contains the terms of the contract of carriage.

²The role of facilitators of transfer of goods refers to reliability and speed of the transfer that is provide by transport documents. See more in part 3 of this article titled as: Transferability of the bill of lading.

Comparative analysis and elaboration of this issue indicate different treatment that the Common and Civil law system give to transport documents.³ This different legal regime is the main factor for great and heterogeneous complications in the area of transport and transport documents. Internationally, these complications do not exist. International solutions are the results of leveling differences between national law systems.⁴ That way the focus is on the International Conventions related with this issue. In this context, modern/electronic era craves for a common denominator for the system of transport documents.⁵⁶

Improvement and adaptation of traditional transport or shipping documents is needed for determination of the responsibility of the individual segments of the transport process. Theoretically, improvements are conducted in three phases. The first phase includes the adaptation of conventional or direct bill of lading required by the needs of containerization and supplement transport.⁷ Typically, for the second phase the "first generation" container bill of lading emerges, in which transport operators focus on implementing "integrative liability" in case of direct/immediate

³We analyze this issue in the sense of different concepts of transfer of title, right of possession over the goods, the right of appeal and other contractual rights, not/equalization with Securities etc., in relation to the transfer of transport documents.

⁴ Bearing in mind the fact that all International legal act generate from previous negotiations between represent ants from different countries at different conference, international act are a compromise that representatives of different countries achieved at different conferences.

⁵Tiberg H., Legal Qualities of Transport documents, Tulane Maritime Law Journal 23 Tul. Mar. L.J. (1998-1999), p. 2.

⁶To get a clear picture about established concepts of transport documents, and to determine when and under which law a transport document represent (or not) the goods, have (or not have) the capacity of security, it seems necessary comparative theoretical approach to common law and civil law concepts regarding this issue. However, international legal regulations (Rotterdam Rules) are just a frame. In essence, the applicable domestic law decides which transport documents have negotiable character, which of them contain proprietary right, which types of transport documents are familiar to them.

⁷Legal problems that apper in this phase of development refer to separate instead of integrative liability.

transport of goods.⁸ In the third phase the “*second generation*: container bill of lading is based on *TCM Draft Convention of 1971*.”⁹ The draft targets the harmonization of contract conditions that allow the operators of different transport models to measure their force on equal level. This trend represents the beginning of implementation of the Multimodal transport operators and development of concept of integrative services, “full package services”.

However, changes that are noted in subsequently constructed bill of lading does not always generate substantial results. For particular types of bill of lading, changes may reflect terminological change, those accepted by transport operators more than establish scheme, and liability accepted in the bill of lading. From here, a particular bill of lading is proclaimed as a combine/multimodal bill of lading, though the acceptance of separate liability (liability of different actors in each phase of transferring).

Similar, a certain bill of lading may accept multimodal transport terminology, but still accept the “first generation” integrative liability. Certain types of bill of lading remain in the concept of “second generation”, accepting the new terminology. Furthermore, different stages of development sometimes reflected on the physiognomy of bill of lading as well as the condition implemented in them. The process of containerization imposed

⁸By bills of lading from second generation, attempt to solve the problem of unlocalize damage is made. Namely, transport of goods in containers may imply special problems in terms of proof! Whether the destruction or damage occur during the goods are under carrier liability. Furthermore, problems exist during identification of stage in which damage occurred. In case of existence of the concept of segmented liability between operators, it's logical and necessary to identify responsibility for the destruction, damage or delay by relevant international or national legal regimes. In case where “integrated responsibility” is accepted, the focus is on determining the appropriate legal regime applicable *in concerto*. When destruction, damage or delay is localized in a certain stage under the terms of the agreement or applicable (imperative) law it determines liability in specific phase. If determination of this stage is impossible, certain rules for determining are apply. *Waybills* of this “generation are an attempt to solve this problem.

In the segment “transport document,” Draft Convention finally produced generally implied evolution of two bodies – Comité Maritime International (CMI) and Institute for the Unification of Private Law (UNIDROIT).

modification of the written structure of the standard bill of lading and other shipping documents. Expansion in the field of transport has through bills of lading that regulate and direct immediate transport. Certain types of bill of lading are specifically designed for multimodal, combined transport. In contemporary literature they are referred to as an integrated transport or "conveyor belt" zone which is not bound to a single vehicle.¹⁰

Regardless of the intention of TCM Draft and Convention Multimodal Transport Convention 1980, modification of transport documents vis-à-vis traditional documents took place slowly. A mere superficial analysis is insufficient to conclude that a strong relationship with transport culture influenced the pace of modernization and unification of the segment. The category of transport documents includes: maritime transport bill of lading, mate's receipt, received for shipment bill of lading, ship delivery order, and multimodal transport documents.

On the international level, transport documents are governed by International Convention for the Unification of Certain Rules of Law Relating to Bills of Lading (Hague/Hague-Visby Rules), the Protocol of Signature (Brussels, 25 August 1924), the United Nations Convention on the Carriage of Goods by Sea, 1978, and finally, United Nations Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea (not yet in force.). Of these international rules, only the Rotterdam Rules refers to multimodal transport. The Hague/Hague-Visby Rules),, and Hamburg Rules, focus on maritime transport. We emphasize this because in the legal literature confusion is often created concerning the status and properties of CIM, versus board bill of lading, bill of lading in maritime transport. In world legal literature, the term "bill of lading" is use regardless of the fact whether sea or land transport is involved. The Hague/Hague-

¹⁰See more: Glass D., op. cit., p. 25.

Visby Rules and Hamburg Rules that are concerned with maritime transport, use the term “bill of lading”.

New Rotterdam Rules do not mention "bill of lading," dealing only with negotiable and non/negotiable transport documents. Regardless of the terminology, different legal systems provide different division of bill of lading, giving different characteristic for each of them. Many laws explicitly provide opportunity for consignment of road transport, freight bill on order, and bill of lading to bearer. They have the character of negotiable transport documents, bill of lading to order, bill of lading to bearer. (LOO, Art. 711/5).

Finally, an issued bill of lading has the characteristic that national laws give to it. Specifically, explicitly stated properties include "negotiable/non-negotiable", "order", "bearer". This is the case with multimodal transportation solutions and the new Rotterdam Rules art.1/15. These documents refer to negotiable transport documents as those that use the words such as "*to order*" and "*negotiable*," or any other appropriate word that has the same effect under applicable law of the document. In this context, the goods are delivered by the order of consignor, consignee, owner/transferor, and not explicitly stated "non-negotiable" or "not negotiable". In addition, according documents, transport documents are not negotiable.

2. BILL OF LADING

2.1. Term of bill of lading

As part of the contractual obligations of maritime contract for carriage, the carrier is obliged to issue a bill of lading that covers and records the entire transport route. Specifically, after loading the goods on board, the shipper may require issuing a bill of lading (loading)

(Konnossement/connaissance/Polizza di carico), and this one is obligated to issue it.

Bill of lading is a real legal security¹¹ which contains the right of ownership or right of lien, and in legal business traffic has multifunctional dimensions.¹² A bill of lading is a transferable security used in maritime transport. This type security represents the goods through the document of title, and its transmission symbolically marks the transfer of established rights of ownership or lien.

Through a bill of lading the carrier confirms receipt of the goods on board, and takes responsibility after completion of transport to pass the goods on to the legitimate owner, stationed at the agreed port. Specifically, a bill of lading is a written statement characterized by two basic features, that goods were received for transport under agreed terms, and that the carrier is obliged to deliver the goods to the specified port. As a security, a bill of lading enables sale and purchase of goods that are in the process of transporting. This is a tremendous advantage for the trade, especially in maritime transport that can take months to complete.

The bill of lading belongs in the group of causalities and presentations securities. Causality of the bill of lading refers to the relation between consignor and carrier, who are bound by basic contract of carriage. More precisely, a bill of lading is a confirmation for contract of carriage. Regarding the relationship between the carrier and the consignee of goods, a bill of lading is an abstract security.

¹¹According to the nature of the rights incorporated in the security, legal theory differentiates property rights from obligations rights and securities entitled to participate (*corporate securities*).

¹²Bill of lading doesn't serve only as a confirmation of contraction, but it also serve as a receipt of goods for shipment. As real legal security it represent the goods and empower people who have it to seek transfer of goods/ delivery of goods.

Finally, a bill of lading is a presentation security, which means the delivery of goods can be required. Possession of the bill of lading insures the property right to seller. In this context, the seller by possession of the bill of lading, practically holding control over the goods until the moment of the payment by the buyer.¹³

The term "ownership papers" or "document of title" is a common term for documents issued by the carrier or warehouse keeper who acts as a "bailee." Proprietary documents are a written description, identification and declaration of certain goods, issued by or entitled to the bailee. These documents record that the person who possesses the bill of lading, is authorized to receive, hold and dispose of the goods. These documents legally cover the transport route of the goods. The essential role of property transport documents is to facilitate the transfer of the goods until they are under the physical control of the carrier or bailee. The bailee is obliged to deliver the goods to the legal document holder, regardless of whether the original holder or a third party who boards bill of lading (ownership document) is transmitted / transferee of the document.

The status of "document of title" can be very problematic. This is the case especially when the court has to decide who is liable for the damage. Comparatively, civil law system recognizes the property status of all documents that present goods, and the right of consignee to require delivery of the goods. This is not the case in the common law system. Namely, Anglo-Saxon system acknowledges status of "document of title" only to "shipped bill of lading".

Regarding the determination of bill of lading as a transport document in maritime transport, especial meaning have *one of kind rules (CIM) for maritime bill of lading* accepted on XXXIV International conference in Paris

¹³Baughen S., op.cit. p. 4.

1999. These solely rules have great impact on creation and role of bill of lading in maritime and combined transport of goods.¹⁴

2.2. Types of bill of lading

Depending on the time frame of issuing bill of lading, in legal theory and practice distinctions is made between "bill of lading for loaded goods" and "bill of lading for receipt of goods to be loaded." This classification has been created as a result of the opportunity to deliver the goods before loading them on board. In these cases, consignor has right to require and carrier is obliged to issue a bill of lading as confirmation for the receipt of goods.

This document is a temporary bill of lading whose role ceases at once after the loading of goods on board. Comparatively, legal acts that govern this issue use with types of bill of lading.¹⁵ One of this type is "To order bill of lading. This bill of lading" is created for the purpose of maritime transport. This is quite logical considering the length of time ships are at sea during the transfer of goods. "To order bill of lading" authorizes the owner of the goods to sell them during their transit. He practically represents a basic tool for sales of goods that allows financial realization of the transaction, covering international sales. Theoretically, this type of bill of lading or board bill of lading belongs to category of running bill of lading that is created for transporting goods aboard ship to unknown person.

"To order bill of lading" is a free and unhindered, transferable and portable legal document implemented by means of signature endorsement

¹⁴Види: <http://web.uct.ac.za/depts/shiplaw/cmi/cmiwaybl.htm>, [accessed 03 April 2013].

¹⁵Carriage of goods by sea act 1992, (класификацијата е содржана и во U.K. Bills of Lading Act 1855., кој беше заменет со GOGSA 1992., United States the Pomerene Bills of Lading Act 1916., Canadian Bills of Lading Act 1985.

requiring the recipient and the carrier to commit to what is contained in the bill of lading.

Design of “straight bill of lading”¹⁶ in business practice is based on the sales of goods of a named entity, “*named person or transporting goods not for sale*.”¹⁷ Theoretically this bill falls into the category *recta bill of lading* and is suitable for the needs of the buyer who requires reliability, who needs one original bill of lading to establish de facto power over goods. In the field of transport, “seaway bill of lading” is designed to compensate the needs of rapid and simplified operations. The “seaway bill of lading” began in the field of road and air transport. Whether it is a way or seaway bill of lading, in its basic form it serves as a means of controlling and managing the goods without the prospect of its transferr. Increased containerization of goods transferred by sea, the real increase in speed of moving marine vehicles, and the fact that modern transport takes place through the use of multiple types of vehicles contributed to the increased use of “seaway bill”.

“Seaway bill” is defined in SMC § 13:58 as a transport document that includes a) contract for transport b) confirmation that the goods have been received, and c) insurance that the carrier undertakes to convey the goods to the person named in the document.

The difference between bill of lading and straight bill of lading is based on “presentation rule” that is characteristic for “bill of lading» not for *straight bill of lading*.”¹⁸ Thus, in order to take the incoming goods, the

¹⁶American terminology for “*recta bill of lading*” is accepted from English law literature and practice.

¹⁷This doesn’t impede the possessor of bill of lading to transfer it to others, but the effect of this is different vis a vis transfer of “*order bill of lading*”. More specifically, the type of bill of lading determines the way of transferring.

¹⁸Giving inherent nature of bill of lading, the most important right that possessor has is the right to demand delivery of the goods (the creditor right's to demand performance). Specifically, in the absence of this fundamental right, recipient in many segments occurs as powerless and excluded from the legal sphere of interest. The question is also about the liability of the carrier in case the carrier doesn’t deliver the goods to the subject-determined.

recipient needs an original bill of lading and should present it. Against this, in the case of “seaway bill of lading” the consignee is entitled to the goods if, in any way, he can prove that he is the person named in the waybill. In interest on the question of the distinction between the types of bill of lading, it seems appropriate to analyze and elaborate the functions of various bills of lading.

3. TRANSFERABILITY OF THE BILL OF LADING

3.1. Bill of lading as a negotiable or transferable proprietary document

A “bill of lading” is a typical document of title. This feature transforms it into a key instrument of international trade. The “bill of lading” is usually related to a negotiable or transferable document. However, certain dilemmas appear because of the different concepts in common and civil law. Is the “sea bill of lading” really negotiable or solely transferable!?

According to Anglo-Saxon law, bill of lading is not negotiable in the legal sense, even if they have some of the characteristics of legal documents that are negotiable. Specifically, waybills and bill of lading under Anglo-Saxon law are solely transferable which means they do not possess the essential characteristic of negotiable documents, i.e. third party (transferee) cannot acquire greater rights than its predecessor.¹⁹ In fact, English

The way in "straight bill of lading" solves this issue is just "presentation rule." That's way more legal systems give emphasis it vis a vis "seaway"

¹⁹English law is based on the concept *bill of lading represents the goods*, therefore, the transfer mustn't effect more rights than those represented in the bill of lading. Possession of bill of lading can generate greater legal powers in relation to the possession of the goods. In

jurisprudence makes exception from the rule off *nemo plus iuris ad alium transferre potest quam ipse habet* only when it comes to negotiable documents, which do not include CIM/board bill of lading.

English law provides certain specifics when it comes to "transferable" and "negotiable"²⁰ English jurisprudence explains the inability of the bill of lading to have capacity as a negotiable document, citing the intermediate position of the carrier between seller and buyer. In this sense, the seller, as consignor, sends the goods to the carrier, and in place receives a freight bill from the carrier. Through the contract of carriage, recorded with bill of lading, the carrier undertakes to transport the goods to the consignee under the conditions of the bill of lading.

After transfer of the bill of lading to the buyer, it is a contract between the carrier and the buyer as a third party and hloading. Hence, the buyer has an independent right against the carrier, straight bill of lading".²¹ The acquirer of bill of lading who acts in good faith, has the indisputable right over the goods, irrespective of whether there was an error during the transfer.

The only situation which may exclude the right of the third person is when bill of lading is obtained illegally. In the civil law system, the principle *nemo dat quod non habet* is inapplicable when applied to the transfer of waybills. The *transferee*, as the acquirer of the bill of lading, automatically acquires all the rights stipulated in the bill of lading, regardless of the rights of the predecessor. An exception exists when it comes to bill of lading issued

this context, see: *Gurney v. Behrend*, *Court of Queen's Bench*, 118 E.R. 1275, available from:

<http://login.westlaw.co.uk/maf/wluk/app/document?src=doc&linktype=ref&&context=7&crumb-action=replace&docguid=IE9FBB860BB5311DCB80092A59D721F81>, [accessed 30 27 June 2013].

²⁰In this context see: Goode R., *Commercial Law*, London, 1995, p. 54.

²¹In this context see: Uniform Commercial Code, s.7-104 and 7-502, available from:

<http://www.cga.ct.gov/2005/pub/Art007.htm>, [accessed 06 June 2013].

on the name, which is transferable, but not negotiable. Assignment of the bill of lading that specifies a person by name is transmitted by cession. The third person acquires the same rights that the transferor has against the carrier. This generates the rights of the transferor. Analyzing judicial and arbitration practice in relation to this issue, the negotiability of the transport documents generated not only from the legislation, but also by business practice and common law in international trade.

Case law shows cases a "*straight bill of lading*," which generally applies to nontransferable bill of lading and equal to the ordinary "waybill," has been treated as a negotiable document.

3.2. Transfer of possession/control of goods

Bill of lading represents a symbol of the goods being transported. Transfer of the bill of lading symbolic represents transfer of goods, with the same effects as its physical delivery. In legal terms, owning a bill of lading represent possession (physical control) on the goods. The right of physical possession, in itself embodies the right to dispose of the possession or control of the goods. Thus, CIM bill of lading authorizes the legitimate holder to dispose with the goods in transit, through transferring the bill of lading to a third party. The third person may decide whether to use the bill of lading to take the goods, or pass it on another party.

In summary, the third party has the right to require delivery of the goods, which means that he has the right of ownership over it. The purpose of transferring the bill of lading is not to transferred the property of goods, but the right of constructive possession of the goods during transport. More precisely, the only right generated by the "bill of lading" is the right to demand delivery of the goods and to set up physical control over them. (not

property right). This right generates from the contract of carriage, but not from contract of sale. Contract of sale of goods obliges the seller and the buyer of the goods, because they are in obligatory relationship. To execute his/her obligations under the sales contract, seller must conclude contract for carriage of the goods to the determined place.²² After the loading of goods on board, carrier has the possession of the goods and is liable for any damage during the transport route. The carrier takes the goods from the consignor in exchange for a “bill of lading”. When the seller transfers the “bill of lading” to the goods on behalf of the seller, it is transformed into possession on behalf of the buyer. This is quite logical, if the fact that the carrier contracted to transport has been taken into account.

Based on the above, it is clear that the role of bill of lading is a perfect fit for the needs of international, particularly marine, transportation. When the seller delivers the goods to the carrier, he only has physical possession of them. Property right, the right of disposal, remains in the hands of the seller until the buyer has paid the price or accepted bill of lading. Therefore, until one of these two moments, sending or accepting a price bill of lading, occurs, the seller has the right to dispose of the goods until he pays for the goods. The seller loses the right of ownership over the goods or control of goods at the time of delivery or transferring “bill of lading” to the buyer. With the acquisition of bill of lading, the buyer obtains control over the goods. He can transfer the “bill of lading” to a third party, and thus to transfer the right to require delivery of the goods from the carrier.

Transfer of the bill of lading has erga omnes effect. The holder of the “bill of lading” is in the same position as when the goods would be under his

²² The obligations of arrangement of carriage of the goods depend on the determined clause in the contract of sale. Depending on the will of the contractors, the obligation of organizing transport may belong to the seller as well as the buyer. Bill of lading is not a contract for carriage of goods, but serves as proof that the contract has been concluded.

control. Hence, it authorizes (excluding the right of third parties) requirement of the goods from the carrier at the port of delivery. When more people have bill of lading, demanding delivery of the same consignment goods at the port of unloading, delivery right belongs to the person who will first to present the bill of lading to the carrier. With the presentation of the original bill of lading, the recipient of the carrier nullifies makes other existing bill of lading that are null.

3.3. Transfer of property

Universally accepted rule is that the transfer of bill of lading does not transfer the right of ownership over goods. This for the simple reason that bill of lading doesn't recorded property of the goods, but only the right of delivery / delivery of goods. More precisely, in the nature of bill of lading is not to record the ownership of goods. It is beyond the scope of the contract of carriage. Issued bill of lading is an affirmation that the consignor expenditure the goods to the consignee, signing a contract for the carriage in which the carrier has only a mediating role. If this would no power.

The fact that that the recipient or third party who is transferred to bill of lading has the right to demand delivery of the goods. Notwithstanding, this doesn't mean that it has the right of ownership over it. The right of the consignee to ask / take goods from the carrier's is untouchable, hence he can take the goods to the carrier from the obligation to surrender, whether consignor / sender is the owner of the goods.

In practice, the transfer of bill of lading quite often generate effects of transfer of property of the goods. However, to transfer ownership rights by transfer of bill of lading, there should be met certain conditions. In this sense, the transferor must be the owner of the goods, in order to transfer ownership rights of the legal holder of the bill of lading. If bill of lading is obtained by

fraud, the recipient (transferee) is attained with the right of ownership. His ownership right is presumed given that he possesses bill of lading. He is not obliged to prove its right at the moment of transfer of the consignment note. Furthermore, the transfer of title is conditioned on the willingness / agreement of the transferor and the acquirer and conditions of transfer specified in the sales contract. Hence, the transfer property operationalized through the sales contract. T / S is a tool that facilitates the right transfer recorded in the sales contract. In connection with this issue (the role of t / l in the context of transfer of ownership), the legal theory is crystal clear three different concepts depending on the legal system in question. In this sense, English, French and German legal system, legal concept of transfer of title.

According to English law, property right is transferred at the time when the parties intended to convey (Sale of goods act, section 17). Specifically, the transfer of title of goods depends on the intention of both parties. If the bill of lading is granted on the name on the buyer, or on his order, it is almost without doubt the intention of the sender to transfer the title to the consignee. In this case, the sender keeps bill of lading until the payment of the price by the buyer, and the last gained the property when bill of lading is available to him. Where bill of lading is issued as "to order"/of the sender, the presumption is that the seller was intended to keep property until payment of the price. In this case, ownership is transferred to the buyer at the time of indorsement of bill of lading on the basis of payment of the price. If the intention of the sender was not transfer of title, but of any other right, transfer of bill of lading is not transfer of property.

In French law, the principle applies *solo consensus*. More specifically, the right of ownership is transferred at the time the parties agreed on the price and goods, regardless of the fact that the goods are not delivered and the price is not paid (French Civil code, art. 1583). Hence,

the transfer of bill of lading is bound to transfer the ownership of goods, with no transfer of ownership, which is passed on the basis of the contract of sale. Through the transfer of bill of lading, the seller execute its obligations under the sales agreement.

In German law, transfer of title of the goods is determined by two components: the agreement of the parties, and the delivery of goods (German Civil Code, art. 929). Specifically, the transfer of ownership is based on sales agreement ("iustus titulus)" and method of transfer ("modus acquirendi)". Hence, delivery of the goods symbolically is manifested by transfer of bill of lading. In this sense, (GCC, art. 650) transfer of bill of lading has the same effect as the transfer of goods. Finally, the transfer of bill of lading at the same time means transferring the property and possession of the goods.

CONCLUSION:

Studying the issues of transfer of rights incorporated in the bill of lading or any other transport document opens numerous and diverse issues in different jurisdictions which have different treatment. Analysis and elaboration of the concept of transfer of property clearly indicates that according to the German model, the transfer of bill of lading has the greatest importance for the transfer of title.

Under English law, the transfer of bill of lading means transfer of title only if of the parties say it does. The latter issue is essentially resolved by dispositive rules of nature. Finally, in French law, the transfer of the bill of lading is a symbolic transfer of goods, involving no connection with the transfer of title. The significance of this issue generates the importance of the concept of transfer of ownership of goods, and the determination of the moment of transfer of risk in the transfer of goods. In every international transaction, goods are transferred through the participation of multiple stakeholders in the transport route. Considering the distance at which the transfer is commonly realized, the emergence of bill of lading plays crucial role in the realization of sales. As a security, the bill of lading incorporates ownership rights over the goods, hence the transfer of board bill of lading essentially means transfer of ownership of the goods.

The largest beneficiary generated by the possibility of bill of lading to realize credential before the banking sector. Banks generally accept bill of lading issued by the carriers. Those are just freight forwarder bill of lading that banks recognize the status board bill of lading. Court, arbitration and business practices are increasingly oriented that forwarding board bill of lading has all the features and carrier bill of lading. Forwarding bill of lading is negotiable transport document that represent goods being transported, and

finally a confirmation of a contract for carriage on the basis of the forwarder responsibility. This is regardless of whether forwarder after taking over the goods and the issuance of board bill of lading, signed an agreement with a third party to deliver the transfer. Under the impact of globalization and the process of concentration of capital in few logistics operators (giants), transporters and shippers are transformed into logistics operators and act as multimodal transport operators. Consequently, they issued multimodal transport bill of lading which have the status of securities and ownership documents.

Finally, the transformation of carriers and shippers move classical concept of bill of lading. It necessarily reflected on their status and position in international transport. In modern terms of trade, the largest source of law regarding the bill of lading comes from business practice and autonomous commercial law. Hence, traditional concepts and legal framework related to this matter is more important than losing. In light of this and recent Rotterdam Rules which have not yet entered into force, which play a major role in the implementation of international trade.

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