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The Liabilities of Multimodal Transport Operator in Ethiopia: The Law and the practice

By: Habtamu Wondwosen

A Thesis submitted to Addis Ababa University School of Law and Governance Studies in Partial Fulfillment of the Requirements for the Award of Masters of Business Law.

May, 2020

Addis Ababa

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STATEMENT OF CERTIFICATION

This is to certify that Mr. Habtamu Wondwosen who carried out his research work on the topic entitled "**A Thesis submitted to Addis Ababa University School of Law and Governance Studies in Partial Fulfillment of the Requirements for the Award of Master of Business Law**" is his original works and is suitable for the submission for the award of Master's Degree in Business Law.

Certified by: Tewodros Meheret (Assistant Professor)

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Signature Date

STATEMENT OF DECLARATION

I, Habtamu Wondwosen, hereby declare that this is originally produced by me with the guidance of Tewodros Meheret (Assis. Proff.). I confirm also that all the references of other people's work referred and the ideas adopted are fully acknowledged at reference sections. I take full responsibility for any errors that may be included in this report.

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Habtamu Wondwosen

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Abstract

Multimodal transport refers to the transport of goods from place to another place by using more than one mode of transport. The main actor who enters into contract to coordinate different modes of transport like; road, rail, air, pipeline etc. and finally results in the most effective and efficient movement of goods under its own responsibility is Multimodal Transport Operator.

Non-uniformity of multimodal transport laws results in problems when loss, damage or delay happens to the cargoes. However, although attempts are made to make uniform international Multimodal Convention, the International Unimodal Transport Conventions also apply to Multimodal Transport.

Liability rules vary greatly from one mode of transport to the other and results in uncertainty on the liability of Multimodal Transport Operator. The main objectives of this study is examining practical issues, court decisions and prescribe problems related with the Liabilities of the multimodal transport Operator in Ethiopia which is Ethiopian Shipping and Logistics Service Enterprise.

How Multimodal Transport problems were solved in Ethiopia and multimodal transport proclamation was examined in terms of Interviews made and FDRE Federal Court decision. Thus it will be determined whether the needs of multimodal transport will be met through new legislative studies.

Keywords: *Multimodal Transport, Ethiopian Shipping and Logistics Service Enterprise (ESLSE) Multimodal Transport Proclamation, International Conventions, Court Decision, Ethiopia.*

List of Acronyms and Abbreviations

ESLSE…….……..Ethiopian Shipping and Logistics Service Enterprise

IMO……..International Monetary Organization

MTO…… Multimodal Transport Operator

MTD…… Multimodal Transport Document

MTC…… Multimodal Transport Contract

INCOTERMS……International Commercial Terms

B/I…… ……Bill of Lading

UNCTAD ……...United Nation Conference on Trade and Development

EMMA…….…….Ethiopian Maritime Affairs Authority

EDI……. Electronic Data Interchange

VO MTO……..…Vessel operating multimodal transport operators

NVO MTO……..…..……Non-vessel operating multimodal transport operators

ECMT……..……European Conference of Ministers of Transport

Art.…….……..……Article

FFIC…….Federal First Instance Court

FHC……..Federal High Court

FSC…….……..Federal Supreme Court

FCL…….…….Full Container Load

LCL……...…Less Container Load

CMR…….…..…Convention on the Contract for the International Carriage Goods by Road

CMNI…….Convention on the Contract for the Carriage by

COTIF……...……Convention concerning International Carrier by Rail

CIM……....International Carriage of Goods by Rail

MC……..Montreal Conventions

ICC…….……International Chamber of Commerce

NIC…….……Nib Insurance Company S.Co

UNIC……..……United Insurance Company S.Co

EIC……..Ethiopian Insurance Corporation

List of Annexes

- Federal First Instance court's Decision on the file No.48115.
- Federal High Court's Decision on the file No.224270.
- Federal Supreme Court's Cassation Decision on Article 40(2) of the Proclamation No. 548/2007on file No. 152341(Unpublished).

CHAPTER- ONE

1. Introduction

The main concept of international multimodal transport addresses the door to door movement of goods by using more than one mode of transport under the responsibility of a single transport operator called Multimodal Transport Operator.[1]This concept is clearly stated under Art 1 of the *United Nations Convention on International Multimodal Transport of Good.*[2]

From the wording of the Multimodal Transport Convention and laws; MT is the carriage of goods between two countries, using at least two different modes of transport and one carriage contract.[3]MTO assumes responsibility for the transport contract as a principal, not as an agent or freight forwarder.[4]Therefore, the focus of the thesis is mainly on the applicability of multiplicity of modes of transport under a single transport contract.

Ethiopia as one of the IMO member state, multimodal transportation systems has been implemented since 2012.[5]Although, government decided on selling some of the shares of the government owned enterprises nowadays the sole Operator of Multimodal Transport is Ethiopian Shipping and Logistics Services Enterprise. This research basically focused on the law and the practice of the liabilities of this particular Operator.

1.1Background of Study

International business transaction has a paramount importance for economic development of any state in the world. This assertion is more valid for countries substantially dependent on goods produced and imported from abroad to satisfy their needs. These countries shall also export

[1]Trade and Development Report, 1981–2011 - UNCTAD https://unctad.org/en/PublicationsLibrary/gds2012d1_en.pdflast accessed on March 06, 2019

[2]United Nations Convention on International Multimodal Transport of… www.admiraltylawguide.com>mult...See also, Multimodal transport and trade facilitation: implication in the http://www.docplayer.net>94056716-Mult... last accessed on March 19, 2018. See also, Art. 2(1) of the proclamation 548/2007, Art 2(9) of the proclamation 549/2007

[3](DOC) Multimodal transportation of goods under Ethiopian Law, journal of…https://www.academia.edu> last accessed on March 20, 2018

[4]Erica Englundh, *Carriers Liability in Multimodal Transport*(Lund University Faculty of Law, 2015)14 See also, Carrier Liability in Multimodal Transport-KIPDF.COM https://kipdf.com>... Last accessed on March 19, 2018

[5]Ethiopian Shipping Logistics Services Enterprise, *'Enterprise Performance'(*Addis Ababa, Ethiopia, 2016)6

locally produced goods, mostly agricultural products and unprocessed raw materials to secure foreign currency and import finished goods that are produced abroad.[6]

International sale of goods is said to possess international character where the transaction involves the carriage of goods from one country to another and the transaction is entered into between parties who are situated in different countries.[7]Transportation of Goods from the seller's country to the buyer's country is an important part of international sale contract.[8]

Trade, especially foreign trade assumes the utilization of different modalities of transportation which is an integral part of international trade and effective means of freight transportation is crucial.

There are different modes of transport: inland surface transportation (rail, road, and inland waterway), sea transport (coastal and ocean) and air transportation.[9]

In the past, the most popular way of international transportation was sea transportation.[10]This is due to physical properties of water conferring buoyancy and low friction, this mode of transportation is the most effective mode to move large quantities of cargo over long distances around the world.[11]A single contract for the whole route is often preferred to multiple-stages involving separate contracts, as the latter could lead to time loss and risks of loss and damages to the goods. Carriers tend to accept minimal responsibility to such loss, which would lead to a problem in recovering such costs.[12]

Freight transportation requires the utilization system of transport which is cost effective, least pollute environment, efficient and convenient to users. But, Unimodal transport[13] suffers from

[6]See (n-5)
[7]Jason C.T. Chuah, *Law of International Trade: Cross-Border Commercial Transactions*(4th edn, Sweet and Maxwell 2009)23
[8]Indra Carr, *International Trade Law*(5th edn, Routledge 2014)151
[9]Christine Besong, *towards a modern role for liability in multimodal transport law*(London, 2007)1
[10]Ibid
[11]Essentials of Logistics and Supply Chain Management https://books.google.com.et>books last accessed on March 10, 2019
[12]Jason C.T. Chuah (n-7)27
[13]Unimodal Transport is the transport of goods by one mode of transport by one or more carriers

different effects of Unimodal transit transport system such as port congestion, long transit time for import cargoes, unavailability of empty containers in due time, etc.[14]

To do away with this problem associated with single means of transport countries devised multimodal transport system as a solution. As multimodal transport means the carriage of goods by at least two different modes of transport depending on multimodal transport contract from a place in one country at which the goods are taken in charge by the MTO to a place designated for delivery situated in a different country.[15]Transporting goods by means of multimodal transport mainly increased on the 1960s container revolution.[16] This container revolution has positively contributed to the goods transporters all around the globe and to the carriers too.[17]As long as international transport continues, damage and loss to goods transported will occur; such incidences are usually followed by a variety of claims and compensations.[18]

Unimodal transports taking into consideration of modes of transport are governed by international conventions. The problem with this mode of transport is different liability regime and the solution to the problem is set as the network principle, which puts the conventions coexist unchanged and the liability of the carrier is set based on the place where the contract is breached. i.e. damage, loss or delay. But, the problem arises when the breach of the contract is systemic[19] (not localized).[20]

Following, the independence declaration of Eritrea, Ethiopia becomes a landlocked state which does foreign trade through neighboring countries. Port of Djibouti constitutes major percent of country import and export of international trade.[21] Multimodal transport system have significant

[14]See, (n-8)

[15]Proceedings of the United Nations Conference on Trade…-UNCTAD https://unctad.org>Docslast accessed on March 10, 2019

[16]unctad.org | UNCTAD Handbook of Statistics 2016 https://unctad.org/en/pages/PublicationWebflyer.aspx?publicationid=1667last accessed on March 10, 2019

[17]Master Thesis Pro-rata **Liability** in Multimodal **Transport** https://www.sdu.dk/-/media/files/om_sdu/institutter/juridisk/sekret%C3%A6r/speciale+3.pdf?la=da&hash=0,last accessed on March 07, 2019

[18]Ibid

[19]Not localized breach means instances of concealed damage that cannot be attributed to any particular incident during the movement of the goods. See also, Multimodal Transport Rules https://books.google.com.et>books last accessed on November 10, 2018

[20]Multimodal Transport – Wikipedia https://en.wikipedia.org/w/index.php?title=Multimodal_transport&action=edit&section=3, last accessed on November 13, 2018

[21]Ethiopian Shipping and Logistics Services Enterprise, 'special publication magazine'(2014)13

importance in reduction of transaction cost to the land locked country like Ethiopia, particularly from the perspective of the costs related to transit transport.[22]

While transporting the freight the MTO is under responsibility and liabilities if the goods transported are damaged, delayed or lost. Although, certain conditions are set to be fulfilled by the Shipper, Consignee and MTO himself depending on the events happened.

However, in relation to liability of MTO stated under Part three of the Multimodal Transport of goods proclamation No.548/2007[23]practically problems arise of interpretation while real cases are entertained by courts in Ethiopia. Although, the activity of foreign trade (import and export) in Ethiopia is done with foreign currencies which is inadequate due to the knowhow problem of the Multimodal Transport regime (especially of importers) when freight is lost, delayed or damaged both the importer himself and cargo insurers loose the right to ask for compensation.

Therefore, it is very essential to make research on the law and practice of Liabilities of Multimodal Transport Operator in Ethiopia. Thus, this thesis explore conceptual and legal framework of Multimodal Transport in general. In addition, analyze the practical interpretations of the Proclamation No.548/2007 in relation to the liabilities of MTO in Ethiopia. Finally, the thesis will identify legal and practical problems and suggest their solutions.

1.2 Statement of Problem

The basis of multimodal transport is the door-to-door delivery of freight by using a single transport document, under a single MTO and by using different modes of transport.[24]With the introduction of strong, secure and standard-sized boxes, it has become practical for a consignor to arrange transport of his or her goods by a combination of transport modes without fear of pilferage or damage to the goods.[25]

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[22]Ibid

[23]Multimodal Transport of goods Proclamation No.548/2007, 13th Year, NO.59 ADDIS ABABA 4th September 2007

[24]SelamawitHailu, *Assessment of the performance of multimodal transport service in Ethiopian shipping and logistic services Enterprise* (AAU School of Commerce, 2017)5 See also, assessment of the performance of multimodal transport…-AAU-ETD http://www.etd.aau.edu.et>handle>selamlast accessed on December 12, 2019

[25]Miss PajareeSingsuwan, *Legal problems of the multimodal transport operator* (Thammasat University, 2011)2

Ethiopia being one of the developing countries needs to be integrated with global economy and that can only be possible through efficient and effective flows of goods in international trade. To this end, the country needs to adopt and develop an efficient multimodal transport.[26]

With the aim of improving the flow of goods, Ethiopia implemented "Multimodal" transport system since January 2011.[27] The directive set by the government indicated that "Multimodal" transport system in Ethiopia targets for seamless, low cost, and maximum customer convenient transporting of imported goods from Djibouti to dry ports in Ethiopia and the reverse flow in case of exported goods.[28]

Having a standard legal regime for transport of goods under Multimodal Transport will ensure the MTO could be held responsible for managing goods at the port of loading up to the port of the destination and liable for the damages occurred during transportation.[29] It would also guarantee a reasonable rate of charge and internationally recognized standard of services.[30]

Concerning the liability of MTO (Basis of liability and limitation of liability) stated under Part three of the Multimodal Transport of goods proclamation No.548/2007 both legal and practical problems arise while real cases are entertained by courts in Ethiopia. Some of the problems are the MTO in Ethiopia is the only or sole operator and the whole documents are available in his hands and susceptible to concealment. These creates problem to the Consignee to proof through documentary evidences that the damage is occurred at a particular stage example is to proof Article 20(3) of the proclamation.

The other problem is under Art33(2)of the Proclamation which states that if the good damaged is subject to joint survey then no need of noticing the MTO. Most of the time goods are damaged at the particular or Unimodal transportation. The one who is available is the Unimodal carrier and the MTO most of the time reject the claim saying that we were not the parties to the joint survey

[26]Towards intermodal freight transport system in Ethiopia: evaluation of https://www.scirp.com.com>document last accessed on May 10, 2018

[27]TadesseKeneaAmentae, *Towards Intermodal Freight Transport System in Ethiopia Evaluation of Ethiopian Shipping and Logistics Service Enterprise Multimodal Freight Transport Performance by Customers and Employees*(2017)see also, https://pub.epsilon.slu.se/124 last accessed on April 07, 2019

[28]Ibid

[29]ChinniahAnbalagan and KalimuthuKanagaraj, *A Study on Problems and Prospects of Transport in Ethiopia-Special Reference with Auto Rickshaw's (Bajaj) in Hawassa City, SNNPRS, East Africa*,(Vol.2, 2014)6

[30]Ibid

after already sub contracted the particular stage of transport and the court decided in favor of the MTO.

The other point in relation to this issue is Article 33(2) of the proclamation versus Article 40(2) of the proclamation. Here the main point is what would be the difference and effect between the two notices? The decision of the courts in these issues will be seen since the outcome on both sides affects the parties' economically.

Thirdly, Art 20(1) of the Multimodal transport of goods proclamation deals with Limitation of Liability. However, the main important point here is what is Shipping Unit? This term is not defined under the multimodal transport proclamations definitional article and there is no measurement set to say what shipping unit constitutes. This entails there is a gap under the proclamation which helps the Multimodal Operator to minimize the liability limited and also affects the importer/Exporter not to get the maximum damages set by the law.

Fourthly, under the proclamation the consignee has to fulfill the conditions stated including requirement of notice to the MTO that the goods transported are damaged, delayed or lost. This is a pre-requirement or condition precedent for the Consignee to claim compensation and for cargo insurers to entertain the claim. But, most of the time both the importers and the cargo insurers do not know the requirements to be adhered while delay, damage or goods are lost. Again this results in the non-liability of the MTO and loss to the Consignee and cargo insurers' subrogation right.
In addition, to the above major problems Art 17(2) of the Multimodal Proclamation which deals with delay needs clarification and interpretation.

Here, there is no standard put by the law and there is no international well developed practice to say how much time is needed, for diligent multimodal operator to deliver the goods transported. However, the time needed to deliver the good depends on the freight transported and external factors like infrastructures, technology etc.

In order to further elucidate the matter the research intends to address the following generic research questions.

1.3 Research Questions

The main research question of the study is; what are the Legal Liabilities of Multimodal Transport Operator in Ethiopia and how is their practical applicability. Particularly this study attempted to answer the following specific research question:

- Does notice in writing under limitation of action required for goods jointly surveyed under Article 33(2) of the proclamation? What would be the effect of the giving notice in writing between the two points?
- What is Shipping Unit and what is the standard unit set by the law to measure shipping Unit which is stated under Article 20(1) of the Proclamation?
- What are the difficulties of determining the applicable limitation of liability in case of localized damage stated under Article 20(3)[31] of the Multimodal Transport of Goods Proclamation No.548/2007?Does the concept of localized damage apply for claims related to delay?
- What would be the standard to consider a multimodal Operator Diligent or not?
- Do importers and cargo insurers have adequate knowledge on Multimodal Transport Law and Claims Process?

1.4 Literature Review

Although, Multimodal transport plays major role in fast transportation of goods and services it's not free from drawbacks. One of the main problems related with this mode of transport is the liability regime which is not predictable and certain. Researches and articles written under different fields of study and come up with the findings that the sole operator of multimodal transport in Ethiopia case ESLSE is encountering with so many problems on transportation of goods and its customers (importers) are facing are available.

According to Ato Fekadu Debela from the assessment made about Logistics practice in Ethiopia, he summarized in his study that Ethiopian logistics system is characterized by poor logistics management system and lack of coordination, the level of development of infrastructure and logistics is low, the number of vehicles are few and old aged, handling the goods during

[31]Art 20(3) of the Multimodal Proclamation says, "When the loss of or damage to the goods occurred during one particular stage of the Multimodal transport, in respect of which an applicable law provides a higher limit of liability than the limit stipulated, then the limit of the MTO's liability for such loss or damage shall be determined by the relevant law applicable to the mode of transport during which the loss or damage occurred"

transportation and at the storage place is low. Following the analysis he recommended that urgent research is needed on the gaps and human resource needs while transporting goods and logistics needs of the country too.[32]

On the other hand, Abebe Tefera on his work on an appraisal of the need of Ethiopia to adopt Rotterdam Rules come up with the findings that Ethiopia needs to adopt Rotterdam. Athough, this rule is not specific to the MT since, the Multimodal Proclamation has gaps on issues like lack of Arbitration Clause, abolish of nautical fault, the rule incorporates the modern existing industry needs, etc in general which helps us to fill the gaps available under MT and also leads to attain uniformity and acceptance by the states.[33]

Tadesse Kenea on its study on towards Intermodal Freight Transport System in Ethiopia; has discussed Multimodal Freight Transport Performance by Customers and Employees' and also come up with a findings that majority of the customers were not satisfied with many of the service performances of the MTO.[34]The comparative analysis made with Unimodal approach customers indicates Multimodal transport system did not satisfied customers as much as the Unimodal transport customers and listed top ten problems of freight transport logistics where repetitive custom checks and high waste of time during custom checking process were ranked as the most severe constraint.[35]Aklile Mulugeta[36]and Selamawit Hailu[37] also agree on the above points and the service provided by the ESLSE has to be improved so as to satisfy customers (importers) interest.

Sebhatu Alamu Ambaye on analysis of the import trade logistics service through the Ethio-Djibouti Corridor come up with recommendation to be made at state level and Institutional level

[32]FekaduDebela, *Logistics Practices in Ethiopia* (SUAS, Swedish University of Agricultural Sciences, Uppsala, 2013)6

[33]AbebeTefera, *An appraisal of the need of Ethiopia to adopt Rotterdam Rules* (Lap Lambert Academic Publishing, Mauritius, 2017)

[34]Tadesse (n-27)

[35]Ibid

[36]AklileMulugeta, *Determinants of Multi-modal Transport Effectiveness: the case of Ethiopian Shipping and Logistics Services Enterprises* (AAU School of Commerce, 2017)18. See also, Determinants of Multi-modal Transport Effectiveness: the case of Ethiopian…https://etd.aau.edu.et>handle>AK…PDF last accessed on April 20, 2018

[37]See, (n-24)23

for improving the transit service through the Corridor for a better quality transit service which lay the basis for investment and trade growth.[38]

The study assessment made by Tilahun Lemmi Butta and Mekonnen Bogale Abegaz aimed to investigate the challenges of Multimodal Transport System at Ethiopian Shipping &Logistics Services Enterprise states that: The key challenges related to the operations of Multimodal Transportation System are listed i.e. poor network connectivity, the problem of ICT usage, the lack of railway infrastructure, monopoly by ESLSE which results in lack of competition, poor coordination, lack of integrity with Stakeholder relationship, shortage of trucks, bureaucracy and involvement of several stakeholders, shortage of skilled human power, employment related problems, were identified as serious challenges.[39]

After the analysis they recommended that currently, there is only one MTO for Ethiopia (ESLSE).[40] In order to bring competition between other operators and the government owned it is crucial to consider a new law or/and proclamation that can encourage/allow participation of private sectors in Multimodal Transport operation which results in competitive advantage.[41]

The second most important recommendation is The ESLSE is recommended to provide capacity building program which develop integrity with customers, training and upgrading employees professional qualification.[42] In general, the concerned bodies should work to minimize the aforementioned challenges as per their seriousness order.[43]

Apart from finding foreign materials from Addis Ababa University law library and online materials available in Ethiopia there is no comprehensive literature and research on the liabilities

[38]SebhatuAlamuAmbaye, *An Analysis of the Import trade logistics Service through the Ethio-Djibouti Corridor*(World Maritime University, 2005)102-103
[39]TilahunLemmiButta and MekonnenBogaleAbegaz, *Challenges in the operation of multimodal transport system: The case of Ethiopian shipping and logistics services enterprise* (International Journal of Applied Research, 2016)931, See also www.allresearchjournal.comlast accessed on March 17, 2018
[40]Ibid 832
[41]Ibid
[42]Ibid
[43]Ibid

of MTO. However, there is article written by Tsehai Wada on 2009 on "*Multimodal Transportation of Goods under Ethiopian Law*".[44]

According to the author multimodal transport law has introduced fundamental changes to the existing transportation laws of the country. One of such changes is increase in the limitation of liability which was small in light of the interest of a shipper or consignee.[45] Moreover, Ethiopian currency had been highly devalued in the course of time and the limitations were simply as opposed to anything close to the real value of goods lost or damaged.[46]Since the limitations are close to the international legal standards, shippers and consignees are no more disadvantaged by outdated laws and this is a victory to the shippers and cargo insurers.[47]

The author of the article recommends the gap in literature and encourages further academic discourse as a conclusion. Stating that, since the multimodal transport law is a new law he did not come across a single court case decided on any issues discussed under the journal. Despite that, courts and litigants will undoubtedly face with the different practical issues contained in multimodal transport contracts in the future and he believes that the article which will help all those engaged in the field to have a fair idea about the area of law.[48]That will be helpful to rectify some of the limitations reflected in the proclamation, before they start to pose practical issues of interpretation and that will be for the benefit of all that may be affected.[49].

Finally, I have reviewed only LLM thesis's found in Addis Ababa university law library due to time constraint. But, I didn't come across LLM thesis done concerning the Legal issues on the Liabilities of Multimodal Transport Operator in Ethiopia. Therefore, this study aims to exhaustively explore the concept of the law and practices of Liabilities of Multimodal Transport Operator in Ethiopia.

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[44]Tsehai Wada, *Multimodal Transport under Ethiopian Law* (Journal of Ethiopian Law, Vol. XXII, No.I, 2009) See also, **Multimodal transportation** of goods under Ethiopian Law, **Journal** of ... https://www.academia.edu/1162435/_Multimodal_transportation_of_goods_under_Ethiopian_Law_Journal last accessed on March 19, 2018

[45]Ibid

[46]Ibid

[47]See,(n-44)39

[48]Ibid

[49]Ibid

1.5 Objectives of the Study

1.5.1 General Objective of the Study

The main objective of the study is to exhaustively examine the law and practice of the liabilities of multimodal transport operator in general and in Ethiopia in particular and see practical interpretations of some articles of Multimodal transport Proclamation 548/2007. In addition, the study aims to scrutinize the concept of Multimodal Transport in Ethiopia and recommends the possible solutions from findings of the research.

1.5.2 Specific Objective of the Study

This study aims to achieve the following specific objectives:

- To study the general concept of multimodal transport at the international level, sub-regional level, regional level and national level, emphasizing the concept of liabilities of multimodal transport operator.
- To study the control of the multimodal transport operator problem in Ethiopia and analyze the current Multimodal Transport Proclamation of Ethiopia and its practical problems.
- To propose a new legislative solution to improve the problems seen under the liabilities of multimodal transport operator in Ethiopia.
- To explain rules multimodal contracts, the liability of the multimodal transport operator, (basis of liability and limitation of liability), etc. in line with the practice in our country.
- To find out and assess practical cases entertained by Federal courts[50] on multimodal transport contract in Ethiopia.

1.6 Significance of the Study

This study has the following basic significances to various stake holders:

- The study will have its own contribution for importer and exporters in creating awareness on Multimodal transport contract[51]and international carriage of cargo by multimodal transport in general.
- The study will have contribution to the Academics and Laws (Multimodal Transport).

[50]The term Federal courts include cases entertained at all levels of Federal courts (FFIC, FHC and FSC). Concerning FFIC it includes only Lideta and Kirkos benches since insurance matters are entertained by those benches only.

[51]MTC- Multimodal Transport Contract: -as per Art. 2(3) of the Proclamation is a contract whereby an international MTO undertakes, against payment of freight, to perform or to effect the performance of a multimodal transport

- The study will initiate further research on areas that created practical problems in relation to Multimodal Transport Laws in Ethiopia.
- The study will have its own contribution for cargo insurers to help their customer's aware conditions to be fulfilled before asking compensation and after having compensated the insured person to subrogate and ask payment from the MTO.

1.7 Scope of the Study

The sole Multimodal Transport Operator in Ethiopia is Ethiopian Shipping and Logistics Services Enterprise, although nowadays the government is undergoing reform and research to privatize some percentage of government owned enterprises.

The study mainly focuses on the law and the practice on the liabilities of multimodal transport operator in Ethiopia. The study analyses the practices of Multimodal Transport Operators liabilities while entertaining the court cases and claims in Ethiopia.

Therefore, it mainly focuses on ESLSE, department of Multimodal service sector. The legal department of the ESLSE is also my study subjects.

On the other hand the study also focuses on legal and claims departments[52] of the insurance companies registered and operating in Ethiopia. Which mainly deals with legal and claim department of 3 (three) private insurance companies having experience of marine insurance underwriting and cases i.e. Multimodal transport and who have above 12years of experience. The selection criteria is by random selection which includes EIC and 2 (two) from private insurance companies.

The study also includes three importers in Addis Ababa by random selection and expert in the area of Multimodal transport to assess the issue under study. The study also uses accessible Multimodal transport court cases settled by courts, claim department of ESLSE and insurance companies.

[52]Concerning Claims department of insurance companies the paper deals only claims of Multimodal Transport

1.8 Methodology and Method of the Study

To answer the proposed research questions the author employed both qualitative and doctrinal approach.[53]In addition the Author uses the following approaches:

- Review primary sources such as: Multimodal Transport Proclamation548/2007, Proclamation 547/2007, Proclamation 549/2007, Maritime Code of 1960, Civil Code of 1960, International Unimodal and Multimodal Conventions and UNCTAD reports.
- Review of secondary sources such as books, journals, researches, Sample Bill of Lading issued by Ethiopian Logistics Transport Enterprises and other countries, internet Sources. Review of these secondary sources has relevance to understand the existing conceptual framework.
- Interview method, to scrutinize the law and practice of Ethiopian Logistics and Transport Enterprises in Ethiopia and the author used semi-structured interview. The author used purposive interview of experts of in the area of multimodal transportation. For the author experts are those who have long experience on the subject matter of study due to their professional engagement.

  The author conducts interview of the legal department and claims departments listed under the scope of the study. Additionally, the author interview one personnel each from legal and claims department of Ethiopian Shipping and Logistics Services Enterprise and Transport Enterprises based on experience on the area. In addition, the author conducts interview three importer-exporters who transport their cargo through Multimodal Transport mode.

  The author uses court cases, Multimodal Transport cases of insurance companies and Ethiopian Logistics and Transport Enterprises cases on Multimodal carriage based on accessibility.
- The information or data collected based on the above methods will be analyzed by rules of reasoning, rules of interpretation, conceptually and by justifications given on the laws and court decisions to analyze the issue. After data is analyzed, it will be interpreted doctrinally and qualitatively with narrative technique.

[53]The author employed both approaches since it is suitable to answer the proposed questions. This approach allows the author to get answer about the law and practice Liabilities of the Multimodal Transport Operator in Ethiopia. The flexibility of the approach allows asking open ended questions or interview to gather necessary data.

1.9 Limitations of the Study

Finding practical problems under the liabilities of multimodal transport operator had a number of problems. The major limitation in this research is time constraint to collect various courts' decision. Although, the time allotted to the thesis is above semesters the researcher was working the thesis in addition to the regular job he working this makes it difficult to amass data as to the extent of research problems depth. Besides, those decisions of the courts are either not published or easily accessible. Legal officers and managers of Ethiopian Shipping and Logistics Enterprises, Insurance companies and import-exporters were not willing to disclose information with regard to practical problems. This will create some inconveniences in getting full information on the designed themes.

Conducting research normally requires money; investing out of personal pocket is difficult and also aggravated by the current economic situation. Thus financial constraints pose problem to the researcher to limit the extent of data collected. Furthermore, during the interviews, limited time with most interviewees and held in offices which are not completely free from frequent interruptions.

1.10 Organization of the thesis

The paper will have four chapters. The first chapter focuses on the description of the research proposal. The research proposal provides meager introduction to the subject matter.

Chapter two is organized to give full information on the Multimodal Transport and its Operator in general and Ethiopia in particular.

Chapter three gives clue on different legal regimes governing multimodal transport both available at internationally and national level.

Chapter four which of course the main part of the research describes and involves analysis of practical problems and court decisions on the subject matter of Liabilities of Multimodal Transport Operator in Ethiopia and finally Conclusion and recommendations based on findings of the research.

CHAPTER- TWO
An Overview of Multimodal Transport

In this chapter the research deals with general over view of the Multimodal transport. 'Multimodal Transport' is using more than one mode of transport in giving services so efficiently and effectively under a contract and operator called MTO.[54]

Even though, the carriage is made by several Unimodal operators MTO is also liable for the entire carriage.[55] The concept is not new and may even have been practiced long before the introduction of this terminology also nowadays becomes crucial to reduce cost and efficient transport process.[56]

2.1 History of Multimodal Transport

Multimodal transport customarily used by the marketing community in the world before and from this point we can say that it's not new concept. This can be recognized that the early form of combining transport modes dates back to Roman times where horses and carriages were the interchangeable transport modes**.**[57]

Multimodal Transport has gained considerable momentum with the introduction of large-scale containerization in 1970s.[58]During this time the door to door movements of goods and services becomes well-known in the market. Not only that Shippers and consignees appreciated the convenience, simplicity, security and efficiency of multimodal transport services. Shipping lines quickly recognized the market potential starts to provide multimodal services.[59]

Following the introduction of the new transport system to world adequate legal framework for Multimodal Transport was found in the work of 'International Code of Affreightment' in the

[54]UN Conference on Trade and Development/UNCTAD, '*Multimodal Transport Handbook for Officials and Practitioners*' (New york, 2001)
[55]Ibid
[56]Chao, P. 'The Impact of Multimodal Transport Service Value and Relationships on Business Performance- the Thai Shipper's Perspective' (2011)37
[57]Multimodal transport https://www.euston96.com/en/multimodal-transport/last accessed on January 12, 2019
[58]Faust, P. *Multimodal transport" in Beth, H.L. (Ed.), Port Management Textbook – Containerization* (Bremen Institute of Shipping Economics and Logistics, 1985)
[59]Ibid (n-56)

early 1910's.[60]This helps Multimodal Transport global reach through efficiency in its operation that allows applying this mode of transport at international level.[61]

When we come to Ethiopia the concept of Multimodal Transport is recent phenomenon and the legal frame work for Multimodal was also enacted before a decade ago. Even though, Multimodal proclamation promulgated on September, 2007, the system was started on January, 2011 by Ethiopian Shipping and Logistics Service Enterprise.[62]

However, according to the documents obtained from the Enterprise, nowadays the Ethiopian Government has taken a strategic decision of merging those public enterprises and sharing this enterprises share for the general public and foreign Companies for the purpose of increasing profitability.

2.2. The Conceptual Underpinning of Multimodal Transport

Multimodal transport places responsibility to transport goods under one MTO, who manages and co-ordinates the whole task, from seller's door to the buyer's door, ensuring movement of the goods on the best route, by efficient and cost-effective means to meet the shipper's need of delivery.[63]

It is development of containerization in the international trade that has made the door-to door transport well known.[64]

Following the definition multimodal transport has the following features[65]:

(A) **Its Provision of Service -** indicates the transport of goods between the MTO and the consignees. This service ensures that the goods will transport to place of delivery as fast and securely as possible. This further shows features of multimodal transport;[66]

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[60]WOXENIUS, J. *Inventory of Transshipment Technologies in Intermodal Transport, Study for the International Road Transport Union* (Geneva, 1998)38
[61]Ibid
[62]See, (n-39)4
[63]Multimodal Transport: Its Evolution and Application<http://www.bus.tu.ac.th/usr/ruth/thesis/chapter2.pdf> last accessed on September 26, 2018
[64]H.M. KINDRED and M.R. BROOKS, *Multimodal transport rules* (The Netherlands, Kluwer Law International, 1997)11-26
[65]See, (n-22)14

- **Reduced Transport Time: -**This because of the fact that the cargo is transported under responsibility of one operator then with the change of mode of transport the operator is flexible to change modes which results in avoidance of delay.[67]
- **Cost-effectiveness: -**Both MTOs and shippers will agree on transport costs before the transport starts it allows to manage costs of transport and transit time.[68]
- **Reliability: -** Since, controlled by a single MTO, the chains and transport breakdowns will be reduced.[69]

(B) **Its Commercial Activity**, this is done by professional MTO's and needs a standard to achieve minimum standards in providing services and protecting the parties to this mode of transport.[70]

(C) **Its International Activity**, goods travelled form one state to the other by more than one modes of transport.[71]

To avoid confusions, we need to distinguish the differences between multimodal transport and other types of transport as follows:[72]

MULTIMODAL TRANSPORT: the Multimodal transport operator that takes responsibility for the whole transport and issues MTD[73]

SEGMENTED TRANSPORT: the carrier that organizes the transport only takes responsibility for the portion he is performing himself and issue intermodal transport; while under MT takes responsibility for the entire transport and issues MTD.[74]

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[66]Xu, Guibin, *"Multimodal transport and trade facilitation : implications in the Chinese context"* (*World Maritime University Dissertations*. 123, 1999)9 see also, https://commons.wmu.se/all_dissertations/123 last accessed on April 15, 2018

[67]UN Conference on Trade and Development, *Multimodal Transport Handbook* (Geneva: UNCTAD, 1997)131

[68]See, (n-22)

[69]UNCTAD Secretariat, *Multimodal Transport and Trading Opportunities* (New York: UN, 1994b)12

[70]Ibid

[71]See, (n-69)20

[72]UNCTAD Secretariat, Multimodal Transport Handbook for Officials and Practitioners (New York: UN, 1995)

[73]Multimodal transport-Information about multimodal transport/Ship Hub https://www.shiphub.co>multimod...last accessed on April 15, 2019

[74] Intermodal vs. Multimodal: What is the Difference?- MacAndrews-Door to…https://www.macandrews.com>inte… last accessed on April 15, 2019

UNIMODAL TRANSPORT: this means transport of goods by a single mode of transport and the transport document is like; bill of lading, air waybill, consignment note, etc...[75] While under MT the MTOis responsible until delivery as a single carrier which issuesa document covering the whole stages of transport. The MT may have Unimodal transport contracts within it and means, the MTO may sub-contract a single mode of transport.

COMBINED TRANSPORT: is the transport of goods in one and same unit or truck by combining modes of transport.[76] This mode of transport is sometimes used interchangeably as a MT.

INTERMODAL TRANSPORT: is transport of goods by different modes of transport from port of origin through interface points to a final place where one of single carriers arranges the whole transport.[77]

2.3 Containerization and Multimodal Transport

During the 1960s container development has made loading and unloading simple, fast /less time consuming/ and reduces costs. The container development has a positive impact on the international trade in general and shipping industry in particular.[78]

International trade especially is facilitated by the transport: effective and efficient transport services are a requisite for successful trading of goods from one country to another.[79] Before container is used as standard by the global trading world freights were transported by one mode of transport selected and loading and unloading was done manually.[80]

The introduction of containers had enabled in the increase of trade volume with increase of operational efficiency and that enables Multimodal Transport to be applied in most international

[75]Unimodal, Multimodal and intermodal Shipping Explained – Eurosender.com https://www.eurosender.com>blog last accessed on April 15, 2019
[76]Ibid
[77]Castro, C F, '*Trade and Transport Facilitation: Review of Current Issues and Operational Experience*' (A Joint World Bank / UNCTAD Publication xv, 1996)
[78]TOMLINSON, *History and impact of the Intermodal Shipping Container*, *Pratt Institute*(2009)1, www.johntomlinson.com/docs/history_and_impact_of_shipping_container.pdf and P. TODD, *Cases and materials on international trade law*,(London, Sweet and Maxwell limited, 2002)753-754
[79]See, (n-33)18
[80]De Witt, Ralph, *Multimodal Transport – Carrier Liability and Documentation* (1st Edition, Lloyd's of London Press Ltd., 1995)352

transport Activities.[81] Multimodal transport also enhances competitiveness of the freight industry by use of most efficient mode of transport in each stage.[82]

The developments of standardized units like containers, favor Multimodal Transport[83]and that results in higher interest that they load the goods at the shipper's warehouse, then seal and deliver the consignees warehouse without open and packing again.[84]

Therefore containerization has positive outcome to the effective and efficient development of the MT which results in intensive cooperation and co-ordination among transport modes.[85]

2.4 Forms of Multimodal Transport Operations

In practice, several other combination modes may be used depending upon the trade routes, trans-shipment points and availability modes of transport. However, currently different types of multimodal transport operations involving different combinations are taking place, such as:[86]

- **Land-Sea-Land (Pre Carriage, Ocean Carriage and On Carriage)**

This form of transport is used for both Intermodal and Multimodal Transport and the main point of difference is handling or not handling the goods transported.[87]

- **Road/Air/Road**

A combination of air carriage with vehicle transport is a frequent method of multimodal service. Since, pick-up and delivery services by road transport are usually incidental to air transport.[88]

- **Sea/Air/Sea**

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[81]Cullinane KPB, Wang TF, Song DW, Ji P.A., 'Comparative Analysis of DEA and SFA approach to estimating the technical efficiency of container port'(2005)

[82]Caris, A.,Macharis,C. and Janssen,*G.K. Planning Problems in Intermodal Freight Transport: Accomplishments and Prospects*(Transportation Planning and Technology, 2008)63

[83]Dinwoodie, *Construction Materias: Their nature and Behavior (*New York, Spon press, 2000)56

[84]Containerization /Definition of Containerazation by Merriam-Webster https://www.merriam-webster.com>... Last Accessed on December 18, 2019

[85]Joshua A. Odeleye'*The need for multimodal transport development in Nigeria'*(Journal of Geography and Regional Planning, 2015)7

[86](PDF) **Multimodal Transport Operations** Introduction | AyuHannisfa ... https://www.academia.edu/5742626/Multimodal_Transport_Operations_Introductionlast accessed on February 12, 2019.

[87]Multimodal Transport Operator Definition…PDF www.asean.org accessed on May 12, 2019

[88](PDF) Multimodal Transport Operations Introduction/ AyuHannisfa-Academia… https://www.academia.edu>Multim...last accessed on February 21, 2019

This combines the economy of sea transport and the speed of air transport and now becoming most popular in several international trade routes. This multimodal operation applicable where the route to be covered combines large distances via land and water and where transit is important.[89]

- **Sea/train**

It was originally adopted in the U.S.A. It is similar to the roll-on, roll-off (Ro-Ro) system except that in the place of the Ro-Ro vehicle a rail car is used and geographically separated rail systems can be connected by an ocean carrier.[90]

2.5. Advantage and Disadvantages of Multimodal Transport

2.5.1 Advantages of Multimodal Transport

Multimodal transport is most effective transport alternative because each of transport stage use efficient means which reduces congestion, energy expenditure and pollution.[91]

Multimodal transport system will bring benefits to key players and longer-term outcome to the international trade. The three main actors under multimodal transport are; services givers, clients /importers and exporters/ and the Government. Service givers include, freight forwarders, carriers, MTOs, bank and insurance companies and etc.[92]

Some of the benefits of MT in general are; saves time and money, MTO's will have to upgrade their services, work cooperatively with partners on the side of other state.[93]The burden of issuing multiple documentations for each segment of transport is reduced,[94] specific judicial advantages favoring Multimodal Transportation[95], Reduces transit time[96] etc.

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[89]Ibid
[90]Ibid
[91]See, (n-4)3
[92]See, (n-66)11
[93]What Is **Multimodal** Freight and How Can It Benefit You | PLS Logistics ... https://www.plslogistics.com/blog/what-is-multimodal-freight-and-how-can-it-benefit-you/, accessed on 12th February 2019
[94]Karaboğa, E. *Multimodal Transport under the CMNI Convention* (2014)4
[95]Caroline Colebunders, *Multimodal Cargo Carrier Liability and Insurance: in search of suitable regime* (FaculteitRechtsgeleerdheidUniversiteit Gent, Academiejaar 2012-13)4
[96]Hayuth, Y., *Intermodality,Concept and Practice* (Lloyd's of London Press, London, 1987)56

2.5.2 Disadvantages of Multimodal Transport

The following are the disadvantages of this mode of transport:-

- To combine all modes between each other require knowledge and high capacity equipment's. Handling Containers requires heavy-duty cranes which are expensive and necessary to load or unload large containers; this equipment may not exist in all places, especially in developing countries.[97]
- Between the changes of transport lack of coordination among transporters may occur in delay. It may have lower reliability in some cases because in this carriage alternative many transport modes is used by transport operators and as the chain of modes grows, the possibility chain breaking down increases.
- There is no internationally agreed binding convention among states. This may result in legal conflict when goods are moving around the globe and goods are lost, damaged or delayed.[98]The other systems of international multimodal transport are limited in their application.[99]
- A containerized port with modern facilities and educated man power is needed to perform movement of goods and services. So, multimodal transport of goods requires capital and skilled man power.[100]

2.6 Multimodal Transport Operator

As per article 1(2) of the UN Convention on International Multimodal Transport of Goods[101] and under Article 2(2) of the Ethiopian Multimodal Transport of goods Proclamation 548/2007 a multimodal transport operator (MTO) is:

"*any person who on his own behalf or through another person acting on his behalf concludes a MTC and who acts as a principal, not as an agent or on behalf of the consignor or of the*

[97]Piatak, Tom (2002). What Do You Really Know About Intermodal? See also https://www.inboundlogistics.com/cms/article/what-do-you-really-know-about-intermodal/ last accessed on November 06, 2018

[98]https://www.euston96.com/en/multimodal-transport/ last accessed on January 11, 2019

[99]Burkhardt, *M. Combined Perspective for Road and Rail, in: New Trade Patterns: New Transport Demands in the Black Sea Region* (Antalya, Turkey, 1998)15

[100]Muller, G. *Intermodal Freight Transportation, the U. S.: Eno Transportation Foundation* (Inc. and Intermodal Association of North America, 4th Edition, 1999)23

[101] United Nations Convention on International Multimodal Transport of Goods, http://treaties.un.org/doc/Treaties/1980/05/19800524%2006-13%20PM/Ch_XI_E_1.pdf last accessed on April 06, 2019

carriers participating in the MT operations, and who assumes responsibility for the performance of the contract"

The MTO takes full responsibility for transporting freights under single contract and has obligation to achieve result and i.e. delivery of the good in a similar situation received.[102]The MTO is the one responsible to coordinate different modes of transport and other actors like shippers, consignees and Unimodal transport operators are not.[103]

The organizational capacity and structure of MTO has impact on its operational effectiveness. Once the MTO have vessel or have available different types of transport modes then the time taken to deliver the goods to the consignee will be quick and have positive impact.

[102]Ibid
[103]X, Chapter 2: multimodal transport: its evolution and application, 19, www.bus.tu.ac.th/usr/ruth/thesis/chapter2.pdf., last accessed on February 19, 2019

CHAPTER- THREE
Legal Regimes governing Multimodal transport

3.1. International Unimodal Transport Conventions that may be applied in Multimodal Transportation

In order to understand the application of the liability systems on MT, identifying the legal regimes that may apply to the Multimodal Transport Contract is also crucial. Unimodal transport is governed by respective international conventions: for ocean - the Hague / Hague Visby / Hamburg Rules, for air - the Warsaw Convention, for road – The CMR, for rail - The CIM etc.

Let's discuss them one by one in relation to the liabilities of the carrier which in effect applies to the liabilities of the MTO. Since, these transport conventions may apply to individual segments (localized damage) of multimodal transport of goods.

3.1.1. International Regulations of Inland Waterway (CMNI)

CMNI also called as the 'Budapest Convention', was jointly explained by the UNECE, the CCNR and the DC.[104]CMNI applies if port of loading or port of discharge is found in two different countries and however one of the two countries has to be a party to this convention.[105]

There are some ideas that CMNI does not comprise to all inland waterway carriage stages which is part of a multimodal contract.[106]

The Convention has regulations related with MT also its main aim is to regulate inland waterway transport. Particularly two rules of convention state multimodal perspective, one of them is the distance to be traveled in waters to which the maritime convention or regulations apply and if the aim of the contract of carriage is the carriage of goods, without transshipment, both on inland waterways and other rule state in waters where maritime regulations perform, unless a maritime bill of lading has been issued in accordance with the maritime law applicable.[107]

[104]United nations-unecewww.unece.org>doc>itcDOC last accessed April 20, 2019
[105]Meer, *International Contract Manual Country Handbook* (Switzerland, 2008)76
[106]Marin, J, *The Harmonization of Liability Regimes Concerning Loss of Goods During Multimodal Transport* (University of Zagreb Croatia, 2009)7
[107]*Erasmus University Rotterdam Faculty of Law ,European Strategies to Promote Inland Navigation*(2004)14

3.1.2. International Regulations of Road Transportation (CMR)

This Convention governs the international carriage of goods by road of putting condition and standards internationally.[108]

CMR Convention has two significant point, one of them is it bring about standardization to legal side of road transportation and other important point is after conventions approved from member states international road transportation has uniformity of legal framework also has advantages like avoid forum shopping.[109]

The main points CMR contributed to the Multimodal Transport is the transport documents and the liability of the carrier for the loss of or damage to the goods, as well as for any delay in delivery or any other general problems of the law of contracts will be governed by the national law in force.[110]Therefore, even though this Convention a regional convention, its application has important part since the liability system agreed internationally is not available to govern the Multimodal Transport of goods.[111]

3.1.3. International Regulation of Maritime Transportation

The Hague Rules were adopted in 1924, the Hague/Visby Rules in 1968 and 1979 and the Hamburg Rules adopted in 1978.[112]

3.1.3.1 Hague Rules[113]

The Hague Rules main aim was achieve uniformity in ocean bills of lading to trustworthy commercial relation between shippers. This rules was prepared for international commercial area also prior to Hague rules, ship owners often thwarted cargo damage claims by inserting limits in bills of lading.[114]

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[108]United Nations Economic & Social Commission for Asia & the Pacific "Issues in International Land Transport" *UNESCAP* http://www.unescap.org/ttdw/Publications/TFS_pubs/pub_2034/pub_2034_ch2.pdf last accessed on April 05, 2019

[109]Hamdan, N. *International Carriage of Goods by Road (CMR)* (2013)1

[110] Multimodal Transport and trade facilitation: implications in the Chinese context docplayer.net>9405616-Mult…last accessed on April 20, 2019

[111] Ibid

[112]Tetley, W. *Application of the Rules Generally* (McGill University Montreal, Quebec, 2006)3

[113]International Convention for the Unification of Certain Rules relating to Bills of Lading (Brussels, 1924)

[114]Zulkiflu, H., Nazli, I. and Nawang, *The Weaknesses of the Hague Rules and the Extent of Reforms Made by the Hague-Visby Rules* (2006)1

This Convention may apply when the goods are loaded on the ship and when the goods are unloaded from the ship if the goods transported through Multimodal bill of lading.

3.1.3.2 Hague-Visby Rules

The diplomatic conference gather at Brussels to amend the Hague Rules on 23 February 1968 and the amended Hague Rules have become known as the 'Hague-Visby Rules. The Rules provide a list of seventeen defenses for the carrier[115] and which by implication precludes unreasonable deviation.[116]

The carrier is expected to have only defenses in the bill of lading. If he has further defenses, they would be invalid. The Rules also does not apply to sea waybills because a waybill is not a document of title.

In general, the Hague or the Hague-Visby rules adopts "tackle-to-tackle" principle; this means the provisions of the Convention applies from the moment goods are loaded until its discharged from the ship.[117]

3.1.3.3 Hamburg Rules[118]

Hamburg Rules has specific characteristics completely different from Hague and Hague/Visby rules it define carrier liability; carrier that is responsible for the loss or damage of all goods unless they can prove that they took all reasonable steps to avoid the loss.[119]

Unlike The Hague and the Hague-Visby Rules, the Hamburg Rules apply to deck cargo, live animals, and cover the liability for cargo from the time it comes into the custody of the carrier.

Therefore, as opposed the tackle-to-tackle principle of The Hague and the Hague-Visby Rules, the Hamburg Rules have made more flexible of the responsibility of the carrier who transported the goods of the moment he has received the goods at port of loading up to port of discharge called "port-to-port" principle.[120]

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[115]Art IV Rule2 (a-q) of the Hague-Visby Rules

[116]Art IV Rule 4 of the Hague-Visby Rules

[117]Art 1(e) of Hague & Hague-Visby Rules provides "Carriage of goods covers the period from the time when the goods are loaded until discharged from the ship"

[118]UN Convention on the Carriage of Goods By Sea(1978)

[119]Mukherjee U., *Hamburg Rules United Nations Convention on the Carriage of Goods by Sea, 1978 – An Appraisal* (National Law University Jodhpur, India, 2008)1

[120]Art 1(6), (4) of the Hamburg Rules

3.1.3.4 Rotterdam Rules[121]

These Rules are made a "Maritime plus" Convention which makes their application to cover the door-to-door transport and basically includes Multimodal Transport.

Under these rules the carriage contract shall provide other modes of transport in addition to carriage by sea.[122] This entails MT is another addition to this convention and the significant difference between the Rotterdam Rules and the above three rules is related to the limits of carrier's liability.[123]

The Rotterdam Rules' provisions, inc luding carriers' responsibilities and the limitations of liability as well as damages that apply to carriers, are extended to any "maritime performing party" who works for the carrier's duty either by carriers request or supervision of which has the other characteristics of the MT.

3.1.4. International Regulations of Railway Transportation (COTIF/CIM)[124]

The COTIF/CIM applies mandatorily to the international carriage of goods by rail.[125]Art 2 of the COTIF/CIM expands its applicability to other modes of transport. The COTIF/CIM expands its scope beyond railway transport, which includes the MT.

Concerning the basis of the Liability it is similar to the Multimodal transport regime, which is once received up to delivery of the goods.[126]

The railway carrier may be discharged from liability if it proves that loss, damage or delay happened by force majeure.[127]

3.1.5. International Regulation of Air Transportation (Warsaw[128] and Montreal[129] Convention)

[121]Convention on Contracts for the International Carriage of Goods by Sea(2009)
[122]Art 13 and 14 of Rotterdam Rules
[123]"Rotterdam Rules in Maritime Transport of Goods"
<http://www.rotterdamrules2009.com/cms/uploads/RR_persinfo_algemeen_Eng.pdf>
last accessed on April 05, 2019
[124]COTIF of 1980 in the version of the Protocol of Modification of 1999 (the Vilnius Protocol)
[125]Art 1 of COTIF/CIM
[126]Art 23 of COTIF/CIM
[127]Art 36(2) COTIF/CIM
[128]Convention for the Unification of Certain Rules Relating to International Carriage by Air (Warsaw, 1929)
[129]Convention for the Unification of Certain Rules for International Carriage by Air (Montreal, 1999)

The two important international legal legislations of air transportation in relation to application of Multimodal carriage are similar.

In the case of combined carriage performed partly by air and partly by any other mode of carriage, provisions of the Warsaw Convention apply only to the period of the carriage by air.[130]

However, if the damage occurred while loading, transshipment or delivery then it's presumed that the damage has occurred while performance of the contract and the mandatory rules on liability applies in cases of "non-localized loss".[131]

- Limitation of Liabilities Under International Unimodal Conventions

Limitation of Liability under International Unimodal Convention are;-

SEA			**INLAND WATERWAY**	**ROAD**	**RAIL**	**AIR**	
Hague Rules	Hague-Visby Rules	Hamburg Rules	CMNI	CMR	COTIF-CIM	Warsaw Convention/ Montreal Convention	Rotterdam Rules
€100/per kg	2 SDR/kg or 666.67 SDR/per kg	2,5 SDR/kg or 835 SDR/per kg	2 SDR/kg or 666.67 SDR/ collo	8.33 SDR/kg	17 SDR/kg	17 SDR/kg	3 SDR/kg or 875 SDR/package

3.2. Attempts to Achieve Uniformity in the Multimodal Transportation of Goods

The now existing international legal rules agreed for governing Unimodal Convention doesn't meet the needs and aspirations of Multimodal Transport, while the growth of Multimodal transport is increasing and requires convention regulating it.

In addition, the lack of uniformity, legal difficulties faced by contracting parties (basis and limitation of liability of the carrier, who and where to sue, limitation of action, etc.)[132]and those

[130]Art 31 of Warsaw Convention
[131]Ibid

problems necessitated for the common and acceptable legal frame work to govern Multimodal Transport.

There are two most recent international regimes which have attempted to introduce uniformity in regard to both the documentation and its legal implementation in multimodal transport contracts arises.[133]

The first attempt was conducted in 1980 named as UN Convention on International Multimodal Transport of Goods, and the other one is in 1992 by the UNCTAD/ICC Rules for Multimodal Transport Documents.[134]

These Rules attempted to give effect contractually to the substance of the failed Multimodal Convention.[135] The Rules intended to be a voluntary stop-gap until a more universal adoption of the UN Multimodal Transport Convention is achieved.[136]

3.2.1. International Institute for the Unification of Private Law (UNIDROIT) 1930s[137]

UNIDROIT first attempt has made a draft convention focusing on the system of liability in international transport.[138]

UNIDROIT draft based its points on international carriage of law on roads i.e. CMR and governs Multimodal Carriage of goods by using Containers.[139]

After modification is made by IMCO, the draft is named as "Draft Convention on the International Combined Transport of Goods" or called "TCM draft".[140] The Draft TCM

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[132]Caroline Colebunders, *Multimodal cargo carrier liability and insurance: in search of suitable regime*(Universiteit Gent, 2013)67

[133]H. Booysen, *Principles of International Trade Law as a Monistic System* (2nd Edition Inter legal, Pretoria, 2003)267

[134]Ibid

[135]ICC Publication (No. 481, 1992)1-5

[136]Mankabady, *The Multimodal Transport of Goods Convention: A challenge to Unimodal Transport Conventions* (International and Comparative Law Quarterly , 1983)121 see also, <http://www.jstor.org/pss/759470> last accessed on April 05, 2020

[137]UNCTAD Secretariat Report, *"Implementation of Multimodal Transport Rules"* UNCTAD/SDTE/TLB/2available <www.unctad.org/en/docs//posdtetlbd2.en.pdf> last accessed on April 04, 2020

[138]Draft Convention on the International Combined Transport of Goods(1963)

[139]M. FAGHFOURI, "*International Regulation of Liability for Multimodal Transport – In search of uniformity*", (WMU Journal of Maritime Affairs, 2006, vol. 5, no. 1)96

Convention provides for the creation of a Combined Transport Document to be issued by the Multimodal carrier.[141]

The draft TCM convention was meant to be applied voluntarily and offered circumstances under which the carrier could find himself of free from the liability. The carrier's burden is only to proof that the loss or damage happened falls under the exclusion set under the convention, then proofing the other way is the burden of the one claiming against the carrier.[142]

UNCTAD established an International Preparatory Group which includes the participation of the private sectors and the final outcome is UNCTAD/ICC Rules of 1992 for Multimodal Transport Documents. This Rule is served as a replacement of the ICC Rules 1975 and not to replace the MTC.[143]

These rules are not used as a legal framework for Multimodal Carriage rather; individual parties may use it to govern their contracts.

3.2.3 UN Convention on International Multimodal Transport of Goods 1980

In 1980 at the diplomatic conference NGO's, States, and intergovernmental Organization's participated in the deliberation of these Convention.[144]

The Convention points out that the Unimodal transport Contract from transporting goods from one place to the other places doesn't amount to /is not considered as/ International Multimodal Transport Contract.[145]

It uses the same principle of liability like Unimodal Transport Conventions on the presumption of fault, that the carrier is liable until it proves that he is not responsible for the loss.[146]

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[140]Ibid

[141]C-J CHENG, *Clive M. Schmitthoff's Select Essays on International Trade Law*(The Netherlands, Kluwer Academic Publishers, 1988)369-370

[142]W. J. DRISCOLL, *The Convention on International Multimodal Transport: a Status Report* (*J. Mar. L. & Com.* 1977-1978, vol. 9)443-447

[143]W. DRISCOLL and P.B. LARSEN, *The Convention on International Multimodal Transport of Goods* (*Tulane Law Review,* December 1982, vol. 57, no. 2)193-196

[144]UN Convention on International Multimodal Transport of Goods, UNCTAD Document (1981, vol. 1)

[145]M. FAGHFOURI, *International regulation of liability for multimodal transport* (*WMU Journal ofMaritime Affairs,* 2006, vol. 5, no. 1)97-99

[146]Art 15 and 16 of the Convention

The UN Multimodal Convention states that, if two contracting states disagree in relation to the International Multimodal Transport and if its only one who is the party to the Multimodal Convention and if both states are part of another binding International Convention then the the one judging the case may give effect to the Convention both are binding by.[147]

The convention was made to fill the gap made by the Multimodal Transport. But, the convention is not successful because of the fact that major shipping States didn't accept it.[148]

3.2.4 UNCTAD/ICC Rules for the multimodal transport Document

The UNCTAD focused on producing document that helps to exploit commercially which is made through creating joint working group with UNCTAD/ICC[149]and completed in 1991, published 1992.[150]

The convention shares similar features with Multimodal Transport Conventions of 1980's.Firstly, the rules are not mandatory rather voluntary they are.[151]This allows to be accepted by all stake holders. Secondly, the carrier/MTO is presumed at fault until he proves that he is not at fault for the loss sustained. They are also called "soft law instrument". It is possible to refer to them even for port to port traffic and when Unimodal transport is intended.

The main characteristic's that allows us to separate UNCTAD/ICC from other rules is in relation to limitation of liability. When the sea transport is included under the Multimodal Transport, the Operator may be relieved from liability on the conditions that the Operator may invoke that the Unimodal sea operator is negligent.[152]

UNCTAD states the lacunae on Multimodal Transport Convention is created between the Operator and Unimodal carrier because of non-supporting Hamburg Rules.[153]

[147]Art 38 of the Convention

[148]H.M. KINDRED and M.R. BROOKS, *Multimodal transport rules* (The Netherlands, Kluwer Law International, 1997)37

[149] ICC – International Chamber of Commerce, www.iccwbo.org last accessed on April 09, 2019.

[150]ICC publication (No. 481)

[151]Rule 1.1 UNCTAD/ICC Rules 1992

[152]Art 5 of the UNCTAD/ICC Rules

[153]UN, *The Economics and commercial implications of the entry into force of the Hamburg rules and the multimodal transport convention* (1991)27

CHAPTER- FOUR

The Law and the practices of the Liabilities of Multimodal Transport Operator in Ethiopia

4.1. Legal regimes governing Multimodal Transport in Ethiopia

4.1.1. Multimodal Transport Proclamation No. 548/2007

Before 2009, Ethiopia uses Unimodal transport; as a result most of import and export cargoes were transported by this mode.[154]

However, it has been identified that port congestion, long transit time for import transit cargoes and timely unavailability of empty containers for export transit cargoes where effects of Unimodal transport system.[155]

Due to the fact that ports are cargoes and vessel interface points where cargoes stayed reasonable period of time just-in-time delivery of goods, to satisfy customers Multimodal Transport is adopted.[156]

The Proclamation, whose contents are more or less taken from the 1980 UN Multimodal Convention, has six parts and 46 Articles and three major parts. In the remaining parts, liability of the shipper, some procedural issues, and supplementary matters are treated.

While the Proclamation governs only the relationship between the intermodal shipper and the multimodal transport operator (MTO), existing Unimodal carriage laws govern the relationship between the MTO and Unimodal carriers acting on behalf of the MTO.[157]

The MTO is liable for the acts and omissions of servants and agents who are acting within the scope of their employment.[158] The provision clearly states if such acts and omissions were his own then it does not impose liability on the MTO for loss, damage or delay caused "by the

[154]Determinants of Multimodal Transport Effectiness…https://businessdocbox.com>70777… last accessed on May 01, 2020
[155]Art 2(1) of the proclamation
[156]Explanation note on the 'Draft Multimodal Transport Law' Written in Amharic
[157]Art.13 of the Proclamation
[158]Art 16 of the proclamation

wrongful act or neglect of the claimant, by the instructions of the claimant, by inherent vice of the goods through *force majeure*".[159]

In addition, any person other than employees and agents of the MTO can avail themselves of the defenses and the limits of liability which the MTO is entitled to invoke, *if* they prove they acted within the performance of the contract.[160] But, it should be noted that both the MTO and these persons enjoying the same entitlements may lose the right to limit their liability.[161]

4.1.2 Unimodal Transport Laws which apply for Multimodal Transport Contract

It's evident that multimodal transport uses not only at least two modes of transport but also, the cargoes transported will pass through at least two legal regimes. This entails that cargoes may incur damage, loss or delay in one mode of transport although it's transported by single MTC. During this time damage or loss is said to be localized and the limitation of liability applicable will be the relevant law applicable in relation to the mode of transport during which the loss or damage occurred.[162]

Therefore, it's important to discuss the relevant Unimodal legal regimes that may apply to the Multimodal Transport Contract of Carriage as follows:

4.1.2.1. Maritime Code of Ethiopia (1960)

The only maritime is the 1960 Maritime Code. With 371 Articles and deals with many aspects of maritime affairs.[163]

Besides, the ship owner and the Carrier is duty bound to exercise due diligence before and at the beginning of voyage to make the ship sea worthy.[164] However, there are grounds that the carrier may exempt from liability as stated under Art 197(1) of the Maritime Code and Art 198 deals with limitation of liability of the carrier.

[159]Art.18 of the Proclamation
[160]Art 25 of the proclamation
[161]Art 27 of the proclamation
[162]Art 20(3) of the Proclamation
[163]Ethiopia's Maritime Legislation-Abyssinia Law https://www.abyssinislaw.com>item last accessed on April 25, 2019
[164]Art 138 and 196 of the Maritime Code

Carrier's liability for damage is limited and the rationale behind limitation regime is promoting shipping by protecting investors from incapacitating liabilities for damage or loss of goods carried in a comparatively risky mode of transport.[165]

Under the Code notice of loss or damage must be given to the carrier promptly, i.e., prior to, or at the time of the removal of the goods into the consignee's custody. In the event of loss or damage which is not apparent, notice may be given within three days after delivery.[166] The legal effect of the absence of notice is: "the goods shall be deemed to have been delivered by the carrier as described in the bill of lading."

4.1.2.2 Proclamation to Amend Carriage of Goods by Land Procl. No. 547/2007

In Ethiopia the law that governs contract of carriage of goods by land was first enacted in the 1960 Commercial Code. This Proclamation is made to make compatible with Multimodal Proclamation on the basis of liability, limitation of liability and other specific rights and duties of the carrier.[167]

Proclamation defines Contract of carriage of goods by land as any contract made by the carrier upon payment transport goods over land and internal water ways by using vehicle as a means of transport.[168]

Under this definition it's known that unlike the international convention like COTIF which regulates internal water transport as independent legal regime Ethiopia governs transport using internal waters as part of Proclamation 547/2007.

In addition, the proclamation also applies for rail wagons which however needs separate legal regime as seen in connection with other international practices.

Concerning basis of liability the carrier is the carrier is liable from the time it took the goods transported until delivery to the consignee, if the goods transported is lost, damaged or delayed taking into consideration of the exemptions as well.[169]

[165] Hailegebriel Gedecho, *Maritime Law teaching Material* (legal research Institute, Addis Ababa, 2008)104
[166] Art 201 of Maritime Code
[167] Preamble of Procl. 547
[168] Ibid Art 2(1)
[169] Ibid Art. 21

When we see the Limitation of Liability its liability is limited to 835 SDR/Package or other shipping unit or 2.5 SDR/Kg of gross weight of the goods lost or damaged, from the two the higher will be taken into consideration and the feature and amount of the goods declared and that's made part of the contract of carriage.[170]

This proclamation has made the carrier liable for the delay it caused but the amount is limited to the freight multiplied by 2 ½ (2.5) but, not exceed total freight payable.

Lastly, the Limitation of action arising out of contract of carriage under this proclamation is two years and the period of limitation how it begins to run is stated depending on loss (total or partial), delay, contract of carriage etc.[171]

Having seen how the Multimodal Proclamation is adopted, the research mainly deals about the sole operator of Multimodal Transport (ESLSE). Mainly, focuses on; Basis of liability, Limitation of liability and Limitation of Action.

Let's discuss the main points which led the researcher to explore the practical problems encountered.

4.2. Basis of Liability

Under this Proclamation, a MTO is liable for loss, damage or delay to goods transported and this are the main basis for the MTO to be liable. The period of liability for the purpose of loss and damage, starts at the time when it takes the goods in its charge and ends upon their delivery to the consignee or other persons authorized or entitled to demand delivery.[172]

Delay, occurs when goods have not arrived at their destination in the date agreed on Multimodal transport document, if the date is not stated under the document then reasonable time required for a diligent MTO will be taken into consideration. However, if the goods didn't arrived within 90 consecutive days following the dates stated above then the goods will be considered as at was lost.[173]

[170] Ibid Art. 27 (2) and 3
[171] Art 35
[172] Art 15 and 16 of Procl. 548/20007
[173] Ibid Art. 17(2) and 3

Here, under this provision the research entails two important points; the first point is presumption of fault and the second one is how do measure the MTO acts diligently or not?

4.2.1. The Presumption of Presumed Fault

The basis of liability in transportation law generally lays on the principle of presumed fault. In all modes of transport once the carrier has received the gods then the prima facie liable is the carrier to the owner of the goods.[174] Then it's the carrier who is under obligation to prove /burden of proof/ that the damage, loss or delay occurred is under the exemption to be free from the liability.[175]

In the carriage of goods by sea, both the carrier and the cargo owner are under obligation to proof. The carrier is under obligation to proof that the loss happened falls under exemption clause and the cargo owner is also under obligation to proof that the carrier is at fault for the loss happened.[176]The point here is under which circumstance is this principle will apply to the Multimodal Transport.[177]Because, under Multimodal Transport the liability is decided depending upon the particular stage at which the damage has occurred and the burden of prove will also depend on the specific mode/regime at which the loss has occurred. This entails that the burden of proof is not exactly known under Multimodal Transport Contract and may result in prejudice to the cargo owners.

Secondly, these principles base the legal regimes of Unimodal Convention which in effect has the aim to solve conflict of interests. However, unlike Unimodal Transport Multimodal Transport includes various modes of transport and doesn't have internationally agreed Convention to base its burden of proof on.[178]

For a presumed fault system to apply in reality certain important factors are needed and these are:

[174]This principle applies to all modes of transport with slight variations which reflects the particular mode of transport
[175]Tetley (n-111)
[176]Chinyere Ezeoke, 'Allocating onus of proof in sea cargo claims: the contest of conflicting principles' (2001)261
[177]Art 17 Multimodal Proclamation and all Multimodal contracts state that the basis of liability is presumed fault
[178]The majority of goods carried in containers suffer from concealment (Once loss or damage is concealed the carrier cannot adduce evidence to support a claim that which peril is the cause of loss) little proof as to where loss or damage occurred.

- Firstly, for presumed fault principle to apply localization matters. Under Unimodal Transport the mode of transport used is single and this indicates that the cargo owner may produce evidences and the carrier is only under obligation to rebut the evidences produced against him.
- Under Multimodal Transport providing evidence of loss or damage amounts to the presumption that the goods are damaged during transportation, what it is not indicating is the place where the damage has happened, because the MTO uses different modes of transport and is difficult to locate at which mode does the damage occurred. The burden of proof is on the carrier to rebut the above presumption and if the carrier didn't get the particular mode to which the damage has occurred then the carrier is unable to rebut the above presumption. Therefore, the carrier is under obligation to depend on the exemptions stated under the Convention.
- Secondly, the presumption of fault principle entails that the carrier will be relieved from liability by proofing that the damage is occurred not in its fault. If not he is held liable because of the fact that he isn't controlled the goods while in his hands and has to know the cause of the damage. Under the Multimodal Transport where damage has sustained has to be known at the exactly to relieve the particular carrier involved but not the MTO.
- Once loss is hidden, then the presumption principles losses its relevance in Multimodal Transport. In this cases the carrier cannot present evidences to reverse the presumption and is only raise the defense of limitation of liability.
- However, under the MT inability to rebut the presumption amounts to negligence by MTO, even though the damage has occurred due to non-localizing the mode of transport to which the damage has sustained.
- This presumption principle may lead to multiple liabilities of the carrier. This may happen because of the fact that, when the loss is located to a particular mode of transport the carrier may be subjected to a different mode of transports liability than the exact place where the good is damaged.

4.2.2. How do we know the Act of the MTO is Diligent or not?

Article 17(2) of the Proclamation states:

"*Delay, occurs when goods have not arrived at their destination in the date agreed on Multimodal transport document, if the date is not stated under the document then reasonable time required for a* ***diligent MTO*** *will be taken into consideration having regard to the circumstances of the case."*

Here, the main issue is the measurement or ground to say a given Multimodal Transport Operator diligent or not. Art. 2(2) of the proclamation states that Multimodal Transport by its nature constitutes more than one mode of transport and may be done up by representatives.

This means the diligence of the MTO is measured by the cumulative co-ordination and cooperation of the individual Unimodal actors.[179]Cooperation matters to succeed in the Multimodal Transport and however, when market is competitive then other Unimodal actors will hesitate to coordinate with the other carrier.[180]That's why it's considered as one of the disadvantage of Multimodal Transport.

The other point is that Unimodal Multimodal Operators are under obligation to follow certain standards to be considered as diligent any in most of the cases their liability limit will not be raised if those conditions are not satisfied. Example, under Maritime code the carrier before transporting the cargo has to check the Ship is sea worthy. This entails that the ship if not ready for voyage and starts to travel then sea perils which can be abandoned by merely the ship is sea worthy may result in General Average and Jet sun of the Cargoes.[181]

The problem in here is how the shipper checks the MTO was acting diligently since the sub-contracting agreement, relation and act of the Unimodal transporters is not clearly known by the shipper.

The other point is can the MTO raise the act of the Unimodal transport operators to defend him of saying that he was acting diligently. Under, Art. 2(2) based on the definition of MTO, a MTO assumes responsibility (is liable) for the performance as a carrier for more than one mode of transport.[182] As such the MTO is bearing the liability for the entire transport according to the contract with the shipper. The advantages to the shipper are obvious. The Shipper is much better

[179]Informal Interview with Ato Gebrewold Tessema, former legal department head at Ethiopian Shipping and Logistics Service Enterprise and Nib insurance company S.Co (Addis Ababa, June 3, 2019)

[180]Coyle, J. J., Bardi, E. J., and Langley, C. J. Jr., *the Management of Business Logistics* (West Publication Co. Seventh Edition, 2003) 7 See also https://www.euston96.com/en/multimodal-transport/ last accessed on January 11, 2019

[181]Interview with, Ato Mitiku Gebru, Claims Division Head, Nib insurance company S.Co(Addis Ababa, January 16, 2020)

[182]Interview with, Ato Josia Kinfe, Senior Attorney, EIC, (Addis Ababa, June 01, 2019).

protected. In case of segmented transport (not multimodal transport) the Shipper must often claim against sub-carriers whom he does not know, rather than against the carrier with whom he has made the transport contract.[183]

However, how can we measure the act to be diligent or not? Although, this will only be seen on case by case basis the minimum standard to say a certain MTO is diligent or not has to be put by the proclamation. This helps the judiciary to base itself on the act of the MTO as diligent or not like stated under Unimodal transport laws.[184]

The final idea I got from the interviewees is the diligence of the MTO will be measured depending on the where the cargo is lost, damaged or delayed and the specific law to that particular leg or transport has to apply to measure the MTO's diligence.[185]

Finally, from all the interviewees I got the indication that some clue has to be given under the MTO Proclamation to consider the act as diligent or not.

4.3 Limitation of Liability

One of the controversial issues raised in relation with multimodal transportation is limitation of liability. Accordingly, liability may be limited either by taking that leg of journey in which a damage or loss has occurred (network System) or fixing the limit irrespective of the type of the place where this occurred (Uniform System).

When we see the provisions of the Multimodal Transport Proclamation Article 18(1) of the Proclamation entails that if the consignee's acts wrongfully act or neglects has caused the loss, damage or delay then the carrier will be free. This article only avails the carrier and not the Multimodal Transport Operator, it should be noted that according to Article 2(2) of the proclamation Multimodal Transport Operator is not necessarily a carrier, and thus the provision does not give a chance to a non-vessel multimodal transport operator avail from this exemption.[186] This provision must not discuss about carrier since the carrier is not even governed by Multimodal Transport law and we can say it's a poor drafting and has to be discussed only the relation between MT and shipper.

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[183]Ibid

[184]Interview with, Ato Tesfahun Shibru, Legal service manager, Nib insurance company S.Co, (Addis Ababa, June 04, 2019) and Ato Mitiku Gebru (n-219)

[185]Interview with, Ato Semahegn Adamu, Corporate Claims Supervisor, United Insurance Company S.Co (Addis Ababa, January 15, 2020)

[186]See, (n-33)34

Article 20(1) of the proclamation says that the liability of an MTO shall not exceed limited to 835 SDR/Package[187] or other shipping unit or 2.5 SDR/Kg of gross weight of the goods lost or damaged, from the two the higher will be taken into consideration.[188]With regard to loss resulting from delay 2 & ½of the freight but not exceeding the total freight will be paid to the consignee.[189]

From the above wordings of the proclamation we can infer three main important points which creates practical problems in relation to liabilities of the MTO i.e. what does the term shipping Unit infers, what would be the fate of the MTO after having paid the higher limit if the loss or damage happened is at certain leg of transport with lower limit of liability and finally can we say that the concept of localized damage applies for delay.

First, the term shipping unit is not explained or defined under the Multimodal Transport Proclamation or at least certain references are not given under the proclamation to say about its standard measures too. This term is open for contracting parties to insert any measurements agreed under bill of lading and depending on the cargoes shipped.[190]The other important point rose why shipping unit is left without any definition is may be the law maker wants to govern the area left without being governed also regulated under other Unimodal laws and that is the issue of 'bulk cargoes'[191], the proclamation is clear that employs the phrase "shipping unit" to address goods other than "packed" goods and one of the well-known type of cargo under international maritime transport is bulk cargoes.[192]

Here, both Habtamu and Endeshaw agreed on this point that the measurement for bulk cargoes can be in terms of cubic meters or other measurements and not necessarily kilograms or package. In order to insure the import and exports the shipper is transporting it has to be put in the form of measure that can also make the MTO liable to the extent of the maximum liability based on the

[187]Art.20 (2) says, where a container pallet or similar article of transport is used, the packages or other shipping units enumerated in the MTD as packed in such article of transport are deemed packages or shipping units
[188]See, (n-44)32
[189]Ibid
[190]Interview with Ato Tesfahun Shibiru (n-222) and Interview with, Ato Endeshaw Belachew, Export Manager at Belayneh Kindie Import and Export (Addis Ababa, June 01, 2019).
[191]See, (n-44)13 see also, It refers to material in either liquid or granular, particulate form (unpacked), as a mass of relatively small solids, such as petroleum/crude oil, grain, coal, or gravel. See also, Bulk cargo https://en.m.wikipedia.org>wiki last accessed on May 02, 2020
[192]Interview with, Ato Habtamu Siraj, former Legal Services Advisory Division Head at Nib and United Insurance Company S.Co and now Attorney at Law (Addis Ababa, June 2019 and January 2020)

level of units set by the contracting parties. This helps the shipper to get the maximum compensation in the case when the cargoes are lost or damaged.[193]

On the other hand when shipped goods are damaged or lost under situations that do not fall within the exemptions enumerated under the proclamation shipper/consignee is generally entitled to recover damages from the MTO. The main point here is the carrier may not be necessarily the MTO itself. Means, that the MTO may sub-contract the leg of transport and the most common carrier of the land leg in Ethiopian case are individual Truck owners, while the Sea transport is owned by MTO itself due to the fact that the government believes that leaving choice of carrier to foreign exporting company in import export trade is disadvantageous to the country[194] and adopts FOB INCOTERM except waiver is given by ESLSE.[195]

However, the problem happens when the cargo shipped has incurred loss or damage while traveling by sea. The Maritime Code limits carrier's liability for goods lost or damaged to 500.00 Ethiopian birr per package. If the goods are not shipped in packages, its liability is limited to 500.00 Eth. Birr per "the unit normally serving for the calculation of the freight".[196]On the other hand, the proclamation entails that if the damage or loss has happened to the goods transported at a particular Unimodal Transport stage then the limitation liability is not limited to the one stated under the proclamation. Rather the limitation of liability will be seen in light of the relevant law applicable to the particular mode of transport.[197]

During this time the MTO, after satisfying a claimant as per the Multimodal Proclamation will resort to a Unimodal carrier who is responsible for loss or damage. If proves the sea carrier involved is ultimately liable for lost or damaged goods, he might have recovered only 500.00 Eth. Birr per package had it not been for the provisions of Article 20(3). In the absence of the provisions of Article 20(3), the MTO only recovers a 500.00 birr per package or loss the differences as opposed to SDR 835 per package.[198]

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[193]Ibid

[194]Habtamu Siraj, *The Law and the practice of Ware house to ware house Marine Insurance In Ethiopia* (AAU, School of Law and Governance Studies, 2018)49

[195]Directive issued by ESLSE, ቁጥር ፈቃድ አሰጣጥ መመሪያ ቁጥር ዋሥአ/003/2005

[196]Art. 198(1) of Maritime Code

[197]Art 20(1 &3) of the Proclamation

[198]Interview with Ato Mitiku Gebru (n-219) and Interview with, W/ro Yodit Mekonen, Recovery Officer, United Insurance Company S.Co (Addis Ababa, January 15, 2020)

On the other hand if we compare with the recent Hamburg rules[199], the amount of liability is minimal. This leads to discrepancy in the amount compensation among consignees who suffered loss, by the mere fact that they are working in a Unimodal or Multimodal transport. Then this may change the attention of the shippers to choose among the modes of transport and this will prejudice the mode of transport.[200]

Thirdly, can we say the concept of localized damage applies for delay? Unlike the Maritime Code, the Proclamation prescribes penalty for delay in delivery. Defines when delay occurred and the goods not delivered within 90 days following the date of delivery will be considered as lost by the consignee.[201]

Concerning the above point two ideas are enshrined from interviewees that the first one says that delay has to be localized. This assumption comes from the point of idea that Multimodal Transport Contract by its nature is encompasses more than one mode of transport unlike Unimodal transport. If more than one mode of transport is included then the time allotted for specific mode of transport has to be seen and it can be easily localized where the delay is and the limitation of liability has to be decided based on Article 20(3) of the proclamation.[202]

The second view is based on the specific liability limit set under the proclamation that the MTO's liability for delay is limited to the amount under the MT Proclamation.[203]

The aggregate liability of the MTO may however, be extended and fixed in the multimodal transport document by agreement between the MTO and the consignor.[204]From the above provisions of the law it's clear that concerning delay the liability of the MTO cannot be localized and this is because of the fact that under Article 18 of the proclamation the MTO is presumed at fault and delay by itself is characterized or seen only at the time of delivery and the consignee

[199]Hamburg Rules set limits of liability of 835 SDR per package or 2.50 SDR per kilogram, whichever is higher
[200]Interview with Ato Semahegn Adamu (n-223) and Interview with, Ato Yohannes Afework, Claims Officer II, Nib insurance company S.Co(Addis Ababa, January 17, 2020)
[201]Ibid
[202]Interview with, Ato Megbaru Abera, Oppression Officer, EIC Central Addis District (Addis Ababa, June 01, 2019).
[203]Art 21, of the Proclamation
[204]Art 23 & Art 43 of the proclamation

knows only the time of delivery either delayed or not. This is again supported by the provisions following the limitation of liability.[205]

Finally, the legal effects of failure to notify, in due time, loss resulting from delay in delivery is different from the legal effects of failure to notify loss or damage to cargos. Unless a written notice is given to the MTO within 60 consecutive days after the goods were delivered, no payment is made for loss resulting from delay in delivery.[206]

4.4. Limitation of Action

The MTO is liable to the shipper whenever loss or damage to the goods occurs from the day he receives the gods until delivery unless damage to the goods happens by force majeure after MTO or his employee/agents took necessary measures.

If the damage is apparent then the consignee has to notify the MTO immediately in writing following the delivery of the goods to the consignee. If not then such delivery will be considered as a "prima facie" evidence of the delivery by the MTO.[207]Non-apparent loss or damage must be notified within seven consecutive days following delivery of the goods to the consignee. Failure to notify the MTO within these time limits imply the handing over of the goods to the consignee by the MTO as stated under the MTD.[208]

This shifts the burden of persuasion from the MTO to the consignee. Meanwhile, failure to notify claim within six months will result in loss of right to sue[209] regardless of the prima facie rule under Art.32. Notice is not required where the state of the goods has been determined by joint survey or inspection[210] and the limitation of period for actions against the MTO is two years.[211]

From the above points the Federal Courts are interpreting Limitation of Action stated under Article 40 (1) and 40 (2) without taking into consideration of Article 33(2) and 32 of the proclamation.

[205]Interview with Ato Ashenafi Nega, Senior Legal Expert at; Ethiopian Shipping and Logistics Service Enterprise (Addis, Ethiopia, June 27, 2019)
[206]Art 34 of the proclamation
[207]Art 32 of the proclamation
[208]Art 33 of the proclamation
[209]Art 40 (2) of the proclamation
[210]Art 33 (2) of the proclamation
[211] Ibid

The first point is the discrepancy under Article 40 (2) is the Amharic and English Version. The English version says;

*"…if notification in writing, **stating the nature and main particulars of the claim**, has not been given within 6 months after the day goods were delivered or, where the goods have not been delivered, after the day on which they should have been delivered, the action shall be barred at the expiry of this period*."

However, the Amharic version says that;

"…ርክክቡ ከተፈፀመበት ቀን በኋላ ባሉት 6ወራት ውስጥ ***የክሱን ኣጠቃላይ ይዘት*** እና ዋና ዋና ዝርዝሮች የሚገልፀ፣የፅሁፍ ማስታወቂያ ወይም የዕቃዎቹ ርክክብ ያልተደረገ ከሆነ ደግሞ የዕቃዎቹ ርክክብ መደረግ ከነበረበት ቀን ቀጥሎ ባለው ቀን ጀምሮ **ክስ ካልተመሰረተ** ይህ ጊዜ እንዳበቃ ይርጋው ይቋረጣል፡፡"

When we see the Amharic and English provision it is clear that the two provisions are contradictory that the English Version stated the nature and particulars of the claim means, about the cargo that sustained damage or lost. This provision seems to say the notice has already been given to the MTO at the time when the loss or damage is apparent forthwith and if it's non-apparent within seven consecutive days after goods are delivered to the consignee. This entails that the notice under Article 40 (2) is sounder if the consignee has to give notice the amount of damage sustained, the price needed if it's damaged to recover or the price of the cargo lost.[212]

However, the Amharic version is says statement of claim not nature and particulars of the claim. In practice and well known jurisprudences the statement of claim and defenses is presented in front of the court and the Amharic version seems placed to create loopholes which results in the MTO being protected from many claims.[213]

The import and exporters and cargo insurers don't even know these kinds of requirements are available to ask for claim.[214]This also created interpretational difference on the cases entertained at the court of law and many cases are closed by the Federal High and First Instance courts

[212]Interview with Ato Ashenafi Nega (n-244)
[213]Interview with, Ato Leulseged Getachew, Manager at Tedla and his family's import and export plc. (Addis Ababa, June 16, 2019)
[214]Interview with Yohannes Afework (n-239), Leulseged Getachew (n-252), Semahegn Adamu (n-223), Yodit Mekonen (n-237), Endeshaw Belachew(n-228) and Mitiku Gebru (n-219)

without defining what this provision wants to say and the aim of adding additional notice requirement by the proclamation.[215]

Secondly, period of limitation for Multimodal Transport Contract as a principle is two years and the need for stating another period of limitation on shipper's right is narrowing the right to claim compensation for the cargo lost or damage sustained.[216]

On the other hand, the damage sustained or the cargo lost is already known by the MTO and in addition to that the practice nowadays is that during delivery of the cargo it's practical that the MTO, the Sub-contracted carrier or their representative and the Cargo insurer's representative appear and joint survey is as a principle being undertaken.[217]From this it's clear that the MTO transport operator knows the history of the cargo shipped under bill of lading, the cargo lost or damaged from the report made by the sub-contractor or the MTO representative during joint survey.[218]This entails the need for giving notice which seems statement of claim under the limitation of action irrelevant and what has to be counted is only two years period of limitation.[219]

Thirdly, what would be or has to be the merit of the notice under the limitation of action provision (Art 40(2)) is not clear. According to Ato Habtamu and Ato Tesfahun the merit of the providing this notice has to be like default notice provided under Article 1772 of the 1960 Civil Code.[220]This is inferred from the point of view that the above notices stated under Art 32 and 33 has to be conditions for asking claim and the notices stated under here has to be for giving default notice to the MTO either pays the amount of compensation for damage or loss as per the limitation of liability stated under the proclamation or proceed to ask the compensation by court of law.

This provision has must not be put to lose the right to claim the compensation due to the time is barred by limitation. This is totally against the right of the shipper to claim the compensation once condition to notify is fulfilled and under the auspices of notice shipper has not to lose the

[215]Interview with Josia Kinfe (n-220), Tefahun Shibiru (n-222) and Habtamu Siraj (n-230)
[216]Interview with Habtamu Siraj (n-230) and TesfahunShibiru (n-222)
[217]Interview with Megebaru Abera (n-241)
[218]Interview with Ashenafi Nega (n-244)
[219]Interview with Tesfahun Shibiru (n-222), Josia Kinfe (n-220) and Habtamu Siraj (n-230)
[220]Ibid

right to claim by instituting the suit until two years of time as per the sub Article 1 provision of the same.[221]

Finally, court cases in relation to the issue of Article 40(2) decided differently at different level of Courts on the case between UNIC and ESLSE. The Federal Fist Instance Court Decided that the notice given has to be similar to that of default notice under Art 1772 of the civil code.

The Federal Supreme High Court on Appeal Decided that the notice has to be in the form of Statement of Claim and rejected the lower Courts Decision. Similarly, Federal Supreme Courts Cassation Bench passed a decision which is final and *with a precedence effect* in future similar cases and issues at all levels of courts in Ethiopia by saying that the notice has to be in the form of Statement of Claim.[222]

However, once the Shipper has given notice to the MTO that the good is lost or damaged the second notice has to be to notify the MTO to pay the compensation as per limitation of liability and presenting statement of claim to the MTO is non-sense. Since, by its very nature the statement of claim or defense has to be presented before the court and not the Contracting party.[223]

[221]Interview with Habtamu Siraj (n-336) and Ashenafi Nega (n-290)
[222]Awash Insurance Company vsESLSE / [2009]/Federal Supreme Court/152341/, [2011 E.C].
[223] Interview with Tesfahun Shibiru (n-328), Josia Kinfe (n-326), Gebrewold Tessema (n-323), Ashenafi Nega (n-290) and Habtamu Siraj (n-336)

CHAPTER-FIVE
CONCLUSION AND RECOMMENDATIONS

5.1. CONCLUSION

Transportation of goods following international trade internationally is increasingly done on door-to-door basis by using different modes of transport. In 1960s and 1970s World-wide containerization trend has then turned out to be a major catalyst in utilizing multimodal transport involving more than one mode of transportation.

Multimodal transports besides utilizing the combination of different modes of transport also has advantages in the reductions of transit time, improve on services provided, reduces a transport cost which in effect helps the operators as well as the clients and have positive outcome on economic development of a given state.

The legal regimes governing Multimodal Transport in addition to International Multimodal Conventions depends on the international Unimodal Transport Conventions and Laws of Nations. The Unimodal conventions and the specific law of a given Nation indicate the basis of liability, limitation of liability and limitation of action when goods transported has sustained damage, lost or delayed depending on each mode of transport. Unimodal transport has its own international standard legal frameworks unlike multimodal transport although, it's not binding.

The central actor under the Multimodal Transport Contract is Multimodal Transport Operator. In Ethiopia Ethiopian Shipping and Logistics Service Enterprise is the sole provider of Multimodal Transport. The MTO is liable to the shipper whenever loss or damage to the goods occurs while from the place of discharge up to delivery upon certain exceptions stated under the law. The occurrence of loss or damage must be notified by the shipper/consignee to the MTO and failure to notify the MTO within these time limits imply the handing over of the goods by MTO as stipulated under MTD.

Meanwhile, failure to notify claim within six months will result in loss of right to regardless of the prima facie rule of notifying the MTO when the loss or damage is apparent or non-apparent.

The establishment successful multimodal transport system greatly depends on well-functioning uniform legal regime and efficient performance of various MTO's.

Ethiopia as part of international community has adopted Multimodal Transport Law and in addition to wording discrepancies is also part of the common problems encountered by international community.

Initially the paper investigated on the Liability of the Multimodal Transport Operator by seeing practical problems at hand. The consignor, who suffered the loss and seeks to recover damages against the carrier responsible without any question, but the carrier, seeks to request, excluded or limited liability for that loss. This, as a result, portrays a complex situation when it comes to handling claims in a multimodal transport contract, as it involves different stages and modes of transportation.

Based on the difference on the liabilities under Unimodal transport laws, use of single operator, results in several issues like; the conflicts of laws, conflicts of forum, liability gaps, issues of recourse and non-localization of damages, etc. which affects the Multimodal Transport.

On the other hand, the proclamation has made the shipper to follow steps although the MTO knows the cargo is lost or damaged in order to claim by court of law with two years of period of limitation which is prejudiced against the shipper to be compensated. Some of the terms under the proclamation are not clear and their interpretation depends on the documents that may be presented by the MTO himself. In addition, some terms stated under the proclamation are not defined. Because of this interpretation of these terms varies against the shipper and cargo insurers in different courts. Again the finding of the research entails that grounds has to be put under the proclamation to show the path what constitutes the MTO diligent or not, better limitation of liability has to be set for the Article 20(3) of the proclamation to have effect and can be done by amending Maritime code.

5.2. RECOMMENDATIONS

In relation to the finding, the researcher came up with the following recommendations.

1. The concept of localized damage appears under Article 20(3) of the proclamation for the benefit of the shipper. It provides a higher limit of liability than the limit stipulated under the proclamation and in order to apply nowadays there has to be a higher limit Under the Transport Regimes of Ethiopia.

   However, the limitation of Liability stated under the Multimodal Transport Proclamation applies both for rail and inland water way transport. In addition, Land Transportation regimes limitation of liability is similar to Multimodal Transport and what is left is the Maritime Transport Law.

   Therefore, at least the Maritime code has to be amended so as to include higher limit of liability in order for the issue of localized damage stated under the proclamation to apply or has to be equal to the limitation of liability of Multimodal and Land transportation to protect the MTO right of recourse to receive equal amount he has compensated to the shipper.
2. The occurrence of loss has to be notified to the MTO under the Multimodal Transport Proclamation and it's stated that if joint survey is made then no need of giving notice.

   The proclamations provision dealing with Limitation of Action (Article 40(2)) requires to notify statement of claim (Amharic Version) or particulars of the claim (English Version) within six months will result in loss of right to regardless of the prima facie rule of notifying the MTO when the loss or damage is apparent or non-apparent.

   However, once the shipper has notified the loss or damage or joint survey has undertaken then the particulars of the claim given by the shipper has to be like default notice given under Article 1772 of Civil Code. The effect of the notice under 40(2) has to be either to cover the expenses of the court and the shipper must not lose the right to claim compensation within two years of period of limitation.

   In addition, the Amharic and the English Version is saying two different things which is creating practical problems under the proclamation and it has to be amended to say default notice has to be given to the MTO.

3. The limitation of liability of the MTO can be measured in terms Shipping Unit. However, what shipping unit means is not defined under the proclamation and what would be the measurement to say shipping unit is also, not stated under the proclamation.

   Therefore, the finding of the research entails that shipping unit is the measurement agreed by the contracting Parties under the Multimodal Transport Document and it has to be for measurements that are not specifically set by the proclamation to measure the liability limits of the MTO like bulk cargoes measured in terms of the area they cover (Cubic Meter).

4. The Basis of Liability of the MTO is when the cargo is lost, damaged or delayed. Delay in delivery occurs when the goods have not been delivered in the agreed time or within the time which would be reasonable to require of a diligent MTO.

   The act of MTO to consider it diligent or not although circumstances of the case are taken into consideration to avoid practical problems in interpretations some of the requirements set under Unimodal Transport that the Unimodal Carrier is expected to fulfill has to be set as the conditions expected from the MTO. Since, Multimodal Transport involves more than one mode of transport. In addition, under definitional article of the Proclamation the scope of diligence has to be defined based on the Unimodal Transport laws.

5. Unlike other mode of transport Multimodal Transport claims under Cargo insurers, claiming compensation and MTO requires knowledge of trends/experience (International and National laws).

   Therefore, training officers and cargo insurers, cargo importers and other stake holders (conditions and Multimodal Transport Documents) has to be undertaken

Bibliography

Article and Journals

- Abebe Tefera, *An appraisal of the need of Ethiopia to adopt Rotterdam Rules* (Lap Lambert Academic Publishing, Mauritius, 2017)
- Burkhardt, M. Combined Perspective for Road and Rail, in: New Trade Patterns: New Transport Demands in the Black Sea Region (Antalya, Turkey, 1998)
- Caris, A., Macharis,C. and Janssen,G.K. Planning Problems in Intermodal Freight Transport: Accomplishments and Prospects (Transportation Planning and Technology, 2008)
- Castro, C F, 'Trade and Transport Facilitation: Review of Current Issues and Operational Experience' (A Joint World Bank / UNCTAD Publication xv, 1996)
- Chao, P. The Impact of Multimodal Transport Service Value and Relationships on Business Performance- the Thai Shipper's Perspective (2011)
- Chinyere Ezeoke, 'Allocating onus of proof in sea cargo claims: the contest of conflicting principles' (2001, LMCLQ)
- Christine Besong, towards a modern role for liability in multimodal transport law(London, 2007)
- Cullinane KPB, Wang TF, Song DW, Ji P.A., Comparative Analysis of DEA and SFA approach to estimating the technical efficiency of container port(Journal of economics and business, 2005)
- Dinwoodie, Construction Materias: Their nature and Behavior (New York, Spon press, 2000)
- *Erasmus University Rotterdam Faculty of Law ,European Strategies to Promote Inland Navigation*(2004)
- Ethiopian Shipping and Logistics Services Enterprise, *special publication magazine*(2014)
- Ethiopian Shipping Logistics Services Enterprise, *'Enterprise Performance'(*Addis Ababa, Ethiopia, 2016)
- Fekadu Debela, *Logistics Practices in Ethiopia* (SUAS, Swedish University of Agricultural Sciences, 2013:09.ISSN 1654-9392, Uppsala 2013)

- H.M. KINDRED and M.R. BROOKS, *Multimodal transport rules* (The Netherlands, Kluwer Law International, 1997)
- Joshua A. Odeleye'*The need for multimodal transport development in Nigeria'*(Journal of Geography and Regional Planning, 2015)
- M. FAGHFOURI, "International Regulation of Liability for Multimodal Transport – In search of uniformity", WMU Journal of Maritime Affairs, 2006, vol. 5, no. 1, 96
- Mankabady 'The Multimodal Transport of Goods Convention: A challenge to Unimodal Transport Conventions'(International and Comparative Law Quarterly , 1983)
- Marin, J, The Harmonization of Liability Regimes Concerning Loss of Goods During Multimodal Transport (University of Zagreb Croatia, 2009)
- Miss Pajaree Singsuwan, *Legal problems of the multimodal transport operator* (Thammasat University, June 09, 2011)
- Mukherjee, U., Hamburg Rules United Nations Convention on the Carriage of Goods by Sea, 1978 – An Appraisal (National Law University Jodhpur, India, 2008)
- Tadesse Kenea Amentae, 'Towards Intermodal Freight Transport System in Ethiopia Evaluation of Ethiopian Shipping and Logistics Service Enterprise Multimodal Freight Transport Performance by Customers and Employees'(2017)
- Tilahun Lemmi Butta and Mekonnen Bogale Abegaz, "Challenges in the operation of multimodal transport system: The case of Ethiopian shipping and logistics services enterprise" (International Journal of Applied Research, 2016)
- Tsehai Wada, *Multimodal Transport under Ethiopian Law* (Journal of Ethiopian Law, Vol. XXII, No.I, 2009)
- UN, *The Economics and commercial implications of the entry into force of the Hamburg rules and the multimodal transport convention* (1991)
- W. DRISCOLL and P.B. LARSEN, "The Convention on International Multimodal Transport of Goods" (*Tulane Law Review*, December 1982, vol. 57, no. 2)
- W. J. DRISCOLL, "The Convention on International Multimodal Transport: a Status Report" (*J. Mar. L. & Com.* 1977-1978, vol. 9)
- WOXENIUS, J. Inventory of Transshipment Technologies in Intermodal Transport, Study for the International Road Transport Union (IRU) (Geneva, 1998)

- Zulkiflu, H., Nazli, I. and Nawang, The Weaknesses of the Hague Rules and the Extent of Reforms Made by the Hague-Visby Rules (2006)

Laws

- "Draft Convention on the International Combined Transport of Goods" (1963)
- Convention concerning International Carriage by Rail (COTIF) of 1980 in the version of the Protocol of Modification of 1999 (the Vilnius Protocol)
- Convention for the Unification of Certain Rules Relating to International Carriage by Air, Warsaw, 1929, Convention for the Unification of Certain Rules for International Carriage by Air (Montreal, 1999)
- Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea (2009)
- Directive issued by ESLSE, ቄይቨር ፈቃድ አሰጣጥ መመሪያ ቁጥር ዋሥአ/003/2005
- ICC Publication (No. 481, 1992)
- International Convention for the Unification of Certain Rules relating to Bills of Lading (Brussels, 1924)
- Maritime Sector Administration Proclamation No.549/2007, 13th Year, NO.60 ADDIS ABABA 4th September 2007
- Multimodal Transport of goods Proclamation No.548/2007, 13th Year, NO.59 ADDIS ABABA 4th September 2007
- Proclamation to amend carriage of goods by land Proclamation No. 547/2007, 13th Year, No. 58. ADDIS ABABA 6th September 2007
- The Report of the CMI entitled 'Documentation' (1970, Tokyo)
- UNCTAD Secretariat, *Multimodal Transport and Trading Opportunities* (New York: United Nations, 1994b)
- UNCTAD Secretariat, Multimodal Transport Handbook for Officials and Practitioners (New York: united nations 1995)
- United Nations Conference on Trade and Development, *Multimodal Transport Handbook* (Geneva: UNCTAD, 1997)
- United Nations Conference on Trade and Development/UNCTAD, '*Multimodal Transport Handbook for Officials and Practitioners*' (New York, 2001)

- United Nations Convention on International Multimodal Transport of Goods, UNCTAD Document TD/MT/CONJ/17 (1981, vol. 1)
- United Nations Convention on the Carriage of Goods By Sea (1978)
- የኢ.ፌ.ድ.ሪ የጠቅላይ ሚኒስቴር ጽ/ቤት ማንቦት 16 ቀን 1992 እና የገንዘብና የኢኮኖሚ ልማት ሚኒስቴር በቁጥርገ/ኢ/ል/ሚ/1/53/4 በቀን 29/07/2003 ያወጡት መመሪያ፡፡

Books

- "C Murray, D Holloway, Timson-Hunt &Schmitthoff's, *Export Trade: The Law and Practice of International Trade* (11th Edition, Sweet & Maxwell, London, 2007)
- C-J CHENG, *Clive M. Schmitthoff's Select Essays on International Trade Law* (The Netherlands, Kluwer Academic Publishers, 1988)
- De Witt, Ralph, *Multimodal Transport – Carrier Liability and Documentation* (1st Edition, Lloyd's of London Press Ltd., 1995)
- Faust, P. "Multimodal transport" in Beth, H.L. (Ed.), Port Management Textbook - Containerization, Bremen (Institute of Shipping Economics and Logistics, Borsenhof A, Am Dom 1985)
- H. Booysen, *Principles of International Trade Law as a Monistic System* (2nd Edition Inter legal, Pretoria, 2003)
- Hailegebriel Gedecho, *Maritime Law teaching Material* (legal research Institute, Addis Ababa, 2008)
- Hayuth, Y., Intermodality, *Concept and Practice*(Lloyd's of London Press, London, 1987)
- I. CARR and P. STONE, *International Trade Law* (4th edition, Routledge-Cavendish, 2010)
- Indra Carr, *International Trade Law*(5th edn, Routledge 2014)
- Jason C.T. Chuah, Law of International Trade: Cross-Border Commercial Transactions (4th edn, Sweet and Maxwell 2009)
- Maritime Code of the Empire of Ethiopia, 1960, Proclamation No.164 Neg. Gaz. extra ordinary issue, Year 19, No.1
- Muller, G. *Intermodal Freight Transportation, the U. S.: Eno Transportation Foundation* (Inc. and Intermodal Association of North America, 4th Edition, 1999)

- P. TODD, Cases and materials on international trade law (London, Sweet and Maxwell limited, 2002)
- Tetley, W. *Application of the Rules Generally* (McGill University Montreal, Quebec, Canada, 2006
- Xu, Guibin, "Multimodal transport and trade facilitation : implications in the Chinese context" (World Maritime University Dissertations. 123, 1999)

Electronic Sources

- (DOC) Multimodal transportation of goods under Ethiopian Law, journal of…https://www.academia.edu> last accessed on March 20, 2018.
- (PDF) Multimodal Transport Operations Introduction/ AyuHannisfa-Academia… https://www.academia.edu>Multim...last accessed on February 21, 2019
- (PDF) **Multimodal Transport Operations** Introduction | AyuHannisfa ...
- "Rotterdam Rules in Maritime Transport of Goods" <http://www.rotterdamrules2009.com/cms/uploads/RR_persinfo_algemeen_Eng.pdf> last accessed on April 05, 2019
- <http://www.jstor.org/pss/759470> last accessed on April 05, 2020
- assessment of the performance of multimodal transport…-AAU-ETD http://www.etd.aau.edu.et>handle>selamlast accessed on December 12, 2019
- Carrier Liability in Multimodal Transport-KIPDF.COM https://kipdf.com>... Last accessed on March 19, 2018.
- Combined transport and through bills of lading/- Law Explorer https://lawexplores.com>combined last accessed on April 15, 2019
- Containerization /Definition of Containerization by Merriam-Webster https://www.merriam-webster.com>... Last Accessed on December 18, 2019
- Determinants of Multimodal Transport Effectiness…https://businessdocbox.com>70777… last accessed on May 01, 2020
- Essentials of Logistics and Supply Chain Management https://books.google.com.et>books last accessed on March 10, 2019.
- Ethiopia's Maritime Legislation-Abyssinia Law https://www.abyssinislaw.com>item last accessed on April 25, 2019

- https://commons.wmu.se/all_dissertations/123 last accessed on April 15, 2018
- https://en.m.wikipedia.org>wiki last accessed on February 11, 2019
  https://unctad.org/en/PublicationsLibrary/gds2012d1_en.pdflast accessed on March 06, 2019.
  https://www.academia.edu/5742626/Multimodal_Transport_Operations_Introductionlast accessed on February 12, 2019
- https://www.euston96.com/en/multimodal-transport/ last accessed on January 11, 2019
  https://www.plslogistics.com/blog/what-is-multimodal-freight-and-how-can-it-benefit-you/, accessed on 12th February 2019
  https://www.sdu.dk//media/files/om_sdu/institutter/juridisk/sekret%C3%A6r/speciale+3.pdf?la=da&hash=0last accessed on March 07, 2019.
- ICC – International Chamber of Commerce, www.iccwbo.org last accessed on April 09, 2019
- Intermodal vs. Multimodal: What is the Difference?- MacAndrews-Door to…https://www.macandrews.com>inte… last accessed on April 15, 2019
- Master Thesis Pro-rata **Liability** in Multimodal **Transport**
- Multimodal Transport – Wikipedia https://en.wikipedia.org/w/index.php?title=Multimodal_transport&action=edit&section=3, last accessed on November 13, 2018
- Multimodal Transport and trade facilitation: implications in the Chinese context docplayer.net>9405616-Mult…last accessed on April 20, 2019
- Multimodal transport https://www.euston96.com/en/multimodal-transport/last accessed on January 12, 2019
- Multimodal Transport Operator Definition…PDF www.asean.org accessed on May 12, 2019
- Multimodal Transport Rules https://books.google.com.et>books last accessed on November 10, 2018
- Multimodal Transport: Its Evolution and Application<http://www.bus.tu.ac.th/usr/ruth/thesis/chapter2.pdf> last accessed on September 26, 2018
- Multimodal transport-Information about multimodal transport/Ship Hub https://www.shiphub.co>multimod...last accessed on April 15, 2019

- Piatak, Tom (2002). What Do You Really Know About Intermodal? See also https://www.inboundlogistics.com/cms/article/what-do-you-really-know-about-intermodal/ last accessed on November 06, 2018
- Proceedings of the United Nations Conference on Trade…-UNCTAD https://unctad.org>Docslast accessed on March 10, 2019.
- TOMLINSON, *History and impact of the Intermodal Shipping Container, Pratt Institute*(2009)
- Trade and Development Report, 1981–2011 - UNCTAD
- Tsehai Wada, **Multimodal transportation** of goods under Ethiopian Law, **Journal** of...https://www.academia.edu/1162435/_Multimodal_transportation_of_goods_under_Ethiopian_Law_Journal_Multimodal transportation of goods under Ethiopian Law, Journal of Ethiopian Law, Vol. XXII, No. I, 2009, last accessed on March 19, 2018
- Types of Multimodal Transport Operators (MTO) /Logistics, shipping...http// www.g-logistics.blogspot.com>2011/01>typlast access on February 21, 2019
- UNCTAD Secretariat (2012), Towards a new generation of investment policies see also https://unctad.org/en/PublicationsLibrary/wir2012_embargoed_en.pdf accessed on 5th December 2018
- UNCTAD Secretariat report "Implementation of Multimodal Transport Rules" available <http://www.unctad.org/en/docs//posdtetlbds.en.pdf>. last accessed: on September 10, 2019
- UNCTAD Secretariat Report, *"Implementation of Multimodal Transport Rules"* UNCTAD/SDTE/TLB/2available <www.unctad.org/en/docs//posdtetlbd2.en.pdf> last accessed on April 04, 2020
- unctad.org | UNCTAD Handbook of Statistics 2016 https://unctad.org/en/pages/PublicationWebflyer.aspx?publicationid=1667last accessed on March 10, 2019.
- UNCTAD/SDTE/TLB/2 available http://www.unctad.org/en/docs//posdtetlbp/2.en.pdf last accessed on September 11, 2019
- Unimodal, Multimodal and intermodal Shipping Explained – Eurosender.com https://www.eurosender.com>blog last accessed on April 15, 2019

- United Nation Convention on Trade and Development, *International Multimodal Transport of Goods (*New York, United Nations, 1980), See also Proceedings of the United Nations Conference on Trade…-UNCTAD https://unctad.org>Docslast accessed on March 10, 2019.
- United Nations Convention on International Multimodal Transport of Goods, http://treaties.un.org/doc/Treaties/1980/05/19800524%2006-13%20PM/Ch_XI_E_1.pdf last accessed on April 06, 2019
- United Nations Economic & Social Commission for Asia & the Pacific "Issues in International Land Transport" *UNESCAP*http://www.unescap.org/ttdw/Publications/TFS_pubs/pub_2034/pub_2034_ch2.pdf last accessed on April 05, 2019
- United nations-unecewww.unece.org>doc>itcDOC last accessed April 20, 2019
- V Pimvimol, "Liability Issues on Multimodal Transport in Thailand" http://www.tillekeandgibbins.com/publications/pdf/multiliability.pdf last accessed on November 21, 2019
- VESSEL OPERATING MULTIMODAL TRANSPORT OPERATOR (1 record…www.btb.termiumplus.gc.ca >alpha-eng, last accessed on February 19, 2019
- What Is **Multimodal** Freight and How Can It Benefit You | PLS Logistics ...
- www.allresearchjournal.comlast accessed on March 17, 2018
- www.johntomlinson.com/docs/history_and_impact_of_shipping_container.pdf
- X, Chapter 2: multimodal transport: its evolution and application, 19, www.bus.tu.ac.th/usr/ruth/thesis/chapter2.pdf., last accessed on February 19, 2019

Unpublished Materials

- Aklile Mulugeta, *Determinants of Multi-modal Transport Effectiveness: the case of Ethiopian Shipping and Logistics Services Enterprises* (AAU School of Commerce, 2017)18. See also, Determinants of Multi-modal Transport Effectiveness: the case of Ethiopian…https://etd.aau.edu.et>handle>AK…PDF last accessed on April 20, 2018
- Caroline Colebunders, *Multimodal Cargo Carrier Liability and Insurance: in search of suitable regime* (FaculteitRechtsgeleerdheidUniversiteit Gent, Academiejaar 2012-13)

- Chinniah Anbalagan and Kalimuthu Kanagaraj,A Study on Problems and Prospects of Transport in Ethiopia-Special Reference with Auto Rickshaw's (Bajaj) in Hawassa City, SNNPRS, East Africa,(IFSMRC AIJRM Vol.2, Issue 3, 2014)
- Erica Englundh, *Carriers Liability in Multimodal Transport*(Lund University Faculty of Law, 2015)
- Habtamu Siraj, The Law and the practice of Ware house to ware house Marine Insurance In Ethiopia (AAU, School of Law and Governance Studies, 2018)
- Hamdan, N. International Carriage of Goods by Road (CMR) (2013)
- Karaboğa, E. Multimodal Transport under the CMNI Convention (2014)
- Meer, International Contract Manual Country Handbook Switzerland (2008)
- Sebhatu Alamu Ambaye, *An Analysis of the Import trade logistics Service through the Ethio-Djibouti Corridor*(World Maritime University, 2005)102-103
- Selamawit Hailu, Assessment of the performance of multimodal transport service in Ethiopian shipping and logistic services Enterprise (AAU School of Commerce, June, 2017)

Cases

- Appellant Awash Insurance Company vs. Respondent, ESLSE / [2019]/FSC Cassation Bench /152372/, [2019].
- Appellant, ESLSE vs. Respondent United Insurance Company / [2019]/ Federal High Court / 224270/, [2019].
- Plaintiff United Insurance Company vs. Defendant, ESLSE / [2018]/Federal First Instance Court/48115/, [2018].

Interviews

- Informal Interview with Ato Gebrewold Tessema, former legal department head at Ethiopian Shipping and Logistics Service Enterprise and Nib insurance company S.Co (Addis Ababa, June 3, 2019).
- Interview with Ato Ashenafi Nega, Senior Legal Expert at; Ethiopian Shipping and Logistics Service Enterprise (Addis, Ethiopia, June 27, 2019).
- Interview with, Ato Endeshaw Belachew, Export Manager at BelaynehKindie Import and Export (Addis Ababa, June 01, 2019).

- Interview with, Ato Habtamu Siraj, former Legal Services Advisory Division Head at Nib and United Insurance Company S.Co and now Attorney at Law (Addis Ababa, June 2019 and January 2020).
- Interview with, Ato Josia Kinfe, Senior Attorney, EIC, (Addis Ababa, June 01, 2019).
- Interview with, Ato Leulseged Getachew, Manager at Tedla and his family's import and export plc. (Addis Ababa, June 16, 2019).
- Interview with, Ato Megbaru Abera, Oppression Officer, EIC Central Addis District (Addis Ababa, June 01, 2019).
- Interview with, Ato Mitiku Gebru, Claims Division Head Nib insurance company S.Co(Addis Ababa, January 16, 2020).
- Interview with, Ato Semahegn Adamu, Corporate Claims Supervisor, United Insurance Company S.Co (Addis Ababa, January 15, 2020).
- Interview with, Ato Tesfahun Shibru, Legal service manager, Nib insurance company S.Co (Addis Ababa, June 04, 2019).
- Interview with, Ato Yohannes Afework, Claims Officer II, Nib insurance company S.Co (Addis Ababa, January 17, 2020).
- Interview with, W/ro Yodit Mekonen, Recovery Officer, United Insurance Company S.Co (Addis Ababa, January 15, 2020).