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ADDIS ABABA UNIVERSITY

COLLEGE OF LAW AND GOVERNANCE STUDIES

BUSINESS LAW (LLM PROGRAM)

**‘Said to Contain Clause’ of and ‘Ad valorem’ transport
document: the law and the practice in the Maritime sector
of Ethiopia**

BY

ADDISU HASSEN DABA

**A thesis submitted to the college of law and governance studies of Addis
Ababa University in the post graduate program in partial fulfillment of the
requirements of the Degree of Masters in Business Law (LLM)**

Advisor: Tsehai Wada (A.Prof.)

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ADDISU HASSEN DABA

Declaration

I, the undersigned, declare that this thesis is my original work, and has not been presented for a degree in any other University, and that all sources of materials used for the thesis have been fully acknowledged.

Table of Contents

Acknowledgement.....	iii
Declaration	iv
Abstract.....	Error! Bookmark not defined.
CHAPTER ONE	1
INTRODUCTION.....	1
1.1. Background of the study	1
1.2. Statement of the problem.....	4
1.3. Research Questions.....	5
1.4. Research Methodology	5
1.5. Research objective	6
1.6. Significance of the study.....	6
1.7. Scope of the study	6
1.8. Literature Review	7
1.10. Organization of the study	8
CHAPTER TWO	10
TRANSPORT DOCUMENTS IN MARITIME SECTOR OF ETHIOPIA.....	10
2.1. Definition of the transport documents.....	10
2.1.1. Definition of bill of lading.....	10
2.1.2. Definition of Multimodal transport document (MTD)	11
2.1.3.1. A receipt function of Transport Document.....	12
2.1.3.2. Evidence as to the apparent order and condition.....	12
2.1.3.3. Evidence as to marks, number, quantity and weight	13
2.1.4. Transport Documents as evidence of contract of carriage.....	15
2.1.6. The role of transport documents in different commercial transactions	17

2.1.6.1.	The function of transport documents during custom clearance	17
2.1.6.2.	The function of transport documents in the process of documentary credit	17
2.1.6.3.	Transport document issued by ESLSE.....	17
CHAPTER THREE.....		20
‘SAID TO CONTAIN CLAUSE’ OF TRANSPORT DOCUMENTS		20
3.1.	What is “said to contain clause (STC)” of transport documents?	20
3.2.	Legal effects of STC of transport documents.....	21
3.2.1.	Effect of STC on transport operators liability	21
3.2.1.1.	STC and liability of a transport operator in international conventions.....	22
3.2.1.2.	STC and liability of the carrier as per Ethiopian Laws.....	27
3.2.2.	Effect of STC on package limitation.....	29
3.2.2.1.	What is package limitation?	30
3.2.2.2.	What is package to determine package limitation?.....	30
3.2.3.	Discussion of court decisions rendered by Ethiopian courts.....	32
3.2.3.1.	Case 1	32
3.2.3.2.	Case 2	34
3.2.3.3.	Case 3	36
3.2.3.4.	Case 4.....	37
CHPATER FOUR.....		39
AD VALOREM TRANSPORT DOCUMENT		39
4.1.	Meaning of Ad Valorem Transport document	39
4.2.	When do we say that the value of a good is declared in the transport document?.....	39
4.3.	Why do shippers and consignees need the insertion of commercial information in transport documents?.....	40
4.4.	Ad valorem transport document and its Effects as per Ethiopian law.....	40

4.4.1. Ad valorem Transport document as per Ethiopian law	40
4.4.2. Does inserting commercial invoice or letter of credit number make a transport document an ad valorem?	41
CHPATER FIVE	44
CONCLUSION AND RECOMMENDATION	44
5.1. Conclusion	44
5.2. Recommendation	45
Bibliography	47

Acronyms

ESLSE- Ethiopian Shipping and Logistics Services Enterprise

MCE - Maritime Code of Ethiopia

MTD- Multimodal Transport Document

MTGP - Multimodal Transport of Goods Proclamation of Ethiopia

MTO- Multimodal Transport Operator

STC - Said to Contain

Abstract

Though Ethiopia is a land locked country the maritime sector of Ethiopia is the major route for importation of goods to Ethiopia. Thus, transportation of goods by sea and multimodal transport play important role in the international trade whereby the Ethiopian Government as well as Individuals is involved.

The Ethiopian Shipping and Logistics Enterprise / ESLSE/ is the major operator in the maritime sector of Ethiopia. The transport documents issued by ESLSE mostly contains the reservation clause i.e. Said to Contain when it is impossible to check the accuracy of the information about the description of the goods delivered to be transported.

Most of the transport documents issued by ESLSE also contain information of sale contract like commercial invoice, letter of credit and proforma invoice.

Controversies about the effect of STC and insertion of commercial information in the transport documents arise and become causes for court litigation. Different and contradictory judgments are passed by the courts.

This research deals with the effect of STC on scope of liability of transport operator and the effect of the insertion of commercial information on package limitation.

Keywords: STC, Ad valorem, Multimodal Transport, limitation of liability,

CHAPTER ONE

INTRODUCTION

1.1. Background of the study

The maritime sector of Ethiopia is a sector that includes marine transport, multimodal transport and dry port services.¹ Marine transport is a kind of transport that involves the carriage by sea of passengers, goods, or mail² while multimodal transport is the carriage of goods by at least two different modes of transport, on the basis of a multimodal transport contract, from a place at which the goods are taken in charge by the multimodal transport operator to another place designated for delivery, situated in a different country.³

Under Ethiopian law, marine transport is regulated by the Maritime Code of Ethiopia⁴ (hereinafter MCE) and multi modal transport is regulated by the Multimodal Transport of Goods Proclamation⁵ (hereinafter MTGP).

As per the MCE and MTGP a carrier is obliged to issue bill of lading and multimodal transport document respectively after and upon receipt of goods to be transported from the shipper.⁶

Bill of lading and Multimodal transport document (hereinafter transport documents) have various functions in the commercial transactions. They serve as prove of receipt of goods by the carrier, evidence of contract of carriage and document of title of goods.⁷ In order to achieve these purposes the law requires the transport documents to include, among other things, the goods delivered to the carrier, the number of packages, the quantity or weight of the goods.⁸

But sometimes the carrier and/or the multimodal transport operator (hereinafter transport operator) will not be in a position to check and know the nature, quality, quantity and other particulars of the goods delivered to be transported. This is especially true when the goods are delivered to the carrier in a container. Transport documents evidencing the transportation of containerized cargo frequently contain 'Said to Contain' clauses (STC).⁹ The Ethiopian situation is not different and transport documents issued by Ethiopian Shipping and Logistics Services Enterprise (hereinafter ESLSE), an Enterprise that is engaged in transporting cargos by sea and multimodal transport of goods,¹⁰ frequently contain the STC while transporting goods in packages.

¹ Maritime Sector Administration Proclamation, 2007, Proc. No. 549, Neg.Gaz., year 13, No.60, (Maritime Sector Administration Proclamation): see the preamble of the proclamation.

² *Ibid*, Article 2(3)

³ *Ibid* Article 2(9)

⁴ Maritime Code of Empire of Ethiopia, 1960, Proc. No. 164, Neg.Gaz. Extraordinary, year 19, No.1(MCE)

⁵ Multimodal Transport of Goods Proclamation, 2007, Proc. No.548, Fed. Neg.Gaz., year 13, no. 59(MTGP)

⁶ MCE (n-4) Article 181 ; MTGP (n-5) Article 4(1)

⁷ Chorley and O.C. Giles, *Shipping law* (8th edition) p. 239-251

⁸ MCE (n.4) Art 183(1); MTGP (n-5) Article 8

⁹ Chorley and O.C. Giles (n.7) p. 246

¹⁰ Ethiopian Shipping and Logistics Services Enterprise Establishment Council of Ministers Regulation, 2011, Reg. No.255, Fed. Neg.Gaz., year 18, no. 3(ESLSE Establishment regulation)

STC in transport document is a reservation clause that indicates that the transport operator had no chance to check the validity of the descriptions of the goods and it only relies on the representation by the shipper.¹¹

The MCE allows the carrier to refuse to enter in the bill of lading the particulars given by the shipper concerning the marks of the goods, or their quality, nature or weight, where he has reasonable grounds for suspecting their accuracy or where he has had no reasonable means of checking their accuracy¹² while MTGP allows the multimodal transport operator (hereinafter MTO) to insert a reservation on the multimodal transport document when there is no chance to ascertain the accuracy of the declaration by the shipper.¹³

In practice, the shippers require the transport operator to insert details of the commercial documents like commercial invoice, letter of credit in the transport documents and most transport documents issued by ESLSE show commercial information.

In different court cases¹⁴ it is decided that showing commercial information in the transport documents will make the transport document an ad valorem and the transport operator will not make use of the legal monetary limit of liability.

Ad Valorem means “According to the Value”.¹⁵ An ad valorem transport document is one that expressly states the value of the subject cargo on the face of the bill of lading.¹⁶

The MCE¹⁷ and MTGP¹⁸ limit the amount of damages recoverable by a cargo claimant unless the nature and value of the goods have been declared by the shipper before shipment and inserted in the transport documents.

Disputes between ESLSE and different consignees have occurred in different times and become a cause for court litigations whereby the following issues were involved:

- Whether or not the carrier is bound by the specific shipping measurements shown on the document while the transport document is qualified by STC.

¹¹ Robert Force, Admiralty and Maritime law, (Federal Judicial Center 2004) p.55 Available at: <https://public.resource.org/scribd/8763552.pdf>, Last accessed on May 20, 2022.

¹²MCE(n-4) Article 183 (3)

¹³MTGP (n-5) Article 9(1)

¹⁴ See the specific cases discussed under chapter three and chapter four of this thesis.

¹⁵Henry Campbell Black, M. A., Black's Law Dictionary ,4th Edition, St. Paul, Minn. West Publishing Co. 1968 (Henry Campbell Black) P. 58

¹⁶Common Shipping Terms and Abbreviations, Available at: <https://schoolofshipping.co.za/wp-content/uploads/2018/05/Shipping-terms-and-abbreviations-1.pdf>, accessed on January 18, 2022

¹⁷MCE (n.4) Art 198(1);

¹⁸MTGP (n-5) Article 20

- Whether a transport operator (Ethiopian Shipping and Logistics Enterprise) can use the legal liability limit while the transport documents contain a reference to letter of credit and commercial invoices.

In the court cases the defendant, Ethiopian Shipping and Logistics Services Enterprises, argues that since the carrier put a reservation by inserting STC in the transport documents, it should not be liable for the lost goods. The Enterprise alternatively argued that the liability of the enterprise shall be based on the legal monetary liability limit.

But there is no consistency in the decisions of the courts in this regard. In some cases, the court recognized STC and relieved the carrier from liability where the delivered goods are found to be totally different from those described in the bill of lading.¹⁹ While in other court cases it is decided that the transport operator²⁰ should not state the description of the goods if they are not in a position to check the accuracy of the fact and in order to use the legal monetary liability limit they should not indicate references to commercial documents like Letter of credit and Commercial invoice on the transport documents.

Here the major issue will be do the transport documents achieve their purpose without showing the description of the goods and without depicting reference to commercial documents like letter of credit and commercial invoice?

The transport document typically represents just one out of the supporting documents which must be filed with a goods declaration.²¹ One of the necessary documents in the process of letter of credit is also a transport document.²² In practice, both custom authority and Commercial banks of Ethiopia require the transport document to contain the description of the goods.

UCP 600 under article 19 and 20 provides that a transport document bearing a clause such as "shipper's load and count" and "said by shipper to contain" is acceptable.

The insurance companies also require presentation of transport documents while insurance claim is alleged by their customers.

This study will try to find answer for the below mentioned research questions and assess the implication of the federal courts decision on the function of transport documents in the commercial transactions.

¹⁹See the discussion under chapter three and four of this thesis

²⁰See the discussion under chapter three and four of this thesis

²¹Customs Proclamation, 2014, Proc. No.859, Fed. Neg.Gaz., year 20, no. 82(Customs Proclamation) Art. 10

²² Uniform Customs and Practice for documentary credits (UCP 600) Article 19 and 20. These are international code of practice drawn up by the International Chamber of Commerce. Though they are not binding laws most letter of credits issued by commercial banks in Ethiopia incorporate UCP 600. (UCP 600) Available at:

<http://static.elmercurio.cl/Documentos/Campo/2011/09/06/2011090611422.pdf> ,accessed on January 20, 2022

In this research the author tries to deal with how the transport documents could satisfy the expectation of the parties in contract of carriage by sea or multimodal transport contract, the banker, the custom office and Protection& Indemnity (P&I) clubs, all of whom depends upon the content of the transport document for their respective needs.

It is against this background that the researcher wants to embark upon this study.

1.2. Statement of the problem

Transport documents are documents that serve different purpose in the international trade, inter alias, evidence of receipt of goods, evidence of contract of carriage, document of title of goods, and supporting roles in custom clearance²³, in processing documentary credits²⁴ and insurance claim.

According to the MCE and MTGP, in principle the transport document shall show the shipping marks, the number of packages and objects, or the quantity or weight of the goods in accordance with the particulars given by the shipper²⁵ but in exceptional situation the MCE gives the right to the carrier to refuse to enter in a bill of lading where he has had no reasonable means of checking their accuracy²⁶ while the MTGP provided that the multimodal transport operator shall insert reservations in the MTD under conditions that are similar with that of the MCE.²⁷

Under the MCE it is declared that in respect of loss of or damage to goods, the liability on the carrier shall not exceed one thousand Ethiopian dollar and the statutory limitation may not be set up against the shipper where the nature and value of the goods have been declared by the shipper²⁸ and under the MTGP, it is provided that where a multimodal transport operator becomes liable for any loss of, or damage to, any goods, the nature and value where of have not been declared by the consignor before such consignment have been taken in charge by the multimodal transport operator the liability of the multimodal transport operator to pay compensation shall not exceed Special Drawing rights 835 per package or other shipping unit, or special drawing rights 2.5 per kilogram of gross weight of the goods lost or damaged, whichever is the higher.²⁹

The major problem arises from the interpretation of article 183(3) and article 198 of the MCE and article 9 and article 20(1) of the MTGP i.e. the exceptions. Different disputes have been raised that require the interpretation of these provisions.

In court cases³⁰ between different consignees or Insurers of consignees as plaintiff and ESLSE as a defendant, defense based on the STC entered on the transport documents and alternative defense based on statutory liability limit were raised by the defendant. But in most of the court cases, the

²³Custom Proclamation (n-20) Article 10

²⁴UCP 600 (n-21) Article 19-20

²⁵MCE (n.4) article 183(1) ; MTGP(n-5) article 8

²⁶MCE (n.4) article 183(3)

²⁷MTGP (n-5) article 9/1/

²⁸MCE (n-4) article 198 (1) and (3)

²⁹MTGP (n-5) article 20(1)

³⁰See the discussion under chapter three and four of this thesis.

courts rejected the defenses based on the STC by justifying that the transport documents contain the description of the goods while the defense for package limitation is rejected due to the fact that the transport documents refers to commercial documents like letter of credit or commercial invoices.

This study will try to find the meaning of article 183(3) and 198 (1) (3) of the MCE and article 9 and 20(1) of the MTGP and try to assess and analyze the implication of STC of transport documents and ad valorem transport document in determining the scope of liability of the transport operator.

1.3. Research Questions

The study will focus on answering the following major research questions.

- I. How does the current Ethiopian Marine sector legal framework treat STC of transport documents and ‘Ad valorem transport document’?
- II. What are the legal and commercial effects of STC of transport documents?
- III. What makes a transport document an ad valorem transport document?
- IV. Does a reference to a Letter of credit (LC) and/or Commercial Invoice make a transport document an ad valorem?
- V. Could a transport document serve its purpose without containing sufficient description of the goods and reference to commercial documents?

1.4. Research Methodology

In the course of the study the researcher will employ qualitative methodology. To this end, the researcher will analyze legal provisions of Codes, proclamations, regulation and directives, court decisions.

Other published and unpublished literatures in the area like books, journals, etc. will be also be reviewed.

The methodology that will be employed, therefore, is an inter play of both primary and secondary data.

➤ Source of data

The data items relevant to this particular study will be collected from primary as well as secondary data as follow,

- ✓ The data about the meaning of the law will be obtained from the provision of the Maritime Code of Ethiopia and Multimodal Transport of goods Proclamation.

- ✓ The data about theoretical framework of the transport documents in general and STC and ad valorem transport document in particular will be obtained from different books, journals and other publications
- ✓ Analyzing court decisions that are adjudicated by Federal courts of Ethiopia since 2000 G.C that involves issues based on ‘said to contain’ clause and ad valorem transport documents.
- ✓ Custom Proclamation Number 859/2004, Directives issued by Ministry of revenue on Declaration of goods Imported and UCP 600 will be used as a source to analyze the overall importance of transport documents and what elements are required to serve their purpose.

1.5. Research objective

The main objective of this study is to identify the place of STC of transport documents and “ad valorem” transport document as per the laws of Ethiopia.

Under the umbrella of the aforementioned general objective the study seeks to address the following issues:

- To deal with the concept of STC of transport documents and ad valorem transport document.
- To assess the position of the Federal Courts of Ethiopia regarding ‘said to contain’ clause of transport documents and ad valorem transport document.

1.6. Significance of the study

The study will focus on identifying how ‘said to contain’ clause of transport documents and ad valorem transport documents are governed under the maritime sector of Ethiopia. Therefore, the study: -

- Will help judges and practitioners in the area to identify the problem in implementing article 183(3) and article 198(1) (2) of the maritime code of Ethiopia and article 9 and 20 of the multimodal transport of goods proclamation.
- Will give a better understanding for persons working in the area about ‘said to contain’ clause of transport documents and will help carriers to make use of ‘said to contain’ clause in appropriate times.
- Also will serve as a basis for further studying in the field.

1.7. Scope of the study

The research is limited to analysis and find the meaning of article 183(3) and article 198 (1) (3) of the MCE and article 9 and 20 of the MTGP. In doing so, the study will analyze the true meaning of STC of transport documents and ad valorem transport documents as well as the position of Ethiopian federal courts in this respect.

1.8. Literature Review

To the knowledge of the researcher, there is no ample domestically written literature on the subject. But there are different works in international literature that deals about the subject.

Article 183 sub article 3 of the Maritime code is similar to Article III (3) of Hague Visby Rule that reads as follows

“no carrier, captain or agent of the carrier shall be bound to state or show in the bill of lading any marks, number, quantity, or weight which he has reasonable ground for suspecting not accurately to represent the goods actually received, or which he has had no reasonable means of checking.”

Časlav Pejović, has argued that the literal meaning of the aforementioned provision refers to something that the drafter does not anticipate and it is difficult to imagine a bill of lading without the description about quality, quantity and weight of the goods.³¹

Robert Force, argued that “a carrier is not liable under this provision when the goods are loaded by the shipper and the bill describes the goods in terms of marks or labels, or in a statement about kind, quantity, or condition, or the bill is qualified by words “said to contain” or “shipper’s weight, load, and count,” or other words that indicate that the carrier is relying on the shipper’s representations to the extent that the carrier has no independent knowledge of the goods.”³²

Kraierk Euarjai argues that the function of a bill of lading as a receipt is effected by clauses in the bill of lading, in particular statements as to quantities of the goods shipped. Where a bill of lading contain 'weight or quantity unknown' or 'said to contain' clause the bill of lading is not even prima facie evidence of a shipment against the ship-owner of the amount or quantity shipped, and the onus is on the shipper to prove weight or quantity of goods shipped. These clauses are the protection of the carrier's liability.³³

Though these literatures are about other laws they give the researcher a good insight about the subject.

Domestically the author of this research comes across with two literatures that are highly related with the subject matter of this research. The first one is an article written by Tsehai Wada.³⁴ In his article captioned Package Limitation under International Conventions and Maritime Code of Ethiopia Mr. Tsehai Wada addresses the issue of package limitation as per Ethiopian law. The

³¹Časlav Pejović, Clean Bill of Lading in Contract of Carriage and Documentary Clean Bill of Lading in Contract of Carriage and Documentary Credit: When Clean May not be Clean, Penn State Journal of law & International Affairs, V. 4 <https://elibrary.law.psu.edu/jlia>. Last accessed on May 19, 2022.

³²Robert Force (n.11)

³³Kraierk Euarjai, International Carriage Of Goods By Sea: Problems In Bills Of Lading And Their Impact In Australia And Its Major Trading Partners In Asia, 1999 (Thammasat University) p.46 Available at: https://eprints.utas.edu.au/19717/1/whole_EuarjaiKraierk1999_thesis.pdf, Last accessed on January 23, 2022

³⁴Assistant Professor, Faculty of Law, Addis Ababa University

major theme of the article is related to package limitations i.e. meaning of package limitation, the units employed to calculate the limit and the amount of liability limit are addressed.³⁵The other literature is a dissertation written by Mr. MelakuMekonnen.³⁶ In his dissertation captioned Understanding the concept of limitation of liability per package/ unit under a bill of lading contracts globally in general and in Ethiopia in particular Mr. MelakuMekonnen addresses the issue of package limitation as per Ethiopian law.³⁷

The major issue that is going to be addressed by this study is the effect of STC of transport documents on the scope of liability of the transport operators. The study will also try to answer when a transport document will be considered as an ad valorem and the effect of such transport document on the extent of liability of transport operators. Though the studies mentioned in the literature review have addressed the issue of package limitation none of them try to deal with STC and do not deal with package limitation from the STC point of view which is the main themes of this research.

1.9. Limitation of the study

Maritime law as a field of study is not given much attention in Ethiopia. There are not adequate publications by scholars on this particular subject in Ethiopia. There is also lack of awareness on the subject even among lawyers.

1.10. Organization of the study

This dissertation is divided into four chapters.

Chapter one provides the general background of the study, statement of the problem, the research questions intended to be answered by the research objective and scope of the research.

Chapter Two will provide a review of the literature on the general theories and principles of maritime transport documents. In this chapter the functions and purpose of transport documents will be discussed. It also tries to address the role of the transport documents in different commercial transactions.

Chapter three attempts to articulate the meaning of said to contain clause of transport documents. It also identifies the major reasons why transport documents contain said to contain clause. The last section of the chapter discusses the positions of the federal courts regarding said to contain clause of transport documents.

³⁵Wada, Tsehai, Package Limitation under International Conventions and Maritime Code of Ethiopia: An Overview, Journal of Ethiopian Law, Vol. XXI, p. 114- 137.

³⁶A legal professional who is currently serving Ethiopian Shipping and Logistics Services Enterprise as a Legal Services Directorate Director.

³⁷Mitiku, Melaku, "Understanding the concept of limitation of liability per package/unit under a bill of lading contracts globally in general and in Ethiopia in particular" (2019) World Maritime University Dissertations. 1209. Available at: https://commons.wmu.se/all_dissertations/1209 last accessed on 19 May 2022.

Chapter four attempts to articulate the meaning of ad valorem transport documents. It also identifies the major reasons why transport documents refer to commercial documents. At the end it discusses the positions of the federal courts regarding ad valorem transport documents.

Chapter Five provides a conclusion and recommendations based on the problems identified in Chapters three and four and lessons drawn from the international experiences.

CHAPTER TWO

TRANSPORT DOCUMENTS IN MARITIME SECTOR OF ETHIOPIA

2.1. Definition of the transport documents

Transport documents play a vital role in international trade. The major roles of transport documents in international trade lies in their characteristics, especially the role of the transport documents as receipt of goods and document of titles make them an important document in international trade. There are different transport documents in the maritime sector.

The maritime sector is one of the most important sectors in socio economic life of human beings and the Ethiopian maritime sector is comprised of several distinct, but connected, sub-sectors spread across the country including but not limited to: marine transport, multimodal transport, dry port service³⁸, stevedoring service and freight forwarding³⁹ services.

Transport documents are evidences of contracts for carriage of goods exchanged between carrier and other persons such as shipper or consignor. They differ depending on the method of carriage used. As per Ethiopian law there are consignment notes for road transport⁴⁰, airway bill for air transport⁴¹, bill of lading for marine transport⁴² and multimodal transport document for multimodal transport⁴³. Among these transport documents bill of lading and MTD are documents in the maritime sector.

In the next sections we will discuss bill of lading and multimodal transport documents.

2.1.1. Definition of bill of lading

The Ethiopian law does not define bill of lading. Under Ethiopian legal system marine transport in general and contract of carriage evidenced by bill of lading in particular is governed by MCE.

The MCE does not define bill of lading though it specify requirements as to the contents⁴⁴ of the bill of lading.

Black's law dictionary defines bill of lading as:

‘The written evidence of a contract for the carriage and delivery of goods sent by sea for certain freight’⁴⁵

³⁸The maritime sector Administration proclamation (n-1) preamble

³⁹Freight Forwarding and Ship Agency License Issuance Council of Ministers Regulations no 37 defines freight forwarding as follows

Freight Forwarding" means the representation of a consignor or consignee locally or internationally in fulfilling customs, port and other formalities in import and export cargo at port and includes the transportation and delivery of same

⁴⁰Proclamation to Amend Carriage of Goods by Land, 2007, Proc. No.547, Fed. Neg.Gaz., year 13, no. 58(Carriage of goods by Land Proclamation) Article. 4

⁴¹Civil aviation proclamation, 2008, proc.No.616, Fed. Neg.Gaz., year 15, no.23(Civil Aviation Proclamation) Art. 66

⁴²MCE (n-4) Article 181

⁴³MTGP (n-5) Article 4

⁴⁴MCE (n-4) Article 182

The United Nations Convention on the Carriage of Goods by Sea, 1978 (HAMBURG RULES) define a bill of lading as:

‘a document which evidences a contract of carriage by sea and the taking over or loading of the goods by the carrier, and by which the carrier undertakes to deliver the goods against surrender of the document. A provision in the document that the goods are to be delivered to the order of a named person, or to order, or to bearer, constitutes such an undertaking’⁴⁶

From the above definitions we can understand that the functions of the bill of lading are evidence of title on the goods, evidence of the contract of carriage of goods by sea, and a receipt of the goods. We will discuss the functions of bill of lading in the next section but for the purpose of this dissertation, much emphasis is given for its role, as a receipt of goods and its impact on the rights and duties of the carrier and its subsequent role in terms of evidentiary value.

2.1.2. Definition of Multimodal transport document (MTD)

Article 2 (4) of MTGP defines MTD as:

‘A document which evidences a multimodal transport contract, the taking in charge of the goods by the multimodal transport operator, and an undertaking by him to deliver the goods in accordance with the terms of that contract’

The definition of MTD as provided by the MTGP is the verbatim copy of the definition of MTD by International multimodal transport convention.⁴⁷

From the definitions given to MTD by the MTGP and the international multimodal transport convention we can understand that the functions of MTD are evidence of title on the goods, evidence of multimodal transport contract, and a receipt of the goods.

2.1.3. Functions of the transport documents

There are three major functions of transport document. These are: evidence of the receipt of the goods, evidence of a contract for the carriage of goods and document of title.

⁴⁵Henry Campbell Black (n-16) p.210

⁴⁶United Nations Convention on the Carriage of Goods by Sea, 1978 (Hamburg Rules) Article 1(7) Available at: https://unctad.org/system/files/official-document/aconf89d13_en.pdf last accessed on May 19, 2022.

⁴⁷ International convention for multimodal transport Available at: https://treaties.un.org/doc/Treaties/1980/05/19800524%2006-13%20PM/Ch_XI_E_1.pdf last accessed on May 19, 2022.

2.1.3.1.A receipt function of Transport Document

The transport documents play important roles in the contract of carriage of goods by sea and multimodal transport, the role they play as a receipt is considered to be the most important role of the transport documents. Firstly the transport document issued by the transport operator states the apparent order and condition of the goods received from the shipper or his agent⁴⁸. Secondly the transport document issued by the transport operator contains a statement as to leading marks, number, quantity or weight of the goods as furnished by the shipper or his agent.⁴⁹ We shall now consider these characteristics separately.

2.1.3.2.Evidence as to the apparent order and condition

The term ‘apparent order and condition of the goods’ is provided in the Maritime Code of Ethiopia, article 183 (1), MTGP, article 8(1) (b), Hague Rules, article 3 paragraph 3 (c), Hamburg Rules article 15 paragraph 1 (b) and 16 paragraph 2 and in the United Nations Convention on International Multimodal Transport of Goods article 8(1) (b) but only stated ‘the apparent condition of the goods’.

Article 183 (1) of the MCE provides that:

“The bill of lading shall show the shipping marks, the number of packages, and objects, or the quantity or weight of the goods, in accordance with the particulars given by the shipper in writing before shipment, and the apparent order and condition of the goods.”

Article 8(1) (b) of MTGP provides that:

“The multimodal transport document shall contain the following particulars:-

(b) the apparent condition of the goods,”

Article 3 paragraph 3 (c) of the Hague Rules provides that:

“On demand of the shipper, the carrier shall issue to the shipper a bill of lading showing:

(c)The apparent order and condition of the goods”

Article 15 paragraph 1 (b) of the Hamburg Rules provides that:

“The bill of lading must include, inter alia, the following particulars:

(b) The apparent condition of the goods”

⁴⁸MCE (n-4) Article 182 ;MTGP (n-5) Article 8 (1)(b)

⁴⁹MCE (n-4) Article 183 ; MTGP (n-5) Article 8 (1)(a)

Article 8(1) (b) of United Nations Convention on International Multimodal Transport of Goods provides that:

“The multimodal transport document shall contain the following particulars:-

(b) The apparent condition of the goods,”

In practice, the carriers or multimodal transport operator may state in the transport documents a statement such as ‘Received in apparent good order and condition’. This means that apparently, and so far as met by them eyes and externally the goods were placed in good order on board the ship, but this does not extend to the quality of the goods that was not apparent upon reasonable inspection having regard to the circumstances of loading.⁵⁰

Therefore such statements are only of limited value because they refer merely to outward apparent condition of the container or other packaging, and not to the condition of the goods inside. If the bill of lading contains the statement produced by the shipper it is the ‘clean bill of lading’ containing an unqualified statement.⁵¹

2.1.3.3. Evidence as to marks, number, quantity and weight

Another role of the transport documents that shall be considered is the role in respect of receipt as to marks, number, quantity and weight. For the apparent order and condition of the goods, the carrier has the duty to examine or inspect the external state of the goods. Whereas the statement stated by the carrier in the transport documents in relation to marks, number, quantity or weight is given by the shipper or his agent. The functions of marks, number, quantity or weight relate to any claim for the loss of or damage to the goods at the port of discharge.

As we can understand from different national and international documents the transport operator is obliged to show the particulars in the transport document.

The EMC provides in article 183(1) that

“The bill of lading shall show the shipping marks, the number of packages, and objects, or the quantity or weight of the goods, in accordance with the particulars given by the shipper in writing before shipment, and the apparent order and condition of the goods. ”

Article 8(1) (a) of Multimodal transport of goods proclamation of Ethiopia provides that:

“The multimodal transport document shall contain the following particulars:-

⁵⁰Samantha Peel, The Development Of The Bill Of Lading: Its Future In The Maritime Industry,2002 (University of Plymouth) Page 52 (Samantha Peel) Available at: <https://core.ac.uk/download/pdf/29816576.pdf> Last accessed on May 19,2022.

⁵¹Henry Campbell Black (n-16) P. 210

(b) the general nature of the goods, the leading marks necessary for identification of the goods, an express statement, if applicable, as to the dangerous character of the goods, the number of packages or pieces, and the gross weight of the goods or their quantity otherwise expressed, all such particulars as furnished by the shipper,”

The Hague Rules provide in article 3 paragraph 3 (a) and (b) that:

“ After receiving the goods into his charge, the carrier or the master or agent of the carrier shall, on demand of the shipper, issue to the shipper a bill of lading showing among other things:

(a) The leading marks necessary for identification of the goods as the same are furnished in writing by the shipper before the loading of such goods starts, provided such marks are stamped or otherwise shown clearly upon the goods if uncovered, or on the cases or covering in which such goods are contained, in such a manner as should ordinarily remain legible until the end of the voyage;

(b) Either the number of the packages or pieces, or the quantity, or weight, as the case may be, as furnished in writing by the shipper”.

The Hamburg Rules provide in article 15 paragraph 1 (a) that:

“The bill of lading must include, inter alia, the following particular:

(a) The general nature of the goods, the leading marks necessary for identification of the goods, an express statement, if applicable, as to the dangerous character of the goods, the number of packages or pieces, and the weight of the goods or their quantity otherwise expressed, all such particulars as furnished by the shipper”.

Article 8(1) (a) of United Nations Convention on International Multimodal Transport of Goods provides that:

“The multimodal transport document shall contain the following particulars:-

(b) The general nature of the goods, the leading marks necessary for identification of the goods, an express statement, if applicable, as to the dangerous character of the goods, the number of packages or pieces, and the gross weight of the goods or their quantity otherwise expressed, all such particulars as furnished by the consignor;

From the aforementioned provisions of the national and international laws we can understand that the information with regard to marks, number, quantity or weight of the goods is furnished to the carrier by the shipper to prepare the bill of lading. With regard to the marks, they are necessary to identify the goods⁵², as it is usually that the goods are shipped on board the ship together with other goods.

If the transport operator has reasonable grounds for suspecting their accuracy or where he has had no reasonable means of checking the accuracy of the particulars given by the shipper the transport operator shall either refuse to enter the particulars in the bill of lading⁵³ or shall insert in the transport document a reservation specifying these inaccuracies, grounds of suspicion or the absence of reasonable means of checking.⁵⁴

The transport operator will be responsible for the accuracy of the particulars stated in the transport document unless they refuse to mention the particulars or insert reservation in the transport documents.

2.1.4. Transport Documents as evidence of contract of carriage

The bill of lading is evidence of the contract of carriage⁵⁵ while the multimodal transport document is evidence of multimodal transport contract⁵⁶.

A bill of lading is not the contract of carriage by itself. The contract between the carrier and the shipper is created when the goods are delivered to the carrier upon which the carrier shall give a receipt to the shipper.⁵⁷ If the goods are damaged before shipment i.e. before issuance of a bill of lading the shipper will claim the cargo based on the receipt. The case is different in case of multimodal transport because a MTO is required to issue a MTD upon receipt of the goods.⁵⁸

As between multimodal transport operator and a consignee or any third party who hold the transport document in good faith, a transport document will be a conclusive evidence of the actual contract of carriage.⁵⁹

2.1.5. Transport documents as document of title

The feature of the transport documents as a document of title is considered to be its critical function in international sales since it allows traders to effect delivery of the goods through the transfer of the documents. The transport documents may be dispatched ahead of the goods to whoever will be entitled to claim them from the transport operator at their destination and since the transport

⁵²MCE (n-4) article 183(2)

⁵³MCE (n-4) article 183 (3)

⁵⁴MTGP (n-5) article 20 (1)

⁵⁵ MCE (n-4) article 133(2)

⁵⁶MTGP (n-5) article 2(4)

⁵⁷ MCE (n-4) article 186

⁵⁸ MTGP (n-5) article 4(1)

⁵⁹ MTGP (n-5) article 10 (2)

documents can represent the goods it can be transferred not only in the first sale but also on further re-sale of the consignment while it is in transit. Moreover, it is this function which makes the transport documents acceptable to a bank as security for an advance in the documentary credit system.

When a transport document is issued, delivery of the goods at the destination is made only against the surrender of a transport document.⁶⁰

When we compare the MCE and MTGP regarding the function of transport documents as document of titles they have difference in terms of expression. The MTGP has a clear provision that deals with this function while there is no such provision in the MCE.

The MTGP provides as follows:

“Multimodal Transport Document to be regarded as Document of Title

1/ every consignee named in the negotiable or non-negotiable multimodal transport document and every endorsee of such document as the case may be, to whom the property in the goods mentioned therein shall pass, upon or by each reason of such consignment or endorsement shall have all the rights and liabilities of the consignor.

2/ nothing contained in Sub-Article (1) of this Article shall prejudice or affect the right of the multimodal transport operator to claim freight from the shipper or enforce any liability of the consignee or endorsee by reason of his being such consignee or endorsee.”⁶¹

The above definition makes clear that MTD as document of title entitles the consignee or any endorsee to make use of all the rights of the consignor and to take all the liabilities of the consignor. In other words the MTD may function as a document through which a party can acquire rights and liabilities under the multimodal transport of goods contract even though he is not originally a party to a contract.

The function of bill of lading as document of title could be inferred by reading different provisions and via interpretation in the MCE. According to article 187 of the MCE, the original bill of lading confers the holder in due course the right to procure delivery and dispose the goods represented by the document. The role of bill of lading as document of title could also be inferred from the wordings of article 190 of the MCE that deals about the circulation of bill of lading.

⁶⁰ MCE (n-4) article 187; MTGP (n-5) article 14(1)

⁶¹ MTGP (n-5) article 7

2.1.6. The role of transport documents in different commercial transactions

Corollary to the aforementioned major functions transport documents play their own role in different commercial transactions. In this section we will discuss the role of transport documents in custom clearance and documentary credit.

2.1.6.1. The function of transport documents during custom clearance

Transport documents constitute one of the documents required for custom clearance. In international sales, it is usual for the seller to request the presentation of transport documents together with other documents for the purpose of customs clearance.⁶² According to the Ethiopian Customs Guide there are different documents that are required to prepare custom declaration. Transport document is among the documents required to prepare custom declaration.⁶³

The Ethiopian custom guide document clearly provided that the cargo import clearance procedure among other things includes checking the goods declaration against the documents produced (invoice, bill of lading, certificate of origin, permits, etc.)

The original transport documents are among the different documents that must be presented on the presentation of goods declaration made in written and electronic form.⁶⁴

Article 17 of the Ethiopian customs proclamation provides as follows:

“Notwithstanding the provisions of article 12/1 of this proclamation, any commercial or transport document setting out clearly the necessary particulars may be accepted as the descriptive part of the goods declaration for custom transit and such acceptance shall be noted in such document.”

The above cited provision makes it clear that a transport document play an important role during goods transit.

2.1.6.2. The function of transport documents in the process of documentary credit

The UCP 600 defines documentary credit in Art 2 as:

Credit⁶⁵ means any arrangement, however named or described, that is irrevocable and thereby constitutes a definite undertaking of the issuing bank to honour a complying presentation.

The commercial code of Ethiopia defines documentary credit as follows:

⁶²Indira Carr, International trade Law, (4th Edition), Routledge-Cavendish 2 Park Square, Milton Park, Abingdon, Oxon OX14 4RN (2010) p. 76 Available at: <http://library.wbi.ac.id/repository/151.pdf> Last accessed on May 20, 2022.

⁶³ Ethiopian Customs Guide, Ethiopian Revenues and Customs Authority ,March 2017, p.21 & 32 Available at: http://admin.theiguides.org/Media/Documents/Ethiopia_Customs_Guide.pdf Last accessed on May 20, 2022

⁶⁴ Customs proclamation (n-21) Article 10

⁶⁵ See Article 1 of UCP 600. According to article 1 the word credit refers to documentary credit.

A documentary credit is a credit opened by a bank providing for payment against presentation of specified documents to the opening bank or to its agent. Goods represented by such documents may be held and disposed of by the bank in accordance with the terms agreed between the bank and its principal.⁶⁶

From the above definitions it is clear that documentary credit is a document whereby a bank undertakes to make payment upon presentation of documents that represent goods.

The Ethiopian commercial code does not have any provision that deals with the kind and nature of documents that must be presented for issuing bank for requesting payment. Unlike the Ethiopian commercial code the UCP 600 provides the documents required and under its articles from 19 to 27 provides the type of transport documents and the details about what the transport documents should fulfill in order to enable the issuing bank to honor the documentary credit.

There can be no doubt as to the vital importance of the transport document to any system of documentary credits. At the initial stage the bank is able to check the information on the transport document to ensure that the seller has complied with all the conditions imposed by the bank for granting the credit, before it makes any advance. Thus statements on the transport documents indicating the quantity and description of the goods shipped will be checked with the corresponding details on the sales invoice to see if there is any discrepancy.⁶⁷

Though the commercial code of Ethiopia is silent about the documents required to honor documentary credits the directive of the national bank of Ethiopia provides the different documents that must be presented to the bank for payment and obtain foreign exchange. According to the directive one of the documents required is bill of lading.⁶⁸

2.1.6.3. Transport document Issued by ESLSE

ESLSE uses a single standard contract format for both kinds of transport i.e. carriage of goods by sea and multimodal transport contract, whereby the document is captioned as “Bill of Lading for combined transport and port to port shipments.”⁶⁹ Most of the provisions of the standard contract are common to both port-to-port shipments and combined transport, while some provisions are dedicated to either of them.

Neither the MCE nor MTGP use the word combined transport. The standard bill of lading issued by ESLSE defines combined transport as follows:

⁶⁶Commercial code of Empire of Ethiopia, 1960, Proc. No. 166 ,*Neg.Gaz. Extraordinary*, year 19, No.3(Commercial Code) Article 959

⁶⁷ John F Wilson, *Carriage of Goods by Sea* (7th Edition) Pitman Publishing imprint in Great Britain (2010)p.135;Available at: <https://cupdf.com/document/carriage-of-goods-by-seapdf.html>? Last accessed on May 19, 2022

⁶⁸ National Bank of Ethiopia Directive to Transfer NBE's Foreign Exchange Functions to Commercial Banks Directive No. FXD/07/1998

⁶⁹ ESLSE's standard bill of lading

“Combined Transport arises when the place of receipt and ‘or place of delivery are indicated on the face hereof’

Therefore, to determine whether the document represents the combined transport or port to port shipment one has to look at the face of the document and on top of this, the definition does not make any reference as to whether the place of delivery shall necessarily require different modes of transport which makes the contract a multimodal transport.

CHAPTER THREE

‘SAID TO CONTAIN CLAUSE’ OF TRANSPORT DOCUMENTS

3.1. What is “said to contain clause (STC)” of transport documents?

After the carrier or the multimodal operator has received the goods and upon demand of the shipper the MCE and MTGP provides that a carrier/multimodal transport operator must issue respectively a bill of lading⁷⁰ or MTD⁷¹. Such transport document shall show the quality, weight or number of packages or pieces, furnished by the shipper, and the apparent conditions of the goods.

But in cases where the transport operator reasonably believed that the particulars furnished by the shipper to be inaccurate or when there is no reasonable means of checking the accuracy of the particular the carrier is not bound to show or state markings, numbers, quantity, or weight of the goods⁷² and the multimodal transport operator may insert the particulars with reservation.⁷³

The carrier may insert different kinds of reservation clauses such as “said to contain” or “shippers weight, load and count” to indicate that it has had no chance to ascertain the accuracy of the particulars provided by the shipper.⁷⁴

“Said to Contain” clause in transport document is a reservation clause that indicates that the carrier/multimodal transport operator had no chance to check the accuracy of the descriptions of the goods and it only relies on the representation by the shipper.

The logistics glossary defines STC in the following manner:

“Said to Contain (STC) is a phrase used by the shipping company in the Bill of Lading when describing the goods loaded onboard a sea-going vessel in sealed containers or trailers and for which the shipping company makes the necessary reservations in terms of the correct contents of those loading units.”⁷⁵

The major elements of the definition are:

- Said to contain clause is a reservation clause. Reservations are remarks inserted in a transport document by the carrier, his master, or his agent, which indicate the carrier does not guarantee the accuracy of particulars concerning the marks, nature, or quantity of the

⁷⁰MCE (n-4) article

⁷¹MTGP (n-5) article

⁷²MCE (n-4) article

⁷³MTGP (n-5) article

⁷⁴ Robert Force (n-11) P.91

⁷⁵ Logistics Glossary, Available at: <https://www.logisticsglossary.com/term/said-to-contain/>, Accessed at February 25, 2022.

goods contained in the transport document, or that there are defects noticed in the condition of the goods or its packing for which the carrier is not responsible.

- The reservation is about the correct contents of the loading units and shall be inserted when the carrier is not in a position to check the accuracy of the particulars furnished by the shipper.

3.2. Legal effects of STC of transport documents.

As discussed in the previous section STC is a reservation clause inserted in the transport documents when the transport operators have no opportunity to ascertain the accuracy of the particulars of the goods as furnished by the shipper. In this section the legal effects of STC on the liability of the transport operators and regarding package limitation will be discussed.

3.2.1. Effect of STC on transport operators liability

The carrier of a cargo via transport contract has different obligation and to care for the cargo he carries is among the obligations. It is obvious that the carrier has an obligation to deliver the goods for a person who is entitled to take delivery.

The issue here is whether the carrier will be liable for the loss or damage of cargo for which he insert the STC in the transport document. There is no uniform rule and consensus among scholars regarding the issue.

According to KraierkEuarjai, where a bill of lading contains 'said to contain' clause the bill of lading is not even prima facie evidence of a shipment against the ship owner of the amount or quantity shipped, and the onus is on the shipper to prove weight or quantity of goods shipped. This clause is the protection of the carrier's liability.⁷⁶

Robert Force also argue that a carrier may be liable for issuing a bill of lading for goods it has not received or for misdescriptions contained in the bill of lading unless the bill is qualified by the words 'said to contain' or 'shipper's weight, load and count' or other words that indicates that the carrier is relying on the shippers representations to the extent that the carrier has no independent knowledge of the goods.⁷⁷

Simon Baughen in his book shipping law argue that the use of containers causes considerable evidential problems to cargo claimants in proving that the goods packed inside the container were damaged during the custody of the carrier. If the shipper loads them into the container, which is then sealed, the carrier will have no means of verifying what is inside the container. Accordingly, when it issues the bill of lading or sea waybill, it will protect itself by qualifying any statement as to the contents of the container with words such as 'said to contain'. The effect of these words is to oblige the cargo claimant to prove by independent evidence exactly what was in the container at the

⁷⁶KraierkEuarjai, International Carriage Of Goods By Sea: Problems In Bills Of Lading And Their Impact In Australia And Its Major Trading Partners In Asia, University of Tasmania (1999) page 46, Available at : https://eprints.utas.edu.au/19717/1/whole_EuarjaiKraierk1999_thesis.pdf Last accessed on May 18,2022.

⁷⁷ Robert force (n-11) p.80-81

time that the carrier took it over and the condition in which it then was. In many cases, this will prove to be an insurmountable evidential burden for the cargo claimant.⁷⁸

Contrary to the above arguments the following arguments are forwarded by different scholars;

Chroley & Giles argue that to allow the carrier to escape from liability through the subterfuge of a STC representation would be contrary to the whole economy of the Hague rule. According to them it would render otiose the facility given to the carrier by Article III (3) of The Hague rule.⁷⁹

Samantha Peel argued that though the carrier inserted the STC clause in the bill of lading, the bill of lading will be prima facie evidence against the carrier and the burden of proof will be on the carrier if the carrier claims the description inserted in the bill of lading is not correct.⁸⁰

Phillips LJ argued that STC did not necessarily destroy the evidential value of the bill of lading since the carrier insert the description of the goods without dissenting from the description, so that the description can be relied upon as providing prima facie evidence as to what was within the containers.⁸¹

From the above discussion it will be easy to understand that there is no consensus among the scholars regarding the effect of STC on the liability of the carrier.

3.2.1.1. STC and liability of a transport operator in international conventions

I. Hague / Visby Rule

The Hague rule require the carrier to insert the nature, quality, marks or numbers of the goods in the bill of lading.⁸² This means that one of the obligations of the carrier under The Hague rule is to indicate the descriptions of the goods in terms of weight, number, or quantity in the bill of lading. But the Hague rule give the carrier a right to refuse to insert such description in case when he knows or has reasonable grounds for suspecting that the descriptions provided by the shipper are inaccurate, or which he has no reasonable means of checking the accuracy. The last paragraph of article three of the Hague Rule reads as follows:

Provided that no carrier, master or agent of the carrier shall be bound to state or show in the bill of lading any marks, number, quantity, or weight which he has reasonable ground for suspecting not accurately to represent the goods actually received, or which he has had no reasonable means of checking.

⁷⁸Simon Baughen, *Shipping Law* (6th Edition) 2015 Routledge 2 Park Square, Milton Park, Abingdon, Oxon OX14 4RN, p.14

⁷⁹Chorley and O.C Giles (n-7) P.246

⁸⁰Samantha Peel (n-50) p. 62

⁸¹John F Wilson (n- 61) p. 199

⁸²International Convention for the Unification of Certain Rules of Law relating to Bills of Lading ("Hague Rules"), and Protocol of Signature (*Brussels, 25 August 1924*) Article 3 (a) (b) Available at: <http://www.admiraltylawguide.com/conven/haguerules1924.html>

The literal meaning of The Hague rule is that the carrier is not allowed to insert descriptions of the goods and relive himself from liability through reservation clauses including STC. What the carrier has to do is to refuse to insert any description that he cannot ascertain their accuracy. The effect of this provision is that the carriers need not show in the bill of lading any mark, numbers, quantities or weight which he has reasonable ground for suspecting not accurately to represent the goods actually received or which he has no reasonable means of checking their accuracy.

The Visby Rule, an amendment of Hague rule, adopted in 1968, article 3(4) provides a protection for the third party holder of the bill of lading in good faith by stating that proof to the contrary of the description of the goods is not admissible when the bill of lading has been transferred to a third party acting in good faith.⁸³

Article 3(4) of The Hague Visby rule reads as follows:

‘Such a bill of lading shall be prima facie evidence of the receipt by the carrier of the goods as therein described in accordance with § 3, a, b and c.

However, proof to the contrary shall not be admissible when the bill of lading has been transferred to a third party acting in good faith.’⁸⁴

According to The Hague Visby rule the carrier has the right to refuse to insert any description of the cargo in the bill of lading if he has a reasonable ground to suspect the description is not accurate or he has no means of checking the accuracy. But if he has inserted the description that will be a prima facie evidence against the carrier in his relation with the shipper. This means that the burden of proof will be on the carrier if he is claiming that the fact was different from the one described in the bill of lading.

The Hague Visby rule make it clear that the bill of lading will be conclusive evidence about the description of the goods regarding third parties. This means that the carrier will not challenge or produce contrary evidence about the description of the goods once he has inserted the description in the bill of lading if the claimant is third party in good faith.

The aforementioned provisions of The Hague rule and Hague Visby rule make clear that the carrier is not allowed to insert reservation clauses and relive himself from liability. In a way that strengthens this point art 3 sub article 8 of The Hague Visby rule provides that:

‘any clause, covenant, or agreement in a contract of carriage relieving the carrier or the ship from liability for loss or damage to, or in connection with, goods arising, from negligence, fault, or failure in the duties and obligations provided in this

⁸³ International Convention For The Unification Of Certain Rules Of Law Relating To Bills Of Lading (Hague-Visby-Rules 1968) Available at: [Hague-Visby Rules 1968.pdf - Google Drive](#) article 3(4)

⁸⁴ Hague Visby Rule (n-76) Article 3(4); Article 3 Sub article 3 a, b and c of the rule provides that the carrier shall insert the shipping marks, quality, number or weight as the case maybe.

Article or lessening such liability otherwise than as provided in this Convention, shall be null and void and of no effect.’

The quoted article makes it clear that the carrier who has been instructed to refuse to insert any description in the bill of lading could not be relieved from liability by inserting the descriptions of the goods with reservation. Once the carrier inserted the description the bill of lading will be conclusive evidence against the carrier about such facts.

Therefore, STC does not have a place in Hague rule as amended by the Visby rule especially in relation to third party in good faith and the carrier will be liable for not delivering of the goods as stated in the bill of lading. The carrier could not free itself from this liability by producing contrary evidence if the claimant is third party in good faith.

But there are arguments for and against the literal meaning of the Hague/Visby rule.

ČaslavPejović put his argument against the literal meaning of article 3/3 of The Hague Visby rule in the following manner;

“The literal meaning of this provision refers to something which its drafters probably never intended. It is difficult to imagine that they meant that the carrier can issue a bill of lading without particulars concerning the “marks, number, quantity or weight,” since those particulars are essential for the existence of a bill of lading. Under this literal interpretation, problems may have arisen with Article 3(3) of The Hague-Visby Rules. Instead, remedying this error, the content of Article 3(3) has been interpreted to imply that the carrier, in fact, should insert particulars concerning the goods as furnished by the shipper. Additionally, the carrier is entitled to qualify those particulars by inserting in the bill of lading reservations under conditions specified in this article.”⁸⁵

Chorley & Giles argue in favor of the literal meaning of article 3/3 and they said that allowing the carrier to escape from liability due to STC will be against the whole purpose of Hague Rule.⁸⁶

II) **Hamburg Rule**

The Hamburg rule requires the carrier to insert the nature, quality, marks or numbers of the goods in the bill of lading.⁸⁷ Article 16 of the Hamburg rule regulates the evidentiary effect of the bill of lading similarly to the Hague-Visby Rules and, contrary to the Hague-Visby Rules, grants the carrier the right to qualify the description of the goods, rather than to refuse to insert the particulars when he has reasonable grounds to suspect that they are incorrect. Article 16 of the Hamburg rule

⁸⁵ČaslavPejović (n-31) p.21

⁸⁶ Chorley and O.C Giles (n-7) P.246

⁸⁷United Nations Convention On The Carriage Of Goods By Sea, 1978 (Hamburg Rules) Article 15 Available at: https://unctad.org/system/files/official-document/aconf89d13_en.pdf

allows the carrier to insert reservations in the bill of lading in case when the carrier is not in a position to ascertain the accuracy of the information in the following manner:

‘...if he had no reasonable means of checking such particulars, the carrier or such other person must insert in the bill of lading a reservation specifying these inaccuracies, grounds of suspicion or the absence of reasonable means of checking.’

The aforementioned paragraph of article 16 of the Hamburg rule clearly entitled the carrier to insert the descriptions of the goods with reservation. The next issue will be what will be the effect if the carrier inserted the particulars of the goods as furnished by the shipper with reservation. This issue is addressed by article 16 sub article 3 of the Hamburg rule. Sub article 3 of article 16 of the Hamburg rule provides that:

‘Except for particulars in respect of which and to the extent to which a reservation permitted under paragraph 1⁸⁸ of this article has been entered:

(a) the bill of lading is prima facie evidence of the taking over or, where a "shipped" bill of lading is issued, loading, by the carrier of the goods as described in the bill of lading; and

(b) proof to the contrary by the carrier is not admissible if the bill of lading has been transferred to a third party, including a consignee, who in good faith has acted in reliance on the description of the goods therein.’

The first section of the quoted provision make it clear that the evidentiary value the bill of lading could highly affected by inserting reservation clause. If the carrier inserted a reservation clause the bill of lading will not be neither prima facie evidence regarding the shipper nor be conclusive evidence with regard to third parties in good faith.

In other words reservations like STC have got recognition in Hamburg Rule and the carrier is entitled to qualify the bill of lading by using such reservation clauses and in cases where the carrier inserted a reservation about the accuracy of the particulars of the good the carrier will not be liable for any discrepancy and damage to that good unless the shipper or any person entitled to take the delivery of the goods proves to the contrary. In other words the burden of proof will be on the shipper or third part who claim the delivery of the goods and not on the carrier.

⁸⁸ Paragraph 1 of article 16 of the Hamburg rule provides that :

‘ If the bill of lading contains particulars concerning the general nature, leading marks, number of packages or pieces, weight or quantity of the goods which the carrier or other person issuing the bill of lading on his behalf knows or has reasonable grounds to suspect do not accurately represent the goods actually taken over or, where a "shipped" bill of lading is issued, loaded, or if he had no reasonable means of checking such particulars, the carrier or such other person must insert in the bill of lading a reservation specifying these inaccuracies, grounds of suspicion or the absence of reasonable means of checking.’

III) United Nations Convention on International Multimodal Transport of Goods

The United Nations Convention on international Multimodal Transport of goods requires the multimodal transport operator to insert the nature, quality, marks or numbers of the goods in the multimodal transport document.⁸⁹ Article 9 of the United Nations Convention on international Multimodal Transport of goods regulates the evidentiary effect of the multimodal transport document similarly to Hamburg rule the convention grants the multimodal transport operator the right to qualify the description of the goods when he has reasonable grounds to suspect that they are incorrect. Article 9 of the United Nations Convention on international Multimodal Transport of goods allows the carrier to insert reservations in the multimodal transport document in case when the multimodal transport operator is not in a position to ascertain the accuracy of the information in the following manner:

‘...if he has no reasonable means of checking such particulars, the multimodal transport operator or a person acting on his behalf shall insert in the multimodal transport document a reservation specifying these inaccuracies, grounds of suspicion or the absence of reasonable means of checking.’

The aforementioned paragraph of article 9 of the United Nations Convention on international Multimodal Transport of goods clearly entitled the multimodal transport operator to insert the descriptions of the goods with reservation. The next issue will be what will be the effect if the multimodal transport operator inserted the particulars of the goods as furnished by the shipper with reservation. This issue is addressed by article 10 of the United Nations Convention on international Multimodal Transport of goods. Article 10 of the United Nations Convention on international Multimodal Transport of goods provides that:

‘Except for particulars in respect of which and to the extent to which a reservation permitted under article 9 has been entered:

(a) The multimodal transport document shall be prima facie evidence of the taking in charge by the multimodal transport operator of the goods as described therein; and

(b) Proof to the contrary by the multimodal transport operator shall not be admissible if the multimodal transport document is issued in negotiable form and has been transferred to a third party, including a consignee, who has acted in good faith in reliance on the description of the goods therein.’

The first section of the quoted provision make it clear that the evidentiary value the multimodal transport document could highly affected by inserting reservation clause. If the multimodal transport operator inserted a reservation clause the multimodal transport document will not be

⁸⁹United Nations Convention On international Multimodal Transport of goods (Multimodal Transport Convention) Available at: https://unctad.org/system/files/official-document/tdmtconf17_en.pdf Article 8 Last accessed on May 20, 2022

neither prima facie evidence regarding the shipper nor be conclusive evidence with regard to third parties in good faith.

In other words reservations like STC have got recognition in United Nations Convention on international Multimodal Transport of goods and the multimodal transport operator is entitled to qualify the multimodal transport document by using such reservation clauses and in cases where the MTO inserted a reservation about the accuracy of the particulars of the good the MTO will not be liable for any discrepancy and damage to that good unless the shipper or any person entitled to take the delivery of the goods proves to the contrary. In other words the burden of proof will be on the shipper or third part who claim the delivery of the goods and not on the MTO.

3.2.1.2. STC and liability of the carrier as per Ethiopian Laws

I. Maritime Code of Ethiopia

The Maritime code of Ethiopia requires the carrier to insert the nature, quality, marks or numbers of the goods in the bill of lading.⁹⁰ This means that one of the obligations of the carrier under the maritime code of Ethiopia is to insert the descriptions of the goods in terms of weight, number, or quantity in the bill of lading. But the Maritime code of Ethiopia give the carrier a right to refuse to insert such description in case when he knows or has reasonable grounds for suspecting that the descriptions provided by the shipper are inaccurate, or which he has no reasonable means of checking the accuracy. Sub article 3 of article 183 of the maritime code of Ethiopia reads as follows:

‘The carrier or his representative may refuse to enter in the bill of lading the particulars given by the shipper concerning the marks of goods, or their quantity, nature or weight, where he has reasonable grounds for suspecting their accuracy or where he has had no reasonable means of checking their accuracy.’

The literal meaning of the above stated provision of the maritime code is that the carrier is not allowed to insert descriptions of the goods and relive himself from liability through reservation clauses including STC. What the carrier has to do is to refuse to insert any description that he cannot ascertain their accuracy. The effect of this provision is that the carriers need not show in the bill of lading any mark, numbers, quantities or weight which he has reasonable ground for suspecting not accurately to represent the goods actually received or which he has no reasonable means of checking their accuracy.

The cumulative reading of article 184 and 205 of the maritime code of Ethiopia will strengthen this position. According to article 184 of the maritime code of Ethiopia the shipper will be liable for any damage due to the inaccuracy of the information provided and the inaccuracy of the information will be raised only against the shipper. The contraire reading of this provision is that once the

⁹⁰MCE (n-4) Article 183 (1)

carrier inserted in the bill of lading the information provided by the shipper he cannot raise the inaccuracy of such information against third party in good faith.

According to article 205 of the Maritime code of Ethiopia any clause that relieves the carrier from liability would not be accepted and shall be regarded as null and void.

Article 205 of the maritime code reads as follows:

Any clause in a bill of lading or any instrument of maritime carriage other than a charter party which directly or indirectly relieves a carrier from the liability imposed on such carrier by common law or the provisions of this Section or any clause reversing the burden of proof as set forth under the laws in force and the provisions of this Section, shall be null and void.

The quoted article makes it clear that the carrier who has been instructed to refuse to insert any description in the bill of lading could not be relieved from liability by inserting the descriptions of the goods with reservation. As per article 205 of the maritime code of Ethiopia the reservation clause will be null and void.

Therefore, STC does not have a place in maritime code of Ethiopia especially in relation to third party in good faith and the carrier will be liable for the accuracy of the information or not delivering of the goods as stated in the bill of lading. In fact if the claimant is the shipper himself and the carrier can proof that the damage is due to the inaccurate information provided by the shipper the shipper will be relieved from liability but the burden of proof will be on the carrier.

II. The Multimodal transport of goods proclamation of Ethiopia

The Multimodal transport of goods proclamation of Ethiopia requires the multimodal transport operator to insert the nature, quality, marks or numbers of the goods in the multimodal transport document.⁹¹ Article 9 of the Multimodal transport of goods proclamation of Ethiopia regulates the evidentiary effect of the multimodal transport document and grants the multimodal transport operator the right to qualify the description of the goods by reservation when he has reasonable grounds to suspect that they are incorrect. Article 9 of the Multimodal transport of goods proclamation of Ethiopia allows the carrier to insert reservations in the multimodal transport document in case when the multimodal transport operator is not in a position to ascertain the accuracy of the information in the following manner:

‘...if he has no reasonable means of checking such particulars, the multimodal transport operator or a person acting on his behalf shall insert in the multimodal transport document a reservation specifying these inaccuracies, grounds of suspicion or the absence of reasonable means of checking.’

⁹¹MTGP (n-5) Article 8

The aforementioned paragraph of article 9 of the Multimodal transport of goods proclamation of Ethiopia clearly entitled the multimodal transport operator to insert the descriptions of the goods with reservation. The next issue will be what will be the effect if the multimodal transport operator inserted the particulars of the goods as furnished by the shipper with reservation. This issue is addressed by article 10 of the Multimodal transport of goods proclamation of Ethiopia. Article 10 of the Multimodal transport of goods proclamation of Ethiopia provides that:

'Except for particulars in respect of which and to the extent to which a reservation permitted under article 9 has been entered:

(a) The multimodal transport document shall be 'prima facie' evidence of the taking in charge by the multimodal transport operator of the goods as described therein; and

(b) Proof to the contrary by the multimodal transport operator shall not be admissible if the multimodal transport document is issued in negotiable form and has been transferred to a third party, including a consignee, who has acted in good faith in reliance on the description of the goods therein.'

The first section of the quoted provision make it clear that the evidentiary value the multimodal transport document could highly affected by inserting reservation clause. If the multimodal transport operator inserted a reservation clause the multimodal transport document will not be neither prima facie evidence regarding the shipper nor be conclusive evidence with regard to third parties in good faith.

In other words reservations like STC have got recognition in Multimodal transport of goods proclamation of Ethiopia and the multimodal transport operator is entitled to qualify the multimodal transport document by using such reservation clauses and in cases where the MTO inserted a reservation about the accuracy of the particulars of the good the MTO will not be liable for any discrepancy and damage to that good unless the shipper or any person entitled to take the delivery of the goods proves to the contrary. In other words the burden of proof will be on the shipper or third part who claim the delivery of the goods and not on the MTO.

3.2.2. Effect of STC on package limitation

Limitation of liability is a universal concept amongst shipping nations and recognizes the perilous nature of maritime transport, particularly as it was in the past. Limitation permits maritime transport operators, whether with respect to liability arising from collision, allusion, grounding, cargo damage, death or personal injuries, to claim a limit upon his damages. It was originally devised to promote shipping.⁹² Limitation of liability is a broad concept whereby package limitation is one

⁹²John F Wilson (n-71) P.195

kind of limitation of liability. The purpose of this section is to examine the effect of STC on package limitation, which is one aspect of limitation of liability.

3.2.2.1. What is package limitation?

Package limitation is a legal scheme that entitles a ship owner to limit his liability to a certain sum of money calculated per package.⁹³ In order to claim package limitation the first condition that must be fulfilled is the fact that the goods must be in the package. If the cargo could not be determined by package, the limitation could be calculated as per the applicable unit.

Article 198 sub article 2 of the Ethiopian maritime code provides as:

*The statutory limitation shall be determined by package, and in respect of goods loaded in bulk, on the basis of the unit normally serving for the calculation of the freight.*⁹⁴

The aforementioned article of the maritime code provides the general limitation of liability and the phrase “...limitation shall be determined by package...” represent the package limitation regime of the Ethiopian maritime code.

The multimodal transport of goods proclamation of Ethiopia also provides:

“...the liability of the multimodal transport operator to pay compensation shall not exceed special drawing rights 835 per package or other shipping unit, or...”⁹⁵

From the above quoted legal provisions it is clear that if the cargo is loaded by package the statutory limitation will be determined by package and this is commonly referred as package limitation. The next important question that needs an answer is the meaning of package.

3.2.2.2. What is package to determine package limitation?

Neither the international conventions nor the domestic laws of Ethiopia define the term package. But when we look at the Hague Visby rule, international multimodal transport of goods convention and multimodal transport of goods proclamation, though they do not give a definition for package, they include a rule in order to determine either the liability per package or per weight is greater which indirectly determine what package mean for the purpose of package limitation.

Article 20 sub article 2(a) of the Multimodal transport proclamation of Ethiopia, which is verbatim copy of the international multimodal transport of goods convention⁹⁶ and Hague Visby rule⁹⁷ provides as follows;

⁹³Tsehai Wada (n-35) P. 2

⁹⁴ Maritime code (n-4) Article 198 (2)

⁹⁵ Multimodal transport of goods proclamation (n-5) article 20 (1)

⁹⁶ Multimodal transport of Goods Convention (n-82)

“Where a container, pallet or similar article of transport is used to consolidate goods, the packages or other shipping units enumerated in the multimodal transport document as packed in such article of transport are deemed packages or shipping units. Except as aforesaid, the goods in such article of transport are deemed one shipping unit”

From the above quoted provision of the multimodal transport proclamation we can infer that a package is a container, pallet or similar article of transport which is used to consolidate transported goods.

According to the multimodal transport of goods proclamation if the goods are loaded in a container, pallet or similar articles of transport such article are considered as packages unless the goods found in the packages are listed in the multimodal transport document.⁹⁸ This means that if the sets of articles are enumerated in the transport document the lists as enumerated in the transport document is considered as package. This test for determining what is the package where goods are packed in containers is known as the ‘documentary’ test.⁹⁹

This example will make the issue very clear: Assume that the transport operator receives a full container load from the shipper whereby the shipper load and sealed the container. In the transport document it provided that 1 container said to contain 100 cartonsof wine is loaded. The issue is whether the 1 container or the 100 cartons are considered as packages.

Here the major issue will be what should be considered as package when the lists in the container, pallet or similar package is enumerated in the transport document but qualified with STC.

Neither the maritime code of Ethiopia nor the multimodal transport of goods proclamation has clear provision that deals with this issue.

Therefore, in order to get an answer to the issue we need to look at the arguments of different scholars and court decisions.

There are differences among scholars regarding the issue.

Simon Baughen argues that only where the number of goods packed within the container is not enumerated would the container be capable of constituting the ‘package’ and it is likely that the goods are still ‘enumerated’, even if the statement in the bill of lading as to their number is qualified by wording such as ‘said to contain’.¹⁰⁰ According to him any attempt to avoid this

⁹⁷ Hague Visby Rule (n-76)

⁹⁸ Multimodal transport of goods proclamation (n-5) article 20(2)(a)

⁹⁹ Christopher Hill, *Maritime Law* (6th Edition) 2014 Informa Law from Routledge 2 Park Square, Milton Park, Abingdon, Oxon OX14 4RN, P.277 Available at: <https://www.routledge.com/Maritime-Law/Hill-Kulkarni/p/book/9781843112556>

¹⁰⁰ Simon Baughen (n-72) p.126

provision by including a clause in the bill of lading defining the ‘package’ as the container would be ineffective by virtue of Art III (8)¹⁰¹ of The Hague rule.

Professor Yvonne Baatz argues that the shipper or consignee shall first prove that the goods enumerated in the transport document are really loaded. Once the shipper or the consignee have discharged their burden of proof the multiplier for the purpose of package limitation shall be the packages as enumerated in the transport document though it is qualified by STC.¹⁰²

Christopher Hill argues that the decision whether the container or the packages found in the container shall be considered as packages is depend on the expression in the transport document. According to him if the number of packages within the container is indicated in the transport document it is those packages that must be considered packages for limitation purpose, but if the transport document does not show the number of packages in the container it is the container that must be considered as package for limitation purpose. For him, a Bill stating ‘1 container containing television sets in cartons’ will mean the container will be deemed the package. But, ‘1 container containing (or said to contain) 12 cartons of television sets’ will mean that each carton will be the package for the purposes of applying the limitation.¹⁰³

3.2.3. Discussion of court decisions rendered by Ethiopian courts

Under this section we will discuss regular court decisions rendered by the federal courts of Ethiopia that involves STC and try to see the position of the courts on effect of STC on liability of the transport operator and package limitation.

3.2.3.1. Case 1

Plaintiff: AmeleworkZewede

Defendants: 1. ZengDongchagfuYongheng Import and Export Co. LTD and
2. Ethiopian shipping lines share company,
3. Addis Alem Dry Cargo Transporters Association

Forum: Federal High Court Lideta Bench,

File Number: 111347

¹⁰¹ Article III (8) of the Hague rule is almost identical with article 205 of the maritime code of Ethiopia. Article III (8) of the Hague rule reads as :

Any clause, covenant, or agreement in a contract of carriage relieving the carrier or the ship from liability for loss or damage to, or in connection with, goods arising from negligence, fault, or failure in the duties and obligations provided in this Article or lessening such liability otherwise than as provided in this Convention, shall be null and void and of no effect. A benefit of insurance in favor of the carrier or similar clause shall be deemed to be a clause relieving the carrier from liability.

¹⁰²Yvonne Baatz,Maritime Law (3rd Edition)2014 Informa Law from Routledge 2 Park Square, Milton Park, Abingdon, Oxon OX14 4RN, P.206 Available at:<https://www.pdfdrive.com/maritime-law-e157820573.html>

¹⁰³Christopher Hill (n-92) P.277

Date of Judgment: 11/06/2005 E.C (18/02/2013 G.C)

The facts of the case:

- The plaintiff was a consignee and the defendants ZengDongchagfuYongheng Import and Export Co. LTD and Ethiopian, shipping lines Share Company and Addis Alem Dry Cargo Transporters Association were shipper and carrier respectively.
- The carriage contract is evidenced by bill of lading number APLU063280347 where by the cargo is described as “Said to Contain” 1434 CTNS S.T.C shipment of bearings.
- When the container is checked at Mille custom station it is full of clays rather than 1434 CTNS of bearings.
- The plaintiff claim compensation of the value of the cargo from the shipper and the carriers.
- The case was ex-parte against the 1st and 3rd defendants

The major defenses raised by the 2nd defendant:

- Since the cargo is loaded in a container and qualified by STC the defendant is no liable for the quality and quantity of the goods loaded in the container.
- The obligation of the carrier is to deliver the container as received from the shipper and we are not liable for the nature and quality of the goods packed in the container.

The ruling of the court:

The court has rendered that the first defendant (the shipper) is liable and shall compensate the damages on plaintiff and 2nd and 3rd defendants are not liable. The justification for the court to relieve the carriers from liability was that the carriers have transported the container as received from the shipper and the seal of the container is intact while checked at Mille custom station.

Implication of the Judgment:

From the decision of the federal high court, we can generally infer that though the transport document has enumerated the nature and quality of goods packed in a container the transport operator will not be liable for the quality and nature of the goods so long as the container is delivered to the consignee as received from the shipper. In other words, the transport operator will not be liable for the misdescription of the cargo by the shipper so long as the container is delivered to the consignee as received from the shipper.

Critique

The court while reliving the second defendant does not provide a justification that is backed by provision of law or principle in jurisprudence. The court does not try to interpreter any provision of the MCE. The sole justification the court mentioned in the judgment is the carrier will not be liable since the container is delivered to the consignee as received from the shipper.

The decision of the court shall be seen in light of the relevant provisions of the maritime code of Ethiopia especially article 183(3) and 184.

The bill of lading produced by the plaintiff as evidence describes the loaded cargo in the following manner:

1434CTNS

S.T.C

SHIPMENT OF BEARINGS: - URB BRAND (STANDARD CODE NO. JB/T276/199 AND JB/T283/994) AS PER PERFORMA INVOICE NO. HL021008 DATED SEPTEMBER 16, 2010

Here the major issue should be what will be the effect of enumerating the detail description of the cargo by qualifying them with the reservation said to contain clause, in case where the delivered goods is found to be totally different from those enumerated in the bill of lading.

The solution for the above issue shall be given depending on the interpretation of article 183 and 184 of the maritime code of Ethiopia.

Sub article 3 of article 183 of the maritime code of Ethiopia reads as follows:

'The carrier or his representative may refuse to enter in the bill of lading the particulars given by the shipper concerning the marks of goods, or their quantity, nature or weight, where he has reasonable grounds for suspecting their accuracy or where he has had no reasonable means of checking their accuracy.'

Article 184 of the maritime code of Ethiopia provides as:

Where a shipper has not accurately described the marks, number, quantity, nature and weight of goods, he shall be liable to the carrier for all losses, damages, and expenses resulting there from. An inaccurate statement has effect only against the shipper.

3.2.3.2. Case 2

Plaintiff: Ethiopian Insurance Corporation

Defendants: Ethiopian shipping lines share company,

Forum: Federal First Instance Court Lideta Bench,

File Number: 157038

Date of Judgment: 10/03/03 E.C (18/02/2013 G.C)

The facts of the case:

- The plaintiff sued the defendant by subrogating a consignee by alleging that it has paid compensation to the consignee due to the fact that though the defendant has received 6349 barrels to transport by ship 347 barrels are short landed. Therefore, the plaintiff requested the court to order the defendant to reimburse the value of the short landed barrels of bitumen.
- The major defense by the defendant was based on the ‘said to contain’ clause entered on the bill of lading. The defendant argues that, since the carrier put a reservation by inserting a ‘said to contain’ clause in the bill of lading it should not be liable for the lost goods.

The major defense raised by the defendant:

The defendant argues that, since the carrier put a reservation by inserting a ‘said to contain’ clause in the bill of lading it should not be liable for the lost goods.

The ruling of the court:

The court has rendered that the defendant is liable for the short landed barrels of bitumen and the court ordered the defendant to pay the claimed compensation.

Though the defendant appealed against the decision the higher courts, i.e. Federal high court¹⁰⁴ and federal Supreme Court¹⁰⁵, confirmed the decision even without a need to call the plaintiff.

Reasoning of the court:

The major justification for the decision of the court lies on article 183 (3) and 205 of the maritime code of Ethiopia.

According to the court, depending on article 183(3), the carrier shall refuse to insert detail description of the cargo if it is not in a position to ascertain the accuracy of the information provided by the shipper and once the carrier inserted the information it will be liable for that and according to article 205 of the maritime code of Ethiopia it could not relieve himself from liability by inserting any kind of clause.

Implication of the Judgment:

From the decision of the federal first instance court, we can generally infer that if the bill of lading has enumerated the nature and quantity of goods it is not possible for the carrier to relive himself from liability by inserting STC in the bill of lading.

Critique

¹⁰⁴Ethiopian Shipping Lines Vs Ethiopian Insurance Corporation, Appeal File No. 116537, Federal High Court Lideta Bench (15/06/04)

¹⁰⁵Ethiopian Sipping Lines Vs Ethiopian Insurance Corporation, File No 79082, Federal Supreme Court (4/10/04)

The decision of the court is in line with the meanings of the law. The maritime code of Ethiopia nowhere declares about reservation but clearly refuse the carrier to insert description of the cargo in case where he is not in a position to ascertain the accuracy of the information.

3.2.3.3. Case 3

Plaintiff: Lion Insurance Share Company

Defendants: Ethiopian Shipping and Logistics services Enterprise,

Intervening Party: Agrisher Trading PLC

Forum: Federal First Instance Court Lideta Division, 6th Civil Bench

File Number: 205570

Date of Judgment: 04/07/07 E.C (18/02/2013 G.C)

The facts of the case:

- The plaintiff institute the law suit by subrogating a consignee by alleging that it has paid compensation to the consignee due to the fact that, though the defendant has received 736 can of nitric acid to transport as per multimodal transport contract the defendant deliver none of them due to the fact that the container used to consolidate the cans is caught by fire. Therefore, the plaintiff requested the court to order the defendant to reimburse the value of the damaged cargo.
- One of the issues was determining the extent of liability of the multimodal transport operator

The ruling of the court:

The court has rendered that the defendant is liable for the damaged 736 can of nitric acid and the court ordered the defendant to pay the claimed compensation.

Reasoning of the court:

The major justification for the decision of the court lies on article 20 (1) and (2) of the multimodal transport of goods proclamation of Ethiopia.

According to the court, the carrier has mentioned the quantity of the goods in the transport document and the values of the goods is proved depending on the commercial invoice and in such cases article 20 sub articles 1 and 2 are not applicable and the MTO is not entitled to use limitation of liability.

Implication of the Judgment:

From the decision of the federal first instance court, we can generally infer that if the multimodal transport document has enumerated the quantity of the goods and the value of the goods is obtained from commercial invoice it is not possible for the carrier to use the limitation of liability privilege.

Critique

The Multimodal transport document produced by the plaintiff as evidence provides on its first page as:

*'1x 20
S.T.C
736 X CAN 3H1 (25 L) 35 KGS
NITRIC ACID 68%
IMO 8 (5.1) UN 2031 PG II*

*Reference to the sales contract are inserted upon shippers request only for their commercial purpose and the carrier is not privy to the documents and the value of the goods is not disclosed to the carrier.'*¹⁰⁶

Despite the inclusion of STC in the multimodal transport document, the defendant does not raise any kind of defense depending on the clause. The major issue here will be why then the multimodal transport operator insert the clause if does not raise any defense depending on it.

From the multimodal transport document it is easily infer that the major issue should be whether the Container or the 736 cans have to be considered as package for limitation purpose since the MMO has inserted STC clause. Neither the defendant nor the court has made this an issue and this make the insertion of STC in multimodal transport document meaningless.

3.2.3.4. Case 4

Plaintiff: Birhan Insurance Share Company

Defendants: Ethiopian Shipping and Logistics services Enterprise,

Forum: Federal First Instance Court Lideta Division, 12th Civil Bench

File Number: 229130

Date of Judgment: 21/02/09 E.C (31/10/2016 G.C)

The facts of the case:

- The plaintiff institute the law suit by subrogating a consignee by alleging that it has paid compensation to the consignee due to the fact that, though the defendant has received 556 bundle of cables to transport as per contract of carriage by see the defendant does not deliver

¹⁰⁶The multi modal transport document number RTM- C0001 was produced as evidence by the plaintiff and could be accessed in File Number 205570, Federal First Instance Court, Lideta Division, 6th civil bench

23 bundles because there were short landed. Therefore, the plaintiff requested the court to order the defendant to reimburse the value of the short landed barrels of bitumen.

- One of the defenses of the defendant was that the defendant should not be liable for the damages goods since the cargo is counted and loaded by the shipper and the quantity of the goods are as declared by the shipper.

The ruling of the court:

The court has rendered that the defendant is liable for the 23 short landed cables.

Reasoning of the court:

The major justification for the decision of the court lies on article 184¹⁰⁷ and article 196 (2) of the maritime code of Ethiopia.

According to the court, though the bill of lading shows that the cargos are loaded, counted and packed by the sipper and though the bill of lading expressly state that the quantities of the goods is as described by the shipper such kind of reservations could only be raised against the shipper as per article 184 of the maritime code.

From the decision of the federal first instance court, we can generally infer that if the carrier has inserted quantities and nature of the goods it is not possible to raise defense based on reservation against claimant other than the shipper.

¹⁰⁷There is a typing error in the judgment in a way that the article written in the judgment is 384, which does not exist in the maritime code of Ethiopia.

CHPATER FOUR

AD VALOREM TRANSPORT DOCUMENT

4.1. Meaning of Ad Valorem Transport document

A transport document could be referred as ad valorem transport document when the value of a cargo is declared in the transport document.¹⁰⁸ Ad valorem is Latin for “to the value”¹⁰⁹ and ad valorem transport document is a transport document which shows the value of the goods covered by the transport document.

Professor Charles Debattista and Elisabeth Birch define ad valorem bill of lading as follows:

*An ad valorem bill of lading is one that expressly states the value of the subject cargo on the face of the bill of lading.*¹¹⁰

Therefore, in order to be called an ad valorem the transport document shall show the value of the goods.

4.2. When do we say that the value of a good is declared in the transport document?

Different literatures and judicial decisions show that there is no consensus in answering the question “When do we say that the value of the goods is declared in the transport document? The major reason for the controversy is the insertion of the commercial information in the transport documents and the consequence of such insertion.

According to some scholars the insertion of details of commercial information like number of LC and commercial invoice in the transport document may tantamount to declaring the value of the goods in the transport document and has effect on the liability of the transport operator.¹¹¹

Other scholars argued that the term value is clear enough in a way that does not need interpretation and inserting commercial information in no way be considered as inserting the value of the goods in the transport document.¹¹²

¹⁰⁸Lars Rhodin, 15 February 2011 <https://www.swedishclub.com/upload/P&I865/2011-02-ad-valorem-bills-of-lading.pdf> Last accessed on May 17, 2022

¹⁰⁹ Henry Campbell Black, M. A (n-15)

¹¹⁰Charles Debattista and Elisabeth Birch, Ad valorem bills and references to letters of credit in bills of lading: a practical guide, Charterers' Bulletin, August 2017: Available at: <https://www.standard-club.com/fileadmin/uploads/standardclub/Documents/Import/publications/bulletins/split-articles/2017/2608590-ad-valorem-bills-and-references-to-letters-of-credit-in-bills-of-lading-a-practical-guide.pdf> last accessed on May 20, 2022

¹¹¹**Hariesh Manaadiar**, Carrier refuses to show commercial information on the bill of lading, July 13, 2020 Available at: <https://www.shippingandfreightresource.com/commercial-information-relating-to-the-cargo-on-the-bill-of-lading> last accessed on May 20, 2022.

¹¹²Melaku Mekonen (n-31)

4.3. Why do shippers and consignees need the insertion of commercial information in transport documents?

Although there is no straight answer to the reason for this, inter office memos written by the legal services directorate of ESLSE and letter from ESLSE to National Bank of Ethiopia shows that the major reason that forced the shipper and consignees to require commercial information be included on the transport documents is the requirements thrust upon them by documentary credits like the Letter of Credit.

ESLSE has wrote a letter dated 17/12/2009 E.C (23/08/2017) with reference number ከጭመ/አይ/ጭደ/1271/2009 to National Bank of Ethiopia (NBE) by which ESLSE notified NBE that ESLSE is inserting information relating to sale contracts such as commercial invoice number, letter of credit number and purchase order number in the transport documents due to the requirement of the commercial banks while opening documentary credit. In the letter ESLSE requests the NBE to notify the commercial banks the fact that ESLSE will cease to show the information relating to the sale contract.

From the letter of ESLSE we can easily understand that the mere reason ESLSE is showing information relating to sale contract is due to the fact that the insertion of the information is required by banks while processing documentary credit.

4.4. Ad valorem transport document and its Effects as per Ethiopian law

4.4.1. Ad valorem Transport document as per Ethiopian law

Though there is no law that uses the term ad valorem transport document the Ethiopian maritime code and the multimodal transport of goods proclamation have important provision to understand ad valorem transport document.

Article 198 sub article 3 of the maritime code of Ethiopia provides as:

‘The statutory limitation may not be set up against the shipper where the nature and value of the goods have been declared by the shipper before shipment, and such declaration has been inserted in the bill of lading’

The above quoted provision of the law make it clear that in order to consider a bill of lading an ad valorem the value of the goods have to be declared by the shipper before shipment and such declaration shall be inserted in the bill of lading.

Article 20 sub article 1 of the multimodal transport of goods proclamation of Ethiopia reads as follows:

Where a multimodal transport operator becomes liable for any loss of, or damage to, any goods, the nature and value where of have not been declared by the consignor before such consignment have been taken in charge by the multimodal transport operator the liability of the multimodal transport operator to pay compensation shall not exceed special drawing rights 835 per package or other shipping unit or special drawing rights 2.5 per kilogram of gross weight of the goods lost or damaged, whichever is the higher.

According to the above quoted provision of the proclamation the declaration of the nature and the value of the goods look sufficient to deprive the multimodal transport operator his right to limit his liability. In other words, the insertion of the nature and value of the goods in the multimodal transport document is not stated as a condition.

On top of this, there is difference between the Amharic and the English version of the provision. The Amharic version of part of the provision reads as follows:

“...በላኪው ዓይነታቸውና ዋጋቸው የመልቲሞዳልት ራንስፖርት ሰነድ ላይ ያልተገለጹ ማናቸውም ዕቃዎች ቢጠፉ ...”

“...where goods whose nature and value of the goods have not been declared by the shipper on the multimodal transport document are lost...”¹¹³

Since the Amharic version prevails over the English version we can say that as per the MTGP, MTD is considered as an ad valorem when the value of the goods is shown in the document. But it will be important to mention that in one court case, the court take the meaning of the English version and decided that though the value as well as the commercial invoice is not inserted in the multimodal transport document the MTO could not claim limitation of liability if the value is stated in commercial invoice.¹¹⁴

4.4.2. Does inserting commercial invoice or letter of credit number make a transport document an ad valorem?

As per Ethiopian law there is no clear provision of law that gives an answer to this question does the insertion of commercial invoice or letter of credit number make a transport document an ad valorem? But there are different court decisions that give answer to this question.

The legal service directorate of ESLSE wrote an inter-office memo dated 26/05/2009. The subject of the memo was the consequence of showing the nature of the goods and the insertions of numbers of commercial invoice, letter of credit or Performa invoice before courts of law.

¹¹³The translation is made by the author himself and should not be taken as authoritative translation of the provision.

¹¹⁴Lion Insurance Share Company Vs ESLSE, File No. 205570, Federal First Instance Court Lideta Division (04/07/07)

The legal service directorate states four court cases whereby inserting the number of commercial invoice or letter of credit are considered insertion of the value of the goods in the transport documents. Among the four cases stated in the memo the first case is considered as the initial and triggering decision.

The triggering case was the case between Nyala Insurance Share Company and Ethiopian Shipping lines (The current ESLSE). The case was started at first instance court whereby Nyala Insurance SC was a plaintiff and Ethiopian Shipping Lines was a defendant. The major allegation of the plaintiff was that among the 50 boxes of glasses 10 boxes were found damaged and the defendant shall reimburse the compensation paid to the client of the plaintiff. The first instance court decided that the defendant is liable for the damage but the extent of liability is 500 per package and the total liability amount shall be 5000.¹¹⁵ The high court confirmed this decision.

But Nyala insurance share company took the case to cassation bench and the cassation bench reversed the decision of the lower courts and decided that indicating letter of credit number in the bill of lading is considered as inserting the value of the goods and the carrier could not limit his liability.¹¹⁶

According to the inter-office memo of the legal service directorate and different court files, following the decision of the cassation bench on file number 52667 ESLSE have inserted the following clause in the transport documents:

Reference to the sales contract are inserted upon shippers request only for their commercial purpose and the carrier is not privy to the documents and the value of the goods is not disclosed to the carrier.'

The legal service directorate of shipping lines clearly states that despite the insertion of such clause the courts do not accept the defense of ESLSE to limit its liability by citing the cassation case between Nyala Insurance SC and ESLSE.

But there are cases whereby courts do not take the insertion of commercial invoice or letter of credit as indication of the value of the goods in the transport document.

The first case was between National Ethiopia Insurance SC and ESLSE¹¹⁷. In this case the Insurance Company was a plaintiff and ESLSE was a defendant. The plaintiff claimed that 10 cartons of dark reflective glasses are found damaged while delivered at moja dry port and the

¹¹⁵Nyala Insurance Share Company Vs Ethiopian Shipping Lines, File No. 115523, Federal First Instance Court Lideta Division (03/03/2001 E.C)

¹¹⁶Nyala Insurance Share Company Vs Ethiopian Shipping Lines, Cassation File No. 52667, Federal supreme Court Cassation bench (12/04/2003 E.C)

¹¹⁷National Ethiopia Insurance Share Company Vs Ethiopian Shipping and Logistics Services, File No. 246366, Federal First Instance Court Lideta Division (22/10/2009 E.C)

defendant shall reimburse the compensation made to the client. Among the defenses raised by the defendant was the limitation of liability.

The multimodal transport document states as follows:

1x20 DARK BLUE REFLECTIVE GLASS

10 Documentary credit Number

OIBMARKIMP0052/13

Despite the inclusion of the number of letter of credit the court decided that though the multimodal transport document have shown the nature of the goods since the value of the goods does not indicated in the transport document the multimodal transport operator can use the limitation of liability as per article 20 of the proclamation.

The other case was between Birehan Insurance vs ESLSE.¹¹⁸ Though the plaintiff argue that the letter of credit number is indicated in the bill of lading this fact does not amount to inserting the value of the goods in the bill of lading and the carrier is entitled to limit his liability.

Generally, there is no uniform application on the effect of inserting information of sale contract on the transport.

In principle the transport operator has the right to limit liability¹¹⁹ but exceptionally is the nature and the value is declared to the transport operator and inserted in the transport document the transport document is considered as ad valorem and the transport operator will lose its right to limit liability. But to lose the right to limit liability both conditions must be satisfied cumulatively. The first precondition is the nature and the value of the goods must be notified before shipment while the second condition is the nature and value of the goods must be inserted in the transport document. Since this is an exception the preconditions must be interpreted narrowly and the insertion of commercial information should not be considered as insertion of value of the goods.

Article 5(c) (VI) of ESLSE standard bill of lading provides that the carrier's liability shall be limited as per the package limitation provided in the law unless the nature and value of the goods has been declared by the merchant before shipment and inserted in the bill of lading and extra freight paid on such declared value if required in that event the declared value shall be the basis for calculating the carriers liability.¹²⁰

Therefore, according to the standard contract in order to consider the transport document as an ad valorem the value of the goods shall be the basis for calculating the freight.

¹¹⁸Birehan Insurance Share Company vs Ethiopia Shipping and Logistics, File no 229130, Federal First Instance Court Lideta Division 12th bench (21/02/09)

¹¹⁹ MCE (n-4) article 198(1) ; MTGP (n-5) article 20(1)

¹²⁰ ESLSE'S standard bill of lading

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CONCLUSION AND RECOMMENDATION

5.1. Conclusion

Transport documents play important role in commercial transactions especially in international trade. In order to satisfy the needs of the parties involved in the international trade the transport documents have to fulfill some important elements.

In order to serve its major role i.e. document of title of goods the transport document shall indicate the goods represented by them. But sometimes the transport operators will not be in a position to ascertain the accuracy of the information provided by the shipper. Then what shall be done by the transport operator in case when the transport operator is not in a position to ascertain the accuracy of the information is treated differently by different international documents. While some of the international rules like Hague rule instruct the carrier to refuse to insert the description of the goods other international documents like International Multimodal transport of goods convention entitles the transport operator to put reservation clause in the transport convention.

It has been found that Maritime code of Ethiopia and the multimodal transport of goods proclamation hold different position regarding reservation clause like STC.

The maritime code of Ethiopia does not have any provision that allows shippers to insert a reservation clause regarding the nature, quantity and quality of the goods loaded in a package. The code rather instructs the carrier to refuse to show the nature, quality and quantity of the goods in case where there is no way to ascertain the accuracy of the information.

The courts of Ethiopia have adhered to the literal meaning of the code and rejected the defense raised by the carrier depending on STC. According to the court decisions the carrier shall refuse to insert descriptions of the goods in case where it is not possible to ascertain the accuracy of the information and once the carrier have inserted the description as per the request of the shipper he could not defense based on reservation clause against any party other than the shipper.

Unlike the maritime code of Ethiopia the multimodal transport of goods proclamation of Ethiopia recognizes reservations regarding the nature, quantity and quality of the goods.

The multimodal transport of goods proclamation under article 9 sub article 1 provides that the multimodal transport operators can insert a reservation clause in the multimodal transport document when he is not in a position to ascertain the accuracy of the information and according to article 10 except the particulars in respect of which and to the extent to which a reservation permitted under Article 9 has been entered the multimodal transport document shall be "prima facie" evidence of the taking in charge by the multimodal transport operator of the goods as described therein. The contrary reading of article 10 make it clear that in cases where the multimodal transport document has reservation clause it does not even be considered as prima facie evidence and the burden of proof will be on the claimant.

Ad valorem transport document is a document where bay the value of the goods are described in the face of it. One of the major effects of ad valorem transport document is its impact on limitation of liability in a way that if the nature and value of the goods are shown in the transports document the transport operator could not use of the legal liability limitation right.

But the major issue was when do we say that the value of the goods are shown in the transport document especially do insertion of commercial invoice or letter of credit in the transport document amounts to showing of value in the transport documents?

There is no clear answer to the above issue in the provisions of both maritime code of Ethiopia and multimodal transport of goods proclamation of Ethiopia. The courts of Ethiopia hold different positions regarding the issue. Some federal courts of Ethiopia decided that the insertion of commercial information in the transport documents make the transport document an ad valorem other federal courts of Ethiopia decided that showing of commercial invoice does not amount to insertion of value and the transport document will not be considered as ad valorem.

In addition to its role in the transport contract transport documents have played different role in different commercial transactions. Especially, the transport documents play an important role in custom clearance and documentary credit.

5.2. Recommendation

In order to comply with the practicable sea carriage in international trade and give some business efficacy to the maritime transport sector in so far as the particulars of the goods and other declarations in the transport documents the following are suggested:

- The maritime code of Ethiopia should be amended in a way that recognizes reservation by the carrier in case where the carrier is not in a position to ascertain the accuracy of the description provided by the shipper. The same amendment has already been made by the Visby rule on the Hague rule.
- The effect of the reservation clause regarding the liability of the carrier and on the limitation of liability shall be clearly provided in both the maritime code and multimodal transport of goods proclamation.

- The effect of insertion of commercial information in the transport documents shall be addressed by both maritime code of Ethiopia and multimodal transport of goods proclamation.
- Article 20 sub article 1 of the multimodal transport of goods proclamation shall be amended in the following points:
 - Since international practices shows that an ad valorem transport document is a document whereby the value of the goods are declared on the face of the transport document, the provision shall be clear enough to show this fact.
 - Commercial practices and other international documents make clear that in order to deprive the transport operators from limiting their liability the value of the goods must be declared to the transport operator before shipment and shall be shown in the transport document. The provision of the multimodal transport proclamation shall be amended in such a way that includes both conditions since both conditions have their own justifications.
 - The Amharic and the English version of the provisions must be amended to have an identical effect.

Bibliography

List of Books

- Chroley& Giles, Shipping Law (8th Edition, NJJ Gaskell, C Debattista and R J Swatton 1987)
- Robert Force, Admiralty and Maritime Law (USA Federal Judicial Center 2004)
- Yvonne Baatz, Maritime Law (3rd Edition, Informa Law from Routledge 2 Park Square, Milton Park, Abingdon, Oxon OX14 4RN 2014)
- Christopher Hill, Maritime Law (6th Edition)2014 Informa Law from Routledge 2 Park Square, Milton Park, Abingdon, Oxon OX14 4RN,
- Indira Carr, International trade Law, (4th Edition), Routledge-Cavendish 2 Park Square, Milton Park, Abingdon, Oxon OX14 4RN (2010)

List of Laws

- Maritime Code of the Empire of Ethiopia,1960, Proc. No. 164, Neg. Gaz. Extraordinary, 19th year, No. 1 (Maritime Code)
- Multimodal Transport of Goods Proclamation,2007, Proc. No.548, Fed. Neg.Gaz., year 13, no. 59(Multimodal Transport Proclamation)
- Maritime Sector Administration Proclamation, 2007, Proc. No. 549, Neg.Gaz, year 13, No.60,(Maritime Sector Administration Proclamation)
- Ethiopian Shipping and Logistics Services Enterprise Establishment Council of Ministers Regulation,2011, Reg. No.255, Fed, Neg.Gaz., year 18, no. 3
- Customs Proclamation, 2014, Proc. No.859, Fed. Neg.Gaz., year 20, no. 82(Customs Proclamation)
- United Nations Convention On international Multimodal Transport of goods (Multimodal Transport Convetion)

List of Journals

- ČaslavPejović, Clean Bill of Lading in Contract of Carriage and Documentary Clean Bill of Lading in Contract of Carriage and Documentary Credit: When Clean May not be Clean, Penn State Journal of law & International Affair, V. 4 <https://elibrary.law.psu.edu/jlia>
- Wada, Tsehai, Package Limitation under International Conventions and Maritime Code of Ethiopia: An Overview, Journal of Ethiopian Law, Vol. XXI, pp. 114- 137.

List of Dissertations

- Mitiku, Melaku, "Understanding the concept of limitation of liability per package/unit under a bill of lading contracts globally in general and in Ethiopia in particular" (2019) (WorldMaritimeUniversitDissertations.) https://commons.wmu.se/all_dissertations/1209
- KrailerKuarjai, International Carriage Of Goods By Sea: Problems In Bills Of Lading And Their Impact In Australia And Its Major Trading Partners In Asia, 1999 (Thammasat University) https://eprints.utas.edu.au/19717/1/whole_EuarjaiKrailerK1999_thesis.pdf,

List of Cases

- Ethiopian Insurance Corporation Vs Ethiopian Shipping Lines, File No. 157038, Federal First Instance Court Lideta Bench (10/03/03)
- Ethiopian Shipping Lines Vs Ethiopian Insurance Corporation, Appeal File No. 116537, Federal High Court Lideta Bench (15/06/04)
- Ethiopian Shipping Lines Vs Ethiopian Insurance Corporation, File No 79082, Federal Supreme Court (4/10/04)
- Lion Insurance Share ComapnyVs Ethiopian Shipping and Logistics Enterprise, File No. 205570, Federal First Instance Court Lideta Division (04/07/07)
- AmeleworkZewedeVsZengDongchagfuYongheng Import and Export Co. LTD and Ethiopian Shipping Lines, File No 111347, Federal High Court (11/06/2005 E.C)
- Birehan Insurance Share Company vs Ethiopia Shipping and Logistics, File no 229130, Federal First Instance Court Lideta Division 12th bench (21/02/09)
- Nyala Insurance Share Comapny Vs Ethiopian Shipping Lines, File No. 115523, Federal First Instance Court Lideta Division (03/03/2001 E.C)
- Nyala Insurance Share Comapny Vs Ethiopian Shipping Lines, Cassation File No. 52667, Federal supreme Court Cassation bench (12/04/2003 E.C)
- National Ethiopia Insurance Share ComapnyVs Ethiopian Shipping and Logistics Services, File No. 246366, Federal First Instance Court Lideta Division (22/10/2009 E.C)

