

Abstract

Once effective, Thailand and the global community will be, more or less, affected by the adoption of the United Nations Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea or the Rotterdam Rules built upon earlier conventions relating to the international carriage of goods by sea. Although Thailand has never been a signatory in any conventions relating to the international carriage of goods by sea, in particular, the Hague Rules, the Hague-Visby Rules, and the Hamburg Rules, there are some concerns on Thai laws. Mainly concerned, the Carriage of goods by sea Act B.E.2534 was enforced for many years with no texts describing upon electronic communication and electronic transport record even in the draft of the Amendment Act of the Carriage of goods by sea Act B.E.2534. Not only without the electronic communication and electronic transport record concerns, has the draft not been scheduled as an agenda to the parliament in the near future.

The thesis is aimed to understand the content of the Rotterdam Rules in accordance with the principles of the Transport Documents and Electronic Transport Records and also to compare its content with the earlier conventions, the Hague Rules , the Hague - Visby Rules and the Hamburg Rules as well as the acts of Thailand relating to the carriage of goods by sea, namely, the Carriage of goods by sea Act B.E.2534, the Multimodal transport Act B.E.2548 and the draft of the Amendment Act of the Carriage of goods by sea Act B.E.2534. The study will lead to comprehend the international principle and trend on the registration of the carriage of goods by sea in accordance with transport documents and electronic transport records that can brighten the harmonious and different content in the acts of Thailand. In case, that Thailand wants to be a member of the Rotterdam Rules, the study may be useful in learning the advantages and disadvantages.

The thesis has found that the Rotterdam Rules gives much attention on electronic transport documents by issuing a new chapter on electronic transport records. The new records works in the same way as the bill of lading, which includes three main features, the receipt of goods, the evidence of contract of carriage and the document of title. The Rotterdam Rules officially made a provision that electronic transport records can be used in comparison with the paper-based documentation and the convention also recognizes that electronic signatures are compatible to written signatures in order to facilitate businesses cooperating through electronic device. Moreover the convention has ratified the principles concerning the transport documents and electronic transport records by regulating the issuance, the use and effect of electronic transport record, the transfer of a negotiable electronic transport record and the evidentiary effect of the contract as well as instructing solution tendency on some technical matters such as identifying carrier.

Considering the convention provision upon the transport documents and electronic transport records, the author has found that it has never been issued in any former international convention relating to the international carriage of goods by sea as well as the Carriage of goods by sea Act B.E.2534 and the draft of the Amendment Act of the Carriage of goods by sea Act B.E.2534 of Thailand. Although the Multimodal transport Act B.E.2548 includes a provision concerning upon electronic information in multimodal bill of lading, the provision shows no detail. Therefore the Rotterdam Rules can give better harmonious principle upon the transport documents and electronic transport records with greater expedience and efficiency as intended by the United Nations Commission on International Trade Law (UNCITRAL)

In case of being a member of the convention, the author has found that Thailand can accept the Provision of the transport documents and electronic transport records since this particular provision in the Rotterdam Rules are more manifest and practical in accordance with International Trade and Electronic Commerce comparing to

the Carriage of goods by sea Act B.E.2534, the draft of the Amendment Act of the Carriage of goods by sea Act B.E.2534 and the Multimodal transport Act B.E.2548 of Thailand. Hence it is good to give a more concern on the Rotterdam Rules principles which can be implied into the relating acts of Thailand.

However since the Rotterdam Rules has no policy of making reservation in enforcing the convention, Thailand can not concern on the Provision of the transport documents and electronic transport records only but the other provisions as well before signing as a member state. In the author's opinion, the Carriage of goods by sea Act B.E.2534 needs to be amended and the draft of the Amendment Act of the Carriage of goods by sea Act B.E.2534 has not been enacted, it is an opportunity to apply the principles of the transport documents and electronic transport records in the Rotterdam Rules into the draft of the Amendment Act. The implementation can bring the country more manifest and practical acts covering matters of electronic information in contract of carriage of goods by sea; as well as much improvement on international maritime commerce.