

KANONGNIJ SRIBUAIAM : LEGAL ISSUES IN THE CONTRACT OF CARRIAGE OF GOODS BY SEA AND POSSIBLE SOLUTIONS BY THE DRAFT OF THE CARRIAGE OF GOODS BY SEA ACT B.E... THESIS ADVISOR : KRIRK VANIKKUL AND CHAYANTI GREIGARN, 379 PP.

The purpose of this thesis is to categorize those salient legal issues arising from the carriage of goods by sea contract which have been contested in the Thai Courts. There are seven issues of legal problems as follows. 1. The question whether the carriage of goods by sea contract includes the carriage within internal waters. 2. At present, Thailand has not yet enacted national law concerning the carriage of goods by sea. The question is that which law should be applied. 3. The question that who may be considered as a carrier. 4. The question of the liability of each carrier in the transport by several carriers. 5. The question of exemption and limitation to the liability of the carrier. 6. The question about the right of the consignee. 7. The question about the prescription. This thesis then proceeds to analyse the draft of the Carriage of Goods by Sea Act B.E.... proposed by the Ministry of Communication by comparing it with international conventions : the Hague-Visby Rules, partially in the light of the court's decisions rendered in the United Kingdom and the United States, and the Hamburg Rules. Following that, discussion is made as to whether the draft Act could be expected to resolve any of the above-mentioned questions.

It is submitted that this draft Act can only resolve some of the problems leaving some others untouched. The wording in some parts of the draft should be amended in order to avoid unnecessary ambiguities and some provisions should be altered to follow the Hague-Visby Rules in stead of the Hamburg Rules.

In all, this draft Act, when coming into force, would dispel the dilemma facing the Thai Courts on the problem of which legal provisions should apply to those cases arising out of the carriage of goods by sea contract. The certainty of the law will also entail consistency in its application.