

Callidus News

ADVOCATES, CONSULTANTS & NOTARY

BRANCHES: DUBAI | SINGAPORE | DELHI | MUMBAI | KOLKATA | CHENNAI | COCHIN info@calliduscmc.com

Dubai

Business Avenue Building
Office # 713, Port Saeed Road,
P.O. Box # 90992, Dubai, UAE.
Tel: +97142956664
Fax: +97142956099

Singapore

20 Maxwell Road
#04-02 D, Maxwell House
Singapore - 069113
Tel: +65 6221 4090

Delhi

D 1st 145 Basement (Rear)
Lajpat Nagar R 1
New Delhi - 110 024
Tel: +91 11 4132 1037

Mumbai

8-B, Dariya Building
2nd Floor, In between American
Dry Fruits & Zara, Dr. D.N. Road
Fort, Mumbai 400 001
Tel: 022-22853371

Chennai

Old No. 123, New No.255,
3rd Floor, Hussiana Manzil,
Ankapanaiken Street,
Parrys, Chennai - 600 001
Tel: +91 98 40 844463

Cochin

Near St. Joseph's High
School Chittoor Road,
Cochin - 12, India
Tel: +91 484 2391895
office@callidusindia.com



NEW CARRIAGE OF GOODS BY SEA BILL & THE BILLS OF LADING BILL, 2024:

IS INDIA TOWARDS MODERNISING THE MARITIME CARGO LAWS?

On August 9, 2024, the Indian Ministry of Ports, Shipping and Waterways introduced the new Carriage of Goods by Sea Bill, 2024 and the Bill of Lading Bill, 2024 in the Indian Parliament. Both the Acts

aim to repeal outdated laws and modernise the Indian maritime cargo laws and the law relating to bills of lading.

The Carriage of Goods by Sea Bill, 2024 as per its Preamble intends to provide for the responsibilities,

liabilities, rights and immunities attached to carriers with respect to the carriage of goods by sea and for connected matters. The Bill explicitly declares that the existing Indian Carriage of Goods by Sea Act, 1925 is repealed



THOUGHT
for the MONTH

Life is what happens when
you're busy making other
plans

JOHN LENNON

Callidus

The Callidus logo consists of a stylized blue wave graphic above the word 'Callidus' in a bold, sans-serif font.

and the new law will be replaced.

The 1925 Act is substantially based on the International Convention for the Unification of Certain Rules of Law relating to Bills of Lading of August 1924 famously known as the “Hague Rules”. However, the amendment of Hague Rules by the Visby Protocol in 1968 was not adopted or engraved into the Indian Act and thus the Act lacked in many ways. The monumental changes brought by the Hague-Visby Rules relating to its applicability, carrier’s obligation and the updated limitation of liability regime of the carrier were not included in the 1925 Indian Act. It is to remedy this loophole that the Indian Government introduced the new Bill which replicates and adopts the Visby Amendments under the Schedule of the Bill. The Carriage of Goods by Sea Bill, 2024 also expands its applicability to the carriage of goods by sea in ships carrying goods from any port in India to any other port, whether in or outside India. So, the Bill applies to Coastal Shipping as well unlike the Hague Rules. It also explicitly declares that there shall be no implied absolute undertaking on the carrier in the carriage

contract to provide a seaworthy ship.

The Bill of Lading Bill, 2024 as envisaged under its Preamble intends to make provisions for the transfer of rights of suit and all liabilities to the consignee named in a bill of lading and every endorsee of a bill of lading, to whom the property in the goods mentioned in the bill of lading shall pass, upon or because of a consignment or an endorsement, and for connected matters. It repeals the more than century-old, pre-independence statute the Indian Bills of Lading Act, 1856 and replaces the new Bill which mainly addresses two important aspects, namely, the transferring of all rights in respect of the contract contained in the bill of lading along with the property to the consignee or endorsee of the bill of lading; and ensuring that a transferred bill of lading in the hands of a bona fide holder be treated as conclusive evidence of the goods being laden on board.

It is undisputed that the Indian government is putting efforts to modernise the marine cargo laws. However, both bills were found

to be inadequate in addressing the technological and commercial advancements in the field of maritime transport. The government is trying to bring two new enactments whereas it could have been simply incorporated into the existing legislation by way of amendments as there are no notable modifications in the Bills to cope with changing times.

The Bill of Lading Bill fails to address the modern transport documents other than the traditional Bill of Lading used by the carrier and other related parties whereas the Carriage Bill is inadequate in the sense of expanding the definition of carrier as practically the carrier is no more the shipowner or the charterer alone. So, considering the fact that this Bill was introduced in August 2024, rather than reproducing the Visby amendments, it could have been drafted as a more liberating law to address all the present technological and commercial advancements to safeguard the rights of the multiple interested parties involved in an ocean carriage other than the shipper, consignee and the carrier ■

SAILING THROUGH CULTURES: EXPLORING THE IMPACT OF CULTURE ON MODERN MARITIME LAW

Introduction:

Maritime law, also known as admiralty law, governs activities and disputes that occur on navigable waters and is subject to interpretation and enforcement influenced by cultural factors. In the contemporary globalized world, where cultural diversity is recognized and celebrated, understanding the impact of culture on the interpretation and local enforcement of maritime law is crucial. This article aims to explore how culture shapes both the interpretation and enforcement of maritime law in the modern world.

Cultural Diversity and Legal Pluralism:

Different norms, values, and legal traditions shape societies all over the world, contributing to the cultural diversity of the modern world. The coexistence of multiple legal systems, such as international agreements, national laws, customary practices, and indigenous standards, is one way that this diversity is shown in marine affairs. This legal diversity affects local maritime law enforcement, as officials balance various cultural viewpoints to maintain compliance

and protect marine security.

Historical Legacies and Contemporary Realities:

Historical experiences, including colonialism, trade relations, and maritime conflicts, continue to shape contemporary interpretations of maritime law and enforcement

Alen Raju

Christ Academy Institute of
Law, Bengaluru

practices. Former colonial powers have left enduring legacies in maritime legal frameworks, influencing how laws are interpreted and enforced in post-colonial contexts. Historical disputes over territorial waters, fishing rights, and resource extraction also contribute to ongoing tensions and localized enforcement challenges in maritime regions around the world. Additionally, historical disputes and conflicts continue to inform contemporary maritime disputes, highlighting the enduring impact of cultural narratives on legal interpretations.

Societal Values and Environmental Concerns:

Cultural attitudes towards nature, oceans, and marine resources influence both the interpretation and enforcement of maritime law, particularly concerning environmental protection and conservation. Societies that prioritize sustainability, biodiversity conservation, and may adopt stricter enforcement measures to address issues such as pollution, overfishing, and habitat destruction. Conversely, cultures that prioritize economic development may face challenges in balancing economic interests with environmental imperatives in local enforcement efforts.

Community Engagement and Stakeholder Collaboration:

Effective local enforcement of maritime law often relies on community engagement and stakeholder collaboration, which are influenced by cultural dynamics. Indigenous communities, coastal residents, and fishing cooperatives play vital roles in monitoring maritime activities, reporting violations, and participating in enforcement efforts. Cultural sensitivity and trust building initiatives are essential for fostering collaboration between maritime authorities and local communities, ensuring effective enforcement and compliance with maritime regulations.



Technological Advancements and Capacity Building:

Advancements in technology, such as satellite monitoring, remote sensing, and digital communication systems, have enhanced local enforcement capabilities in maritime regions worldwide. However, the adoption and utilization of maritime technologies are influenced by cultural factors, including access to resources, technological literacy, and institutional capacity. Capacity-building initiatives that address cultural barriers and empower local enforcement agencies are essential for leveraging technological advancements in maritime law enforcement. Cultural perspectives on technological innovation and risk management can influence legal interpretations of emerging issues such as autonomous shipping, cybersecurity, and liability for accidents involving unmanned vessels. Moreover, cultural factors shape participation in international maritime organizations and the negotiation of multilateral agreements, affecting global governance of maritime activities.

Legal Education and Professional Development:

The interpretation and enforcement

of maritime law depend on the education, training, and professional development of legal practitioners and maritime enforcement officials. Cultural competence and awareness are integral components of legal education and training programs, enabling practitioners to navigate cultural nuances in interpreting and enforcing maritime regulations. Cross-cultural collaboration and knowledge exchange contribute to enhanced enforcement capacities and harmonized interpretations of maritime law at the local level.

Conclusion:

In conclusion, culture exerts a significant influence on the interpretation and local enforcement of maritime law in the modern world, shaping legal pluralism, historical narratives, societal values, community engagement, technological advancements, and professional development. Recognizing and addressing cultural dynamics are essential for fostering effective and equitable enforcement of maritime regulations, and ensuring maritime security, environmental sustainability, and socio-economic development in maritime regions worldwide ■

HOT NEWS

RO-RO TRAFFIC SURGES AT KHALIFA PORT

AD Ports Group has recorded a 30% surge in vehicle volumes through Auto terminal Khalifa Port in the first half of 2024. To meet high levels of demand the facility has recently added 90,000 m² (m.sq) of yard storage capacity, which is now in use.

The success of Autoterminal Khalifa Port been a significant contributor to the rapid overall growth of AD Ports Group over the past year. Saif Al Mazrouei, Chief Executive Officer, Ports Cluster, AD Ports Group, commented: "The record increase in first-half ro-ro volumes

exemplifies Khalifa Port's adaptive scalability, which is the product of years of forward-looking investment in cutting-edge infrastructure. This has enabled us to meet market demand in real-time."

AD Ports has recently strengthened its future position financially by reaching agreements with two UAE banks to refinance its syndicated loan of US\$ 2.25 billion at more favourable terms. This is expected to enable the Group to save up to AED 44 million (US\$ 12 million) in finance costs over the next 12 months. The new facilities will provide



more flexibility to optimally time a return to the debt capital markets in line with its stated strategy to utilise bonds as its predominant long-term funding vehicle ■

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ADV. JOY THATTIL SPEAKS AT COLD CHAIN UNBROKEN 2024: INNOVATING PERISHABLE LOGISTICS



We're excited to share that Adv. Joy Thattil, Managing Partner at Callidus Legal, recently participated as a featured speaker at the Cold Chain Unbroken Event 2024 - Season 5 in Hyderabad.

The event centered on the theme of "Innovating Cold Chains for Perishables", addressing the critical challenges and emerging opportunities in enhancing cold chain systems. Industry experts and key stakeholders came together to explore cutting-

edge solutions aimed at ensuring the safe, efficient, and sustainable transport of perishable goods.

Adv. Joy delivered an insightful session on the intersection of maritime law and cold chain logistics, highlighting the regulatory and compliance frameworks necessary for seamless international trade. His expertise reinforced Callidus Legal's ongoing commitment to pioneering legal strategies that support the evolving needs of the cold chain industry ■

Address: Near St. Joseph's High School, Chittoor Road, Cochin - 12, India, T: +91 484 2391895, office@callidusindia.com

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