

Transport Documents in International Maritime Conventions

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Abstract

This article aims to give an overview of the transport documents covered by the main international maritime conventions. The legal analysis emphasises the significance of electronic transport documents for enhancing international maritime trade. An analytical approach is employed to pinpoint legal solutions for the use of electronic transportation documents. The Rotterdam Rules 2008 set out the main rules on electronic transport documents, building on the CMI Rules on Electronic Bills of Lading, the UNCITRAL Model Law on Electronic Commerce 1996, and the UNCITRAL Model Law on Electronic Signatures (2001). The Rotterdam Rules provide for the alternative use of both transport documents and electronic transport records. The 2008 Rotterdam Rules address the issue of the negotiability of electronic transport records by establishing the conditions under which electronic systems can fulfil this function. From this perspective, the rules establish the principle of singularity, meaning that, concerning electronic documents, only one individual may possess them and exercise the rights associated with them. The other fundamental principle, known as the principle of equivalence in maritime e-commerce, establishes that both paper transport documents and electronic transport records possess equal legal value. The principle is demonstrated through the provisions regarding the issuance of electronic transport records, the inclusion of reservations in the contract particulars, and the evidentiary value of these contract particulars or the electronic signature. The provisions of the Rotterdam Rules 2008 concerning transport documents, including those in electronic format, are examined in relation to the provisions of the Hague-Visby Rules 1968 and the Hamburg Rules 1978.

Keywords: *transport documents, electronic transport records, principle of equivalence, Hague-Visby Rules 1968, Hamburg Rules 1978, Rotterdam Rules.*

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1. Introductory Considerations

The first international instrument to introduce electronic communication in maritime trade is the CMI Rules on Electronic Bills of Lading. These rules established the principle of equivalence in electronic commerce², which asserts that a message from

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² David Martin-Clark, „Electronic documents and the Rotterdam Rules”. In Rhidian Thomas (ed.), *The Carriage of Goods by Sea Under The Rotterdam Rules*, Informa Law from Routledge, London, 2010, pp. 283-294, p. 284.

the carrier acknowledging receipt of goods from the shipper carries the same weight and has the same legal implications as a receipt contained in a traditional paper bill of lading³. The CMI rules have introduced a second fundamental principle underpinning electronic commerce, namely the principle of uniqueness. Each receipt message is accompanied by a private key. A private key is a technically suitable form, such as a combination of numbers and/or letters, that the parties agree upon to ensure the authenticity and integrity of a transmission⁴. The private key is unique for each successive holder⁵. The holder must not transfer the private key and is responsible for ensuring its security. In accordance with this principle of uniqueness, the carrier issues a new private key to each successive holder⁶.

The UNCITRAL Model Law on Electronic Commerce 1996 establishes rules concerning the formation and validity of contracts made through electronic means. It addresses the attribution of data messages, the acknowledgement of receipt, and the determination of the time and place for both sending and receiving data messages⁷. The UNCITRAL Model Law on Electronic Signatures (2001) is based on the fundamental principles common to all UNCITRAL texts relating to electronic commerce, in particular the principle of functional equivalence⁸. Under this model law, legislation acknowledges both digital signatures that utilise cryptography and electronic signatures employing alternative technologies. The three international instruments serve as the foundation for the introduction of special rules regarding electronic transport documents in the Rotterdam Rules 2008. In practice, various electronic systems function as the digital equivalent of shipping documents, including Bolero⁹ and essDocs¹⁰. Both systems utilise contractual mechanisms to transfer rights associated with an electronic bill of lading¹¹.

2. Transport Documents in International Maritime Conventions

A 'transport document' refers to a document issued by the carrier under a contract of carriage, which acknowledges the receipt of goods or serves to prove the

³ Comité Maritime International, CMI Rules on Electronic Bills of Lading, 1990, <https://comitemaritime.org/work/rules-for-electronic-billing-of-lading>, accessed on 10 December 2025.

⁴ *Idem* Article 2.

⁵ *Idem* Article 8 a.

⁶ *Idem* article 7 b (v).

⁷ United Nations Commission on International Trade Law, UNCITRAL Model Law on Electronic Commerce (1996) https://uncitral.un.org/en/texts/ecommerce/modellaw/electronic_commerce, accessed on 10 December 2025.

⁸ United Nations Commission on International Trade Law, UNCITRAL Model Law on Electronic Signatures (2001) https://uncitral.un.org/en/texts/ecommerce/modellaw/electronic_signatures, accessed on 10 December 2025.

⁹ Simon Baughen, *Shipping Law*, Routledge Cavendish, 2009, p. 25, <https://doi.org/10.4324/9780203876824>.

¹⁰ ICE Digital Trade, <https://www.essdocs.com/>, accessed on 10 December 2025.

¹¹ Stephen Girvin, Nelson Ong, „Electronic Bills of Lading, Blockchain and distributed Ledger Technology (DLT)”. In Stephen Girvin and Vibe Ulfbeck (eds), *Maritime Organisation Management and Liability. A legal analysis of the new challenges in Maritime Industry*, Hart Publishing, 2022 (pp.195-223), p.198.

existence of such a contract¹². The transport document must be issued either by the carrier or by an executing party acting on the carrier's behalf. However, if the executing party issues the document in its own name, it shall not be regarded as a transport document under the carrier's carriage contract¹³.

Transport documents are categorised as either negotiable or non-negotiable. According to the provisions of the Rotterdam Rules 2008, the electronic transport document correspondent aligns with the definitions and classifications of a standard transport document. The terminology is intentionally different from that of the electronic transport record. Electronic transport records note means information in one or more messages issued by electronic communication pursuant to a contract of carriage by a carrier. The terminology used here intentionally differs from that of the electronic transport record. Electronic transport records refer to information contained in one or more messages transmitted electronically, in accordance with a contract of carriage established by a carrier¹⁴. This includes information that is logically associated with the electronic transport record, either through attachments or by being linked to the record at the same time as, or after, its issuance by the carrier, thereby becoming part of the electronic transport record¹⁵. The electronic transport record serves as evidence of the receipt of goods by the forwarder or another party involved in the contract of carriage. Additionally, it may also function to confirm or include the terms of the contract of carriage¹⁶. Transport documents and electronic transport records hold equal legal value. According to the Rotterdam Rules, the issuance, exclusive control, or transfer of an electronic transport record is deemed to have the same effect as the issuance, possession, or transfer of a traditional transportation document¹⁷. The principle of functional equivalence states that the same legal concepts ensure the replication of the objectives achieved by the use of transport documents¹⁸. The Rotterdam Rules 2008 recognise both the transport document and the electronic transport record as negotiable instruments. A transport document, regardless of its variant, demonstrates negotiability through phrases such as "to order" or "negotiable". This indicates that the goods are shipped on

¹² Article 1 para 14 United Nations Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea (New York, 2008).

¹³ Michael F. Sturley, Tomotaka Fujita, Gertjan van der Ziel, *Transport Documents*, in Michael F. Sturley, Tomotaka Fujita, Gertjan van der Ziel, *Rotterdam Rules: The Un Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea*, Sweet & Maxwell, 2010, p. 205.

¹⁴ *Idem* Article 1 para 18. United Nations Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea (New York, 2008). Lærke Bjørka Fosgaard, *The Transfer of Rights in a Digitalised Age*. Aalborg Universitetsforlag 2023, p. 111, <https://doi.org/10.54337/aau532691570>.

¹⁵ *Ibidem*.

¹⁶ *Ibidem*.

¹⁷ *Idem* Article 8 letter b). Hakan Karan, „Transport Documents in the Light of the Rotterdam Rules”. In Meltem Deniz Güner-Özbek (editor), *The United Nations Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea: An Appraisal of the "Rotterdam Rules"* Springer-Verlag Berlin and Heidelberg GmbH & Co. KG, 2011, pp. 229-248, p. 232, https://doi.org/10.1007/978-3-642-19650-8_9.

¹⁸ Elson Ong, *Blockchain Bills of Lading* (August 2, 2018). NUS Law Working Paper No. 2018/020, NUS - Centre for Maritime Law Working Paper 18/07, p. 14, https://law.nus.edu.sg/wp-content/uploads/2020/04/020_2018_Elson.pdf, accessed on 10 December 2025.

the order of the interested parties or the carrier, unless they are explicitly marked as "non-negotiable"¹⁹.

The 2008 Rotterdam Rules define a negotiable transport document as a mixture of uniform provisions and national law²⁰. While the first part of the definition reflects a uniform law perspective, the second part addresses the variations found in different formulations across national jurisdictions²¹. The Rotterdam Rules permit the use of "other appropriate wording recognised as having the same effect by the law applicable to the document" to signify that the transport document is negotiable²². Transportation documents that lack negotiability will be classified as "non-negotiable transport documents"²³. In international maritime transport, seawaybills are predominantly used. A key distinction between a non-negotiable electronic transport record and its paper-based equivalent is that it is no longer necessary to present an electronic document when transferring the goods to the consignee²⁴. The exception pertains to straight bills of lading, which represent a specific subcategory of non-negotiable transport documents that must be surrendered to facilitate the delivery of goods²⁵. The Rotterdam Rules do not offer an electronic alternative for straight bills of lading²⁶.

3. Electronic Transport Records

Any item that must be included in or on a transport document under the Convention may be recorded in an electronic transport record. This is conditional upon the issuance and subsequent use of the electronic transport record being carried out with the consent of both the carrier and the shipper²⁷. The issuance, exclusive control, or transfer of an electronic transport record shall carry the same legal implications as a traditional transport document²⁸. Does the consent expressed by the shipper for subsequent use of the electronic transport record automatically extend to each further use of the record, or is specific consent required for each instance of use?²⁹ It has been

¹⁹ Article 1 para 15. United Nations Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea (New York, 2008).

²⁰ Michael F. Sturley, Tomotaka Fujita, Gertjan van der Ziel, *op. cit.* (*Transport Documents*), p.207.

²¹ *Ibidem*.

²² *Ibidem*.

²³ Article 1 para 16 and para 20 United Nations Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea (New York, 2008).

²⁴ Michael F. Sturley, Tomotaka Fujita, Gertjan van der Ziel, *op. cit.* (*Transport Documents*), p. 208.

²⁵ Tomotaka Fujita, „Transport Documents and Electronic Transport Records” in Alexander von Ziegler, Stefano Zunarelli, Johan Schelin (eds.) *The Rotterdam Rules 2008: Commentary to the United Nations Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea*, Kluwer Law International, BV The Netherlands, 2010 (pp. 161-188), p.162.

²⁶ *Ibidem*.

²⁷ Article 8 United Nations Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea (New York, 2008).

²⁸ *Ibidem*

²⁹ Charles Debatista, „Electronic transport Records” in Yvonne Baatz, Charles Debatista, Filippo Lorenzon, Andrew Serdy, Hilton Staniland, Michael Tsimplis (eds.) *The Rotterdam Rules A Practical Annotation*, Informa Law from Routledge, 2009. (pp. 23-28), p. 25.

suggested in the doctrine that, to support the negotiability of the electronic transport record, it is preferable to view consent as extending to each subsequent use of the electronic record³⁰. In international maritime trade, bills of lading are primarily utilised as negotiable transport documents. This negotiable characteristic of bills of lading presents legal challenges when electronic bills of lading are employed. The document of title serves as proof of ownership for goods that can be transferred during transit. In the context of an electronic bill of lading, there was an ongoing debate regarding who holds legal ownership of the electronic counterpart of the negotiable transport document, who is authorised to transfer ownership, and who possesses the right to claim the delivery of the goods upon their arrival at the destination³¹. The Rotterdam Rules tackle the question of the negotiability of electronic transport records by outlining the conditions necessary for electronic systems to fulfil this role. The process for issuing a negotiable electronic transport record is governed by procedures that guarantee the document remains under the exclusive control of a single individual from the moment of its creation until it loses all effect or validity³². In a similar manner, the transfer of a negotiable transport record signifies the transfer of its exclusive control³³.

To ensure that negotiable electronic transport records are utilised as effectively as ordinary bills of lading, the Rotterdam Rules establish a set of procedures that must be adhered to. These procedures outline the method for issuing and transferring the document to a named holder, provide assurances regarding the integrity of the negotiable electronic transport record, detail how the holder can demonstrate their status as the holder, and describe the process for confirming that delivery to the holder has been completed³⁴. These procedures are outlined in the contractual provisions and can be easily verified³⁵. The defining aspect of the procedures is singularity; specifically, only one individual can hold a negotiable electronic transport record and exercise the rights associated with that status³⁶.

Several legal consequences arise when the parties agree to replace a negotiable transport document with a negotiable electronic transport record. First, the holder must give the negotiable transport document to the carrier. Secondly, the carrier is responsible for issuing a negotiable electronic transport record to the holder, which includes a statement confirming that it replaces the negotiable transport document. Thirdly, the legal effects or validity of the negotiable transport document will cease³⁷.

³⁰ *Ibidem*

³¹ Jose Angelo Estrella Faria, „Electronic Transport Records”. In Alexander von Ziegler, Stefano Zunarelli, Johan Schelin, *The Rotterdam Rules 2008: Commentary to the United Nations Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea*, Kluwer Law International, BV The Netherlands, 2010 (pp.51-70), p.61; see also Samantha Peel. *Development of the bill of lading: its future in the maritime industry*. Thesis. University of Plymouth. (2002), p. 235, <http://dx.doi.org/10.24382/4271>.

³² Article 1 para 21 United Nations Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea (New York, 2008).

³³ *Idem* Article 1 para 22.

³⁴ *Idem* Article 9 para 1

³⁵ *Idem* Article 9 para 2.

³⁶ David Martin-Clark, *op. cit.*, p.292.

³⁷ Article 10 para 1 United Nations Convention on Contracts for the International Carriage of Goods Wholly

In the case where the electronic transport document is superseded by a negotiable transport document, the carrier is required to issue a declaration stating that it replaces the negotiable electronic transport document, thereby rendering the electronic transport document null and void³⁸.

Only the holder of an electronic transport record has the right to control the goods³⁹. The right shall be exercised throughout the entire period of the carrier's responsibility. This shall encompass the right to issue instructions regarding the goods, the right to ensure delivery of the goods at a designated port of call, or, in the case of land transportation, at any location along the route. Additionally, it includes the right to replace the consignee with another individual, including the controlling party⁴⁰.

4. The Principle of Functional Equivalence in Practice

The Rotterdam Rules stipulate that when the shipper hands over goods for carriage, they are entitled to receive either a non-negotiable transport document, an appropriate negotiable transport document, or these documents in electronic form from the carrier. This entitlement is applicable unless there is a specific agreement between the shipper and the carrier or if prevailing commercial practices suggest otherwise⁴¹.

The Hague-Visby Rules 1968 stipulate that a carrier must issue a negotiable transport document upon request, but only if the contract of carriage is supported by a bill of lading⁴². The Hamburg Rules emphasise the carrier's duty to issue a bill of lading in accordance with the carriage contract⁴³. One distinguishing feature of the Rotterdam Rules, compared to the two international instruments mentioned, is that the issuance of a transport document is not mandatory. Furthermore, the shipper has the option to request a non-negotiable transport document⁴⁴.

The transport document, including the electronic version, provides a comprehensive list of information. The information to be provided by the shipper shall pertain to the description of the goods and the leading marks necessary for their identification, as well as the number of packages or pieces, alongside the quantity and

or Partly by Sea (New York, 2008).

³⁸ *Idem* Article 10 para 2.

³⁹ David Martin-Clark, *op. cit.*, p.292.

⁴⁰ Article 50 United Nations Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea (New York, 2008).

⁴¹ *Idem* Article 35.

⁴² Francis Reynolds, „Transport Documents under International Conventions” in Rhidian Thomas, *The Carriage of Goods by Sea under The Rotterdam Rules*, Lloyds List, London, 2010, (pp. 271-282), p. 272; Article III.3 International Convention for the Unification of Certain Rules of Law relating to Bills of Lading ("Hague Rules") as Amended by the Brussels Protocol 1968 ("Hague-Visby Rules") and by the Brussels Protocol 1979.

⁴³ Article 14 para 1 United Nations Convention on the Carriage of Goods by Sea (Hamburg Rules) 1978.

⁴⁴ Francesco Berlingieri, *A comparative analysis of the Hague-Visby Rules, the Hamburg Rules and the Rotterdam Rules*, paper delivered at the General Assembly of the International Association of Average Adjusters-AMD, Marrakesh, 5-6 November 2009, p. 25. <https://comitemaritime.org/wp-content/uploads/2018/05/Comparative-analysis-of-the-Hague-Visby-Rules-the-Hamburg-Rules-and-the-Rotterdam-Rules-1.pdf>, accessed on 10 December 2025.

weight of the goods⁴⁵. The carrier is required to provide information regarding the name and address of the carrier, the date on which the goods were received or loaded onto the vessel, or the date of issuance of the transport document or electronic transport record. Additionally, the carrier must specify the number of originals of the negotiable transport document in instances where more than one original has been issued⁴⁶. The information must also include references to the declaration of the apparent condition of the goods at the time they are received for carriage by the carrier or a performing party. The term "apparent condition of the goods" refers to the state in which the packaged goods are handed over, determined through an external inspection and any additional assessments carried out by the carrier or the performing party prior to the issuance of the transport document, which may also be in electronic form⁴⁷. The shipper is responsible for providing the consignee's name and address. The carrier must communicate the ship's name, the place of receipt, the place of delivery, and the ports of loading and discharging, if these details are specified in the transport contract⁴⁸. The Hamburg Rules 1978, which outline the information required in the transport document, are comparable to the provisions⁴⁹. Compared to the provisions of the Hague-Visby Rules 1968, the Rotterdam Rules require a significantly more comprehensive list of information to be included in the transport document, including those in electronic format⁵⁰. A notable omission in the Hague-Visby Rules 1968 is the absence of provisions for the description of goods⁵¹.

The absence or inaccuracy of the contractual particulars shall not invalidate the transport document or the electronic transport record⁵².

The carrier may make reservations to indicate that it does not accept responsibility for the accuracy of the information provided by the shipper⁵³. The carrier shall not assume liability if it has sufficient reason or knowledge that a material statement in the contract of carriage is false or misleading⁵⁴. Reservations may be made if the carrier is unable to verify the information provided by the shipper or suspects it to be inaccurate⁵⁵. The measure is applicable in cases where goods are either not provided for transportation in a container or are provided in a container and subsequently inspected by the carrier or another party responsible for performance⁵⁶. If

⁴⁵ Article 36 para 1 United Nations Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea (New York, 2008).

⁴⁶ *Idem*, Article 36 para 2.

⁴⁷ *Idem*, Article 36 para 4.

⁴⁸ *Idem* Article 36 para 3.

⁴⁹ Article 15 United Nations Convention on the Carriage of Goods by Sea (Hamburg Rules) 1978.

⁵⁰ Article III.3 Hague-Visby Rules.

⁵¹ Filippo Lorenzon, „Transport Documents and Electronic Transport Records” in Yvonne Baatz, Charles Debattista, Filippo Lorenzon, Andrew Serdy, Hilton Staniland, Michael Tsimplis (eds.) *The Rotterdam Rules A Practical Annotation, Informa Law from Routledge*, 2009. (pp.99-122), p.103.

⁵² Article 39 para.1 United Nations Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea (New York, 2008).

⁵³ *Idem* art.40 para.2.

⁵⁴ *Idem* art.40 para.1.

⁵⁵ *Idem* art.40 para.3.

⁵⁶ *Ibidem*.

the goods are delivered in a closed container, the carrier may make reservations concerning the description of the goods, the leading marks necessary for identification of the goods, the number of packages or pieces and the weight of the goods⁵⁷.

In the Rotterdam Rules, the carrier is prohibited from making any reservations regarding the apparent condition of the goods or any other information provided by the shipper, except for those mentioned above⁵⁸. Furthermore, the act of making a reservation is an option available to the carrier rather than an obligation, as stipulated in the Hamburg Rules of 1978⁵⁹. The legal implications of absent reservations in a transport document are governed by national regulations. The Rotterdam Rules do not address this matter⁶⁰. The transport document, or electronic transport record, is the primary proof of the carrier's receipt of the goods⁶¹. The evidentiary effect of the provisions of a contract of carriage or an electronic transport record does not apply between a carrier and a bona fide consignee when certain conditions are satisfied. In such cases, the carrier is unable to prove otherwise regarding the contract details if the negotiable transport document — whether in electronic form or otherwise — is transferred to a bona fide third party⁶². The prohibition also applies when the contractual provisions are included in a non-negotiable transport document, which may also be in electronic form and transferred to a bona fide consignee⁶³.

Certain details of the contract of carriage, as contained in the non-negotiable transport document or non-negotiable electronic transport record, constitute evidence that cannot be challenged by the carrier through any means of proof. The contract particulars shall encompass the description of the goods, leading marks essential for their identification, the number of packages or pieces, the quantity of goods, the weight of goods when supplied by the carrier, the number, type, and identification numbers of the containers (excluding the identification numbers of the container seals), a statement regarding the apparent condition of the goods, the name and address of the carrier, the date on which the goods were received, or alternatively, the date of loading the goods on board, along with the date on which the transport document or electronic transport record was issued⁶⁴.

If the carrier has made reservations about the content of the transport document, the above provisions shall not apply⁶⁵. The Hague-Visby Rules contain provisions on the evidentiary effect of transport documents that are similar in nature but specifically refer only to bills of lading. The evidentiary effect is significantly narrower than that of the Rotterdam Rules, as it only applies to the description of the goods, the necessary leading marks for identification, the number of packages or pieces, the quantity of

⁵⁷ *Idem* art.40 para.4.

⁵⁸ Michael F. Sturley, Tomotaka Fujita, Gertjan van der Ziel, *op. cit.* (*Transport Documents*), p.228.

⁵⁹ Article 16 para.1. United Nations Convention on the Carriage of Goods by Sea (Hamburg Rules) 1978.

⁶⁰ Tomotaka Fujita, *op. cit.*, p.180.

⁶¹ Article 41 lit. a United Nations Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea (New York, 2008).

⁶² *Idem* Article 41 lit. b (I).

⁶³ *Idem* Article 41 lit. b (II).

⁶⁴ *Idem* Article 41 lit.c.

⁶⁵ *Idem* Article 41.

goods, and their apparent condition⁶⁶. The Hamburg Rules 1978 extend evidentiary effect to non-negotiable transport documents⁶⁷. The carrier may not plead against the holder or the consignee non-payment of freight where the contract of carriage contains the words "freight prepaid"⁶⁸. The provision, therefore, prohibits the enforcement of a lien on goods due to the nonpayment of freight⁶⁹. The claim cannot be permitted against the holder or the consignee, as it would result in estoppel⁷⁰. The prohibition shall not apply when the shipper is either the holder or the consignee⁷¹. The Hague-Visby Rules of 1968 and the Hamburg Rules of 1978 lack such provisions. The transport document is signed by the carrier or the person acting on his behalf⁷². An electronic transport record, similar to a transport document, includes an electronic signature of the carrier or a person acting on his behalf. The electronic signature serves to identify the signatory with respect to the electronic transport record and signifies the carrier's authorisation of the record⁷³. The Rotterdam Rules do not include any provisions regarding the definition of an electronic signature, the format it may take, or the legal implications of an unauthorised signature on a transport document⁷⁴. The provisions of national legislation are applicable in this instance for regulating electronic signatures on electronic transport records⁷⁵. The Hamburg Rules 1978 contain similar provisions, elaborating on the term "signature," which may be executed by "electronic means if it is not incompatible with the law of the country in which the bill of lading is issued."⁷⁶

If the carrier is identified in the contract of carriage, any details in the transport document or electronic records that are inconsistent with this identification shall be rendered void⁷⁷. If the carrier isn't named in the contract of carriage but the goods are loaded on a named ship, the ship's registered owner is presumed to be the carrier⁷⁸.

The registered owner of the vessel can challenge the presumption in two distinct ways. He may demonstrate that the vessel was operating under a bareboat charter contract at the time of the shipment and must specify the identity and address of that charterer⁷⁹. Alternatively, it may specify the identity of the carrier and provide his

⁶⁶ Article III.4 International Convention for the Unification of Certain Rules of Law relating to Bills of Lading ("Hague Rules") as Amended by the Brussels Protocol 1968 ("Hague-Visby Rules") and by the Brussels Protocol 1979.

⁶⁷ Article 16 para 3, article 18 United Nations Convention on the Carriage of Goods by Sea (Hamburg Rules) 1978.

⁶⁸ Article 42 para.1 United Nations Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea (New York, 2008).

⁶⁹ Filippo Lorenzon, *op. cit.*, p.121; Tomotaka Fujita, *op. cit.*, p.188.

⁷⁰ Michael F. Sturley, Tomotaka Fujita, Gertjan van der Ziel, *op. cit.* (*Transport Documents*), p. 238.

⁷¹ Article 42 para. 2 United Nations Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea (New York, 2008).

⁷² *Idem* Article 38 para 1.

⁷³ *Idem* Article 38 para 2.

⁷⁴ Michael F. Sturley, Tomotaka Fujita, Gertjan van der Ziel, *op. cit.* (*Transport Documents*), p.225.

⁷⁵ *Ibidem*

⁷⁶ Article 14 para 3 United Nations Convention on the Carriage of Goods by Sea (Hamburg Rules) 1978.

⁷⁷ Article 37 para 1 United Nations Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea (New York, 2008).

⁷⁸ *Idem* Article 37 para 2.

⁷⁹ *Ibidem*.

address. The charterer of a bareboat vessel may similarly take steps to counter the presumption that he is not the carrier⁸⁰. A claimant may demonstrate that someone other than the individual specified in the contractual provisions is the carrier⁸¹. Persons with cargo interests may utilise these provisions to acquire information from the charterer or bareboat charterer regarding their identity in the carriage contract⁸².

The provisions of the Rotterdam Rules aim to address practical issues, particularly regarding the delivery of goods, stemming from a lack of clarity about the identity of the carrier⁸³.

5. Conclusions

The most significant international instruments governing the carriage of goods by sea, namely the Hague-Visby Rules of 1968 and the Hamburg Rules of 1978, do not mention electronic transport documents. The Rotterdam Rules seek to enhance electronic commerce by introducing a new category of documents designed to facilitate international maritime trade. In addition to traditional transport documents, such as bills of lading and seawaybills, the rules incorporate electronic transport records.

The Rotterdam Rules allow for the alternative use of transport documents and electronic transport records. The provisions have replaced the term "bill of lading" with the more generic term "transport document". It is defined by its functions: it is issued by the carrier based on the transport document; it serves as proof of receipt of the goods on board the ship; and it proves or contains the transport contract. The Rotterdam Rules introduce important new terminology relevant to electronic communication. They tackle the issue of the negotiability of electronic transport records by outlining the conditions necessary for electronic systems to fulfil this role. Additionally, the rules clarify the process for substituting a negotiable transport document with a negotiable electronic transport record, as well as the legal implications of this transition.

The Rotterdam Rules largely extend the provisions of the Hague Visby Rules 1968 and the Hamburg Rules 1978 by giving a central functional role to the electronic transport records. According to the Rotterdam Rules, the principle of functional equivalence means that the issuance, exclusive control, or transfer of an electronic transport record has the same effect as the issuance, holding, or transfer of a transportation document. The principle of functional equivalence forms the foundation of the legal framework governing electronic transport records. This includes aspects such as the issuance of electronic transport records, the terms and clauses of contracts, the identification of the carrier, the use of electronic signatures, the handling of deficiencies in contract particulars, making reservations regarding goods specified in the contract particulars, the evidentiary effect of these particulars, and the management

⁸⁰ *Ibidem*

⁸¹ *Idem* Article.37 para 3.

⁸² Tomotaka Fujita, *op. cit.*, p. 172.

⁸³ Lijun Zhao, „An Analysis of Transport Documents and Electronic Transport Records under the Rotterdam Rules”, in Massimiliano Musi, Stefano Zunarelli (Eds.), *Current Issues in Maritime and Transport Law*, Bologna: Bonomo Editore, 2016, (pp 1-28), p.15.

of prepaid freight.

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