

Abstract

The bill of lading is one of the most important international trade documents. Electronic bill of lading (EBL) is a new form of bill of lading combining with Electronic Data Interchange (EDI) technology reflecting electronic era in modern business. This thesis explores the characteristics, advantages and challenges of electronic bills of lading, along with the operation and legal mechanism in order to develop a more mature legislation and contractual system of EBL. It can be foreseen that bill of lading will be more widely used with the development of international trading system.

The two major legal issues of electronic bills of lading are legal recognition of electronic form of documentation and functional equivalency of their paper counterpart. Electronic bills of lading are demanded to fulfill the legal requirements as writing, signature and original in digital environment. The bill of lading performs three functions as receipt of goods, contract of carriage and document of title. The functional equivalence requires that these three functions could be replicated in electronic form. To achieve these legal recognitions, several practices such as SeaDocs, CMI Rules and Bolero program have been tried out to seek for a preferable method, which could gain the confidence and trust of international trade parties.

Meanwhile current international and domestic legislation provide few supports directly towards electronic bill of lading especially in the issue of negotiability. But as the increasing recognition of electronic form of transportation documents and perfection of the contractual practice of EBL, there is possibility and necessity for legislation of electronic bill of lading under current legal framework while the concept of control in electronic documentation is introduced. In particular jurisdiction, China,

including Hong Kong SAR, has joined Bolero program for further implementation of electronic bill of lading. Despite the lack of exclusive regulations directly towards the issue of electronic bill of lading, general legislation of electronic records including electronic shipping documents and electronic signature has founded in domestic law. Moreover, China and Hong Kong China and Hong Kong endeavor to establish a mutual legal environment for EBL implementation and the existing practice such as electronic manifests could be a considerable reference.

From the experiences of all the current attempts of legalization and implications of electronic bill of lading, it can be concluded that a practical mechanism for electronic bill of lading should provide a fast, secured, reliable and relevantly easy access EDI system with electronic records which are in conformity with legal requirement and functional equivalency.

Key words: electronic bill of lading (EBL), Electronic Data Exchange (EDI), electronic signature, functional equivalency