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Harmonisation of Multimodal Carriage Contracts under Maritime Trade

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As we look into the existing multimodal liability system, one sees that there is a lack of uniform and unvarying rule that could govern all the liabilities and accountabilities in any event of damage or total loss or loss in part which consignments are being transported via various multimodal transports.[1] There is basically a mixture of multiple unimodal transport legs that combine to form a multimodal transport operation. These modes of transportation are separately governed by well-established international and national laws dealing specifically with each stage. The liability of each stages is established by separate unimodal convention as there is no existing international regime. Therefore, fixing off liabilities or responsibilities of the operator in the case of any unpleasant event like full damage, part damage or total loss or part loss will be assessed upon which stage, the event or incident occurred or took place.

Former Conventions on Unimodal Transportation

Hague and Hague Visby rule 1924 mainly regulate the goods of international carriage.[2] Due to the lack of regulations governing the multimodal transport in the current regime creates a burden and it is the claimant who is required to prove or establish the fact that which end or party would bear the responsibility or liability for the damage or loss incurred. Moreover, the main issue that persists is the compulsory applicability of certain convention that may govern the unimodal transport but may cover the multimodal legislation, since there is some unimodal convention that covers the multimodal transport although being a unimodal convention.

Multimodal Transport Contract and the Issue Involved in the Current Regime

Due to the existing framework or system, it was seen that a rising number of cases incorporating the issue of loss or damage during a multimodal transport. These problems arise due to the vagueness created by the current convention regarding the liability of carriers under a multi modal transport. This is caused by various factors such as identifying the carrier and the mode of transportation and to establish or determine as to what convention would be applicable.

Need for Uniformity

The main cause is due to the reason that till date no uniformity persisted in international regime in governing the responsibility or liabilities of the carrier in multimodal transport.[3] Since the 19th century there are various steps are being taken by the transport fraternity, legal organisation to achieve uniformity and harmonisation of laws that governs transnational laws.[4] The consistency of universal business law is proposed to set up improved steadiness to assure and confirm the practice and its results...it is seen that there is tendency of opposing laws and found increment in prosecution as a counteraction to diminish cost of lawful dangerous activity. It is additionally imagined to have the adequacy to expand the possibilities of law change and improve the "stylish balance in the worldwide legitimate request.

There is a dire need of liability regime that would cover the multimodal transport as we can see today that the unimodal conventions governs the multimodal transport which basically are inconsistent with the idea of multiple carries at each stage in the multi modal transport.[5] However, the regulatory system set up have drawbacks such there are unsolvable discrepancies such laws regulating the various modes of transport, that entail specific basis for liability, restrictions, time limits, separate regulations and legal standards to every form of carriage. absence of this system does have an detrimental impact on trade due to the complexity of the pertaining regulation.A correspondence by the European people group to the World Exchange Association's Board for Exchange Goods[6] distinguished the worry of numerous

[1] Matshinga, Linda Innocent.. "The sustainability of the Rotterdam Rules in modern multimodal transport : the possibility of harmony for liability under multimodal carriage contracts." (2015).
[2] ibid
[3] European Commission 'International Transportation and Carrier Liability', (1999)
[4] Matshinga, Linda Innocent.. "The sustainability of the Rotterdam Rules in modern multimodal transport : the possibility of harmony for liability under multimodal carriage contracts." (2015).
[5] Lamont-Black 'Claiming Damages in Multimodal Transport: A need for Harmonisation' (2011-2012) 36 Tulane Maritime Law Journal
[6] IBid

parts in worldwide exchange including products dealers and bearers similar to the absence of a uniform, blended system to transport in multimodal way to merchandisethus portraying an impact to the existing structure of multimodal transportation as to curb the system that dont benefit in the prevailing era of digital technology based correspondences practices and frameworks yet hinder the foundation of the solitary multimodal transport report or waybill, and don't completely coordinate the expanded utilization of container based transportation task through which various system made "mode-explicit risk courses of action inappropriate."[7]

The European commission on multi purpose transportation then additionally depicted lawful system which could meet and satisfy global multimodal transport and the risk of the transporter which comprises befuddled jigsaw of universal shows an intention to control and check the unimodal carriage, various local laws of countries and terms and conditions of standard contracts.The need of hour towards legitimate structural reformation for multimodal transport are affirmed by breaking down of the baffling difficulties of that payload petitioners need to be build up the obligation of the bearer's multimodal transportation contracts. A freight petitioner whose merchandise is damaged fully or partly or lost during multimodal transportation internationally has gone up against with so many challenges while setting up risk under multimodal transportation contract as it may wind up needing of the prerequisites vital for building up a case and managing various distinctive obligation regimes.[8] The troubles that a payload inquirer may experience in his mission to recuperate his misfortune under multimodal carriage would follow a breakdown.

Identification of Damage or Loss

At which particular point or place the damage fully or partly or loss is occurred, the claimant first has to determine to establish the liability. Then one has to determine that what would be the applicable regime that applies to the particular scenario be it railroad air-sea etc. The real issue arises when it becomes difficult to prove or the point of occurrence of damage. Practically it is very difficult to finalise a point at which the damage occurred. If this is not the case and the damage could be identified at what point it occurred it becomes comparatively easy to determining and identifying the carrier. This might not be case where a whole container might have been lost but merely a damage is difficult to determine as to which point it occurred. The container often an enclosed unit for the shipment of goods ,, thusly, the items within package really aren't observable at time of loading to moment of discharge. To complicate things harder, the carrier's documents will only indicate the state of shipment as it was obtained by the shipping agent and not the status of a goods within the shipment.

The major problem arises in the instance where it is difficult to identify the point in a multi modal system where the occurrence point of damage, or in cases where the damage was a slow progress such as leakage. In such cases there are no unimodal regime that would be applicable in such scenario and therefore it becomes difficult for the claimant to bring case against the carrier.

Such matters create a gap in determining liability called liability gaps. In such cases to identify the applicable rules other aspects such as national laws, governing laws of contract and standard form of contract etc are the only method of filling the liability gap. the claimant is forced to sue all the carriers which basically is a expensive job to take on. In these scenarios the only applicable law to determine the liability is the national laws and the standard form of contracts.
In the case of quantum vs plane[9] the same pertinent above-mentioned issue was raised the courts decided the carrier's liability of on the base of general condition incorporated in contract. Later the judgment was revering but however it was clear from the initial stage in this case as when the damage occurred unlike other scenario which are more complicated to decide the liability and responsibility of the that carrier such as slow damage.

However, there is always a option for the court to take an expert opinion on the matter. Like if the damage would have occurred due to sea water it would be presumably clear that the damage occurred during the sea transportation.[10] But majorly where the occurrence of damage took place is very difficult to establish as where the damage occurred and what was that cause of damage. To make things more difficult there are various regime applicable at different stages of transportation which makes it more difficult to determine the liability.

With Whom Does the Liability Rest?

Identifying the person who ie responsible or liable for the damage or loss in a multimodal transport is a problem a claimant can only claim damage from the carrier who is responsible for the loss when he is contractually obliged to the claimant in a multimodal transport document. First and foremost the claimant must identify the person who may be

[7] Matshinga, Linda Innocent.. "The sustainability of the Rotterdam Rules in modern multimodal transport : the possibility of harmony for liability under multimodal carriage contracts." (2015).
[8] ibid
[9] Quantum, corporations inc.& ors v plane trucking ltd, 2Lloyd's Rep 25 (2002)
[10] Yancey "The Carriage of Goods: Hague, COGSA, Visby and Hamburg" 1983 Tulane LR 1238

have bear the liability for the loss of his goods. The issue still persist as to determining the carrier who transported the goods. In such situation it is the signed document of carriage which is the ultimate tool to ascertain the liability on the specific person in a multimodal carriage. With the help of theterms of contracts in the signed document is becomes comparatively less difficult todetermine the contracting carrier.

There are various possibilities in a multi modal agreement. Such as in the case where a shipper appoints a freight forwarder. In such cases the forwarder of freight is acting on behalf of the shipper as his agent and contracts directly with individual transport relating to different stages of multimodal transportation. The carrier who comes into a formal contract for with the freight forwarder would be responsible for its part of transportationin such cases the freight forwarder has to determine the various parties involvement in contract and the liability attached to them however forwarder of freight would not be liable for the carrier in such scenario, no obligation on the consignment forwarder and the consigner is seen to have contracted directly to the various parties involved.[11]

Moreover, a freight forwarder may take up different roles in a single multi modal transport, he may act as a principal in one leg and agent in different legs of transportation. If the forwarder of freight acts as the principal he may held to be liable for that stage of transportation a shipper could also contract the freight forwarder for the entire multi modal carriage also known to be a door to door transportation. Hence for the purpose for deciding the liability the factor as to what kind of freight documentation is done or issued by the contracting carrier must be scrutinised.[12] When deciding on his role in a particular multimodal, Various factors such as the amount paid by the freight forwarder, the consignor's orders for the goods shipper, the what extent it has been discussed and the pace of the carrier, its previous dealership and how much the freight shipper typically conducts its business are taken into account.

One of the conventional documents seen in ocean transport is ‘shipped on board’ B/L, this was the most prevalent document until the industry saw the advent of containerisation. Due to the same the different types of transport document were introduced which in its very essence was not connected to sea transport. Thereafter the traditional or conventional use for shipped on board document is less prevalent. It depends upon the requirement of the contracting carrier which type of document he may prefer for issuance, for example; the carrier may opt for FIATA Bill, or multimodal transport document which might incorporate the UNCTAD/ICC Rules and so on and so forth. With these mentioned documents it is understood that the transporter is responsible from the time transporter receives the goods till the time delivery is made for the same One of the method resorted by the carrier is that he issues through B/L, by reason of which carrier give surety that transporter will only be liable for the damage or loss incurred during which the transporter undertook the transport. Generally under carriage which transport goods in container, the claimant for loss or damage generally comes in dilemma as to who to sue for the damage or loss of the consignment if in case the loss is of goods but the inspection undertaken would be of the container only , in other words, wherein the condition of the container is only recorded and the good’s condition went unnoticed, in such cases whom should the claimant ask to make good of the loss suffered.

When certain type of clauses such as the Himalayan clause is incorporated into the multimodal transport contracts, it paves way for issues which related to the aspect that the carrier’s defence and indemnities, limitation of liability aspect are all extended to the parties rendering service on behalf of the carrier for example his agents, servants etc. The origin of Himalayan Clause is a very well-known case involving the vessel named SS Himalaya[13], the matter was decided by the Court of Appeal wherein it was observed on how the protection, defences and indemnities of the carrier could be extended further to his contractors, agents as such other parties. The interesting aspect is that the application of Himalaya Clause shall continue to exist till those time wherein the solutions available to the unimodal transport contracts are equally applicable to the multimodal contract. The American Courts have been encountering the issue of deciding whether the Inland carriers, including the sub-contractors would fall within the ambit of the multimodal transport document such as the B/L issued by the sea carrier.[14]In few cases decided the Courts have decided taking a liberal interpretation of the fact that in the arena of ocean transport wherein multimodal transport is involved the inland carriers hold sufficient importance. Court in the case of Tamrock U.S.A., Inc. v. M/V Maren Maersk[15],

[11] Yancey “The Carriage of Goods: Hague, COGSA, Visby and Hamburg” 1983 Tulane LR 1238
[12] Matshinga, Linda Innocent.. “The sustainability of the Rotterdam Rules in modern multimodal transport : the possibility of harmony for liability under multimodal carriage contracts.” (2015).
[13] Alder v. Himalaya, 2 Lloyd’s Rep 267(1954)
[14] S Lamont-Black ‘Claiming Damages in Multimodal Transport: A need for Harmonisation’ (2011-2012) 36 Tulane Maritime Law Journal
[15] Tamrock U.S.A., Inc. v. M/V Maren Maersk [1996] AMC 676 (SDNY)

"the parties to a multimodal B/L for a shipment from Finland to Savannah, through Charleston, had inland carriage in mind and that, therefore, the phrase every servant, agent, stevedore, and subcontractor was held adequate to cover an inland trucker".

The phrase "any independent or subcarrier"[16] when this construction of the term was scrutinised liberally, the Courts have observed that the same would include within its purview inland carriers/trucker so that the protection, indemnity shall be extended and applicable rules may be extended to them as well because the form a significant part of the ocean transport.

Recognizing the Applicable Regime

We understand one aspect in the contemporary times that wherein there is claim of liability arising from the part of the cargo owners for damages incurred or loss suffered to the goods, it is seen that if multimodal transport was involved then there is uncertainty as to which law related to the unimodal transport available now would be governing the claims. Diana Faber has very enumerated the meaning assigned to the term 'regime' – according to her it means the term that regulates the liability claims including time bars related to the liability claims as well as the limitations which could be applied to the liabilities.

The international transport conventions display several distinct positions with regards to the liability claims arising in multimodal transport, the stage at which at which the loss or damage occurred is to be examined while dealing with the claims. Though there have been applicable rules for unimodal transport which of them would apply is still uncertain to cases or instances wherein the facts would differ from goods stored, before or after the carriage and such other concerns. This storage aspect relating to goods and the aspect as to which rule would govern and whether the same falls outside the arena of unimodal transport, if so which other regime is going to govern the same must be analysed and must be clear free of all ambiguity. To clear the point one must refer to Mayhew Foods Limited v Overseas Containers Ltd[17] wherein we see that in this case the carrier accepted the fact that it was there mistake that the goods which were of perishable nature were declared unfit for consumption as the required temperature for storing the same was not maintained.

- "Clause 6 of the conditions provided for the carrier's responsibility in combined transport as being liable for loss or damage to the goods occurring between the time when it receives the goods for transportation and the time of delivery.
- Clause 7 specified the method of calculating any compensation recoverable and set an upper limit of U.S. $2 per kilo of gross weight of the goods lost or damaged.
- Clause 8 provided that clause 7 was subject to The Hague Rules or any national law or international convention having compulsory effect with regard to the damage.
- Clause 21 provided that the carrier could at any time and without notice to the merchant, use any means of transport or storage of any kind; transfer goods from one conveyance to another, including transhipping or carrying on another vessel than the named vessel, or on any other means of transport of any kind; load and unload at any place or port, regardless of whether such port is named or not, and store the goods at any place or port."[18]

The court did not accept the first contention by the carrier. Bingham, J.[19] held that the contract was for the carriage from Uckfield to the number berth in Jeddah and that although the rules did not apply in terms of section 1(3) of the Act, it clearly provided for shipment at a United Kingdom port, intended to be Southampton and held that, therefore, from the time of shipment, the Act and the rules applied. He further held that

"the parties clearly expected and intended a B/L to be issued and when issued, it duly evidenced the parties' earlier contract"

and that since the B/L was issued in a contracting state and provided for carriage from a port in a contracting state, it was clear that the rules applied form the point the goods were loaded on board the vessel at Shoreham. [20]

[16]Herr-Voss Corp. v. Columbus Line, 1994 AMC 77, 78-82
[17] MAYHEW FOODS LIMITED v. OVERSEAS CONTAINERS LTD.[1984] 1 Lloyd's Rep. 317
[18] Matshinga, Linda Innocent.. "The sustainability of the Rotterdam Rules in modern multimodal transport : the possibility of harmony for liability under multimodal carriage contracts." (2015).
[19] ibid
[20] MAYHEW FOODS LIMITED v. OVERSEAS CONTAINERS LTD.[1984] 1 Lloyd's Rep. 317

This case is the classic example as to why there is uncertainty in the governing regime. *"Bingham, J. relied on the principle that the rights and liabilities under the rules attach to a contract and held that the rules do not apply to carriage or stowage before the port of shipment or after the port of discharge because that was inland carriage, but between those the ports, the contract was for carriage of goods by sea".*

"He also observed that if during the carriage the carrier chose to discharge, store or tranship, as was its contractual right, doing so would have qualified as an operation relating to or in connected with the carriage of goods by sea in ships in accordance with the Act".[21]

Multimodal transport involves various vehicles apart from vessel, it would include truck, train, plane, hence the law needs to be updated. There is excess law drafted and available yet none of it can actually bring certainty to the claims of liability under multimodal transport and which needs to be addressed. The question as to whether the unimodal regime suits the contemporary multimodal claims or not must also be ascertained effectively. In Quantum Corporation LTD. and Others v. Plane Trucking LTD. and Another[22] the uncertainty in the eyes of the court is seen when fleeting through the decision we understand.

Multimodal Transportation and Limitation of Liability

Under the international regime we see that the limitation of liability aspect is a good concern as to how the same is calculated based on what rules and convention available would the same be decided is worth the know. The limits vary from the rules applicable, different scale of limits applicable for liability is seen. This is an add on to the existing crisis and needs to be address as well. In some matters such which involves the UNCTAD/ICC rules the limits attracted by the Hague rules differ from that which applies to CMR rules. The applicable regime connected with the limitation of liability must be in consonance which would promote better and smooth working.

Multimodal Transport Within the Arena of Hague Rule/ Hague Visby Rules

The requirements under the HagueVisby rules must complied with to understand whether the same would be applicable to multimodal transportation. Therefore the basic factors which needs to be present to see whether the rules can be applied or not is firstly the term carrier must be defined, secondly, there must be a contract of carriage thirdly it must involve a document of title which is generally the B/L. The scope of the rules is narrower. It clearly applies to bills of lading; it applies to the same when it is a contract of carriage through sea. The definition of transporter under the HagueVisby rules is either the owner or a person who enters into a contract of carriage with a shipper.[23] The rule is not extensive thereafter. It has been enumerated by Diana Faber that the term 'includes' would bring in those persons as well who are taking up the responsibility of the carrier or on behalf of the carrier. The rule clearly marks the line for the liability of the carrier as the one who undertakes the carriage. The decisions in US as well as Australia shows the aspect that the purpose of Hague rules has not been clearly laid forth.

Rotterdam Rules a New Approach in Multimodal Transportation

This latest version of the rules directs its application for unifying as well as harmonising the liability regime. United Nations General Assembly adopted the rules of Rotterdam on 11 December, 2008 Resolution 63/122. The previous rule namely the Hague Rules, HagueVisby Rules, and Hamburg Rules, with the advent of Rotterdam rules these mentioned rules are to be replaced.[24] Rotterdam rules is distinct from the fact that unlike the other three existing rules, this new approach covers multimodal transport involved in sea carriage. The minimum requirement for the rule to come into force is that ratification must be done by 20 countries, which is only 3 countries as of now. The effectiveness of the Rotterdam Rules is to tested in order to assert that the same coming into force would be a big break for the multimodal transport industry and the regime would facilitate better solutions to the existing issues.

Manner in Rotterdam Rules are applied to Multimodal Transport

Scope of the rule's application can be construed from Article 5 which states the following:
"Subject to article 6, this Convention applies to contracts of carriage in which the place of receipt and the place of delivery are in different States, and the port of loading of a sea carriage and the port of discharge of the same sea carriage are in different States, if, according to the contract of carriage, any one of the following places is located in a Contracting State:(a) The place of receipt; (b) The port of loading; (c) The place of delivery; or (d) The port of discharge".[25]

[21] Matshinga, Linda Innocent.. "The sustainability of the Rotterdam Rules in modern multimodal transport : the possibility of harmony for liability under multimodal carriage contracts." (2015).
[22] Quantum, corporations inc.& ors v plane trucking ltd, 2Lloyd's Rep 25 (2002)
[23] vol.47, SIMON BAUGHEN, SHIPPING LAW 299-300(2ND ED INFORMA LAW)
[24] Yancey "The Carriage of Goods: Hague, COGSA, Visby and Hamburg" 1983 Tulane LR 1238
[25] United Nations Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea, art6

The peculiarity of this rule is that the concept of nationality won't be applicable, that is irrespective of the nationality of the carrier, shipper, receiver and such other interested parties to the contract of carriage the rules would apply. The provision under the rules relating to the definitions, exclusion, and such other aspect must be understood to decide the scope of the rules to be applied. For instance, understanding of the concept of door-to - door transportation service, the aspect of the international nature of carriage etc. Article 6 and 7 some of the important provisions which covers exclusion as well as the application of the rules to other parties.

Conceptual Note on Door to Door Transport

Due to probability of issues arising with the CMR, Montreal convention, the CIM as such other, Rotterdam rules has devised the notion of door-to-door transport concept, which is to be applied to contracts of sea carriage. This notion of door-to-door transportation service is envisaged under article 26 and 82.

"Article 26 "Carriage preceding or subsequent to sea carriage" which states "When loss of or damage to goods, or an event or circumstance causing a delay in their delivery, occurs during the carrier's period of responsibility but solely before their loading onto the ship or solely after their discharge from the ship, the provisions of this Convention do not prevail over those provisions of another international instrument that, at the time of such loss, damage or event or circumstance causing delay –

(a) Pursuant to the provisions of such international instrument would have applied to all or any of the carrier's activities if the shipper had made a separate and direct contract with the carrier in respect of the particular stage of carriage where the loss of, or damage to goods, or an event or circumstance causing delay in their delivery occurred;
(b) Specifically provide for the carrier's liability, limitation of liability, or time for suit; and
(c) Cannot be departed from by contract either at all or to the detriment of the shipper under that instrument."[26]

Crux of this provision is the idea of propagating network solution and avoid conflict among the existing convention. The rules put forth the condition of application that if it is to be applied it must be shown which is the period wherein the loss or damage took place. The reason as such being that there must be a clear picture shown whether the loss or damage happened before loading on board, or whether did the loss occur after post discharge. When stages of the occurrence are ascertained, it brings in the issues arising as to which all conventions would apply. On perusal it is understood that the provision enumerated under Article 26 limits the scope of resolving the issues.

"Article 82 enumerates with the title "International conventions governing the carriage of goods by other modes of transport"

"Nothing in this Convention affects the application of any of the following international conventions in force at the time this Convention enters into force, including any future amendment to such conventions, that regulate the liability of the carrier for loss of or damage to the goods:"

a) "Any convention governing the carriage of goods by air to the extent that such convention according to its provisions applies to any part of the contract of carriage;"
b) "Any convention governing the carriage of goods by road to the extent that such convention according to its provisions applies to the carriage of goods that remain loaded on a road cargo vehicle carried on board a ship;"
c) "Any convention governing the carriage of goods by rail to the extent that such convention according to its provisions applies to carriage of goods by sea as a supplement to the carriage by rail; or"
d) "Any convention governing the carriage of goods by inland waterways to the extent that such convention according to its provisions applies to a carriage of goods without trans-shipment both by inland waterways and sea."[27]

Article 82 provided for the aforementioned network solution which deals with the governance of carriage of goods by inland waterways, air, rail, road. The Rotterdam Rules paves way for other conventions to decide over the how to govern the liability arising during the particular stage of transport. The existing convention can take up the responsibility of deciding under what regime the liability factor must be governed. This way the Rotterdam Rules tries to compensate the lacunae if any exists. Criticism has been received for the vague draft of Article 82.[28] Under the carriage through sea contract which would also involve interstate state road transit and that poses another critically questioned issue.

[26] United Nations Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea, art26
[27] United Nations Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea, art82
[28] United Nations Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea, art82

The main factor which is to be construed is how the Rotterdam Rules would be better than the existing convention in avoiding any sort of conflicts.

The Internationality of the Carriage

Under the Rotterdam Rules the Article 5 enumerates the aspect that the rules applicable to the contracts wherein the place of receipt would be different and place of discharge/delivery would be also distinct.Also, under the rules the within a carriage through sea contract the port of embarkment and discharge being in different states signifies the international nature of the new rule. The classic test laid down to check the international nature of the rule is that the carriage through sea contract must involve different loading and destination places from two different states along with the fact that the place of receipt and delivery must also be in two different countries. These kind of characteristic of the new rule tries to avoid issue among the existing conventions. This factor is noteworthy.

Role of Contracting State as Emphasized under Rotterdam Rule

The factor most important in attracting the Rotterdam rule is that there must be involvement of the contracting states only and the elements such as place of receipt, loading, discharge, delivery must all be situated in the contracting states. For who would be considered as the contracting states is provided under Article 92 which states that, the contracting state are the one that signs the Rotterdam rules further ratifies the same or accedes the same. Inward and outward cargo must flow within the contracting states and it involves the propagation of diversity in trade.

Criticism has been welcomed for the Rotterdam rules, which points towards the aspect that the rules doesn't cover all the areas of multimodal transport.It is greatly believed that Rotterdam rules appears to be similar to any other unimodal convention existing just in the quest of a solution to the issues faced by the existing ones and trying to solve the same. The concept of door-to-door is worth the efforts and there is no such major reason seen as to why the rules must not come into force and must be accepted by the remaining countries. Amidst negative reviews from critics the same doesn't hold much weight and the advantages carries the weight much heavier than the former. There has not been any legislation drafted all perfect without any lacunae hence amendments and development must be aimed rather than criticising the new approach.