**Coursework AS2 Instructions**

**Carriage of Goods Law Report**

**7165MAR: Chartering and Carriage of Goods Law**

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# Issue

The issue aims at evaluating legality and making a practical assessment of replacing paper forms of Bills of Lading with electronic forms. It focuses on replacing the paper form of Bills of Lading in digital format. This helps in assessing the recent changes made in the legislation to implement the electronic version of trade documents which are to be used regarding the Electronic bill of lading. It also emphasises the technological advancement made regarding the implementation of bills of lading which will bring convenience to international trade. Various case laws regarding the introduction of bills of lading have been discussed concerning Electronic Bills of lading applications.

# Rule

The regulatory proposal, ‘Electronic Trade Documents Bill’ is implemented under RPC-DCMS-5203(1) from 18th, July 2022. Domestic intervention as primary legislation is made in Department for Digital, Culture, Media and Sport.

Bills of Lading refers to a document issued by an agent to the shipper and acknowledging that goods have been shipped on a particular date which is to be received by a consignee on an aforesaid date. Bills of Lading act as a receipt regarding the contract of carrying the goods

and acts as a document title for the goods. The bills of lading aim at handing over a legal document to the consignee ensuring that goods have been consigned or shipped in the vessel. The British parliament allowed the bill of lading in electronic form (Plomaritou and Voudouris,2019).

Based on the ‘EUROPEAN CONVENTION ON HUMAN RIGHTS’, sec 19(1)(a) under Human Rights Act 1998: Electronic Trade Documents Bill [HL] has been formed. Under Sec 5, the intention to apply the electronic trade document will be appearing in the replacement of Section 4. This will make section 3 to be omitted. Also, sections 1-4 will not be applied in connection to the uncertified units of the security bill of lading. This will make Uncertified Securities Regulations, 2001/3755 to be implemented with the instrument utilised. The Secretary of State will have the power to confirm in terms of the regulations under subsection 2(b) concerning the provision made with Scottish Ministers.

The reform performed has been found in the Queen's speech made in May 2022 that will be brought in terms of the legislation through electronic trade documents. It also brings support in terms of long-term growth to be utilised with the economic development as per GDPR rules. As of 12th October, the Electronic Trade Documents Bill introduction was made in the House of Lords, and parliamentary regulations have been framed in terms of 'Law of Commission bills' (Gov.UK, 2020). This brought the 'Companion to the Standing Orders' which made the motions to be performed in committing bills with the special public bill committee. In connection with the Law Commission Bill, the recommendation has been framed with certain documents excluded. The 'relevant system' undertaken within Uncertified Securities Regulations, 2001 made the bearer bonds with debt securities to be only in physical form. Such introduction of bills in the financial market made the bill to be used as principal instruments.

Clause 3(4) is made within the framework to perform the 'Moveable Transaction (Scotland) Bill as introduced by the Scottish Parliament on 25th May 2022 (Gov.UK, 2022). Concerning the bill scope, it has been found that Clause 3(4) is intended with ensuring the MT(S) through the same effect made with electronic trade documentation. A Crossover of the bills brought clause 6 and clause 7 to be enacted. Clause 6 with consequential amendments under the Bill of Exchange Act, of 1882 made provisions to be used in the supply of goods under the Carriage of Goods by Sea Act, of 1992. While Clause 7, makes the territorial extent of the bill commencement to be based on England, Wales as well as Northern Ireland coverage. It considers the MT(S) Bill to be extended with the limitation of geographical boundary to Scotland only.

A consequential provision has also been added in connection to section 89B (2) concerning the application of trade documents in the end line. This makes the Electronic Trade Documents Act, 2022 to be applicably omitting sub-section (5) to (6).

# Application

The international trade connections are made with the Laws of England and Wales being connected concerning reforms made with the electronic trade documentation. It also brings the ecosystem to be subject to the 2021 G7 Presidency (Kennedy Law, 2022). With the secured agreement, the connection with the smaller jurisdictions is not implemented. The cross-jurisdictional nature of the electronic bill in international trade makes a higher platform bias. This also brings the enactment of legislation with the model law to be based on economic compliance. However, the smaller jurisdictions are facilitated with electronic trade documentation through Singapore and Bahrain markets.

Transparency of the electronic documents is based on 80% of the trade being facilitated in line with credit insurance. This also makes transparency a big issue in consideration with the International Chamber of Commerce with 92% of export banks stating digitisation of bill of lading will speed up export finance. This brings a higher chance in terms of the visibility of the supply chain to be denoted with easier cash flow from the financing of credit insurance by export companies in the UK.

Sec (8) makes the Electronic Communications Act, 2000 made concerning the Carriage of Goods by Sea Act, 1992 to be made through data facilitation (IndustryTrends, 2022). It will also make the trade document considered to be based terms on the existing legislative power to be made, concerning the functional treatment. DCMS commissioned will be brought into the Law Commission of England, in connection to the examination of UNMLETR brought through UK conformity. This will also bring the Law Commission Special Procedure to be brought in line with the secure agreements, through G7 countries' coordination. This is based on the proposed reforms being found to be permissive under the legislative framework. It also makes the Law of Commission Special Procedure to be brought with the UNMLETR recommendations into the UK law convexity.

The International Chamber of Commerce has forecasted an estimate that digitising trade documents would generate around £25 billion by the year 2024 and help in bringing energy efficiency by £ 224 billion (Košovská *et al*, 2022). The adoption of distributed ledger systems has made trading based on electronic gadgets more feasible and viable. The usage of electronic trading documents will help in decreasing the contract processing time. Previously the contract processing time was around 10 days now a day which is 20 seconds. Digital Container Shipping has informed that 50% of the container shipping industry has started using electronic bills which have reduced their bill by 50%.

The Electronics Trade documentation bill provides a legal framework for paper documents equally. The Electronics Trade Documents Bill(ETDL) which is to be enacted in 2023 involves changing the law following certain documents which are bills of exchange, promissory notes, Bills of lading, Ships delivery order, marine insurance policy, cargo insurance certificates and others. The bill helps in covering all documents which can be produced to have a legal effect as per their functionality (Flaaen *et al,* 2021). The bill contains all the trade documents which can be produced to have legal functionality. The bill helps in implementing a law commission from England which provides the organisation undertaking international trade to possess the documents in electronic form.

The World Economic Forum estimated that digitising international trade will lead to a decrease in carbon dioxide emissions by 12%(Raman *et al,* 2019). The bill in its current format has seven sections which provide legal recognition to electronic versions of trade documents, which further provides an opportunity for traders to possess electronic documents which helps them in switching from trade documents as per their choice. International trade requires transferring of important documents from one country to another which involves implications of complex laws in other countries when any disputes arise. The usage of electronic trade data helps in reducing legal hassle. This will help in preventing double spending, only one person should be access to the documents at specific times (Azaria, 2020). The law commission in the UK has recommended that a trade document in electronic format must be capable of fulfilling certain criteria which are:

The electronic document must be used single-headedly. One of the major considerations in applying the bill has been to reduce the costs of the intervention from the Government. In 2019, it has been found that how more than 160,000 business export channels in the UK worth 367 billion euros’ inventory were suspended with the export documents not verified (Trade Economics, 2022). This also led to a 'do nothing' scenario consideration with the sizable trade costs making a huge barrier. The paper trade documentation will be eliminated which will make the processing of documents in cross-border trade to be within 4 hours and 7 days. It also brings the exchange format with the physical documents to be dependent on the transportation and insurance payment facilities. Digital Container Shipping Association, UK has made the costs associated with digital trade documents to be much less which also makes a greater benefit to the complexity issues settled. The 10-year appraisal period of exporting companies is reduced from the digital trade bill.

A reliable and effective system must be used to ensure that all the criteria for executing international trade are fulfilled and the list of factors must be checked to ensure the reliability of the system (Barker and Jurasz, 2020). The bill which has been adopted in the UK is compatible with the Model Law on Electronic Transferable Records. The bill will help in embracing several aspects of the UNCITRAL model law. The principles which are based on tech neutrality with no technological factors are prescribed in the bill. As defined by the law commission this will act as a statutory framework, In which the courts will be the central part in interpreting and resolving any issues arising out of any discrepancy (McCormack and Wai Yee, 2018).

The Electronic Trade Documents bill is considered a major factor in the leap in trade digitalisation. This will act as a major factor which will foster growth in the UK's economy. Currently, in the UK seven jurisdictions have signed off a UNCITRAL METER which includes Bahrain, Papua New Guinea, Paraguay, Singapore and others. The United States of America is currently working on aligning with the legal framework of the UK. This bill will help the UK to increase its foreign exchange reserves (Al-Hawamdeh *et al*, 2018). The international trade in England is estimated to be around £ 1.226 tn in the United Kingdom. Carrying on international trade requires a company to handle a huge number of papers. The bill helps to maintain the documents in electronic form. The contracts between parties involved in the shipping of goods and bills of exchange provide an opportunity for exporters and importers to complete the process in less time. The use of electronic trade documents will help in reducing processing time. The International Chamber of Commerce has estimated that international trade could increase by 13%(Lamont-Black, 2019).

# Conclusion

The electrification of documents has played a vital and major part to facilitate international trade in the UK. International trade involves a variety of processes which are transportation, insurance, financing activities, logistics and associating with service providers. Undertaking this process manually generates multiple numbers of paper which are difficult to maintain and handle. The enactment of the new law has removed the hassle for international traders. The positive impact of maintaining trade documents electronically has brought efficiency to operations and provided environmental benefits. The transferor of the documents should not be accessible to the document after once he has transferred the documents. This will help in preventing fraud and forgery and decrease the chances of data manipulation. The bill will help revolutionise the atmosphere related to international trade. This will be possible when the trade partners of the UK provide legal recognition to the electronic trading documents.

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