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LEGAL ASPECTS OF MULTIMODAL TRANSPORTATION: A TURKISH APPROACH IN MULTIMODAL TRANSPORT PROBLEMS

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DECLARATION

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ABSTRACT

Master Thesis

Legal Aspects of Multimodal Transportation: A Turkish Approach in Multimodal Transport Problems

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Multimodal transport refers to the transport of goods from one point to another via more than one mode of transport. The chain that interconnects different links or modes of transport- air, sea and land into one complete process that ensures an efficient, cost- effective, environmentally door-to-door movement of goods under the responsibility of a single transport operator, known as a multimodal transport operator.

Due the fact that there is no uniform multimodal transport law, transport law has no sufficient means to create certainty as to the legal consequences of any loss, damage or delay of cargo resulting from multimodal carriage contracts. Liability rules vary greatly from case to case and give rise to uncertainty concerning the extent of a multimodal carrier's liability in a given situation.

The main objective of this study is examine Turkish court decisions and prescriptive problems related with multimodal transport. How multimodal transport problems was solved in Turkey and new Turkish Commercial Code (TCC) multimodal transport regulations were examined in terms of Turkish court decisions. Thus it will be determined whether the needs of multimodal transport will be met through new legislative studies.

Keywords: Multimodal Transport, Intermodal Transport Law, International Conventions, Court Decisions, Turkey

ÖZET

Yüksek Lisans Tezi

Karma Taşımanın Hukuki Boyutu: Karma Taşıma Sorunlarında Türk Yaklaşımı

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Karma taşıma yükü birden fazla taşıma modu kullanarak bir yerden başka bir yere sevketmektir. Karma taşıma zinciri hava, kara ve deniz taşıma modlarını birbirine bağlayıp tek bir mod altında toplayarak etkili, uygun maliyetli, çevreye duyarlı bir şekilde karma taşıma operatörü olarak bilinen tek bir taşıma operatörünün sorumluluğunda kapıdan kapıya taşımayı sağlar.

Tek bir karma taşıma hukuku olmadığından dolayı taşıma hukuku, herhangi bir kayıp, hasar veya cargonun gecikmesi durumlarında, karma taşıma anltlaşmalarından dolayı karar verme aşamasında yeterli açıklığa sahip değildir. Karma taşımadaki sorumluluk sınırları davadan davaya çeşitlilik göstermektedir, bu da davadaki karma taşıma operatörünün sorumluluğundaki belirsizliği dahada arttırmaktadır.

Bu çalışmanın asıl amacı Türkiye mahkemelerinin karma taşımaya ilişkin davalarda verdiği kararları ve öngörülen problemleri incelemektir. Türkiye'de karma taşıma problemlerinin nasıl çözüldüğü ve karma taşıma mahkeme kararları yeni Türk Ticaret Kanunu açısından incelenmiştir. Böylece yeni yasal düzenlemenin karma taşımadaki ihtiyaçları karşılayıp karşılamadığı belirlenmiştir.

Anahtar Kelimeler: Karma Taşıma, Karma Taşıma Hukuku, Uluslararası Konvansiyonlar, Mahkeme Kararları, Türkiye

LEGAL ASPECTS OF MULTIMODAL TRANSPORTATION: A TURKISH APPROACH IN MULTIMODAL TRANSPORT PROBLEMS

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BOT	Build Operate Transfer
CMR	Convention on the Contract for the International Carriage Goods by Road
CMNI	Convention on the Contract for the Carriage of Goods by Inland Waterway
COTIF	Convention concerning International Carrier by Rail
CIV	Carriage of Passenger by Rail
CIM	International Carriage of Goods by Rail
CIS	Commonwealth of Independent States
CTLA	Canadian Transport Lawyers
EC	European Countries
EEA	European Economic Area
FBL	Transport Bill of Lading
FF	Foreign Flag
FIATA	International Federation of Freight Forwarders Associations
GHG	Greenhouse Gas Emission
IWT	Inland Waterway Transport
ICC	International Chamber of Commerce
ICAO	International Civil Aviation Organization
MTO	Multimodal Transport Operator
MC	Montreal Conventions

OTIF	Intergovernmental Organisation for International Carriage by Rail
ROI	Return on Investment
RR	Rotterdam Rules
SDR	Special Drawing Right
TCDD	General Directorate of State Railways Administration of Turkey
TF	Turkish Flag
TCC	Turkish Commercial Code
UK	United Kingdom
UNCTAD	United Nations Conference on Trade and Development
US	United States
UNGA	United Nations General Assembly
UNECE	United Nations Economic Commission for Europe

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INTRODUCTION

Transportation is more than the movement of people from one point to another place. The vital function that it plays is the movement of goods. Movement of goods is often overlooked by transportation planners but it includes the shipment of raw materials, finished products. Raw materials such as minerals, energy, food and other resources are obvious candidates for transportation as most occur in limited concentrations away from their eventual points of consumption. Movement of finished goods from manufacturers to their eventual end users also requires a well-established transport network.

Hoeks (2009) explained that multimodal transport is most effective transport alternative because each of transport stage use most efficient therefore reducing congestion, energy expenditure and pollution. Unimodal transport is the key to increasing the productivity and competitiveness of the freight transport industry also most environment-friendly transport process. This transport also reduce operation time, cost less and offers opportunity to incorporate less polluting transport alternative into the transport chain.

Due to its unique geographical position, improving transport sector and making an investment in multimodal transport are a priorities for Turkey's economic and social development. In recent years, Turkey has made significant investments and legal arrangements to improve and diversify its domestic and international transportation respect to the unimodal transport. These efforts had positive impact on production and contributed to the development of its foreign trade.

There is no uniform liability in combine transport according UNCTAD (2003) reports the current multimodal transport liability framework does not reflect developments that have taken place in terms of transport patterns, technology and markets. There are several problems in legal aspects of combine transport. These are different applicable regime, prescription and unlocalized loss problems.

No international uniform regime is in force to govern liability for loss, damage or delay arising from multimodal transport. Instead, the present legal framework consists of a complex array of international conventions designed to regulate unimodal carriage, diverse regional/subregional agreements, national laws and standard term contracts. As a consequence, both the applicable liability rules and the degree and

extent of a carrier's liability vary greatly from case to case and are unpredictable. Multimodal transport consist all transport modes and this occasion concerning the unpredictability of the applicable legal regime when it comes to multimodal carriage is in financial nature because it is hard to determine national law or international conventions liability regime will apply when occur loss or damage.

In order to solve these problems Turkish Commercial Code was updated in respect to the multimodal transportation. Between articles 902 and 905 are multimodal provisions in TCC. Main significant change in new multimodal transport is international conventions has priority over domestic legislation in Turkish law regarding to the article 902.

The main aim of this study is examine Turkish court decisions in terms of multimodal transport. How multimodal transport problems was solved in Turkey and new multimodal transport regulations of TCC were examined in terms of Turkish court decisions.

Motivation of this study is to examine Turkish courts' multimodal transport decisions because legal aspect of unimodal transport can, however succeed only if certain conditions are satisfied. First, there should be a consistent set of enforceable rules and regulations, which clearly define the rights and obligations of the multimodal operator who is responsible for entire multimodal transportation operation. There is also need for uniformity of the documents required by countries. Motivation of this study is new multimodal transport regulations of TCC. Court decisions were determined according to new regulation and international conventions or not. This study examines these factors with regard to the multimodal transport. Third motivation of this study is examine unimodal transport problem which Turkish courts encounter.

In this study both Turkish courts decisions and international court decisions were examined. First of all German court and Chinese court decisions were examined and one simple case was clarified. While analysing the decisions in Turkish court; lack of prescription, unlocalized loss and different applicable regime problems were encountered. Turkish courts of first instance's decisions were in conflict with international conventions and norms. However appeal courts make re-trail in order to receive correct decisions. Turkish courts try to adapt new multimodal transport regulations. Courts do not consider new regulations in some cases even so new

provisions of multimodal transport adapt Turkish courts to international legislation area.

There are 3 chapters in this study. In the first chapter importance of transport was explained in details. Transport modes were examined then multimodal transport stages were explained. Due to understand significance of unimodal transport advantages and disadvantages of multimodal transport were clarified. Turkey's multimodal investment was also examined in last stage of first chapter.

Second chapter includes legal aspects of multimodal transportation. International regulations were explained to understand legal framework of unimodal transportation internationally. New multimodal transport regulations were explained in detail with respect to the TCC. Literature research was fulfilled related with the multimodal transport and giving theoretical solutions to unimodal transport problems in second chapter. In the last stage of this chapter, international unimodal conventions which are related with different transport modes were examined.

Last chapter of this study include international and Turkish court decisions and one simple case. Turkish court decisions were examined in terms of the new multimodal transport provisions. Unimodal transport problems were explained in court decisions. Besides them related TCC provisions were explained in details.

CHAPTER ONE
GENERAL OVERVIEW OF TRANSPORTATION

1.1. TRANSPORTATION

Transportation is a non-separable part of any society. It exhibits a very close relation to the style of life, the range and location of activities and the goods and services which will be available for consumption (Mathew et al., 2006; 31). Movements of people, goods and information have always been fundamental components of human societies. Contemporary economic processes have been accompanied by a significant increase in mobility and higher levels of accessibility.

Ribeiro (2007) stated that transport activity as a key component of economic development and human welfare, is increasing around the world as economies grow (Rodrigue et al., 2013; 1). Additionally Garrison (2000) explains the effects of transportation advances were conditioned by social environments and markets, as is case for all technologies.

Transportation development can be traced back to the industrial revolution, it significantly accelerated in the second half of the twentieth century as trade was liberalized, economic blocs emerged and the comparative advantages of global labor and resources were used more efficiently however, these developments are interdependent with the capacity to manage, support and expand movements of passengers and freight as well as their underlying information flows (Rodrigue et al., 2013; p.1).

The world of transport has changed considerably over the last few decades. International transportation of goods is increasingly carried out on a door-to-door basis, involving more than one mode of transportation (Zhu et al., 2010; 103). Based on the globalization, countries have become increasingly dependent on their transport systems to support a wide variety of activities ranging, among others, from commuting, supplying energy needs, to distributing parts between manufacturing facilities and distribution centers. Developing transport systems has been a continuous challenge to satisfy mobility needs, to support economic development and to participate in the global economy (Rodrigue et al., 2013; 1).

Additionally Ribeiro (2007) suggested that mobility is an essential human need. Human survival and societal interaction depend on the ability to move people

and goods. Efficient mobility systems are essential facilitators of economic development. Cities could not exist and global trade could not occur without systems to transport people and goods cheaply and efficiently.

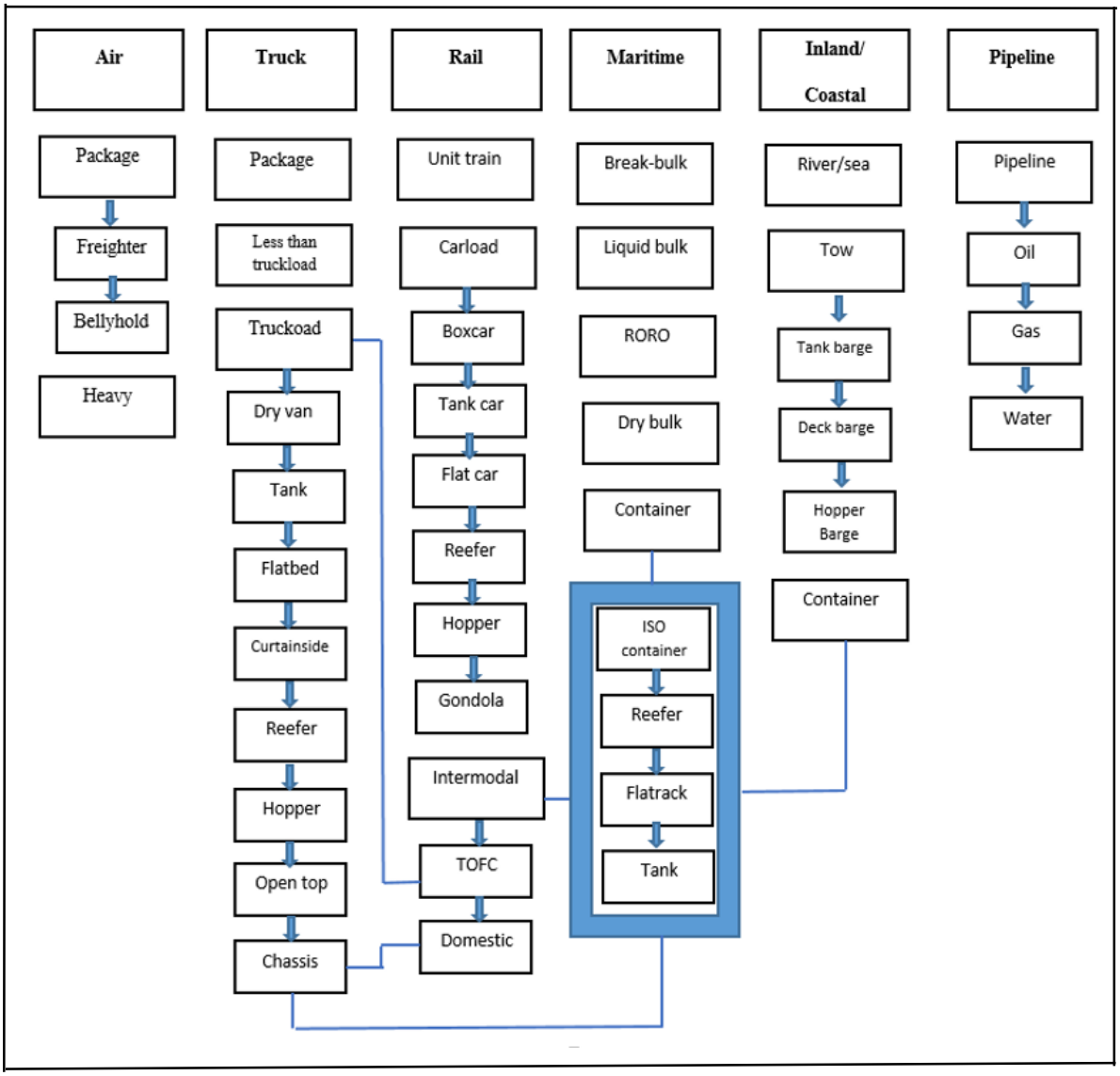
According to Rodrigue (2013) the goal of transportation is transform the geographical attributes of freight, people or information, from an origin to a destination, conferring on them an added value in the process.

1.1.1. International Background of Unimodal Transportation Systems

Rodrigue (2013) categorized transport systems three broad categories based on the medium they exploit: land, water and air. Each mode has its own requirements and features, and is adapted to serve the specific demands of freight and passenger traffic. This gives rise to marked differences in the ways the modes are deployed and utilized in different parts of the world. Transport modes are the means by which people and freight achieve mobility. Transportation modes are vital part of transportation systems with this mobility.

As indicated in Figure 1 transportation modes fall into one of three basic types, depending on over what surface they travel – land (road, rail and pipelines), water (shipping) and air. Each mode is characterized by a set of technical, operational and commercial characteristics (Rodrigue et al., 2013; 89).

Figure 1: Main Freight Modal Option



Source: Rodrigue et al., 2013: 90

Turkey Ministry of Transport, Maritime Affairs and Communications country report (2011) indicated importance of transport modes for countries economic and social development. In order to improve people's access to social services such as health and education, countries need to ensure transportation in a cheap and safe way within their borders as well as with other countries.

A good transport system may substantially increase agricultural and industrial production as it enables products to reach markets at competitive prices. It may also boost foreign trade and enhance tourism revenues and ultimately national income.

1.1.1.1. Road transportation

In order to analyze road transport Bektas (2007) compared this system with other modes. Main characteristics of road transport are the flexibility, high frequency, and low cost of trucking transportation resulted in a high market share of freight transportation being captured by this transportation mode. This situation, which may be observed world-wide, resulted in very large truck flows and road congestion, and contributes significantly to the high level of pollutant emissions attributed to the transportation sector.

Transportation trend is slowly changing, however policy measures aware of carbon emission and they encourage change mode from road transport to intermodal. (Bektas et al., 2007; 5)

1.1.1.2. Rail Transportation

Rail transportation deliver economic, social, particularly and environmental benefits. The last of these is particularly relevant with the current policy emphasis on sustainable transport. Rail transportation has pronounced environmental benefits over road and air transport. It helps to relieve road traffic congestion and reduce the number of road accidents and protect environment. With continuing growth in air transport, it also provides congestion-free surface access to airports (European Commission DG Energy and Transport, 2009; 11).

The railways are a vital part of the country's transport infrastructure, carrying a large proportion of travellers and freight on many of the country's busiest routes. As the economy grows there is increasing demand for travel, and the railways will play an important role in meeting this demand, providing an alternative to travelling by car (Department for Transport, 2004; 52).

Bektas (2007) pointed that railways have risen to the challenge by proposing new types of services and enhanced performances. Thus, North-American railways have created intermodal subdivisions which operate so-called "land-bridges" providing efficient container transportation by long, doublestack trains between the East and the West coasts and between these ports.

Premium rail and intermodal service is targeted at international containers and domestic containers and trailers. This business, which is in direct competition with the road transport, represents the fastest growing segment of rail service. Carload service (boxcars, gondolas, tank cars, etc.) falls between the slow bulk unit trains and the faster intermodal services in terms of price and service levels (U.S. Department of Energy, 2013; 16).

New container and trailer-dedicated shuttle-train networks are being created within the European Community. These initiatives have succeeded. Thus, intermodal transportation is the fastest growing part of railroad traffic (Bektas et al., 2007: 6).

1.1.1.3. Air Transportation

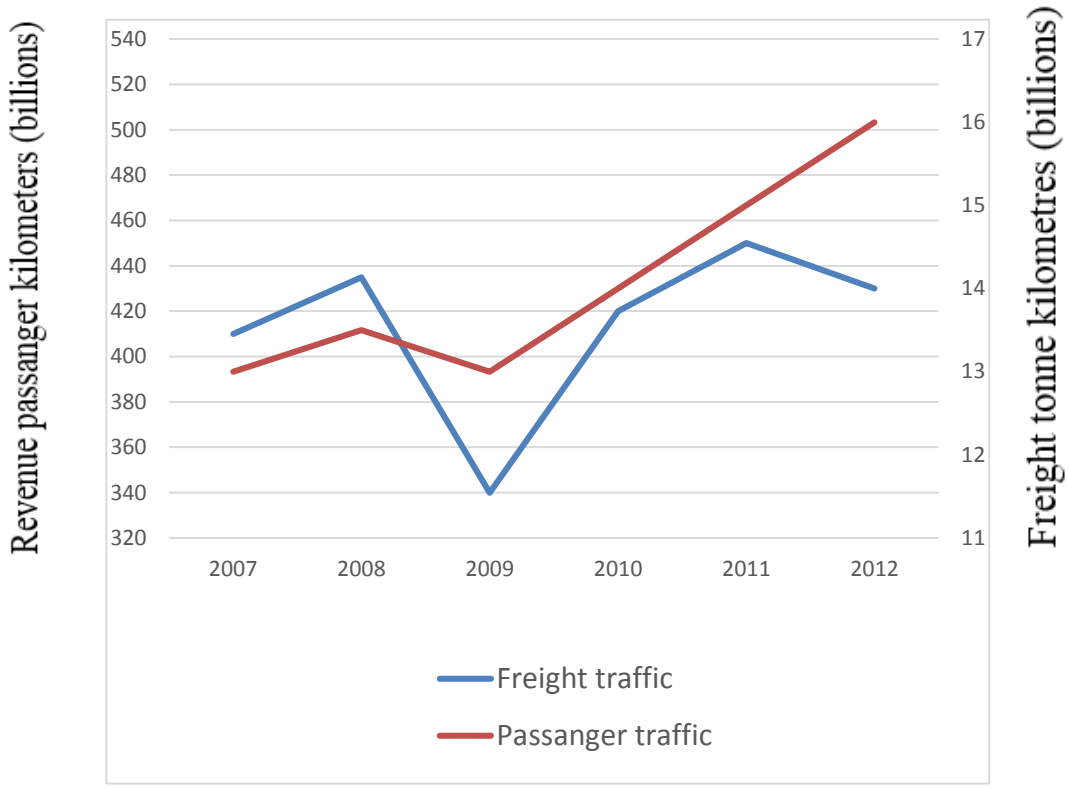
First big alteration of air transportation was non-stop flight across the Atlantic Ocean in 1927. After this voyage air transportation has become a major driver for global travel and commerce. Initially, major cities were connected by only a few pioneering airlines and the focus was on transportation of passengers and air mail.

Gradually, with the advent of the jet aircraft, specifically the Boeing 707, air transportation has expanded at a dramatic pace (International Civil Aviation Organization, 2007; 1). In the 1960s aircraft were just beginning to be capable of crossing the Atlantic without stopping at intermediate places such as Newfoundland, they are now capable of making trips of up to 18 hours in duration (Rodrigue et al., 2013; 101).

Since air transportation is one of the most important components of the world's transportation system Nissalke (2001) investigated aviation not only does it provide the major means of long-distance travel in the world, but its economic impacts on global and national economies is substantial. In addition, because of the very nature of aviation infrastructure (for example, airports) and the current technology for flight.

The sustained growth of air transportation has led to new generations of wide and narrow body aircraft, and the emergence of new market segments such as business aircraft for corporate travel (International Civil Aviation Organization, 2007; 1).

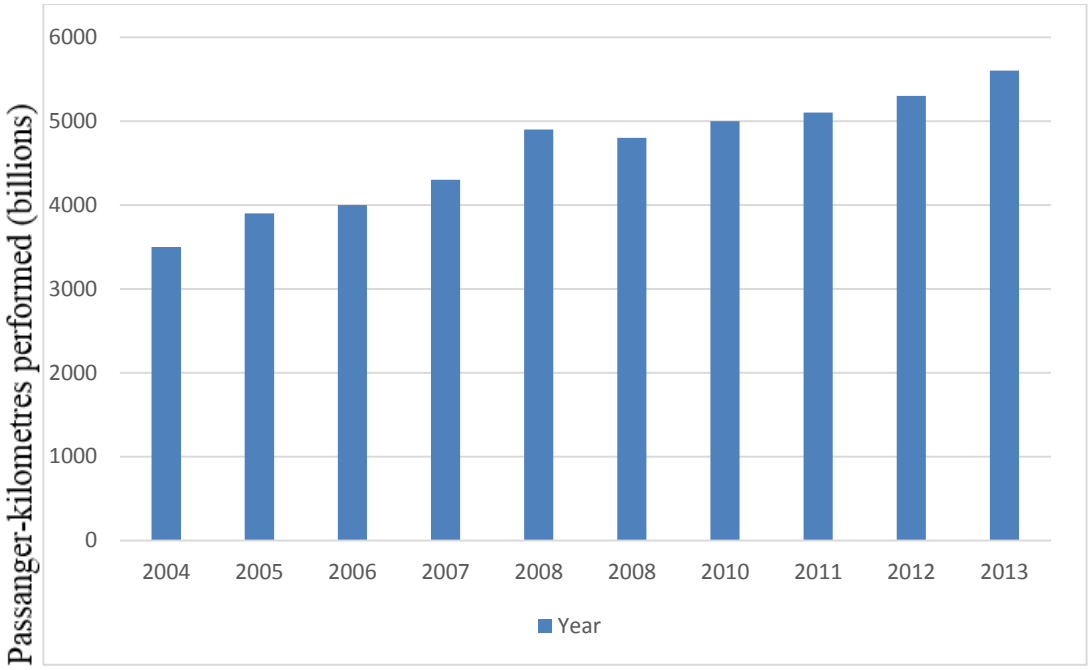
Figure 2: Total passenger and air freight traffic, seasonally adjusted



Source: International Air Transport Association, 2013: 8

International Air Transport Association (2013) statistics indicated above strong economic growth in emerging markets resulted in an expansion of passenger traffic and greater aviation connectivity in 2012. And despite record aircraft deliveries, asset utilization reached new highs, boosted by consolidation and other improvements to the industry's structure. Newly delivered aircraft, meanwhile, also brought significant efficiency improvements.

Figure 3: Total scheduled traffic, passenger-kilometers performed, 2004-2013



Source: ICAO (2013) http://www.icao.int/annual-report-2013 (11.02.2015)

In 2013, world total scheduled passenger-kilometers performed increased by about 5.5 per cent over 2012 international and domestic services combined according to preliminary traffic statistics compiled by ICAO. (http://www.icao.int/annual-report, 11.02.2015). Given the increasing economic importance of air transport and its inherent development potential, modernization, transparency and easy accessibility of laws and regulation in this field are key, in particular for developing countries (United Nations Conference on Trade and Development, 2006; 6).

1.1.1.4. Maritime Transportation

Maritime transportation is the backbone of international trade. The volume of maritime transportation has been growing for many years, and is expected to continue growing in the foreseeable future. Maritime transportation is a unique transportation mode possessing characteristics that differ from other modes of transportation. (Christiansen et al., 2007; 279). Maritime transportation is the dominant purveyor of international freight distribution and evolves over a global maritime space (Rodrigue, 2013; 30).

Table 1: Existing and emerging drivers for future maritime transportation

	Maritime Shipping	**Ports**
Policy	✓ Shipping security (advance notice) ✓ Cabotage	✓ Port security ✓ Cluster governance ✓ Demurrage
Demograpy	✓ Derived demand	✓ Real estate pressures on terminal facilities
Energy & Environment	✓ Higher operations costs ✓ Emission regulations	✓ Modal shift for inland distribution ✓ Emission regulations (e.g. drayage)
Technology	✓ Economies of scale ✓ Ship design	✓ Integration information technologies ✓ Terminal automation
Economics	✓ Network rationalization ✓ Slowdown in global trade ✓ Maturity of containerisation ✓ Development of niche markets	✓ Hinterland access regimes ✓ Transshipment (competition)
Finance	✓ ROI	✓ ROI

Source: International Transport Forum, 2010: 22

Scanning cargo and notice of cargo content are most complex policies have been related to security considerations for both maritime shipping and ports sector. These have been absorbed in practices and costs as efficient security procedures became a competitive factor along supply chains (International Transport Forum, 2010; 22).

In economic systems what takes place in one sector has impacts on another; demand for a good or service in one sector is derived from another. Transport is

derived demand beside maritime transportation derived from consumption of final goods. Containerized maritime transportation has maturity line in its development process thus future growth potential of containerized is affected negatively (Rodrigue et al., 2013; 2).

The advancement of information technology systems provides a wide range of options for the container terminal operator to automate its information system. Electronic devices employed in container terminals reduced the manual effort, probable error and paper flow, facilitated timely information flow and enhanced control and quality of service and decision made (Kia et al., 2000; 343).

Maritime transportation emissions represent 3% of the world's air emissions and the shipping emission industry's share is increasing. A continued increase in international marine transport without any significant gains in energy efficiency and restricted regulations may result in shipping being responsible for 6% of the world's GHG emissions by 2020 and 15% by 2050.

The International Maritime Organization (IMO) is a United Nations-backed organization is an agency of the United Nations formed to promote maritime safety that is in charge of developing and maintaining a regulatory framework for shipping. The IMO routinely legislate regulations on both GHG and non-GHG emissions (Helfre et al., 2013; 2).

Maritime shipping is a particularly environmentally friendly and efficient mode of transport. In comparison to land and air traffic, it produces less emissions in terms of the load and distance transported, and is substantially more energy-efficient (http://www.efficiency-from-germany.info, 25.02.2015) however bunker fuel accounts for about 50% of ship operating costs. Any change in energy prices has a direct impact on operations as there are limited options to absorb higher costs (International Transport Forum, 2010; 22).

Economies of scale imply that efficiency grows in production and operations as size increases. The incentive to capture scale economies by expansion has invariably led to consolidation as larger firms merge and grow (Ambrose et al., 2000; 1).The outcome of shipping operations is a greater reliance on economies of scale to mitigate those costs but also where possible slow steaming. The latter requires a larger number

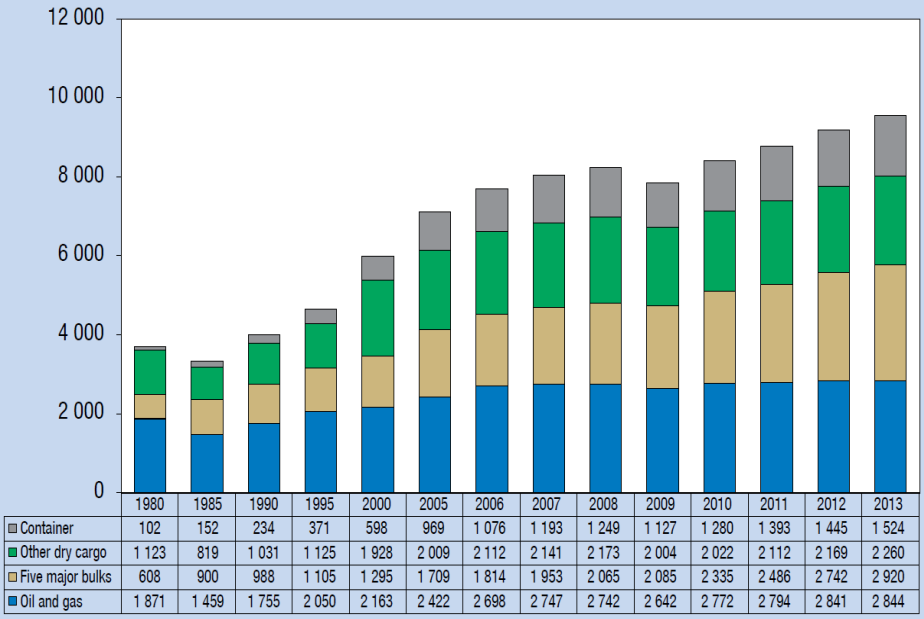
of ships to maintain service frequency along pendulum routes (International Transport Forum, 2010; 22).

In maritime sector crucial rationale investments derived from higher future expectations about trade volumes compounded by the increased involvement of the financial sector. These investments both in port sector and shipping has occur almost after 1995 (Notteboom et al., 2010; 17).

In a phase a maturity, growth is much less related to diffusion but with standard economic cycles and the exploitation of remaining niches**,** such as the containerization of commodities. It remains highly debatable if the global maritime container transport system has reached a phase of maturity (http://people.hofstra.edu, 26.02.2015).

In 2013, dry bulks remained the mainstay of dry cargo trade, with the five major bulk commodities (iron ore, coal, grain, bauxite and alumina, and phosphate rock) accounting for 44.2 per cent (2.92 billion tons) consist main part of dry cargo and minor bulks (forest products and the like) making up 21.0 per cent (1.4 billion tons). Containerized trade (1.5 billion tons) and general cargo/breakbulks (834.9 million tons) accounted for the remaining share (35.4 per cent equivalent to about 2.4 billion tons) (UNCTAD, 2014; 5).

Figure 4: International seaborne trade, by country group (Percentage share in world tonnage)



	1980	1985	1990	1995	2000	2005	2006	2007	2008	2009	2010	2011	2012	2013
Container	102	152	234	371	598	969	1 076	1 193	1 249	1 127	1 280	1 393	1 445	1 524
Other dry cargo	1 123	819	1 031	1 125	1 928	2 009	2 112	2 141	2 173	2 004	2 022	2 112	2 169	2 260
Five major bulks	608	900	988	1 105	1 295	1 709	1 814	1 953	2 065	2 085	2 335	2 486	2 742	2 920
Oil and gas	1 871	1 459	1 755	2 050	2 163	2 422	2 698	2 747	2 742	2 642	2 772	2 794	2 841	2 844

Source: UNCTAD, 2014: 6

1.1.1.5. Inland Waterway Transportation

Inland waterway transportations play a significant role in the transportation of goods across many parts of Europe and world. Inland transport is most environmentally friendly mode of transport between other modes also inland waterway transport is considered energy efficient and safe mode of transport (European Comission, 2012; 6).

Inland navigation can contribute to making transport more sustainable, particularly where it substitutes for road transportation. (European Conference of Minister of Transport, 2006; 6) Inland transport play vital role for industrial hubs and commercial centres because of it provide vital access to sea one to another. Over 500 million of tons of commercial goods are transported with this transport mode and industrial hubs and commercial centers connect each other with 40.000 km of waterway in Europe (European Comission, 2012; 6).

Inland waterway transport provides a safe and environmentally sustainable mode of transport, which is primary element of sustainable economic development. IWT help to development of mature economies over years and created many bridges between world nations. This transport mode can stimulate the improvement economies and level of development. IWT connect land-locked countries to sea (The International Navigation Association, 2009; 1).

Barges are used in inland transportations generally. Three main types of barges are used in inland transportation and intracoastal waterways. These are dry cargo barges, the open hopper barge and tank barges. Tank barges carry liquid cargos, such as petroleum and chemicals. Dry cargo barges carry cargoes which need protection from air conditions such as grain. The open hopper barge is used to inland transport cargo that does not need to be protected from the elements and other conditions, such as coal, sand, and gravel.

The barges are kept together by wire rigging in inland transportation and the barges lashed against the towing knees of the towboat which pushes them ahead. Tugboats are preferred, which pull barges on a hawser on open channels such as Atlantic and Gulf intracoastal waterways (Wyoming Geographic Information Science Center, 2012; 5)

Inland waterway transport has vital role in increasing supply chain performance and reduce gas emission to protect environment also increasing supply chain service performance. Actors involved in inland waterway transport chain are barge operators, shipper, terminal operators, waterway operators, road hauliers and consignees. Intermodal service combine transport actors in supply chain to utilize transport activities in best way (Caris et al., 2014; 4).

1.1.1.6. Pipeline Transportation

The term pipeline in broader sense means a facility used to transport commodities from point of receive to the point of delivery. Many commodities mainly energy are transported through pipelines over years. Crude oil, petroleum products and gas are perhaps the most common commodities transported by pipelines.

The first cross country oil pipeline was laid in Pennsylvania in 1879 from Bradford to Allen town, about 109 miles long and 6" in diameter. The long distance pipeline transportation got a boost along World War II when coastal tanker traffic was disrupted. Discoveries of giant oil fields in remote parts of the world led to planning and execution of correspondingly large pipeline transportation networks and new energy markets occur. Pipeline industry has grown in parallel with the development of world oil and gas industry all over the world in last one century.

Pipelines are the best suited mode for transportation of large volumes of petroleum over long leads also we can follow advantages of pipeline transportations in few topics:

- Lower cost of transportation
- Lower transit losses
- Lower energy intensiveness
- Economies of scale
- Safety and Reliability
- Minimum disruptions
- Environment friendliness
- Multi-product handling
- Stationary carrier
- Augmentation at low cost
- Minimal land costs
- Decongestion of surface transport systems (Sati, 2009; 11-13).

Pipelines represent a completely separate system of freight distribution where liquids (particularly oil) and gases can be pumped over long distances. Pipeline routes are practically unlimited as they can be laid on land or under water. Two main products dominate pipeline traffic: oil and gas, although locally pipelines are significant for the transport of water, and in some rare cases for the shipment of dry bulk commodities, such as coal in the form of slurry (Rodrigue et al., 2013; 95).

Pipelines includes both long distance inter and intrastate transmissions systems and the local or regional gathering systems which aggregate production for delivery into the common carrier transmission systems. The assessment of the gathering system

direct capital investment contains the group of assets typically found in the direct vicinity of the production well. This includes both the collection pipelines and associated pumping and compression facilities, and also supporting assets necessary to stabilize, condition, and perform bulk separation from the as-produced hydrocarbons (American Petroleum Institute, 2013; 11).

1.1.2. Transportation Systems in Turkey

From a geographical point of view, Turkey is not only bridge between west and east, but also intersection point between continents, Asia, Europe and Africa, at wider scale and at a lower scale between regions like Black Sea, Mediterranean Sea, the Balkans, and the Middle East (Tanyas et al., 2004; 3). In Turkey road transportation consist main transport mode for both freight and passenger transport in domestic line. Impeccable transportation Turkey railway infrastructure is not sufficient (Akad et al., 2005; 486).

Major part of the Turkey's foreign trade is being realized by maritime transportation. The progress of transportation between the years of 2002-2012 is shown in the table below by modes of transportation (Turkish Chamber of Shipping, 2013; 26)

Table 2: Turkey Foreign Trade Transportation by Modes (percentage)

Years	Sea	Rail	Road	Air	Other
2003	87,6	0,8	10,5	0,1	1,0
2004	87,4	1,2	10,3	0,1	1,0
2005	86,0	1,2	11,9	0,2	0,7
2006	87,4	1,1	10,4	0,1	1,0
2007	87,4	1,1	10,7	0,7	1,0
2008	86,5	1,1	10,7	0,7	1,0
2009	85,0	0,8	12,6	0,8	0,8
2010	85,6	0,8	12,5	0,3	0,8
2011	85,8	0,8	11,8	0,4	1,2
2012	87,0	0,6	10,7	0,4	1,4

Source: Turkish Chamber of Shipping, 2013; 26

1.1.2.1. Road Transportation in Turkey

Beginning from the 1950's, road transport has experienced a significant development process and nowadays, it is considered as the dominant transport mode of domestic transportation in Turkey. Due mainly to lack of infrastructure of railway transport and inadequate port investments, road transport as being the most favorable mode for door-to-door transportation have given rise to concentration of freight and passenger transport on road network in Turkey (Republic of Turkey Ministry of Transport and Communications, 2011; 6).

Table 3: Name of the Road Network in Turkey

International Road Network in Turkey	**Length (Km)**
Trans European Motarway (TEM)	6.896
Agreement on Main International Traffic Arteries (AGR) E-ROADS	8.878
Black Sea Economic Cooperation - BSEC	4.472
Economic Cooperation Organisation - ECO	7.982
UN - ESCAP	5.247
TRACECA	1.500
Euro – Asian Linkages	3.020
Pan – European Corridors (Corridor IV)	261

Source: International Transport Forum, 2009: 44

Turkish total road network is over 65.799 km. of which more than 31,310 km are state roads, 32.245 km are provincial roads and 2244 km are motorways (http://www.udhb.gov.tr, 13.02.2015).

As table indicated above international routes passing through Turkey is showed in detail. Turkey international road network is approximately 9000 km. International road network important for trade between both European and Middle Eastern countries. 8.878 km of the main road network consist of E-Roads which connect the east and West through the Anatolian mainland and have high standards. The E80 and E90 are the two main roads leading to Turkey from European borders; they also link the Iranian and Iraqi borders (International Transport Forum, 2009; 42).

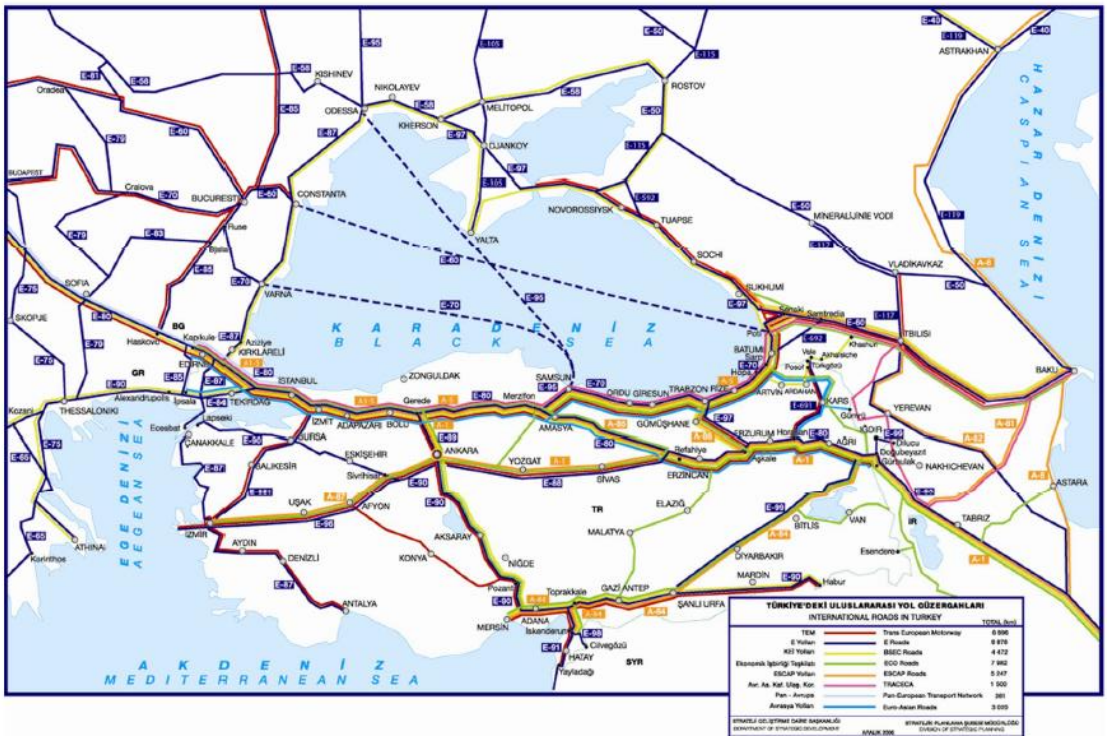
Passenger and Freight transportation increasing invariably between 2010 and 2013. In the report of Turkey Directorate general of highways (2013) indicate automobile number increasing and Turkey transportation become addicted highway comparing to others modes because lack of infrastructure of other transportation systems.

Table 4: Cargo and Passenger Traffic of Highway between 2010 and 2013 in Turkey

	2010	2011	2012	2013
Cargo (Tonne)	190.365.000	203.072.000	216.123.000	224.048.000
Passenger (Number)	226.913.000	242.265.000	258.874.000	268.178.000

Source: Adapted from Turkey Highway Transportation Statistics, 2014

Figure 5: International Road Corridors in Turkey



Source: Turkish General Directorate of Highways, 2009: 44

1.1.2.2. Rail Transportation in Turkey

Turkey has a state-owned railway system under the responsibility of Ministry of Transport and Communications which carries out supervision of Turkish State Railways (General Directorate of State Railways Administration- TCDD). TCDD is a state-owned enterprise focuses on the public service aspect (Republic of Turkey Ministry of Transport and Communications, 2011; 8).

TCDD is quietly dropping a policy of network expansion designed by the state planning to open up areas with poor communication. Instead, TCDD determine slowly

adopting a strategy based on transportation market demand. The most visible aspect of this policy are:

- Abandonment of slow and discreet minor branches and unprofitable lines.
- The closure of secondary station with little or no traffic
- The termination of wagon load traffic to many places

(http://www.trainsofturkey.com, 04.03.2015).

Figure 6: Main Railways in Turkey



Source: http://www.trainsofturkey.com (04.03.2015)

Rail transportation was attached importance by developed countries to protect the nature and reduce congestion. Rail is seen as the preferred solution for freight therefore Railway investments with new freight hubs planned around Turkey that will use the high-speed lines and the Marmaray Crossing are considerable move to carry freight overnight. The environmental issues associated with freight are well recognised in Turkey. As many countries road congestion and its harmful effects are critical issues, especially at border crossings, with as much as 95 per cent of freight currently on the roads. There is an interest in growing railway freight in the market for domestic and international routes. Turkey is keen to capitalise on its strategic geographical location (Docherty, 2011; 3).

Table 5: Milestones of Turkey

Year	Milestone	Comment
1856	The first railway from Izmir to Aydin	Developed by a UK company
1924	4.000 km of track in operation	Nationalisation began
1927	Ports added to rail portfolio	5.500 route km of track in operation
1950	Route km reaches 9.204 km	
1953	Railway becomes a State Enterprise and TCDD is formed	9.441 route km in operation
1984	TCDD becomes a State Economic Institution	10.263 route km in operation
2003	Rail transport is opened to include private sector participation	
2004	Six ports are offered for privatization	10.991 km of track in operation
2008	First high-speed line is constructed	
2009	High – speed operations begin	
2010	2.85 million passengers carried on high speed lines	
	Projected Milestones	
2023	Network of 26.251 route km	Adding 14.336 route km, of which 10.000 will be high-speed lines
2035	Further 1200 km of high speed lines	

Source: Docherty, 2011: 6

The existing railway network is concentrated on a few major routes. Thus the railway network is available only in certain areas and between certain cities (Intermodal Transport Forum, 2009; 53). Turkey has grown its rail network to around 12.097 route km (Turkish State Railways, 2013: 36) and has expansion programme about high speed lines also underway with more detailed and planned. The purposes of these investments are extend the network by about 14,000 km by 2023, including 10,000 km of high-speed lines by 2023 and further track by 2035. There is a strong offer that some of the future expansion may draw in private capital in the form of BOT (Build Operate Transfer) developments. Concession times of 30 to 35 years were

mentioned, and this approach could also be enforced for high-speed lines and underway investments (Docherty, 2011; 3).

Table 6: Cargo and Passenger Traffic of Railway between 2010 and 2013 in Turkey

	2010	**2011**	**2012**	**2013**
Cargo (ton)	21.813.000	24.355.000	25.421.000	25.666.000
Passenger (number)	84.173.000	85.752.000	70.284.000	46.441.000

Source: Adapted from Turkish State Railways Annual Statistics 2009-2013

Table indicate passenger transportation decreased rapidly in 2013. Freight transport has straight rate between 2010 and 2013.

1.1.2.3. Maritime Transportation in Turkey

Turkey has significant geographical position crossroads between Europe and Asia therefore this substantial location give opportunity to Turkish ports to handle significant amount of cargo between the Western and the Eastern. Cargo coming from Europe and Americas are handled in transit to CIS Republics, Iran, Iraq, and the Balkans and vice versa (Republic of Turkey Ministry of Transport and Communications, 2011; 13).

Turkey's approach to maritime transport is consistent with the broad European principles of free circulation of shipping, fair competition, enhanced maritime safety and pollution prevention. The maritime sector is one of the most liberalized sectors in Turkey, with a largely free market oriented economy (Intermodal Transport Forum, 2009; 70).

Table 7: Development of Seaborne Trade of Turkey (Tons)

Years	**Seaborn Trade Total**	**Export**	**Import**	**Turkish Flag**	**TF %**	**FF %**
2002	132.832.579	43.004.046	89.828.533	44.167.451	33	67
2003	149.485.514	46.054.532	103.430.982	43.680.964	29	71
2004	176.161.939	55.118.561	121.043.378	41.905.941	24	76
2005	180.663.331	54.494.224	126.169.107	42.874.811	24	76
2006	202.718.284	63.311.978	139.406.306	42.615.725	21	79
2007	222.059.619	68.660.270	153.399.349	36.992.141	17	83
2008	224.776.283	73.244.972	151.531.311	31.791.383	14	86
2009	213.632.353	73.770.263	139.862.090	29.965.566	14	86
2010	246.570.931	83.945.162	162.625.769	40.494.118	16	84
2011	255.334.712	81.779.528	173.555.184	42.396.010	17	83
2012	283.782.414	91.307.486	192.474.928	38.712.247	14	86

Source: Turkish Chamber of Shipping, 2013: 34

Turkey seaborne trade increasing significantly between 2002 and 2012 however Turkey international trade depend on import more than export hence account deficit increasing consistently. Another important point is Turkish flag rate decreasing regularly this decreasing ratio may related with restrictive Turkish flag state policy either flag of convenience policies. Economic crisis effect occur clearly in 2009 trade volume decreased rapidly.

Table 8: Turkey Container Handling Statistics between 2003 and 2012 (TEU)

	Loading (TEU)			**Seaborne Foreign Trade**		**Change**
Years	**Cabotage**	**Export**	**Total**	**Foreign Trade**	**Transit**	**%**
2003	58.766	1.174.016	1.232.782	2.382.524	110	27.6%
2004	20.682	1.490.066	1.510.748	2.934.027	176.271	24.7%
2005	6.579	1.605.029	1.605.029	3.191.128	173.138	8.2%
2006	14.008	1.823.441	1.823.441	3.671.003	184.921	14.6%
2007	34.005	2.186.019	2.186.019	4.437.800	120.427	70.2%
2008	86.867	2.516.687	2.516.687	5.074.394	117.353	13.9%
2009	70.329	2.202.277	2.202.277	4.391.737	12.542	-15.2%
2010	104.278	2.410.865	2.410.865	4.869.216	874.239	30.40%
2011	154.338	2.845.227	2.845.227	5.461.079	757.171	8.30%
2012	236.905	3.116.027	3.116.027	5.821.683	898.368	8.06%

Source: Turkish Chamber of Shipping, 2013: 46

As indicated above Turkey export and import container trade volume close between 2003 and 2012. From 2010 to 2012 cabotage trade increased enormously and that period transit trade has towering rate. These datum close related with each other because major shipping companies in Turkey give importance cabotage and make significant agreement with international shipping companies about cabotage transportation in Turkey (Turkish Chamber of Shipping, 2012; 54).

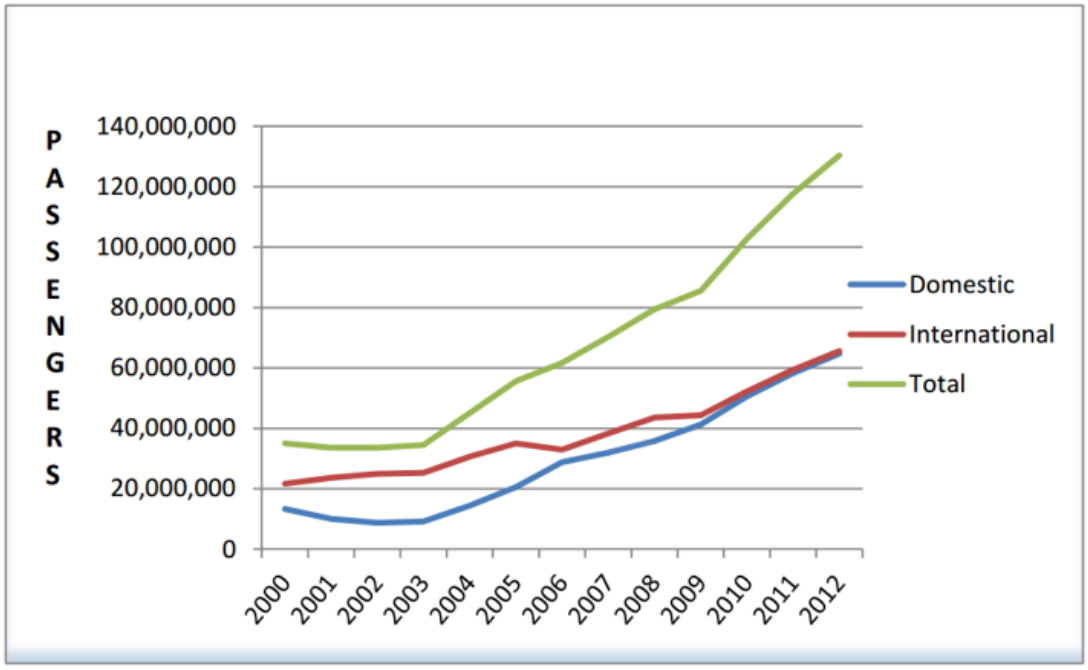
According to the Turkish Maritime Law No:815, the maritime transportation carried out by Turkish ships, being loaded at the harbours and seaports of Turkey and discharged at the harbours and seaports of Turkey, is defined as maritime cabotage (Turkish Chamber of Shipping, 2013; 29).

1.1.2.4 Air Transportation in Turkey

Even though air transport has the lowest growth rate among the transport systems until the 1980s in Turkey, air transport grew rapidly in 2003. The number of

flights increased by 196%, passenger numbers increased by 280% and the amount of cargo increased by 126% in the last decade (Turkish Civil Aviation Assembly, 2012; 22).

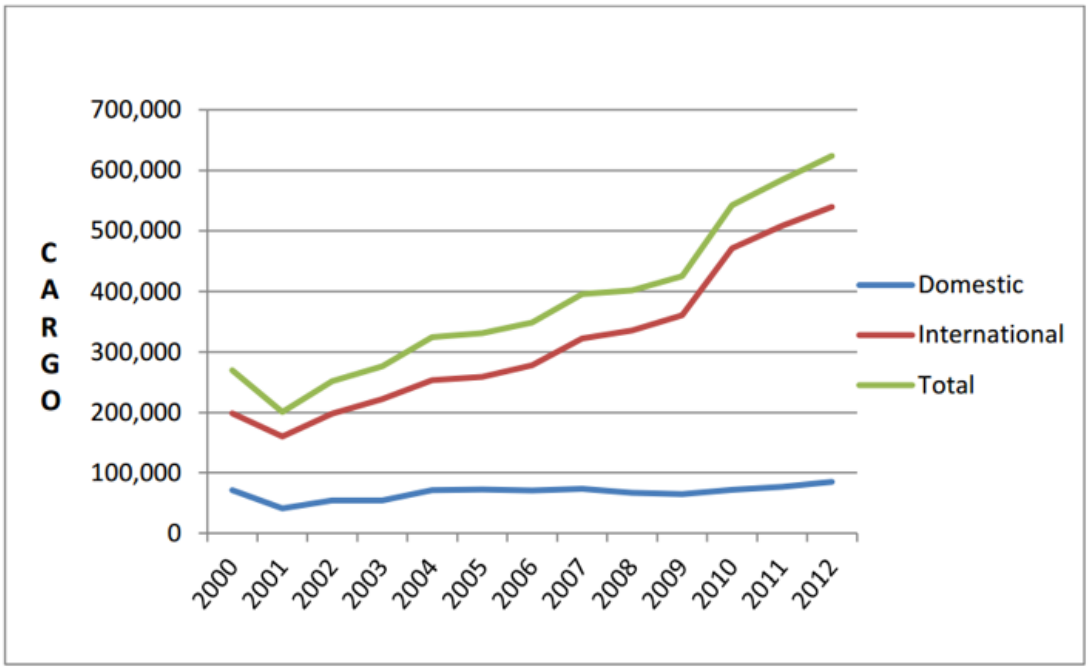
Figure 7: Total Domestic-International Passenger Traffic of Turkey



Source: Turkish Civil Aviation Assembly, 2012: 23

The industry experienced a positive year in 2012 terms of occupancy rates in domestic lines. There has been a growth of 4% in overall flights. And when taking the trying global economic conditions and rise in fuel prices into consideration, 2012 actually closed positively (Turkish Airlines, 2012; 34). Domestic passenger traffic and International passenger traffic has increasing ratio besides both were not effected by global crisis in 2009 (Turkish Civil Aviation Assembly, 2012; 23).

Figure 8: Total Domestic-International Cargo Traffic of Turkey between 2000-2012 (tonnes)



Source: Turkish Civil Aviation Assembly, 2012: 28

Airline companies, affected by the Euro-zone crisis, respectively closed the year of 2012 Air cargo transfer has suffered in the climate of global crisis. During the year, the negative impact of maritime transport on its aviation counterpart is also noteworthy however amount of Turkey domestic cargo has horizontal line between from 2000 to 2012 in addition to international cargo traffic is increasing rapidly in that period (Turkish Airlines, 2012; 34).

In terms of intermodal transport, air transport does not have an important share in cargo transport volume. Although İstanbul Airport is not at competitive levels compared to other important European airports. Most developed airport of Turkey is İstanbul Airport Nevertheless, the freight terminal at the Atatürk International Airport is currently undergoing a face-lift to prepare for additional freight volumes. Amount of cargo increasing close related with Turkish Airlines investments also Turkish Airlines Cargo will begin to operate four full-freighters to play a greater role in transporting freight to/from its home base in the future (International Transport Forum, 2009; 82).

1.1.2.5. Water Transportation in Turkey

Navigable inland waterways are very limited in Turkey. Only Small volume of inland waterways transport is carried out on the Van Lake and in lakes of some dams. There is no serious inland waterway transport activities in Turkish rivers due to unsuitable physical conditions and positions of rivers. Consequently, Turkish fleet engaged in maritime transport in Turkish inland waterways is very limited (European Commission, 2006; 3).

1.1.2.6. Pipeline Transportation in Turkey

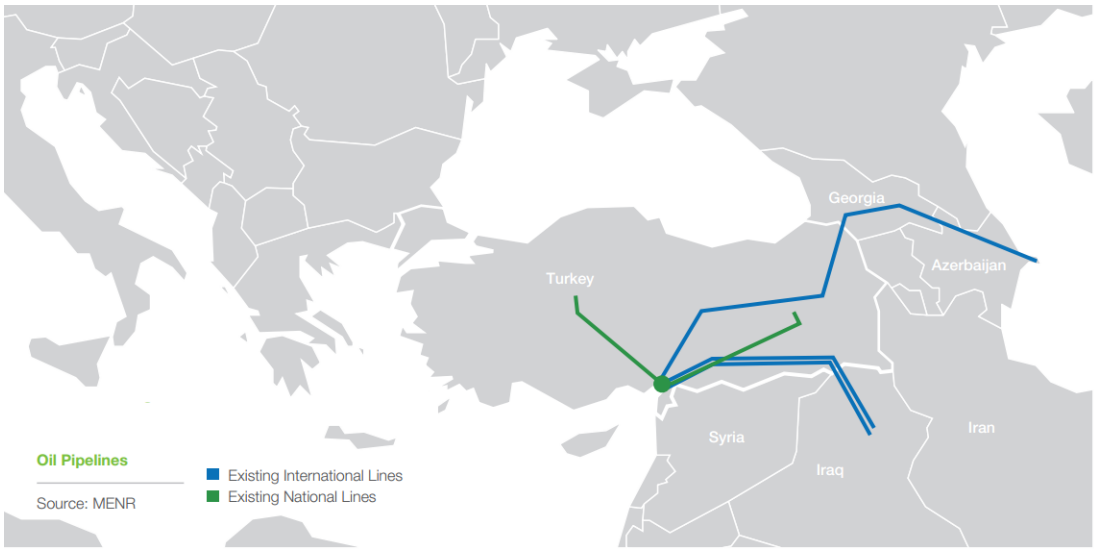
Turkey has an extensive network of approximately 10.000 km of pipelines. Of this network, 3 373 km consist of crude oil pipelines and 8 467 km of natural gas pipelines.

Turkey's existing crude oil pipelines are as follows:

• Iraq-Turkey Crude Oil Pipeline

• Baku – Tbilisi – Ceyhan Crude Oil Pipeline

Figure 9: Oil Pipelines Network of Turkey



Source: Turkish Ministry of Energy and Natural Resources, 2014: 75

And also existing natural gas pipelines are as follows:

• Russian Federation-Turkey Natural Gas Main Transmission Line
• Eastern Anatolia Natural Gas Main Transmission Line
• Samsun-Ankara Natural Gas Transmission Line (Blue Stream)
• Azerbaijan Natural Gas Pipeline (Shah Deniz)
• Turkey-Greece Natural Gas Pipeline (International Transport Forum, 2009; 89)

Figure 10: Natural Gas Pipelines Network of Turkey



Source: Turkish Ministry of Energy and Natural Resources, 2014: 76

From natural gas and oil aspects, planned pipeline projects are aimed to be implemented. Accordingly, Turkey shall get closer step by step to its objective for being an energy corridor due to its geopolitical position (Turkish Ministry of Energy and Natural Resources, 2014; 74). Because of its geographic location between fossil fuel producers and consumers, Turkey has a significant interest in participating in oil and gas pipeline projects that pass through its territory in order to obtain, not only economic gains from transit fees, but also political leverage over its partners (Krauer, 2011; 31).

Turkey's main objective is becoming energy hub between Asia and Europe hence prior strategies of Turkey are attach importance to energy infrastructure (Krauer et al., 2011; 31). Ceyhan's becoming an integrated energy centre has been determined

as an objective which would bring dynamism to the region and support the effective functioning of the markets (Turkish Ministry of Energy and Natural Resources, 2014; 74).

1.2 AN OVERVIEW ON OF MULTIMODAL TRANSPORTATION

The 'Multimodal Transport' concept can be defined as the combination of different types of transport modes used in a national or international transport operation, in which provides door-to-door services, under the responsibility of one single transport operator who called as multimodal transport operator. Practically, this particular concept is not new and may even have been practiced long before the introduction of this terminology also recently multimodal transport become crucial to reduce cost and efficient transport process (Chao, 2011; 37).

1.2.1. Rise of Container Transportation

A container, as defined by the European Conference of Ministers of Transport (2001), is a generic term for a box to carry freight, strong enough for repeated use, usually stackable and fitted with devices for transfer between modes. Containerization derives from two complementary technologies, unitization and intermodal transport. Unitization is the process of combining smaller packages into one larger unit, which can be mechanically handled as a single item (Rosenstein, 2000; 14).

Tomlinson (2009) define the intermodal shipping container, a large steel box built in a small number of standard sizes to allow transportation of goods by ship, truck, train and, rarely, airplane, is a simple technology whose use has had a profound social and economic impact. From a transportation technology perspective, containerization resulted in the introduction of intermodal freight transport, since the shipment of a container can use multiple modes of transportation -ship, rail or truck- without any handling of the freight when changing modes (Bernhofen et al., 2012; 8).

Into the 1950s, most goods transported on water over long distances were shipped by what is called break bulk shipping, in which goods were transported loose or packaged in boxes, bags, barrels, or other relatively small containers that varied depending on the type of good. According to Levinson in the late 1950s major cost of

transport cargo is portside costs furthermore handling consist another critical expenditure item of cargo transportation. A major cost in break bulk shipping is time and labor spent much time to loading and unloading ships at portside in ways that avoid damage to the goods (Levinson, 2006; 33-34).

The innovation whereby freight placed in boxes of standard dimensions could be transported by sea has been credited to Malcolm McLean. He began in the early 1950s shipping freight from New York to the Gulf Coast, and in order to reduce handling costs, placed the goods in containers (Vigarie, 1999; 5).

Ships and port facilities had been specialized to allow more rapid loading and unloading at lower costs. Oil and other single type of goods couldn't carry at lower rate because of lack of advance equipment. Finished goods loading and unloading process had changed little in decades therefore specialized bulk shipping had become industrialized, in contrast to break bulk (Tomlinson, 2009; 1-2).

The intermodal shipping container became the preferred way of shipping most ocean freight in the 1960s. Shipping companies, such as McLean's (which had been renamed Sea-Land Service, emphasizing the intermodal nature of its business). Sea-Land's growth benefited from being able to prove its cost efficiency servicing the U.S. Military, during the Vietnam War critical problem were break bulk unloading bottlenecks however container revolution overcome this vital problem (Levinson, 2006; 176-188). Containerisation solved the problem of congestion in harbours. Increased efficiency was achieved. Containers could be handled in a mechanised form (cranes) - a process which was later to be (semi-)automated. The required labour force decreased. Costs dropped and profit margins for stevedores grew (Egyedi, 1999; 2). The compromises developed at that time are among the most common sizes today (Broeze, 2002; 12-16).

The usage of containers shows the complementarity between freight transportation modes by offering a higher fluidity to movements and a standardization of loads. The container has substantially contributed to the adoption and diffusion of intermodal transportation which has led to profound mutations in the transport sector (Rodrigue et al., 2013; 113-116).

According to OECD (2002) point of view the concept of intermodalism encompasses all freight movements involving two or more modes of transportation,

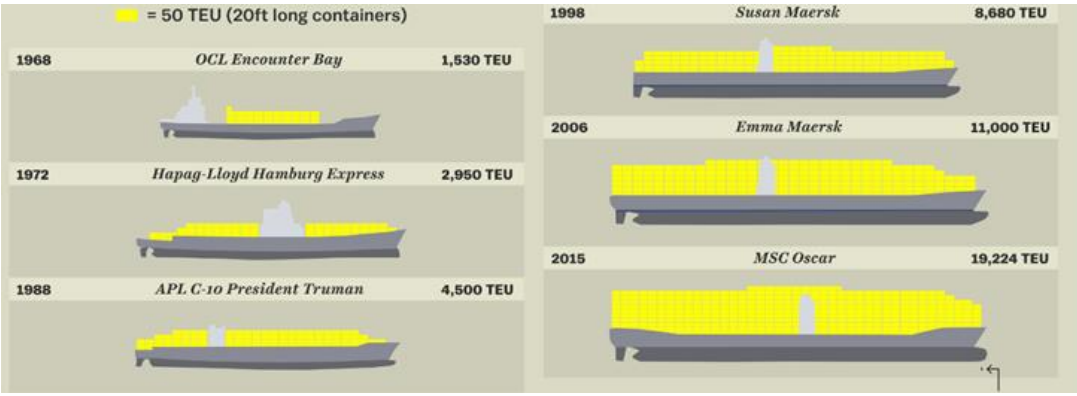
intermodalism refers to the aim of making the optimal use of all the various modes of transportation. The goal of intermodalism is not limited to the promotion of modal shift to achieve a more efficient use of modes. It also involves the promotion of improvements in the multimodal transport chain without modal shift. Intermodal transportation allow easy handling between transportation systems. Without container intermodal transport would be very costly and inadequate.

Containerization leans on growth factors mainly related to globalization, substitution from break bulk and more recently the setting of intermediate transhipment hubs. Globalization and containerization as closely interrelated (Rodrigue et al., 2013; 113-116). Container first came into international use, the volume of international trade in manufactured goods grew more than twice as fast as the volume of global manufacturing production, and two-and-a-half times as fast as global economic output (Levinson, 2006; 12). Globalization has been supported and expended by the development of modern transport systems (Rodrigue, 2006; 8).

Since 1990 Containerization represents a revolution in the freight transport industry, facilitating both economies of scale and improvements in handling speed and throughput, with containerized traffic has surged. This important point, the adaption of container has special mean for shipping companies and ship products on both national and international markets. Ninety percent transportation except non bulk cargoes carry with container (Rodrigue et al., 2013; 113-116).

Recently, containerization of general cargo became dominant in maritime transportation. Several trends and new development can be identified in the maritime container transport industry because it so open to innovation and new technologies. For example, in 2006 the degree of containerization was 97.2% in the Port of Hamburg, This change was accompanied by a growth of the world's container vessel fleet in terms of the number of vessels as well as in the size of vessels. In next decades this growth still continues due to the strong increase in international trade (Meisel, 2009; 7).

Figure 11: The Largest Containerships per decade



Source: http://www.container-transportation.com (09.03.2015)

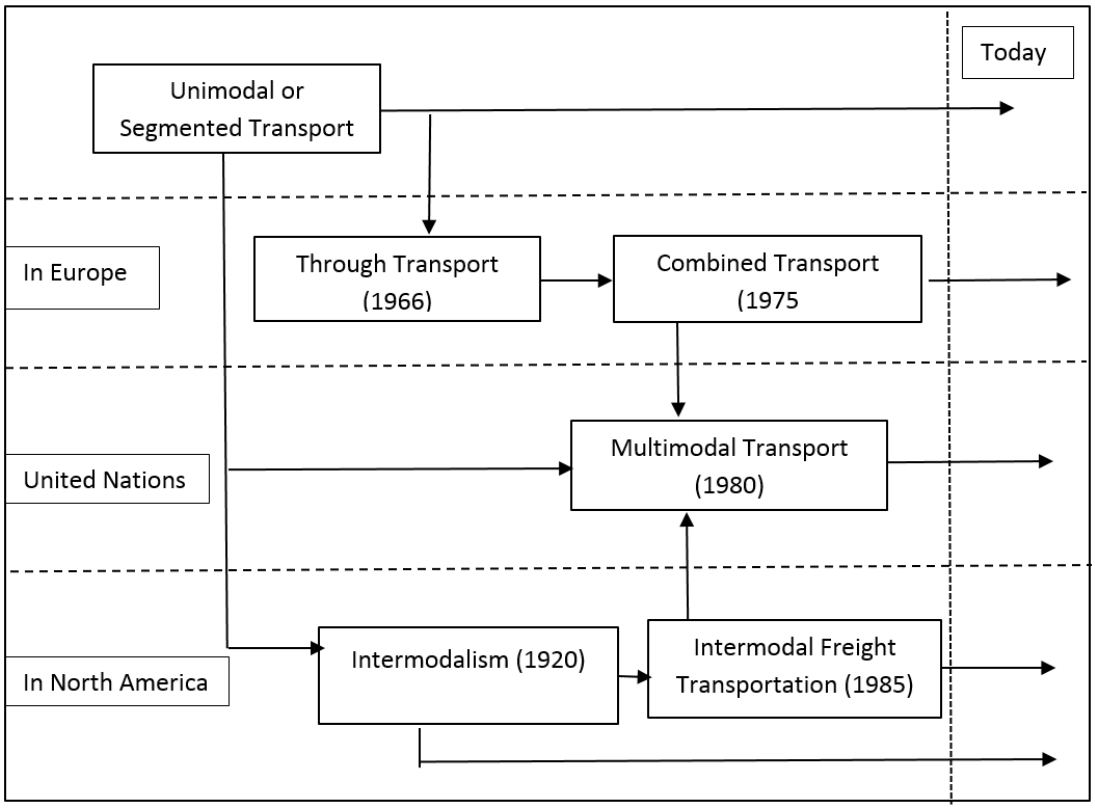
The economies of scale that motivated Sea-Land and McLean to build ever-larger containerships continue to prevail in the global industry (Cudahy, 2006; 9). Nowadays, the MSC Oscar is the largest container ship in the world it is first scheduled to set sail from a shipyard near Busan, South Korea and it can carry more than 19.000 shipping container. The deck of the Oscar is nearly as big as four football fields laid end-to-end. In more tangible terms: MSC Oscar can carry 39,000 cars this development show latest growth of container ships since they debuted in the 1950 (http://www.vox.com, 09.03.2015).

1.2.2. Multimodal Transportation

Multimodal Transport is process in which the owner of the goods accept to move cargo by at least two different modes of transport under a transport document and under a single contract with a carrier known as a multimodal transport operator. The operator carry responsibility from starting point of cargo acceptance to moment of delivery (MTSAC, 2008; 6).

International multimodal transport' means the carriage of goods by at least two different modes of transport on the basis of a multimodal transport contract from a place in one country at which the goods are taken in charge by the multimodal transport operator to a place designated for delivery situated in a different country (UNCTAD, 2001; 5)

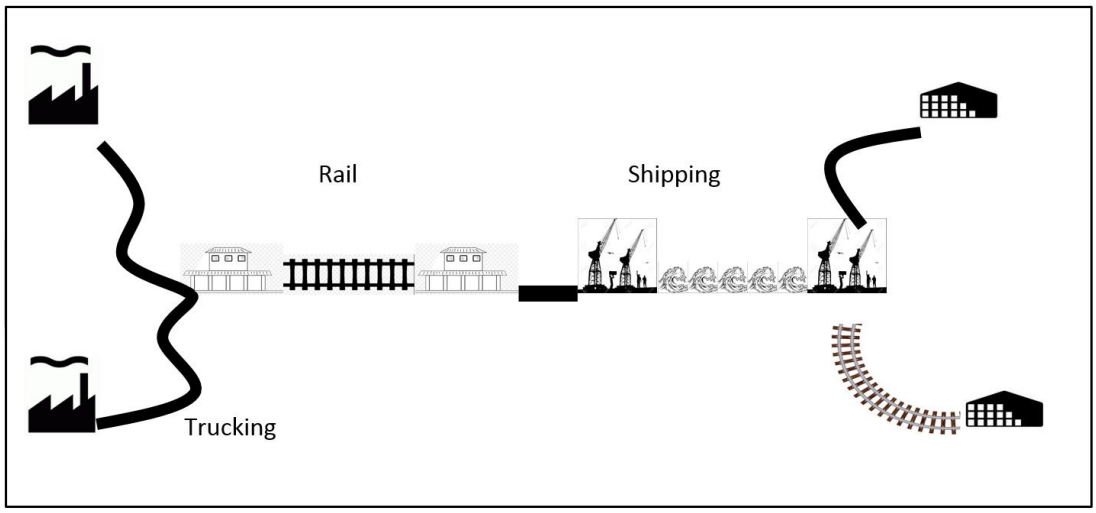
Figure 12: Evolution of transport terminology



Source: Banomyong, 2000: 16

Since 1920 with the introduction of the term intermodalism have been tried to attribute different names that basically the movement of goods by at least two modes of transport. Transport terminology relating to intermodal/multimodal transport continues to evolve and is open to improvement. The multimodal/intermodal transport or combined are now used in some of literature (Banomyong, 2000; 17).

Figure 13: Intermodal Transport

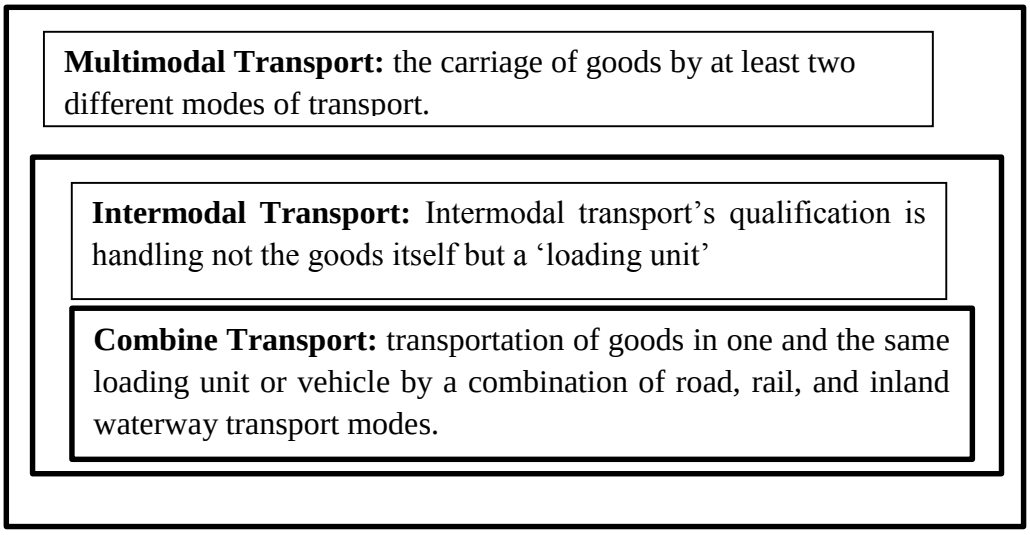


Source: Bektas et al., 2007: 2

Bektas (2007) describe intermodal transport in Figure 13. In this example, first loaded containers leave the shipper's firm by truck to railway station, where they are consolidated into the train station then containers taking from trucks to transmit container terminal. Containers loaded at ships from trucks. Terminal has decent network connection of highway however if port has direct connection between railway the last operation is unnecessary in which case freight is transferred directly from one mode to the other. Containers are then transported to a port on another continent by ocean shipping, from where they leave by either trucking or rail (or both) to their destinations.

Combined transport defined by Banomyong (2000) as transportation of goods in one and the same loading unit or vehicle by a combination of road, rail, and inland waterway transport modes. Combined intermodal transport is a process in which cargo owner agrees with a freight forwarder through a freight forwarding contract to transport certain goods using different transportation modes.

Figure 14: Concept of Multimodal Transportation



Source: Değirmenci, 2012: 65

In Figure 15 a case was explained related with intermodal transport contracts. Cargo moving from Leicester in UK to Pretoria in South Africa – Cargo is packed in Leicester also moved by truck to the port of Felixstowe by a transport service provider (could teralso be termed as an Intermodal service provider) under the employ of the shipper**.**

From Felixstowe, the carrier takes all responsibility of the movement of the cargo to the discharge port in South Africa, Durban.

From Durban port the consignee uses their transport service provider to move the goods by rail from to Pretoria Rail Terminal followed by a road move to their premises or a full road move from Durban port to their premises in Pretoria.

The rail transportation and road service may be provided by the same transport service provider or could be done by two different service providers.

In this case, the carrier issues a Port to Port Bill of lading, and the whole operation is called an Intermodal Operation as it involves several transport contracts:

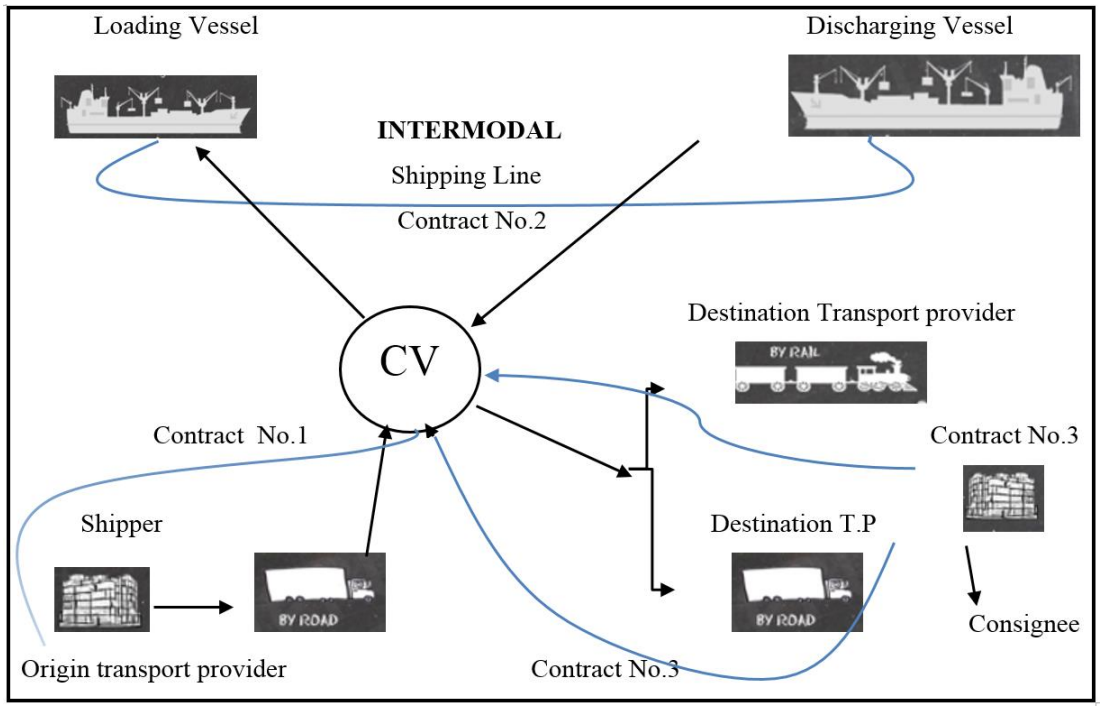
- Between Seller or Buyer and Transport service provider for road/rail movement from Leicester to Felixstowe route

- Between Seller or Buyer and Carrier for sea movement from Felixstowe to Durban route
- Between Seller or Buyer and Transport service provider(s) for rail/road movement from Durban to Pretoria route

Intermodal transport is a process in which cargo owner agrees independently with each of transport companies that they are going to transport the goods. Different documents and contract of transport are delivered by each company to the cargo owner depending on the stage that they will carry out in same as figure 14.

Each transport company will be responsible for its own stage based on the rules applicable to the transport contract if the goods suffer damage, loss or delays in its delivery process (http://shippingandfreightresource.com, 11.02.2015).

Figure 15: Intermodal Transportation contract

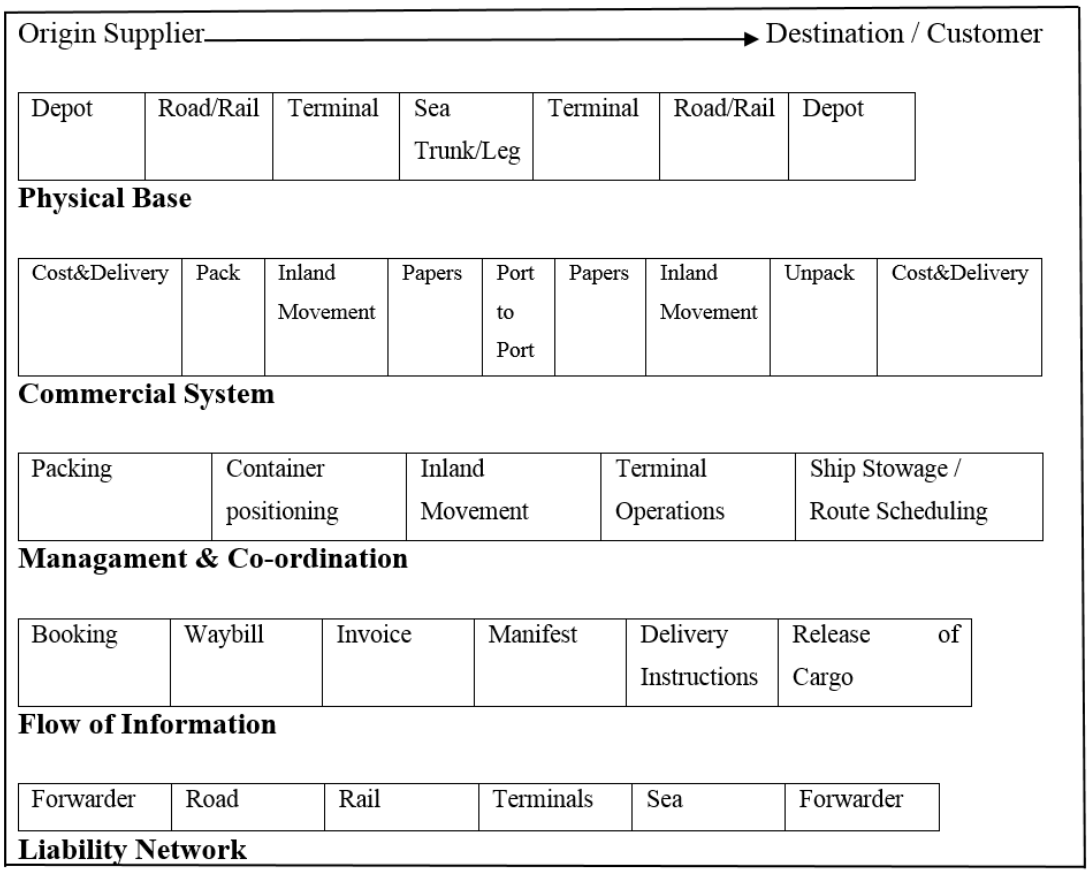


Source: http://shippingandfreightresource.com/intermodal-vs-multimodal-what-is-the-difference (11.02.2015)

The development of new transportation techniques, such as containerization and other means of unitization of goods in the 1960s can transport goods in a box also introduced a significant need for modification of commercial and traditional legal approaches to transport. Goods stowed in a container could be transported by different

modes of transport, such as ships, railway wagons, road vehicles or aircrafts, from the point of origin to the final place of destination, without being unpacked for sorting or verification when being transferred from one means of transport to another. Finally, more and more operators took responsibility for the whole transport chain under one single transport contract called multimodal transport contract. Shippers/consignees needed to pursue one single operator, in the event of loss of, or damage to, the goods involved in multimodal transport, who would be responsible for the overall transport, rather than against several unimodal carriers involved. Other carries except main carrier called as subcontractor in multimodal carriage. Still there was a need for an international legal framework for multimodal transport of goods (UNCTAD, 2001; 5-6).

Figure 16: Components of a multimodal transport system

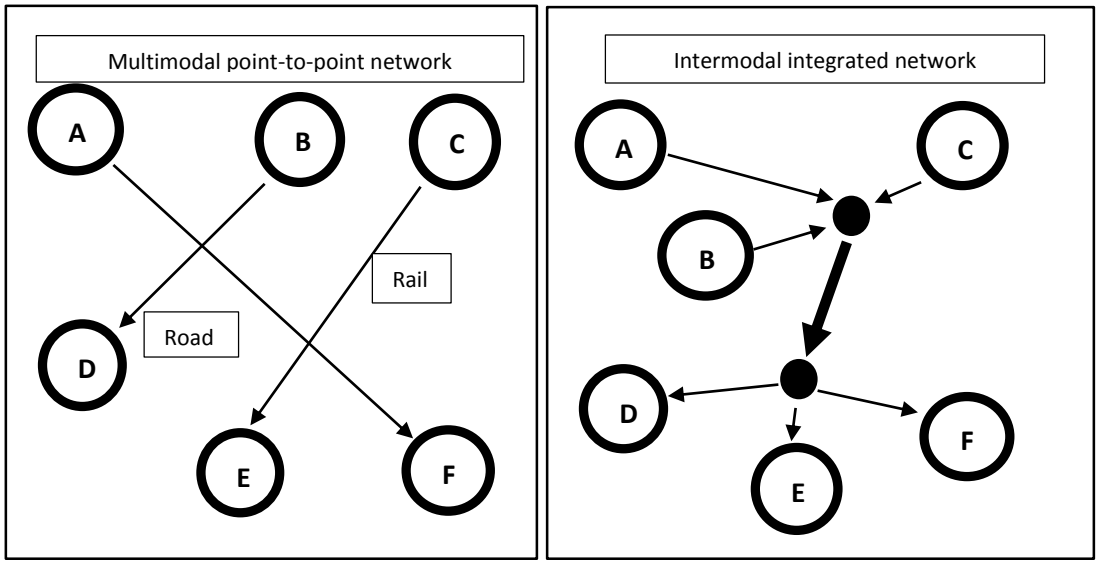


Source: Banomyong, 2000: 14

Figure 15 show that multimodal transport is therefore a system, which places the responsibility for transport all activities under one operator (probably a forwarder

or a liner shipping company), who then undertakes, manages and co-ordinate the total task from the shipper's door to the consignee's door (Nair, 2000; 4). A contract for the multimodal carriage of goods contains undertaking by a carrier, who is called the multimodal transport operator, to perform carriage of goods by at last two different modes of transport from the place where the goods are taken in charge to a place designated for delivery point. (Ralph, 1995; 3). The most critical point of multimodal contract - the Multimodal Transport Operator take legal entire responsibility for transportation of goods 'from the moment that the goods are taken over from the consignor until the moment that they are delivered to the consignee' (MTSAC, 2008; 6)

Figure 17: Intermodal transportation as an integrative force



Source: Rodrigue et al., 2013: 112

Figure 16 indicate two different freight distribution routes. First transport route is conventional point-to-point multimodal network, their starting point A, B, C and arrival points are D, E, and F (independently linked to destinations). The second route involves the development of an integrated intermodal transport network with common load units (container). Cargoes coming from A, B, C and consolidated at rail terminal then cargoes leave the station to arrive other rail terminal. Cargoes distribute to the last destinations (D, E, F). This can result in higher load factors and/or higher transport frequency, especially between terminals. Under such circumstances, the efficiency of

such a network mainly resides in the transshipment capabilities of transport terminals (Rodrigue et al., 2013 p.112).

1.2.2.1. Advantages of Multimodal Transportation

Multimodal transport is most effective transport alternative because each of transport stage use efficient therefore reducing congestion, energy expenditure and pollution. Unimodal transport is the key to increasing the productivity and competitiveness of the freight transport industry. This transport also reduce operation time, cost less and offers opportunity to incorporate less polluting transport alternative into the transport chain (Hoeks, 2009; 3).

The most significant characteristics of advantages of multimodal transport are:

- Coordinated and planned as a single operation, it minimizes the loss of time save time for next operations and risk of loss, pilferage and damage to the cargo at trans-shipment points.
- The markets is psychically reduced by faster transit of goods and reduce storage cost; Reference to Globalization challenge, the distance between origin or source materials and customers is getting to be insignificant thanks to the development of multimodal transport.
- The burden of issuing multiple documentation for each segment of transport is reduced to minimum also multimodal transport contract may valid every carriage legs (Karaboğa, 2014; 4).

1.2.2.2. Disadvantages of Multimodal Transportation

Intermodal transport may has lower overall reliability in some cases because in this carriage alternative many transport mode is used by transport operators therefore as the chain of different modes grows, the possibility of any link in the chain breaking down also increases. If rail operator delays introduced by bad weather or equipment failure this effect other carriage operators and plan breakdown suddenly.

Carrier try to protect cargo while transportation process. After another carrier has taken cargo in multimodal transport every operator risk the possibility of damage as the freight is transferred from one method of transportation to another therefore

overpacking by adding more bracing and protective material than would normally be deemed sufficient. This extra weight and expense partially counteracts the advantages intermodal transportation has in terms of energy efficiency and cost.

Intermodal transport has advantage of low cost compared to other methods of transportation however obtains this by sacrificing speed. To operate at peak efficiency, multimodal transportation must also reduce the amount of time spent waiting in depots for a new carrier to arrive or for cargo to be unloaded.

To combine all modes between each other require knowledge and high capacity equipments. Multimodal freight transportation also suffers from comparatively high infrastructure costs. Containerization has lowered the cost and difficulty of transporting goods by standardizing their form, for instance carriers can easily move the same container from a ship to a train to a truck or another transport modes. Handling these containers, however, requires that shippers have the heavy-duty cranes which is expensive and necessary to manipulate large containers; this infrastructure may not exist in all places, particularly in developing countries (Piatak, 2002: 67-70).

1.2.3. Multimodal Transportation in Turkey

Unique geographic location of Turkey offers important multi-modal transport opportunities. In line with the estimations in global containerization trend, especially in maritime transport, it is expected that over 60 percent of all cargo handled in Turkish ports will be containerized by 2020 (Republic of Turkey Ministry of Transport and Communications, 2011; 17). Intermodal transport by rail in the form of containers is undertaken by the TCDD, which together with an intercontainer, operates regular container block trains to and from Europe and Central Asia. The same holds true for the Ro-La trials that have been carried out by the TCDD and Austrian OKOMBI in cooperation with the other concerned railway companies that provided traction on their respective territories, namely Bulgaria, Serbia, Croatia, Slovenia and Austria (International Transport Forum, 2009; 110).

Figure 18: Geographic Location of Turkey



Source: Işık, 2012 p.4

Turkey situated on main trade arteries, is logistics hub of three continents. Turkey can use advantage of its geographic advantage because it is between Europe, Russia, Central Asia, Africa, Middle East. Nowadays Turkey government invest multimodal transport infrastructure Turkey has 16 logistic villages for unimodal carriage and storage. Kars-Tbilisi-Baku railway project links three countries and revive historic Silk Road trade route. When Marmaray and Baku-Tblisi-Kars Railway completed, an uninterrupted railway line will be provided from London to China (Işık, 2012; 4-17).

CHAPTER TWO
LEGAL ASPECTS OF MULTIMODAL TRANSPORTATION

2.1. INTERNATIONAL MULTIMODAL TRANSPORT REGULATIONS

The international multimodal transport conventions which applied to different parts of unimodal transport were inadequate to resolve the complex and unsolved issues under multimodal transport. Each regulations governed only part of the multimodal transport and provided different provisions to govern key issues such as liability, time bar and also limitation of liability therefore different organizations and conferences try to establish international uniform liability regime to facilitate unimodal transport (Faghfouri, 2006; 95).

2.1.1. United Nations Convention on the Multimodal Transportation of Goods (1980)

The multimodal system can, however succeed only if certain conditions are satisfied. First, there should be a consistent set of enforceable rules and regulations, which clearly define the rights and obligations of the multimodal operator who is responsible for entire multimodal transportation operation. Second there is also need for uniformity of the documents required by countries (Raghavan, 1995; 201).

A significant unification work on the rules and provisions applicable to the multimodal transport of goods is the United Nations Convention on International Multimodal Transport of goods open for signature in 1980 (Multimodal Transport Convention) (Damar, 2011; 225). United Nations Convention on the Multimodal Transportation of Goods shall enter into force twelve months after the governments of thirty states have either signed it not subject to ratification, acceptance or approval or have deposited instruments of ratification, acceptance or accession with the depositary (Kluwer, 1981; 105). The Convention is the result of the work conducted by the United Nations Conference on Trade and Development (UNCTAD). The work was done concurrently with the Hamburg Rules and (Damar, 2011; 225) that the convention has common point with the Hamburg Rules, which were not considered especially carrier friendly (Hoeks, 2009; 17).

More than three decades after the adoption of the 1980 MTO Convention, the world of international trade is not yet able to rely on a proper international liability regime for multimodal transportation. This is notwithstanding considerable investments of time and resources by international and regional organisations and conferences (Clarke, 2013; 163). Attempts to achieve a uniform regime at international level also regulate unimodal transport could mention these topics:

- Has not entered into force but has provided a basis for enacting laws on MT at national, regional and subregional level
- MT Convention applies mandatorily to all contracts of unimodal transport between Contracting States
- Liability rules are standard, but limitation of liability may vary
- Defining Multimodal Transport Operator responsible throughout (from taking goods in charge to their delivery point) (Faghfouri, 2012; 8).

2.1.2. UNCTAD/ICC Rules for Multimodal Transport Documents

UNCTAD/ICC working group was created to elaborate a new set of rules for multimodal transport documents also regulate unimodal carriage. During a series of meetings the joint UNCTAD/ICC working group completed drafts of provisions and the preparation of the UNCTAD/ICC Rules for Multimodal Transport Documents in 1991. The Rules entered into force on 1 January 1992 (UNCTAD, 2001; 12). Whenever such a reference is made, the parties agree that UNCTAD/ICC rules shall supersede any additional terms of the multimodal transport contract which are in conflict with these rules, except insofar as they increase the responsibility or liabilities of the multimodal transport operator (Glass, 2012; 338).

Rules only cover a part of customary contents thus MTO wishing to use the rules as a basis for his multimodal transport contract would have to add other clauses such as: optional stowage, routing, freight and charges, general average, jurisdiction and arbitration, and applicable law to satisfy multimodal transport operator particular needs (United Nations Economic and Social Commission, 2003; 1). Limitation of liability of the MTO is provided in Article 6 of the UNCTAD/ICC Rules. In principle, the MTO shall in no event be liable for any loss and damage of goods in an amount

exceeding 666,67 SDR per package or unit or 2 SDR per kg of gross weight of the goods lost, whichever is the higher (Marin, 2009; 9). The issue of transport documents is not condition for the application of the UNCTAD/ICC rules. Since most rules and provisions are concerned with the liabilities of MTO and functions of MTD, they may not easily be interpreted if the rules are applied to a unimodal transport contract (Chan et al., 2002; 428).

UNCTAD/ICC Rules do not set aside any obligatory arrangements and thus the uncertainty regarding the legal regime that applies is not lifted entirely. What is more, contractual provisions such as paramount clauses choosing a certain regime as the law applicable to the contract may even enhance the conflicts. (Hoeks, 2009; 20).

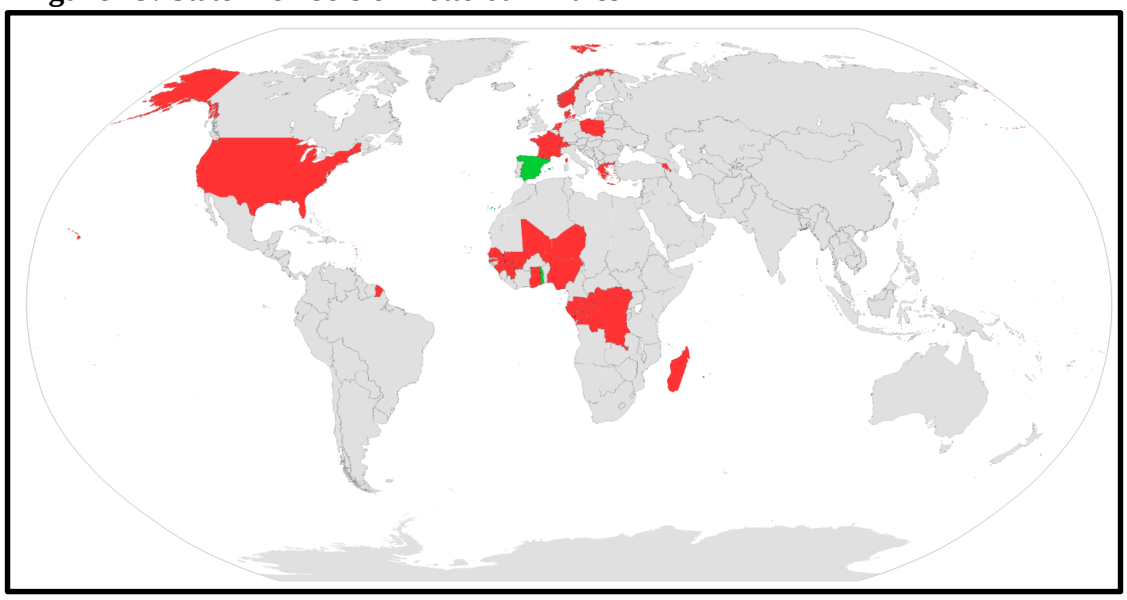
The FIATA multimodal transport bill of lading is recognized all over the world commercial transactions. It is a negotiable document of title in line with the International Chamber of Commerce Uniform Rules for such documents. The FBL carries the logo of the ICC in addition to that of FIATA and this Association http (http://www.bifa.org, 17.03.2015). FIATA was ratified by the ICC that the Negotiable FIATA Multimodal Transport Bill of Lading is entirely compatible with the UNCTAD / ICC-rules for Multimodal Transport Documents; as proof of this, the new FIATA B/L is allowed to carry the ICC-label (http://www.conexbe.be, 17.03.2015). The FIATA Multimodal Transport Bill of Lading (FBL) is a carrier-type transport document set up by FIATA for the use by freight forwarders acting as MTO. The FBL can also be issued as a marine bill of lading (http://www.ciffa.com, 17.03.2015).

2.1.3. The Rotterdam Rules

The Rotterdam Rules were adopted by the UN GA on 11 December 2008 and opened for signature on 23 September 2009 in Rotterdam. The rules aim at achieving harmonisation of the law governing the carriage of goods by sea. More specifically, they aim to promote legal certainty and improve the efficiency of international carriage (Hamid, 2010; 2). United States and France, several European Union countries and some of African countries negotiate about the text. However, that number is only about 10% of the 191 countries of the world. Totally 21 countries have signed Rotterdam Rules not including Turkey. Rotterdam Rules has not been signed by 6 important

maritime nations, including the United Kingdom, China, India, Germany, Japan, Australia, Russia and Brazil still Canada has not signed it either, but is contemplating doing so (Isaacs et al., 2010; 6).

Figure 19: State Members of Rotterdam Rules



Source: http://En.wikipedia.org (07.04.2015): Signatories (red) and Ratifications (green)

The Rotterdam rules can be described as operating as a 'maritime multimodal convention', a 'wet multimodal convention', 'maritime plus multimodal convention' or some such convention; but not as a fully-fledged multimodal convention. And, provided there is carriage by sea (Baatz et al., 2009; 16). It is irrelevant whether or not the mode of transport other than by sea is subsidiary to the sea leg nor it is important whether or not the other modes of transport are prior to or after sea transport. It was suggested to apply the Convention to multimodal carriage where the importance of the maritime leg is predominant (Neels LL.M, 2011; 4).

Although Rotterdam rules do not mention multimodal transport, its aim of application does cover door-to-door transport. Primarily definition of contract indicate carriage processes clearly (article 1(1)74), the RR applies to unimodal transport when the contract of carriage only cover seaborne transportation, but it also operates as a multimodal convention but contract must provide for sea carriage and carriage by other transport modes (Conrado, 2011; 21). The Rotterdam Rules apply not only to contracts of carriage by sea from or to a Contracting State, but also to contracts involving other

modes, as long as the contract 'provides for carriage of goods by sea (UNECE, 2011; 2).

According to Schmitt (2009) Rotterdam has failed to meet its essential goals in 4 major ways (Schmitt, 2009; 2):

1. Freedom of contract, to vary most terms of Rotterdam, is allowed for "volume contracts" which are broadly defined. Carriers will arrange to carry most goods under "volume - 2 - Rotterdam Rules CTLA Paper October 2009.DOC contracts", adding great uncertainty to carriage of goods situations.

2. The exceptions to the door-to-door provisions of Rotterdam are so broad that they do not solve the problem of inconsistent inland liability regimes in different countries. Also, some provisions can be opted out of by ratifying states, including the choice of forum provisions. Uniformity of law will not be achieved.

3. The Rotterdam liability regime is significantly different from existing, established, liability regimes. Unless Rotterdam is immediately widely adopted (which is unlikely) it will create yet another unwanted liability regime. Uniformity of law will be set back.

4. The drafting is long, complex and difficult to understand in its original drafting language, English. Interpretations of Rotterdam will vary between countries that adopt it. The writer suspects that one reason for the relatively small vocal opposition to Rotterdam is that almost no one except the negotiators has the stamina to read it; and, few people will take a position on something they have not read.

The modified network liability system laid down in the Rotterdam Rules is based on the network liability system in operation at present: if the damage, loss or event causing delay can be localised to a specific mode of transport, the liability system of this mode will apply (EftestÖl-Wilhelmsson, 2010; 287). The Rotterdam Rules are a significant step towards bringing much-needed uniformity to multimodal transport of the law. Only time will tell, however, whether the Rotterdam Rules will join the ranks of the world's most important international treaties of unimodal regulation or go the way of the Hamburg Rules into relative obscurity (Hamid, 2010; 9).

2.2. NATIONAL MULTIMODAL TRANSPORT REGULATIONS

Some countries are member of more than one convention however many of them do not agree any of international multimodal conventions. Countries has conflict between their national regulations between international conventions so commercial transactions can't perform in safe legal area. The lack of a uniform liability regime in force, diverse national laws and regulations including varying approaches on central issues such as the liability system, limits of liability, time-bar, etc., make it difficult for the parties to assess in advance the risks involved. Nevertheless developing countries reform their unimodal regulations to keep pace with international commercial legislations (UNCTAD, 2001; 54).

2.2.1. Multimodal Transport Regulations of Turkish Commercial Code

There is no internationally accepted multimodal transport convention or rules. When Turkish law is applicable TCC will enforce. Special provisions of TCC related with multimodal transportation directly translated from German Commercial Code (HGB 1988) (Atamer et al., 2013; 275).

On January 14, 2011, the new TCC provisions under number 6102 was also adopted in TCC with four significant provisions related with multimodal transportation (Değirmenci, 2014; 115).

TCC define multimodal transport contract as a contract for the multimodal carriage of goods is special type of contract of carriage.

2.2.1.1. Liability Provisions

According to TCC the carrier is liable unless it can prove that loss, damage or delay. Carrier take responsibility of any loss or damage and delay is subject to the provisions of liability during the transportation process. Damage loss or delay situations explain clearly articles of TCC 878. Carrier must care every stage of transportation stage and carrier must perform utmost care. This is strict liability based on responsibility of carrier still debated (Atamer et al., 2013; 276).

2.2.1.2. Multimodal Transport Contract Provisions

Article 903 if damage loss or delay can be localized which transportation stage damage occur liability of carrier is determined according to provisions of that transportation stage due to the TCC will apply. Consequently if damage occur in sea leg of transportation and if it is proven the regime for the carriage of goods by sea will apply to the multimodal transport contract instead of general provisions TCC between articles 850 and 855 and provisions of road carriage (Articles 856-893).

General provisions of TCC (Articles 850-855) will performed to a contract for multimodal transportation (Article 902) if applicable International conventions which Turkey is a member states and the special provisions with respect to the multimodal transport Articles 903-905 were not applied. Conventions applicable provisions include Article 38 of the Uniform Rules regarding the Contract of International Carriage of Goods by Rail of 1999 (CIM), Article of 2 CMR (mode-on-carriage) and article 38 of the Convention for the Unification of Certain Rules for International carriage transportation by air of 1999 (Montreal Convention) as a combined carriage.

TCC Article 902 define multimodal transport contract and its provisions. There should be single contract and carriage performed by various modes of transport. Carrier responsibility was defined in this article if carrier undertake the organization before or after sea voyage According to Turkish law this undertaking is not enough to form of multimodal transport of goods. This act seen as contractual undertaking not actually conducted by carrier. Due to carrier take goods by single mode of transport

even good were carried by different transport modes there is no multimodal carriage contract regard to the article 902. In case of carriage parties agreed to carriage by different transport modes multimodal carriage provisions will be performed.

According to TCC article of 902 if all stage of transportation subject to same legal regulations there is no multimodal transport contract. At least there should be two different legal regime to subject to multimodal transport contract regard to TCC. Article of 931 (TCC) has conflict with this perspective, inland waterway transportation and sea transportation subject to same legal regulations if transportation stage subject to same region there should be single contract of carriage and there is no multimodal transportation. Due to geography matter such carriage (Inland waterway-Seaborne) will not occur in Turkey (Atamer et al., 2013; 275-279).

Table 10: New Articles of TCC Regard to Multimodal Transportation

Damage Can be Localized	**Damage Can not be Localized**
Rule: Application of article 903 of TCC. Apply the legal provisions which will be applied to a contract of carriage that governs the localized specific mode of carriage	**Rule:** Application of article 902 of TCC If all of the conditions of the provision are satisfied apply the general provisions of the first and second parts of the 4th book of TCC
Exception: Application of article 905 of TCC If the carriage of removal goods through various modes of transport is subject to the contract carriage and if there is no international convention that can be applied to a localized damage then the third part of the 4th Book of TCC will be applied	**Exception:** Application of article 902/1/d of TCC If the related articles of applicable international conventions can be applied, then these articles will enjoy priority over the general provisions of the 4th Book of TCC.

Source: Değirmenci, 2014; 118

2.2.1.3. Notice of Loss and Time Bar Provisions

Assertions will be time barred after a period of one year in multimodal transport carriage regard to article of 855 (TCC). Limitation period begin from the date of delivery to the consignee or the time which multimodal transport contract explain clearly date of delivered to consignee (Articles 855, 904(2)).

According to article 903 the time limit for claims loss and damage was determined specify according to transportation stage regulations where damage occurred therefore damage should be localized before which transportation stage regulations were applied. If regulations of transports stage indicate shorter time at least one year according article 904(2) for multimodal transport the time bar is at least one year.

In some cases carrier cause damage or delay purposely. Carrier's wilful misconduct cause not only damage goods but also cargo could delay. In such circumstances claims will be time barred after start with three years after regard to article 855(5). Same provision article 855(5) does not any article about carrier agents and servant's willful misconduct action therefore general provisions will apply according to TCC for transport law in fourth book when Turkish courts consider this kind of cases.

TCC Article 889 goods by road was stipulates to apply regard to notice of loss by TCC Article 904(1). There is not decisive whether transportation is multimodal transportation or not. Article 904 directly apply article 889 provisions in such cases. However multimodal transport contract affect decision of which provision or regime will apply. Last transportation stage is substantial therefore if transport contract has different provisions related with article 904 transport contract provisions applied before TCC 904 (Atamer et al., 2013; 280).

2.2.1.4. Liability of Persons Provisions

According to article 887 and 888(4) agents or servants of the carrier and actual carrier can be subject to non-contractual claims for the loss, damage or delay in

transportation process. Article 879 define servants and agents persons who assist carrier during transportation process.

The actual carrier was defined as person liable for part of the carriage and same article define actual carrier person who take responsibility of partly or completely of carriage. Every person who perform stage of multimodal transportation intersect with this definition. Actual carrier has responsibility of partly of whole carriage therefore he is responsible against his shipper respect to the article 888(1).

The carrier is privileged responsible for damage, loss and delivery regard to article 875. Article 850 define carrier as by virtue of contract of multimodal or single mode of transport contract carriage take responsibility to carry the goods. The carrier is the person who undertake carry of goods by different transport modes which subject to the at least two different legal regulation (Atamer et al., 2013; 277).

2.2.1.5. Limitation of Liability Provisions

According to TCC article 882 liability of the carrier for loss and damage to goods is limited to amount of SDR 8.33 for each kilogram of the consignment. If carrier deliver goods delayed the carrier liability could an amount equal to three times the freight.

If damage occurred during the road transportation stage of carriage and damage cannot be localized it impossible to prove carrier's willful misconduct. Article 903 examine this circumstances clearly where damage, delay or loss occur and who caused the damage is unknown there is no proof who is responsible for damage therefore it is hard to determine carrier is guilty for his action.

TCC define carrier liability provisions that carrier is responsible for not only his willful misconduct but also he is responsible for his agents and servants mistake too regard to the article of 886 (Atamer et al., 2013; 275-279).

2.3. LACK OF MULTIMODAL TRANSPORTATION IN TERMS OF REGULATIONS

International multimodal transportation of goods is regulated by selected provisions which enforce according to national or international provisions of different unimodal conventions and national applications. There is no worldwide and unified legal regime in force regulations multimodal transport of goods also there are so many intermodal conventions related with multimodal carriage so it is hard to determine which rules apply respect to the different transportation legs. The above described situation creates legal uncertainty in respect of various important topics related to multimodal transport (Marin, 2009; 2).

Table 9: Comparison between Liability Regime and Multimodal Transport Problems between Turkey and International Area

International Regulation of Liability	**International Multimodal Transport Problems**
-No international uniform regime in force to govern liability for loss, damage or delay -Localized loss: International unimodal Conventions on carriage by sea, road, rail and air (if applicable) -Some regional, subregional and national laws (if applicable) -Standard term contracts: e.g. FIATA FBL 92, BIMCO, MULTIDOC 95	-Liability varies depending on: - Applicable regime - Stage of transport where loss or damage occur - Causes of loss or damage -Current liability framework is fragmented and liability cannot be assessed inadvance -It is too complex and may not be cost-effective
Turkey Regulations of Liability	**Turkey Multimodal Transport Problems**
- General articles that may be applied to multimodal transportation are set in the fourth book of TCC on transport law between articles of 850 and 930. - Between articles 902 and 905 directly examine legal aspects of different modes of transportation. In national level multimodal transport was accepted and its provisions was entry in to force in legal aspect.	-Unlocalized loss -Prescription -Different applicable regime -Liability of Carrier

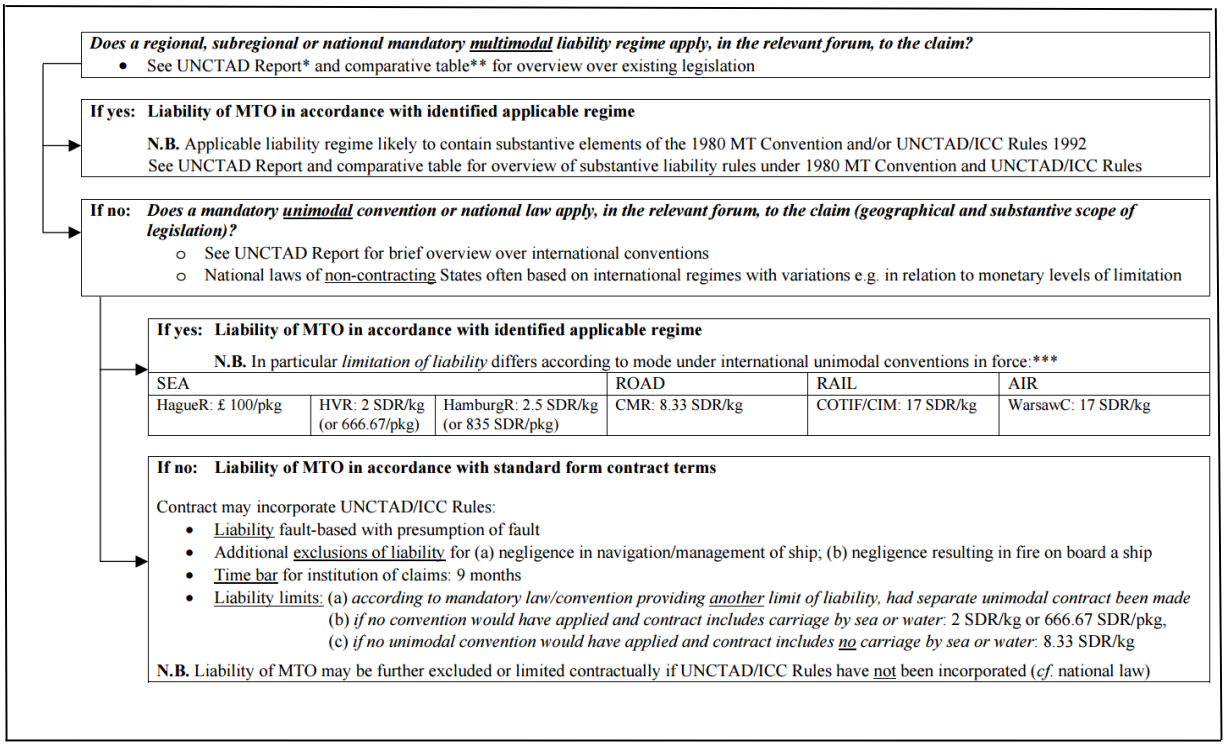
2.3.1. Problems That Arise in Multimodal Transport

Currently there is no an international regime in force that governs the carriage of goods through various modes of transport. Instead, this topic is regulated by different unimodal transport conventions. This lack of uniform regulation has given rise to certain problems such as ‘the determination of the law to be applied to a specific transport operation. Whenever several transport modes are used (Devia, 2008; 8).

2.3.1.1. Unlocalized Loss

One of important multimodal transportation problem is unlocalized loss. Unlocalized loss occur when the transport stage where it was caused cannot be determined. Which applicable regime determine when occur this kind of situation it is so hard to make right decision. If the loss or damage cannot be address one of transport stages of multimodal transportation period none of multimodal carriage conventions shall govern the ensuing claim for redress, unless the applicable convention foresees otherwise. In some cases contract of carriage give information which law applicable however not all national legal law have multimodal transportation rules in their system. This consist very complicated situation for carrier because this make it very unpredictable which law apply (Colebunders, 2012; 6)

Figure 20: International Multimodal Transportation Under One Transport Document: - simplified framework for determination of applicable liability rules in cases of loss or damage Scenario 1: Loss can be localized to a particular modal stage of the transport



Does a regional, subregional or national mandatory multimodal liability regime apply, in the relevant forum, to the claim?

- See UNCTAD Report* and comparative table** for overview over existing legislation

If yes: Liability of MTO in accordance with identified applicable regime

N.B. Applicable liability regime likely to contain substantive elements of the 1980 MT Convention and/or UNCTAD/ICC Rules 1992
See UNCTAD Report and comparative table for overview of substantive liability rules under 1980 MT Convention and UNCTAD/ICC Rules

If no: ***Does a mandatory unimodal convention or national law apply, in the relevant forum, to the claim (geographical and substantive scope of legislation)?***

- See UNCTAD Report for brief overview over international conventions
- National laws of non-contracting States often based on international regimes with variations e.g. in relation to monetary levels of limitation

If yes: Liability of MTO in accordance with identified applicable regime

N.B. In particular *limitation of liability* differs according to mode under international unimodal conventions in force:***

SEA			ROAD	RAIL	AIR
HagueR: £ 100/pkg	HVR: 2 SDR/kg (or 666.67/pkg)	HamburgR: 2.5 SDR/kg (or 835 SDR/pkg)	CMR: 8.33 SDR/kg	COTIF/CIM: 17 SDR/kg	WarsawC: 17 SDR/kg

If no: Liability of MTO in accordance with standard form contract terms

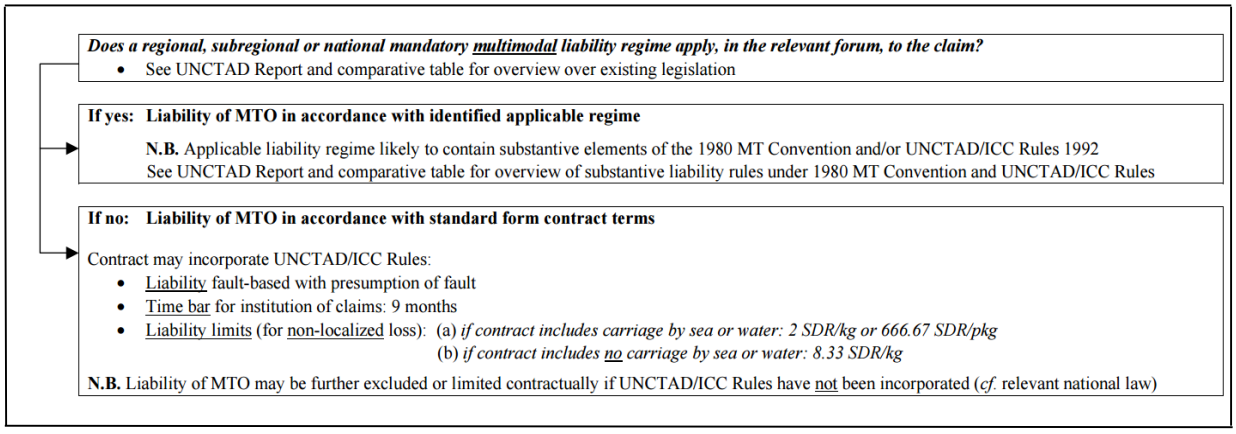
Contract may incorporate UNCTAD/ICC Rules:

- Liability fault-based with presumption of fault
- Additional exclusions of liability for (a) negligence in navigation/management of ship; (b) negligence resulting in fire on board a ship
- Time bar for institution of claims: 9 months
- Liability limits: (a) *according to mandatory law/convention providing another limit of liability, had separate unimodal contract been made*
  (b) *if no convention would have applied and contract includes carriage by sea or water*: 2 SDR/kg or 666.67 SDR/pkg,
  (c) *if no unimodal convention would have applied and contract includes no carriage by sea or water*: 8.33 SDR/kg

N.B. Liability of MTO may be further excluded or limited contractually if UNCTAD/ICC Rules have not been incorporated (*cf.* national law)

Source: UNCTAD, 2003: 8

Figure 21: Scenario 2: Loss cannot be localized to a particular modal stage of the transport



Does a regional, subregional or national mandatory multimodal liability regime apply, in the relevant forum, to the claim?

- See UNCTAD Report and comparative table for overview over existing legislation

If yes: Liability of MTO in accordance with identified applicable regime

N.B. Applicable liability regime likely to contain substantive elements of the 1980 MT Convention and/or UNCTAD/ICC Rules 1992
See UNCTAD Report and comparative table for overview of substantive liability rules under 1980 MT Convention and UNCTAD/ICC Rules

If no: Liability of MTO in accordance with standard form contract terms

Contract may incorporate UNCTAD/ICC Rules:

- Liability fault-based with presumption of fault
- Time bar for institution of claims: 9 months
- Liability limits (for non-localized loss): (a) *if contract includes carriage by sea or water: 2 SDR/kg or 666.67 SDR/pkg*
  (b) *if contract includes no carriage by sea or water: 8.33 SDR/kg*

N.B. Liability of MTO may be further excluded or limited contractually if UNCTAD/ICC Rules have not been incorporated (*cf.* relevant national law)

Source: UNCTAD, 2003: 9

2.3.1.2. Differing Liability Regimes

The difference between compensation and liability limits can confusing carrier before make a decision about choice transport mode and consist uncertainty environment related with multimodal transportation. Nations law developed their transportation rules nationally and of course internationally. Each mode of transport legal framework has adaption time to with other transport modes. Each mode of transport has own rules but while developing rules may not have same method so in legal practice conflicts may occur both national and international area. Transport modes has different liability limits thereby all of them has different demand and risk factors.

Multimodal transport consist all transport modes and this occasion concerning the unpredictability of the applicable legal regime when it comes to multimodal carriage is in financial nature because it is hard to determine national law or international conventions liability regime will apply when occur loss or damage and carrier can't predict amount of compensation. These uncertainties reflected to insurance cost tend to double as the same loss is insured via cargo insurance by the consignor or consignee and via liability insurance by the carrier. Cost per unite will increase and customer will pay more money hence uncertainty of liability limitations (Hoeks, 2009; 11).

Table 11: International Multimodal Conventions Liability Limits

SEA			**INLAND WATERWAY**	**ROAD**	**RAIL**	**AIR**
Hague Rules	Hague-Visby Rules	Hamburg Rules	CMNI	CMR	COTIF-CIM	Warsaw Convention/ Montreal Convention
€100/pkg	2 SDR/kg or 666,67 SDR/pkg	2,5 SDR/kg or 835 SDR/pkg	2 SDR/kg or 666,67 SDR/ collo	8,33 SDR/kg	17 SDR/kg	17 SDR/kg

Source: Hoeks, 2009: 11

2.3.1.3. Lack of Prescription

Significant contractual standard forms has time bar from 9 months to 3 year in carriage laws. If loss occur in multimodal transport it is hard to determine at which point in prescription time said periods starts. This problem related with unlocalized loss because authorities can't know where the problem occur. Should they will apply contract form prescription time, international conventions time bar or transportation parties national law provisions. If unlocalized problem solve problem still may occur because determining prescription period start is very complicated (Hoeks, 2009; 15).

2.3.1.4. Conflict Between Applicable Regimes

The prevailing regulation of carriers and multimodal transport operators by unimodal regimes of international rules and of terminal operators by national system of law has been unable to resolve the tangled web of multimodal relations. Each national regime serves a piece of the multimodal movement; none governs the whole. Indeed, the segmentation of legal regimes and complicated multimodal legal practice has added to the commercial uncertainties. The different regimes apply different principles of responsibility and determine their own rules of for the carrier on each mode (Brooks, 1997; 1).

2.3.2. Theoretical Solutions to the Legal Problems of Multimodal Transport

Three system have been developed to solve liability problems of the multimodal transport. In next topics the uniform system, the network system, and modified system will be examined (Devia, 2008; 8).

2.3.2.1. The Uniform System

This system mostly supported by third world nations due to these countries want to escape regulations of existing unimodal conventions who generally are more focused on the wants and needs of the carrier than those senders (EURFL, 2004; 18). Under the "uniform" system provisions the same liability regime is applied to all

multimodal transportation stages, irrespective of the staged at which the damage or loss occurred (Tai, 2011; 2). The uniform systems that have been realized so far incorporate less possibilities for exoneration. Carrier liability limits are more than their network counterparts in uniform system (EURFL, 2004; 18). Had there been no international framework or unimodal carriage conventions in existence this objective would undisputedly have been best served by a uniform liability regime where multimodal transport in concerned (De Wit, 1995; 143)

If goods take damage during the transportation multimodal transport operators responsible from the place of origin to destination (Devia, 2008; 8).

The main advantage of this system is simplicity and certainty. Liability rules are clear to understand from the outset. These rules don't depend on modal stage where loss occurs. Senders know which rules applicable in case of damage of his cargo. Considering the stage where the cargo damage or delay is not important regarding to which conventions or regulations applicable (Hoeks, 2009; 21).

2.3.2.2. The Network System

Network Systems explained by Tai (2011), if damage can be localized the liability of the multimodal transport carrier is to be governed by reference to the international convention or national law applicable to the unimodal stage of transport during which the damage occurred.

If there is no an applicable international document on multimodal transportation liability varies according to the stage of transport to which particular loss can be attributed and any relevant international or national mandatory multimodal liability rules. As in a network system, a carrier's liability mainly governed by rules applicable to the mode during which a loss or damage occurs, concerns in relation with to recourse actions, as set out above, do not arise for contracting carrier (MTO) (Jones, 2012; 1).

Extent of carrier's liability are not predictable but vary from case to case in network system and for this reason extra burden on cargo-claimants in the form of increased insurance premiums and ultimately higher costs of claims recovery/administration. Network System liability approaches would need to accept

generally applied "fall-back" provisions particularly cases where loss cannot be localized (UNCTAD, 2003; 98).

2.3.2.3. Modified Systems

In a modified liability system, some rules apply irrespective of the unimodal stage of transport during which loss, damage or delay (hereafter "loss") occurs as same as same as uniform liability system, but the application of other rules depends on the unimodal stage of transport during which loss, damage or delay occurs like before discussion about network liability system.

Modified system try to provide best combination between Uniform System and Network System. Many arrangements are possible in this way, making a system more uniform or more network like.

Primary advantage of Modified system may provide workable consensus, taking into account conflicting views and interests. The potential disadvantage of a modified system, however is that application of its provisions may be complex and it may be hard to understand uniform or network system will apply when encounter a problem that it may fail to appeal widely, as it provides neither the full benefits of a uniform system, nor fully alleviates the concerns of those who favour a network-system (UNCTAD, 2003; 18).

2.4. INTERNATIONAL UNIMODAL TRANSPORT CONVENTIONS THAT MAY BE APLLIED IN MULTIMODAL TRANSPORTATION

International trade and International unimodal transport conventions should on the basis of equality and mutual benefit is important element in promoting friendly relations between states. Convinced that the progressive harmonization and unification of international trade law, in reducing or removing legal obstacles to the flow of international trade regard to the multimodal transport, significantly contributes to universal economic cooperation among all States on a basis of equality, equity and common interest, and to the well-being of all peoples (United Nations, 2008; 3).

2.4.1. International Regulations of Inland Waterway: CMNI

CMNI Convention on the Contract for the Carriage of Goods by Inland Waterway, called as 'the Budapest Convention', was jointly elaborated by the United Nations Economic Commission for Europe (UNECE), the Central Commission for the Navigation of the Rhine (CCNR) and the Danube Commission (DC). This convention entered into force on 2005 after fifteen country signed to convention text (Karaboğa, 2014; 4). This convention applies to any contract of carriage according to which the port of loading or the place of taking over of the goods and the port of discharge of goods, or the place of delivery of the goods, are located in two different states of which at least one is Party to the CMNI (Meer, 2008; 76-5). Convention has some regulations related with multimodal transportation and its main aim regulate inland waterway transport.

Particularly two rules of convention state multimodal perspective, one of them is the distance to be traveled in waters to which the maritime convention or regulations apply is the greater and if the aim of the contract of carriage is the carriage of goods, without transshipment, both on inland waterways and other rule state in waters where maritime regulations perform, unless a maritime bill of lading has been issued in accordance with the maritime law applicable (Erasmus University Rotterdam, 2004; 14).

Article 1 of CMNI explain contract of carriage is any contract, of any kind, whereby a carrier undertakes against payment of freight to carry goods by inland waterway. There are some ideas that CMNI does not comprise to all inland waterway carriage stages which is part of a multimodal contract (Marin, 2009; 7).

CMNI has conflict with sea carriage regimes beside this overlap increase if international area apply this convention more. Hamburg Rules and the Rotterdam Rules do not require a bill of lading to be issued for application and this consist one of potential conflict between sea carriage regimes. Hague and Hague-Visby regimes has potential conflict too. Yet, pertaining to the Hamburg Rules at least, this greater potential for conflict may prove deceiving. There are after all only five European countries that adhere to the Hamburg Rules (Hoeks, 2009; 238).

2.4.2. International Regulations of Road Transportation: CMR

International road transportation was standardized and had uniformity in 1956 with the Convention on the International Carriage of Goods by Road (CMR). Convention was arranged by the United Nations Economic Commission for Europe (ECE). Turkey attend to CMR Convention in 2 August 1995.

CMR Convention has two significant point, one of them is it bring about standardization to legal side of road transportation and other important point is after conventions approved from member states international road transportation has uniformity of legal framework also has advantages like avoid forum shopping, the words were construed sensibly in favors of the plaintiff (Hamdan, 2013; 1).

> *The international carriage of goods by road is covered by the CMR Convention, which is a set of legal articles forming the contract between the carrier and the shipper. The CMR Convention prescribes the issue of a consignment note as evidence of the contract of carriage, the conditions of the contract and the receipt of the goods by the carrier (BIFA, 2013, http://www.bifa.org/_attachments/resources/1079_s4.pdf, 17.03.2015)*

2.4.3. International Regulations of Maritime Transportation

The Hague Rules were adopted in 1924, the Hague/Visby Rules in 1968 and 1979 and the Hamburg Rules adopted in 1978. These International Conventions main scopes are avoid lacunae, to encompass all contracts of carriage as well as bills of lading, and to permit incorporation by reference (Tetley, 2006; 3).

2.4.3.1. Hague Rules

The Hague Rules main aim was achieve uniformity in ocean bills of lading to trustworthy commercial relation between shippers. This rules was prepared for international commercial area also prior to Hague rules, shipowners often thwarted cargo damage claims by inserting limits in bills of lading. The Hague Rules were

generally well received and have been accepted by 58 maritime nations also Turkey is member states of Hague Rules (Zulkifli et al., 2006; 2).

Developed countries found themselves in need of set uniformed rules to govern the process of seaborn trade. Accordingly, that is why the Hague rules come into existence in 1924 to international area of transportation under International Convention for the Unification of Certain Rules of law relating to Bills of Lading (Reynolds, 1990; p.18).

Shipowners try to prevent cargo damage with provision of Hague Rules by inserting limits of bill of lading. Hague Rules scope is constitute legal uniformity in ocean bills of lading to achieve consistent international maritime transport area (Nawang, 2006; 2).

The general provisions regarding the application of the Hague Rules is that they apply by their own force to contracts of carriage covered by a bill of lading or any similar document of title. Art. 2 and the explaining of "contract of carriage" in art. 1(b) makes this clear:

> *"Art. 2 - Subject to the provisions of Article 6, under every contract of carriage of goods by sea the carrier, in relation to the loading, handling, stowage, carriage, custody, care and discharge of such goods, shall be subject to the responsibilities and liabilities, and entitled to the rights and immunities hereinafter set forth.*
>
> *"Art. 1(b) -'Contract of carriage' applies only to contracts of carriage covered by a bill of lading or any similar document of title, in so far as such document relates to the carriage of goods by sea, including any bill of lading or any similar document as aforesaid issued under or pursuant to a charterparty from the moment at which such bill of lading or similar document of title regulates the relations between a carrier and a holder of the same." (Tetley, 2006 ;5).*

2.4.3.2. Hague-Visby Rules

After many countries accepted hague rules over years maritime nations also other countries demand to renovate this rules. The committee Maritime International

(CMI) initiated a reconsideration of the Hague Rules. The diplomatic conference gather at Brussels to amend the Hague Rules on 23 February 1968. Rules was review regard to new world transportation demand. The amended Hague Rules have become known as the 'Hague-Visby Rules The Rules (the Brussels Protocol of February 23, 1968) should not be considered as a apart convention with the Hague Rules. The Rules are amendments to the Brussels Convention 1924 and article 6 of the Protocol shall be read and interpreted together as one single document (Zulkifli, 2006; 7).

Respect to the articles of Hague-Visby rules it provide for the obligations of carriers of goods by sea under contracts of carriage governed by bill of lading. Main obligations of the carrier are care for cargo and to exercise due diligence to provide a seaworthy ship. The Hague-Visby involve the amendments to the original Hague Rules which were adopted in Protocol to Amend the International Convention for the Unification of Certain Rules of Law Relating to Bills of Lading. Both the Hague Rules and Hague-Visby Rules were signed after international conferences at which the various interest groups and member states debated the provisions of the rules (David, 2010; 2).

The Hague-Visby Rules only apply for loss or damage which arise during the period of sea transit of the goods unless the contract extends the period of coverage more than sea voyage. Where the rules do not apply the parties are free to contractually agree other convention or rules. After multimodal transport cover many transport modes in one area international conventions such as Montreal Convention (Air) and CMR Convention (Road) have their own limitation limits and have its own compulsory duties. To understand what stage the loss or damage occurred will help clarify which (if any) convention applies. Generally it's hard to determine when or which stage goods damaged. In this kind of circumstances bill of lading provide that the Hague-Visby Rules will apply (Fred Kan, 2007; 1).

2.4.3.3. Hamburg Rules

Convention adopted by diplomatic conference on 31 March 1978 afterwards Hamburg Rules entered into force on 1 November 1992, the Convention consist

uniform legal regime and cover right and obligations of shipper, carrier and consignees under a contract of carriage of goods by sea (UNCITRAL, 2012; 1).

The Hague rules were seem unfair in some respect by some maritime nations and developing nations. Hamburg rules main purpose is answer to concerns of these countries also had purpose of safeguarding and propagating maritime nations interest at expense of other nations. The United Nations were drafted Hamburg rules to answer all of these concern and unfair approaches. Hamburg Rules has specific characteristics completely different from Hague and Hague/Visby rules it define carrier liability; carrier that is responsible for the loss or damage of all goods unless they can prove that they took all reasonable steps to avoid the loss (Mukharjee, 2008; 1).

2.4.3.4. Comparison Between Hague, Hague-Visby and Hamburg Rules

Where the contract is a combination of some form of multimode transportation, the Hamburg Rules will only be applicable to the sea leg. This provison different from adopted by the Hague/Visby Rules which mainly deals with contracts of carriage covered by a bill of lading or any similar document of transportation of title under Article 1(b). The Hamburg Rules cover all contracts for the sea carriage other then charter parties, The Hamburg Rules manage both inward and outward bills, one significant exception from Article X of the Hague/Visby Rules so it consist and decisive factor or ship owners who trade with countries in which the Convention is now apply (Faysal, 2011; 1).

Table 12: Comparing Hague, Hague/Visby and Hamburg Rules

Comperative Fact	Hague Rules	Hague-Visby Rules	Hamburg Rules
1. Which voyages covered?	Rules are silent	Art X (a) B/L issued in a contracting state (b) carriage from contracting state (c) contract of carriage expressly applies Rules.	Art 2 (a) B/L issued in a contracting state (b) carriage from contracting state (c) carriage to contracting state (d) B/L provides Rules to apply.
2. Which contracts covered?	Art 1(b) Bill of lading or "other similar document of title". Not charterparties. 'Straight' bills of lading will be considered as "documents of title" for the purposes of the Rules.		Art 1.6 Contract of carriage by sea. Need not be a B/L or document of title. Not charterparties.
3. Geographical application	Art 1(e) "covers the period from the time when the goods are loaded on to the time when they are discharged from the ship".		Art 4 Carrier is responsible while in "charge" of the goods at the port of loading, during the carriage, and at the port of discharge i.e. normally from time taken over from shipper to time delivered to consignee. Subject to local port regulations.

Source: Dickinson, 2012: 4

Table 12: Comparing Hague, Hague/Visby and Hamburg Rules (cont.)

Comperative Fact	Hague Rules	Hague-Visby Rules	Hamburg Rules
4. Limits of liability (a) Goods lost or damaged	Art IV Rule 5 £100 per package or unit unless value declared and inserted in the B/L. The £100 limit per package has been held to amount to £100 gold value, often resulting in a higher limit than the Hague-Visby Rules limitation.	Art IV Rule 5 10,000 Poincare Francs per package or unit or 30 Poincare Francs per kilo of gross weight of damaged or lost goods whichever is higher. By virtue of SDR Protocol 1979 2 SDRs per kg or 666.67 SDRs per package.	2.5 SDRs per kg or 835 SDRs per package or shipping unit.
5. General average	Art V "Nothing in these Rules shall be held to prevent the insertion in a bill of lading of any lawful provision regarding general average."	Art 24 "The provisions of this Convention relating to the liability of the carrier for loss of or damage to the goods also determine whether the consignee may refuse contribution in general average."	Same as Hague Rules. 46 U.S.C.A. § 1305

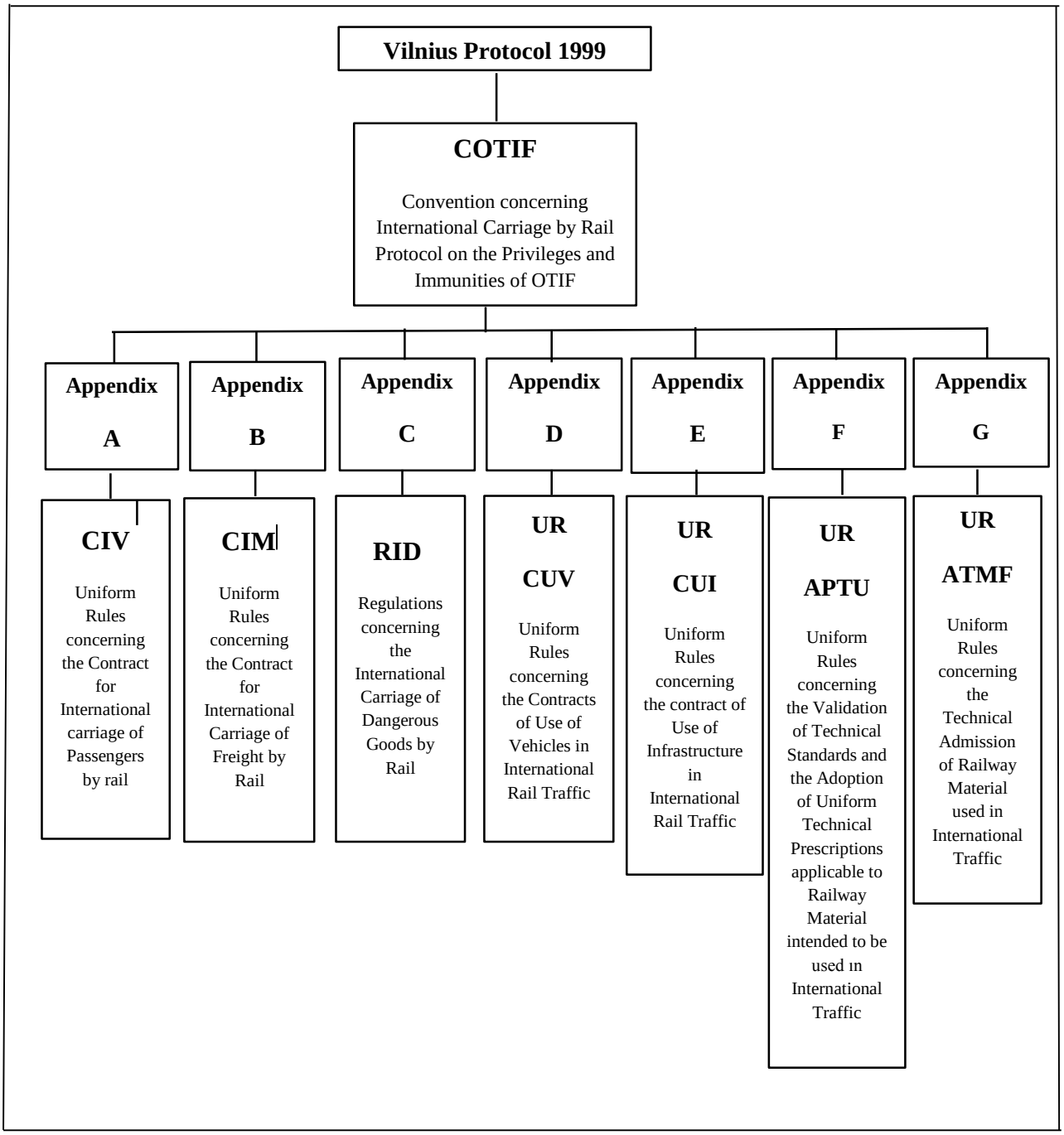
Source: Dickinson, 2012: 4

2.4.4. International Regulations of Railway Transportation: COTIF-CIM

The Intergovernmental Organisation for International Carriage by Rail (OTIF) was set up 1 May 1985. The COTIF Convention International Carriage by Rail was signed in Berne in May 1980 (Branch, 2006; 575) however it entry into force in 2006 and two thirds of OTIF member ratified the convention including Turkey (Hoeks, 2009; 211). Member States of COTIF concentrate international cooperation in the railway field within the framework of OTIF, unless parties is not one of EC / EEA members. COTIF is based on Protocol on the Privileges and Immunities of the Intergovernmental Organisation for International Carriage by Rail and convention consist framework of international rail transportation (Kafka, 2011; 4).

Primary aim of COTIF was principally to develop and the uniform systems of law which apply to the carriage of passengers and freight in international transportation through traffic by rail. CIV and CIM rules were added conventions provisions after decades and also OTIF has legal personality both in international law and in the national laws of its Member States of Convention (OTIF, 2012, http://www.otif.org 07.04.2015).

Figure 22: Revised version of COTIF after Vilnus Protocol 1999



Source: International Rail Transport Committee, 2014: 6

Main scope of revision COTIF with Vilnius Protocol 1999 harmonize the CIM with the regimes regulating the other transportation modes. Appendix B include international carriage of freight by rail provisions and it was refitted by 1999 Vilnius Protocol. Vilnius Protocol entry into force after implementation of it CIM convention

could apply to all international contracts related with carriage of good by rail transportation. COTIF-CIM succeeded with the Vilnius Protocol because it create more uniformity in the area of international transportation carriage law and regulations (Hoeks, 2009; 223).

2.4.5. International Regulations of Air Transportation

There are two important international legal legislations of air transportation. These are Warsaw Convention and Montreal Convention

2.4.5.1. Warsaw Convention

The Warsaw Convention 1929 has been signed by 151 states and it entered into force on 13 February 1933. Since it adopted, it is one of the most widely admitted international conventions. The Warsaw Convention 1929 consist a comprehensive framework of international air transport. Unified liability regime occur regard to international air transportation, irrespective of the domicile of the sides, the place of loss or injury, or the venue of the trial (United Nations Conference on Trade and Development, 2006; 7-8).

Two important points regulate and shaped with Warsaw Convention. First shippers and passengers needed to be reassured that if something went wrong they would have an effective remedy against the carrier and be compensated other significant point is it was seen necessary to protect air carriers (which at the time were mainly state-owned) from open-ended liability in case of damage to or loss of cargo or baggage and injury or death of passengers. Before this attempt there is no international air transportation regulations or rules in commercial area (International Air Transport Association, 2013; 25).

The Warsaw Convention 1929 achieves uniformity may be summarised at some major points as follows.

The Convention:

1. *standardises particulars to be included in the documents of carriage;*

2. *creates a penalty for non-compliance with the particulars to be included in the documents of carriage, (carrier loses monetary cap limiting his liability);*

3. *Sets out rules whereby the claimant does not need to prove the fault of the carrier, or his agents, in respect of a loss;*

4. *Specifies a limited number of defences to liability for the benefit of the air carrier;*

5. *Fixes a monetary cap limiting the liability of the air carrier; defines the circumstances in which the carrier may lose the benefit of the monetary cap limiting his liability;*

6. *Sets out rules as to time limitation and jurisdiction;*

7. *Provides for the exclusive application and mandatory effect of the rules laid down (United Nations Conference on Trade and Development, 2006; 7-8).*

Warsaw Convention be admitted by international parties from signed to early 20th century. Convention include determined the limitation of liability and recognized common economic interest of operators also customers. Economic, political and technical privileges of unifying some rules were mentioned, governing liability of air carriers at international level performed work in order to further develop the air transportation industry. Convention determined harmonized the civil law and common law rules structure. Consequently Warsaw Convention became a successful international convention it consist framework of air transportation and remained in place for over 70 years (Kazemi, 2012; 169).

2.4.5.2. Montreal Convention

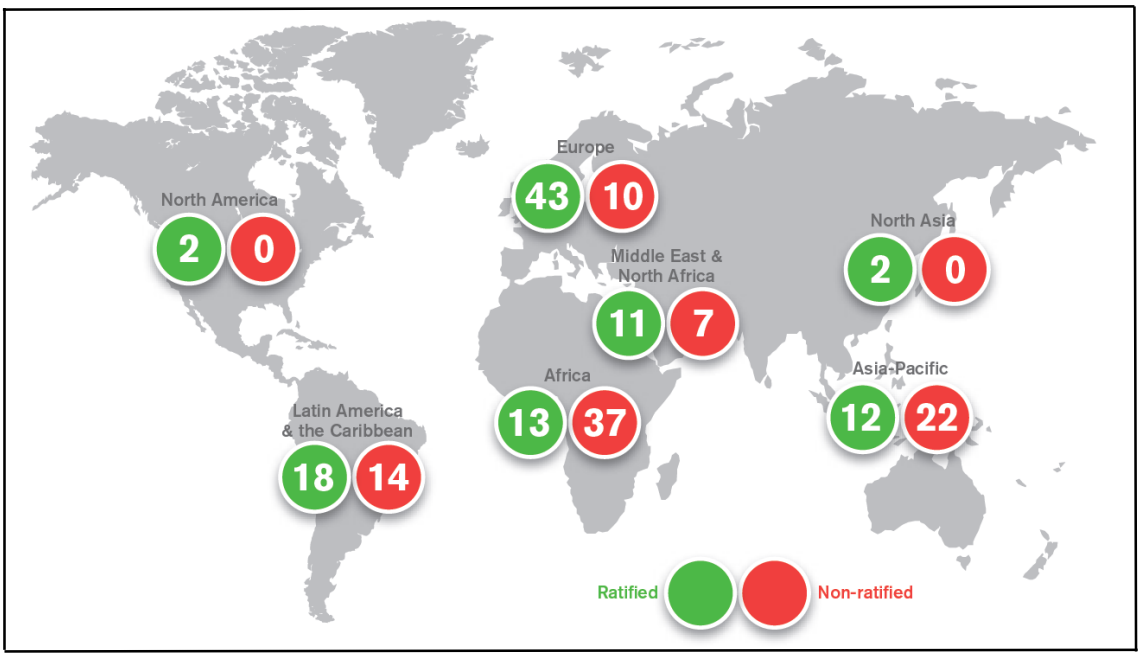
Convention for the Unification of Certain Rules for International Carriage by Air, typically called the Montreal Convention was formed and signed by ICAO member states in 1999 Turkey is member states of Montreal Convention. This Convention replaces the 1929 Warsaw Convention with modernized liability regime and has updated solutions from both carrier and passenger side that recognizes the advances in aviation safety. MC99 increased the liability limits for air carrier more than Warsaw Convention (Amann, 2014; III D-2)

Montreal Convention consist modern framework of air transpotation. MC99 regulations provide better protection and compensation and facilities faster air cargo

shipments and it bring certainty to show how air cargo rules affecting airlines companies responsibilities and liabilities. Electric documentation for shipments enter legal framework of air transportation and it allow reducing cost and increase efficiency of shipments (United Nations Conference on Trade and Development, 2006; 7-8).

ICAO has 190 members states and only 103 member states of organization or just 54% of total, have accept it after Montreal Convention came into force. This prove that there is framework of liability regimes existing world. Implication from MC99 is Confusion and complexity in determining which regulations covers a particular cargo or passenger itinerary. Claims handling and litigation from claims or accidents have been unnecessarily complicated yet (International Air Transport Association, 2013; 25).

Figure 23: Montreal Conventions 99, current treaty ratification status (member states by region)



Source: International Air Transport Association, 2013: 2

CHAPTER THREE

ANALYSIS OF MULTIMODAL TRANSPORT COURT DECISIONS AND A FICTIONAL CASE

3.1. METHODOLOGY OF THE RESEARCH

3.1.1.Aim and Scope of the Research

The main aim of this study is examine Turkish court decisions and prescriptive problems related with multimodal transport. How multimodal transport problems was solved in Turkey and new Turkish Commercial Code (TCC) multimodal transport regulations were examined in terms of Turkish court decisions.Thus it will be determined whether the needs of multimodal transport will be met through new legislative studies. New regulations of TCC effects were analysed in terms of multimodal transport problems.

3.1.2. Sampling

Qualitative method and explanatory research method was used in this study. Foreign courts and Turkish courts' judgments have been analysed in respect to the new vicissitudes. Twelve Turkish court decisions were examined in terms of multimodal transport problems and international conventions and Eight Turkish court decisions were chosen also two foreign court decisions and one simple case were analysed. Unlocalized cases were analysed in respect to the TCC. Especially current cases have been selected from 2008 to 2014. In order to explain arise of the conflict between applicable regimes, also example cases have been examined. Turkish law was designed according to German law provisions so German multimodal transport court decision was analysed. Perspective of German courts has also been considered in the study. Hence, German courts define liability of the carrier as same as Turkish courts.

Table 13: Multimodal Transport Cases of Turkish Court

Verdict Date	Docket No	Multimodal Transport Problems of Cases	Related Articles of Multimodal Transport
2011	2010/2502	Lack of Prescription	CMR articles
2009	2008/4330	Liability of Carrier	CIM and COTIF
2010	2008/11201	Unlocalized Loss	TCC 772
2013	2011/11589	Liability of Carrier	Lahey/Visby
2013	2012/16538	Lack of Prescription	TCC 778, TCC 788
2014	2013/14172	Unlocalized Loss	CMR 34, TCC 6762
2002	2002/5434	Liability of Carrier	CMR 34
2013	2012/411	Liability of Carrier	Montreal Convention 31/2
2008	2008/11201	Unlocalized Loss	Article 90
2005	2004/1943	Lack of Prescription	COTIF and CIM
2014	2013/17336	Liability of Carrier	TCC 105
2012	2011/4979	Different Applicable Regimes	CIM, SMGS and CMR articles

3.1.3. Data Analysis Methods

The case study method cover the full set of procedures needed to do case study research. These tasks include designing a case study, collecting the study's data, examining the data, and presenting and reporting the results in terms of cases.

Besides discussing case study design, data collection, and analysis, the refresher addresses many key features of case study research. First, an abbreviated definition of a "case study" will assist identify the circumstances when you might choose to use the case study method instead of (or as a complement to) some other research methods. Second, other features cover the choices you are likely to encounter in doing your own case study analyze. Thus, the refresher discusses the

• definition of the “case” in case study research method,

• benefits of developing a theoretical perspective in conjunction with your design and analysis of your tasks,

• significance of triangulating among data sources,

• desired vigor in entertaining rival explanations during data collection, and

• challenge of generalizing from case studies (Yin et al., 1984; 84).

3.2 CONFLICT BETWEEN APPLICABLE REGIMES: A FICTIONAL CASE

As was exposed by Sturley (2007) in a Congress carried out in Vienna to celebrate the fortieth annual session of Uncitral, some multimodal transport problems can arise if damage occurs in transport between two countries also international area located in different continent:

‘’ A shipper in Berlin want to Cargo transported to Chicago, and its first leg that it arranges to have the Cargo carried by road from Berlin to Rotterdam, by sea from Rotterdam to Montreal, and by rail from Montreal to Chicago ‘…’ as many as six different legal regimes could govern each of the six distinct segments of the single multimodal journey under a single contract of carriage. This simple example explain how complicated multimodal transportation legal regimes harmony.

(1) If cargo damage Berlin-to-Rotterdam road leg The European CMR would govern any Cargo damage that occurred during

(2) The bill of lading would probably govern any Cargo damage that occurred in the port of Rotterdam after delivery by the trucker before loading on the vessel (although the bill of lading terms could be displaced by mandatory Dutch law to the extent applicable).

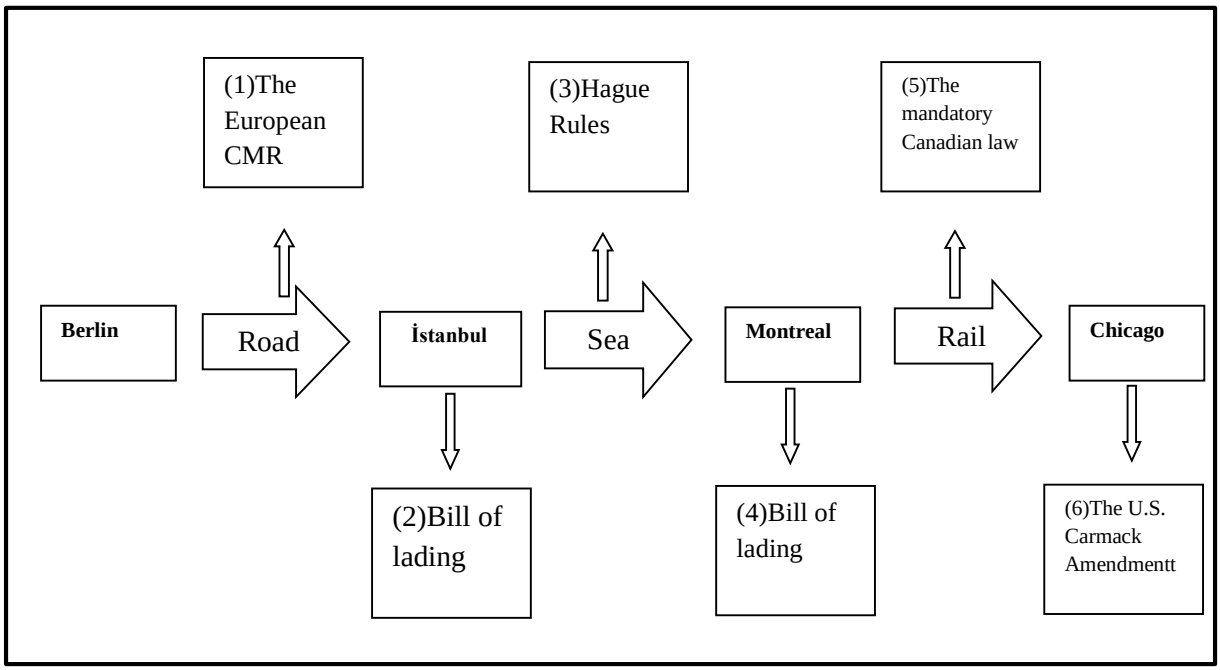
(3) If cargo damage İstanbul-to- Montreal sea leg The Hague Rules would govern any Cargo damage that occurred.

(4**)** The bill of lading would probably govern ıf any Cargo damage that occurred in the port of Montreal after discharge cargo from the vessel before delivery to the railroad stage.

(5) Before crossing the U.S. border The mandatory Canadian law governing domestic rail carriage would govern any cargo damage or loss that occurred on the train.

(6) The U.S. Carmack Amendment might (or might not) govern any Cargo damage or loss after crossing the U.S. border (depending on the U.S. court in which the dispute was heard) (Devia 2008; 5)

Figure 24: A Voyage from Berlin to Chicago



3.2.1. Summary of the Case

During the transportation process many unimodal conventions and national laws could enforce each of these different modes. Hard to determine which law or conventions could apply when damage occurs. After losses occur case may judge in different national jurisdictional court. In same case different law or convention make different decision on same cases like the liability limit of the CMR (8.33 SDR per kilogram), liability limit of Hague Rules (€100/pkg) could be applicable. Multimodal

cases judge could difference jurisdictional court's due to lack of international uniformity (Devia, 2008; 8).

3.3. UNLOCALIZED LOSS IN MULTIMODAL TRANSPORT OF GOODS

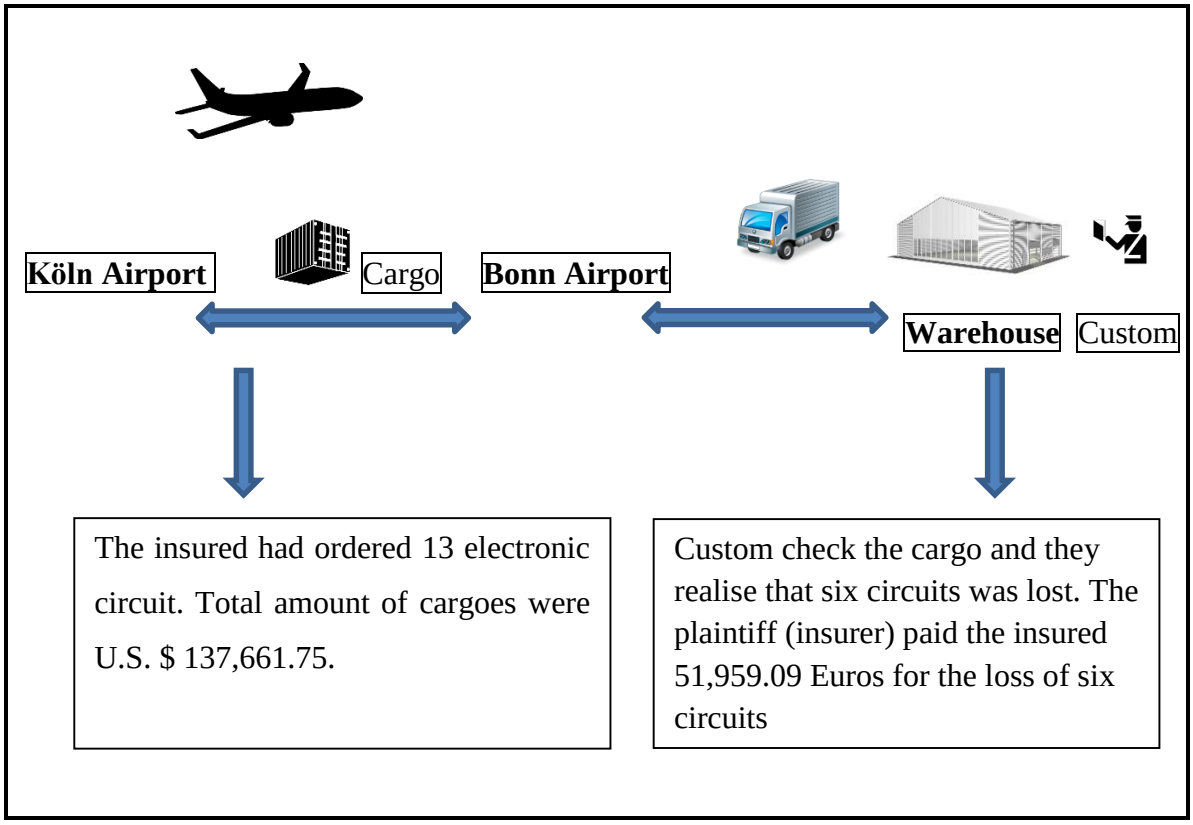
3.3.1. Summary of the Case

In contract, defendant's main rule is it would transport only parcels with a value not exceeding U.S. $ 50 000. It consist large extent part of the framework agreement. The insured has concluded a special tariffs agreement for sending parcels with the defendant in May, 2004. It was agreed in the general conditions of carriage. Defendant and contract parties agreed all contract topics.

The insured had ordered 13 electronic circuits which are total amount of U.S. $ 137,661.75 from a Canadian company in October 2005. Insured sent them to the Canadian company 12 of 13 circuits in two parcel. Defendent has warehouse in Bonn and after Cologne-Bonn air transport voyage defendent transported goods in his warehouse by truck. The defendant issued on November 27th 2005, a International Air Transport letter mentioning a billing of 126,178.50 U.S. dollars and references to the framework agreement contract. Before forwarding the parcels to the insured, the content of parcels was established and verified. Customs personels check cargoes and revealing that six circuits were lost

On 1 December 2005 custom check the cargo and they realise that six circuits were lost. The plaintiff (insurer) paid the insured 51,959.09 Euros for the loss of six circuits, selling price of the lost circuits was less a franchise and the defendant (carrier) has paid a compensation of 72.42 euros.

Figure 25: A Voyage from Köln Airport to Bonn Airport



3.3.2. Claimant's Assertations

The Plaintiff is the insurer of the company in this case. Insurance company located in Bavaria. Company does not want to compensate damage against a firm that transported parcels on behalf of its insured client, because of the loss of cargo. In this circumstance, the insurer assumes that the transport is multimodal and the incident has occurred during transport by truck stage of transportation from the airport to the premises of the insured. He states that the carrier can't invoke the limits of liability because he did not check the status of the goods continuously during the trip.

3.3.3. Defendant's Defences

The defendant denies any liability as a carrier subcontractor, transported goods were carried between the Cologne / Bonn airport and the premises of the insured based

on contract with the U. Inc., a company. Main carrier located in the United States. Subcontractor denies any unlimited liability under the Montreal Convention.

3.3.4. Decision of the Court

The court of appeal state that the liability of the defendant is theoretically unlimited as a result of the negligence. Defendant did not have check the status of the goods in every step but the amount of the allowance was reduced by half. The Court of Appeal described the transport as multimodal transport. The defendant had taken over the goods at the Cologne / Bonn airport, while the goods were referenced to the assured because the defendant presented itself representative of the insured during customs checks.

The court decide that liability of the defendant is theoretically unlimited as a result of negligence because he did not check status of good in every step of transportations but the amount of the allowance is reduced by half due to the absence of any indication by the plaintiff.. Transportation process was described as multimodal transport by court in that the defendant had taken over the goods at the Cologne / Bonn airport, while the goods were referenced to the assured because the defendant presented itself the representative of the insured during customs checks so it behave representative of insured therefore it’s claim was rejected (Bonnamour, 2013; 6).

3.4. LIABILITY OF THE CARRIER IN MULTIMODAL TRANSPORT OF GOODS

3.4.1 Summary of the Case

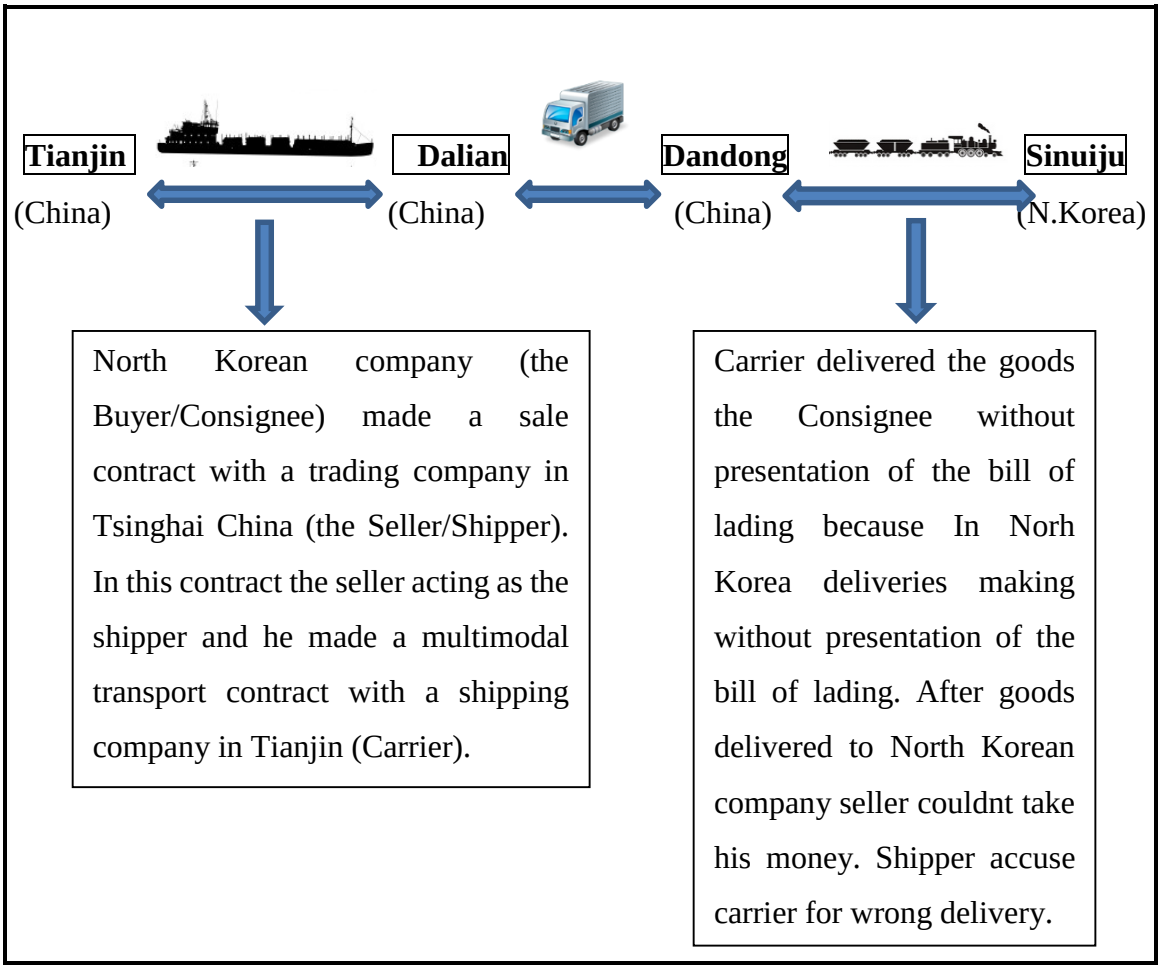
North Korean company (the Buyer/Consignee) made a sale contract with a trading company in Tsinghai China (the Seller/Shipper). In this contract the seller acting as the shipper and he made a multimodal transport contract with a shipping company in Tianjin (Carrier). The contract mention about sell some clothes and transport goods value are USD 180,000.

During the delivery of the goods transported to the Carrier, the Shipper made a declaration that the North Korean Buyer was the only lawful Consignee and the bill

of lading would be used for negotiating for payment process of the goods from the payment bank.

After the goods had been loaded on board the ship in Tainjin, the Carrier issued a multimodal bill of lading with an endorsement that it should be used "for negotiable only". Transportation process have three stages and first leg was ship carriage from Tanjin to Dalian second, stage was road carriage from Dailan to Dandong and the last stage was railway carriage from Dandong to Sinuji in North Korea. Carrier delivered the goods the Consignee without presentation of the bill of lading because In Norh Korea deliveries making without presentation of the bill of lading. After goods delivered to North Korean company Seller couldn't take his money. Shipper accuse carrier for wrong delivery.

Figure 26: A Voyage from Tianjin to Sinuiju



3.4.2. Claimant's Assertations

The Shipper accuse the Carrier for wrongful delivery.

3.4.3. Defendant's Defences

Carrier rejected shipper's claims and he claim that he delivered to goods without any mistake

3.4.4. Decision of the Court

In this circumstance the bill of lading did not have document of title function also from the perspective of Chinese Maritime law bill of lading was a document of title. The judgement of first trial was made by Chinese maritime court. In this case bill of lading was used as only document so after carrier had delivered the goods accordance to agreement of transportation contract Court decided that carrier was not liable for any wrongful delivery.

Shipper object to court decision and apply appeal court. After second court examine the incident court overruled the first court decision. Appeal court decided that it was a case of multimodal transportation. Finally leg of carriage was railway transportation from Dandong to Sinuiju. The consignment note of railway trading company was provided by the carrier, it show that goods had been carried by railway. It could not evidence that the goods had been delivered to the specified consignee. Finally second court (appeal court) find carrier liable for wrongful delivery.

After the second court decision carrier applied to the Highest People's Court for re-trial of the case. Court examined lawsuit and the contract had relation with international multimodal transport contract. Contract clauses direct case to Chinese law because of bill of lading articles. Since transportation leg was not international carriage from Tianjin to Dalian (sea carriage). Highest Court determine that decision was wrong because the trial court applied the Maritime Law. Contract Law might be applied in this case.

If the goods are damage or lost in a particular section of the multimodal transportation, that section might be applied in liability of the multimodal transport

operator. Contract Law define clearly this liability process in unimodal transportation. In this case lost was occurred in last mode of transportation stage from Dandong to Sinuiju. The law concerning carriage of goods by railway should be applied.

According to articles of Chinese law the carrier has not to collect the original bill of lading before delivery of the goods in railway carriage. Moreover, the declaration was made by the Shipper. He should treat as part of the transportation contract. Since the bill of lading was non-negotiable, Buyer was the only lawful consignee according to the carriage contract articles and declaration of the shipper. Carrier's duty was to deliver the goods to consignee. The Carrier did not have a duty to collect the original bill of lading. Only he is responsible for delivery good without any damage or loss.

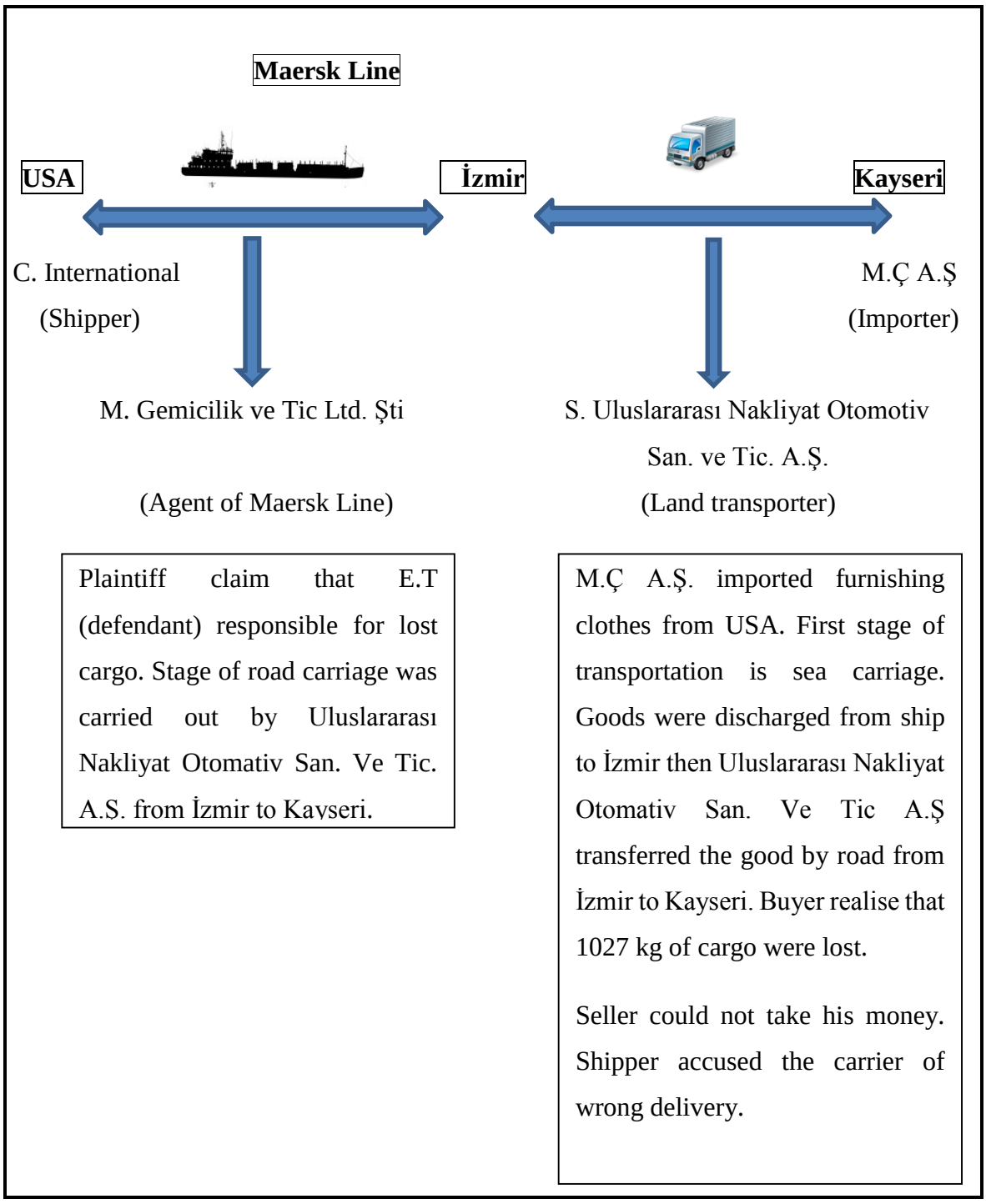
The Carrier produced a certificate issued by the railway company which proved that the goods had been delivered by the latter to the Consignee in North Korea correctly. Thus, the carrier had discharged with contractual duty in delivery of the goods. Finally leg of railway carriage occurred from Tianjin to Dalian. By the said reasons, the court reversal the decision of the appeal court and reinstated the decision of the first trial. In other words, the Carrier was not liable for wrongful delivery of the goods of transportation (Tai, 2011; 6).

3.5. UNLOCALIZED LOSS IN MULTIMODAL TRANSPORT: A TURKISH COURT VIEW

3.5.1. Summary of the Case (DOCKET NO: 2008/ 11201—DECREE NO: 2010/ 1943--DATE OF VERDICT: 22.02.2010)

M.Ç A.Ş. imported furnishing clothes from USA. First stage of transportation is sea carriage. Goods discharged from ship to İzmir then Uluslararası Nakliyat Otomativ San. Ve Tic A.Ş transferred good by road from İzmir to Kayseri. Buyer realise that 1027 kg cargo was lost.

Figure 27: A Voyage from USA to Kayseri



3.5.2. Claimant's Assertations

Plaintiff claim that E.T (defendant) responsible for loss cargo. Stage of road carriage occurred by Uluslararası Nakliyat Otomativ San. Ve Tic. A.Ş. from İzmir to Kayseri.

3.5.3. Defendant's Defences

Defendant (land transporter) assert that this carriage was multimodal transportation and loss occurred in sea carriage stage. Before receive of the cargo top of container was damaged and during the journey goods were wet, blotch and mold. Thus defendant claim that fourty percent of compensate of execution denial should be paid by plaintiff.

3.5.4. Decision of the Case

Defendant (agent of sea transporter) claim that he is only agent of Maersk Line and plaintiff have not right to direct blame for loss. Road transportation undertake by land transporter and Truck are not assets of Maersk Line. They claim that damage not occurred in sea transportation process therefore they rejected claims.

Defendant (land transporter) claim that damage occurred in sea transportation stage not land transportation. He accept that land carriage performed by his trucks.

Defendant (agent of sea transporter) claim that he has no legal relation with C. International (seller USA). He is only agent of Maersk line.

Court reversed the judgement. C. International (USA) is shipper and he did not have a feature of carrier. Fault of truck driver could not be proven. S. Uluslararası Nakliyat Otomotiv San.ve Tic. A.Ş. receive cargo from ship without reserve. He is responsible for all damaged cargo.

Respect to the report of expert witness after quashed ship carriage occurred by Maerskline and agent of Maersk Line can't litigate directly. Fault of truck driver E.T. could not be proven again. According to article 772 land transporter receive goods with prejudice so plaintiff has to evidence amount of cargo which was transported to buyer. Court examine documents and can't find evidence about amount of cargo which

was transported to buyer. S. Nak. A.Ş (land transporter) win a lawsuit against plaintiff.

Plaintiff apply Turkish court for objection of execution proceeding. He demand to cancel of execution proceeding. Amount of execution is 376.72 YTL. Court accept the case related with defendant S.UL. NAK. A.Ş. however court dismissal of action with related with other defendant. Respect to the article 787 of the oldest TCC amount of execution is below limit of appeal. Thus appeal claim of plaintiff was rejected by Turkish court.

3.6. CONFLICT BETWEEN APPLICABLE REGIME IN MULTIMODAL TRANSPORT

3.6.1. A Turkish Court View (DOCKET NO: 2013/14172—DECREE NO: 2014/4224—DATE OF VERDICT: 05.03.2014)

3.6.1.1. Summary of the Case

Multimodal transport operator (plaintiff) sign a multimodal transport contract. Transport was occurred from G.R. port to Turkmenistan Avaza region. Transportation consist two stage, one of transport mode is sea carriage from G.R. port to T. port also other transport mode is road carriage from T. port to Turkmenistan Avaza region. Land transportation stage occurred by subcontractor (defendant). Cargo was damaged during the land transportation carriage.

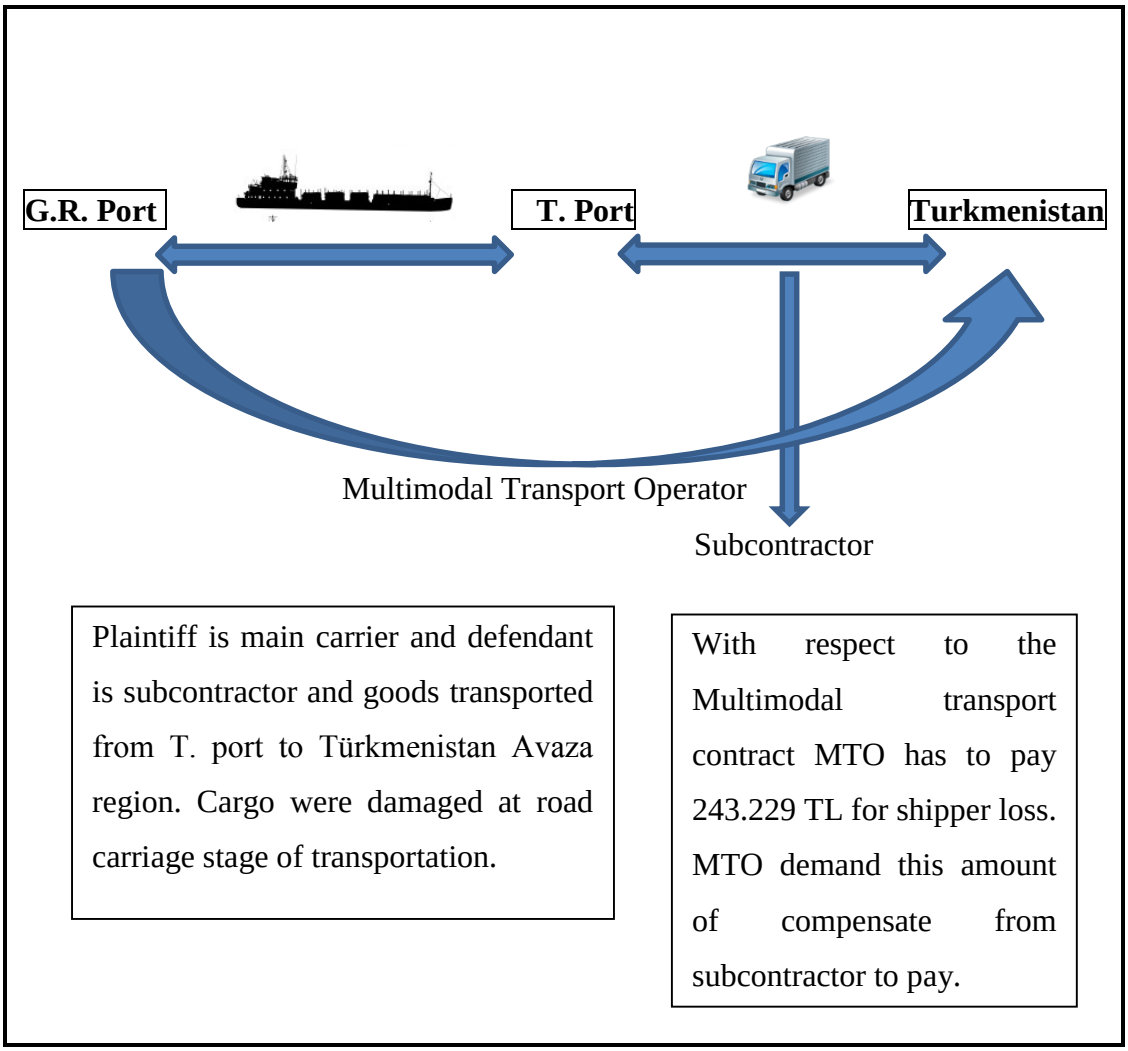
3.6.1.2. Claimant's Assertations

Multimodal transport operator claim that he make an multimodal transport agreement with his shipper. Contract articles explain clearly land transport stage occurred by subcontractor. Cargo was damaged at the stage of road transportation. According to the contract multimodal transport operator has to pay 243.229 TL for shipper loss. MTO demand this amount of compensate which should be paid by subcontractor.

3.6.1.3. Defendant's Defences

Defendant did not accept claims and want dismissal of action.

Figure 28: A Voyage from G.R. Port to Turkmenistan



3.6.1.4. Decision of the case

Case (by defendant) against multimodal transport operator was ended up with pending adjudication. Defendant (MTO) has to pay amount of compensate to shipper. If defendant don't pay money he won't have right of claim for recourse. Case condition couldn't occur and trial was rejected by court.

After court decision plaintiff apply appeal court for re-trial. Plaintiff is main carrier and defendant is subcontractor and goods transported from T. port to Türkmenistan Avaza region. Documents and evidences examined in detailes. Cargo damaged at road carriage stage of transportation. Insurance company indictment against main carrier to take demurrage charges.

This case have some discrepancy because of there is no clear point that main carrier could indictment against subcontractor or he has no right for that. In this point primary criteria is what kind of transportation prefer and which applicable regime apply in this processes. If transportation subject to CMR provisions (CMR 34) MTO should pay demurrage charges before sue to subcontractor or in order to MTO sue against subcontractor TCC provisions should apply.

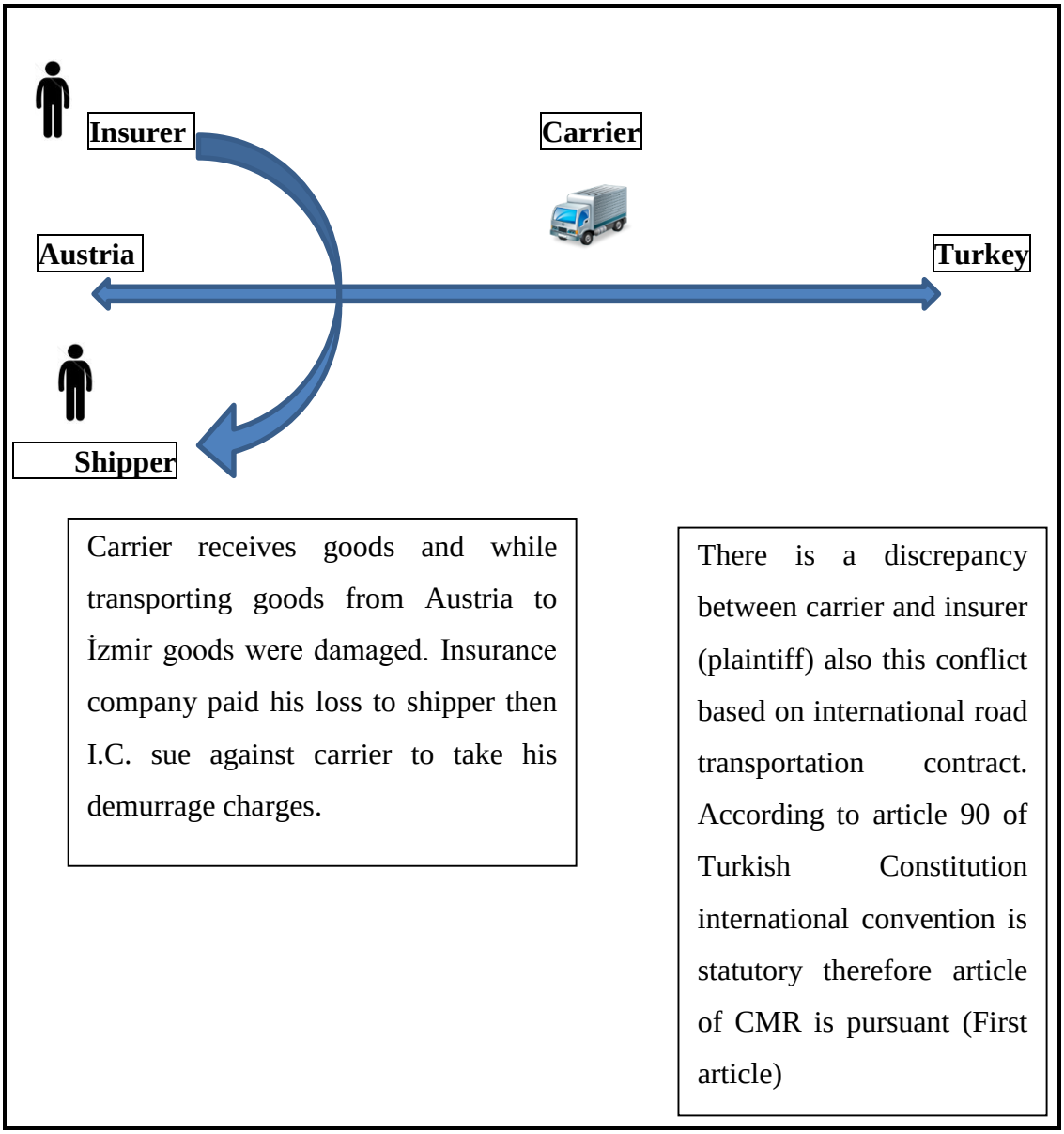
Article 787/2 the oldest TCC code explain that main carrier sue against subcontractor without pay demurrage charges to shipper. Good transported without any land carriage at G. R. port. There is no evidence that damaged occurred at sea carriage. Defendant take responsibility of Turkmenistan road carriage stage. Damage was occurred in Turkmenistan borders therefore CMR provisions can't apply in this situation. According to TCC 6762 MTO can suit against subcontractor without pay demurrage money to shipper so appeal court reversed judgment.

3.6.2. A Turkish Court View (DOCKET NO: 2008/11201—DECREE NO: 2008/ 4599--DATE OF VERDICT: 07.04.2008)

3.6.2.1. Summary of the Case

There are some conflicts between CMR and TCC. Shipper make a transport contract with carrier also he insurance his cargoes. Carrier receive goods and while transporting goods from Austria to İzmir goods were damaged. Insurance company paid his loss to shipper then I.C. sue to against carrier to take his demurrage charges.

Figure 29: A Voyage from Austria to Turkey



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3.6.2.2. Claimant's Assertations

Insurance company (plaintiff) demand to take his demurrage charges which he paid to shipper. He claim that carrier responsible for all damaged goods.

3.6.2.3. Defendant's Defences

Carrier (Defendant) rejected all claims. He demand dismissal of action

3.6.2.4. Decision of the case

Turkish court examine all evidence and expert reports afterwards court decide that carrier is responsible for all damaged goods.

Carrier (defendant) apply appeal court for re-trial.

There is a discrepancy between carrier and insurer (plaintiff) also this conflict based on international road transportation contract. According to article 90 of Turkish Constitution international convention is statutory therefore according to article of CMR (First article) if discharge point or loading point locate in different country besides one of country should be contracting country and applied to CMR convention also all CMR convention articles apply to transport contract.

TCC transportation provisions still in force however Article 90 of Turkish Constitution explain clearly, international convention will be applied priorly.

Experts analyze situation, in this case court should judge according to CMR convention provisions but court adjudication respect to the TCC provisions. This isn't right decision so appeal court reverse a judgment the decision of first court.

3.7. LACK OF PRESCRIPTION IN MULTIMODAL TRANSPORT

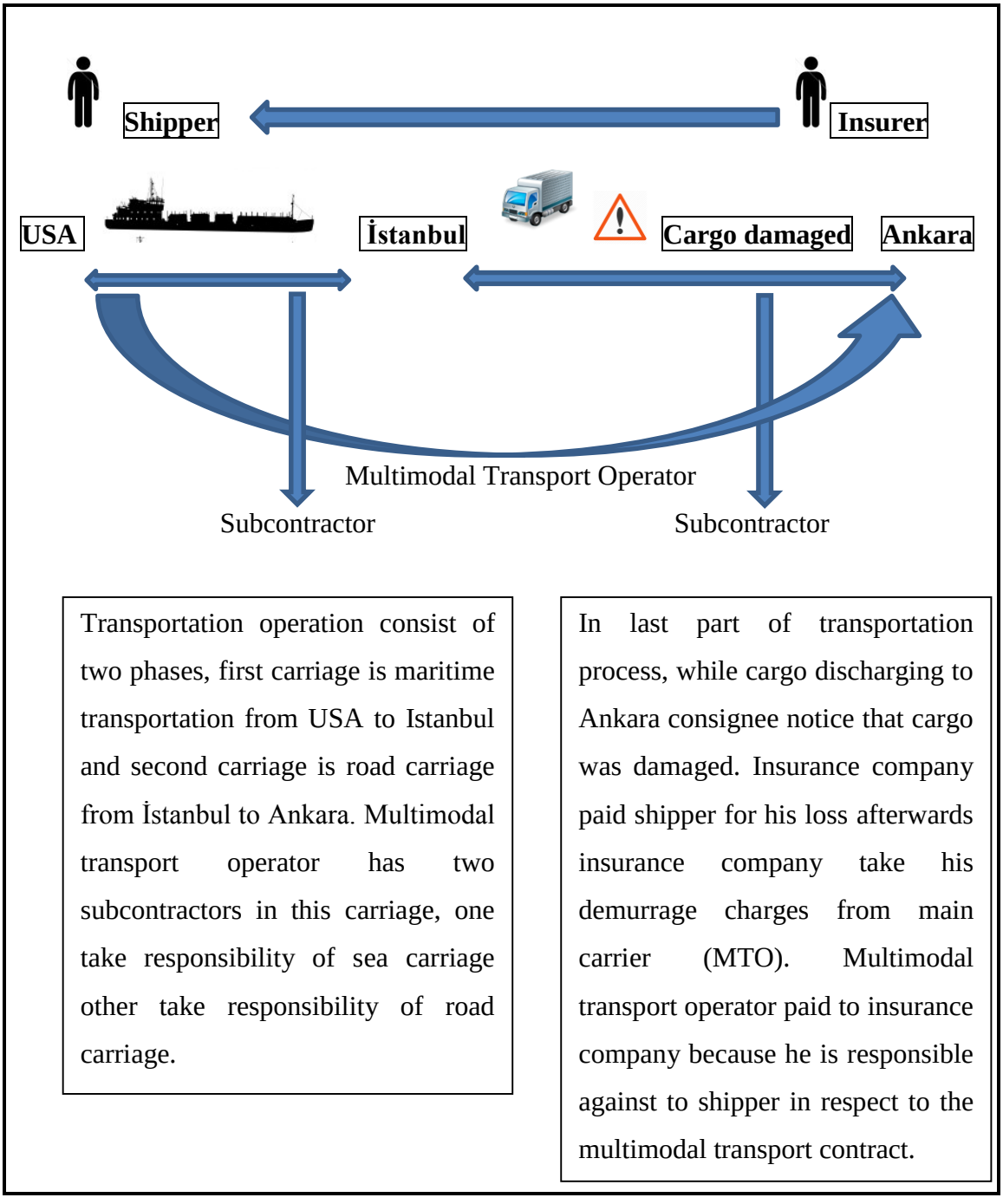
3.7.1. A Turkish Court View (DOCKET NO: 2012/16538—DECREE NO: 2013/13658—DATE OF VERDICT: 28.06.2013)

3.7.1.1. Summary of the Case

Multimodal transport operator (plaintiff) take responsibility of carriage from USA to Ankara. Shipper is a company from USA and consignee is UZAY Sanayi A.Ş. Transportation operation consist of two phases, first carriage is maritime transportation from USA to Istanbul and second carriage is road carriage from İstanbul to Ankara. Multimodal transport operator has two subcontractors in this carriage, one take responsibility of sea carriage other take responsibility of road carriage. Goods transported USA to İstanbul in good condition. In last part of transportation process, while cargo discharging to Ankara consignee notice that cargo was damaged.

Insurance company paid shipper for his loss afterwards insurance company take his demurrage charges from main carrier (MTO). Multimodal transport operator paid to insurance company because he is responsible against to shipper in respect to the multimodal transport contract.

Figure 30: A Voyage from USA to Ankara



3.7.1.2. Claimant's Assertations

Multimodal transport operator claim that due to the wrong stowage of goods from warehouse to subcontractor (defendant) trucks cargo was damaged. MTO claim that he paid demurrage charges to insurance company regarding to article of TCC 784 therefore according to TCC 787/2 MTO demand demurrage charges which was paid by MTO to insurance company.

3.7.1.3. Defendant's Defences

Subcontractor demand dismissal of action.

3.7.1.4. Decision of the case

Court examine experts report, consignee receive goods at the date of 7.4.2006 and experts reports which has taken by MTO drawn up after 18 day of discharge goods. Expert reports should be drawn up in 8 days after consignee receive goods. Plaintiff claim that he send fax massage to subcontractor related with damaged goods at the date of 7.4.2006. According to Turkish court, there is no evidence that subcontractor take that massage. Goods was received without any complaint by consignee. Main carrier hasn't any revocation possibilities against his subcontractor regard to the article 778 of TCC. Turkish court enact dismissal of action.

Plaintiff apply appeal court for re-trail. Appeal court examine court files again and find a document. According to new document plaintiff denounce for damaged goods to subcontractor (defendant) at the date of 13.4.2006. Defendant reply to this document and he claim that he is not responsible for that damage. According to TCC 788 denouncement made by in 8 days therefore case was dismissed the action by appeal court. Turkish court enure to the benefit of plaintiff.

3.7.2. A Turkish Court View (DOCKET NO: 2010/2502—DECREE NO: 2011/17504--DATE OF VERDICT: 22.12.2011),

3.7.2.1. Summary of the Case

A…A.Ş is main carrier (MTO) of transport process. Multimodal transport operator demand to transport his goods from Turkey to Italy. MTO give responsibility to his subcarrier for road carriage. Subcontractor G…Tic receive goods from factory and load his trucks. Transportation consist of two parts, first part is road carriage from factory to Çeşme then cargo was carried with trucks by using Ro-Ro. Second part of carriage, after trucks settle in Ro-Ro ship fire began and all cargo damaged.

3.7.2.2. Claimant's Assertations

Plaintiff paid amount of compensation to his consignee. He claim that subcarrier is responsible for his loss.

3.7.2.3. Defendant's Defences

Subcontractor rejected all claims

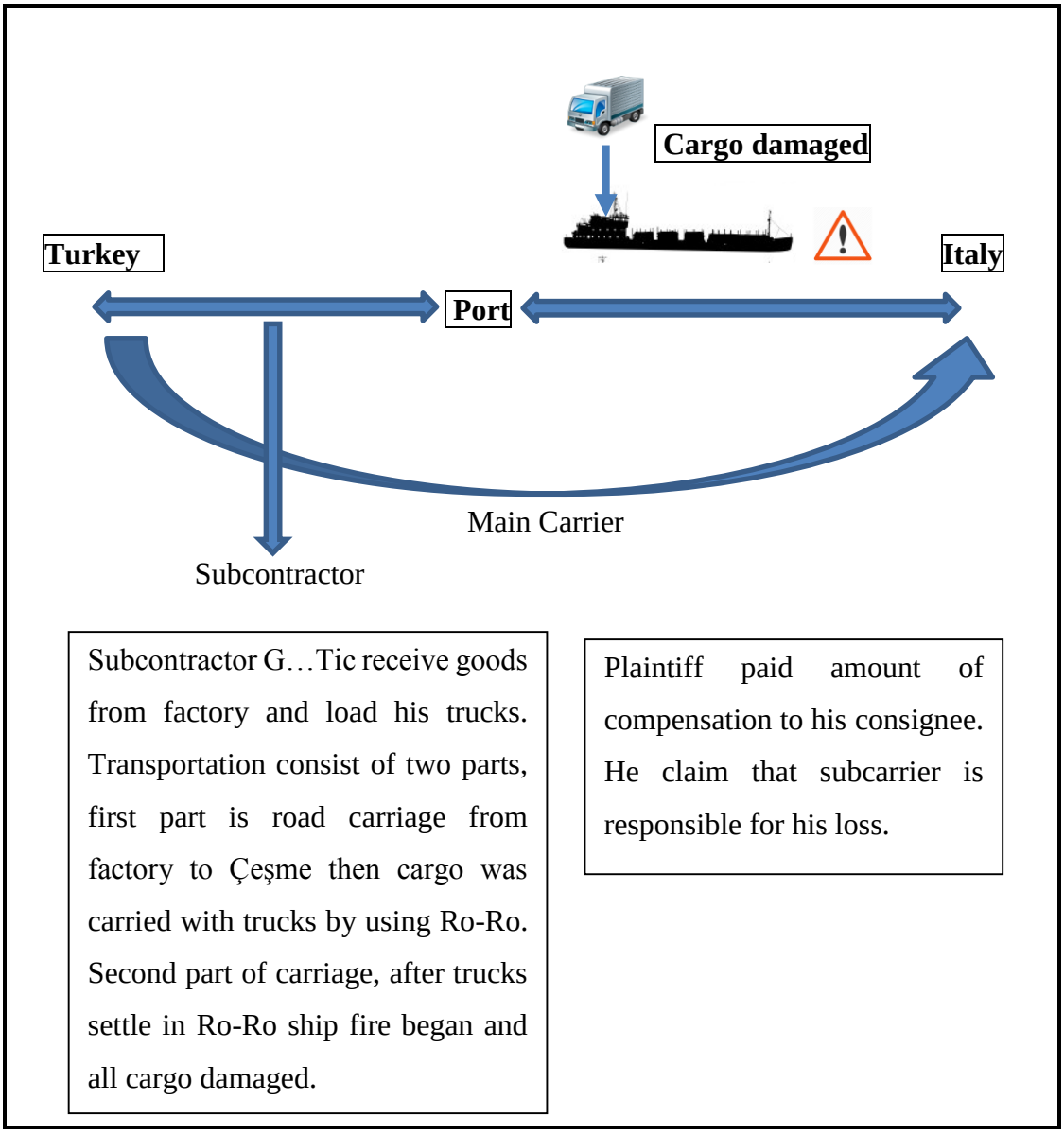
3.7.2.4. Decision of the case

Turkish court examine all documents related with case. Fire began at ship and according to Turkish law if case cover sea law, maritime court should examine the lawsuit. First court assign case to maritime court but there is no maritime court in place where accident happen therefore commercial court of first instance take lawsuit from first court because commercial court of first instance can examine maritime court cases.

Plaintiff apply appeal court for retry. Case cover liability of subcontractor and Multimodal transport operators CMR insurance. Appeal court demand all case files from commercial court of first instance also experts read and analyses all documents regard to road carriage and multimodal transport options. Fire outbreak in U…A… ship which is not directly related with case. Trucks are not unloading cargoes to ship

because ship type is Ro-ro, still cargoes carry with trucks. According to appeal court examine, this transportation process directly related with road carriage, after trucks settle ship also from leaving port to point of arrival CMR provisions should apply regard to the this circumstance. Appeal court dismiss the case for the sake of plaintiff.

Figure 31: A Voyage from Turkey to Italy



3.8. LIABILITY OF CARRIER IN MULTIMODAL TRANSPORT

3.8.1. A Turkish Court View (DOCKET NO: 2012/411-DECREE NO: 2013/345--DATE OF VERDICT: 25.06.2013)

3.8.1.1. Summary of the Case

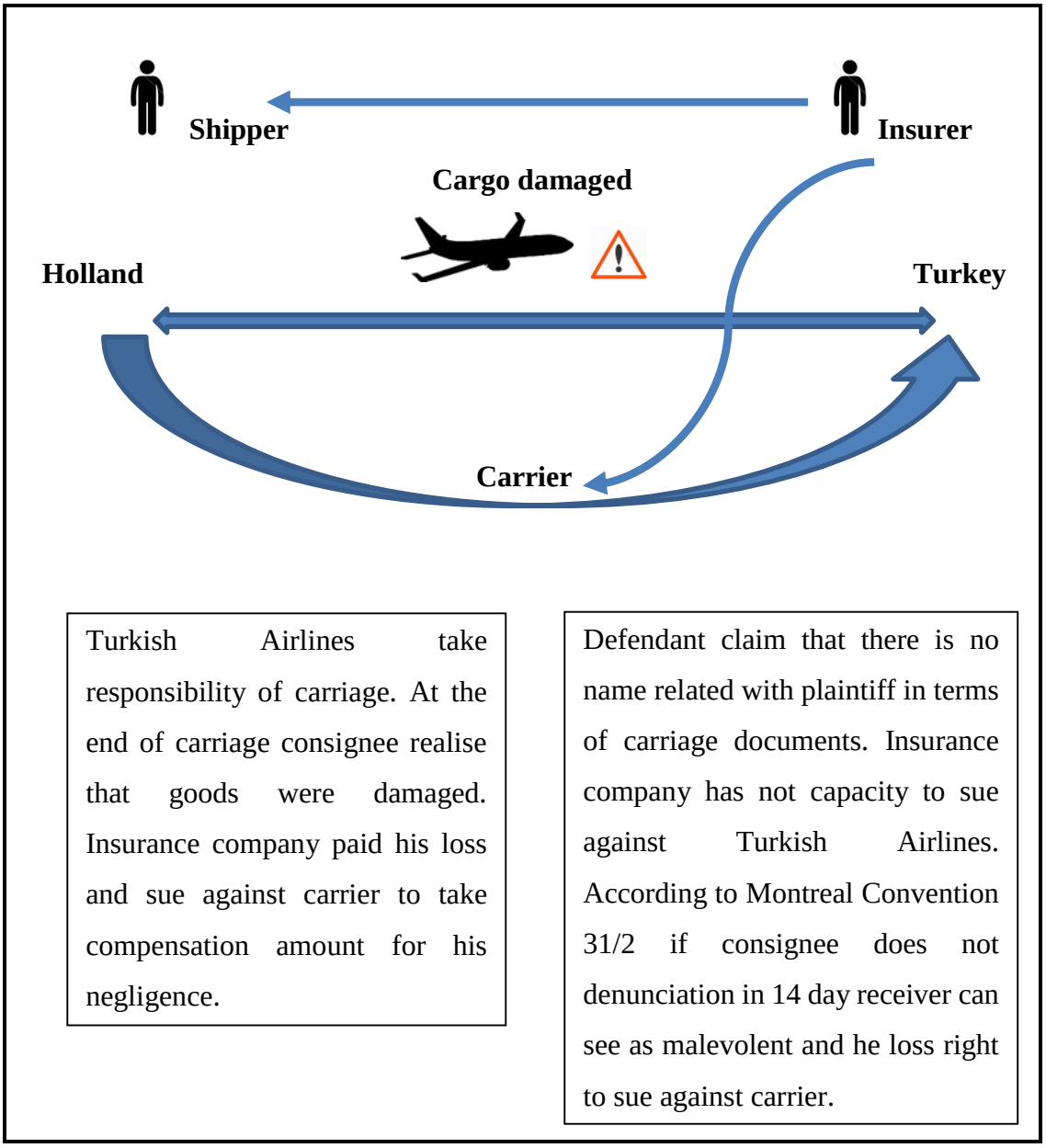
Bilkom bilişim is shipper of this carriage. Company demand to send goods to abroad. Before ship the goods, Sampo Japan Sigorta A.Ş. insurance the export goods. Consignee is A…F…C… Ltd. company. Turkish Airlines take responsibility of carriage. At the end of carriage consignee realise that goods were damaged. Insurance company paid his loss and sue against carrier to take compensation amount for his negligence.

3.8.1.2. Claimant's Assertations

According to case documents Turkish Airlines examine report clearly, cargo was damaged during the transportation. Montreal Additional Protocol provision 22 indicate limited liability related with claimant and in same provision there is no article regard to interest. According to Warsaw Convention provision 22/4 plaintiff can claim that expense related with case. Between payment date 10.01.2012 and 07.03.2012 interest expense cover limited liability provisions. After 07.03.2012 interest expense exclude from limited liability. Plaintif claim that 19 SDR per kilogram for their loss and their total losses are 100 kg. Insurance company demand surrender values with interest expense beginning from at the date of 10.01.2012 (5.177,88 TL) from Turkish Airlines

In briefly insurance company (plaintiff) assert that Turkish Airlines (carrier) responsible for damaged cargo and Sampo Japan want to take money which was paid to shipper by insurance company.

Figure 32: A Voyage from Holland o Turkey



3.8.1.3. Defendant's Defences

Turkish Airlines claim that case should be decided respect to the Montreal Convention 1999 and plaintiff should give information about documents which was examine how damage occur. Defendant claim that there is no name related with plaintiff regard to the carriage document. Insurance company has not capacity to sue against Turkish Airlines. According to Montreal Convention 31/2 if consignee does not denunciation in 14 day receiver can see as malevolent and he loss right to sue

against carrier. There is no clear evidence about damage occur in carriage process. Due to packing problem damage may occur.

3.8.1.4. Decision of the case

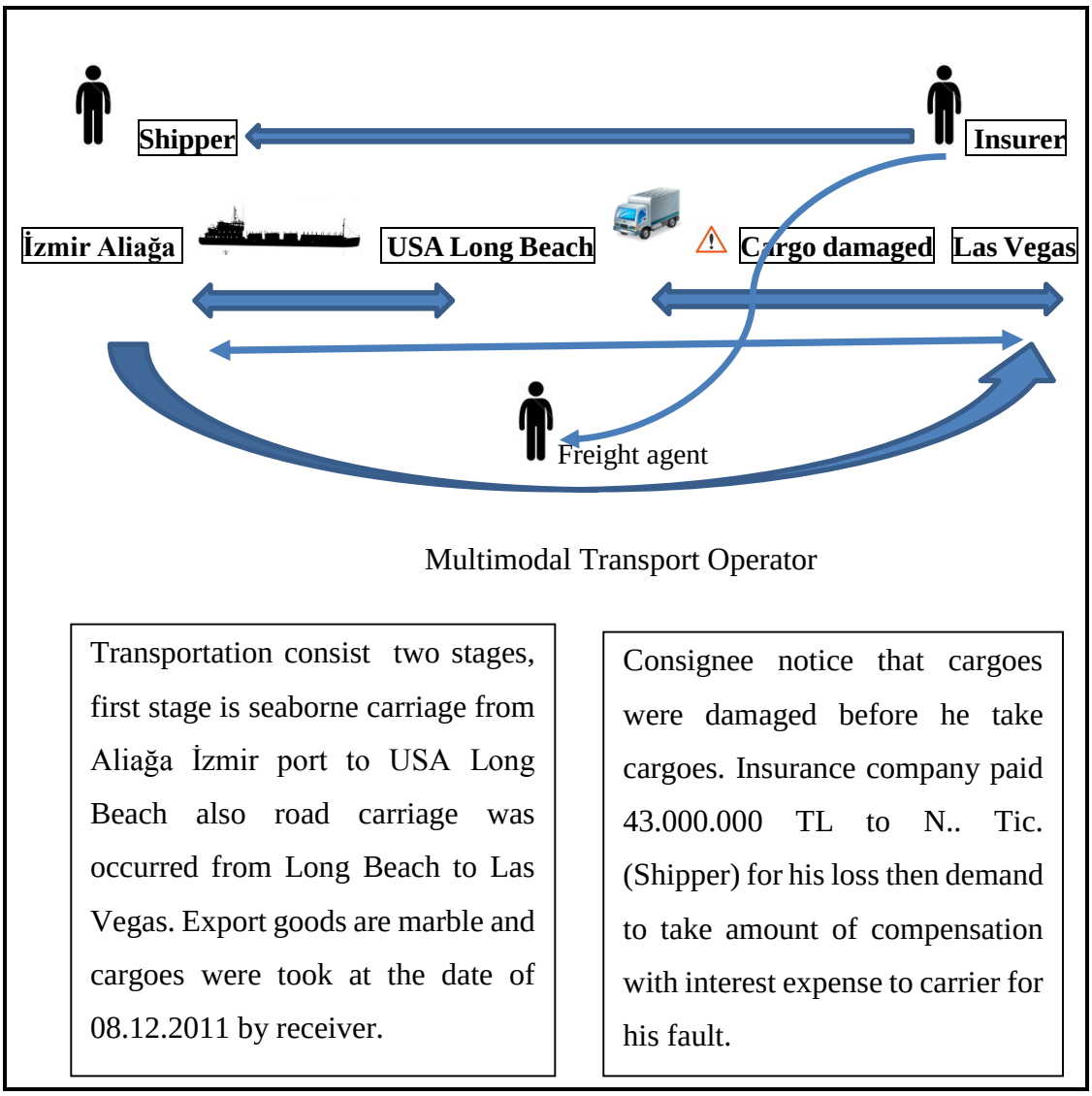
All document and evidences were examined, experts arrange report related with case and he comment that carrier responsible for damaged goods therefore limited liability is 1.900 SDR. Court examine expert report and due to process of law there is no mistake for case. According to case documents shipper send 43 container and one of them was damaged during the transportation process. Insurance company paid money to shipper for his loss and sue against for his revocation right. Carrier has full responsibility for his negligence. Amount of damaged goods determined according to international conventions limit (19 SDR). Interest expense could be demanded from carrier at the beginning of date of verdict. Totally damaged goods were 100kg also 1 SDR equal to 2,9293 Turkish Lira hence 5.565.67 TL was paid by carrier.

3.8.2. A Turkish Court View (DOCKET NO: 2013/17336-DECREE NO: 2014/6591--DATE OF VERDICT: 03.04.2014)

4.8.2.1.Summary of the Case

N.. Tic. demand to send their goods from Turkey to USA. M.. A.Ş take responsibility to carriage as agent of carrier. Agent acts as on the behalf of M.. SA (Main Carrier). Before shipper send goods,insurance company insure all export goods. Transportation consist of two stages, one of them is seaborne carriage from Aliağa İzmir port to USA Long Beach also road carriage was occurred from Long Beach to Las Vegas. Export goods are marble and cargoes were took at the date of 08.12.2011 by receiver. Consignee notice that cargoes were damaged before he take cargoes. Insurance company paid 43.000.000 TL to N.. Tic. (Shipper) for his loss then demand to take amount of compensation with interest expense to carrier for his fault.

Figure 33: A Voyage from İzmir Aliağa to Las Vegas



3.8.2.2. Claimant's Assertations

Insurance company (plaintiff) claim that M.. AŞ is responsible for damaged goods and demand to his money because he has right of revocation against carrier.

3.8.2.3. Defendant's Defences

M.. AŞ did not accept claims and demand to dismissal of action.

3.8.2.4. Decision of the case

Court analyze all specific documents related with transportation stages. Carrier is M.. S.A and freight agent is M.. AŞ regard to the bill of lading. Plaintiff sue against freight agent, he should bring and action against main carrier therefore according to TCC provision of 119 (TCC 105) plaintiff has no right to sue against freight agent hence court reject to bill of complaint.

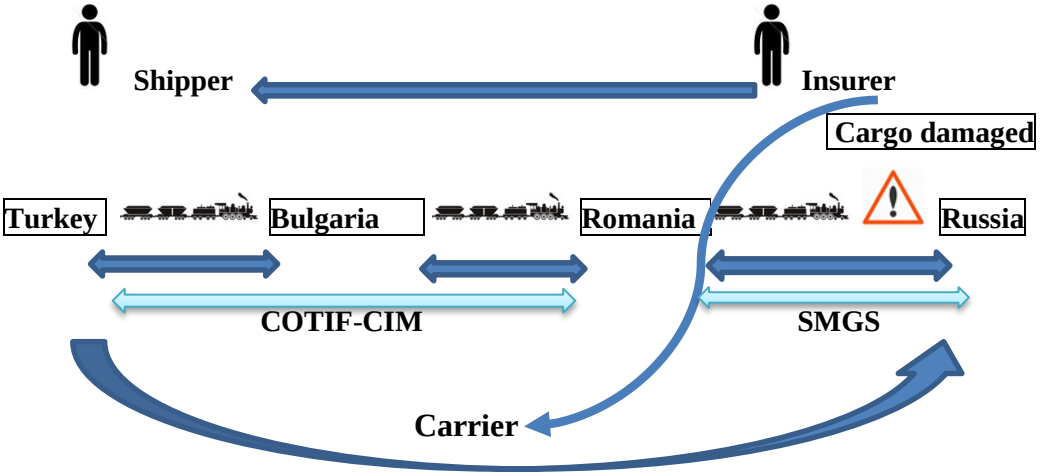
Insurance company apply appeal court for new trial. Court examine all transportation documents again. According to text of petition carriage was occurred by M.. company and M.. AŞ is only agent of his carrier. Case should sue against agent of carrier however main carrier is responsible for carriage too. First decision was reverse a judgement for sake of plaintiff.

3.9. DIFFERENT APPLICABLE REGIMES IN MULTIMODAL TRANSPORT: A TURKISH COURT VIEW

3.9.1. Summary of the Case (DOCKET NO: 2011/4979-DECREE NO: 2012/12183--DATE OF VERDICT: 10.07.2012)

Shipper want send to their goods from Halkalı/İstanbul to Noyabırsk/Russia. One of railway carrier take responsibility of this carriage. Insurance company insurance all exports goods. Cargoes were carried by railway transportation. Railway transportation routes are Turkey-Bulgaria-Romania and point of arrival state is Russia. Before consignee receive goods he notice that wagon lock was broken and some cargoes were stolen. Insurance company paid shipper loss and sue against carrier.

Figure 34: A Voyage from Turkey to Russia



Railway transportation routes are Turkey-Bulgaria-Romania and point of arrival state is Russia. Before consignee receive goods he notice that wagon lock was broken and some cargoes were stolen. Insurance company paid shipper loss and sue against carrier.

Defendant claim that Turkey-Bulgaria-Romania carriage was occurred according to COTIF provisions. SMGS provisions apply in Romania-Russia carriage therefore damage report against COTIF provisions. Turkey is not member of SMGS also plaintiff can sue against regard to the COTIF provisions not SMGS provisions. Only plaintiff can sue against administration of Russian railroad.

3.9.2. Claimant's Assertations

Plaintiff commence execution proceedings for compensation payment however defendant object to this execution process and court stop this execution process for the sake of defendant. Insurance company claim that court decision was wrong because

carrier take all responsibility from Turkey to Russia and cargo was damaged during the transportation process.

3.9.3. Defendant's Defences

Carrier claim that demurrages charges was time barred. Carrier has not encountered any problems in Turkey-Bulgaria-Turkey routes. Still wagon lock is durable. Turkey-Bulgaria-Romania carriage was occurred according to COTIF provisions. SMGS provisions apply in Romania-Russia carriage therefore damage report against COTIF provisions. Turkey is not member of SMGS also plaintiff can sue against regard to the COTIF provisions not SMGS provisions. Only plaintiff can sue against administration of Russian railroad. Defendant do not accept amount of compensate and demand dismissal of case.

3.9.4. Decision of the case

Court and carriage experts examine all documents related with carriage. Carrier responsibility is valid during the Turkey-Bulgaria-Romanya carriage because according CIM carriage documents Romania is arrival point of carriage. Due to carriage was subjected to another shipment SMGS provisions should apply. Second carriage was occurred in Russia and carrier is not side of SMGS document, only carrier can responsible if he side of this document so court demand to dismissal of action.

Plaintiff apply appeal court for new trial. There is no clear point, did carrier take all carriage or only Turkey-Romania side? Did freight take according to Turkey-Romania side or all carriage? Court apply expert's reports for these incoherent points. Court will examine UPM Nak and Dış Tic. Ltd. Şti. Position in respect to the case. Appeal court dismiss the action for the sake of insurance company.

CONCLUSION

The world that we live in now will most likely to be impossible without innovations and developments in transportation sector. Transportation is key the element for business and people's life. There would not have been any great infrastructure, industrialisation, or massive production, if transportation is incompetent. Life would not have kept up with the fast changing times if there were no huge trucks, bulldozers, trailers, cargo ships, or large aircrafts to carry them to different places. In other words, the global society would not have experienced comfort and convenience had it not been for advancements in the transportation sector. Today, humanity has technology to thank for all the wonderful things that it currently enjoys now.

Transport makes possible movement of goods from one place to another with great ease and speed. Transportation sector helps in creation of employment. Transport is a key necessity for specialization—allowing production and consumption of products to occur at different locations. Transport improvement is not always the best way to improve productivity or increase economic development. In general, such improvements only increase economic development where inadequate transport is a significant constraint on economic activity.

Multimodal Transport is a legal concept strictly defined in the United Nations Convention on the International Transport of Goods and other international instruments, where the multimodal Transport is generally considered as the most efficient way of handling an international door to door transport operation. This is so because multimodal transports operations allows to combine in one voyage the specific advantages of each mode, such as the flexibility of road haulage, the larger capacity of railways and the lower costs of water transport in the best possible fashion.

Multimodal transport minimizes time loss at trans-shipment points provides faster transit of goods. Reduces burden of documentation and formalities. Saves cost of transportation operations. Reduce cost of exports the inherent advantages of multimodal transport system will help to reduce the cost of exports and improve their competitive position in international market.

Turkey, one of the most significant economies among emerging countries, has been a natural bridge between the East and the West, serving as a junction between the continents of Asia and Europe. Turkey's advantageous geographical location, which provides easy access to Eastern Europe, Central Asia, the Middle East and North Africa, allows the country to function as a hub for over USD 2 trillion worth of freight carried in the region according to the Republic of Turkey Prime Ministry Investment Support and Promotion Agency Reports. Turkey's current logistics industry size is estimated to be USD 80-100 billion and is forecast to reach USD 108-140 billion by 2017. Turkey is also building logistics centers/villages that will serve to lower the costs of transportation by offering various different modes of transportation within these centers/villages. It is estimated that, by 2023, the total freight carried in the centers/villages will reach a total of USD 500 billion.

New infrastructure encompasses combined transport, which is to play a fundamental role in this unprecedented economic expansion. Given the large capacity of the transport sector, the Turkey must abandon its overwhelming dependence on road transport, which has a market share in the movement of goods and passengers exceeding 90% of the total.

There is an urgent need to launch combined transport initiatives that ensure a balanced, integrated use of all modes of transport. Internationally the assumption is that a transport system that depends exclusively on road transport is unsustainable in the medium term owing to growing congestion, negative external factors and the impossibility of guaranteeing the levels of safety and efficiency required by the growing volume of traffic.

Transport law has crucial role for decent commerce and economies. Multimodal transport is favourite transport modes for carrier, shipper, consignee and all transport users recently. It is hard to determine which law apply in multimodal transport stages because transportation process was occur in different places different countries. Due to the fact that no attempt to create uniform law for multimodal transportation has as yet met with success, transport law has no adequate means to create certainty as to the legal consequences of any loss, damage or delay of cargo resulting from multimodal carriage contracts however world nations regulate international conventions to try solve multimodal transport problems. Each regulations

of multimodal conventions governed only part of the multimodal transport and provided different provisions to govern key issues such as liability, time bar and also limitation of liability therefore different organizations and conferences try to establish international uniform liability regime to facilitate unimodal transport. These initiatives can be inadequate because some of nations apply these conventions or international regulations. If transportation process occur in international area and damage or loss occur at the stage of transportation stages, it is so complicated which law apply, international conventions or national laws will apply.

Turkey tries to improve their legal aspect of multimodal transportation with regard to the international rules, legislations and conventions. Due to solve conflict between applicable regime, prescription and unlocalized loss problems, there are four important provisions now related with multimodal transportation between articles 902 and 905 directly examine legal aspects of different modes of transportation. Special provisions of TCC related with multimodal transportation directly translated from German Commercial Code. According to article 902, one of important change in new multimodal transport is international conventions has priority over domestic legislation in Turkish law. Article 903 examines applicable Turkish law in localized damages. Article 904 clarify how unlocalized loss or damage problem solve. Article 905 regulated specifically for combine transport.

In this study foreign courts and Turkish courts' judgments have been analysed in with respect to the new vicissitudes. Eight different Turkish court decisions, two foreign court decisions and one simple case were analysed. Unlocalized cases were analysed in with respect to the TCC. Especially current cases have been selected from 2008 to 2014. In order to explain arise of the conflict between applicable regimes, also example cases have been examined. Six different unimodal regime regulations can be applied in multimodal transportation. Turkish law was designed according to German law provisions so German multimodal transport court decision was analysed. Perspective of German courts has also been considered in the study. Hence, German courts define liability of the carrier as same as Turkish courts.

In this study, cases have been examined in terms of new multimodal transport regulations and multimodal transport problems. During the transportation process many unimodal and national laws could enforce each of these different modes in cases.

It is so complicated to determine which law or conventions could apply when damage occurs, courts have been met many troubles because of this reason. Conflicts have been met in terms of liability limits of carrier. After cases were examined many unimodal transport problems were encountered, one of significant problem is court jurisdiction limits because hard to determine when damage occur and which transportation stage damage occur in unimodal transportation. Substantial characteristics of TCC has been met. According to TCC MTO can suit against subcontractor without pay demurrage money to shipper. In Turkish court cases international conventions have been applied priorly against TCC articles in respect to the unimodal transportation. Lack of prescription problems were encountered in Turkish court decisions. Turkish courts of first instance's decisions were in conflict with international conventions and regulations. However appeal courts make re-trail in order to receive correct decisions. Turkish courts apply international liability limits.

Turkish courts have met same problems such as other nations courts. Different liability regime, unlocalized loss and lack of prescriptions multimodal transport problems were encountered in Turkish court decision. Turkey has new legislation related with multimodal transport in 2011. There are few cases directly related with multimodal transportation after adapted new multimodal transport provisions in Turkey. This situation is main limitation of this study.

For the future research, new Turkish multimodal transport cases might be analysed in respect to the new multimodal transport provisions. Besides comparative case analysis might be applied.

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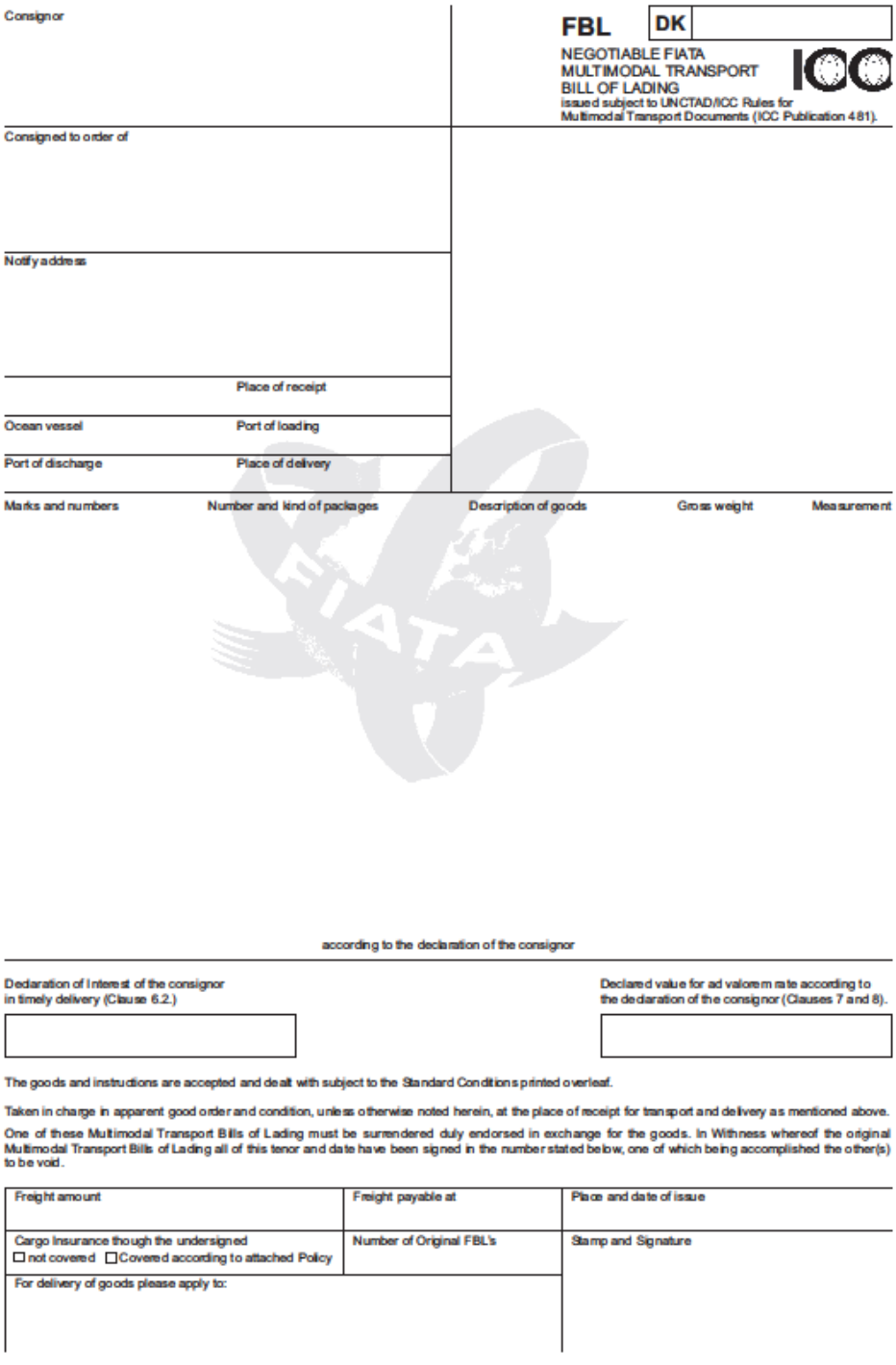
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APPENDIX

Appendix 1: Fiata Multimodal Transport Bill of Lading



Consignor

FBL DK

NEGOTIABLE FIATA MULTIMODAL TRANSPORT BILL OF LADING
issued subject to UNCTAD/ICC Rules for Multimodal Transport Documents (ICC Publication 481).

Consigned to order of

Notify address

Place of receipt

Ocean vessel | Port of loading

Port of discharge | Place of delivery

Marks and numbers | Number and kind of packages | Description of goods | Gross weight | Measurement

according to the declaration of the consignor

Declaration of Interest of the consignor in timely delivery (Clause 6.2.)

Declared value for ad valorem rate according to the declaration of the consignor (Clauses 7 and 8).

The goods and instructions are accepted and dealt with subject to the Standard Conditions printed overleaf.

Taken in charge in apparent good order and condition, unless otherwise noted herein, at the place of receipt for transport and delivery as mentioned above.

One of these Multimodal Transport Bills of Lading must be surrendered duly endorsed in exchange for the goods. In Withness whereof the original Multimodal Transport Bills of Lading all of this tenor and date have been signed in the number stated below, one of which being accomplished the other(s) to be void.

Freight amount	Freight payable at	Place and date of issue
Cargo Insurance though the undersigned ☐ not covered ☐ Covered according to attached Policy	Number of Original FBL's	Stamp and Signature
For delivery of goods please apply to:		

Source: http://www.bifa.org/_attachments/resources/1079_s4.pdf (17.03.2015)

Appendix 2: Convention for the Unification of Certain Rules for International Carriage by Air Done At Montreal On 28 May 1999

Entry into force: The Convention entered into force on 4 November 2003.

Status: 111 parties.

State	Date of signature	Date of deposit of instrument of ratification, acceptance (A), approval (AA) or accession (a)	Date of entry into force
Albania	-	20/10/04 (a)	19/12/04
Argentina (22)	-	16/12/09 (a)	14/2/10
Armenia	-	16/04/10 (a)	15/6/10
Australia	-	25/11/08 (a)	24/1/09
Austria (10)	-	29/4/04 (a)	28/6/04
Azerbaijan	-	10/2/15 (a)	11/4/15
Bahamas	28/5/99	-	-
Bahrain	-	2/2/01(a)	4/11/03
Bangladesh	28/5/99	-	-
Barbados	-	2/1/02 (a)	4/11/03
Belgium	28/5/99	29/4/04	28/6/04
Belize	28/5/99	24/8/99	4/11/03
Benin	28/5/99	30/3/04	29/5/04
Bolivia	28/5/99	6/5/15	5/7/15
Bosnia and	-	9/3/07 (a)	8/5/07
Botswana	-	28/3/01 (a)	4/11/03
Brazil	3/8/99	19/5/06	18/7/06
Bulgaria		10/11/03 (a)	9/1/04
Burkina Faso	28/5/99	25/6/13	25/8/13
Cabo Verde	-	23/8/04 (a)	22/10/04
Cambodia	28/5/99	-	-
Cameroon	27/9/01	5/9/03	4/11/03
Canada (6)	1/10/01	19/11/02	4/11/03
Central	25/9/01	-	-
Chile (21)	28/5/99	19/3/09	18/5/09
China (18)	28/5/99	1/6/05	31/7/05
Colombia	15/12/99	28/3/03	4/11/03

State	Date of signature	Date of deposit of instrument of ratification, acceptance (A), approval (AA) or accession (a)	Date of entry into force
Cuba	28/5/99	14/10/05	13/12/05
Cyprus	-	20/11/02 (a)	4/11/03
Czech	28/5/99	16/11/00	4/11/03
Democratic	-	21/7/14 (a)	19/9/14
Denmark	28/5/99	29/4/04	28/6/04
Dominican	28/5/99	21/9/07	20/11/07
Ecuador	-	27/6/06 (a)	26/8/06
Egypt:	-	24/2/05 (A)	25/4/05
El Salvador	-	7/11/07 (a)	6/1/08
Estonia	4/2/02	10/4/03	4/11/03
Ethiopia	-	23/4/14 (a)	22/6/14
Finland (4)	9/12/99	29/4/04	28/6/04
France (1)	28/5/99	29/4/04	28/6/04
Gabon	28/5/99	4/2/14	5/4/14
Gambia	-	10/3/04	9/5/04
Georgia	-	20/12/10 (a)	18/2/11
Germany	28/5/99	29/4/04	28/6/04
Ghana	28/5/99	-	-
Greece (1)	28/5/99	22/7/02	4/11/03
Guyana	-	23/12/14 (a)	21/2/15
Hungary	-	8/11/04 (a)	7/1/05
Iceland	28/5/99	17/6/04	16/8/04
India	-	1/5/09 (a)	30/6/09
Ireland (1)	16/8/00	29/4/04	28/6/04
Israel (24)	-	19/1/11 (a)	20/3/11
Italy (1)	28/5/99	29/4/04	28/6/04
Jamaica	28/5/99	7/7/09	5/9/09
Japan (8)	-	20/6/00 (A)	4/11/03
Jordan	5/10/00	12/4/02	4/11/03
Kenya	28/5/99	7/1/02	4/11/03
Kuwait	28/5/99	11/6/02	4/11/03
Latvia	-	17/12/04 (A)	15/2/05
Lebanon	-	15/3/05 (a)	14/5/05
Lithuania (17)	28/5/99	30/11/04	29/1/05
Luxembourg	29/2/00	29/4/04	28/6/04
Madagascar	28/5/99	28/12/06	26/2/07
Malaysia (20)	-	31/12/07 (a)	29/2/08
Maldives	-	31/10/05 (a)	30/12/05
Mali	-	16/1/08 (a)	16/3/08
Malta	28/5/99	5/5/04	4/7/04
Mauritius	28/5/99	-	-

State	Date of signature	Date of deposit of instrument of ratification, acceptance (A), approval (AA) or accession (a)	Date of entry into force
Monaco	28/5/99	18/8/04	17/10/04
Mongolia	-	5/10/04 (a)	4/12/04
Montenegro	-	15/1/10 (a)	16/3/10
Morocco	-	15/4/10 (a)	14/6/10
Mozambique	28/5/99	27/1/14	28/3/14
Namibia	28/5/99	27/9/01	4/11/03
Netherlands	30/12/99	29/4/04	28/6/04
New Zealand	13/7/01	18/11/02	4/11/03
Niger	28/5/99	-	-
Nigeria	28/5/99	10/5/02	4/11/03
Norway	-	29/4/04 (a)	28/6/04
Oman	-	28/5/07 (a)	27/7/07
Pakistan	28/5/99	19/12/06	17/2/07
Panama	28/5/99	13/9/02	4/11/03
Paraguay	17/3/00	29/3/01	4/11/03
Peru	7/9/99	11/4/02	4/11/03
Poland	28/5/99	17/1/06	18/3/06
Portugal (1)	28/5/99	28/2/03	4/11/03
Qatar (16)	-	15/11/04 (a)	14/1/05
Republic of	-	30/10/07 (a)	29/12/07
Republic of	-	17/3/09 (a)	16/5/09
Romania	18/11/99	20/3/01	4/11/03
Saint Vincent	-	29/3/04 (a)	28/5/04
Saudi Arabia	28/5/99	15/10/03	14/12/03
Senegal	28.5.99	-	-
Serbia	-	3/2/10 (a)	4.4.10
Seychelles	-	13/9/10 (a)	12.11.10
Singapore (19)	-	17/9/07 (a)	16.11.07
Slovakia	28/5/99	11/10/00	4/11/03
Slovenia	28/5/99	27/3/02	4/11/03
South Africa	28/5/99	22/11/06	21/1/07
Spain (13)	14/1/00	29/4/04	28/6/04
Sudan	28/5/99	-	-
Swaziland	28/5/99	-	-
Sweden (1)	27/8/99	29/4/04	28/6/04
Switzerland	28/5/99	7/7/05	5/9/05
Syrian Arab Republic	-	18/7/02 (a)	4/11/03
Togo	28/5/99	-	-

State	Date of signature	Date of deposit of instrument of ratification, acceptance (A), approval (AA) or accession (a)	Date of entry into force
Turkey (25)	28/5/99	25/1/11	26/3/11
Ukraine	-	6/3/09 (a)	5/5/09
United Arab Emirates	-	7/7/00 (a)	4/11/03
United Kingdom (1)	28/5/99	29/4/04	28/6/04
United Republic of Tanzania		11/2/03 (a)	4/11/03
United States (7)	28/5/99	5/9/03	4/11/03
Uruguay	9/6/99	4/2/08	4/4/08
Vanuatu	-	9/11/05 (a)	8/1/06
Zambia	28/5/99		-

Source: http://www.icao.int (02.04.2015)

Appendix 3: List of Member States of OTIF

1.	Albania
2.	Algeria
3.	Armenia
4.	Austria
5.	Belgium
6.	Bosnia and Herzegovina
7.	Bulgaria
8.	Croatia
9.	Czech Republic
10.	Denmark
11.	Estonia
12.	Finland
13.	France
14.	Germany
15.	Georgia
16.	Greece
17.	Hungary
18.	Iran
19.	Iraq *)
20.	Ireland
21.	Italy
22.	Latvia
23.	Lebanon *)
24.	Liechtenstein
25.	Lithuania
26.	Luxembourg
27.	Former Yugoslav Republic of Macedonia
28.	Monaco
29.	Montenegro
30.	Morocco
31.	Netherlands
32.	Norway
33.	Pakistan
34.	Poland
35.	Portugal
36.	Romania
37.	Russia
38.	Serbia
39.	Slovakia
40.	Slovenia
41.	Spain
42.	Sweden
43.	Switzerland
44.	Syria
45.	Tunisia
46.	Turkey
47.	Ukraine
48.	United Kingdom

Source: www.otif.org 02.04.2015

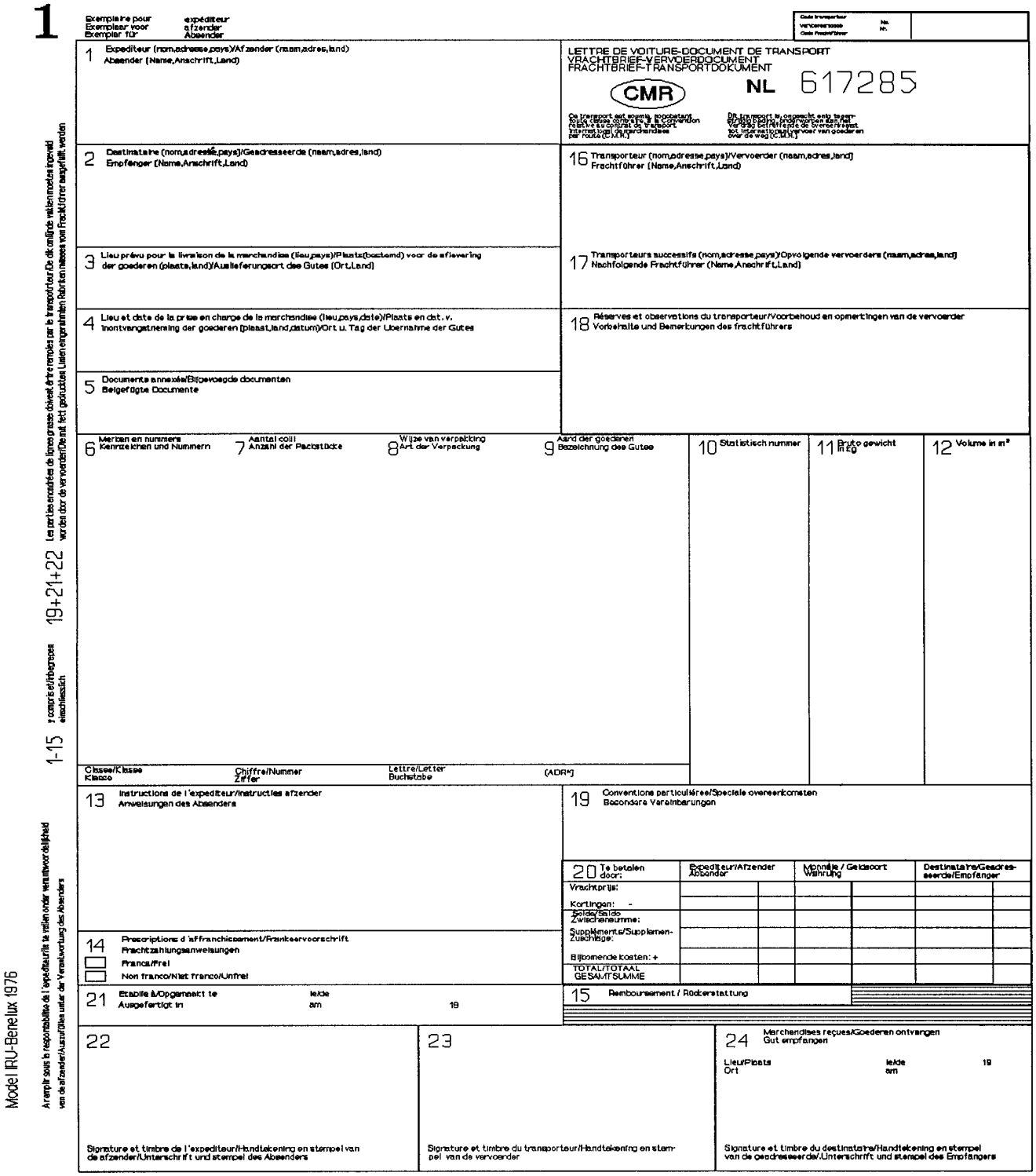
Appendix 4: Member States of Convention on the Contract for the International Carriage of Goods by Road (CMR)

Participant	**Signature**	**Ratification, Accession (a), Succession (d)**
Albania		20 Jul 2006 a
Armenia		9 Jun 2006 a
Austria	19.May.56	18 Jul 1960
Azerbaijan		18 Sep 2006 a
Belarus		5 Apr 1993 a
Belgium	19.May.56	18 Sep 1962
Bosnia and Herzegovina		1 Sep 1993 d
Bulgaria		20 Oct 1977 a
Croatia		3 Aug 1992 d
Cyprus		2 Jul 2003 a
Czech Republic		2 Jun 1993 d
Denmark		28 Jun 1965 a
Estonia		3 May 1993 a
Finland		27 Jun 1973 a
France	19.May.56	20.May.59
Georgia		4 Aug 1999 a
Germany	19.May.56	7 Nov 1961
Greece		24 May 1977 a
Hungary		29 Apr 1970 a
Iran (Islamic Republic of)		17 Sep 1998 a
Ireland		31 Jan 1991 a
Italy		3 Apr 1961 a
Jordan		13 Nov 2008 a
Kyrgyzstan		2 Apr 1998 a
Latvia		14 Jan 1994 a
Lebanon		22 Mar 2006 a
Lithuania		17 Mar 1993 a
Luxembourg	19.May.56	20 Apr 1964
Malta		21 Dec 2007 a
Moldova (Republic of)		26 May 1993 a
Mongolia		18 Sep 2003 a
Montenegro		23 Oct 2006 d
Morocco		23 Feb 1995 a
Netherlands	19.May.56	27 Sep 1960

Participant	Signature	Ratification, Accession (a), Succession (d)
Russian Federation		2 Sep 1983 a
Serbia		12 Mar 2001 d
Slovakia		28 May 1993 d
Slovenia		6 Jul 1992 d
Sweden	19.May.56	2 Apr 1969
Switzerland	19.May.56	27 Feb 1970
Syrian Arab Republic		10 Sep 2008 a
Tajikistan		11 Sep 1996 a
Turkey		2 Aug 1995 a
Turkmenistan		18 Sep 1996 a
Ukraine		16 Feb 2007 a
United Kingdom of Great Britain and Northern Ireland		21 Jul 1967 a
Uzbekistan		28 Sep 1995 a
Kazakhstan		17 Jul 1995 a
The Former Yugoslav Republic of Macedonia		20 Jun 1997 d
Tunisia		24 Jan 1994 a

Source: www.unece.org (08.04.2015)

Appendix 5: CMR International Consigment Note



1

Exemplaire pour / Exemplaar voor / Exemplar für: expéditeur / afzender / Absender

Code transporteur / vervoerscode / Code Frachtführer — Nr.

1 Expéditeur (nom,adresse,pays)/Afzender (naam,adres,land) / Absender (Name,Anschrift,Land)

LETTRE DE VOITURE-DOCUMENT DE TRANSPORT / VRACHTBRIEF-VERVOERDOCUMENT / FRACHTBRIEF-TRANSPORTDOKUMENT

CMR

NL 617285

Ce transport est soumis, nonobstant toute clause contraire, à la Convention relative au contrat de transport international de marchandises par route (CMR) / Dit transport is, ongeacht enig tegengestelde bepaling, onderworpen aan het Verdrag betreffende de overeenkomst tot internationaal vervoer van goederen over de weg (CMR) / Dieser Transport unterliegt trotz gegenteiliger Abmachungen dem Übereinkommen über den Vertrag über die internationale Beförderung von Gütern auf der Straße (CMR)

2 Destinataire (nom,adresse,pays)/Geadresseerde (naam,adres,land) / Empfänger (Name,Anschrift,Land)

16 Transporteur (nom,adresse,pays)/Vervoerder (naam,adres,land) / Frachtführer (Name,Anschrift,Land)

3 Lieu prévu pour la livraison de la marchandise (lieu,pays)/Plaats(bestemd) voor de aflevering der goederen (plaats,land)/Auslieferungsort des Gutes (Ort,Land)

17 Transporteurs successifs (nom,adresse,pays)/Opvolgende vervoerders (naam,adres,land) / Nachfolgende Frachtführer (Name,Anschrift,Land)

4 Lieu et date de la prise en charge de la marchandise (lieu,pays,date)/Plaats en dat. v. inontvangstneming der goederen (plaast,land,datum)/Ort u. Tag der Übernahme der Gutes

18 Réserves et observations du transporteur/Voorbehoud en opmerkingen van de vervoerder / Vorbehalte und Bemerkungen des Frachtführers

5 Documents annexés/Bijgevoegde documenten / Beigefügte Documente

6 Marques et numéros / Kenntekens und Nummern	7 Nombre de colis / Aantal colli / Anzahl der Packstücke	8 Mode d'emballage / Wijze van verpakking / Art der Verpackung	9 Nature de la marchandise / Aard der goederen / Bezeichnung des Gutes	10 Numéro statistique / Statistisch nummer	11 Poids brut / Bruto gewicht / Brutogewicht	12 Cubage en m³ / Volume in m³

Classe/Klasse/Klasse — Chiffre/Nummer/Ziffer — Lettre/Letter/Buchstabe — (ADR*)

13 Instructions de l'expéditeur/Instructies afzender / Anweisungen des Absenders

19 Conventions particulières/Speciale overeenkomsten / Besondere Vereinbarungen

14 Prescriptions d'affranchissement/Frankeervoorschrift / Frachtzahlungsanweisungen

☐ Franco/Frei

☐ Non franco/Niet franco/Unfrei

20 Te betalen door:	Expéditeur/Afzender / Absender	Monnaie / Geldsoort / Währung	Destinataire/Geadresseerde/Empfänger
Vrachtprijs:			
Kortingen: -			
Saldo/Saldo / Zwischensumme:			
Suppléments/Supplementen / Zuschläge:			
Bijkomende kosten: +			
TOTAL/TOTAAL / GESAMTSUMME			

21 Etablie à/Opgemaakt te / Ausgefertigt in — le/de / am — 19

15 Remboursement / Rückerstattung

22 Signature et timbre de l'expéditeur/Handtekening en stempel van de afzender/Unterschrift und stempel des Absenders

23 Signature et timbre du transporteur/Handtekening en stempel van de vervoerder / Signature et timbre du transporteur/Handtekening en stempel van de vervoerder

24 Marchandises reçues/Goederen ontvangen / Gut empfangen

Lieu/Plaats / Ort — le/de / am — 19

Signature et timbre du destinataire/Handtekening en stempel van de geadresseerde/Unterschrift und stempel des Empfängers

1-15 à remplir si nécessaire / indien nodig in te vullen / gegebenenfalls auszufüllen

19+21+22 Les parties encadrées de lignes grasses doivent être remplies par le transporteur / De omlijnde velden moeten ingevuld worden door de vervoerder / Fett gedruckte Linien sind vom Frachtführer auszufüllen

A remplir sous la responsabilité de l'expéditeur / Te vullen onder verantwoordelijkheid van de afzender / Auszufüllen unter der Verantwortung des Absenders

* En cas de marchandises dangereuses indiquer, outre la contribution éventuelle, à la dernière ligne du cadre ci-dessus, la classe, le chiffre et la lettre de la rubrique correspondante / In geval van gevaarlijke goederen, behalve de eventuele vrachtbrief, de klasse, het nummer en eventueel de letter vermelden

Model IRU-Benelux 1976

Source: www.iru.org (09.04.2015)

Appendix 6: Ratifications and Denouncements list of 1924 Hague Rules,

1968 Hague-Visby Rules and 1979 SDR Protocol

	Country	1924 Hague Rules	1968 Hague-Visby Rules	1979 SDR Protocol
1.	Algeria	Active		
2.	Angola	Active		
3.	Antigua and Barbuda	Active		
4.	Argentina	Active		
5.	Aruba	Denounced	Active	Active
6.	Australia	Denounced	Active	
7.	Bahamas	Active		
8.	Barbados	Active		
9.	Belgium	Active	Active	Active
10.	Belize	Active		
11.	Bolivia	Active		
12.	Cameroon	Active		
13.	Cape Verde	Active		
14.	China			
15.	Croatia	Active	Active	Active
16.	Côte d'Ivoire	Active		
17.	Cuba	Active		
18.	Cyprus	Active		
19.	Democratic Republic of the Congo	Active		
20.	Denmark	Denounced	Active	Active
21.	Dominica	Active		
22.	East Germany	Active		Active
23.	Egypt	Active	Denounced	
24.	Ecuador	Active	Active	
25.	Fiji	Active		
26.	Finland	Denounced	Active	Active
27.	France	Active	Active	Active
28.	Gambia	Active		
29.	Georgia		Active	

	Country	1924 Hague Rules	1968 Hague-Visby Rules	1979 SDR Protocol
33.	Guyana	Active		
34.	Hong Kong	Denounced	Active	Active
35.	Hungary	Active		
36.	Iran	Active		
37.	Ireland	Active		
38.	Israel	Active		
39.	Italy	Denounced	Active	Active
40.	Jamaica	Active		
41.	Japan	Denounced		Active
42.	Kenya	Active		
43.	Kiribati	Active		
44.	Kuwait	Active		
45.	Latvia	Active	Active	Active
46.	Lebanon	Denounced	Denounced	
47.	Lithuania	Active	Active	Active
48.	Luxembourg			Active
49.	Macao	Active		
50.	Madagascar	Active		
51.	Malaysia	Active		
52.	Mauritius	Active		
53.	Mexico			Active
54.	Monaco	Active		
55.	Mozambique	Active		
56.	Nauru	Active		
57.	Netherlands	Denounced	Active	Active
58.	New Zealand			Active
59.	Nigeria	Active		
60.	North Borneo	Active		
61.	Norway	Denounced	Active	Active
62.	Palestine	Active		
63.	Papua New Guinea	Active		
64.	Paraguay	Denounced		
65.	Peru	Active		
66.	Poland	Active	Active	Active
67.	Portugal	Active		
68.	Portuguese India	Active		
69.	Portuguese Timor	Active		

	Country	1924 Hague Rules	1968 Hague-Visby Rules	1979 SDR Protocol
71.	Russia			Active
72.	Saint Christopher and Nevis	Active		
73.	Saint Lucia	Active		
74.	Saint Vincent and the Grenadines	Denounced		
75.	São Tomé and Príncipe	Active		
76.	Sarawak	Active		
77.	Senegal	Active		
78.	Seychelles	Active		
79.	Sierra Leone	Active		
80.	Singapore	Active	Active	
81.	Somalia	Active		
82.	Slovenia	Active		
83.	Solomon Islands	Active		
84.	Spain			
85.	Sri Lanka	Active	Active	
86.	Sweden	Denounced	Active	Active
87.	Switzerland	Active	Active	Active
88.	Syria	Active	Active	
89.	Tanganyika	Active		
90.	Tonga	Active	Active	
91.	Trinidad and Tobago	Active		
92.	Turkey	Active		
93.	Tuvalu	Active		
94.	United Kingdom	Denounced	Active	Active
95.	United States	Active		
96.	West Germany	Active		
97.	Yugoslavia	Active		

Source: www.diplomatiebelgium.com (14.04.2015)

Appendix 7: Member States of United Nations Convention on the Carriage of Goods by Sea, 1978 Hamburg Rules

Participant	**Signature, Succession to signature(d)**	**Approval(AA), Acceptance(A), Accession(a), Ratification**
Albania		20 Jul 2006 a
Austria	30 Apr 1979	29 Jul 1993
Barbados		2 Feb 1981 a
Botswana		16 Feb 1988 a
Brazil	31 Mar 1978	
Burkina Faso		14 Aug 1989 a
Burundi		4 Sep 1998 a
Cameroon		21 Oct 1993 a
Chile	31 Mar 1978	9 Jul 1982
Czech Republic	2 Jun 1993 d	23 Jun 1995
Democratic Republic of the Congo	19 Apr 1979	
Denmark	18 Apr 1979	
Dominican Republic		28 Sep 2007 a
Ecuador	31 Mar 1978	
Egypt	31 Mar 1978	23 Apr 1979
Finland	18 Apr 1979	
France	18 Apr 1979	
Gambia		7 Feb 1996 a
Georgia		21 Mar 1996 a
Germany	31 Mar 1978	
Ghana	31 Mar 1978	
Guinea		23 Jan 1991 a
Holy See	31 Mar 1978	
Hungary	23 Apr 1979	5 Jul 1984
Jordan		10 May 2001 a
Kazakhstan		18 Jun 2008 a

Participant	Signature, Succession to signature(d)	Approval(AA), Acceptance(A), Accession(a), Ratification
Mexico	31 Mar 1978	
Morocco		12 Jun 1981 a
Nigeria		7 Nov 1988 a
Norway	18 Apr 1979	
Pakistan	8 Mar 1979	
Panama	31 Mar 1978	
Paraguay		19 Jul 2005 a
Philippines	14 Jun 1978	
Portugal	31 Mar 1978	
Romania		7 Jan 1982 a
Senegal	31 Mar 1978	17 Mar 1986
Sierra Leone	15 Aug 1978	7 Oct 1988
Singapore	31 Mar 1978	
Slovakia	28 May 1993 d	
St. Vincent and the Grenadines		12 Sep 2000 a
Sweden	18 Apr 1979	
Syrian Arab Republic		16 Oct 2002 a
Tunisia		15 Sep 1980 a
Uganda		6 Jul 1979 a
United Republic of Tanzania		24 Jul 1979 a
United States of America	30 Apr 1979	
Venezuela (Bolivarian Republic of)	31 Mar 1978	
Zambia		7 Oct 1991 a

Source: treaties.un.org (16.04.2015)

Appendix 8: United Nations Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea (Newyork, 2008) Member States of Rotterdam Rules

State	**Signature**	**Ratification, Accession(*), Approval(†), Acceptance(‡) or Succession(§)**
Armenia	29.09.2009	
Cameroon	29.09.2009	
Congo	23.09.2009	28.01.2014
Democratic Republic of the Congo	23.09.2010	
Denmark	23.09.2009	
France	23.09.2009	
Gabon	23.09.2009	
Ghana	23.09.2009	
Greece	23.09.2009	
Guinea	23.09.2009	
Guinea-Bissau	24.09.2013	
Luxembourg	31.08.2010	
Madagascar	25.09.2009	
Mali	26.10.2009	
Netherlands	23.09.2009	
Niger	22.10.2009	
Nigeria	23.09.2009	
Norway	23.09.2009	
Poland	23.09.2009	
Senegal	23.09.2009	
Spain	23.09.2009	19.01.2011
Sweden	20.07.2011	
Switzerland	23.09.2009	
Togo	23.09.2009	17.07.2012
United States of America	23.09.2009	

Source: www.uncitral.org (14.04.2015)