The 2008 Rotterdam Rules: An Arab World Perspective

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I. Introduction

One of the main objectives of ‘The United Nations Convention on Contracts for the International Carriage of Goods – Wholly or Partly by Sea’, hereinafter the 2008 Rotterdam Rules or simply the RR, is to restore uniformity and achieve modernization of international law of carriage of goods by sea in liner shipping. Therefore the success of the RR will depend on the large implementation of these rules by the leading shipping countries of the world, some already signed the rules, one is known to be close to ratification, while most of the countries of the world just expressed interest. Many countries, members of the Arab League, belong to the third category, especially those that expressly declared support to the RR in Alexandria, Egypt, on February 2, 2010, leading to ‘The 2010 Alexandria Declaration on the Rotterdam Rules’, hereinafter ‘The 2010 Alexandria Declaration’.

Since the objective of the 2010 Conference of the Institute Méditerranéen des Transports Maritimes, taking place in Marseilles, on May 20-21, where this paper is to be presented, is to help answer the question of whether the RR are (or will be) the law of maritime transport for the

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2 The most updated list contains 22 signatories of: Armenia, Cameroon, Congo, Democratic Republic of Congo, Denmark, France, Gabon, Ghana, Greece, Guinea, Luxembourg, Madagascar, Holland, Mali, Niger, Nigeria, Norway, Poland, Senegal, Spain, Switzerland, Togo and the United States of America, the share of all of which of the global seaborne trade exceeds the amount of 25%. See <http://www.uncitral.org> (Last visited December 31, 2010).

3 That was the news received from Spanish scholars on Spain during the 2010 IMTM Annual Conference and which took place in Marseilles, on May 20-21, 2010.

4 The author does not take account of a dissenting country.

5 With the exception of the Sudanese delegation that reserved adhering to the recommendations due to lack of study, the delegations came from the following fourteen countries: Jordan, Tunisia, Djibouti, Kingdom of Saudi Arabia, Syria, Iraq, Oman, Iraq, Palestine, Qatar, Kuwait, Libya, Egypt, Morocco and Yemen. In the critical stage of adoption, the following delegations expressly supported the Recommendations: Jordan, Tunisia and Yemen. The author does not construe absence of the rest seven Arab countries to be in disfavor of the RR, since those countries did not object to ‘The 2010 Alexandria Declaration’ when it was submitted to the Executive Office of the Council of the Arab Ministers of Transport, in Cairo, on April 28-29, 2010.

6 See an English translation copy attached to this paper in an addendum. The author wishes to extend thanks to Porf. Mohamed Nagy Khairalla, from the Arab Academy for Science, Technology and Maritime Transport, for taking care of this translation.
21st century; the author will try to explore possible answers for this question from the perspective of the countries members to the Arab League, following analytical, and sometimes descriptive, methodologies supported by comparative overview of the different Arab laws for the carriage of goods by sea.

In the opinion of the author, answers to the question at stake first require highlight of the Arab common shipping interests, then sketching panorama of the current Arab laws for the carriage of goods by sea in liner shipping, concluding to an evaluation of both the RR and ‘The 2010 Alexandria Declaration’ form the perspective of the Arab World. This will be made under four titles: shipping interests of the Arab World; current carriage of goods by sea laws in the Arab World; evaluation of the RR and exploring ‘The 2010 Alexandria Declaration’.

II. Shipping interests of the Arab World

The Arab World is used here in a narrow legal meaning describing the countries already members of the Arab League, the author suggests that these countries share similar shipping interests.

A. The Arab League

The Arab League is an international regional organization coordinating cooperation between Arabic speaking countries. Geographically, the countries of the Arab League share close neighbourhood covering Southwest Asia, and North and Northeast Africa. The Arab League was created in Cairo, on March 22, 1945, by six member countries and succeeded to reach the number of twenty one full member countries and five observers.

The Arab League main focus is political, putting it in resemblance with ‘The Organization of American States’, ‘The Council of Europe’, and ‘The African Union’. However, membership in the Arab League is based on culture rather than purely geographical location, getting the League to the category of organizations such as ‘The Latin Union’, or ‘The

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7 This paper is based on a presentation made at the 2010 IMTM Annual Conference, whose theme was: “Les règles de Rotterdam: Le droit des transports maritimes du 21e Siècle?”.
11 This includes: Algeria, Bahrain, Comoros, Djibouti, Egypt, Jordan, Kuwait, Lebanon, Libya, Mauritania, Morocco, Oman, Palestine Authority, Qatar, Saudi Arabia, Somalia, Sudan, Syria, Tunisia, UAE and Yemen. See Toffolo, op. cit., p. 9.
12 This includes: Armenia (2004), Chad (2005), Turkey (2005), India (2007) and Venezuela (2006). These countries can attend meeting but cannot vote. Ibid.
13 For this comparison, see <http://en.wikipedia.org/wiki/Arab_League> (Last visited December 31, 2010).
Caribbean Community’\textsuperscript{14}. The Arab League differs clearly from ‘The European Union’ since it has not achieved a significant degree of regional economic integration. However, the Arab League is lately paying due attention to economic cooperation and participation of civil community, this is clearly manifested in the field of carriage\textsuperscript{15}. The Pact of the Arab League is flexible enough to help such cooperation and participation\textsuperscript{16}.

\textbf{B. Classification of the shipping interests of the Arab World}

According to the author, members of the Arab League share similar shipping interests getting them to the category of cargo v. carrier interests countries, since most of these members are importers of the needs of development and consumer goods\textsuperscript{17}. They are overwhelmingly developing countries with very limited share of the world fleet\textsuperscript{18}.

Few members of the Arab League however host hub seaports, rendering them in concern of the terminal operators’ interests, a category closer to the cargo interests’ group\textsuperscript{19}. These are the cases of UAE, Oman, Yemen, Egypt and Morocco\textsuperscript{20}.

\textbf{III. Current carriage of goods by sea law in the Arab World}

Analysis of the current Arab law for the Carriage of Goods by Sea should take into consideration both the current implemented international Conventions related to carriage of good in the Arab World, in addition to the position of the Arab local laws for the carriage of goods by

\textsuperscript{14}\textit{Ibid.}

\textsuperscript{15} An \textit{Economic Council} of the Arab League under the terms of the Joint Defence and Economic Co-operation Treaty (1950) was established in implementation of Articles 2 and 4 of the Pact of the Arab League (1945), which required the establishment of a council to co-ordinate close co-operation of member-states in economic affairs. This Council was renamed the ‘\textit{Economic and Social Council}’ (ESC) in 1980, and currently administers ‘\textit{The Greater Arab Free Trade Area}’ and ‘\textit{The Arab Fund for Economic and Social Development}’, as well as supervising ‘\textit{The Council of Arab Economic Unity}’ and other subsidiary institutions. The Arab railway network was considered among the main objectives of the first Arab Economic and Social Development Summit, held in Kuwait on January 19-20, 2009. The second summit is planned to be held in Egypt in 2011. See the 1st summit official background paper at <http://www.arabeconomicsummit.org/Public/eAboutsummit.pdf> (Last visited December 31, 2010).

\textsuperscript{16} According to Article 2 of the Pact of the Arab league; this organization should aim achieving closer relations between the members, coordinate their cooperation, safeguard their independence/sovereignty and consider their common interests. For an English translation see: <http://avalon.law.yale.edu/20th_century/arableag.asp> (Last visited December 31, 2010).

\textsuperscript{17} That was the dominated presumption at the Arab League Workshop on the RR, held at the Arab Academy for Science, Technology and Maritime Transport (AASTMT), on February 2-3, 2010, in Alexandria, Egypt. See generally on the RR from the perspective of cargo interests: Bonnevie, P., Evaluation of the new Convention from the perspective of cargo interests, a paper at the Rotterdam Rules Symposium, held at Hamburg on June 25, 2009, and published in \textit{Transportrecht} 361-366 (2009).

\textsuperscript{18} See generally the annual statistics and analysis of the UNCTAD Maritime Transport Review available at <http://www.unctad.org> (Last visited December 31, 2010).


\textsuperscript{20} See again the annual publications of the UNCTAD Maritime Transport Review, \textit{Ibid.}
sea, appearing under Maritime Codes, this is in the countries which are not party to any of the international Convention.

A. Arab countries parties to international Conventions

Regretfully, few Arab countries are members to the international Conventions relating to the carriage of goods (by sea); this applies to both the global and regional Conventions.

As regards the 1924 Hague Rules, only two Arab countries are still members; these are Algeria and Kuwait. Egypt and Lebanon were member countries to the 1924/1968 Hague/Visby Rules but latter denounced these Rules in application of their implementation of the 1978 Hamburg Rules. The same should apply to Syria, but its denunciation is not reported.

The 1978 Hamburg Rules are also applicable in Jordan, Tunisia and Morocco. Few of these Arab countries joined the 1980 Multimodal (Lebanon and Morocco) and the 1991 Operators of Transport Terminals Conventions (Egypt).

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21 The formal title of this Convention is ‘The International Convention for the Unification of certain Rules of Law relating to Bills of Lading and Protocol of Signature’. These rules were made in August 25, 1924 and entered into force on 2 June 1, 1931. See CMI Yearbook 2009, p. 441.

22 Ibid.

23 The 1924 Hague Rules entered into force, in Algeria, on April 13, 1964. Ibid.

24 The 1924 Hague Rules entered into force, in Kuwait, on July 25, 1969. Kuwait used a reservation with regard the limitation of liability increasing it from £ 100 to £ 250 (Article 5(4)). This reservation has been rejected by France and Norway. The rejection of Norway has been withdrawn on April 12, 1974. By note of March 30, 1971, received by the Belgian Government on April 30, 1971 the Government of Kuwait stated that the amount of £ 250 must be replaced by Kuwait Dinars 250. Ibid, p. 442 and p. 445.


28 Article 31(4) of 1978 Hamburg Rules.


33 Morocco signed the 1978 Hamburg Rules on June 12, 1981, and then these rules entered into force on November 1, 1992. Ibid, p. 564.
And since the RR adopts a wide scope of application to respond to the needs of the door to door carriage\textsuperscript{39}, exceeding the narrow maritime journey, \textit{i.e.}, it could cover multimodal transport (and this is expressed by qualifying the RR by being ‘maritime plus’\textsuperscript{40}), then checking on the Arab World and the 1956 CMR Convention\textsuperscript{41} will prove pertinent. The 1956 CMR Convention is a regional Convention for the carriage of goods by road, created under the auspices of the United Nations Economic Commission for Europe (UNECE).

Reports of the status of the 1956 CMR Convention show active role for the Arab countries, some of them even with no land boundaries with Europe, \textit{e.g.}, Tunisia, this should not astonish a specialist since the 1956 CMR Convention applies as long as the goods are not unloaded\textsuperscript{42}, giving chance for its application in case shipping is involved with the trailer on board, this is the business of the roll on roll off vessels.

The Arab countries members to the 1956 CMR Convention are: Jordan\textsuperscript{43}, Lebanon\textsuperscript{44}, Morocco\textsuperscript{45}, Syria\textsuperscript{46} and Tunisia\textsuperscript{47}. Comoros is party to an OHADA\textsuperscript{48} regional international law tailored along the 1956 CMR Convention\textsuperscript{49}.

The Arab Ministers of Transport regularly meet to discuss cooperation under their ‘Arab Ministers of Transport Council’ and which is supported by an ‘Executive Office’. Arab transport-

\textsuperscript{34} This is to refer to “The United Nations Convention on the International Multimodal Transport of Goods”, signed in Geneva, on May 24, 1980 and not yet into force for being only ratified by 11 countries in shortage of its 30 members requirement (Article 36(1)). \textit{Ibid}, p. 547.
\textsuperscript{35} Lebanon acceded to the 1980 Multimodal Convention on June 1, 2001. \textit{Ibid}.
\textsuperscript{37} This is to refer to ‘The United Nations Convention on the Liability of Operators of Transport Terminals in the International Trade’, signed in Vienna, on April 19, 1991, also not yet into force, but expected to come into force once a fifth ratifying country is satisfied in application of its Article 22(1). \textit{Ibid}, p. 551.
\textsuperscript{39} Chapter 2 of the RR.
\textsuperscript{42} Article 2 of the 1957 CMR Convention.
\textsuperscript{43} It acceded on November 13, 2008 (the same date for the Protocol of July 5, 1978). \textit{Ibid}.
\textsuperscript{44} It acceded on March 22, 2006 (the same date for the Protocol of July 5, 1978). \textit{Ibid}.
\textsuperscript{45} It acceded on April 23, 1995. \textit{Ibid}.
\textsuperscript{46} It acceded on September 10, 2008. \textit{Ibid}.
\textsuperscript{47} It acceded on January 24, 1994 (the same date for the Protocol of July 5, 1978). \textit{Ibid}.
\textsuperscript{48} This stands for ‘The Organization for the Harmonization of Business Law in Africa’.
related federations are invited to the meetings as observers, and permanent ‘Technical Committees’ follow up items of the agenda. The Technical Committees serve as secretariat, and therefore Working Groups are usually constituted to achievement specific tasks.

In matters of regional uniformity of law of carriage, one should highlight the creation of ‘The Pan-Arab Multimodal Transport Convention’, and which was adopted by the Council of Arab Ministers of Transport in Port Said, Egypt, on October 29, 2008, hereinafter the 2008 Port Said Convention.

Reference should also be made to the ‘Draft Convention for the Regulation of Carriage of Goods by Road between Arab States’ and which is already achieved under a Working Group constituted by the Technical Committee for Inland Carriage. The Working Group was instructed to follow the 1956 CMR Convention and to search for the creation of an Arab unified ‘Consignment Note’, to be in harmony with that of the 1956 CMR Convention.

Regrettfully the 2008 Port Said Convention, and which was based on an early UN-ESCWA draft Convention, is criticized for its narrow scope of application, restricting it to only Pan-Arab Multimodal; and some vague previsions (e.g., cases of resort to arbitration). Therefore, it was not surprising that this Convention did not attract more than one ratifying country, Jordan and did not come into force notwithstanding its very flexible implementation requirements.

According to the author, the activities of the Arab countries with regard the carriage of goods by road is also subject to criticism. The Arab League expressed attention that its Convention will be made along the 1956 CMR Convention, so the author wonders whether

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50 Article 4 of the Pact of the Arab League.
51 This is by its Resolution No. 315, in its 21 Rounds. This Convention is also adopted by the Resolution No. 1766 of the Arab Social and Economic Council dated February 12, 2009. See <http://www.mot.gov.jo/ar/news_item/680> (Last visited December 31, 2010).
52 The proposal was made by Tunisia and the first draft was prepared by the Arab Federation for the Inland Carriage. The Technical Committee for Inland Carriage endorsed the proposal and constituted a Working Group in its 21st meetings in Cairo, on April 5-7, 2009, and until the end of the 2010 the Working Group did not finish with its tasks yet.
53 The draft Convention is currently in its 4th revision and due to be submitted to the February, 2011 meetings of the Technical Committee for Inland Carriage. See the Report of the Technical Committee for Inland Carriage on its 24th Meetings of September 19-21, 2010 <http://www.arableagueonline.org/las/arabic/categoryList.jsp?level_id=1428> (Last visited December 31, 2010)
54 Ibid.
55 UN-ESCWA is ‘The United Nations Economic and Social Commission for Western Asia’, and which is headquartered in Beirut, Lebanon, and one of the five regional commissions under the administrative direction of ‘The United Nations Economic and Social Council’. The UN-ESCWA covers: Bahrain, Egypt, Iraq, Jordan, Kuwait, Lebanon, Oman, Palestine Authority, Qatar, Saudi Arabia, Sudan, Syria, United Arab Emirates and Yemen.
56 Article 3(1) of the 2008 Port Said Convention restricts the application of the Convention to that of Pan-Arab Multimodal Transport, leaving the problem unsolved when the Multimodal is not involving an Arab state.
57 Article 36(1) of the 2008 Port Said Convention allows arbitration simply in case the dispute is not solved by any means! The Article does not require an arbitration agreement and does not clarify when this compulsory arbitration is allowed.
59 Only three ratifying countries are required for its coming into force, Article 46.
uniformity is better achieved by recommending member countries to simply accede to the already made 1956 CMR Convention and Protocols, otherwise defragmentation will be the result.

It has to be noted that the incorporation of the self-executing international Conventions into the Arab Legal systems, at least for the countries referred to above, does not require putting the text of the international Convention into that of a local law. For example, in Egypt the text of the Convention itself will be published into the Official Gazette, by virtue of decrees of executive authority (The President will ratify the Convention, and the Foreign Minister will order publication in the official gazette and determine date of the entry into force).

In addition to the publication of the international Convention in their official Gazettes, the Arab countries adopt domestic laws for the carriage of goods by sea, normally this is used for domestic carriage and in supplement of the international Conventions. Needless to say then that this domestic legislation does not need to be in close adherence to that of the international Convention. This applies for example with the case of Egypt.

**B. Arab Countries not parties to international Conventions**

Most of the Arab countries decided to leave the regulation of the carriage of goods by sea to domestic law even when it is international. There is no sufficient case-law to determine the nature of these laws, namely whether they are only applied by the operation of choice of law rules of the private international law or whether these laws are directly applicable due to their loi de police nature.

Surprisingly, the domestic laws of the Arab countries that did not accede to any international Convention are affected by the international Conventions that were internationally applicable at the time of their creation. These are for example the cases of: Bahrain (1982), Libya (1953), Oman (1981), Qatar (1980) and the United Arab Emirates (1981). They are influenced by the 1924 Hague Rules.

It is to be noted that few Arab countries in this category are considering new Maritime Codes along that of Egypt, and consequently getting influenced by the 1978 Hamburg Rules, this is the case for example of the current draft of the UAE Maritime Code.

**IV. Evaluation of the RR: What Approach?**

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61 Article 151 of the Egyptian 1971 Constitution.


63 Leading scholars of conflict of laws favour the first doctrine (e.g., Prof. Hisham Sadek), while the second doctrine is prevailing among the maritime law scholars (e.g., Prof. Farid El-Arani). See generally, Wafai, Jalal, *Extent of Efficiency of the protection of the Egyptian Shipper under the Carrier of Goods by Sea Liability Rules in application of the New Egyptian Maritime Code* (in Arabic) (Alexandria: Dar El-Jama’a El-Jadida Lil-Nashr 1995).
The author favours the opinion that rejects evaluation of the RR from the perspective of one side of the sea carriage equation, instead the search should be for how much win-win formula do the RR provide.

A. The us versus them approach

According to Ms. Lannan, the disadvantages from the carriers perspective can be: the increased monetary limits on his liability; the deletion of his nautical fault; the circumscription of the fire exception; the extension of his due diligence for seaworthiness and cargo-worthiness to become continuing; the inclusion of deck cargo; clarification of the liability of maritime performing parties; the extension of the notice period (7 days); the removal of his possibility to hide its identity and the extension of the limitation period for actions to two years.

From the perspective of the cargo interests, the RR could be disadvantageous for the following: clear articulation of the obligations of the shipper; clear rules for delivery; clear articulation of the basis of liability of the carrier; an improved regime for deviation; permitting the carrier to deliver the goods without presentation of the negotiable transport document; how to deal with concealed damage in a multimodal carriage and the creation of clear rules for undelivered goods.

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64 The author draws attention to the scholar critique led by Prof. William Tetley. See for example: Tetley, William, “A Critique of the Canadian Response to the Rotterdam Rules”, in A New Convention for the Carriage of Goods by Sea: The Rotterdam Rules, an Analysis of the UN Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea, pp. 285-298 (Witney: Lawtext 2009). This is in addition to the valuable debates between two groups of eminent scholars at his website at <http://www.mcgill.ca/maritimelaw/rotterdamrules/> (Last visited December 31, 2010). The proponents were Francesco Berlingieri, Philippe Delebecque, Tomotaka Fujita, Rafael Illescas, Michael Sturley, Gertjan Van Der Ziel, Alexander Von Ziegler and Stefano Zunarelli; while the opponents were Svante O. Johansson, A. Barry Oland, Kay Pysden, Janberg, Douglas G. Schmitt and William Tetley.


66 She was the Secretary of Working Group III on Transport Law (UNCITRAL).

67 See Kate “The Rotterdam Rules …”, op. cit.

68 Chapter 12 of the RR.

69 Chapter 5 of the RR.

70 Article 17(3)(f) of the RR.

71 Article 14 of the RR.

72 Article 25 of the RR.

73 Article 19 of the RR.

74 Article 23 of the RR.

75 Article 37 of the RR.

76 Chapter 13 of the RR.

77 See Lannan, op. it.

78 Chapter 6 of the RR.

79 Chapter 9 of the RR.

80 Article 17 of the RR.

81 Article 24 of the RR.

82 Article 46 of the RR.

83 Article 40 of the RR.

84 Articles 48 and 49 of the RR.
B. The Win-Win Approach

The author shares the methodology proposed by Ms. Lannan in the evaluation of the RR, and which is based on the evaluation of common interests of all the stakeholders in search for a win-win approach. This can be achieved when we list the following attributes of the RR85: clear, harmonized global regime; regulation of electronic commerce86; meeting the needs of door-to-door carriage (single contract and legal regime)87; coping with containerization88; extension to both incoming and outgoing maritime carriage89; use of limited network liability system90; coverage of all transport documents in liner shipping91; controlled freedom of contract92; comprehensive and systematic provisions on carrier and shipper liability through a balanced allocation of risk93; regulation of the right of control94; clarification of numerous legal gaps in existing Conventions95; codification of existing industry practices96; and the general adoption of commercially practicable solutions97.

IV. The 2010 Alexandria Declaration

Though the countries of the Arab League participated in a late stage at the process of the creation of the RR, they paid attention to its evaluation after the signing of these rules at their 2010 Arab League Workshop and which led to ‘The 2010 Alexandria Declaration on the Rotterdam Rules’, or simply ‘The 2010 Alexandria Declaration’.

A. The 2010 Alexandria Declaration – Historical Background

Unlike the role of the Arab countries in the creation of the 1978 Hamburg Rules, these countries were late comers and mostly reactive more than proactive in the process of creation of the RR. Unlike the situation in the 1978 Hamburg Rules, the executive authorities holding the file of the RR follow-up did not coordinate with the academia. This academia should also share the blame for its late and slow response. The author wishes however to highlight the positive step of the Arab Society for Commercial and Maritime Law (ASCM), notwithstanding its limited resources and experience, it managed to discuss the RR in cooperation with the UNCITRAL, CMI and IMMT in its 3rd Arab Conference for Commercial and Maritime Law, 2009 ACCML, on April 18-19, 2009. All the Arab Federations related to shipping attended the 2009 ACCML, and the conference recommended signature of the RR, almost half year ahead of the diplomatic Conference of the RR.

85 See Lannan, op. it.
86 Chapter 8 of the RR.
87 Chapter 2 of the RR.
88 For example Articles 17(5)(a); 25(1)(b); 27(3) and 40(3).
89 Chapter 2 of the RR.
90 Article 82 of the RR.
91 Chapter 2 of the RR.
92 Article 80 of the RR.
93 Chapters 4 and 7.
94 Chapter 10 of the RR.
95 For example chapter 7 of the RR.
96 For example Article 45.
97 For example chapter 6 of the RR.
The Council of Arab Ministers of Transport issued its Resolution No. 327, in its 22\textsuperscript{nd} Session, on October 28, 2009, advising the countries members to the Arab League not to sign the RR pending study, and assigned the Arab Academy for Science, Technology and Maritime Transport (AASTMT) to organize a Workshop in cooperation with the Arab League to that effect.

The RR Alexandria Workshop took place at the premises of the College of International Transport and Logistics (CITL), in the AASTMT campus, in Abu Qir, Alexandria, Egypt, in the period of Feb 2-3, 2010. Fifteen official delegations attended the Workshop from: Djibouti, Egypt, Iraq, Jordan, Kuwait, Libya, Morocco, Oman, Palestine, Qatar, Saudi Arabia, Sudan, Syria, Tunisia and Yemen. The Workshop was also attended by most of the Arab Federations related to Maritime Transport, namely: The Arab Federation for Freight Forwarding & Logistics; The Arab Federation for Sea Carriers; The Arab Federation for Sea Ports; The Arab Federation of Chambers of Commerce and The Arab Federation of Chambers of Shipping.

Most of the presentations made by the participating organizations were in favour of the RR. Experts from the College of International Transport and Logistics (CITL), the Arab Society for Commercial and Maritime Law (ASCML) and the UNCITRAL served as the technical assistants.

Professor Malash, the eminent Multimodal expert and CITL law faculty, adopted a median position, though he did not object signature of the RR, he criticized the official Arabic version of the RR for inaccuracy, its inadequacy to respond to the needs of Multimodalism and its carrier bias.

Mr. Grau, the UNCITRAL expert, highlighted the disadvantages of absence uniformity in regulation of the carriage of goods by sea. As a practicing lawyer, he said the situation will not serve but the short term interests of the law practice community due to potential increase of disputes, this will be on the cost of the final consumer.

Mr. El-Kossaifi, judge and ASCML vice-chair, traced the situation of uniformity of the carriage of goods by sea law in the Arab World and concluded to the fact of absence such developed law, where most of the Arab countries are not party to any of the pertaining international Conventions, and most of these local laws do not even respond to the needs of their shipping interests confining their countries to old versions of the 1924 Hague Rules. He urged the Arab League to respond in the form of a regional modern Arab Maritime Code, signing the RR was also suggested as a long term solution.

The author also participated with a presentation that draw attention to many virtues of the RR that should not go unnoticed, he namely referred to the abolition of the navigational error and which he considers an accomplishment for the founding fathers of the 1978 Hamburg Rules. He dedicated this achievement to the soul of Professor Shafik, the passed eminent commercial law professor of Egypt and the Arab World and who played a major role in the creation of the 1978 Hamburg Rules. He also criticized the Arab League expert team and which handled the file of the RR, namely its early reports which criticized the RR for allegation of carrier bias, absence of possible reservations under the RR to amend this situation, the take-it-or-leave situation and the
alleged powerful countries of carriers (the US) pushing the helpless countries of the shippers to accept the RR. He addressed the delegations and organizations saying that the problem is not being helpless to impose a position, it is rather absence of an Arab strategy. He referred to Article 95(1) of the RR, and said if we, the 21 Arab countries really have a position this can easily be materialized, we will sign and ratify the RR, and next day apply for a modification of the rules in a Protocol that suits our needs, even if the already signed countries of the RR ratify the Convention, they cannot prevent this solution, they are 21 and we are also 21 (actually 20 since Palestine is not counted as a State yet), and it suffices for the third of the contracting countries to effect a modification by virtue of Article 95(1). The suggestion though ironic received a spontaneous applause.

Though he was not one of the speakers at the workshop, Dr. El-Mokadem, the eminent insurance lawyer in Egypt and the Arab world, made comments in support of the RR. Representatives from the local insurance industry was well presented.

The recommendations of the Workshop were fairly drafted to reflect all the trends expressed in the discussions. Prof. Hanafy, the CITL dean, an eminent Egyptian transport economist, and the Workshop coordinator, was behind its naming as ‘The 2010 Alexandria Declaration’. These recommendations were well received by the international shipping community and hit the lines of the Lloyd’s List and the UNCITRAL website.

‘The 2010 Alexandria Declaration’ was also well received by Jordan, which organised in Amman another workshop on the RR, on March 21, 2010, in association of the Arab Federation for Chambers of Shipping, whose recommendations also endorsed that of Alexandria.

It has to be noted that the Executive Office of the Council of Arab Ministers of Transport, and which was held in Cairo, on April 28-29, 2010, took account of ‘The 2010 Alexandria Declaration’. The Executive Office advised the General Secretariat of the Arab League (precisely its Legal Department) to convene a meeting for the revision of the Arabic official text of the RR and brief UNCITRAL of its conclusion; it particularly advised the Arab countries to further study the RR in light of a new translated copy and maintain observance of ratification by other countries. This decision did not recommend members not to ratify, neither it recommended signature. So, we cannot claim that the Arab League, as an organization, recommended signature of the RR.

B. The 2010 Alexandria Declaration – Evaluation

Though the RR concludes to just signing the RR without recommending ratification, it can however considered a progressive step in comparison with early position of objection at the Arab League.

It has to be noted that the Sudanese delegation reserved support to the RR for lack of study, and the Arab Federation for Freight Forwarding and Logistics (AFFFL) expressly objected to the declaration, this is in adherence to a FIATA recommendation made to its community members not to support the RR. Earlier presentation of the AFFFL was clearly in criticism of the RR.
The author criticizes the position of the AFFFL since it was not made from the perspective of full study of the current law applicable to fright forwarders in the Arab World. Namely the FIATA recommendation, though it was made in the interests of the Freight Forwarders community, it was made for the interests of evolved type of such forwarding not yet in practice in the Arab World, this is the category of NVOCC, i.e., maritime forwarders that act as principals (under Egyptian law such forwarders will be considered \textit{commission agent for carriage}). An example for the absence of local concern is the case of the Egyptian fright forwarder who acts as a principal (\textit{commission agent for carriage}) for a maritime plus contract, such forwarder does not enjoy \textit{ex officio} (legal) limitation of liability under the Egyptian Trade Act (No. 17 of 1999\textsuperscript{98}) for inland carriage accidents, this limitation can only be obtained by contract and should not in this case be less than the third value of the cargo\textsuperscript{99}. In comparison with the RR, and which grants the performing party \textit{ex officio} limitation of liability and namely not connected to the value of the cargo\textsuperscript{100}, these rules better suit the interests of the Egyptian freight forwarders than that of the local law.

The author applauds ‘\textit{The 2010 Alexandria Declaration}’ for being a good example of Arab technical cooperation, and its active role in supporting the RR. And, though he headed the drafting committee of the recommendations, he does not agree to some of its elements, namely: its delay of ratification; criticism of the Arabic official text of the RR; support to the 2008 Port Said Convention and suggesting future Arab Unimodal Conventions.

According to the author the recommendations could have only advised signature, it was unsuitable to also advise delay of ratification. This shifted the strategy of the Arab League from that of proactive to that of neutral (wait and see). The same applies to the position of the Executive Office of the Council of the Arab Ministers of Transport.

As regards the Arabic official text of the RR, its criticism was exaggerated because it was simply based on the new terminology used by the text, no list of inaccuracies were presented by any of the speakers who raised this issue. The author traced very few grammatical errors that can easily be handled, especially with the help of the English and French official texts.

While for the (already created) multimodal and (in process of creation) unimodal Arab Conventions, both do not support the cause of uniformity; it could have been better for example to recommend accession to the 1956 CMR Convention and its Protocols. And, with regard the 2008 Port Said Convention, the author refers back to its demerits.

\textbf{V. Conclusion}

In line with the Arab League new approach in paying further attention to Arab economic cooperation, the uniformity of law of carriage appeared in the Arab League technical agencies agenda. The Arab League entrusted Egypt with the file of recommending a position for the countries members to the Arab League with regard the RR, early reports of Egypt’s expert

\textsuperscript{98} Egyptian Official Gazette, Issue 19 (Bis), May 17, 1999.
\textsuperscript{99} Article 280(1)(a) of the Act No. 17 of 1999.
\textsuperscript{100} Chapter 12 of the RR.
disfavoured the RR, for claim that they are: carriers’ bias on the account of the interests of the Arab countries and which are overwhelmingly cargo interests; imposed by powerful countries and leaving no room for reservation. These arguments were criticized and responded to in a formal Arab League Workshop organized under the auspices of the Arab Academy for Science, Technology and Maritime Transport (AASTMT), in Alexandria, Egypt, on February 2-3, 2010, leading to RR supporting recommendations under the name of ‘The 2010 Alexandria Declaration’.

According to the author, ‘The 2010 Alexandria Declaration’ shifts the Arab position from that of objection to that of neutralism, adopting the strategy of wait and see.

The Arab law for the carriage of goods by sea is by all accounts short to meet the needs of the Arab shipping interests, whether those of the Arab carriers or Arab cargo interests. Few Arab countries are members to international Conventions of carriage, and most of them do not adopt a clear position with regard uniformity of law; this should be changed.

The Arab League has good intentions with regard Arab cooperation in the field of carriage, this is expressed lately by the creation of the 2008 Port Said Convention on Multimodal transport, and the preparation for a draft Convention on the carriage of goods by road between Arab countries. The first Convention is criticised for its limited scope of application and vagueness. While, the objective of the next draft Convention is better achieved by recommending Arab countries to accede to the 1956 CMR Convention and Protocols.

The issue for the countries members of the Arab League, in the opinion of the author, is not to decide what do the RR provide, but instead what do they want for their law of the 21\textsuperscript{st} century. Until this is determined otherwise, the RR win-win formula is the recommended option for modernizing Arab law to cope with the Arab needs for the 21ts century.

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