THE BULLETIN OF
THE JAPAN SHIPPING EXCHANGE, INC.

No. 19

March 1990

CONTENTS

Developments of the Japanese Maritime Law in 1980s (1)

By Takashi AIHARA*

The purpose of this short article is to review the developments of the Japanese maritime law in 1980s and provide for foreign readers some information about them. This review covers the Japanese legislation, cases and arbitral awards in this decade, but limited to those in the field of the private maritime law.

We have adopted the written law system. In Japan, as major legislation classified into the private maritime law, there are the Chapter 4 of the Commercial Code, the Limitation of Liability of Shipowners Act and the International Carriage of Goods by Sea Act. In this part, it is intented to introduce the trend in 1980s of these laws and the outline of major cases concerned with them in the same decade. It is remarkable in Japan to avoid entering a lawsuit to settle a dispute, especially on maritime affairs. The annual number of the published judgements are less than 10. The annual number of the arbitral awards are also at most 10. Therefore, it is supposed that most of maritime disputes are settled by negotiations between the parties concerned.

I. Legislation

1. The Chapter 4 of the Commerical Code

This chapter consists of the provisions concerning ship, shipowner, captain and other mariners, carriage of goods and of passengers, general average, collision, salvage, marine insurance, and maritime lien and mortgage. As most of those provisions have never amended since they were enacted aproximately 100 years ago after the model of Germany ex-Commercial Code, 1861, they are completely out of date. Though the necessity to modernize them is generally

* Associate professor of Kanto Gakuin University

recognized, no works for amendment have been proceeded.

2. The Limitation of Liability of Shipowners Act

In 1975, after the reconstruction of war-damage and improvement of the Japanese P&I club were achieved, we ratified the International Convention relating to the Limitation of the Liability of Owners of Sea-going Ships, 1957 and enacted this Act as its municipal law. As a result of the enforcement of the Act, the Abandon-system, the former Japanese limitation system adopted following France, was converted into the Monetary-system as provided in the Convention. At the same time, the Compensation for Oil Pollution Act was enacted as the municipal law of the International Convention on Civil Liability on Oil Pollution Damage, 1968 and the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971. Furthermore, in 1982, we ratified the Convention on Limitation of Liability for Maritime Claims, 1976 and added the necessary amendments to the Limitation of Liability of Shipowers Act.

As to the claims arising from obligations or liabilities imposed by any law relating to the removal of wreck, Japan made a reservation of the right to exclude the application of the Article 1(1)(c) of the 1957 Convention. Consequently, the Act does not include them within the claims subject to limitation. The reasons are as follows. If shipowners can enjoy the limitation of liability for those claims, some difficulties will appear. 〈1〉 As claims for the cost of administrative execution[1] become subject to limitation, it is not expected that shipowners voluntarily remove wreck and therefore the obligation of removal of wreck is not performed smoothly. 〈2〉 As it is estimated that the cost of removal become very huge and the majority of the limitation fund is appropriated for the payment, the payment to the others is extremely reduced. In addition, 〈3〉 we can find a considerable number of countries making a reservation under the Convention.

By the same reasons, Japan made a reservation under the 1976 Convention and the Act amended in 1982 excludes such claims from those subject to

limitation.

3. The International Carriage of Goods by Sea Act

In 1957, we ratified the International Convention for the Unification of Certain Rules of Law relating to Bills of Lading, 1924 (the Hague Rules) and enacted this Act as its municipal law. The Act substantially incorporates the body of the Hague Rules. However, it has the different provisions on the scope of application. First, the Act applies to the carriage by sea whose port of loading or port of dischange is outside Japan, or the carriage by the ship engaged in foreign trade. The domestic carriage is governed by the Chapter 4 of the Commercial Code. Secondly, the Hague Rules apply to the contract of carriage covered by a bill of lading or any similar document of title. On the other hand, there are not such restrictions in the Act. Thirdly, the Rules apply to the portion of carriage from loading to discharge. The scope of application of the Act is from acceptance to delivery of goods. Finally, the Act includes live animals and deck cargos within the goods to be applied and exclude them from the prohibition of exemption clauses.

At present, we are preparing to ratify the 1968 Protocol (the Visby Rules) and the 1979 SDR Protocol and to amend the Act. In 1988, the Japan Shipowners' Association presented to the Ministry of Transportation, the Japan Shippers' Council presented to the Ministry of International Trade and Industry, their requests for early ratification of the Visby Rules. In effect, both shipowners and shippers support the Hague-Visby Rules in Japan. In response to these movements, the Japanese Maritime Law Association proceeded the preparatory works. It seems that we will ratify the Visby Rules and the 1979 Protocol in a few years.

II. Cases

1. Limitation of Liability of Shipowners

(a) Constitutionality of the Limitation of Liability of Shipowner Act

① Decision of the Supreme Court dated as November 5, 1980[2)]

As to the issue whether the substantial provisions of the Act are inconsistent with the non-aggression of the property right guaranteed in the Art. 29 (1) and (2) of the Constitution of Japan,[3)] the Supreme Court affirmed the constitutionality of the Act, holding that it is necessary for public walfare to limit the liability of a shipowner and thereby restrict the property rights of his creditors. The reasons of this decision are as follows. 〈1〉 Shipping business is so risky in operating ships with large investments that it cannot be soundly managed and developed without the system of the limitation of liability of shipowners. Therefore, any of the limitation systems has been adopted in various countries for a long time. 〈2〉 The provisions of the Act are based on those of the International Convention. As the shipping business strongly assumes an international character, it is practically impossible for Japan solely to deny adopting the limitation system. 〈3〉 The Art. 690 of the Commercial Code[4)] amended in response to the enactment of the Act strengthens the vicarious liability of shipowners and the some extent imposes the 'liability without fault' upon them. According to the provision of the Art. 690, a shipowner is liable for acts of mariners even if he commits no fault in appointing and controlling them. The system of the limitation of liability provided in the Act is established in exchange for such strength of the liability.

② Judgement of Tokyo Court of Appeal dated as October 1, 1985[5)]

A bereaved family of the member of a crew of a fishing boat killed by a collision could not get an indemnity for the actual damage because of the excessively low limit of liability provided in the Act. Then, they claimed a compensation for the difference against the State enacting the Act under the Art. 29(3) of the Japanese Constitution.[6)] The Court of Appel held that the limitation of liability of shipowners is a general restriction on property rights in conformity with the public welfare and that a compensation for loss arising from such restriction could not be claimed against the State.

(b) Claims arising from the liability to removal wreck

③ Judgement of the Supreme Court dated as April 26, 1985[7)]

The summary of the facts of this case is as follows. The A-maru, a fishing boat belonging to the plaintiff X, sank during its stay in the quarantine anchorage off the port of Wakkanai due to the collision with the B-maru, a fishing boat belonging to the defendent Y. This accident was caused by the sole fault of the B-maru. In Japan, if any wreck being in the port specified is in danger of preventing the traffic of ships, the port-master may order the owner of the wreck to remove it under the provision of the Port Regulation Act. In this case, the master of port of Wakkanai ordered X to remove the sunken A-maru under this provision. X let the removal to a salvage company and payed the money. Then, considering the removal cost of such sunken boat as damage, X claimed a compensation for it against Y. On the other hand, Y proceeded the procedure of the limitation of liability and submitted that X'claim was subject to limitation.

As mentioned above, Japan made a reservation under the Convention and the Act does not include claims arising from liabilities relating to removal wreck within those subject to limitation. In the present case, X was without fault on the collision. X was ordered to remove the sunken boat as the owner. X claimed a compensation for the removal cost against Y whose sole fault caused the accident. Whether even in such circumstance X'claim is subject to limitation is the issue of this case.

The Supreme Court held that X'claim was subject to limitation by the following reasons. 〈1〉 The Art. 1(1)(c) of the 1957 Convention provides that the owner of sea-going ship may limit his liability for the claims arising from any obligation or liability imposed by any law relating to the removal of wreck. Japan made a reservation of the right to exclude the application of Art. 1(1)(c) at the time of ratification under the (2)(a) of the Protocol of Signature. 〈2〉 The obligation or liability imposed by any law relating to the removal of wreck provided in the Article 1(1)(c) means the obligation or liability imposed upon

the owner of sea-going ship who may limit his liability. 〈3〉 Even if any person other than an owner, captain and the like who may enjoy the limitation of liability is imposed the obligation or liability by any law and he suffers any damage as a result of performing it, his claim for a compensation is not one arising from the obligation or liability provided in the Article 1(1)(c). It is reasonable to consider that it is a claim arising from loss of or damage to any other property defined in the Art. 1(1)(b) among the claims subject to limitation provided in the same Article.

As to this judgement, there are some views for and against it. A opinion for the judgement appreciates its rationarity as it construed the provisions of the Convention faithfully. On the other hand, some opinions against it throw doubt on the appropriateness of the result, considering in this case the interests of X, the owner of the ship sucrificed to the accident without fault, and Y, the owner of the ship whose fault caused it. In addition, it is supposed that there is a defect in the provision of the Port Regulation Act and that the port-master should order the owner of the ship causing the collision to remove wreck. While this case was under the Act before the 1982 amendment, the same question is seen in the same circumstance after the amendment.

2. Time Charter --- Liability of time-charterer to the third party

④ Judgement of Osaka District Court dated as August 12, 1983[8)]

The cargo-boat 'B-maru' collided with the fishing-boat 'A-maru'. The A-maru was capsized and C, the member of its crew died. The B-maru whose owner was Y1 was time-chartered by Y2. The form of the time charter for domestic voyage established by the Japan Shipping Exchange Inc. was used for this contract. The plaintiff X, the bereaved family of C claimed a compensation for damage against the owner Y1 and the chaterer Y2. The court denied his claim against Y1 and admitted that against Y2 on the following grounds.

〈1〉 It is reasonable to understand that time charter is a mixed contract of a bareboat charter and a contract of manning. Since this accident was caused by

the fault of the captain of the B-maru during its voyage for commercial purposes, Y2, as the bareboat charterer, is liable for the damage suffered by X under the Article 704(1) of the Commercial Code. 〈2〉 The Article 690 of the Code provides for the liability of a person who conducts a business of carriage by sea.[9] Therefore, 'the shipowner' referred in this Article does not mean the person who only have the ownership of a ship, but the person who himself operates a ship for commercial purposes. When a ship is bareboat-chartered, the charterer has to bear obligations arising from his use of the ship on the status of the enterpriser. In the present case, as Y1 is the owner and Y2 is the charterer and enterpriser, it is reasonable to consider that Y1 is not liable.

The question whether a time charterer has liability in tort for collision has been discussed with relation to the nature of time charter. The Article 704(1) of the Commercial Code provides that the bareboat charterer shall have to the third party the same rights or liabilities as the owner as long as they results from the use of the ship. Whether this provision applies or applies by analogy to a time charterer is questioned. In the judgement of the Taisinin, the former Supreme Court of Japan, it was held that a time charter was a mixed contract of a bareboat charter and a contract of manning and the time charterer was liable for the default of obligations under the contract of carriage. This judgement extends this theory to the liability in tort. On the contrary, various doctrines on this point have been developed. For example, there is a opinion that a time charter is a contract of carriage and therefore the enterpriser of the business of carriage by sea is the owner. Some theories consider a time charter as a lease of an enterprise which consists of a ship and mariners organically combined and a time charterer becomes the enterpriser as the lessee of it. It is seemed that the former opinion is gradually gathering supporters recently.

3. Contract of Carriage of Goods by Sea

(a) Applicable law

⑤ Judgement of Tokyo District Court dated as July 11, 1984[10]

The International Carriage of Goods by Sea Act applies to the carriage by sea whose port of loading or of discharge is outside Japan. However, it has been controverted whether the Act may apply to the carriage whose port of loading and of discharge are outside Japan, or the carriage between foreign ports. In this case, for damage to a cargo carried from China to West Germany, a German insurance company as an insurer of the cargo claimed a compensation against a Japanese shipping company as carrier. The clause of applicable law in the bill of lading provided for the application of the Act to this carriage. The Court held that under the Article 7 of Horei[11] this carriage was governed by the law the parties agreed and determined that the Act applied.

[to be continued]

Note:

1) The administrative execution means that an administrative authority itself takes an act in place of the person who has to do so and collects the cost from him.
2) This decision was published in the Hanrei-Jiho, no. 986 in Japanese.
3) The Article 29 of the Constitution of Japan provides:
   (1) The right to own or to hold property is inviolable.
   (2) Property rights shall be defined by law, in conformity with the public welfare.
   (3) Private property may be taken for public use upon just compensation therefor.
4) The Article 690 of the Commercial Code provides:
   The shipowner shall be liable for any damage to a third party caused by the willful misconduct or fault of the captain or other mariner in performing his duty.
5) This judgement was published in the Kaijihokenkyukaisi, no. 65 in Japanese.
6) supra note 3).
7) This judgement was published in the Hanrei-Jiho, no. 1155 in Japanese.
8) This judgement was published in the Kaijihokenkyukaisi, no. 57 in Japanese and Comments of this case in English by Hosoi was in this Bulltine, no. 14.

9) supra note 4).

10) This judgement was published in the Kaijihokenkyukaisi, no. 62 in Japanese.

11) The Horei is the Act which provides rules on enforcement of law and conflicts of laws. The Article 7 of the Horei provides:

(1) As to the conclusion and effect of transactions, the applicable law shall be determined by the intent of the parties.

(2) When the intent is not clear, lex loci commissi shall apply.

* For more information, please contact with the author c/o the Japan Shipping Exchange, Inc..

Internal Aspects of JSE's Arbitration and its Documentary Work

By Hironori TANIMOTO*

[ARBITRATION AND CONCILIATION]

Consultations for Claims before Arbitration

The Japan Shippin Exchange, Inc. (JSE) is a non-governmental and public-service corporation. Its main business includes the arbitration and the enactment and the propagation of forms of maritime contracts.

Above all, Tokyo Maritime Arbitration Commission of The Japan Shipping Exchange, Inc. (TOMAC) has been established in order to have a higher degree of neutrality of the arbitration, and to execute such businesses independently from JSE as enactment and revision of arbitration rules, acceptance of application for arbitration case, selection of candidates for the arbitrators and their assignment, etc.

The TOMAC is composed of 200 members, about 170 of whom are working for companies in the shipping, shipbuilding, marine insurance, trade, ship-broking, forwarders, etc. and the rest, 30, of whom are scholars and/or lawyers.

The Documentary Committee performs the enactment revision and the recommendation of forms of maritime contracts. The above Committee is composed of about 40 businessmen with specialised knowledge and experience. They are from not only maritime transport but from relative business world extensively. They are no scholars nor lawyers who are involved in this respect. The above persons of business perform the enactment, the revision and the recommendation of the various kinds of standard contract forms as the "live laws", based on their real experiences in the business world. The number of the forms is about 51, and "NANYOZAI" Charter Party and "NIPPONSALE"

* Executive Director, The Japan Shipping Exchange, Inc.

Contract are those of well knwon contracts which are being used world over.

To smoothly perform the various businesses such as arbitration, mediation, enactment and revision of forms, etc., JSE has established the Arbitration and Document Dept. (A. & D. Dept.) After the arbitrators are selected for each arbitration case and the Board of Arbitrators is constituted by them, the Board will go into study of the case independently from both TOMAC or JSE. To assume and conduct for the board of arbitrators, exclusive persons will be dispatched to the Board to prepare report of hearings and draft for the arbitral award.

A. & D. Dept. will also work, in order to assist and promote the deliberation of the Documentary Committee on each enactment and revision of various contract forms, on the investigation of the customs and usages of transactions, of the judicial precedents and of the law systems of various countries.

The staff members of the A. & D. Dept., as the results from solving and performing the above mentioned various businesses, deal with the consultations for claims. The number of such consultations is more than 800 cases per annum.

The consultations include various cases such as those concerning the laws or the treaties, the interpretation of contract clauses, customs of contract, relative to practice, etc. In some of them, there are such cases as are prior to arbitration or mediation. Some of them may become a "conciliation" case thanks to the recommendation of the staff members of A. & D. Dept.

CONCILIATION IS CALLED FOR, IN ORDER TO CONTINUE BETTER BUSINESS RELATIONSHIP.

The reason why some of the cases may be reconciled is the law-suit will cost too much time and money, both parties think that the social credit of an enterprise will be damaged if the contents of the case are leaked to the world, and finally there is a strong tendency here in Japan to dislike to be regarded "That company likes to bring the matter to the court."

From the standpoint that they want to keep the case unknown to the public, the TOMAC arbitration is far better than the trial as it is closed to outsiders.

However, in such cases as they want to continue their business relationship in the future, the conciliation is often preferred because they want to solve the case under it as far as possible.

Accordingly, even in such a case as becomes the official arbitration, toward the end of the hearing after several times, the claims are withdrawn as they have the conciliation. They also reach it thanks to the recommendations of the arbitrators. These may take place at a high ratio of 7 cases out of 10.

RECOMMENDATIONS FOR CONCILIATION ARE MADE DURING ARBITRATION PROCEDURES.

In the progress of the arbitration procedures, it is said that in unusually many cases, the both parties have the suggestions for the solution of the disputes out of the questions made by the arbitrators during the meetings of hearing and the manners of the other party answering them, and they choose the solution of disputes by conciliation.

It is most desirable that from these suggestions both parties cooperate each other for the solution of the disputes. However, despite the fact that they feel the possibility for conciliation, they dare not come into agreement because of the opposite positions they have had thus far.

The feature of the TOMAC arbitration is that the arbitrators may change into a recommender for conciliation when they sense the mood for it in the parties to the arbitration. They first talk to one party separately, and then to the other party. They listen to them thoroughly, and try to persuade them, in some cases, and when they have a confirmation that both parties have the hope to solve the disputes by conciliation, they show to them the plans for solution. It is quite customary that they try to have solution of disputes by conciliation. In principle, the presentation of the plans for conciliation is made at the meeting with the both parties present, after the separate negotiations as above. However, the conciliation conditions will be made a little selective. They will be first shown to the party which may have to accept the harder conditions, and the arbitrators will tell it that, though the sum of debt cannot be lowered, the mode

of payment will be considered, so that the intention of the party may be made most of, and that it can meet with the mode of payment then suggested, which is more practical, in other words. Then, the ideas will be shown to the other party. Finally, to be impartial, the plans will be shown to the both parties and further discussed with them present at one meeting.

We understand it is welcomed in Japan and Asia as a trend that the arbitrators may recommend the conciliation as mentioned above. However, there are some arbitrators who are quite deliberate in issuing recommendation of conciliation, finding it difficult to deal with the arbitration once the recommendation does not work. In general, once the recommendation fails, and when one or both of the parties to the arbitration demand the arbitral award, the plans for conciliation and their details cannot be too different.

CONCILIATION HAS A SIDE OF PRESERVATION FOR ARBITRAL AWARDS.

After all, the arbitrator(s) should finalize the study of the case to make the arbitral awards, and when there are more than an arbitrator, they must finish their discussions to make deceisions before they present the ideas for conciliation.

In short, the arbitral awards generally order the payment of a certain amount of money or the performance of duties. In conciliation, the term of contracts may be altered so that the payments of the liabilities (debts) may be honored by the detor, say extension of payment periods. The difference between the arbitral awards and the conciliation is that the latter has a side of preservation of the liabilities.

To show the above by a simple example, when it was award that the charterer A had a liability of Yen 10 million to the shipowner B, the arbitral award would say, even though A was economically hard up, "A shall be liable to pay to B Yen 10 million." If this was reconciled by the recommendations of the arbitrators, when it was known that A would be able to pay up the debts if the term of payment were prolonged, it would be possible for all parties concerned to solve

the disputes by the following decision, "A is to pay to B Yen 5.2 million in front of the arbitrators on the day when the conciliation is made, and by extending the term of charter contract from one year to two years, A is to pay Yen 200,000.– or ¥200,000.– with interest additionally every month to the regular charterage for the said two years." The conciliation, as mentioned above, though it calls for the compromise from the both parties, is better than the arbitration, because the lump-sum of the liability is within the range of A's capability for payment and B's concession. The deferred payment and the extension of charter contract do not necessarily mean disadvantageous to B. These are the merits of conciliation. The arbitration of TOMAC is made by the arbitrators who are mostly well versed in the practical business. Therefore, the disputes as mentioned above will be impartially and readily solved in the manners according to the actual business and practicability, and will be reconciled. The cost of arbitration is reasonably low.

[VIGOROUS BUSINESS IN THE SHIPPING AND THE SHIPBUILDING DECREASES THE ARBITRATION CASES.]

The shipping and the shipbuilding business pick on worldwide, and the depression which lasted very long seems incredible.

Reflecting the above, the number of consultations for claims to A. & D. Dept. has decreased. The number of cases for new arbitrations also has decreased. There have been only six (6) cases in 1989.

The cases arbitrated during the past twelve (12) years are as per following table. The cases to be arbitrated will not increase, it can be said, for the time being, because the small amount of disputes will be solved by the talks between the both parties. (see the Table)

TOMAC—Number of Cases Accepted by Fiscal Year. (Figures in parentheses indicate cases involving international cases)

Type \ Fiscal Year	'78	'79	'80	'81	'82	'83	'84	'85	'86	'87	'88	'89*
Bill of Lading	–	–	1 (1)	–	–	–	–	–	–	–	–	–
Voyage Charter	11 (5)	3	6 (1)	8 (2)	4 (2)	5 (5)	1 (1)	3 (2)	2 (1)	–	3 (1)	2 (2)
Time Charter	1	3	4	3 (2)	5 (2)	2 (1)	2	4 (1)	3 (2)	1 (1)	3 (2)	1 (1)
Bareboat Charter	1	1 (1)	–	1	–	–	–	–	–	3 (1)	–	–
Ship Operation	–	–	2 (2)	–	1	1	–	–	–	1	1	1
Towage Contract	–	–	1	–	–	1 (1)	2 (1)	–	2	1 (1)	–	–
Shipbuilding Contract	2	–	3	3 (1)	1	1	2	1	2	1	1	–
Ship Sale	3 (3)	–	3 (2)	3 (2)	–	6 (3)	1 (1)	2 (1)	2	–	1 (1)	–
Collision	–	–	–	1 (1)	1 (1)	–	–	–	–	–	–	
Manning	–	–	–	1 (1)	–	–	–	1	–	–	1	–
Ship Finance	–	–	–	–	–	–	–	–	1 (1)	2 (1)	1	–
Operation Contract	–	–	–	–	–	–	–	–	2	–	–	–
Total	18 (8)	7 (1)	20 (6)	20 (9)	12 (5)	16 (10)	8 (3)	11 (4)	14 (4)	9 (4)	11 (4)	

* (Apr. ~ Oct.)

By studying the arbitral awards, the records of the reconcillation and the consultations for the claims which TOMAC has handled, our Documentary Committee, in order to minimize the possibility for the disputes, will review the contract forms now available and make out new forms to meet with the new business customs and practices prevailing circle over.

[JSE, PUTTING INTO PRACTICAL USE 51 STANDARD CONTRACT FORMS]

TIME CHARTER CONTRACT FORM WAS ENACTED IN 1927.

At present, JSE has been receiving, as well as the TOMAC arbitrations, high appreciation for the world's organization to enact the standard contract forms. Basically, the standard contract forms should be expected to be in line with the universal and reasonable customs, so that no one in the relative business may say the contract is more favorable to the shipowner or it is more so to the shipper.

In this sense, first of all, JSE is "non-governmental", and its members are composed of enterprises in shipping, shipbuilding, hull and cargo underwriters, shippers, trading business, freight forwarding, etc. It is, therefore, considered ideal as the organization who enacts the standard contract forms.

In short, when a kind of contract form is enacted, there is a sub-committee to the Documentary Committee which is composed of such members as are elected by the Documentary Committee from among the business persons who are well versed in the business concerned. They will meet together to discuss the matters and bring the results to a draft of contract, which will be finally deliberated and adopted by the Documentary Committee.

It is in 1950s that JSE started the enactment and the diffusion of extensive contract forms by utilizing the members of JSE. It is in 1920s that JSE started to enact the forms, but the efforts to make adjustments on the various interests in the industry was the start for the above.

By the way, the first contract form enacted by JSE was that for the time charter written in Japanese. It was issued in 1927.

Though it was written in Japanese only, the contents of it had the universal customs and practices in the world. It was considered to make the international maritime customs known to the shipping industries of this country.

MANY EXCELLENT ARBITRATORS ARE BORN FROM THE BUSINESS WORLD THROUGH THE ENACTMENT OF THE FORMS

Many arbitrators of the TOMAC arbitration are active persons of business. They are a little older in general than those persons of business who are engaged

in the enactment of forms.

The arbitration may require, because of its nature, older people.

Many of the arbitrators joined to work on the enactment or the revision of the forms and went through the most sincere discussions. Their overall knowledge about the contract helps them have the qualifications to become the most suitable arbitrators for the disputes arising from this kind of contracts.

"The efforts to prevent disputes" through the enactment of the contract forms and "the efforts to work hard to solve the disputes" may seem contradict each other, but it is interesting to note that these two efforts harmonize well and show consistency in the respect of fostering excellent arbitrators. We are proud that these systems may be quite exceptional in the world.

PUTTING EFFORTS FOR ENACTMENT OF NEW FORMS AND REVISIONS OF FORMS ALREADY IN USE

The new forms recently adopted include the Combined Transport Bill of Lading (Code Name: JSE-CT B/L) issued in October, 1986 and Reefer Bill of Lading (Code Name: JSE Reefer B/L) issued in May, 1989. In April, 1989, the Standard Liner Agency Agreement of Japan Association of Foreign Ship Agencies was studied and adopted. The following six forms were also revised in conjunction with the enforcement of "Japanese Consumption Tax", as for the forms written in Japanese for Coastal Trade: "Contract of Affreightment", "Fixture Note", "Tanker Voyage Charter Party", "Time Charter Party", "Tanker Time Charter Party" and "Operation Contract". In February, 1990, "Sale Contract of Ship" was revised.

At present, the number of the forms enacted or adopted by JSE is fifty-one (51), and in addition to them, there are two standard clauses of agreement.

Fifty-one (51) forms, when listed by year, are as follows. We should like to add that some forms have been revised quite a number of times and that they are totally different from what they were originally enacted.

LIST OF STANDARD FORMS ISSUED OR ADOPTED BY THE DOCUMENTARY COMMITTEE OF JSE

Name of Forms ("J" or "E" in parentheses indicate Forms written in Japanese or English respectively).

Time Charter Party (J)	1927
Voyage Charter Party (J)	1927
Operation Contract (J)	Apr., 1941
Salvage Contract (J)	Feb., 1947
Bareboat Charter Party (J)	July, 1947
Bill of Lading for bulk cargo (J)	May, 1950
Bill of Lading for general cargo (J)	May, 1950
Contract of Shipbuilding (J)	Oct., 1950
Contract of Ship Repair (J)	Jun., 1952
Tanker Voyage Charter Party (J)	Sept., 1952
Nimotsu Unsosho (J)	Apr., 1954
Nimotsu Unsosho for copy (J)	Apr., 1954
Fixture Note (J)	July, 1954
Bill of Lading (Code Name: SHUBIL-1958) (E)	1958
Bill of Lading for copy use (E)	1958
Nanyozai Charter Party (Code Name: NANYOUZAI 1967) (E)	Feb., 1960
Fixture Note (NANYOZAI) (E)	Feb., 1960
Tanker Voyage Charter Party for coastal trade (J)	Dec., 1961
Voyage Charter Party (Code Name: NIPPONVOY 1963) (E)	May, 1963
Beizai (American Logs/Lumber) Charter Party (Code Name: BEIZAI 1964) (E)	Nov., 1964
Memorandum of Agreement (Code name: NIPPONSALE 1977) (E)	Dec., 1965
Contract of Shipbuilding for Governmental shipbuilding programmes (J)	Mar., 1969
Time Charter Party for coastal trade (J)	Aug., 1969
Contract of Affreightment for coastal trade (J)	Dec., 1970
Fixture Note for coastal trade (J)	Dec., 1970

Contract of Shipbuilding for ordinary type ships, on cash base (J) Apr., 1972
Contract of Shipbuilding for ordinary type ships, with payment in installments after delivery (J) Apr., 1972
Operation Contract for coastal trade (J) Apr., 1972
Towage Contract (J) Nov., 1972
Iron Ore Charter Party (Code Name: NIPPONORE) (E) Feb., 1973
Iron Ore Charter Party (for fixture note) (E) Feb., 1973
Shipping Order (E) July, 1974
Mate's Receipt (E) July, 1974
Operation Contract (UNKO ITAKU KEIYAKUSHO) (Code Name: ITAKU) (E) Apr., 1977
Tanker Time Charter Party for coastal trade (J) Dec., 1979
Salvage Agreement (E) Dec., 1980
Towage Contract (Code Name: NIPPONTOW) (E) Dec., 1980
Coal Charter Party (Code Name: NIPPONCOAL) (E) Aug., 1983
Shipping Terms and Conditions under FOB Contract (Code Name: JISEA 1985 FOB Form) (E) Mar., 1985
Combined Transport Bill of Lading (Code Name: JSE-CT B/L) (E) Oct., 1986
Bareboat Charter Party for coastal trade (J) Apr., 1989
Standard Liner Agency Agreement (JAFSA form) (E) Apr., 1989
Reefer Bill of Lading (Code Name: JSE Reefer B/L) (E) May, 1989
Sale Contract of Ship (J) Feb., 1990

JSE'S STANDARD CLAUSES
New Jason Clause (E)
Both to Blame Collision Clause (E)

FORMS ADOPTED BY THE DOCUMENTARY COMMITTEE OF JSE
Uniform General Charter (GENCON) (E)
Uniform Time-Charter (Code Name: BALTIME 1939) (E)
Standard Volume Contract of Affreightment for the Transportation of Bulk

Dry Cargoes (Code Name: VOLCOA) (E)

Tanker Voyage Charter Party (Code Name: TANKERVOY 87) (E)

Standard Bareboat Charter (Code Name: BARECON 89) (E)

Standard Contract for the Sale of Vessels for Demolition (Code Name: SALE SCRAP 87) (E)

Bill of Lading (Code Name: INTANKBILL 78) (E)

MULTIMODAL TRANSPORT

A legal outline; the network system and the uniform system compared and some CT bills of lading discussed

By Maarten H. Claringbould*

1. Introduction

With the increase of the container-traffic the demand for combined transport or – the modern term – multimodal transport is growing as well.

Shippers want their goods shipped directly from their factory to their

* Adovocate, Nauta Dutilh in Rotterdam.
This article was submitted in the Seminar by JSE in Tokyo on April 16th, 1990.

overseas customers. And preferably shippers want to do so under one contract of carriage with only one document, this document being a negotiable bill of lading.
Shipowners and freightforwarders are eager to satisfy their customers whishes and they offer services under the name of "door-to-door service", "house-house transport" or just "combined transport".

From the economic point of view or better to say as far as logistics are concerned, multimodal transport requires a high degree of organization and experience from the carrier offering such transport.
More often than not the carrier will not carry the goods himself over all stages of transport and he will use sub-carriers to cover one or more stages, where he does not have the means of transport himself.
It is obvious that the container forms the ideal means of transportation to carry out multimodal transport. No reloading and handling of the carried goods is required for each different stage of transport. The carrier has only to cope with one container, filled with goods and he has to make sure that this container arrives safely and on time at the place of destination.

However multimodal transport is not equal to container transport. More and more shippers want to send one box or some parcels to the other end of the world and then it is up to the multimodal carrier (using names like NOVCC, Non Vessel Operating Common Carrier, groupage or just freight forwarder) to stuff those boxes/parcels in a container.
As far as I know bulk-goods are not carried under multimodal transport contracts, though from a legal point of view this would be possible.
Multimodal transport is more apt for goods that are packed in containers (such as electronics) or for separate packages.

Being a lawyer I will leave the logistics of multimodal transport to the carriers and I will turn to the legal implications of multimodal transport.

In commercial business the legal aspects are all too often considered as being of minor importance: first get the business and then worry about legalities. In my opinion this is a pity especially where multimodal transport is concerned. Multimodal transport involves great liabilities for the multimodal carrier as sub-carriers are contracted, for which carriers the multimodal carrier is liable.

In this respect I should point out right at the beginning that a multimodal carrier contracting with sub-carriers has no recourse against such sub-carriers if it is not known at which stage of transport the damage or loss occurred. The multimodal carrier, bringing a recourse action against the sub-carrier, is not able to prove that damage occurred at the stage carried out by that sub-carrier. And especially with container-transport it is very often not known where the damage occurred so that the multimodal carrier may be fully liable even without fault on his side.

Proper documents have to be used to limit these liabilities to an acceptable level and adequate insurance has to be taken by the multimodal carrier to cover his liabilities.

2. Multimodal transport: a definition

In the Multimodal Transport Convention (see under 3.1.) multimodal transport is defined as:

> "Multimodal transport means the carriage of goods by at least two different modes of transport on the basis of a multimodal transport contract."

It is not fully clear whether "mode of transport" refers to the means of conveyance, that is to say the vehicle by which the transport is carried out. This interpretation of the term "mode" would lead to the conclusion that transport by a lash-barge over inland waters and next in a seagoing vessel over sea would not fall under the definition of multimodal transport, as the goods

are carried in only one means of transport, that is the lash-barge. In my opinion this approach is not correct: carriage by lash-barge over inland waters and by sea should be considered as multimodal transport.

Most learned writers chose for the interpretation that "mode of transport" refers to the medium over or through which the goods are carried. I consider this to be the correct interpretation. In stead of the word "mode" I would have preferred the word "stage" in the sense of a "stage by sea", a "stage by road", a "stage by air" etc. In that case it becomes clear that multimodal transport does not depend on the means of conveyance which are used but whether there are at least two different stages of transport under one contract, such as carriage by road and by sea.

In the Dutch Code (see under 3.3.) this distinction between different "stages of transport" is clearly made. The definition of the multimodal transport contract reads:

> "The contract of multimodal transport of goods is the contract of carriage of goods whereby the carrier (the multimodal carrier) binds himself towards the sender by one and the same contract to carry the goods partly by sea, by inland waterways, by road, by rail, by air or through a pipeline or any other means of conveyance."

Thus, where at least two different stages of transport are involved there may be multimodal transport. The criterion whether there is multimodal transport is not that two different vehicles should be used.

Multimodal transport has to be based on a multimodal transport contract. Such a contract may be defined as a contract whereby a carrier undertakes to perform or to procure the performance of multimodal transport (see also Article 1, par. 3,[1] MT Convention).

More often than not parties just agree to the carriage of some packages from for instance Frankfurt to Tokyo. It is multimodal transport (by road to

Rotterdam, by ship to Tokyo) or unimodal transport, directly by air from Frankfurt to Tokyo? I think the amount of freight makes in this case immediately clear what parties meant: transport by air or multimodal transport. But other examples can be thought of. What with a container from Rotterdam to Athens? Only by sea? Or only by road? Or partly by train and partly by road? The used transportdocument witll give a good indication what parties have agreed upon. It is important to find out what parties intended and agreed upon. Because the liability regime with regard to multimodal transport only applies when parties have concluded a multimodal transport contract (such a contract may be derived from the circumstances if the parties did not use the word "multimodal" or "combined" in their contract). What I want to stress is that there is no multimodal transport if there was a clear contract of only carriage by sea (a normal b/1 was issued for Rotterdam-Tokyo), whereas the carrier uses two different modes of transport. For instance he lands the container in Kobe from where it is transported by road to Tokyo. In that case – at least under Dutch caselaw – the carrier remains liable as a sea-carrier under the applicable Hague-Visby Rules, even if the damage occurred on the stage by road Kobe-Tokyo.

3. The uniform system and the network system

After having described what multimodal transport is we should turn to the liabilities that a multimodal carrier may have under a multimodal transport contract. Two different approaches are possible.

As there is one carrier assuming responsibility under one contract of carriage one may create one uniform liability-regime for the whole transport. This is the so-called uniform system.

The other approach is that the liability-regime changes with every stage of transport, thus creating a network of liabilities (the so-called network system).

In Holland we also use the term "chameleon system". As a chameleon changes color depending its surroundings, the liability-regime changes depend-

ing the stage of transport.

3.1. The Multimodal Transport Convention

The text of the United Nations Convention on International Multimodal Transport of Goods was adopted at an Unctad-conference in Geneva on 24th May 1980.

Up till now this Convention has been ratified by only five States (Chile, Malawi, Mexico, Rwanda and Senegal) and none of the more important seafaring nations has ratified or even intends to do so. This clearly shows that this Convention has some disadvantages about which I will speak later (see under 4.).

The MT Convention will enter into force 12 months after 30 States have ratified (Art. 36 part. $1^{(2)}$).

The MT Convention adopted the uniform system though in a slightly altered form.

The basis of liability is to be found in article 16, par. 1, stating that the multimodal transport operator is liable for loss or damage to the goods, as well as delay, unless the operator proves that he took all measures that could reasonably be required to avoid the loss, damage or delay.

It is noteworthy to see that liability for delay has been explicitly included which rule is mandatory law and one can not contract out for delay.

One may also wonder what is exactly meant by "all measures". How far reaches the word "all"? What a normal, prudent carrier would have done under the same circumstances? Or has it to be "all measure reasonable required" one can think of. I am well aware that the MT Convention follows the "force majeure" description of the Hamburg Rules (Article 5, par 1) but I fear that this new formula will be the basis of a lot of litigation, if this convention ever enters into force. No circumstances are mentioned, as in the Hague Rules, which relieve the carrier in first instance from liability.

The liability of the MT carrier is limited to 2.75 Special Drawing Right

(SDR) per kilo or 920 SDR per package, whichever is the higher (Article 18, par. 1[3]). But – and here the MT Convention is at variance with a strict uniform system – if the loss or damage occurred at a stage of transport, where a higher limit of liability applies, this higher limit should be taken (Article 19[4]). For instance if the damage occurred during the carriage by air the Warsaw Convention limit of 250 goldfrancs, which may be converted to 16.66 SDR per kilo, applies.

It should be noted that this rule applies only if the loss or damage is localized to that particular stage of transport with a higher limit. If it is unknown where the damage occurred (as is mostly the case with container-transport) the uniform limit of liability applies: 920 SDR per package or 2.75 SDR per kilo whichever is the higher. It should also be noted that under the rule of Article 19 only a higher limit may be applied but not the complete liability regime of that particular stage of transport.

To conclude the paragraph on the MT Convention I may note that the time bar or period of limitation is two years. Also a 6 months period has been included within which period a written notification has to be made by the claimant otherwise the action shall be timebarred as well (Article 25, par. 1[5]).

3.2. The ICC-Rules

After several attempts by the "Institut International pour l'Unification du Droit Privé" (UNIDROIT) and the International Maritime Committee (CMI) to get accepted their draft for a Multimodal Transport Convention and which attempts failed (the last CMI-draft was made up in Tokyo in 1969 – the Tokyo Rules – and based on the network system) the International Chamber of Commerce in Paris came up with the Uniform Rules for a Combined Transport Document in November 1973 (Brochure no. 273). These Rules were revised in 1975 (15 June 1975; ICC Brochure no. 298). These ICC-Rules, as they became known, are based on the Tokyo Rules and include the network system.

It should be noted from the outset that many if not all bills of lading for multimodal transport base their liability-regime on these Rules. For instance the Combidoc, the FIATA-b/1, the JSE-CT b/1 and many CT bills of lading drafted by shipowners.

As far as liability for loss or damage is concerned a distinction has been made between

A. Rules applicable when the stage of transport where the loss or damage occurred is not known (Rule 11[6] and ore specifically Rule 12[7])
and
B. Rules applicable when the stage of transport where the loss or damage occurred is known (Rule 13[8]).

As regards Rule 12 (stage of transport where damage occurred is not known) the liability-regime is in short as follows:
The carrier is liable in first instance for the loss or damage but he is relieved from this liability when he proves any of the following "liability relieving" circumstances to be the cause of the loss or damage (summarized):

a. an act or omission by cargo-interests
b. insufficient packing
c. handling, loading etc. of the goods by cargo interests
d. inherent vice of the goods
e. strike etc.
f. carrier's force majeure
g. nuclear incident

The limit of liability is set on 30 goldfrancs (which equals 2 SDR) per kilo.

As regards Rule 13 (the stage of transport where the damage occurred is known) to find out which liability-regime applies is somewhat more complicated. It is based on the network system and it works with four condi-

tions (a, b, c and d); each condition is fulfilled if the requirements of that condition are met. That is to say if the requirements of the first condition are met, we know the liability-regime; if the requirements are not met we have to proceed to the next condition. Let me try to explain:

Under condition a. the liability of the carrier shall be determined:

by the provisions contained in any international Convention or national law, which provisions:

i) cannot be departed from by private contract

and

ii) would have applied if the claimant had made a separate contract with the carrier in respect of that particular stage of transport **and** received as evidence thereof any particular document which must be issued in order to make such international Convention or national law applicable

The example, whereby all requirements of condition a. would be met, concerns damage which occurred at sea, when the sea-stage began in a "Hague Rules Country". In that case the Hague Rules apply because

i) one cannot depart from these rules by private contract

and

ii) the Hague Rules would have applied if the claimant had made a separate contract for the carriage by sea

and he would have received a bill of lading **and** this bill of lading must be issued to make the Hague Rules – mandatorily – applicable.

But if the damage would have occurred on the inland waters (e.g. the stage Rotterdam-Düsseldorf on the river Rhine) no international Convention or even national law applies mandatorily as is one of the requirements of condition a. and we have to step to the next condition which is condition b. So then we have to see whether the requirements under condition b. are met in respect of the given example (damage on river Rhine). I will refrain from doing so because condition b. includes once again many requirements to be met.

If condition b. is not fulfilled, there is still condition c. and finally there is condition d. stating bluntly: (the liability-regime will be governed)

"by the provisions of Rules 11 and 12 (= the liability-regime applicable when the stage of transport where the loss or damage occurred is **not** known) in cases where the provisions of sub-paragraphs (a), (b) and (c) above do not apply."

Alltogether Rule 13 of the ICC-Rules is not easy to read and to apply. And as we will see later some bills of lading have adopted a shortened version of this Rule 13 in their b/l-clauses.

3.3 Book 8 of the Dutch New Civil Code

Since 1961 the preparation for a new Code on Transport Law is under way in Holland. This new Code on Transport Law will form part of the New Civil Code as Book 8, hence we usually refer to this new Code on Transport Law as "Book 8".

It is expected that this Book 8 will enter into force at the first of January of 1991 or some months later. Part of this Book 8 covers transport by road. The text of this part, concerning transport by road, was put in a separate Code, which Code under the name "Wet Overeenkomst Wegvervoer" (Code on Contract of Transport by Road, 1982) entered into force on 1 September 1983. In this Code on Transport by Road rules for multimodal tranport have been included (Article 12, par. 1–4). It should be noted that these rules are the same as the rules on multimodal transport in Book 8 (Book 8, title 2, part 2, articles 1–4).

Thus in the Dutch Code we have rules concerning the applicable liability-regime in case of multimodal transport.

These rules are based on the network or chameleon system. They are concise and short and in my opinion well-drafted.

In one line the network system is described. In respect of a multimodal transport contract:

"For every stage of transport the rules of law, applicable to that particular stage, apply."

For instance if the damage occurred at sea and a bill of lading has been issued the Hague or Hague-Visby Rules apply. If the damage occurred during the stage of international transport by air the 1929 Warsaw Convention (plus the Hague Protocol 1955) applies. And if the damage occurred during the international transport by road in Europe the CMR-Convention applies. However if no Convention or national law is mandatorily applicable to a particular stage (where the damage occurred) the rules in the multimodal transport contract (such as the clauses in the CT-bill of lading) will apply. E.g. damage occurred during a warehousing period. As far as I know no Convention or national law covers such warehousing by rules of mandatory law and thus the bill of lading clauses (or the rules of the multimodal transport contract) will have to be applied.
It is obvious that the abovementioned rule for a network system applies only in cases when the stage of transport where the damage occurred is known.
This Dutch rule of law may be considered as a very simplified version of Rule 13 of the ICC-Rules.

But what rules of law and what liability-regime will be applied when the stage of transport where the damage occurred is not known?
The answer is short:
In that case the carrier is considered to be liable for the loss or damage unless he proves that at none of the stages of transport he would have been liable for such loss or damage (Article 12, par. 2, Code on Transport by Road). E.g. the carrier proves inherent vice of the goods as the cause of damage: at no stage of transport a carrier will be liable for damage caused

by inherent vice of the goods.

And in case the multimodal carrier is liable, which limit of liability and which time bar will apply? Once again the answer is as short as it is clear. In respect to the limit of liability we have to take the highest limit to be found at all stages of transport (Article 12, par. 3).

And in respect to the time bar the longest possible period of limitation of all stages of transport applies. For instance multimodal transport by road from Düsseldorf to Rotterdam (the CMR-Convention applies; limit of liability 8 1/3 SDR per kilo) and from Rotterdam to Kobe by sea (Hague-Visby Rules apply; limit 2 SDR per kilo or 666.6 SDR per package whichever is the higher). If it is not known where the damage occurred we have to take the highest limit of the two stages "road" and "sea" and this limit will be the CMR-limit of 8 1/3 SDR per kilo unless a package of less than 80 kilo is involved because in that case the Hague-Visby limit of 666.6 SDR per package (666.6 : 8.33 = 80 kilo) will be higher.

The same applies to the time bar.

Thus where one stage of transport is by air the Warsaw Convention will be applicable. As the Warsaw Convention has a two years time bar this time bar will probably be applied as most other Conventions and national Codes on Transport Law usually have a shorter (one year) time bar. If the carrier does not want to fall under the highest limit and/or longest timebar it is up to him to prove that the damage occurred on a stage of transport with a lower limit or shorter timebar. In other words the burden of proof where the damage occurred rests on the carrier. But on the other hand the cargo claimant has to prove what is the highest limit or longest timebar. For instance: multimodal transport from Rotterdam to Nagano, Japan. The stages are: by sea from Rotterdam to Leningrad, by train from Leningrad to Wladiwostok, by sea from Wladiwostok to Niigata, from Niigata to Nagano by road. What are the limits of liability of the Soviet Code on Railway Transport? And are there any mandatory limits of liability

applicable on the stage Niigata-Nagano? I do not know and, when acting for the cargo-claimant, I would have to ask my correspondents in the Soviet Union and Japan.

These Dutch rules of law on multimodal transport (Article 12, par. 2 and 3) are mandatory law under the Dutch Code on Transport by Road; parties cannot depart from these rules by separate contract.

It is interesting to note that Professor Herber, Director of the Institute for the Law of the Sea and Maritime Commercial Law in Hamburg seems to be a great supporter of this Dutch system on multimodal transport. In an interesting and well documented article "The European legal experience with multimodalism" (Published in Tulane Law Review, Vol. 64, no. 2 and 3, 1989; A more extensive version of this article has been published in the German language, Transportrecht, January 1990, p. 4–14) Professor Herber comes to a conclusion which I can not resit to quote in full:

> "One remarkable development, however, may influence further legislation: the development of the principles of the Dutch law of 1982 (that is the Code on Transport by Road) has added a new concept to the existing solutions, the network and uniform liability principles. The concept seems sound that the liability of the multimodal transport operator should always be governed by the law applicable to the part of the voyage where the damage occurred, and that with an unknown place of damage the carrier should have to prove that a lower level of liability should apply. This corresponds, as mentioned, to a recent court decision in Germany. It is still too early, however, to evaluate the chances of basing future legislation, national and international, on this principle."

4. The uniform system versus the network system

We have seen the principles of the uniform system as laid down in the Multimodal Transport Convention and the principles of the network system in the ICC-Rules and – in a more simplified version – in the Dutch Code on

Transport by Road.

It seems to be attractive to have one uniform system in respect of the liability-regime as far as multimodal transport is concerned. The parties know exactly what the limit of liability will be and what time bar applies. However such a uniform system would only work out properly if all courts in the world would uphold it, that is to say if all countries in the world where multimodal transport takes place would adhere to the Multimodal Transport Convention.

Let us suppose the MT Convention entered into force; Mexico ratified, Holland did not.

If damage would occur at sea during a multimodal transport from Holland to Mexico a Dutch judge would apply the Hague-Visby limit of 2 SDR per kilo and a time bar of one year whereas a Mexican judge would apply a limit of 2.75 SDR per kilo and a time bar of two years. Thus even more uncertainty about the question which liability-regime to apply would arise and in stead of creating a uniform system of law, the MT Convention ratified by a minority of countries, would only add another liability-regime in respect of multimodal transport.

There is another disadvantage to the uniform system as laid down in the MT Convention. If damage occurs at sea the multimodal carrier will be liable to a limit of 2.75 SDR per kilo or 920 SDR per package, whichever is the higher. However when the multimodal carrier, who contracted with a sub-carrier for the transport by sea (and between the multimodal carrier and the sub-carrier the Hague-Visby Rules apply), wants to take recourse against the sub-carrier he only gets the Hague-Visby limit of 2 SDR per kilo or 666.6 SDR per package, while he would have had to pay up to 2.75 DSR per kilo or 920 SDR per package to the original claimant.

This difference in outcome will not arise under the network system as in that case the Hague-Visby Rules would apply between the sender and the multimodal carrier as well as between the multimodal carrier and the sub-carrier.

More disadvantages are even mentioned in a paper by Anthony Diamond QC (Published in "International carriage of goods: some legal problems and possible soluttions, edited by Schmitthoff and Goode, Centre for Commercial Law Studies, 1988; see p. 60–63).

5. Some multimodal transport bills of lading

After the theory about the uniform system and the network system we should now have a look into practice. The theory on the multimodal transport document is described extensively by Professor Jan Ramberg in his paper "The Multimodal Transport Document", also published in the earlier mentioned "International carriage of goods: some legal problems and possible solutions".

In Book 8 of the Dutch New Civil Code some rules are laid down on the so-called CT-document. It would take too much time to discuss these rules.

I want to discuss three bills of lading, which bills of lading were all drafted by organizations for general use by their members or interested parties.

I refer to the Combidoc, the FIATA b/1 and the JSE-CT b/1.

5.1. The "Combidoc"

In July 1977 BIMCO issued a Combined Transport Document under the code-name "Combidoc".

Though nowhere on this form you will see the words "bill of lading" in my opinion this Combidoc is to be considered as bill of lading as – at least under Dutch law – all the requirements for a bill of lading are met by this form. You will neither see the word "carrier" on this Combidoc but each time the abbreviation CTO (Combined Transport Operator) is used, meaning according to the definitions (clause 2): ".... the party on whose behalf this CT document has been signed". In my opinion this CTO is just the multimodal carrier and I see no reason why he should not be named as such.

The time bar (clause 4[9]) is 9 months, which provision will be void if a

longer time bar (such as the one year time bar under the Hague-Visby Rules) applies mandatorily.

Interesting is the choice of law and jurisdiction clause (cl. 5[10]) whereby the claimant has the option of three Courts and their respective laws: a) the carrier's principal place of business, b) the place where the goods were taken in charge and c) the place designated for delivery.

As to the liability-regime we should look into clauses 10[11] and 11.[12]

Clause 10 ("When the Stage of Transport where the Loss of Damage Occurred is Not Known") very closely follows the ICC-Rules 11 and 12 (see under 3.2.).

The limit is set on 30 francs per kilo which equals 2 SDR. Clause 11 (When the Stage of Transport where the Loss or Damage Occurred is Known") is a simplification of the rather complicated ICC-Rule 13. The condition under a. is exactly the same as in the ICC-Rule however the condition under b. is different. It deals with carriage by sea and clearly makes the Hague Rules (and not the Hague-Visby Rules) applicable.

There is no special provision for transport by inland waterways. In that case condition c. has to be considered: the provisions of clause 10 (stage not known) are applicable.

The rest of the clauses are the well-known clauses you find in most bills of lading.

5.2 The FIATA b/1

The FIATA (Federation Internationale des Associations de Transitaires et Assimilés; the International Freight Forwarders Organization) introduced already in 1971 a Combined Transport bill of lading. In 1978 this b/1 was adapted to the ICC-Rules (this b/1 carries the ICC-emblem) and also in 1984 some minor alterations were made. In 1987 three small but important items have been added on the frontside of this FIATA b/1 (abbreviated as FBL), about which I will speak later.

This bill of lading should only be used by freight forwarders who are member of a freight forwarder's organization. The FIATA expressly claims copyright on this b/1.

Though at the reverse side of the FBL only the term "Freight Forwarder" and not "carrier" is used, one should realize that the freight forwarding company completely assumes the role of multimodal carrier and accepts as such carrier's liability. Also clause 2 expressly states that the freight forwarder "undertakes to perform the transport" and thus he is a carrier notwithstanding that the issuer of this b/1 names himself a "freight forwarder".

The applicable liability-regime is dealt with in clauses 6[13] and 7.[14]

In clause 6 the distinction is made between A. "the stage etc. is not known" and B. "the stage etc. is known".

A. follows the ICC-Rule 12 closely.

B. only adopts condition a. of the ICC-Rule 13.

Clause 7 is the Paramount Clause, which in a way replaces conditions b. and c. of the ICC-Rule 13 (stage is known) especially as the Hague or Hague-Visby Rules are extended to the transport by inland waterways.

The limitation amount is 2 SDR per kilo (cl. 8.3[15]) and the time bar is 9 months (cl. 19[16]). The FBL ends with the Jurisdiction clause (cl. 20[17]) which is a so-called "principal place of business clause".

As far as I can see a clear "quantity unknown clause" or at least a clause on "reasonable means of checking" (which can be found on the front of the Combidoc) is missing in this FBL. I take it that the words "according to the declaration of the consignor" can not be considered as a proper "quantity unknown clause". The same can be said about clause 5.1[18] "description of the goods" in which clause the consignor only guarantees the accuracy of the description of the, amongst others, quantity. This clause can not be held against a third bill of lading holder: the number of packages mentioned on the frontside of the FBL proves the number of packages as taken in charge by the carrier (freight forwarder). With a proper

"quantity unknown clause" it would have been up to the bill of lading holder – in case of a shortage – to prove the actual number of packages as taken in charge by the carrier.

In 1987 the following three boxes have been added on the front: "ocean vessel", "port of loading" and "port of discharge". Whenever these boxes are filled in, the FBL may be regarded – in view of the rules on documentary credit – as a "marine bill of lading", as mentioned in Article 26 of the Uniform Customs and Practice 1983.

5.3. The JSE-CT b/1

In October 1986 the Japan Shipping Exchange issued a Combined Transport Bill of Lading.

As it is the newest bill of lading of the three I am talking about, it is also the most modern CT b/1 in the sense that the used clauses are clear and unambiguous, especially where liability is concerned.

It should be noted that the "law and arbitration clause" (clause 4[19]) refers to the Tokyo Maritime Arbitration Commission of The Japan Shipping Exchange, Inc.. I think that this is an obvious choice as the b/1 was drafted by The Japan Shipping Exchange.

As far as liability is concerned, we should look at clause 8[20] "Liability for Loss or Damage". This clause is very much inspired by but not exactly the same as the clauses 11 and 12 of the ICC-Rules.

First of all there is not a clear division between "stage not known" and "stage known". Paragraph 1 (i) starts with liability of the carrier followed by the exemptions a to h. In paragraph 2 we come to the "stage known" situation. No rule is given which of the parties has to prove where the damage occurred. I think that that party has to prove who profits most of knowing where the damage occurred. For instance, the cargo claimant

wants to invoke the Warsaw limit of liability: he has to prove the damage occurred "in the air" (If this was not known for sure from the beginning). If the damage occurred through an error in navigation, the carrier certainly will try to prove (if the facts do not yet point to a clear sea damage) that the damage happened "on sea", so as to to invoke the (Hague Rules) exemption "error of navigation". I may remind you that under the Dutch Code on multimodal transport, it is always the carrier who has to prove the stage of transport where the damage occurred, because if the stage is not known, he will always be bound by the highest limit of any of the stages of transport. In my opinion it is fairer to put this burden of proof on the carrier as he usually knows better what happened with the goods in transit than a receiver or cargo claimant at the end of the road.
This talk about burden of proof however is rather theoretical as more often than not either it is not known at all where the damage occurred or all parties very well know on what stage the damage occurred, for instance with fire or salt water damage. It will be the exeption that in first instance it is not known where the damage occurred and that later one of the parties wants to prove the "damage stage".

In paragraph 1 (iii) the limit of liability is set on US $ 2 per kilo. If I may say so, I would have preferred 2 SDR as the exchange rate of the dollar fluctuates so much.

Clause 8 par. 2 deals with the situation that "the stage etc. is known". In my opinion this clause is very clear as the applicable liability-regime is mentioned for the stages "sea" and "inland waterways" (both Japan Cogsa 1957) and "air" (Warsaw plus Hague Protocol).
If the stage where the damage occurred is "road" or "rail" any convention or national law, mandatorily applicable, applies and if no such convention or law applies we fall back on clause 8 par. 1 (stage not known).
Though it is not strictly on multimodal transport, I very much appreciate

the clear way in which the number of packages has to be filled in on the front side of the JSE-CT b/1. In a separate box, the number has to be mentioned in words. This is especially important for container-transport, which is, as I said in the beginning, very much used with multimodal transport. A "quantity unknown" clause is lacking. At least I think clause 13,[21] par. 2 can not be considered as such. On the contrary, clause 13, par. 1, explicitly states that the number of packages as enumerated overleaf binds the carrier in respect of a third bill of lading holder. The other clauses on this bill of lading are well-known b/1 clauses.

At the end of this short outline of three CT-bills of lading one may wonder which is best. I think the answer should be: each of these documents serve their purpose and their users. The Combidoc is very much in use by shipowners who have not (yet) drafted their own CT b/1 and it is in demand by large containershipping companies. The FIATA b/1 is almost exclusively used by freight forwarding companies turning multimodal carriers. And I think that the JSE-CT b/1 will only be used by Japanese companies (though Japanese shipowners use their "own" CT b's/1) as it chooses for Tokyo Arbitration. I consider this a pity because with a "principal place of business jurisdiction clause" and the applicability of the Hague-Visby Rules instead of the Japan Cogsa plus a higher limit of 2 SDR the JSE-CT b/1 would be a good example for a CT b/1 to be used by both multimodal carriers and merchants from all over the world. The clauses are clear and concisely worded.

6. Some concluding remarks

Multimodal transport is complicated.

The big question is: which liability-regime should apply to multimodal transport?

Lawyers, after many years of study and after many conferences as well, came up with two answers: The network system and the uniform system.

The uniform system won as far as a Convention text is concerned; it does not look though that this Multimodal Transport Convention will enter into force in the near future.

However the network system is the real winner as each CT bill of lading follows in respect of the liability-regime more or less the network system as recommended by the ICC-Rules for a combined transport document. There are some shipowner's bills of lading that complicated the already difficult ICC-Rule 13 by adding even more conditions, but for instance the JSE-CT b/1 clause on the applicability of the liability-regime is clear and easy to read.

A well drafted version of this network system may be found in the Dutch Code on Transport by Road. In only one Article, consisting of 4 paragraphs, a complete liability-regime based on the network system is set out. Of special interest are the rules covering the situation when the stage where the loss or damage occurred is not known; such a situation occurs regularly with transport of goods in containers.

Multimodal transport may be complicated, it is also a challenge.

The shipping-industry accepted this challenge and multimodal transport of goods is still increasing. May it be so for many years to come!

Note:

(1) 3. 'Multimodal transport contract' means a contract whereby a multimodal transport operator undertakes, against payment of freight, to perform or to procure the performance of international multimodal transport.

(2) 1. This Convention shall enter into force 12 months after the Governments of 30 States have either signed it not subject to ratification, acceptance or approval or have deposited instruments of ratification, acceptance, approval or accession with the depositary.

(3) 1. When the multimodal transport operator is liable for loss resulting from loss of or damage to the goods according to article 16, his liability

shall be limited to an amount not exceeding 920 units of account per package or other shipping unit or 2.75 units of account per kilogramme of gross weight of the goods lost or damaged, whichever is the higher.

(4) When the loss of or damage to the goods occurred during one particular stage of the multimodal transport, in respect of which an applicable international convention or mandatory national law provides a higher limit of liability than the limit that would follow from application of paragraphs 1 to 3 of article 18, then the limit of the multimodal transport operator's liability for such loss or damage shall be determined by reference to the provisions of such convention or mandatory national law.

(5) 1. Any action relating to international multimodal transport under this Convention shall be time-barred if judicial or arbitral proceedings have not been instituted within a period of two years. However, if notification in writing, stating the nature and main particulars of the claim, has not been given within six months after the day when the goods were delivered or, where the goods have not been delivered, after the day on whhich they should have been delivered, the action shall be time-barred at the expiry of this period.

(6) Rule 11

When in accordance with Rule 5 (e) hereof the CTO is liable to pay compensation in respect of loss of, or damage to the goods and the stage of transport where the loss or damage occurred is not known:

a) such compensation shall be calculated by reference to the value of such goods at the place and time they are delivered to the consignee or at the place and time when, in accordance with the contract of combined transport, they should have been so delivered;

b) the value of the goods shall be determined according to the current commodity exchange price or, if there is no such price, according to the current market price, or, if there is no commodity exchange price or current market price, by reference to the normal value of goods of the same kind and quality.

c) compensation shall not exceed 30 francs per kilo of gross weight of the goods lost or dmaged, unless, with the consent of the CTO, the consignor has declared a higher value for the goods and such higher value has been stated in the CT document, in which case such higher value shall be the limit.

However, the CTO shall not, in any case, be liable for an amount greater than the actual loss to the person entitled to make the claim.

(7) Rule 12

When the stage of transport where the loss or damage occurred is not known the CTO shall not be liable to pay compensation in accordance with Rule 5 (e) hereof if the loss or damage was caused by:

a) an act or omission of the consignor or consignee, or person other than the CTO acting on behalf of the consignor or consignee, or from whom the CTO took the goods in change;

b) insufficiency or defective condition of the packing or marks;

c) handling, loading, stowage or unloading of the goods by the consignor or the consignee or any person acting on behalf of the consignor or the consignee;

d) inherent vice of the goods;

e) strike, lockout, stoppage or restraint of labour, the consequences of which the CTO could not avoid by the exercise of reasonable diligence;

f) any cause or event which the CTO could not avoid and the consequences of which he could not prevent by the exercise of reasonable diligence;

g) a nuclear incident if the operator of a nuclear installation or a person acting for him is liable for this damage under an applicable international Convention or national law governing liability in respect of nuclear energy.

The burden of proving that the loss or damage was due to one or more of the above causes or events shall rest upon the CTO.

When the CTO establishes that, in the circumstances of the case, the loss or damage could be attributed to one or more of the causes or events

specified in (b) to (d) above, it shall be presumed that it was so caused. The claimant shall, however, be entitled to prove that the loss or damage was not, in fact, caused wholly or partly by one or more of these causes or events.

(8) Rule 13

When in accordance with Rule 5 (e) hereof the CTO is liable to pay compensation in respect of loss or damage to the goods and the stage of transport where the loss or damage occurred is known, the liability of the CTO in respect of such loss or damage shall be determined:

a) by the provisions contained in any international Convention or national law, which provisions:

i) cannot be departed from the private contract, to the detriment of the claimant, and

ii) would have applied if the claimant had made a separate and direct contract with the CTO in respect of the particular stage of transport where the loss or damage occurred and received as evidence thereof any particular document which must be issued in order to make such international Convention or national law applicable; or

b) by the provisions contained in any international Convention relating to the carriage of goods by the mode of transport used to carry the goods at the time when the loss or damage occurred, provided that:

i) no other international Convention or national law would apply by virtue of the provisions contained in such paragraph (a) of this Rule and that:

ii) it is expressly stated in the CT Document that all the provisions contained in such Convention shall govern the carriage of goods by such mode of transport; where such mode of transport is by sea, such provisions shall apply to all goods whether carried on deck or under deck; or

c) by the provisions contained in any contract of carriage by inland waterways entered into between the CTO and any sub-contractor, provided that:

i) no international Convention or national law is applicable under sub-paragraph (a) of this Rule, or is applicable, or could have been made applicable, by express provision in accordance with sub-paragraph (b) of this Rule and that

ii) it is expressly stated in the CT Document that such contract provisions shall apply; or

d) by the provisions of Rules 11 and 12 in cases where the provisions of sub-paragraphs (a), (b) and (c) above do not apply.

Without prejudice to the provisions of Rule 5 (b) and (c), when, under the provisions of the preceding paragraph, the liability of the CTO shall be determined by the provisions of any international Convention or national law, this liability shall be determined as though the CTO were the carrier referred to in any such Convention or national law. However, the CTO shall not be exonerated from liability where the loss or damage is caused or contributed to by the acts or omissions of the CTO in his capacity as such, or his servants or agents when acting in such capacity and not in the performance of the carriage.

(9) **4. Time Bar.** The CTO shall be discharged of all liability under this CT Document unless suit is brought within nine months after,

i) the delivery of the goods, or,

ii) the date when the goods should have been delivered, or

iii) the date, when in accordance with Clause 14, failure to deliver the goods would, in the absence of evidence to the contrary, give to the party entitled to receive delivery the right to treat the goods as lost.

(10) **5. Law and Juristiction.** Disputes arising under this CT Document shall be determined at the option of the Claimant by the courts and subject to Clause 11 of this CT Document in accordance with the law at

(a) the place where the CTO has his principal place of business, or

(b) the place where the goods were taken in charge by the CTO or the place designated for delivery. No proceedings may be brought before other courts unless the parties expressly agree on both the choice of another court

or arbitration tribunal and the law to be then applicable.

(11) **10. When the Stage of Transport Where the Loss or Damage Occured Is Not Known.**

(1) Compensation as per Clause 9 (1) shall be calculated by reference to the value of such goods at the place and time they are or, in accordance with the contract of combined transport, they should have been delivered to the Consignee.

(2) The value of the goods shall be determined according to the current commodity exchange price or, if there is no such price, according to the current market price. or, if there is no commodity exchange price or current market price. by reference to the normal value of goods of the same kind and quality.

(3) Compensation shall not exceed 30 francs per kilo of gross weight of the goods lost or damaged, unless, with the consent of the CTO, the Consignor has declared a higher value for the goods and such higher value has been stated in this CT Document, in which case such higher value shall be the limit.

(4) The CTO shall not, in any case, be liable for an amount greater than the actual loss to the person entitled to make the claim.

(5) The CTO shall not be liable to pay compensation if the loss or damage was caused by:

(a) an act or omission of the Merchant, or person other than the CTO acting on behalf of the Merchant, or from whom the CTO took the goods in charge:

(b) insufficient or defective condition of the packing or marks;

(c) handling, loading, stowage or unloading of the goods by the Merchant or any person acting on his behalf;

(d) inherent vice of the goods;

(e) strike, lockout, stoppage or restraint of labour, the consequences of which the CTO could not avoid by the exercise of reasonable diligence;

(f) any cause or event which the CTO could not avoid and the con-

sequences of which he could not prevent by the exercise of reasonable diligence;

(g) a nuclear incident if the operator of a nuclear installation or a person acting for him is liable for this damage under an applicable international Convention or national law governing liability in respect of nuclear energy.

(6) The burden of proving that the loss or dmage was due to one or more of the causes or events mentioned in sub-clause (5) shall rest upon the CTO. When the CTO establishes that, in the circumstances of the case, the loss or damage could be attributed to one or more of the causes or events specified in (b) to (d) of sub-clause (5), it shall be presumed that it was so caused. The claimant shall, however, be entitled to prove that the loss or damage was not, in fact, caused wholely or partly by one or more of these causes or events.

(12) **11. When the Stage of Transport Where the Loss or Damage Occured Is Known.**

(1) The liability of the CTO in respect of such loss or damage shall be determined:

(a) by the provisions contained in any international Convention or national law, which provisions:

i) cannot be departed from by private contract, to the detriment of the claimant, and

ii) would have applied if the claimant had made a separate and direct contract with the CTO in respect of the particular stage of transport where the loss or damage occurred and received as evidence thereof any particular document which must be issued in order to make such international Convention or national law applicable; or

(b) in respect of any carriage by sea, by the Hague Rules contained in the International Convention for the Unification of Certain Rules relating to Bills of Lading, dated 25th August, 1924, even if these Rules do not apply to the carriage by sea by virtue of sub-paragraph (a) of this Clause. Furthermore, the Hague Rules shall apply to all goods, whether carried on deck or

under deck, or

(c) by the provisions of Clause 10 in cases where the provisions of sub-paragraphs (a) and (b) of this Clause do not apply.

(2) Without prejudice to the provisions of Clause 15, when, under the provisions of sub-clause (1), the liability of the CTO shall be determined by the provisions of any International Convention or national law, this liability shall be determined as though the CTO were the carrier referred to in any such Convention or national law. However, the CTO shall not be exonerated from liability where the loss or damage is caused or contributed to by the acts or omissions of the CTO in his capacity as such, or his servants or agents when acting in such capacity and not in the performance of the carriage.

(13) **6. Extent of Liability**

A. 1) The Freight Forwarder shall be liable for loss of or damage to the goods occurring between the time when he takes the goods into his charge and the time of delivery.

2) The Freight Forwarder shall, however, be relieved of liability for any loss or damage if such loss or damage was caused by:

a) an act or omission of the Merchant, or person other than the Freight Forwarder acting on behalf of the Merchant or from whom the Freight Forwarder took the goods in charge;

b) insufficiency or defective condition of the packaging or marks and/or numbers;

c) handling, loading, stowage or unloading of the goods by the Merchant or any person acting on behalf of the Merchant;

d) inherent vice of the goods;

e) strike, lockout, stoppage or restraint of labour, the consequences of which the Freight Forwarder could not avoid by the exercice of reasonable diligence;

f) any cause or event which the Freight Forwarder could not avoid and the consequences whereof he could not prevent by the exer-

cise of reasonable diligence;

g) a nuclear incident if the operator of a nuclear installation or a person acting for him is liable for this damage under an applicable international Convention or national law governing liability in respect of nuclear energy.

3) The burden of proving that the loss or damage was due to one or more of the above causes or events shall rest upon the Freight Forwarder.

When the Freight Forwarder establishes that, in the circumstances of the case, the loss or damage could be attributed to one or more of the causes or events specified in b) to d) above, it shall be presumed that it was so caused. The claimant shall, however, be entitled to prove that the loss or damage was not, in fact, caused wholly or partly by one or more of these causes or events.

B. When in accordance with clause 6. A. 1 the Freight Forwarder is liable to pay compensation in respect of loss or damage to the goods and the stage of transport where the loss or damage occurred is known, the liability of the Freight Forwarder in respect of such loss or damage shall be determined by the provisions contained in any international Convention or national law, which provisions

(i) cannot be departed from by private contract, to the detriment of the claimant, and

(ii) would have applied if the Claimant had made a separate and direct contract with the Freight Forwarder in respect of the particular stage of transport where the loss or damage occurred and received as evidence thereof any particular document which must be issued in order to make such international convention or national law applicable.

(14) **7. Paramount Clause**

The Hague Rules contained in the International Convention for the unification of certain rules relating to Bills of Lading, dated Brussels

25th August 1924, or in those countries where they are already in force the Hague-Visby Rules contained in the Protocol of Brussels, dated February 23rd 1968, as enacted in the Country of Shipment, shall apply to all carriage of goods by sea and, where no mandatory international or national law applies, to the carriage of goods by inland waterways also, and such provisions shall apply to all goods whether carried on deck or under deck.

(15) **8.3** Compensation shall not, however, exceed 2 SDR (Special Drawing Rights) per kilo of gross weight of the goods lost or damaged, unless, with the consent of the Freight Forwarder, the Merchant has declared a higher value for the goods and such higher value has been stated in the CT Bill of Lading, in which case such higher value shall be the limit. However, the Freight Forwarder shall not, in any case, be liable for an amount greater than the actual loss to the person entitled to make the claim.

(16) **19. Time Bar**

The Freight Forwarder shall be discharged of all liability under the rules of these Conditions, unless suit is brought within nine months after

(i) the delivery of the goods, or

(ii) the date when the goods should have been delivered, or

(iii) the date when in accordance with Clause 18, failure to deliver the goods would, in the absence of evidence to the contrary, give to the party entitled to receive delivery, the right to treat the goods as lost.

(17) **20. Jurisdiction**

Actions against the Freight Forwarder may only be instituted in the country where the Freight Forwarder has his principal place of business and shall be decided according to the law of such country.

(18) **5.1** The Consignor shall be deemed to have guaranteed to the Freight Forwarder the accuracy, at the time the goods were taken in charge by

the Freight Forwarder, of the description of the goods, marks, number, quantity, weight and/or volume as furnished by him, and the Consignor shall indemnify the Freight Forwarder against all loss, damage and expenses arising or resulting from inaccuracies in or inadequacy of such particulars. The right of the Freight Forwarder to such indemnity shall in no way limit his responsibility and liability under this Bill of Lading to any person other than the Consignor.

(19) 4. **Law and Arbitration**

The contract evidenced by or contained in this Bill of Lading shall be governed by Japanese law. Any dispute arising from this Bill of Lading shall be referred to arbitration in Tokyo by Tokyo Maritime Arbitration Commission (TOMAC) of The Japan Shipping Exchange, Inc. in accordance with the Rules of TOMAC and any amendment thereto, and the award given by the arbitrators shall be final and binding on both parties.

(20) 8. **Liability for Loss or Damage**

(1) (i) The Carrier shall be liable for loss of or damage to the Goods occurring between the place of receipt and the place of delivery, unless such loss or damage was caused by:

(a) an act or omission of the Merchant or person other than the Carrier acting on behalf of the Merchant or from whom the Carrier took the Goods in charge; or

(b) compliance with the instructions of the person entitled to give them; or

(c) the lack of or insufficiency of or defective condition of packing; or

(d) handling, loading, stowage or unloading of the Goods done by or on behalf of the Merchant; or

(e) inherent vice or nature of the Goods; or

(f) insufficiency or inadequancy of marks or numbers on the Goods, coverings or containers; or

(g) strikes or lockouts or stoppage or restraint of labour from whatever cause, whether partial or general; or

(h) any cause or event which the Carrier could not avoid and the consequence whereof he could not prevent by the exercise of reasonable diligence.

(ii) When the Carrier establishes that in the circumstances of the case, the causes or events specified in (c) to (g) of the preceding sub-paragraph could attribute to the loss or damage, it shall be presumed that it was so caused. The Merchant shall, however, be entitled to prove that the loss or damage was not, in fact, caused either wholly or partly by such causes or events.

(iii) When the Carrier is liable under this paragraph, compensation by the Carrier shall not exceed US$2 per kilo of gross weight of the Goods lost or damaged, provided that higher compensation may be claimed if the value for the Goods has been declared by the Merchant and has been stated in this Bill of Lading.

(2) Notwithstanding anything provided for in the preceding paragraph:

(i) if it is proved that loss of or damage to the Goods occurred during transport by sea or inland waterways, the liability of the Carrier for such loss or damage shall be determined by the provisions of the International Carriage of Goods by Sea Act of Japan, 1957 (Hague Rules Legislation); or

(ii) if it is proved that loss of or damage to the Goods occurred during transport by air, the liability of the Carrier for such loss or damage shall be determined by the provisions of the Convention for the Unification of Certain Rules relating to International Carriage by Air signed at Warsaw, October 12th, 1929, as amended by the Hague Protocol, 1955; or

(iii) if it is proved that loss of or damage to the Goods occurred during any particular stage of transport other than by sea, inland waterways or air, the liability of the Carrier for such loss or damage

shall be determined by the provisions of the law, if any, which would be mandatorily applicable if a contract for such particular stage of transport had been made under the laws of the country where such loss or damage occurred, and if there are no such provisions of the law as above mentioned, paragraph (1) of this Clause shall apply.

(3) When the Carrier is liable under this Clause, compensation by the Carrier shall be calculated by reference to the Merchant's net invoice value of the Goods plus freight and insurance premium if paid, unless the value for the Goods has been declared by the Merchant and has been stated in this Bill of Lading.

(21) **13. Description of Goods**

(1) This Bill of Lading shall be *prima facie* evidence of the receipt by the Carrier of the total number of containers or other packages or units enumerated overleaf. Proof to the contrary shall not be admissible when this Bill of Lading has been transferred to a third party acting in good faith.

(2) No representation is made by the Carrier as to the weight, contents, measure, quantity, quality, description, condition, marks, numbers or value of the Goods and the Carrier shall be under no responsibility whatsoever in respect of such description or particulars.

(3) The shipper warrants to the Carrier that the particulars relating to the Goods as set out overleaf have been checked by the shipper on receipt of this Bill of Lading and that such particulars and any other particulars furnished by or on behalf of the shipper are correct.

(4) The shipper shall indemnify the Carrier against all loss, damage or expenses arising or resulting from inaccuracies in or inadequacy of such particulars.

Introduction for

'KAIUN' (Shipping)

(No. 739 April ~ No. 750 March)

The Japan Shipping Exchange, Inc. has been publishing the monthly magazine named 'KAIUN' (Shipping) in Japanese since 1921.

The magazine has been valued and is working as an opinion leader in shipping circles and other concerns in Japan.

Undermentioned are the contents of its recent issues, from April in 1989 to March 1990 edition.

We hope you will find information you are seeking in the following articles.

OPINION

[May] **Page**

Potential investors in the shipping market face a confusing picture. Will there really be an investment boom in the 1990's, or are market analyst over-dramatising the situation as they have done so often in the past? And is there going to be a shipbuilding capacity shortage which will make newbuildings ordered at today's prices an attractive investment?

[June]

There seems to be no worry about the future, even though everybody knows the crisis arising from the ageing Japanese seamen. The voice of 'no need for Japanese crews' is often heard.

When Japan needs Japanese crews in the future, what shall we do?

[August]

* Seamen's Problems and Security of Lives of Japanese People 10

by YAJIMA, Sansaku

The national crisis doesn't mean only involvement into war. What do you think of the case that civil war happens in the countries which have been providing Japan with seamen? Or when disaster occurs in Japan, can we expect foreign seamen to run a risk to engage in transport of provisions to Japan? Whatever affairs will happen, it is a nation's task that necessities for Japanese people, including food or energy resources, are held by transport by Japanese flagged ships by Japanese seamen.

This is really security of nation's people's lives. And it can be only realised by modernized ship manned with a small number of the Japanese seamen.

Although such ships are called modernized ships, they have not been improved so much for ten years because modernization has been focussed on seamen's system.

VLCC which cost 8 billion yen at 1987, are to be said 9.5 billion yen at present. In the circumstance difference of seamen's costs are too small compared with rising costs of newbuilding.

To cope with rapid appreciation of the yen, the export industries have maintained competitiveness through utmost efforts for a reduction of costs in every process of production with new technology development. They did't depend on a reduction of personnel costs.

Development of next generation vessels is important. However, why doesn't development of ships adjusted to modernized system of seamen progress?

[September]

* Seamen's Education System at the crossroads 32

[October]

* Flagging-out and Mixed Crewing on the Japanese flagged Vessels 72

by Godoh Ohki

[November]

[December]

[February]

INTERVIEW

[April]

K Line has continued a challenge aiming at being a world carrier. Recently we have finished the introduction of the final newbuilding on the Pacific trade and completed the inland transport system in the U.S. We, however, are considering the next step now because it is impossible for one pattern of services to last for more than ten years from now on.

[July]

At the end of June several presidents of leading oceangoing shipping companies were replaced by new ones. KAIUN interviewed with Jiro Nemoto, NYK Line, Susumu Tenpohrin, Mitsui OSK Lines, and Kozo

Three tasks are given to me. First, to complete the restructuring of NYK group which Miyaoka, former president, made a great effort for. Second, to carry out the restructuring of liner trade under my direct leadership. Last, to promote the long-term vision toward the 21st century, so called NYK 21.

My feeling is that shipping has entered into a new time. The transformation of traditional shipping to logistics has been often said. Then, what is logistics? It means information value-added transportation. Transport in new ages is

nothing but this. Another great task before me is to revitalize the company. That is how I will complete the company with information value.

* Kozo Yoshida, President of Showa Line 34

I regard myself as a type of a good business coordinator rather that a president who has strong leadership. Fortunately, I know well personal relationship in our company. I would like to keep this relation balanced and discuss about the future of the company with many people, especially young people.

[August]

Mr. BANNO, Yoshio
President
Nippon Liner System Co, Ltd. 46

There are several factors which brought about profits during six months from our company's start till the end of March. The greatest is favorable circumstance surrounding shipping, and the next is people, especially young people who worked very hard.

Now, we have faced the establishment of information system. In order to introduce EDI (Electronic Data Interchange) system, we set up a project team and started discussion.

Fortunately the company got profits at the end of May. We will try to invest positively in this field. Among Japanese lines, no big differences can be seen at this stage, but compared with American lines, Japanese lines have been far behind them.

[September]

* KAZUYA KINOSHITA
  Daiichi Chuo Kisen Kaisha
  President 38
  Don't forget to always follow cargo movement.
* AKIRA MIYAZAKI
  Mitsubishi Heavy Industries, Ltd.

NEWS FLASHES

[July]

(Management)

* Mitsui OSK Lines' future plan, "Challenge 21", shows distribution sector jumps to 32% 40

(Diversification)

* Establishing a joint firm on the Caribbean island of Aruba for operation of a tourist submarine, K Line enters into the marine leisure business.
* Nisshin Kisen buys out a Hotel in Sydny at ¥29.2 billion. 41

(Shipbuilding)

* A Study group for development of techno-super liner is set up. 42

(Tramper)

* 10 Lines' transport performances of import cargoes during the 1988 fiscal year. 43

[August]

(Management)

* Application for government -sponsored newbuilding programme is expected to increase on condition of introduction of mixed crewing. 42

(Coastal Shipping)

* Transport performance for 1988 in terms of volume reaches the highest level in seven years. 43

(Newbuilding)

* Japan shipbuilders Association asks for planned and orderly newbuilding of tankers. 44

[October]

(Linear) ANERA, TWRA, TSA etc, deside to increase freight rates from next March 1. 29

(Seafarers) Negotiation between labour and management on mixed crewing

[November]

[December]

[February]

[March]

* (Insurance) The Japanese Shipowners' Association asks the Japan Hull Insurers' Union to reduce hull insurance premiiums by ¥2.3 billion and revise terms and conditions of hull insurance in fiscal 1990 starting April. 54

REPORT

[May]

* The Accelarating Outflow of Able Men in the Shipping Industry 24

by KITA, Tetsumasa

There are still a number of young and middle-aged workers on shore who remain in shipping industry to try to devote themselves to the industry for a while. Their stay, however, is only based on the condition, 'for a while'.

This situation tells us that a crisis creeps into the industry. There is no bringing back lost men of abilities into the industry which have lost credit with society.

All the management did is nothing but the outflow of able shippingmen.

* Sanko's Bankruptcy Reorganization Plan is Unveiled. 36

Sanko Steamship announced the bankruptcy reorganization plan including writing off more than 90% of its total debt, 100% of capital reduction and restructuring of its affiliated companies, etc.

Sanko are scheduled to acquire assent of the concerned and file the plan with the Tokyo District Court on November 1. With the Court's approval Sanko Steamship will make a new start.

* Reflection of the 44th Government-Sponsored Newbuilding Programme
— under an age of new restructuring of shipping companies 60

by NAKANISHI, Masami

Several kinds of rationalization which shipping companies carried out with much pain have born fruit at last.

It is of crucial importance for Japan, an economic power floating on the sea, to maintain safety of seaborne trade and hold bargaining power when the shipping market becomes tight.

In addition keeping a certain number of skilled Japanese seafarers and improvement of Japanese flagged fleet are inevitable taks for the Japanese shipping.

[June]

[December]

[March]

REPORTAGE

[December]

SPECIAL REPORTS

[April]

CRUISING

We have given the first priority to keeping the profit/loss balance of cruise ship operation. Therefore, we had gathered a majority of passengers from various groups, companies and public bodies, etc. In a long perspective, however, we must make an effort to promote sales for individual customers.

The second newbuilding scheduled to be delivered next summer is expected to be operated under a plan of leisure cruising exclusively for individual customers. We hope the cruise business grows to be a big industry and through cruising business we have a lot of opportunities of direct access to the cruising market based on individuals. These experience will bring the enhancement of sensitivity toward a change of environment and needs. (Aiura)

We hope not only Japanese people but also foreigners enjoy our cruiser. We expect American people to join among others because they are holding a large share of world cruising population. They have enjoyed repeatedly cruising in Europe and the Far East. We expect such repeaters to join a week-long cruising for the sightseeing tour in Japan. (Ishii)

There are both pessimism and optimism for a prospect of the cruise industry in Japan. The optimistic analysis is based on that what is popular in America will become a boom here in Japan sooner or later as the car industry has enjoyed the Japanese motorization which could have never been anticipated at a starting point. I expect that in Japanese society in 5–10 years companies will change toward increasing holidays instead of raising wages. It is too late to wait until such a society will realize. Now I decided to go ahead believing in my judgment. (Miyaoka)

* A Warning to the Current Boom 20

by OHNISHI, Nobuhiko

What I really regard as a cruiser is a cruiser which is operated based on the plan of making profits for a long time. People sometimes picture a bright future of cruise shipping with a dream, but there is a danger that they do not see a reality with cool heads.

A newbuilding price is huge and large manpower is necessary for providing good services. Therefore the cruiser is both capital and labour-intensive ship. This means that a cruiser itself has high cost elements.

I wonder how many cruiser will survive in three years although they say the cruising boom came of age.

* How to Enjoy Cruising for Japanese People who are Shy and Gloomy 29

by BABA, Masaru

Japanese people are less good at enjoying themselves than American people do. When it comes to entertaining other people, the situation is the same. We, however, must not remain a poor entertainer for development of the cruising industry. Cruising operators also must provide various services suitable to Japanese people.

AIR CARGO

* A Slightly Decrease of Total Volume of Air Cargoes in 1989 Instead of a Steady Increase of Imports 56

by YOSHIDA, Takashi

Exports by air in 1989, depending on a movement of the U.S. economy, are expected to increase steadily, but the growth rate will slow down considerably.

Import cargoes, mainly clothes and general commodities, will increase due to the expansion of domestic consumption and improved profitability of air cargoes. However imports of machinery will slow down gradually.

by TSUNO, Masayoshi

Sea and Air transport has been growing step by step and established an identity as one of transport systems.

Its future depends on how its demand develops for European destination cargoes which hold a large share of sea and air services.

[December]

TOKYO BAY CRUISE

[March]

Shipmanagement

Interview Mr. Shigehiro Iwamatsu, Vice Chairman of NYK.
NYK set up NYK shipmanagement in last June. It has managed 28 vessels which were transferred from Chugai Senmu, a subsidiary of NYK.
We are making an effort to catch up with leading foreign shimanagers. 10

The Japanese Shipping should set up a off-shore registry system and train seamen in order to meet globalization of seamen. 14
by Minoru Nishioka

Revision of the article 9 of 'Convention for Finding Employment for seamen' which is out of date. 16
by Akira Kaba

Voices from European Shipmanagers 26
HANSEATIC, BOLTON and NSM

TALK

[May]

* What will Change in European Transportation by the Introduction of a Single European Market?
— from voices from some European offices of the Japanese shipping companies 18

Deregulation aimed at strengthening international competitiveness of companies in the EC would trigger the amendmend of some regulations concerning the Anti-Monopoly Law.

In this respect shipping circles will reexamine the operation of the conference and the consortium. Deregulation of the U.S. shipping will give influence to

Europe to some degree.

In line with this movement the shipping conference will change to the direction where shippers understand it more easily. (Yamaguchi)

Deregulation also means strengthening of the shipping conference. Some people are concerned about a movement toward increased regulation of the conference because the Authority of the Anti-Monopoly Law in Brussels is more bureaucratic than FMC in the U.S. (Akatsuka)

It is very important which port will become a distribution center of both inward and outward seaborne cargoes in the EC. Rotterdam is a highly possible candidate in the northern area and Marseilles or Fos in the southern area.

In that case restructuring of the services including ports-call will happen. (Iwatoh)

Each shipper has his own idea for strategy for distribution. It varies in accordance with different industries and different patterns of the overseas expansion. (Fukuda)

[June]

* Tasks over the future of Hong Kong which is to return to China in 1997

..... 10

Cargoes from Hong Kong bound for Europe as well as North America have increased and they have exceeded that of Japan. The growing purchasing power in EC, reflecting its population, would promote further the trade from the Far East. (Miyazaki)

It is time for us to think about the trade focusing on not Japan but the Far East including Hong Kong. Therefore we must prepare for entering into other field such as wearhousing and trucking, etc. (Takita)

In the circumstance that containers from China via Hong Kong have been increasing, we can't do adequate business if we continue to be dependent on Honk Kong's forwarders. We hope that Japanese government will negotiate with the counterpart in China to realize free marketing. (Tanaka)

Unless it loses the current benefits after returning back to China, Hong Kong

will continue to be an economically favorable place. (Kohda)

[September]

When it comes to the future of the shipbuilding in Japan, the greatest task facing it is how shipbuilders build ships. What is then a prospective problem will be the ageing work forces. The present average age of the yard workmen is much over forty. It will soon reach fifty unless the situation changes. In the circumstance where skilled workers are falling short, the industry is required to change yard facilities as well as shipbuilding technologies. While we are tackling with such difficult problems, we must maintain competitiveness in the international market. (Abe)

The Japanese shipping companies have ordered from the yards the particular vessels which suit each trade. They are "order-made" vessels, which result in high costs. We can make a cost reduction through adopting standard ships which builders offer. (Hamamoto)

Shipbuilding capacity has been drastically reduced over the past 15 years. During 1975 and 1976 the shipbuilding industry was able to supply 120 VLCCs per year. Now considerable building facilities in European countries have been closed. They have been reborn as car product plants or shopping centers. Hitachi Zosen had two berths capable of building vessels in a VLCC class. One has been closed. In these circumstances improved market doesn't seem to bring about expansion of shipbuilding capacity soon. (Miwa)

Taking the current freight rates into consideration, the newbuilding price is high. It is no exaggeration to say that it is too high. The high price of newbuilding pushes up prices of ship sales and prevent ageing vessels from going to breakers. Furthermore it presses to extend life span of VLCCs. (Yanase)

[November]

* Recovery of a Tanker market is near at hand. 10

The relationship between supply and demand is steadily turning balanced.

Yoshihide Nishizawa (lino Kaiun), Kunio Suzuki (Mitsui OSK Lines), Michio Tanaka (NYK Line) and Tadao Yauchi (Navix Lines)

[January]

* Where will Japan's Oceangoing Shipping be in 1990s? 14

1980s was a very severe time for the industry. It experienced the so-called triple recession. The appreciation of the yen accelerated rationalization of the industry especially focusing on a reduction of workforce. In the circumstances a lot of bankruptcies and mergers took place. It is the end of 1980s where the industry managed to go out of such a nightmare. Will the industry be able to really enjoy 1990s? Although it is difficult to predict, Mr. H. Matsunari, chairman of Japan Shipowners' Association, Mr. K. Kazuhiko, director of the Japan Development Bank and Mr. H. Miyamoto, Director General of International Transport and Tourism Bureau discuss on this subject.

* New Transport Concept in 1990s is "from Machine to Machine". 52

The international transport has drastically changed due to shift to overseas production by Japanese makers. 'Just in time' delivery is going to be the lowest condition. How will the trade structure change in 1990s? Will new innovation of transport occur? Mr. H. Takahashi, NYK Line, Mr. Y. Chiba, Sumitomo Corporation, and Mr. C. Takikawa, Toshiba Corporation discuss on this matter. Mr. S. Nomura joins afterward in the article.

[February]

* Susumu Tenpohrin, president of Mitsui OSK Lines v. Yoshinari Yamashiro, president of NKK.

The both companies made new strategies aimed at the 21st century. That of Mitsui OSK Lines is "Challenge 21". On the other hand, NKK, one of the

Japanese major steel makers, started the third foundation activities in 1987 and succeeded in a big change of the company. The two presidents talk on revitalization of companies. 10

[March]

* China after Tienmon Square Massacre

Kazuhiko Ohtake, General Manager China Department of The Industrial Bank of Japan; Tamio Shimakura, Professor of Chinese economics of AICHI University; Yoshio Miura, General Manager China Department of K Line.

Chinese economy is slowing down now but it is temporal. Japanese big companies have no reluctance to invest China. 30

SPECIAL FEATURE

[June]

* Ship Management

— Success depends on quality of managers. 16

It is natural that foreign managers have strong appetite for Japanese market due to huge fleet controlled by Japanese shipping companies.

There is a wide variety of the manager to be found. Their services, therefore, vary from offering complete management system to only simple manning. In this circumstance, what is a yardstick in choosing a good ship manager?

What is important is not the number of ships managed by the company nor management fee, but how long the manager is occupied by other shipowners.

Foreign managers often say that there are several customs peculiar to Japan and that these prevent them from entering Japanese market, just like non-tariff barriers in trade problems.

On the other hand, Japanese managers themselves admit that there exist a lot of fetters such a past customs which reduce cost competitiveness.

* A Consideration of Ship Management 22

by INOUE, Masayoshi

Requirements for the ship manager by his clients are to keep balance among costs, security management and efficiency.

This balance is based upon humanity of the ship manager, for example, quick action to unexpected affairs and catching up with uptodate information, etc.

It is no exaggeration to say that the ship manager carriers out the motto, '24 hours a day, 7 days a week, as shipping is not 9 AM to 5 PM business.'

[October]

PEOPLE

[June]

ESSAY

SPECIAL ARTICLE

The Mediterranean will play a role as a leader of the rest of Europe through its prosperity which will be brought by its trade with the orient such as Japan,

NIES, and ASEAN countries.

Before long comes the time of the Mediterranean through resumption of such a oriental trading which it had experienced in the medieval age.

Several shocks given by the oriental countries including Japanese impact are nothing more than challenges from civilization different from European one. To meet such challenges will bring fruitful results for Europe.

It is natural for Europe, of which competitiveness will be strengthened by integration of the market, to increase its exports to Japan and NIES in Asia.

On the other hand, it will be also realized that Japanese local companies in Europe will export their products to Japan.

Success of the introduction of the single European market will also give Japanese shipping a lot of business opportunities.

Prosperous southern Europe becomes a new gateway in Europe for the oriental trade and containerized cargoes are distributed throughout Europe through the express train network from such a gateway. This transportation system will necessitate the speedup and high frequency of oceangoing transport, namely 'just in time' system. The ocean transportation also is requested to promote technological innovation, in the fields of both hard and software.

I hope that Japanese shipping will prepare for the single European market in 1992 which has immeasurable possibilities and business chances and catch the chances.

MARINE INSURANCE

[August]

[October]

ANALYSIS

[September]

Japanese companies are required as a condition of entering the European single market technology transfer which contributes to development of local industries.

The following policies are asked for them.

1. to localize management through giving foreign employees top position
2. to set up sections of design or R&D in the country where a Japanese company intends to enter
3. to take into account exports to the countries outside the market
4. to diversify entering areas in order to prevent investment conflict which occurs through Japanese companies' overpresence
5. to produce high value-added products to avoid competition with local markers

VOICE RECORDER

[November]

[December]

LINER

[October]

[January]

FINANCIAL RESULTS

[December]

MARITIME ARBITRATION

[November]

TOPICS

[August]

Navix Line has joined five companied in capital investment for Coral Marine Co., Ltd., an underwater cruise ship operation company and will start Japan's first underwater tourism business at Amami Ohshima-Island from early August. On the other Hand, Mitsubishi Heavy Industry and other four companies are also scheduled to start the same business at Okinawa from October.

POLICY

[August]

(I) General Activity of Oceangoing Shipping, (II) Financial Situation of Japanese Shipping Companies and Measures for Improvment, (III) Management Strategy and Move for Regrouping and Merger, (IV) International Trends in Oceangoing Shipping Policy, (V) Problems of Liner Shipping, (VI) Flagging-out Problem, (VII) Increasing Passenger Transport and Coming of Age of Cruising, (VIII) Other Problems concerning Oceangoing Shipping.

SHIPBUILDING

[November]

* Small - or medium - sized shipbuilders in KINOE, HAKATAJIMA and IMABARI, the Inland Sea of Japan. 52

These shipbuilders have regained much lives due to increased newbuilding orders.

YARD

[January]

* Nagasaki Yard of Mitsubishi Heavy Industries. 110

'The recession cartel' of the shipbuilding industry was lifted at the end of September 1989. The Mitsubishi Yard, which is building a luxurious passenger-ship for the first time in 50 years and regains active atmosphere, is reported by T. Fukushima.

CRUISER

[October]

* Fuji Maru's sistership is named as Nippon Maru 57
* K line also enters cruising business in venture business 58
* Maiden voyage our for Crystal Harmony is sold out in a day 60
* Orient Venus 62
* Japanese Dream of Japan Sea Passenger Co., Ltd 64

AIR

[January]

* The most important task for the aircago industry in 1990 is to immediately improve its foundation. 62

by Toshio Kuroyanagi

BUDGET

[September]

SOVIET

[November]

COMMENT

[May]

Who is responsible for the biggest oil spill incident in U.S. history?

I think that the incident itself and the expansion of its damages were caused by negligence or human error.

The long clean-up work struggling against spilled oil will last in Alaska. We must make utmost efforts to prevent human error battling against the work beyond our imagination which reminds us of the disaster.

INFORMATION

[October]

BUSINESS

[February]

* Smit Tak Towage & Salvage (S) Ltd, (Smit Tak Singapore) gives services around the clock. 64

BUSINESS PROSPECT

[January]

* Japanese Economy Enters a New Phase 74
by Toru Miyazaki

BUSINESS PERFORMANCE

[June]

* Shipping Depression bottoming out 60

Japan's Big Six shipping companies improve greatly their business performance during 1988 fiscal year ended on May 31, 1989.

This is attributed to the improved tramp market through the increasing output of steel supported by expansion of domestic demand and large purchase of grain by Soviet Union, and also improved tanker market, etc.

As a result the total operating profits of big six turned out a profit of ¥30.3 billion for the first time in three years from a deficit of ¥18.2 billion in the previous year.

The North American Liner Trade also improved drastically, although it is still in deficits, from ¥51.5 billion in the previous year to ¥31.0 billion.

As mentioned above, the prolonged shipping depression seems to be fianlly bottoming out. Nonetheless, some of the Big Six are still in the process of performing rationalization. Therefore, it is strongly hoped that management will continue to make an effort for better management.

STORY

[March]

* Confusion caused by a ban of Panamanian flag ships entering the U.S. ports was over. Now my office has recovered tranquility. What does the deal mean for the Japanese shipowners? 66

by Kisaburo Enomoto

SERIES

[December]

* An Introduction of P & I Insurance 87

by Masahiro Yagyu

MARKET

[July]

* A Trend of Shipping Market in 1988 and 89 80

In the situation of the improved supply-demand balance and cost-up of newbuilding, the shipping market of both tramp and tanker shows further increasing trends. However we must pay a great attention to the future development of the market because the increasing freight has been caused by cost inflation.

[September]

* Retrospect and Prospect of Shipping Market 59

by Nippon Yusen

SHIPPING MARKET

[November]

OUTLOOK OF SHIPPING MARKET

[January]

REGULAR FEATURES

[April]

[May]

[January]

[February]

[March]

If you would like to read any of the above articles, translation services are available.
Please contact the Editorial Dept.: (03)279-1655.

THE JAPAN SHIPPING EXCHANGE, INC.
(Nippon Kaiun Shukaisho)
PRINCIPAL OFFICE
Mitsui Rokugo-kan, Muromachi 2-3-16,
Nihonbashi, Chuo-ku, Tokyo 103, Japan
TELEX : 2222140 (SHIPEX)
CABLE ADDRESS : SHIPEXCHANGE
KOBE OFFICE
Meikai Bldg., 32, Akashi-machi, Chuo-ku, Kobe 650, Japan