

# The Report of the International Working Group on the Rotterdam Rules (For CMI Assembly 2015)

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May 20, 2015  
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## **Introduction**

On December 11, 2008, during its 63<sup>rd</sup> session, the UN General Assembly adopted the United Nations Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea (Rotterdam Rules). Taking into account the practical and historical importance of the new regime for the international carriage of goods, the Executive Council decided to establish the International Working Group (IWG) on the Rotterdam Rules for this purpose. The purpose of the IWG is to monitor the adoption and implementation of the Rotterdam Rules. The current members of the IWG are Tomotaka Fujita (Chairman), Stuart Beare, Philippe Delebecque, Vincent M. DeOrchis, José Tomas Guzman, Hannu Honka, Kofi Mbiah, Michael Sturley, José Vincente Guzman, and Gertjan Van der Ziel.

## **1. Current Status of the Rotterdam Rules**

The situation of the Rotterdam Rules remains the same since I reported at the Assembly 2015. Twenty-five States have signed, and three have ratified, the Rotterdam Rules. Signatories as of May 2014 are as follows: Armenia (29 Sep. 2009), Cameroon (29 Sep. 2009), Congo (23 Sep. 2009, ratified Jan. 28, 2014), Democratic Republic of the Congo (23 Sep. 2010), Denmark (23 Sep. 2009), France (23 Sep. 2009), Gabon (23 Sep. 2009), Ghana (23 Sep. 2009), Greece (23 Sep. 2009), Guinea (23 Sep. 2009), Guinea-Bissau (24 Sep. 2013), Luxembourg (31 Aug. 2010), Madagascar (25 Sep. 2009), Mali (26 Oct. 2009), the Netherlands (23 Sep. 2009), Niger (22 Oct. 2009), Nigeria (23 Sep. 2009), Norway (23 Sep. 2009), Poland (23 Sep. 2009), Senegal (23 Sep. 2009), Spain (23 Sep. 2009, ratified 19 Jan. 2011), Sweden (20 Jul. 2011), Switzerland (23 Sep. 2009), Togo (23 Sep. 2009, ratified 17 Jul. 2012), and United States of America (23 Sep. 2009).

## **2. UNCITRAL Working Group IV**

UNCITRAL Working Group IV commenced a study on “electronic transferable records” in October 2011 and is now finalizing a possible draft provisions on electronic transferable records in the form of a model law. It is very important to make sure that such provisions do not create any inconsistency with e-commerce provisions contained

in the Rotterdam Rules. The material and the report of the WG IV's 50th session in (10th – 14th November 2014) has been circulated and examined within the IWG.

At this stage, IWG does not see any serious problem in the current draft. However, IWG will keep its eyes on the discussion in WG IV.

### **3. Update of IWG's Q&A**

IWG on the Rotterdam Rules published its "Q&A on the RRs" in 2009, which has been revised several times. The purpose of the Q&As is to provide answers to frequently asked questions and to avoid possible misunderstandings. The "Q&As" is sometimes cited and incorporated as a material in casebooks (e.t., Healy and Sharpe, Admiralty, 5th ed., 2012, p.904). Since the last update was in 2012, IWG is now updating the Q&As. The revised version will become available until the Istanbul Colloquium.

### **4. Cooperation with UNCITRAL Regional Center**

UNCITRAL Regional Center for Asia and the Pacific (UNCITRAL RCAP), CMI and University of Macau jointly sponsored "Trade development through the harmonization of commercial law" on October 17 and 18 in Macau. (<http://www.umac.mo/fl/umuncitral/>) The first session Chaired by Lawrence Teh was devoted to "International Transport of Goods and the Rotterdam Rules". Tomotaka Fujita spoke on "The Rotterdam Rules in Asian Region."

UNCITRAL RCAP and CMI convened an Expert Group Meeting during the 7<sup>th</sup> Asian Maritime Law Conference in Singapore (April 2015). The meeting revealed that much to be done for the promotion of the Rotterdam Rules in Asian region. UNCITRAL RCAP wishes to continue the collaboration with CMI and IWG will make further effort for the purpose.

### **5. Assessment of the IWG's Development**

The purpose of the IWG is to monitor the adoption and implementation of the Rotterdam Rules. Unlike other IWGs or Standing Committees, it does not intend to create a product within a specific time frame. Since it was set up in 2009, the IWG has mostly engaged in "enlightenment activities" on the Rotterdam Rules. IWG published Q&As and its members regularly participated in symposia, colloquia and conferences worldwide. Such activities are still necessary for certain geographic area. IWG will, in cooperation with UNCITRAL and UNCITRAL RECAP, continue to promote the Rotterdam Rules.