

法學碩士學位論文

定期船用 標準船荷證券 關 英國判例法上
解釋論的 考察

A Study on the Liner Bill of Lading
in English Law and Case

指導教授 朴 容 燮

2000年 2月

韓國海洋大學校 大學院

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略 語

A.C.	Appeal Cases. House of Lords and Privy Council decisions from 1875 to the present.
AMC	American Maritime Cases, Baltimore, Maryland, U.S.A. Maritime Law decisions of American federal and state courts since 1923
BIMCO	Baltic and International Maritime Conference
C.A.	The Court of Appeal of the United Kingdom
Cir.	The United State Court of Appeals which is divided into thirteen circuits
COGSA	Carriage of Goods by Sea Act
F.	Federal Reporter being Circuit and Deistrict Court decisions from 1880 to October 1924
F.2d	Federal Reporter(second series)
F.Supp.	Federal Supplement.
FCL Cargo	Full Container Load Cargo
Fed. Cas.	Federal Cases listed alphabetically and assigned a sequence of numbers
ICC	International Chamber of Commerce
INTERCOMS	International Rules for Interpretation of Trade Terms
JMLC	Journal of Maritime Law and Commerce
LMCLQ	Lloyd's Maritime and Commercial Law Quarterly
SDR	Special Drawing Rights

**A Study on Liner Bill of Lading
in English Law and Case**

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Abstract

It is very interesting to note that neither the Bills of Lading Act 1855 nor any Act has defined the meaning of 'Bill of Lading'. But we can find that definition in Article 1 of the Hamburg Rules as follows:

'Bill of Lading' means a document which evidences a contract of carriage by sea and the taking over or loading of the goods by the carrier, and by which the carrier undertakes to deliver the goods against surrender of the document, A provision in the document that the goods are to be delivered to the order of a named person, or to order, or to bearer, constitutes such an undertaking.

As a matter of fact, the document which developed to resolve the obvious conflicts between the interests of buyer and seller was the bill of lading. The bill of lading provides the seller with some security against default by the buyer, and provides the buyer with some assurance of performance of the seller before the buyer is required to make payment. So to speak, the B/L provides some extent protection for both seller and buyer.

In the view of the law, a bill of lading has various aspects: First, it is very good evidence of the contract of carriage of goods, though not the

contract itself, for the contract is usually concluded before the bill of lading is signed. Second, it is a receipt for the goods shipped and contains certain admissions as to their quantity and condition when put on board. Third, it is a document of title. Therefore we cannot normally be obtained the goods without the delivery of the document.

However, there are various types of bill of lading. Specially, this is a study on the construction of Liner Bill of Lading (Code name : CONLINEBILL) adapted by BIMCO (The Baltic and International Maritime Conference) and used a basic bill of lading in the liner ship's operating. By that reasons, applying to English Law, Case and 6 rules of construction in the interpretation of clauses, I make a wider and deeper study of claims and obligations of Contract Parties under Carriage of Goods by Sea Act 1971 (COGSA 1971).

For reference, The Hague-Visby Rules consist of the original Hague Rules amended by the Visby Amendments, but the rules are more properly referred to as "The Protocol to amend the International Convention for the Unification of Certain Rules of Law relating to Bills of Lading signed at Brussels on 25th August 1924 - Brussels 23rd February 1968". COGSA 1971 applies the original Hague Rules incorporating the Visby Amendments as the Schedule.

In concrete terms about this study, Chapter 1 outlines the purpose of this study as well as the scope. Chapter 2 deals with the general study about the bill of lading. This chapter outlines definition, function, kind and nature of the bill of lading and considers the standard rules of the construction to the bill of lading for the clarification of CONLINEBILL.

Proceeding to the main issue, Chapter 3, 4, 5 and 6 deal with the construction of CONLINEBILL. These divided chapters make a term of significance for the each clause by means of the classification of CONLINEBILL's legal construction. Chapter 3 has 3 categories of legal construction. Section 1 in Chapter 3 includes the conclusion of contract such as General Paramount Clause and Jurisdiction Clause. Section 2 accounts for the real structure in CONLINEBILL; Substitution of Vessel,

Transshipment and Forwarding Clause. The last section 3 explains the personal structure in Definition Clause. Then I try to grasp the meaning of each clause through the original text, the translated text into Korean and the explanation of the clauses gradually.

It deals with the rights and obligations of shipowner in Chapter 4 and those of Merchant in Chapter 5. Chapter 6 considers danger management of CONLINEBILL such as General Average and Salvage Clause and Both-to-Blame Collision Clause.

The last Chapter 7 conclude the characteristic of CONLINEBILL as well as summary of the previous chapters and deals with the comparative study between COGSA 1971 and CONLINEBILL.

As follows the characteristics of CONLINEBILL are concluded from the current study. First, this bill of lading exclude General immunity clause, Seaworthiness clause, The limitation of liability though including important these clauses in the Hague-Visby Rules. Second, this bill of lading specially provides Identity of Carrier clause clarified the subject of responsibility in carriage of goods by sea, Exemptions and Immunities of all servants and agents of the Carrier, Carrier's option by means of containers or similar articles of transport used to consolidate goods and unitization of receptacles such as container, trailer and transportable tank. Third, Lighterage clause, Loading, Discharging and Delivery clause and Freight and Charge clause are to rationalize through the settlement of the company's account. Fourth, as CONLINEBILL is adapted by BIMCO which has the international reputation and approved by shipping industries, the bill of lading aims to develop the shipping communities and tries to make a standard bill of lading based upon the International Convention for the Unification of Certain Rules relating to Bills of Lading.

第1章 序論

第1節 研究 目的

,
 가 .
 .
 .
 不要式 諾成契約 ,
 .
 .¹⁾
 . .
 .
 .
 ,
 가 .
 .
 가
 가
 .
 (The Baltic and International Maritime
 Conference)가 定期船用 標準船荷證券(Liner Bill of Lading:
 Code name CONLINEBILL)

1971

1) 「goods」 , ,

第2節 研究 範圍

Conference)가 (The Baltic and International Maritime
CONLINEBILL 'CONLINEBILL'

가 3 , 2
1971 (' COGSA') ,

가 .2)
COGSA COGSA

, 1 , 2 ,

3 , 4 , 5 6 CONLINEBILL
3

, 4 , 5 (Merchant)

2)

, 6
3) 7

COGSA CONLINEBILL

COGSA

3) “ , r (: , 1992)”

第2章 船荷證券 概念

第1節 船荷證券 意義

COGSA

1 7

“

”

가

1

201 (6)

“

가

,

”

(ICC : International Chamber of Commerce)가

“

(INCOTERMS : International Rules for Interpretation of

Trade Terms)"

,

(shipped B/L)

,

.”4)

5)

4) “As used these rules by the term 「Bill of Lading」 is a shipped Bill of Lading, issued by or on behalf of the carrier, and is evidence of a contract of carriage as well as proof of delivery the goods on board the vessel.”

가 .6)

.7)

第2節 船荷證券 機能 種類

· 船荷證券 機能

가

가

가

.8)

가

가

가

가

5) , “ ”, 「 」 17 1 (1995. 10), 255
256 .

6) , 「 」(: , 1997), 594 ; , 「 2 」
(: , 1998), 722 ; . , 「 」(: , 1993),
325 326 .

7) , 「 」(: , 1995), 508 .

8) E.R. Hardy Ivamy, *Payne & Ivamy's Carriage of Goods by Sea*, 12th ed.
(London : Butterworth, 1985), p.71.

가 (clean bill of lading)

9)

,¹⁰⁾

가

3

가

가

(document of

title)

가

.¹¹⁾

.¹²⁾

· 船荷證券 種類

9) , “ (13) (1) ”, 「 」 244 (1994 1), 202 .

10) The Ardennes(Owner of Cargo) v. The Ardennes(Owners) (1951) 1 K.B. 55 cited in E.R. Hardy Ivamy, *op. cit.*, p.71.

11) Paul Todd, *Bills of Lading and Bankers' Documentary Credits*, 2nd ed. (London/New York/Hamburg/Hongkong : Lloyd's of London Press Ltd, 1993) , pp.88 89.

12) , “ (15) (3) ”, 「 」 246 (1994. 3), 89 97 ; “ (16) (3) ”, 「 」 247 (1994. 4), 115 123 .

가 가 , ,
 , 가
 가 가 가
 (received B/L)
 , 가
 (shipped B/L) .

.13)

가 (straight B/L) ,
 'to order, to order of A, to order of ___ Bank'
 (order B/L) .

가 .14)
 가

.15)

가 ,
 , 가
 (clean B/L) , (foul

-
- 13) "on board(notation) bill of lading" (, , 269 270).
 14) , , 512 .
 15) 820 130 .

B/L) .16)
(through B/L)

.17)

第3節 船荷證券 性質

(820).
가

.18)

. 要因證券性 : 權利 發生

가

가

가 가

.19)

.20)

. 要式 文言證券性 : 權利 內容

가

16) , 「 」 (: , 1998), 524 525 .

17) , “ - ”, 「 」 10 1 (1988. 10), 42 54 .

18) , , 515 .

19) , , 509 ; , 「 () 8 」 (: , 1997), 705 .

20) 82.9.14, 80 1325; 95.12.15, 94가 32189.

814

가

가

가

.21)

3 가

.22)

3 4

.23)

가

(prima facie evidence) .24)

가

“ (conclusive evidence clause)”

.25)

· 提示 相換證券性 : 權利 行使

21) , , 515 516 ; , , 509 .
 22) , , 509 .
 23) , , 517 .
 24) “ ” .
 25) , , 518 .

가

,26)

가

가

가

가

,27)

. 引渡 · 處分 指示證券性 : 權利 處分

가

820

133

“

”

,28)

가

,29)

第4節 船荷證券 解釋原則 - 英國法 中心 30)

26) , , 518 .

27) , , 520 .

28) , , 706 .

29) , , 522 .

30)

. 作成者 不利益 原則 (Contra Proferentem)

가

가

가

가

.31)

.32)

. 免責約款 嚴格解釋原則 (Strict Construction of Exception Clauses)

.33)

가

.34)

4 2

(William Tetley, *Marine Cargo Claims*, 3rd ed.(Montreal : International Shipping Publications, 1988), pp.83 88).

31) *Leather's Best v. S.S. Mormaclynx* (1970) 1 Lloyd's Rep. 527 cited in William Tetley, *Ibid.*, p.84.

32) 「 」 (: , 1995), 377 .

33) *Burton v. English* (1882) 12 Q.B.D. 218 :

‘ (at full freight, but at merchant's risk),

Brett Boun Cave ‘

(, 「 」 (: , 1995), 113

34) , , 113 .

. 挿入文言 優先 原則 (Precedence of Handwritten over Printed Words)

가 ,
 , ‘ ,
 가 가
 가 ,
 ‘ ,
 가 .35)36)

. 慣習 慣例 反映 原則 (Custom and Usage)

,
 가
 가 가
 가 .37)
 가
 .38)

35) , , 376 377 .
 36) *Burdines Inc. v. Pan-Atlantic S.S. Corp.*, 199 F.2d 571 at p.573, 1952 AMC 1942 at p.1944(5 Cir. 1952) cited in William Tetley. *op. cit.*, p.85().
 37) , , 378 379 .
 38) *Marcelino Gonzalez y Cia v. James Nourse Ltd.* (1935), 53 Ll.L.R. 151 cited in William Tetley, *op. cit.*, p.86 : “ , , ”

가

“
,
.”
39)

. 周邊狀況 反映 原則 (Surrounding Circumstances)

가

40)

41)

. 種類 解釋準則 (Ejusdem generis rule)

가

가

“ 가 , , ..., ,
(The Act of God, riots, ...,

strikes, or other causes beyond the carrier's control ...)”

가

42)

39) Kum v. Wah Tat Bank (1971) 1 Lloyd's Rep. 439.

40) William Tetley, *op. cit.*, p.86 87.

41) Reardon Smith Line v. Hansen-Tangen(The Diana Prosperity), (1976) 2 Lloyd's Rep. 621.

42) Raoul Colinvaux, *Carver's Carriage by Sea, Vol. 1* 2, 13rd ed.(London : Sweet & Maxwell, 1982), pp.864 868.

第3章 契約締結 物的 · 人的組織 關 法的解釋

第1節 契約 締結

· 表面約款

1. 原文

「Shipped on board in apparent good order and condition, weight, measure, marks, numbers, quality, contents and value unknown, for carriage to the Port of Discharge or so near thereunto as the Vessel may safely get and lie always afloat, to be delivered in the like good order and condition at the aforesaid Port unto Consignees or their Assigns, they paying freight as indicated to the left plus other charges incurred in accordance with the provisions contained in this Bill of Lading. In accepting this Bill of Lading the Merchant expressly accepts and agrees to all its stipulations on both pages, whether written, printed, stamped or otherwise incorporated, as fully as if they were all signed by the Merchant.

One original Bill of Lading must be surrendered duly endorsed in exchange for the goods or delivery order.

IN WITNESS whereof the Master of the said Vessel has signed the number of original Bills of Lading stated below, all of this tenor and date, one of which being accomplished, the others to stand void.」

2. 翻譯

「가

가

,

,

,

,

,

,

,

가

1

1

가

3. 解説

(1) 船積確認條項

(shipped B/L)

(2) 不知約款

(bulk cargo)

,43)

가

43)

FCL(Full Container Load) Cargo

가

가

.44)

가 .

COGSA 3

“
가
”

“ ,

가 ,

”

COGSA

가

가

가 .45)

COGSA 4

(prima facie evidence)가

44)

가 (, “Shipper's
Load and Count(SLC)” “Said to Contain(STC)”) .
45) 1916

21 “

”

3
 (conclusive evidence) , 3
 ,
 ,
 ,
 ,
 COGSA 3 5
 (3) 受諾條項
 ,
 ,
 ,
 ,
 46)
 (4) 相換條項
 (document of title) 가
 ,
 ,
 (duly endorsed)
 가
 , 47)

46) , (3), 134 .
 47) , , 135 .

(5) 署名條項

가 1

가 (48)49)

· 最優先約款 (General Paramount Clause)

1. 原文

「The Hague Rules contained in the International Convention for the Unification of certain rules relating to Bills of Lading, dated Brussels the 25th August 1924 as enacted in the country of shipment shall apply to this contract. When no such enactment is in force in the country of shipment, the corresponding legislation of the country of destination shall apply, but in respect of shipments to which no such enactments are compulsorily applicable, the terms of the said Convention shall apply.

Trades where Hague-Visby Rules apply.

In trades where the International Brussels Convention 1924 as amended by the Protocol signed at Brussels on February 23rd 1968-The Hague-Visby Rules-apply compulsorily, the provisions of the respective legislation shall be considered incorporated in this Bill of Lading. The Carrier takes all reservations possible under such applicable legislation, relating to the period before loading and after discharging and while the goods are in the charge of another Carrier, and to deck cargo and live

48) 816 2

49) Glyn Mills & Co. v. East and West India Dock Co. (1882) 7 App. Cas. 591; The Future Express (1992) 2 Lloyd's Rep. 79.

animals.」

2. 翻譯

「1924 8 25

(Hague Rules)

가

, ()

1968 2 23

()가

가

가

가

」

3. 解説

.50)

.51)

가

가

가

가

50) , , 143 .

51)

가

(Scrutton, *op. cit.*, p.413).

.52)

COGSA

COGSA

. 管轄權約款 (Jurisdiction)

1. 原文

「Any dispute arising under this Bill of Lading shall be decided in the country where the carrier has his principal place of business, and the law of such country shall apply except as provided elsewhere herein.」

2. 翻譯

「
가 가
.
」

3. 解說

가

,53)

COGSA

가

52) , , 144 .
53) , , 146 .

가 . 가
 가 .
 .
 . 2
 .
 , (), (,
) ,54)
 가 .
 ,
 ,55)
 , 가 가
 .56)

第2節 物的組織
 . 代替船 · 換積 · 轉送約款 (Substitution of vessel, Transshipment and Forwarding)

54) , , 146 .
 55) , “ ”, 「 」 25 (1995. 11),
 107 .
 56) , , 146 .

1. 原文

「Whether expressly arranged beforehand or otherwise, the Carrier shall be at liberty to carry the goods to their port of destination by the said or other vessel or vessels either belonging to the Carrier or others, or by other means of transport, proceeding either directly or indirectly to such port and to carry the goods or part of them beyond their port of destination, and to tranship, land and store the goods either on shore or afloat and reship and forward the same at Carrier's expense but at Merchant's risk. When the ultimate destination at which the Carrier may have engaged to deliver the goods is other than the vessel's port of discharge, the Carrier acts as Forwarding Agent only.

The responsibility of the Carrier shall be limited to the part of the transport performed by him on vessels under his management and no claim will be acknowledged by the Carrier for damage or loss arising during any other part of the transport even though the freight for the whole transport has been collected by him.」

2. 翻譯

「

, , ,
, , 가 ,
, , 가
, . 가
(forwarding agent) .

.」

3

COGSA 3 2

(transshipment)

COGSA가 가?

, Captain v. Far Eastern Steamshi

p⁵⁷⁾

가

COGSA 1 (b)

57) (1979) 1 Lloyd's Rep. 595 :

가

3

가

가

가

.58)

COGSA 1 (b)

2

(through transport)

59)

2

1

가 2

가

58) Mayhew Foods v. O.C.L. (1984) 1 Lloyd's Rep. 317 :
가

Sussex

2

COGSA가

COGSA
3 8

Captain v. Far Eastern Steamship

COGSA가
COGSA가

2
Captain v. Far

Eastern Steamship

2

2

59)

가

(57 1).

가

第3節 人的組織

. 定義約款 (Definition)

1. 原文

「Wherever the term "Merchant" is used in this bill of Lading, it shall be deemed to include the Shipper, the Receiver, the Consignee, the Holder of the Bill of Lading and the Owner of the cargo.」

2. 翻譯

「 (Merchant)" (Shipper), (Receiver), (Consignee), (the Holder of Bill of Lading) (the Owner of cargo) .」

3. 解說

(Merchant)

(Merchant) COGSA

(Shipper) .60)

(Merchant)

60) COGSA 1 (a) :

(Shipper)

가

(carrier),

COGSA 1 (a)

.61)

가

.62)

가

가

(forwarding agent)

.63)

(actual carrier)

(contracted carrier)

.64) COGSA

61) , 140 .

62) John Richardson, *The Hague and Hague-Visby Rules*, 4th ed. (London/Hongkong : Lloyd's of London Press Ltd, 1998), pp.15-16.

63) Carver, *op. cit.*, p.346.

64) 1 1 2 , 10 .

第4章 船舶所有者 權利義務 關 法的解釋

第1節 船舶所有者 權利

. 留置權約款 (Lien)

1. 原文

「The Carrier shall have a lien for any amount due under this contract and costs of recovering same and shall be entitled to sell the goods privately or by auction to cover any claims.」

2. 翻譯

「

」

3. 解說

가 가, 가 가

가 ,⁶⁵⁾

가 .⁶⁶⁾

65) , 「 」 (: , 1998), 505 .

66) , , 178 .

,67)
(possessory lien)⁶⁸⁾

가 .69)

1894

(Merchant Shipping Act 1894)

90

.70)

가

.71)

“

(any amount due under this contract and cost

of recovering same)”

가

.72)

67) (dead freight), (advance freight)

68) (possessory lien) 가

(F.N. Hopkins, *Business and*

Law for The Shipmaster, Glasgow : Brown, Son & Ferguson, Ltd., 7th ed., 1989).

69) E.R. Hardy Ivamy, *op. cit.*, p.258.

70) E.R. Hardy Ivamy, *op. cit.*, p.259.

71) 800 1

72) (, , 180).

, “ ”, 「 14 1 (1992. 4),

가

. 政府命令, 戰爭, 傳染病, 結冰, 罷業, 其他約款 (Government
Direction, War, Epidemics, Ice, Strikes, etc)

1. 原文

- 「(a) The Master and the Carrier shall have liberty to comply with any order or directions or recommendations in connection with the transport under this contract given by any government or Authority, or anybody acting or purporting to act on behalf of such Government or Authority, or having under the terms of the insurance on the vessel the right to give such orders or directions or recommendations.
- (b) Should it appear that the performance of the transport would expose the vessel or any goods onboard to risk of seizure or damage or delay, resulting from war, warlike operations, blockade, riots, civil commotions or piracy, or any person onboard to the risk of loss of life or freedom, or that any such risk has increased, the Master may discharge the cargo at port of loading or any other safe and convenient port.
- (c) Should it appear that epidemics, quarantine, ice-labour troubles, labour obstructions, strikes, lockouts, any of which onboard or on shore-difficulties in loading or discharging would prevent the vessel from leaving the port of loading or reaching or entering the port of discharge or there discharging in the usual manner and leaving again, all of which safely and without delay, the Master may discharge the

cargo at port of loading or any other safe and convenient port.

- (d) The discharge under the provisions of this clause of any cargo for which a Bill of Lading has been issued shall be deemed due fulfilment of the contract. If in connection with the exercise of any liberty under this clause any extra expenses are incurred, they shall be paid by the Merchant in addition to the freight, together with return freight if any and a reasonable compensation for any extra services rendered to the goods.
- (e) If any situation referred to in this clause may be anticipated, or if for any such reason the vessel cannot safely and without delay reach or enter the loading port or must undergo repairs, the Carrier may cancel the contract before the Bill of Lading is issued.
- (f) The merchant shall be informed if possible.」

2. 翻譯

「(a)

， ， 。

가 .

(b)

， ， 。

가

가

.

(c)

， ， (， ， ， ，)

， ，)

，

가

.

(d)

.

，

가 .
(e) 가 ,

(f) 가 .」

3. 解説

가
. (a), (b), (c)

, , , , ,

가 ((d)). 가

((e)),
COGSA 4 2 3 8

COGSA 4 2 (a) “ ” ,

.73)

가 ,

가 ,

.74)75)

가 ,

, 3 2

가 가

“

가

가 ” ,76)

“

” 77)

가

.78)

4 2 (b)

73) , 「 . 」 (: , 1996), 84 .

74) , , 84 ; , , 134 .

75)

76) The Glenochil (1896) P. 10, "The distinction I intend to draw...is one between want of care of cargo and want of care of the vessel indirectly affecting the cargo." : , “ (20) (3)-

(1)”, 「 」 253 (1994. 10), 163 .

77) Gosse Millerd v. Canadian Government Merchant Marine (1927) A.C. 223 cited in Carver, *op. cit.*, p.152.

78) William Tetley, *op. cit.*, p.400.

4 2 (q) ‘ (ejusdem generis rule)’
 4 2 (a) (q)
 .85)
 ,
 .86)

. 運送人 使用人 代理人 一般的 義務免除 免責約款

1. 原文

「It is hereby expressly agreed that no servant or agent of the Carrier (including every independent contractor from time to time employed by the Carrier) shall in any circumstances whatsoever be under any liability whatsoever to the Merchant for any loss, damage, or delay arising or resulting directly or indirectly from any act, neglect or default on his part while acting in the course of or in connection with his employment and, but without prejudice to the generality of the foregoing provisions in this clause, every exemption, limitation, condition and liberty herein contained and every right, exemption from liability, defence and immunity of whatsoever nature applicable to the Carrier or to which the Carrier is entitled hereunder shall also be available and for the purpose of all the foregoing provisions of this clause the Carrier is or shall be deemed to be acting as agent or trustee on behalf of and for the benefit of all persons who are or might be his servants or agents from time to time (including independent contractor as aforesaid) and all such persons shall be to this extent be or be deemed to be parties to the contract evidenced by this Bill of Lading.

The Carrier shall be entitled to be paid by the Merchant on demand any sum recovered or recoverable by the Merchant or any other from such

84) , , 705 ; , , 210 .

85) William Tetley, *op. cit.* p.515.

86) , , 211 .

servant or agent of the Carrier for any such loss, damage or delay or otherwise.]

2. 翻譯

「 ()
 ,
 ,
 ,
 ,
 ,
 ,
 ,
 ,
 ,
 ()
 ,
 ,
 ,
 () 가 .」

3. 解説

,
 ,
 (servant, agent) (independent
 contractor) 가 , 1924 ()
) ,
 ,
 ,
 가
 가

Adler v. Dickson⁸⁷⁾ Midlands Silicones Ltd. v. Scruttons Ltd.⁸⁸⁾

가

‘(doctrine of privity of contract)⁸⁹⁾가

가 가

가

⁹⁰⁾

1968

4 2 2

91)

⁹²⁾

87) (1955) 1 Q.B. 158 cited in Carver, *op. cit.* p.251.

88) (1962) A.C. 446 cited in Carver, *op. cit.* pp.249 250.

89) 가

90) , 650 .

91) COGSA 4 2 2 “

(가)

가 .”

· 積付裁量 單位化約款 (Optional Stowage, Unitization)

1. 原文

- 「(a) Goods may be stowed by the Carrier as received, or, at Carrier's option by means of containers or similar articles of transport used to consolidate goods.
- (b) Containers, trailers and transportable tanks, whether stowed by the Carrier or received by him in a stowed condition from the Merchant, may be carried on or under deck without notice to the Merchant.
- (c) The Carrier's liability for cargo stowed as aforesaid shall be governed by the Hague Rules as defined above notwithstanding the fact that the goods are being carried on deck and the goods shall contribute to general average and shall receive compensation in general average.」

2. 翻譯

- 「(a)
- (consolidate cargo)
- (b) ,
- (c)
- 「 」
- .」

3. 解說

92) , (3), 156 .

第2節 船舶所有者 義務⁹³⁾

．責任期間約款 (period of responsibility)

1. 原文

「The Carrier or his Agent shall not be liable for loss or damage to the goods during the period before loading and after discharge from the vessel, howsoever such loss or damage arises.」

2. 翻譯

「

,

。」

3. 解說

COGSA,

93)

6

COGSA 1 (e)

“

("Carriage of goods" covers the period from the time when the goods are loaded on to the time they are discharged from the ship)

.94)

7 95)

COGSA

“

(before and after problem)" 96)

.97)

가.

COGSA

COGSA 1 (b)

가

94)

(side to side)

(tackle to tackle)

95)

COGSA 7 :

96)

가

가

97)

4 1

(, , 127).

4 2

가 , 가
 ,
 (uniform liability system) .
 가 가
 , ,
 (network liability system) .⁹⁸⁾⁹⁹⁾¹⁰⁰⁾
 COGSA 1 (e) “tackle to tackle”
 tackle ,
 , ,
 , (,),
 가 ,
 가
 .¹⁰¹⁾
 COGSA
 Pyrene Co. v. Scindia Steam Navigation Co.¹⁰²⁾ Devlin
 .¹⁰³⁾
 가
 가 ,
 가
 가

98) ,

99) , (16), 309 .

100) , , 158 164 .

101) , , 371 372 .

102) (1954) 1 Lloyd's Rep. 321 :

Devlin

103) Carver, *op. cit.*, pp.349 350; John Richardson, *op. cit.*, pp.18 19.

.104)

. 航海 範圍約款 (scope of voyage)

1. 原文

「As the vessel is engaged in liner service the intended voyage shall not be limited th the direct route but shall be deemed to include any proceeding or returning to or stopping or slowing down at or off any ports or places for any reasonable purposes connected with the service including maintenance of vessel and crew.」

2. 翻譯

「 , 가
 .
 .」

3. 解說

(1)

(deviation) 3 (105) COGSA
(reasonable measures)

104) Goodwin, Ferreira v. Lamport and Holt (1929) 45 T.L.R. 521 cited in Carver, *op. cit.*, p.350.

105)

.106)

가

,

.

,

.

가

(intentional

change of route)

.107)108)

1906

.109)

가

가

,

,

가

,

(ordinary trade

route) 110)

(direct geographical route)

,

가

.111)

106) COGSA 4 4

107) , , 429 .

108)

가

가 (, “ ”, 「 」 236 (1993. 5), 127).

109) 46 1 :

가

110) E.R. Hardy Ivamy, *op. cit.*, p.20.

(intentional) (voluntary)
(unintentionally)

.112)

(2)

(justifiable deviation)가

가

COGSA

가

Scaramanga v. Stamp¹¹³⁾

가

가

.114)

가

.115)116)

111) , , 429 ; , , 128 .

112) Rio Tinto Co. v. Seed Shipping Co.(1962), 42 T.L.R. 381, cited in E.R. Hardy Ivamy, *op. cit.*, p.20.

113) (1880) 4 C.P.D. 316 cited in Carver, *op. cit.*, pp.868 869 : Olympias 가

Arion

Texel
가

가

114) Carver, *op. cit.*, p.869.

115) The Teutonia(1872) L.R. 4P.C. 171 cited in Carver, *op. cit.*, p.869 :

Teutonia 가

가

가

,117)

COGSA

(4 4).

가

,118)

COGSA

4 4

4 4

가

가

,119)

Stag Line v. Foscolo, Mango & Co.¹²⁰⁾

5

가

4

가

,121)

가

가

가

,122)

116) Kish v. Taylor

117) , , 129 .

118) , , 430 .

119) , , 130 .

120) (1932) A.C. 328 cited in Carver, *op. cit.*, pp.385-386.

121) Thiess Brothers v. Australian Steamships (1955) 1 Lloyd's Rep. 459 cited in E.R. Hardy Ivamy, *op. cit.*, p.97.

(derrick boom)

,123)

가 가

124)

,

.125)

“ ”

,

.126)

(3)

COGSA

가

.127)

(fundamental breach of contract)

가

.128)129)130)

가

122) Surrendra(Overseas) v. SS Hellenic Hero (1963) AMC 1217.

123) The Al Taha (1990) 2 Lloyd's Rep. 117.

124) The Daffodil B (1983) 1 Lloyd's Rep. 498.

125) The Doriefs (1969) AMC 119.

126) John Richardson, *op. cit.*, p.40.

127) , , 416 .

128) Hain Steamship v. Tate & Lyle (1936) 41 Com.Cas. 350 cited in Carver, *op. cit.*, pp.881 882.

129) COGSA

5

가 (John Richardson, *op. cit.*, p.40).

Undeclared deck carriage, Unreasonable deviation, Misrepresentation relating to the goods by the shipper, Gross negligence or wilful recklessness, Delivery of cargo without production of bill of lading.

.131)

가

(common law)

(common carrier)

가

132)

가

.133)

가

.134)

가

가 가
가

.135)

130)

131) Carver, *op. cit.*, pp.881 882.

132) 가 (act of God), (act of King's or Queen's enemies),
(inherent vice), (defective packing),
(general average)

133)

가

(Morrison v, Shaw, Savill (1916) 2 K.B. 783 cited in Scrutton, *op. cit.*, p.264).

134) Joseph Thorley v. Orchis Steamship (1907) 1 K.B. 660 cited in Scrutton, *op. cit.*, p.264.

135) , , 133 .

가 ,
(fundamental breach of contract)

가,

.136)

가

.137)

가

. 遲延損害約款 (Delay)

1. 原文

「The Carrier shall not be responsible for any loss sustained by the Merchant through delay of the goods unless caused by the Carrier's personal gross negligence.」

2. 翻譯

「

.」

3. 解說

136) Nissho Iwai Australia Ltd. v. Malaysian International Shipping Corp. (1988) Supreme Court of New South Wales (Australia) Court of Appeal; Photo Production Ltd. v. Securicor Transport Ltd. (1980) A.C. 827 cited in John Richardson, *op. cit.*, pp.40 41.

137) Hain Steamship v. Tate & Lyle (1936) 41 C.C. 350 cited in Carver, *op. cit.*, pp.881 882.

가

138)

가

20

10

139)

. 運送人 同一性約款 (Identity of Carrier)

1. 原文

「The contract evidenced by this Bill of Lading is between the Merchant and the Owner of the vessel named herein (or substitute) and it is therefore agreed that said Shipowner only shall be liable for any damage or loss due to any breach or non-performance of any obligation arising out of the contract of carriage, whether or not relating to the vessel's seaworthiness. If, despite the foregoing, it is adjudged that any other is the Carrier and/or bailee of the goods shipped hereunder, all limitations of, and exonerations from, liability provided for by law or by this Bill of Lading shall be available to such other.

It is further understood and agreed that as the Line, Company or Agents who has executed this Bill of Lading for and on behalf of the master is not a principal in the transaction, said Line, Company or Agents shall not be under any liability arising out of the contract of carriage, nor as Carrier

138) William Tetley, *op. cit.*, p.309.

139) Czarnikow v. Koufos (1969) 1 A.C. cited in Carver, *op. cit.*, p.1500.

nor bailee of the goods.」

2. 翻譯

「
）」
，
，
가
(bailee)
가
，
，
，
」

3. 解說

，
，
，
가
(through transportation)
가
，
가
가
140)

가 , ,
 , 1924 가 , 1957 1976
 (Merchant Shipping Act 1894) 502 503 , 1894
 ,
 .141)

140) , , 544 .
 141) 1924

, 1936 公船
 (,
 , 544 545).

第5章 商人 權利義務 關 法的解釋

第1節 商人 權利

. 選擇權約款 (Options)

1. 原文

「The port of discharge for optional cargo must be declared to the vessel's Agents at the first of the optional ports not later than 48 hours before the vessel's arrival there. In the absence of such declaration the Carrier may elect to discharge at the first or any other optional port and the contract of carriage shall then be considered as having been fulfilled. Any option can be exercised for the total quantity under this Bill of Lading only.」

2. 翻譯

「
1 48
가
,
.
」

3. 解說

(optional cargo)
가
24 48
.142)

142) Marseills option London, Rotterdam or Hamburg.

가

第2節 商人 義務

· 解船料約款 (Lighterage)

1. 原文

「Any lightering in or off ports in loading or ports of discharge to be for the account of the Merchant.」

2. 翻譯

「 」

3. 解說

· 船積, 揚陸 引渡約款 (Loading, Discharging and Delivery)

1. 原文

「Loading, Discharging and Delivery of the cargo shall be arranged by the Carrier's Agent unless otherwise agreed.

Landing, storing and delivery shall be for the Merchant's account.

Loading and discharging may commence without previous notice.

The Merchant or his Assign shall tender the goods when the vessel is ready to load and as fast as the vessel can receive and - but only if required by the Carrier - also outside ordinary working hours notwithstanding any custom of the port. Otherwise the Carrier shall be relieved of any obligation to load such cargo and the vessel may leave the port without further notice and dead freight is to be paid.

The Merchant or his Assign shall take delivery of the goods and continue to receive the goods as fast as the vessel can deliver and - but only if required by the Carrier - also outside ordinary working hours notwithstanding any custom of the port. Otherwise the Carrier shall be at liberty to discharge the goods and any discharge to be deemed a true fulfilment of the contract, or alternatively to act under Clause 16.

The merchant shall bear all overtime charges in connection with tendering and taking delivery of the goods as above.

If the goods are not applied for within a reasonable time, the Carrier may sell the same privately or by auction.

The merchant shall accept his reasonable proportion of unidentified loose cargo.」

2. 翻譯

「

가

(dead freight)

16

charges)

(overtime

3. 解説

가

가

(dead freight)

'broken stowage'

가

.143)

'Booking'

Overtime

(unidentified loose

cargo)

가

. 生動物 甲板積貨物約款 (Live Animals and Deck Cargo)

1. 原文

「Live Animals and Deck Cargo shall be carried subject to the Hague Rules as referred to in Clause 2 hereof with the exception that notwithstanding anything contained in Clause 19 the Carrier shall not be liable for any loss or damage resulting from any act, neglect or default of his servants in the management of such animals and deck cargo.」

2. 翻譯

「
2
19
,
,
」

3. 解說

143) , “ (34) ”, 「 」 267 (1995. 12), 124 .

1 (c)

.144)

(1) 動物(生動物 : live animal)

.145)

(790 2).

(2) 甲板積 貨物(deck cargo)

.146)

가

.147)

144) 1 (c) :

145) , “ (26) (4)- ”, 「

」 259 (1995. 4), 139 .

146) , “ ”, 「

」 3 (1991. 10), 144 .

147) , “ ”, 「 」 4 (1992. 12), 296 .

(fundamental breach of the contract)

가 .148)

(a)

1 (Jettison) 가 .149)

.150)

.151)

가

.152)

(fundamental breach of the contract)

가

.153)

(b) /

148) , , 296 .

149) , “Hague Rule ”, 「 」 10 1 (1988. 10), 124 .

150) Carver, *op. cit.*, pp.858 859; William Tetley, *op. cit.*, pp.651 652.

151) The Delaware (1871) 14 Wall. 579(U.S.) cited in Carver, *op. cit.*, p.858.

152) Carver, *op. cit.*, p.858.

153) , , 298 .

/ 가 , 1 (c)
 / .
 / , , 가 .154)
 가 , 가
 . (Statement)가
 , ,
 “ (On deck at shipper's rick)"
 / 가 .155)
 가 가 .
 (General Liberty Clause)
 가 . / 가
 1 (c) 가 가
 . 3
 , 3 가
 가 .156)

Svenska Traktor v. Maritime Agencies(Southampton)

Ltd. 157)

154)

155) , , 129 .
 156) , , 140 .
 157) (1953) 2 Lloyd's Rep. 124(Q.B.).

158)

3 2

159)

160)

161)

가

162)

163)164)165)

158)

가

(Steamer has liberty to carry goods on deck and shipowners will not be responsible for any loss, damage, or claim arising therefrom)."

159) William Tetley, *op. cit.*, pp.660 661.

160) Royal Exchange Shipping Co. v. Dixon (1886) 12 App. Cas. 11 cited in Carver, *op. cit.*, p.859 :

161)

Tetley

가

“ ”

“ ”

(William

Tetley, *op. cit.*, p.652).

162) , (146), 157 .

163) William Tetley, *op. cit.*, pp. 651 652.

164) Mormacvega (1973) 1 Lloyd's Rep. 267

. 運賃 費用約款 (Freight and Charges)

1. 原文

- 「(a) Prepayable freight, whether actually paid or not, shall be considered as fully earned upon loading and non-returnable in any event. The Carrier's claim for any charges under this contract shall be considered definitely payable in like manner as soon as the charges have been incurred.
- (b) The Merchant shall be liable for expenses of fumigation and of gathering and sorting loose cargo and of weighing onboard and expenses incurred in repairing damage to and replacing of packing due to excepted causes and for all expenses caused by extra handling of the cargo for any of the aforementioned reasons.
- (c) Any dues, duties, taxes and charge which under any denomination may be levied on any basis such as amount of freight, weight of cargo or tonnage of the vessel shall be paid by the merchant.
- (d) The merchant shall be liable for all fines and/or losses which the Carrier, vessel or cargo may incur through non-observance of Custom House and/or import or export regulations.
- (e) The Carrier is entitled in case of incorrect declaration of contents, weights, measurements or value of the goods to claim double the amount of freight which would have been due if such declaration had been correctly given. For the purpose of ascertaining the actual facts, the Carrier reserves the right to obtain from the merchant the

4 4 (,
(147), 300 301).
165) 9 1 “ ”
(, , 30
1 302).

original invoice and to have the contents inspected and the weight, measurement or value verified.」

2. 翻譯

「(a) 가 가 .
가 .
5 가 가 .
(b) , . .
, .
(c) . . .
, . .
(d) . . .
(e) . . 가 가 .
가 가 2
가 . 가 .
가 .
」

3. 解説

(1) 運賃(freight)

가,

.166)

166) . , , 315 .

가

.167)

.168)

.169)

(advance freight),

(pro rata freight)

.170)

“ ” “ ”

가

167) , “ (33) ”, 「 」 266 (1995. 11), 96 97 .

168) Cargo ex Galam (1863) 15 E.R. 883 cited in Carver, *op. cit.*, pp.1175 1176.

169) Metcalfe v. Britannia Ironworks (1877) 2 Q.B. 423 cited in Carver, *op. cit.*, p.1168 (가); Hunter v. Prinsep (1808) 103 E.R. 818, East 378 cited in Carver, *op. cit.*, p.1168(

가

170) Carver, *op. cit.*, pp.1164 1257; Scrutton, *op. cit.*, pp.329 356 .

가
가
,171)
가
,172)
“ 5 (within five days of signing bills of lading)”
” /
(freight non-returnable cargo and/or ship lost or not lost)” 가 5
가 가 ,
5
, /
가
가 ,173) “ 5
” “
, /
(full freight deemed to be earned on signing bills of lading, discountless and non-returnable, vessel and/or cargo lost or not lost)”
가
, 가 5
5
가 가
,174)
가 가
가

171) *Fibrosa Spolka v. Fairbairn* (1943) A.C. 32 cited in Carver, *op. cit.*, pp.1183-1184.

172) *Roelandts v. Harrison* (1854) 156 E.R. 189, 23 L.J. Ex. 169 cited in Carver, *op. cit.*, pp.1190-1191.

173) *The Lorna I* (1983) 1 Lloyd's Rep. 373.

174) *The Dominique* (1987) 1 Lloyd's Rep. 239.

(2) 費用(charges)

(b) , (c) ,
(d) (800).

가

가

COGSA 3 5 175)

가

가

.176)

COGSA 4 3 177)

. 附則約款 (Additional Clauses)

1. 原文

「A. Demurrage

The Carrier shall be paid demurrage at the daily rate per ton of the vessel's gross register tonnage as indicated on Page 2 if the vessel is not

175) COGSA 3 5 :

. ... ().

176) , (), 176 .

177) COGSA 4 3 :

loaded or discharged with the dispatch set out in Clause 8, any delay in waiting for berth at or off port to count. Provided that if the delay is due to causes beyond the control of the Merchant, 24 hours shall be deducted from the time on demurrage.

Each Merchant shall be liable towards the Carrier for a proportionate part of the total demurrage due, based upon the total freight on the goods to be loaded or discharged at the port in question.

No Merchant shall be liable in demurrage for any delay arisen only in connection with goods belonging to other Merchants.

The demurrage in respect of each parcel shall not exceed its freight.

(This Clause shall only apply if the Demurrage Box on Page 2 is filled in).

B. U.S. Trade. Period of Responsibility

In case the Contract evidenced by this Bill of Lading is subject to the U.S. Carriage of Goods by Sea Act, then the provisions stated in said Act shall govern before loading and after discharge and throughout the entire time the goods are in the Carrier's custody.]

2. 翻譯

「A. (demurrage)

8

(daily rate)

24

(.)

B.

」

3. 解説

が

()

が

4

が

が

178)

'(laytimes, laydays)

179)

が

180)

178) , “ (9) (3)-
 -”, 「 」 240 (1993. 9), 150 151 .
 179) , () , 450 .

.181)182)

,

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.183)

가

가

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180) , , 451 .
 181) , , 151 .
 182) (782 , 798) ,
 183) , , 451 .

第6章 危險管理 關 法的解釋

第1節 危險管理

. 共同海損 救助料約款 (General Average and Salvage : 約款)

1. 原文

「General Average to be adjusted at any port or place at Carrier's option and to be settled according to the York-Antwerp Rules 1974. In the event of accident, danger, damage or disaster before or after commencement of the voyage resulting from any cause whatsoever, whether due to negligence or not, for which or for the consequence of which the Carrier is not responsible by statute, contract or otherwise, the Merchant shall contribute with the Carrier in General Average to the payment of any sacrifice, losses or expenses of a General Average nature that may be made or incurred, and shall pay salvage and special charges incurred in respect of the goods. If a salving vessel is owned or operated by the Carrier, salvage shall be paid for as fully as if the salving vessel or vessels belonged to strangers.」

2. 翻譯

「1974年 York-Antwerp
Rule .
, , ,
,
,
가 , .

3. 解説

(1) 共同海損

(832).

가 .184)

(General average act) 185)

(General average loss) (General average sacrifice) (General average expenditure) 186)
187) (Common maritime adventure)

184) , , 752 ; , “ (3)-
” , 「 」 12 1 (1991. 2), 111 139 .

185) 66 2 .

186) 66 1 .

187) 1974 , . 1990
1989 1994 . 1974
6 . 1994 1990
(3 84). , 「 」 (: , 1997), 4
1994

(A 1).

.188)

(2) 約款

1893

, 가 가 .

3

. 1897

Irrawady 189) 3

가 가 .190)

.191)

The Strathdon 192)

. 1904 Jason

The Jason Clause .

가

188) , “ ”, 「 」 3 (1991. 10), 29 30 ; , “ ”, 「 」 14 1 (1992. 12), 287 288 .

189) The Irrawady; Chrystal v. Flint (1897) 171 U.S. 187 cited in Carver, *op. cit.*, pp.981 983.

190) Carver, *op. cit.*, p.981.

191) Carver, *op. cit.*, p.982.

192) (1900) 101 Fed. Rep. 600 cited in Carver, *op. cit.*, p.982.

가

가

(New Jason Clause) .193)

· 雙方過失衝突約款(本約款 美國法院 效力 否認 境遇 有效)

1. 原文

「If the vessel comes into collision with another vessel as a result of the negligence of the other vessel and any act, negligence or default of the Master, Mariner, Pilot or the servants of the Carrier in the navigation or in the management of the vessel, the Merchant will indemnify the Carrier against all loss or liability to the other or non-carrying vessel or her Owner in so far as such loss or liability represents loss of or damage to or any claim whatsoever of the owner of said cargo and set-off, or recouped or recovered by the other or non-carrying vessel or her Owner as part of his claim against the carrying vessel or Carrier. The foregoing provisions shall also apply where the Owner, operator or those in charge of any vessel or vessels or objects other than, or in addition to, the colliding vessels or objects are at fault in respect of a collision or contact.」

2. 翻譯

「

193) , (), 199 .

가
 () ,
 ,
 , 가
 ,
 .
 , ,
 .」

3. 解説

2
 ,194)
 .
 가
 , 가 가
 가 ,195)
 ,
 가 ,196)
 ,
 ,
 ,197)
 ,
 1911

194) , “ ”, 「 」 21 (1995. 12),
 374 .
 195) , , 377 .
 196) , “ ”, 「 」 4 (1992.
 12), 8 .
 197) , , 378 .

.198)

1897

.199)

1910

가

1936

가

가

.200)

가

1/2

가

가

가

가

(both-to-blame collision clause)"

.201)

1910

198)

Hay v. Neve

, 1910

1911

(, “

”, r

」 12 1

(1991. 2), 103).

199)

, 379 .

200) The Chattahoochee (1899) 173 U.S. 540 :

(,

, 21).

201)

, , 21 .

,

public policy

202)

.

,

203)

“

”

.

202) , , 203 .
203) , , 204 .

第7章 結論

第1節 英國 COGSA CONLINEBILL 條文 比較

. 英國 COGSA 概要

1971

COGSA CONLINEBILL

COGSA

1. 本文 第1條

1 : ' (the Rules)'

2 :
(the Rules shall have the force of law) .204)

3 : ,
10 가 ,
.205)

4 : 6 ,

6 : 10 (c) ,

204) 1924
(the Rules shall have effect)

205) John Richardson, *op. cit.*, p.9.

(a)

, (b)

가 . , (b)

3 4

7

가

가

7 : 6

2. 本文 第3條

가

,206)

. 英國 COGSA CONLINEBILL 條文 比較

1. 共通 條文

1 :

‘ (carriage of goods)’

CONLINEBILL 1

, 4

206) 3 1 , 4 1 .

()

9

3 7 : (shipped bill of lading) 가

4 4 :

가

5

4 2 2 : ()

18

5 :

가 , 가

14

York-Antwerp

2. 規則 規定 條項

2 : , , , , , ,

3 1 :

3 2 :

3 3 :

3 4 :

3 5 :

3 6 :

1

3 6 2 :

3

3 8 : 3

4 1 :

4 2 :

4 3 :

4 5 :

1

1

666.67 SDR

1kg

2 SDR

4 6 :

4 2 1 :

4 2 3 :

4 2 4 :

6 : (particular goods)
가

7 :

8 : (seagoing vessel)

9 :

10 :
,

3. CONLINEBILL上 規定 條項

2

가 가 가

3

가

6 (substitution clause)

(forwarding)

가

7

8

10

(optional cargo)

가

24

48

11

가

12

13

가

14

York - Antwerp

15

가

가

1910

가

가

가

"(both-to-blame collision clause)"

16

17

19

第2節 CONLINEBILL 特質

(The Baltic

and International Maritime Conference)가
(Liner Bill of Lading : CONLINEBILL)

2

가

3 , 4 , 5 6

(Merchant)

가

6

“ ” , , 1
4
12 , , , ,
16 , ,
18 ,
19
4 , 3
5
(forwarding) 가
6 ,
13 ,
17
5
7 ,
8
9 ,
10 ,
가 11
19
6 14 (

) 15 .

,
가

가

, , ,

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, ,

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, ,

, .

,

BIMCO가

가

가

COGSA

가

가

, “ ”, 「 」 14 1
(1992. 12), 287 303 .

, “ . - () 1996 2 15
(The 'Atlas') -”, 「 」 292
(1998. 1), 180 188 .

, “ (3)- ”, 「
」 12 1 (1991. 2), 111 139 .

_____, “ 846 ”, 「
」 16 1 (1994. 12), 15 45 .

, “ (5)”, 「 」 236 (1993. 5), 126 134 .

_____, “ (9) (3)- , ,
, -”, 「 」 240 (1993. 9), 145 151 .

_____, “ (13) (1)
”, 「 」 244 (1994. 1), 202 212

_____, “ (15) (3)
”, 「 」 246 (1994. 3), 89 97 .

_____, “ (16) (3)
”, 「 」 247 (1994. 11), 115 123 .

_____, “ (20) (3)-
(1)”, 「 」 253 (1994. 10), 160 166 .

_____, “ (26) (4)- ”, 「
」 259 (1995. 4), 139 145 .

_____, “ (33) ”, 「 」 266 (1995. 11), 9
6 100 .

_____, “ (34) ”, 「 」 267 (1995. 12), 12
3 127 .

, “ ”, 「 」 12 1 (1991. 2),
91 109 .

, “Hague Rule ”, 「 」 10 1
(1988. 10), 123 147 .

, “ ”, 「 」 15 1
(1993. 12), 55 102 .

, “ - ”, 「 」
 10 1 (1988. 10), 35 76 .
 , “ ”, 「 」 3 (1991.
 10), 9 35 .
 _____, “ ”, 「 」 4 (1992.
 12), 5 29 .
 _____, “ ”, 「 」
 18 1 (1996. 3), 5 23 .
 _____, “ ”, 「 」 17 1
 (1995. 10), 7 28 .
 , “ ”, 「 」 14 1 (1992.
 4), 193 208 .
 , “ ”, 「
 」 3 (1991. 10), 144 165 .
 _____, “ ”, 「 」 4 (1992. 12), 295 334 .
 _____, “ ”, 「 」
 15 1 (1993. 12), 249 273 .
 , “ ”, 「 」 18
 1 (1996. 10), 177 199 .
 _____, “ ”, 「 」 21 (1995.
 12), 373 396 .

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가

가

가

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