

THEMATIC TITLE	PROBLEMS OF THE RIGHTS AND DUTIES OF THE CARRIERS UNDER THE CARRIAGE OF GOODS BY SEA ACT B.E. 2534: A CASE STUDY ON DANGEROUS INFECTIOUS DISEASE
KEYWORDS	DANGEROUS INFECTIOUS DISEASE/RIGHTS AND DUTIES OF THE CARRIER/CARRIAGE OF GOODS BY SEA
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ABSTRACT

It is known that sea freight has influence on trade competitiveness in the global market. A contract of carriage of goods by sea is an agreement made between a shipper or its representative and a carrier or its representative in which a carrier undertakes to deliver goods by sea to the receiver in compliance with the contract. Rights and duties of the carrier, therefore, have to be provided by law in order to secure justice for both parties whereby the relevant law in Thailand is the Carriage of Goods by Sea Act B.E. 2534.

When there was an outbreak of COVID-19 which has later been regarded as a dangerous communicable disease according to the Communicable Disease Act B.E. 2558. World Health Organization (WHO) has also declared COVID-19 outbreak as a global pandemic after its vast spreading all over the world. The pandemic has consequently affected the world economy and trading system including sea freight business. International Maritime Organization (IMO) together with World Health Organization and International Chamber of Shipping (ICS) has later distributed the circular letters providing pieces of advice related to the COVID-19 to all member states whereby Marine Department has also issued the announcements distributing such mentioned advice to maritime business operators, ship owners, shipmasters and captains, for examples, the Circular Letter No.4204/Add.3 - Operational considerations for managing COVID-19 cases/outbreak on board of ships and the Circular

Letter No.4204/Add.4/Rev.2 - Coronavirus (COVID-19) – ICS Guidance for ship operators for the protection of the health of seafarers.

From the study, it was found that Carriage of Goods by Sea Act B.E.2534 has provided the rights and duties of the carrier in Section 8 to Section 17, Chapter 1 regarding the duties that shall be performed before and after loading of the goods on board with caution and properness, such as, the duty to issue bill of lading, the duty to notify the consignee, the rights to carry the goods on deck when there is an agreement, the rights to receive the freight and the rights to retain the goods. However, the duties to perform when carrying the goods by sea in case of dangerous infectious disease outbreak have not been provided therein.

Thus, it is considered appropriate to provide therein the duties of the carrier in case of dangerous infectious disease outbreak by complying with the advice provided by International Maritime Organization and add the carrier's exclusion of liability in the Carriage of Goods by Sea Act B.E.2534 as follows;

1. Adding the definition "Dangerous Infectious Disease" in the last paragraph of Section 3
2. Adding the duties of the carrier as Section 17/1, Chapter 1.
3. Adding the carrier's exclusion of liability in paragraph 2, Section 51, Chapter 5

Furthermore, it is considered appropriate to develop a handbook for the duties of the carriers and their relevant persons in case of dangerous infectious disease outbreak conforming to the advice from International Maritime Organization and International Health Regulations (IHR) and revise it from time to time to ensure its up to date version.