

**A STUDY TO DETERMINE A SUITABLE STATUTORY
LIABILITY REGIME FOR CARRIAGE OF GOODS BY ROAD
IN MALAYSIA**

By

Norziela binti Mohamed Nasir	(2011616828)
Nor Assalinah binti Noor Azman	(2011476686)
Nur Alya Syahirah binti Khairudin	(2011605336)
Nur Farahna Fateen binti Mohd Fadzil	(2011477034)

Submitted in Partial Fulfilment of the Requirements
for the Bachelor in Legal Studies (Hons)

Universiti Teknologi MARA

Faculty of Law

December 2013

The students/authors confirm that the work submitted is their own and that appropriate credit has been given where reference has been made to the work of others.

ABSTRACT

This research proposal will focus on the study of the need for a regime concerning on the carriage of goods by road in Malaysia in reference with the Convention on the Contract of International Carriage of Goods by Road (CMR). We will be touching on the current situation in Malaysia, in which the carriage of goods by road in Malaysia is not governed by any specific regime. We will also include the problems occurred in Malaysia that call for the need of such new regime. Furthermore, we will analyse in depth on CMR especially the matters concerning liability and see how effective the application of the Convention in foreign countries. However, in order to carry out this project paper, there are several difficulties that might arise in carrying out the research and the solutions are discussed. The achievement in this research paper is that we have suggested the ratification of the CMR is not necessary and the Malaysian legal system should adopt only certain Articles of the Convention that are deemed to be necessary to make Malaysian law better.

ACKNOWLEDGMENT

This research project has been carried out by a team which includes Norziela Binti Mohamaed Nasir, Nor Assalinah Binti Noor Azman, Nur Alya Syahirah Binti Khairudin and Nur Farahna Fateen Binti Mohd Fadzil. It has been 3 months since we started working on this paper and now, it is finally finish. Apart from the hard work and effort of the member of our groups, the success of this paper depends largely on the encouragement and guidelines of many others. Their contribution was never forgotten and always will be remembered. We would like to take this opportunity to express our gratitude to the people who have been playing a significant role in completing this paper.

First of all we would like to show our greatest appreciation to Dr. Irwin Ooi as our supervisor for his guidance and help. No enough “thank you” in this world can express how grateful we are to have you as our supervisor, to guide us throughout the process of completing this project paper. Thank you for the motivation and encouragement that keep us moving forward and never look back. Also, thank you for the patience of correcting our mistakes and pointing out our wrongs. It was a great learning experience that we had throughout the semester.

Not to forget, we also would like to thank our families for the moral and financial support. Their support has made us focus to reach the end line to finish this project paper and helps us in our difficult times.

Lastly, to all our friends and others who have indirectly involved, thank you for everything and may this project contribute something useful to the legal system.

TABLE OF CONTENTS

Acknowledgement	ii
Abstract	iii
Contents	iv
List of Cases	vi

CHAPTER ONE: INTRODUCTION

1.0	Introduction	1
1.1	Background	2
1.2	Research Questions	3
1.3	Research Objectives	3
1.4	Research Methodology	3
1.5	Scope of Study /Delimitation	4
1.6	Limitations	5
1.7	Significance	6
1.8	Literature Review	7
1.9	Research Plan	15

CHAPTER TWO: THE LIABILITY OF THE CARRIER IN MALAYSIA

2.0	Introduction	16
2.1	Liability of Private Carrier under Contracts Act 1950	17
2.2	Doctrine of Fundamental Breach	20
2.3	Conditions of Carriage – Integrated Haulage Sdn. Bhd	23
2.4	Conclusion	28

CHAPTER THREE: THE CMR CONVENTION

3.0	History of CMR Convention	29
3.1	The Scope and Limitation of CMR	31
3.2	The Liability of the Contracting Parties under CMR	32
3.3	Doctrine of Fundamental Breach under CMR	34
3.4	The Analysis of CMR Convention and Integrated Haulage Sdn. Bhd.	38
3.4.1	Unloaded And Transhipped By Another Mode of Transport Under The CMR Convention.	46
3.4.2	Consignment Note	47

3.4.3	Other Liability under CMR	49
3.4.4	The Matters Related to Livestock	51

CHAPTER FOUR: FINDINGS

4.0	Introduction	54
4.1	The Problems of CMR Convention	54
4.2	ASEAN-ASEAN Framework Agreement on the Facilitation of Goods in Transit (AFAGIT) and ASEAN Framework Agreement on the Facilitation of Inter-State Transport (AFAFIT)	57
4.3	Suggestions and Recommendations	62
4.4	Conclusion	66

Bibliography	67
--------------	----

Appendices	73
------------	----

Appendix 1:	73
-------------	----

Appendix 2:	98
-------------	----