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**| RESEARCH ARTICLE**

**The Extent to Which the Loading and Unloading Contractor Benefits from Determining the Responsibility of the Sea Carrier under the Bill of Lading**

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**| ABSTRACT**

The operations of loading and unloading at the maritime cargo are the responsibilities and duties of the carrier or the shipper, or the consignee. These duties are difficult to be carried out in the frame of increasing load of ships at the modern era, and to accomplish the desire of parties of the maritime transport contract regarding the speed of execution, whereas accomplishment of these operations inquires any private equipment and high-efficiency labors at this side. However, the carrier cannot ensure these matters at every port where his ships arrive. On the other hand, it is not within the capacity of the shipper or the consignee, which necessitated recourse to a specialized contractor who performs it on his behalf in return for a wage and through his labors and equipment owned by him or leased from the port administration, which is known as the loading and unloading contractor. The carrier, shipper or consignee can entrust to him to carry out any of these operations except for sea transport. The loading and unloading contract concluded by the latter may include receiving the goods from the shipper, shipping them, stacking them, unpacking, unloading, or delivering them to the consignee. Although there is a special entity for both the loading and unloading contract and the maritime transport contract - the first interferes with the implementation of the second, which raises several inquiries regarding the degree to which loading and unloading contractors taking benefit from identification the responsibility of the sea carrier under the bill of lading, since there is an overlap in the two contracts and loading and unloading contract is a way to carry out the maritime transport contract.

**| KEYWORDS**

Loading and Unloading Contractor; Transportation; maritime environment

**| ARTICLE DOI:** [10.32996/ijlps.2022.4.1.3](https://doi.org/10.32996/ijlps.2022.4.1.3)

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**1. Introduction**

Transportation is one of the most important forms of commercial exploitation of the maritime environment. As well as transportation of goods by sea in general, deemed the backbone of the movement of trading wealth, it is the main way to carry out international commodity exchanges, the matter which explains the legislative interest in regulation its provisions nationally and internationally.

The relationship between the service provider, represented by the carrier and the beneficiary shipper, is governed by the transport contract, and there are many services deprived of this relation, the most important one of which serves loading and unloading, whereas the contract of loading and unloading in a general and comprehensive sense, is defined as the contract which one of the

parties to the maritime transport contract<sup>(1)</sup> is entrusted to a specialized contractor to carry out shipping operations and unloading from and to the ship<sup>(2)</sup>.

Also, even though the main point of the loading and unloading contract is to carry out physical operations unless this does not reject the inclusion of the contract to legal operations in addition to physical operations.

When we study the contract of loading and unloading, we must not forget the maritime carriage contract for several considerations. <sup>(3)</sup> The loading and unloading contractor are responsible for implementing part of the transport contract related to the shipment of goods, and the majority of the contract terms include conditions affecting the loading and unloading operations, whether with regard to the contractor or determining when the transport contract begins or ends. The contract of loading and unloading is related to the maritime transport contract, but it interferes with it in implementation. The marine contractor implements some of its stages, which requires us, when studying the loading and unloading contract, to achieve a balance between it and the maritime transport contract, as marine exploitation is one of the oldest activities that witnessed the emergence of many people who contribute to the good use of the ship <sup>(4)</sup>.

According to the carrier's obligations in accordance with the provisions of the Maritime Trade Law, he is obligated to carry out the loading and unloading operations, and it may be agreed upon otherwise.

The task of the loading and unloading contractor <sup>(5)</sup> lies in the physical operations of loading and unloading goods on the ship and does not interfere in the legal processes related to examining the goods and delivering them to the consignee, <sup>(6)</sup> but when the consignee entrusts the unloading contractor to receive the goods and hand him the bill of lading, he has the right to this status, in addition to his capacity as a "cargo trustee" as the unloading contractor, he is an agent for the consignee in receipt. This agency imposes on him the duty to verify the condition of the external goods and their conformity with the contained descriptions in the bill of lading, and the duty to take what is necessary to preserve the rights of the principal, including resorting to the judiciary or making the necessary protest to file a liability claim and his failure to do so leads to his responsibility for what befalls him. The consignee is harmed as a result of this default. <sup>(7)</sup>

The relationship of the loading and unloading contractor with the carrier is linked to a contracting contract, whether it is relevant to the carrier or the sender or consignee so that the contractor performs all loading and unloading operations and other additional operations for the account of whom he commissioned to carry out and is not asked in this regard except before this person who has sole direction lawsuit.

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- (1) The marine carrier is obligated by virtue of the maritime carriage contract to prepare and equip the ship to be suitable for navigation and to carry out the agreed carriage. The contract of sea carriage is concluded between the shipper and the carrier who implements the contract. When the shipper delivers the goods to the carrier and pays the freight, the consignee is a foreigner from the contract. He did not participate in its conclusion; however, it is established that the consignee benefits from this contract and is linked with the carrier by a legal bond based on the aforementioned contract.
  - (2) It was named in Chapter Four of Part Two of the Maritime Trade Law (P.8 of 1990) with maritime agents and maritime contractors in Articles 148 to 151, where he undertakes the material work necessary to lift the goods on board the ship, which is known as the shipping process or unloading it from it. What is known as discharge? In addition, it may undertake legal work related to loading and unloading for the account of the parties to the contract of carriage. The Egyptian Maritime Trade Law and international conventions included general provisions that apply to these provisions for marine agents and marine contractors. It defines the law that applies to contracts tested by marine agents and marine contractors, because the task of the stevedoring contractor is limited only to illegal physical operations.
  - (3) The most important of these considerations is that loading and unloading is not concluded, unless there is sea transportation, and therefore the establishment of the loading and unloading contract becomes a definite necessity to complete the transport contract, and that the transport contract determines for us who are the parties to the loading and unloading contract and they are necessarily those who contract with the marine contractor.
  - (4) Dr. Hani Dowidar, Al-Wajeez in Maritime Law, Beirut, New University House, first edition, 2001, p. 89.
  - (5) The legal position of the loading and unloading contractor is determined in view of his activity. He basically and in principle performs the material work necessary for loading and unloading the goods, and the ensuing guarding and preserving the goods until their delivery. That is, he undertakes to carry out a specific work and independently in carrying out this work, and the legal status of the contractor varies according to the nature of the work he is doing. Bearing in mind that the unloading contractor does not represent the consignee in receiving the goods from the carrier unless it is stipulated in the unloading contracting contract, see in this regard: Egyptian Repeal Judgment, session 5/1/1967, Q. 18, p. 78.
  - (6) Appealing No. 404S41K, Session 11/6/1975, group of court of cassation court S26, p 1197, appeal No. 654 S 40K, Session 12/4/1976, group of court of cassation 12S 27 P 922, the appealing is relevant that the unloading contractor doesn't represent the consignee in receiving goods from the carrier, unless this is stipulated at the contract of unloading delivery, and cannot be changed when the shipment had come under the law of delivery of its owner, which means that the carrier delivers the goods directly to its owner or his representative without intercourse of the custom stores, this law doesn't include what permit the unloading contractor to represent the consignee at receiving, otherwise at the contracting contract, see appeal No. 591S 50K, Session 16/4/1984, group of cassation S35 A1 P. 1012.
  - (7) Appeal No.80 Q32 Q,Session 15/5/1967, Collection of Egyptian Court of Cassation Judgments No.18, page N. 78.

This research paper aims to determine to what extent of the effect of the mentioned conditions in the bill of lading to the responsibility of the contractor in one side through a first topic, as well as to determine to what extent of the benefit from the legal determination of the carrier's liability contained in the texts mentioned in international agreements and national legislation on the other side through a second topic, without mentioning ship charter clauses as a separate contract from the maritime transport contract and the shipping and unloading contract.

## **2. The First Topic**

### **2.1 Conditions for bills of lading related to loading and unloading**

#### **2.1.1 Preamble:**

There are many conditions that are usually contained in bills of lading and affect the liability to loading and unloading.

Whether the conditions were in fact related to the responsibility of the carrier, but studying them, deemed necessary, as the carrier contracts with the contractor and if we consider that the contractor of loading and unloading is affiliated to the carrier, while his performing material duties for his own account, this meant that the contract of loading and unloading is an employment contract, and the carrier is still in front of the owners of goods for damages to their goods, whether during loading or unloading, and the carrier has the right to recourse against his subordinates for a warranty claim if the damage he is responsible for occurred and the role of the contractor in the liability lawsuit does not appear before the stakeholders, and the role of the contractor at that time is adapted to the dependency bond that determines the relationship of the subordinate to the subordinate.<sup>(8)</sup>

However, in reality, the contractor carries out his work independently of the carrier and the master, and the contractor shall not deserve his wage from the carrier or the shipper or consignee, according to the mentioned condition at the bill of lading or to whom bear the responsibility of the operations of the marine handling, who contracted with the contractor for the purpose to carry out this condition, whereas it is stipulated at the bill of lading to charge the expenses of loading and unloading with the expenses of the goods.

He is absolutely free to perform his work, although he is subject to some instructions and directions from the master to verify the implementation of the work as required. The marine contractor is asked about the work he undertakes in accordance with Article 148 of the Maritime Trade Law For his mistake and the error of his subordinates, and the provisions of limiting liability stipulated in Article 233 of the same law<sup>(9)</sup> apply to him, but the legislator did not put a presumption on the responsibility of the contractor by making him a guarantor to compensate for the full damage to the goods during the loading and unloading operations, nor did he make his mistake presumed, but the plaintiff must prove That he or one of his subordinates committed a mistake that caused damage to the goods.<sup>(10)</sup>

This topic will be divided into several demands, in each of which we address one of the conditions contained in the bill of lading, the statement of their impact on the responsibility of the contractor, as follows:

### **2.2 The First Requirement**

#### **2.2.1 Non-liability clause before and after cranes**

This condition stipulates the non-liability of the carrier for the goods before they are identified under the cranes at a port (before shipment) or after they are placed under the cranes at a port of destination.

According to the text of Article 227/1 of the Maritime Trade Law<sup>11</sup>, the goods are in the custody of the carrier from the moment he receives them from the shipper at the port of shipment until they are delivered to the consignee at the port of discharge. The carrier is liable for loss and damage to the goods.

(8) The bond of subordination is established even if the subordinate is not free to choose his subordinates when he has an actual authority in supervision and direction (Civil Repeal judgment, 24/10/1963 session, Q. 14, p. 974, Abdul Razzaq Al-Sanhoury, Mediator in Civil Law (Part 1), Second Edition, 1964, Clauses 580-590, as well as Counselor: Hussein Amer, Civil Liability, 1956, Clause 278, and Professor: Muhammad Kamal Abdel Aziz, Civil Code in the Light of Fiqh and Judiciary, 1980, p. 161 and beyond.

(9) The text of Article 151 of the new Maritime Trade Law (L.8 of 1990)

(10) The marine contractor shall be asked for the work entrusted to him about his mistake and the error of his subordinates, which is a mistake that must be proven. And for any damage to the ship or the goods, and his failure to deliver the goods at the agreed time and condition as he received them is a presumption of the occurrence of his fault until he proves that the damage is due to a cause foreign to him, in the text of Article 150-151 of the Maritime Trade Law, as the responsibility of the contractor is based on the idea of the error that must be proven, not the mistake that is assumed under the text of Article 150. Therefore, the contractor becomes responsible for the entire damage, which contradicts what was decided by Article 151. 10The provisions for limiting liability stipulated in Article 233 of the same law shall apply to the contractor, which indicates the determination of his liability similar to the liability of the marine carrier, which is based on the idea of a presumed error, not an error that must be proven, as there is no limitation of liability in light of the error that must be proven. The two texts, which makes it difficult to combine the two texts in practical application, because changing one of them requires legislative amendment.

(11) The carrier guarantees the loss and damage of the goods if the loss or damage occurred in the period between the carrier's receipt of the goods at the port of shipment and his delivery at the port of discharge to the owner of the right to receive or deposit them. 158, pp. 168-169

This is in accordance with the text of Article 236 of the same law, which nullifies every agreement made prior to the occurrence of the accident that resulted in the damage, the object of which is to exempt the carrier from liability for loss or damage.

National legislation is consistent with the Hamburg Convention of 1978 (Article 4) and French National Law (Article 27), whereas the goods are in the custody of the carrier from the time of receiving them from the shipper at the port of shipment until they are delivered to the consignee at the port of discharge, and he is responsible for them during the period in his custody.

Any contained condition in the contract of sea carriage, in the bill of lading or in any other document evidencing the contract of maritime carriage that is directly or indirectly in violation of the provisions of the Convention shall be considered null and void to the extent of its violation.<sup>(12)</sup>

Hence, the condition of non-liability before and after the cranes appears null and void, as it exempts the carrier from liability for the loss or damage of the goods during the period in which the goods are in his custody.

However, according to the agreement, the period prior to shipment and following unloading falls within the time scope of the carrier's responsibility.

With regard to the Brussels Treaty, regulates the sea voyage from the start of shipment to the end of unloading. As for what precedes this stage and what follows it, it is subject to legal regulations different from the treaty, and therefore there is nothing to prevent the carrier from including in the bill of lading any requirements or exemptions regarding his responsibility for the loss of goods or damaged before shipment or after unloading in accordance with the text of Article of the Treaty.

According to the foregoing, the condition aims to exempt the carrier from liability for the preceding or subsequent phase of the sea voyage, is healthy as long as there is no violation or conflict with the principles of the national law that represents the sovereignty of the state, so the carrier who wants to adhere to this condition must prove Loss or damage occurred outside the time limit of his responsibility.

Pursuant to the judicial presumption, when it is not possible to determine the time or time of the occurrence of the damage, it is assumed that it occurred during the purely maritime phase.<sup>(13)</sup>

The carrier who wants to adhere to this condition must prove that the loss of the goods occurred in the first or third stage of the contract of sea carriage (that is, the stage prior to shipment or the stage after unloading)<sup>(14)</sup>.

From the foregoing, it is clear that the condition of non-liability before or after the cranes does not apply to the marine contractor, as it is limited to the carrier because the contractor is only responsible for his personal mistakes or the mistakes of his subordinates in relation to the material works of loading and unloading or the works related to these operations and which he is entrusted with their implementation.

### **2.3 The Second Requirement**

#### **2.3.1 Condition of the shipper to bear the risks and expenses**

**This condition has two parts:**

- **First:** charging the risks of shipping and branching, i.e., the loss or damage of the two processes, the responsibility of the shipper or the consignee.
- **Second:** making the expenses of the two operations the responsibility of the shipper or the consignee.

With regard to the first part, the matter of its validity or invalidity depends on the extent of the carrier's commitment to the loading and unloading processes because the extent of his commitment to them takes the place of his responsibility for the damages to the goods during them without regard to any contrary condition.

In case of the carrier's commitment to loading and unloading, the shipper or the consignee cannot recourse to the marine contractor, as his return is to the carrier himself, unlike if the shipper or the consignee is committed to contracting with a contractor

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that Article 227 began in its discussion of the provisions of liability for loss and damage by defining the principle of liability by saying that the carrier is a guarantor of loss and damage, an expression that carries the meaning that liability is the origin and does not need to be established, and that its denial is an exception that requires evidence to be established.

(12) Article 23/1 of the Hamburg Convention, and Article 29 of French law 184/6/1966.

(13) The Treaty divided the maritime transport contract into three stages: the first from the carrier's receipt of the goods until the start of shipment, the second, which is the pure stage from the start of shipment to the completion of unloading, and the third from the end of the unloading process until the actual delivery of the goods to the consignee.

(14) See Dr. MUSTAFA KAMAL TAHA, Maritime Law, Alexandria, New University House, 1998 AD, item 526

to carry out the loading and unloading operations, so their return to him is under contractual responsibility without reference to Transporter <sup>(15)</sup>.

With regard to the shipper or the consignee regarding the expenses they bear from the shipping and unloading operations, whoever is obligated to carry out the two mentioned operations is correct in all cases because usually, the bills of lading include a typical condition to authorizing the carrier in his selection of the contractor for the account of the shipper or consignee<sup>16</sup>. In this case, the consignee may refer the responsibility to the marine contractor because he was the original in the contract with him, and the carrier only intervened in his capacity as his representative.

However, the origin - according to the text of Article 215/1 of the Maritime Trade Law - is carrying out the loading and unloading operations fall within the carrier's obligations unless there is an agreement to the contrary, which means that if it is agreed in the bill of lading that the shipper and the consignee will carry out them, then it is The condition that the shipper or the consignee bears the risks of loading and unloading is correct because these two operations are outside the scope of the carrier's obligations and therefore outside the scope of his responsibility.

If the bill of lading does not include such an agreement, then this condition in its part related to making the loading and unloading risks shall be borne by the shipper or the consignee shall be void pursuant to the text of Article 236 of the same law <sup>(17)</sup>, as it is an agreement that exempts the carrier from liability for loss or damage.

With regard to the validity of this condition in both the Hamburg Convention or in French national law, it has been previously stated that it is not permissible to agree to transfer the burden of carrying out the loading and unloading operations on the shoulders of the shipper and the consignee, as they are two operations that fall within the obligations of the marine carrier, whose time scope is determined since his receipt of the goods from the shipper at the port of shipment until their delivery to the consignee at the port of discharge (Article 4 of the Hamburg Convention, Article 27 of the French National Law) and loading and unloading of the goods necessarily take place during that period.

Article 23/1 of the Hamburg Convention and Article 29 of the French Law nullify every condition contained in the bill of lading in place of exempting the carrier from the liability specified in their framework. The two operations are the responsibility of the shipper, or the consignee is null and void.

With regard to the Brussels Bills of Lading Treaty, it is noted that the first article, paragraph (e) of the treaty explicitly, lists the processes of loading and unloading within the scope of the maritime phase to which the provisions of the treaty apply, and the third article, item II, obliges the carrier to load and unload the goods, and at the same time article three prohibits the item Eighth, the carrier must include in the bill of lading any condition or agreement that mitigates or modifies the liability established by the treaty on him, and then builds on those texts as a result of the inclusion of any condition that makes the risks of shipping and unloading on the shipper or consignee in the bill of lading lead necessarily to exempt the carrier from liability for his obligation to load and unload the goods, which is inconsistent with the provisions of the agreement, and then such a condition is null and void.

Regarding the specificity of the second part of the condition that the shipper or the consignee bear the expenses of the shipping and unloading operations, it is true in all cases, whoever is obligated to carry out the two operations, as the agreements on the fare, amount and time of payment are outside the scope of the treaty, and then the parties remain free in this scope of the contract of carriage. <sup>(18)</sup>

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<sup>(2)</sup>This meant that the lawsuit is filed against the contractor, who is responsible for the loss or damage to the goods, towards the one who requested his services, the carrier, the consignee or the shipper, during the period of carrying out his duties and not for the damages that occur before or after them, according to the general rules in obligations and contracts as they are deemed the responsibility of the contractor in facing the recipient of the service is a contractual responsibility based on its three pillars: error, damage and causation. However, if the carrier is the one who entrusted the contractor to carry out the work based on instructions from the concerned person with the goods, or on the basis of a condition contained in the bill of lading or the lease agreement, then he the carrier must notify the marine contractor of this, so that he knows for whom he works, and against whom he is responsible. However, the contractor's responsibility is not only established in case of non-performance of the entrusted operations to him, also in case of delay in the implementation of those operations. However, he is subject to a lawsuit in case of his delay in carrying out the loading or unloading operations at the agreed time as the termination of his operations after the agreed period, unless he proves that the delay was caused by third parties.

(16) Dr. Mustafa Kamal Taha, *The Origins of Maritime Law*, Alexandria, first edition, edition of 1952 AD, item 372, Dr. MAHMOUD SAMIR AL-SHARQAWI, *Maritime Law*, Arab Renaissance House, Cairo, second edition, 1987 edition, item 226.

(17) Which stipulates that any separation made prior to the occurrence of the accident that resulted in the damage shall be null and void and the subject of which is one of the following:

- A- Exempting the carrier from liability for loss or damage to the goods.
- B- Modify the burden of proof placed by law on the carrier.
- C- Limiting the liability of the carrier to less than what is stipulated in Paragraph (1) of Article 233 of this Law.
- D- Assignment to the carrier of rights arising from insurance of goods or any other similar agreement.

(18) Dr. Abdul Rahman Salim, *Conditions for Exemption from Liability According to the Bills of Lading Treaty*, 1956 Edition, p. 57

Clause F.I.O<sup>(19)</sup>, which is included in bills of lading, does not have the effect of placing loading and unloading on the shipper or consignee, in the application of which it is stated that Clause F.I.O does not target the carrier's liability but only specifies the terms and price of carriage.<sup>(20)</sup>

## **2.4 The Third Requirement**

### **2.4.1 Loading and discharging condition on barges**

Loading and unloading on barges mean the case in which the ship does not lie on the berth but is received at the anchor in the waiting area outside the port. Received in the waiting area outside the port to barges next to it, then the barges transport the shipment to the berth, where it is unloaded, and the condition often includes that the shipper or the consignee bears the risks of loading and unloading operations on the barges.<sup>(21)</sup>

The question that arises here is whether the loading takes place at the time when the goods are placed on the barges or at the time when the goods are placed on board the ship, as well as with regard to unloading, does it take place at the time when the goods are placed on the barges or at the time when they are placed on the quay?

With reference to the context of Article 215/1 of the Maritime Trade Law, the carrier is obligated to load and unload the goods on the ship unless otherwise agreed upon.

That is to say, the carrier may agree on what is contrary to this provision by transferring the burden of carrying them on to the shipper and the consignee, a matter whose existence is achieved by the carrier's condition that he is not responsible for the damages that befall the goods during.

The validity of the condition and the lack of responsibility of the carrier for damages to the goods while they are on barges in light of the Hamburg Convention and the French national law, according to the agreement that determines the time of the carrier's receipt of the goods from the shipper and the time of its delivery to the consignee.

If it is agreed that the carrier's receipt of the goods from the shipper at the port of shipment is considered when the barges loaded with goods arrive at the side of the ship and that delivery is carried out in the same way by unloading the goods from the ship to the barges, then the condition is true regarding bearing of the shipper or consignee to the risk of loss or damage that it is attached to the goods while they are in barges on their way from the dock to the side of the ship, and vice versa while they are on their way from the side of the ship to the dock. This condition does not apply to the contractor as his work is limited to the shipping period or the shipping process itself to and from the ship and does not extend beyond that.

Transport time on barges is an integral part of the maritime transport process in the concept of the Convention.<sup>(22)</sup>

Through a comparison to the texts of the Brussels Treaty, we find that the opinion differed regarding the issue of whether the shipment takes place at the time when the goods are placed on the barges or at the time when they are placed on the ship, and whether the unloading takes place at the time when the goods are placed on the barges or at the time when they are placed on the dock, the treaty expressly applies to the stage that begins from shipment to unloading, and there is no provision in the treaty that prevents the shipper or carrier from agreeing that the shipping process according to Article 1 (e) of the treaty has specified that "the carriage of goods it extends to the time that elapses between loading the goods on the ship and unloading them from it, except that the definition of loading and unloading is not covered by the treaty"<sup>(23)</sup>.

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(19) **Free delivery - of -Free** in and out is a term used in charter parties and vacancy notices, which means that the goods are loaded on the ship or unloaded without the ship owner incurring any expenses and obligated to pay them by the charterer (see this in detail Dr. KAMAL HAMDI, Contract of Loading and Unloading, Alexandria Monsha Al-Maaref, 2007 edition, footnote, p. 62)

(20) Judgment to set aside the hearing of 26/12/1988, Appeal 1247, S. 53 Q.

(21) The use of barges is in the following cases: If the geographical conditions or the insufficiency of the facilities in the port do not allow the ship to go to the berth, if the prohibition from heading to the berth is due to the rules of its command, customs or internal organization of the port, if the intervention of the barges is due to a decision The master or the agent considers him to be better in the shipping process.

(22) Judgment of the High Court of Justice in England, session 13/11/1935, round 34-205.

(23) If it is agreed in the bill of lading that loading and unloading from and on barges is the responsibility and risk of the shipper or consignee, the sea phase of transportation does not begin in accordance with the treaty unless the goods are placed on board the ship and ends at the time the goods leave the ship and are placed on barges (Appeal judgment Alexandria, session 21/5/1950, published in the Journal of Legislation and Judiciary, No. 3 p. 47, and the ruling stipulates that unloading ends with placing the goods on barges) Based on this ruling, the carrier may adhere to the condition that he is not responsible for the destruction or damage of the goods after unloading in one of the barges. That is, outside the maritime phase that is subject to the provisions of the international treaty, but if there is no express agreement in the bill of lading to use barges in the process of loading and unloading, the transport by barges falls within the maritime transport in accordance with the treaty and therefore the contractor who carries out the loading and unloading operations is considered affiliated with the carrier and then collides with the condition Exemption from liability for the stage of transporting by barges with the prohibition contained in Article 8/3 of the treaty and shall have no effect, but this The opinion was not approved, because the provisions of the agreement are related to public order and

## 2.5 The Fourth requirement

### 2.5.1 Delivery condition under cranes

Unloading and handling should not be confused, whereas unloading is a physical act, while handling is a legal act<sup>(24)</sup>, that entails the expiration of the contract of maritime carriage and handling is often later if unloading is the responsibility of the carrier, and handling may be prior to unloading when it is included in the bill of lading the condition of delivery under cranes if according to for this condition, the goods are handled onboard the ship and the consignee is obligated to unload the goods<sup>(25)</sup>.

The legally recognized delivery, as we have already mentioned, is the actual delivery. It is a legal process that is distinguished from unloading, which is a physical process<sup>(26)</sup>, which is the last stage of the transport contract. The judiciary decided that the consignee should be able to physically and physically examine the goods<sup>(27)</sup>, and this judiciary agrees with the rules of Hamburg and Rotterdam, and it is customary for the goods to be delivered by marking the delivery on the shipping document and then submitting it to the master or to the representative of the carrier.<sup>(28)</sup>

With delivery, the contract of carriage ends and the carrier's responsibility to maintain the goods<sup>(29)</sup>, and the lesson in delivery, is the actual delivery that takes place after examining and inspecting the goods to verify their conformity with what is included in the bill of lading<sup>(30)</sup>.

The responsibility of the carrier in this condition begins as soon as the shipper places the goods under the ship's cranes at the port of embarkation in preparation for shipment and ends with the carrier placing the goods under the ship's cranes at the port of arrival in preparation for unloading them.

The interpretation given to the phrase "under the winches" varies according to the customs of the ports<sup>(31)</sup>. It may mean under the winches on the deck of the ship or under the winches on the quay.

In fact, this condition divides the operations of loading and unloading, so the removal of the goods from the hold to the deck of the ship is carried out by the carrier, but its exit from the ship to the berth falls on the consignee, which in this case is imagined with the intervention of contractors for unloading or one contractor, but for the account of two people respectively.<sup>(32)</sup>

Under the provisions of the Maritime Trade Law, the condition is valid on the basis that the obligation to load and unload in this law, although it is the responsibility of the carrier, it is permissible to agree otherwise.

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cannot be violated, and therefore the parties have no freedom to determine the starting or ending moment. , previous reference, pg. 136-137, where it is based on the ruling of the Alexandria appeal, session 5/5/1953, which ruled that the meaning of unloading the goods from the ship in Article One of the treaty is unloading on the berths, not linking its fate to the dates, nor leaving it hanging in the air on the cranes). Also see in the same regard the author of Dr. Kamal Hamdi, the previous position, p. 6798, where he presented His Excellency the opinion of Dr. Ali Al-Baroudi and his receipt of the unpublished ruling of the Alexandria Court of First Instance, issued on 3/6/1969, and his criticism of some opinions and directions in this regard.

<sup>(24)</sup> The difference between actual and codeing handling lies in the fact that the contract of sea carriage does not expire and the carrier's responsibility for the goods ends only by handing them over to the consignee or his representative for actual delivery, so that their possession passes to him and he is able to examine and verify their condition and amount.

<sup>(25)</sup> Dr. Fayez Abdul Rahman, 2006. Contractual and default responsibilities and the extent of the victim's eligibility to combine or choose between them. Cairo, Arab Renaissance House, P 154.

<sup>(4)</sup> Appeal No. 418 of Judicial Year 24, Judgments of the Technical Office, Civil Judgments 2005, Part One, pg. 546.

<sup>(27)</sup> This is what the Egyptian Court of Cassation went to in its ruling, where it says, "His responsibility for it does not end unless it is actually handed over to the addressee." Commercial Cassation, Session 26/12/1990, Appeal No. 37 of 54 BC, Vol. pg. 1429.

<sup>(28)</sup> Dr. Emad AbdElhai, 2005, Explain of Maritime Law, United Arab of Emirates, University of Sharjah Library, P.317.

<sup>(29)</sup> Dr. Ali Al-Baroudi, (1983). Principles of Maritime Law. Alexandria: Knowledge facility. P 65.

<sup>(30)</sup> It is customary in the Egyptian Cassation Court that unloading the message from the ship to the barges at the port of arrival is a material act that does not indicate the complete actual delivery of the goods. See the ruling of the Egyptian Maritime Court of cassation, session 27/3/1989. Appeal No. 1536 S53 BC.

<sup>(31)</sup> It means under the winches on board the ship or under the winches on the quay, according to the first interpretation, the condition is that the carrier receives the goods from the shipper on board the ship under its cranes and that the consignee must receive the goods from the carrier on board the ship under its cranes.

<sup>(32)</sup> See Dr. ALI JAMAL AL-DIN AWAD, an article titled (The Modern Maritime Judiciary in Shipping and Unloading Issues), Journal of Law and Economics, 1955, item 50, and then if the contractor sustains damage to default claim. The marine contractor is only exposed to raising his contractual responsibility by the one who contracted with him in application of the impossibility of selection between raising contractual liability and fault liability, and it is not permissible for third parties who have not contracted with the marine contractor to raise their responsibility absolutely, as their contractual responsibility may not be raised because they are not related to the marine contractor as a contract, and it is not permissible for them to raise their tort liability. It is not permissible to refer to the claim of fault liability in light of the current texts against the marine contractor for the loss or damage of the goods during carrying out the assigned loading and unloading operations.

With regard to the interest of the marine contractor, the Egyptian legislator has obligated the marine carrier who entrusted a contractor to carry out the work based on instructions from the person concerned or based on a condition in the bill of lading or in the ship lease contract to notify the marine contractor of that.<sup>(33)</sup>

The wisdom of the dangers lies in the contractor's knowledge of the reality of the person with whom he is contracting and who is liable to be referred back to him, and it is not sufficient just to warn because the imposition mentioned in the text of the article is the contractor's knowledge of the carrier's capacity

The legislator did not provide the penalty resulting from the carrier's omission to notify the marine contractor, but he has the right, in the application of the rules for contracting under a pseudonym, not to return the client to respond, although some contrary aspects, because the lesson is who the contractor works and not whom assigned him, and not to deprive the consignee of recourse. on the contractor.<sup>(34)</sup>

However, the consignee has recourse against the sea carrier not as an agent who erred in carrying out his agency but as a sea carrier responsible for the damages to the goods during unloading.<sup>(35)</sup>

With regard to the Hamburg Convention, French national law, as well as the Brussels Treaty, the matter is different. While this condition falls according to the first interpretation of delivery under the ship's cranes, it becomes void as this leads to the shipper committing to the shipping process on the ship while the consignee is obligated to unload it from it, which is what follows Contrary to the provisions contained in these agreements on the basis that it exempts the carrier from some of its obligations, including the commitment to the processes of loading and unloading, which are provisions of public order, and it is not permissible to agree to violate them.

With regard to the condition according to the second interpretation of delivery under the cranes on the berth, it is considered correct as it is interpreted that the carrier's receipt of the goods from the shipper and their delivery to the consignee is on the quay under the cranes, which means that the carrier is the one who is obligated to carry out the loading and unloading operations

### **3. The Second Topic**

#### **3.1 Legal Determination of Contractor Liability**

##### **3.1.1 Preamble:**

Regarding the desire of the legislator to unify the legal system to which the intervening parties are subject to the implementation of the maritime transport contract, it proceeded to apply the same provisions relevant to identification the responsibility of the sea carrier on the loading and unloading contractor, by determining the maximum limit of the responsibility of the marine carrier and ensuring it with a statement of the cases in which the carrier is deprived of his right to determine his responsibility in accordance with the law, in return for depriving the shipping carrier of including an exemption from liability clause in the bill of lading on the one hand, as well as in terms of releasing his responsibility, which would expose him to a heavy responsibility that may prevent him from continuing his activity and development.<sup>(36)</sup>

The provisions of the responsibility of the marine carrier are related to public order, and therefore the court must work to determine the liability without stopping the carrier's adherence to that, and if the injury claims compensation without stating the officer on the basis of it, the judge shall take into account the upper limit of liability<sup>37</sup>. Below we present the provisions related to the liability of the marine carrier and the extent of their application to the provisions of the contractor's liability in both international agreements and national legislation, in the following claims, mentioned

##### **3.2 The First Requirement**

###### **3.2.1 Determining the liability of the carrier and its impact on the liability of the contractor**

The question arises in this regard about the extent of the impact of the conditions contained in the bill of lading related to the responsibility of the shipping carrier in accordance with the contract of maritime transport, whether in terms of determining or exempting responsibility from the responsibility of the loading and unloading contractor, especially since the provisions of the responsibility of the shipping carrier are related to public order, and this requires that no It is permissible to agree on what is

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(33) The Article Text No. 149/2 of the Maritime Trade Law

(34) Dr. Rifaat Fakhry Abader, Al-Wajeez in the New Egyptian Maritime Trade Law, 1992 edition, pp. 273-274

(35) Dr. Hani Dowidar, Al-Wajeez in Maritime Law (Part One: The Ship), Alexandria, Isha Press, 1993 edition, pp. 462-463

(36) The Maritime Trade Law, as well as the French Law issued on 18/6/1966, specifically mentioned the responsibility of the shipping contractor similar to the legally established limitation of the responsibility of the maritime carrier (Article 151 of Maritime Trade Law, and Article 54 of Law 18/6/1966), and according to these laws the provisions became Which relates to determining the responsibility of the shipping carrier also applies to determining the responsibility of the loading and unloading contractor, and the legislator aims behind this course at the desire to unify the legal system to which the intervening parties are subject to the implementation of the maritime transport contract.

(37) Dr. Ahmed Hosny, International Maritime Transport of Goods, Alexandria, MANSHAAT AL-MAAREF, Edition 1980, item 295.



different from these provisions, but before initiating that, a distinction should be made between whether the condition contained in the bill of lading relates to determining the liability of the carrier to less than or more than what is stipulated in the law. The carrier exceeds the legal limit of liability.

The agreement is absolutely null and void<sup>(38)</sup>, because it was made before the damage occurred, and the responsibility of the marine carrier is from the public order in which the legislator took into account the protection of the interests of the shipper, but if the condition contained in the bill of lading stipulates limiting the liability of the marine carrier to more than the maximum legally established, such a condition is healthy, and there is no difference between the carrier and the shipper<sup>(39)</sup>, and the reason for this is that taking care of the interests of the carrier that was targeted by determining liability is an advantage and not protection, so he may benefit from it or leave it.

Through application the aforementioned provisions regarding determining the responsibility of the loading and unloading contractor, we find that the liability is what is included in the loading and unloading contract and not the bill of lading since the bill of lading regulates the relationship between the carrier and the shipper and the contractor has nothing to do with it.

It will be applied that if the bill of lading includes an agreement to limit the liability of the carrier to more than the maximum limit of liability established by law, although this agreement is valid vis-à-vis the carrier, it has no effect on the responsibility of the loading and unloading contractor who does not argue with it, and his responsibility remains within the scope of the limit the maximum legal prescribed limit without exceeding it in accordance with the provisions of Article 151 of the aforementioned<sup>(40)</sup>, and accordingly, determining the responsibility of the loading and unloading contractor with the same specification determined for the responsibility of the marine carrier, becomes a minimum limit of responsibility for what can be agreed upon with the contractor. It is not permissible to agree on a lower limit than it, and it is a maximum limit that can be judged as long as there is no agreement in the shipping and unloading contract to exceed that limitation.

Provided that the basis for the validity of the legal determination of liability is the occurrence of the damage within the time frame. The contractor's responsibility is the period during which he carries out his operations. Whatever precedes or follows it is outside the scope of his responsibility and then returns to the general rules of liability.

### **3.3 The Second Requirement**

#### **3.3.1 Liability cases to which the statutory limitation applies**

The responsibility of the marine carrier against the shipper arises in three cases, namely the loss<sup>(41)</sup>, damage, or delay in the delivery of the transported goods, and since the referral contained in Article 151 of QTB is related to the application of the provisions limiting liability stipulated in Article 233 of the same law (which are the provisions relating to the liability of The marine carrier) is on the contractor's responsibility, so it can be said that these provisions are limited only to the extent of the legal limitation of the marine carrier's liability set forth in Article 233/1, meaning that the liability is limited according to the text of the article, and this results in:

1. Determining the responsibility of the loading and unloading contractor applies to both cases of loss and damage to the goods which are in the hands of the loading and unloading contractor without the case of his delay in carrying out the loading and unloading operations because of the legal limitation of the marine carrier's responsibility mentioned in Article 233/1 referred to by Article 151 applies to the specification The legal responsibility of the marine carrier in both cases of the loss or damage of the goods, and therefore the enforcement of the provisions of the carrier's delay in delivering the goods also required a text deciding

(38) According to the text of Article 236 of the Maritime Trade Law, any agreement made prior to the occurrence of the accident that resulted in the damage and the subject of which is to determine the liability of the carrier less than what is stipulated in Article 233/1 of the said law shall be null and void. This means that this agreement is valid and invalid if it is made after the occurrence of the accident that resulted in the damage.

(39) As in accordance with the text of Article 237 of the Maritime Trade Law, the carrier may waive all or some of the rights and exemptions assigned to him, and he may also increase his responsibility and obligations, provided that this is mentioned in the bill of lading.

(40) Article 151 of the Maritime Trade Law stipulates that "the provisions governing liability determination stipulated in Article 233 of this law shall apply to the maritime contractor," as Article 233/1 of the same law states that "the liability of any kind for the loss or damage of the goods shall be determined without exceeding two thousand pounds for each parcel or shipping unit, or not exceeding six pounds for each kilogram of the total weight of the merchandise, i.e. the two limits are higher. This means that the provided limitation by the above-mentioned article applies to liability, whether it is contractual, faulty, or arising from the custody of things.

(41) Article 227 of the Maritime Trade Law states that "the carrier shall guarantee the loss and damage of the goods if the loss or damage occurred in the period between the carrier's receipt at the port of shipment and his delivery at the port of discharge to the holder of the right to receive it, or depositing it in accordance with the previous article.

Article 240 also states that:

- 1) The carrier shall be liable for the delay in the delivery of the goods, unless he proves that the delay is due to a foreign cause beyond his control
- 2) The carrier shall be deemed to have delayed delivery if he does not deliver the goods at the time agreed upon, or at the time at which the ordinary carrier delivers them in similar circumstances, if there is no such agreement.

that matter similar to what the legislator did when dealing with the responsibility of the marine carrier for the delay in Article 240/3 of Maritime Trade Law <sup>(42)</sup>.

2. The legal limitation of the contractor's liability applies only in the case of contractual liability without tort liability, where a third party (that is, who is not a method in the shipping and unloading contract or the maritime transport contract) has the right to refer to the contractor for full compensation for the damage, and the latter cannot benefit in this case from determining the liability assigned to him In the aforementioned Article 233/1<sup>(43)</sup>, this is in contrast to the case for the marine carrier who:

The contractor has the right to take benefits from the legally prescribed limitation of liability, regardless of the type of liability, whether contractual or tort.

3. If the bill of lading mentions the number of parcels or shipping units included in the container and considers each of them as an independent unit when determining the upper limit of the marine carrier's liability in cases of loss or damage to these parcels, this provision shall also apply to the limits of liability of the loading and unloading contractor based on the incoming referral In Article 151 to Article 233/2<sup>(44)</sup> and not based on the condition contained in the bill of lading that regulates a relationship between the shipping carrier and the shipper, as it is a relationship that has nothing to do with the contractor.

4. The legal determination of the contractor's liability, which is stipulated in Article 233, based on the reference contained in Article 151, shall be applicable to the contractor's responsibility as long as the loading and unloading contract is executed in an Egyptian port, regardless of the law mentioned in the bill of lading that governs the maritime transport contract on which it was concluded The contract of loading and unloading, i.e. whether the contract of sea carriage is governed by the Maritime Trade Law or the Brussels Treaty for the Unification of Certain Rules Relating to Bills of Lading and its Amendment Protocol of 1968 or the Hamburg Convention of 1978

Based on this, it can be said that whether it is referred by the shipping carrier, shipper or consignee, the liability of the marine contractor is limited in accordance with Article 233, and this article relates only to liability for loss and damage to the goods without responsibility for the delay in the completion of the loading and unloading process, as well as The matter is limited to the goods that are the subject of the marine contracting contract, and therefore the responsibility of the contractor is not limited to the damages to the ship and other goods.

### ***3.4 The Third Requirement***

#### ***3.4.1 Scope of liability to which the legal limitation applies***

The temporal scope of liability is the basis for the validity of its legal determination, and the time scope of the marine carrier's responsibility differs from it with regard to the loading and unloading contractor, as for the first, it is the period between the shipping carrier's receipt of the goods at the port of shipment and his delivery of the goods to the consignee at the port of discharge, this scope is It is different from the second, where it is determined by the period from the contractor's receipt of the goods at the port of shipment until their full shipment in connection with the shipping contract, and from receiving the goods at the port of discharge until they are completely unloaded in relation to the unloading contract. This difference results in the following results:

1. The time scope of responsibility of the stevedoring contractor falls within the time scope of the responsibility of the marine carrier
2. The validity of the legal limitation on the liability of the stevedoring contractor requires that the damage to the goods occurred within the time range of his liability.

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(42) Article 240/3 states that "the amount of compensation awarded to the carrier in case of delay in delivering the goods or part of them may not exceed the maximum compensation stipulated in Paragraph 1 of Article 233 of this law.

(43) For example, if a load from one of the cranes drops the goods subject of the loading contract or the unloading contract on goods for others that were on the quay, and damages occur to those goods, then the legal limitation of the responsibility of the loading and unloading contractor applies only to the responsibility of the contractor for The goods that were loaded on the crane (the place of the loading and unloading contract without his responsibility for the goods of third parties that were on the quay, the contractor remains responsible for compensating the owners of the last goods for the full damage caused to their goods.

(44) Article 233/2 of the Maritime Trade Law states: "If the parcels or units are combined into containers, and the number of parcels or units included in the container is mentioned in the bill of lading, each is considered a separate unit or parcel with regard to setting the upper limit of liability, if the container is not owned of the carrier or provided by him and lost or damaged shall be considered as a separate parcel or unit."

3. The exception contained in the time scope of the marine carrier's liability contained in Article 227/1<sup>(45)</sup> provides for the applicability of the provisions of the marine carrier's liability in the two cases:

A. Coastal navigation between the ports of the Republic, unless otherwise agreed upon

B. Transport is according to the lease contract unless a bill of lading is issued in execution of this transport, whereas the provisions of this responsibility shall be applied from the time of organization the relation between its holder and the carrier. This exclusion shall not be applied to the contractor of loading and unloading, who will be a beneficiary with the limits of the stipulated liability based to Article 233, even the matter is related to loading and unloading of goods which are transported between the ports of the Republic or according to the ship rental contract.

4. The contained conditions in the bill of lading that relate to the time scope of the marine carrier's liability, such as the condition of being aware of liability before and after the cranes, the condition that the shipper or the consignee bear the risks and expenses, and the condition of delivery under the cranes, all of these conditions do not change the time scope of responsibility of the loading and unloading contractor, and therefore they have no effect His right to benefit from the limits of liability established for him by law, as the scope of the contractor's responsibility is

The loading and unloading contract regulates the relationship between the contractor and the party that contracted with him and does not regulate the relationship between the shipping carrier and the shipper<sup>(46)</sup>.

### **3.5 The Fourth requirement**

#### **3.5.1 The extent to which the contractor's subordinates' benefit from the legal limitation of liability**

Pursuant to the text of Article 151 and its decision that the provisions for limiting liability stipulated in Article 233 of the said law shall be applied to the loading and unloading contractor, which is related to determining the liability of the marine carrier, and since this last provision also is applied to the subordinates of the marine carrier, provided that it is proven that the committed mistake by one of them occurred If he performs his job or because of it Article 235 Maritime Trade Law<sup>(47)</sup>, the contractor's

(45) Article 227/1 of the Maritime Trade Law stipulates that the carrier shall guarantee the loss and damage of the goods if the loss or damage occurred in the period between the carrier's receipt at the port of shipment and his delivery at the port of discharge to the holder of the right to receive it, or depositing it in accordance with the previous article.

(1) This means that the shipping contractor is responsible only towards the person who was assigned and no one other than this person has the right to direct the liability claim to the contractor, and this means that there is no legal relation, except between the contractor and who is assigned to work and is contracted with him, and this ruling is just an application of the principle of relativity of the effect of the contract, whereas the principle of the relativity of the effect of contracts expresses the impact of one of the important aspects of the personal nature of the obligation, this principle means that the contract does not produce its effect, except among its parties, so it does not extend them to others, for the contract does not create rights, except for its parties, just as it does not carry others. Therefore, it is not legible for a person other than the carrier, such as the shipper, and the consignee to file a liability claim to the contractor, but if the loading and unloading is the responsibility of the shipper and he was the one who concluded the contract with the contractor, the latter is responsible before the shipper for contractual liability for the loss of the goods or damage during this shipping or unloading process unless it is proven that the loss or damage is due to the carrier's act. If the contractor performs these operations on the basis of a condition in the bill of lading or in the ship charter contract, the carrier must notify the contractor of that, because when the person concerned claims that the carrier has requested to carry out these operations from the contractor, the judge must verify the availability of the notification and prosecution clause, which They arise only on the basis of an agency contract, but if the unloading is the responsibility of the consignee and the latter chooses the contractor, the contractor shall be responsible before the consignee for all loss or damage to the goods during unloading unless it is proven that the loss or damage is due to the carrier's action. Regarding this: Dr. Abdel Hamid Anbar, 2017, The New in Loading, Unloading and Container Handling in Ports, Egypt, Egyptian Book House, P 143. If the unloading is the responsibility of the consignee and the latter selects the contractor, the contractor shall be responsible before the consignee for every loss or damage to the goods during unloading unless it is proven that the loss or damage is due to the carrier's action, based on this paragraph at: Dr. Hisham Al-Araj. Obligations of the sea carrier after the completion of the sea voyage according to the contract of sea carriage of goods, Journal of Business Disputes, Issue (20), 2017. In all of these cases, the contractor shall be responsible to face the shipper or the consignee for any damage or defect that occurs during the shipping or unloading process, as well as for the loss or loss of the goods. Cairo: Journal of Law and Economy, first issue, 2003. The contractor is also questioned about the failure to perform any other stipulated obligation in the contract, as if the agent on behalf of the consignee is obligated to receive the goods or to make the necessary written reservations against the carrier, and the general rules and provisions of the agreement shall be applied to this contractual responsibility. In the case where the carrier is the contractor with the contractor and he is responsible, the responsibility of the carrier does not lead to the exemption of the loading and unloading contractor from liability (also see in this regard: Dr. Yaqoub Yousef, 2009, The legal status of stacking goods and containers on the deck of the ship. Kuwait, Law Journal, P 115.

(47) Article 230 of the Maritime Trade Law states that:

1) If an action for liability for the loss or damage of the goods is brought against one of the subordinates of the carrier, this subordinate may adhere to the provisions of exemption from liability and specifying them, provided that he proves that the error he committed occurred during the performance of his job or because of it.

subordinates can benefit from the same limitation referred to in Article 233/1, because the desired wisdom of determining liability is negated if the injured person manages to circumvent that limitation by referring to the contractor's subordinates as required, full compensation for the damage that occurred from him, and this requires that:

1. If the liability of the subordinates of the loading and the unloading contractor is realized, and the injured party returns to him by requesting compensation for the loss or damage of the goods, this subordinate has the right to adhere to the provisions determining the liability of the contractor, provided that he proves that the error he committed occurred during the performance of his job or because of it.
2. In the event that the injured person returns to both the contractor and his follower, it is the aim of circumventing the provisions of determining liability by obtaining a compensation greater than the legally specified. charging and discharging.<sup>(48)</sup>
3. Suppose the bill of lading stipulates that the sea carrier is not liable for the errors of its subordinates, for example, the exemption contained in Article 4, Paragraph 2 (a) of the Brussels Treaty on the Unification of Certain Rules Related to Bills of Lading and its Amendment Protocol for the year 1998<sup>(49)</sup>, exempting the sea carrier from liability for errors in the navigation or in the management of the ship resulting from the actions, negligence or error of the master, the sailor, the pilot or the carrier's employees in the navigation or the management of the ship. This condition does not bind the stevedoring contractor and does not affect the right of the subordinates of the stevedoring contractor to benefit from the aforementioned limitation of liability to it in Article 233/1 because the bill of lading regulates the relationship between the shipping carrier and the shipper, and the maritime contractor has no right to enter into this regulation.

#### **4. Conclusions and Recommendations**

##### **4.1 First: The Conclusions**

1. The legislator did not put a presumption on the responsibility of the contractor by creating him a guarantor of the safety of the goods during the loading and unloading operations, nor did he make his mistake presumed, but the plaintiff must prove that he or one of his subordinates committed a mistake that led to damage to the goods.
2. The contained conditions in the bills of lading shall not be applied to the marine contractor, as they are limited to the carrier, as the contractor is only responsible for his personal mistakes or the mistakes of his subordinates in relation to the material works of loading and unloading or the work related to these operations and whose execution he is entrusted with.
3. The contractor's work is limited only to the period of loading and unloading to and from the ship and does not extend beyond that, and therefore the time scope of the contractor's responsibility falls within the time scope of the responsibility of the marine carrier.
4. The legislator was not subjected to the resulting penalty from the carrier's omission to notify the marine contractor of the truth of whom he is contracting with, who has the right to refer to him with responsibility.
5. The reference in the text of Article 151 shall be applied to the relevant provisions to the legal determination of the liability of the marine carrier in the same way as the responsibility of the contractor, within the scope in which it can apply to the contract of loading and unloading.
6. The contractor's subordinates have the right to adhere to the provisions limiting liability, provided that it is proven that the damage occurred during or because of the performance of his job.
7. The legal limitation of liability is applied if the recourse against the contractor is contractual and not tort.
8. The one who has the right to return by default is the absolute third party in relation to the contracts of sea carriage and loading and unloading.

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2) The amount of compensation awarded to the carrier and his dependents may not exceed the maximum limit stipulated in Paragraph (1) of Article 233 of this law.

3) It is not permissible for the dependent carrier to insist on limiting liability if it is proven that the damage resulted from an act or omission with the intent to cause harm or with indifference accompanied by an awareness that harm may occur.

(48) Article 235/2 The amount of compensation awarded to the carrier and his dependents may not exceed the maximum stipulated in (paragraph 1) of Article 233 of this law.

(49) This exemption provides for Article 4, Paragraph 2 (A) of the Bills of Lading Treaty, which states that "the carrier or the ship shall not be liable for the loss or damage that occurs to the goods as a result of the actions, negligence, or default) of the shipmaster or the seafarer. or the pilot or the carrier's employees in the navigation or management of the ship

9. The contractor shall be responsible for his errors and the errors of his subordinates in relation to the waterworks related to loading and unloading or the works related to these operations, and he shall be entrusted with their implementation only. There is no responsibility outside his time scope.
10. The conditions contained in the bill of lading that relates to the time scope of the marine carrier's liability, such as the condition of being aware of liability before and after the cranes, the condition that the shipper or the consignee bear the risks and expenses, and the condition of delivery under the cranes, all of these conditions do not change the time scope of the responsibility of the loading and unloading contractor, and therefore not It has an impact on his right to benefit from the legally established limits of liability, as the responsibility of the contractor is the loading and unloading contract that regulates the relationship between the contractor and the party that contracted with him, and not the bill of lading that regulates the relationship between the shipping carrier and shipper.
11. The legal determination of the responsibility of the loading and unloading contractor stipulated in Article 233 based on the reference contained in Article 151 shall be applicable to the responsibility of the contractor as long as the loading and unloading contract is executed in an Egyptian port, regardless of the law mentioned in the bill of lading that governs the contract of sea carriage on its occasion The contract of loading and unloading has been concluded, i.e. whether the contract of sea carriage is governed by the Maritime Trade Law, the 1978 Hamburg Convention or the Brussels Bills of Lading Treaty

#### 4.2 Second: Recommendations

1. We wish to create a legislative amendment in the Maritime Trade Law by the separation between two articles 150 and 151 to eliminate the contradiction of them, as the first of them is based on an error that must be proven, while the second is based on the idea of a supposed error.
2. We recommend the participation of the legislator to deprive the contractor and his subordinates of taking benefits from the legal limitation of liability assigned to them in case any of them commit a grave mistake or deliberately causes damage to the goods during the process of loading and unloading, similar to what is stipulated by the legislator regarding the marine carrier.
3. We wish that the legislator will cooperate by adding the case while the contractor delays in carrying out the loading and unloading operations within the cases in which his responsibility falls upon the loss or damage of the goods.

**Funding:** This research received no external funding.

**Conflicts of interest:** The author declares no conflict of interest

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