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From Divergence to Convergence: Developing a Common Legal Regime for Maritime Cargo Claims in the GCC

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Abstract
Maritime cargo claims in the Gulf Cooperation Council arise within a tightly knit shipping environment, yet they are decided under six national legal systems. This article examines the fragmentation and harmonisation of cargo claims law in the United Arab Emirates, Saudi Arabia, Bahrain, Kuwait, Oman and Qatar. Using doctrinal, functional comparative and normative approaches, it compares domestic maritime legislation with the Hague, Hague-Visby, Hamburg and Rotterdam Rules, with English and Singaporean case law as an interpretive reference. The analysis covers carrier obligations, burden of proof, defences, limitation, contractual clauses, notice and time bars, evidence, arbitration and enforcement. The study concludes that fragmentation is not mainly caused by differences in substantive liability rules. All six systems share a common liability structure: custody-based responsibility, seaworthiness and cargo care, staged burden-shifting, conditional limitation and the priority of mandatory law over contractual freedom. Divergence arises chiefly from statutory drafting, the period of responsibility, evidentiary and expert practice, translation, judicial interpretation, limited publication of judgments and enforcement. Harmonisation is therefore asymmetrical: the language of liability has converged, but outcomes have not. International conventions are essential but insufficient, and functional convergence already exists through arbitration, marine insurers, Protection and Indemnity Clubs and claims professionals, although public law does not organise it. The article proposes structured functional convergence, realised through a modular Model Gulf Cooperation Council Maritime Cargo Claims Law that harmonises substantive principles, judicial reasoning, procedural expectations, private ordering and regional review while preserving national legal autonomy.

Keywords: GCC Maritime Law, Cargo Claims, Carrier Liability, Legal Harmonisation, Functional Convergence, Model Law

1. Introduction

Maritime transport carries the large majority of world trade by volume.[1] Risk allocation for the loss, damage, delay and misdelivery of goods consequently influences freight prices, insurance premiums, contract design, settlement practices and the decision of traders to use specific routes and ports.[2] The number of parties involved in a single movement, and the fact that goods may pass through several jurisdictions under bills of lading with foreign jurisdiction, arbitration or choice of law clauses, also make cargo claims complicated.[3] When a dispute arises, jurisdiction, applicable law, evidence and enforcement can be as important as liability itself. The international response has been a sequence of carriage conventions: the Hague Rules of 1924, the Visby Protocol of 1968 and the SDR Protocol of 1979, the Hamburg Rules of 1978 and the Rotterdam Rules of 2008.[4] Each of them aimed at uniformity, but their coexistence has itself become a source of fragmentation, as states have adopted different regimes, adapted these regimes or selected rules from several of them.[5]

[1] [1].
[2] [2]; [3].
[3] [4]; [5].
[4] [6]; [7]; [8]; [9]; [10].
[5] [11]; [12].

The Gulf Cooperation Council presents this problem in a concentrated form. Jebel Ali, Khalifa Port, Dammam, King Abdullah Port, Hamad Port, Sohar, Khalifa Bin Salman Port and Shuwaikh are regional transhipment and distribution centres, and national diversification plans focus on ports, free zones and logistics corridors. The GCC has pursued a customs union and a common market agenda for greater integration, and new interfaces between sea and inland carriage have emerged from rail projects such as Etihad Rail and the planned GCC railway.[6] This has not been the case with private maritime law. Every state has its own maritime law, rules of procedure and courts, which means that goods transported through an integrated network can be subjected to several legal systems within a single voyage.

The research problem follows from this mismatch. Although cargo claims are extensively regulated at domestic and international level, there are material differences in law, procedure, judicial practice and institutions between the jurisdictions that may reduce predictability, and no regional framework yet explains how these differences can be reconciled through formal and functional mechanisms of harmonisation. Diversity between sovereign systems is expected. The concern is whether it produces materially unpredictable outcomes for commercially comparable disputes. This question is largely unanswered by existing scholarship. In general, harmonisation is measured through convention adoption or textual reproduction, which gives very little indication of the consistency of outcomes. The GCC jurisdictions are usually discussed separately, and the cargo law of Kuwait has received particularly limited attention. Judicial interpretation is treated as secondary to legislation, although it is the courts that give substance to concepts such as due diligence, causation and serious fault. The integration of arbitration, insurance, P&I Club practice and settlement behaviour is weak, and few proposals take into account the political fact that there is little chance of a total unification of six national codes.

The purpose of the study is to create a coherent and viable framework for the harmonisation of maritime cargo claims in the GCC by bringing together substantive law, judicial interpretation, procedural practice, dispute resolution and insurance mechanisms. The main research question is: how can such a framework be developed without losing the legal autonomy of the individual member states? Subsidiary questions explore the current regulation of claims, areas of convergence and divergence, the judicial approach to seaworthiness, due diligence, causation, proof and limitation, the role of arbitration, insurers and P&I Clubs, and the nature of a GCC model law. Five research propositions structure the analysis. P1: differences in legislation, procedure and judicial interpretation materially contribute to inconsistent outcomes across GCC jurisdictions. P2: formal legislative alignment is not enough where judicial reasoning, evidentiary practice and institutional approaches remain different. P3: arbitration, marine insurance, P&I Clubs and other private claims mechanisms generate functional convergence despite legislative differences. P4: greater consistency in judicial interpretation and in the treatment of evidence can provide greater predictability without uniformity in the law. P5: a layered regional framework is more feasible than relying on a single international convention. They are analytical expectations to be tested, not predetermined conclusions.

The article makes three contributions. It treats the GCC as a single regional legal space for cargo claims. It goes beyond statutory similarity to functional predictability, and incorporates judicial reasoning, evidence, procedure, arbitration and insurance into the analysis. It formulates the idea of structured functional convergence and then turns this idea into a modular model law appropriate to the constitutional diversity of the region.

1.1 International carriage regimes and the persistence of fragmentation

The Hague Rules substituted a duty of due diligence before and at the start of the voyage for the absolute warranty of seaworthiness, imposed a duty to properly and carefully load, handle, stow, carry, keep, care for and discharge the goods, and provided a list of exceptions, such as errors in the navigation or management of the ship and fire not caused by the actual fault or privity of the carrier.[7] The Visby and SDR Protocols set limits of 666.67 Special Drawing Rights (SDR) per package or unit or 2 SDR per kilogram, whichever is higher, added a container rule and retained a one-year time bar.[8] Their commercial familiarity is the reason for their continued influence, even in the GCC, although the nautical fault exception and the tackle-to-tackle period of responsibility have long been criticised as unfit for container and multimodal trade.[9] The Hamburg Rules introduced presumed fault instead of the exception catalogue, abolished the nautical fault exception, extended the period of responsibility from receipt to delivery in port, increased the limits to 835 SDR per package or 2.5 SDR per kilogram and adopted a two-year time bar.[10] Their adoption by the major maritime states was limited. The Rotterdam Rules aimed to reconcile both models in a door-to-door framework covering multimodal carriage with a sea leg, recognising electronic transport records, imposing higher limits of 875 SDR per package or 3 SDR per kilogram and introducing a two-year time bar.[11] They have been criticised for being too complex, and they have not attracted the twenty ratifications that Article 94 requires for entry into force.[12]

Recent research strengthens the impression of fragmentation and identifies other harmonising methods. As the multimodal literature shows, the debate between network and uniform liability models is not settled, and the governing rule depends, in many cases, on the location of the loss.[13] Studies on electronic bills of lading demonstrate that, since the Rotterdam Rules have not entered into force, harmonisation has shifted to facilitative instruments, including the UNCITRAL Model Law on Electronic Transferable Records of 2017, which Bahrain adopted in 2018 and the Abu Dhabi Global Market followed in 2021, as well as domestic reforms such as the United Kingdom's

[6] [13]; [1].

[7] [6], arts III(1)-(2), IV(2); [2].

[8] [14], arts III(6), IV(5).

[9] [11]; [3].

[10] [9], arts 4, 5(1), 6, 20.

[11] [10], arts 8-9, 12, 17, 59, 62; [15].

[12] [10], art 94(1); [16]; [17].

[13] [18]; [19].

Electronic Trade Documents Act 2023.[14] This move from binding conventions to model laws is very relevant to the GCC. None of the conventions is comprehensive: Hague-Visby gives familiarity, Hamburg gives a clearer structure based on presumptions and Rotterdam gives a response to multimodal and electronic trade, but each has its costs.

1.2 Judicial interpretation as a source of legal meaning

Carriage conventions are based on open-textured standards whose substance is provided by courts. In *Volcafe*, the Supreme Court of the United Kingdom found that the carrier bears the legal burden of proving that it took reasonable care or that an excepted peril applies.[15] *The CMA CGM Libra* held that a defective passage plan made the vessel unseaworthy, thus limiting the practical reach of the nautical fault exception.[16] *The Eurasian Dream* connected a fire loss to the incompetence of the crew and insufficient equipment, so that the fire exception gave way to unseaworthiness.[17] *FIMBank v KCH Shipping* confirmed that the one-year time bar applies to misdelivery after discharge.[18] Decisions on straight bills of lading, and on whether a time-barred cargo claim can still be set off against freight, show that outcomes are just as sensitive to interpretation.[19] Such authorities are not binding on the courts of the GCC states, where civil law traditions prevail and the publication of maritime judgments is not uniform. Their importance here is to demonstrate that convergence measured only by text is exaggerated. Without a common jurisprudence, the same words may lead to different legal consequences.

1.3 Comparative law, legal transplants and legal pluralism

The theoretical framework is based on three bodies of work. The functional approach of Zweigert and Kötz compares the way in which systems solve the same factual problem, not the way in which they name their rules.[20] The approach is well suited to cargo claims, as loss, damage or delay is materially the same problem in Dubai, Dammam or Doha. According to Michaels, functional equivalence is not presumed but must be demonstrated, and the study addresses this by covering procedure and evidence as well as liability rules.[21] The second is the debate on legal transplants. Watson argued that rules can easily be transferred between legal systems, while Legrand maintained that rules removed from their cultural and interpretive context cannot be transferred in a meaningful way.[22] In Arvind's account of the 'transplant effect', the success of a harmonised rule depends on the receiving institutions.[23] The debate has a direct link with GCC statutes that take the text of a convention without the interpretive framework that accompanies it elsewhere. The third is the literature on legal pluralism and transnational commercial law, which acknowledges that the same activity is regulated by state law, contract, institutional practice and market norms.[24] Regional experience points in the same direction. The European Union has binding legislation and a supranational court, OHADA has uniform acts that apply directly, ASEAN relies on coordination based on consensus and the Commonwealth of Independent States uses model laws. In the GCC, the intergovernmental nature of cooperation and the absence of a supranational court make soft-law and model-law approaches more suitable than the EU and OHADA models.

1.4 GCC scholarship and the research gap

Commentary on GCC maritime law describes partial convergence over a historical diversity. The United Arab Emirates (UAE) has modernised its regime through Federal Decree-Law No 43 of 2023, which came into force in March 2024 and is broadly a Hague-Visby regime in philosophy, although it adopts a presumption-based liability formulation and Hamburg-level limitation amounts. Saudi Arabia's Commercial Maritime Law of 2018 and Oman's Maritime Law of 2023, which repealed the Omani code of 1981, are also relatively new, while the Qatari, Bahraini and Kuwaiti laws date from 1980 to 1982 and continue to rely on older exception-based frameworks.[25] The interaction between maritime law and general civil and commercial laws is a recurring issue, particularly whether maritime time bars extinguish rights or can be suspended under general rules, and whether the maritime notice regime is mandatory or indicative.[26] The gap is therefore regional and methodological. Studies rarely make a comparative analysis of all six states, rarely bring together judicial, procedural and market mechanisms, and rarely offer a framework that fits the political and constitutional reality of the region, while the broader literature has started moving towards model-law techniques. This article positions itself at that intersection.

2. Materials and Methods

The study uses a doctrinal legal methodology, which is supported by functional comparison and normative evaluation. Doctrinal research finds the law, restates it and analyses its coherence, and it is the established method in codified, convention-driven fields such as the carriage of goods by sea.[27] In line with a positivist orientation, statutes, conventions and judicial decisions are treated as the primary sources of law, while the normative assumptions behind them are also examined.[28] The design is sequential: the existing rules are first set out, they are then compared functionally to identify convergence and divergence, and finally the question of whether and how harmonisation should proceed is evaluated. Empirical methods such as interviews, surveys and law-and-economics modelling were excluded on purpose, as the research questions concern the structure and interaction of legal rules and not the perceptions of stakeholders or compliance rates.

[14] [16]; [20]; [21]; [22]; [23].
[15] [4].
[16] [24].
[17] [25].
[18] [26].
[19] [27]; [28]; [29].
[20] [30].
[21] [31].
[22] [32]; [33].
[23] [34].
[24] [35]; [36].
[25] [37]; [38]; [39]; [40]; [41]; [42].
[26] [43]; [3].
[27] [44].
[28] [45].

All six GCC states were included, since an assessment based on only some of them would distort the regional picture. The United Kingdom and Singapore are used as reference jurisdictions because of their long experience in interpreting carriage conventions. Their decisions serve as interpretive aids where GCC jurisprudence is limited, and they are not treated as models for transplantation. Table 1 lists the main domestic instruments examined.

Table 1: Principal domestic instruments governing maritime cargo claims in the GCC

State	Principal instrument	Liability architecture (as analysed)
United Arab Emirates	Federal Decree-Law No 43 of 2023 concerning the Maritime Law	Custody-based presumption rebutted by proof of all reasonable measures (art 175(1)); claimant proves fault for fire (art 175(2)); limits of 835 SDR per package or 2.5 SDR per kg (art 177); one-year time bar (art 187(1))
Saudi Arabia	Commercial Maritime Law, Royal Decree No M/33 (2018)	Custody from receipt to delivery (art 209); presumption covering loss, damage and delay (art 210(1)); external-cause exemption (art 211); claimant proves fault for fire (art 210(4)); burden-shifting clauses void (art 215); two-year time bar (art 221)
Bahrain	Maritime Law, Legislative Decree No 23 of 1982	Convention-style exceptions (art 159); express burden on carrier to prove due diligence where unseaworthiness is raised (art 158)
Qatar	Law No 15 of 1980 (Maritime Law)	Exception-based model (arts 157-158); no express sentence allocating the burden of proving due diligence
Oman	Maritime Law, Royal Decree No 19/2023 (repealing Royal Decree No 35/1981)	Custody from receipt at the port of loading to delivery at the port of discharge (art 206); relief only for a foreign cause beyond the carrier's control (art 209); limit of OMR 500 per package or shipping unit or OMR 5 per kg, whichever is higher (art 212); contrary agreements void (art 215); notice within two working days or fifteen days (art 217); one-year time bar (art 219)
Kuwait	Maritime Trade Law, Law No 28 of 1980	Traditional exception-based structure; navigational fault restricted where linked to deficient preparation or manning

To support reproducibility, the sources were selected in defined steps. The legal position is stated as of 30 September 2026, and online sources were accessed between 29 September and 9 October 2026 to confirm the texts in force on that date. The statutory texts were taken from the official national portals, including the UAE federal legislation portal, the Saudi Bureau of Experts, the Bahraini Legislation and Legal Opinion Commission, the Qatari Al Meezan portal, the Omani Ministry of Transport, Communications and Information Technology and the Kuwaiti Ministry of Justice, and from official gazettes where available.[29] GCC judicial material was identified through court portals, recognised legal databases, published collections of higher court principles, appellate summaries and expert reports referred to in litigation. A decision was included if it concerned the carriage of goods by sea, addressed at least one dimension of the analytical framework and was available in full or in an authoritative summary. English and Singaporean decisions were included if they were appellate or leading authorities interpreting convention provisions that correspond to GCC provisions. Secondary materials consisted of leading textbooks, peer-reviewed articles, UNCITRAL materials and selected practitioner sources such as P&I Club guidance, the latter being used for context and not as authority.[30]

Most GCC statutes and judgments are issued in Arabic. Official English translations were preferred, and the Arabic text of the Omani Law, published in Official Gazette no 1487, was read directly with the English translation used as a cross-check. Where translations differed, they were compared with the structure of the Arabic text and with secondary commentary; the reading supported by both was adopted, and no argument was based on a disputed linguistic nuance. Unofficial translations are identified as such. Judicial material was treated as illustrative and was triangulated with statutory analysis and commentary. No identifiable GCC judgments are relied on for comparative tendencies in court practice, so statements about the practice of national courts are tentative interpretations of secondary commentary and do not claim an established pattern in any jurisdiction.

The same analytical framework was applied to every jurisdiction. It covers carrier liability, loss and damage, delay, defences, limitation, notice, time bars, documentary and evidentiary requirements, and judicial interpretation. The case for harmonisation was evaluated against eight criteria: legal certainty, commercial predictability, consistency and coherence, fairness between carrier and cargo interests, compatibility with international conventions, suitability for GCC legal systems, judicial and institutional feasibility, and regional commercial integration. Divergence alone was not treated as proof that harmonisation is desirable. The research is desk-based and uses only publicly accessible materials, so no human participants or personal data were involved. Its limitations are the uneven access to GCC judgments, the confidentiality of most arbitral awards and insurer-led settlements, the possibility that translation loses some nuance and, for Oman, the recent entry into force of the 2023 Law, which means that reported decisions applying it are scarce.

3. Results and Discussion

3.1 Comparative analysis of maritime cargo claims in the GCC

The comparison follows the life cycle of a typical cargo claim, from the foundations of liability to enforcement.

3.1.1 Foundations of carrier liability

In all GCC states, carrier liability rests on a dual structure. The obligation comes from the contract of carriage, which is usually evidenced by a bill of lading or sea waybill, but mandatory statutory rules set a minimum level that contractual terms cannot reduce. All six regimes impose a duty to make the vessel fit for the voyage and for the particular cargo, framed as due diligence in the Hague-based codes and without that qualifier in Article 196 of the Omani Law, as well as a continuing duty to load, stow, carry, preserve, discharge and deliver the goods properly.

[29] [37]; [38]; [41].

[30] [2]; [11]; [43]; [46].

Seaworthiness is not limited to the hull. It also covers machinery, cargo gear, fire systems, certification, crew competence and requirements specific to the cargo, such as reefer systems, the segregation of dangerous goods under the IMDG Code and deck strength for project cargo.[31]

These statutes operate within legal orders that were historically shaped by Islamic commercial law. In classical doctrine, a carrier entrusted with goods was generally treated as a trustee (*amin*) and not as a guarantor. The carrier was liable for negligence, misuse or breach of the agreed terms, but not for loss without fault, and was still expected to account for the property entrusted to it. This expectation is very close to the modern rule that a carrier must explain losses within its custody without acting as an insurer, and the Islamic disapproval of terms that unfairly transfer risk is consistent with statutory limits on exclusion clauses.[32] Burden-shifting rules can therefore be seen as functional descendants of trust-based accountability, which strengthens their legitimacy within national legal systems.

3.1.2 Burden of proof

The allocation of proof is the practical engine of cargo liability, as the party with the burden usually loses where documents are incomplete or a casualty at sea cannot be reconstructed. Traditional doctrine follows a staged sequence. The claimant shows that the goods were received in apparent good order and delivered lost, damaged, short or late; the carrier then tries to bring the loss within an excepted peril or show the required diligence; and the claimant may respond by proving fault or a lack of due diligence. The GCC statutes follow this logic, but they differ on when the presumption arises, what the carrier must prove and whether the burden of proving due diligence is stated expressly.

The UAE's Federal Decree-Law No 43 of 2023 states the presumption directly. Under Article 175(1), the carrier is liable for loss or damage between receipt and delivery unless it proves that it, its subordinates and agents took all reasonable measures to prevent the damage or that such measures were impossible. Article 175(2) returns the fault element to the claimant in fire cases, who must prove that the fire resulted from the carrier's negligence or its failure to take appropriate action to put out or contain it.[33] This formulation is closer to the Hamburg Rules than to the Hague list of exceptions, and it makes contemporaneous records, such as stowage plans, reefer logs, seal records, terminal interchange receipts and surveys, central to the outcome. Saudi Arabia's Commercial Maritime Law follows a similar model. Custody runs from receipt to delivery under Article 209, and Article 210(1) makes the carrier liable for loss, damage and delay in custody unless it proves that it, its servants or agents did everything within their power to avoid the event and its consequences. Article 211 adds a separate exemption where the carrier proves an external cause not attributable to it or to its representative, servants or agents. As in the UAE, the claimant must prove fault in fire cases under Article 210(4), and Article 215 makes void any prior agreement that exempts the carrier or shifts the burden of proof imposed on it by the Law.[34] The express inclusion of delay is important in a regional trade where claims often result from missed delivery windows, storage charges and loss of market.

Bahrain keeps traditional exceptions in Article 159, but Article 158 contains what is arguably the clearest allocation in the region. The carrier is not liable for loss arising from unseaworthiness unless it results from a lack of due diligence, and the burden of proving due diligence falls on the carrier or on whoever relies on the exemption.[35] The provision mirrors Article IV(1) of the Hague-Visby Rules. Articles 157 and 158 of Qatar's law contain similar substance. They exclude liability for unseaworthiness unless it results from the carrier's failure to prepare cargo spaces, equip the vessel or make it navigable, and they list excepted causes, including fire and navigational fault. However, the Qatari text does not expressly state that the carrier bears the burden of proving due diligence.[36] Courts may reach that result by inference, but the gap leaves room for argument in container claims with mixed causes such as packing, stowage and terminal handling. Kuwait's code follows the same traditional exception-based model. Oman has moved in a different direction. The Maritime Law promulgated by Royal Decree No 19/2023 repealed the 1981 code and is a comprehensive codification of 387 articles in nine parts.[37] Its chapter on carriage of goods by sea is organised around custody. Article 206 makes the carrier liable for loss, damage, non-delivery or delay occurring between its receipt of the goods at the port of loading and their delivery or deposit at the port of discharge, and Article 207 treats goods as lost if they are not delivered within thirty days of the agreed delivery date.[38] The carrier is relieved only if it proves that the event was due to a foreign cause beyond its control in which neither it nor its servants had a part, and Article 209 gives force majeure, fault of the shipper, fault of a third party and inherent defect in the goods as examples of such a cause.[39] The provisions on carrier liability (arts 205 to 219) contain no separate exemption for navigational fault or fire, so that on their wording a loss attributable to the carrier's own servants falls outside the foreign cause rule. Article 196 frames the seaworthiness obligation as a duty to prepare and equip the ship and to make the cargo spaces fit for the agreed goods, without the due diligence qualifier of Article III(1) of the Hague Rules.[40] The Law therefore belongs with the UAE and Saudi statutes as a recent custody-based codification and not with the 1980 to 1982 group, although commentary describes its carriage provisions as following conventional practice on matters such as carriage on deck, dangerous goods and lien for freight, and notes that Oman is not a party to the Hague Rules.[41]

Three pressure points can be identified. First, the UAE, Saudi and Omani statutes are recent codifications, the UAE statute uses custody-and-reasonable-measures language that suits container and multimodal logistics, Saudi law

[31] [2]; [24]; [25].

[32] [43]; [36].

[33] [37], art 175(1)-(2).

[34] [38], arts 209, 210(1), 210(4), 211, 215.

[35] [39], arts 158-159.

[36] [40], arts 157-158.

[37] [41]; [47].

[38] [41], arts 206-207.

[39] [41], art 209.

[40] [41], arts 196-197; [6], art III(1).

[41] [48].

combines that test (art 210(1)) with an external-cause exemption (art 211), and the Omani Law relies on the foreign-cause exemption alone (art 209), whereas Bahrain, Qatar and Kuwait keep exception-based structures that tend to cause disputes over how causes are classified and in what order proof is required. Second, among the older codes only Bahrain expressly places the burden of proving due diligence on seaworthiness on the carrier, whereas the UAE, Saudi and Omani statutes place on the carrier the burden of proving the circumstances that relieve it. Third, special scenarios are treated unevenly. The UAE and Saudi statutes expressly return the fire burden to the claimant, whereas the Qatari, Bahraini and Kuwaiti codes deal with fire and navigational fault through lists of exceptions, which encourages forum shopping and inconsistent settlement values across GCC ports.

Nevertheless, a common core remains. In all six states, once the claimant establishes a prima facie loss within the carrier's period of responsibility, the evidential burden moves to the carrier, because the carrier has better access to operational information. Judicial method appears to differ, with some courts applying the burden purposively and others following the statutory text more closely or giving great weight to surveys and expert evidence. Because reported decisions are limited, and Omani decisions applying the 2023 Law are scarce, these differences are indications of method and not settled patterns, and the analysis does not rest on them.

3.1.3 Defences and exceptions

Defences no longer work as automatic exemptions. Their success depends on proof that the carrier complied with its primary obligations and that the loss clearly falls within a recognised exception. In practice, navigational fault has been narrowed. Where a navigational error can be traced to defective equipment, inadequate manning, insufficient training or poor systems, the defence fails because the underlying cause is a lack of due diligence, which is consistent with *The CMA CGM Libra*.[42] Commentary on the older Bahraini, Qatari and Kuwaiti codes indicates that the defence is usually accepted only where the vessel was properly equipped, manned and maintained and the error had no connection with systemic failure.

Fire is a recurring difficulty because its cause is often impossible to identify afterwards. The UAE and Saudi statutes deal with it expressly by returning the burden of proving the carrier's fault to the claimant, the Qatari and Bahraini exception lists include it, and the Omani Law has no separate fire exemption, so that a fire loss is analysed under the general foreign cause rule. Where fire is invoked, courts still examine preventive compliance, including detection and suppression systems, safety management and crew training. Perils of the sea are read narrowly. Severe weather is not enough unless it was exceptional and could not reasonably have been expected through careful voyage planning, which is assessed through meteorological data, logbooks and expert evidence. Acts of God, war risks and acts of public authority are recognised, in the exception lists or as foreign causes, but they are applied with attention to foreseeability. Inherent vice and defective packing require expert proof that the loss came from the goods themselves or from packing defects that existed at shipment, and accepting cargo without reservation weakens reliance on them. The shared principle is that statutory defences cannot coexist with negligence. Where carrier fault, unseaworthiness or concurrent causation contributed to the loss, reliance on an exception fails.

3.1.4 Limitation of liability

Limitation places a cap on the amount of liability once liability is established. It supports insurability, freight pricing and risk distribution through P&I cover, and every GCC regime accepts it, usually by reference to package and weight amounts, with the higher figure applying. The UAE regime of 2023 sets limits of 835 SDR per package or 2.5 SDR per kilogram, which are the Hamburg figures and not the Hague-Visby ones.[43] Oman's Law sets the limit at OMR 500 per package or shipping unit or OMR 5 per kilogram of gross weight, whichever is higher, so that it is expressed in rials and not in SDR.[44] Even so, limitation operates as a conditional privilege. The bill of lading, manifest, packing list and commercial invoice are read together to identify the unit of limitation and the weight of the cargo, and any ambiguity created by the carrier's own documents tends to be resolved against it.

The container package question shows this trend. Where the bill of lading lists the packages inside a container, the container is not treated as the package by default, and weight-based calculation works as an objective corrective where documents are poor. Clauses such as 'said to contain' shift the initial evidential burden but do not release the carrier from reasonable documentary accuracy.

Limitation can be lost for serious misconduct, but the formulations differ. The UAE and Saudi statutes withdraw limitation where the damage results from an act or omission of the carrier or its servants or agents done with intent to cause damage, or negligently with awareness or knowledge that damage may occur,[45] which follows the high Hague-Visby threshold: ordinary negligence, and even serious negligence, is generally not enough. The Omani Law uses different words. Article 214 withdraws limitation where the damage results from an act or omission of the carrier or its servants done with intent to cause damage or with neglect (*ihmal*).[46] The text does not reproduce the Hague-Visby qualifiers of recklessness and knowledge that damage would probably result, and read literally it admits a lower threshold than the UAE and Saudi formulas. Whether Omani courts will confine 'neglect' to gross neglect is a question of interpretation that reported decisions have not yet addressed, so the point is left open here. The older codes are generally read as admitting comparable exceptions, with less clearly defined thresholds. The lack of a consistently defined threshold makes underwriting and settlement forecasting more difficult, because the likelihood of losing the limit differs between ports on the same route.

Defences, limitation and time bars remain analytically separate. Defences remove liability, limitation controls the amount, and time bars extinguish the action. Thus, the failure of a defence does not remove the right to limit, and the expiry of a time bar makes limitation irrelevant. For losses at terminals, inland depots and free zone yards, the

[42] [24].

[43] [37], art 177; [49].

[44] [41], art 212.

[45] [37], art 180(1); [38], art 219(1).

[46] [41], art 214.

statutes differ. The UAE statute applies the carrier's liability rules, including the limit in Article 177 and the loss of limitation in Article 180, to loading and unloading contractors for loss of or damage to cargo, and Saudi law subjects the transport operator who carries out loading or discharge to the carrier's limitation provisions.[47] The Omani Law extends the carrier's defences and limits to its servants (art 214), and the older codes reviewed do not address independent terminal operators in express terms. Beyond these provisions, the argument that liability should not be divided artificially by location, so that the carrier's limit follows the cargo ashore where the loss is functionally connected to the maritime leg, echoes the network logic of the Rotterdam Rules but is better treated as a basis for reform than as settled law; extension otherwise depends on contract, in particular Himalaya clauses, or on judicial reasoning.

3.1.5 Contractual clauses affecting liability

Bills of lading are standard-form documents that often bind consignees, endorsees and banks who took no part in drafting them, and clauses affecting liability are examined carefully for this reason. Paramount clauses incorporating the Hague or Hague-Visby Rules are recognised, but where the incorporated regime gives weaker protection than domestic law, the statute prevails. Incorporation by reference requires the terms to have been reasonably accessible and properly notified, and limiting clauses are interpreted against the party that drafted them. Clauses relieving the carrier of liability for negligence, unseaworthiness or improper handling are generally void. The UAE statute, for example, invalidates terms that exempt the carrier from its obligations or reduce its liability below the statutory maximum.[48]

Jurisdiction and choice of law clauses are capable of shaping substantive liability, and the statutes examined limit their effect through mandatory rules. Saudi law does so expressly: the claimant may sue at the port of loading or discharge among other connecting places, and where disputes are referred to arbitration the claimant may choose the seat among similar places, a prior agreement removing that choice being void.[49] Omani law is similar: the claimant may bring proceedings before the court of the port of loading, the port of discharge or the port at which the ship was arrested, and any agreement made before the casualty that exempts the carrier, reduces its liability below the statutory limit or assigns it the benefit of cargo insurance is void.[50] For the other states, the materials reviewed identify no reported decisions on the effect of foreign jurisdiction or choice of law clauses, and none is assumed. Himalaya clauses are commonly used to extend the carrier's defences and limits to stevedores and terminal operators, on the policy ground that exposing them to unlimited liability while the carrier limits would upset the intended distribution of risk, but their enforceability under each national law is not settled by the materials reviewed. Indirect liability-shifting through shortened notice periods, accelerated time bars or restrictive claims procedures is likely to be ineffective where it conflicts with mandatory statutory periods, as in the Saudi and Omani provisions that void contrary agreements.

3.1.6 Notice, time bars and claims handling

Notice requirements, time bars and claims handling often decide the outcome. The UAE regime reflects Hague-Visby concepts of notice, including the distinction between apparent and non-apparent damage, but gives limited procedural guidance beyond notice, which leaves room for the good faith principles of the Civil Transactions Law. Commentary suggests, without identifying reported decisions, that UAE and Saudi courts may temper strict notice defaults through good faith and fairness where the loss is clearly established, and limited publication reduces predictability. Commentary suggests that Qatari courts have sometimes applied general civil law principles to notice compliance, and Bahraini notice and time bar provisions are scattered across the statute. Oman's 2023 Law fixes notice and time limits in express terms: written notice is due within two working days of delivery for apparent loss or damage and within fifteen days for non-apparent loss or damage, failing which delivery is presumed to have been in the condition described in the bill of lading, and actions expire one year after delivery or after the date on which delivery should have taken place.[51] No reported decisions on the interaction of these rules with the general civil and commercial codes were identified.[52]

A structural difficulty is found in all six systems. Maritime statutes coexist with civil and commercial codes that have their own limitation and evidential rules, without a clear hierarchy between them. As a result, parties may dispute whether a maritime time bar extinguishes the right or whether it can be suspended or interrupted under general rules. The micro-rules also differ visibly. Saudi law requires written notice within one working day of receipt for apparent loss or damage and within fifteen days for non-apparent damage, yet it allows two years to sue, with suspension by letter, by delivery of claim documents or by the appointment of an expert, whereas the UAE and Oman keep a one-year period.[53] Two jurisdictions may therefore both appear aligned with the conventions and still produce different litigation pacing and settlement leverage. Survey practice adds to the effect, because the rules on the appointment of surveyors, joint surveys and evidential weight are not harmonised.

3.1.7 Dispute resolution and enforcement

Procedure often matters more than substance. Jurisdictional objections, challenges to arbitration clauses incorporated into bills of lading, evidential barriers and enforcement difficulties can decide whether a claim is pursued, settled or abandoned. Arbitration is well established through institutions such as the Dubai International Arbitration Centre, the Saudi Center for Commercial Arbitration and the Qatar International Centre for Conciliation and Arbitration, and all GCC states are parties to the New York Convention.[54] Omani law expressly permits arbitration of carriage disputes but obliges the arbitrators to apply the provisions of the Law, whereas Saudi law leaves the tribunal

[47] [37], art 129(2); [38], arts 123-124.

[48] [37], art 179(1).

[49] [38], arts 222-223.

[50] [41], arts 215, 219.

[51] [41], arts 217, 219.

[52] [43]; [3]; [11].

[53] [38], arts 218, 221; [37], art 187(1); [41], art 219; [49].

[54] [50].

to the arbitration law agreed by the parties.[55] Even so, the effectiveness of incorporated arbitration clauses depends on national requirements of consent, notice and accessibility.

Litigation is based on the civil law and is document-oriented. Court-appointed experts are often decisive where seaworthiness, inherent vice, packing or causation is disputed, and their mandates and the intensity of judicial supervision vary. Proceedings are usually conducted in Arabic, so English-language bills of lading, reefer logs, surveys and P&I correspondence must be translated, which adds cost and delay and risks the loss of technical nuance.

Enforcement is the final layer. Foreign awards benefit from the New York Convention but remain subject to national review of procedural regularity and public policy. The UAE adds the interface between the onshore courts and the Dubai International Financial Centre Courts, which can speed up the recognition of foreign awards but also creates its own jurisdictional friction.

3.1.8 Synthesis: convergence and divergence

The findings are summarised in Table 2. The six regimes share a recognisable liability structure, and the main difficulty lies in how this structure is expressed, interpreted, administered and enforced.

Table 2: Areas of convergence and divergence in GCC maritime cargo claims

Dimension	Convergence	Divergence
Carrier duties	A duty to provide a ship and cargo spaces fit for the voyage and a continuing duty of cargo care in all six states	Due diligence qualifier in the Hague-based codes but not in art 196 of the Omani Law; temporal scope of seaworthiness; pre-container formulations in the 1980 to 1982 codes
Period of responsibility	Responsibility during an identifiable period of custody	Tackle-to-tackle versus receipt-to-delivery; terminals, depots, free zones and inland legs
Burden of proof	Prima facie loss in custody shifts the burden to the carrier	Express (UAE, Saudi Arabia, Oman, Bahrain) versus inferred (Qatar, Kuwait) allocation; Oman places proof of a foreign cause on the carrier; statutory fire rule in UAE and Saudi law
Defences	Same broad categories; no defence where carrier negligence contributed	Survival of nautical fault in the 1980 to 1982 codes; evidential thresholds and judicial method
Limitation	Limitation is accepted in principle in all six states by reference to package and weight amounts, and is reserved for loss through serious misconduct	Hamburg-level SDR limits in the UAE; currency-denominated limits in Qatar and Oman (OMR 500 per package or OMR 5 per kg); breaking threshold of knowledge of probable damage (UAE, Saudi Arabia) versus intent or neglect (Oman, art 214); container packages
Contractual clauses	Mandatory law prevails; exclusion clauses restricted; Himalaya clauses generally recognised	Enforcement of foreign jurisdiction, choice of law and incorporated arbitration clauses
Notice and time bars	Notice and finality recognised as policy goals	One year (UAE, Oman) versus two years with suspension (Saudi Arabia); notice windows from one or two working days to fifteen days; interaction with civil and commercial codes
Procedure and evidence	Document-oriented procedure; reliance on surveys and court-appointed experts	Expert mandates; translation; interim relief; case management; publication of judgments
Enforcement	New York Convention applies across the GCC	National review standards; onshore and DIFC interface in the UAE

Fragmentation is therefore the result of the combined effect of legislative history, the selective reception of conventions, domestic procedure, judicial interpretation, the lack of a regional system for publishing maritime judgments, the complexity of multimodal transport and the national character of private maritime law. Its consequences are commercial as well as doctrinal: higher advisory and transaction costs, harder settlement valuation, forum disputes before the merits are reached and a burden that falls hardest on smaller shippers, consignees and freight intermediaries.

However, the comparative evidence shows that the GCC states do not start from opposing concepts of maritime liability. The task is to rationalise closely related national regimes whose remaining differences create avoidable uncertainty.

3.2 Discussion: Harmonisation and its structural limits

3.2.1 Asymmetrical harmonisation

The findings support a reframing of the GCC problem. The region has largely agreed on the substance of cargo liability, that is, on who is responsible, for what and subject to which defences and limits. It has not agreed on how claims are proved, decided and enforced. This situation can be described as asymmetrical harmonisation. Substantive standards and terminology have converged, but the conditions that determine outcomes, namely procedural architecture, evidentiary culture, expert practice, translation, institutional capacity and enforcement, remain national. The pattern is consistent with comparative scholarship showing that legal convergence at the level of rules often coexists with persistent divergence at the level of legal practice and institutions.[56]

Statutory transposition explains part of this asymmetry. GCC codes adopt convention terms such as due diligence, proper care and listed exceptions, but transferring the text does not transfer the interpretive infrastructure that gives the text its meaning elsewhere, which is exactly what the transplant literature predicts.[57] Empirical work on legal transplants supports this reading: rules received without adaptation to local conditions, or without familiarity among those who apply them, tend to operate less effectively than rules that developed internally or were actively adapted.[58] The Qatari, Bahraini and Kuwaiti codes reproduced Hague-based wording in the early 1980s with limited subsequent

[55] [41], art 220; [38], art 224.

[56] [51]; [31].

[57] [33]; [34].

[58] [52].

judicial elaboration, so the GCC experience fits this pattern closely.

Evidential culture adds another layer. What counts as a prima facie case, which documents shift the burden and whether adverse inferences are drawn from missing records are matters of domestic practice, so the formal burden may be the same while the practical burden is different. Damaška's comparison of fact-finding traditions explains why this matters: systems that rely on officials and court-appointed experts to establish facts produce different evidential outcomes from adversarial systems even where the substantive rule is identical.[59] Court-appointed experts strengthen this effect in the GCC. Where experts work under broad mandates with little legal framing, a dispute may be decided through a technical narrative and not through legally structured reasoning; where courts frame expert questions around the relevant legal tests, as English courts did when assessing due diligence in *Volcafe* and *The CMA CGM Libra*, outcomes are closer to the logic of the conventions.[60] The recent reform wave has added a further division inside the region: the UAE, Saudi Arabia and Oman now apply new codes, while Qatar, Bahrain and Kuwait retain their statutes of 1980 to 1982, so states that are close in trade are at different stages of legislative development. As these institutional features change slowly, fragmentation in the GCC is systemic and not transitional, and further alignment of statutory wording alone is unlikely to produce uniform outcomes.

3.2.2 The limits of international conventions

Carriage conventions are still the obvious vehicle for maritime harmonisation, and they do reduce extreme variation and provide a common vocabulary.[61] In the GCC, however, their capacity is limited. They are minimum-standards compromises and do not govern pleadings, disclosure, admissibility, the choice between judicial and expert fact-finding or the execution of judgments, which are the stages where GCC outcomes differ. Recent comparative work on maritime jurisdiction reaches a similar conclusion, showing that jurisdictional rules differ between civil law, common law and convention systems and proposing their unification and coordination.[62]

The region also shows what may be called convention adjacency. The conventions have influenced the region mostly through legislative borrowing and not through uniform ratification. This has produced statutes that look like Hague-Visby but differ in notice rules, prescription periods, limitation units and the retention of older defences such as navigational fault. Myburgh identified the same trend elsewhere, describing the spread of 'hybrid carriage regimes' through which states depart unilaterally from the uniform rules.[63] Such texts create an illusion of harmonisation, because familiar language hides differences in the micro-rules that drive litigation strategy and settlement: the length and effect of notice periods, the duration and suspension of time bars, and the units and updating of limitation amounts. The UAE statute fixes cargo limits in SDR, whereas Oman's 2023 Law expresses the package limit as OMR 500 per package or OMR 5 per kilogram,[64] and Qatar's 1980 law regulates package and weight limitation in provisions that commentary describes as similar to those of the repealed UAE code, which used national currency.[65] Where limits are not consistently linked to the SDR, limitation becomes a risk that depends on the jurisdiction on routes passing through several GCC ports.

An interpretive deficit adds to these effects. The conventions assume that courts will develop coherent interpretations through comparative dialogue, but GCC courts give different weight to convention sources and foreign case law, which reflects language environments and domestic traditions and not error. Mandatory domestic rules mediate the relationship between convention and contract, arbitration and jurisdiction rules create forum asymmetry, and enforcement adds a final national filter. Even the New York Convention, which all GCC states have ratified, leaves recognition subject to national readings of public policy and procedural regularity, so that a uniform treaty text again produces variable results at the point of execution.[66] Thus, conventions are necessary but not sufficient as harmonising instruments, and the persistence of fragmentation reflects their designed scope more than any weakness in their text. The recent move towards model laws and other facilitative instruments in electronic trade documentation, after the Rotterdam Rules failed to attract enough ratifications, points to the same conclusion.[67]

3.2.3 Functional convergence through private and institutional mechanisms

If conventions harmonise only part of a multi-layered system, the question is which mechanisms harmonise the rest. Arbitration contributes through tribunals that apply internationally recognised principles of risk allocation, evidential evaluation and commercial reasonableness.[68] Its harmonising effect is limited, however, because awards are usually confidential and do not bind later tribunals, so arbitral consistency develops through informal persuasion and not through a formal doctrine of precedent.[69] Enforcement also remains national.

Marine insurers and P&I Clubs act as de facto regulators of maritime risk. Insurance scholarship has long recognised that insurers govern the conduct of the insured through underwriting conditions, inspections, premium adjustments and the threat of withdrawing cover.[70] In shipping, this role is performed largely by mutual P&I Clubs, whose rules, survey rights and discretionary powers shape the behaviour of members across jurisdictions.[71] Their survey requirements, notification protocols, documentary expectations, loss-prevention conditions and settlement benchmarks apply with a consistency that national law often does not have, and many cargo claims are settled within insurer-driven frameworks before any court becomes

[59] [53].

[60] [4]; [24].

[61] [11]; [12].

[62] [54].

[63] [55].

[64] [41], art 212.

[65] [37], art 177; [40], arts 249-251; [56].

[66] [50]; [57].

[67] [16]; [20].

[68] [57].

[69] [58].

[70] [59]; [60].

[71] [61]; [62].

involved.[72] The conditional nature of limitation in the GCC strengthens this role, because insurers respond to the risk of losing limitation by requiring better evidence management and crew training. Recent work nevertheless warns that insurers may shift losses to their insureds or to victims instead of reducing them,[73] and that marine insurers can enable unlawful operations unless they use underwriting conditions to require compliance.[74] Insurance-driven convergence in the GCC therefore depends on active claims management and should not be assumed.

Courts stand at the end of this chain as consolidators of convergence. They rarely start harmonisation themselves, but they confirm or disrupt the signals produced by contracts, insurance and arbitration. Where courts adopt recognisable reasoning sequences, convergence becomes a settled expectation; where reasoning is unclear or inconsistent, it is reversed. Transnational legal theory describes the same interaction between private norm-making and state adjudication, in which private ordering gains stability only when public institutions recognise it.[75] This convergence is real but fragile, because it depends on private ordering and informal coordination, and private norms may reflect commercial efficiency more than wider considerations of justice. It must therefore remain subordinate to mandatory law and judicial authority. Omani law illustrates the point, because it permits arbitration of carriage disputes while obliging arbitrators to apply the Law.[76] Private mechanisms are best seen as one layer of a harmonisation framework, working alongside predictable national law and consistent judicial approaches.

3.2.4 Evaluation of the research propositions

The evaluation is summarised in Table 3. Because the study is doctrinal and does not measure judicial outcomes or settlement behaviour directly, the assessments indicate the degree of support from the doctrinal comparison and are not empirical findings. Taken together, the results show that harmonisation in the GCC is best assessed by whether comparable disputes are analysed and resolved with enough consistency to support commercial predictability. Identical statutory text is a weaker measure.

Table 3: Evaluation of the research propositions

Proposition	Assessment on the doctrinal comparison	Basis in the findings
P1: Legislative, procedural and interpretive differences cause inconsistent outcomes	Substantially supported by the doctrinal comparison	Divergence is only partly legislative; procedure, evidence and interpretation shape outcomes where liability rules are comparable
P2: Formal legislative alignment alone is insufficient	Strongly supported by the doctrinal comparison	Convention adjacency and the interpretive deficit show that shared text does not yield shared outcomes
P3: Private mechanisms produce functional convergence	Supported by the doctrinal comparison	Arbitration, insurers, P&I Clubs and claims professionals generate common expectations across borders
P4: Judicial and evidentiary consistency improves predictability without uniform legislation	Supported by the doctrinal comparison	Judicial and procedural convergence bridges national autonomy and regional coherence
P5: A layered regional framework is more practicable than a single convention	Supported by the doctrinal comparison	No convention addresses procedure, evidence, expert practice or enforcement; a GCC-specific layered model can

3.2.5 Limitations and future research

The study has some limitations. Access to judicial material differs between the six states, many disputes are resolved confidentially through settlement, insurer negotiation and arbitration, and the proposed framework is normative and doctrinal, so its implementation depends on institutional and political decisions within the GCC. Future research could examine GCC judicial decision-making empirically as access to judgments improves, study insurer and P&I Club claims handling through interviews with practitioners, assess the role of regional arbitration centres, analyse the evidential consequences of electronic bills of lading and extend the framework to multimodal liability.

3.3 Structured functional convergence and a model GCC maritime cargo claims law

3.3.1 The concept of structured functional convergence

The GCC already has most of the elements needed for effective harmonisation: shared commercial practice, transnational insurance markets, widespread use of arbitration, standardised documentation and growing judicial engagement with international maritime practice. What is missing is a framework that organises these elements. Structured functional convergence is proposed as a middle position between complete unification, which is difficult in an intergovernmental organisation without a supranational court, and uncoordinated pluralism, which ignores the regional character of the trade. The concept is based on three assumptions. Harmonisation is incremental, as it develops through repeated interaction and not through a single legislative event. It is layered, as no single actor controls the process. It is also context-sensitive, as it accommodates differences in institutional capacity and legal tradition.

The framework works through five layers that support each other. Substantive convergence identifies common principles on carrier responsibility, seaworthiness and due diligence, custody, causation, defences and limitation. Judicial convergence encourages consistent interpretation through access to comparative GCC judgments, judicial dialogue and specialist training. Procedural and evidentiary convergence aims at reasonable consistency in notice, documentation, surveys, proof of damage, causal evidence and limitation periods. Private and institutional convergence recognises arbitration, mediation, insurers, P&I Clubs and industry claims procedures as parts of the regional dispute system. Finally, continuing regional coordination provides a

[72] [46].
[73] [63].
[74] [64].
[75] [65]; [36].
[76] [41], art 220.

permanent review mechanism as electronic records, digital evidence and new insurance structures change cargo disputes.

3.3.2 Legal character and design of the model law

The proposed Model GCC Maritime Cargo Claims Law gives practical form to the framework. It is neither a uniform code that replaces national statutes nor a supranational instrument. Rather, it is a regional reference framework that legislators may adopt selectively, courts may use as an interpretive guide, arbitral tribunals may treat as persuasive authority and insurers may reflect in claims handling. This format suits the constitutional and legislative diversity of the region and reflects the wider use of model laws and soft-law instruments where binding treaties have stalled. [77] Its authority would come from persuasiveness, technical coherence and practical usefulness and not from hierarchy. The design is modular, so that states can adopt individual modules without wholesale reform, as shown in Table 4.

Table 4: Modular structure of the proposed Model GCC Maritime Cargo Claims Law

S. No	Module	Principal content	Divergence addressed
1	Scope and application	Loss, damage, delay and misdelivery during the maritime leg and connected custody; domestic definitions of carriage retained	Uncertain period of responsibility at terminals, depots and inland legs
2	Causation and burden of proof	Four evidentiary propositions; sequence separating factual causation, legal attribution and defences	Express versus inferred burdens; mixed-cause container claims
3	Carrier obligations and evidence	Due diligence as a contextual standard; transparency and explicit linkage between expert findings and legal tests	Variable thresholds of diligence; expert reports operating as de facto judgments
4	Liability, limitation and time bars	Limitation as a distinct later stage; SDR benchmarks; clarified breaking threshold; common notice and time bar triggers	Package treatment; breakability; interaction with civil and commercial codes
5	Contractual autonomy	Variation within defined bounds; invalidity of clauses diluting minimum liability or procedural justice	Litigation over standard terms, jurisdiction and Himalaya clauses
6	Insurance and dispute resolution	Transparent engagement with insurer evidence; coordinated treatment of arbitration, mediation and expert determination	Forum asymmetry; unpredictable review at enforcement
7	Review and adaptation	Periodic regional evaluation; electronic records and multimodal developments	Rules overtaken by commercial and technological change

Module 2 is particularly important because the inconsistent handling of causation and proof, more than doctrinal disagreement, emerged as a main driver of divergent outcomes. It would adopt four propositions drawn from the comparative analysis. First, the claimant establishes a prima facie case by proving receipt in apparent good order, or contractual receipt, and loss, damage or delay at delivery within the carrier's period of responsibility. Second, the carrier bears the burden of proving that it took all reasonable measures to avoid the occurrence and its consequences, or that an excepted cause applies. Third, where unseaworthiness or the fitness of cargo spaces is in issue, the carrier bears the burden of proving due diligence through records and evidence. Fourth, for special risks such as fire, live animals and deviation to save life, the text states expressly whether the claimant must prove carrier fault or the carrier must prove the defence. These propositions combine the clarity of the UAE and Saudi presumptions with Bahrain's explicit due diligence clause. They can be drafted in plain legislative language without importing any single convention, and they are consistent with the custodial accountability of the *amin*. Courts would also be encouraged to identify the operative cause before considering defences and to treat limitation as a later stage, which improves transparency and allows appellate courts to correct the method instead of relitigating the facts.

Module 3 leaves the appointment of experts to national procedure and sets expectations on methodological transparency, causal coherence and an explicit link between technical observations and legal standards, so that convergence takes place in how expert material is evaluated and not in who produces it. Modules 4 and 5 preserve limitation, legitimate defences and freedom of contract within statutory limits, and Module 6 treats insurer evidence and settlement benchmarks as part of the factual background but never as decisive standards.

3.3.3 Core principles, implementation and safeguards

The Model Law is based on five principles: predictability in the analytical sequence applied to comparable disputes; functional consistency, so that differences in form do not create unnecessary differences in outcomes; proportionality and transparency in separating causation, responsibility, contractual allocation, defences and limitation; controlled contractual autonomy; and institutional compatibility and adaptability. Its emphasis on fairness, proportionality and custodial responsibility is compatible with Islamic legal principles where these meet commercial law.

Implementation would take place in phases. States could first align interpretation through guidance issued by GCC legal or maritime committees, judicial training and structured dialogue between courts, arbitrators and industry, and could then incorporate selected modules into legislation as domestic reform cycles allow. A regional repository of maritime judgments would address the transparency deficit identified in the comparative analysis and would allow courts to engage with the reasoning of neighbouring jurisdictions without any obligation to follow it, in the manner of the transnational judicial dialogue already observed among national courts elsewhere. [78] Periodic review would revisit outdated assumptions as electronic documentation and multimodal carriage develop. Courts must remain free to interpret domestic law under national procedure, institutional asymmetry among member states must be accommodated, and private ordering must inform legal reasoning without displacing mandatory law. The objective is to manage divergence while accepting that differences between national systems will remain.

[77] [66]; [16].

[78] [67].

4. Conclusion

This article has shown that the six GCC cargo claims regimes share a substantial common foundation of carrier liability, and that fragmentation arises mainly from differences in drafting, procedure, evidence, judicial interpretation and enforcement. Harmonisation in the region is therefore asymmetrical: the vocabulary of liability has converged, but outcomes in comparable disputes have not. International conventions remain necessary but cannot close this gap on their own, while arbitration, insurers and P&I Clubs provide only informal and fragile convergence. The main implication is that harmonisation should be judged by the predictability of outcomes and not by the similarity of statutory texts. The article contributes the concept of structured functional convergence and a modular Model GCC Maritime Cargo Claims Law, which together offer a practicable route for coordinating substantive law, adjudication, procedure and private practice while preserving the legal autonomy of each member state. In practice the Model Law could be introduced through interpretive guidance, judicial training and a regional judgment repository before any legislative change. The principal limitation is that the findings rest on doctrinal comparison and limited reported case law, so conclusions about court practice remain tentative.

5. Declarations

Conflict of Interest: The author declares no financial, professional or personal conflict of interest.

Ethics Statement: The study is doctrinal, comparative and desk-based, relies exclusively on publicly accessible legal materials and involves no human participants or personal data; ethical approval was therefore not required.

Data Availability: No new data were generated. All legislation, conventions, cases and literature analysed are publicly available from the sources cited.

6. References

1. UNCTAD. Review of Maritime Transport 2024: Navigating Maritime Chokepoints. United Nations, 2024.
2. Girvin S. Carriage of Goods by Sea. 3rd edn. Oxford University Press, 2022.
3. Baughen S. Shipping Law. 8th edn. Routledge, 2023.
4. Volcafe Ltd v Compania Sud Americana de Vapores SA [2018] UKSC 61, [2019] AC 358.
5. IMO, ILO, UNECE. Code of Practice for Packing of Cargo Transport Units (CTU Code), 2014.
6. International Convention for the Unification of Certain Rules of Law relating to Bills of Lading (adopted 25 August 1924, entered into force 2 June 1931) (Hague Rules).
7. Protocol to Amend the International Convention for the Unification of Certain Rules of Law relating to Bills of Lading (adopted 23 February 1968, entered into force 23 June 1977) (Visby Protocol).
8. Protocol Amending the International Convention for the Unification of Certain Rules of Law relating to Bills of Lading, as amended by the Protocol of 23 February 1968 (adopted 21 December 1979) (SDR Protocol).
9. United Nations Convention on the Carriage of Goods by Sea (adopted 31 March 1978, entered into force 1 November 1992) (Hamburg Rules).
10. United Nations Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea (adopted 11 December 2008) (Rotterdam Rules).
11. Tetley W. Marine Cargo Claims. 4th edn. Thomson Carswell, 2008.
12. Berlingieri F. International Maritime Conventions, Volume 1: The Carriage of Goods and Passengers by Sea. Informa Law, 2014.
13. Cooperation Council for the Arab States of the Gulf. Common Customs Law of the GCC States, 2003.
14. Carriage of Goods by Sea Act 1971 (UK), Schedule (Hague-Visby Rules).
15. Sturley MF, Fujita T, Van Der Ziel G. The Rotterdam Rules. 2nd edn. Sweet & Maxwell, 2020.
16. Krebs T. Electronic bills of lading, transnational and English law: Blocking the blockchain? Uniform Law Review. 2023; 28(3-4):323. Retrieved from: https://doi.org/10.1093/ulr/unad022
17. Soyer B, Tettenborn A, editors. Carriage of Goods by Sea, Land and Air: Uni-modal and Multi-modal Transport in the 21st Century. Informa Law from Routledge, 2014.
18. Ulfbeck VG. Multimodal transports in the United States and Europe: Global or regional liability rules? Tulane Maritime Law Journal. 2009; 34:37.
19. Lamont-Black S. Claiming damages in multimodal transport: A need for harmonization. Tulane Maritime Law Journal. 2012; 36(2):707.
20. Sun S, He R. How to possess an electronic bill of lading as information? A comparative perspective of the legislation on the "possession problem" of electronic bills of lading. Frontiers in Marine Science. 2024; 11:1493647. Retrieved from: https://doi.org/10.3389/fmars.2024.1493647
21. UNCITRAL. Model Law on Electronic Transferable Records. United Nations, 2017.
22. UNCITRAL. Status: UNCITRAL Model Law on Electronic Transferable Records, 2017 [Cited 2026 Oct. 9]. Retrieved from: https://uncitral.un.org/en/texts/ecommerce/modellaw/electronic_transferable_records/status
23. Electronic Trade Documents Act 2023 (UK).
24. Alize 1954 v Allianz Elementar Versicherungs AG (The CMA CGM Libra) [2021] UKSC 51.
25. Papera Traders Co Ltd v Hyundai Merchant Marine Co Ltd (The Eurasian Dream) [2002] EWHC 118 (Comm), [2002] 1 Lloyd's Rep 719.
26. FIMBank plc v KCH Shipping Co Ltd [2024] UKSC 38.
27. JI MacWilliam Co Inc v Mediterranean Shipping Co SA (The Rafaela S) [2005] UKHL 11, [2005] 2 AC 423.
28. APL Co Pte Ltd v Voss Peer [2002] SGCA 41, [2002] 2 SLR(R) 1119.
29. Aries Tanker Corp v Total Transport Ltd [1977] 1 WLR 185 (HL).
30. Zweigert K, Kötz H. An Introduction to Comparative Law. Weir T, translator. 3rd edn. Clarendon Press, 1998.
31. Michaels R. The functional method of comparative law. In: Reimann M, Zimmermann R, editors. The Oxford Handbook of Comparative Law. Oxford University Press, 2006.
32. Watson A. Legal Transplants: An Approach to Comparative Law. 2nd edn. University of Georgia Press, 1993.

33. Legrand P. The impossibility of "legal transplants". Maastricht Journal of European and Comparative Law. 1997; 4:111.
34. Arvind TT. The "transplant effect" in harmonization. International and Comparative Law Quarterly. 2010; 59:65.
35. Michaels R. Global legal pluralism. Annual Review of Law and Social Science. 2009; 5:243.
36. Goode R, Kronke H, McKendrick E. Transnational Commercial Law: Text, Cases, and Materials. 2nd edn. Oxford University Press, 2015.
37. Federal Decree-Law No 43 of 2023 concerning the Maritime Law (United Arab Emirates), in force 29 March 2024 [Cited 2026 Sept. 29]. Retrieved from: https://uaelegislation.gov.ae/en/legislations/2138
38. Commercial Maritime Law, Royal Decree No M/33 of 5/4/1440H (Kingdom of Saudi Arabia, 2018), official English translation, Bureau of Experts at the Council of Ministers [Cited 2026 Sept. 29]. Retrieved from: https://laws.boe.gov.sa
39. Maritime Law, Legislative Decree No 23 of 1982 (Kingdom of Bahrain).
40. Law No 15 of 1980 issuing the Maritime Law (State of Qatar).
41. Maritime Law, Royal Decree No 19/2023 (Sultanate of Oman), Official Gazette no 1487, issued 30 March 2023, repealing the Maritime Law promulgated by Royal Decree No 35/1981 and the Law Governing Maritime Navigation in Territorial Waters promulgated by Royal Decree No 98/1981 [Cited 2026 Oct. 9]. Retrieved from: https://mtcit.gov.om/library-3/legislations-policies-8/royal-decree-71/royal-decree-19-2023-issuing-the-maritime-law-1246 (English translation at: https://decree.om/2023/rd20230019/).
42. Law No 28 of 1980 issuing the Maritime Trade Law (State of Kuwait).
43. Baatz Y, editor. Maritime Law. 5th edn. Informa Law from Routledge, 2020.
44. Hutchinson T, Duncan N. Defining and describing what we do: Doctrinal legal research. Deakin Law Review. 2012; 17:83.
45. McCrudden C. Legal research and the social sciences. Law Quarterly Review. 2006; 122:632.
46. Gard AS. Rule 34 Cargo liability. Rules, Statutes and Guidances. Gard AS [Cited 2026 Oct. 9]. Retrieved from: https://gard.no/rules-statutes-and-guidances/document/rule-34-cargo-liability/
47. Al-Tai M. Oman issues new maritime law. Decree Blog, Apr 29, 2023 [Cited 2026 Oct. 9]. Retrieved from: https://blog.decree.om/2023/oman-issues-new-maritime-law/
48. Addleshaw Goddard. New Maritime Law in Oman, June 19, 2023 [Cited 2026 Oct. 9]. Retrieved from: https://www.addleshawgoddard.com/en/insights/insights-briefings/2023/transport/new-maritime-law-in-oman/
49. Assi S. An insurer's guide to the key changes in the UAE's new maritime law: UAE Federal Decree No. (43) of 2023. The Shipowners' Club, Aug 19, 2024 [Cited 2026 Oct. 9]. Retrieved from: https://www.shipownersclub.com/latest-updates/news/insurers-guide-key-changes-uaes-new-maritime-law-uae-federal-decree-no-43-2023/
50. Convention on the Recognition and Enforcement of Foreign Arbitral Awards (adopted 10 June 1958, entered into force 7 June 1959) 330 UNTS 3 (New York Convention).
51. Siems M. Comparative Law. 3rd edn. Cambridge University Press, 2022.
52. Berkowitz D, Pistor K, Richard JF. The transplant effect. American Journal of Comparative Law. 2003; 51:163.
53. Damaška MR. Evidence Law Adrift. Yale University Press, 1997.
54. Fu BC. Unification and coordination of maritime jurisdiction: Providing a judicial guarantee for international trade and marine transport. Frontiers in Marine Science. 2022; 9:848942. Retrieved from: https://doi.org/10.3389/fmars.2022.848942
55. Myburgh P. Uniformity or unilateralism in the law of carriage of goods by sea? Victoria University of Wellington Law Review. 2000; 31(2):355. Retrieved from: https://doi.org/10.26686/vuwlr.v31i2.5953
56. Gard AS. Limitation of liability in Middle Eastern jurisdictions. Gard updates [extract consulted 2026 Oct. 9; the web page has since been withdrawn].
57. Born GB. International Commercial Arbitration. 3rd edn. Kluwer Law International, 2021.
58. Kaufmann-Kohler G. Arbitral precedent: Dream, necessity or excuse? Arbitration International. 2007; 23:357.
59. Ericson RV, Doyle A, Barry D. Insurance as Governance. University of Toronto Press, 2003.
60. Ben-Shahar O, Logue KD. Outsourcing regulation: How insurance reduces moral hazard. Michigan Law Review. 2012; 111:197.
61. Hazelwood SJ, Semark D. P&I Clubs: Law and Practice. 4th edn. Lloyd's List, 2010.
62. International Group of P&I Clubs. About the Group [Cited 2026 Sept. 29]. Retrieved from: https://www.igpandi.org
63. Avraham R, Porat A. The dark side of insurance. Review of Law & Economics. 2023; 19(1):13. Retrieved from: https://doi.org/10.1515/rle-2022-0054
64. Bunwaree P. Curbing "dark" activity at sea: The role of the marine insurance industry. European Journal of Risk Regulation. 2025; 16(Special Issue 3). Retrieved from: https://doi.org/10.1017/err.2025.15
65. Calliess GP, Zumbansen P. Rough Consensus and Running Code: A Theory of Transnational Private Law. Hart Publishing, 2010.
66. Shaffer GC, Pollack MA. Hard vs. soft law: Alternatives, complements, and antagonists in international governance. Minnesota Law Review. 2010; 94:706.
67. Slaughter AM. A global community of courts. Harvard International Law Journal. 2003; 44:191.