

# China-European Liner Railway Bill of Lading Dilemma and Insights

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**Abstract:** International land trade has grown steadily more prosperous under "One Belt, One Road," and global trade and railroad transportation have new demands on traditional railroad waybills in the process of development, such as the settlement and transfer of property rights, giving rise to the concept of "railroad bill of lading". This article combed through the literature on the connotation of "railroad bill of lading" and its internationalization, the impetus behind the creation of railroad bill of lading legislation, the challenges now in place, and potential solutions. It also merged Chinese and Western literature. A review of the literature reveals that the China-Europe train is the main application of the railroad bill of lading, which is still in its early stages of development. There is no statutory law regulating the specific content and areas of application, and there is a lack of definition of relevant participants and corresponding data support, so some problems have arisen in the process of development. The railroad bill of lading, on the other hand, as a derivative in line with the trend of the times, has a wide scope for development. Future research will focus mostly on the definition of the railroad bill of lading, related legislation, and quantitative empirical research.

**Key Words:** China-Europe freight train, railway bill, railway bill of lading, document of title, international trade

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## I. Introduction

China-Europe Railway Express refers to the fast cargo train that departs from China along the "Silk Road Economic Belt" to various countries and Europe with fixed routes, train times and schedules throughout the year. Since 2011, when the first China-Europe Railway Express from Chongqing to Duisburg was successfully launched, many cities such as Chengdu, Xi'an, Suzhou and Guangzhou have also gradually established international intermodal container trains to various European cities (Xing, 2021). Under the steady development of "One Belt, One Road", the demand for international trade is increasing, and the order volume and density of railroad transportation have continued to rise, with the cumulative number of China-European Liner trains running about 41,000 by the end of 2021. In April 2017, the railway departments of China, Kazakhstan and other seven countries formally signed the Agreement on Deepening China-Europe Freight Train Cooperation. In January 2022, the RCEP officially took effect, and the export of relevant trade has become more prosperous. International land-based trade has gradually gained the hardware foundation and institutional environment comparable to maritime trade. As the application of railroad bill of lading becomes more mature and the scope expands, how to promote and regulate the use of railroad bill of lading, how to evolve it into commercial practice and the prospect of the application of railroad bill of lading have become a popular topic of exploration.

Due to the late development of the railroad bill of lading, academic research on various aspects of the railroad bill of lading is still in its early stages. The background, application scenarios, operating rules, and relying on the mode of operation, domestic and international environment, as well as other aspects of the traditional waybill difference, all had an impact on the development of the railroad bill of lading itself.

Therefore, this paper starts a literature review based on the interpretation, motivation, development, comparison of different modes, problems and countermeasures of railroad bills of lading, and takes the application of railroad bills of lading in the existing transportation of China-Europe trains as the entry point, which helps to consolidate the theoretical foundation of the research on railroad bills of lading.

## II. The concept and characteristics of the railroad bill of lading

### 2.1 The concept of the railroad bill of lading

To explore the practical significance of the railroad bill of lading and legislation, it is necessary to define the meaning of "railroad bill of lading" and its predecessor "railroad waybill". "Bill of lading" is not the same as the common railroad transactions in the use of "waybill", the two in the practical use of scenarios and requirements are significantly different (Bin, 2021). The railroad waybill (abbreviated as SMGS waybill) is required to finalize the carriage contract, according to the Agreement on Intermodal International Carriage of Goods by Rail (CIMR). The copy of the waybill is given to the consignor, while the original waybill travels with the cargo to the arrival point.

The SMGS waybill primarily includes details on the sender, recipient, carrier, cargo, delivery route, destination, point of delivery, mode of delivery, freight, and other pertinent information (Yang, 2019). According to the Convention on International Carriage of Goods by Rail, the railroad waybill (abbreviated as CIM) serves as the initial, conclusive proof that the contract of carriage has been reached. The CIM waybill is largely identical to the SMGS waybill in terms of its structure, required documented concerns, flow, and addition of administrative documents linked to the fulfillment of requirements.

It should be noted that "bill of lading" originally referred to the document needed to show the contract for the transportation of goods by sea. The railroad bill of lading's contents are not exactly the same as those for sea transport, but there is essentially no difference (Song, 2021). The railroad bill of lading is identical to the sea bill of lading, and it must contain the three legal requirements of proof of the transport contract, proof of the reception of the goods, and proof of property rights.

Yang (2019) states that the current railroad bill of lading, which can also be called a non-vehicle carrier's railroad bill of lading and is equivalent to the non-vessel carrier's sea bill of lading in the field of shipping, is slightly different from the sea bill of lading. It is issued by the freight forwarder. According to Article 71 of the People's Republic of China's Maritime Law, "bills of lading are used to prove the contract for the carriage of goods by sea and the receipt of the goods by the carrier or ship, and the carrier guarantees the delivery of the goods based on the document."

In the early stage, the paper cannot be utilized as a bill of lading in the marketplace, which makes it difficult to use the document to advance the seller's rights and interests. Article 14, item 3 in the International Carriage of Goods Agreement stipulates that "the waybill is a document for the conclusion of the contract of carriage"; Zhang (2019) accordingly elaborates that the waybill will follow the goods in the carriage of goods instead of being forwarded to the consignee or consignor. Kang (2021) adds that according to the actual situation of international railroad operation, two documents should be sent to ICA and one to the railroad respectively when shipping from the relevant countries where ICA is applicable, and this procedure is too complicated and not conducive to the growing demand of cargo volume. Hai (2021) further points out that banks are reluctant to provide financing services because the waybill does not have the function of a cargo certificate, which makes the buyer need to provide additional security and increase its financing pressure; and because the waybill is not transferable during transportation, it also affects the circulation of goods. Railroad bill of lading is derived from the waybill according to market demand and modified documents, for more convenient transaction needs brought about the emergence and rise of the railroad bill of lading.

The concept of "railroad bill of lading" was first introduced to the public in 2017, and was defined by the official Chongqing judicial authorities as "a bill of lading under the law, which can be pledged for rights"; the bill of lading specified here has a new transfer and pledge function, which also means that in the The process of transporting goods, goods can be used as collateral transfer and circulation, rather than just a single transaction role of goods. The demand for transfer and pledge of railroad bill of lading in practice was raised as early as 2006, but due to the volume of railroad transportation and related laws are not sound, until 2017, the State Council issued the "China (Chongqing) Pilot Free Trade Zone Overall Plan", supporting Chongqing to explore the improvement of transport efficiency and use it to build the China-Europe land trade rules system, vigorously develop international intermodal transport, the railroad bill of lading was included in the research scope and entered the research field (Zhang, 2021). Thanks to the formal research program, the connotation about railroad bill of lading has been gradually enriched with more precise definitions in recent years. Liu (2019) proposed that the railroad bill of lading originated from the maritime bill of lading in the Maritime Law of the People's Republic of China, and there are differences between the two modes of transportation but the essence is almost the same, so the railroad bill of lading should be the same as the maritime bill of lading in terms of legal attributes, i.e., contract of carriage document, goods receipt document and property right document. In August 2019, "railroad bill of lading The concept of "railway bill of lading" was formally proposed for the first time in the "Western Land and Sea New Corridor Master Plan" issued by the National Development and Reform Commission, which plays an important role in "promoting and improving the national railroad bill of lading financing project, so that it can play a better role in international trade".

It should be highlighted that there is currently no official definition for the railroad bill of lading. The knowledge of the railroad bill of lading's idea still needs to be enhanced, despite the fact that the China-EU train has been using it for more than five years. The concept of a railroad bill of lading is more expansive than the existing definition, making it harder to accurately describe. Additionally, the academic community continues to debate whether or not a railroad bill of lading has "property attributes" or "debt attributes," which are mixed uses of bonds and property rights. According to the study of Qu et al. (2021), "property rights" that the party who owns the bill of lading contains the ownership of the goods; while "bonds" that the railroad bill of lading only represents the transferable nature of the claim. He characterized that the "property right theory" has more practical effect in

the operation of CEB, and the role of the bill of lading is more consistent with the meaning of "property right", which initially laid the foundation of the railroad bill of lading as a "property right certificate".

Currently widely recognized definition is: railroad bill of lading is a set of proof of contract of carriage, receipt of goods and proof of lading in one document, with circulation, pledge and settlement of the function, can be used as "proof of lading". The main relator of the bill of lading is the shipper and carrier who signed the contract of carriage. The difference between the railroad bill of lading and the sea bill of lading is that it is the freight forwarder railroad bill of lading, is issued by the freight forwarder, can also be named as "non-carrier railroad bill of lading" (Yang, 2019).

## 2.2 The development of the railroad bill of lading

In April 2017, the Sichuan Pilot Free Trade Zone was listed, and the "pilot issuance of multimodal transport bill of lading with the nature of a document of property rights and exploration of multimodal transport 'one single system'" was written into the "China (Sichuan) Pilot Free Trade Zone Overall Plan" issued by the State Council. The multimodal bill of lading has become the only document for trade settlement, financing and foreign exchange settlement, which greatly shortens the time required for railroad transportation and successfully realizes the "materialization" reform of railroad waybill.

In December 2017, Chongqing Ultimate Auto Trading Company imported a batch of cars from Germany, taking the China-European Liner (YUXINO) to Chongqing Railway Port, giving birth to the world's first single international trade settled by "international letter of credit with railroad bill of lading".

In November 2018, the State Council issued a "notice of the State Council on a number of measures to support the deepening of reform and innovation in the pilot free trade zone", under the premise of risk control, through the delegation of relevant authority, to support the pilot free trade zone bold trial, bold breakthroughs, independent reform, to explore the possibility of bill of lading in rem.

In July 2019, the pilot reform experience of "railroad bill of lading letter of credit financing settlement" was selected as the third batch of "best practice cases" in the national pilot free trade zone for national replication, accumulating practical experience for national system innovation.

In August 2019, the National Development and Reform Commission issued the Master Plan for the New Western Land and Sea Corridor, formally introducing the concept of "railroad bill of lading".

In October 2019, The Interim Working Group on Documentary Rights was set up at the International Freight Association of the Organization for Cooperation of Railways (OSCAR) regular meeting in Poland to study the issue of documentary rights for international intermodal rail transport, analyze the international experience on giving the function of documentary rights to waybills, identify the barriers preventing the issue's resolution, and more. In order to address the issue of document in rem, it will study the international experience with adding the function of a document in rem to the waybill, identify the barriers to resolution, and develop an IATA amendment supplement.

In June 2020, Chongqing Liangjiang New District People's Court in the "railroad bill of lading first case" judgment, recognized the function of the railroad bill of lading, recognized the basic transaction mode of the railroad bill of lading, and clarified the relevant rules of the railroad bill of lading transactions.

In January 2021, the supreme people's court on the construction of Chengdu-Chongqing region twin cities economic circle to provide judicial services and protection: "strengthen the study of new types of cases such as railroad bill of lading, for the "one belt and one road" import and export commodity distribution center construction, the western land and sea new channel construction to provide strong judicial Protection".

In August 2021, Yiwu Market Development Committee and other departments to dock research, trade enterprises can take the railroad multimodal transport bill of lading as evidence to banks to obtain "freight loans" or "cargo loans" and other services. This is a historic breakthrough in the business innovation of "materialization of railroad multimodal transport bill of lading", which marks the formal implementation of the reform of "materialization of railroad multimodal transport bill of lading" for China-European Liner.

In March 2022, Wang Pei, a deputy of the National People's Congress, proposed to improve the railroad classification and tiered investment and construction system, and make institutional arrangements for historical railroad debts as soon as possible.

In April 2022, the 5th anniversary of the listing of China (Chongqing) Pilot Free Trade Zone, the case of "railroad bill of lading letter of credit financing settlement" was awarded as the most preferred reform case in the selection of "my favorite reform case of Chongqing Pilot Free Trade Zone".

In April 2022, the first cross-border "one single system" multimodal digital bill of lading for China-Vietnam railroad was also successfully issued, providing new ideas for future online trade and promoting the development of railroad bill of lading.

In addition to the practical activities of all walks of life for the railroad bill of lading application of active attempts, the theoretical community has also been in-depth research on this issue, to explore the various paths to solve the problem of railroad bill of lading documentary rights. The essence of all these actions is to establish

railroad bill of lading as a document of property in practice, to recognize railroad bill of lading as a document of property in law, to cultivate and shape the function of railroad bill of lading as a document of property, to ensure the effectiveness of railroad bill of lading in issuance, circulation, control of goods, lifting and other aspects, and then to fully use railroad bill of lading in international railroad trade and financing business (Xing, 2021).

### 2.3 Difference between railroad bill of lading and waybill

Railroad waybill and railroad bill of lading two is not the inclusion of the relationship, but the juxtaposition of the relationship. Waybill is essentially an international railroad freight contract document, no financing, circulation role, while the railroad bill of lading is a set of proof of the contract of carriage, receipt of goods and proof of lading in one document, although the application of the same scenario, but there are essential differences. In this paper, we will distinguish the two from three aspects of lading documents, trade finance and circulation function.

#### 2.3.1 Certificate of Lading

Proof of lading is a document issued by the carrier or its agent to the shipper to confirm that the carrier has received the goods. It can be a bill of lading or bill of lading (Sun, 2019). As the railroad waybill does not represent the ownership of the goods, it cannot be used as the consignee's proof of delivery, and the consignee needs to prove that the identity of the carrier is the same as that signed in the waybill before the carrier can deliver the goods. According to Article 16 of the IATA [Article 16 of the IATA stipulates that: the goods arrive at the station, after the consignee pays all the delivery charges payable contained in the waybill, the railroad must hand over the goods together with the waybill to the consignee; the consignee should pay the delivery charges and collect the goods]. In the process of transportation, if the document filled in the letter of credit is the railroad waybill, it is impossible to pick up the goods only by virtue of the waybill, which may produce such risks as the buyer picking up the goods directly by virtue of the identification but not delivering all the items to the bank and other issuing banks, or the goods being fraudulently claimed by others because the waybill cannot be the only proof of delivery. According to Xing (2019), the railroad bill of lading can theoretically be regarded as a document in rem because it appears to include the essential elements of one. The goods in the bailee's custody, proof of possession of the documented evidence of the right to receive, keep, and dispose of the document, and the document holding the commodities are all included in the commercial procedure that the bailee has issued.

Since the railroad bill of lading is a document of property, the holder has the right to withdraw the goods covered by the bill of lading and can only do so with the railroad bill of lading. Delivery of the railroad bill of lading has the same delivery effect as delivery of the goods, but the specific legal impact of a transfer of the railroad bill of lading depends on the transfer of the railroad bill of lading. Railroad bill of lading has the property of evidence of property, which indicates that it can be pledged as collateral for financing, in addition to the railroad bill of lading can be "bought and sold", to carry out documentary transactions.

It is worth noting that the function of the railroad bill of lading does not make it simply characterized as a document of property rights. Yang Linping (2019) believes that if the bill of lading as a document of property rights, all its functions such as proof of contract of carriage, goods receipt and evidence of property rights need to have a legal basis, which is obviously contrary to the current situation of the railway bill of lading, so the bill of lading should be a document of lading. Li et al. (2021) pointed out that its difference from the bill of lading is that the traditional mode of railroad transport is no longer a single ticket and goods together to reach the destination, but can achieve "single cargo diversion", that is, into the letter of credit mechanism, the seller delivery, issuing bills of lading, the bank will be a full set of original bills of lading forwarded to the consignee or directly through international express delivery. The buyer must get the original bill of lading from the bank before he can mention the goods. This transaction mode avoids the transaction risk in the railroad waybill and makes the overall efficiency greatly improved.

#### 2.3.2 Trade financing

In practice, CEB initially created the railroad bill of lading for the purpose of realizing the pledge and flow function of the document (Zhang, 2021). The Maritime Law does not have direct provisions on the pledge function of maritime bills of lading, but in Article 223 of the Property Law of the People's Republic of China, it is stated that the debtor or a third party has the right to dispose of the range of rights that can be pledged. The need for expenditure is, its (c) the provisions of the bill of lading due to earlier legislation and now the "Property Law" has been repealed, and does not include the current railroad bill of lading. But in practice, the railroad bill of lading with the pledge function put forward the demand. The pledge function of bill of lading means that the buyer and seller can pledge the bill of lading to the bank to obtain financing support, and the bank can also carry out the letter of credit service of the relevant liner bill of lading to promote the convenience of cross-border settlement, and the bill of lading owner can also pledge the bill of lading to other institutions to obtain financing support. On the contrary, Yuan (2022) points out that holding a railroad waybill does not mean owning the goods stated on the waybill, and the buyer cannot use the waybill to share the risk without payment. Therefore, banks and other

institutions usually refuse to use the railway waybill as a document for foreign exchange settlement unless the buyer is willing to assume a higher amount of margin.

### 2.3.3 Circulation function

Railroad waybill is not a document of right and cannot be used as a letter of credit for bank fund circulation, foreign exchange settlement, or financing. Yang (2020) points out through the actual operation of China-European Liner in Chongqing that the railway waybill is not a document of right, but only a contract of railroad transportation signed by both the shipper and the carrier. The railroad bill of lading can be regarded as a document of property rights as the goods themselves and can be endorsed for the flow of goods. Zhang (2020) especially mentioned that the PRC Maritime Law, Article 79 provides three methods of transfer of the bill of lading, that the railroad bill of lading as a delivery document also has the function of transfer, otherwise it is equivalent to the named bill of lading, and the railroad waybill is no practical difference. Therefore, in the application of the bill of lading process, the carrier's port of destination delivery of the consignee is perhaps the transferee of the bill of lading rather than the initial contract of the buyer; in the process of transportation bill of lading can also be transferred through the transaction, to improve the overall trade convenience.

### 2.3 Railway bill of lading application mode

Since the application of railroad bill of lading differs in different application scenarios and is more dependent on the consent of both buyers and sellers, it is not possible to procedurally sort out the application scenarios of railroad bill of lading in reality. This paper adopts the application of railway bill of lading in Chengdu intermodal transport in Sichuan as the model of this paper. As the first multimodal bill of lading issuance case in China, this transaction has national and even international reference value. The following figure shows the transaction flow.

First of all, the importing and exporting parties signed a sale and purchase contract, and the two imported Land Rovers were to be delivered to Chengdu International Railway Port from the designated supervised warehouse at Tilburg Station in the Netherlands; the importer, Rong'ou Deyuan, applied for levy from the issuing bank, and the issuing bank delivered the letter of credit to the notifying bank to inform the exporter, and then issued a bill of lading to the land port company to confirm its right to control the goods; the land port company, as the cargo carrier, had responsibilities including the transportation and care of the goods. In order to guarantee the right of control of the dry port company, the third party does not have access to the goods during transportation. After the goods leave the port, the exporter receives the bill of lading issued by the dry port company, applies for a letter of credit from Bank of China Jinjiang Sub-branch and completes the audit.<sup>1</sup>

## **III. Railway bill of lading legislation controversial points**

### 3.1 The validity of railroad bill of lading in rem

In the beginning of the railroad bill of lading put forward the "evidence of property", but it is the same with the bill of lading materialization of the statement without a clear definition. The academic community for the bill of lading has the property rights and its effect has been controversial. Traced back to maritime law, "evidence of title" from the English court in 1794 *Lick Barrow v. Mason* a case, the first confirmed the bill of lading has "document of title" function, the domestic will be translated as property rights (Du 2022). After a long period of formation of commercial customs, people generally believe that the transfer of the bill of lading will have the same effect as the transfer of ownership of the goods. In the early maritime law academia, the bill of lading is equivalent to the "evidence of property" is the mainstream, but in recent decades, scholars on its precise definition and characterization of the debate, there is no result so far.

At present, the main emergence of "bonds" and "property rights" two views. Among them, the "property rights theory" is divided into "absolute validity theory" and "relative validity theory". Qu et al. (2019) that "absolute effect", the bill of lading owner has the ownership of goods under the bill of lading, that is, the transfer of ownership of goods is not subject to the conditions of change of movable property rights in civil law. Xin (2021) that "relative effect" in the bill of lading transfer must meet the conditions of transfer in civil law to be effective, so do not meet the conditions of change of movable property rights transfer is invalid. Since the absolute validity cannot avoid the deception caused by the loss of the bill of lading, and its role is similar to the circulation of money, the relative validity theory gradually replaced the absolute validity theory as the new mainstream view after it was proposed. The "bond theory" is that the bill of lading is the right to deliver the goods, that is, the bill of lading owner is the creditor, the carrier is the debtor, in the bill of lading transfer should be notified to the carrier, otherwise the transfer has no practical effect. Because of this view and the actual operation of the endorsement of

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<sup>1</sup> The case source: "Sichuan multimodal transport "one bill of lading system" to solve the problem of uniqueness and validity of property rights".

the transfer of conflict, this view is also gradually replaced by the theory of relative effectiveness. In the actual process of transport transactions, the railroad bill of lading is mainly based on the meaning of autonomy rather than legal provisions. But must be recognized is that the bill of lading has the effect of property, that is, the above defined "relative property rights" said.

### 3.2 railroad bill of lading legislative feasibility

The main concern of the railroad bill of lading legislation is the legal level of "pulling up the seeds" concern. Opponents emphasize the spontaneity of the formation of commercial customs, and raise strong objections to the intervention of governments and international organizations. The promotion of legislation may lead to the neglect of risks by the parties to the transaction and eventually to the development of unjustified business models.

#### 2.3.1 Different legal systems and systems

The China-Europe Class Train belongs to the category of international cargo rail transport, and the two conventions that have the most influence on the China-Europe Class Train are the Convention on International Carriage of Goods by Rail and the Agreement on International Carriage of Goods by Rail. As of 2021, only 12 countries have joined the two agreements at the same time, and China has only joined the IATA, and according to the research, the CEB still uses the IATA waybill as the main railroad document. The main provisions of these two systems at each form a different system, in terms of settlement costs, transaction conditions, liability system, etc. are different. In the current two legal systems, international railroad transport are using the railroad waybill, there is no railroad bill of lading related laws. Among them, the railroad waybill only as the carrier and the shipper contract of carriage, does not have the right in rem of the goods, and therefore not transferable. The carrier can only deliver the goods to the consignee recorded in the waybill, and no obligation to see the single delivery. Therefore, the railroad waybill also does not have the functions of settlement, financing and picking up goods. As the commercial laws applied by the countries of the CEB train are different, there may be scenes of changing the railroad waybill in different member countries during the transportation, and the waybill cannot be "a single end". Even in practice, in order to alleviate the trouble caused by frequent change of waybill and produce the unified waybill of international cargo contract / international cargo association, but because the application language is not unified, not all countries along the way to obtain consent, the unification of the waybill has not achieved greater development so far.

Here, it should be noted that only the international "United Nations Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea" to regulate the delivery of documents, but the Convention adopted in 2008 has not yet entered into force. Domestic law determines whether and how to give the transport document to the function of evidence of property. It can be inferred that it is nearly impossible to create a railroad bill of lading with proof of property rights through international collaboration in the transportation sector. To ensure that it serves the intended purpose, we must first establish the pertinent laws in the nation.

#### 3.3.2 Commercial customs have not been formed

The idea of creating railroad bill of lading originated from the sea bill of lading, but the sea bill of lading is after hundreds of years of physical trade, practice and then recognized by the law of each country, which has the flow, pledge function are after many transactions repeatedly proved, change out the results. In particular, Xing (2019) points out that such customary practices must be clear and stable, have a long history, be reasonable, have no direct conflict with the general law, and be recognized and followed by the relevant regions or the industry. A document cannot become a document of property rights merely by virtue of its wording. And the railroad bill of lading since the introduction of only three years. Liu (2021), Yuan (2022) and other scholars based on this that the immediate enactment of legal provisions to provide for the railroad bill of lading is unnecessary, that is, "commercial customs and commercial practices are still an important supplement to national commercial law", the legislative conditions are not yet ripe.

#### 2.3.3 the introduction of the bill of lading incompleteness

Because the land bill of lading is changed by the sea bill of lading, its use inevitably with the thinking of the sea, inevitably in the introduction of the incompatibility of the situation. For example, the main purpose of giving the railroad bill of lading function is to develop the form of proposed delivery, but the average length of transport of China-Europe railroad for 15-20 days, the length of the bill of lading on behalf of the "materialization" can be agreed by the autonomy of both parties; and because of the value of goods transported by China-Europe train characteristics show that in transit for The value of the goods transported by the China-European Liner indicates that the possibility of pledging and transferring during transportation is lower than that of maritime transportation, which means that the chance of the goods being changed during transportation time is not high.

According to the above analysis, in commercial practice has not been fully formed and self-improvement before the promotion of railroad bill of lading legislation is unreasonable, may cause the law and the actual

operation of the inconsistency, resulting in the need to frequently amend the relevant legal provisions; and because the railroad bill of lading from the maritime law "bill of lading", in the application to land transport Inevitably there will be some content and meaning of the change, so the land transport bill of lading need more time and space to adapt. Therefore, the Sino-European liner as a pilot gradually began to explore the application of the bill of lading scenario and mode is the best way at this stage. When the formation of commercial practice, the use of the scope of expansion, legal needs began to rise, perhaps the most mature period of legislation.

#### **IV. Railway bill of lading development path to explore**

Railroad bill of lading as an innovative railroad documents, inevitably there are certain problems in the early stage of development. The problem of the consent of the buyer and seller, the bank letter of credit is not recognized as high, endorsement of the lack of norms, commercial practices have not yet formed, etc. are the problems of the railway bill of lading.

Because the railroad freight usually according to the process of commercial practice and then into the legal provisions, bill of lading is still in the initial exploration stage, there is no widely recognized norms and official documents, in the implementation process will encounter endorsement format is not agreed and rejected, the buyer and seller did not agree to cause problems in the flow of goods, etc., triggering potential transactions between the two sides due to fear of financial losses, for the risk of having more More concerns, so refuse to use the railroad bill of lading. In addition, the railroad bill of lading is derived from the sea bill of lading but not exactly similar, in the process of activation of the need to modify part has not been clear, resulting in the transaction process for both parties to explain the behavior requires a lot of ink, but the transaction process is complicated; related legal rights also become difficult because there is no practice in accordance. Therefore, how to establish and improve the operation of the railroad bill of lading process, so that it early formation of commercial practice and legal standardization, is the focus of the current academic research.

Yang (2019) and Zhang (2021) believe that the "dual-track system" can be used, the joint use of railroad waybill and railroad bill of lading, adding the main issue for the control of goods; Li et al (2021) by comparing Chongqing and Chengdu has been issued "a single system" case model to give the railroad bill of lading properties of the concept of building a unified, standardized program; Yang (2020), Qin (2021) and others advocate promoting the materialization of the railroad waybill, strengthening its status at home and abroad, clarifying the relevant regulations, providing relevant management systems and service standards, with the current law as the background and basis, by drawing on extraterritorial experience, Zhang, Liu, Zhang (2021) and others propose that commercial practices should be followed, commercial innovation should be encouraged by encouraging enterprises to use railroad bills of lading, the use of bills of lading can be achieved by the party's autonomy, and the railroad bill of lading should be solved through a collaborative governance approach. The difficulties faced by the development of railway bills of lading should be solved through cooperative governance.

##### **4.1 Dual-track model**

Multimodal bill of lading plus railroad waybill "dual system" refers to the multimodal bill of lading can be transferred, through the freight forwarder third party to achieve control of goods, between the freight forwarder and the railroad carrier applicable railroad waybill, while the guarantee party can be introduced to achieve financing pledge, reduce the risk of banks and freight forwarders, help to achieve the flow of funds and goods of the main body of the transaction. It is appropriate to utilize the railroad waybill for short-haul international railroad freight trade since the transport time is too short, generally speaking, do not need the goods in transit for transfer activities, but also are not suited for trade finance. Of However, you can forego transaction efficiency and opt to use the railroad bill of lading to help safeguard the security of the transaction if the importing party places a higher priority on security. In order to meet the needs of the transfer of trade and to allow for the direct transfer of physical evidence, it is possible to consider using the railroad bill of lading for long-distance international train cargo commerce, but also conducive to the development of international land trade finance settlement business, improve the efficiency of goods and capital turnover.

The railroad waybill and railroad bill of lading can be utilized individually under the dual-track mode without interfering with one another and in addition to one another, which can suit the varied needs of international land trade. Depending on their demands and trade features, trade subjects can opt to employ a variety of documents. Although the two sorts of documents are separate from one another, there is some intrinsic relationship between them. Long-term, China can encourage the use of the railroad bill of lading to strengthen the right to speak in circulation, making China a pioneer in the standardization of the railroad bill of lading. In the near term, the "dual system" can solve problems that the waybill cannot be involved in, and improve the convenience of trade.

#### 4.2 Promote the materialization of railroad waybill

Through the introduction of policy guarantees, the introduction of bank-side default mechanism, reduce the cost of guarantees, the use of information means to reduce transaction costs and other methods to break the existing legal system barriers, clear legal status held by the waybill, so as to promote the standardization and integration of railroad waybill. This approach can comprehensively mobilize the enthusiasm of the contracting parties, from top to bottom to guide the gradual formation of the business environment; but because the railroad waybill in the legal level has clearly does not have the property attributes, through the improvement of the way to promote a single system of innovation bears a certain risk.

#### 4.3 Encourage enterprises to actively explore the use of railroad bill of lading, explore the feasibility of the legislative perspective

In the context of maritime bill of lading, through the enterprise itself to explore the application of railway bill of lading is one of the best solutions. Only in the commercial field is fully practiced and used to form commercial practices, the feasibility and accuracy of legislation can be guaranteed. In order to respond to the diversified needs of international business for railroad international trade, "railroad bill of lading" innovation and is an essential part.

Through the analysis of existing cases can be seen, the biggest problem facing the railroad bill of lading is the lack of statutory support, in the process of practice may face the disadvantage of legal precedents. For example, the case mentioned in the form of endorsement is not uniform, the provisions of the legal consensuality. However, the distance from the railroad bill of lading on the landing of statutory law still needs a lot of practice and testing process, rashly into law may cause confusion in the application. But from now on to explore the possible legislative focus and perspective is also an essential part. Our government should not only in the policy fully encourage the exploration of the free trade zone, can also set up a research group for the practice of the railroad bill of lading research, explore the order and perspective of legislation, and strive to promote the early maturity of the application of the railroad bill of lading.

In the full analysis of the existing legal system, can promote the realization of domestic law, through the existing cases, the history of the solution to the existing enterprises to provide the support of the law, the maximum extent to promote the operation of the railroad bill of lading. And learn from the legal rules and system of maritime trade bill of lading, further improve the railroad bill of lading, to provide a model for domestic and international railroad trade.

### **V. Conclusion**

Through a systematic review of the existing literature, it is found that the railway bill of lading has a sustainable point. However, domestic scholars have not yet formed a unified and comprehensive definition of the concept of railway bill of lading. In summarizing the existing research results and combining them with real-life observations, this paper presents several aspects, from the perspective of legal definition, it is unreasonable to promote the legislation of railway bill of lading before the commercial practice is fully formed and self-improvement. In response, scholars have proposed a "dual-track system" to facilitate the transport process by combining the use of two types of documents, and also proposed the integration of transport documents, but most tend to promote the formation of commercial practices.

Through this literature, we can understand the development status and problems of railroad bill of lading, but due to the limitations of railroad bill of lading itself, there are many uncertainties in its future development, and at the same time, there is room for further exploration of railroad bill of lading-related literature. With the further improvement of land-based trade infrastructure and trade rules, land-based trade will play a more important role in global trade, and the railroad bill of lading rules are expected to become the core rules of international trade alongside with the rules of maritime bills of lading. Should seriously summarize the practical experience, effectively strengthen theoretical research, as soon as possible to put forward the model program of railroad bill of lading rules, for the internationalization of the railroad bill of lading to provide institutional reference, the construction of the railroad bill of lading as the leading international land trade rules.

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