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ECONOMIC COMMISSION FOR EUROPE

INLAND TRANSPORT COMMITTEE

**Ad hoc Meeting on the Convention on
Civil Liability for Damage caused during
Carriage of Dangerous Goods by Road,
Rail and Inland Navigation Vessels (CRTD)**
(Third session, Geneva, 7-9 July 2003)

LIMITS OF FINANCIAL LIABILITY

Transmitted by the Government of the Netherlands

1. Introduction

1.1 At its last session, the Ad hoc Meeting considered the draft amendments to article 9 of the CRTD in document TRANS/AC.8/2, annex 2. For more information on the amounts of liability and compulsory insurance, the delegation of the Netherlands agreed to produce a background document for this session.

1.2 The following is the result of a further analysis of what amounts will actually be needed in view of the relevant claim history which may differ for each mode of transport. Thereby, due account has been given to all related interests of victims, carriers as well as to the available insurance capacity.

2.2 As point of reference for this background information, the current limitation amounts of the CRTD are considered in relation to the figures proposed in document TRANS/AC.8/2, annex 2. The Netherlands thereby looked further into the reasons why these figures could be different for each mode of transport which are dealt with below.

2. Road Transport

2.1 The liability of the road carrier is proposed to be reduced from 8 million SDRs for loss of life or personal injury and 12 million SDRs for other (property and environmental damage) claims to 7 million SDRs and 5 million SDRs respectively (present total of 30 million SDRs reduced to total of 12 million SDRs).

2.2 This proposed reduction is justifiable both as regards claims history in road transport where claims have amounted to significant costs for compensation beyond existing compulsory insurance schemes reaching up to 6.25 million SDRs some more than 10 years ago, as well as regards the inflation correction over these years which amounts to 25-30%.

2.3 Given also the relatively high risks involved with road transport (Los Alfagues - incident), a level of in total 12 million SDRs seems justifiable for both the limits of liability of the road carrier as well as the limits of compulsory insurance to cover this liability, thereby creating a system for prompt and adequate compensation for damage to victims of incidents caused by dangerous goods during carriage by road.

3. Inland navigation

3.1 The liability of the carrier by inland navigation vessel is proposed to be reduced from 8 million SDRs for loss of life or personal injury and 7 million SDRs for other (property and environmental damage) claims to respectively 4 million SDRs and 3 million SDRs (present total of 15 million SDRs reduced to total of 7 million SDRs).

3.2 This reduction is presented both in view of the claim history in inland navigation, where the highest claim for compensation reported in relation to the questionnaire amounted to 125,000 SDRs (TRANS/AC.8/2, para. 24), as well as in regard to the available capacity present on the insurance market.

3.3 It has been stated that an amount of 10 million SDRs could easily be insured by the International Group of P&I Clubs, but however with some more difficulty by conventional or regular insurance institutions where the ceiling is the equivalent of approximately 10 million Deutschmarks (DM). The premiums claimed by the P&I Clubs for a Rhine vessel carrying dangerous goods would be between 13 and 15,000 DM with an increase of 30 to 50% in case of third party liability and compensation coverage for damage in connection with the carriage of hazardous and noxious substances (TRANS/AC.8/2, paras.19 and 20).

3.4 The proposal to reduce the level of liability and of compulsory insurance as regards inland navigation to a total of 7 million SDRs envisages to meet concerns of both victims and insurance capacity, but also takes into account the relatively low limitation amounts that are at present in existence relating to the liability of the carrier by inland navigation vessel and which currently amounts to a level of 1.5 million SDRs at a maximum.

4. Rail Transport

4.1 The liability of the rail carrier is proposed to be reduced from 18 million SDRs from loss of life or personal injury and 12 million SDRs for other (property and environmental damage) claims to 12 million SDRs and 8 million SDRs respectively (present total of 30 millions SDRs reduced to total 20 million SDRs).

4.2 Recorded accidents have allegedly caused up to 4 million SDRs worth damage in the railway sector, thereby indicating the relatively high risks involved within this mode. Furthermore, the proposed level takes into account the new system of liberalization in the railway sector and envisages to enable new private companies to sustain financial costs relating to insurance arrangements which recordedly are available on the insurance market up to 20 million SDRs.

4.3 Accordingly, the limit of liability and that of the compulsory insurance in the railway sector is proposed to be established, also for victims, at an appropriate level of 20 million SDRs.

5. Action to be taken

The Ad hoc Meeting is invited to take note of the information provided in this document with a view to considering the amounts of liability and compulsory insurance as proposed in document TRANS/AC.8/2, annex 2.
