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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)**  
**(Fourth session, 3-5 November 2003)**

**CONSOLIDATED TEXT OF THE DRAFT REVISED CRTD**

**Prepared by the secretariat**

The secretariat produces below the consolidated text of the draft of the CRTD revised by the 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).

The amended texts are crossed out and the new texts are placed between square brackets.

**CONVENTION ON CIVIL LIABILITY FOR DAMAGE CAUSED  
DURING CARRIAGE OF DANGEROUS GOODS BY ROAD,  
RAIL AND INLAND NAVIGATION VESSELS (CRTD)**

THE STATES PARTIES TO THIS CONVENTION,

NOTING the continuous increase in the carriage of dangerous goods,

CONSCIOUS of the existence at international level of technical standards aimed at securing safety during such carriage,

DESIRING to establish uniform rules ensuring adequate and speedy compensation for damage caused during carriage of dangerous goods by road, rail and inland navigation vessels,

HAVE AGREED as follows:

**DEFINITIONS**

**Article 1**

For the purpose of this Convention:

1. "*Carriage by road*" means carriage of dangerous goods on board a road vehicle;
- ~~2. "*Road vehicle*" means any motor vehicle, articulated vehicle, trailer or semi-trailer, as defined in article 1 of the Convention on Road Traffic of 8 November 1968;~~
- [2. "*Road vehicle*" means any motor vehicle, other than a vehicle belonging to or under the orders of the armed forces of a Contracting Party, intended for use on the road, being complete or incomplete, having at least four wheels and a maximum design speed exceeding 25km/h, and its trailers, with the exception of vehicles which run on rails and of agricultural and forestry tractors and all mobile machinery;]
3. "*Carriage by rail*" means carriage of dangerous goods on board a railway wagon, including a rail motor-coach unit or railcar;
4. "*Carriage by inland navigation vessel*" means carriage of dangerous goods on board a ship;

5. "*Ship*" means any vessel or craft, not being a sea-going ship or sea-borne craft, of any type whatsoever;
6. "*Vehicle*" means a road vehicle, a railway wagon or a ship. Where several vehicles are coupled together to form a train, such a train shall be regarded as a single vehicle;
7. "*Person*" means any individual or partnership or any public or private body, whether corporate or not, including a State or any of its constituent subdivisions;
8. ~~"*Carrier*" means:~~

~~(a) — with respect to carriage by road and by inland navigation vessel:~~

~~the person who at the time of the incident controls the use of the vehicle on board which the dangerous goods are carried.~~

~~The person in whose name the vehicle is registered in a public register or, in the absence of such registration, the owner of the vehicle shall be presumed to control the use of the vehicle unless he proves that another person controls the use of the vehicle and he discloses the identity of that person or, if he is unable to disclose the identity of such person, he proves that such other person has taken control of the vehicle without his consent and in such circumstances that he could not reasonably have prevented such use.~~

~~Where the vehicle on board which the dangerous goods have been loaded is moved by another vehicle, the person who controls the use of that other vehicle shall be deemed to be the carrier.~~

~~(b) — with respect to carriage by rail: the person or persons operating the railway line on which the incident occurred; if there is joint operation each of the joint operators shall be considered as carriers;~~

[8. "*Carrier*" means:

the person who at the time of the incident controls the use of the vehicle on board which the dangerous goods are carried;

the person in whose name the vehicle is registered in a public register or, in the absence of such registration, the owner of the vehicle shall be presumed to control the use of the vehicle unless he proves that another person controls the use of the vehicle and he discloses the identity of that person or, if he is unable to disclose the identity of such person, he proves that such other person has taken control of the vehicle without his consent and in such circumstances that he could not reasonably have prevented such use.

Where the vehicle on board which the dangerous goods have been loaded is moved by another vehicle, the person who controls the use of that other vehicle shall be deemed to be the carrier;]

9. ~~"Dangerous goods" means, with respect to carriage by road, rail or inland navigation vessel, any substance or article which is either listed in the classes, or covered by a collective heading of the classes of the European Agreement concerning the International Carriage of Dangerous Goods by Road (ADR) or is subject to the provisions of that Agreement;~~

[9. '*Dangerous goods*' means, with respect to carriage by road, rail or inland navigation vessel, any substance or article included in the lists of dangerous substances contained in Part 3 of the European Agreement concerning the International Carriage of Dangerous Goods by Road (ADR), the Regulations annexed to the European Agreement concerning the International Carriage of Dangerous Goods by Inland Waterways (ADN), or the Regulations concerning the International Carriage of Dangerous Goods by Rail, Annex 1 to Appendix B (Uniform Rules Concerning the Contract for International Carriage of Goods by Rail) (CIM) of COTIF (Convention concerning International Carriage by Rail) (RID);]

10. "*Damage*" means:

- (a) loss of life or personal injury on board or outside the vehicle carrying the dangerous goods caused by those goods;
- (b) loss of or damage to property outside the vehicle carrying the dangerous goods caused by those goods, to the exclusion of any loss of or damage to other vehicles in the same train of vehicles or any loss of or damage to property on board such vehicles;
- (c) loss or damage by contamination to the environment caused by the dangerous goods, provided that compensation for impairment of the environment other than for loss of profit from such impairment shall be limited to costs of reasonable measures of reinstatement actually undertaken or to be undertaken;
- (d) the costs of preventive measures and further loss or damage caused by preventive measures.

Where it is not reasonably possible to separate damage caused by the dangerous goods from that caused by other factors, all such damage shall be deemed to be caused by the dangerous goods;

11. "*Preventive measures*" means any reasonable measures taken by any person after an incident has occurred to prevent or minimize damage;

12. "*Incident*" means any occurrence or series of occurrences having the same origin, which causes damage or creates a grave and imminent threat of causing damage;

13. "*Green card system*" means the international motor insurance system described in ~~annex 2~~ [annex 1] to the Consolidated Resolution on the Facilitation of Road Transport (R.E.4) of the Economic Commission for Europe of the United Nations.

## SPHERE OF APPLICATION

### Article 2

This Convention shall apply:

- (a) to damage sustained in the territory of a State Party and caused by an incident occurring in a State Party;
- (b) to preventive measures, wherever taken, to prevent or minimize such damage.

### Article 3

1. This Convention shall apply to claims, other than claims arising out of any contract for the carriage of goods or passengers, for damage caused during carriage of dangerous goods by road, rail or inland navigation vessel.
2. This Convention shall not apply to the extent that its provisions are incompatible with those of the applicable law relating to workmen's compensation or social security schemes.
3. Carriage of dangerous goods by road, rail or inland navigation vessel includes the period from the beginning of the process of loading the goods onto the vehicle for carriage until the end of the process of unloading the goods.
4. Where the vehicle on board which the dangerous goods have been loaded is carried over part of the journey by another vehicle without the goods being unloaded, such goods shall be deemed, during that part of the journey, to be carried solely on board that other vehicle.
5. This Convention shall not apply when the vehicle on board which the dangerous goods have been loaded is carried by a sea-going ship, sea-borne craft or aircraft.

#### **Article 4**

This Convention shall not apply:

- (a) to damage arising from carriage performed entirely in a place to which members of the public do not have access, provided that such carriage is accessory to other activities and is an integral part thereof;
- (b) to damage caused by a nuclear substance
  - (i) if the operator of a nuclear installation is liable for such damage under either the Paris Convention of 29 July 1960 on Third Party Liability in the Field of Nuclear Energy and its additional Protocol of 28 January 1964 or the Vienna Convention of 21 May 1963 on Civil Liability for Nuclear Damage or any amendments to those Conventions, or
  - (ii) if the operator of a nuclear installation is liable for such damage by virtue of national law governing the liability for such damage, provided that such law is in all respects as favourable to persons who may suffer damage as either the Paris or Vienna Conventions as referred to under (i);
- ~~(c) to carriage of dangerous goods by road, rail or inland navigation vessel which complies with the conditions of marginal 10-010 or which does not exceed the quantities of marginal 10-011 of ADR.~~
- [(c) to carriage of dangerous goods by road, rail or inland navigation vessel which complies with the conditions of Section 1.1.3 of Annex A of the European Agreement concerning the International Carriage of Dangerous Goods by Road (ADR), or of Section 1.1.3 of the Regulations annexed to the European Agreement concerning the International Carriage of Dangerous Goods by Inland Waterways (ADN), or of Section 1.1.3 of the Regulations concerning the International Carriage of Dangerous Goods by Rail, Annex 1 to Appendix B (Uniform Rules Concerning the Contract for International Carriage of Goods by Rail) (CIM) of COTIF (Convention concerning International Carriage by Rail) (RID).]

### **LIABILITY PROVISIONS**

#### **Article 5**

1. Except as provided in paragraphs 4 and 5 of this article and in article 6, the carrier at the time of an incident shall be liable for damage caused by any dangerous goods during their carriage by road, rail or inland navigation vessel.

2. If an incident consists of a series of occurrences having the same origin, the liability shall attach to the carrier at the time of the first of such occurrences.
3. If two or more persons referred to in article 1, paragraph 8 (b) are liable as a carrier under this Convention, they shall be jointly and severally liable.
4. No liability shall attach to the carrier if he proves that:
  - (a) the damage resulted from an act of war, hostilities, civil war, insurrection or a natural phenomenon of an exceptional, inevitable and irresistible character; or
  - (b) the damage was wholly caused by an act or omission with the intent to cause damage by a third party; or
  - (c) the consignor or any other person failed to meet his obligation to inform him of the dangerous nature of the goods, and that neither he nor his servants or agents knew or ought to have known of their nature.
5. If the carrier proves that the damage resulted wholly or partially either from an act or omission with the intent to cause damage by the person who suffered the damage or from the negligence of that person, the carrier may be exonerated wholly or partially from his liability to such person.
6. No claim for compensation for damage shall be made against the carrier otherwise than in accordance with this Convention. However, in the case referred to in paragraph 4 (c) of this article, any liability for damage which may be incurred by the carrier according to the applicable law shall not be affected, provided that the limits of his liability shall not exceed the limits stipulated in article 9.
7. Subject to paragraph 9 of this article and to articles 6 and 7, no claim for compensation for damage under this Convention or otherwise may be made against:
  - (a) the servants or agents of the carrier or the members of the crew;
  - (b) the pilot of the ship or any other person who, without being a member of the crew, performs services for the vehicle;
  - (c) the owner, hirer, charterer, user, manager or operator of the vehicle, provided that he is not the carrier;
  - (d) any person performing salvage operations with the consent of the owner of the ship;

- (e) any person performing salvage operations on instruction of a competent public authority;
- (f) any person other than the carrier taking preventive measures for damage caused by those measures;
- (g) any servants or agents of the persons mentioned under (b), (c), (d), (e) and (f),

unless the damage resulted from their personal act or omission, committed with the intent to cause such damage or recklessly and with knowledge that such damage would probably result.

8. For the purpose of article 1, paragraph 8 and article 3, paragraph 4, no person performing operations under paragraph 7 (d), (e) or (f) of this article, nor his servants or agents, shall be deemed to be a carrier.

In such cases the person who was the carrier at the time of the incident giving rise to such operations shall remain the carrier for the purpose of this Convention.

9. Nothing in this Convention shall prejudice any right of recourse of the carrier against the consignor or the consignee of the goods causing the damage or against any other third party.

### **Article 6**

1. If the carrier proves that the dangerous goods have been loaded on or unloaded from the vehicle under the sole responsibility of a person other than the carrier or his servants or agents, such as the consignor or the consignee, and he discloses the identity of such person, he shall be relieved of his liability for damage caused by such goods during that period of loading or unloading and such other person shall be liable for that damage under this Convention.

Where, however, the operations of loading or unloading have been carried out under the joint responsibility of the carrier and the other person referred to in this paragraph, the carrier and that other person shall be jointly and severally liable under this Convention for damage caused during the period of loading or unloading.

For the purpose of this paragraph a person shall not be deemed to be responsible for the process of loading or unloading, if he has carried out such process on behalf of the carrier or of another person such as the consignor or the consignee. In such a case the carrier or the other person shall remain liable.



2. The provisions of this Convention shall apply in respect of such other person as referred to in paragraph 1 correspondingly provided that:
  - (a) article 5, paragraph 6 shall not apply in respect of claims for compensation for damage made against such other person, nor shall articles 13 to 17 apply to the liability of that person;
  - (b) the limits of article 9 shall apply to the aggregate of all claims arising from any one incident against the carrier and such other person;
  - (c) a fund constituted by the carrier or by such other person in accordance with article 11 shall be deemed to be constituted by both.
3. In the relations between the carrier and any other person liable under paragraph 1 of this article, liability shall be borne by that other person unless the damage was caused by the fault of the carrier or of his servants or agents.

When both the carrier or his servants or agents and the other person or his servants or agents have contributed to the damage by their fault, the carrier and that other person shall each bear such part of the liability as corresponds to the degree of fault attaching to each of them.

4. This article does not apply if the process of loading or unloading has been carried out under the sole or joint responsibility of a person performing operations mentioned in article 5, paragraph 7 (d), (e) or (f).

#### **Article 7**

Where no liability attaches to the carrier in accordance with article 5, paragraph 4 (c), the consignor or the other person referred to therein shall be deemed to be the carrier for the purposes of this Convention. However, article 5, paragraph 6 shall not apply in respect of claims for compensation for damage made against the consignor or the other person, nor shall articles 13 to 17 apply to their liability under this Convention.

#### **Article 8**

1. Whenever damage has resulted from an incident involving two or more vehicles each of which is carrying dangerous goods, each carrier, unless exonerated under article 5, paragraphs 4 and 5 or article 6, shall be liable for the damage. The carriers shall be jointly and severally liable for all such damage which is not reasonably separable.
2. However, the carrier shall, in respect of each vehicle, be entitled to the limits of Liability applicable to him by virtue of article 9.

3. Nothing in this Convention shall prejudice any right of recourse of a carrier against any other carrier.

## LIMITATION OF LIABILITY

### Article 9

- ~~1. The liability of the road carrier and of the rail carrier under this Convention for claims arising from any one incident shall be limited as follows:
    - ~~(a) with respect to claims for loss of life or personal injury: 18 million units of account;~~
    - ~~(b) with respect to any other claim: 12 million units of account.~~~~
  - ~~2. The liability of the carrier by inland navigation vessel under this Convention for claims arising from any one incident shall be limited as follows:
    - ~~(a) with respect to claims for loss of life or personal injury: 8 million units of account;~~
    - ~~(b) with respect to any other claim: 7 million units of account.~~~~
  - ~~3. Where the sums provided for in paragraph 1 (a) and paragraph 2 (a) of this article are insufficient to pay the claims mentioned therein in full, the sums provided for in paragraph 1 (b) and paragraph 2 (b) shall be available for payment of the unpaid balance of claims under paragraph 1 (a) and paragraph 2 (a). Such unpaid balance shall rank rateably with claims mentioned under paragraph 1 (b) and paragraph 2 (b).~~
- [1. The liability of the road carrier under this Convention for claims arising from any one incident shall be limited as follows:
    - (a) with respect to claims for loss of life or personal injury: [7] million units of account;
    - (b) with respect to any other claim: [5] million units of account.
  2. The liability of the rail carrier under this Convention for claims arising from any one incident shall be limited as follows:
    - (a) with respect to claims for loss of life or personal injury: [12] million units of account;
    - (b) with respect to any other claim: [8] million units of account.

3. The liability of the carrier by inland navigation vessel under this Convention for claims arising from any one incident shall be limited as follows:
  - (a) with respect to claims for loss of life or personal injury: [4] million units of account;
  - (b) with respect to any other claim: [3] million units of account.
4. Where the sums provided for in paragraph 1 (a), paragraph 2 (a) and paragraph 3 (a) of this article are insufficient to pay the claims mentioned therein in full, the sums provided for in paragraph 1 (b), paragraph 2 (b) and paragraph 3 (b) shall be available for payment of the unpaid balance of claims under paragraph 1 (a), paragraph 2 (a) and paragraph 3 (a). Such unpaid balance shall rank rateably with claims mentioned under paragraph 1 (b), paragraph 2 (b) and paragraph 3 (b).”]

#### **Article 10**

1. The carrier shall not be entitled to limit his liability under this Convention if it is proved that the damage resulted from his personal act or omission or an act or omission of his servants or agents, committed with the intent to cause such damage or recklessly and with knowledge that such damage would probably result, provided that, in the case of such act or omission of a servant or agent, it is also proved that he was acting within the scope of his employment.
2. Where the carrier has a claim against the claimant arising out of the same incident, their respective claims shall be set off against each other and the provisions of this Convention shall apply to the balance, if any.
3. The carrier may invoke the right to limit his liability notwithstanding that a limitation fund as mentioned in article 11 has not been constituted.
4. If limitation of liability is invoked without the constitution of a limitation fund, the provisions of article 11, paragraphs 4 to 7 shall apply correspondingly.
5. Questions of procedure arising under the rules of this article shall be decided in accordance with the law of the State Party in which action is brought.

#### **Article 11**

1. The carrier may constitute a fund with the court or other competent authority of any one of the States Parties in which an action is brought under article 19. If such action under article 19 has not been brought in a State Party, then the carrier may constitute his fund with the court or other competent authority of any one of the States Parties referred to in article 19, paragraph 1 (a), (b) or (c), or in subparagraph (d) provided that the carrier and all the

victims have their habitual residence in the territory of the same State Party. The fund shall be constituted in the sum of the amounts set out in article 9 as applicable to him, together with interest thereon from the date of the incident until the date of the constitution of the fund. Any fund thus constituted shall be available only for the payment of claims in respect of which limitation of liability may be invoked under this Convention.

2. A fund may be constituted either by depositing the sum or by producing a bank guarantee or other guarantee, admitted by the legislation of the State Party where the fund is constituted, and considered to be adequate by the court or another competent authority.
3. Any person providing the carrier with insurance or other financial security under this Convention shall be entitled to constitute a fund in accordance with this article on the same conditions and having the same effect as if it were constituted by the carrier. Such fund may be constituted even in the event that according to article 10, paragraph 1 the carrier shall not be entitled to limit his liability, but its constitution shall in that case not prejudice the rights of any claimant against the carrier. The fund shall be deemed to be constituted by the carrier.
4. Subject to the provisions of article 9, paragraph 3, the fund shall be distributed among the claimants in proportion to their established claims against the fund.
5. If, before the fund is distributed, the carrier or any person providing him with insurance or other financial security has as a result of the incident paid compensation for damage, such person shall, up to the amount he has paid, acquire by subrogation the rights which the person so compensated would have enjoyed under this Convention.
6. The right of subrogation provided for in paragraph 5 of this article may also be exercised by a person other than those mentioned therein in respect of any amount of compensation for damage which he may have paid but only to the extent that such subrogation is permitted under the applicable law.
7. Where the carrier or any other person establishes that he may be compelled to pay at a later date in whole or in part any such amount of compensation with regard to which such person would have enjoyed a right of subrogation pursuant to paragraphs 5 and 6 of this article had the compensation been paid before the fund was distributed, the court or other competent authority of the State where the fund has been constituted may order that a sufficient sum shall be provisionally set aside to enable such person at such later date to enforce his claim against the fund.
8. Where the carrier, after an incident, has constituted a fund in accordance with this article, and is entitled to limit his liability:
  - (a) no person having a claim for damage arising out of that incident shall be entitled to exercise any right against any other assets of the carrier in respect of such claim;

- (b) the court or other competent authority of any State Party shall order the release of any property belonging to the carrier which has been arrested or attached in respect of a claim for damage arising out of that incident, and shall similarly release any bail or other security furnished to avoid such arrest or attachment.
- 9. Paragraph 8 of this article shall only apply if the claimant has access to the court administering the fund and if the fund is actually available and freely transferable in respect of his claim.
- 10. Subject to the provisions of this article, the rules relating to the constitution and distribution of a limitation fund, and all rules of procedure in connection therewith, shall be governed by the law of the State Party in which the fund is constituted.

### **Article 12**

- 1. The "unit of account" referred to in article 9 is the Special Drawing Right as defined by the International Monetary Fund. The amounts mentioned in article 9 shall be converted into national currency on the basis of the value of that currency on the date of the constitution of the limitation fund or, if no fund has been constituted, on the date when payment is made or equivalent security is given. The value of the national currency, in terms of the Special Drawing Right, of a State Party which is a member of the International Monetary Fund shall be calculated in accordance with the method of valuation applied by the International Monetary Fund in effect on the date in question for its operations and transactions. The value of the national currency, in terms of the Special Drawing Right, of a State Party which is not a member of the International Monetary Fund shall be calculated in a manner determined by that State.
- 2. Nevertheless a Contracting State which is not a member of the International Monetary Fund and whose law does not permit the application of the provisions of paragraph 1 of this article may, at the time of ratification, acceptance, approval or accession, or at any time thereafter, declare that the unit of account referred to in that paragraph shall be equal to 15 gold francs. The gold franc referred to in this paragraph corresponds to sixty-five and a half milligrammes of gold of millesimal fineness nine hundred. The conversion of the gold franc into the national currency shall be made according to the law of the State concerned.
- 3. The calculation mentioned in the last sentence of paragraph 1 of this article and the conversion mentioned in paragraph 2 shall be made in such manner as to express in the national currency of the State Party as far as possible the same real value for the amounts in article 9 as would result from the application of the first three sentences of paragraph 1 of this article. Contracting States shall communicate to the depositary the manner of calculation pursuant to paragraph 1 of this article or the result of the conversion in

paragraph 2 as the case may be, when depositing an instrument of ratification, acceptance, approval of, or accession to, this Convention and whenever there is a change in either.

## **COMPULSORY INSURANCE**

### **Article 13**

1. The carrier's liability shall be covered by insurance or other financial security, such as a bank guarantee, if the dangerous goods are carried in the territory of a State Party.
2. The insurance or other financial security shall cover the entire period of the carrier's liability under this Convention in the sums fixed by applying the limits of liability prescribed in article 9 and shall cover the liability of the person named in the certificate as carrier or, if that person is not the carrier as defined in article 1, paragraph 8, of such person as does incur liability under this Convention.
3. Any sums provided by insurance or by other financial security maintained in accordance with paragraph 1 of this article shall be available only for the satisfaction of claims under this Convention.

### **Article 14**

1. Each State Party shall designate one or several competent authorities to issue or approve certificates attesting that carriers falling within the definition of article 1, paragraph 8 (a) have a valid insurance or other financial security in accordance with the provisions of this Convention.
2. The certificate shall be issued or approved by the competent authority:
  - (a) of the State of registration in respect of a carrier whose vehicle is registered in a State Party; or
  - (b) of the State Party where the carrier has his principal place of business or, if he has none, his habitual residence, if the vehicle is not registered.

With respect to a carrier not mentioned under (a) or (b) of the first sentence of this paragraph the certificate shall be issued or approved by the competent authority of a State Party in the territory of which the dangerous goods are carried.

3. The certificate shall contain the following particulars:

- (a) the number of the certificate;
  - (b) the type of, and the particulars identifying, the road vehicle or ship;
  - (c) the name of the carrier and his principal place of business or, if he has none, his habitual residence;
  - (d) the type of security;
  - (e) the name and principal place of business of the insurer or other person providing security;
  - (f) the period of validity of the certificate which shall not be longer than the period of validity of the insurance or other security.
4. The certificate shall be produced for inspection on demand by the competent authorities.
  5. The certificate shall be issued in English or in French or shall, if issued in any other language, include a translation into one at least of those languages.
  6. The State where the certificate is issued or approved shall, subject to the provisions of this Convention, determine the conditions of issue and validity of the certificate.
  7. Certificates issued in a State Party shall be accepted in all States Parties for all purposes covered by this Convention. Nevertheless a State Party, should it consider that an insurer or other person providing security named in the certificate may not be financially capable of meeting his obligations imposed by this Convention, may at any time request consultation with the State which has issued the certificate.

Each State Party shall designate the authority competent to make or receive any communication relating to the compulsory insurance or any other financial security.

Any State Party may accept certificates issued by the competent authorities, or by bodies recognized, for the purpose of this Convention, by the competent authorities of States not party to it.

8. Insurance or other financial security shall not satisfy the requirements of this Convention if it can cease, for reasons other than the expiry of the period of its validity specified in the certificate, before three months have elapsed from the date on which notice of its termination is given to the authority referred to in paragraph 2 of this article, unless the certificate has been surrendered to those authorities or a new certificate has been issued within the said period. The foregoing provisions shall similarly apply to any modification

which results in the insurance or security no longer satisfying the requirements of this Convention.

9. This article shall not apply in the case of carriage by a road vehicle in the territory of a State Party which is a party to the green card system if there is in force in respect of the vehicle and produced for inspection on demand by the competent authorities a green card certifying coverage of carrier's liability under this Convention.
10. Two or more States Parties may agree to dispense with the requirements of this article for the certificate or green card referred to in paragraph 9 of this article in respect of road vehicles registered in their territories for the carriage, within their territories, of goods by road covered by this Convention.

### **Article 15**

1. Any claim for compensation under articles 5 or 6 may be brought directly against the insurer or other person providing financial security for the carrier's liability or, in the case of a road vehicle to which the green card system applies, against the insurer or the green card bureau of the State where the incident occurred.
2. In the case referred to in paragraph 1 of this article the defendant may avail himself of:
  - (a) the limit of liability under article 9 applicable to the carrier, irrespective of whether the carrier is entitled to limit his liability, and
  - (b) the defences, other than the bankruptcy or winding up of the carrier, which the carrier would have been entitled to invoke.

The defendant shall not avail himself of any other defence which he might have been entitled to invoke in proceedings brought by the carrier against him nor may he dispute any clause of the insurance contract or other financial security.

3. The defendant shall in any event have the right to require that the carrier be joined in the proceedings.

### **Article 16**

1. With respect to carriage by road and by inland navigation vessel: where the carrier is a State Party or any constituent part of such State and the carriage is performed on non-commercial governmental service, that State may provide that the carrier shall be dispensed from the obligation to cover his liability by insurance or other financial security.



2. If, according to paragraph 1 of this article, insurance or other financial security is not maintained in respect of a vehicle, the provisions of this Convention relating to compulsory insurance shall not apply to such vehicle. However, a certificate issued by the competent authorities stating that the carrier is a State Party or a constituent part of such State and that the carrier's liability is covered within the limits prescribed by this Convention shall be produced for inspection on demand by the authorities referred to in article 14, paragraph 4.
3. The certificate referred to in paragraph 2 of this article shall be in conformity with the provisions of article 14, paragraph 3.
- ~~4. With respect to carriage by rail: where the carrier is a State Party or any constituent part of such a State, or where he is a body fully owned or financially controlled by a State Party, that State may provide that the carrier shall be dispensed from the obligation to cover his liability by insurance or other financial security.~~

~~Whenever a rail transport enterprise owned or financially controlled by two or more States Parties is concerned, the same right to dispensation is granted to the State where the enterprise is located.~~

- [4. A Contracting State may, with respect to carriage by road and by inland navigation vessel, provide that the carrier shall be dispensed from the obligation to cover his liability by insurance or other financial security for a maximum period of [6 years] after the Convention has entered into force for that State, which has signed it definitively or which has deposited its instrument of ratification, acceptance approval or accession to the Convention.]

### **Article 17**

A Contracting State shall take the appropriate legislative measures to ensure that the provisions of this Convention relating to compulsory insurance have been complied with.

## **CLAIMS AND ACTIONS**

### **Article 18**

1. Rights of compensation under this Convention shall be extinguished unless an action is brought within three years from the date at which the person suffering the damage knew or ought reasonably to have known of the damage and of the identity of the carrier. The period may be extended if the parties so agree after the incident.
2. In no case, however, shall an action be brought after ten years from the date of the incident which caused the damage.

3. Where the incident consists of a series of occurrences, the periods mentioned in paragraphs 1 and 2 of this article shall run from the date of the last of such occurrences.

### **Article 19**

1. Actions for compensation under any provision of this Convention may only be brought in the courts of any State Party:
  - (a) where the damage was sustained as a result of the incident; or
  - (b) where the incident occurred; or
  - (c) where preventive measures were taken to prevent or minimize damage; or
  - (d) where the carrier has his habitual residence.

Reasonable notice of the commencement of such an action shall be given to the defendant.

2. If the road vehicle or ship involved in the incident is subject to registration, the State of registration of the road vehicle or ship shall be deemed to be that of the habitual residence of the carrier.
3. Each Contracting State shall ensure that its courts possess the necessary jurisdiction to entertain such actions for compensation.
4. After a fund has been constituted, the courts of the State in which the fund is constituted shall be exclusively competent to determine all matters relating to the apportionment and distribution of the fund.

### **Article 20**

1. Any judgment given by a court with jurisdiction in accordance with article 19 which is enforceable in the State of origin where it is no longer subject to ordinary forms of review, shall be recognized in any State Party, except:
  - (a) where the judgment was obtained by fraud; or
  - (b) where the defendant was not given reasonable notice and a fair opportunity to present his case; or

- (c) where the judgment is irreconcilable with an earlier judgment given in the State where the recognition is sought, or given in another State Party with jurisdiction in accordance with article 19 and already recognized in the State where the recognition is sought, involving the same cause of action and between the same parties.
2. A judgment recognized under paragraph 1 of this article shall be enforceable in each State Party as soon as the formalities required in that State have been complied with. The formalities shall not permit the merits of the case to be re-opened.

### **Article 21**

Whenever two or more States Parties are bound by an international Convention establishing rules of jurisdiction or providing for recognition and execution in a State of judgments given by a court of another State, the provisions of those instruments replace the corresponding provisions of article 19, paragraphs 1, 2 and 3 and of article 20 of this Convention.

## **FINAL PROVISIONS**

### **Article 22**

1. This Convention is open for signature by all States at Geneva from 1 February 1990 until 31 December 1990 inclusive.
2. This Convention is subject to ratification, acceptance or approval by States which have signed it.
3. This Convention is open for accession by all States which are not signatory States as from 1 January 1991.
4. Ratification, acceptance, approval or accession is effected by the deposit of a formal instrument to that effect with the depositary.

### **Article 23**

1. This Convention enters into force on the first day of the month following the expiration of twelve months after the date of deposit of the fifth instrument of ratification, acceptance, approval or accession.
2. For each State that ratifies, accepts, approves, or accedes to this Convention after the deposit of the fifth instrument of ratification, acceptance, approval or accession, this

Convention enters into force in respect of that State on the first day of the month following the expiration of twelve months after the date of the deposit of its instrument of ratification, acceptance, approval or accession.

3. Any instrument of ratification, acceptance, approval or accession deposited after the entry into force of any Protocol amending this Convention shall be deemed to apply to this Convention as amended.

#### **Article 24**

1. A State may declare at the time of signature, ratification, acceptance, approval or accession that:

- (a) in respect of claims for damage under any or all of the heads of damage defined in article 1, paragraph 10, it will apply higher limits of liability than those specified in article 9 or no limit of liability for damage arising out of an incident occurring in its territory, provided that in that State the regime of liability governing compensation for such damage is of a similar nature to that under this Convention.

Such a State may oblige carriers whose vehicles are registered in its territory or, in the case of unregistered vehicles, having their principal place of business or habitual residence in its territory, to cover their liability by insurance or other financial security to amounts higher than those required by article 13, paragraph 2 of this Convention;

- (b) it will not apply the provisions of article 5, paragraph 4 (a) or (b);
  - (c) it will apply its national law in place of the provisions of article 5, paragraph 5, in so far as such law provides that compensation for loss of life or personal injury may be reduced or disallowed only in cases of intentional conduct or gross negligence by the injured person or the person entitled to claim compensation.
2. The right of a State to make the declarations provided for in paragraph 1 is subject to its national law being in conformity with the conditions set out in the relevant subparagraphs of that paragraph at the time of entry into force of this Convention, and, in any event, not later than five years after this Convention has been opened for signature.
  3. A State which makes use of any of the options provided for under paragraph 1 shall notify the depositary of the contents of its national law.
  4. No other reservations are permitted to this Convention.

**Article 25**

1. Reservations made under this Convention at the time of signature are subject to confirmation upon ratification, acceptance or approval.
2. Reservations and confirmations of reservations are to be in writing and to be formally notified to the depositary.
3. A reservation takes effect simultaneously with the entry into force of this Convention in respect of the State concerned.
4. Any State which makes a reservation under this Convention may withdraw it at any time by a formal notification in writing addressed to the depositary. Such withdrawal is to take effect on the first day of the month following the expiration of six months after the date of the receipt of the notification by the depositary.

**Article 26**

Each State, at the time of signature, ratification, acceptance, approval or accession, shall notify the depositary of the competent authority or authorities designated by it under article 14, paragraphs 1 and 7.

**Article 27**

This Convention applies to any incident as defined in article 1, paragraph 12 occurring after its entry into force.

**Article 28**

1. A Conference for the purpose of revising or amending this Convention may be convened by the Inland Transport Committee of the Economic Commission for Europe of the United Nations.
2. Upon the request of not less than one-third of the State Parties, with a minimum of three, the Inland Transport Committee shall convene a Conference of the Contracting States for revising or amending this Convention.

**Article 29**

1. Upon the request of at least one-quarter of the States Parties, with a minimum of three, any proposal to amend the limits of liability laid down in article 9 shall be circulated by the depositary to all Contracting States.

2. Any amendment proposed and circulated as above shall be submitted to a Committee, convened by the Inland Transport Committee of the Economic Commission for Europe of the United Nations and composed of a representative of each Contracting State, for consideration at a date at least six months after the date of its circulation.
3. Amendments shall be adopted by a two-thirds majority of the Contracting States present and voting in the Committee on condition that at least one-half of the Contracting States shall be present at the time of voting.
4. When acting on a proposal to amend the limits, the Committee shall take into account the experience of incidents and in particular the amount of damage resulting therefrom, changes in the monetary values and the effect of the proposed amendment on the cost of insurance.
5.
  - (a) No amendment of the limits of liability under this article may be considered less than five years from the date on which this Convention was opened for signature nor less than five years from the date of entry into force of a previous amendment under this article. No amendment under this article shall be considered before this Convention has entered into force.
  - (b) No limit may be increased so as to exceed an amount which corresponds to the limit laid down in this Convention increased by six per cent per year calculated on a compound basis from the date on which this Convention was opened for signature.
  - (c) No limit may be increased so as to exceed an amount which corresponds to the limit laid down in this Convention multiplied by three.
6. Any amendment adopted in accordance with paragraph 3 of this article shall be notified by the depositary to all Contracting States. The amendment shall be deemed to have been accepted at the end of a period of eighteen months after the date of notification, unless within that period not less than one quarter of the States that were Contracting States at the time of the adoption of the amendment by the Committee have communicated to the depositary that they do not accept the amendment in which case the amendment is rejected and shall have no effect.
7. An amendment deemed to have been accepted in accordance with paragraph 6 of this article shall enter into force eighteen months after its acceptance.
8. All Contracting States shall be bound by the amendment, unless they denounce this Convention in accordance with article 30, paragraph 1 at least six months before the amendment enters into force. Such denunciation shall take effect when the amendment enters into force.

9. When an amendment under this article has been adopted by the Committee but the eighteen-month period for its acceptance has not yet expired, a State which becomes a Contracting State during that period shall be bound by the amendment if it enters into force. A State which becomes a Contracting State after that period shall be bound by an amendment which has been accepted in accordance with paragraph 6 of this article. In the cases referred to in this paragraph a State becomes bound by an amendment when that amendment enters into force, or when this Convention enters into force for that State if later.

### **Article 30**

1. This Convention may be denounced by any Contracting State at any time.
2. Denunciation is effected by the deposit of an instrument to that effect with the depositary.
3. A denunciation takes effect on the first day of the month following the expiration of six months after the deposit of the instrument of denunciation with the depositary. Where a longer period for the denunciation to take effect is specified in the instrument of denunciation it takes effect upon the expiration of such longer period after its deposit with the depositary.

### **Article 31**

1. The Secretary-General of the United Nations shall be the Depositary of this Convention.
2. The Depositary shall:
  - (a) inform all States which have signed or acceded to this Convention of:
    - (i) each new signature or deposit of an instrument of ratification, acceptance, approval or accession, together with the date thereof;
    - (ii) each declaration made under article 12, paragraph 2;
    - (iii) each reservation made under article 24, including each notification under paragraph 3 of that article;
    - (iv) the withdrawal of any reservation under article 25, paragraph 4;
    - (v) each notification received under article 26;

- (vi) each request received under article 28, paragraph 2 and article 29, paragraph 1;
  - (vii) the date of entry into force of this Convention and of any amendment thereto under articles 28 and 29;
  - (viii) the deposit of an instrument of denunciation of this Convention together with the date of its deposit and the date on which it takes effect;
- (b) transmit certified true copies of this Convention to all signatory States and to all States acceding to the Convention.

*IN WITNESS* WHEREOF the undersigned, being duly authorized thereto, have signed this Convention.

*DONE at* Geneva, this tenth day of October, one thousand nine hundred and eighty-nine, in a single original, of which the English, French and Russian texts are equally authentic.

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