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**POSSIBILITIES FOR RECONCILIATION AND HARMONIZATION
OF CIVIL LIABILITY REGIMES GOVERNING COMBINED TRANSPORT**

**Overview of provisions in existing civil liability regimes
covering the international transport of goods**

Note by the secretariat

The present document has been prepared by the UN/ECE secretariat in order to provide an overview of comparable provisions in existing civil liability regimes covering the international transport of goods by air, maritime, inland water, rail, road and multimodal transport. It also covers provision contained in conventions and agreements that have not yet entered into force or have been left at the drafting stage.

The objective of the document is to provide a basis for discussion.

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REGIME	WARSAW	HAGUE RULES	COTIF/CIM	CMR Convention	Multimodal Transport Convention
MODE	Air	Water	Rail	Road	Multimodal
DATE	12 October 1929	25 August 1924; as amended by Brussels Protocol 1968	9 May 1980	19 May 1956	24 May 1980
SCOPE OF APPLICATION	International, Art. 1 § 1	International, Art. 10	International, Art. 1	International, Art. 1	International, Art. 2
PERIOD OF APPLICATION	Art. 18: From acceptance through delivery or release during carriage by air	Art. 1 (e): From loading of goods until discharging from the ship Art. 3 § 1: Special responsibilities before the beginning of the voyage	Art. 35 § 1, Art. 36 § 1: From time of acceptance for carriage over the entire route up to delivery	Art. 17, §. 1: From taking over until delivery	Art. 14 § 1: Taking the goods in charge through delivery
CONTRACT OF CARRIAGE	Art. 5: Air waybill required if requested, is prima facie evidence (Art. 11 § 1)	Art.1 (b): Bill of lading required	Art. 11 § 1: Acceptance of the goods with consignment note	Art. 4: Confirmation by consignment note	Art. 5 et seq.: MT Document in negotiable/non-negotiable form required
BASIS OF LIABILITY	Art. 18: Presumed fault of carrier for loss, damage, delay (Art. 19) Art. 21: Court may exonerate wholly or partly on finding claimant negligent Art. 18 § 3: If carriage by land, sea or river performed outside an aerodrome for the purpose of loading, delivery or transshipment ⇒ damage is presumed, subject to proof the contrary, as result of an event during the carriage by air Art. 12 § 3: Carrier liable if obeying orders of consignor without requiring production of air consignment note	Art. 4: For loss or damage	Art. 36 § 1: Strict liability for loss or damage resulting from the loss or damage and from the transit period being exceeded Art. 41: Liability for wastage in transit only if wastage exceeds specific allowances Art. 25 § 3: For loss, non-use or misuse of documents Art. 26 § 2: For fault in completing administrative formalities Art. 30 § 3, Art. 33 § 5: Modifications, instructions without requiring the production of the duplicate Art. 32 § 3: For failure to execute orders	Art. 17: Presumed fault of carrier for loss, damage, delay Art. 11 § 3: Carrier's liability shall be that of an agent for the consequences arising from the loss or incorrect use of documents Art. 12 § 7: For failure to carry out instructions	Art. 16 § 1: Liability for loss resulting from loss, damage, delay Art. 11: Liability for loss, damages, expenses if caused by intentional misstatements or omissions in MT document
DELAY IN DELIVERY	No provision	Delay excluded	Art. 27 § 1: ⇒ by the international tariffs applicable; not within transit periods agreed by the railways participating in the carriage ⇒ if no indication: transit period	Art. 19: ⇒ not within agreed time-limit ⇒ actual duration of carriage exceeds time needed by a diligent carrier	Art. 16 § 3: Treatment of the goods as lost if no delivery within 90 consecutive days following the date of delivery determined

REGIME	WARSAW	HAGUE RULES	COTIF/CIM	CMR Convention	Multimodal Transport Convention
			must not exceed that which would result from the application of 27 § 2 which determines the maximum transit periods		
LIABILITY FOR INDIRECT OR CONSEQUENTIAL LOSS	Art. 19: Liable for damage occasioned by delay in carriage ⇒ no restriction		Art. 25 § 3: Consignor liable for any loss or damage arising from absence, insufficiency of or irregularity in documents Art. 46: In case of interest in delivery	Art. 23 § 4: Carriage charges, Custom duties	No provision
BURDEN OF PROOF	Art. 20 § 1: On carrier to prove that he took all necessary measures or that it was impossible to take such measures	Art. 4 § 1: On carrier Art. 4 § 2: On person claiming benefit of this exception	Art. 37 § 1: On railway to prove that loss, damage, exceeding the transition period is due to clauses specified in Art. 36 § 2 Art. 36 § 2: On claimant to prove that loss is not attributable to a risk of Art. 36 § 3	Art. 18 § 1: On carrier to prove that it was not at fault Art. 18 § 2: On claimant to prove that loss referred to in Art. 17 § 4 was not attributable to one of this risks	Art. 16 § 1: On MT operator to prove that he took all measures that could reasonably be required to avoid the occurrence and its consequences
LIMITATIONS OF LIABILITY	Art. 22 § 2 (b) : ⇒ 17 SDR/kg	Art. 4 5 (a): Ⓟ 2 SDR/kg ⇒ or 666.67 SDR/pkg	Art. 40 § 2: ⇒ 17 SDR/kg Art. 43 § 1: ⇒ 4x the carriage charges for delay	Art. 23: ⇒ 8.33 SDR/kg Ⓟ 1x amount of freight for delay	Art. 18 § 3: Surface carriage without maritime leg ⇒ 8.33 SDR/kg Art. 18 § 1: With maritime leg ⇒ 2.75 SDR/kg ⇒ or 920 SDR/pkg Art. 18 § 4: Ⓟ 2 ½ x amount of the freight for delay Art. 19: If loss/damage localised: limit of unimodal Convention or mandatory national law if higher
LOSS OF RIGHT TO LIMIT RESPONSIBILITY	Art. 25: Wilful misconduct voids all limitations of liability Art. 9: If carrier accepts goods without consignment note, or consignment note contains not all particulars	Art. 4 § 5 (e): If damage resulted from an act or omission of the carrier done with intent to cause damage, or recklessly and with knowledge that damage would probably result	Art. 44: If proved that act was done with intent to cause damage, or recklessly and with knowledge that such loss will probably result (liability limits of Art. 25, 26, 30, 32, 33, 40, 42, 43, 45, 46)	Art. 29 § 1: If caused by wilful misconduct or by defaults on his part	Art. 11: For intentional misstatements or omissions in the MT document Art: 21: If proved that MT operator caused loss intentionally or recklessly with knowledge that such loss would probably result

REGIME	WARSAW	HAGUE RULES	COTIF/CIM	CMR Convention	Multimodal Transport Convention
EXEMPTIONS	Art. 20 § 2: Negligent piloting or navigation	Art. 5 § 1: ⇒ resulting from unseaworthiness Art. 5 § 2: ⇒ such as act, neglect, or default of the master, mariner, pilot in the navigation or in the management of the ship; fire; act of God; act of war Art. 5 § 4: ⇒ attempt to save life or property at sea Art. 4 § 5 (h): ⇒ if nature or value of goods has been knowingly misstated by the shipper in the bill of lading	Art. 36 § 2: If caused: ⇒ by fault on the part of the person entitled ⇒ by an order given of that person ⇒ by inherent vice of goods (decay, wastage) ⇒ railway could not avoid circumstances and unable to prevent consequences Art. 36 § 3: Special risks	Art. 17 § 2: If caused by: ⇒ wrongful act or neglect of claimant ⇒ instruction of the claimant ⇒ inherent vice of the goods ⇒ carrier could not avoid circumstances and unable to prevent consequences Art. 17 § 4: Special risks	No provision
EXTENSION OF THE CARRIERS RESPONSIBILITY/ HIGHER LIMITS OF LIABILITY	Art. 22 § 2: Consignor must have made a special declaration of the value and have paid a supplementary sum	Art. 4 § 5 (g): By agreement Art. 5: Surrender or increase shall be embodied in the bill of lading	Art. 45: Further reduction of limitation of liability under certain tariffs in the case of exceeding of the transport period	Art. 24, 26: Against payment of a surcharge to be agreed upon	Art. 18 § 6: By agreement fixed in the MT document
CONCURRENT CAUSES/ RIGHT OF RECOURSE	Art. 30 § 3: Successive carriers jointly and severally liable	Art. 4 <u>bis</u> § 3	Art. 60, 61: Right of Recourse between succeeding carriers: ⇒ if loss or damage has been caused by several carriers, each shall be liable for the loss or damage he has caused ⇒ if it cannot be proved which carriers have caused the loss compensation shall be apportioned between all carriers who have taken part in the carriage, except those who prove that loss was not caused by them; apportionment in proportion to kilometric distances contained in the tariffs Art. 64: Railways may derogate from provisions concerning reciprocal rights of recourse	Art. 36: Action against first, last and actual carrier, at the same time against several of these carriers Art. 37: Compensation proportionate to share of liability, if not apportionable : in proportion to the share of the payment for the carriage which is due to successive carrier	Art. 17: MT operator's fault or neglect combined with another cause to produce loss: liability only to the extent that the loss is attributable to such loss ⇒ MT operator burden of proof
SERVANT AND AGENTS	Agents are mentioned in Art. 20	Art. 4 <u>bis</u> §§ 2, 3	Art. 50	Art. 29 § 2	Art. 15
ACTUAL CARRIER/	Art. 30 § 1: Successive carrier is		Art. 35 § 2: Each succeeding	Art. 34: Each of the successive	

REGIME	WARSAW	HAGUE RULES	COTIF/CIM	CMR Convention	Multimodal Transport Convention
SUCCESSIVE CARRIER	deemed to be one of the contracting parties Art. 30 § 3: Consignor has right of action against first carrier; consignee against last carrier, each against carrier where damage can be localized		railway , by taking over the goods with consignment note, becomes a party to the contract (collective responsibility) ⇒ assumes obligations arising therefrom	carriers responsible for whole operation	
NOTICE OF DAMAGE	Art. 26 § 2: ⇒ within 7 days from the receipt of the goods Delay ⇒ 14 days after the date on which goods have been placed at his disposal	Art. 3 § 6: Writing to carrier or his agent at the port of discharge before or at the time of the removal of the goods into the custody of the person entitled to delivery Non apparent loss ⇒ 3 days after	Art. 57 § 2: Ascertainment according to Art. 52 before acceptance; if not: extinction of right of action Non apparent loss ⇒ 7 days after acceptance Exceeding transport period ⇒ 60 days	Art. 30 §§ 1, 2: ⇒ 7 days, Sundays and public holidays excepted Art. 30 § 3: Delay ⇒ 21 days after being placed at the disposal of the consignee	Art. 24 § 1: Apparent loss ⇒ 1 working day after the delivery Art. 24 § 2: Not apparent loss ⇒ 6 consecutive days after handing over Art. 24 § 5: Delay ⇒ 60 consecutive days after handing over
TIME BAR	Art. 29 § 1: ⇒ 2 years after the (supposed) arrival, or from the date the carriage stopped	Art. 3 § 6: ⇒ 1 year	Art. 58 § 1: ⇒ 1 year ⇒ 2 years in special cases (e. g. if act was done with intent to cause such loss or damage, or recklessly and with knowledge that such loss or damage will probably result)	Art. 32: ⇒ 1 year ⇒ 3 years in case of wilful misconduct	Art. 25 § 1: ⇒ 2 years ⇒ Written notification has to be given within 6 months after delivery or supposed delivery § 3: Extension possible
PLACE OF JURISDICTION	Art. 28 § 1: At the option of the plaintiff: ⇒ carriers' residence ⇒ carriers' principal place of business ⇒ establishment by which contract has been made ⇒ place of destination	No provision	Art. 56: ⇒ in State having jurisdiction over the defendant railway, unless otherwise agreed between States or in acts of concession	Art. 31: ⇒ as agreed between the parties and in addition ⇒ defendant's principal place of business or ⇒ place where goods were taken over by the carrier or the place designed for delivery	Art. 26 § 1: ⇒ defendants' principal place of business or residence ⇒ place of the conclusion of the MT contract ⇒ place of taking in charge or delivery ⇒ as agreed in the MT document Art. 26 § 3: as agreed after a



REGIME	WARSAW	HAGUE RULES	COTIF/CIM	CMR Convention	Multimodal Transport Convention
					claim has arisen
APPLICABLE LAW	Art. 28 § 2; 29 § 2: Questions of procedure ⇒ law of the court seized of the case	No provision	Art. 10 § 1: National law in the absence of provisions applicable including national law in case of conflict of laws (art. 2 § 2) Art. 52 § 2: Laws of the State in which ascertainment takes place	Art. 31; 32 §§ 1, 3	Art. 25 § 4; 26 § 1
INTEREST	No provision	No provision	Art. 47 § 2: 5% / annum § 3: ⇒ only if compensation exceeds 8 units of account per consignment note	Art. 27 § 1: 5% / annum	No provision
SPECIAL PROVISIONS/ N.B.	<p>Art. 31: In the case of combined transport performed partly by air, partly by an other mode these rules apply only to carriage by air</p> <p>Carrier obligations: Reasonable, non-discriminatory service to public</p> <p>Cargo insurance: not needed</p>	<p>Art. 2: Loading, handling, stowage, carriage, custody, care and discharge of goods shall be subject to the responsibilities</p> <p>Art. 4 § 5 b: Compensation is calculated by reference to the value of the goods at the place and time they are discharged from the ship</p> <p>Art. 9: Liability in case of nuclear incidents</p>	<p>Art. 48 § 1: Liability in respect of rail-sea traffic ⇒ if carrier proves that loss occurred in course of the sea journey between loading on board and unloading from ship he has more exception clauses (e.g.: nautical fault; fire; saving live or property at sea, loading of goods on the deck of the ship)</p> <p>Art. 20: -Handing over of goods is governed by provisions in force at forwarding station; -Consignor liable for all consequences of defective loading carried out by him</p> <p>Art. 38, 39: Presumption in case of reconsignment, of loss of goods</p> <p>Art. 49: Liability in case of nuclear incidents</p>	<p>Art. 2: If partly carried by sea, rail, inland waterways or air and goods are not unloaded from the container ⇒ Convention applicable to the whole of the carriage unless proved that loss was not caused by carrier by road</p> <p>Carrier obligations: Art. 14; 15 § 1</p>	<p>Art. 27: Rules of arbitration</p> <p>Art. 23: Special rules on dangerous goods</p>

REGIME	UNCTAD /ICC RULES	UIRR	CMNI	GERMAN TRANSPORT LAW
MODE	Road, Rail, Inland Navigation Vessels	Combined rail and road transport	Inland Waterway	Multimodal
DATE	1992	3 December 1998	Draft, 12 August 1999	1st July 1998 ¹
SCOPE OF APPLICATION	International Rules apply only if referred to	Clause 1: International, UIRR company	Art. 2: International; one State must be Contracting Party Art. 2 § 2: Without transshipment	Section 452 HGB: Even if one leg of carriage is on sea
PERIOD OF APPLICATION	Rule 4.1: From taking the goods in charge until delivery	Clause 8.2 § 3: By the handing over of the transport unit or opening of transshipment site on the date of transport Clause 4.1: End of the contract on date of arrival (by the handing over or by locking the transshipment site, or at 2400 hrs)	Art. 3 § 2: From taking over until delivery <u>on board</u> of the vessel	Sect. 425 I: From taking over until delivery
CONTRACT OF CARRIAGE	Rule 2.1, 2.6: MT document evidences MT contract	Clause 3.1; 3.3: Pro forma contract formalises the contract	Art. 11 § 1: Transport document; bill of lading requested if required	Section 407, 408: Consignment note required if requested
CARRIER OBLIGATIONS	Rule 4.3	Clause 2.1	Art. 3	
BASIS OF LIABILITY	Rule 5.1: Presumed liability for loss, damage and delay (if declaration of interest of timely delivery has been accepted by MTO)	Clause 8.2: Liability for loss, damage, delay, negligent loss of documents Clause 8.3: Liability based on CIM	Art. 16: Presumed liability of carrier for loss resulting from loss, damage, delay Art. 27 § 2: No liability for damages caused by nuclear accidents	Sec. 425: Liability for loss, damage, delay
DELAY IN DELIVERY	Rule 5.2.; 5.3: Treatment of the goods as lost if no delivery within 90 consecutive days following the date of delivery determined	Clause 8.5	Art. 5: After time limit which could reasonably be required of a diligent carrier	Sect. 423 describes delivery period as agreed period
LIABILITY FOR INDIRECT OR CONSEQUENTIAL LOSS	Rule 6.5: Consequential loss or damage other than loss of or damage to the goods	Clause 8.7: Excluded ²		Sect. 430: Cost for evaluating the damage; Sect. 432; 433
BURDEN OF PROOF	Rule 5.1: On carrier to prove that no fault or neglect caused the loss		Art. 16: Carrier can show that a diligent carrier could not have prevented the loss	Compare Sect. 426: If carrier could not have prevented the loss even by exercising utmost diligence
LIMITATIONS OF	Rule 6:	Clause 8.3: Based on CIM	Art. 20 § 1, Art. 28 § 1:	Sect. 431:

¹ German law on transport has been completely revised and modernised by the Transport Law Reform Act of June 25, 1998. Since then the legal provisions for all kind of contracts of carriage are to be found in the Commercial Code.

² Such loss is understood to be, in particular, costs of waiting time, immobilisation of transport unit and tractor vehicle upon departure and arrival, cost of replacement transport, business interruption, non-use or delayed use of the goods transported, stoppage or delay in production, loss of reputation or market share.

REGIME	UNCTAD /ICC RULES	UIRR	CMNI	GERMAN TRANSPORT LAW
LIABILITY	<p>⇒ 2 SDR/kg or 666.67 SDR/pkg Rule 6.3: P 8.33 SDR/kg if no carriage by sea/water</p> <p>Delay, consequential loss ⇒ 1 x amount of freight</p> <p>Rule 6.4: Limit of unimodal Convention if loss/damage localised</p>	<p>Clause 8.4: Outside the period of rail forwarding: ⇒ 8.33SDR/kg of gross weight lost or damaged, not exceeding 300,000 SDR/transport unit nor 2 million SDR/loss if ore than 6 transport units are involved -loss exceeding 2 million SDR: amount is divided between customers in proportion to the gross weight of each unit</p> <p>Clause 8.3: Delay, loss of documents, failure to comply with contractual obligations: indemnity in respect of a material, direct and certain loss to customer: ⇒ 2 x price of the transport/transport unit</p>	<p>P 666.67 SDR/pkg or 2 SDR/kg ⇒ 20,000 SDR if a container and its entire contents is damaged</p> <p>Art. 20 § 3: Delay P 1 x value of the freight and the limitation for total loss</p>	<p>⇒ 8.33 SDR/kg</p> <p>Sect. 431 III: Delay P 3 x value of freight</p> <p>Sect. 452 a: Localized damage: P "network system": liability determined by law applicable to a contract relating to this leg of carriage</p>
LOSS OF RIGHT TO LIMIT RESPONSIBILITY	Rule 7: If proved that the act was done with intent to cause such loss or recklessly with the knowledge that such loss would probably result		Art. 21: If carrier caused the damage intentionally or recklessly and with the knowledge that such damage would probably result	Sect. 435: If carrier caused the damage intentionally or recklessly and with the knowledge that such damage would probably result
EXEMPTIONS	Rule 5.4: MTO not responsible if damage occurring during carriage by sea of inland waterways is caused by: ⇒ act, neglect, or default of the master... in the navigation or in the management of the ship ⇒ fire	Clause 8.2 § 1: No liability if loss is caused by customer' s fault or orders, defect in the transport unit or goods, or by unavoidable circumstances which could not be forestalled	Art. 18 § 1: (E.g. handling, loading, stowage or discharge by shipper, consignee or third parties): Presumption that carrier could not have prevented the loss Art. 18 § 2: Burden of proof of contrary on injured party	Sec. 426, 427
EXTENSION OF THE CARRIERS RESPONSIBILITY/ HIGHER LIMITS OF LIABILITY		Clause 10.5 § 3: UIRR company may make exemptions from these General Conditions upon its own responsibilities following the procedure laid down in this provision	-Possible (Art. 4, § 2); affects actual carrier if agreed to by him expressly and in writing -Art. 20 § 4: By special agreement	
CONCURRENT CAUSES/ RIGHT OF RECOURSE	No Rule	Clause 8.2 § 2: Indemnity payable by UIRR company is limited and shared by customer	Right of recourse between carrier and actual carrier mentioned in Art. 4 § 3	Sec. 425 II

REGIME	UNCTAD /ICC RULES	UIRR	CMNI	GERMAN TRANSPORT LAW
		in proportion to the consequences		
SERVANT AND AGENTS	Rule 4.2, 12		Art. 17: Carrier is responsible for their acts	Sect. 428
ACTUAL CARRIER	Could be covered by Rule 12		Art. 4 § 3: Joint and several liability of the carrier and the actual carrier, if both are liable	Sect. 437 I, III: Carrier and actual carrier are jointly and separately liable (joint debtor)
NOTICE OF DAMAGE	Rule 9.2: Non apparent loss or damage ⇒ 6 consecutive days after handing over	Clause 9.3: Apparent loss or damage: ⇒ as soon as handed over Clause 9.4.: Non apparent: ⇒ within 5 days of arrival Clause 9.8: Indemnity has to be demanded from UIRR company within 8 months from the date of entry into force of the UIRR contract, case of delay: reduced to 40 days	Art. 23 §§ 3, 4, 5: Apparent damage: ⇒ at latest at the time of delivery Not apparent damage: ⇒ 7 days after delivery Damage from delay in delivery: ⇒ 21 days after delivery	Sect. 438 I: Apparent loss, damage: ⇒ on delivery at latest Sect. 438 II: Non apparent loss: ⇒ 7 days after delivery-otherwise fiction of delivery according to contract Sect. 438 III: Delay ⇒ 21 days after delivery
TIME BAR	Rule 10: 9 months after (supposed) delivery or after 90 days (treatment of the goods as lost)	Clause 10.1: One year from the date of entry into force, unless otherwise provided by national law or international conventions	Art. 24 § 1: One year from the day the goods were or should have delivered	Sect. 439: 1 year from the end of the day of delivery; Sect. 439 IV: Shorter or longer as agreed
APPLICABLE LAW	Art. 13: Mandatory provisions supersede the Rules	Clause 10.3: Of the State in which the UIRR company has its registered office, or as otherwise agreed in writing	Art. 27 § 1: International conventions or national law relating to the limitation of liability of owners of ships or vessels	
PLACE OF JURISDICTION	No Rule	Clause 10.2: Place in which the head office of the UIRR company is situated, irrespective of the identity of the claimant		Sect. 440
ADDITIONAL NATIONAL PROVISIONS		Clause 10.1	Art. 29: As agreed, or law of the state of carrier' s principal place of business	
SPECIAL PROVISIONS N. B.	MTO has to add clauses on: ⇒ optional stowage, routing, freight and charges, liens, both-to-blame collision, general average, jurisdiction, arbitration, applicable law	Clause 6: Dangerous goods	Art. 27 : Provision on other applicable provisions and nuclear damage Art. 32: Regional stipulations concerning liberation of carrier from liability for servant and agents (Art. 17) possible by declaration!	Art. 27 § 2: Nuclear damage

REGIME	MONTREAL CONVENTION	HAMBURG RULES	COTIF/CIM - PROTOCOL 1999
MODE	Air	Maritime	Rail
DATE	28 Mai 1999	UN Convention On The Carriage By Sea, 24 May 1978	3 June 1999
SCOPE OF APPLICATION	International, Art. 1	International, Art. 2	International, Art. 1
PERIOD OF APPLICATION	Carriage by air comprising the period during which the cargo is in charge of the carrier (Art. 18 §§ 1, 3)	Art. 4 § 1: From period during which carrier is in charge of the goods at the port of loading, during the carriage and at the port of discharge	Art. 23 § 1: Between time of taking over of the goods and the time of delivery
CONTRACT OF CARRIAGE	Art. 4: Air waybill shall be delivered	Art. 1 § 6: No bill of lading required, serves only as an evidence of the contract (Art. 1 § 7)	Based on consent; Art. 6 § 2: -contract must be confirmed by a consignment note; -the absence, irregularity or loss of the consignment note shall not affect the existence or validity of the contract Art. 12: Consignment note shall be prima facie evidence of conclusion and conditions of the contract and the taking over of the goods by the carrier
BASIS OF LIABILITY	Art. 18 § 1: Presumed fault for damage resulting from destruction or loss of cargo Art. 19: Presumed fault for delay Art. 10 § 3: Liable for irregularity, incorrectness or incompleteness of the statement inserted in air waybill by carrier	Art. 5.1: Liability for presumed fault or neglect for loss resulting from loss of, damage or delay in delivery Art. 5 § 4 (a): ⇒ if caused by fire and claimant proves that fire arose from fault or neglect on the part of the carrier ⇒ fault or neglect of carrier, his servants or agents, in taking all measures that could reasonably be required to put out the fire and avoid or mitigate its consequences; has to be proved by the claimant that Art. 9: Deck cargo without agreement by the shipper	Art. 23 § 1: Strict liability for loss or damage resulting from the total or partial loss of, or damage to, the goods and for the loss or damage resulting from the transit period being exceeded Art. 24 § 1: Presumed liability for the loss or damage resulting from the loss of, or damage to, the vehicle or to its removable parts and for loss or damage resulting from exceeding the transit period Art. 31 § 1: Restricted liability for wastage in transit only if wastage exceeds specific allowances Art. 15 § 3: For any consequences arising from the loss or misuse of the documents referred to in the consignment note and accompanying it or deposited with the carrier Art. 19 § 6: In the case of fault of the carrier he shall be liable for the consequences of failure to carry out an order or failure to carry it out properly Art. 19 § 7: If the carrier implements the consignor's subsequent modifications without requiring the production of the duplicate of the consignment note , he is liable to the consignee for any loss or damage sustained by him if the duplicate has been passed on to

REGIME	MONTREAL CONVENTION	HAMBURG RULES	COTIF/CIM - PROTOCOL 1999
			the consignee
DELAY IN DELIVERY		Art. 5 § 2: ⇒ not within the time expressly agreed upon or ⇒ in the absence of such agreement, within the time which it would be reasonable to require of a diligent carrier, having regard to the circumstances of the case Art. 5.3: Right for claimant to treat the goods after 60 consecutive days as lost	⇒ not within agreed transit period (compare Art. 16 § 1) ⇒ In the absence of an agreement, the transit period must not exceed that which would result from the application of §§ 2 to 4 ⇒ Art. 16 § 2 determines the maximum transit periods
LIABILITY FOR INDIRECT OR CONSEQUENTIAL LOSS			Art. 35: In case of interest in delivery
BURDEN OF PROOF	Art. 18 § 2: On carrier Art. 20: On carrier to prove that damage was caused by claimant	Art. 5 § 1: On carrier to prove that he, his servants or agents took all measures that could reasonably be required to avoid the occurrence and its consequences Art. 5 § 4 (a), Art. 5 § 7, Art. 9 § 2, Art. 11 § 2: On carrier	Art. 25 § 1: On railway to prove that the loss, damage, exceeding the transit period is due to clauses specified in Art. 23 § 2 Art. 25 § 2: On claimant to prove that loss or damage was not attributable to a risk of Art. 23 § 3
LIMITATIONS OF LIABILITY	Art. 22 § 3: Ⓢ 17 SDR/kg	Art. 6 § 1 (a) Ⓢ 2.5 SDR/kg or 835 SDR/pkg Art. 6 § 1 (b): ⇒ 2 1/2 x the freight payable for delay	Art. 30 § 2: Ⓢ 17 SDR/kg Art. 33 § 1: ⇒ 4x the carriage charges for delay Art. 33 § 3: For partial loss caused by delay ⇒ 4x the carriage charges in respect of that part of the consignment which has not been lost
LOSS OF RIGHT TO LIMIT RESPONSIBILITY	None	Art. 8 § 1: If proved that loss, damage or delay in delivery resulted from act or omission of carrier done with intent to cause such loss, damage or delay, or recklessly and with knowledge that such loss, damage or delay would probably result Art. 9 § 4: Deck cargo contrary to express agreement	Art. 36: If proved that loss or damage results from an act or omission, which carrier has committed either with intent to cause such loss or damage, or recklessly and with knowledge that such loss or damage would probably result (liability limits of Art. 15 § 3, Art. 19 §§ 6 and 7, Art. 30 and Art. 32 to 35)
EXEMPTIONS	Art. 18 § 2: If destruction, loss, damage resulted e.g. from ⇒ inherent defect of cargo ⇒ defective packaging ⇒ act of war ⇒ act of public authority Art. 20: If damage was caused by negligence or wrongful act or omission of the claimant	Art. 5 § 5: ⇒ special risks inherent in carriage of live animals Art. 5 § 6: ⇒ resulted from measures to save life or from reasonable measures to save property at sea	Art. 23 § 2: If caused: ⇒ by fault of the person entitled ⇒ by an order given by the person entitled ⇒ by inherent defect in the goods (decay, wastage) ⇒ by circumstances which the carrier could not avoid and the consequences of which he was unable to prevent Art. 23 § 3: Special risks
EXTENSION OF THE CARRIERS	Art. 25: Contract may be subject to higher limits, consignor can make a special declaration of interest	Art. 23 § 2: Carrier may increase his responsibilities and obligations	Art. 5: Carrier may assume a greater liability Art. 35: In case of declaration of interest in delivery

REGIME	MONTREAL CONVENTION	HAMBURG RULES	COTIF/CIM - PROTOCOL 1999
RESPONSIBILITY	in delivery (Art. 22 § 3)and pay a supplementary sum	Possible, compare Art. 10 § 3	
CONCURRENT CAUSES/ RIGHT OF RECOURSE	Art. 30 § 2: Aggregate of the amounts recoverable from carrier and its servant shall not exceed the limits above Art. 48: Right of recourse between contracting and actual carrier	Art. 5 § 7: Fault or neglect on part of carrier, his servants or agents combines with another cause ⇒ carrier is liable only to extent that loss, damage or delay is attributable to his fault or neglect, provided that carrier proves the amount of loss, damage or delay not attributable thereto Art. 10 § 4: Joint and several liability if both the carrier and the actual carrier are liable Art. 10 § 6: Right of recourse between carrier and actual carrier	Art. 27 § 4: Joint and several liability if both the carrier and the substitute carrier are liable Art. 50: Substitute carrier is liable, right of recourse between: ⇒ against carrier who has caused the loss or damage (Art. 50 § 1) ⇒ if loss or damage has been caused by several carriers, each shall be liable for the loss or damage he has caused ⇒ if it cannot be proved which carrier has caused the loss compensation shall be apportioned between all carriers who have taken part in the carriage, except those who prove that loss was not caused by them; apportionment in proportion to their respective shares of the carriage charge
SERVANT AND AGENTS	Art. 30	Art: 5: Carrier is liable for his servants or agents	Art. 40: Carrier is liable for his servants and other persons whose services he makes use of for the performance of the carriage (e.g.: managers of the railway infrastructure on which the carriage is performed are considered ex lege to be such persons) when these servants and other persons are acting within the scope of their functions
ACTUAL CARRIER	Art. 39	Definition: Art. 1 § 2 Art. 10 § 1: Carrier is responsible for acts and omissions of the actual carrier and his servants and agents acting within the scope of their employment Art. 11 § 1: Carrier not liable for loss in case of through carriage if provided for by contractual arrangement Art. 12; 13; 14, 19	Art. 27: Carrier shall remain liable in respect of the entire carriage
SUCCESSIVE CARRIER	Definition Art. 1 § 3 Art. 36 § 1: Each carrier accepting cargo is deemed to be one of the parties of the contract Art. 31 § 3: Consignor right of action against first carrier, consignee against the last, and each against the carrier there the destruction, damage, loss or delay occurred ⇒ these carries are jointly or several liable		Art. 26: If carriage governed by single contract: each carrier, by taking over the goods with consignment note, becomes a party to the contract ⇒ assumes obligations arising therefrom. ⇒ shall be responsible in respect of carriage over the entire route up to delivery
NOTICE OF DAMAGE	Art. 31 § 2: ⇒ 14 days from the date of receipt	Art. 19 § 1: Apparent loss or damage ⇒ 1 day after handing over Art. 19 § 2: Non apparent loss or damage ⇒ 15 consecutive days after handing over	Art. 47 § 2: Ascertainment according to Art. 42 before acceptance; if not: extinction of right of action Non apparent loss or damage ⇒ 7 days after acceptance

REGIME	MONTREAL CONVENTION	HAMBURG RULES	COTIF/CIM - PROTOCOL 1999
	Delay ⇒ 21 days from the date on which the cargo has been placed at disposal Art. 31 § 4: Written complaint must be made in the times of Art. 31 § 2; except cases of carrier's fraud	Art. 19 § 5: Delay ⇒ 60 consecutive days	Exceeding transport period ⇒ 60 days
TIME BAR	Art. 35 § 1: ⇒ 2 years	Art. 20 § 1: ⇒ 2 years Art. 20 § 5	Art. 48 § 1: ⇒ 1 year ⇒ 2 years in special cases (e. g. if act was done with intent to cause such loss or damage, or recklessly and with knowledge that such loss or damage will probably result)
PLACE OF JURISDICTION	Art. 33 § 1: ⇒ domicile of carrier ⇒ principal place of business ⇒ place of business through which contract has been made ⇒ place of destination	Art. 21 § 1: ⇒ principal place of business or defendant's habitual residence ⇒ place of conclusion of contract, if defendant has there a place of business, branch or agency through which the contract was made ⇒ port of loading or of discharge ⇒ as agreed Art. 21 § 2: In Contracting State in which carrying vessel or any other vessel of the same ownership may have been arrested	Art. 46: ⇒ as agreed ⇒ before the courts or tribunals of a State on whose territory defendant has his domicile or habitual residence, his principal place of business or the branch or agency which concluded the contract of carriage, or place where the goods were taken over by the carrier or the place designated for delivery
APPLICABLE LAW			Art. 42 § 3: Procedure of ascertainment governed by laws of the State in which it takes place
INTEREST			Art. 37 § 2: 5% /annum § 3: ⇒ If person entitled does not submit to carrier supporting documents required for the amount of the claim to be finally settled, no interest shall accrue between the expiry of the time allotted and the actual submission of such documents
SPECIAL PROVISIONS	Art. 18 § 4: Carriage by air does not extend to land, sea, inland waterways; if such carriage took place for the purpose of loading, delivery or transshipment ⇒ presumption that it has been the result of an event which took place during carriage by air Art. 8: Documentation for multiple Packages Art. 38: In the case of combined transport performed partly by air, partly by an other mode these rules apply only to carriage by air Art. 34: Arbitration	Art. 22: Arbitration	Art. 13 § 1: Responsibility for loading and unloading : ⇒ carrier for packages ⇒ consignor for full wagon loads ⇒ consignee for unloading after delivery Art. 28; 29: Presumption in case of reconsignment, loss of goods Art. 39: Liability in case of nuclear incidents Art. 38 § 1: Liability in respect of rail-sea traffic ⇒ if carrier proves that loss occurred in course of the sea journey between loading on board and unloading from ship he has more exception clauses (e.g.: fire; saving live or property at sea, loading of goods on the deck of the ship)
N.B.			Parties have more flexibility concerning the payment of costs (Art. 10) and fixing the transit periods (Art. 16)