SECTION IV
CONVENTIONS

GENEVA PROTOCOL ON ARBITRATION CLAUSES 1923

See the First Schedule to the Arbitration Act 1950 for text of the Convention.

INTERNATIONAL CONVENTION FOR THE UNIFICATION OF CERTAIN RULES RELATING TO BILLS OF LADING, BRUSSELS, 1924 (THE HAGUE RULES)

Article 1

In this convention the following words are employed with the meanings set out below –

(a) 'carrier' includes the owner of the vessel or the charterer who enters into a contract of carriage with a shipper;

(b) 'contract of carriage' applies only to contracts of carriage covered by a bill of lading or any similar document of title, in so far as such document relates to the carriage of goods by sea; it also applies to any bill of lading or any similar document as aforesaid issued under or pursuant to a charter party from the moment at which such instrument regulates the relations between a carrier and a holder of the same;

(c) 'goods' includes goods, wares, merchandise, and articles of every kind whatsoever except live animals and cargo which by the contract of carriage is stated as being carried on deck and is so carried;

(d) 'ship' means any vessel used for the carriage of goods by sea;

(e) 'carriage of goods' covers the period from the time when the goods are loaded on to the time they are discharged from the ship.

Article 2

Subject to the provisions of Article 6, under every contract of carriage of goods by sea the carrier, in relation to the loading, handling, stowage, carriage, custody, care, and discharge of such goods shall be subject to the responsibilities and liabilities, and entitled to the rights and immunities hereinafter set forth.

Article 3

1. The carrier shall be bound before and at the beginning of the voyage to exercise due diligence to –

(a) make the ship seaworthy;

(b) properly man, equip, and supply the ship;

(c) make the holds, refrigerating and cool chambers, and all other parts of the ship in which goods are carried, fit and safe for their reception, carriage, and preservation.

2. Subject to the provisions of Article 4, the carrier shall properly and carefully load, handle, stow, carry, keep, care for, and discharge the goods carried.

3. After receiving the goods into his charge, the carrier or the master or agent of the carrier shall, on demand of the shipper, issue to the shipper a bill of lading showing among other things –

(a) the leading marks necessary for identification of the goods as the same are furnished in writing by the shipper before the loading of such goods starts, provided such marks are stamped or otherwise shown clearly upon the goods if uncovered, or on the cases or coverings in which such goods are contained, in such a manner as should ordinarily remain legible until the end of the voyage;
(b) either the number of packages or pieces, or the quantity; or weight, as the case may be, as furnished in writing by the shipper;
(c) the apparent order and condition of the goods.

Provided that no carrier, master, or agent of the carrier shall be bound to state or show in the bill of lading any marks, number, quantity, or weight which he has reasonable grounds for suspecting not accurately to represent the goods actually received or which he has had no reasonable means of checking.

4. Such a bill of lading shall be *prima facie* evidence of the receipt by the carrier of the goods as therein described in accordance with paragraph 3(a), (b) and (c).

5. The shipper shall be deemed to have guaranteed to the carrier the accuracy at the time of shipment of the marks, number, quantity, and weight, as furnished by him, and the shipper shall indemnify the carrier against all loss, damages, and expenses arising or resulting from inaccuracies in such particulars. The right of the carrier to such indemnity shall in no way limit his responsibility and liability under the contract of carriage to any person other than the shipper.

6. Unless notice of loss or damage and the general nature of such loss or damage be given in writing to the 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 thereof under the contract of carriage, such removal shall be *prima facie* evidence of the delivery by the carrier of the goods as described in the bill of lading. If the loss or damage is not apparent, the notice must be given within three days of the delivery. The notice in writing need not be given if the state of the goods has at the time of their receipt been the subject of joint survey or inspection. In any event the carrier and the ship shall be discharged from all liability in respect of loss or damage unless suit is brought within one year after delivery of the goods or the date when the goods should have been delivered. In the case of any actual or apprehended loss or damage the carrier and the receiver shall give all reasonable facilities to each other for inspecting and tallying the goods.

7. After the goods are loaded, the bill of lading to be issued by the carrier, master, or agent of the carrier to the shipper shall, if the shipper so demands, be a 'shipped' bill of lading, provided that if the shipper shall have previously taken up any document of title to such goods, he shall surrender the same as against the issue of the 'shipped' bill of lading. At the option of the carrier such document of title may be noted at the port of shipment by the carrier, master, or agent with the name or names of the ship or ships upon which he goods have been shipped and the date or dates of shipment, and when so noted, if it shows the particulars mentioned in paragraph 3 or Article 3, it shall for the purpose of this Article be deemed to constitute a 'shipped' bill of lading.

8. Any clause, covenant, or agreement in a contract of carriage relieving the carrier or the ship from liability for loss or damage to or in connection with goods arising from negligence, fault, or failure in the duties and obligations provided in this Article, or lessening such liability otherwise than as provided in this convention, shall be null and void and of no effect. A benefit of insurance in favour of the carrier or similar clause shall be deemed to be a clause relieving the carrier from liability.

Article 4

1. Neither the carrier nor the ship shall be liable for loss or damage arising or resulting from unseaworthiness unless caused by want of due diligence on the part of the carrier to make the ship seaworthy and to secure that the ship is properly manned, equipped, and supplied and to make the holds, refrigerating and cool chambers, and all other parts of the ship in which goods are carried fit and safe for their reception, carriage, and preservation in accordance with the provisions of paragraph 1 of Article 3. Whenever loss or damage has resulted from unseaworthiness, the burden of proving the exercise of due diligence shall be on the carrier or other person claiming exemption under this Article.

2. Neither the carrier nor the ship shall be responsible for loss or damage arising or resulting from –

(a) act, neglect, or default of the master, mariner, pilot, or the servants of the carrier in the navigation or in the management of the ship;
(b) fire, unless caused by the actual fault or privity of the carrier;
(c) perils, dangers, and accidents of the sea or other navigable waters;
(d) act of God;
(e) act of war;
(f) act of public enemies;
(g) arrest or restraint of princes, rulers, or people or seizure under legal process;
(h) quarantine restrictions;
(i) Act or omission of the shipper or owner of the goods, his agent, or representative;
(j) strikes or lock-outs or stoppage or restraint of labour from whatever cause, whether partial or general;
(k) riots and civil commotions;
(l) saving or attempting to save life or property at sea;
(m) wastage in bulk or weight or any other loss or damage arising from inherent defect, quality, or vice of the goods;
(n) insufficiency of packing;
(o) insufficiency or inadequacy of marks;
(p) latent defects not discoverable by due diligence;
(q) any other cause arising without the actual fault or privity of the carrier, or without the fault or neglect of the agents or servants of the carrier, but the burden of proof shall be on the person claiming the benefit of this exception to show that neither the actual fault or privity of the carrier nor the fault or neglect of the agents or servants of the carrier contributed to the loss or damage.

3. The shipper shall not be responsible for loss or damage sustained by the carrier or the ship arising or resulting from any cause without the act, fault, or neglect of the shipper, his agents, or his servants.

4. Any deviation in saving or attempting to save a life or property at sea or any reasonable deviation shall not be deemed to be an infringement or breach of this convention or of the contract of carriage, and the carrier shall not be liable for any loss or damage resulting therefrom.

5. Neither the carrier nor the ship shall in any event be or become liable for any loss or damage to or in connection with goods in an amount exceeding 100 pounds sterling per package or unit or the equivalent of that sum in other currency unless the nature and value of such goods have been declared by the shipper before shipment and inserted in the bill of lading. This declaration if embodied in the bill of lading shall be *prima facie* evidence but shall not be binding or conclusive on the carrier. By agreement between the carrier, master, or agent of the carrier

and the shipper another maximum amount than that mentioned in this paragraph may be fixed, provided that such maximum shall not be less than the figure above named. Neither the carrier nor the ship shall be responsible in any event for loss or damage to, or in connection with, goods if the nature or value thereof has been knowingly mis-stated by the shipper in the bill of lading.

6. Goods of an inflammable, explosive, or dangerous nature to the shipment whereof the carrier, master, or agent of the carrier has not consented with knowledge of their nature and character may at any time before discharge be landed at any place or destroyed or rendered innocuous by the carrier without compensation, and the shipper of such goods shall be liable for all damages and expenses directly or indirectly arising out of or resulting from such shipment. If any such goods shipped with such knowledge and consent shall become a danger to the ship or cargo, they may in like manner be landed at any place or destroyed or rendered innocuous by the carrier without liability on the part of the carrier except to general average, if any.

Article 5

A carrier shall be at liberty to surrender in whole or in part all or any of his rights and immunities, or to increase any of his responsibilities and liabilities under this convention provided such surrender or increase shall be embodied in the bill of lading issued to the shipper. The provisions of this convention shall not be applicable to charter-parties, but if bills of lading are issued in the case of a ship under a charter-party they shall comply with the terms of this convention. Nothing in these rules shall be held to prevent the insertion in a bill of lading of any lawful provision regarding general average.

Article 6

Notwithstanding the provisions of the preceding Articles, a carrier, master, or agent of the carrier and a shipper shall in regard to any particular goods be at liberty to enter into any agreement in any terms as to the responsibility and liability of the carrier for such goods, and as to the rights and immunities of the carrier in respect of such goods, or concerning his obligation as to seaworthiness so far as this stipulation is not contrary to public policy, or concerning the care or diligence of his servants or agents in regard to the loading, handling, stowage, carriage, custody, care, and discharge of the goods carried by sea, provided that in this case no bill of lading has been or shall be issued and that the terms agreed shall be embodied in a receipt which shall be a non-negotiable document and shall be marked as such.

Any agreement so entered into shall have full legal effect –

> Provided that this Article shall not apply to ordinary commercial shipments made in the ordinary course of trade, but only to other shipments where the character or condition of the property to be carried or the circumstances, terms, and conditions under which the carriage is to be performed are such as reasonably to justify a special agreement.

Article 7

Nothing herein contained shall prevent a carrier or a shipper from entering into any agreement stipulation, condition, reservation, or exemption as to the responsibility and liability of the carrier or the ship for the loss or damage to, or in connection with, the custody and care and handling of goods prior to the loading on, and subsequent to the discharge from, the ship on which the goods are carried by sea.

Article 8

The provisions of this convention shall not affect the rights and obligations of the carrier under any statute for the time being in force relating to the limitation of the liability of owners of seagoing vessels.

Article 9
The monetary units mentioned in this convention are to be taken to be gold value. Those contracting states in which the pound sterling is not a monetary unit reserve to themselves the right of translating the sums indicated in this convention in terms of pound sterling into terms of their own monetary system in round figures. The national laws may reserve to the debtor the right of discharging his debt in national currency according to the rate of exchange prevailing on the day of their arrival of the ship at the port of discharge of the goods concerned.

Article 10
The provisions of this convention shall apply to all bills of lading issued in any of the Contracting States.

Articles 11–16 [Omitted].

GENEVA CONVENTION ON THE EXECUTION OF FOREIGN ARBITRAL AWARDS 1927

See the Second Schedule to the Arbitration Act 1950 for text of the Convention.

CONVENTION FOR THE UNIFICATION OF CERTAIN RULES RELATING TO INTERNATIONAL CARRIAGE BY AIR,WARSAW, 1929 (WARSAW CONVENTION)

CHAPTER I

SCOPE-DEFINITIONS

Article 1
1. This Convention applies to all international carriage of persons, luggage or goods performed by aircraft for reward. It applies equally to gratuitous carriage by aircraft performed by an air transport undertaking.
2. For the purpose of this Convention the expression 'international carriage' means any carriage in which, according to the contract made by the parties, the place of departure and the place of destination, whether or not there be a break in the carriage or a transhipment, are situated either within the territories of two High Contracting Parties, or within the territory of a single High Contracting party, if there is an agreed stopping place within a territory subject to the sovereignty, suzerainty, mandate or authority of another Power, even though that Power is not a party to this convention. A carriage without such an agreed stopping place between territories subject to the sovereignty, suzerainty, mandate or authority of the same High Contracting Party is not deemed to be international for the purposes of this Convention.
3. A carriage to be performed by several successive air carriers is deemed, for the purposes of this convention, to be one undivided carriage, if it has been regarded by the parties as a single operation, whether it had been agreed upon under the form of a single contract or of a series of contracts, and it does not lose its international character merely because one contract or a series

of contracts is to be performed entirely within a territory subject to the sovereignty, suzerainty, mandate or authority of the same High Contracting Party.

Article 2

1. This Convention applies to carriage performed by the State or by legally constituted public bodies provided it falls within the conditions laid down in Article 1.
2. This Convention does not apply to carriage performed under the terms of any international postal Convention.

CHAPTER II

DOCUMENTS OF CARRIAGE

SECTION 1 – PASSENGER TICKET

Article 3 [Omitted].

SECTION 2 – LUGGAGE TICKET

Article 4 [Omitted].

SECTION 3 – AIR CONSIGNMENT NOTE

Article 5

1. Every carrier of goods has the right to require the consignor to make out and over to him a document called an 'air consignment note'; every consignor has the right to require the carrier to accept this document.
2. The absence, irregularity or loss of this document does not affect the existence or the validity of the contract of carriage which shall, subject to the provisions of Article 9, be none the less governed by the rules of this Convention.

Article 6

1. The air consignment note shall be made out by the consignor in three original parts and be handed over with the goods.
2. The first part shall be marked 'for the carrier,' and shall be signed by the consignor. The second part shall be marked 'for the consignee', it shall be signed by the consignor and by the carrier and shall accompany the goods. The third part shall be signed by the carrier and handed by him to the consignor after the goods have been accepted.
3. The carrier shall sign on acceptance of the goods.
4. The signature of the carrier may be stamped; that of the consignor may be printed or stamped.
5. If, at the request of the consignor, the carrier makes out the air consignment note, he shall be deemed, subject to proof to the contrary, to have done so on behalf of the consignor.

Article 7

The carrier of goods has the right to require the consignor to make out separate consignment notes when there is more than one package.

Article 8

The air consignment note shall contain the following particulars –

(a) the place and date of its execution;
(b) the place of departure and of destination;

(c) the agreed stopping places, provided that the carrier may reserve the right to alter the stopping places in case of necessity, and that if he exercises that right the alteration shall not have the affect of depriving the carriage of its international character;
(d) the name and address of the consignor;
(e) the name and address of the first carrier;
(f) the name and address of the consignee, if the case so requires;
(g) the nature of the goods;
(h) the number of the packages, the method of packing and the particular marks or numbers upon them;
(i) the weight, the quantity and the volume or dimensions of the goods;
(j) the apparent condition of the goods and of the packing;
(k) the freight, if it has been agreed upon, the date and place of payment, and the person who is to pay it;
(l) if the goods are sent for payment on delivery, the price of the goods, and, if the case so requires, the amount of the expenses incurred;
(m) the amount of the value declared in accordance with Article 22(2);
(n) the number of parts of the air consignment note;
(o) the document handed to the carrier to accompany the air consignment note;
(p) the time fixed for the completion of the carriage and a brief note of the route to be followed, if these matters have been agreed upon;
(q) a statement that the carriage is subject to the rules relating to liability established by this Convention.

Article 9

If the carrier accepts goods without an air consignment note having been made out, or if the air consignment note does not contain all the particulars set out in Article 8 (a) to (i) inclusive and (q), the carrier shall not be entitled to avail himself of the provisions of this Convention which exclude or limit his liability.

Article 10

1. The consignor is responsible for the correctness of the particulars and statements relating to the goods which he inserts in the air consignment note.
2. The consignor will be liable for all damage suffered by the carrier or any other person by reason of the irregularity, incorrectness or incompleteness of the said particulars and statements.

Article 11

1. The air consignment note is *prima facie* evidence of the conclusion of the contract, of the receipt of the goods and of the conditions of carriage.
2. The statements in the air consignment note relating to the weight, dimensions and packing of the goods, as well as those relating to the number of packages, are *prima facie* evidence of the facts stated; those relating to the quantity, volume and condition of the goods do not constitute evidence against the carrier except so far as they both have been, and are stated in the air consignment note to have been, checked by him in the presence of the consignor, or relate to the apparent condition of the goods.

Article 12

1. Subject to his liability to carry out all his obligations under the contract of carriage, the consignor has the right to dispose of the goods by withdrawing them at the aerodrome of departure or destination, or by stopping them in the course of the journey on any landing, or by

calling for them to be delivered at the place of destination or in the course of the journey to a person other than the consignee named in the air consignment note, or by requiring them to be returned to the aerodrome of departure. He must not exercise this right of disposition in such a way as to prejudice the carrier or other consignors and he must repay any expenses occasioned by the exercise of this right.
2. If it is impossible to carry out the orders of the consignor the carrier must so inform him forthwith.
3. If the carrier obeys the orders of the consignor for the disposition of the goods without requiring the production of the part of the air consignment note delivered to the latter, he will be liable, without prejudice to his right of recovery from the consignor, for any damage which may be caused thereby to any person who is lawfully in possession of that part of the air consignment note.
4. The right conferred on the consignor ceases at the moment when that of the consignee begins in accordance with Article 13. Nevertheless, if the consignee declines to accept the consignment note or the goods, or if he cannot be communicated with, the consignor resumes his right of disposition.

Article 13
1. Except in the circumstances set out in the preceding Article, the consignee is entitled, on arrival of the goods at the place of destination, to require the carrier to hand over to him the air consignment note and to deliver the goods to him, on payment of the charges due and on complying with the conditions of carriage set out in the air consignment note.
2. Unless it is otherwise agreed, it is the duty of the carrier to give notice to the consignee as soon as the goods arrive.
3. If the carrier admits the loss of the goods have not arrived at the expiration of seven days after date on which they ought to have arrived, the consignee is entitled to put into force against the carrier the rights which flow from the contract of carriage.

Article 14
The consignor and the consignee can respectively enforce all the rights given them by Articles 12 and 13, each in his own name, whether he is acting in his own interest or in the interest of another, provided that he carries out the obligations imposed by the contract.

Article 15
1. Articles 12, 13 and 14 do not affect either the relations of the consignor or the consignee with each other or the mutual relations of third parties whose rights are derived either from the consignor or from the consignee.
2. The provisions of Articles 12, 13 and 14 can only be varied by express provision in the air consignment note.

Article 16
1. The consignor must furnish such information and attach to the air consignment note such documents as are necessary to meet the formalities of customs, octroi or police before the goods can be delivered to the consignee. The consignor is liable to the carrier for any damage occasioned by the absence, insufficiency or irregularity of any such information or documents, unless the damage is due to the fault of the carrier or his agents.
2. The carrier is under no obligation to enquire into the correctness or sufficiency of such information or deed.

CHAPTER III
LIABILITY OF THE CARRIER

Article 17
The carrier is liable for damage sustained in the event of the death or wounding of a passenger or any other bodily injury suffered by a passenger, if the accident which caused the damage so sustained took place on board the aircraft or in the course of any of the operations of embarking or disembarking.

Article 18
1. The carrier is liable for damage sustained in the event of the destruction or loss of, or of damage to, any registered luggage or any goods, if the occurrence which caused the damage so sustained took place during the carriage by air.
2. The carriage by air within the meaning for the preceding paragraph comprises the period during which the luggage or goods are in charge of the carrier, whether in an aerodrome or on board an aircraft, or, in the case of a landing outside an aerodrome, in any place whatsoever.
3. The period of the carriage by air does not extend to any carriage by land, by sea or by river performed outside an aerodrome. If, however, such a carriage takes place in the performance of a contract for carriage by air, for the purpose of loading, delivery or trans-shipment, any damage is presumed, subject to proof to the contrary, to have been the result of an event which took place during the carriage by air.

Article 19
The carrier is liable for damage occasioned by delay in the carriage by air of passengers, luggage or goods.

Article 20
1. The carrier is not liable if he proves that he and his agents have taken all necessary measures to avoid the damage or that it was impossible for him or them to take such measures.
2. In the carriage of goods and luggage the carrier is not liable if he proves that the damage was occasioned by negligent pilotage or negligence in the handling of the aircraft or in navigation and that, in all other respects, he and his agents have taken all necessary measures to avoid the damage.

Article 21
If the carrier proves that the damage was caused by or contributed to by the negligence of the injured person the court may, in accordance with the provisions of its own law, exonerate the carrier wholly or partly from his liability.

Article 22
1. In the carriage of passengers the liability of the carrier for each passenger is limited to the sum of 125,000 francs. Where, in accordance with the law of the Court seised of the case, damages may be awarded in the form of periodical payments, the equivalent capital value of the said payment shall not exceed 125,000 francs. Nevertheless, by special contract, the carrier and the passenger may agree to a higher limit of liability.
2. In the carriage of registered luggage and of goods, the liability of the carrier is limited to a sum of 250 francs per kilogram, unless the consignor has made, at the time when the package was handed over to the carrier, a special declaration of the value at delivery and has paid a supplementary sum if the case so requires. In that case the carrier will be liable to pay a sum not

exceeding the declared sum, unless he proves that the sum is greater than the actual value to the consignor at delivery.
3. As regards objects of which the passenger takes charge himself the liability of the carrier is limited to 5,000 francs per passenger.
4. The sums mentioned above shall be deemed to refer to the French franc consisting of 65 1/2 milligrams gold of millesimal fineness 900. These sums may be converted into any national currency in round figures.

Article 23
Any provision tending to relieve the carrier of liability or to fix a lower limit than that which is laid down in this convention shall be null and void, but the nullity of any such provision does not involve the nullity of the whole contract, which shall remain subject to the provisions of this Convention.

Article 24
1. In the cases covered by Articles 18 and 19 any action for damages, however founded, can only be brought subject to the conditions and limits set out in this Convention.
2. In the cases covered by Article 17 the provisions of the preceding paragraph also apply, without prejudice to the questions as to who are the persons who have the right to bring suit and what are their respective rights.

Article 25
1. The carrier shall not be entitled to avail himself of the provisions of this Convention which exclude or limit his liability, if the damage is caused by his wilful misconduct or by such default on his part as, in accordance with the law of the Court seised of the case, is considered to be equivalent to wilful misconduct.
2. Similarly the carrier shall not be entitled to avail himself of the said provisions, if the damage is caused as aforesaid by any agent of the carrier acting within the scope of his employment.

Article 26
1. Receipt by the person entitled to delivery of luggage or goods without complaint is *prima facie* evidence that the same have been delivered in good condition and in accordance with the document of carriage.
2. In the case of damage, the person entitled to delivery must complain to the carrier forthwith after the discovery of the damage, and, at the latest, within three days from the date of receipt in the case of luggage and seven days from the date of receipt in the case of goods. In the case of delay the complaint must be made at the latest within fourteen days from the date on which the luggage or goods have been placed at his disposal.
3. Every complaint must be made in writing upon the document of carriage or by separate notice in writing despatched within the times aforesaid.
4. Failing complaint within the times aforesaid, no action shall lie against the carrier, save in the case of fraud on his part.

Article 27
In the case of the death of the person liable, an action for damages lies in accordance with the terms of this Convention against those legally representing his estate.

Article 28
1. An action for damages must be brought, at the option of the plaintiff, in the territory of one of the High Contracting Parties, either before the Court having jurisdiction where the carrier is

ordinarily resident, or has his principal place of business, or has an establishment by which the contract has been made or before the Court having jurisdiction at the place of destination.
2. Questions of procedure shall be governed by the law of the Court seised of the case.

Article 29
1. The right to damages shall be extinguished if an action is not brought within two years, reckoned from the date of arrival at the destination, or from the date on which the aircraft ought to have arrived, or from the date on which the carriage stopped.
2. The method of calculating the period of limitation shall be determined by the law of the Court seised of the case.

Article 30
1. In the case of carriage to be performed by various successive carriers and falling within the definition set out in the third paragraph of Article I, each carrier who accepts passengers, luggage or goods is subjected to the rules set out in this Convention, and is deemed to be one of the contracting parties to the contract of carriage in so far as the contract deals with that part of the carriage which is performed under his supervision.
2. In the case of carriage of this nature, the passenger or his representative can take action only against the carrier who performed the carriage during which the accident or the delay occurred, save in the case where, by express agreement, the first carrier has assumed liability for the whole journey.
3. As regards luggage or goods, the passenger or consignor will have a right of action against the first carrier, and the passenger or consignee who is entitled to delivery will have a right of action against the last carrier, and further, each may take action against the carrier who performed the carriage during which the destruction, loss, damage or delay took place. These carriers will be jointly and severally liable to the passenger or to the consignor or consignee.

CHAPTER IV

PROVISIONS TO COMBINED CARRIAGE

Article 31
1. In the case of combined carriage performed partly by air and partly by any other mode of carriage, the provisions of the Convention apply only to the carriage by air, provided that the carriage by air falls within the terms of Article 1.
2. Nothing in this Convention shall prevent the parties in the case of combined carriage from inserting in the document of air carriage conditions relating to other modes of carriage, provided that the provisions of this Convention are observed as regards the carriage by air.

CHAPTER V

GENERAL AND FINAL PROVISIONS

Article 32
Any clause contained in the contract and all special agreements entered into before the damage occurred by which the parties purport to infringe the rules laid down by this Convention, whether by deciding the law to be applied, or by altering the rules as to jurisdiction, shall be null and void. Nevertheless for the carriage of goods arbitration clauses are allowed, subject to this Convention, if the arbitration is to take place within one of the jurisdictions referred to in the first paragraph of Article 28.

Article 33
Nothing contained in this Convention shall prevent the carrier either from refusing to enter into any contract of carriage, or from making regulations which do not conflict with the provisions of this Convention.

Article 34
This Convention does not apply to international carriage by air performed by way of experimental trial by air navigation undertakings with the view to the establishment of a regular line of air navigation, nor does it apply to carriage performed in extraordinary circumstances outside the normal scope of an air carrier's business.

Article 35
The expression 'days' when used in this Convention means current days not working days.

Articles 36–41 [Omitted].

CONVENTION PROVIDING A UNIFORM LAW FOR BILLS OF EXCHANGE AND PROMISSORY NOTES, GENEVA, 1930

Articles I–XI [Omitted].

ANNEX I

UNIFORM LAW ON BILLS OF EXCHANGE AND PROMISSORY NOTES

TITLE I

BILLS OF EXCHANGE

CHAPTER I

ISSUE AND FORM OF A BILL OF EXCHANGE

Article 1
A bill of exchange contains –
1. the term 'bill of exchange' inserted in the body of the instrument and expressed in the language employed in drawing up the instrument;
2. an unconditional order to pay a determinate sum of money;
3. the name of the person who is to pay (drawee);
4. a statement of the time of payment;
5. a statement of the place where payment is to be made;
6. the name of the person to whom or to whose order payment is to be made;
7. a statement of the date and of the place where the bill is issued;
8. the signature of the person who issues the bill (drawer).

Article 2
An instrument in which any of the requirements mentioned in the preceding Article is wanting is invalid as a bill of exchange, except in the cases specified in the following paragraphs –

A bill of exchange in which the time of payment is not specified is deemed to be payable at sight.
In default of special mention, the place specified beside the name of the drawee is deemed to be the place of payment, and at the same time the place of the domicile of the drawee.
A bill of exchange which does not mention the place of its issue is deemed to have been drawn in the place mentioned beside the name of the drawer.

Article 3
A bill of exchange may be drawn payable to drawer's order.
It may be drawn on the drawer himself.
It may be drawn for account of a third person.

Article 4
A bill of exchange may be payable at the domicile of a third person either in the locality where the drawee has his domicile or in another locality.

Article 5
When a bill of exchange is payable at sight, or at a fixed period after sight, the drawer may stipulate that the sum payable shall bear interest. In the case of any other bill of exchange, this stipulation is deemed not to be written *(non écrite)*.
The rate of interest must be specified in the bill; in default of such specification, the stipulation shall be deemed not to be written *(non écrite)*.
Interest runs from the date of the bill of exchange, unless some other date is specified.

Article 6
When the sum payable by a bill of exchange is expressed in words and also in figures, and there is a discrepancy between the two, the sum denoted by the words is the amount payable. Where the sum payable by a bill of exchange is expressed more than once in words or more than once in figures, and there is a discrepancy, the smaller sum is the sum payable.

Article 7
If a bill of exchange bears signatures of persons incapable of binding themselves by a bill of exchange, or forged signatures, or signatures of fictitious persons, or signatures which for any other reason cannot bind the persons who signed the bill of exchange or on whose behalf it was signed, the obligations of the other persons who signed it are none the less valid.

Article 8
Whosoever puts his signature on a bill of exchange as representing a person for whom he had no power to act is bound himself as a party to the bill and, if he pays, has the same rights as the person for whom he purported to act. The same rule applies to a representative who has exceeded his powers.

Article 9
The drawer guarantees both acceptance and payment.
He may release himself from guaranteeing acceptance; every stipulation by which he releases himself from the guarantee of payment is deemed not to be written (*non écrite*).

Article 10
If a bill of exchange, which was incomplete when issued, has been completed otherwise than in accordance with the agreements entered into, the non-observance of such agreements may not be set up against the holder unless he has acquired the bill of exchange in bad faith or, in acquiring it, has been guilty of gross negligence.

CHAPTER II
ENDORSEMENT

Article 11
Every bill of exchange, even if not expressly drawn to order, may be transferred by means of endorsement.
When the drawer has inserted in a bill of exchange the words 'not to order' or an equivalent expression, the instrument can only be transferred according to the form, and with the effects of an ordinary assignment.
The bill may be endorsed even in favour of the drawee, whether he has accepted or not, or of the drawer, or of any other party to the bill. These persons may re-endorse the bill.

Article 12
An endorsement must be unconditional. Any condition to which it is made subject is deemed not to be written *(non écrite)*.
A partial endorsement is null and void.
An endorsement 'to bearer' is equivalent to an endorsement in blank.

Article 13
An endorsement must be written on the bill of exchange or on a slip affixed thereto *(allonge)*.
It must be signed by the endorser.
The endorsement may leave the beneficiary unspecified or may consist simply of the signature of the endorser (endorsement in blank). In the latter case, the endorsement, to be valid, must be written on the back of the bill of exchange or on the slip attached thereto *(allonge)*.

Article 14
An endorsement transfers all the rights arising out of a bill of exchange.
If the endorsement is in blank, the holder may –
1. fill up the blank either with his own name or with the name of some other person;
2. re-endorse the bill in blank, or to some other person;
3. transfer the bill to a third person without filling up the blank, and without endorsing it.

Article 15
In the absence of any contrary stipulation, the endorser guarantees acceptance and payment. He may prohibit any further endorsement; in this case, he gives no guarantee to the persons to whom the bill is subsequently endorsed.

Article 16
The possessor of a bill of exchange is deemed to be the lawful holder if he establishes his title to the bill through an uninterrupted series of endorsements, even if the last endorsement is in blank. In this connection, cancelled endorsements are deemed not to be written *(non écrits)*. When an endorsement in blank is followed by another endorsement, the person who signed this last endorsement is deemed to have acquired the bill by the endorsement in blank.
Where a person has been dispossessed of a bill of exchange, in any manner whatsoever, the holder who establishes his right thereto in the manner mentioned in the preceding paragraph is not bound to give up the bill unless he has acquired it in bad faith, or unless in acquiring it he has been guilty of gross negligence.

Article 17
Persons sued on a bill of exchange cannot set up against the holder defences founded on their personal relations with the drawer or with previous holders, unless the holder, in acquiring the bill, has knowingly acted to the detriment of the debtor.

Article 18
When an endorsement contains the statements 'value in collection' *('valeur en recouvrement')*, 'for collection' *('pour encaissement')*, 'by procuration' *('par procuration')* or any other phrase implying a simple mandate, the holder may exercise all rights arising out of the bill of exchange, but he can only endorse it in his capacity as agent. In this case, the parties liable can only set up against the holder defences which could be set up against the endorser.
The mandate contained in an endorsement by procuration does not terminate by reason of the death of the party giving the mandate or by reason of his becoming legally incapable.

Article 19
When an endorsement contains the statements 'value in security' *('valeur en garantie')*, 'value in pledge' *('valetur en gage')*, or any other statement implying a pledge, the holder may exercise all the rights arising out of the bill of exchange, but an endorsement by him has the effects only of an endorsement by an agent.
The parties liable cannot set up against the holder defences founded on their personal relations with the endorser, unless the holder, in receiving the bill, has knowingly acted to the detriment of the debtor.

Article 20
An endorsement after maturity has the same effects as an endorsement before maturity. Nevertheless, an endorsement after protest for non-payment, or after the expiration of the limit of time fixed for drawing up the protest, operates only as an ordinary assignment.
Failing proof to the contrary, an endorsement without date is deemed to have been placed on the bill before the expiration of the limit of time fixed for drawing up the protest.

CHAPTER III

ACCEPTANCE

Article 21
Until maturity, a bill of exchange may be presented to the drawee for acceptance at his domicile, either by the holder or by a person who is merely in possession of the bill.

Article 22
In any bill of exchange, the drawer may stipulate that it shall be presented for acceptance with or without fixing a limit of time for presentment.
Except in the case of a bill payable at the address of a third party or in a locality other than that of the domicile of the drawee, or, except in the case of a bill drawn payable at a fixed period after sight, the drawer may prohibit presentment for acceptance.
He may also stipulate that presentment for acceptance shall not take place before a named date.
Unless the drawer has prohibited acceptance, every endorser may stipulate that the bill shall be presented for acceptance, with or without fixing a limit of time for presentment.

Article 23
Bills of exchange payable at a fixed period after sight must be presented for acceptance within

one year of their date. The drawer may abridge or extend this period. These periods may be abridged by the endorsers.

Article 24
The drawee may demand that a bill shall be presented to him a second time on the day after the first presentment. Parties interested are not allowed to set up that this demand has not been complied with unless this request is mentioned in the protest.
The holder is not obliged to surrender to the drawee a bill presented for acceptance.

Article 25
An acceptance is written on the bill of exchange. It is expressed by the word 'accepted' or any other equivalent term. It is signed by the drawee. The simple signature of the drawee on the face of the bill constitutes an acceptance.
When the bill is payable at a certain time after sight, or when it must be presented for acceptance within a certain limit of time in accordance with a special stipulation, the acceptance must be dated as of the day when the acceptance is given, unless the holder requires it shall be dated as of the day of presentment. If it is undated, the holder, in order to preserve his right of recourse against the endorsers and the drawer, must authenticate the omission by a protest drawn up within the proper time.

Article 26
An acceptance is unconditional, but the drawee may restrict it to part of the sum payable.
Every other modification introduced by an acceptance into the tenor of the bill of exchange operates as a refusal to accept. Nevertheless, the acceptor is bound according to the terms of his acceptance.

Article 27
When the drawer of a bill has indicated a place of payment other than the domicile of the drawee without specifying a third party at whose address payment must be made, the drawee may name such third party at the time of acceptance. In default of this indication, the acceptor is deemed to have undertaken to pay the bill himself at the place of payment.
If a bill is payable at the domicile of the drawee, the latter may in his acceptance indicate an address in the same place where payment is to be made.

Article 28
By accepting, the drawee undertakes to pay the bill of exchange at its maturity.
In default of payment, the holder, even if he is the drawer, has a direct action on the bill of exchange against the acceptor for all that can be demanded in accordance with Articles 48 and 49.

Article 29
Where the drawee who has put his acceptance on a bill has cancelled it before restoring the bill, acceptance is deemed to be refused. Failing proof to the contrary, the cancellation is deemed to have taken place before the bill was restored.
Nevertheless, if the drawee has notified his acceptance in writing to the holder or to any party who has signed the bill, he is liable to such parties according to the terms of his acceptance.

CHAPTER IV

'*AVALS*'

Article 30

Payment of a bill of exchange may be guaranteed by an *'aval'* as to the whole or part of its amount.

This guarantee may be given by a third person or even by a person who has signed as a party to the bill.

Article 31

The *'aval'* is given either on the bill itself or on an *'allonge'*.

It is expressed by the words 'good as *aval' ('bon pour aval')* or by any other equivalent formula. It is signed by the giver of the *'aval'*.

It is deemed to be constituted by the mere signature of the giver of the *'aval'* placed on the face of the bill, except in the case of the signature of the drawee or of the drawer.

An *'aval'* must specify for whose account it is given. In default of this it is deemed to be given for the drawer.

Article 32

The giver of an *'aval'* is bound in the same manner as the person for whom he has become guarantor.

His undertaking is valid even when the liability which he has guaranteed is inoperative for any reason other than defect of form.

He has, when he pays a bill of exchange, the rights arising out of the bill of exchange against the person guaranteed and against those who are liable to the latter on the bill of exchange.

CHAPTER V

MATURITY

Article 33

A bill of exchange may be drawn payable –

at sight;

at a fixed period after sight;

at a fixed period after date;

at a fixed date.

Bills of exchange at other maturities or payable by instalments are null and void.

Article 34

A bill of exchange at sight is payable on presentment. It must be presented for payment within a year of its date. The drawer may abridge or extend this period. These periods may be abridged by the endorsers.

The drawer may prescribe that a bill of exchange payable at sight must not be presented for payment before a named date. In this case, the period for presentation begins from the said date.

Article 35

The maturity of a bill of exchange payable at a fixed period after sight is determined either by the date of the acceptance or by the date of the protest.

In the absence of the protest, an undated acceptance is deemed, so far as regards the acceptor, to have been given on the last day of the limit of time for presentment for acceptance.

Article 36

Where a bill of exchange is drawn at one or more months after date or after sight, the bill matures on the corresponding date of the month when payment must be made. If there be no corresponding date, the bill matures on the last day of this month.

When a bill of exchange is drawn at one or more months and a-half after date or sight, entire months must first be calculated.

If the maturity is fixed at the commencement, in the middle (mid-January or mid-February, etc) or at the end of the month, the first, fifteenth or last day of the month is to be understood.

The expressions *'eight days'* or *'fifteen days'* indicate not one or two weeks, but a period of eight or fifteen actual days.

The expression *'half-month'* means a period of fifteen days.

Article 37

When a bill of exchange is payable on a fixed day in a place where the calendar is different from the calendar in the place of issue, the day of maturity is deemed to be fixed according to the calendar of the place of payment.

When a bill of exchange drawn between two places having different calendars is payable at a fixed period after date, the day of issue is referred to the corresponding day of the calendar in the place of payment, and the maturity is fixed accordingly.

The time for presenting bills of exchange is calculated in accordance with the rules of the preceding paragraph.

These rules do not apply if a stipulation in the bill or even the simple terms of the instrument indicate an intention to adopt some different rule.

CHAPTER VI

PAYMENT

Article 38

The holder of a bill of exchange payable on a fixed day or at a fixed period after date or after sight must present the bill for payment either on the day on which it is payable or on one of the two business days which follow.

The presentment of a bill of exchange at a clearing-house is equivalent to a presentment for payment.

Article 39

The drawee who pays a bill of exchange may require that it shall be given up to him receipted by the holder.

The holder may not refuse partial payment.

In case of partial payment the drawee may require that mention of this payment shall be made on the bill, and that a receipt therefor shall be given to him.

Article 40

The holder of a bill of exchange cannot be compelled to receive a payment thereof before maturity.

The drawee who pays before maturity does so at his own risk and peril. He who pays at maturity is validly discharged, unless he has been guilty of fraud or gross negligence. He is bound to verify the regularity of the series of endorsements, but not the signature of the endorsers.

Article 41

When a bill of exchange is drawn payable in a currency which is not that of the place of payment, the sum payable may be paid in the currency of the country, according to its value on the date of maturity. If the debtor is in default, the holder may at his option demand that the amount of the bill be paid in the currency of the country according to the rate on the day of maturity or the day of payment.

The usages of the place of payment determine the value of foreign currency. Nevertheless, the drawer may stipulate that the sum payable shall be calculated according to a rate expressed in the bill.

The foregoing rules shall not apply to the case in which the drawer has stipulated that payment must be made in a certain specified currency (stipulation for effective payment in foreign currency).

If the amount of the bill of exchange is specified in a currency having the same denomination, but a different value in the country of issue and the country of payment, reference is deemed to be made to the currency of the place of payment

Article 42

When a bill of exchange is not presented for payment within the limit of time fixed by Article 38, every debtor is authorised to deposit the amount with the competent authority at the charge, risk and peril of the holder.

CHAPTER VII

RECOURSE FOR NON-ACCEPTANCE OR NON-PAYMENT

Article 43

The holder may exercise his right of recourse against the endorsers, the drawer and the other parties liable –

At maturity:

If payment has not been made;

Even before maturity:

1. if there has been total or partial refusal to accept;
2. in the event of the bankruptcy *(faillite)* of the drawee, whether he has accepted or not, or in the event of a stoppage of payment on his part, even when not declared by a judgment, or where execution has been levied against his goods without result;
3. in the event of the bankruptcy *(faillite)* of the drawer of a non-acceptable bill.

Article 44

Default of acceptance or on payment must be evidenced by an authentic act (protest for non-acceptance or non-payment).

Protest for non-acceptance must be made within the limit of time fixed for presentment for acceptance. If in the case contemplated by Article 24, paragraph I, the first presentment takes place on the last day of that time, the protest may nevertheless be drawn up on the next day.

Protest for non-payment of a bill of exchange payable on a fixed day or at a fixed period after date or sight must be made on one of the two business days following the day on which the bill is payable. In the case of a bill payable at sight, the protest must be drawn up under the conditions specified in the foregoing paragraph for the drawing up of a protest for non-acceptance.

Protest for non-acceptance dispenses with presentment for payment and protest for non-payment.

If there is a stoppage of payment on the part of the drawee, whether he has accepted or not, or if execution has been levied against his goods without result, the holder cannot exercise his right of recourse until after presentment of the bill to the drawee for payment and after the protest has been drawn up.
If the drawee, whether he accepted or not, is declared bankrupt *(faillite déclarée)*, or in the event of the declared bankruptcy of the drawer of a non-acceptable bill, the production of the judgment declaring the bankruptcy suffices to enable the holder to exercise his right of recourse.

Article 45
The holder must give notice of non-acceptance or non-payment to his endorser and to the drawer within the four business days which follow the day for protest or, in case of a stipulation 'retour sans *frais*', the day for presentment. Every endorser must, within the two business days following the day on which he receives notice, notify his endorser of the notice he has received, mentioning the names and addresses of those who have given the previous notices, and so on through the series until the drawer is reached. The periods mentioned above run from the receipt of the preceding notice.
When, in conformity with the preceding paragraph, notice is given to a person who has signed a bill of exchange, the same notice must be given within the same limit of time to his *avaliseur*.
Where an endorser either has not specified his address or has specified it in an illegible manner, it is sufficient that notice should be given to the preceding endorser.
A person who must give notice may give it in any form whatever, even by simply returning the bill of exchange.
He must prove that he has given notice within the time allowed, this time-limit shall be regarded as having been observed if a letter giving the notice has been posted within the prescribed time.
A person who does not give notice within the limit of time mentioned above does not forfeit his rights. He is responsible for the injury, if any, caused by his negligence, but the damages shall not exceed the amount of the bill of exchange.

Article 46
The drawer, an endorser, or a person guaranteeing payment by *aval (avaliseur)* may, by the stipulation '*retour sans frais*', '*sans protet*', or any other equivalent expression written on the instrument and signed, release the holder from having a protest of non-acceptance or non-payment drawn up in order to exercise his right of recourse.
This stipulation does not release the holder from presenting the bill within the prescribed time, or from the notices he has to give. The burden of proving the non-observance of the limits of time lies on the person who seeks to set it up against the holder.
If the stipulation is written by the drawer, it is operative in respect of all persons who have signed the bill; if it is written by an endorser or an *avaliseur*, it is operative only in respect of such endorser or *avaliseur*. If, in spite of the stipulation written by the drawer, the holder has the protest drawn up, he must bear the expenses thereof. When the stipulation emanates from an endorser or *avaliseur*, the costs of the protest, if one is drawn up, may be recovered from all the persons who have signed the bill.

Article 47
All drawers, acceptors, endorsers or guarantors by *aval* of a bill of exchange are jointly and severally liable to the holder.
The holder has the right of proceeding against all these persons individually or collectively without being required to observe the order in which they have become bound.

The same right is possessed by any person signing the bill who has taken it up and paid it.
Proceedings against one of the parties liable do not prevent proceedings against the others, even though they may be subsequent to the party first proceeded against.

Article 48

The holder may recover from the person against whom he exercises his right of recourse –
1. the amount of the unaccepted or unpaid bill of exchange with interest, if interest has been stipulated for;
2. interest at the rate of 6 per cent from the date of maturity;
3. the expenses of protest and of the notices given as well as other expenses.

If the right of recourse is exercised before maturity, the amount of the bill shall be subject to a discount. This discount shall be calculated according to the official rate of discount (bank-rate) ruling on the date when recourse is exercised at the place of domicile of the holder.

Article 49

A party who takes up and pays a bill of exchange can recover from the parties liable to him –
1. the entire sum which he has paid;
2. interest on the said sum calculated at the rate of 6 per cent, starting from the day when he made payment;
3. any expenses which he has incurred.

Article 50

Every party liable against whom a right of recourse is or may be exercised can require against payment that the bill shall be given up to him with the protest and a receipted account.
Every endorser who has taken up and paid a bill of exchange may cancel his own endorsement and those of subsequent endorsers.

Article 51

In the case of the exercise of the right of recourse after a partial acceptance, the party who pays the sum in respect of which the bill has not been accepted can require that this payment shall be specified on the bill and that he shall be given a receipt therefor. The holder must also give him a certified copy of the bill, together with the protest, in order to enable subsequent recourse to be exercised.

Article 52

Every person having the right of recourse may, in the absence of agreement to the contrary, reimburse himself by means of a fresh bill (redraft) to be drawn at sight on one of the parties liable to him and payable at the domicile of that party.
The redraft includes, in addition to the sums mentioned in Articles 48 and 49, brokerage and the cost of stamping the redraft.
If the redraft is drawn by the holder, the sum payable is fixed according to the rate for a sight bill drawn at the place where the original bill was payable upon the party liable at the place of his domicile. If the redraft is drawn by an endorser, the sum payable is fixed according to the rate for a sight bill drawn at the place where the drawer of the redraft is domiciled upon the place of domicile of the party liable.

Article 53

After the expiration of the limits of time fixed –

for the presentment of a bill of exchange drawn at sight or at a fixed period after sight;
for drawing up the protest for non-acceptance or non-payment;

for presentment for payment in the case of a stipulation *retour sans frais*, the holder loses his rights of recourse against the endorsers, against the drawer and against the other parties liable, with the exception of the acceptor.

In default of presentment for acceptance within the limit of time stipulated by the drawer, the holder loses his right of recourse for non-payment, as well as for non-acceptance, unless it appears from the terms of the stipulation that the drawer only meant to release himself from the guarantee of acceptance.

If the stipulation for a limit of time for presentment is contained in an endorsement, the endorser alone can avail himself of it.

Article 54

Should the presentment of the bill of exchange or the drawing up of the protest within the prescribed limits of time be prevented by an insurmountable obstacle (legal prohibition (*prescription légate*) by any State or other case of vis major), these limits of time shall be extended. The holder is bound to give notice without delay of the case of vis major to his endorser and to specify this notice, which he must date and sign, on the bill or on an *allonge*; in other respects the provisions of Article 45 shall apply.

When vis major has terminated, the holder must without delay present the bill of exchange for acceptance or payment and, if need be, draw up the protest.

If vis major continues to operate beyond thirty days after maturity, recourse may be exercised, and neither presentment nor the drawing up of a protest shall be necessary.

In the case of bills of exchange drawn at sight or at a fixed period after sight, the time-limit of thirty days shall run from the date on which the holder, even before the expiration of the time for presentment, has given notice of vis major to his endorser. In the case of bill of exchange drawn at a certain time after sight, the above time-limit of thirty days shall be added to the period after sight specified in the bill of exchange.

Facts which are purely personal to the holder or to the person whom he has entrusted with the presentment of the bill or drawing up of the bill or drawing up of the protest are not deemed to constitute cases of vis major.

CHAPTER VIII

INTERVENTION FOR HONOUR

1. GENERAL PROVISIONS

Article 55

The drawer, an endorser, or a person giving an *aval* may specify a person who is to accept or pay in case of need.

A bill of exchange may, subject as hereinafter mentioned, be accepted or paid by a person who intervenes for the honour of any debtor against whom a right of recourse exists.

The person intervening may be a third party, even the drawee, or, save the acceptor, a party already liable on the bill of exchange.

The person intervening is bound to give, within two business days, notice of his intervention to the party for whose honour he has intervened. In default, he is responsible for the injury, if any, due to his negligence, but the damages shall not exceed the amount of the bill of exchange.

2. ACCEPTANCE BY INTERVENTION (FOR HONOUR)

Article 56

There may be acceptance by intervention in all cases where the holder has a right of recourse before maturity on a bill which is capable of acceptance.

When the bill of exchange indicates a person who is designated to accept or pay it in case of need at the place of payment, the holder may not exercise his rights of recourse before maturity against the person naming such referee in case of need and against subsequent signatories, unless he has presented the bill of exchange to the referee in case of need and until, if acceptance is refused by the latter, this refusal has been authenticated by a protest.

In other cases of intervention the holder may refuse an acceptance by intervention. Nevertheless, if he allows it, he loses his right of recourse before maturity against the person on whose behalf such acceptance was given and against subsequent signatories.

Article 57

Acceptance by intervention is specified on the bill of exchange. It is signed by the person intervening. It mentions the person for whose honour it has been given and, in default of such mention, the acceptance is deemed to have been given for the honour of the drawer.

Article 58

The acceptor by intervention is liable to the holder and to the endorsers, subsequent to the party for whose honour he intervened, in the same manner as such party.

Notwithstanding an acceptance by intervention, the party for whose honour it has been given and the parties liable to him may require the holder, in exchange for payment of the sum mentioned in Article 48, to deliver the bill, the protest, and a receipted account, if any.

3. PAYMENT BY INTERVENTION

Article 59

Payment by intervention may take place in all cases where, either at maturity or before maturity, the holder has a right of recourse on the bill.

Payment must include the whole amount payable by the party for whose honour it is made.

It must be made at the latest on the day following the last day allowed for drawing up the protest for non-payment.

Article 60

If a bill of exchange has been accepted by persons intervening who are domiciled in the place of payment, or if persons domiciled therein have been named as referees in case of need, the holder must present the bill to all these persons and, if necessary, have a protest for non-payment drawn up at latest on the day following the last day allowed for drawing up the protest.

In default of protest within this limit of time, the party who has named the referee in case of need, or for whose account the bill has been accepted, and the subsequent endorsers are discharged.

Article 61

The holder who refuses payment by intervention loses his right of recourse against any persons who would have been discharged thereby.

Article 62
Payment by intervention must be authenticated by a receipt given on the bill of exchange mentioning the person for whose honour payment has been made. In default of such mention, payment is deemed to have been made for the honour of the drawer.
The bill of exchange and the protest, if any, must be given up to the person paying by intervention.

Article 63
The person paying by intervention acquires the rights arising out of the bill of exchange against the party for whose honour he has paid and against persons who are liable to the latter on the bill of exchange. Nevertheless, he cannot re-endorse the bill of exchange.
Endorsers subsequent to the party for whose honour payment has been made are discharged.
In case of competition for payment by intervention, the payment which effects the greater number of releases has the preference. Any person who, with a knowledge of the facts, intervenes in a manner contrary to this rule, loses his right of recourse against those who would have been discharged.

CHAPTER IX

PARTS OF A SET, AND COPIES

1. PARTS OF A SET

Article 64
A bill of exchange can be drawn in a set of two or more identical parts.
These parts must be numbered in the body of the instrument itself; in default, each part is considered as a separate bill of exchange.
Every holder of a bill which does not specify that it has been drawn as a sole bill may, at his own expense, require the delivery of two or more parts. For this purpose he must apply to his immediate endorser, who is bound to assist him in proceeding against his own endorser, and so on in the series until the drawer is reached. The endorsers are bound to reproduce their endorsements on the new parts of the set.

Article 65
Payment made on one part of a set operates as a discharge, even though there is no stipulation that this payment annuls the effect on the other parts. Nevertheless, the drawee is liable on each accepted part which he has not recovered.
An endorser who has transferred parts of a set to different persons, as well as subsequent endorsers, are liable on all the parts bearing their signature which have not been restored.

Article 66
A party who has sent one part for acceptance must indicate on the other parts the name of the person in whose hands this part is to be found. That person is bound to give it up to the lawful holder of another part.
If he refuses, the holder cannot exercise his right of recourse until he has had a protest drawn up specifying –
1. that the part sent for acceptance has not been given up to him on his demand;
2. that acceptance or payment could not be obtained on another of the parts.

2. COPIES

Article 67

Every holder of a bill of exchange has the right to make copies of it. A copy must reproduce the original exactly, with the endorsements and all other statements to be found therein. It must specify where the copy ends. It may be endorsed and guaranteed by *aval* in the same manner and with the same effects as the original.

Article 68

A copy must specify the person in possession of the original instrument. The latter is bound to hand over the said instrument to the lawful holder of the copy.

If he refuses, the holder may not exercise his right of recourse against the persons who have endorsed the copy or guaranteed it by *aval* until he has had a protest drawn up specifying that the original has not been given up to him on his demand.

Where the original instrument, after the last endorsement before the making of the copy contains a clause 'commencing from here an endorsement is only valid if made on the copy' or some equivalent formula, a subsequent endorsement on the original is null and void.

CHAPTER X

ALTERATIONS

Article 69

In case of alteration of the text of a bill of exchange, parties who have signed subsequent to the alteration are bound according to the terms of the altered text; parties who have signed before the alteration are bound according to the terms of the original text.

CHAPTER XI

LIMITATION OF ACTIONS

Article 70

All actions arising out of a bill of exchange against the acceptor are barred after three years, reckoned from the date of maturity.

Actions by the holder against the endorsers and against the drawer are barred after one year from the date of a protest drawn up within proper time, or from the date of maturity where there is a stipulation *retour sans frais*.

Actions by endorsers against each other and against the drawer are barred after six months, reckoned from the day when the endorser took up and paid the bill or from the day when he himself was sued.

Article 71

Interruption of the period of limitation is only effective against the person in respect of whom the period has been interrupted.

CHAPTER XII

GENERAL PROVISIONS

Article 72

Payment of a bill of exchange which falls due on a legal holiday (jour férié legal) cannot be demanded until the next business day. So, too, all other proceedings relating to a bill of exchange, in particular presentment for acceptance and protest, can only be taken on a business day.

Where any of these proceedings must be taken within a certain limit of time the last day of which is a legal holiday (jour férié legal), the limit of time is extended until the first business day which follows the expiration of that time. Intermediate holidays (jours fériés) are included in computing limits of time.

Article 73

Legal or contractual limits of time do not include the day on which the period commences.

Article 74

No days of grace, whether legal or judicial, are permitted.

TITLE II

PROMISSORY NOTES

Article 75

A promissory note contains –

1. the term 'promissory note' inserted in the body of the instrument and expressed in the language employed in drawing up the instrument;
2. an unconditional promise to pay a determinate sum of money;
3. a statement of the time of payment;
4. a statement of the place where payment is to be made;
5. the name of the person to whom or to whose order payment is to be made;
6. a statement of the date and of the place where the promissory note is issued;
7. the signature of the person who issues the instrument (maker).

Article 76

An instrument in which any of the requirements mentioned in the preceding Article are wanting is invalid as a promissory note except in the cases specified in the following paragraphs.

A promissory note in which the time of payment is not specified is deemed to be payable at sight.

In default of special mention, the place where the instrument is made is deemed to be the place of payment and at the same time the place of the domicile of the maker.

A promissory note which does not mention the place of its issue is deemed to have been made in the place mentioned beside the name of the maker.

Article 77

The following provisions relating to bills of exchange apply to promissory notes so far as they are not inconsistent with the nature of these instruments, viz –

endorsement (Article 11 to 20);
time of payment (Articles 33 to 37);
payment (Articles 38 to 42);

recourse in case of non-payment (Articles 43 to 50, 52 to 54);
payment by intervention (Articles 55, 59 to 63);
copies (Articles 67 and 68);
alterations (Article 69);
limitation of actions (Articles 70 and 71);
holidays, computation of limits of time and prohibition of days of grace (Articles 72, 73 and 74).

The following provisions are also applicable to a promissory note: The provisions concerning a bill of exchange payable at the address of a third party or in a locality other than that of the domicile of the drawee (Articles 4 and 27): stipulation for interest (Article 5); discrepancies as regards the sum payable (Article 6); the consequences of signature under the conditions mentioned in Article 7, the consequences of signature by a person who acts without authority or who exceeds his authority (Article 8); and provisions concerning a bill of exchange in blank (Article 10).

The following provisions are also applicable to a promissory note: Provisions relating to guarantee by *aval* (Articles 30–32); in the case provided for in Article 31, last paragraph, if the *aval* does not specify on whose behalf it has been given, it is deemed to have been given on behalf of the maker of the promissory note.

Article 78

The maker of a promissory note is bound in the same manner as an acceptor of a bill of exchange.

Promissory notes payable at a certain time after sight must be presented for the visa of the maker within the limits of time fixed by Article 23. The limit of time runs from the date of which marks the commencement of the period of time after sight.

ANNEX II

Articles 1–23 [Omitted].

CONVENTION ON THE LAW APPLICABLE TO INTERNATIONAL SALES OF GOODS, THE HAGUE, 1955

Article 1

This Convention shall apply to international sales of goods.

It shall not apply to sales of securities, to sales of ships and of registered boats or aircraft, or to sales upon judicial order or by way of execution. It shall apply to sales based on documents.

For the purposes of this Convention, contracts to deliver goods to be manufactured or produced shall be placed on the same footing as sales, provided the party who assumes delivery is to furnish the necessary raw materials for their manufacture or production.

The mere declaration of the parties, relative to the application of a law or the competence of a judge or arbitrator, shall not be sufficient to confer upon a sale the international character provided for in the first paragraph of this Article.

Article 2
A sale shall be governed by the domestic law of the country designated by the Contracting Parties.
Such designation must be contained in an express clause, or unambiguously result from the provisions of the contract.
Conditions affecting the consent of the parties to the law declared applicable shall be determined by such law.

Article 3
In default of a law declared applicable by the parties under the conditions provided in the preceding Article, a sale shall be governed by the domestic law of the country in which the vendor has his habitual residence at the time when he receives the order. If the order is received by an establishment of the vendor, the sale shall be governed by the domestic law of the country in which the establishment is situated.
Nevertheless, a sale shall be governed by the domestic law of the country in which the purchaser has his habitual residence, or in which he has the establishment that has given the order, if the order has been received in such country, whether by the vendor or by his representative, agent or commercial traveller.
In case of a sale at an exchange or at a public auction, the sale shall be governed by the domestic law of the country in which the exchange is situated or the auction takes place.

Article 4
In the absence of an express clause to the contrary, the domestic law of the country in which inspection of goods delivered pursuant to a sale is to take place shall apply in respect of the form in which and the periods within which the inspection must take place, the notifications concerning the inspection and the measures to be taken in case of refusal of the goods.

Article 5
This Convention shall not apply to –
1. the capacity of the parties;
2. the form of the contract;
3. the transfer of ownership, provided that the various obligations of the parties, and especially those relating to risks, shall be subject to the law applicable to the sale pursuant to this Convention;
4. the effects of the sale as regards all persons other than the parties.

Article 6
In each of the Contracting States, the application of the law determined by this convention may be excluded on a ground of public policy.

Article 7
The Contracting States have agreed to incorporate the provisions of Articles 1–6 of this Convention in the national law of their respective countries.

Articles 8–12 [Omitted].

HAGUE PROTOCOL TO AMEND THE CONVENTION FOR THE UNIFICATION OF CERTAIN RULES RELATING TO INTERNATIONAL CARRIAGE BY AIR SIGNED AT WARSAW ON 12 OCTOBER 1929 (THE HAGUE PROTOCOL) 1955

CHAPTER 1

AMENDMENTS TO THE CONVENTION

Article 1

In Article 1 of the Convention –

(a) paragraph (2) shall be deleted and replaced by the following:

'(2) For the purposes of this convention, the expression international carriage means any carriage in which, according to the agreement between the parties, the place of departure and the place of destination, whether or not there be a break in the carriage or a transhipment, are situated either within the territories of two High Contracting Parties or within the territory of a single High Contracting Party if there is an agreed stopping place within the territory of another State, even if that State is not a High Contracting Party. Carriage between two points within the territory of a single High Contracting Party without an agreed stopping place within the territory of another State is not international carriage for the purposes of this Convention.'

(b) paragraph (3) shall be deleted and replaced by the following:

'(3) Carriage to be performed by several successive air carriers is deemed, for the purposes of this Convention, to be one undivided carriage if it has been regarded by the parties as a single operation, whether it has been agreed upon under the form of a single contract or of a series of contracts, and it does not lose its international character merely because one contract or a series of contracts is to be performed entirely within the territory of the same State.'

Article 2

In Article 2 of the Convention –

paragraph (2) shall be deleted and replaced by the following:

'(2) This Convention shall not apply to carriage of mail and postal packages.

Article 3

In Article 3 of the Convention –

(a) paragraph (1) shall be deleted and replaced by the following:

'(1) In respect of the carriage of passengers a ticket shall be delivered containing –

(a) an indication of the places of departure and destination;

(b) if the places of departure and destination are within the territory of a single High Contracting Party, one or more agreed stopping places being within the territory of another State, an indication of at least one such stopping place;

(c) a notice to the effect that, if the passenger's journey involves an ultimate destination or stop in a country other than the country of departure, the

Warsaw Convention may be applicable and that the Convention governs and in most cases limits the liability of carriers for death or personal injury and in respect of loss of or damage to baggage.'

(b) paragraph (2) shall be deleted and replaced by the following:

'(2) The passenger ticket shall constitute *prima facie* evidence of the conclusion and conditions of the contract of carriage. The absence, irregularity or loss of the passenger ticket does not affect the existence or the validity of the contract of carriage which shall, none the less, be subject to the rules of this Convention. Nevertheless, if, with the consent of the carrier, the passenger embarks without a passenger ticket having been delivered, or if the ticket does not include the notice required by paragraph (1) (c) of this Article, the carrier shall not be entitled to avail himself of the provisions of Article 22.'

Article 4

In Article 4 of the Convention –

(a) paragraphs (1), (2) and (3) shall be deleted and replaced by the following:

'(1) In respect of the carriage of registered baggage, a baggage check shall be delivered, which, unless combined with or incorporated in a passenger ticket which complies with the provisions of Article 3, paragraph (1), shall contain:

(a) an indication of the places of departure and destination;

(b) if the places of departure and destination are within the territory of a single High Contracting Party, one or more agreed stopping places being within the territory of another State, an indication of at least one such stopping place;

(c) a notice to the effect that, if the carriage involves an ultimate destination or stop in a country other than the country of departure, the Warsaw Convention may be applicable and that the Convention governs and in most cases limits the liability of carriers in respect of loss or damage to baggage.'

(b) paragraph (4) shall be deleted and replaced by the following:

'(2) The baggage check shall constitute *prima facie* evidence of the registration of the baggage and of the conditions of the contract of carriage. The absence, irregularity or loss of the baggage check does not affect the existence or the validity of the contract of carriage which shall, none the less, be subject to the rules of this Convention. Nevertheless, if the carrier takes charge of the baggage without a baggage check having been delivered or if the baggage check (unless combined with or incorporated in the passenger ticket which complies with the provisions of Article 3, paragraph (1)(c)) does not include the notice required by paragraph (1)(c) of this Article, he shall not be entitled to avail himself of the provisions of Article 22, paragraph (2).'

Article 5

In Article 6 of the Convention –

paragraph (3) shall be deleted and replaced by the following:

'(3) The carrier shall sign prior to the loading of the cargo on board the aircraft.'

Article 6

Article 8 of the Convention shall be deleted and replaced by the following –

The air waybill shall contain:

(a) an indication of the places of departure and destination;

(b) if the places of departure and destination are within the territory of a single High Contracting Party, one or more agreed stopping places being within the territory of another State, an indication of at least one such stopping place;

(c) a notice to the consignor to the effect that, if the carriage involves an ultimate destination or stop in a country other than the country of departure, the Warsaw Convention may be applicable and that the Convention governs and in most cases limits the liability of carriers in respect of loss of or damage to cargo.'

Article 7

Article 9 of the Convention shall be deleted and replaced by the following –

'If, with the consent of the carrier, cargo is loaded on board the aircraft without an air waybill having been made out, or if the air waybill does not include the notice required by Article 8, paragraph (c), the carrier shall not be entitled to avail himself of the provisions of Article 22, paragraph (2).'

Article 8

In Article 10 of the Convention –

paragraph (2) shall be deleted and replaced by the following:

'(2) The consignor shall indemnify the carrier against all damage suffered by him, or by any other person to whom the carrier is liable, by reason of the irregularities, incorrectness or incompleteness of the particulars and statements furnished by the consignor.'

Article 9

To Article 15 of the Convention –

the following paragraph shall be added:

'(3) Nothing in this Convention prevents the issue of a negotiable air waybill.'

Article 10

Paragraph (2) of Article 20 of the Convention shall be deleted.

Article 11

Article 22 of the Convention shall be deleted and replaced by the following –

'(1) In the carriage of persons the liability of the carrier for each passenger is limited to the sum of two hundred and fifty thousand francs. Where, in accordance with the law of the court seised of the case, damages may be awarded in the form of periodical payments, the equivalent capital value of the said payments shall not exceed two hundred and fifty thousand francs. Nevertheless, by special contract, the carrier and the passenger may agree to a higher limit of liability.

(2) (a) In the carriage of registered baggage and of cargo, the liability of the carrier is limited to a sum of two hundred and fifty francs per kilogramme, unless the passenger or consignor has made, at the time when the package was handed over to the carrier, a special declaration of interest in delivery at destination and has paid a supplementary sum if the case so requires. In that case the carrier will be liable to pay a sum not exceeding the declared sum, unless he proves that that sum is greater than the passenger's or consignor's actual interest in delivery at destination.

(b) In the case of loss, damage or delay of part of registered baggage or cargo, or of any object contained therein, the weight to be taken into consideration in determining the amount to which the carrier's liability is limited shall be only the total weight of the package or packages concerned. Nevertheless, when the loss, damage or delay of a part of the registered baggage or cargo, or of an object contained therein, affects the value of other packages covered by the same baggage check or the same air waybill, the total weight of such package or packages shall also be taken into consideration in determining the limit of liability.

(3) As regards objects of which the passenger takes charge himself the liability of the carrier is limited to five thousand francs per passenger.

(4) The limits prescribed in this article shall not prevent the court from awarding, in accordance with its own law, in addition, the whole or part of the court costs and of the other expenses of the litigation incurred by the plaintiff. The foregoing provision shall not apply if the amount of the damages awarded, excluding court costs and other expenses of the litigation, does not exceed the sum which the carrier has offered in writing to the plaintiff within a period of six months from the date of the occurrence causing the damage, or before the commencement of the action, if that is later.

(5) The sums mentioned in francs in this Article shall be deemed to refer to a currency unit consisting of sixty-five and a half milligrammes of gold of millesimal fineness nine hundred. These sums may be converted into national currencies in round figures. Conversion of the sums into national currencies other than gold shall, in case of judicial proceedings, be made according to the gold value of such currencies at the date of the judgment.'

Article 12

In Article 23 of the Convention, the existing provision shall be renumbered as paragraph (1) and another paragraph shall be added as follows –

'(2) Paragraph (1) of this Article shall not apply to provisions governing loss or damage resulting from the inherent defect, quality or vice of the cargo carried.'

Article 13

In Article 25 of the Convention –

paragraphs (1) and (2) shall be deleted and replaced by the following –

'The limits of liability specified in Article 22 shall not apply if it is proved that the damage resulted from an act or omission of the carrier, his servants or agents, done with intent to cause damage or recklessly and with knowledge that 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.'

Article 14

After Article 25 of the Convention, the following article shall be inserted –

'Article 25A

(1) If an action is brought against a servant or agent of the carrier arising out of damage to which this Convention relates, such servant or agent, if he proves that he acted within the scope of his employment, shall be entitled to avail himself of the limits of liability which that carrier himself is entitled to invoke under Article 22.

(2) The aggregate of the amounts recoverable from the carrier, his servants and agents, in that case, shall not exceed the said limits.

(3) The provisions of paragraphs (1) and (2) of this article shall not apply if it is proved that the damage resulted from an act or omission of the servant or agent done with intent to cause damage or recklessly and with knowledge that damage would probably result.'

Article 15

In Article 26 of the Convention –

paragraph (2) shall be deleted and replaced by the following:

'(2) In the case of damage, the person entitled to delivery must complain to the carrier forthwith after the discovery of the damage, and, at the latest, within seven days from the date of receipt in the case of baggage and fourteen days from the date of receipt in the case of cargo. In the case of delay the complaint must be made at the latest within twenty-one days from the date on which the baggage or cargo have been placed at his disposal.'

Article 16

Article 34 of the Convention shall be deleted and replaced by the following –

'The provisions of Articles 3 to 9 inclusive relating to documents of carriage shall not apply in the case of carriage performed in extraordinary circumstances outside the normal scope of an air carrier's business.'

Article 17

After Article 40 of the Convention the following Article shall be inserted –

'Article 40A

(1) In Article 37, paragraph (2) and Article 40, paragraph (1), the expression High Contracting Party shall mean State. In all other cases, the expression High Contracting Party shall mean a State whose ratification of or adherence to the Convention has become effective and whose denunciation thereof has not become effective.

(2) For the purposes of the Convention the word territory means not only the metropolitan territory of a State but also all other territories for the foreign relations of which that State is responsible.'

CHAPTER II

SCOPE OF APPLICATION OF THE CONVENTION AS AMENDED

Article 18

The Convention as amended by this Protocol shall apply to international carriage as defined in Article 1 of the Convention, provided that the places of departure and destination referred to in that Article are situated either in the territories of two parties to this Protocol or within the territory of a single party to this Protocol with an agreed stopping place within the territory of another State.

CHAPTER III

FINAL CLAUSE

Articles 19–27 [Omitted].

CONVENTION ON THE CONTRACT FOR THE INTERNATIONAL CARRIAGE OF GOODS BY ROAD, GENEVA, 1956

See the Schedule to the Carriage of Goods by Road Act 1965 for text of the Convention.

CONVENTION ON THE RECOGNITION AND ENFORCEMENT OF FOREIGN ARBITRAL AWARDS, NEW YORK, 1958

Article I

1. This Convention shall apply to the recognition and enforcement of arbitral awards made in the territory of a State other than the State where the recognition and enforcement of such awards are sought, and arising out of differences between persons, whether physical or legal. It shall also apply to arbitral awards not considered as domestic awards in the State where their recognition and enforcement are sought.
2. The term 'arbitral awards' shall include not only awards made by arbitrators appointed for each case but also those made by permanent arbitral bodies to which the parties have submitted.
3. When signing, ratifying or acceding to this Convention, or notifying extension under Article X hereof, any State may on the basis of reciprocity declare that it will apply the Convention to the recognition and enforcement of awards made only in the territory of another Contracting State. It may also declare that it will apply the Convention only to differences arising out of legal relationships, whether contractual or not, which are considered as commercial under the national law of the State making such declaration.

Article II

1. Each Contracting State shall recognize an agreement in writing under which the parties undertake to submit to arbitration all or any differences which have arisen or which may arise between them in respect of a defined legal relationship, whether contractual or not, concerning a subject matter capable of settlement by arbitration.
2. The term 'agreement in writing' shall include an arbitral clause in a contract or an arbitration agreement, signed by the parties or contained in an exchange of letters or telegrams.
3. The court of a Contracting State, when seised of an action in a matter in respect of which the parties have made an agreement within the meaning of this Article, at the request of one of the parties, refer the parties to arbitration, unless it finds that the said agreement is null and void, inoperative or incapable of being performed.

Article III

Each Contracting State shall recognize arbitral awards as binding and enforce them in accordance with the rules of procedure of the territory where the award is relied upon, under the conditions laid down in the following Articles. There shall not be imposed substantially more onerous conditions or higher fees or charges on the recognition or enforcement of arbitral awards to which this Convention applies than are imposed on the recognition or enforcement of domestic arbitral awards.

Article IV

1. To obtain the recognition and enforcement mentioned in the preceding Article, the party applying for recognition and enforcement shall, at the time of the application, supply –

(a) the duly authenticated original award or a duly certified copy thereof;

(b) the original agreement referred to in Article II or a duly certified copy thereof.

2. If the said award or agreement is not made in an official language of the country in which the award is relied upon, the party applying for recognition and enforcement of the award shall produce a translation of these documents into such language. The translation shall be certified by an official or sworn translator or by a diplomatic or consular agent.

Article V

1. Recognition and enforcement of the award may be refused, at the request of the party against whom it is invoked, only if that party furnishes to the competent authority where the recognition and enforcement is sought, proof that –

(a) the parties to the agreement referred to in Article II were, under the law applicable to them, under some incapacity, or the said agreement is not valid under the law to which the parties have subjected it or, failing any indication thereon, under the law of the country where the award was made; or

(b) the party against whom the award is invoked was not given proper notice of the appointment of the arbitrator or of the arbitration proceedings or was otherwise unable to present his case; or

(c) the award deals with a difference not contemplated by or not falling within the terms of the submission to arbitration, or it contains decisions on matters beyond the scope of the submission to arbitration, provided that, if the decisions on matters submitted to arbitration can be separated from those not so submitted, that part of the award which contains decisions on matters submitted to arbitration may be recognized and enforced; or

(d) the composition of the arbitral authority or the arbitral procedure was not in accordance with the agreement of the parties, or, failing such agreement, was not in accordance with the law of the country where the arbitration took place; or

(e) the award has not yet become binding on the parties, or has been set aside or suspended by a competent authority of the country in which, or under the law of which, that award was made.

2. Recognition and enforcement of an arbitral award may also be refused if the competent authority in the country where recognition and enforcement is sought finds that –

(a) the subject matter of the difference is not capable of settlement by arbitration under the law of that country; or

(b) the recognition or enforcement of the award would be contrary to the public policy of that country.

Articles VI–XVI [Omitted].

CONVENTION SUPPLEMENTARY TO THE WARSAW CONVENTION FOR THE UNIFICATION OF CERTAIN RULES RELATING TO INTERNATIONAL CARRIAGE BY AIR PERFORMED BY A PERSON OTHER THAN THE CONTRACTING CARRIER (GUADALAJARA) 1961

See the Schedule to the Carriage by Air (Supplementary Provisions) Act 1962.

EUROPEAN CONVENTION ON INTERNATIONAL COMMERCIAL ARBITRATION, GENEVA, 1961

Article I Scope of the Convention

1. This Convention shall apply –
   (a) to arbitration agreements concluded for the purpose of settling disputes arising from international trade between physical or legal persons having, when concluding the agreement, their habitual place of residence or their seat in different contracting states;
   (b) to arbitral procedures and awards based on agreements referred to in paragraph 1(a) above.
2. For the purpose of this Convention –
   (a) the term 'arbitration agreement' shall mean either an arbitral clause in a contract or an arbitration agreement, the contract or arbitration agreement being signed by the parties, or contained in an exchange of letters, telegrams, or in a communication by teleprinter and, in relations between States whose laws do not require that an arbitration agreement be made in writing, any arbitration agreement concluded in the form authorized by these laws;
   (b) the term 'arbitration' shall mean not only settlement by arbitrators appointed for each case (ad hoc arbitration) but also by permanent arbitral institutions;
   (c) the term 'seat' shall mean the place of the situation of the establishment that has made the arbitration agreement.

Article II Right of legal persons of public law to resort to arbitration

1. In the cases referred to in Article I, paragraph 1, of this Convention, legal persons considered by the law which is applicable to them as 'legal persons of public law' have the right to conclude valid arbitration agreements.
2. On signing, ratifying or acceding to this convention any State shall be entitled to declare that it limits the above faculty to such conditions as may be stated in its declaration.

Article III Right of foreign nationals to be designated as arbitrators

In arbitration covered by this Convention, foreign nationals may be designated as arbitrators.

Article IV Organization of the arbitration

1. The parties to an arbitration agreement shall be free to submit their disputes –

(a) to a permanent arbitral institution; in this case, the arbitration proceedings shall be held in conformity with the rules of the said institution;
(b) to an *ad hoc* arbitral procedure; in this case, they shall be free *inter alia:*
  (i) to appoint arbitrators or to establish means for their appointment in the event of an actual dispute;
  (ii) to determine the place of arbitration; and
  (iii) to lay down the procedure to be followed by the arbitrators.

2. Where the parties have agreed to submit any disputes to an ad hoc arbitration, and where within thirty days of the notification of the request for arbitration to the respondent one of the parties fails to appoint his arbitrator, the latter shall, unless otherwise provided, be appointed at the request of the other party by the President of the competent Chamber of Commerce of the country of the defaulting party's habitual place of residence or seat at the time of the introduction of the request for arbitration. This paragraph shall also apply to the replacement of the arbitrator(s) appointed by one of the parties or by the President of the Chamber of Commerce above referred to.

3. Where the parties have agreed to submit any disputes to an ad hoc arbitration by one or more arbitrators and the arbitration agreement contains no indication regarding the organization of the arbitration, as mentioned in paragraph 1 of this Article, the necessary steps shall be taken by the arbitrator(s) already appointed, unless the parties are able to agree thereon and without prejudice to the case referred to in paragraph 2 above. Where the parties cannot agree on the appointment of the sole arbitrator or where the arbitrators appointed cannot agree on the measures to be taken, the claimant shall apply for the necessary action, where the place of arbitration has been agreed upon by the parties, at his option to the President of the Chamber of Commerce of the place of arbitration agreed upon or to the President of the competent Chamber of Commerce of the respondent's habitual place of residence or seat at the time of the introduction of the request for arbitration. Where such a place has not been agreed upon, the claimant shall be entitled at his option to apply for the necessary action either to the President of the competent Chamber of Commerce of the country of the respondent's habitual place of residence or seat at the time of the introduction of the request for arbitration, or to the Special Committee whose composition and procedure are specified in the Annex to this Convention. Where the claimant fails to exercise the rights given to him under this paragraph the respondent or the arbitrator(s) shall be entitled to do so.

4. When seised of a request the President or the Special Committee shall be entitled as need be –
(a) to appoint the sole arbitrator, presiding arbitrator, umpire, or referee;
(b) to replace the arbitrator(s) appointed under any procedure other than that referred to in paragraph 2 above;
(c) to determine the place of arbitration, provided that the arbitrator(s) may fix another place of arbitration;
(d) to establish directly or by reference to the rules and statutes of a permanent arbitral institution the rules of procedure to be followed by the arbitrator(s), provided that the arbitrators have not established these rules themselves in the absence of any agreement thereon between the parties.

5. Where the parties have agreed to submit their disputes to a permanent arbitral institution without determining the institution in question and cannot agree thereon, the claimant may request the determination of such institution in conformity with the procedure referred to in paragraph 3 above.

6. Where the arbitration agreement does not specify the mode of arbitration (arbitration by a permanent arbitral institution or an ad hoc arbitration) to which the parties have agreed to

submit their dispute, and where the parties cannot agree thereon, the claimant shall be entitled to have recourse in this case to the procedure referred to in paragraph 3 above to determine the question. The President of the competent Chamber of Commerce or the Special Committee, shall be entitled either to refer the parties to a permanent arbitral institution or to request the parties to appoint their arbitrators within such time-limits as the President of the competent Chamber of Commerce or the Special Committee may have fixed and to agree within such time-limits on the necessary measures for the functioning of the arbitration. In the latter case, the provisions of paragraphs 2, 3 and 4 of this Article shall apply.
7. Where within a period of sixty days from the moment when he was requested to fulfil one of the functions set out in paragraphs 2, 3, 4, 5 and 6 of this Article, the President of the Chamber of Commerce designated by virtue of these paragraphs has not fulfilled one of these functions, the party requesting shall be entitled to ask the Special Committee to do so.

Article V Plea as to arbitral jurisdiction
1. The party which intends to raise a plea as to the arbitrator's jurisdiction based on the fact that the arbitration agreement was either non-existent or null and void or had lapsed shall do so during the arbitration proceedings, not later than the delivery of its statement of claim or defence relating to the substance of the dispute; those based on the fact that an arbitrator has exceeded his terms of reference shall be raised during the arbitration proceedings as soon as the question on which the arbitrator is alleged to have no jurisdiction is raised during the arbitral procedure. Where the delay in raising the plea is due to a cause which the arbitrator deems justified, the arbitrator shall declare the plea admissible.
2. Pleas to the jurisdiction referred to in paragraph 1 above that have not been raised during the time-limits there referred to, may not be entered either during a subsequent stage of the arbitral proceedings where they are pleas left to the sole discretion of the parties under the law applicable by the arbitrator, or during subsequent court proceedings concerning the substance or the enforcement of the award where such pleas are left to the discretion of the parties under the rule of conflict of the court seised of the substance of the dispute or the enforcement of the award. The arbitrator's decision on the delay in raising the plea, will, however, be subject to judicial control.
3. Subject to any subsequent judicial control provided for under the *lex fori*, the arbitrator whose jurisdiction is called in question shall be entitled to proceed with the arbitration, to rule on his own jurisdiction and to decide upon the existence or the validity of the arbitration agreement or of the contract of which the agreement forms part.

Article VI Jurisdiction of courts of law
1. A plea as to the jurisdiction of the court made before the court seised by either party to the arbitration agreement, on the basis of the fact that an arbitration agreement exists shall, under penalty of estoppel, be presented by the respondent before or at the same time as the presentation of his substantial defence, depending upon whether the law of the court seised regards this plea as one of procedure or of substance.
2. In taking a decision concerning the existing or the validity of an arbitration agreement, courts of Contracting States shall examine the validity of such agreement with reference to the capacity of the parties, under the law applicable to them, and with reference to other questions –

(a) under the law to which the parties have subjected their arbitration agreement;
(b) failing any indication thereon, under the law of the country in which the award is to be made;

(c) failing any indication as to the law to which the parties have subjected the agreement, and where at the time when the question is raised in court the country in which the award is to be made cannot be determined, under the competent law by virtue of the rules of conflict of the court seised of the dispute.

The court may also refuse recognition of the arbitration agreement if under the law of their country the dispute is not capable of settlement by arbitration.

3. Where either party to an arbitration agreement has initiated arbitration proceedings before any resort is had to a court, courts of Contracting States subsequently asked to deal with the same subject-matter between the same parties or with the question whether the arbitration agreement was non-existent or null and void or had lapsed, shall stay their ruling on the arbitrator's jurisdiction until the arbitral award is made, unless they have good and substantial reasons to the contrary.

4. A request for interim measures or measures of conservation addressed to a judicial authority shall not be deemed incompatible with the arbitration agreement, or regarded as a submission of the substance of the case to the court.

Article VII Applicable law

1. The parties shall be free to determine, by agreement, the law to be applied by the arbitrators to the substance of the dispute. Failing any indication by the parties as to the applicable law, the arbitrators shall apply the proper law under the rule of conflict that the arbitrators deem applicable. In both cases the arbitrators shall take account of the terms of the contract and trade usages.

2. The arbitrators shall act as *amiables compositeurs* if the parties so decide and if they may do so under the law applicable to the arbitration.

Article VIII Reasons for the award

The parties shall be presumed to have agreed that reasons shall be given for the award unless they –

(a) either expressly declare that reasons shall not be given; or

(b) have assented to an arbitral procedure under which it is not customary to give reasons for awards, provided that in this case neither party requests before the end of the hearing, or if there has not been a hearing then before the making of the award, that reasons be given.

Article IX Setting aside of the arbitral award

1. The setting aside in a Contracting State of an arbitral award covered by this convention shall only constitute a ground for the refusal or recognition or enforcement in another Contracting State where such setting aside took place in a State in which, or under the law of which, the award has been made and for one of the following reasons –

(a) the parties to the arbitration agreement were under the law applicable to them, under some incapacity or the said agreement is not valid under the law to which the parties have subjected it or, failing any indication thereon, under the law of the country where the award was made; or

(b) the party requesting the setting aside of the award was not given proper notice of appointment of the arbitrator or of the arbitration proceedings or was otherwise unable to present his case; or

(c) the award deals with a difference not contemplated by or not falling within the terms of the submission to arbitration, or it contains decisions on matters beyond the scope of the submission to arbitration, provided that, if the decisions on matters submitted

to arbitration can be separated from those not so submitted, that part of the award which contains decisions on matters submitted to arbitration need not be set aside;

(d) the composition of the arbitral authority or the arbitral procedure was not in accordance with the agreement of the parties, or failing such agreement, with the provisions of Article IV of this Convention.

2. In relations between Contracting States that are also parties to the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards of 10th June 1958, paragraph 1 of this Article limits the application of Article V (1)(e) of the New York Convention solely to the cases of setting aside set out under paragraph 1 above.

Article X [Omitted].

AGREEMENT RELATING TO APPLICATION OF THE EUROPEAN CONVENTION ON INTERNATIONAL COMMERCIAL ARBITRATION, PARIS, 1962

Article 1

In relations between physical or legal persons whose habitual residence or seat is in States Parties to the present Agreement paragraphs 2 to 7 of Article IV of the European convention on International Commercial Arbitration, opened for signature at Geneva on 21st April 1961, are replaced by the following provision:

'If the arbitral Agreement contains no indication regarding the measures referred to in paragraph 1 of Article IV of the European Convention on International Commercial Arbitration as a whole, or some of these measures, any difficulties arising with regard to the constitution or functioning of the arbitral tribunal shall be submitted to the decision of the competent authority at the request of the party instituting proceedings.'

Articles 2–6 [Omitted].

CONVENTION RELATING TO A UNIFORM LAW ON THE INTERNATIONAL SALE OF GOODS, THE HAGUE, 1964

See Schedule 1 to the Uniform Law on International Sales Act 1967 for the text of the Convention.

CONVENTION RELATING TO A UNIFORM LAW ON THE FORMATION OF CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS, 1964

See Schedule 2 to the Uniform Laws on International Sales Act 1967 for text of the Convention.

CONVENTION ON THE SERVICE ABROAD OF JUDICIAL AND EXTRAJUDICIAL DOCUMENTS IN CIVIL OR COMMERCIAL MATTERS, THE HAGUE, 1965

Article 1

The present convention shall apply in all cases, in civil or commercial matters, where there is occasion to transmit a judicial or extrajudicial document for service abroad. This Convention shall not apply where the address of the person to be served with the document is not known.

CHAPTER I

JUDICIAL DOCUMENTS

Article 2

Each Contracting State shall designate a Central Authority which will undertake to receive requests for service coming from other Contracting States and to proceed in conformity with the provisions of Articles 3 to 6. Each State shall organise the Central Authority in conformity with its own law.

Article 3

The authority or judicial officer competent under the law of the State in which the documents originate shall forward to the Central Authority of the State addressed a request conforming to the model annexed to the present Convention, without any requirement of legalisation or other equivalent formality.

The document to be served or a copy thereof shall be annexed to the request. The request and the document shall both be furnished in duplicate.

Article 4

If the Central Authority considers that the request does not comply with the provisions of the present Convention it shall promptly inform the applicant and specify its objections to the request.

Article 5

The Central Authority of the State addressed shall itself serve the document or shall arrange to have it served by an appropriate agency, either –

(a) by a method prescribed by its internal law for the service of documents in domestic actions upon persons who are within its territory; or

(b) by a particular method requested by the applicant, unless such a method is incompatible with the law of the State addressed.

Subject to sub-paragraph (b) of the first paragraph of this Article, the document may always be served by delivery to an addressee who accepts it voluntarily.

If the document is to be served under the first paragraph above, the Central authority may require the document to be written in, or translated into, the official language or one of the official languages of the State addressed.

The part of the request, in the form attached to the present Convention, which contains a summary of the document to be served, shall be served with the document.

Article 6

The Central Authority of the State addressed or any authority which it may have designated for that purpose, shall complete a certificate in the form of the model annexed to the present Convention.

The certificate shall state that the document has been served and shall include the method, the place and the date of service and the person to whom the document was delivered. If the document has not been served, the certificate shall set out the reasons which have prevented service.

The applicant may require that a certificate not completed by a Central Authority or by a judicial authority shall be countersigned by one of these authorities.

The certificate shall be forwarded directly to the applicant.

Article 7

The standard terms in the model annexed to the present Convention shall in all cases be written either in French or in English. They may also be written in the official language, or in one of the official languages, of the State in which the documents originate.

The corresponding blanks shall be completed either in the language of the State addressed or in French or in English.

Article 8

Each Contracting State shall be free to effect service of judicial documents upon persons abroad, without application of any compulsion, directly through its diplomatic or consular agents.

Any State may declare that it is opposed to such service within its territory, unless the document is to be served upon a national of the State in which the documents originate.

Article 9

Each Contracting State shall be free, in addition, to use consular channels to forward documents, for the purpose of service, to those authorities of another Contracting State which are designated by the latter for this purpose.

Each Contracting State may, if exceptional circumstances so require, use diplomatic channels for the same purpose.

Article 10

Provided the State of destination does not object, the present Convention shall not interfere with –

(a) the freedom to send judicial documents, by postal channels, directly to persons abroad;

(b) the freedom of judicial officers, officials or other competent persons of the State of origin to effect service of judicial documents directly through the judicial officers, officials or other competent persons of the State of destination;

(c) the freedom of any person interested in a judicial proceeding to effect service of judicial documents directly through the judicial officers, officials or other competent persons of the State of destination.

Article 11

The present Convention shall not prevent two or more Contracting States from agreeing to permit, for the purpose of service of judicial documents, channels of transmission other than those provided for in the preceding Articles and, in particular, direct communication between their respective authorities.

Article 12

The service of judicial documents coming from a Contracting State shall not give rise to any payment or reimbursement of taxes or costs for the services rendered by the State addressed.

The applicant shall pay or reimburse the costs occasioned by –

(a) the employment of a judicial officer or of a person competent under the law of the State of destination;

(b) the use of a particular method of service.

Article 13

Where a request for service complies with the terms of the present Convention, the State addressed may refuse to comply therewith only if it deems that compliance would infringe its sovereignty or security.

It may not refuse to comply solely on the ground that, under its internal law, it claims exclusive jurisdiction over the subject-matter of the action or that its internal law would not permit the action upon which the application is based.

The Central Authority shall, in case of refusal, promptly inform the applicant and state the reasons for the refusal.

Article 14

Difficulties which may arise in connection with the transmission of judicial documents for service shall be settled through diplomatic channels.

Article 15

Where a writ of summons or an equivalent document had to be transmitted abroad for the purpose of service, under the provisions of the present Convention, and the defendant has not appeared, judgment shall not be given until it is established that –

(a) the document was served by a method prescribed by the internal law of the State addressed for the service of documents in domestic actions upon persons who are within its territory; or

(b) the document was actually delivered to the defendant or to his residence by another method provided for by this Convention, and that in either of these cases the service or the delivery was effected in sufficient time to enable the defendant to defend.

Each Contracting State shall be free to declare that the judge, notwithstanding the provisions of the first paragraph of this Article, may give judgment even if no certificate of service or delivery has been received, if all the following conditions are fulfilled –

(a) the document was transmitted by one of the methods provided for in this Convention;

(b) a period of time of not less than six months, considered adequate by the judge in the particular case, has elapsed since the date of the transmission of the document;

(c) no certificate of any kind has been received, even though every reasonable effort has been made to obtain it through the competent authorities of the State addressed.

Notwithstanding the provisions of the preceding paragraphs the judge may order, in case of urgency, any provisional or protective measures.

Article 16

When a writ of summons or an equivalent document had to be transmitted abroad for the purpose of service, under the provisions of the present Convention, and a judgment has been entered against a defendant who has not appeared, the judge shall have the power to relieve

the defendant from the effects of the expiration of the time for appeal from the judgment if the following conditions are fulfilled –

(a) the defendant, without any fault on his part, did not have knowledge of the document in sufficient time to defend, or knowledge of the judgment in sufficient time to appeal; and

(b) the defendant has disclosed a *prima facie* defence to the action on the merits.

An application for relief may be filled only within a reasonable time after the defendant has knowledge of the judgment.

Each Contracting State may declare that the application will not be entertained if it is filed after the expiration of a time to be stated in the declaration, but which shall in no case be less than one year following the date of the judgment.

CHAPTER II

EXTRAJUDICIAL DOCUMENTS

Article 17

Extrajudicial documents emanating from authorities and judicial officers of a Contracting State may be transmitted for the purpose of service in another Contracting State by the methods and under the provisions of the present Convention.

CHAPTER III

GENERAL CLAUSES

Article 18

Each Contracting State may designate other authorities in addition to the Central Authority and shall determine the extent of their competence. The applicant shall, however, in all cases, have the right to address a request directly to the Central Authority. Federal States shall be free to designate more than one Central Authority.

Article 19

To the extent that the internal law of a Contracting State permits methods of transmission, other than those provided for in the preceding Articles, of documents coming from abroad, for service within its territory, the present Convention shall not affect such provisions.

Article 20

The present Convention shall not prevent an agreement between any two or more Contracting States to dispense with –

(a) the necessity for duplicate copies of transmitted documents as required by the second paragraph of Article 3;

(b) the language requirements of the third paragraph of Article 5 and Article 7;

(c) the provisions of the fourth paragraph of Article 5;

(d) the provisions of the second paragraph of Article 12.

Annex [Omitted].

BRUSSELS PROTOCOL AMENDING THE HAGUE RULES RELATING TO BILLS OF LADING 1968 (HAGUE-VISBY RULES)

See the Schedule to the Carriage of Goods by Sea Act 1972 for text of the Convention.

GUATEMALA PROTOCOL 1971 PROTOCOL TO AMEND THE CONVENTION FOR THE UNIFICATION OF CERTAIN RULES RELATING TO INTERNATIONAL CARRIAGE BY AIR SIGNED AT WARSAW ON 12TH OCTOBER 1929 AS AMENDED BY THE PROTOCOL DONE AT THE HAGUE ON 28TH SEPTEMBER 1955, GUATEMALA CITY, 8TH MARCH 1971

CHAPTER I

AMENDMENT TO THE CONVENTION

Article I

The Convention which the provisions of the present Chapter modify is the Warsaw Convention as amended at The Hague in 1955.

Article V

In Article 18 of the Convention, paragraphs 1 and 2 shall be deleted and replaced by the following –

'1. The carrier is liable for damage sustained in the event of the destruction or loss of, or of damage to, any cargo, if the occurrence which caused the damage so sustained took place during the carriage by air.

2. The carriage by air within the meaning of the preceding paragraph comprises the period during which the cargo is in charge of the carrier, whether in an airport or on board an aircraft, or, in the case of a landing outside an airport, in any place whatsoever.'

Article VII

Article 21 of the Convention shall be deleted and replaced by the following –

'**Article 21**

If the carrier proves that the damage was caused or contributed to by the negligence or other wrongful act or omission of the person claiming compensation, the carrier shall be wholly or partly exonerated from his liability to such person to the extent that such negligence or wrongful act or omission caused or contributed to the damage. When by reason of the death or injury of a passenger compensation is claimed by a person other than the passenger, the carrier shall likewise be wholly or partly exonerated from his

liability to the extent that he proves that the damage was caused or contributed to by the negligence or other wrongful act or omission of that passenger.'

Article VIII

Article 22 of the Convention shall be deleted and replaced by the following Article 22.

1. '[Omitted].

2. (a) In the carriage of cargo, the liability of the carrier is limited to a sum of two hundred and fifty francs per kilogramme, unless the consignor has made, at the time when the package was handed over to the carrier, a special declaration of interest in delivery at destination and has paid a supplementary sum if the case so requires. In that case the carrier will be liable to pay a sum not exceeding the declared sum, unless he proves that that sum is greater than the consignor's actual interest in delivery at destination.

(b) In the case of loss, damage or delay of part of the cargo, or of any object contained therein, the weight to be taken into consideration in determining the amount to which the carrier's liability is limited shall be only the total weight of the package or packages concerned. Nevertheless, when the loss, damage or delay of a part of the cargo, or of any object contained therein, affects the value of other packages covered by the same air waybill, the total weight of such package or packages shall be taken into consideration in determining the limit of liability.

3. [Omitted].

4. The sums mentioned in francs in this Article and Article 42 shall be deemed to refer to a currency unit consisting of sixty-five and a half milligrammes of gold of millesimal fineness nine hundred. These sums may be converted into national currencies in round figures. Conversion of the sums into national currencies other than gold shall, in case of judicial proceedings, be made according to the gold value of such currencies at the date of the judgment.'

Article IX

Article 24 of the Convention shall be deleted and replaced by the following –

'Article 24

1. In the carriage of cargo, any action for damages, however founded, can only be brought subject to the conditions and limits set out in this Convention.'

Article X

Article 25 of the Convention shall be deleted and replaced by the following –

'Article 25

The limit of liability specified in paragraph 2 of Article 27 shall not apply if it is proved that the damage resulted from an act or omission of the carrier, his servants or agents, done with intent to cause damage or recklessly and with knowledge that 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.'

Article XI

In Article 25A of the Convention, paragraphs 1 and 3 shall be deleted and replaced by the following –

'1. If an action is brought against a servant or agent of the carrier arising out of damage to which the Convention relates, such servant or agent if he proves that he acted within the scope of his employment, shall be entitled to avail himself of the limits of liability which that carrier himself is entitled to invoke under this Convention.

3. The provisions of paragraphs 1 and 2 of this Article shall not apply to the carriage of cargo if it is proved that the damage resulted from an act or omission of the servant or agent done with intent to cause damage or recklessly and with knowledge that damage would probably result.'

Article XIII

After Article 30 of the Convention, the following Article shall be inserted –

'Article 30A

Nothing in this Convention shall prejudice the question whether a person liable for damage in accordance with its provisions has a right of recourse against any other person.'

Article XIV

After Article 35 of the Convention, the following Article shall be inserted –

'Article 35A

No provision contained in this Convention shall prevent a State from establishing and operating within its territory a system to supplement the compensation payable to claimants under the Convention in respect of death, or personal injury, of passengers. Such a system shall fulfil the following conditions:

(a) it shall not in any circumstances impose upon the carrier, his servants or agents, any liability in addition to that provided under this Convention;
(b) it shall not impose upon the carrier any financial or administrative burden other than collecting in that State contributions from passengers if required so to do;
(c) it shall not give rise to any discrimination between carriers with regard to the passengers concerned and the benefits available to the said passengers under the system shall be extended to them regardless of the carrier whose services they have used;
(d) if a passenger has contributed to the system, any person suffering damage as a consequence of death or personal injury of such passenger shall be entitled to the benefit of the system.'

Article XV

After Article 41 of the Convention the following Article shall be inserted –

'Article 42

1. Without prejudice to the provisions of Article 41, Conferences of the Parties to the Protocol done at Guatemala City on the eighth March 1971, shall be convened during the fifth and tenth years respectively after the date of entry into force of the said Protocol for the purpose of reviewing the limit established in Article 22, paragraph 1(a) of the Convention as intended by that Protocol.
2. At each of the Conferences mentioned in paragraph 1 of this Article the limit of liability in Article 22, paragraph 1(a) in force at the respective dates of these Conferences shall not be increased by an amount exceeding one hundred and eighty-seven thousand five hundred francs.
3. Subject to paragraph 2 of this Article, unless before the thirty-first December of the fifth and tenth years after the date of entry into force of the Protocol referred to in paragraph 1 of this Article the aforesaid Conferences decide otherwise by a two-thirds majority vote of the parties present and voting the limit of liability in Article 22, paragraph 1(a) in force at the respective date of these Conferences shall on those dates be increased by one hundred and eighty-seven thousand five hundred francs.

4. The applicable limit shall be that which, in accordance with the preceding paragraphs, is in effect on the date of the event which caused the death or personal injury of the passenger.'

CHAPTER II

SCOPE OF APPLICATION OF THE CONVENTION AS AMENDED

Article XVI

The Warsaw Convention as amended at The Hague in 1955 and by this Protocol shall apply to international carriage as defined in Article 1 of the Convention provided that the places of departure and destination referred to in that Article are situated either in the territories of two Parties to this Protocol or within the territory of a single Party to this Protocol with an agreed stopping place in the territory of another State.

CHAPTER III

FINAL CLAUSES

Articles XVII–XXVI [Omitted].

UNITED NATIONS CONVENTION ON THE LIMITATION PERIOD IN THE INTERNATIONAL SALE OF GOODS, NEW YORK, 1974

PART I

SUBSTANTIVE PROVISIONS

Sphere of application

Article 1

1. This Convention shall determine when claims of a buyer and a seller against each other arising from a contract of international sale of goods or relating to its breach, termination or invalidity can no longer be exercised by reason on the expiration of a period of time. Such period of time is hereinafter referred to as 'the limitation period'.
2. This Convention shall not affect a particular time-limit within which one party is required, as a condition for the acquisition or exercise of his claim to give notice to the other party or perform any act other than the institution of legal proceedings.
3. In this Convention –
   (a) 'buyer', 'seller' and 'party' mean persons who buy or sell, or agree to buy or sell, goods, and the successors to and assigns of their rights or obligations under the contract of sale;
   (b) 'creditor' means a party who asserts a claim, whether or not such a claim is for a sum of money;
   (c) 'debtor' means a party against whom a creditor asserts a claim;
   (d) 'breach of contract' means the failure of a party to perform the contract or any performance not in conformity with the contract;

(e) 'legal proceedings' includes judicial, arbitral and administrative proceedings;
(f) 'person' includes corporation, company, partnership, association or entity, whether private or public, which can sue or be sued;
(g) 'writing' includes telegram and telex;
(h) 'year' means a year according to the Gregorian calendar.

Article 2

For the purposes of this Convention –

(a) a contract of sale of goods shall be considered international if, at the time of the conclusion of the contract, the buyer and the seller have their places of business in different States;
(b) the fact that the parties have their places of business in different States shall be disregarded whenever this fact does not appear either from the contract or from any dealings between, or from information disclosed by, the parties at any time before or at the conclusion of the contract;
(c) where a party to a contract of sale of goods has places of business in more than one State, the place of business shall be that which has the closest relationship to the contract and its performance, having regard to the circumstances known to or contemplated by the parties at the time of the conclusion of the contract;
(d) his habitual residence;
(e) neither the nationality of the parties nor the civil or commercial character of the parties or of the contract shall be taken into consideration.

Article 3

1. This Convention shall apply only if, at the time of the conclusion of the contract, the places of business of the parties to a contract of international sale of goods are in Contracting States.
2. Unless this Convention provides otherwise, it shall apply irrespective of the law which would otherwise by applicable by virtue of the rules of private international law.
3. This Convention shall not apply when the parties have expressly excluded its application.

Article 4

This Convention shall not apply to sales –

(a) of goods bought for personal, family or household use;
(b) by auction;
(c) on execution or otherwise by authority of law;
(d) of stocks, shares, investment securities, negotiable instruments or money;
(e) of ships, vessels or aircraft;
(f) of electricity.

Article 5

This Convention shall not apply to claims based upon –

(a) death of, or personal injury to, any person;
(b) nuclear damage caused by the goods sold;
(c) a lien, mortgage or other security interest in property;
(d) a judgment or award made in legal proceedings;
(e) a document on which direct enforcement or execution can be obtained in accordance with the law of the place where such enforcement or execution is sought;
(f) a bill of exchange, cheque or promissory note.

Article 6
1. This Convention shall not apply to contracts in which the preponderant part of the obligations of the seller consists in the supply of labour or other services.
2. Contracts for the supply of goods to be manufactured or produced shall be considered to be sales, unless the party who orders the goods undertakes to supply a substantial part of the materials necessary for such manufacture or production.

Article 7
In the interpretation and application of the provisions of this Convention, regard shall be had to its international character and to the need to promote uniformity.

The duration and commencement of the limitation period

Article 8
The limitation period shall be four years.

Article 9
1. Subject to the provisions of Articles 10, 11 and 12 the limitation period shall commence on the date on which the claim accrues.
2. The commencement of the limitation period shall not be postponed by –
(a) a requirement that the party be given a notice as described in paragraph 2 of Article 1; or
(b) a provision in an arbitration agreement that no right shall arise until an arbitration award has been made.

Article 10
1. A claim arising from a breach of contract shall accrue on the date on which such breach occurs.
2. A claim arising from a defect or other lack of conformity shall accrue on the date on which the goods are actually handed over to, or their tender is refused by, the buyer.
3. A claim based on fraud committed before or at the time of the conclusion of the contract or during its performance shall accrue on the date on which the fraud was or reasonably could have been discovered.

Article 11
If the seller has given an express undertaking relating to the goods which is stated to have effect for a certain period of time, whether expressed in terms of a specific period of time or otherwise, the limitation period in respect of any claim arising from the undertaking shall commence on the date on which the buyer notifies the seller of the fact on which the claim is based, but not later than on the date of the expiration of the period of the undertaking.

Article 12
1. If, in circumstances provided for by the law applicable to the contract, one party is entitled to declare the contract terminated before the time for performance is due, and exercises this right, the limitation period in respect of a claim based on any such circumstances shall commence on the date on which the declaration is made to the other party. If the contract is not declared to be terminated before performance becomes due, the limitation period shall commence on the date on which performance is due.
2. The limitation period in respect of a claim arising out of a breach by one party of a contract for the delivery of or payment for goods by instalments shall, in relation to each separate instalment, commence on the date on which the particular breach occurs. If, under the law

applicable to the contract, one party is entitled to declare the contract terminated by reason of such breach, and exercises this right, the limitation period in respect of all relevant instalments shall commence on the date on which the declaration is made to the other party.

Cessation and extension of the limitation period

Article 13

The limitation period shall cease to run when the creditor performs any act which, under the law of the court where the proceedings are instituted, is recognised as commencing judicial proceedings against the debtor or as asserting his claim in such proceedings already instituted against the debtor, for the purpose of obtaining satisfaction or recognition of his claim.

Article 14

1. Where the parties have agreed to submit to arbitration, the limitation period shall cease to run when either party commences arbitral proceedings in the manner provided for in the arbitration agreement or by the law applicable to such proceedings.
2. In the absence of any such provision, arbitral proceedings shall be deemed to commence on the date on which a request that the claim in dispute be referred to arbitration is delivered at the habitual residence or place of business of the other party or, if he has no such residence or place of business, then at his last known residence or place of business.

Article 15

If any legal proceedings other than those mentioned in Articles 13 and 14, including legal proceedings commenced upon the occurrence of –

(a) the death or incapacity of the debtor;
(b) the bankruptcy or any state of insolvency affecting the whole of the property of the debtor; or
(c) the dissolution or liquidation of a corporation, company, partnership, association or entity when it is the debtor.

The limitation period shall cease to run when the creditor asserts his claim in such proceedings for the purpose of obtaining satisfaction or recognition of the claim, subject to the law governing the proceedings.

Article 16

For the purposes of Articles 13, 14 and 15, any act performed by way of counterclaim shall be deemed to have been performed on the same date as the act performed in relation to the claim against which the counterclaim is raised, provided that both the claim and the counterclaim relate to the same contract or to several contracts concluded in the course of the same transaction.

Article 17

1. Where a claim has been asserted in legal proceedings within the limitation period in accordance with Articles 13, 14, 15 or 16, but such legal proceedings have ended without a decision binding on the merits of the claim, the limitation period shall be deemed to have continued to run.
2. If, at the time such legal proceedings ended, the limitation period has expired or has less than one year to run, the creditor shall be entitled to a period of one year from the date on which the legal proceedings ended.

Article 18

1. Where legal proceedings have been commenced against one debtor, the limitation period prescribed in this Convention shall cease to run against any other party jointly and severally liable with the debtor, provided that the creditor informs such party in writing within that period that the proceedings have been commenced.
2. Where legal proceedings have been commenced by a subpurchaser against the buyer, the limitation period prescribed in this Convention shall cease to run in relation to the buyer's claim over against the seller, if the buyer informs the seller in writing within that period that the proceedings have been commenced.
3. Where the legal proceedings referred to in paragraphs 1 and 2 of this Article have ended, the limitation period in respect of the claim of the creditor or the buyer against the party jointly and severally liable or against the seller shall be deemed not to have ceased running by virtue of paragraphs 1 and 2 of this Article, but the creditor or the buyer shall be entitled to an additional year from the date on which the legal proceedings ended, if at that time the limitation period had expired or had less than one year to run.

Article 19

Where the creditor performs, in the State in which the debtor has his place of business and before the expiration of the limitation period, any act, other than the acts described in Articles 13, 14, 15 and 16, which under the law of that State has the effect of recommencing a limitation period, a new limitation period of four years shall commence on the date prescribed by that law.

Article 20

1. Where the debtor, before the expiration of the limitation period, acknowledges in writing his obligation to the creditor, a new limitation period of four years shall commence to run from the date of such acknowledgement.
2. Payment of interest or partial performance of an obligation by the debtor shall have the same effect as an acknowledgement under paragraph 1 of this Article if it can reasonably be inferred from such payment or performance that the debtor acknowledges that obligation.

Article 21

Where, as a result of a circumstance which is beyond the control of the creditor and which he could neither avoid nor overcome, the creditor has been prevented from causing the limitation period to cease to run, the limitation period shall be extended so as not to expire before the expiration of one year from the date on which the relevant circumstance ceased to exist.

Modification of the limitation period by the parties

Article 22

1. The limitation period cannot be modified or affected by any declaration or agreement between the parties, except in the cases provided for in paragraph 2 of this Article.
2. The debtor may at any time during the running of the limitation period extend the period by a declaration in writing to the creditor. This declaration may be renewed.
3. The provisions of this Article shall not affect the validity of a clause in the contract of sale which stipulates that arbitral proceedings shall be commenced within a shorter period of limitation than that prescribed by this Convention, provided that such clause is valid under the law applicable to the contract of sale.

General limit of the limitation period

Article 23

Notwithstanding the provisions of this Convention, a limitation period shall in any event expire not later than 10 years from the date on which it commenced to run under Articles 9, 10, 11 and 12 of this Convention.

Consequences of expiration of the limitation period

Article 24

Expiration of the limitation period shall be taken into consideration in any legal proceedings only if invoked by a party to such proceedings.

Article 25

1. Subject to the provisions of paragraph 2 of this Article and of Article 24, no claim shall be recognised or enforced in any legal proceedings commenced after the expiration of the limitation period.
2. Notwithstanding the expiration of the limitation period, one party may rely on his claim as a defence or for the purpose of set-off against a claim asserted by the other party, provided that in the latter case this may only be done –
   (a) if both claims relate to the same contract or to several contracts concluded in the course of the same transaction; or
   (b) if the claims could have been set-off at any time before the expiration of the limitation period.

Article 26

Where the debtor performs his obligation after the expiration of the limitation period, he shall not on that ground be entitled in any way to claim restitution even if he did not know at the time when he performed his obligation that the limitation period had expired.

Article 27

The expiration of the limitation period with respect to a principal debt shall have the same effect with respect to an obligation to pay interest on that debt.

Calculation of the period

Article 28

1. The limitation period shall be calculated in such a way that it shall expire at the end of the day which corresponds to the date on which the period commenced to run. If there is no such corresponding date, the period shall expire at the end of the last day of the last month of the limitation period.
2. The limitation period shall be calculated by reference to the date of the place where the legal proceedings are instituted.

Article 29

Where the last day of the limitation period falls on an official holiday or other dies non juridicus precluding the appropriate legal action in the jurisdiction where the creditor institutes legal proceedings or asserts a claim as envisaged in Articles 13, 14, or 15, the limitation period shall be extended so as not to expire until the end of the first day following that official holiday or dies non juridicus on which such proceedings could be instituted or on which such a claim could be asserted in that jurisdiction.

International effect

Article 30

The acts and circumstances referred to in Articles 13 through 19 which have taken place in one Contracting State shall have effect for the purposes of this Convention in another Contracting State, provided that the creditor has taken all reasonable steps to ensure that the debtor is informed of the relevant act or circumstances as soon as possible.

MONTREAL ADDITIONAL PROTOCOL NO 1, 1975 ADDITIONAL PROTOCOL NO 1 TO AMEND THE CONVENTION FOR THE UNIFICATION OF CERTAIN RULES RELATING TO INTERNATIONAL CARRIAGE BY AIR SIGNED AT WARSAW ON 12TH OCTOBER 1929

CHAPTER I

AMENDMENTS TO THE CONVENTION

Article I

The Convention which the provisions of the present Chapter modify is the Warsaw Convention, 1929.

Article II

Article 22 of the Convention shall be deleted and replaced by the following –

'Article 22

. . .

2. In the carriage of registered baggage and of cargo, the liability of the carrier is limited to a sum of 17 Special Drawing Rights per kilogramme unless the consignor has made, at the time when the package as handed over to the carrier, a special declaration of interest in delivery at destination and has paid a supplementary sum if the case so requires. In that case the carrier will be liable to pay a sum not exceeding the declared sum, unless he proves that that sum is greater than the consignor's actual interest in delivery at destination.

. . .

4. The sums mentioned in terms of the Special Drawing Right in this Article shall be deemed to refer to the Special Drawing Right as defined by the International Monetary Fund. Conversion of the sums into national currencies shall, in case of judicial proceedings, be made according to the value of such currencies in terms of the Special Drawing Right at the date of the judgment. The value of a national currency, in terms of the Special Drawing Right, of a High Contracting 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 at the date of the judgment, for its operations and transactions. The value of a national currency, in terms of the Special Drawing Right, of a High Contracting

Party which is not a Member of the International Monetary Fund, shall be calculated in a manner determined by that High Contracting Party. Nevertheless those States which are not Members of the International Monetary Fund and whose law does not permit the application of the provisions of paragraphs 1, 2 and 3 of Article 22 may at the time of ratification or accession or at any time thereafter declare that the limit of liability of the carrier in judicial proceedings in their territories is fixed at a sum of 125,000 monetary units per passenger with respect to paragraph 1 of Article 22; 250 monetary units per kilogramme with respect to paragraph 2 of Article 22; and 5,000 monetary units per passenger with respect to paragraph 3 of Article 22. This monetary unit corresponds to sixty-five and a half milligrammes of gold of millesimal fineness nine hundred. These sums may be converted into the national currency concerned in round figures. The conversion of these sums into national currency shall be made according to the law of the State concerned.'

CHAPTER II

SCOPE OF APPLICATION OF CONVENTION AS AMENDED

Article III

The Warsaw Convention as amended by this Protocol shall apply to international carriage as detailed in Article I of the Convention provided that the place of departure and destination referred to in that Article are situated either in the territories of two Parties to this Protocol or within the territory of a single Party to this Protocol with an agreed stopping place in the territory of another State.

CHAPTER III

FINAL CLAUSES

Articles IV–XIII [Omitted].

MONTREAL ADDITIONAL PROTOCOL NO 2, 1975 ADDITIONAL PROTOCOL NO 2 TO AMEND THE CONVENTION FOR THE UNIFICATION OF CERTAIN RULES RELATING TO INTERNATIONAL CARRIAGE BY AIR SIGNED AT WARSAW ON 12TH OCTOBER 1929 AS AMENDED BY THE PROTOCOL DONE AT THE HAGUE ON 28TH SEPTEMBER 1955

CHAPTER I

AMENDMENTS TO THE CONVENTION

Article I

The Convention which the provisions of the present Chapter modify is the Warsaw Convention as amended at The Hague in 1955.

Article II

Article 22 of the Convention shall be deleted and replaced by the following –

'Article 22

. . .

2. (a) In the carriage of registered baggage and of cargo, the liability of the carrier is limited to a sum of 17 Special Drawing Rights per kilogramme, unless the passenger or consignor has made, at the time when the package was handed over to the carrier, a special declaration of interest in delivery at destination and has paid a supplementary sum if the case so requires. In that case the carrier will be liable to pay a sum not exceeding the declared sum, unless he proves that that sum is greater than the passenger's or consignor's actual interest in delivery at destination.

(b) In the case of loss, damage or delay of part of registered baggage or cargo, or of any object contained therein, the weight to be taken into consideration in determining the amount to which the carrier's liability is limited shall be only the total weight of the package or packages concerned. Nevertheless, when the loss, damage or delay of a part of the registered baggage or cargo, or of an object contained therein, affects the value of other packages covered by the same baggage check or the same air waybill, the total weight of such package or packages shall also be taken into consideration in determining the limit of liability.

. . .

4. The limits prescribed in this Article shall not prevent the court from awarding, in accordance with its own law, in addition, the whole or part of the court costs and of the other expenses of the litigation incurred by the plaintiff. The foregoing provision shall not apply if the amount of the damages awarded, excluding court costs and other expenses of the litigation, does not exceed the sum which the carrier has offered in writing to the plaintiff within a period of six months from the date of the occurrence causing the damage, or before the commencement of the action, if that is later.

5. The sums mentioned in terms of the Special Drawing Right in this Article shall be deemed to refer to the Special Drawing Right as defined by the International Monetary Fund. Conversion of the sums into national currencies shall, in case of judicial proceedings, be made according to the value of such currencies in terms of the Special Drawing Right at the date of the judgment. The value of a national currency, in terms of the Special Drawing Right, of a High Contracting 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 at the date of the judgment, for its operations and transactions. The value of a national currency, in terms of the Special Drawing Right, of a High Contracting Party which is not a Member of the International Monetary Fund, shall be calculated in a manner determined by that High Contracting Party.

Nevertheless, those States which are not Members of the International Monetary Fund and whose law does not permit the application of the provisions of paragraphs 1, 2(a) and 3 of Article 22 may at the time of ratification or accession or at any time thereafter, declare that the limit of liability of the carrier in judicial proceedings in their territories is fixed at a sum of 250,000 monetary units per passenger with respect to paragraph 1 of Article 22; 250 monetary units per kilogramme with respect to paragraph 2(a) of Article 22; and 5,000 monetary units per passenger with respect

to paragraph 3 of Article 22. This monetary unit corresponds to sixty-five and a half milligrammes of gold of millesimal fineness nine hundred. These sums may be converted into the national currency concerned in round figures. The conversion of these sums into national currency shall be made according to the law of the State concerned.'

CHAPTER II

SCOPE OF APPLICATION OF THE CONVENTION AS AMENDED

Article III

The Warsaw Convention as amended at The Hague in 1955 and by this Protocol shall apply to international carriage as defined in Article I of the Convention, provided that the places of departure and destination referred to in that Article are situated either in the territories of two Parties to this Protocol or within the territory of a single Party to this Protocol with an agreed stopping place in the territory of another State.

CHAPTER III

FINAL CLAUSES

Articles IV–XIII [Omitted].

MONTREAL ADDITIONAL PROTOCOL NO 3, 1975 ADDITIONAL PROTOCOL NO 3 TO AMEND THE CONVENTION FOR THE UNIFICATION OF CERTAIN RULES RELATING TO INTERNATIONAL CARRIAGE BY AIR SIGNED AT WARSAW ON 12TH OCTOBER 1929 AS AMENDED BY THE PROTOCOLS DONE AT THE HAGUE ON 28TH SEPTEMBER 1955 AND AT GUATEMALA CITY ON 8TH MARCH 1971

CHAPTER I

AMENDMENTS TO THE CONVENTION

Article I

The Convention which the provisions of the present Chapter modify is the Warsaw Convention as amended at The Hague in 1955 and at Guatemala City in 1971.

Article II

Article 22 of the Convention shall be deleted and replaced by the following –

'Article 22

. . .

2. (a) In the carriage of cargo, the liability of the carrier is limited to a sum of 17 Special Drawing Rights per kilogramme, unless the consignor has made, at the time when the package was handed over to the carrier, a special declaration of interest in delivery at destination and has paid a supplementary sum if the case so requires. In that case the carrier will be liable to pay a sum not exceeding the declared sum, unless he proves that that sum is greater than the consignor's actual interest in delivery at destination.

   (b) In the case of loss, damage or delay of part of the cargo, or of any object contained therein, the weight to be taken into consideration in determining the amount to which the carrier's liability is limited shall be only the total weight of the package or packages concerned. Nevertheless, when the loss, damage or delay of a part of the cargo, or of an object contained therein, affects the value of other packages covered by the same air waybill, the total weight of such package or packages shall also be taken into consideration in determining the limit of liability.

. . .

4. The sums mentioned in terms of Special Drawing Right in this Article shall be deemed to refer to the Special Drawing Right as defined by the International Monetary Fund. Conversion of the sums into national currencies shall, in case of judicial proceedings, be made according to the value of such currencies in terms of the Special Drawing Right at the date of the judgment. The value of a national currency, in terms of the Special Drawing Right, of a High Contracting 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 at the date of the judgment, for its operations and transactions. The value of a national currency, in terms of the Special Drawing Right, of a High Contracting Party which is not a Member of the International Monetary Fund, shall be calculated in a manner determined by that High Contracting Party.

   Nevertheless, those States which are not Members of the International Monetary Fund and whose law does not permit the application of the provisions of paragraphs 1 and 2(a) of Article 22 may, at the time of ratification or accession or at any time thereafter declare that the limit of liability of the carrier in judicial proceedings in their territories is fixed at a sum of 150,000 monetary units per passenger with respect to paragraph 1(a) of Article 22; 62,500 monetary units per passenger with respect to paragraph 1(b) of Article 22; 15,000 monetary units per passenger with respect to paragraph 1(c) of Article 22; and 250 monetary units per kilogramme with respect to paragraph 2(a) of Article 22. A State applying the provisions of this paragraph may also declare that the sum referred to in paragraphs 2 and 3 of Article 42 shall be the sum of 187,500 monetary units. This monetary unit corresponds to sixty-five and a half milligrammes of gold of millesimal fineness nine hundred. These sums may be converted into the national currency concerned in round figures. The conversion of these sums into national currency shall be made according to the law of the State concerned.'

Article III

In Article 42 of the Convention –

paragraphs 2 and 3 shall be deleted and replaced by the following:

'2. At each of the Conferences mentioned in paragraph 1 of this Article the limit of liability in Article 22, paragraph 1(a) in force at the respective date of these Conferences shall not be increased by an amount exceeding 12,500 Special Drawing Rights.

3. Subject to paragraph 2 of this article, unless before the thirty-first December of the fifth and tenth year after the date of entry into force of the Protocol referred to in paragraph 1 of this Article the aforesaid Conferences decide otherwise by a two-thirds majority vote of the Parties present and voting, the limit of liability in Article 22 paragraph 1(a) in force at the respective dates of these Conferences shall on those dates be increased by 12,500 Special Drawing Rights.'

CHAPTER II

SCOPE OF APPLICATION OF THE CONVENTION AS AMENDED

Article IV

The Warsaw Convention as amended at The Hague in 1955 and at Guatemala City in 1971 and by this Protocol shall apply to international carriage as defined in Article I of the Convention, provided that the place of departure and destination referred to in that Article are situated either in the territories of two Parties to this Protocol or within the territory of a single Party to this Protocol with an agreed stopping place in the territory of another State.

CHAPTER III

FINAL CLAUSES

Articles V–XIV [Omitted].

MONTREAL ADDITIONAL PROTOCOL NO 4, 1975 ADDITIONAL PROTOCOL NO 4 TO AMEND THE CONVENTION FOR THE UNIFICATION OF CERTAIN RULES RELATING TO INTERNATIONAL CARRIAGE BY AIR SIGNED AT WARSAW ON 12TH OCTOBER 1929 AS AMENDED BY THE PROTOCOL DONE AT THE HAGUE ON 28TH SEPTEMBER 1955

CHAPTER I

AMENDMENTS TO THE CONVENTION

Article I

The Convention which the provisions of the present Chapter modify is the Warsaw Convention as amended at The Hague in 1955.

Article III

In Chapter II of the Convention –

Section III (Articles 5 to 16) shall be deleted and replaced by the following:

'Section III – Documentation relating to cargo

Article 5

1. In respect of the carriage or cargo an air waybill shall be delivered.
2. Any other means which would preserve a record of the carriage to be performed may, with the consent of the consignor, be substituted for the delivery of an air waybill. If such other means are used, the carrier shall if so requested by the consignor deliver to the consignor a receipt for the cargo permitting identification of the consignment and access to the information contained in the record preserved by such other means.
3. The impossibility of using, at points of transit and destination, the other means which would preserve the record of the carriage referred to in paragraph 2 of this Article does not entitle the carrier to refuse to accept the cargo for carriage.

Article 6

1. The air waybill shall be made out by the consignor in three original parts.
2. The first part shall be marked 'for the carrier'; it shall be signed by the consignor. The second part shall be marked 'for the consignee'; it shall be signed by the consignor and by the carrier. The third part shall be signed by the carrier and handed by him to the consignor after the cargo has been accepted.
3. The signature of the carrier and that of the consignor may be printed or stamped.
4. If, at the request of the consignor, the carrier makes out the air waybill, he shall be deemed, subject to proof to the contrary, to have done so on behalf of the consignor.

Article 7

When there is more than one package –

(a) the carrier of cargo has the right to require the consignor to make out separate air waybills;
(b) the consignor has the right to require the carrier to deliver separate receipts when the other means referred to in paragraph 2 of Article 5 are used.

Articles

The air waybill and receipt for the cargo shall contain –

(a) an indication of the places of departure and destination;
(b) if the places of departure and destination are within the territory of a single High Contracting Party, one or more agreed stopping places being within the territory of another State, an indication of at least one such stopping place; and
(c) an indication of the weight of the consignment.

Article 9

Non-compliance with the provisions of Articles 5 to 8 shall not affect the existence or the validity of the contract of carriage, which shall, none the less, be subject to the rules of this Convention including those relating to limitation of liability.

Article 10

1. The consignor is responsible for the correctness of the particulars and statements relating to the cargo inserted by him or on his behalf in the air waybill or furnished by him or on his behalf to the carrier for insertion in the receipt for the cargo or for insertion in the record preserved by the other means referred to in paragraph 2 of Article 5.

2. The consignor shall indemnify the carrier against all damage suffered by him, or by any other person to whom the carrier is liable, by reason of the irregularity, incorrectness or incompleteness of the particulars and statements furnished by the consignor or on his behalf.
3. Subject to the provisions of paragraphs 1 and 2 of this Article, the carrier shall indemnify the consignor against all damage suffered by him, or by any other person to whom the consignor is liable, by reason of the irregularity, incorrectness or incompleteness of the particulars and statements inserted by the carrier or on his behalf in the receipt for the cargo or in the record preserved by the other means referred to in paragraph 2 of Article 5.

Article 11

1. The air waybill or the receipt for the cargo is *prima facie* evidence of the conclusion of the contract, of the acceptance of the cargo and of the conditions of carriage mentioned therein.
2. Any statements in the air waybill or the receipt for the cargo relating to the weight, dimensions and packing of the cargo, as well as those relating to the number of packages, are *prima facie* evidence of the facts stated; those relating to the quantity, volume and condition of the cargo do not constitute evidence against the carrier except so far as they both have been, and are stated in the air waybill to have been, checked by him in the presence of the consignor or relate to the apparent condition of the cargo.

Article 12

1. Subject to his liability to carry out all his obligations under the contract of carriage, the consignor has the right to dispose of the cargo by withdrawing it at the airport of departure or destination, or by stopping it in the course of the journey on any landing, or by calling for it to be delivered at the place of destination or in the course of the journey to a person other than the consignee originally designated, or by requiring it to be returned to the airport of departure. He must not exercise this right of disposition in such a way as to prejudice the carrier or other consignor and he must repay any expenses occasioned by the exercise of this right.
2. If it is impossible to carry out the orders of the consignor, the carrier has to inform him forthwith.
3. If the carrier obeys the orders of the consignor for the disposition of the cargo without requiring the production of the part of the air waybill or the receipt for the cargo delivered to the latter, he will be liable, without prejudice to his right of recovery from the consignor, for any damage which may be caused thereby to any person who is lawfully in possession of that part of the air waybill or the receipt for the cargo.
4. The right conferred on the consignor ceases at the moment when that of the consignee begins in accordance with Article 13. Nevertheless, if the consignee declines to accept the cargo, or if he cannot be communicated with, the consignor resumes his right of disposition.

Article 13

1. Except when the consignor has exercised his right under Article 12, the consignee is entitled, on arrival of the cargo at the place of destination, to require the carrier to deliver the cargo to him, on payment of the charges due and on complying with the conditions of carriage.

2. Unless it is otherwise agreed, it is the duty of the carrier to give notice to the consignee as soon as the cargo arrives.
3. If the carrier admits the loss of the cargo or if the cargo has not arrived at the expiration of seven days after the date on which it ought to have arrived, the consignee is entitled to enforce against the carrier the rights which flow from the contract of carriage.

Article 14

The consignor and the consignee can respectively enforce all the rights given them by Articles 12 and 13, each in his own name, whether he is acting in his own interest or in the interest of another, provided that he carries out the obligations imposed by the contract of carriage.

Article 15

1. Articles 12, 13 and 14 do not affect the relations of the consignor and the consignee with each other or the mutual relations of third parties whose rights are derived either from the consignor or from the consignee.
2. The provisions of Articles 12, 13 and 14 can only be varied by express provision in the air waybill or the receipt for the cargo.

Article 16

1. The consignor must furnish such information and such documents as are necessary to meet the formalities of customs, octroi or police before the cargo can be delivered to the consignee. The consignor is liable to the carrier for any damage occasioned by the absence, insufficiency or irregularity of any such information or documents unless the damage is due to the fault of the carrier, his servants or agents.
2. The carrier is under no obligation to enquire into the correctness or sufficiency of the information or documents.'

Article IV

Article 18 of the Convention shall be deleted and replaced by the following –

'Article 18

1. The carrier is liable for damage sustained in the event of the destruction or loss of, or damage to any registered baggage, if the occurrence which caused the damage so sustained took place during the carriage by air.
2. The carrier is liable for damage sustained in the event of the destruction or loss of, or damage to, cargo upon condition only that the occurrence which caused the damage so sustained took place during the carriage by air.
3. However, the carrier is not liable if he proves that the destruction, loss of, or damage to, the cargo resulted from one or more of the following –
   (a) inherent defect, quality or vice of that cargo;
   (b) defective packing of that cargo performed by a person other than the carrier or his servants or agents;
   (c) an act of war or an armed conflict;
   (d) an act of public authority carried out in connexion with the entry, exit or transit of the cargo.
4. The carriage by air within the meaning of the preceding paragraphs of this Article comprises the period during which the baggage or cargo is in the charge of the carrier, whether in an airport or on board an aircraft, or, in the case of a landing outside an airport, in any place whatsoever.

5. The period of the carriage by air does not extend to any carriage by land, by sea or by river performed outside an airport. If, however, such carriage takes place in the performance of a contract for carriage by air, for the purpose of loading, delivery or transhipment, any damage is presumed, subject to proof to the contrary, to have been the result of an event which took place during the carriage by air.'

Article V

Article 20 of the Convention shall be deleted and replaced by the following:

'Article 20

In the case of passengers and baggage, and in the case of damage occasioned by delay in the carriage of cargo, the carrier shall not be liable if he proves that he and his servants and agents have taken all necessary measures to avoid the damage or that it was impossible for them to take such measures.'

Article VI

Article 21 of the Convention shall be deleted and replaced by the following:

'Article 21

. . .

2. In the carriage of cargo, if the carrier proves that the damage was caused by or contributed to by the negligence or other wrongful act or omission of the person claiming compensation, or the person from whom he derives his rights, the carrier shall be wholly or partly exonerated from his liability to the claimant to the extent that such negligence or wrongful act or omission caused or contributed to the damage.'

Article VII

In Article 22 of the Convention –

(a) in paragraph 2(a) the words 'and of cargo' shall be deleted.

(b) after paragraph 2(a) the following paragraph shall be inserted:

'(b) In the carriage of cargo, the liability of the carrier is limited to a sum of 17 Special Drawing Rights per kilogramme, unless the consignor has made, at the time when the package was handed over to the carrier, a special declaration of interest in delivery at destination and has paid a supplementary sum if the case so requires. In that case the carrier will be liable to pay a sum not exceeding the declared sum, unless he proves that the sum is greater than the consignor's actual interest in delivery at destination.'

(c) paragraph 2(b) shall be designated as paragraph 2(c).

(d) after paragraph 5 the following paragraph shall be inserted

'6. The sums mentioned in terms of the Special Drawing Right in this Article shall be deemed to refer to the Special Drawing Right as defined by the International Monetary Fund. Conversion of the sums into national currencies shall, in case of judicial proceedings, be made according to the value of such currencies in terms of the Special Drawing Right at the date of the judgment. The value of a national currency, in terms of the Special Drawing Right, of a High Contracting 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 at the date of the judgment for its operations and transactions. The value of a national currency, in terms of the Special Drawing

Right, of a High Contracting Party which is not a Member of the International Monetary Fund, shall be calculated in a manner determined, by that High Contracting Party.

Nevertheless, those States which are not Members of the International Monetary Fund and whose law does not permit the application of the provisions of paragraph 2(b) of Article 22 may, at the time of ratification or accession or at any time thereafter, declare that the limit of liability of the carrier in judicial proceedings in their territories is fixed at a sum of two hundred and fifty monetary units per kilogramme This monetary unit corresponds to sixty-five and a half milligrammes of gold of millesimal fineness nine hundred. This sum may be converted into the national currency concerned in round figures. The conversion of this sum into the national currency shall be made according to the laws of the State concerned.'

Article VIII

Article 24 of the Convention shall be deleted and replaced by the following –

'Article 24

. . .

2. In the carriage of cargo, any action for damages, however founded, whether under this Convention or in contract or in tort or otherwise, can only be brought subject to the conditions and limits of liability set out in this Convention, without prejudice to the question as to who are the persons who have the right to bring suit and what are their respective rights. Such limit of liability constitute maximum limits and may not be exceeded whatever the circumstances which gave rise to the liability.'

Article XIII

Article 34 of the Convention shall be deleted and replaced by the following –

'Article 34

The provisions of Articles 3 to 8 inclusive relating to documents of carriage shall not apply in the case of carriage performed in extraordinary circumstances outside the normal scope of an air carrier's business.'

CHAPTER II

SCOPE OF APPLICATION OF THE CONVENTION AS AMENDED

Article XIV

The Warsaw Convention as amended at The Hague in 1955 and by this Protocol shall apply to international carriage as defined in Article I of the Convention, provided that the places of departure and destination referred to in that Article are situated either in the territories of two Parties to this Protocol or within the territory of a single Party to this Protocol with an agreed stopping place in the territory of another State.

CHAPTER III

FINAL CLAUSES

Articles XV–XXV [Omitted].

CONVENTION ON LIMITATION OF LIABILITY FOR MARITIME CLAIMS, 1976

See the Schedule to the Merchant Shipping Act 1979 for the text of the Convention.

UNITED NATIONS CONVENTION ON THE CARRIAGE OF GOODS BY SEA, HAMBURG, 1978 (HAMBURG RULES)

PART I

GENERAL PROVISIONS

Article 1 Definitions

In this Convention –

1. 'Carrier' means any person by whom or in whose name a contract of carriage of goods by sea has been concluded with a shipper.
2. 'Actual carrier' means any person to whom the performance of the carriage of the goods, or of part of the carriage, has been entrusted by the carrier, and includes any other person to whom such performance has been entrusted.
3. 'Shipper' means any person by whom or in whose name or on whose behalf a contract of carriage of goods by sea has been concluded with a carrier, or any person by whom or in whose name or on whose behalf the goods are actually delivered to the carrier in relation to the contract of carriage by sea.
4. 'Consignee' means the person entitled to take delivery of the goods.
5. 'Goods' includes live animals; where the goods are consolidated in a container, pallet or similar article of transport or where they are packed, 'goods' includes such article of transport or packaging if supplied by the shipper.
6. 'Contract of carriage by sea' means any contract whereby the carrier undertakes against payment of freight to carry goods by sea from one port to another; however, a contract which involves carriage by sea and also carriage by some other means is deemed to be a contract of carriage by sea for the purposes of this Convention only in so far as it relates to the carriage by sea.
7. 'Bill of lading' means a document which evidences a contract of carriage by sea and the taking over or loading of the goods by the carrier, and by which the carrier undertakes to deliver the goods against surrender of the document. A provision in the document that the goods are to be delivered to the order of a named person, or to order, or to bearer, constitutes such an undertaking.
8. 'Writing' includes, *inter alia*, telegram and telex.

Article 2 Scope of application

1. The provisions of this Convention are applicable to all contracts of carriage by sea between two different States, if –
   (a) the port of loading as provided for in the contract of carriage by sea is located in a Contracting State; or

(b) the port of discharge as provided for in the contract of carriage by sea is located in a Contracting State; or
(c) one of the optional ports of discharge provided for in the contract of carriage by sea is the actual port of discharge and such port is located in a Contracting State; or
(d) the bill of lading or other document evidencing the contract of carriage by sea is issued in a Contracting State; or
(e) the bill of lading or other document evidencing the contract of carriage by sea provides that the provisions of this Convention or the legislation of any State giving effect to them are to govern the contract.

2. The provisions of this Convention are applicable without regard to the nationality of the ship, the carrier, the actual carrier, the shipper, the consignee or any other interested person.
3. The provisions of this Convention are not applicable to charter-parties. However, where a bill of lading is issued pursuant to a charter-party, the provisions of the Convention apply to such a bill of lading if it governs the relation between the carrier and the holder of the bill of lading, not being the charterer.
4. If a contract provides for future carriage of goods in a series of shipments during an agreed period, the provisions of this Convention apply to each shipment. However, where a shipment is made under a charter-party, the provisions of paragraph 3 of this Article apply.

Article 3 Interpretation of the convention
In the interpretation and application of the provisions of this Convention regard shall be had to its international character and to the need to promote uniformity.

PART II

LIABILITY OF THE CARRIER

Article 4 Period of responsibility
1. The responsibility of the carrier for the goods under this Convention covers the period during which the carrier is in charge of the goods at the port of loading, during the carriage and at the port of discharge.
2. For the purpose of paragraph 1 of this Article, the carrier is deemed to be in charge of the goods –

(a) from the time he has taken over the goods from;
  (i) the shipper, or a person acting on his behalf; or
  (ii) an authority or other third party to whom, pursuant to law or regulations applicable at the port of loading, the goods must be handed over for shipment;
(b) until the time he has delivered the goods:
  (i) by handing over the goods to the consignee; or
  (ii) in cases where the consignee does not receive the goods from the carrier, by placing them at the disposal of the consignee in accordance with the contract or with the law or with the usage of the particular trade, applicable at the port of discharge; or
  (iii) by handing over the goods to an authority or other third party to whom, pursuant to law or regulations applicable at the port of discharge, the goods must be handed over.

3. In paragraphs 1 and 2 of this Article, reference to the carrier or to the consignee means, in addition to the carrier or the consignee, the servants or agents, respectively of the carrier or the consignee.

Article 5 Basis of liability

1. The carrier is liable for loss resulting from loss of or damage to the goods, as well as from delay in delivery, if the occurrence which caused the loss, damage or delay took place while the goods were in his charge as defined in Article 4, unless the carrier proves that he, his servants or agents took all measures that could reasonably be required to avoid the occurrence and its consequences.

2. Delay in delivery occurs when the goods have not been delivered at the port of discharge provided for in the contract of carriage by sea 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.

3. The person entitled to make a claim for the loss of goods may treat the goods as lost if they have not been delivered as required by Article 4 within 60 consecutive days following the expiry of the time for delivery according to paragraph 2 of this Article.

4. –

(a) The carrier is liable:

(i) for loss of or damage to the goods or delay in delivery caused by fire, if the claimant proves that the fire arose from fault or neglect on the part of the carrier, his servants or agents;

(ii) for such loss, damage or delay in delivery which is proved by the claimant to have resulted from the fault or neglect of the 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.

(b) In case of fire on board the ship affecting the goods, if the claimant or the carrier so desires, a survey in accordance with shipping practices must be held into the cause and circumstances of the fire, and a copy of the surveyor's report shall be made available on demand to the carrier and the claimant.

5. With respect to live animals, the carrier is not liable for loss, damage or delay in delivery resulting from any special risks inherent in that kind of carriage. If the carrier proves that he has complied with any special instructions given to him by the shipper respecting the animals and that, in the circumstances of the case, the loss, damage or delay in delivery could be attributed to such risks, it is presumed that the loss, damage or delay in delivery was so caused, unless there is proof that all or a part of the loss, damage or delay in delivery resulted from fault or neglect on the part of the carrier, his servants or agents.

6. The carrier is not liable, except in general average, where loss, damage or delay in delivery resulted from measures to save life or from reasonable measures to save property at sea.

7. Where fault or neglect on the part of the carrier, his servants or agents combines with another cause to produce loss, damage or delay in delivery the carrier is liable only to the extent that the loss, damage or delay in delivery is attributable to such fault or neglect, provided that the carrier proves the amount of the loss, damage or delay in delivery not attributable thereto.

Article 6 Limits of liability

1. –

(a) The liability of the carrier for loss resulting from loss of or damage to goods according to the provisions of Article 5 is limited to an amount equivalent to 835 units of account per package or other shipping unit or 2.5 units of account per kilogram of gross weight of the goods lost or damaged, whichever is the higher.

(b) The liability of the carrier for delay in delivery according to the provisions of Article 5 is limited to an amount equivalent to two and a half times the freight payable for the

goods delayed, but not exceeding the total freight payable under the contract of carriage of goods by sea.

(c) In no case shall the aggregate liability of the carrier, under both subparagraphs (a) and (b) of this paragraph, exceed the limitation which would be established under subparagraph (a) of this paragraph for total loss of the goods with respect to which such liability was incurred.

2. For the purpose of calculating which amount is the higher in accordance with paragraph 1(a) of this Article, the following rules apply –

(a) where a container, pallet or similar article of transport is used to consolidate goods, the package or other shipping units enumerated in the bill of lading, if issued, or otherwise in any other document evidencing the contract of carriage by sea, as packed in such article of transport are deemed packages or shipping units. Except as aforesaid the goods in such article of transport are deemed one shipping unit;

(b) in cases where the article of transport itself has been lost or damaged, that article of transport, if not owned or otherwise supplied by the carrier, is considered one separate shipping unit.

3. Unit of account means the unit of account mentioned in Article 26.

4. By agreement between the carrier and the shipper, limits of liability exceeding those provided for in paragraph 1 may be fixed.

Article 7 Application to non-contractual claims

1. The defences and limits of liability provided for in this Convention apply in any action against the carrier in respect of loss or damage to the goods covered by the contract of carriage by sea, as well as of delay in delivery whether the action is founded in contract, in tort or otherwise.

2. If such an action is brought against a servant or agent of the carrier, such servant or agent, if he proves that he acted within the scope of his employment, is entitled to avail himself of the defences and limits of liability which the carrier is entitled to invoke under this Convention.

3. Except as provided in Article 8, the aggregate of the amounts recoverable from the carrier and from any persons referred to in paragraph 2 of this Article shall not exceed the limits of liability provided for in this convention.

Article 8 Loss of right to limit responsibility

1. The carrier is not entitled to the benefit of the limitation of liability provided for in Article 6 if it is proved that the loss, damage or delay in delivery resulted from an act or omission of the carrier done with the intent to cause such loss, damage or delay, or recklessly and with knowledge that such loss, damage or delay would probably result.

2. Notwithstanding the provisions of paragraph 2 of Article 7, a servant or agent of the carrier is not entitled to the benefit of the limitation of liability provided for in Article 6 if it is proved that the loss, damage or delay in delivery resulted from an act or omission of such servant or agent, done with the intent to cause such loss, damage or delay, or recklessly and with knowledge that such loss, damage or delay would probably result.

Article 9 Deck cargo

1. The carrier is entitled to carry the goods on deck only is such carriage is in accordance with an agreement with the shipper or with the usage of the particular trade or is required by statutory rules or regulations.

2. If the carrier and the shipper have agreed that the goods shall or may be carried on deck, the carrier must insert in the bill of lading or other document evidencing the contract of carriage by sea a statement to that effect. In the absence of such a statement the carrier has the burden of proving that an agreement for carriage on deck has been entered into; however, the carrier is not entitled to invoke such an agreement against a third party, including a consignee, who has acquired the bill of lading in good faith.
3. Where the goods have been carried on deck contrary to the provisions of paragraph 1 of this Article or where the carrier may not under paragraph 2 of this Article invoke an agreement for carriage on deck, the carrier, notwithstanding the provisions of paragraph 1 of Article 5, is liable for loss of or damage to the goods, as well as for delay in delivery, resulting solely from the carriage on deck, and the extent of his liability is to be determined in accordance with the provisions of Article 6 or Article 8 of this Convention, as the case may be.
4. Carriage of goods on deck contrary to express agreement for carriage under deck is deemed to be an act or omission of the carrier within the meaning of Article 8.

Article 10 Liability of the carrier and actual carrier
1. Where the performance of the carriage or part thereof has been entrusted to an actual carrier, whether or not in pursuance of a liberty under the contract of carriage by sea to do so, the carrier nevertheless remains responsible for the entire carriage according to the provisions of this Convention. The carrier is responsible, in relation to the carriage performed by the actual carrier, for the acts and omissions of the actual carrier and of his servants and agents acting within the scope of their employment.
2. All the provisions of this Convention governing the responsibility of the carrier also apply to the responsibility of the actual carrier for the carriage performed by him. The provisions of paragraphs 2 and 3 of Article 7 and of paragraph 2 of Article 8 apply if an action is brought against a servant or agent of the actual carrier.
3. Any special agreement under which the carrier assumes obligations not imposed by this Convention or waives rights conferred by this Convention affects the actual carrier only if agreed to by him expressly and in writing. Whether or not the actual carrier has so agreed, the carrier nevertheless remains bound by the obligations or waivers resulting from such special agreement.
4. Where and to the extent that both the carrier and the actual carrier are liable, their liability is joint and several.
5. The aggregate of the amounts recoverable from the carrier; the actual carrier and their servants and agents shall not exceed the limits of liability provided for in this Convention.
6. Nothing in this Article shall prejudice any right of recourse as between the carrier and the actual carrier.

Article 11 Through carriage
1. Notwithstanding the provisions of paragraph 1 of Article 10, where a contract of carriage by sea provides explicitly that a specified part of the carriage covered by the said contract is to be performed by a named person other than the carrier, the contract may also provide that the carrier is not liable for loss, damage or delay in delivery caused by an occurrence which takes place while the goods are in the charge of the actual carrier during such part of the carriage. Nevertheless, any stipulation limiting or excluding such liability is without effect if no judicial proceedings can be instituted against the actual carrier in a court competent under paragraph 1 or 2 of Article 21. The burden of proving that any loss, damage or delay in delivery has been caused by such an occurrence rests upon the carrier.

2. The actual carrier is responsible in accordance with the provisions of paragraph 2 of Article 10 for loss, damage or delay in delivery caused by an occurrence which takes place while the goods are in his charge.

PART III

LIABILITY OF THE SHIPPER

Article 12 General rule

The shipper is not liable for loss sustained by the carrier or the actual carrier, or for damage sustained by the ship, unless such loss or damage was caused by the fault or neglect of the shipper, his servants or agents. Nor is any servant or agent of the shipper liable for such loss or damage unless the loss or damage was caused by fault or neglect on his part.

Article 13 Special rules on dangerous goods

1. The shipper must mark or label in a suitable manner dangerous goods as dangerous.
2. Where the shipper hands over dangerous goods to the carrier or an actual carrier, as the case may be, the shipper must inform him of the dangerous character of the goods and, if necessary, of the precautions to be taken. If the shipper fails to do so and such carrier or actual carrier does not otherwise have knowledge of their dangerous character –
   (a) the shipper is liable to the carrier and any actual carrier for the loss resulting from the shipment of such goods; and
   (b) the goods may at any time be unloaded, destroyed or rendered innocuous, as the circumstances may require, without payment of compensation.
3. The provisions of paragraph 2 of this Article may not be invoked by any person if during the carriage he has taken the goods in his charge with knowledge of their dangerous character.
4. If, in cases where the provisions of paragraph 2, subparagraph b, of this Article do not apply or may not be invoked, dangerous goods become an actual danger to life or property, they may unloaded, destroyed or rendered innocuous, as the circumstances may require, without payment of compensation except where there is an obligation to contribute in general average or where the carrier is liable in accordance with the provisions of Article 5.

PART IV

TRANSPORT DOCUMENTS

Article 14 Issue of bill of lading

1. When the carrier or the actual carrier takes the goods in his charge, the carrier must, on demand of the shipper, issue to the shipper a bill of lading.
2. The bill of lading may be signed by a person having authority from the carrier. A bill of lading signed by the master of the ship carrying the goods is deemed to have been signed on behalf of the carrier.
3. The signature on the bill of lading may be in handwriting, printed in facsimile, perforated, stamped, in symbols, or made by any other mechanical or electronic means, if not inconsistent with the law of the country where the bill of lading is issued.

Article 15 Contents of bill of lading

1. The bill of lading must include, *inter alia*, the following particulars –

(a) the general nature of the goods, the leading marks necessary for identification of the goods, an express statement, if applicable, as to the dangerous character of the goods, the number of packages or pieces, and the weight of the goods or their quantity otherwise expressed, all such particulars as furnished by the shipper;
(b) the apparent condition of the goods;
(c) the name and principal place of business of the carrier;
(d) the name of the shipper;
(e) the consignee if named by the shipper;
(f) the port of loading under the contract of carriage by sea and the date on which the goods were taken over by the carrier at the port of loading;
(g) the port of discharge under the contract of carriage by sea;
(h) the number of originals of the bill of lading, if more than one;
(i) the place of issuance of the bill of lading;
(j) the signature of the carrier or a person acting on his behalf;
(k) the freight to the extent payable by the consignee or other indication that freight is payable by him;
(l) the statement referred to in paragraph 3 of Article 23;
(m) the statement, if applicable, that the goods shall or may be carried on deck;
(n) the date or the period of delivery of the goods at the port of discharge if expressly agreed upon between the parties; and
(o) any increased limit or limits of liability where agreed in accordance with paragraph 4 of Article 6.

2. After the goods have been loaded on board, if the shipper so demands, the carrier must issue to the shipper a 'shipped' bill of lading which, in addition to the particulars required under paragraph 1 of this Article, must state that the goods are on board a named ship or ships, and the date or dates of loading. If the carrier has previously issued to the shipper a bill of lading or other document of title with respect to any of such goods, on request of the carrier, the shipper must surrender such document in exchange for a 'shipped' bill of lading. The carrier may amend any previously issued document in order to meet the shipper/s demand for a 'shipped' bill of lading if, as amended, such document includes all the information required to be contained in a 'shipped' bill of lading.

3. The absence in the bill of lading of one or more particulars referred to in this Article does not affect the legal character of the document as a bill of lading provided that it nevertheless meets the requirements set out in paragraph 7 of Article 1.

Article 16 Bills of lading: reservations and evidentiary effect

1. If the bill of lading contains particulars concerning the general nature, leading marks, number of packages or pieces, weight or quantity of the goods which the carrier or other person issuing the bill of lading on his behalf knows or has reasonable grounds to suspect do not accurately represent the goods actually taken over or, where a 'shipped' bill of lading is issued, loaded, or if he had no reasonable means of checking such particulars, the carrier or such other person must insert in the bill of lading a reservation specifying these inaccuracies, grounds of suspicion or the absence of reasonable means of checking.

2. If the carrier or other person issuing the bill of lading on his behalf fails to note on the bill of lading the apparent condition of the goods, he is deemed to have noted on the bill of lading that the goods were in apparent good condition.

3. Except for particulars in respect of which and to the extent to which a reservation permitted under paragraph 1 of this Article has been entered –

(a) the bill of lading is *prima facie* evidence of the taking over or, where a 'shipped' bill of lading is issued, loading, by the carrier of the goods as described in the bill of lading; and
(b) proof to the contrary by the carrier is not admissible if the bill of lading has been transferred to a third party, including a consignee, who in good faith has acted in reliance on the description of the goods therein.

4. A bill of lading which does not, as provided in paragraph 1 subparagraph h of Article 15, set forth the freight or otherwise indicate that freight is payable by the consignee or does not set forth demurrage incurred at the port of loading payable by the consignee, is *prima facie* evidence that no freight or such demurrage is payable by him. However, proof to the contrary by the carrier is not admissible when the bill of lading has been transferred to a third party, including a consignee, who in good faith has acted in reliance on the absence in the bill of lading of any such indication.

Article 17 Guarantees by the shipper

1. The shipper is deemed to have guaranteed to the carrier the accuracy of particulars relating to the general nature of the goods, their marks, number, weight and quantity as furnished by him for insertion in the bill of lading. The shipper must indemnify the carrier against the loss resulting from inaccuracies in such particulars. The shipper remains liable even if the bill of lading has been transferred by him. The right of the carrier to such indemnity in no way limits his liability under the contract of carriage by sea to any person other than the shipper.
2. Any letter of guarantee or agreement by which the shipper undertakes to indemnify the carrier against loss resulting from the issuance of the bill of lading by the carrier, or by a person acting on his behalf, without entering a reservation relating to particulars furnished by the shipper for insertion in the bill of lading, or to the apparent condition of the goods, is void and of no effect as against any third party, including a consignee, to whom the bill of lading has been transferred.
3. Such letter of guarantee or agreement is valid as against the shipper unless the carrier or the person acting on his behalf, by omitting the reservation referred to in paragraph 2 of this Article, intends to defraud a third party, including a consignee, who acts in reliance on the description of the goods in the bill of lading. In the latter case, if the reservation omitted relates to particulars furnished by the shipper for insertion in the bill of lading the carrier has no right of indemnity from the shipper pursuant to paragraph 1 of this Article.
4. In the case of intended fraud referred to in paragraph 3 of this Article the carrier is liable, without the benefit of the limitation of liability provided for in this Convention, for the loss incurred by a third party, including a consignee, because he has acted in reliance on the description of the goods in the bill of lading.

Article 18 Documents other than bills of lading

Where a carrier issues a document other than a bill of lading to evidence the receipt of the goods to be carried, such a document is *prima facie* evidence of the conclusion of the contract of carriage by sea and the taking over by the carrier of the goods as therein described.

PART V

CLAIMS AND ACTIONS

Article 19 Notice of loss, damage or delay

1. Unless notice of loss or damage, specifying the general nature of such loss or damage, is given in writing by the consignee to the carrier not later than the working day after the day when the

goods were handed over to the consignee, such handing over is *prima facie* evidence of the delivery by the carrier of the goods as described in the document of transport or, if no such document has been issued, in good condition.
2. Where the loss or damage is not apparent, the provisions of paragraph 1 of this Article apply correspondingly if notice in writing is not given within 15 consecutive days after the day when the goods were handed over to the consignee.
3. If the state of the goods at the time they were handed over to the consignee has been the subject of a joint survey or inspection by the parties, notice in writing need not be given of loss or damage ascertained during such survey or inspection.
4. In the case of any actual or apprehended loss or damage the carrier and the consignee must give all reasonable facilities to each other for inspecting and tallying the goods.
5. No compensation shall be payable for loss resulting from delay in delivery unless a notice has been given in writing to the carrier within 60 consecutive days after the day when the goods were handed over to the consignee.
6. If the goods have been delivered by an actual carrier, any notice given under this Article to him shall have the same effect as if it had been given to the carrier and any notice given to the carrier shall have effect as if given to such actual carrier.
7. Unless notice of loss or damage, specifying the general nature of the loss or damage, is given in writing by the carrier or actual carrier to the shipper not later than 90 consecutive days after the occurrence of such loss or damage or after the delivery of the goods in accordance with paragraph 2 of Article 4, whichever is later, the failure to give such notice is *prima facie* evidence that the carrier or the actual carrier has sustained no loss or damage due to the fault or neglect of the shipper, his servants or agents.
8. For the purpose of this Article, notice given to a person acting on the carrier's or the actual carrier's behalf, including the master or the officer in charge of the ship, or to a person acting on the shipper's behalf is deemed to have been given to the carrier, to the actual carrier or to the shipper, respectively.

Article 20 Limitation of actions
1. Any action relating to carriage of goods under this convention is time-barred if judicial or arbitral proceedings have not been instituted within a period of two years.
2. The limitation period commences on the day on which the carrier has delivered the goods or part thereof or, in cases where no goods have been delivered, on the last day on which the goods should have been delivered.
3. The day on which the limitation period commences is not included in the period.
4. The person against whom a claim is made may at any time during the running of the limitation period extend that period by a declaration in writing to the claimant. This period may be further extended by another declaration or declarations.
5. An action for indemnity by a person held liable may be instituted even after the expiration of the limitation period provided for in the preceding paragraphs if instituted within the time allowed by the law of the state where proceedings are instituted. However, the time allowed shall not be less than 90 days commencing from the day when the person instituting such action for indemnity has settled the claim or has been served with process in the action against himself.

Article 21 Jurisdiction
1. In judicial proceedings relating to carriage of goods under this convention the plaintiff, at his option, may institute an action in a court which, according to the law of the State where the

court is situated, is competent and within the jurisdiction of which is situated one of the following places –

(a) the principal place of business or, in the absence thereof, the habitual residence of the defendant; or
(b) the place where the contract was made provided that the defendant has there a place of business, branch of agency through which the contract was made; or
(c) the port of loading or the port of discharge; or
(d) any additional place designated for that purpose in the contract of carriage by sea.

2. –

(a) Notwithstanding the preceding provisions of this Article, an action may be instituted in the courts of any port or place in a Contracting State at which the carrying vessel or any other vessel of the same ownership may have been arrested in accordance with applicable rules of the law of that State and of international law. However, in such a case, at the petition of the defendant, the claimant must remove the action, at his choice, to one of the jurisdictions referred to in paragraph 1 of this Article for the determination of the claim, but before such removal the defendant must furnish security sufficient to ensure payment of any judgment that may subsequently be awarded to the claimant in the action.
(b) All questions relating to the sufficiency or otherwise of the security shall be determined by the court of the port or place of the arrest.

3. No judicial proceedings relating to carriage of goods under this convention may be instituted in a place not specified in paragraph 1 or 2 of this Article. The provisions of this paragraph do not constitute an obstacle to the jurisdiction of the Contracting States for provisional or protective measures.

4. –

(a) Where an action has been instituted in a court competent under paragraph 1 or 2 of this Article or where judgment has been delivered by such a court, no new action may be started between the same parties on the same grounds unless the judgment of the court before which the first action was instituted is not enforceable in the country in which the new proceedings are instituted.
(b) For the purpose of this Article the institution of measures with a view to obtaining enforcement of a judgment is not to be considered as the starting of a new action.
(c) For the purpose of this Article, the removal of an action to a different court within the same country, or to a court in another country, in accordance with paragraph 2(a) of this Article, is not to be considered as the starting of a new action.

5. Notwithstanding the provisions of the preceding paragraphs, an agreement made by the parties, after a claim under the contract of carriage by sea has arisen, which designates the place where the claimant may institute an action, is effective.

Article 22 Arbitration

1. Subject to the provisions of this Article, parties may provide by agreement evidenced in writing that any dispute that may arise relating to carriage of goods under this Convention shall be referred to arbitration.

2. Where a charter-party contains a provision that disputes arising thereunder shall be referred to arbitration and a bill of lading issued pursuant to the charter-party does not contain a special annotation providing that such provision shall be binding upon the holder of the bill of lading, the carrier may not invoke such provision as against a holder having acquired the bill of lading in good faith.

3. The arbitration proceedings shall, at the option of the claimant, be instituted at one of the following places –

(a) a place in a state within whose territory is situated:
  (i) the principal place of business of the defendant or, in the absence thereof, the habitual residence of the defendant; or
  (ii) the place where the contract was made, provided that the defendant has there a place of business, branch or agency through which the contract was made; or
  (iii) the port of loading or the port of discharge; or
(b) any place designated for that purpose in the arbitration clause or agreement.

4. The arbitrator or arbitration tribunal shall apply the rules of this Convention.

5. The provisions of paragraphs 3 and 4 of this Article are deemed to be part of every arbitration clause or agreement, and any term, of such clause or agreement which is inconsistent therewith is null and void.

6. Nothing in this Article affects the validity of an agreement relating to arbitration made by the parties after the claim under the contract of carriage by sea has arisen.

PART VI

SUPPLEMENT PROVISION

Article 23 Contractual stipulations

1. Any stipulation in a contract of carriage by sea, in a bill of lading, or in any other document evidencing the contract of carriage by sea is null and void to the extent that it derogates, directly or indirectly, from the provisions of this Convention. The nullity of such a stipulation does not affect the validity of the other provisions of the contract or document of which it forms a part. A clause assigning benefit of insurance of the goods in favour of the carrier, or any similar clause, is null and void.

2. Notwithstanding the provisions of paragraph 1 of this Article, a carrier may increase his responsibilities and obligations under this Convention.

3. Where a bill of lading or any other document evidencing the contract of carriage by sea is issued, it must contain a statement that the carriage is subject to the provisions of this Convention which nullify any stipulation derogating therefrom to the detriment of the shipper or the consignee.

4. Where the claimant in respect of the goods has incurred loss as a result of a stipulation which is null and void by virtue of the present Article, or as a result of the omission of the statement referred to in paragraph 3 of this Article, the carrier must pay compensation to the extent required in order to give the claimant compensation in accordance with the provisions of this Convention for any loss of or damage to the goods as well as for delay in delivery. The carrier must, in addition, pay compensation for costs incurred by the claimant for the purpose of exercising his right, provided that costs incurred in the action where the foregoing provision is invoked are to be determined in accordance with the law of the State where proceedings are instituted.

Article 24 General average

1. Nothing in this Convention shall prevent the application of provisions in the contract of carriage by sea or national law regarding the adjustment of general average.

2. With the exception of Article 20, the provisions of this Convention relating to the liability of the carrier for loss of or damage to the goods also determine whether the consignee may refuse

contribution in general average and the liability of the carrier to indemnify the consignee in respect of any such contribution made or any salvage paid.

Article 25 Other conventions

1. This Convention does not modify the rights or duties of the carrier, the actual carrier and their servants and agents, provided for in international conventions or national law relating to the limitation of liability of owners of seagoing ships.

[2.–4.Omitted].

5. Nothing contained in this Convention prevents a Contracting State from applying any other international convention which is already in force at the date of this Convention and which applies mandatorily to contracts of carriage of goods primarily by a mode of transport other than transport by sea. This provision also applies to any subsequent revision or amendment of such international convention.

Article 26 Unit of account

1. The unit of account referred to in Article 6 of this Convention is the Special Drawing Right as defined by the International Monetary Fund. The amounts mentioned in Article 6 are to be converted into the national currency of a State according to the value of such currency at the date of judgment or the date agreed upon by the parties. The value of a national currency, in terms of the Special Drawing Right, of a Contracting State which is a member of the International Monetary Fund is to be calculated in accordance with the method of valuation applied by the International Monetary Fund in effect at the date in question for its operations and transactions. The value of a national currency in terms of the Special Drawing Right of a Contracting State which is not a member of the International Monetary Fund is to be calculated in a manner determined by that State.

2. Nevertheless, those States which are not members 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 signature, or at the time of ratification, acceptance, approval or accession or at any time thereafter, declare that the limits of liability provided for in this Convention to be applied in their territories shall be fixed as – 12,500 monetary units per package or other shipping unit or 37.5 monetary units per kilogram of gross weight of the goods.

3. The monetary unit referred to in paragraph 2 of this Article corresponds to sixty-five and a half milligrams of gold of millesimal fineness nine hundred, the conversion of the amounts referred to in paragraph 2 into the national currency is to be made according to the law of the state concerned.

4. The calculation mentioned in the last sentence of paragraph 1 and the conversion mentioned in paragraph 3 of this Article is to be made in such a manner as to express in the national currency of the Contracting State as far as possible the same real value for the amounts in Article 6 as is expressed there in units of account. Contracting States must communicate to the depository the manner of calculation pursuant to paragraph 1 of this Article, or the result of the conversion mentioned in paragraph 3 of this Article, as the case may be, at the time of signature or when depositing their instruments of ratification, acceptance, approval or accession, or when availing themselves of the option provided for in paragraph 2 of this Article and whenever there is a change in the manner of such calculation or in the result of such conversion.

PART VII

Articles 27–34 [Omitted].

EEC CONVENTION ON LAW APPLICABLE TO CONTRACTUAL OBLIGATIONS, ROME, 1980

See Schedule I to the Contracts (Applicable Law) Act 1990 for text of the Convention.

PROTOCOL AMENDING THE CONVENTION ON THE LIMITATION PERIOD IN THE INTERNATIONAL SALE OF GOODS, VIENNA, 1980

Article I

1. Paragraph 1 of Article 3 is replaced by the following provisions –
   '1. This Convention shall apply only –
      (a) if, at the time of the conclusion of the contract, the places of business of the parties to a contract of international sale of goods are in Contracting States; or
      (b) if the rules of private international law make the law of a Contracting State applicable to the contract of sale.'
2. Paragraph 2 of Article 3 is deleted.
3. Paragraph 3 of Article 3 is renumbered as paragraph 2.

Article II

1. Subparagraph (a) of Article 4 is deleted and replaced by the following provision –
   '(a) of goods bought for personal, family or household use, unless the seller, at any time before or at the conclusion of the contract, neither knew nor ought to have known that the goods were bought for any such use;'
2. Subparagraph (e) of Article 4 is deleted and is replaced by the following provision:
   '(e) of ships, vessels, hovercraft or aircraft;'

Articles III–XIV [Omitted].

UNIFORM RULES CONCERNING THE CONTRACT FOR INTERNATIONAL CARRIAGE OF GOODS BY RAIL (CIM), 1980

TITLE 1

GENERAL PROVISIONS

Article 1 Scope

1. Subject to the exceptions provided for in Article 2, the Uniform rules shall apply to all consignments of goods for carriage under a through consignment note made out for a route over the territories of at least two States and exclusively over lines or services included in the list provided for in Articles 3 and 10 of the convention.

2. In the Uniform rules the expression 'station' covers: railway stations, ports used by shipping services and all other establishments of transport undertakings, open to the public for the execution of the contract of carriage.

Article 2 Exceptions from scope

1. Consignments between sending and destination stations situated in the territory of the same State, which pass through the territory of another State only in transit, shall not be subject to the Uniform Rules –

(a) if the lines or services over which the transit occurs are exclusively operated by a railway of the State of departure; or

(b) if the States or the railways concerned have agreed not to regard such consignments as international.

2. Consignments between stations in two adjacent States and between stations in two States in transit through the territory of a third State shall, if the lines over which the consignments are carried are exclusively operated by a railway of one of those three States, be subject to the internal traffic regulations applicable to that railway if the sender, by using the appropriate consignment note, so elects and where there is nothing to the contrary in the laws and regulation of any of the States concerned.

Article 3 Obligation to carry

1. The railway shall be bound to undertake all carriage of any goods in complete wagon-loads, subject to the terms of the Uniform rules, provided that –

(a) the sender complies with the Uniform rules, the supplementary provisions and the tariffs;

(b) carriage can be undertaken by the normal staff and transport resources which suffice to meet usual traffic requirements;

(c) carriage is not prevented by circumstances which the railway cannot avoid and which it is not in a position to remedy.

2. The railway shall not be obliged to accept goods of which the loading, transshipment or unloading requires the use of special facilities unless the stations concerned have such facilities at their disposal.

3. The railway shall only be obliged to accept goods the carriage of which can take place without delay; the provisions in force at the forwarding station shall determine the circumstances in which goods not complying with that condition must be temporarily stored.

4. When the competent authority decides that –

(a) a service shall be discontinued or suspended totally or partially;

(b) certain consignments shall be refused or accepted only subject to conditions, these measures shall, without delay, be brought to the notice of the public and the railways; the latter shall inform the railways of the other States with a view to their publication.

5. The railways may, by joint agreement, concentrate goods traffic between certain places on specified frontier points and transit countries. These measures shall be notified to the Central Office. They shall be entered by the railways in special lists, published in the manner laid down for international tariffs, and shall come into force one month after the date of notification to the Central Office.

6. Any contravention of this Article by the railway may constitute a cause of action for compensation for loss or damage caused.

Article 4 Articles not acceptable for carriage .

The following shall not be accepted for carriage –

(a) articles the carriage of which is prohibited in any one of the territories in which the articles would be carried;

(b) articles the cartiage of which is a monopoly of the postal authorities in any one of the territories in which the articles would be carried;

(c) articles which, by reason of their dimensions, their mass, or their packaging, are not suitable for the carriage proposed, having regard to the installations or rolling stock of any one of the railways which would be used;

(d) substances and articles which are not acceptable for carriage under the Regulations concerning the international carriage of dangerous goods by rail (RID), Annex 1 to the Uniform rules, subject to the exceptions provided for in Articles 5, §2.

Article 5 Articles acceptable for carriage subject to conditions

1. The following shall be acceptable for carriage subject to conditions –

(a) substances and articles acceptable for carriage subject to the conditions laid down in the RID or in the agreements and tariff clauses provided for in §2;

(b) funeral consignments, railway rolling stock running on its own wheels, live animals and consignments the carriage of which presents special difficulties by reason of their dimensions, their mass or their packaging: subject to the conditions laid down in the supplementary provision; these may derogate from the Uniform rules.

Live animals must be accompanied by an attendant provided by the consignor. Nevertheless an attendant shall not be required when the international tariffs permit or when the railways participating in the carriage so permit at the consignor's request; in such cases, unless there is an agreement to the contrary, the railway shall not be liable for any loss or damage resulting from any risk which the attendant was intended to avert.

2. Two or more States, by agreement, or two or more railways, by tariff clauses, may jointly determine the conditions with which certain substances or articles not acceptable for carriage under the RID must comply if they are nevertheless to be accepted. States or railways may, in the same manner, make the conditions for acceptance laid down in the RID less rigorous. Such agreements and tariff clauses must be published and notified to the Central Office which will bring them to the notice of the States.

Article 6 Tariffs, private agreements [Omitted].

Article 7 Unit of account. Rate of exchange or of acceptance of foreign currency

1. The unit of account referred to in the Uniform rules shall be the Special Drawing Right as defined by the International Monetary Fund.

The value in Special Drawing Right of the national currency of a State 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 for its own operations and transactions.

2. The value in Special Drawing Right of the national currency of a State which is not a member of the International Monetary Fund shall be calculated by the method determined by that State.

The calculation must express in the national currency a real value approximating as closely to that which would result from the application of §1.

3. In the case of a state which is not a member of the International Monetary Fund and whose legislation does not permit the application of §1 or §2 above, the unit of account referred to in the Uniform Rules shall be deemed to be equal to three gold francs.

The gold franc is defined as 10/31 of a gram of gold of millesimal fineness 900. The conversion of the gold franc must express in the national currency a real value approximating as closely to that which would result from the application of §1.

4. Within three months after the entry into force of the Convention and each time that a change occurs in their method of calculation or in the value of their national currency in relation to the unit of account, States shall notify the Central Office of their method of calculation in accordance with §2, or the results of the conversion in accordance with §3. The Central Office shall notify the States of this information.

5. The railway shall publish the rates at which –

(a) it converts sums expressed in foreign currencies but payable in domestic currency (rates of conversion);

(b) it accepts payment in foreign currencies (rates of acceptance).

Article 8 Special provisions for certain types of transport

1. In the case of the haulage of privately owned wagons, special provisions are laid down in the Regulations concerning the international haulage of private owners' wagons by rail (RIP), Annex II to the Uniform Rules.

2. In the case of the carriage of containers, special provisions are laid down in the Regulations concerning the international carriage of containers by rail (RICo), Annex III to the Uniform Rules.

3. In the case of express parcels traffic, railways may, by tariff clauses, agree on special provisions in accordance with the Regulations concerning the international carriage of express parcels by rail (RIEx), Annex IV to the Uniform Rules.

4. Two or more States, by special agreement, or two or more railways by supplementary provisions or by tariff clauses, may agree on terms derogating from the Uniform Rules for the following types of consignments –

(a) consignments under cover of a negotiable document;

(b) consignments to be delivered only against return of the duplicate of the consignment note;

(c) consignments of newspapers;

(d) consignment intended for fairs or exhibitions;

(e) consignment of loading tackle and of equipment for protection of goods in transit against heat or cold;

(f) consignments over all or part of the route under cover of consignment notes which are not used for charging and billing;

(g) consignments sent under cover of an instrument suitable for automatic data transmission.

Article 9 Supplementary provision

1. Two or more States or two or more railways may make supplementary provisions for the execution of the Uniform Rules. They may not derogate from the Uniform Rules unless the latter expressly so provide.

2. The supplementary provisions shall be put into force and published in the manner required by the laws and regulations of each State. The Central Office shall be notified of the supplementary provisions and of their coming into force.

Article 10 National law

1. In the absence of provisions in the Uniform rules, supplementary provisions or international tariffs, national law shall apply.

2. 'National law' means the law of the State in which the person entitled asserts his rights, including the rules relating to conflict of laws.

TITLE II

MAKING AND EXECUTION OF THE CONTRACT OF CARRIAGE

Article 11 Making of the contract of carriage

1. The contract of carriage shall come into existence as soon as the forwarding railway has accepted the goods for carriage together with the consignment note. Acceptance is established by the application to the consignment note and, where appropriate, to each additional sheet, of the stamp of the forwarding station, or accounting machine entry, showing the date of acceptance.

2. The procedure laid done in §1 must be carried out immediately after all the goods to which the consignment note relates have been handed over for carriage and – where the provisions in force at the forwarding station so require – such charges as the consignor has undertaken to pay have been paid or a security deposited in accordance with Article 15, §7. The procedure shall be carried out in the presence of the consignor if he so requests.

3. When the stamp has been affixed or the accounting machine entry has been made, the consignment note shall be evidence of the making and content of the contract.

4. Nevertheless, when the loading of the goods is the duty of the consignor in accordance with tariffs or agreements existing between him and the railway, and provided that such agreements are authorised at the forwarding station, the particulars in the consignment note relating to the mass of the goods or to the number of packages shall only be evidence against the railway when that weight or number of packages has been verified by the railway and certified in the consignment note. If necessary these particulars may be proved by other means. If it is obvious that there is no actual deficiency corresponding to the discrepancy between the mass or number of packages and the particulars in the consignment note, the latter shall not be evidence against the railway. This shall apply in particular when the wagon is handed over to the consignee with the original seals intact.

5. The railway shall certify receipt of the goods and the date of acceptance for carriage by affixing the date stamp to or making the accounting machine entry on the duplicate of the consignment note before returning the duplicate to the consignor. The duplicate shall not have effect as the consignment note accompanying the goods, nor as a bill of lading.

Article 12 Consignment note

1. The consignor shall present a consignment note duly completed. A separate consignment note shall be made out for each consignment. One and the same consignment note may not relate to more than a single wagon load. The supplementary provisions may derogate from these rules.

2. The railways shall prescribe, for both *petite vitesse* and *grande vitesse* traffic, a standard form of consignment note, which must include a duplicate for the consignor. The choice of consignment note by the consignor shall indicate whether the goods are to be carried by *petite vitesse* or by *grande vitesse*. A request for *grande vitesse* over one part of the route and *petite vitesse* over the remainder will not be allowed except by agreement between all the railways concerned. In the case of certain traffic, notably between adjacent countries, the railways may prescribe, in the tariffs, the use of a simplified form of consignment note.

3. The consignment note must be printed in two or where necessary in three languages, at least one of which shall be one of the working languages of the Organisation.
International tariffs may determine the language in which the particulars to be filled in by the consignor in the consignment note shall be entered. In the absence of such provisions, they must be entered in one of the official languages of the State of departure and a translation in one of the working languages of the Organisation must be added unless the particulars have been entered in one of those languages. The particulars entered by the consignor in the consignment note shall be in Roman lettering, save where the supplementary provisions or international tariffs otherwise provide.

Article 13 Wording of the consignment note

1. The consignment note must contain –
   (a) the name of the destination station;
   (b) the name and address of the consignee; only one individual or legal person shall be shown as consignee;
   (c) the description of the goods;
   (d) the mass, or failing that, comparable information in accordance with the provisions in force at the forwarding station;
   (e) the number of packages and a description of the packing in the case of consignments in less than wagon loads, and in the case of complete wagon loads comprising one or more packages, forwarded by rail-sea and requiring to be trans-shipped;
   (f) the number of the wagon and also, for privately-owned wagons, the tare, in the case of goods where the loading is the duty of the consignor;
   (g) a detailed list of the documents which are required by Customs or other administrative authorities and are attached to the consignment note or shown as held at the disposal of the railway at a named station or at an office of the Customs or of any other authority;
   (h) the name and address of the consignor; only one individual or legal person shall be shown as the consignor; if the provisions in force at the forwarding station so require, the consignor shall add to his name and address his written, printed or stamped signature.

The provisions in force at the forwarding station shall determine the meanings of the terms 'wagon load' and 'less than wagon load' for the whole of the route.
2. The consignment note must, where appropriate, contain all the other particulars provided for in the Uniform Rules. It shall not contain other particulars unless they are required or allowed by the laws and regulations of a State, the supplementary provisions or the tariffs, and are not contrary to the Uniform Rules.
3. Nevertheless, the consignor may insert in the consignment note in the space set apart for the purpose, but as information for the consignee, remarks relating to the consignment, without involving the railway in any obligation or liability.
4. The consignment note shall not be replaced by other documents or supplemented by documents other than those prescribed or allowed by the Uniform Rules, the supplementary provisions or the tariffs.

Article 14 Route and tariffs applicable

1. The consignor may stipulate in the consignment note the route to be followed, indicating it by reference to frontier points or frontier stations and where appropriate, to transit stations between railways. He may only stipulate frontier points and frontier stations which are open to traffic between the forwarding and destination places concerned.

2. The following shall be regarded as routing instructions –
   (a) designation of stations where formalities required by customs or other administrative authorities are to be carried out, and of stations where special care is to be given to the goods (attention to animals, re-icing, etc);
   (b) designation of the tariffs to be applied, if this is sufficient to determine the stations between which the tariffs requested are to be applied;
   (c) instructions as to the payment of the whole or a part of the charges up to X (X indicating by name the point at which the tariffs of adjacent countries are applied).

3. Except in the cases specified in Article 3 §§4 and 5, and Article 33 §1, the railway may not carry the goods by a route other than that stipulated by the consignor unless both –
   (a) the formalities required by customs or other administrative authorities, as well as the special care to be given to the goods, will in any event be carried out at the stations indicated by the consignor; and
   (b) the charges and the transit periods will not be greater than the charges and transit periods calculated according to the route stipulated by the consignor. Sub-paragraph (a) shall not apply to consignments in less than wagon loads if one of the participating railways is unable to adhere to the route chosen by the consignor by virtue of the routing instructions arising from its arrangements for the international carriage of consignments in less than wagon loads.

4. Subject to the provisions of §3, the charges and transit periods shall be calculated according to the route stipulated by the consignor or, in the absence of any such indication, according to the route chosen by the railway.

5. The consignor may stipulate in the consignment note which tariffs are to be applied. The railway must apply such tariffs if the conditions laid down for their application have been fulfilled.

6. If the instructions given by the consignor are not sufficient to indicate the route or tariffs to be applied, or if any of those instructions are inconsistent with one another, the railway shall choose the route or tariffs which appear to it to be the most advantageous to the consignor.

7. The railway shall not be liable for any loss or damage suffered as a result of the choice made in accordance with §6, except in the case of wilful misconduct or gross negligence.

8. If an international tariff exists from the forwarding to the destination station and if, in the absence of adequate instructions from the consignor, the railway has applied that tariff, the railway shall, at the request of the person entitled, refund him the difference between the carriage charges thus applied and those which the application of other tariffs would have produced over the same route, when such difference exceeds four units of account per consignment note. The same shall apply if, in the absence of adequate instructions from the consignor, the railway has applied consecutive tariffs, even though there is an international tariff offering a more advantageous charge, all other conditions being the same.

Article 15 Payment of charges

1. The charges (carriage charges, supplementary charges, Customs duties and other charges incurred from the time of acceptance for carriage to the time of delivery) shall be paid by the consignor or the consignee in accordance with the following provisions.

In applying these provisions, charges which, according to the applicable tariff, must be added to the standard rates or special rates when calculating the carriage.

2. A consignor who undertakes to pay a part or all of the charges shall indicate this on charges, shall be deemed to be carnage charges. the consignment note by using one of the following phrases –

(a) –
  (i) 'carriage charges paid', if he undertakes to pay carriage charges only;
  (ii) 'carriage charges paid including . . .', if he undertakes to pay charges additional to those for carriage; he shall give an exact description of those charges; additional indications, which may relate only to the supplementary charges or other charges incurred from the time of acceptance for carriage until the time of delivery as well as to sums collected either by customs or other administrative authorities shall not result in any division of the total amount of any one category of charges (for example, the total amount of Customs duties and of other amounts payable to Customs, value added tax being regarded as a separate category);
  (iii) 'carriage charges paid to X' (X indicating by name the point at which the tariffs of adjacent countries are applied), if he undertakes to pay carriage charges to X;
  (iv) 'carriage chargers paid to X including . . .' (X indicating by name the point at which the tariffs of adjacent countries are applied), if he undertakes to pay charges additional to those for carriage to X, but excluding all charges relating to the subsequent country or railway; the provisions of ii) shall apply analogously;
(b) 'all charges paid', if he undertakes to pay all charges (carriage charges, supplementary charges, customs duties and other charges);
(c) 'charges paid not exceeding . . .', if he undertakes to pay a fixed sum; save where the tariffs otherwise provide, this sum shall be expressed in the currency of the country of departure.

Supplementary and other charges which, according to the provisions in force at the forwarding station, are to be calculated for the whole of the route concerned, and the charge for interest in delivery laid down in Article 16, §2, shall always be paid in full by the consignor in the case of payment of the charges in accordance with

3. The international tariffs may, as regards payment of charges, prescribe the exclusive use of certain phrases set out in §2 of this Article or the use of other phrases.

4. The charges which the consignor has not undertaken to pay shall be deemed to be payable by the consignee. Nevertheless, such charges shall be payable by the consignor if the consignee has not taken possession of the consignment note nor asserted his rights under Article 28, §4, nor modified the contract of carriage in accordance with Article 31.

5. Supplementary charges, such as charges for demurrage and standage, warehousing and weighing, which arise from an act attributable to the consignee or from a request which he has made, shall always be paid by him.

6. The forwarding railway may require the consignor to prepay the charges in the case of goods which in its opinion are liable to undergo rapid deterioration or which, by reason of their low value or their nature, do not provide sufficient cover for such charges.

7. If the amount of the charges which the consignor undertakes to pay cannot be ascertained exactly at the time the goods are handed over for carriage, such charges shall be entered in a charges note and a settlement of accounts shall be made with the consignor not later than thirty days after the expiry of the transit period. The railway may require as security a deposit approximating to the amount of such charges, for which a receipt shall be given. A detailed account of charges drawn up from the particulars in the charges note shall be delivered to the consignor in return for the receipt.

8. The forwarding station shall specify, in the consignment note and in the duplicate, the charges which have been prepaid, unless the provisions in force at the forwarding station provide that those charges are only to be specified in the duplicate. In the case provided for in

§7 of this Article these charges are not to be specified either in the consignment note or in the duplicate.

Article 16 Interest in delivery

1. Any consignment may be the subject of a declaration of interest in delivery. The amount declared shall be shown in figures in the consignment note in the currency of the country of departure, in another currency determined by the tariffs or in units of account.
2. The charge for interest in delivery shall be calculated for the whole of the route concerned, in accordance with the tariffs of the forwarding railway.

Article 17 Cash on delivery and disbursements

1. The consignor may make the goods subject to a cash on delivery payment not exceeding their value at the time of acceptance at the forwarding station. The amount of such cash on delivery payment shall be expressed in the currency of the country of departure; the tariffs may provide for exceptions.
2. The railway shall not be obliged to pay over any amount representing a cash on delivery payment unless the amount in question has been paid by the consignee. That amount shall be placed at the consignor's disposal within thirty days of payment by the consignee; interest at five per cent per annum shall be payable from the date of the expiry of that period.
3. If the goods have been delivered, wholly or in part, to the consignee without prior collection of the amount of the cash on delivery payment, the railway shall pay the consignor the amount of any loss or damage sustained up to the total amount of the cash on delivery payment without prejudice to any right of recovery from the consignee.
4. Cash on delivery consignment shall be subject to a collection fee laid down in the tariffs; such fee shall be payable notwithstanding cancellation or reduction of the amount of the cash on delivery payment by modification of the contract of carriage in accordance with Article 30, §1.
5. Disbursements shall only be allowed if made in accordance with the provisions in force in force at the forwarding station.
6. The amounts of the cash on delivery payment and of disbursements shall be entered in figures on the consignment note.

Article 18 Responsibility for particulars furnished in the consignment note

The consignor shall be responsible for the correctness of the particulars inserted by, or for, him, in the consignment note. He shall bear all the consequences in the event of those particulars being irregular, incorrect, incomplete, or not entered in the allotted space. If that space is insufficient, the consignor shall indicate therein the place in the consignment note where the rest of the particulars are to be found.

Article 19 Condition, packing and marking of goods

1. When the railway accepts for carriage goods showing obvious signs of damage, it may require the condition of such goods to be indicated in the consignment note.
2. When the nature of the goods is such as to require packing, the consignor shall pack them in such a way as to protect them from total or partial loss and from damage in transit and to avoid risk of injury or damage to persons, equipment or other goods. Moreover the packing shall comply with the provisions in force at the forwarding station.
3. If the consignor has not complied with the provisions of §2, the railway may either refuse the goods or require the sender to acknowledge in the consignment note the absence of packing or the defective condition of the packing, with an exact description thereof.
4. The consignor shall be liable for all the consequences of the absence of packing or defective

condition of packing and shall in particular make good any loss or damage suffered by the railway from this cause. In the absence of any particulars in the consignment note, the burden of proof of such absence of packing or defective condition of the packing shall rest upon the railway.

5. Save where the tariffs otherwise provide, the consignor of a consignment amounting to less than a wagon load shall indicate on each package or on a label approved by the railway in a clear and indelible manner which will avoid confusion and correspond exactly with the particulars in the consignment note –

(a) the name and address of the consignee;

(b) the destination station.

The details required under a and b above shall also be shown on each article or package comprised in a wagon load forwarded by rail/sea and requiring to be transshipped. Old markings or labels shall be obliterated or removed by the consignor.

6. Save where the supplementary provisions or the tariffs otherwise provide, goods which are fragile or may become scattered in wagons and goods which may taint or damage other goods shall be carried only in complete wagon loads, unless packed or fastened together in such a manner that they cannot become broken or lost, or taint or damage other goods.

Article 20 Handing over of goods for carriage and loading of goods

1. The handing over of goods for carriage shall be governed by the provisions in force at the forwarding station.

2. Loading shall be the duty of the railway or the consignor according to the provisions in force at the forwarding station, unless otherwise provided in the Uniform Rules or unless the consignment note includes a reference to a special agreement between the consignor and the railway.

When the loading is the responsibility of the consignor, he shall comply with the load limit. If different load limits are in force on the lines traversed, the lowest load limit shall be applicable to the whole route. The provisions laying down load limit shall be applicable to the whole route. The provisions laying down load limits shall be published in the same manner as tariffs. If the consignor so requests, the railway shall inform him of the permitted load limit.

3. The consignor shall be liable for all the consequences of defective loading carried out by him and shall, in particular, make good any loss or damage suffered by the railway through this cause. Nevertheless Article 15 shall apply to the payment of costs arising from the reloading of goods in the event of defective loading. The burden of proof of defective loading shall rest upon the railway.

4. Unless otherwise provided in the Uniform Rules, goods shall be carried in covered wagons, open wagons, sheeted open wagons or specially equipped wagons according to the international tariffs. If there are no international tariffs, or if they do not contain any provisions on the subject, the provisions in force at the forwarding station shall apply throughout the whole of the route.

5. The affixing of seals to wagons shall be governed by the provisions in force at the forwarding station.

The consignor shall indicate in the consignment note the number and description of the seals affixed to the wagons by him.

Article 21 Verification

1. The railway shall always have the right to verify that the consignment corresponds with the particulars furnished in the consignment note by the consignor and that the provisions relating to the carriage of goods accepted subject to conditions have been complied with.

2. If the contents of the consignment are examined for this purpose, the consignor or the consignee, according to whether the verification takes place at the forwarding station or the destination station, shall be invited to be present. Should the interested party not attend, or should the verification take place in transit, it shall be carried out in the presence of two witnesses not connected with the railway, unless the laws or regulations of the State where the verification takes place provide otherwise. The railway may not, however, carry out the verification in transit unless compelled to do so by operational necessities or by the requirements of the Customs or of other administrative authorities.
3. The result of the verification of the particulars in the consignment note shall be entered therein. If verification takes place at the forwarding station, the result shall also be recorded in the duplicate of the consignment note if it is held by the railway. If the consignment does not correspond with the particulars in the consignment note or if the provisions relating to the carriage of goods accepted subject to conditions have not been complied with, the costs of the verification shall be charged against the goods, unless paid at the time.

Article 22 Ascertainment of weight and number of packages
1. The provisions in force in each State shall determine the circumstances in which the railway must ascertain the mass of the goods or the number of packages and the actual tare of the wagons. The railway shall enter in the consignment note the results ascertained.
2. If weighing by the railway, after the contract of carriage has been made, reveals a difference, the mass ascertained by the forwarding station or, failing that, the mass declared by the consignor, shall still be the basis for calculating the carriage charges –

(a) if the difference is manifestly due to the nature of the goods or to atmospheric conditions; or
(b) the weighing takes place on a weighbridge and does not reveal a difference exceeding two per cent of the mass ascertained by the forwarding station or, failing that, of that declared by the consignor.

Article 23 Overloading
1. When overloading of a wagon is established by the forwarding station or by an intermediate station, the excess load may be removed from the wagon even if no surcharge is payable. Where necessary the consignor or, if the contract of carriage has been modified in accordance with Article 31, the consignee shall be asked without delay to give instructions concerning the excess load.
2. Without prejudice to the payment of surcharges under Article 24, the excess load shall be charged for the distance covered in accordance with the carriage charges applicable to the main load. If the excess load is unloaded, the charge for unloading shall be determined by the tariffs of the railway which carries out the unloading.

If the person entitled directs that the excess load be forwarded to the same destination station as the main load or to another destination station, or directs that it be returned to the forwarding station, the excess load shall be treated as a separate consignment.

Article 24 Surcharges
1. Without prejudice to the railway's entitlement to the difference in carriage charges and to compensation for any possible loss or damage, the railway may impose –

(a) a surcharge equal to one unit of account per kilogram of gross mass of the whole package:
    (i) in the case of irregular, incorrect or incomplete description of substances and articles not acceptable for carriage under the RID;

(ii) in the case of irregular, incorrect or incomplete description of substances and articles which under the RID are acceptable for carriage subject to conditions, or in the case of failure to observe such conditions;

(b) a surcharge equal to five units of account per 100 kilograms of mass in excess of the load limit, where the wagon has been loaded by the consignor;

(c) a surcharge equal to twice the difference:

(i) between the carriage charge which should have been payable from the forwarding station to the destination station and that which had been charged, in the case of irregular, incorrect or incomplete description of goods other than those referred to in (a), or in general where the description of the consignment would enable it to be carried at a lower tariff than the one that is actually applicable;

(ii) between the carriage charge for the mass declared and that for the ascertained mass, where the mass declared is less than the real mass.

When a consignment is composed of goods charged at different rates and their mass can be separately determined without difficulty, the surcharge shall be calculated on the basis of the rates respectively applicable to such goods if this method of calculation results in a lower surcharge.

2. Should there be both an under-declaration of mass and overloading in respect of one and the same wagon, the surcharges payable in respect thereof shall be cumulative.

3. The surcharges shall be charged against the goods irrespective of the place where the facts giving rise to the surcharges were established.

4. The amount of the surcharges and the reason for imposing them must be entered in the consignment note.

5. No surcharge shall be due in the case of:

(a) an incorrect declaration of mass, if the railway is bound to weigh the goods under the provisions in force at the forwarding station;

(b) an incorrect declaration of mass, or overloading, if the consignor has requested in the consignment note that the railway should weigh the goods;

(c) overloading arising in the course of carriage from atmospheric conditions if it is proved that the load on the wagon did not exceed the load limit when it was consigned;

(d) an increase in mass during carriage, without overloading, if it is proved that the increase was due to atmospheric conditions;

(e) an incorrect declaration of mass, without overloading, if the difference between the mass indicated in the consignment note and the ascertained mass does not exceed three per cent of the declared mass;

(f) overloading of a wagon when the railway has neither published nor informed the consignor of the load limit in a way which would enable him to observe it.

Article 25 Documents for completion of administrative formalities, custom seals

1. The consignor must attach to the consignment note the documents necessary for the completion of formalities required by customs or other administrative authorities before delivery of the goods. Such documents shall relate only to goods which are the subject of one and the same consignment note, unless otherwise provided by the requirements of Customs or of other administrative authorities or by the tariffs.

However, when these documents are not attached to the consignment note or if they are to be provided by the consignee, the consignor shall indicate in the consignment note the station, the Customs office or the office of any other authority where the respective documents will be made

available to the railway and where the formalities must be completed. If the consignor will himself be present or be represented by an agent when the formalities required by Customs or other administrative authorities are carried out, it will suffice for the documents to be produced at the time when those formalities are carried out.
2. The railway shall not be obliged to check whether the documents furnished are sufficient and correct.
3. The consignor shall be liable to the railway for any loss or damage resulting from the absence or insufficiency of or any irregularity in such documents, save in the case of fault by the railway. The railway shall, where it is at fault, be liable for any consequences arising from the loss, non-use or misuse of the documents referred to in the consignment note and accompanying it or deposited with the railway; nevertheless any compensation shall not exceed that payable in the event of loss of the goods.
4. The consignor must comply with the requirements of Customs or of other administrative authorities with respect to the packing and sheeting of the goods. If the consignor has not packed or sheeted the goods in accordance with those requirements the railway shall be entitled to do so; the resulting costs shall be charged against the goods.
5. The railway may refuse consignments when the seals affixed by Customs or other administrative authorities are damaged or defective.

Article 26 Completion of administrative formalities
1. In transit, the formalities required by customs or other administrative authorities shall be completed by the railway. The railway may, however, delegate that duty to an agent.
2. In completing such formalities, the railway shall be liable for any fault committed by itself or by its agent; nevertheless, any compensation shall not exceed that payable in the event of loss of the goods.
3. The consignor, by so indicating in the consignment note, or the consignee by giving orders as provided for in Article 31, may ask –

(a) to be present himself or to be represented by an agent when such formalities are carried out, for the purpose of furnishing any information or explanations required;
(b) to complete such formalities himself or to have them completed by an agent, in so far as the laws and regulations of the State in which they are to be carried out so permit;
(c) to pay Customs duties and other charges, when he or his agent is present at or completes such formalities, in so far as the laws and regulations of the State in which they are carried out permit such payment. Neither the consignor, nor the consignee who has the right of disposal, nor the agent of either may take possession of the goods.

4. If, for the completion of the formalities, the consignor designated a station where the provisions in force do not permit of their completion, or if he has stipulated for the purpose any other procedure which cannot be followed, the railway shall act in the manner which appears to it to be the most favourable to the interests of the person entitled and shall inform the consignor of the measures taken. If the consignor, by an entry in the consignment note, has undertaken to pay charges including Customs duty, the railway shall have the choice of completing Customs formalities either in transit or at the destination station.
5. Subject to the exception provided for in the second subparagraph §4, the consignee may complete Customs formalities at the destination station if that station has a Customs office and the consignment note requests Customs clearance on arrival, or, in the absence of such request, if the goods arrive under customs control. The consignee may also complete these formalities at a destination station that has no Customs officer if the national laws and regulations so permit or if the prior authority of the railway and the Customs authorities has been obtained. If the

consignee exercises any of these rights, he shall pay in advance the amounts chargeable against the goods. Nevertheless, the railway may proceed in accordance with §4 if the consignee has not taken possession of the consignment note within the period fixed by the provisions in force at the destination station.

Article 27 Transit periods

1. The transit periods shall be specified either by agreement between the railways participating in the carriage, or by the international tariffs applicable from the forwarding station to the destination station. For certain special types of traffic and on certain routes these periods may also be established on the basis of transport plans applicable between the railways concerned; in that case they must be included in international tariffs or special agreements which, where appropriate, may provide for derogations from §§3 to 9 below. Such periods shall not in any case exceed those which would result from the application of the following paragraphs.

2. In the absence of any indication in regard to the transit periods as provided for in §1, and subject to the following paras, the transit periods shall be as follows –

(a) for wagon-load consignments:
  (i) by *grande vitesse:*
    period for despatch 12 hours
    period for carriage, for each 400 km
    or fraction thereof 24 hours
  (ii) by *petite vitesse:*
    period for despatch 24 hours
    period for carriage, for each 300 km
    or fraction thereof 24 hours
(b) for less than wagon-load consignments:
  (i) by *grande vitesse:* period for despatch 12 hours period for carriage, for each 300 km or fraction thereof 24 hours
  (ii) by *petite vitesse:* period for despatch 24 hours period for carriage, for each 200 km or fraction thereof 24 hours

All these distances shall relate to the kilometric distances contained in the tariffs.

3. The period for carriage shall be calculated on the total distance between the forwarding station and the destination station, the period for despatch shall be counted only once, irrespective of the number of systems traversed.

4. The railway may fix additional transit periods of specified duration in the following cases –

(a) consignments handed in for carriage, or to be delivered, at places other than stations;
(b) consignments to be carried:
  (i) by a line or system not equipped to deal rapidly with consignments;
  (ii) by a junction line connecting two lines of the same system or of different systems;
  (iii) by a second line;
  (iv) by lines of different gauge;
  (v) by sea or inland navigable waterway;
  (vi) by road if there is no rail link;
(c) consignments charged at reduced rates in accordance with special or exceptional internal tariffs;
(d) exceptional circumstances causing an exceptional increase in traffic or exceptional operating difficulties.

5. The additional transit period provided for in §4 (a) to (c) shall be shown in the tariffs or in the provisions duly published in each State. Those provided for in §4 (d)must be published and may not come into force before their publication.
6. The transit period shall run from midnight next following acceptance of the goods for carriage. In the case, however, of traffic consigned *grande vitesse* the period shall start twenty-four hours later if the day which follows the day of acceptance for carriage is a Sunday or a statutory holiday and if the forwarding station is not open for *grande vitesse* traffic on that Sunday or statutory holiday.
7. Except in the case of any fault by the railway, the transit period shall be extended by the duration of the period necessitated by –

(a) verification or ascertainment in accordance with Article 21 and Article 22, §1, which reveals differences from the particulars shown in the consignment note;
(b) completion of the formalities required by Customs or other administrative authorities;
(c) modification of the contract of carriage under Article 30 or 31;
(d) special care to be given to the goods;
(e) the trans-shipment or reloading of any goods loaded defectively by the consignor;
(f) any interruption of traffic temporarily preventing the commencement or continuation of carriage.

The reason for and the duration of such extensions shall be entered in the consignment note. If necessary proof may be furnished by other means.
8. The transit period shall be suspended for –

(a) *petite vitesse*, on Sundays and statutory holidays;
(b) *grande vitesse*, on Sundays and certain statutory holidays when the provisions in force in any State provide for the suspension of domestic railway transit periods on those days;
(c) *grande vitesse* and *petite vitesse*, on Saturdays when the provisions in force in any State provide for the suspension of domestic railway transit periods on those days.

9. When the transit period ends after the time at which the destination station closes, the period shall be extended until two hours after the time at which the station next opens.

In addition, in the case of *grande vitesse* consignments, if the transit period ends on a Sunday or a holiday as defined in 8(b) the period shall be extended until the same time on the next working day.
10.The transit period is observed if, before its expiry –

(a) in cases where consignments are to be delivered at a station and notice of arrival must be given, such notice is given and the goods are held at the disposal of the consignee;
(b) in cases where consignments are to be delivered at a station and notice of arrival need not be given, the goods are held at the disposal of the consignee;
(c) in the case of consignments which are to be delivered at places other than stations, the goods are placed at the disposal of the consignee.

Article 28 Delivery

1. The railway shall hand over the consignment note and deliver the goods to the consignee at the destination station against a receipt and payment of the amounts chargeable to the consignee by the railway. Acceptance of the consignment note obliges the consignee to pay to the railway the amounts chargeable to him.
2. It shall be equivalent to delivery to the consignee if, in accordance with the provisions in force at the destination station –

(a) the goods have been handed over to Customs or Octroi authorities at their premises or warehouses, when these are not subject to railway supervision;
(b) the goods have been deposited for storage with the railway, with a forwarding agent or in a public warehouse.

3. The provisions in force at the destination station or the terms of any agreements with the consignee shall determine whether the railway is entitled or obliged to hand over the goods to the consignee elsewhere than at the destination station, whether in a private siding, at his domicile or in a railway depot. If the railway hands over the goods, or arranges for them to be handed over in a private siding, at his domicile or in a depot, delivery shall be deemed to have been effected at the time when they are so handed over. Save where the railway and the user of a private siding have agreed otherwise, operations carried out by the railway on behalf of and under the instructions of that user shall not be covered by the contract of carriage.
4. After the arrival of the goods at the destination station, the consignee may require the railway to hand over the consignment note and deliver the goods to him. If the loss of the goods is established or if the goods have not arrived on the expiry of the period provided for in Article 39, §1, the consignee may assert, in his own name, any rights against the railway which he may have acquired by reason of the contract of carriage.
5. The person entitled may refuse to accept the goods, even when he has received the consignment note and paid the charges, so long as an examination for which he has asked in order to establish alleged loss or damage has not been made.
6. In all other respects, delivery of goods shall be carried out in accordance with the provisions in force at the destination station.

Article 29 Correction of charges

1. In case of incorrect application of a tariff or of error in the calculation or collection of charges, overcharges shall be repaid by the railway and undercharges paid to the railway only if they exceed four units of account per consignment note. The repayment shall be made as a matter of course.
2. If the consignee has not taken possession of the consignment note the consignor shall be obliged to pay to the railway any amounts undercharged. When the consignment note has been accepted by the consignee or the contract of carriage modified in accordance with Article 31, the consignor shall be obliged to pay any undercharge only to the extent that it relates to the costs which he has undertaken to pay by an entry in the consignment note. Any balance of the undercharge shall be paid by the consignee.
3. Sums due under this Article shall bear interest at five per cent per annum from the day of receipt of the demand for payment or from the day of the claim referred to in Article 53 or, if there has been no such demand or claim, from the day on which legal proceedings are instituted.

If, within a reasonable period allotted to him, the person entitled does not submit to the railway the supporting documents required for the amount of the claim to be finally settled, no interest shall accrue between the expiry of the period laid down and the actual submission of such documents.

TITLE III

MODIFICATION OF THE CONTRACT OF CARRIAGE

Article 30 Modification by the consignor

1. The consignor may modify the contract of carriage by giving subsequent orders –

(a) for the goods to be withdrawn at the forwarding station;
(b) for the goods to be stopped in transit;
(c) for delivery of the goods to be delayed;
(d) for the goods to be delivered to a person other than the consignee shown in the consignment note;
(e) for the goods to be delivered at a station other than the destination station shown in the consignment note;
(f) for the goods to be returned to the forwarding station;
(g) for the consignment to be made subject to a cash on delivery payment;
(h) for a cash on delivery payment to be increased, reduced or cancelled;
(i) for charges relating to a consignment which has not been prepaid to be debited to him, or for charges which he has undertaken to pay in accordance with Article 15, §2 to be increased.

The tariffs of the forwarding railway may provide that orders specified in (g) to (i) are not acceptable.

The supplementary provisions or the international tariffs in force between the railways participating in the carriage may provide for the acceptance of orders other than those listed above.

Orders must not in any event have the effect of splitting the consignment.

2. Such orders shall be given to the forwarding station by means of a written declaration in the form laid down and published by the railway. The declaration shall be reproduced and signed by the consignor in the duplicate of the consignment note which shall be presented to the railway at the same time. The forwarding station shall certify that the order has been received by affixing its date stamp on the duplicate note below the declaration made by the consignor and the duplicate shall then be returned to him.

If the consignor asks for a cash on delivery payment to be increased, reduced or cancelled, he shall produce the document which was delivered to him. Where the cash on delivery payment is to be increased or reduced, such document shall be returned to the consignor after correction; in the event of cancellation it shall not be returned. Any order given in a form other than that prescribed shall be null and void.

3. If the railway complies with the consignor's orders without requiring the production of the duplicate, where this has been sent to the consignee, the railway shall be liable to the consignee for any loss or damage caused thereby. Nevertheless, any compensation shall not exceed that payable in the event of loss of the goods.

4. The consignor's right to modify the contract of carriage shall, notwithstanding that he is in possession of the duplicate of the consignment note, be extinguished in cases where the consignee –

(a) has taken possession of the consignment note;
(b) has accepted the goods;
(c) has asserted his rights in accordance with Article 28, §4;
(d) is entitled, in accordance with Article 31, to give orders as soon as the consignment had entered the Customs territory of the country of destination.

From that time onwards, the railway shall comply with the orders and instructions of the consignee.

Article 31 Modification by the consignee

1. When the consignor has not undertaken to pay the charges relating to carriage in the country of destination, and has not inserted in the consignment note the words –

'Consignee not authorised to give subsequent orders', the consignee may modify the contact of carriage by giving subsequent orders –

(a) for the goods to be stopped in transit;
(b) for delivery of the goods to be delayed;
(c) for the goods to be delivered in the country of destination to a person other than the consignee shown in the consignment note;
(d) for the goods to be delivered in the country of destination at a station other than the destination station shown in the consignment note, subject to contrary provisions in international tariffs;
(e) for formalities required by customs or other administrative authorities to be carried out in accordance with Article 26, §3.

The supplementary provisions or the international tariffs in force between the railways participating in the carriage may provide for the acceptance of orders other than those listed above.

Orders must not in any case have the effect of splitting the consignment, the consignee's orders shall only be effective after the consignment has entered the Customs territory of the country of destination.

2. Such orders shall be given either to the destination station or to the station of entry into the country of destination, by means of a written declaration in the form laid down and published by the railway. Any order given in a form other than that prescribed shall be null and void.

3. The consignee's right to modify the contract of carriage shall be extinguished in cases where he has –

(a) taken possession of the consignment note;
(b) accepted the goods;
(c) asserted his rights in accordance with Article 28, §4;
(d) designated a person in accordance with §1 (c) and that person has taken possession of the consignment note or asserted his rights in accordance with Article 28, §4.

4. If the consignee has given instructions for delivery of the goods to another person, that person shall not be entitled to modify the contract of carriage.

Article 32 Execution of subsequent orders

1. The railway may not refuse to execute orders given under Articles 30 or 31 or delay doing so save where –

(a) it is no longer possible to execute the orders by the time they reach the station responsible for doing so;
(b) compliance with the orders would interfere with normal railway operations;
(c) a change of destination station would contravene the laws and regulations of a State, and in particular the requirements of the Customs or of other administrative authorities;
(d) in the case of a change of destination station, the value of the goods will not, in the railway's view, cover all the charges which would be payable on the goods on arrival at the new destination, unless the amount of such charges is paid or guaranteed immediately.

The person who has given the orders shall be informed as soon as possible of any circumstances which prevent their execution. If the railway is not in a position to foresee such circumstances, the person who has given the orders shall be liable for all the consequences of starting to execute them.

2. The charges arising from the execution of an order, except those arising from any fault by the railway, shall be paid in accordance with Article 15.

3. Subject to §1, the railway shall, in the case of any fault on its part, be liable for the consequences of failure to execute an order or failure to execute it properly. Nevertheless, any compensation shall not exceed that payable in the event of loss of the goods.

Article 33 Circumstances preventing carriage

1. When circumstances prevent the carriage of goods, the railway shall decide whether it is preferable to carry the goods as a matter of course by modifying the route or whether it is advisable in the consignor's interest to ask him for instructions and at the same time give him any relevant information available to the railway. Save fault on its part, the railway may recover the carriage charges applicable to the route followed and shall be allowed the transit periods applicable to such route.
2. If it is impossible to continue carrying the goods, the railway shall ask the consignor for instructions. It shall not be obliged to do so in the event of carriage being temporarily prevented as a result of measures taken in accordance with Article 3, §4.
3. The consignor may enter in the consignment note instructions to cover the event of circumstances preventing carriage. If the railway considers that such instructions cannot be executed, it shall ask for fresh instructions.
4. The consignor, on being notified of circumstances preventing carriage, may give his instructions either to the forwarding station or to the station where the goods are being held. If those instructions change the consignee or the destination station or are given to the station where the goods are being held, the consignor must enter them in the duplicate of the consignment note and present this to the railway.
5. If the railway complies with the consignor's instructions without requiring the production of the duplicate, when this has been sent to the consignee, the railway shall be liable to the consignee for any loss or damage caused thereby. Nevertheless, any compensation shall not exceed that payable in the event of loss of the goods.
6. If the consignor, on being notified of a circumstance preventing carriage, fails to give within a reasonable time instructions which can be executed, the railway shall take action in accordance with the provisions relating to circumstances preventing delivery, in force at the place where the goods have been held up. If the goods have been sold, the proceeds of sale, less any amounts chargeable against the goods, shall be held at the disposal of the consignor. If the proceeds are less than those costs, the consignor shall pay the difference.
7. When the circumstances preventing carriage cease to obtain before the arrival of instructions from the consignor, the goods shall be forwarded to their destination without waiting for such instructions; the consignor shall be notified to that effect as soon as possible.
8. When the circumstances preventing carriage arise after the consignee has modified the contract of carriage in accordance with Article 31, the railway shall notify the consignee. §§ 2, 6, 7 and 9 shall apply analogously.
9. Save fault on its part, the railway may raise demurrage or standage charges if circumstances prevent carriage.
10. Article 32 shall apply to carriage undertaken in accordance with Article 33.

Article 34 Circumstances preventing delivery

1. When circumstances prevent delivery of the goods, the destination station shall without delay notify the consignor through the forwarding station, and ask for his instructions. The consignor shall be notified direct, either in writing, by telegram or by teleprinter, if he has so requested in the consignment note; the costs of such notification shall be charged against the goods.

2. If the circumstances preventing delivery cease to obtain before the arrival at the destination station of instructions from the consignor the goods shall be delivered to the consignee. The consignor shall be notified without delay by registered letter; the costs of such notification shall be charged against the goods.
3. If the consignee refuses the goods, the consignor shall be entitled to give instructions even if he is unable to produce the duplicate of the consignment note.
4. The consignor may also request, by an entry in the consignment note, that the goods be returned to him as a matter of course in the event of circumstances preventing delivery. Unless such request is made, his express consent is required.
5. Unless the tariffs otherwise provide, the consignor's instructions shall be given through the forwarding station.
6. Except as otherwise provided for above, the railway responsible for delivery shall proceed in accordance with the provisions in force at the place of delivery. If the goods have been sold, the proceeds of sale, less any costs chargeable against the goods, shall be held at the disposal of the consignor. If such proceeds are less than those costs, the consignor shall pay the difference.
7. When the circumstances preventing delivery arise after the consignee has modified the contract of carriage in accordance with Article 31, the railway shall notify the consignee. §§ 1, 2 and 6 shall apply analogously.
8. Article 32 shall apply to carriage undertaken in accordance with Article 34.

TITLE IV

LIABILITY

Article 35 Collective responsibility of railways
1. The railway which has accepted goods for carriage with the consignment note shall be responsible for the carriage over the entire route up to delivery.
2. Each succeeding railway, by the very act of taking over the goods with the consignment note, shall become a party to the contract of carriage in accordance with the terms of that document and shall assume the obligations arising therefrom, without prejudice to the provisions of Article 55, §3, relating to the railway of destination.

Article 36 Extent of liability
1. The railway shall be liable for loss or damage resulting from the total or partial loss of, or damage to, the goods between the time of acceptance for carriage and the time of delivery and for the loss or damage resulting from the transit period being exceeded.
2. The railway shall be relieved of such liability if the loss or damage or the exceeding of the transit period was caused by a fault on the part of the person entitled, by an order given by the person entitled other than as a result of a fault on the part of the railway, by inherent vice of the goods (decay, wastage, etc) or by circumstances which the railway could not avoid and the consequences of which it was unable to prevent.
3. The railways shall be relieved of such liability when the loss or damage arises from the special risks inherent in one or more of the following circumstances –

(a) carriage in open wagons under the conditions applicable thereto or under an agreement made between the consignor and the railway and referred to in the consignment note;
(b) absence or inadequacy of packing in the case of goods which by their nature are liable to loss or damage when not packed or when not properly packed;

(c) loading operations carried out by the consignor or unloading operations carried out by the consignee under the provisions applicable thereto or under an agreement made between the consignor and the railway and referred to in the consignment note, or under an agreement between the consignee and the railway;
(d) defective loading, when loading has been carried out by the consignor under the provisions applicable thereto or under an agreement made between the consignor and the railway and referred to in the consignment note;
(e) completion by the consignor, the consignee or an agent of either, of the formalities required by Customs or other administrative authorities;
(f) the nature of certain goods which renders them inherently liable to total or partial loss or damage, especially through breakage, rust, interior and spontaneous decay, desiccation or wastage;
(g) irregular, incorrect or incomplete description of articles not acceptable for carriage or acceptable subject to conditions, or failure on the part of the consignor to observe the prescribed precautions in respect of articles acceptable subject to conditions;
(h) carriage of live animals;
(i) carriage which, under the provisions applicable or under an agreement made between the consignor and the railway and referred to in the consignment note, must be accompanied by an attendant, if the loss or damage results from any risk which the attendant was intended to avert.

Article 37 Burden of proof

1. The burden of proving that the loss, the damage or the exceeding of the transit period was due to one of the causes specified in Article 36, §2 shall rest upon the railway.
2. When the railway establishes that, having regard to the circumstances of a particular case, the loss or damage could have arisen from one or more of the special risks referred to in Article 36, §3, it shall be presumed that it did so arise. The person entitled shall, however, have the right to prove that the loss or damage was not attributable either wholly or partly to one of those risks. This presumption shall not apply in the case referred to in Article 36, §3 (a) if an abnormally large quantity has been lost or if a package has been lost.

Article 38 Presumption in case of reconsignment

1. When a consignment despatched in accordance with the Uniform rules has been reconsigned subject to the same rules and partial loss or damage has been ascertained after the reconsignment, it shall be presumed that it occurred during the latest contract of carriage if the consignment remained in the care of the railway and was reconsigned in the same condition as it arrived at the station from which it was reconsigned.
2. This presumption shall also apply when the contract of carriage prior to the reconsignment was not subject to the Uniform Rules, if the rules would have applied in the case of a through consignment from the original forwarding station to the final destination station.

Article 39 Presumption of loss of goods

1. The person entitled may, without being required to furnish further proof, consider the goods lost when they have not been delivered to the consignee or are not being held at his disposal within thirty days after the expiry of the transit periods.
2. The person entitled may, on compensation for the lost goods, make a written request to be notified without delay should the goods be recovered within one year after the payment of compensation. The railway shall give a written acknowledgement of such request.

3. Within thirty days after receipt of such notification, the person entitled may require the goods to be delivered to him at any station on the route. In that case he shall pay the charges in respect of carriage from the forwarding station to the station where delivery is effected and shall refund the compensation received, less any costs which may have been included therein. Nevertheless he shall retain his rights to claim compensation for exceeding the transit period provided for in Articles 43 and 46.
4. In the absence of the request mentioned in §2 or of any instructions given within the period specified in §3, or if the goods are recovered more than one year after the payment of compensation, the railway shall dispose of them in accordance with the laws and regulations of the State having jurisdiction over the railway.

Article 40 Compensation for loss
1. In the event of total or partial loss of the goods the railway must pay, to the exclusion of all other damages, compensation calculated according to the commodity exchange quotation or, if there is no such quotation, according to the current market price, or if there is neither such quotation nor such price, according to the normal value of goods of the same kind and quality at the time and place at which the goods were accepted for carriage.
2. Compensation shall not exceed 17 units of account per kilogram of gross mass short, subject to the limit provided for in Article 45.
3. The railway shall in addition refund carriage charges, Customs duties and other amounts incurred in connection with carriage of the lost goods.
4. When the calculation of compensation requires the conversion of amounts expressed in foreign currencies, conversion shall be at the rate of exchange applicable at the time and place of payment of compensation.

Article 41 Liability for wastage in transit
1. In respect of goods which, by reason of their nature, are generally subject to wastage in transit by the sole fact of carriage, the railway shall only be liable to the extent that the wastage exceeds the following allowances, whatever the length of the route –

(a) two per cent of the mass for liquid goods or goods consigned in a moist condition, and also for the following goods:

Bark	Leather
Bones, whole or ground	Liquorice root
Coal and coke	Mushrooms, fresh
Dye-woods, grated or ground	Peat and turf
Fats	Putty or mastic, fresh
Fish, dried	Roots
Fruit, fresh, dried or cooked	Salt
Furs	Sinews, animal
Hide cuttings	Soap and solidified oils
Hides	Tobacco, cut
Hog bristles	Tobacco leaves, fresh
Hops	Vegetables, fresh
Horns and hooves	Wool
Horsehair	

(b) one per cent of the weight for all other dry goods.

2. The limitation of liability provided for in §1 may not be invoked if, having regard to the circumstances of a particular case, it is proved that the loss was not due to cause which would justify an allowance.

3. Where several packages are carried under a single consignment note, the wastage in transit shall be calculated separately for each package if its mass on despatch is shown separately in the consignment note or can otherwise be ascertained.
4. In the event of total loss of the goods, no deduction for wastage in transit shall be made in calculating the compensation payable.
5. This Article shall not derogate from Articles 36 and 37.

Article 42 Compensation for damage
1. In case of damage to goods, the railway must pay compensation equivalent to the loss in value of the goods, to the exclusion of all other damages. The amount shall be calculated by applying to the value of the goods as defined in Article 40 the percentage of loss in value noted at the place of destination.
2. The compensation may not exceed –
   (a) if the whole consignment has lost value through damage, the amount which would have been payable in case of total loss;
   (b) if only part of the consignment has lost value through damage, the amount which would have been payable had that part been lost.
3. The railway shall in addition refund the amounts provided for in Article 40, §3, in the proportion set out in §1.

Article 43 Compensation for exceeding the transit period
1. If loss or damage has resulted from the transit period being exceeded, the railway shall pay compensation not exceeding three times the carriage charger.
2. In case of total loss of the goods, the compensation provided for in §1 shall not be payable in addition to that provided for in Article 40.
3. In case of partial loss of the goods, the compensation provided for in §1 shall not exceed three times the carriage charges in respect of that part of the consignment which has not been lost.
4. In case of damage to the goods, not resulting from the transit period being exceeded, the compensation provided for in §1 shall, where appropriate, be payable in addition to that provided for in Article 42.
5. In no case shall the total of compensation payable under §1 together with that payable under Articles 40 and 42 exceed the compensation which would be payable in the event of total loss of the goods.
6. The railway may provide, in international tariffs or in special agreements for other forms of compensation than those provided for in §1 when, in accordance with Article 27, §1, the transit period has been established on the basis of transport plans. If, in this case, the transit periods provided for in Article 27, §2 are exceeded, the person entitled may demand either the compensation provided for in §1 above or that determined by the international tariff or the special agreement applied.

Article 44 Compensation in case of wilful misconduct or gross negligence
When the loss, damage or exceeding of the transit period, or the failure to perform or failure to perform properly the railway's additional services provided for in the Uniform Rules, has been caused by wilful misconduct or gross negligence on the part of the railway, full compensation for the loss or damage proved shall be paid to the person entitled by the railway.
In case of gross negligence, liability shall, however, be limited to twice the maxima specified in Articles 25, 26, 30, 32, 33, 40, 42, 43, 45 and 46.

Article 45 Limitation of compensation under certain tariffs
When the railway agrees to special conditions of carriage through special or exceptional tariffs, involving a reduction in the carriage charge calculated on the basis of the general tariffs, it may limit the amount of compensation payable to the person entitled in the event of loss, damage or exceeding of the transit period, provided that such limit is indicated in the tariff.
When the special conditions of carriage apply only to part of the route, the limit may only be invoked if the event giving rise to the compensation occurred on that part of the route.

Article 46 Compensation in case of interest in delivery
In case of a declaration of interest in delivery, further compensation for loss or damage proved may be claimed, in addition to the compensation provided for in Articles 40, 42, 43 and 45, up to the amount declared.

Article 47 Interest on compensation
1. The person entitled may claim interest on compensation payable, calculated at five per cent per annum, from the date of the claim referred to in Article 53 or, if no such claim has been made, from the day on which legal proceedings are instituted.
2. Interest shall only be payable if the compensation exceeds four units of account per consignment note.
3. If, within a reasonable period allotted to him, the person entitled does not submit to the railway the supporting documents required for the amount of the claim to be finally settled, no interest shall accrue between the expiry of the period laid down and the actual submission of such documents.

Article 48 Liability in respect of rail-sea traffic
1. In rail-sea transport by the services referred to in Article 2, §2 of the Convention each State may, by requesting that a suitable note be included in the list of lines or services to which the Uniform Rules apply, indicate that the following grounds for exemption from liability will apply in their entirety in addition to those provided for in Article 36. The carrier may only avail himself of these grounds for exemption if he proves that the loss, damage or exceeding of the transit period occurred in the course of the sea journey between the time when the goods were loaded on board the ship and the time when they were discharged from the ship. The grounds for exemption are as follows –

(a) act, neglect or default on the part of the master, a mariner, pilot or the carrier's servants in the navigation or management of the ship;
(b) unseaworthiness of the ship, if the carrier proves that the unseaworthiness is not attributable to lack of due diligence on his part to make the ship seaworthy, to ensure that it is properly manned, equipped and supplied or to make all parts of the ship in which the goods are loaded fit and safe for their reception, carriage and protection;
(c) fire, if the carrier proves that it was not caused by his act or fault, or that of the master, a mariner, pilot or the carrier's servants;
(d) perils, dangers and accidents of the sea or the navigable waters;
(e) saving or attempting to save life or property at sea;
(f) the loading of goods on the deck of the ship, if they are so loaded with the consent of the consignor given in the consignment note and are not in wagons.

The above grounds for exemption in no way affect the general obligations of the carrier and, in particular, his obligation to exercise due diligence to make the ship seaworthy, to ensure that it is properly manned, equipped and supplied and to make all parts of the ship in which the goods are loaded fit and safe for their reception, carriage and protection. Even when the carrier can rely

on the foregoing grounds for exemption, he shall nevertheless remain liable if the person entitled proves that the loss, damage or exceeding of the transit period is due to a fault of the carrier, the master, a mariner, pilot or the carrier's servants, fault other than provided for under (a).

2. Where one and the same sea route is served by several undertakings included in the list referred to in Articles 3 and 10 of the Convention, the regime of liability applicable to that route shall be the same for all those undertakings.

In addition, where such undertakings have been included in the list at the request of several States, the adoption of this regime shall be the subject of prior agreement between those states.

3. The measures taken under this Article shall be notified to the Central Office. They shall come into force at the earliest at the expiry of a period of thirty days from the date of the letter by which the Central Office notifies them to the other states.

Consignments already in transit shall not be affected by such measures.

Article 49 Liability in case of nuclear incidents

The railway shall be relieved of liability under the Uniform Rules for less or damage caused by a nuclear incident when the operator of a nuclear installation or another person who is substituted for him is liable for the loss or damage pursuant to a State's laws and regulations governing liability in the field of nuclear energy.

Article 50 Liability of the railway for its servants

The railway shall be liable for its servants and for any other persons whom it employs to perform the carriage. If, however, such servants and other persons, at the request of an interested party, make out consignment notes, make translations or render other services which the railway itself is under no obligation to render, they shall be deemed to be acting on behalf of the person to whom the services are rendered.

Article 51 Other actions

In all cases to which the Uniform Rules apply, any action in respect of liability on any grounds whatsoever may be brought against the railway only subject to the conditions and limitations laid down in the Rules. The same shall apply to any action brought against those servants and other persons for whom the railway is liable under Article 50.

TITLE V

ASSERTION OF RIGHTS

Article 52 Ascertainment of partial loss or damage

1. When partial loss of, or damage to, goods is discovered or presumed by the railway or alleged by the person entitled, the railway must without delay, and if possible in the presence of the person entitled, draw up a report stating, according to the nature of the loss or damage, the condition of the goods, their mass and, as far as possible, the extent of the loss or damage, its cause and the time of its occurrence. A copy of the report must be supplied free of charge to the person entitled.

2. Should the person entitled not accept the findings in the report, he may request that the condition and mass of the goods and the cause and amount of the loss or damage be ascertained by an expert appointed either by the parties or by a court. The procedure to be followed shall be governed by the laws and regulations in the State in which such ascertainment takes place.

Article 53 Claims

1. Claims relating to the contract of carriage shall be made in writing to the railway specified in Article 55.
2. A claim may be made by persons who have the right to bring an action against the railway under Article 54.
3. To make the claim, the consignor must produce the duplicate of the consignment note. Failing this, he must produce an authorisation from the consignee or furnish proof that the consignee has refused to accept the consignment. To make the claim, the consignee must produce the consignment note if it has been handed over to him.
4. The consignment note, the duplicate and any other documents which the person entitled thinks fit to submit with the claim shall be produced either in the original or as copies, the copies to be duly authenticated if the railway so requires. On settlement of the claim, the railway may require the production, in the original form, of the consignment note, the duplicate or the cash on delivery voucher so that they may be endorsed to the effect that settlement has been made.

Article 54 Persons who may bring an action against the railway

1. An action for the recovery of a sum paid under the contract of carriage may only be brought by the person who made the payment.
2. An action in respect of the cash on delivery payments provided for in Article 17 may only be brought by the consignor.
3. Other actions arising from the contract of carriage may be brought –
   (a) by the consignor, until such time as the consignee has:
      (i) taken possession of the consignment note;
      (ii) accepted the goods; or
      (iii) asserted his rights under Article 28, §4 or Article 31;
   (b) by the consignee, from the time when he has:
      (i) taken possession of the consignment note;
      (ii) accepted the goods;
      (iii) asserted his rights under Article 28, §4; or
      (iv) asserted his rights under Article 31 provided that the right of action shall be extinguished from the time when the person designated by the consignee in accordance with Article 31, §1 (c) has taken possession of the consignment note, accepted the goods, or asserted his rights under Article 28, §4.
4. In order to bring an action, the consignor must produce the duplicate of the consignment note. Failing this, in order to bring an action under §3 (a) he must produce an authorisation from the consignee or furnish proof that the consignee has refused to accept the consignment. In order to bring an action, the consignee shall produce the consignment note if it has been handed over to him.

Article 55 Railways against which an action may be brought

1. An action for the recovery of a sum paid under the contract of carriage may be brought against the railway which has collected that sum or against the railway on whose behalf it was collected.
2. An action in respect of the cash on delivery payments provided for in Article 17 may only be brought against the forwarding railway.
3. Other actions arising from the contact of carriage may be brought against the forwarding railway, the railway of destination or the railway on which the event giving rise to the

proceedings occurred. Such actions may be brought against the railway of destination even if it has received neither the goods nor the consignment note.
4. If the plaintiff can choose between several railways, his right to choose shall be extinguished as soon as he brings an action against any one of them.
5. An action may be brought against a railway other than those specified in §§1, 2 and 3 when instituted by way of counterclaim or by way of exception to the principal claim based on the same contract of carriage.

Article 56 Competence
Actions brought under the Uniform Rules may only be instituted in the competent court of the State having jurisdiction over the defendant railway, unless otherwise provided in agreements between States or in acts of concession. When a railway operates independent railway systems in different States, each system shall be regarded as a separate railway for the purposes of this Article.

Article 57 Extinction of right of action against the railway
1. Acceptance of the goods by the person entitled shall extinguish all rights of action against the railway arising from the contract in case of partial loss, damage or exceeding of the transit period.
2. Nevertheless, the right of action shall not be extinguished –
- (a) in the case of partial loss or of damage, if:
  - (i) the loss or damage was ascertained before the acceptance of the goods in accordance with Article 52 by the person entitled;
  - (ii) the ascertainment which should have been carried out under Article 52 was omitted solely through the fault of the railway;
- (b) in the case of loss or damage which is not apparent and is not ascertained until after acceptance of the goods by the person entitled, provided that he:
  - (i) asks for ascertainment in accordance with Article 52 immediately after discovery of the loss or damage and not later than seven days after the acceptance of the goods;
  - (ii) and, in addition, proves that the loss or damage occurred between the time of acceptance for carriage and the time of delivery;
- (c) in cases where the transit period has been exceeded, if the person entitled has, within sixty days, asserted his rights against one of the railways referred to in Article 55, §3;
- (d) if the person entitled furnishes proof that the loss or damage was caused by wilful misconduct or gross negligence on the part of the railway.

3. If the goods have been reconsigned in accordance with Article 38, §1 rights of action in case of partial loss or of damage, arising from one of the previous contracts of carriage, shall be extinguished as if there had been only one contract of carriage.

Article 58 Limitation of action
1. The period of limitation for an action arising from the contract of carriage shall be one year. Nevertheless, the period of limitation shall be two years in the case of an action –
- (a) to recover a cash on delivery payment collected by the railway from the consignee;
- (b) to recover the proceeds of a sale affected by the railway;
- (c) for loss or damage caused by wilful misconduct;
- (d) for fraud;
- (e) arising from one of the contracts of carriage prior to the reconsignment in the case provided for in Article 38, §1.

2. The period of limitation shall run –

(a) in actions for compensation for total loss, from the thirtieth day after the expiry of the transit period;

(b) in actions for compensation for partial loss, for damage or for exceeding the transit period, from the day when delivery took place;

(c) in actions for payment or refund of carriage charges, supplementary charges, other charges or surcharges, or for correction of charges in case of a tariff being wrongly applied or of an error in calculation or collection:

(i) if payment has been made, from the day of payment;

(ii) if payment has not been made, from the day when the goods were accepted for carriage if payment is due from the consignor, or from the day when the consignee took possession of the consignment note if payment is due from him;

(iii) in the case of sums to be paid under a charge note, from the day on which the railway submits to the consignor the account of charges provided for in Article 15, §7; if no such account has been submitted, the period in respect of sums due to the railway shall run from the thirtieth day following the expiry of the transit period;

(d) in an action by the railway for recovery of a sum which has been paid by the consignee instead of by the consignor or vice versa and which the railway is required to refund to the person entitled, from the day of the claim for a refund;

(e) in actions relating to cash on delivery as provided for in Article 17, from the thirtieth day following the expiry of the transit period;

(f) in actions to recover the proceeds of a sale, from the day of the sale;

(g) in actions to recover additional duty demanded by Customs or other administrative authorities, from the day of the demand made by such authorities;

(h) in all other cases, from the day when the right of action arises.

The day indicated for the commencement of the period of limitation shall not be included in the period.

3. When a claim is presented to a railway in accordance with Article 53 together with the necessary supporting documents, the period of limitation shall be suspended until the day that the railway rejects the claim by notification in writing and returns the documents. If part of the claim is admitted, the period of limitation shall recommence in respect of that part of the claim still in dispute. The burden of proof of receipt of the claim or of the reply and of the return of the documents shall rest on the party who relies on those facts. The period of limitation shall not be suspended by further claims having the same object.

4. A right of action which has become time-barred may not be exercised by way of counter claim or relied upon by way of exception.

5. Subject to the foregoing provisions, the suspension and interruption of periods of limitation shall be governed by national law.

TITLE VI

RELATIONS BETWEEN RAILWAYS

Article 59 Settlement of accounts between railways

1. Any railway which has collected, either at the time of forwarding or on arrival, charges or other sums due under the contract of carriage must pay to the railways concerned their respective shares.

The methods of payment shall be settled by agreements between railways.

2. Subject to its rights of recovery against the consignor, the forwarding railway shall be liable for carriage and other charges which it has failed to collect when the consignor has undertaken to pay them in accordance with Article 15.
3. Should the railway of destination deliver the goods without collecting charges or other sums due under the contract of carriage, it shall be liable for them to the railways which have taken part in the carriage and to the other parties concerned.
4. Should one railway default in payment and such default be confirmed by the Central Office at the request of one of the creditor railways, the consequences thereof shall be borne by all the other railways which have taken part in the carriage in proportion to their shares of the carriage charges. The right of recovery against the defaulting railway shall not be affected.

Article 60 Recourse in case of loss or damage
1. A railway which has paid compensation in accordance with the Uniform Rules, for total or partial loss or for damage, has a right of recourse against the other railways which have taken part in the carriage in accordance with the following provision –
(a) the railway which has caused the loss or damage shall be solely liable for it;
(b) when the loss or damage has been caused by more than one railway, each shall be liable for the loss or damage it has caused; if such distinction cannot be made, the compensation shall be apportioned between those railways in accordance with (c);
(c) if it cannot be proved that the loss or damage has been caused by one or more railways in particular, the compensation shall be apportioned between all the railways which have taken part in the carriage, except those which can prove that the loss or damage was not caused on their lines; such apportionment shall be in proportion to the kilometric distances contained in the tariffs.
2. In the case of the insolvency of any one of the railways, the unpaid share due from it shall be apportioned among all the other railways which have taken part in the carriage, in proportion to the kilometric distances contained in the tariffs.

Article 61 Recourse in case of exceeding the transit period
1. Article 60 shall apply where compensation is paid for exceeding the transit period. If this has been caused by more than one railway, the compensation shall be apportioned between such railways in proportion to the length of the delay occurring on their respective lines.
2. The transit periods specified in Article 27 shall be apportioned in the following manner –
(a) where two railways have taken part in the carriage;
(i) the period for despatch shall be divided equally;
(ii) the period for transport shall be divided in proportion to the kilometric distances contained in the tariffs;
(b) where three or more railways have taken part in the carriage:
(i) the period for despatch shall be divided equally between the forwarding railway and the railway of destination;
(ii) the period for transport shall be divided between all the railways:
– one third in equal shares,
– the remaining two thirds in proportion to the kilometric distances contained in the tariffs.
3. Any additional periods to which a railway may be entitled shall be allocated to that railway.
4. The interval between the time when the goods are handed over to the railway and commencement of the period for despatch shall be allocated exclusively to the forwarding railway.
5. Such apportionment shall only apply if the total transit period has been exceeded.

Article 62 Procedure for recourse

1. The validity of the payment made by the railway exercising one of the rights of recourse under Articles 60 and 61 may not be disputed by the railway against which the right of recourse is exercised, when compensation has been determined by a court and when the latter railway duly served with notice, has been afforded an opportunity to intervene in the proceedings. The court seised of the main proceedings shall determine what time shall be allowed for such notification and for intervention in the proceedings.
2. A railway exercising its right of recourse must take proceedings by one and the same action against all the railways concerned with which it has not reached a settlement, failing which it shall lose its right of recourse in the case of those against which it has not taken proceedings.
3. The court shall give its decision in one and the same judgment on all recourse claims brought before it.
4. The railways against which such action has been brought shall have no further right of recourse.
5. Recourse proceedings may not be joined with proceedings for compensation taken by the person entitled on the basis of the contract of carriage.

Article 63 Competence for recourse

1. The courts of the country in which the railway against which the recourse claim has been made, has its headquarters shall have exclusive competence for all recourse claims.
2. When the action is to be brought against several railways, the plaintiff railway shall be entitled to choose the court in which it will bring the proceedings from among those having competence under §1.

Article 64 Agreements concerning recourse

By agreement, railways may derogate from the provisions concerning reciprocal rights of recourse set out in Title VI, apart from that contained in Article 62, §5.

Articles 65–66 [Omitted].

UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS, VIENNA, 1980

PART I

SPHERE OF APPLICATION AND GENERAL PROVISIONS

CHAPTER I

SPHERE OF APPLICATION

Article 1

1. This Convention applies to contracts of sale of goods between parties whose places of business are in different States –
   (a) when the States are Contracting States; or
   (b) when the rules of private international law lead to the application of the law of a Contracting State.

2. The fact that the parties have their places of business in different States is to be disregarded whenever this fact does not appear either from the contract or from any dealings between, or from information disclosed by, the parties at any time before or at the conclusion of the contract.
3. Neither the nationality of the parties nor the civil or commercial character of the parties or of the contract is to be taken into consideration in determining the application of this Convention.

Article 2

This Convention does not apply to sales –

(a) of goods bought for personal, family or household use, unless the seller, at any time before or at the conclusion of the contract, neither knew nor ought to have known that the goods were bought for any such use;
(b) by auction;
(c) on execution or otherwise by authority of law;
(d) of stocks, shares, investment securities, negotiable instruments or money;
(e) of ships, vessels, hovercraft or aircraft;
(f) of electricity.

Article 3

1. Contracts for the supply of goods to be manufactured or produced are to be considered sales unless the party who orders the goods undertakes to supply a substantial part of the materials necessary for such manufacture or production.
2. This Convention does not apply to contracts in which the preponderant part of the obligation of the party who furnishes the goods consists in the supply of labour or other services.

Article 4

This Convention governs only the formation of the contract of sale and the rights and obligations of the seller and the buyer arising from such a contract. In particular, except as otherwise expressly provided in this Convention, it is not concerned with –

(a) the validity of the contract or of any of its provisions or of any usage;
(b) the effect which the contract may have on the property in the goods sold.

Article 5

This Convention does not apply to the liability of the seller for death or personal injury caused by the goods to any person.

Article 6

The parties may exclude the application of this Convention or, subject to Article 12, derogate from or vary the effect of any of its provisions.

CHAPTER II

GENERAL PROVISIONS

Article 7

1. In the interpretation of this Convention, regard is to be had to its international character and to the need to promote uniformity in its application and the observance of good faith in international trade.

2. Questions concerning matters governed by this Convention which are not expressly settled in it are to be settled in conformity with the general principles on which it is based or, in the absence of such principles, in conformity with the law applicable by virtue of the rules of private international law.

Article 8

1. For the purposes of this Convention statements made by and other conduct of a party are to be interpreted according to his intent where the other party knew or could not have been unaware what that intent was.
2. If the preceding paragraph is not applicable, statements made by and other conduct of a party are to be interpreted according to the understanding that a reasonable person of the same kind as the other party would have had in the same circumstances.
3. In determining the intent of a party or the understanding a reasonable person would have had, due consideration is to be given to all relevant circumstances of the case including the negotiations, any practices which the parties have established between themselves, usages and any subsequent conduct of the parties.

Article 9

1. The parties are bound by any usage to which they have agreed and by any practices which they have established between themselves.
2. The parties are considered, unless otherwise agreed, to have impliedly made applicable to their contract or its formation a usage of which the parties knew or ought to have known and which in international trade is widely known to, and regularly observed by, parties to contracts of the type involved in the particular trade concerned.

Article 10

For the purposes of this Convention –

(a) if a party has more than one place of business, the place of business is that which has the closest relationship to the contract and its performance, having regard to the circumstances known to or contemplated by the parties at any time before or at the conclusion of the contract;
(b) if a party does not have a place of business, reference is to be made to his habitual residence.

Article 11

A contract of sale need not be concluded in or evidenced by writing and is not subject to any other requirement as to form. It may be proved by any means, including witnesses.

Article 12

Any provision of Article II, Article 29 or Part II of this Convention that allows a contract of sale or its modification or termination by agreement or any offer, acceptance or other indication of intention to be made in any form other than in writing does not apply where any party has his place of business in a Contracting State which has made a declaration under Article 96 of this Convention. The parties may not derogate from or vary the effect of this Article.

Article 13

For the purposes of this Convention 'writing' includes telegram and telex.

PART II

FORMATION OF THE CONTRACT

Article 14

1. A proposal for concluding a contract addressed to one or more specific persons constitutes an offer if it is sufficiently definite and indicates the intention of the offeror to be bound in case of acceptance. A proposal is sufficiently definite if it indicates the goods and expressly or implicitly fixes or makes provision for determining the quantity and the price.
2. A proposal other than one addressed to one or more specific persons is to be considered merely as an invitation to make offers, unless the contrary is clearly indicated by the person making the proposal.

Article 15

1. An offer becomes effective when it reaches the offeree.
2. An offer, even if it is irrevocable, may be withdrawn if the withdrawal reaches the offeree before or at the same time as the offer.

Article 16

1. Until a contract is concluded an offer may be revoked if the revocation reaches the offeree before he has dispatched an acceptance.
2. However, an offer cannot be revoked –
   (a) if it indicates, whether by stating a fixed time for acceptance or otherwise, that it is irrevocable; or
   (b) if it was reasonable for the offeree to rely on the offer as being irrevocable and the offeree has acted in reliance on the offer.

Article 17

An offer, even if it is irrevocable, is terminated when a rejection reaches the offeror.

Article 18

1. A statement made by or other conduct of the offeree indicating assent to an offer is an acceptance. Silence or inactivity does not in itself amount to acceptance.
2. An acceptance of an offer becomes effective at the moment the indication of assent reaches the offeror. An acceptance is not effective if the indication of assent does not reach the offeror within the time he has fixed or, if no time is fixed, within a reasonable time, due account being taken of the circumstances of the transaction, including the rapidity of the means of communication employed by the offeror. An oral offer must be accepted immediately unless the circumstances indicate otherwise.
3. However, if, by virtue of the offer or as a result of practices which the parties have established between themselves or of usage, the offeree may indicate assent by performing an act, such as one relating to the dispatch of the goods or payment of the price, without notice to the offeror, the acceptance is effective at the moment the act is performed, provided that the act is performed within the period of time laid down in the preceding paragraph.

Article 19

1. A reply to an offer which purports to be an acceptance but contains additions, limitations or other modifications is a rejection of the offer and constitutes a counter-offer.
2. However, a reply to an offer which purports to be an acceptance but contains additional or different terms which do not materially alter the terms of the offer constitutes an acceptance,

unless the offeror, without undue delay, objects orally to the discrepancy or dispatches a notice to that effect. If he does not so object, the terms of the contract are the terms of the offer with the modifications contained in the acceptance.
3. Additional or different terms relating, among other things, to the price, payment, quality and quantity of the goods, place and time of delivery, extent of one party's liability to the other or the settlement of disputes are considered to alter the terms of the offer materially.

Article 20
1. A period of time for acceptance fixed by the offeror in a telegram or a letter begins to run from the moment the telegram is handed in for dispatch or from the date shown on the letter or, if no such date is shown, from the date shown on the envelope. A period of time for acceptance fixed by the offeror by telephone, telex or other means of instantaneous communication, begins to run from the moment that the offer reaches the offeree.
2. Official holidays or non-business days occurring during the period for acceptance are included in calculating the period. However, if a notice of acceptance cannot be delivered at the address of the offeror on the last day of the period because that day falls on an official holiday or a non-business day at the place of business of the offeror, the period is extended until the first business day which follows.

Article 21
1. A late acceptance is nevertheless effective as an acceptance if without delay the offeror orally so informs the offeree or dispatches a notice to that effect.
2. If a letter or other writing containing a late acceptance shows that it has been sent in such circumstances that if its transmission had been normal it would have reached the offeror in due time, the late acceptance is effective as an acceptance unless, without delay, the offeror orally informs the offeree that he considers his offer as having lapsed or dispatches a notice to that effect.

Article 22
An acceptance may be withdrawn if the withdrawal reaches the offeror before or at the same time as the acceptance would have become effective.

Article 23
A contract is concluded at the moment when an acceptance of an offer becomes effective in accordance with the provisions of this Convention.

Article 24
For the purposes of this Part of the Convention, an offer, declaration of acceptance or any other indication of intention 'reaches' the addressee when it is made orally to him or delivered by any other means to him personally, to his place of business or mailing address or, if he does not have a place of business or mailing address, to his habitual residence.

PART III

SALE OF GOODS

CHAPTER I

GENERAL PROVISIONS

Article 25
A breach of contract committed by one of the parties is fundamental if it results in such detriment to the other party as substantially to deprive him of what he is entitled to expect under the contract, unless the party in breach did not foresee and a reasonable person of the same kind in the same circumstances would not have foreseen such a result.

Article 26
A declaration of avoidance of the contract is effective only if made by notice to the other party.

Article 27
Unless otherwise expressly provided in this Part of the Convention, if any notice, request or other communication is given or made by a party in accordance with this Part and by means appropriate in the circumstances, a delay or error in the transmission of the communication or its failure to arrive does not deprive that party of the right to rely on the communication.

Article 28
If, in accordance with the provisions of this Convention, one party is entitled to require performance of any obligation by the other party, a court is not bound to enter a judgment for specific performance unless the court would do so under its own law in respect of similar contracts of sale not governed by this Convention.

Article 29
1. A contract may be modified or terminated by the mere agreement of the parties.
2. A contract in writing which contains a provision requiring any modification or termination by agreement to be in writing may not be otherwise modified or terminated by agreement. However, a party may be precluded by his conduct from asserting such a provision to the extent that the other party has relied on that conduct.

CHAPTER II

OBLIGATIONS OF THE SELLER

Article 30
The seller must deliver the goods, hand over any documents relating to them and transfer the property in the goods, as required by the contract and this Convention.

SECTION I – DELIVERY OF THE GOODS AND HANDING OVER OF DOCUMENTS.

Article 31
If the seller is not bound to deliver the goods at any other particular place, his obligation to deliver consists –

(a) if the contract of sale involves carriage of the goods – in handing the goods over to the first carrier for transmission to the buyer;

(b) if, in cases not within the preceding subpara, the contract relates to specific goods, or unidentified goods to be drawn from a specific stock or to be manufactured or produced, and at the time of the conclusion of the contract the parties knew that the goods were at, or were to be manufactured or produced at, a particular place – in placing the goods at the buyer's disposal at that place;
(c) in other cases – in placing the goods at the buyer's disposal at the place where the seller had his place of business at the time of the conclusion of the contract.

Article 32

1. If the seller, in accordance with the contract or this Convention, hands the goods over to a carrier and if the goods are not clearly identified to the contract by markings on the goods, by shipping documents or otherwise, the seller must give the buyer notice of the consignment specifying the goods.
2. If the seller is bound to arrange for carriage of the goods, he must make such contracts as are necessary for carriage to the place fixed by means of transportation appropriate in the circumstances and according to the usual terms for such transportation.
3. If the seller is not bound to effect insurance in respect of the carriage of the goods, he must, at the buyer's request, provide him with all available information necessary to enable him to effect such insurance.

Article 33

The seller must deliver the goods –

(a) if a date is fixed by or determinable from the contract, on that date;
(b) if a period of time is fixed by or determinable from the contract, at any time within that period unless circumstances indicate that the buyer is to choose a date; or
(c) in any other case, within a reasonable time after the conclusion of the contract.

Article 34

If the seller is bound to hand over documents relating to the goods, he must hand them over at the time and place and in the form required by the contract. If the seller has handed over documents before that time, he may, up to that time, cure any lack of conformity in the documents, if the exercise of this right does not cause the buyer unreasonable inconvenience or unreasonable expense. However, the buyer retains any right to claim damages as provided for in this Convention.

SECTION II – CONFORMITY OF THE GOODS AND THIRD PARTY CLAIMS

Article 35

1. The seller must deliver goods which are of the quantity, quality and description required by the contract and which are contained or packaged in the manner required by the contract.
2. Except where the parties have agreed otherwise, the goods do not conform with the contract unless they –

(a) are fit for the purposes for which goods of the same description would ordinarily be used;
(b) are fit for any particular purpose expressly or impliedly made known to the seller at the time of the conclusion of the contract, except where the circumstances show that the buyer did not rely, or that it was unreasonable for him to rely, on the seller's skill and judgment;

(c) possess the qualities of goods which the seller has held out to the buyer as a sample or model;
(d) are contained or packaged in the manner usual for such goods or, where there is no such manner, in a manner adequate to preserve and protect the goods.

3. The seller is not liable under subparagraphs (a) to (d) of the preceding paragraph for any lack of conformity of the goods if at the time of the conclusion of the contract the buyer knew or could not have been unaware of such lack of conformity.

Article 36

1. The seller is liable in accordance with the contract and this Convention for any lack of conformity which exists at the time when the risk passes to the buyer, even though the lack of conformity becomes apparent only after that time.
2. The seller is also liable for any lack of conformity which occurs after the time indicated in the preceding paragraph and which is due to a breach of any of his obligations, including a breach of any guarantee that for a period of time the goods will remain fit for their ordinary purpose or for some particular purpose or will retain specified qualities or characteristics.

Article 37

If the seller has delivered goods before the date for delivery, he may, up to that date, deliver any missing part or make up any deficiency in the quantity of the goods delivered, or deliver goods in replacement of any non-conforming goods delivered or remedy any lack of conformity in the goods delivered, provided that the exercise of this right does not cause the buyer unreasonable inconvenience or unreasonable expense. However, the buyer retains any right to claim damages as provided for in this Convention.

Article 38

1. The buyer must examine the goods, or cause them to be examined, within a short a period as is practicable in the circumstances.
2. If the contract involves carriage of the goods, examination may be deferred until after the goods have arrived at their destination.
3. If the goods are redirected in transit or redispatched by the buyer without a reasonable opportunity for examination by him and at the time of the conclusion of the contract the seller knew or ought to have known of the possibility of such redirection or redispatch, examination may be deferred until after the goods have arrived at the new destination.

Article 39

1. The buyer loses the right to rely on a lack of conformity of the goods if he does not give notice to the seller specifying the nature of the lack of conformity within a reasonable time after he has discovered it or ought to have discovered it.
2. In any event, the buyer loses the right to rely on a lack of conformity of the goods if he does not give the seller notice thereof at the latest within a period of two years from the date on which the goods were actually handed over to the buyer, unless this time-limit is inconsistent with a contractual period of guarantee.

Article 40

The seller is not entitled to rely on the provisions of Articles 38 and 39 if the lack of conformity relates to facts of which he knew or could not have been unaware and which he did not disclose to the buyer.

Article 41
The seller must deliver goods which are free from any right or claim of a third party, unless the buyer agreed to take the goods subject to that right or claim. However, if such right or claim is based on industrial property or other intellectual property, the seller's obligation is governed by Article 42.

Article 42
1. The seller must deliver goods which are free from any right or claim of a third party based on industrial property or other intellectual property, of which at the time of the conclusion of the contract the seller knew or could not have been unaware, provided that the right or claim is based on industrial property or other intellectual property –
(a) under the law of the State where the goods will be resold or otherwise used, if it was contemplated by the parties at the time of the conclusion of the contract that the goods would be resold or otherwise used in that State; or
(b) in any other case, under the law of the State where the buyer has his place of business.
2. The obligation of the seller under the preceding paragraph does not extend to cases where –
(a) at the time of the conclusion of the contract the buyer knew or could not have been unaware of the right or claim; or
(b) the right or claim results from the seller's compliance with technical drawings, designs, formulae or other such specifications furnished by the buyer.

Article 43
1. The buyer loses the right to rely on the provisions of Article 41 or Article 42 if he does not give notice to the seller specifying the nature of the right or claim of the third party within a reasonable time after he has become aware or ought to have become aware of the right or claim.
2. The seller is not entitled to rely on the provisions of the preceding paragraph if he knew of the right or claim of the third party and the nature of it.

Article 44
Notwithstanding the provisions of paragraph 1 of Article 39 and paragraph 1 of Article 43, the buyer may reduce the price in accordance with Article 50 or claim damages, except for loss of profit, if he has a reasonable excuse for his failure to give the required notice.

SECTION III – REMEDIES FOR BREACH OF CONTRACT BY THE SELLER

Article 45
1. If the seller fails to perform any of his obligations under the contract or this Convention, the buyer may –
(a) exercise the rights provided in Articles 46 to 52;
(b) claim damages as provided in Articles 74 to 77.
2. The buyer is not deprived of any right he may have to claim damages by exercising his right to other remedies.
3. No period of grace may be granted to the seller by a court or arbitral tribunal when the buyer resorts to a remedy for breach of contract.

Article 46
1. The buyer may require performance by the seller of his obligations unless the buyer has resorted to a remedy which is inconsistent with this requirement.

2. If the goods do not conform with the contract, the buyer may require delivery of substitute goods only if the lack of conformity constitutes a fundamental breach of contract and a request for substitute goods is made either in conjunction with notice given under Article 39 or within a reasonable time thereafter.
3. If the goods do not conform with the contract, the buyer may require the seller to remedy the lack of conformity by repair, unless this is unreasonable having regard to all the circumstances. A request for repair must be made either in conjunction with notice given under Article 39 or within a reasonable time thereafter.

Article 47
1. The buyer may fix an additional period of time of reasonable length for performance by the seller of his obligations.
2. Unless the buyer has received notice from the seller that he will not perform within the period so fixed, the buyer may not, during that period, resort to any remedy for breach of contract. However, the buyer is not deprived thereby of any right he may have to claim damages for delay in performance.

Article 48
1. Subject to Article 49, the seller may, even after the date for delivery, remedy at his own expense any failure to perform his obligations, if he can do so without unreasonable delay and without causing the buyer unreasonable inconvenience or uncertainty of reimbursement by the seller of expenses advanced by the buyer. However, the buyer retains any right to claim damages as provided for in this Convention.
2. If the seller requests the buyer to make known whether he will accept performance and the buyer does not comply with the request within a reasonable time, the seller may perform within the time indicated in his request. The buyer may not, during that period of time, resort to any remedy which is inconsistent with performance by the seller.
3. A notice by the seller that he will perform within a specified period of time is assumed to include a request, under the preceding paragraph, that the buyer make known his decision.
4. A request or notice by the seller under paragraph 2 or 3 of this Article is not effective unless received by the buyer.

Article 49
1. The buyer may declare the contract avoided –
   (a) if the failure by the seller to perform any of his obligations under the contract or this Convention amounts to a fundamental breach of contract; or
   (b) in case of non-delivery, if the seller does not deliver the goods within the additional period of time fixed by the buyer in accordance with paragraph 1 of Article 47 or declares that he will not deliver within the period so fixed.
2. However, in cases where the seller has delivered the goods, the buyer loses the right to declare the contract avoided unless he does so –
   (a) in respect of late delivery, within a reasonable time after he has become aware that delivery has been made;
   (b) in respect of any breach other than late delivery, within a reasonable time:
      (i) after he knew or ought to have known of the breach;
      (ii) after the expiration of any additional period of time fixed by the buyer in accordance with paragraph 1 of Article 47, or after the seller has declared that he will not perform his obligations within such an additional period; or

(iii) after the expiration of any additional period of time indicated by the seller in accordance with paragraph 2 of Article 48 or after the buyer has declared that he will not accept performance.

Article 50
If the goods do not conform with the contract and whether or not the price has already been paid, the buyer may reduce the price in the same proportion as the value that the goods actually delivered had at the time of the delivery bears to the value that conforming goods would have had at that time. However, if the seller remedies any failure to perform his obligations in accordance with Article 37 or Article 48 or if the buyer refuses to accept performance by the seller in accordance with those Articles, the buyer may not reduce the price.

Article 51
1. If the seller delivers only a part of the goods or if only a part of the goods delivered is in conformity with the contract, Articles 46 to 50 apply in respect of the part which is missing or which does not conform.
2. The buyer may declare the contract avoided in its entirety only if the failure to make delivery completely or in conformity with the contract amounts to a fundamental breach of the contract.

Article 52
1. If the seller delivers the goods before the date fixed, the buyer may take delivery or refuse to take delivery.
2. If the seller delivers a quantity of goods greater than that provided for in the contract, the buyer may take delivery or refuse to take delivery of the excess quantity. If the buyer takes delivery of all or part of the excess quantity, he must pay for it at the contract rate.

CHAPTER III

OBLIGATIONS OF THE BUYER

Article 53
The buyer must pay the price for the goods and take delivery of them as required by the contract and this Convention.

SECTION I – PAYMENT OF THE PRICE

Article 54
The buyer's obligation to pay the price includes taking such steps and complying with such formalities as may be required under the contract or any laws and regulations to enable payment to be made.

Article 55
Where a contract has been validly concluded but does not expressly or implicitly fix or make provision for determining the price, the parties are considered, in the absence of any indication to the contrary, to have impliedly made reference to the price generally charged at the time of the conclusion of the contract for such goods sold under comparable circumstances in the trade concerned.

Article 56
If the price is fixed according to the weight of the goods, in case of doubt it is to be determined by the net weight.

Article 57

1. If the buyer is not bound to pay the price at any other particular place, he must pay it to the seller –
   (a) at the seller's place of business; or
   (b) if the payment is to be made against the handing over of the goods or of documents, at the place where the handing over takes place.
2. The seller must bear any increase in the expenses incidental to payment which is caused by a change in his place of business subsequent to the conclusion of the contract.

Article 58

1. If the buyer is not bound to pay the price at any other specific time, he must pay it when the seller places either the goods or documents controlling their disposition at the buyer's disposal in accordance with the contract and this Convention. The seller may make such payment a condition for handing over the goods or documents.
2. If the contract involves carriage of the goods, the seller may dispatch the goods on terms whereby the goods, or documents controlling their disposition, will not be handed over to the buyer except against payment of the price.
3. The buyer is not bound to pay the price until he has had an opportunity to examine the goods, unless the procedures for delivery or payment agreed upon by the parties are inconsistent with his having such an opportunity.

Article 59

The buyer must pay the price on the date fixed by or determinable from the contract and this convention without the need for any request or compliance with any formality on the part of the seller.

SECTION II – TAKING DELIVERY

Article 60

The buyer's obligation to take delivery consists –
   (a) in doing all the acts which could reasonably be expected of him in order to enable the seller to make delivery; and
   (b) in taking over the goods.

SECTION III – REMEDIES FOR BREACH OF CONTRACT BY THE BUYER

Article 61

1. If the buyer fails to perform any of his obligations under the contract or this Convention, the seller may –
   (a) exercise the rights provided in Articles 62 to 65;
   (b) claim damages as provided in Articles 74 to 77.
2. The seller is not deprived of any right he may have to claim damages by exercising his right to other remedies.
3. No period of grace may be granted to the buyer by a court or arbitral tribunal when the seller resorts to a remedy for breach of contract.

Article 62

The seller may require the buyer to pay the price, take delivery or perform his other obligations, unless the seller has resorted to a remedy which is inconsistent with this requirement.

Article 63

1. The seller may fix an additional period of time of reasonable length for performance by the buyer of his obligations.
2. Unless the seller has received notice from the buyer that he will not perform within the period so fixed, the seller may not, during that period, resort to any remedy for breach of contract. However, the seller is not deprived thereby of any right he may have to claim damages for delay in performance.

Article 64

1. The seller may declare the contract avoided –
   (a) if the failure by the buyer to perform any of his obligations under the contract or this Convention amounts to a fundamental breach of contract; or
   (b) if the buyer does not, within the additional period of time fixed by the seller in accordance with paragraph 1 or Article 63, perform his obligation to pay the price or take delivery of the goods, or if he declares that he will not do so within the period so fixed.
2. However, in cases where the buyer has paid the price, the seller loses the right to declare the contract avoided unless he does so –
   (a) in respect of late performance by the buyer, before the seller has become aware that performance has been rendered; or
   (b) in respect of any breach other than late performance by the buyer, within a reasonable time:
      (i) after the seller knew or ought to have known of the breach; or
      (ii) after the expiration of any additional period of time fixed by the seller in accordance with paragraph 1 or Article 63, or after the buyer has declared that he will not perform his obligations within such an additional period.

Article 65

1. If under the contract the buyer is to specify the form, measurement or other features of the goods and he fails to make such specification either on the date agreed upon within a reasonable time after receipt of a request from the seller, the seller may, without prejudice to any other rights he may have, make the specification himself in accordance with the requirements of the buyer that may be known to him.
2. If the seller makes the specification himself, he must inform the buyer of the details thereof and must fix a reasonable time within which the buyer may make a different specification. If, after receipt of such a communication, the buyer fails to do so within the time so fixed, the specification made by the seller is binding.

CHAPTER IV

PASSING OF RISK

Article 66

Loss of or damage to the goods after the risk has passed to the buyer does not discharge him from his obligation to pay the price, unless the loss or damage is due to an act or omission of the seller.

Article 67

1. If the contract of sale involves carriage of the goods and the seller is not bound to hand them over at a particular place, the risk passes to the buyer when the goods are handed over to the first

carrier for transmission to the buyer in accordance with the contract of sale. If the seller is bound to hand the goods over to a carrier at a particular place, the risk does not pass to the buyer until the goods are handed over to the carrier at that place. The fact that the seller is authorised to retain documents controlling the disposition of the goods does not affect the passage of the risk.
2. Nevertheless, the risk does not pass to the buyer until the goods are clearly identified to the contract, whether by markings on the goods, by shipping documents, by notice given to the buyer or otherwise.

Article 68

The risk in respect of goods sold in transit passes to the buyer from the time of the conclusion of the contract. However, if the circumstances so indicate, the risk is assumed by the buyer from the time the goods were handed over to the carrier who issued the documents embodying the contract of carriage. Nevertheless, if at the time or the conclusion of the contract of sale the seller knew or ought to have known that the goods had been lost or damaged and did not disclose this to the buyer, the loss or damage is at the risk of the seller.

Article 69

1. In cases not within Articles 67 and 68, the risk passes to the buyer when he takes over the goods or, if he does not do so in due time, from the time when the goods are placed at his disposal and he commits a breach of contract by failing to take delivery.
2. However, if the buyer is bound to take over the goods at a place other than a place of business of the seller, the risk passes when delivery is due and the buyer is aware of the fact that the goods are placed at his disposal at that place.
3. If the contract relates to goods not then identified, the goods are considered not to be placed at the disposal of the buyer until they are clearly identified to the contract.

Article 70

If the seller has committed a fundamental breach of contract, Articles 67, 68 and 69 do not impair the remedies available to the buyer on account of the breach.

CHAPTER V

PROVISIONS COMMON TO THE OBLIGATIONS OF THE SELLER AND OF THE BUYER

SECTION I – ANTICIPATORY BREACH AND INSTALMENT CONTRACTS

Article 71

1. A party may suspend the performance of his obligations if, after the conclusion of the contract, it becomes apparent that the other party will not perform a substantial part of his obligations as a result of:
   (a) a serious deficiency in his ability to perform or in his credit worthiness; or
   (b) his conduct in preparing to perform or in performing the contract.
2. If the seller has already dispatched the goods before the grounds described in the preceding paragraph become evident, he may prevent the handing over of the goods to the buyer even though the buyer holds a document which entitles him to obtain them. The present paragraph relates only to the rights in the goods as between the buyer and the seller.

3. A party suspending performance, whether before or after dispatch of the goods, must immediately give notice of the suspension to the other party and must continue with performance if the other party provides adequate assurance of his performance.

Article 72

1. If prior to the date for performance of the contract it is clear that one of the parties will commit a fundamental breach of contract, the other party may declare the contract avoided.
2. If time allows, the party intending to declare the contract avoided must give reasonable notice to the other party in order to permit him to provide adequate assurance of his performance.
3. The requirements of the preceding paragraph do not apply if the other party has declared that he will not perform his obligations.

Article 73

1. In the case of a contract for delivery of goods by instalments, if the failure of one party to perform any of his obligations in respect of any instalment constitutes a fundamental breach of contract with respect to that instalment, the other party may declare the contract avoided with respect to that instalment.
2. If one party's failure to perform any of his obligations in respect of any instalment gives the other party good grounds to conclude that a fundamental breach of contract will occur with respect to future instalments, he may declare the contract avoided for the future, provided that he does so within a reasonable time.
3. A buyer who declares the contract avoided in respect of any delivery may, at the same time, declare it avoided in respect of deliveries already made or of future deliveries if, by reason of their interdependence, those deliveries could not be used for the purpose contemplated by the parties at the time of the conclusion of the contract.

SECTION II – DAMAGES

Article 74

Damages for breach of contract by one party consist of a sum equal to the loss, including loss of profit, suffered by the other party as a consequence of the breach. Such damages may not exceed the loss which the party in breach foresaw or ought to have foreseen at the time of the conclusion of the contract, in the light of the facts and matters of which he then knew or ought to have known, as a possible consequence of the breach of contract.

Article 75

If the contract is avoided and if, in a reasonable manner and within a reasonable time after avoidance, the buyer has bought goods in replacement or the seller has resold the goods, the party claiming damages may recover the difference between the contract price and the price in the substitute transaction as well as any further damages recoverable under Article 74.

Article 76

1. If the contract is avoided and there is a current price for the goods, the party claiming damages may, if he has not made a purchase or resale under Article 75, recover the difference between the price fixed by the contract and the current price at the time of avoidance as well as any further damages recoverable under Article 74. If, however, the party claiming damages has avoided the contract after taking over the goods, the current price at the time of such taking over shall be applied instead of the current price at the time of avoidance.
2. For the purposes of the preceding paragraph, the current price is the price prevailing at the place where delivery of the goods should have been made or, if there is no current price at that

place, the price at such other place as serves as a reasonable substitute, making due allowance for differences in the cost of transporting the goods.

Article 77

A party who relies on a breach of contract must take such measures as are reasonable in the circumstances to mitigate the loss, including loss of profit, resulting from the breach. If he fails to take such measures, the party in breach may claim a reduction in the damages in the amount by which the loss should have been mitigated.

SECTION III – INTEREST

Article 78

If a party fails to pay the price or any other sum that is in arrears, the other party is entitled to interest on it, without prejudice to any claim for damages recoverable under Article 74.

SECTION IV – EXEMPTIONS

Article 79

1. A party is not liable for a failure to perform any of his obligations if he proves that the failure was due to an impediment beyond his control and that he could not reasonably be expected to have taken the impediment into account at the time of the conclusion of the contract or to have avoided or overcome it or its consequences.
2. If the party's failure is due to the failure by a third person whom he has engaged to perform the whole or a part of the contract, that party is exempt from liability only if –
   (a) he is exempt under the preceding paragraph; and
   (b) the person whom he has so engaged would be so exempt if the provisions of that paragraph were applied to him.
3. The exemption provided by this Article has effect for the period during which the impediment exists.
4. The party who fails to perform must give notice to the other party of the impediment and its effect on his ability to perform. If the notice is not received by the other party within a reasonable time after the party who fails to perform knew or ought to have known of the impediment, he is liable for damages resulting from such non-receipt.
5. Nothing in this Article prevents either party from exercising any right other than to claim damages under this Convention.

Article 80

A party may not rely on a failure of the other party to perform, to the extent that such failure was caused by the first party's act or omission.

SECTION V – EFFECTS OF AVOIDANCE

Article 81

1. Avoidance of the contract releases both parties from their obligations under it, subject to any damages which may be due. Avoidance does not affect any provision of the contract for the settlement of disputes or any other provision of the contract governing the rights and obligations of the parties consequent upon the avoidance of the contract.
2. A party who has performed the contract either wholly or in part may claim restitution from the other party of whatever the first party has supplied or paid under the contract. If both parties are bound to make restitution, they must do so concurrently.

Article 82

1. The buyer loses the right to declare the contract avoided or to require the seller to deliver substitute goods if it is impossible for him to make restitution of the goods substantially in the condition in which he received them.
2. The preceding paragraph does not apply –
   (a) if the impossibility of making restitution of the goods or of making restitution of the goods substantially in the condition in which the buyer received them is not due to his act or omission;
   (b) if the goods or part of the goods have perished or deteriorated as a result of the examination provided for in Article 38; or
   (c) if the goods or part of the goods have been sold in the normal course of business or have been consumed or transformed by the buyer in the course of normal use before he discovered or ought to have discovered the lack of conformity.

Article 83

A buyer who has lost the right to declare the contract avoided or to require the seller to deliver substitute goods in accordance with Article 82 retains all other remedies under the contract and this Convention.

Article 84

1. If the seller is bound to refund the price, he must also pay interest on it, from the date on which the price was paid.
2. The buyer must account to the seller for all benefits which he has derived from the goods or part of them –
   (a) if he must make restitution of the goods or part of them; or
   (b) if it is impossible for him to make restitution of all or part of the goods or to make restitution of all or part of the goods substantially in the condition in which he received them, but he has nevertheless declared the contract avoided or required the seller to deliver substitute goods.

SECTION VI – PRESERVATION OF THE GOODS

Article 85

If the buyer is in delay in taking delivery of the goods or, where payment of the price and delivery of the goods are to be made concurrently, if he fails to pay the price, and the seller is either in possession of the goods or otherwise able to control their disposition, the seller must take such steps as are reasonable in the circumstances to preserve them. He is entitled to retain them until he has been reimbursed his reasonable expenses by the buyer.

Article 86

1. If the buyer has received the goods and intends to exercise any right under the contract or this Convention to reject them, he must take such steps to preserve them as are reasonable in the circumstances. He is entitled to retain them until he has been reimbursed his reasonable expenses by the seller.
2. If goods dispatched to the buyer have been placed at his disposal at their destination and he exercises the right to reject them, he must take possession of them on behalf of the seller, provided that this can be done without payment of the price and without unreasonable inconvenience or unreasonable expense. This provision does not apply if the seller or a person authorised to take charge of the goods on his behalf is present at the destination. If the buyer

takes possession of the goods under this paragraph, his rights and obligations are governed by the preceding paragraph.

Article 87

A party who is bound to take steps to preserve the goods may deposit them in a warehouse of a third person at the expense of the other party provided that the expense incurred is not unreasonable.

Article 88

1. A party who is bound to preserve the goods in accordance with Article 85 or 86 may sell them by any appropriate means if there has been an unreasonable delay by the other party in taking possession of the goods or in taking them back or in paying the price or the cost of preservation, provided that reasonable notice of the intention to sell has been given to the other party.
2. If the goods are subject to rapid deterioration or their preservation would involve unreasonable expense, a party who is bound to preserve the goods in accordance with Article 85 or 86 must take reasonable measures to sell them, to the extent possible he must give notice to the other party of his intention to sell.
3. A party selling the goods has the right to retain out of the proceeds of sale an amount equal to the reasonable expenses of preserving the goods and of selling them. He must account to the other party for the balance.

PART IV

Articles 89–91 [Omitted].

Article 92

1. A Contracting State may declare at the time of the signature, ratification, acceptance, approval or accession that it will not be bound by Part II of this Convention or that it will not be bound by Part III of this Convention.
2. A Contracting State which makes a declaration in accordance with the preceding paragraph in respect of Part II or Part III of this Convention is not to be considered a contracting State within paragraph 1 or Article 1 of this Convention in respect of matters governed by the Part to which the declaration applies.

Article 93 [Omitted].

Article 94

1. Two or more Contracting States which have the same or closely related legal rules on matters governed by this convention may at any time declare that the Convention is not to apply to contracts of sale or to their formation where the parties have their places of business in those States. Such declarations may be made jointly or by reciprocal unilateral declarations.
2. A Contracting State which has the same or closely related legal rules on matters governed by this Convention as one or more non-Contracting States may at any time declare that the Convention is not to apply to contracts of sale or to their formation where the parties have their places of business in those States.
3. [Omitted].

Article 95

Any State may declare at the time of the deposit of its instrument of ratification acceptance, approval or accession that it will not be bound by subparagraph 1(b) of Article 1 of this Convention.

Article 96
A Contracting State whose legislation requires contracts of sale to be concluded in or evidenced by writing may at any time make a declaration in accordance with Article 12 that any provision of Article 11, Article 29, or Part II of this Convention, that allows a contract of sale or its modification or termination by agreement or any offer, acceptance, or other indication or intention to be made in any form other than in writing, does not apply where any party has his place of business in that State.

Articles 97–101 [Omitted].

UNITED NATIONS CONVENTION ON INTERNATIONAL MULTIMODAL TRANSPORT OF GOODS, GENEVA, 1980

PART I

GENERAL PROVISIONS

Article 1 Definitions
For the purposes of this Convention –
1. 'International multimodal transport' means the carriage of goods by at least two different modes of transport on the basis of a multimodal transport contract from a place in one country at which the goods are taken in charge by the multimodal transport operator to a place designated for delivery situated in a different country. The operation of pick-up and delivery of goods carried out in the performance of a unimodal transport contract, as defined in such contract, shall not be considered as international multimodal transport.
2. 'Multimodal transport operator' means any person who on his own behalf or through another person acting on his behalf concludes a multimodal transport contract and who acts as a principal, not as an agent or on behalf of the consignor or of the carriers participating in the multimodal transport operations, and who assumes responsibility for the performance of the contract.
3. 'Multimodal transport contract' means a contract whereby a multimodal transport operator undertakes, against payment of freight, to perform or to procure the performance of international multimodal transport.
4. 'Multimodal transport document' means a document which evidences a multimodal transport contract, the taking in charge of the goods by the multimodal transport operator, and an undertaking by him to deliver the goods in accordance with the terms of that contract.
5. 'Consignor' means any person by whom or in whose name or on whose behalf a multimodal transport contract has been concluded with the multimodal transport operator, or any person by whom or in whose name or on whose behalf the goods are actually delivered to the multimodal transport operator in relation to the multimodal transport contract.
6. 'Consignee' means the person entitled to take delivery of the goods.
7. 'Goods' includes any container, pallet or similar article of transport or packaging, if supplied by the consignor.
8. 'International convention' means an international agreement concluded among States in written form and governed by international law.

9. 'Mandatory national law' means any statutory law concerning carriage of goods the provision of which cannot be departed from by contractual stipulation to the detriment of the consignor.
10. 'Writing' means, *inter alia*, telegram or telex.

Article 2 Scope of application

The provisions of this Convention shall apply to all contracts of multimodal transport between places in two States, if –

(a) The place for the taking in charge of the goods by the multimodal transport operator as provided for in the multimodal transport contract is located in a Contracting State; or

(b) The place for delivery of the goods by the multimodal transport operator as provided for in the multimodal transport contract is located in a Contracting State.

Article 3 Mandatory application

1. When a multimodal transport contract has been concluded which according to Article 2 shall be governed by this Convention, the provisions of this Convention shall be mandatorily applicable to such contract.
2. Nothing in this Convention shall affect the right of the consignor to choose between multimodal transport and segmented transport.

Article 4 Regulation and control of multimodal transport

1. This Convention shall not affect, or be incompatible with, the application of any international convention or national law relating to the regulation and control of transport operations.
2. This Convention shall not affect the right of each State to regulate and control at the national level multimodal transport operations and multimodal transport operators, including the right to take measures relating to consultations, especially before the introduction of new technologies and services, between multimodal transport operators, shippers, shippers' organisations and appropriate national authorities on terms and conditions of service; licensing of multimodal transport operators; participation in transport; and all other steps in the national economic and commercial interest.
3. The multimodal transport operator shall comply with the applicable law of the country in which he operates and with the provisions of this Convention.

PART II

DOCUMENTATION

Article 5 Issue of multimodal transport document

1. When the goods are taken charge by the multimodal transport operator, he shall issue a multimodal transport document which, at the option of the consignor, shall be in either negotiable or non-negotiable form.
2. The multimodal transport document shall be signed by the multimodal transport operator or by a person having authority from him. The signature on the multimodal transport document may be in hand-writing, printed in facsimile, perforated, stamped, in symbols, or made by any other mechanical or electronic means, if not inconsistent with the law of the country where the multimodal transport document is issued.
3. If the consignor so agrees, a non-negotiable multimodal transport document may be issued by making use of any mechanical or other means preserving a record of the particulars stated in Article 8 to be contained in the multimodal transport document. In such a case the multimodal

transport operator, after having taken the goods in charge, shall deliver to the consignor a readable document containing all the particulars so recorded, and such document shall for the purposes of the provisions of this Convention be deemed to be a multimodal transport document.

Article 6 Negotiable multimodal transport document

1. Where a multimodal transport document is issued in negotiable form –
   (a) It shall be made out to order or to bearer;
   (b) If made out to order it shall be transferable by endorsement;
   (c) If made out to bearer it shall be transferable without endorsement;
   (d) If issued in a set of more than one original it shall indicate the number of originals in the set;
   (e) If any copies are issued each copy shall be marked 'non-negotiable copy'. Delivery of the goods may be demanded from the multimodal transport operator or a person acting on his behalf only against surrender of the negotiable multimodal transport document duly endorsed where necessary.
2. The multimodal transport operator shall be discharged from his obligation to deliver the goods if, where a negotiable multimodal transport document has been issued in a set of more than one original, he or a person acting on his behalf has in good faith delivered the goods against surrender of one of such originals.

Article 7 Non-negotiable multimodal transport

1. Where a multimodal transport document is issued in non-negotiable form it shall indicate a named consignee.
2. The multimodal transport operator shall be discharged from his obligation to deliver the goods if he makes delivery thereof to the consignee named in such non-negotiable multimodal transport document or to such other person as he may be duly instructed, as a rule, in writing.

Article 8 Contents of the multimodal transport document

1. The multimodal transport document shall contain the following particulars–
   (a) the general nature of the goods, the leading marks necessary for identification of the goods, an express statement, if applicable, as to the dangerous character of the goods, the number of packages or pieces, and the gross weight of the goods or their quantity otherwise expressed, all such particulars as furnished by the consignor;
   (b) the apparent condition of the goods;
   (c) the name and principal place of business of the multimodal transport operator;
   (d) the name of the consignor;
   (e) the consignee, if named by the consignor;
   (f) the place and date of taking in charge of the goods by the multimodal transport operator;
   (g) the place of delivery of the goods;
   (h) the date or the period of delivery of the goods at the place of delivery, if expressly agreed upon between the parties;
   (i) a statement indicating whether the multimodal transport document is negotiable or non-negotiable;
   (j) the place and date of issue of the multimodal transport document;
   (k) the signature of the multimodal transport operator or of a person having authority from him;

(l) the freight for each mode of transport, if expressly agreed between the parties, or the freight including its currency, to the extent payable by the consignee or other indication that freight is payable by him;
(m) the intended journey route, modes of transport and places of transhipment, if known at the time of issuance of the multimodal transport document;
(n) the statement referred to in paragraph 3 of Article 28;
(o) any other particulars which the parties may agree to insert in the multimodal transport document, if not inconsistent with the law of the country where the multimodal transport document is issued.

2. The absence from the multimodal transport document of one or more of the particulars referred to in paragraph 1 of this Article shall not affect the legal character of the document as a multimodal transport document provided that it nevertheless meets the requirements set out in paragraph 4 of Article 1.

Article 9 Reservations in the multimodal transport document

1. If the multimodal transport document contains particulars concerning the general nature, leading marks, number of packets or pieces, weight or quantity of the goods which the multimodal transport operator or a person acting on his behalf knows, or has reasonable grounds to suspect, do not accurately represent the goods actually taken in charge, or if he has no reasonable means of checking such particulars, the multimodal transport operator or a person acting on his behalf shall insert in the multimodal transport document a reservation specifying these inaccuracies, grounds of suspicion or the absence of reasonable means of checking.
2. If the multimodal transport operator or a person acting on his behalf fails to note on the multimodal transport document the apparent condition of the goods, he is deemed to have noted on the multimodal transport document that the goods were in apparent good condition.

Article 10 Evidentiary effect of the multimodal transport document

Except for particulars in respect of which and to the extent to which a reservation permitted under Article 9 has been entered –

(a) the multimodal transport document shall be *prima facie* evidence of the taking in charge by the multimodal transport operator of the goods as described therein; and
(b) proof to the contrary by the multimodal transport operator shall not be admissible if the multimodal transport document is issued in negotiable form and has been transferred to a third party, including a consignee, who has acted in good faith in reliance on the description of the goods therein.

Article 11 Liability for intentional misstatements or omissions

When the multimodal transport operator, with intent to defraud, gives in the multimodal transport document false information concerning the goods or omits any information required to be included under paragraph 1(a) or (b) of Article 8 or under Article 9, he shall be liable, without the benefit of the limitation of liability provided for in this Convention, for any loss, damage or expenses incurred by a third party, including a consignee, who acted in reliance on the description of the goods in the multimodal transport document issued.

Article 12 Guarantee by the consignor

1. The consignor shall be deemed to have guaranteed to the multimodal transport operator the accuracy, at the time the goods were taken in charge by the multimodal transport operator, of particulars relating to the general nature of the goods, their marks, number, weight and quantity and, if applicable, to the dangerous character of the goods, as furnished by him for insertion in the multimodal transport document.

2. The consignor shall indemnify the multimodal transport operator against loss resulting from inaccuracies in or inadequacies of the particulars referred to in paragraph 1 of this Article. The consignor shall remain liable even if the multimodal transport document has been transferred to him. The right of the multimodal transport operator to such indemnity shall in no way limit his liability under the multimodal transport contract to any person other than the consignor.

Article 13 Other documents

The issue of the multimodal transport document does not preclude the issue, if necessary, of other documents relating to transport or other services involved in international multimodal transport, in accordance with applicable international conventions or national law. However, the issue of such other documents shall not affect the legal character of the multimodal transport document.

PART III

LIABILITY OF THE MULTIMODAL TRANSPORT OPERATOR

Article 14 Period of responsibility

1. The responsibility of the multimodal transport operator for the goods under this Convention covers the period from the time he takes the goods in his charge to the time of their delivery.

2. For the purpose of this Article, the multimodal transport operator is deemed to be in charge of the goods –

(a) from the time he has taken over the goods from:
  (i) the consignor or a person acting on his behalf; or
  (ii) an authority or other third party to whom, pursuant to law or regulations applicable at the place of taking in charge, the goods must be handed over for transport;

(b) until the time he has delivered the goods:
  (i) by handing over the goods to the consignee; or
  (ii) in cases where the consignee does not receive the goods from the multimodal transport operator, by placing them at the disposal of the consignee in accordance with the multimodal transport contract or with the law or with the usage of the particular trade applicable at the place of delivery; or
  (iii) by handing over the goods to an authority or other third party to whom, pursuant to law or regulations applicable at the place of delivery, the goods must be handed over.

3. In paragraphs 1 and 2 of this Article, reference to the multimodal transport operator shall include his servants or agents or any other person of whose services he makes use for the performance of the multimodal transport contract, and reference to the consignor or consignee shall include their servants or agents.

Article 15 The liability of the multimodal transport operator for his servants, agents and other persons

Subject to Article 21, the multimodal transport operator shall be liable for the acts and omissions of his servants or agents, when any such servant or agent is acting within the scope of his employment, or of any other person of whose services he makes use for the performance of the multimodal transport contract, when such person is acting in the performance of the contract, as if such acts and omissions were his own.

Article 16 Basis of liability

1. The multimodal transport operator shall be liable for loss resulting from loss or damage to the goods, as well as from delay in delivery, if the occurrence which caused the loss, damage or delay in delivery took place while the goods were in his charge as defined in Article 14, unless the multimodal transport operator proves that he, his servants or agents or any other person referred to in Article 15 took all measures that could reasonably be required to avoid the occurrence and its consequences.
2. Delay in delivery occurs when the goods have not been delivered 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 multimodal transport operator, having regard to the circumstances of the case.
3. If the goods have not been delivered within 90 consecutive days following the date of delivery determined according to paragraph 2 of this Article, the claimant may treat the goods as lost.

Article 17 Concurrent causes

Where fault or neglect on the part of the multimodal transport operator, his servants or agents or any other person referred to in Article 15 combines with another cause to produce loss, damage or delay in delivery, the multimodal transport operator shall be liable only to the extent that the loss, damage or delay in delivery is attributable to such fault or neglect, provided that the multimodal transport operator proves the part of the loss, damage or delay in delivery not attributable thereto.

Article 18 Limitation of liability

1. When the multimodal transport operator is liable for loss resulting from loss of or damage to the goods according to Article 16, his liability shall be limited to an amount not exceeding 920 units of account per package of other shipping unit or 2.75 units of account per kilogram of gross weight of the goods lost or damaged, whichever is the higher.
2. For the purpose of calculating which amount is the higher in accordance with paragraph 1 of this Article, the following rules apply –
   (a) where a container, pallet or similar article of transport is used to consolidate goods, the packages or other shipping units enumerated in the multimodal transport document as packed in such article of transport are deemed packages or shipping units. Except as aforesaid, the goods in such article of transport are deemed one shipping unit;
   (b) in cases where the article of transport itself has been lost or damaged, that article of transport, if not owned or otherwise supplied by the multimodal transport operator, is considered one separate shipping unit.
3. Notwithstanding the provisions of paragraphs 1 and 2 of this Article, if the international multimodal transport does not, according to the contract, include carriage of goods by sea or by inland waterways, the liability of the multimodal transport operator shall be limited to an amount not exceeding 8.33 units of account per kilogram of gross weight of the goods lost or damaged.
4. The liability of the multimodal transport operator for loss resulting from delay in delivery according to the provisions of Article 16 shall be limited to an amount equivalent to two and a half times the freight payable for the goods delayed, but not exceeding the total freight payable under the multimodal transport contract.
5. The aggregate liability of the multimodal transport operator, under paragraphs 1 and 4 or paragraphs 3 and 4 of this Article, shall not exceed the limit of liability for total loss of the goods as determined by paragraphs 1 or 3 of this Article.

6. By agreement between the multimodal transport operator and the consignor, limits of liability exceeding those provided for in paragraphs 1, 3 and 4 or this Article may be fixed in the multimodal transport document.
7. 'Unit of account' means the unit of account mentioned in Article 31.

Article 19 Localised damage
When the loss of or damage to the goods occurred during one particular of the multimodal transport, in respect of which an applicable international convention or mandatory national law provides a higher limit of liability than the limit that would follow from application of paragraphs 1 to 3 of Article 18, then the limit of the multimodal transport operator's liability for such loss or damage shall be determined by reference to the provisions of such convention or mandatory national law.

Article 20 Non-contractual liability
1. The defences and limits of liability provided for in this Convention shall apply in any action against the multimodal transport operator in respect of loss resulting from loss of or damage to the goods, as well as from delay in delivery, whether the action be founded in contract, in tort or otherwise.
2. If an action in respect of loss resulting from loss of or damage to the goods or from delay in delivery is brought against the servant or agent of the multimodal transport operator, if such servant or agent proves that he acted within the scope of his employment, or against any other person of whose services he makes use for the performance of the multimodal transport contract, if such other person proves that he acted within the performance of the contract, the servant or agent of such other person shall be entitled to avail himself of the defences and limits of liability which the multimodal transport operator is entitled to invoke under this Convention.
3. Except as provided in Article 21, the aggregate of the amounts recoverable from the multimodal transport operator and from a servant or agent or any other person of whose services he makes use for the performance of the multimodal transport contract shall not exceed the limits of liability provided for in this Convention.

Article 21 Loss of the right to limit liability
1. The multimodal transport operator is not entitled to the benefit of the limitation of liability provided for in this Convention if it is proved that the loss, damage or delay in delivery resulted from an act or omission of the multimodal transport operator done with the intent to cause such loss, damage or delay or recklessly and with knowledge that such loss, damage or delay would probably result.
2. Notwithstanding paragraph 2 of Article 20, a servant or agent of the multimodal transport operator or other person of whose services he makes use for the performance of the multimodal transport contract is not entitled to the benefit of the limitation of liability provided for in this Convention if it is proved that the loss, damage or delay in delivery resulted from an act or omission of such servant, agent or other person, done with the intent to cause such loss, damage or delay or recklessly and with knowledge that such loss, damage or delay would probably result.

PART IV

LIABILITY OF THE CONSIGNOR

Article 22 General rule
The consignor shall be liable for loss sustained by the multimodal transport operator if such loss is caused by the fault or neglect of the consignor, or his servants or agents when such servants or

agents are acting within the scope of their employment. Any servant or agent of the consignor shall be liable for such loss if the loss is caused by fault or neglect on his part.

Article 23 Special rules on dangerous *goods*

1. The consignor shall mark or label in a suitable manner dangerous goods as dangerous.
2. Where the consignor hands over dangerous goods to the multimodal transport operator or any person acting on his behalf, the consignor shall inform him of the dangerous character of the goods and, if necessary, the precautions to be taken. If the consignor fails to do so and the multimodal transport operator does not otherwise have knowledge of their dangerous character
   (a) the consignor shall be liable to the multimodal transport operator for all loss resulting from the shipment of such goods; and
   (b) the goods may at any time be unloaded, destroyed or rendered innocuous, as the circumstances may require, without payment of compensation.
3. The provisions of paragraph 2 of this Article may not be invoked by any person if during the multimodal transport he has taken the goods in his charge with knowledge of their dangerous character.
4. If, in cases where the provisions of paragraph 2(b) of this Article do not apply or may not be invoked, dangerous goods become an actual danger to life or property, they may be unloaded, destroyed or rendered innocuous, as the circumstances may require, without payment of compensation except where there is an obligation to contribute in general average or where the multimodal transport operator is liable in accordance with the provisions of Article 16.

PART V

CLAIMS AND ACTIONS

Article 24 Notice of loss, damage or delay

1. Unless notice of loss or damage, specifying the general nature of such loss or damage, is given in writing by the consignee to the multimodal transport operator not later than the working day after the day when the goods were handed over to the consignee, such handing over is *prima facie* evidence of the delivery by the multimodal transport operator of the goods as described in the multimodal transport document.
2. Where the loss or damage is not apparent, the provisions of paragraph 1 of this Article apply correspondingly if notice in writing is not given within six consecutive days after the day when the goods were handed over to the consignee.
3. If the state of the goods at the time they were handed over to the consignee has been the subject of a joint survey or inspection by the parties or their authorised representatives at the place of delivery, notice in writing need not be given of loss or damage ascertained during such survey or inspection.
4. In the case of any actual or apprehended loss or damage the multimodal transport operator and the consignee shall give all reasonable facilities to each other for inspecting and tallying the goods.
5. No compensation shall be payable for loss resulting from delay in delivery unless notice has been given in writing to the multimodal transport operator within 60 consecutive days after the day when the goods were delivered by handing over to the consignee or when the consignee has been notified that the goods have been delivered in accordance with paragraph 2(b)(ii) or (iii) of Article 14.
6. Unless notice of loss or damage, specifying the general nature of the loss or damage, is given in writing by the multimodal transport operator to the consignor not later than 90 consecutive

days after the occurrence of such loss of damage or after the delivery of the goods in accordance with paragraph 2(b) of Article 14, whichever is later, the failure to give such notice is *prima facie* evidence that the multimodal transport operator has sustained no loss or damage due to the fault or neglect of the consignor, his servants or agents.

7. If any of the notice periods provided for in paragraphs 2, 5 and 6 of this Article terminates on a day which is not a working day at the place of delivery, such period shall be extended until the next working day.

8. For the purpose of this Article, notice given to a person acting on the multimodal transport operator's behalf, including any person of whose services he makes use at the place of delivery, or to a person acting on the consignor's behalf, shall be deemed to have been given to the multimodal transport operator, or to the consignor, respectively.

Article 25 Limitation of actions

1. Any action relating to international multimodal transport under this convention shall be time-barred if judicial or arbitral proceedings have not been instituted within a period of two years. However, if notification in writing, stating the nature and main particulars of the claim, has not been given within six months after the day when the goods were delivered or, where the goods have not been delivered, after the day on which they should have been delivered, the action shall be time-barred at the expiry of this period.

2. The limitation period commences on the day after the day on which the multimodal transport operator has delivered the goods or part thereof or, where the goods have not been delivered, on the day after the last day on which the goods should have been delivered.

3. The person against whom a claim is made may at any time during the running of the limitation period extend that period by a declaration in writing to the claimant. This period may be further extended by another declaration or declarations.

4. Provided that the provisions of another applicable international convention are not to the contrary, a recourse action for indemnity by a person held liable under this Convention may be instituted even after the expiration of the limitation period provided for in the preceding paragraphs if instituted within the time allowed by the law of the State where proceedings are instituted; however, the time allowed shall not be less than 90 days commencing from the day when the person instituting such action for indemnity has settled the claim or has been served with process in the action against himself.

Article 26 Jurisdiction

1. In judicial proceedings relating to international multimodal transport under this Convention, the plaintiff, at his option, may institute an action in a court which, according to the law of the State where the court is situated, is competent and within the jurisdiction of which is situated one of the following places –

(a) the principal place of business or, in the absence thereof, the habitual residence of the defendant; or

(b) the place where the multimodal transport contract was made, provided that the defendant has there a place of business, branch or agency through which the contract was made; or

(c) the place of taking the goods in charge for international multimodal transport or the place of delivery; or

(d) any other place designated for that purpose in the multimodal transport contract and evidenced in the multimodal transport document.

2. No judicial proceedings relating to international multimodal transport under this Convention may be instituted in a place not specified in paragraph 1 of this Article. The provisions

of this Article do not constitute an obstacle to the jurisdiction of the Contracting States for provisional or protective measures.

3. Notwithstanding the preceding provisions of this Article, an agreement made by the parties after a claim has arisen, which designates the place where the plaintiff may institute an action, shall be effective.

4. –

(a) Where an action has been instituted in accordance with the provisions of this Article or where judgment in such an action has been delivered, no new action shall be instituted between the same parties on the same grounds unless the judgment in the first action is not enforceable in the country in which the new proceedings are instituted;

(b) For the purposes of this Article neither the institution of measures to obtain enforcement of a judgment nor the removal of an action to a different court within the same country shall be considered as the starting of a new action.

Article 27 Arbitration

1. Subject to the provisions of this Article, parties may provide by agreement evidenced in writing that any dispute that may arise relating to international multimodal transport under this Convention shall be referred to arbitration.

2. The arbitration proceedings shall, at the option of the claimant, be instituted at one of the following places –

(a) a place in a State within whose territory is situated:

(i) the principal place of business of the defendant or, in the absence thereof, the habitual residence of the defendant; or

(ii) the place where the multimodal transport contract was made, provided that the defendant has there a place of business, branch or agency through which the contract was made; or

(iii) the place of taking the goods in charge for international multimodal transport or the place of delivery; or

(b) any other place designated for that purpose in the arbitration clause or agreement.

3. The arbitrator or arbitration tribunal shall apply the provisions of this Convention.

4. The provisions of paragraphs 2 and 3 of this Article shall be deemed to be part of every arbitration clause or agreement and any term of such clause or agreement which is inconsistent therewith shall be null and void.

5. Nothing in this Article shall affect the validity of an agreement on arbitration made by the parties after the claim relating to the international multimodal transport has arisen.

PART VI

SUPPLEMENTARY PROVISIONS

Article 28 Contractual stipulations

1. Any stipulation in a multimodal transport contract or multimodal transport document shall be null and void to the extent that it derogates, directly or indirectly, from the provisions of this Convention. The nullity of such a stipulation shall not affect the validity of other provisions of the contract or document of which it forms a part. A clause assigning benefit of insurance of the goods in favour of the multimodal transport operator or any similar clause shall be null and void.

2. Notwithstanding the provisions of paragraph 1 of this Article, the multimodal transport operator may, with the agreement of the consignor, increase his responsibilities and obligations under this Convention.
3. The multimodal transport document shall contain a statement that the international multimodal transport is subject to the provisions of this Convention which nullify any stipulation derogating therefrom to the detriment of the consignor or the consignee.
4. Where the claimant in respect of the goods has incurred loss as a result of a stipulation which is null and void by virtue of the present Article, or as a result of the omission of the statement referred to in paragraph 3 of this Article, the multimodal transport operator must pay compensation to the extent required in order to give the claimant compensation in accordance with the provisions of this Convention for any loss of or damage to the goods as well as for delay in delivery. The multimodal transport operator must, in addition, pay compensation for costs incurred by the claimant for the purpose of exercising his right, provided that costs incurred in the action where the foregoing provision is invoked are to be determined in accordance with the law of the State where proceedings are instituted.

Article 29 General average
1. Nothing in this Convention shall prevent the application of provisions in the multimodal transport contract or national law regarding the adjustment of general average, if and to the extent applicable.
2. With the exception of Article 25, the provisions of this Convention relating to the liability of the multimodal transport operator for loss of or damage to the goods shall also determine whether the consignee may refuse contribution in general average and the liability of the multimodal transport operator to indemnify the consignee in respect of any such contribution made or any salvage paid.

Article 30 Other conventions
1. This Convention does not modify the rights or duties provided for in the Brussels International Convention for the unification of certain rules relating to the limitation of the liability of owners of sea-going vessels of 25 August 1924; in the Brussels International Convention relating to the limitation of the liability of owners of sea-going ships of 10 October 1957; in the London Convention on limitation of liability for maritime claims of 19 November 1976; and in the Geneva Convention relating to the limitation of the liability of owners of inland navigation vessels (CLN) of 1 March 1973, including amendments to these Conventions, or national law relating to the limitation of liability of owners of sea-going ships and inland navigation vessels.
2. The provisions of Articles 26 and 27 of this Convention do not prevent the application of the mandatory provisions of any other international convention relating to matters dealt with in the said Articles, provided that the dispute arises exclusively between parties having their principal place of business in States parties to such other Convention. However, this paragraph does not affect the application of paragraph 3 of Article 27 of this Convention. [Omitted].
3. Carriage of goods such as carriage of goods in accordance with the Geneva Convention of 19 May 1956 on the Contract for the International Carriage of Goods by Road in Article 2, or the Berne Convention of 7 February 1970 concerning the Carriage of Goods by Rail, Article 2, shall not for States Parties to Conventions governing such carriage be considered as international multimodal transport within the meaning of Article 1, paragraph 1 of this Convention, in so far as such States are bound to apply the provisions of such Conventions to such carriage of goods.

Article 31 Unit of account of monetary unit and conversion

1. The unit of account referred to in Article 18 of this Convention is the Special Drawing Right as defined by the International Monetary Fund. The amounts referred to in Article 18 shall be converted into the national currency of a State according to the value of such currency on the date of the judgment or award or the date agreed upon by the parties. The value of a national currency, in terms of Special Drawing Right, of a Contracting State 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 a national currency in terms of the Special Drawing Right of a Contracting State which is not a member of the International Monetary Fund shall be calculated in a manner determined by that State.
2. Nevertheless, a 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 signature, ratification, acceptance, approval or accession, or at any time thereafter, declare that the limits of liability provided for in this Convention to be applied in its territory shall be fixed as follows: with regard to the limits provided for in paragraph 1 of Article 18, to 13,750 monetary units per package or other shipping unit or 41.25 monetary units per kilogram of gross weight of the goods, and with regard to the limit provided for in paragraph 3 of Article 18, to 124 monetary units.
3. The monetary unit referred to in paragraph 2 of this Article corresponds to sixty-five and a half milligrams of gold of millesimal fineness nine hundred. The conversion of the amount referred to in paragraph 2 of this Article into national currency shall be made according to the law of the State concerned.
4. The calculation mentioned in the last sentence of paragraph 1 of this Article and the conversion referred to in paragraph 3 of this Article shall be made in such a manner as to express in the national currency of the Contracting State as far as possible the same real value for the amounts in Article 18 as is expressed there in units of account.
5. Contracting States shall communicate to the depositary the manner of calculation pursuant to the last sentence of paragraph 1 of this Article, or the result of the conversion pursuant to paragraph 3 of this Article, as the case may be, at the time of signature or when depositing their instruments of ratification, acceptance, approval or accession, or when availing themselves of the option provided for in paragraph 2 of this Article and whenever there is a change in the manner of such calculation or in the result of such conversion.

PART VII

Article 32 [Omitted].

PART VIII

Article 33–40 [Omitted].

ANNEX: PROVISIONS ON CUSTOMS MATTERS RELATING TO INTERNATIONAL MULTIMODAL TRANSPORT OF GOODS [OMITTED].

UNIDROIT CONVENTION ON AGENCY IN THE INTERNATIONAL SALE OF GOODS, GENEVA, 1983

CHAPTER 1

SPHERE OF APPLICATION AND GENERAL PROVISIONS

Article 1

1. This Convention applies where one person, the agent, has authority or purports to have authority on behalf of another person, the principal, to conclude a contract of sale of goods with a third party.
2. It governs not only the conclusion of such a contract by the agent but also any act undertaken by him for the purpose of concluding that contract or in relation to its performance.
3. It is concerned only with relations between the principal or the agent on the one hand, and the third party on the other.
4. It applies irrespective of whether the agent acts in his own name or in that of the principal.

Article 2

1. This Convention applies only where the principal and the third party have their places of business in different States and –
   (a) the agent has his place of business in a Contracting State; or
   (b) the rules of private international law to the application of the law of a Contracting State.
2. Where, at the time of contracting, the third party neither knew nor ought to have known that the agent was acting as an agent, the Convention only applies if the agent and the third party had their places of business in different States and if the requirements of paragraph 1 are satisfied.
3. Neither the nationality of the parties nor the civil or commercial character of the parties or of the contract of sale is to be taken into consideration in determining the application of this Convention.

Article 3

1. This Convention does not apply to –
   (a) the agency of a dealer on a stock, commodity or other exchange;
   (b) the agency of an auctioneer;
   (c) agency by operation of law in family law, in the law of matrimonial property, or in the law of succession;
   (d) agency arising from statutory or judicial authorisation to act for a person without capacity to act;
   (e) agency by virtue of a decision of a judicial or quasi-judicial authority or subject to the direct control of such an authority.
2. Nothing in this Convention affects any rule of law for the protection of consumers.

Article 4

For the purposes of this Convention –
   (a) an organ, officer, or partner of a corporation, association, partnership or other entity, whether or not possessing legal personality, shall not be regarded as the agent of that entity in so far as, in the exercise of his functions as such, he acts by virtue of an authority conferred by law or by the constitutive documents of that entity;

(b) a trustee shall not be regarded as an agent of the trust, of the person who has created the trust, or of the beneficiaries.

Article 5

The principal, or an agent acting in accordance with the express or implied instructions of the principal, may agree with the third party to exclude the application of this Convention or, subject to Article II, to derogate from or vary the effect of any of its provisions.

Article 6

1. In the interpretation of this Convention, regard is to be had to its international character and to the need to promote uniformity in its application and the observance of good faith in international trade.
2. Questions concerning matters governed by this Convention which are not expressly settled in it are to be settled in conformity with the general principles on which it is based or, in the absence of such principles, in conformity with the law applicable by virtue of the rules of private international law.

Article 7

1. The principal or the agent on the one hand and the third party on the other are bound by any usage to which they have agreed and by any practices which they have established between themselves.
2. They are considered, unless otherwise agreed, to have impliedly made applicable to their relations any usage of which they knew or ought to have known and which in international trade is widely known to, and regularly observed by, parties to agency relations of the type involved in the particular trade concerned.

Article 8

For the purposes of this Convention –

(a) if a party has more than one place of business, the place of business is that which has the closest relationship to the contract of sale, having regard to the circumstances known to or contemplated by the parties at the time of contracting;
(b) if a party does not have a place of business, reference is to be made to his habitual residence.

CHAPTER II

ESTABLISHMENT AND SCOPE OF THE AUTHORITY OF THE AGENT

Article 9

1. The authorisation of the agent by the principal may be express or implied.
2. The agent has authority to perform all acts necessary in the circumstances to achieve the purposes for which the authorisation was given.

Article 10

The authorisation need not be given in or evidenced by writing and is not subject to any other requirement as to form. It may be proved by any means, including witnesses.

Article 11

Any provision of Article 10, Article 15 or Chapter IV which allows an authorisation, a ratification or a termination of authority to be made in any form other than in writing does not apply

where the principal or the agent has his place of business in a Contracting State which has made a declaration under Article 27. The parties may not derogate from or vary the effect of this paragraph.

CHAPTER III

LEGAL EFFECTS OF ACTS CARRIED OUT BY THE AGENT

Article 12

Where an agent acts on behalf of a principal within the scope of his authority and the third party knew or ought to have known that the agent was acting as an agent, the acts of the agent shall directly bind the principal and the third party to each other, unless it follows from the circumstances of the case, for example by a reference to a contract of commission, that the agent undertakes to bind himself only.

Article 13

1. Where the agent acts on behalf of a principal within the scope of this authority, his acts shall bind only the agent and the third party if –
   (a) the third party neither knew nor ought to have known that the agent was acting as an agent; or
   (b) it follows from the circumstances of the case, for example by a reference to a contract of commission, that the agent undertakes to bind himself only.
2. Nevertheless –
   (a) where the agent, whether by reason of the third party's failure of performance or for any other reason, fails to fulfil or is not in a position to fulfil his obligations to the principal, the principal may exercise against the third party the rights acquired on the principal's behalf by the agent, subject to any defences which the third party may set up against the agent;
   (b) where the agent fails to fulfil or is not in a position to fulfil his obligations to the third party, the third party may exercise against the principal the rights which the third party has against the agent, subject to any defences which the agent may set up against the third party and which the principal may set up against the agent.
3. The rights under paragraph 2 may be exercised only if notice of intention to exercise them is given to the agent and the third party or principal, as the case may be. As soon as the third party or principal has received such notice, he may no longer free himself from his obligations by dealing with the agent.
4. Where the agent fails to fulfil or is not in a position to fulfil his obligations to the third party because of the principal's failure of performance, the agent shall communicate the name of the principal to the third party.
5. Where the third party fails to fulfil his obligations under the contract to the agent, the agent shall communicate the name of the third party to the principal.
6. The principal may not exercise against the third party the rights acquired on his behalf by the agent if it appears from the circumstances of the case that the third party, had he known the principal's identity, would not have entered into the contract.
7. An agent may, in accordance with the express or implied instructions of the principal, agree with the third party to derogate from or vary the effect of paragraph 2.

Article 14

1. Where an agent acts without authority or acts outside the scope of his authority, his acts do not bind the principal and the third party to each other.

2. Nevertheless, where the conduct of the principal causes the third party reasonably and in good faith to believe that the agent has authority to act on behalf of the principal and that the agent is acting within the scope of that authority, the principal may not invoke against the third party the lack of authority of the agent.

Article 15

1. An act by an agent who acts without authority or who acts outside the scope of his authority may be ratified by the principal. On ratification the act produces the same effects as if it had initially been carried out with authority.
2. Where, at the time of the agent's act, the third party neither knew nor ought to have known of the lack of authority, he shall not be liable to the principal, if, at any time before ratification, he gives notice of his refusal to become bound by a ratification. Where the principal ratifies but does not do so within a reasonable time, the third party may refuse to be bound by the ratification if he promptly notifies the principal.
3. Where, however, the third party knew or ought to have known of the lack of authority of the agent, the third party may not refuse to become bound by a ratification before the expiration of any time agreed for ratification, or failing agreement, such reasonable time as the third party may specify.
4. The third party may refuse to accept a partial ratification.
5. Ratification shall take effect when notice of it reaches the third party or the ratification otherwise comes to his attention. Once effective, it may not be revoked.
6. Ratification is effective notwithstanding that the act itself could not have been effectively carried out at the time of ratification.
7. Where the act has been carried out on behalf of a corporation or other legal person before its creation, ratification is effective only if allowed by the law of the State governing its creation.
8. Ratification is subject to no requirements as to form. It may be express or may be inferred from the conduct of the principal.

Article 16

1. An agent who acts without authority or who acts outside the scope of his authority shall, failing ratification, be liable to pay the third party such compensation as will place the third party in the same position as he would have been in if the agent had acted with authority and within the scope of his authority.
2. The agent shall not be liable, however, if the third party knew or ought to have known that the agent had no authority or was acting outside the scope of his authority.

CHAPTER IV

TERMINATION OF THE AUTHORITY OF THE AGENT

Article 17

The authority of the agent is terminated –

(a) when this follows from any agreement between the principal and the agent;
(b) on completion of the transaction or transactions for which the authority was created;
(c) on revocation by the principal or renunciation by the agent, whether or not this is consistent with the terms of the agreement.

Article 18

The authority of the agent is also terminated when the applicable law so provides.

Article 19
The termination of the authority shall not affect the third party unless he knew or ought to have known of the termination or the facts which caused it.

Article 20
Notwithstanding the termination of his authority, the agent remains authorised to perform on behalf of the principal or his successors the acts which are necessary to prevent damage to their interests.

Articles 21–28 [Omitted].

Article 29
A Contracting State, the whole or specific parts of the foreign trade of which are carried on exclusively by specially authorised organisations, may at any time declare that, in cases where such organisations act either as buyers or sellers in foreign trade, all these organisations or the organisations specified in the declaration shall not be considered for the purposes of Article 13, paragraphs 2(b) and 4, as agents in their relations with other organisations having their place of business in the same State.

Article 30
1. A Contracting State may at any time declare that it will apply the provisions of this Convention to specified cases falling outside its sphere of application.
2. Such declaration may, for example, provide that the Convention shall apply to –
   (a) contracts other than contracts of sale of goods;
   (b) cases where the place of business mentioned in Article 2, paragraph 1, are not situated in Contracting States.

Articles 31–35 [Omitted].

CONVENTION ON THE LAW APPLICABLE TO CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS, THE HAGUE, 1985

CHAPTER 1

SCOPE OF THE CONVENTION

Article 1
This Convention determines the law applicable to contracts of sale of goods –
   (a) between parties having their places of business in different States;
   (b) in all other cases involving a choice between the laws of different States, unless such a choice arises solely from a stipulation by the parties as to the applicable law, even if accompanied by a choice of court or arbitration.

Article 2
The Convention does not apply to –
   (a) sales by way of execution or otherwise by authority of law;
   (b) sales of stocks, shares, investment securities, negotiable instruments or money, it does, however, apply to the sale of goods based on documents;

(c) sales of goods bought for personal, family or household use; it does, however, apply if the seller at the time of the conclusion of the contract neither knew nor ought to have known that the goods were bought for any such use.

Article 3

For the purposes of the Convention, 'goods' includes –

(a) ships, vessels, boats, hovercraft and aircraft;
(b) electricity.

Article 4

1. Contracts for the supply of goods to be manufactured or produced are to be considered contracts of sale unless the party who orders the goods undertakes to supply a substantial part of the materials necessary for such manufacture or production.
2. Contracts in which the preponderant part of the obligations of the party who furnishes goods consists of the supply of labour or other services are not to be considered contracts of sale.

Article 5

The Convention does not determine the law applicable to –

(a) the capacity of the parties or the consequences of nullity or invalidity of the contract resulting from the incapacity of a party;
(b) the question whether an agent is able to bind a principal, or an organ to bind a company or body corporate or unincorporate;
(c) the transfer of ownership; nevertheless, the issues specifically mentioned in Article 12 are governed by the law applicable to the contract under the Convention;
(d) the effect of the sale in respect of any person other than the parties;
(e) agreements on arbitration or on choice of court, even if such an agreement is embodied in the contract of sale.

Article 6

The law determined under the Convention applies whether or not it is the law of a Contracting State.

CHAPTER II

APPLICABLE LAW

SECTION 1 – DETERMINATION OF THE APPLICABLE LAW

Article 7

1. A contract of sale is governed by the law chosen by the parties. The parties' agreement on this choice must be express or be clearly demonstrated by the terms of the contract and the conduct of the parties, viewed in their entirety. Such a choice may be limited to a part of the contract.
2. The parties may at any time agree to subject the contract in whole or in part to a law other than that which previously governed it, whether or not the law previously governing the contract was chosen by the parties. Any change by the parties of the applicable law made after the conclusion of the contract does not prejudice its formal validity or the rights of third parties.

Article 8

1. To the extent that the law applicable to a contract of sale has not been chosen by the parties in accordance with Article 7, the contract is governed by the law of the State where the seller has his place of business at the time of conclusion of the contract.

2. However, the contract is governed by the law of the State where the buyer has his place of business at the time of conclusion of the contract, if –

(a) negotiations were conducted, and the contract concluded by and in the presence of the parties, in that State; or
(b) the contract provides expressly that the seller must perform his obligation to deliver the goods in that State; or
(c) the contract was concluded on terms determined mainly by the buyer and in response to an invitation directed by the buyer to persons invited to bid (a call for tenders).

3. By way of exception, where, in the light of the circumstances as a whole, for instance any business relations between the parties, the contract is manifestly more closely connected with a law which is not the law which would otherwise be applicable to the contract under paragraphs 1 or 2 of this Article, the contract is governed by that other law.
4. Paragraph 3 does not apply if, at the time of the conclusion of the contract, the seller and the buyer have their places of business in States having made the reservation under Article 21 paragraph 1 sub-paragraph b.
5. Paragraph 3 does not apply in respect of issues regulated in the United Nations Convention on Contracts for the International Sale of Goods (Vienna, 11 April 1980) where, at the time for the conclusion of the contract, the seller and the buyer have their places of business in different States both of which are Parties to that Convention.

Article 9

A sale by auction or on a commodity or other exchange is governed by the law chosen by the parties in accordance with Article 7 to the extent to which the law of the State where the auction takes place or the exchange is located does not prohibit such choice. Failing a choice by the parties, or to the extent where the aution takes place or the exchange is located shall apply.

Article 10

1. Issues concerning the existence and material validity of the consent of the parties as to the choice of the applicable law are determined, where the choice of the applicable law are determined, where the choice satisfies the requirements of Article 7, by the law chosen. If under that law the choice is invalid, the law governing the contract is determined under Article 8.
2. The existence and material validity of a contract of sale, or of any term thereof, are determined by the law which under the Convention would govern the contract or term if it were valid.
3. Nevertheless, to establish that he did not consent to the choice of law, to the contract itself, or to any term thereof, a party may rely on the law of the State where he has his place of business, if in the circumstances it is not reasonable to determine that issue under the law specified in the preceding paragraphs.

Article 11

1. A contract of sale concluded between persons who are in the same State is formally valid if it satisfies the requirements either of the law which governs it under the Convention or of the law of the State where it is concluded.
2. A contract of sale concluded between persons who are in different States is formally valid if it satifies the requirements either of the law which governs it under the Convention or of the law of one of those States.
3. Where the contract is concluded by an agent, the State in which the agent acts is the relevant State for the purposeof the preceding paragraphs.

4. An act intended to have legal effect relating to an existing or contemplated contract of sale is formally valid if it satisfies the requirements either of the law which under the Convention governs or would govern the contract, or to the law of the State where the act was done.
5. The Convention does not apply to the formal validity of a contract of sale where one of the parties to the contract has, at the time of its conclusion, his place of business in State which has made the reservation provided for in Article 1 paragraph 1 sub-paragraph c.

SECTION 2 – SCOPE OF THE APPLICABLE LAW

Article 12

The law applicable to a contract of sale by virtue of Articles 7, 8 or 9 governs in particular –

(a) interpretation of the contract;
(b) the rights and obligations of the parties and performance of the contracts;
(c) the at which the buyer becomes entitled to the products, fruits and income deriving from the goods;
(d) the time from which the buyer bears the risk with respect to the goods;
(e) the validity and effects as between the parties of clauses reserving title to the goods;
(f) the consequences of non performance of the contract, including the categories of loss for which compensation may be recovered, but without prejudice to the procedural law of the forum;
(g) the various ways of extinguishing obligations, as well as prescription and limitation of actions;
(h) the consequences of nullity or invalidity of the contract.

Article 13

In the absence of an express clauses to the contract, the law of the State where inspection of the goods takes place applies to the modalities and procedural requirements for such inspection.

CHAPTER III

GENERAL PROVISIONS

Article 14

1. If a party has more than one place of business, the relevant place of business is that which has the closest relationship to the contract and its performance, having regard to the circumstance known to or contemplated by the parties at any time before or at the conclusion of the contract.
2. If a party does not have a place of business, reference is to be made to his hatitual residence.

Article 15

In the Convention 'law' means the law in force in a State other than its choice of law rules.

Article 16

In the interpretation of the Convention, regard is to be had to its international character and to the need to promote uniformity in its application.

Article 17

The Convention does not prevent the application of those provisions of the law of the forum that must be applied irrespective of the law that otherwise governs the contract.

Article 18

The application of a law determined by the Convention may be refused only where such application would be manifestly incompatible with public policy *(order public)*.

Articles 19–20 [Omitted].

Article 21

1. Any State may, at the time of signature, retification, acceptance, approval or accession, make any of the following reservations –
   (a) that it will not apply the Convention in cases covered by subparagraph (b) of Article 1;
   (b) that it will not apply paragraph 3 of Article 8 except where neither party to the contract has his place of business in a State which has made a reservation provided for under this subparagraph;
   (c) that for cases where its legislation requires contracts of sale to be concluded in or evidenced by writing, it will not apply the Convention to the formal validity of the contract, where any party has his place of business in its territory at the time of conclusion of the contract.
2. [Omitted].
3. [Omitted].

Articles 22–31 [Omitted].

UNIDROIT CONVENTION ON INTERNATIONAL FACTORING, OTTAWA, 1988

CHAPTER I

SPHERE OF APPLICATION AND GENERAL PROVISIONS

Article 1

1. This Convention governs factoring contracts and assignments of receivables as described in this Chapter.
2. For the purposes of this convention 'factoring contract' means a contract concluded between the party (the supplier) and another party (the factor) pursuant to which –
   (a) the supplier may or will assign to the factor receivables arising from contracts of sale of goods made between the supplier and its customers (debtors) other than those for the sale of goods bought primarily for their personal, family or household use;
   (b) the factor is to perform at least two of the following functions:
      — finance for the supplier, including loans and advance payments;
      — maintenance of accounts (ledgering) relating to the receivables;
      — collection of receivables;
      — protection against default in payment by debtors;
   (c) notice of the assignment of the receivables is to be given to debtors.
3. In this Convention references to 'goods' and 'sale of goods' shall include services and the supply of services.
4. For the purposes of this Convention –
   (a) a notice in writing need not be signed but must identify the person by whom or in whose name it is given;

(b) 'notice in writing' includes, but is not limited to, telegrams, telex and any other telecommunication capable of being reproduced in tangible form;
(c) a notice in writing is given when it is received by the addressee.

Article 2

1. This Convention applies whenever the receivables assigned pursuant to a factoring contract arise from a contract of sale of goods between a supplier and a debtor whose places of business are in different States and –
(a) those States and the State in which the factor has its place of business are Contracting States; or
(b) both the contract of sale of goods and the factoring contract are governed by the law of a Contracting State.

2. A reference in this Convention to a party's place of business shall, if it has more than one place of business, mean the place of business which has the closest relationship to the relevant contract and its performance, having regard to the circumstances known to or contemplated by the parties at any time before or at the conclusion of that contract.

Article 3

1. The application of this Convention may be excluded –
(a) by the parties to the factoring contract; or
(b) by the parties to the contract of sale of goods, as regards receivables arising at or after the time when the factor has been given notice in writing of such exclusion.

2. Where the application of this Convention is excluded in accordance with the previous paragraph, such exclusion may be made only as regards the Convention as a whole.

Article 4

1. In the interpretation of this Convention, regard is to be had to its object and purpose as set forth in the preamble, to its international character and to the need to promote uniformity in its application and the observance of good faith in international trade.

2. Questions concerning matters governed by this convention which are not expressly settled in it are to be settled in conformity with the general principles on which it is based or, in the absence of such principles, in conformity with the law applicable by virtue of the rules of private international law.

CHAPTER II

RIGHTS AND DUTIES OF THE PARTIES

Article 5

As between the parties to the factoring contract –
(a) a provision in the factoring contract for the assignment of existing or future receivables shall not be rendered invalid by the fact that contract does not specify them individually, if at the time of conclusion of the contract or when they come into existence they can be identified to the contract;
(b) a provision in the factoring contract by which future receivables are assigned operates to transfer the receivables to the factor when they come into existence without the need for any new act of transfer.

Article 6

1. The assignment of a receivable by the supplier to the factor shall be effective notwithstanding any agreement between the supplier and the debtor prohibiting such assignment.

2. However, such assignment shall not be effective against the debtor when, at the time of conclusion of the contract of sale of goods, it has its place of business in a Contracting State which has made a declaration under Article 18 of this Convention.
3. Nothing in paragraph 1 shall affect any obligation of good faith owed by the supplier to the debtor or any liability of the supplier to the debtor in respect of an assignment made in breach of the terms of the contract of sale of goods.

Article 7
A factoring contract may validly provide as between the parties thereto for the transfer, with or without a new act of transfer, of all or any of the supplier's rights deriving from the contract of sale of goods, including the benefit of any provision in the contract of sale of goods reserving to the supplier title to the goods or creating any security interest.

Article 8
1. The debtor is under a duty to pay the factor if, and only if, the debtor does not have knowledge of any other person's superior right to payment and notice in writing of the assignment –

(a) is given to the debtor by the supplier or by the factor with the supplier's authority;
(b) reasonably identifies the receivables which have been assigned and the factor to whom or for whose account the debtor is required to make payment; and
(c) relates to receivables arising under a contract of sale of goods made at or before the time the notice is given.

2. Irrespective of any other ground on which payment by the debtor to the factor discharges the debtor from liability, payment shall be effective for this purpose if made in accordance with the previous paragraph.

Article 9
1. In a claim by the factor against the debtor for payment of a receivable arising under a contract of sale of goods the debtor may set up against the factor all defences arising under that contract of which the debtor could have availed itself if such claim had been made by the supplier.
2. The debtor may also assert against the factor any right of set-off in respect of claims existing against the supplier in whose favour the receivable arose and available to the debtor at the time a notice in writing of assignment conforming to Article 8(1) was given to the debtor.

Article 10
1. Without prejudice to the debtor's rights under Article 9, non-performance or defective or late performance of the contract of sale of goods shall not by itself entitle the debtor to recover a sum paid by the debtor to the factor if the debtor has a right to recover that sum from the supplier.
2. The debtor who has such a right to recover from the supplier a sum paid to the factor in respect of a receivable shall nevertheless be entitled to recover that sum from the factor to the extent that –

(a) the factor has not discharged an obligation to make payment to the supplier in respect of that receivable; or
(b) the factor made such payment at a time when it knew of the supplier's non-performance or defective or late performance as regards the goods to which the debtor's payment relates.

CHAPTER III

SUBSEQUENT ASSIGNMENTS

Article 11

1. Where a receivable is assigned by a supplier to a factor pursuant to a factoring contract governed by this Convention –

(a) the rules set out in Articles 5 to 10 shall, subject to sub-paragraph b of this paragraph, apply to any subsequent assignment of the receivable by the factor or by a subsequent assignee;

(b) the provisions of Articles 8 to 10 shall apply as if the subsequent assignee were the factor.

2. For the purposes of this Convention, notice to the debtor of the subsequent assignment also constitutes notice of the assignment to the factor.

Article 12

This Convention shall not apply to a subsequent assignment which is prohibited by the terms of the factoring contract.

CHAPTER IV

FINAL PROVISIONS

Articles 13–23 [omitted].

UNITED NATIONS CONVENTION ON INTERNATIONAL BILLS OF EXCHANGE AND INTERNATIONAL PROMISSORY NOTES, 1988

CHAPTER 1

SPHERE OF APPLICATION AND FORM OF THE INSTRUMENT

Article 1

1. This Convention applies to an international bill of exchange when it contains the heading 'International bill of exchange (UNCITAL Convention)' and also contains in its text the words 'International bill of exchange (UNCITAL Convention)'.

2. This Convention applies to an international promissory note when it contains the heading 'International promissory note (UNCITAL Convention)' and also contains in its text the words 'International promissory note (UNCITAL Convention)'.

3. This Convention does not apply to cheques.

Article 2

1. An international bill exchange is a bill of exchange which specifies at least two of the following places and indicates that any two so specified are situated in different States –

(a) the place where the bill is drawn;

(b) the place indicated next to the signatute of the drawer;

(c) the place indicated next to the name of the drawer;

(d) the place indicated next to the name of the payee;
(e) the place of payment,

provided that either the place where the bill is drawn or the place of payment is specified on the bill and that such place is situated in a Contracting State.

2. An international promissory note is a promissory note which specifies at least two of the following places and indicates that any two so specified are situated in a different States –

(a) the place where the note is made;
(b) the place indicated next to the signature of the maker;
(c) the place indicated next to the name of the payee;
(d) the place of payment;

provided that the place of payment is specified on the note and that such place is situated in a Contracting State.

3. This Convention does not deal with the question of sanctions that may be imposed under national law in cases where an incorrect or false statement has been made on an instrument in respect of a place referred to in paragraph 1 or 2 of this Article. However, any such sanctions shall not affect the validity of the instrument or the application of this Convention.

Article 3

1. A bill of exchange is a written instrument which –

(a) contains an unconditional order whereby the drawer directs the drawee to pay a definite sum of money to the payee or to his order;
(b) is payable on demand or at a definite time;
(c) is dated;
(d) is signed by the drawer.

2. A promissory note is a written instrument which –

(a) contains an unconditional promise whereby the maker undertakes to pay a definite sum of money to the payee or to his order;
(b) is payable on demand or at a definite time;
(c) is dated;
(d) is signed by the maker.

CHAPTER II

INTERPRETATION
SECTION 1 – GENERAL PROVISIONS

Article 4

In the interpretation of this Convention, regard is to be had to its international Character and to the need to promote uniformity in its application and the observance of good faith in international transactions.

Article 5

In this Convention –

(a) 'Bill' means an international bill of exchange governed by this Convention;
(b) 'Note' means an international promissory note governed by this Convention;
(c) 'Instrument' means a bill or a note;
(d) 'Drawee' means a person on whom a bill is drawn and who has not accepted it;
(e) 'Payee' means a person in whose favour the drawer directs payment to be made or to whom the maker promises to pay;

(f) 'Holder' means a person in possession of an instrument in accordance with Article 15;
(g) 'Protected Holder' means a holder who meets the requirements of Article 29;
(h) 'Guarantor' means any person any person who undertakes an obligation of gurantee under Article 46, whether governed by subparagraph b ('guranteed') or subparagraph c ('*aval*') of paragraph 4 of Article 47;
(i) 'Party' means the a person who has signed an instrument as drawer, maker, acceptor, endorser or gurantor;
(j) 'Maturity' means the time of payment referred to in paragraphs 4, 5, 6 and 7 of Article 9;
(k) 'Signature' means a handwritten signature, its facsmile or an equivalent authentication effected by any other means; 'forged signature' includes a signature by the wrongful use of such means;
(l) 'Money' or 'currency' includes a monetary unit of account which is established by an intergovernmental institution or by agreement between two or more States, provided that this Convention shall apply without prejudice to the rules of the intergovernmental institution or to stipulations of the agreements.

Article 6

For the purposes of this Convention, a person is considered to have knowledge of a fact if he has actual knowledge of that fact or could not have been unaware of its existence.

SECTION 2 – INTERPRETATION OF FORMAL REQUIREMENTS

Article 7

The sum payable by an instrument is deemed to be a definite sum although the instrument states that it is to be paid –

(a) with interest;
(b) by instalments at successive dates;
(c) by instalments at successive dates with a stipulation in the instrument that upon default in payment of any instalment the unpaid balance becomes due;
(d) according to a rate of exchange indicated in the instrument or to be determined as directed by the instrument; or
(e) in a currency other than the currency in which the sum is expressed in the instrument.

Article 8

1. If there is a discrepancy between the sum expressed in words and the sum expressed in figures, the sum payable by the instrument is the sum expressed in words.
2. If the sum is expressed more than once in words, and there is a discrepancy, the sum payable is the smaller sum. The same rule applies if the sum is expressed more than once in figures only, and there is a discrepancy.
3. If the sum is expressed in a currency having the same description as that of at least one other State than the State where payment is to be made, as indicated in the instrument, and the specified currency is not identified as the currency of any particular State, the currency is to be considered as the currency of the State where payment is to be made.
4. If an instrument states that the sum is to paid with interest, without specifying the date from which interest is to run, interest runs from the date of the instrument.

5. A stipulation stating that the sum is to be paid with interest is deemed not to have been written on the instrument unless it indicates the rate at which interest is to be paid.
6. A rate at which interest is to be paid may be expressed either as a definite rate or as a variable rate. For a variable rate to qualify for this purpose, it must vary in relation to one or more reference rates of interest in accordance with provisions stipulated in the instrument and each such reference rate must be published or otherwise available to the public and not be subject, directly or indirectly, to unilateral determination by a person who is named in the instrument at the time the bill is drawn or the note is made, unless the person is named only in the reference rate provisions.
7. If the rate at which interest is to be paid is expressed as a variable rate, it may be stipulated expressly in the instrument that such rate shall not be less than or exceed a specified rate of interest, or that the variations are otherwise limited.
8. If a variable rate does not qualify under paragraph 6 of this Article or for any reason it is not possible to determine the numerical value of the variable rate for any period, interest shall be payable for the relevant period at the rate calculated in accordance with paragraph 2 of Article 70.

Article 9

1. An instrument is deemed to be payable on demand –
   (a) if it states that it is payable at sight or on demand or on presentment or if it contains words of similar import; or
   (b) if no time of payment is expressed.
2. An instrument payable at a definite time which is accepted or endorsed or guaranteed after maturity is an instrument payable on demand as regards the acceptor, the endorser or the guarantor.
3. An instrument is deemed to be payable at a definite time if it states that it is payable –
   (a) on a stated date or at a fixed period after a stated date or at a fixed period after the date of the instrument; or
   (b) at a fixed period after sight; or
   (c) by instalments at successive dates; or
   (d) by instalments at successive dates with the stipulation in the instrument that upon default in payment of any instalment the unpaid balance becomes due.
4. The time of payment of an instrument payable at a fixed period after date is determined by reference to the date of the instrument.
5. The time of payment of a bill payable at a fixed period after sight is determined by the date of acceptance or, if the bill is dishonoured by non-acceptance, by the date of protest or, if protest is dispensed with, by the date of dishonour.
6. The time of payment of an instrument payable on demand is the date on which the instrument is presented for payment.
7. The time of payment of a note payableat a fixed period after sight is determined by the date of the visa signed by the maker on the note or, if his visa is refused, by the date of presentment.
8. If an instrument is drawn, or made, payable one or more months after a stated date or after a date of the instrument or after sight, the instrument is payable on the corresponding date of the month when payment must be made. If there is no corresponding date, the instrument is payable on the last day of that month.

Article 10

1. A bill may be drawn –

(a) by two or more drawers;
(b) payable to two or more payees.

2. A note may be made –
(a) by two or more makers;
(b) payable to two or more payees.

3. If an instrument is payable to two or more payees in the alternative, it is payable to any one of them and any one of them in possession of the instrument may exercise the rights of a holder. In any other case the instrument is payable to all of them and the rights of a holder may be exercised only by all of them.

Article 11

A bill may be drawn by the drawer –
(a) on himself;
(b) payable to his order.

SECTION 3 – COMPLETION OF AN INCOMPLETE INSTRUMENT

Article 12

1. An incomplete instrument which satisfies the requirements set out in paragraph 1 of Article 1 and bears the signature of the drawer of the acceptance of the drawee, or which satisfies the requirements set out in paragraph 2 of Article 1 and subparagraph (d) of paragraph 2 of Article 3, but which lacks other elements pertaining to one or more of the requirements set out in Articles 2 and 3, may be completed, and the instrument so completed is effective as a bill or a note.

2. If such an instrument is completed without authority or otherwise than in accordance with the authority given –
(a) a party who signed the instrument before the completion may invoke such lack of authority as a defence against a holder who had knowledge of such lack of authority when he became a holder;
(b) a party who signed the instrument after the completion is liable according to the terms of the instrument so completed.

CHAPTER III – TRANSFER

Article 13

An instrument is transferred –
(a) by endorsement and delivery of the instrument by the endorser to the endorsee; or
(b) by mere delivery of the instrument if the last endorsement is in blank.

Article 14

1. An endorsement must be written on the instrument or on a slip affixed thereto *('allonge')*. It must be signed.

2. An endorsement may be –
(a) in blank, that is, by a signature alone or by a signature accompanied by a statement to the effect that the instrument is payable to a person in possession of it;
(b) special, that is, by a signature accompanied by an indication of the person to whom the instrument is payable.

3. A signature alone, other than that of the drawee, is an endorsement only if placed on the back of the instrument.

Article 15

1. A person is a holder if he is –
   (a) the payee in possession of the instrument; or
   (b) in possession of an instrument which has been endorsed to him, or on which the last endorsement is in blank, and on which there appears an uninterrupted series of endorsements, even if any endorsement was forged or was signed by an agent without authority.
2. If an endorsement in blank is followed by another endorsement, the person who signed this last endorsement is deemed to be an endorsee by the endorsement in blank.
3. A person is not prevented from being a holder by the fact that the instrument was obtained by him or any previous holder under circumstances, including incapacity or fraud, duress or mistake of any kind, that would give rise to a claim to, or a defence against liability on, the instrument.

Article 16

The holder of an instrument on which the last endorsement is in blank may –
   (a) further endorse it either by an endorsement in blank or by a special endorsement; or
   (b) convert the blank endorsement into a special endorsement by indicating in the endorsement that the instrument is payable to himself or to some other specified person; or
   (c) transfer the instrument in accordance with subparagraph b of Article 13.

Article 17

1. If the drawer or the maker has inserted in the instrument such words as 'not acceptable', 'not transferable', 'not to order', 'pay (x) only', or words of similar import, the instrument may not be transferred except for purposes of collection, and any endorsement, even if it does not contain words authorising the endorsee to collect the instrument, is deemed to be an endorsement for collection.
2. If an endorsement contains the words 'not negotiable', 'not transferable', 'not to order', 'pay (x) only', or words of similar import, the instrument may not be transferred further except for purposes of collection, and any subsequent endorsement, even if it does not contain words authorising the endorsee to collect the instrument, is deemed to be an endorsement for collection.

Article 18

1. An endorsement must be unconditional.
2. A conditional endorsement transfers the instrument whether or not the condition is fulfilled. The condition is ineffective as to those parties and transferees who are subsequent to the endorsee.

Article 19

An endorsement in respect of a part of the sum due under the instrument is ineffective as an endorsement.

Article 20

If there are two or more endorsements, it is presumed, unless the contrary is proved, that each endorsement was made in the order in which it appears on the instrument.

Article 21

1. If an endorsement contains the words 'for collection', 'for deposit', 'value in collection', 'by procuration', 'pay any bank', or words of similar import authorising the endorsee to collect the instrument, the endorsee is a holder who –

(a) may exercise all rights arising out of the instrument;
(b) may endorse the instrument only for purposes of collection;
(c) is subject only to the claims and defences which may be set up against the endorser.

2. The endorser for collection is not liable on the instrument to any subsequent holder.

Article 22

1. If an endorsement contains the words 'value in security', 'value in pledge', or any other words indicating a pledge, the endorsee is a holder who –

(a) may exercise all rights arising out of the instrument;
(b) may endorse the instrument only for purposes of collection;
(c) is subject only to the claims and defences specified in Articles 28 or 30.

2. If such an endorsee endorses for collection, he is not liable on the instrument to any subsequent holder.

Article 23

The holder of an instrument may transfer it to a prior party or to the drawee in accordance with Article 13; however, if the transferee has previously been a holder of the instrument, no endorsement is required, and any endorsement which would prevent him from qualifying as a holder may be struck out.

Article 24

An instrument may be transferred in accordance with Article 13 after maturity, except by the drawee, the acceptor or the maker.

Article 25

1. If an endorsement is forged, the person whose endorsement is forged, or a party who signed the instrument before the forgery, has the right to recover compensation for any damage that he may have suffered because of the forgery against –

(a) the forger;
(b) the person to whom the instrument was directly transferred by the forger;
(c) a party or the drawee who paid the instrument to the forger directly or through one or more endorsees for collection.

2. However, an endorsee for collection is not liable under paragraph 1 of this Article if he is without knowledge of the forgery –

(a) at the time he pays the principal or advises him of the receipt of payment; or
(b) at the time he receives payment, if this is later, unless his lack of knowledge is due to his failure to act in good faith or to exercise reasonable care.

3. Furthermore, a party or the drawee who pays an instrument is not liable under paragraph 1 of this Article if, at the time he pays the instrument, he is without knowledge of the forgery, unless his lack of knowledge is due to his failure to act in good faith or to exercise reasonable care.

4. Except as against the forger, the damages recoverable under paragraph 1 of this Article may not exceed the amount referred to in Article 70 or 71.

Article 26

1. If an endorsement is made by an agent without authority or power to bind his principal in the matter, the principal, or a party who signed the instrument before such endorsement, has the

right to recover compensation for any damage that he may have suffered because of such endorsement against –

(a) the agent;
(b) the person to whom the instrument was directly transferred by the agent;
(c) a party or the drawee who paid the instrument to the agent directly or through one or more endorsees for collection.

2. However, an endorsee for collection is not liable under paragraph 1 of this Article if he is without knowledge that the endorsement does not bind the principal –

(a) at the time he pays the principal or advises him of the receipt of payment; or
(b) at the time he receives payment, if this is later, unless his lack of knowledge is due to his failure to act in good faith or to exercise reasonable care.

3. Furthermore, a party or the drawee who pays an instrument is not liable under paragraph 1 of this Article if, at the time he pays the instrument, he is without knowledge that the endorsement does not bind the principal, unless his lack of knowledge is due to his failure to act in good faith or to exercise reasonable care.

4. Except as against the agent, the damages recoverable under paragraph 1 of this Article may not exceed the amount referred to in Article 70 or 71.

CHAPTER IV RIGHTS AND LIABILITIES

SECTION 1 – THE RIGHTS OF A HOLDER AND A PROTECTED HOLDER

Article 27

1. The holder of an instrument has all the rights conferred on him by this Convention against the parties to the instrument.

2. The holder may transfer the instrument in accordance with Article 13.

Article 28

1. A party may set up against a holder who is not a protected holder –

(a) any defence that may be set up against a protected holder in accordance with paragraph 1 of Article 30;
(b) any defence based on the underlying transaction between himself and the drawer or between himself and his transferee, but only if the holder took the instrument with knowledge of such defence or if he obtained the instrument by fraud or theft or participated at any time in a fraud or theft concerning it;
(c) any defence arising from the circumstances as a result of which he became a party, but only if the holder took the instrument with knowledge of such defence or if he obtained the instrument by fraud or theft or participated at any time in a fraud or theft concerning it;
(d) any defence which may be raised against an action in contract between himself and the holder;
(e) any other defence available under this Convention.

2. The rights to an instrument of a holder who is not a protected holder are subject to any valid claim to the instrument on the part of any person, but only if he took the instrument with knowledge of such claim or if he obtained the instrument by fraud or theft or participated at any time in a fraud or theft concerning it.

3. A holder who takes an instrument after the expiration of the time-limit for presentment for

payment is subject to any claim to, or defence against liability on, the instrument to which his transferor is subject.

4. A party may not raise as a defence against a holder who is not a protected holder the fact that a third person has a claim to the instrument unless –

(a) the third person asserted a valid claim to the instrument; or

(b) the holder acquired the instrument by theft or forged the signature of the payee or an endorsee, or participated in the theft or the forgery.

Article 29

'Protected holder' means the holder of an instrument which was complete when he took it or which was incomplete within the meaning of paragraph 1 of Article 12 and was completed in accordance with authority given, provided that when he became a holder –

(a) he was without knowledge of a defence against liability on the instrument referred to in subparagraphs (a), (b), (c) and (e) of paragraph 1 of Article 28;

(b) he was without knowledge of a valid claim to the instrument of any person;

(c) he was without knowledge of the fact that it had been dishonoured by non-acceptance or by non-payment;

(d) the time-limit provided by Article 55 for presentment of that instrument for payment had not expired; and

(e) he did not obtain the instrument by fraud or theft or participate in a fraud or theft concerning it.

Article 30

1. A party may not set up against a protected holder any defence except –

(a) defences under Articles 33 §1, 34, 35 §1, 36 §3, 53 §1, 57 §1, 63 §1 and 84 of this Convention;

(b) defences based on the underlying transaction between himself and such holder or arising from any fraudulent act on the part of such holder in obtaining the signature on the instrument of that party;

(c) defences based on his incapacity to incur liability on the instrument or on the fact that he signed without knowledge that his signature made him a party to the instrument, provided that his lack of knowledge was not due to his negligence and provided that he was fraudulently induced so to sign.

2. The rights to an instrument of a protected holder are not subject to any claim to the instrument on the part of any person, except a valid claim arising from the underlying transaction between himself and the person by whom the claim is raised.

Article 31

1. The transfer of an instrument by a protected holder vests in any subsequent holder the rights to and on the instrument which the protected holder had.

2. Those rights are not vested in a subsequent holder if –

(a) he participated in a transaction which gives rise to a claim to, or a defence against liability on, the instrument;

(b) he has previously been a holder, but not a protected holder.

Article 32

Every holder is presumed to be a protected holder unless the contrary is proved.

SECTION 2 – LIABILITIES OF THE PARTIES

A GENERAL PROVISIONS

Article 33

1. Subject to the provisions of Articles 34 and 36, a person is not liable on an instrument unless he signs it.
2. A person who signs an instrument in a name which is not his own is liable as if he had signed it in his own name.

Article 34

A forged signature on an instrument does not impose any liability on the person whose signature was forged. However, if he consents to be bound by the forged signature or represents that it is his own, he is liable as if he had signed the instrument himself.

Article 35

1. If an instrument is materially altered –
   (a) a party who signs it after the material alteration is liable according to the terms of the altered text;
   (b) a party who signs it before the material alteration is liable according to the terms of the original text. However, if a party makes, authorises or assents to a material alteration, he is liable according to the terms of the altered text.
2. A signature is presumed to have been placed on the instrument after the material alteration unless the contrary is proved.
3. Any alteration is material which modifies the written undertaking on the instrument of any party in any respect.

Article 36

1. An instrument may be signed by an agent.
2. The signature of an agent placed by him on an instrument with the authority of his principal and showing on the instrument that he is signing in a representative capacity for that named principal, or the signature of a principal placed on the instrument by an agent with his authority, imposes liability on the principal and not on the agent.
3. A signature placed on an instrument by a person as agent but who lacks authority to sign or exceeds his authority, or by an agent who has authority to sign but who does not show on the instrument that he is signing in a representative capacity for a named person, or who shows on the instrument that he is signing in a representative capacity but does not name the person whom he represents, imposes liability on the person signing and not on the person whom he purports to represent.
4. The question whether a signature was placed on the instrument in a representative capacity may be determined only by reference to what appears on the instrument.
5. A person who is liable pursuant to paragraph 3 of this Article and who pays the instrument has the same rights as the person for whom he purported to act would have had if that person had paid the instrument.

Article 37

The order to pay contained in a bill does not of itself operate as an assignment to the payee of funds made available for payment by the drawer with the drawee.

B THE DRAWER

Article 38

1. The drawee engages that upon dishonour of the bill by non-acceptance or by nonpayment, and upon any necessary protest, he will pay the bill to the holder, or to any endorser or any endorser's guarantor who takes up and pays the bill.
2. The drawer may exclude or limit his own liability for acceptance or for payment by an express stipulation in the bill. Such a stipulation is effective only with respect to the drawer. A stipulation excluding or limiting liability for payment is effective only if another party is or becomes liable on the bill.

C THE MAKER

Article 39

1. The maker engages that he will pay the note in accordance with its terms to the holder, or to any party who takes up and pays the note.
2. The maker may not exclude or limit his own liability by a stipulation in the note. Any such stipulation is ineffective.

D THE DRAWEE AND THE ACCEPTOR

Article 40

1. The drawee is not liable on a bill until he accepts it.
2. The acceptor engages that he will pay the bill in accordance with the terms of his acceptance to the holder, or to any party who takes up and pays the bill.

Article 41

1. An acceptance must be written on the bill and may be affected –
   (a) by the signature of the drawee accompanied by the word 'accepted' or by words of similar import; or
   (b) by the signature alone of the drawee.
2. An acceptance may be written on the front or on the back of the bill.

Article 42

1. An incomplete bill which satisfies the requirements set out in paragraph 1 of Article 1 may be accepted by the drawee before it has been signed by the drawer, or while otherwise incomplete.
2. A bill may be accepted before, at or after maturity, or after it has been dishonoured by non-acceptance or by non-payment.
3. If a bill drawn payable at a fixed period after sight, or a bill which must be presented for acceptance before a specified date, is accepted, the acceptor must indicate the date of his acceptance; failing such indication by the acceptor, the drawer or the holder may insert the date of acceptance.
4. If a bill drawn payable at a fixed period after sight is dishonoured by nonacceptance and the drawee subsequently accepts it, the holder is entitled to have the acceptance dated as of the date on which the bill was dishonoured.

Article 43

1. An acceptance must be unqualified. An acceptance is qualified if it is conditional or varies the terms of the bill.
2. If the drawee stipulates in the bill that his acceptance is subject to qualification –

(a) he is nevertheless bound according to the terms of his qualified acceptance;
(b) the bill is dishonoured by non-acceptance.

3. An acceptance relating to only a part of the sum payable is a qualified acceptance. If the holder takes such an acceptance, the bill is dishonoured by non-acceptance only as to the remaining part.

4. An acceptance indicating that payment will be made at a particular address or by a particular address or by a particular agent is not a qualified acceptance, provided that –

(a) the place in which payment is to be made is not changed;
(b) the bill is not drawn payable by another agent.

E THE ENDORSER

Article 44

1. The endorser engages that upon dishonour of the instrument by non-acceptance or by non-payment, and upon any necessary protest, he will pay the instrument to the holder, or to any subsequent endorser or any endorser's guarantor who takes up and pays the instrument.

2. An endorser may exclude or limit his own liability by an express stipulation in the instrument. Such a stipulation is effective only with respect to that endorser.

F THE TRANSFEROR BY ENDORSEMENT OR BY MERE DELIVERY

Article 45

1. Unless otherwise agreed, a person who transfers an instrument, by endorsement and delivery or by mere delivery represents to the holder to whom he transfers the instrument that –

(a) the instrument does not bear any forged or unauthorised signature;
(b) the instrument has not been materially altered;
(c) at the time of transfer, he has no knowledge of any fact which would impair the right of the transferee to payment of the instrument against the acceptor of a bill or, in the case of an unaccepted bill, the drawer, or against the maker of a note.

2. Liability of the transferor under paragraph 1 of this Article is incurred only if the transferee took the instrument without knowledge of the matter giving rise to such liability.

3. If the transferor is liable under paragraph 1 of this Article, the transferee may recover, even before maturity, the amount paid by him to the transferor, with interest calculated in accordance with Article 70 against return on the instrument.

G THE GUARANTOR

Article 46

1. Payment of an instrument, whether or not it has been accepted, may be guaranteed, as to the whole or part of its amount, for the account of a party or the drawee. A guarantee may be given by any person, who may or may not already be a party.

2. A guarantee must be written on the instrument or on a slip affixed thereto *('allonge')*.

3. A guarantee is expressed by the words 'guaranteed', *'aval'*, 'good as *aval*' or words of similar import, accompanied by the signature of the guarantor. For the purposes of this Convention, the words 'prior endorsements guaranteed' or words of similar import do not constitute a guarantee.

4. A guarantee may be effected by a signature alone on the front of the instrument. A signature alone on the front of the instrument, other than that of the maker, the drawer or the drawee, is a guarantee.

5. A guarantor may specify the person for whom he has become guarantor. In the absence of such specification, the person for whom he has become guarantor is the acceptor or the drawee in the case of a bill, and the maker in the case of a note.
6. A guarantor may not raise as a defence to his liability the fact that he signed the instrument before it was signed by the person for whom he is a guarantor, or while the instrument was incomplete.

Article 47

1. The liability of a guarantor on the instrument is of the same nature as that of the party for whom he has become guarantor.
2. If the person for whom he has become guarantor is the drawee, the guarantor engages –
   (a) to pay the bill at maturity to the holder, or to any party who takes up and pays the bill;
   (b) if the bill is payable at a definite time, upon dishonour by non-acceptance and upon any necessary protest, to pay it to the holder, or to any party who takes up and pays the bill.
3. In respect of defences that are personal to himself, a guarantor may set up –
   (a) against a holder who is not a protected holder only those defences which he may set up under paragraphs 1, 3 and 4 of Article 28;
   (b) against a protected holder only those defences which he may set up under paragraph 1 of Article 30.
4. In respect of defences that may be raised by the person for whom he has become a guarantor –
   (a) a guarantor may set up against a holder who is not a protected holder only those defences which the person for whom he has become a guarantor may set up against such holder under paragraphs 1, 3 and 4 of Article 28;
   (b) a guarantor who expresses his guarantee by the words 'guaranteed', 'payment guaranteed' or collection guaranteed', or words of similar import, may set up against a protected holder only those defences which the person for whom he has become a guarantor may set up against a protected holder under paragraph 1 of Article 30;
   (c) a guarantor who expresses his guarantee by the words *'aval'* or 'good as *aval'* may set up against a protected holder only:
      (i) the defence, under subparagraph (b) of paragraph 1 of Article 30, that the protected holder obtained the signature on the instrument of the person for whom he has become a guarantor by a fraudulent act;
      (ii) the defence, under Article 53 or 57, that the instrument was not presented for acceptance or for payment;
      (iii) the defence, under Article 63, that the instrument was not duly protested for non-acceptance or for non-payment;
      (iv) the defence, under Article 84, that a right of action may no longer be exercised against the person for whom he has become guarantor;
   (d) a guarantor who is not a bank or other financial institution and who expresses his guarantee by a signature alone may set up against a protected holder only the defences referred to in subparagraph b of this paragraph;
   (e) a guarantor which is a bank or other financial institution and which expresses its guarantee by a signature alone may set up against a protected holder only the defences referred to in subparagraph c of this paragraph.

Article 48

1. Payment of an instrument by the guarantor in accordance with Article 72 discharges the party for whom he became guarantor of his liability on the instrument to the extent of the amount paid.

2. The guarantor who pays the instrument may recover from the party for whom he has become guarantor and from the parties who are liable on it to that party the amount paid and any interest.

CHAPTER V

PRESENTMENT, DISHONOUR BY NON-ACCEPTANCE OR NON-PAYMENT, AND RECOURSE

SECTION 1 – PRESENTMENT FOR ACCEPTANCE AND DISHONOUR BY NON-ACCEPTANCE

Article 49

1. A bill may be presented for acceptance.

2. A bill must be presented for acceptance –

(a) if the drawer has stipulated in the bill that it must be presented for acceptance;

(b) if the bill is payable at a fixed period after sight; or

(c) if the bill is payable elsewhere than at the residency or place of business of the drawee, unless it is payable on demand.

Article 50

1. The drawer may stipulate in the bill that it must not be presented for acceptance before a specified date or before the occurrence of a specified event. Except where a bill must be presented for acceptance under subparagraph b or c of paragraph 2 of Article 49, the drawer may stipulate that it must not be presented for acceptance.

2. If a bill is presented for acceptance notwithstanding a stipulation permitted under paragraph 1 of this Article and acceptance is refused, the bill is not thereby dishonoured.

3. If the drawee accepts a bill notwithstanding a stipulation that it must not be presented for acceptance, the acceptance is effective.

Article 51

A bill is duly presented for acceptance if it is presented in accordance with the following rules –

(a) the holder must present the bill to the drawee on a business day at a reasonable hour;

(b) presentment for acceptance may be made to a person or authority other than the drawee if that person or authority is entitled under the applicable law to accept the bill;

(c) if a bill is payable on a fixed date, presentment for acceptance must be made before or on that date;

(d) a bill payable on demand or at a fixed period after sight must be presented for acceptance within one year of its date;

(e) a bill in which the drawer has stated a date or time limit for presentment for acceptance must be presented on the stated date or within the stated time-limit.

Article 52

1. A necessary or optional presentment for acceptance is dispensed with if –

(a) the drawee is dead, or no longer has the power freely to deal with his assets by reason of his insolvency, or is a fictitious person, or is a person not having capacity to incur liability on the instrument as an acceptor; or

(b) the drawee is a corporation, partnership, association or other legal entity which has ceased to exist.

2. A necessary presentment for acceptance is dispensed with if –

(a) a bill is payable on a fixed date, and presentment for acceptance cannot be effected before or on that date due to circumstances which are beyond the control of the holder and which he could neither avoid nor overcome; or

(b) a bill is payable at a fixed period after sight, and presentment for acceptance cannot be effected within one year of its date due to circumstances which are beyond the control of the holder and which he could neither avoid nor overcome.

3. Subject to paragraphs 1 and 2 of this Article, delay in a necessary presentment for acceptance is excused, but presentment for acceptance is not dispensed with, if the bill is drawn with a stipulation that it must be presented for acceptance within a stated time-limit, and the delay in presentment for acceptance is caused by circumstances which are beyond the control of the holder and which he could neither avoid nor overcome. When the cause of the delay ceases to operate, presentment must be made with reasonable diligence.

Article 53

1. If a bill which must be presented for acceptance is not so presented, the drawer, the endorsers and their guarantors are not liable on the bill.

2. Failure to present a bill for acceptance does not discharge the guarantor of the drawee of liability on the bill.

Article 54

1. A bill is considered to be dishonoured by non-acceptance –

(a) if the drawee, upon due presentment, expressly refuses to accept the bill or acceptance cannot be obtained with reasonable diligence or if the holder cannot obtain the acceptance to which he is entitled under this Convention;

(b) if presentment for acceptance is dispensed with pursuant to Article 52, unless the bill is in fact accepted.

2. –

(a) If a bill is dishonoured by non-acceptance in accordance with subparagraph a of paragraph 1 of this Article, the holder may exercise an immediate right of recourse against the drawer, the endorsers and their guarantors, subject to the provisions of Article 59.

(b) If a bill is dishonoured by non-acceptance in accordance with subparagraph (b) of paragraph 1 of this Article, the holder may exercise an immediate right of recourse against the drawer, the endorsers and their guarantors.

(c) If a bill is dishonoured by non-acceptance in accordance with paragraph 1 of this Article, the holder may claim payment from the guarantor of the drawee upon any necessary protest.

3. If a bill payable on demand is presented for acceptance, but acceptance is refused, it is not considered to be dishonoured by non-acceptance.

SECTION 2 – PRESENTMENT FOR PAYMENT AND DISHONOUR BY NON-PAYMENT

Article 55

An instrument is duly presented for payment if it is presented in accordance with the following rules –

(a) the holder must present the instrument to the drawee or to the acceptor or to the maker on a business day at a reasonable hour;

(b) a note signed by two or more makers may be presented to any one of them, unless the note clearly indicates otherwise;

(c) if the drawee or the acceptor or the maker is dead, presentment must be made to the persons who under the applicable law are his heirs or the persons entitled to administer his estate;

(d) presentment for payment may be made to a person or authority other than the drawee, the acceptor or the maker if that person or authority is entitled under the applicable law to pay the instrument;

(e) an instrument which is not payable on demand must be presented for payment on the date of maturity or on one of the two business days which follow;

(f) an instrument which is payable on demand must be presented for payment within one year of its date;

(g) an instrument must be presented for payment:

(i) at the place of payment specified on the instrument; or

(ii) if no place of payment is specified, at the address of the drawee or the acceptor or the maker indicated in the instrument; or

(iii) if no place of payment is specified and the address of the drawee or the acceptor or the maker is not indicated, at the principal place of business or habitual residence of the drawee or the acceptor or the maker;

(h) an instrument which is presented at a clearing-house is duly presented for payment if the law of the place where the clearing-house is located or the rules or customs of that clearing-house so provide.

Article 56

1. Delay in making presentment for payment is excused if the delay is caused by circumstances which are beyond the control of the holder and which he could neither avoid nor overcome. When the cause of the delay ceases to operate, presentment must be made with reasonable diligence.

2. Presentment for payment is dispensed with –

(a) if the drawer, an endorser or a guarantor has expressly waived presentment; such waiver:

(i) if made on the instrument by the drawer, binds any subsequent party and benefits any holder;

(ii) if made on the instrument by a party other than the drawer, binds only that party but benefits any holder;

(iii) if made outside the instrument, binds only the party making it and benefits only a holder in whose favour it was made;

(b) if an instrument is not payable on demand, and the cause of delay in making presentment referred to in paragraph 1 of this Article continues to operate beyond 30 days after maturity;

(c) if an instrument is payable on demand, and the cause of delay in making presentment referred to in paragraph 1 of this Article continues to operate beyond 30 days after the expiration of the time-limit for presentment for payment;
(d) if the drawee, the maker or the acceptor has no longer the power freely to deal with his assets by reason of his insolvency, or is a fictitious person or a person not having capacity to make payment, or if the drawee, the maker or the acceptor is a corporation, partnership, association or other legal entity which has ceased to exist;
(e) if there is no place at which the instrument must be presented in accordance with subparagraph (g) of Article 55.

3. Presentment for payment is also dispensed with as regards a bill, if the bill has been protested for dishonour by non-acceptance.

Article 57

1. If an instrument is not duly presented for payment, the drawer, the endorsers and their guarantors are not liable on it.
2. Failure to present an instrument for payment does not discharge the acceptor, the maker and their guarantors or the guarantor of the drawee of liability on it.

Article 58

1. An instrument is considered to be dishonoured by non-payment –
(a) if payment is refused upon due presentment or if the holder cannot obtain the payment to which he is entitled under this Convention;
(b) if presentment for payment is dispensed with pursuant to paragraph 2 of Article 56 and the instrument is unpaid at maturity.

2. If a bill is dishonoured by non-payment, the holder may, subject to the provisions of Article 59, exercise a right of recourse against the drawer, the endorsers and their guarantors.
3. If a note is dishonoured by non-payment, the holder may, subject to the provisions of Article 59, exercise a right of recourse against the endorsers and their guarantors.

SECTIONS – RECOURSE

Article 59

If an instrument is dishonoured by non-acceptance or by non-payment, the holder may exercise a right of recourse only after the instrument has been duly protested for dishonour in accordance with the provisions of Articles 60 to 62.

A PROTEST

Article 60

1. A protest is a statement of dishonour drawn up at the place where the instrument has been dishonoured and signed and dated by a person authorised in that respect by the law of that place. The statement must specify –
(a) the person at whose request the instrument is protested;
(b) the place of protest; and
(c) the demand made and the answer given, if any, or the fact that the drawee or the acceptor or the maker could not be found.

2. A protest may be made –
(a) on the instrument or on a slip affixed thereto ('*allonge*'); or
(b) as a separate document, in which case it must clearly identify the instrument that has been dishonoured.

3. Unless the instrument stipulates that protest must be made, a protest may be replaced by a declaration written on the instrument and signed and dated by the drawee or the acceptor or the maker, or, in the case of an instrument domiciled with a named person for payment, by that named person; the declaration must be to the effect that acceptance or payment is refused.
4. A declaration made in accordance with paragraph 3 of this Article is a protest for the purpose of this Convention.

Article 61
Protest for dishonour of an instrument by non-acceptance or by non-payment must be made on the day on which the instrument is dishonoured or on one of the four business days which follow.

Article 62
1. Delay in protesting an instrument for dishonour is excused if the delay is caused by circumstances which are beyond the control of the holder and which he could neither avoid nor overcome. When the cause of the delay ceases to operate, protest must be made with reasonable diligence.
2. Protest for dishonour by non-acceptance or by non-payment is dispensed with –
   (a) if the drawer, an endorser or a guarantor has expressly waived protest; such waiver:
      (i) if made on the instrument by the drawer, binds any subsequent party and benefits any holder;
      (ii) if made on the instrument by a party other than the drawer, binds only that party but benefits any holder;
      (iii) if made outside the instrument, binds only the party making it an benefits only a holder in whose favour it was made;
   (b) if the cause of the delay in making protest referred to in paragraph 1 of this Article continues to operate beyond 30 days after the date of dishonour;
   (c) as regards the drawer of a bill, if the drawer and the drawee or the acceptor are the same person;
   (d) if presentment for acceptance or for payment is dispensed with in accordance with Article 52 or paragraph 2 of Article 56.

Article 63
1. If an instrument which must be protested for non-acceptance or for non-payment is not duly protested, the drawer, the endorsers and their guarantors are not liable on it.
2. Failure to protest an instrument does not discharge the acceptor, the maker and their guarantors or the guarantor of the drawee of liability on it.

B NOTICE OF DISHONOUR

Article 64
1. The holder, upon dishonour of an instrument by non-acceptance or by nonpayment, must give notice of such dishonour –
   (a) to the drawer and the last endorser; and
   (b) to all other endorsers and guarantors whose addresses the holder can ascertain on the basis of information contained in the instrument.
2. An endorser or a guarantor who receives notice must give notice of dishonour to the last party preceding him and liable on the instrument.
3. Notice of dishonour operates for the benefit of any party who has a right of recourse on the instrument against the party notified.

Article 65

1. Notice of dishonour may be given in any form whatever and in any terms which identify the instrument and State that it has been dishonoured. The return of the dishonoured instrument is sufficient notice, provided it is accompanied by a statement indicating that it has been dishonoured.
2. Notice of dishonour is duly given if it is communicated or sent to the party to be notified by means appropriate in the circumstances, whether or not it is received by that party.
3. The burden of proving that notice has been duly given rests upon the person who is required to give such notice.

Article 66

Notice of dishonour must be given within the two business days which follow –

(a) the day of protest or, if protest is dispensed with, the day of dishonour; or
(b) the day of receipt of notice of dishonour.

Article 67

1. Delay in giving notice of dishonour is excused if the delay is caused by circumstances which are beyond the control of the person required to give notice, and which he could neither avoid nor overcome. When the cause of the delay ceases to operate, notice must be given with reasonable diligence.
2. Notice of dishonour is dispensed with –
   (a) if, after the exercise of reasonable diligence, notice cannot be given;
   (b) if the drawer, an endorser or a guarantor has expressly waived notice of dishonour; such waiver:
      (i) if made on the instrument by the drawer, binds any subsequent party and benefits any holder;
      (ii) if made on the instrument by a party other than the drawer, binds only that party but benefits any holder;
      (iii) if made outside the instrument, binds only the party making it and benefits only a holder in whose favour it was made;
   (c) as regards the drawer of the bill, if the drawer and the drawee or the acceptor are the same person.

Article 68

If a person who is required to give notice of dishonour fails to give it to a party who is entitled to receive it, he is liable for any damages which that party may suffer from such failure, provided that such damages do not exceed the amount referred to in Article 70 or 71.

SECTION 4 – AMOUNT PAYABLE

Article 69

1. The holder may exercise his rights on the instrument against any one party, or several or all parties, liable on it and is not obliged to observe the order in which the parties have become bound. Any party who takes up and pays the instrument may exercise his rights in the same manner against parties liable to him.
2. Proceedings against a party do not preclude proceedings against any other party, whether or not subsequent to the party originally proceeded against.

Article 70

1. The holder may recover from any party liable –

(a) at maturity: the amount of the instrument with interest, if interest has been stipulated for;
(b) after maturity:
  (i) the amount of the instrument with interest, if interest has been stipulated for, to the date of maturity;
  (ii) if interest has been stipulated to be paid after maturity, interest at the rate stipulated, or, in the absence of such stipulation, interest at the rate specified in paragraph 2 of this Article, calculated from the date of presentment on the sum specified in subparagraph (b)(i) of this paragraph;
  (iii) any expenses of protest and of the notices given by him;
(c) before maturity:
  (i) the amount of the instrument with interest, if interest has been stipulated for, to the date of payment; or, if no interest has been stipulated for, subject to a discount from the date of payment to the date of maturity, calculated in accordance with paragraph 4 of this Article;
  (ii) any expenses of protest and of the notices given by him.

2. The rate of interest shall be the rate that would be recoverable in legal proceedings taken in the jurisdiction where the instrument is payable.
3. Nothing in paragraph 2 of this Article prevents a court from awarding damages or compensation for additional loss caused to the holder by reason of delay in payment.
4. The discount shall be at the official rate (discount rate) or other similar appropriate rate effective on the date when recourse is exercised at the place where the holder has his principal place of business, or, if he does not have a place of business his habitual residence, or, if there is no such rate, then at such rate as is reasonable in the circumstances.

Article 71

A party who pays an instrument and is thereby discharged in whole or in part of his liability on the instrument may recover from the parties liable to him –

(a) the entire sum which he has paid;
(b) interest on that sum at the rate specified in paragraph 2 of Article 70, from the date on which he made payment;
(c) any expenses of the notices given by him.

CHAPTER VI DISCHARGE

SECTION 1 – DISCHARGE BY PAYMENT

Article 72

1. A party is discharged of liability on the instrument when he pays the holder, or a party subsequent to himself who has paid the instrument and is in possession of it, the amount due pursuant to Article 70 or 71 –

(a) at or after maturity; or
(b) before maturity, upon dishonour by non-acceptance.

2. Payment before maturity other than under subparagraph (b) of paragraph 1 of this Article does not discharge the party making the payment of his liability on the instrument except in respect of the person to whom payment was made.
3. A party is not discharged of liability if he pays a holder who is not a protected holder, or a party who has taken up and paid the instrument, and knows at the time of payment that the

holder or that party acquired the instrument by theft or forged the signature of the payee or an endorsee, or participated in the theft or the forgery.

4. (a) A person receiving payment of an instrument must, unless agreed otherwise, deliver:
   (i) to the drawee making such payment, the instrument;
   (ii) to any other person making such payment, the instrument, a receipted account, and any protest.
   (b) In the case of an instrument payable by instalments at successive dates, the drawee or a party making a payment of the last instalment, may require that mention of such payment be made on the instrument or on a slip affixed thereto *('allonge')* and that a receipt therefore be given to him.
   (c) If an instrument payable by instalments at successive dates is dishonoured by non-acceptance or by non-payment as to any of its instalments and a party, upon dishonour, pays the instalment, the holder who receives such payment must give the party a certified copy of the instrument and any necessary authenticated protest in order to enable such party to exercise a right on the instrument.
   (d) The person from whom payment is demanded may withhold payment if the person demanding payment does not deliver the instrument to him. Withholding payment in these circumstances does not constitute dishonour by non-payment under Article 58.
   (e) If payment is made but the person paying, other than the drawee, fails to obtain the instrument, such person is discharged but the discharge cannot be set up as a defence against a protected holder to whom the instrument has been subsequently transferred.

Article 73

1. The holder is not obliged to take partial payment.
2. If the holder who is offered partial payment does not take it, the instrument is dishonoured by non-payment.
3. If the holder takes partial payment from the drawee, the guarantor of the drawee, or the acceptor or the maker –
   (a) the guarantor of the drawee, or the acceptor or the maker is discharged of his liability on the instrument to the extent of the amount paid; and
   (b) the instrument is to be considered as dishonoured by non-payment as to the amount unpaid.
4. If the holder takes partial payment from a party to the instrument other than the acceptor, the maker or the guarantor of the drawee –
   (a) the party making payment is discharged of his liability on the instrument to the extent of the amount paid; and
   (b) the holder must give such party a certified copy of the instrument and any necessary authenticated protest in order to enable such party to exercise a right on the instrument.
5. The drawee or a party making partial payment may require that mention of such payment be made on the instrument and that a receipt therefor be given to him.
6. If the balance is paid, the person who receives it and who is in possession of the instrument must deliver to the payor the receipted instrument and any authenticated protest.

Article 74

1. The holder may refuse to take payment at a place other than the place where the instrument was presented for payment in accordance with Article 55.

2. In such case if payment is not made at the place where the instrument was presented for payment in accordance with Article 55, the instrument is considered to be dishonoured by non-payment.

Article 75

1. An instrument must be paid in the currency in which the sum payable is expressed.
2. If the sum payable is expressed in a monetary unit of account within the meaning of sub-paragraph 1 of Article 5 and the monetary unit of account is transferable between the person making payment and the person receiving it, then, unless the instrument specifies a currency of payment, payment shall be made by transfer of monetary units of account. If the monetary unit of account is not transferable between those persons, payment shall be made in the currency specified in the instrument or, if no such currency is specified, in the currency of the place of payment.
3. The drawer or the maker may indicate in the instrument that it must be paid in a specified currency other than the currency in which the sum payable is expressed. In that case –
   (a) the instrument must be paid in the currency so specified;
   (b) the amount payable is to be calculated according to the rate of exchange indicated in the instrument. Failing such indication, the amount payable is to be calculated according to the rate of exchange for sight drafts (or, if there is no such rate, according to the appropriate established rate of exchange) on the date of maturity:
      (i) ruling at the place where the instrument must be presented for payment in accordance with subparagraph (g) of Article 55, if the specified currency is that of that place (local currency); or
      (ii) if the specified currency is not that of that place, according to the usages of the place where the instrument must be presented for payment in accordance with subparagraph (g) of Article 55;
   (c) if such an instrument is dishonoured by non-acceptance, the amount payable is to be calculated:
      (i) if the rate of exchange is indicated in the instrument, according to that rate;
      (ii) if no rate of exchange is indicated in the instrument, at the option of the holder, according to the rate of exchange ruling on the date of dishonour or on the date of actual payment;
   (d) if such an instrument is dishonoured by non-payment, the amount payable is to be calculated according to that rate:
      (i) if the rate of exchange is indicated in the instrument, according to that rate;
      (ii) if no rate of exchange is indicated in the instrument, at the option of the holder, according to the rate of exchange ruling on the date of maturity or on the date of actual payment.
4. Nothing in this Article prevents a court from awarding damages for loss caused to the holder by reason of fluctuations in rates of exchange if such loss is caused by dishonour for non-acceptance or by non-payment.
5. The rate of exchange ruling at a certain date is the rate of exchange ruling, at the option of the holder, at the place where the instrument must be presented for payment in accordance with subparagraph (g) of Article 55 or at the place of actual payment.

Article 76

1. Nothing in this Convention prevents a Contracting State from enforcing exchange control regulations applicable in its territory and its provisions relating to the protection of its currency,

including regulations which it is bound to apply virtue of international agreements to which it is a party.

2. (a) If, by virtue of the application of paragraph 1 of this Article, an instrument drawn in a currency which is not that of the place of payment must be paid in local currency, the amount payable is to be calculated according to the rate of exchange for sight drafts (or, if there is no such rate, according to the appropriate established rate of exchange) on the date of presentment ruling at the place where the instrument must be presented for payment in accordance with subparagraph (g) of Article 55.

(b) (i) if such an instrument is dishonoured by non-acceptance, the amount payable is to be calculated, at the option of the holder, at the rate of exchange ruling on the date of dishonour or on the date of actual payment;

(ii) if such an instrument is dishonest by non-payment, the amount is to be calculated, at the option of the holder, according to the rate of exchange ruling on the date of presentment or on the date of actual payment;

(iii) paragraphs 4 and 5 of Article 75 are applicable where appropriate.

SECTION 2 – DISCHARGE OF OTHER PARTIES

Article 77

1. If a party is discharged in whole or in part of his liability on the instrument, any party who has a right on the instrument against him is discharged to the same extent.

2. Payment by the drawee of the whole or a part of the amount of a bill to the holder, or to any party who takes up and pays the bill, discharges all parties of their liability to the same extent, except where the drawee pays a holder who is not a protected holder, or a party who has taken up and paid the bill, and knows at the time of payment that the holder or that party acquired the bill by theft or forged the signature of the payee or an endorsee, or participated in the theft or the forgery.

CHAPTER VII

LOST INSTRUMENTS

Article 78

1. If an instrument is lost, whether by destruction, theft or otherwise, the person who lost the instrument has, subject to the provisions of paragraph 2 of this Article, the same right to payment which he would have had if he had been in possession of the instrument. The party from whom payment is claimed cannot set up as a defence against liability on the instrument the fact that the person claiming payment is not in possession of the instrument.

2. (a) The person claiming payment of a lost instrument must state in writing to the party from whom he claims payment:

(i) the elements of the lost instrument pertaining to the requirements set forth in paragraph 1 or 2 of Articles 1, 2 and 3; for this purpose the person claiming payment of the lost instrument may present to that party a copy of that instrument;

(ii) the facts showing that, if he had been in possession of the instrument, he would have had a right to payment from the party from whom payment is claimed;

(iii) the facts which prevent production of the instrument.

(b) The party from whom payment of a lost instrument is claimed may require

the person claiming payment to give security in order to indemnify him for any loss which he may suffer by reason of the subsequent payment of the lost instrument.

(c) The nature of the security and its terms are to be determined by agreement between the person claiming payment and the party from whom payment is claimed. Failing such an agreement, the court may determine whether security is called for and, if so, the nature of the security and its terms.

(d) If the security cannot be given, the court may order the party from whom payment is claimed to deposit the sum of the lost instrument, and any interest and expenses which may be claimed under Article 70 or 71, with the court or any other competent authority or institution, and may determine the duration of such deposit. Such deposit is to be considered as payment to the person claiming payment.

Article 79

1. A party who has paid a lost instrument and to whom the instrument is subsequently presented for payment by another person must give notice of such presentment to the person whom he paid.

2. Such notice must be given on the day the instrument is presented or on one of the two business days which follow and must state the name of the person presenting the instrument and the date and place of presentment.

3. Failure to give notice renders the party who has paid the lost instrument liable for any damages which the person whom he paid may suffer from such failure, provided that the damages do not exceed the amount referred to in Article 70 or 71.

4. Delay in giving notice is excused when the delay is caused by circumstances which are beyond the control of the person who has paid the lost instrument and which he could neither avoid nor overcome. When the cause of the delay ceases to operate, notice must be given with reasonable diligence.

5. Notice is dispensed with when the cause of delay in giving notice continues to operate beyond 30 days after the last day on which it should have been given.

Article 80

1. A party who has paid a lost instrument in accordance with the provisions of Article 78 and who is subsequently required to, and does, pay the instrument, or who, by reason of the loss of the instrument, then loses his right to recover from any party liable to him, has the right –

(a) if security was given, to realise the security; or

(b) if an amount was deposited with the court or other competent authority or institution, to reclaim the amount so deposited.

2. The person who has given security in accordance with the provisions of subparagraph (b) of paragraph 2 of Article 78 is entitled to obtain release of the security when the party for whose benefit the security was given is no longer at risk to suffer loss because of the fact that the instrument is lost.

Article 81

For the purpose of making protest for dishonour by non-payment, a person claiming payment of a lost instrument may use a written statement that satisfies the requirements of subparagraph (a) of paragraph 2 of Article 78.

Article 82
A person receiving payment of a lost instrument in accordance with Article 78 must deliver to the party paying the written statement required under subparagraph (a) of paragraph 2 of Article 78, receipted by him, and any protest and a receipted account.

Article 83
1. A party who pays a lost instrument in accordance with Article 78 has the same rights which he would have had if he had been in possession of the instrument.
2. Such party may exercise his rights only if he is in possession of the receipted written statement referred to in Article 82.

CHAPTER VIII

LIMITATION (PRESCRIPTION)

Article 84
1. A right of action arising on an instrument may no longer be exercised after four years have elapsed –

(a) against the maker, or his guarantor, of a note payable on demand, from the date of the note;
(b) against the acceptor or the maker or their guarantor of an instrument payable at a definite time, from the date of maturity;
(c) against the guarantor of the drawee of a bill payable at a definite time, from the date of maturity or, if the bill is dishonoured by non-acceptance, from the date of protest for dishonour or, where protest is dispensed with, from the date of dishonour;
(d) against the acceptor of a bill payable on demand or his guarantor, from the date on which it was accepted or, if no such date is shown, from the date of the bill;
(e) against the guarantor of the drawee of a bill payable on demand, from the date on which he signed the bill or, if no such date is shown, from the date of the bill;
(f) against the drawer or an endorser or their guarantor, from the date of protest for dishonour by non-acceptance or by non-payment or, where protest is dispensed with, from the date of dishonour.

2. A party who pays the instrument in accordance with Article 70 or 71 may exercise his right of action against a party liable to him within one year from the date on which he paid the instrument.

CHAPTER IX

Articles 85–90 [Omitted].

UNITED NATIONS CONVENTION ON THE LIABILITY OF OPERATORS OF TRANSPORT TERMINALS IN INTERNATIONAL TRADE, VIENNA, 1991

Article 1 Definitions
In this Convention:

(a) 'Operator of a transport terminal' (hereinafter referred to as 'operator') means a person who, in the course of his business, undertakes to take in charge goods involved in international carriage in order to perform or to procure the performance of transport-related services with respect to the goods in an area under his control or in respect of which he has a right of access or use. However, a person is not considered an operator whenever he is a carrier under applicable rules of law governing carriage;
(b) Where goods are consolidated in a container, pallet or similar Article of transport or where they are packed, 'goods' includes such Article of transport or packaging if it was not supplied by the operator;
(c) 'International carriage' means any carriage in which the place of departure and the place of destination are identified as being located in two different States when the goods are taken in charge by the operator;
(d) Transport-related services' includes such services as storage, warehousing, loading, unloading, stowage, trimming, dunnaging and lashing;
(e) 'Notice' means a notice given in a form which provides a record of the information contained therein;
(f) 'Request' means a request made in a form which provides a record of the information contained therein.

Article 2 Scope of application

(1) This Convention applies to transport-related services performed in relation to goods which are involved in international carriage:
(a) When the transport-related services are performed by an operator whose place of business is located in a State Party, or
(b) When the transport-related services are performed in a State Party, or
(c) When, according to the rules of private international law, the transport-related services are governed by the law of a State Party.

(2) If the operator has more than one place of business, the place of business is that which has the closest relationship to the transport-related services as a whole.

(3) If the operator does not have a place of business, reference is to be made to the operator's habitual residence.

Article 3 Period of responsibility

The operator is responsible for the goods from the time he has taken them in charge until the time he has handed them over to or has placed them at the disposal of the person entitled to take delivery of them.

Article 4 Issuance of document

(1) The operator may, and at the customer's request shall, within a reasonable period of time, at the option of the operator, either:
(a) Acknowledge his receipt of the goods by signing and dating a document presented by the customer that identifies the goods, or
(b) Issue a signed document identifying the goods, acknowledging his receipt of the goods and the date thereof, and stating their condition and quantity in so far as they can be ascertained by reasonable means of checking.

(2) If the operator does not act in accordance with either subparagraph (a) or (b) of paragraph (1), he is presumed to have received the goods in apparent good condition, unless he proves otherwise. No such presumption applies when the services performed by the operator are limited to the immediate transfer of the goods between means of transport.

(3) A document referred to in paragraph (1) may be issued in any form which preserves a record of the information contained therein. When the customer and the operator have agreed to communicate electronically, a document referred to in paragraph (1) may be replaced by an equivalent electronic data interchange message.
(4) The signature referred to in paragraph (1) means a handwritten signature, its facsimile or an equivalent authentication effected by any other means.

Article 5 Basis of liability
(1) The operator is liable for loss resulting from loss of or damage to the goods, as well as from delay in handing over the goods, if the occurrence which caused the loss, damage or delay took place during the period of the operator's responsibility for the goods as defined in Article 3, unless he proves that he, his servants or agents or other persons of whose services the operator makes use for the performance of the transport-related services took all measures that could reasonably be required to avoid the occurrence and its consequences.
(2) Where a failure on the part of the operator, his servants or agents or other persons of whose services the operator makes use for the performance of the transport-related services to take the measures referred to in paragraph (1) combines with another cause to produce loss, damage or delay, the operator is liable only to the extent that the loss resulting from such loss, damage or delay is attributable to that failure, provided that the operator proves the amount of the loss not attributable thereto.
(3) Delay in handing over the goods occurs when the operator fails to hand them over to or place them at the disposal of a person entitled to take delivery of them within the time expressly agreed upon or, in the absence of such agreement, within a reasonable time after receiving a request for the goods by such person.
(4) If the operator fails to hand over the goods to or place them at the disposal of a person entitled to take delivery of them within a period of 30 consecutive days after the date expressly agreed upon or, in the absence of such agreement, within a period of 30 consecutive days after receiving a request for the goods by such person, a person entitled to make a claim for the loss of the goods may treat them as lost.

Article 6 Limits of liability
(1) (a) The liability of the operator for loss resulting from loss of or damage to goods according to the provisions of Article 5 is limited to an amount not exceeding 8.33 units of account per kilogram of gross weight of the goods lost or damaged.
(b) However, if the goods are handed over to the operator immediately after carriage by sea or by inland waterways, or if the goods are handed over, or are to be handed over, by him for such carriage, the liability of the operator for loss resulting from loss of or damage to goods according to the provisions of Article 5 is limited to an amount not exceeding 2.75 units of account per kilogram of gross weight of the goods lost or damaged. For the purposes of this paragraph, carriage by sea or by inland waterways includes pick-up and delivery within a port.
(c) When the loss of or damage to a part of the goods affects the value of another part of the goods, the total weight of the lost or damaged goods and of the goods whose value is affected shall be taken into consideration in determining the limit of liability.
(2) The liability of the operator for delay in handing over the goods according to the provisions of Article 5 is limited to an amount equivalent to two and a half times the charges payable to the operator for his services in respect of the goods delayed, but not exceeding the total of such charges in respect of the consignment of which the goods were a part.

(3) In no case shall the aggregate liability of the operator under both paragraphs (1) and (2) exceed the limitation which would be established under paragraph (1) for total loss of the goods in respect of which such liability was incurred.
(4) The operator may agree to limits of liability exceeding those provided for in paragraphs (1), (2) and (3).

Article 7 Application to non-contractual claims
(1) The defences and limits of liability provided for in this Convention apply in any action against the operator in respect of loss of or damage to the goods, as well as delay in handing over the goods, whether the action is founded in contract, in tort or otherwise.
(2) If such an action is brought against a servant or agent of the operator, or against another person of whose services the operator makes use for the performance of the transport-related services, such servant, agent or person, if he proves that he acted within the scope of his employment or engagement by the operator, is entitled to avail himself of the defences and limits of liability which the operator is entitled to invoke under this Convention.
(3) Except as provided in Article 8, the aggregate of the amounts recoverable from the operator and from any servant, agent or person referred to in the preceding paragraph shall not exceed the limits of liability provided for in this Convention.

Article 8 Loss of right to limit liability
(1) The operator is not entitled to the benefit of the limitation of liability provided for in Article 6 if it is proved that the loss, damage or delay resulted from an act or omission of the operator himself or his servants or agents done with the intent to cause such loss, damage or delay, or recklessly and with knowledge that such loss, damage or delay would probably result.
(2) Notwithstanding the provision of paragraph (2) of Article 7, a servant or agent of the operator or another person of whose services the operator makes use for the performance of the transport-related services is not entitled to the benefit of the limitation of liability provided for in Article 6 if it is proved that the loss, damage or delay resulted from an act or omission of such servant, agent or person done with the intent to cause such loss, damage or delay, or recklessly and with knowledge that such loss, damage or delay would probably result.

Article 9 Special rules on dangerous goods
If dangerous goods are handed over to the operator without being marked, labelled, packaged or documented in accordance with any law or regulation relating to dangerous goods applicable in the country where the goods are handed over and if, at the time the goods are taken in charge by him, the operator does not otherwise know of their dangerous character, he is entitled:

(a) To take all precautions the circumstances may require, including, when the goods pose an imminent danger to any person or property, destroying the goods, rendering them innocuous, or disposing of them by any other lawful means, without payment of compensation for damage to or destruction of the goods resulting from such precautions, and
(b) To receive reimbursement for all costs incurred by him in taking the measures referred to in subparagraph (a) from the person who failed to meet any obligation under such applicable law or regulation to inform him of the dangerous character of the goods.

Article 10 Rights of security in goods
(1) The operator has a right of retention over the goods for costs and claims which are due in connection with the transport-related services performed by him in respect of the goods both

during the period of his responsibility for them and thereafter. However, nothing in this Convention affects the validity under the applicable law of any contractual arrangements extending the operator's security in the goods.
(2) The operator is not entitled to retain the goods if a sufficient guarantee for the sum claimed is provided or if an equivalent sum is deposited with a mutually accepted third party or with an official institution in the State where the operator has his place of business.
(3) In order to obtain the amount necessary to satisfy his claim, the operator is entitled, to the extent permitted by the law of the State where the goods are located, to sell all or part of the goods over which he has exercised the right of retention provided for in this Article. This right to sell does not apply to containers, pallets or similar articles of transport or packaging which are owned by a party other than the carrier or the shipper and which are clearly marked as regards ownership except in respect of claims by the operator for the cost of repairs of or improvements to the containers, pallets or similar articles of transport or packaging.
(4) Before exercising any right to sell the goods, the operator shall make reasonable efforts to give notice of the intended sale to the owner of the goods, the person from whom the operator received them and the person entitled to take delivery of them from the operator. The operator shall account appropriately for the balance of the proceeds of the sale in excess of the sums due to the operator plus the reasonable costs of the sale. The right of sale shall in all other respects be exercised in accordance with the law of the State where the goods are located.

Article 11 Notice of loss, damage or delay
(1) Unless notice of loss or damage, specifying the general nature of the loss or damage, is given to the operator not later than the third working day after the day when the goods were handed over by the operator to the person entitled to take delivery of them, the handing over is *prima facie* evidence of the handing over by the operator of the goods as described in the document issued by the operator pursuant to paragraph (1)(b) of Article 4 or, if no such document was issued, in good condition.
(2) Where the loss or damage is not apparent, the provisions of paragraph (1) apply correspondingly if notice is not given to the operator within 15 consecutive days after the day when the goods reached the final recipient, but in no case later than 60 consecutive days after the day when the goods were handed over to the person entitled to take delivery of them.
(3) If the operator participated in a survey or inspection of the goods at the time when they were handed over to the person entitled to take delivery of them, notice need not be given to the operator of loss or damage ascertained during that survey or inspection.
(4) In the case of any actual or apprehended loss of or damage to the goods, the operator, the carrier and the person entitled to take delivery of the goods shall give all reasonable facilities to each other for inspecting and tallying the goods.
(5) No compensation is payable for loss resulting from delay in handing over the goods unless notice has been given to the operator within 21 consecutive days after the day when the goods were handed over to the person entitled to take delivery of them.

Article 12 Limitation of actions
(1) Any action under this Convention is time-barred if judicial or arbitral proceedings have not been instituted within a period of two years.
(2) The limitation period commences:
- (a) On the day the operator hands over the goods or part thereof to, or places them at the disposal of, a person entitled to take delivery of them, or
- (b) In cases of total loss of the goods, on the day the person entitled to make a claim receives notice from the operator that the goods are lost, or on the day that person

may treat the goods as lost in accordance with paragraph (4) of Article 5, whichever is earlier.

(3) The day on which the limitation period commences is not included in the period.

(4) The operator may at any time during the running of the limitation period extend the period by a notice to the claimant. The period may be further extended by another notice or notices.

(5) A recourse action by a carrier or another person against the operator may be instituted even after the expiration of the limitation period provided for in the preceding paragraphs if it is instituted within 90 days after the carrier or other person has been held liable in an action against himself or has settled the claim upon which such action was based and if, within a reasonable period of time after the filing of a claim against a carrier or other person that may result in a recourse action against the operator, notice of the filing of such a claim has been given to the operator.

Article 13 Contractual stipulations

(1) Unless otherwise provided in this Convention, any stipulation in a contract concluded by an operator or in any document signed or issued by the operator pursuant to Article 4 is null and void to the extent that it derogates, directly or indirectly, from the provisions of this Convention. The nullity of such a stipulation does not affect the validity of the other provisions of the contract or document of which it forms a part.

(2) Notwithstanding the provisions of the preceding paragraph, the operator may agree to increase his responsibilities and obligations under this Convention.

Article 14 Interpretation of the Convention

In the interpretation of this Convention, regard is to be had to its international character and to the need to promote uniformity in its application.

Article 15 International transport conventions

This Convention does not modify any rights or duties which may arise under an international convention relating to the international carriage of goods which is binding on a State which is a party to this Convention or under any law of such State giving effect to a convention relating to the international carriage of goods.

Article 16 Unit of account

(1) The unit of account referred to in Article 6 is the Special Drawing Right as defined by the International Monetary Fund. The amounts mentioned in Article 6 are to be expressed in the national currency of a State according to the value of such currency at the date of judgment or the date agreed upon by the parties. The equivalence between the national currency of a State Party which is a member of the International Monetary Fund and the Special Drawing Right is to be calculated in accordance with the method of valuation applied by the International Monetary Fund in effect at the date in question for its operations and transactions. The equivalence between the national currency of a State Party which is not a member of the International Monetary Fund and the Special Drawing Right is to be calculated in a manner determined by that State.

(2) The calculation mentioned in the last sentence of the preceding paragraph is to be made in such a manner as to express in the national currency of the State Party as far as possible the same real value for amounts in Article 6 as is expressed there in units of account. States Parties must communicate to the depositary the manner of calculation at the time of signature or when depositing their instrument of ratification, acceptance, approval or accession and whenever there is a change in the manner of such calculation.