

## **CIM**

### **Uniform Rules Concerning the Contract of International Carriage of Goods by Rail (CIM - Appendix B to the Convention)**

#### **Title I**

##### **General Provisions**

##### **Article 1**

###### **Scope**

§ 1 These Uniform Rules shall apply to every contract of carriage of goods by rail for reward when the place of taking over of the goods and the place designated for delivery are situated in two different Member States, irrespective of the place of business and the nationality of the parties to the contract of carriage.

§ 2 These Uniform Rules shall apply also to contracts of carriage of goods by rail for reward, when the place of taking over of the goods and the place designated for delivery are situated in two different States, of which at least one is a Member State and the parties to the contract agree that the contract is subject to these Uniform Rules.

§ 3 When international carriage being the subject of a single contract includes carriage by road or inland waterway in internal traffic of a Member State as a supplement to transfrontier carriage by rail, these Uniform Rules shall apply.

§ 4 When international carriage being the subject of a single contract of carriage includes carriage by sea or transfrontier carriage by inland waterway as a supplement to carriage by rail, these Uniform Rules shall apply if the carriage by sea or inland waterway is performed on services included in the list of services provided for in Article 24 § 1 of the Convention.

§ 5 These Uniform Rules shall not apply to carriage performed between stations situated on the territory of neighbouring States, when the infrastructure of these stations is managed by one or more infrastructure managers subject to only one of those States.

§ 6 Any State which is a party to a convention concerning international through carriage of goods by rail comparable with these Uniform Rules may, when it makes an application for accession to the Convention, declare that it will apply these Uniform Rules only to carriage performed on part of the railway infrastructure situated on its territory. This part of the railway infrastructure must be precisely defined and connected to the railway infrastructure of a Member State. When a State has made the above-mentioned declaration, these Uniform Rules shall apply only on the condition

- a) that the place of taking over of the goods or the place designated for delivery, as well as the route designated in the contract of carriage, is situated on the specified infrastructure or
- b) that the specified infrastructure connects the infrastructure of two Member States and that it has been designated in the contract of carriage as a route for transit carriage.

§ 7 A State which has made a reservation in accordance with § 6 may withdraw it at any time by notification to the Depositary. This withdrawal shall take effect one month after the day on which the Depositary notifies it to the Member States. The declaration shall cease to have effect when the convention referred to in § 6, first sentence, ceases to be in force for that State.

##### **Article 2**

###### **Prescriptions of public law**

Carriage to which these Uniform Rules apply shall remain subject to the prescriptions of public law, in particular the prescriptions relating to the carriage of dangerous goods as well as the prescriptions of customs law and those relating to the protection of animals.

## **Article 3**

### **Definitions**

#### **For purposes of these Uniform Rules the term**

- a)** “carrier” means the contractual carrier with whom the consignor has concluded the contract of carriage pursuant to these Uniform Rules, or a subsequent carrier who is liable on the basis of this contract;
- b)** “substitute carrier” means a carrier, who has not concluded the contract of carriage with the consignor, but to whom the carrier referred to in letter a) has entrusted, in whole or in part, the performance of the carriage by rail;
- c)** “General Conditions of Carriage” means the conditions of the carrier in the form of general conditions or tariffs legally in force in each Member State and which have become, by the conclusion of the contract of carriage, an integral part of it;
- d)** “intermodal transport unit” means a container, swap body, semi-trailer or other comparable loading unit used in intermodal transport.

## **Article 4**

### **Derogations**

**§ 1** Member States may conclude agreements which provide for derogations from these Uniform Rules for carriage performed exclusively between two stations on either side of the frontier, when there is no other station between them.

**§ 2** For carriage performed between two Member States, passing through a State which is not a Member State, the States concerned may conclude agreements which derogate from these Uniform Rules.

**§ 3** Agreements referred to in §§ 1 and 2 as well as their coming into force shall be notified to the Intergovernmental Organisation for International Carriage by Rail. The Secretary General of the Organisation shall inform the Member States and interested undertakings of these notifications.

## **Article 5**

### **Mandatory law**

Unless provided otherwise in these Uniform Rules, any stipulation which, directly or indirectly, would derogate from these Uniform Rules shall be null and void. The nullity of such a stipulation shall not involve the nullity of the other provisions of the contract of carriage. Nevertheless, a carrier may assume a liability greater and obligations more burdensome than those provided for in these Uniform Rules.

## **Title II**

### **Conclusion and Performance of the Contract of Carriage**

#### **Article 6**

##### **Contract of carriage**

**§ 1** By the contract of carriage, the carrier shall undertake to carry the goods for reward to the place of destination and to deliver them there to the consignee.

**§ 2** The contract of carriage must be confirmed by a consignment note which accords with a uniform model. However, the absence, irregularity or loss of the consignment note shall not affect the existence or validity of the contract which shall remain subject to these Uniform Rules.

§ 3 The consignment note shall be signed by the consignor and the carrier. The signature can be replaced by a stamp, by an accounting machine entry or in any other appropriate manner.

§ 4 The carrier must certify the taking over of the goods on the duplicate of the consignment note in an appropriate manner and return the duplicate to the consignor.

§ 5 The consignment note shall not have effect as a bill of lading.

§ 6 A consignment note must be made out for each consignment. In the absence of a contrary agreement between the consignor and the carrier, a consignment note may not relate to more than one wagon load.

§ 7 In the case of carriage which enters the customs territory of the European Community or the territory on which the common transit procedure is applied, each consignment must be accompanied by a consignment note satisfying the requirements of Article 7.

§ 8 The international associations of carriers shall establish uniform model consignment notes in agreement with the customers' international associations and the bodies having competence for customs matters in the Member States as well as any intergovernmental regional economic integration organisation having competence to adopt its own customs legislation.

§ 9 The consignment note and its duplicate may be established in the form of electronic data registration which can be transformed into legible written symbols. The procedure used for the registration and treatment of data must be equivalent from the functional point of view, particularly so far as concerns the evidential value of the consignment note represented by those data.

## **Article 7**

### **Wording of the consignment note**

§ 1 The consignment note must contain the following particulars :

- a) the place at which and the day on which it is made out;
- b) the name and address of the consignor;
- c) the name and address of the carrier who has concluded the contract of carriage;
- d) the name and address of the person to whom the goods have effectively been handed over if he is not the carrier referred to in letter c);
- e) the place and the day of taking over of the goods;
- f) the place of delivery;
- g) the name and address of the consignee;
- h) the description of the nature of the goods and the method of packing, and, in case of dangerous goods, the description provided for in the Regulation concerning the International Carriage of Dangerous Goods by Rail (RID);
- i) the number of packages and the special marks and numbers necessary for the identification of consignments in less than full wagon loads;
- j) the number of the wagon in the case of carriage of full wagon loads;
- k) the number of the railway vehicle running on its own wheels, if it is handed over for carriage as goods;
- l) in addition, in the case of intermodal transport units, the category, the number or other characteristics necessary for their identification;
- m) the gross mass or the quantity of the goods expressed in other ways;
- n) a detailed list of the documents which are required by customs or other administrative authorities and are attached to the consignment note or held at the disposal of the carrier at the offices of a duly designated authority or a body designated in the contract;
- o) the costs relating to carriage (the carriage charge, incidental costs, customs duties and other costs incurred from the conclusion of the contract until delivery) in so far as they must be paid by the consignee or any other statement that the costs are payable by the consignee;

p) a statement that the carriage is subject, notwithstanding any clause to the contrary, to these Uniform Rules.

**§ 2** Where applicable the consignment note must also contain the following particulars:

- a) in the case of carriage by successive carriers, the carrier who must deliver the goods when he has consented to this entry in the consignment note;
- b) the costs which the consignor undertakes to pay;
- c) the amount of the cash on delivery charge;
- d) the declaration of the value of the goods and the amount representing the special interest in delivery;
- e) the agreed transit period;
- f) the agreed route;
- g) a list of the documents not mentioned in § 1, letter n) handed over to the carrier;
- h) the entries made by the consignor concerning the number and description of seals he has affixed to the wagon.

**§ 3** The parties to the contract may enter on the consignment note any other particulars they consider useful.

## **Article 8**

### **Responsibility for particulars entered on the consignment note**

**§ 1** The consignor shall be responsible for all costs, loss or damage sustained by the carrier by reason of

- a) the entries made by the consignor in the consignment note being irregular, incorrect, incomplete or made elsewhere than in the allotted space, or
- b) the consignor omitting to make the entries prescribed by RID.

**§ 2** If, at the request of the consignor, the carrier makes entries on the consignment note, he shall be deemed, unless the contrary is proved, to have done so on behalf of the consignor.

**§ 3** If the consignment note does not contain the statement provided for in Article 7 § 1, letter p), the carrier shall be liable for all costs, loss or damage sustained through such omission by the person entitled.

## **Article 9**

### **Dangerous goods**

If the consignor has failed to make the entries prescribed by RID, the carrier may at any time unload or destroy the goods or render them innocuous, as the circumstances may require, without payment of compensation, save when he was aware of their dangerous nature on taking them over.

## **Article 10**

### **Payment of costs**

**§ 1** Unless otherwise agreed between the consignor and the carrier, the costs (the carriage charge, incidental costs, customs duties and other costs incurred from the time of the conclusion of the contract to the time of delivery) shall be paid by the consignor.

**§ 2** When by virtue of an agreement between the consignor and the carrier, the costs are payable by the consignee and the consignee has not taken possession of the consignment note nor asserted his rights in accordance with Article 17 § 3, nor modified the contract of carriage in accordance with Article 18, the consignor shall remain liable to pay the costs.

## **Article 11**

### **Examination**

§ 1 The carrier shall have the right to examine at any time whether the conditions of carriage have been complied with and whether the consignment corresponds with the entries in the consignment note made by the consignor. If the examination concerns the contents of the consignment, this shall be carried out as far as possible in the presence of the person entitled; where this is not possible, the carrier shall require the presence of two independent witnesses, unless the laws and prescriptions of the State where the examination takes place provide otherwise.

§ 2 If the consignment does not correspond with the entries in the consignment note or if the provisions relating to the carriage of goods accepted subject to conditions have not been complied with, the result of the examination must be entered in the copy of the consignment note which accompanies the goods, and also in the duplicate of the consignment note, if it is still held by the carrier. In this case the costs of the examination shall be charged against the goods, if they have not been paid immediately.

§ 3 When the consignor loads the goods, he shall be entitled to require the carrier to examine the condition of the goods and their packaging as well as the accuracy of statements on the consignment note as to the number of packages, their marks and numbers as well as the gross mass of the goods or their quantity otherwise expressed. The carrier shall be obliged to proceed with the examination only if he has appropriate means of carrying it out. The carrier may demand the payment of the costs of the examination. The result of the examination shall be entered on the consignment note.

## **Article 12**

### **Evidential value of the consignment note**

§ 1 The consignment note shall be prima facie evidence of the conclusion and the conditions of the contract of carriage and the taking over of the goods by the carrier.

§ 2 If the carrier has loaded the goods, the consignment note shall be prima facie evidence of the condition of the goods and their packaging indicated on the consignment note or, in the absence of such indications, of their apparently good condition at the moment they were taken over by the carrier and of the accuracy of the statements in the consignment note concerning the number of packages, their marks and numbers as well as the gross mass of the goods or their quantity otherwise expressed.

§ 3 If the consignor has loaded the goods, the consignment note shall be prima facie evidence of the condition of the goods and of their packaging indicated in the consignment note or, in the absence of such indication, of their apparently good condition and of the accuracy of the statements referred to in § 2 solely in the case where the carrier has examined them and recorded on the consignment note a result of his examination which tallies.

§ 4 However, the consignment note will not be prima facie evidence in a case where it bears a reasoned reservation. A reason for a reservation could be that the carrier does not have the appropriate means to examine whether the consignment corresponds to the entries in the consignment note.

## **Article 13**

### **Loading and unloading of the goods**

§ 1 The consignor and the carrier shall agree who is responsible for the loading and unloading of the goods. In the absence of such an agreement, for packages the loading and unloading shall be the responsibility of the carrier whereas for full wagon loads loading shall be the responsibility of the consignor and unloading, after delivery, the responsibility of the consignee.

**§ 2** The consignor shall be liable for all the consequences of defective loading carried out by him and must in particular compensate the carrier for the loss or damage sustained in consequence by him. The burden of proof of defective loading shall lie on the carrier.

## **Article 14**

### **Packing**

The consignor shall be liable to the carrier for any loss or damage and costs due to the absence of, or defects in, the packing of goods, unless the defectiveness was apparent or known to the carrier at the time when he took over the goods and he made no reservations concerning it.

## **Article 15**

### **Completion of administrative formalities**

**§ 1** With a view to the completion of the formalities required by customs and other administrative authorities, to be completed before delivery of the goods, the consignor must attach the necessary documents to the consignment note or make them available to the carrier and furnish him with all the requisite information.

**§ 2** The carrier shall not be obliged to check whether these documents and this information are correct and sufficient. The consignor shall be liable to the carrier for any loss or damage resulting from the absence or insufficiency of, or any irregularity in, such documents and information, save in the case of fault of the carrier.

**§ 3** The carrier shall be liable for any consequences arising from the loss or misuse of the documents referred to in the consignment note and accompanying it or deposited with the carrier, unless the loss of the documents or the loss or damage caused by the misuse of the documents has been caused by circumstances which the carrier could not avoid and the consequences of which he was unable to prevent. Nevertheless any compensation payable shall not exceed that provided for in the event of loss of the goods.

**§ 4** The consignor, by so indicating in the consignment note, or the consignee by giving orders as provided for in Article 18 § 3 may ask

- a) to be present himself or to be represented by an agent when the customs or other administrative formalities are carried out, for the purpose of furnishing any information or explanation required;
- b) to complete the customs or other administrative formalities himself or to have them completed by an agent, in so far as the laws and prescriptions 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 the customs or other administrative formalities, in so far as the laws and prescriptions of the State in which they are carried out permit such payment. In such circumstances neither the consignor, nor the consignee who has the right of disposal, nor the agent of either may take possession of the goods.

**§ 5** If, for the completion of the customs or other administrative formalities, the consignor has designated a place where the prescriptions in force do not permit their completion, or if he has stipulated for the purpose any other procedure which cannot be followed, the carrier shall act in the manner which appears to him to be the most favourable to the interests of the person entitled and shall inform the consignor of the measures taken.

**§ 6** If the consignor has undertaken to pay customs duties, the carrier shall have the choice of completing customs formalities either in transit or at the destination place.

**§ 7** However, the carrier may proceed in accordance with § 5 if the consignee has not taken possession of the consignment note within the period fixed by the prescriptions in force at the destination place.

**§ 8** The consignor must comply with the prescriptions of customs or 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 prescriptions the carrier shall be entitled to do so; the resulting cost shall be charged against the goods.

## **Article 16**

### **Transit periods**

**§ 1** The consignor and the carrier shall agree the transit period. In the absence of an agreement, the transit period must not exceed that which would result from the application of §§ 2 to 4.

**§ 2** Subject to §§ 3 and 4, the maximum transit periods shall be as follows:

- a) for wagon-load consignments
  - period for consignment 12 hours,
  - period for carriage, for each 400 km or fraction thereof 24 hours;
- b) for less than wagon-load consignment
  - period for consignments 24 hours,
  - period for carriage, for each 200 km or fraction thereof 24 hours.

The distances shall relate to the agreed route or, in the absence thereof, to the shortest possible route.

**§ 3** The carrier may fix additional transit periods of specified duration in the following cases :

- a) consignments to be carried
  - by lines of a different gauge,
  - by sea or inland waterway,
  - by road if there is no rail link;
- b) exceptional circumstances causing an exceptional increase in traffic or exceptional operating difficulties. The duration of the additional transit periods must appear in the General Conditions of Carriage.

**§ 4** The transit period shall start to run after the taking over of the goods; it shall be extended by the duration of a stay caused without any fault of the carrier. The transit period shall be suspended on Sundays and statutory holidays.

## **Article 17**

### **Delivery**

**§ 1** The carrier must hand over the consignment note and deliver the goods to the consignee at the place designated for delivery against receipt and payment of the amounts due according to the contract of carriage.

**§ 2** It shall be equivalent to delivery to the consignee if, in accordance with the prescriptions in force at the place of destination,

- a) the goods have been handed over to customs or octroi authorities at their premises or warehouses, when these are not subject to the carrier's supervision;
- b) the goods have been deposited for storage with the carrier, with a forwarding agent or in a public warehouse.

**§ 3** After the arrival of the goods at the place of destination, the consignee may ask the carrier 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 29 § 1, the consignee may assert, in his own name, his rights against the carrier under the contract of carriage.

§ 4 The person entitled may refuse to accept the goods, even when he has received the consignment note and paid the charges resulting from the contract of carriage, so long as an examination which he has demanded in order to establish alleged loss or damage has not been carried out.

§ 5 In other respects, delivery of the goods shall be carried out in accordance with the prescriptions in force at the place of destination.

§ 6 If the goods have been delivered without prior collection of a cash on delivery charge, the carrier shall be obliged to compensate the consignor up to the amount of the cash on delivery charge without prejudice to his right of recourse against the consignee.

## **Article 18**

### **Right to dispose of the goods**

§ 1 The consignor shall be entitled to dispose of the goods and to modify the contract of carriage by giving subsequent orders. He may in particular ask the carrier

- a) to discontinue the carriage of the goods;
- b) to delay the delivery of the goods;
- c) to deliver the goods to a consignee different from the one entered on the consignment note;
- d) to deliver the goods at a place other than the place of destination entered on the consignment note.

§ 2 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 17 § 3;
- d) is entitled, in accordance with § 3, to give orders; from that time onwards, the carrier shall comply with the orders and instructions of the consignee.

§ 3 The consignee shall have the right to modify the contract of carriage from the time when the consignment note is drawn up, unless the consignor indicates to the contrary on the consignment note.

§ 4 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 17 § 3;
- d) given instructions for delivery of the goods to another person in accordance with § 5 and when that person has asserted his rights in accordance with Article 17 § 3.

§ 5 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 19**

### **Exercise of the right to dispose of the goods**

§ 1 If the consignor or, in the case referred to in Article 18 § 3, the consignee wishes to modify the contract of carriage by giving subsequent orders, he must produce to the carrier the duplicate of the consignment note on which the modifications have to be entered.

§ 2 The consignor or, in the case referred to in Article 18 § 3, the consignee must compensate the carrier for the costs and the prejudice arising from the carrying out of subsequent modifications.

§ 3 The carrying out of the subsequent modifications must be possible, lawful and reasonable to require at the time when the orders reach the person who is to carry them out, and must in particular

neither interfere with the normal working of the carrier's undertaking nor prejudice the consignors or consignees of other consignments.

**§ 4** The subsequent modifications must not have the effect of splitting the consignment.

**§ 5** When, by reason of the conditions provided for in § 3, the carrier cannot carry out the orders which he receives he shall immediately notify the person from whom the orders emanate.

**§ 6** In the case of fault of the carrier he shall be liable for the consequences of failure to carry out an order or failure to carry it out properly. Nevertheless, any compensation payable shall not exceed that provided for in case of loss of the goods.

**§ 7** If the carrier implements the consignor's subsequent modifications without requiring the production of the duplicate of the consignment note, the carrier shall be liable to the consignee for any loss or damage sustained by him if the duplicate has been passed on to the consignee. Nevertheless, any compensation payable shall not exceed that provided for in case of loss of the goods.

## **Article 20**

### **Circumstances preventing carriage**

**§ 1** When circumstances prevent the carriage of goods, the carrier 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 interest of the person entitled, to ask him for instructions while giving him any relevant information available to the carrier.

**§ 2** If it is impossible to continue carrying the goods, the carrier shall ask for instructions from the person who has the right to dispose of the goods. If the carrier is unable to obtain instructions within a reasonable time he must take such steps as seem to him to be in the best interests of the person entitled to dispose of the goods.

## **Article 21**

### **Circumstances preventing delivery**

**§ 1** When circumstances prevent delivery, the carrier must without delay inform the consignor and ask him for instructions, save where the consignor has requested, 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.

**§ 2** When the circumstances preventing delivery cease to exist before arrival of instructions from the consignor to the carrier the goods shall be delivered to the consignee. The consignor must be notified without delay.

**§ 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** When the circumstances preventing delivery arise after the consignee has modified the contract of carriage in accordance with Article 18 §§ 3 to 5 the carrier must notify the consignee.

## **Article 22**

### **Consequences of circumstances preventing carriage and delivery**

**§ 1** The carrier shall be entitled to recover the costs occasioned by

- a) his request for instructions,
- b) the carrying out of instructions received,
- c) the fact that instructions requested do not reach him or do not reach him in time,
- d) the fact that he has taken a decision in accordance with Article 20 § 1, without having asked for instructions, unless such costs were caused by his fault. The carrier may in particular recover the

carriage charge applicable to the route followed and shall be allowed the transit periods applicable to such route.

§ 2 In the cases referred to in Article 20 § 2 and Article 21 § 1 the carrier may immediately unload the goods at the cost of the person entitled. Thereupon the carriage shall be deemed to be at an end. The carrier shall then be in charge of the goods on behalf of the person entitled. He may, however, entrust them to a third party, and shall then be responsible only for the exercise of reasonable care in the choice of such third party. The charges due under the contract of carriage and all other costs shall remain chargeable against the goods.

§ 3 The carrier may proceed to the sale of the goods, without awaiting instructions from the person entitled, if this is justified by the perishable nature or the condition of the goods or if the costs of storage would be out of proportion to the value of the goods. In other cases he may also proceed to the sale of the goods if within a reasonable time he has not received from the person entitled instructions to the contrary which he may reasonably be required to carry out.

§ 4 If the goods have been sold, the proceeds of sale, after deduction of the costs chargeable against the goods, must be placed at the disposal of the person entitled. If the proceeds of sale are less than those costs, the consignor must pay the difference.

§ 5 The procedure in the case of sale shall be determined by the laws and prescriptions in force at, or by the custom of, the place where the goods are situated.

§ 6 If the consignor, in the case of circumstances preventing carriage or delivery, fails to give instructions within a reasonable time and if the circumstances preventing carriage or delivery cannot be eliminated in accordance with §§ 2 and 3, the carrier may return the goods to the consignor or, if it is justified, destroy them, at the cost of the consignor.

### **Title III**

#### **Liability**

##### **Article 23**

###### **Basis of liability**

§ 1 The carrier shall be liable for loss or damage resulting from the total or partial loss of, or damage to, the goods between the time of taking over of the goods and the time of delivery and for the loss or damage resulting from the transit period being exceeded, whatever the railway infrastructure used.

§ 2 The carrier shall be relieved of this liability to the extent that the loss or damage or the exceeding of the transit period was caused by the fault of the person entitled, by an order given by the person entitled other than as a result of the fault of the carrier, by an inherent defect in the goods (decay, wastage etc.) or by circumstances which the carrier could not avoid and the consequences of which he was unable to prevent.

§ 3 The carrier shall be relieved of this liability to the extent that the loss or damage arises from the special risks inherent in one or more of the following circumstances :

a) carriage in open wagons pursuant to the General Conditions of Carriage or when it has been expressly agreed and entered in the consignment note; subject to damage sustained by the goods because of atmospheric influences, goods carried in intermodal transport units and in closed road vehicles carried on wagons shall not be considered as being carried in open wagons; if for the carriage of goods in open wagons, the consignor uses sheets, the carrier shall assume the same liability as falls to him for carriage in open wagons without sheeting, even in respect of goods which, according to the General Conditions of Carriage, are not carried in open wagons;

- b) absence or inadequacy of packaging in the case of goods which by their nature are liable to loss or damage when not packed or when not packed properly;
- c) loading of the goods by the consignor or unloading by the consignee;
- d) the nature of certain goods which particularly exposes them to total or partial loss or damage, especially through breakage, rust, interior and spontaneous decay, desiccation or wastage;
- e) irregular, incorrect or incomplete description or numbering of packages;
- f) carriage of live animals;
- g) carriage which, pursuant to applicable provisions or agreements made between the consignor and the carrier and entered on the consignment note, must be accompanied by an attendant, if the loss or damage results from a risk which the attendant was intended to avert.

## **Article 24**

### **Liability in case of carriage of railway vehicles as goods**

§ 1 In case of carriage of railway vehicles running on their own wheels and consigned as goods, the carrier shall be liable for the loss or damage resulting from the loss of, or damage to, the vehicle or to its removable parts arising between the time of taking over for carriage and the time of delivery and for loss or damage resulting from exceeding the transit period, unless he proves that the loss or damage was not caused by his fault.

§ 2 The carrier shall not be liable for loss or damage resulting from the loss of accessories which are not mentioned on both sides of the vehicle or in the inventory which accompanies it.

## **Article 25**

### **Burden of proof**

§ 1 The burden of proving that the loss, damage or exceeding of the transit period was due to one of the causes specified in Article 23 § 2 shall lie on the carrier.

§ 2 When the carrier 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 23 § 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 in part to one of those risks.

§ 3 The presumption according to § 2 shall not apply in the case provided for in Article 23 § 3, letter a) if an abnormally large quantity has been lost or if a package has been lost.

## **Article 26**

### **Successive carriers**

If carriage governed by a single contract is performed by several successive carriers, each carrier, 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. In such a case each carrier shall be responsible in respect of carriage over the entire route up to delivery.

## **Article 27**

### **Substitute carrier**

§ 1 Where the carrier has entrusted the performance of the carriage, in whole or in part, to a substitute carrier, whether or not in pursuance of a right under the contract of carriage to do so, the carrier shall nevertheless remain liable in respect of the entire carriage.

§ 2 All the provisions of these Uniform Rules governing the liability of the carrier shall also apply to the liability of the substitute carrier for the carriage performed by him. Articles 36 and 41 shall apply

if an action is brought against the servants and any other persons whose services the substitute carrier makes use of for the performance of the carriage.

§ 3 Any special agreement under which the carrier assumes obligations not imposed by these Uniform Rules or waives rights conferred by these Uniform Rules shall be of no effect in respect of the substitute carrier who has not accepted it expressly and in writing. Whether or not the substitute carrier has accepted it, the carrier shall nevertheless remain bound by the obligations or waivers resulting from such special agreement.

§ 4 Where and to the extent that both the carrier and the substitute carrier are liable, their liability shall be joint and several.

§ 5 The aggregate amount of compensation payable by the carrier, the substitute carrier and their servants and other persons whose services they make use of for the performance of the carriage shall not exceed the limits provided for in these Uniform Rules.

§ 6 This article shall not prejudice rights of recourse which may exist between the carrier and the substitute carrier.

## **Article 28**

### **Presumption of loss or damage in case of reconsignment**

§ 1 When a consignment consigned in accordance with these Uniform Rules has been reconsigned subject to these same Rules and partial loss or damage has been ascertained after that reconsignment, it shall be presumed that it occurred under the latest contract of carriage if the consignment remained in the charge of the carrier and was reconsigned in the same condition as when it arrived at the place from which it was reconsigned.

§ 2 This presumption shall also apply when the contract of carriage prior to the reconsignment was not subject to these Uniform Rules, if these Rules would have applied in the case of a through consignment from the first place of consignment to the final place of destination.

§ 3 This presumption shall also apply when the contract of carriage prior to the reconsignment was subject to a convention concerning international through carriage of goods by rail comparable with these Uniform Rules, and when this convention contains the same presumption of law in favour of consignments consigned in accordance with these Uniform Rules.

## **Article 29**

### **Presumption of loss of the goods**

§ 1 The person entitled may, without being required to furnish further proof, consider the goods as lost when they have not been delivered to the consignee or placed at his disposal within thirty days after the expiry of the transit periods.

§ 2 The person entitled may, on receipt of the payment of compensation for the goods lost, make a written request to be notified without delay should the goods be recovered within one year after the payment of compensation. The carrier shall acknowledge such request in writing.

§ 3 Within thirty days after receipt of a notification referred to in § 2, the person entitled may require the goods to be delivered to him against payment of the costs resulting from the contract of carriage and against refund of the compensation received, less, where appropriate, 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 33 and 35.

§ 4 In the absence of the request referred to in § 2 or of instructions given within the period specified in § 3, or if the goods are recovered more than one year after the payment of compensation, the carrier

shall dispose of them in accordance with the laws and prescriptions in force at the place where the goods are situated.

## **Article 30**

### **Compensation for loss**

§ 1 In case of total or partial loss of the goods, the carrier 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 usual value of goods of the same kind and quality on the day and at the place where the goods were taken over.

§ 2 Compensation shall not exceed 17 units of account per kilogramme of gross mass short.

§ 3 In case of loss of a railway vehicle running on its own wheels and consigned as goods, or of an intermodal transport unit, or of their removable parts, the compensation shall be limited, to the exclusion of all other damages, to the usual value of the vehicle or the intermodal transport unit, or their removable parts, on the day and at the place of loss. If it is impossible to ascertain the day or the place of the loss, the compensation shall be limited to the usual value on the day and at the place where the vehicle has been taken over by the carrier.

§ 4 The carrier must, in addition, refund the carriage charge, customs duties already paid and other sums paid in relation to the carriage of the goods lost except excise duties for goods carried under a procedure suspending those duties.

## **Article 31**

### **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 carrier 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;
- b) one per cent of the mass for 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 causes which would justify the 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 consignment is shown separately on the consignment note or can be ascertained otherwise.

§ 4 In case of total loss of goods or in case of loss of a package, no deduction for wastage in transit shall be made in calculating the compensation.

§ 5 This Article shall not derogate from Articles 23 and 25.

## **Article 32**

### **Compensation for damage**

§ 1 In case of damage to goods, the carrier 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 defined in accordance with Article 30 the percentage of loss in value noted at the place of destination.

§ 2 The compensation shall 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** In case of damage to a railway vehicle running on its own wheels and consigned as goods, or of an intermodal transport unit, or of their removable parts, the compensation shall be limited, to the exclusion of all other damages, to the cost of repair. The compensation shall not exceed the amount payable in case of loss.

**§ 4** The carrier must also refund the costs provided for in Article 30 § 4, in the proportion set out in § 1.

### **Article 33**

#### **Compensation for exceeding the transit period**

**§ 1** If loss or damage results from the transit period being exceeded, the carrier must pay compensation not exceeding four times the carriage charge.

**§ 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 30.

**§ 3** In case of partial loss of the goods, the compensation provided for in § 1 shall not exceed four times the carriage charge 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 32.

**§ 5** In no case shall the total of compensation provided for in § 1 together with that provided for in Articles 30 and 32 exceed the compensation which would be payable in case of total loss of the goods.

**§ 6** If, in accordance with Article 16 § 1, the transit period has been established by agreement, other forms of compensation than those provided for in § 1 may be so agreed. If, in this case, the transit periods provided for in Article 16 §§ 2 to 4 are exceeded, the person entitled may claim either the compensation provided for in the agreement mentioned above or that provided for in §§ 1 to 5.

### **Article 34**

#### **Compensation in case of declaration of value**

The consignor and the carrier may agree that the consignor shall declare in the consignment note a value for the goods exceeding the limit provided for in Article 30 § 2. In such a case the amount declared shall be substituted for that limit.

### **Article 35**

#### **Compensation in case of interest in delivery**

The consignor and the carrier may agree that the consignor may declare, by entering an amount in figures in the consignment note, a special interest in delivery, in case of loss, damage or exceeding of the transit period. 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 30, 32 and 33, up to the amount declared.

## **Article 36**

### **Loss of right to invoke the limits of liability**

The limits of liability provided for in Article 15 § 3, Article 19 §§ 6 and 7, Article 30 and Articles 32 to 35 shall not apply if it is proved that the loss or damage results from an act or omission, which the carrier has committed either with intent to cause such loss or damage, or recklessly and with knowledge that such loss or damage would probably result.

## **Article 37**

### **Conversion and interest**

§ 1 Where the calculation of the compensation requires the conversion of sums expressed in foreign currency, conversion shall be at the exchange rate applicable on the day and at the place of payment of compensation.

§ 2 The person entitled may claim interest on compensation, calculated at five per cent per annum, from the day of the claim provided for in Article 43 or, if no such claim has been made, from the day on which legal proceedings were instituted.

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

## **Article 38**

### **Liability in respect of rail-sea traffic**

§ 1 In rail-sea carriage by the services referred to in Article 24 § 1 of the Convention any Member State may, by requesting that a suitable note be included in the list of services to which these Uniform Rules apply, add the following grounds for exemption from liability in their entirety to those provided for in Article 23 :

- a) fire, if the carrier proves that it was not caused by his act or default, or that of the master, a mariner, the pilot or the carrier's servants;
- b) saving or attempting to save life or property at sea;
- c) loading of goods on the deck of the ship, if they are so loaded with the consent of the consignor given on the consignment note and are not in wagons;
- d) perils, dangers and accidents of the sea or other navigable waters.

§ 2 The carrier may only avail himself of the grounds for exemption referred to in § 1 if he proves that the loss, damage or exceeding the transit period occurred in the course of the journey by sea between the time when the goods were loaded on board the ship and the time when they were unloaded from the ship.

§ 3 When the carrier relies on the grounds for exemption referred to in § 1, he shall nevertheless remain liable if the person entitled proves that the loss, damage or exceeding the transit period is due to the fault of the carrier, the master, a mariner, the pilot or the carrier's servants.

§ 4 Where a sea route is served by several undertakings included in the list of services in accordance with Article 24 § 1 of the Convention, the liability regime applicable to that route must be the same for all those undertakings. In addition, where those undertakings have been included in the list at the request of several Member States, the adoption of this regime must be the subject of prior agreement between those States.

§ 5 The measures taken in accordance with §§ 1 and 4 shall be notified to the Secretary General. They shall come into force at the earliest at the expiry of a period of thirty days from the day on which the

Secretary General notifies them to the other Member States. Consignments already in transit shall not be affected by such measures.

## **Article 39**

### **Liability in case of nuclear incidents**

The carrier shall be relieved of liability pursuant to these Uniform Rules for loss 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 the laws and prescriptions of a State governing liability in the field of nuclear energy.

## **Article 40**

### **Persons for whom the carrier is liable**

The carrier shall be liable for his servants and other persons whose services he makes use of for the performance of the carriage, when these servants and other persons are acting within the scope of their functions. The managers of the railway infrastructure on which the carriage is performed shall be considered as persons whose services the carrier makes use of for the performance of the carriage.

## **Article 41**

### **Other actions**

§ 1 In all cases where these Uniform Rules shall apply, any action in respect of liability, on whatever grounds, may be brought against the carrier only subject to the conditions and limitations laid down in these Uniform Rules.

§ 2 The same shall apply to any action brought against the servants or other persons for whom the carrier is liable pursuant to Article 40.

## **Title IV**

### **Assertion of Rights**

## **Article 42**

### **Ascertainment of partial loss or damage**

§ 1 When partial loss or damage is discovered or presumed by the carrier or alleged by the person entitled, the carrier 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.

§ 2 A copy of the report must be supplied free of charge to the person entitled.

§ 3 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 to the contract of carriage or by a court or tribunal. The procedure to be followed shall be governed by the laws and prescriptions of the State in which such ascertainment takes place.

## **Article 43**

### **Claims**

§ 1 Claims relating to the contract of carriage must be addressed in writing to the carrier against whom an action may be brought.

§ 2 A claim may be made by persons who have the right to bring an action against the carrier.

**§ 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 goods.

**§ 4** To make the claim the consignee must produce the consignment note if it has been handed over to him.

**§ 5** The consignment note, the duplicate and any other documents which the person entitled thinks fit to submit with the claim must be produced either in the original or as copies, the copies, where appropriate, duly certified if the carrier so requests.

**§ 6** On settlement of the claim the carrier 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 44**

##### **Persons who may bring an action against the carrier**

**§ 1** Subject to §§ 3 and 4 actions based on the contract of carriage may be brought :

- a) by the consignor, until such time as the consignee has
  1. taken possession of the consignment note,
  2. accepted the goods, or
  3. asserted his rights pursuant to Article 17 § 3 or Article 18 § 3;
- b) by the consignee, from the time when he has
  1. taken possession of the consignment note,
  2. accepted the goods, or
  3. asserted his rights pursuant to Article 17 § 3 or Article 18 § 3.

**§ 2** The right of the consignee to bring an action shall be extinguished from the time when the person designated by the consignee in accordance with Article 18 § 5 has taken possession of the consignment note, accepted the goods or asserted his rights pursuant to Article 17 § 3.

**§ 3** An action for the recovery of a sum paid pursuant to the contract of carriage may only be brought by the person who made the payment.

**§ 4** An action in respect of cash on delivery payments may only be brought by the consignor.

**§ 5** In order to bring an action 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 goods. If necessary, the consignor must prove the absence or the loss of the consignment note.

**§ 6** In order to bring an action the consignee must produce the consignment note if it has been handed over to him.

#### **Article 45**

##### **Carriers against whom an action may be brought**

**§ 1** Subject to §§ 3 and 4 actions based on the contract of carriage may be brought only against the first carrier, the last carrier or the carrier having performed the part of the carriage on which the event giving rise to the proceedings occurred.

**§ 2** When, in the case of carriage performed by successive carriers, the carrier who must deliver the goods is entered with his consent on the consignment note, an action may be brought against him in accordance with § 1 even if he has received neither the goods nor the consignment note.

§ 3 An action for the recovery of a sum paid pursuant to the contract of carriage may be brought against the carrier who has collected that sum or against the carrier on whose behalf it was collected.

§ 4 An action in respect of cash on delivery payments may be brought only against the carrier who has taken over the goods at the place of consignment.

§ 5 An action may be brought against a carrier other than those specified in §§ 1 to 4 when instituted by way of counter-claim or by way of exception in proceedings relating to a principal claim based on the same contract of carriage.

§ 6 To the extent that these Uniform Rules apply to the substitute carrier, an action may also be brought against him.

§ 7 If the plaintiff has a choice between several carriers, his right to choose shall be extinguished as soon as he brings an action against any one of them; this shall also apply if the plaintiff has a choice between one or more carriers and a substitute carrier.

## **Article 46**

### **Forum**

§ 1 Actions based on these Uniform Rules may be brought before the courts or tribunals of Member States designated by agreement between the parties or before the courts or tribunals of a State on whose territory

- a) the defendant has his domicile or habitual residence, his principal place of business or the branch or agency which concluded the contract of carriage, or
- b) the place where the goods were taken over by the carrier or the place designated for delivery is situated.

Other courts or tribunals may not be seized.

§ 2 Where an action based on these Uniform Rules is pending before a court or tribunal competent pursuant to § 1, or where in such litigation a judgment has been delivered by such a court or tribunal, no new action may be brought between the same parties on the same grounds unless the judgment of the court or tribunal before which the first action was brought is not enforceable in the State in which the new action is brought.

## **Article 47**

### **Extinction of right of action**

§ 1 Acceptance of the goods by the person entitled shall extinguish all rights of action against the carrier arising from the contract of carriage in case of partial loss, damage or exceeding of the transit period.

§ 2 Nevertheless, the right of action shall not be extinguished :

- a) in case of partial loss or damage, if
  1. the loss or damage was ascertained in accordance with Article 42 before the acceptance of the goods by the person entitled;
  2. the ascertainment which should have been carried out in accordance with Article 42 was omitted solely through the fault of the carrier;
- b) in case of loss or damage which is not apparent whose existence is ascertained after acceptance of the goods by the person entitled, if he
  1. asks for ascertainment in accordance with Article 42 immediately after discovery of the loss or damage and not later than seven days after the acceptance of the goods, and

2. in addition, proves that the loss or damage occurred between the time of taking over 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 carriers referred to in Article 45 § 1;

d) if the person entitled proves that the loss or damage results from an act or omission, done with intent to cause such loss or damage, or recklessly and with knowledge that such loss or damage would probably result.

**§ 3** If the goods have been reconsigned in accordance with Article 28 rights of action in case of partial loss or in case of damage, arising from one of the previous contracts of carriage, shall be extinguished as if there had been only a single contract of carriage.

## **Article 48**

### **Limitation of actions**

**§ 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 carrier from the consignee;

b) to recover the proceeds of a sale effected by the carrier;

c) for loss or damage resulting from an act or omission done with intent to cause such loss or damage, or recklessly and with knowledge that such loss or damage would probably result;

d) based on one of the contracts of carriage prior to the reconsignment in the case provided for in

## **Article 28.**

**§ 2** The period of limitation shall run for actions

a) for compensation for total loss, from the thirtieth day after expiry of the transit period;

b) for compensation for partial loss, damage or exceeding of the transit period, from the day when delivery took place;

c) in all other cases, from the day when the right of action may be exercised.

The day indicated for the commencement of the period of limitation shall not be included in the period.

**§ 3** The period of limitation shall be suspended by a claim in writing in accordance with Article 43 until the day that the carrier rejects the claim by notification in writing and returns the documents submitted with it. If part of the claim is admitted, the period of limitation shall start to run again in respect of the 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 lie 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 further, even by way of counter-claim or relied upon by way of exception.

**§ 5** Otherwise, the suspension and interruption of periods of limitation shall be governed by national law.

## **Title V**

### **Relations between Carriers**

#### **Article 49**

##### **Settlement of accounts**

§ 1 Any carrier who has collected or ought to have collected, either at departure or on arrival, charges or other costs arising out of the contract of carriage must pay to the carriers concerned their respective shares. The methods of payment shall be fixed by agreement between the carriers.

§ 2 Article 12 shall also apply to the relations between successive carriers.

#### **Article 50**

##### **Right of recourse**

§ 1 A carrier who has paid compensation pursuant to these Uniform Rules shall have a right of recourse against the carriers who have taken part in the carriage in accordance with the following provisions:

- a) the carrier who has caused the loss or damage shall be solely liable for it;
- b) when the loss or damage has been caused by several carriers, each shall be liable for the loss or damage he has caused; if such distinction is impossible, the compensation shall be apportioned between them in accordance with letter c);
- c) if it cannot be proved which of the carriers has caused the loss or damage, the compensation shall be apportioned between all the carriers who have taken part in the carriage, except those who prove that the loss or damage was not caused by them; such apportionment shall be in proportion to their respective shares of the carriage charge.

§ 2 In the case of insolvency of any one of these carriers, the unpaid share due from him shall be apportioned among all the other carriers who have taken part in the carriage, in proportion to their respective shares of the carriage charge.

#### **Article 51**

##### **Procedure for recourse**

§ 1 The validity of the payment made by the carrier exercising a right of recourse pursuant to Article 50 may not be disputed by the carrier against whom the right of recourse is exercised, when compensation has been determined by a court or tribunal and when the latter carrier, duly served with notice of the proceedings, has been afforded an opportunity to intervene in the proceedings. The court or tribunal seized of the principal action shall determine what time shall be allowed for such notification of the proceedings and for intervention in the proceedings.

§ 2 A carrier exercising his right of recourse must make his claim in one and the same proceedings against all the carriers with whom he has not reached a settlement, failing which he shall lose his right of recourse in the case of those against whom he has not taken proceedings.

§ 3 The court or tribunal must give its decision in one and the same judgment on all recourse claims brought before it.

§ 4 The carrier wishing to enforce his right of recourse may bring his action in the courts or tribunals of the State on the territory of which one of the carriers participating in the carriage has his principal place of business, or the branch or agency which concluded the contract of carriage.

**§ 5** When the action must be brought against several carriers, the plaintiff carrier shall be entitled to choose the court or tribunal in which he will bring the proceedings from among those having competence pursuant to § 4.

**§ 6** Recourse proceedings may not be joined with proceedings for compensation taken by the person entitled under the contract of carriage.

## **Article 52**

### **Agreements concerning recourse**

The carriers may conclude agreements which derogate from Articles 49 and 50.