



Economic and Social
Council

Distr.
GENERAL

TRANS/SC.3/AC.5/1999/21/Rev.1
15 March 1999

ENGLISH
Original: FRENCH

ECONOMIC COMMISSION FOR EUROPE

INLAND TRANSPORT COMMITTEE

Preparatory Committee Established Jointly
by CCNR, the Danube Commission and ECE
for the Drafting of the Convention on
the Contract for the Carriage of Goods
by Inland Waterway

**DRAFT CONVENTION ON THE CONTRACT FOR THE CARRIAGE
OF GOODS BY INLAND WATERWAY (CMNI)***

Note by the secretariat

The secretariat reproduces below the final text of the draft Convention prepared by the Preparatory Committee in the course of its six sessions: from 21 to 23 October 1996 and from 3 to 7 February 1997 in Strasbourg, from 25 to 29 August 1997 and from 30 March to 3 April 1998 in Geneva, from 24 to 28 August 1998 in Bucharest and from 1 to 5 February 1999 in Maribor. Once it has been revised by the Drafting Committee (from 29 June to 1 July 1999 in Geneva), the final text will be submitted to the diplomatic Conference for adoption.

* Distributed by the Central Commission for the Navigation of the Rhine (CCNR) under the symbol CMNI/PC (98)15-Rev.1.

CENTRAL COMMISSION FOR THE NAVIGATION OF THE RHINE
DANUBE COMMISSION

UNITED NATIONS ECONOMIC COMMISSION FOR EUROPE

Convention on the Contract for the Carriage
of Goods by Inland Waterway (CMNI)

The Contracting States to this Convention,

Having recognized the need and desirability of determining by common agreement certain uniform rules concerning the contract for the carriage of goods by inland waterway,

Have decided to conclude a Convention for this purpose and have thereto agreed as follows:

I. General provisions

Article 1: Definitions

For the purposes of this Convention,

1. "Carrier" means any person by whom or in whose name a contract for the carriage of goods by inland waterway has been concluded with the shipper;
2. "Actual carrier" means any person to whom the performance of the carriage of goods by inland waterway or of part of the carriage has been entrusted by the carrier;
3. "Shipper" means any person by whom or in whose name or on whose behalf a contract for the carriage of goods by inland waterway has been concluded with a carrier;
4. "Consignee" means the person entitled to take delivery of the goods;
5. "Contract for carriage by inland waterway" means any contract, of any kind, whereby a carrier undertakes against payment of freight to carry goods by inland waterway;
6. "Transport document" means a document establishing the existence of a contract for carriage by inland waterway and recording the taking over or loading of goods by a carrier, drawn up in the form of a bill of lading or consignment note or of any other document in common use in the trade.
7. "Goods" does not include towed or pushed vessels nor does it include the luggage or vehicles of the persons carried; when the goods are grouped together in a container, pallet or similar transport unit or when they are packed, "goods" also includes the transport unit or packaging if it is provided by the shipper;

8. "In writing" includes, unless otherwise agreed between the Parties concerned, the situation where information is transmitted by electronic, optical or similar means of communication, including, but not limited to, telegram, telecopy, telex, electronic mail or electronic data interchange (EDI), provided the information is accessible so as to be usable for subsequent reference.

Article 2: Scope

1. This Convention shall apply to any contract for carriage by inland waterway under which the port of loading or taking over and the port of discharge or delivery stipulated in the contract are situated in two different States of which at least one is a Contracting State to this Convention. If the contract stipulates a choice of several ports of discharge or delivery, the actual place selected shall determine the choice.

2. This Convention shall also apply if the purpose of the contract for carriage by inland waterway is the carriage of goods, without transshipment, both on inland waterways and in maritime waters, under the conditions set out in paragraph 1, unless:

(a) A marine bill of lading has been drawn up in accordance with the applicable maritime law, or

(b) The distance to be travelled in maritime waters is the greater.

3. This Convention shall apply regardless of the nationality, place of registration, home port or the fact that the vessel is a maritime or inland navigation vessel and without regard to the nationality, domicile, head office or place of residence of the carrier, the shipper or the consignee.

II. Rights and obligations of the parties to the contract

Article 3: Taking over, carriage and delivery of the goods

1. The carrier shall carry the goods to the place of destination within the specified time and deliver them to the consignee in the condition in which they were handed over to him.

2. Unless otherwise agreed, the taking over and delivery of the goods shall take place on board the vessel.

3. The carrier shall decide which vessel is to be used and shall be bound, before or at the beginning of the voyage, to exercise due diligence to ensure that the vessel is in a state to carry the goods loaded, is navigable and

carries the equipment and crew prescribed by the regulations in force and also is in possession of the necessary national and international authorizations for the carriage of the goods in question.

4. If it has been agreed that the carriage shall be performed by a specific vessel or type of vessel, the carrier shall not be entitled to load or transship the goods in whole or in part on to another vessel except with the agreement of the shipper, within an appropriate period of time or in circumstances which were unforeseeable at the time when the contract was concluded and which imperatively require loading or transshipment for the performance of the contract for carriage, such as low water or incidents or events adversely affecting shipping, or in accordance with port practice.

5. Subject to the obligations to be borne by the shipper, the carrier shall guarantee that the loading, stowage and immobilization of the goods does not affect the safety of the vessel.

6. The carrier shall be authorized to carry goods on deck or in open holds only if an agreement for such practice has been made with the shipper or if it is in accordance with the practice of the particular trade or is required by the regulations or the requirements in force.

Article 4: Actual carrier

1. Where the performance of all or part of the carriage is entrusted to an actual carrier, whether or not in the exercise of a right accorded to him in the contract for carriage, the carrier shall remain liable for the entire carriage in accordance with the provisions of this Convention. All the provisions of this Convention governing the liability of the carrier shall also apply to the liability of the actual carrier for the carriage he performs.

2. Any agreement with the shipper or the consignee extending the carrier's liability in accordance with the provisions of this Convention shall be binding on the actual carrier only if agreed to by him expressly and in writing. The actual carrier may avail himself of all the objections validated by the carrier under the contract for carriage.

3. Where and to the extent that the carrier and actual carrier are both liable, their liability shall be joint and several. No provision of this article shall adversely affect the right of appeal between the carrier and the actual carrier.

Article 5: Delivery time

1. The carrier shall deliver the goods within the time limit agreed in the contract for carriage or, if no time limit has been agreed, within the time limit which could reasonably be required of a diligent carrier, allowing for the circumstances of the voyage and unhindered navigation.

Article 6: Obligations of the shipper

1. The shipper shall be required to pay the amounts due under the contract for carriage.

2. The shipper shall provide the carrier, before the goods are taken over and in writing, with the following particulars concerning the goods to be carried:

(a) Dimensions, number or weight and stowage factor of the goods to be carried;

(b) Marks necessary for identification of the goods;

(c) Nature, characteristics and properties of the goods;

(d) Instructions concerning the Customs or administrative regulations applying to the goods; and

(e) Other necessary particulars to be entered in the transport document,

and all the required accompanying documents when the goods are handed over.

3. If the nature of the goods so requires, the shipper shall, bearing in mind the agreed transport operation, pack the goods in such a way as to prevent their loss or deterioration between the time they are taken over by the carrier and delivery and so as to ensure that they do not cause damage to the vessel or to other goods. According to what has been agreed with a view to carriage, the shipper shall also make provision for appropriate marking conforming to the international or national regulations in force or, in the absence of such regulations, according to generally recognized shipping rules and practices.

4. Subject to the obligations to be borne by the carrier, the shipper shall load and stow the goods and immobilize them in accordance with shipping practice unless the contract for carriage specifies otherwise.

Article 7: Dangerous or environment-polluting goods

1. If dangerous or environment-polluting goods are to be carried, the shipper shall, before handing over the goods, and in addition to the particulars referred to in article 6, paragraph 2, draw the attention of the

carrier in writing to the danger and the inherent risks of pollution of the goods and the precautions to be taken. He shall legibly mark or label the goods as provided for by the international or national regulations in force or, in the absence of such regulations, in accordance with generally recognized shipping rules and practices.

2. If the carriage of the dangerous or environment-polluting goods requires an authorization, the shipper shall hand over the necessary official documents at latest when handing over the goods.

3. When the continuation of the carriage, the discharge or the delivery of the dangerous or environment-polluting goods is rendered impossible owing to the absence of an administrative authorization, and in the absence of a choice by the parties to the contract, the national legislation in force at the place where the carriage was interrupted or the place of delivery shall apply. The costs incurred by the return to the port of loading or a nearer place where the goods can be discharged and delivered or eliminated shall be borne by the shipper.

4. In the event of immediate danger to persons, property or the environment, the carrier shall be entitled to unload, destroy or render harmless the goods, even if, before they were taken over, he was informed or was appraised by other means of the nature of the danger or the polluting features of these goods.

5. If the carrier is authorized to take the measures referred to in paragraphs 3 or 4 above, he may claim compensation for damage.

Article 8: Liability of the shipper

1. The shipper shall, even if no fault can be attributed to him, meet all the damages and costs incurred by the carrier owing to the fact that:

(a) The particulars referred to in articles 6, paragraph 2, or 7, paragraph 1, are missing, inaccurate or inadequate;

(b) The dangerous or environment-polluting goods are not marked or labelled in accordance with the international or national regulations in force or, if no such regulations exist, in accordance with generally recognized shipping rules and practices;

(c) The necessary accompanying documents are missing, inaccurate or inadequate.

2. The shipper shall be responsible for the acts and omissions of persons to whom he has resorted to perform the tasks and meet the obligations referred to in articles 6 and 7, as if they were his own acts and omissions in so far as such persons are acting in the context of their professional obligations.

Article 9: Denunciation of the contract by the carrier

1. The carrier may denounce the contract if the shipper has failed to perform the obligations set out in article 6, paragraph 2 or article 7, paragraphs 1 and 2.

2. If the carrier makes use of his right of denunciation, he may unload the goods at the shipper's expense and:

(a) Where the voyage has not yet begun, demand, in addition to any demurrage charge, compensation equal to one third of the agreed freight or of the amount of costs incurred and any resulting damage; and

(b) Where the voyage has begun, claim freight in proportion to the distance travelled.

Article 10: Delivery of the goods

1. The consignee who, following the arrival of the goods at the place of delivery requests their delivery, shall, in accordance with the contract for carriage, be responsible for the freight and other amounts owed on the goods, as well as for his contribution to any general average. In the absence of a transport document, or if such a document has not been presented, the consignee shall be responsible for the freight agreed with the shipper if it corresponds to market practice.

2. Unless the contract for carriage provides otherwise, the law of the State in which the port of discharge or the place of delivery is situated shall determine:

(a) The time, place, arrangements, duration and time limit for the delivery of the goods, as well as their treatment in the event of an obstacle to delivery; and

(b) Whether and to what extent amounts owed to the carrier are guaranteed by a lien on the goods.

3. The handing over of the goods to an authority or a third party under the legislation or administrative requirements in force in the port of discharge or the place of delivery shall be considered as a delivery.

III. Transport documents

Article 11: Nature and content

1. The carrier shall prepare a transport document for each transport operation governed by this Convention; he shall draw up a bill of lading only if the shipper so requests and if it has been so agreed before the goods were loaded or before they were taken over for carriage. The lack of a transport document or the fact that it is incomplete shall not affect the validity of the contract for carriage.
2. The original copy of the transport document must be signed by the carrier, the master of the vessel or a person authorized by the carrier. The carrier may require the shipper to countersign the original or a copy. The signature may be handwritten, printed in facsimile, perforated, stamped, in symbols or reproduced by any other mechanical or electronic means, if not inconsistent with the law of the country where the transport document was issued.
3. The transport document shall be prima facie evidence, unless proved to the contrary, of the conclusion and content of the contract and of the reception of the goods by the carrier. It shall provide a basis for the presumption that the goods have been taken over with a view to carriage as described in the document.
4. When the transport document is a bill of lading, it alone shall be deemed authentic in the relations between the carrier and the consignee. The conditions of the contract shall continue to determine the relations between carrier and shipper.
5. The transport document, in addition to its name, shall contain the following particulars:
 - (a) The names, addresses, head offices or places of residence of the carrier and of the shipper;
 - (b) The consignee of the goods;
 - (c) The name, number or emblem of the vessel, if the goods are taken on board, or the particulars in the accompanying document, if the goods have been taken over by the carrier but not yet loaded on the vessel;
 - (d) The port of loading or the place where the goods were taken over and the port of discharge or the place of delivery;

(e) The usual name of the type of goods and their packaging and, for dangerous goods or goods for which there is a risk of pollution, their name according to the requirements in force or their general shipping name;

(f) The dimensions, number or weight as well as the identification marks of the goods taken on board or taken over for the purpose of carriage;

(g) The statement, if applicable, that the goods shall or may be carried on deck or on board open vessels;

(h) The agreed provisions concerning freight;

(i) For consignment notes, the specification as to whether it is an original or a copy; for bills of lading, the number of original copies;

(j) The place and date of issue.

Article 12: Inclusion of reservations in transport documents

1. The carrier shall be entitled to include in the transport document reservations concerning:

(a) The dimensions, number or weight of the goods, if he has reasonable grounds to suspect that the particulars supplied by the shipper are inaccurate or if he does not have adequate means of checking those particulars, especially where the goods have not been counted, measured or weighed in his presence at the shipper's expense or when the dimensions or weights have been determined by measurement but no explicit agreement has been reached;

(b) Identification marks which are not clearly and durably affixed on the goods themselves or, if they are packaged, on the receptacles or outer coverings.

(c) The apparent condition of the goods. If the carrier fails to note the apparent condition of the goods or does not enter reservations in that respect, he shall be deemed to have noted in the transport document that the goods were in apparent good condition.

2. When, in accordance with the particulars set out in the transport document, the goods are placed in a container or in the holds of the vessel and sealed by the shipper and when the container or the seals are still intact when they reach the port of discharge or the place of delivery, it shall be assumed that the loss of or damage to the goods was not occasioned during carriage.

Article 13: Bill of lading

1. The original copies of a bill of lading shall be certificates of value issued in the name of the consignee, to order or to bearer.
2. At the place of destination, the goods shall be delivered only in exchange for the original of the bill of lading submitted initially; thereafter, further delivery cannot be claimed against other originals.
3. When the goods are taken over by the carrier, handing over the bill of lading to the person entitled to take delivery of the goods has the same effects as the handing over of the goods as far as the acquisition of rights to the goods is concerned.
4. When the bill of lading is transferred to a third party, including the consignee, who has acted in good faith on the basis of the description of the goods contained therein, proof to the contrary of the presumption set out in article 11, paragraph 2 and article 12, paragraph 1 (c) shall not be admissible.

IV. Right of disposal of the goods

Article 14: Holder of the right of disposal

1. The shipper shall be authorized to dispose of the goods; he may require the carrier not to pursue the carriage of the goods, to change the place of delivery or to deliver the goods to a consignee other than the person indicated in the contract for carriage.
2. The shipper's right of disposal shall be extinguished once the consignee, following the arrival of the goods at the scheduled place of delivery, has requested delivery of the goods and,
 - (a) In the case of carriage by consignment note, once the original has been handed over to the consignee;
 - (b) In the case of carriage by bill of lading, once the shipper has relinquished the original document by handing it over to another person.
3. By an appropriate entry in the consignment note, the shipper may, when the consignment note is issued, yield his right of disposal to the consignee.

Article 15: Conditions for the exercise of the right of disposal

1. The shipper or, in the case of article 14, paragraphs 2 and 3, the consignee, must, if he wishes to exercise his right of disposal:
 - (a) In the case of a bill of lading, submit all originals prior to the arrival of the goods at the scheduled place of delivery;

(b) Submit a transport document other than a bill of lading, which shall include the new instructions given to the carrier;

(c) Reimburse the carrier for all the costs and damages occasioned by the execution of the instructions;

(d) Pay all the agreed freight in the event of the discharge of the goods before arrival at the scheduled place of delivery, unless the contract for carriage provides otherwise.

V. Liability of the carrier

Article 16: Liability for damage suffered by the goods or resulting from a delay

The carrier shall be liable for any prejudice resulting from loss of or damage to the goods between the time when he took them over for carriage and their delivery, or resulting from carriage time being exceeded, unless he can show that the prejudice was the result of circumstances which a diligent carrier could not have avoided and whose consequences he could not have averted.

Article 17: Responsibility of the carrier for his servants and agents

1. The carrier shall be responsible for the acts and omissions of his servants and agents employed by him to perform the contract for carriage, as for his own acts and omissions, when such persons have acted in the performance of their duties.

2. When the carriage is performed by an actual carrier in accordance with article 4, the carrier shall also be responsible for the acts and omissions of the servants and agents of the actual carrier, insofar as the said servants have acted in the performance of their duties.

3. When an action is brought against the servants of the carrier or the actual carrier, such servants may, if they can prove that they acted in the performance of their duties, avail themselves of the same exemption and limits of liability which the carrier is entitled to invoke under this Convention.

4. Without prejudice to the provisions of article 21, the total amount of compensation recoverable from the carrier, the actual carrier and their servants and agents shall not exceed overall the limits of liability provided for in this Convention.

5. A pilot designated by an authority and who cannot be freely selected shall not be considered to be a servant or agent within the meaning of paragraph 1.

Article 18: Special exemptions from liability

1. The carrier shall be absolved of liability when the loss, damage or delay result from one of the circumstances or resulting risks listed below:

(a) Acts or omissions of the shipper, the consignee or the person having the right of disposal;

(b) Handling, loading, stowage or discharge of the goods by the shipper or the consignee or by third parties acting on behalf of the shipper or consignee;

(c) Carriage of the goods on deck or above deck level or in open vessels, where such carriage is performed in accordance with an agreement with the shipper or with the practice of the particular trade, or if it is required by the regulations in force;

(d) Nature of certain goods exposed wholly or partially to loss or damage, in particular by breakage, rust, internal deterioration, desiccation, leakage, normal loss in transit (in volume or weight), or the action of vermin or rodents;

(e) Lack or defective condition of the packaging when the goods, by their nature, are liable to loss or damage when not packaged or when the packaging is defective;

(f) Inadequate or inaccurate markings identifying the goods;

(g) Rescue or salvage operations or attempted rescue or salvage operations on inland waterways.

2. When, in view of the actual circumstances an injury is caused by one of the circumstances listed in paragraph 1 of the present article or by one of the resulting risks, it is presumed to have been caused by that circumstance or risk which the shipper could not have avoided and the consequences of which he could not have averted.

3. The presumption referred to in paragraph 2 is dropped if the injured party proves that the loss suffered does not result, or does not result exclusively, from one of the circumstances or one of the risks listed in paragraph 1 of the present article.

Article 19: Amount of compensation

1. Where the carrier is responsible for the total loss of the goods, the compensation due by him shall be equal to the value of the goods at the place and on the day of delivery according to the contract for carriage. Delivery to a person other than a rightful claimant is deemed to be a loss.
2. In the event of partial loss of or damage to the goods, the carrier shall be liable only to the extent of the loss in value.
3. The value of the goods shall be determined according to their commodity exchange value or, in its absence, according to their market price or, in the absence of both, according to the usual value of goods of the same kind and quality at the place of delivery.
4. For goods which by their nature are exposed to normal loss in transit during carriage, whatever the duration of the carriage, the carrier shall be held liable only for that part of the loss, which exceeds normal loss in transit as determined by the parties to the contract or, if not, by applicable regulations and practice at the place of destination.
5. The provisions of this article shall not affect the carrier's right to the freight as provided by the contract for carriage or, in the absence of special agreements in this regard, by the applicable national regulations or practices.

Article 20: Limitation of liability

1. Subject to article 21 and paragraph 4 of this article, and regardless of the action brought against him, the carrier shall under no circumstances be liable for amounts exceeding:
 - (a) 666.67 units of account for each package or other loading unit; or 2 units of account for each kilogram of weight, mentioned in the transport document, of the goods lost or damaged, whichever is the higher;
 - (b) 20,000 units of account in the event of damage to a container (TEU) and its entire contents.
2. When a container, pallet or similar transport unit is used to consolidate goods, any package or unit indicated in the transport document as contained in or on such transport unit shall be deemed to be a package or other load unit. In other cases, goods in or on such a transport unit shall be deemed to be a single load unit. When the transport unit itself has been lost or damaged, it shall be deemed to be a separate load unit if it does not belong to the carrier or has not been furnished by him.

3. In the event of damage due to a delay in delivery in accordance with article 5, the carrier shall be liable only for the amount of the value of the freight. However, the aggregate amount of compensation due under paragraph 1 and the first sentence of this paragraph may not exceed the limit which would be applicable under paragraph 1 in the event of the total loss of the goods for which liability is engaged.

4. The carrier may not avail himself of the limitation of liability when the shipper, before handing over the goods for carriage, has expressly specified the nature and highest value of the goods and when such specifications, which are refutable by the carrier, have been entered in the transport document or when the parties have expressly agreed on higher limits of liability.

5. The aggregate amount of compensation payable by the carrier, the actual carrier and their servants and agents for the same loss shall not exceed overall the limits of liability provided for in this article.

Article 21: Forfeiture of the right of limitation of liability

1. The carrier or the actual carrier shall not be entitled to the exemptions and limitations of liability provided for in this Convention or in the contract for carriage if it is proved that he himself caused the damage, either with intent to cause such damage by an act or omission, or recklessly, in the knowledge that such damage would probably result.

2. Similarly, the servants and agents acting on behalf of the carrier or the actual carrier shall not be entitled to the exemptions and limitations of liability provided for in this Convention or in the contract for carriage, if it is proved that they caused the damage in the manner described in paragraph 1.

Article 22: Material scope of the exemptions and limitations of liability

The exemptions and limitations of liability provided for in this Convention or in the contract for carriage shall apply in any action in respect of loss of, damage to or late delivery of the goods covered by the contract for carriage, whether the action is founded in contract, in tort or otherwise.

VI. Claims period

Article 23: Notice of damage

1. The acceptance without reservation of the goods by the consignee shall be prima facie evidence of the delivery by the carrier of the goods in the same condition and quantity as when they were handed over for carriage.
2. The carrier and the consignee may require an inspection of the condition and quantity of the goods on delivery in the presence of the two parties.
3. If the loss of or damage to the goods are apparent externally, any reservation on the part of the consignee must be formulated in writing, unless already entered, at latest at the time of delivery, when the joint inspection takes place with an indication of the general nature of the damage.
4. If the loss of or damage to the goods are not apparent externally, any reservation on the part of the consignee must be formulated in writing indicating the general nature of the damage, at latest within 7 consecutive days from the time of delivery; in this case, the injured party shall show that the damage was caused while the goods were in the care of the carrier.
5. No compensation shall be payable for damage resulting from delay in delivery unless the consignee can prove that notice of the damage, transmitted within 21 consecutive days following delivery of the goods, was given to the carrier.

Article 24: Limitation

1. All actions arising out of a contract governed by this Convention shall be time-barred for one year following the day when the goods were, or should have been, delivered to the consignee. The day on which the limitation commences shall not be included in the period.
2. The person against whom a claim is made may at any time during the limitation period extend that period by a declaration in writing to the injured party. This period may be further extended by one or more other declarations.
3. Suspension or interruption of the limitation shall be governed by the law of the State applicable to the contract for carriage. In the event of a claim, the claimant may invoke other grounds for suspension or interruption in accordance with the lex fori. The filing of a claim during proceedings to apportion limited liability shall interrupt the limitation.
4. An action for indemnity by a person held liable under this Convention may be instituted even after the expiry of the limitation period provided for

in paragraphs 1 and 2 above, if it is instituted within a period of 90 days following the date on which the person instituting the action has settled the claim or has obtained satisfaction, or within a longer period as provided by the law of the State where proceedings are instituted.

5. A time-barred action may not be instituted by way of counter-claim or exemption.

VII. Limits of contractual freedom

Article 25: Invalid clauses

1. Any clause intended to exclude, to limit or to increase the liability, within the meaning of this Convention, of the carrier, the actual carrier or their servants or agents, to shift the burden of proof or to reduce the periods for claims or limitations referred to in articles 23 and 24 shall be null and void. Any clause intended to assign benefit of insurance of goods to the carrier shall also be null and void.

2. Notwithstanding the provisions of paragraph 1 of this article and without prejudice to article 21, contractual clauses shall be authorized stipulating that the carrier is not responsible for the damage caused:

(a) By an act or omission by the master of the vessel, the pilot or any other person in the service of the vessel, pusher or tug during navigation or in the formation or dissolution of a pushed or towed convoy, unless the act or omission is the result of an intention to cause damage or of reckless conduct in the knowledge that such damage would probably result;

(b) By fire or an explosion on board the vessel, when it is not possible to prove that the fire or explosion were the result of a fault by the carrier or his servants or agents or a defect of the vessel;

(c) By the defects of his vessel or of a rented or chartered vessel if he can prove that such defects could not have been detected prior to the start of the voyage despite due diligence;

(d) During the carriage of live animals, or that he shall be responsible for such damage only if he has not taken the measures or complied with the instructions agreed in the contract for carriage.

3. Without prejudice to article 16, where the carrier takes over the goods before they are loaded on the vessel or delivers them after they have been discharged from the vessel, damage caused during that period may be the subject of contractual clauses concerning the liability of the carrier derogating from the provisions of articles 16 to 20 of this Convention, unless

the carrier or his servants or agents acted or omitted to act either with the intention of causing the damage, or recklessly in the knowledge that such damage would probably result.

VIII. Additional provisions

Article 26: General average

Nothing in this Convention shall affect the application of provisions of the contract for carriage or of national law regarding the calculation of the amount of damages and mandatory contributions in the event of general average.

Article 27: Reserved regulations

1. This Convention shall in no way affect the rights and obligations of the carrier provided for in international conventions or national law relating to the limitation of liability of owners of ships or vessels.

2. The carrier shall be released from the liability devolving on him under this Convention if the damage was caused by a nuclear accident, in particular if the operator of a nuclear installation or other authorized person is liable for such damage by virtue of the law or regulations of a State governing liability in respect of nuclear energy.

Article 28: Unit of account

1. The unit of account referred to in article 20 of this Convention shall be the special drawing right established by the International Monetary Fund. The amounts mentioned in article 20 shall be converted into the national currency of a State according to the value of such currency at the date of judgement or at a date agreed upon by the parties. The value, in terms of special drawing rights, of the national currency of a Contracting State which is a member of the International Monetary Fund shall be calculated in accordance with the method of evaluation applied by the International Monetary Fund in effect at the date in question for its own operations and transactions. The value, in terms of special drawing rights, of the national currency of a member State which is not a member of the International Monetary Fund shall be calculated in a manner determined by that State.

2. Nevertheless, States that 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, ratification or accession or at any time thereafter, declare that the limits of liability provided for in this Convention and applicable in their territory shall be fixed at 12,500 currency units per package or load unit or at 37.5 currency

units per kilogram of gross weight of the goods or 300,000 currency units per container. This currency unit shall correspond to 65.5 milligrams of gold of millesimal fineness 900. The conversion into the national currency shall be made according to the law of the State concerned, but in such a way as to express in the national currency of the Contracting State as far as possible the same real value as for the amount expressed in units of account in article 20.

Article 29: Supplementary national provisions

1. In cases not provided for in this Convention the contract for carriage shall be governed by the law of the State chosen by the parties.
2. Where no such choice has been made, the law of the State of the carrier's principal place of business at the time when the contract was signed, shall apply, if the place of loading or destination or principal place of business of the shipper is also in that State.
3. If the carrier has no place of business on land and signs his contracts on board the vessel, the law applicable, in the absence of a choice of law, shall be that of the State in which the vessel is registered or whose flag it flies, provided that the place of loading or destination or the principal place of business of the shipper is also in that State.
4. Insofar as the law of the competent court does not provide for the application of another national law and if the applicable law cannot be determined under paragraphs 2 and 3 above, the law of the State with which the contract establishes the closest links shall apply to the contract for carriage.

IX. Regulations governing the scope

Article 30: Declaration concerning geographical scope

1. Any Contracting State may, on signing this Convention or depositing its instrument of ratification, acceptance, approval or accession, declare that it will not apply this Convention to certain inland waterways situated on its territory, not subject to an international regime of navigation and not constituting a link between such international inland waterways. However, the purpose of such a declaration shall not be the exclusion of all the main inland waterways of a signatory State.
2. If the purpose of the contract for carriage by inland waterway is the carriage of goods without trans-shipment both on international and national inland waterways subject to this Convention and on the national inland

waterways referred to in paragraph 1, this Convention shall also apply to this contract unless the distance to be travelled on the latter waterways is the greater.

3. The declaration referred to in paragraph 1 above may be withdrawn at any time in whole or in part, by notification to the depositary to that effect, indicating the date on which the reservation will cease to have effect. The withdrawal of the declaration shall not have any effect on contracts already concluded.

Article 31: Extension of the geographical scope

Any Contracting State may, on signing this Convention or depositing its instrument of ratification or accession, or at any subsequent time, declare:

(a) That it will also apply the provisions of this Convention to the carriage of goods between two ports situated on its territory;

(b) That it will apply the provisions of this Convention, by derogation from article 1, paragraph 5, also to carriage free of charge.

Article 32: Regional clauses concerning liability

1. Any Contracting State may, on signing this Convention, or on depositing its instrument of ratification or accession or at any subsequent time, declare that in respect of the carriage of goods between ports of loading or places where goods are taken over and ports of discharge or places of delivery, both of which are situated on the territory of States which have made the same declaration, the carrier shall not be responsible for damage caused by an act or omission by the master of the vessel, pilot or any other person in the service of the vessel, pusher or towed during navigation or during the formation or dissolution of a pushed or towed convoy, unless the act or omission is the result of an intention to cause damage or of reckless conduct in the knowledge that such damage would probably result. This provision shall not be extended to the acts referred to in article 21 of this Convention.

2. The clause concerning liability referred to in paragraph 1 shall come into force between the two Contracting States when this Convention comes into force in the second State which has made the same declaration. If a State has only made this declaration following the entry into force of the Convention, the clause concerning liability referred to in paragraph 1 shall only enter into force on the first day of the (third) month following the notification to the depositary of the declaration by the second State and shall apply only to transport operations agreed after the entry into force of the declaration.

3. The declaration referred to in paragraph 1 may be withdrawn at any time by notification to the depositary indicating the date on which the declaration will cease to have effect, at earliest the first day of the following month. However, the withdrawal shall not apply to goods which have not yet been delivered.

X. Final provisions

Article 33: Additional protocols

1. Annexed to this Convention are Protocol No. 1 concerning loading and discharge times and demurrage in inland water transport and Protocol No. 2 concerning the calculation of freight and the distribution of shipping charges in inland water transport.

2. Each Contracting State may declare, on signing this Convention or depositing its instrument of ratification or accession, or at any time thereafter, that it also adopts one or both protocols.

3. A protocol adopted in accordance with paragraph 2 shall be deemed to be an integral part of this Convention in the relations between the Contracting States which have deposited such a declaration and the provisions of the protocols adopted shall apply to contracts for carriage governed by this Convention under articles 2, 30 and 31.

4. A protocol may be denounced individually under the provisions of article 36 below, without implying denunciation of this Convention.

Article 34: Signature, ratification, accession

1. This Convention shall be open for signature and then accession by all European States having navigable inland waterways from ... to ... at the headquarters of the depositary.

2. The States referred to in paragraph 1 may become Contracting Parties to this Convention:

(a) By signing it without reservation of ratification, acceptance or approval;

(b) By signing it with a reservation of ratification, acceptance or approval, and then ratifying, accepting or approving it;

(c) By acceding to it.

3. Ratification, acceptance, approval or accession shall be effected by the deposit of a formal instrument with the depositary.

Article 35: Entry into force

1. This Convention shall enter into force on the first day of the month following the expiry of a period of three months from the date on which (three) of the States referred to in article 34, paragraph 1, have deposited their instruments of ratification, acceptance, approval or accession.

Alternative

1. [This Convention shall enter into force on the first day of the month following the expiry of a period of three months from the date on which five of the States referred to in article 37, paragraph 1, have deposited their instruments of ratification, acceptance, approval or accession, provided that two of these States are members of the Danube Commission and the Central Commission for the Navigation of the Rhine, on the understanding that if a State is a member of both Commissions the longer membership shall be the determining factor].

2. For all other Parties, it shall enter into force on the first day of the third month following the deposit of their instruments of ratification, acceptance, approval or accession.

Article 36: Denunciation

1. This Convention may be denounced by a Contracting State on the expiry of a period of one year following the date on which it entered into force for that State.

2. Denunciation shall be effected by the deposit of an instrument with the depositary.

3. The denunciation shall take effect on the first day of the month following the expiry of a period of one year from the date of deposit of the instrument or after a longer period referred to therein.

Article 37: Review and amendments

1. At the request of at least one third of the Contracting States to this Convention, the depositary shall convene a conference of Contracting States to review or amend this Convention. The review Conference shall define by consensus its rules of procedure.

2. Any State becoming a Contracting Party to this Convention after the entry into force of an amendment adopted by the Conference referred to in paragraph 1 shall be bound by the Convention as amended.

Article 38: Revision of the limitation amounts and unit of account

1. Notwithstanding the provisions of article 37, a conference having the sole purpose of revising the amounts specified in article 20 and in article 28, paragraph 2, or of substituting either or both of the two units defined in article 28, paragraphs 1 and 2, with other units, shall be convened by the depositary in accordance with paragraph 2 of this article. The revision of the amounts shall be made only following a sizeable change in their actual value.
2. A review conference in accordance with paragraph 1 shall be convened by the depositary at the request of not less than one quarter of the Contracting States.
3. Any decision by the conference shall be taken by a two-thirds majority of the participating States. The amendment shall be communicated by the depositary to all Contracting States for acceptance and to all signatory States of the Convention for information.
4. Any amendment adopted shall enter into force on the first day of the month following the expiry of a period of one year after its acceptance by two thirds of the Contracting States. Acceptance shall be effected by the deposit of a formal instrument to that effect with the depositary.
5. After entry into force of an amendment, a Contracting State which has accepted the amendment shall apply its legislation in accordance with the amended version of the Convention. A Contracting State which has notified the depositary within a period of a year following the adoption of the amendment that it is not bound by that amendment shall continue to apply the Convention in its non-amended form.
6. Any instrument of ratification, acceptance, approval or accession deposited after the entry into force of an amendment to this Convention shall be deemed to apply to the Convention as amended.

Article 39: Depositary

1. This Convention shall be deposited with
.....
2. The depositary shall:
 - (a) Distribute a certified true copy of this Convention to each of the States referred to in article 34, paragraph 1;
 - (b) Inform all States ratifying or acceding to this Convention:

- (i) Of any new signature, ratification, deposit of an instrument, declaration or reservation made, indicating the date of such signature, ratification, deposit, declaration or reservation;
- (ii) Of the date of entry into force of this Convention;
- (iii) Of any denunciation of this Convention and of the date on which such denunciation is to take effect;
- (iv) Of any amendment adopted in accordance with articles 37 and 38 of this Convention and of the date of entry into force of such amendment;
- (v) Of any communication required under a provision of this Convention.

3. After the entry into force of this Convention, the depositary shall transmit to the Secretariat of the United Nations a certified true copy of this Convention for registration and publication, in accordance with Article 102 of the Charter of the United Nations.

Done at on
in a single original copy of which the (Dutch, English, French, German, Russian) texts shall be equally authentic.

IN WITNESS WHEREOF the undersigned plenipotentiaries, being duly authorized thereto by their Governments, have signed this Convention.
