

### **Protocol of 3 June 1999 for the Modification of the Convention concerning International Carriage by Rail (COTIF) of 9 May 1980 (Protocol 1999)**

In application of Articles 6 and 19 § 2 of the Convention concerning International Carriage by Rail, signed at Berne on 9 May 1980, hereinafter called "COTIF 1980", the fifth General Assembly of the Intergovernmental Organisation for International Carriage by Rail (OTIF) was held at Vilnius from 26 May to 3 June 1999.

- Convinced of the necessity for and usefulness of an intergovernmental organisation which deals so far as possible with all aspects of international carriage by rail at the State level,
- considering that for this purpose, taking account of the application of COTIF 1980 by 39 States in Europe, Asia and Africa as well as by the railway undertakings in those States, OTIF is the most appropriate organisation,
- considering the necessity of developing COTIF 1980, in particular the CIV Uniform Rules and the CIM Uniform Rules, in order to adapt it to the present needs of international carriage by rail,
- considering that safety during the carriage of dangerous goods in international rail traffic demands the transformation of RID into a regime of public law, whose application no longer depends upon the conclusion of a contract of carriage subject to the CIM Uniform Rules,
- considering that the political, economic and juridical changes which have occurred in a large number of Member States since the signing of the Convention on 9 May 1980 should be the motive for establishing and for developing prescriptions which are uniform covering other fields of law which are important for international rail traffic,
- considering that the States should adopt, while taking into account special public interests, more efficacious measures to eliminate the obstacles which persist in the crossing of frontiers in international rail traffic,
- considering that, in the interest of international carriage by rail, it is important to bring up to date the international multilateral conventions and agreements which exist in the railway field and to integrate them, where appropriate, into the Convention,

the General Assembly has decided the following :

#### **Article 1**

##### **New version of the Convention**

COTIF 1980 shall be modified according to the version appearing in the Annex which forms an integral part of this Protocol.

#### **Article 2**

##### **Provisional Depositary**

§ 1. The functions of the Depositary Government, provided for in Articles 22 to 26 of COTIF 1980, shall be performed by OTIF, as Provisional Depositary, from the opening for signature of this Protocol and until the date of its entry into force.

§ 2. The Provisional Depositary shall inform the Member States

- a) of signatures of this Protocol and of the deposit of instruments of ratification, acceptance, approval or accession,
  - b) of the day on which this Protocol enters into force in application of its Article 4,
- and shall perform the other functions of Depositary such as are set forth in Part VII of the Vienna Convention on the Law of Treaties of 23 May 1969.

#### **Article 3**

##### **Signature. Ratification. Acceptance. Approval. Accession**

§ 1. This Protocol shall remain open for signature by the Member States until 31 December 1999. The signing shall take place at Berne at the office of the Provisional Depositary.

§ 2. In accordance with Article 20 § 1 of COTIF 1980, this Protocol shall be subject to ratification, acceptance or approval. The instruments of ratification, acceptance or approval shall be deposited as soon as possible with the Provisional Depositary.

**§ 3.** The Member States which have not signed this Protocol within the period provided for in § 1, as well as States of which the application to accede to COTIF 1980 is deemed to have been accepted in accordance with its Article 23 § 2, may accede to this Protocol before its entry into force by depositing an instrument of accession with the Provisional Depositary.

**§ 4.** The accession of a State to COTIF 1980 in accordance with its Article 23, the application to accede having been made during the period between the opening of this Protocol for signature and its entry into force, shall be considered as an accession to COTIF 1980 as well as to the Convention in its new version which appears in the Annex to this Protocol.

#### **Article 4**

##### **Entry into force**

**§ 1.** This Protocol shall enter into force on the first day of the third month following that during which the Provisional Depositary will have notified the Member States of the deposit of the instrument by which the conditions of Article 20 § 2 of COTIF 1980 are fulfilled. States which, at the time of the decision of the fifth General Assembly, were Member States and which are still such at the moment when the conditions for entry into force of this Protocol are satisfied, shall be considered as Member States within the meaning of the said Article 20 § 2.

**§ 2.** However, Article 3 shall be applicable from the opening for signature of this Protocol.

#### **Article 5**

##### **Declarations and reservations**

Declarations and reservations, provided for in article 42 § 1 of the Convention in the version in the Annex to this Protocol, may be made or lodged at any time, even before the entry into force of this Protocol. They shall take effect at the time of entry into force of this Protocol.

#### **Article 6**

##### **Transitional provisions**

**§ 1.** At the latest six months after the entry into force of this Protocol, the Secretary General of OTIF shall convene the General Assembly in order to

- a) designate the members of the Administrative Committee for the next period (Article 14 § 2, letter b) of COTIF in the version in the Annex to this Protocol) and, if appropriate, to take decisions about the end of the mandate of the current Administrative Committee,
- b) fix, for a period of six years, the maximum amount that the expenditure of the Organisation may reach during each financial period (Article 14 § 2, letter e) of COTIF in the version in the Annex to this Protocol), and
- c) proceed, if appropriate, to the election of the Secretary General (Article 14 § 2, letter c) of COTIF in the version in the Annex to this Protocol).

**§ 2.** At the latest three months after the entry into force of this Protocol, the Secretary General of OTIF shall convene the Committee of Technical Experts.

**§ 3.** After the entry into force of this Protocol, the mandate of the Administrative Committee, determined in accordance with Article 6 § 2, letter b) of COTIF 1980, shall terminate on the date fixed by the General Assembly which must coincide with the beginning of the mandate of the members and deputy members of the Administrative Committee designated by the General Assembly (Article 14 § 2, letter b) of COTIF in the version in the Annex to this Protocol).

**§ 4.** The mandate of the Director General of the Central Office, in office at the time of entry into force of this Protocol, shall terminate on the expiration of the period for which he has been appointed in accordance with Article 7 § 2, letter d) of COTIF 1980. He shall exercise, from the time of entry into force of this Protocol, the functions of Secretary General.

**§ 5.** Even after the entry into force of this Protocol, the relevant provisions of Articles 6, 7 and 11 of COTIF 1980 shall remain applicable with regard to

- a) the auditing of the accounts and the approval of the annual accounts of the Organisation,
- b) the fixing of the definitive contributions of the Member States to the expenses of the Organisation,
- c) the payment of contributions,

d) the maximum amount that the expenditure of the Organisation may reach during a five-year period, fixed before the entry into force of this Protocol.

Letters a) to c) refer to the year during which this Protocol enters into force as well as to the year which precedes that year.

§ 6. The definitive contributions of the Member States due for the year during which this Protocol enters into force, shall be calculated on the basis of Article 11 § 1 of COTIF 1980.

§ 7. At the request of the Member State whose contribution calculated pursuant to Article 26 of the Convention in the version in the Annex to this Protocol is greater than that for the year 1999, the General Assembly may determine the contribution of that State for the three years which follow the year of entry into force of this Protocol, taking account of the following principles :

a) the basis for the determination of the transitional contribution shall be the minimum contribution pursuant to Article 26 § 3 above referred to or the contribution due for the year 1999 if this is greater than the minimum contribution;

b) the contribution shall be adapted progressively in three steps at most to arrive at the amount of the definitive contribution calculated pursuant to Article 26 above referred to.

This provision shall not apply to Member States which owe the minimum contribution which, in any event, shall remain due.

§ 8. Contracts of carriage of passengers or goods in international traffic between Member States, concluded pursuant to the CIV Uniform Rules 1980 or the CIM Uniform Rules 1980, shall remain subject to the Uniform Rules in force at the time of the conclusion of the contracts even after the entry into force of this Protocol.

§ 9. Mandatory provisions of the CUV Uniform Rules and of the CUI Uniform Rules shall apply to contracts concluded before the entry into force of this Protocol one year after its entry into force.

## **Article 7**

### **Texts of the Protocol**

§ 1. This Protocol shall be concluded and signed in the English, French and German languages. In the case of divergence, the French text shall prevail.

§ 2. On a proposal by one of the Member States concerned, the Organisation shall publish official translations of this Protocol in other languages, if one of these languages is an official language in the territory of at least two Member States. These translations shall be prepared in cooperation with the competent services of the Member States concerned.

In witness whereof, the undersigned plenipotentiaries duly authorised by their respective Governments have signed this Protocol.

Done at Vilnius on 3 June 1999, in one original in each of the English, French and German languages; these originals shall remain deposited in the archives of OTIF. Certified copies shall be sent to each of the Member States.

For the Republic of Albania:

For the People's Democratic Republic of Algeria:

For the Federal Republic of Germany:

For the Republic of Austria:

For the Kingdom of Belgium:

For Bosnia and Herzegovina:

For the Republic of Bulgaria:

For the Republic of Croatia:

For the Kingdom of Denmark:

For the Kingdom of Spain:

For the Republic of Finland:

For the French Republic:

For the United Kingdom of Great Britain and Northern Ireland:

For the Hellenic Republic:

For the Republic of Hungary:  
For the Republic of Iraq:  
For the Islamic Republic of Iran:  
For Ireland:  
For the Italian Republic:  
For the Lebanese Republic:  
For the Principality of Liechtenstein:  
For the Republic of Lithuania:  
For the Grand Duchy of Luxembourg:  
For the Former Yugoslav Republic of Macedonia:  
For the Kingdom of Morocco:  
For the Principality of Monaco:  
For the Kingdom of Norway:  
For the Kingdom of the Netherlands:  
For the Republic of Poland:  
For the Portuguese Republic:  
For Romania:  
For the Slovak Republic:  
For the Republic of Slovenia:  
For the Kingdom of Sweden:  
For the Swiss Confederation:  
For the Syrian Arab Republic:  
For the Czech Republic:  
For the Republic of Tunisia:  
For the Republic of Turkey:

**Convention concerning International Carriage by Rail (COTIF) of 9 May 1980 in the  
version of the Protocol of Modification of 3 June 1999**

**Title I  
General Provisions**

**Article 1  
Intergovernmental Organisation**

§ 1. The Parties to this Convention shall constitute, as Member States, the Intergovernmental Organisation for International Carriage by Rail (OTIF), hereinafter called "the Organisation".

§ 2. The headquarters of the Organisation shall be at Berne. The General Assembly may decide to locate it at another place in one of the Member States.

§ 3. The Organisation shall have legal personality. It shall in particular have the capacity to enter into contracts, to acquire and dispose of immovable and movable assets and to be a party to legal proceedings.

§ 4. The Organisation, members of its staff, experts called in by it and representatives of Member States shall enjoy such privileges and immunities as are necessary to discharge their duties, subject to the conditions laid down in the Protocol on the Privileges and Immunities of the Organisation, annexed to the Convention.

§ 5. Relations between the Organisation and the State in which it has its headquarters shall be regulated by a Headquarters Agreement.

§ 6. The working languages of the Organisation shall be English, French and German. The General Assembly may introduce other working languages.

**Article 2  
Aim of the Organisation**

§ 1. The aim of the Organisation shall be to promote, improve and facilitate, in all respects, international traffic by rail, in particular by

- a) establishing systems of uniform law in the following fields of law :
  - 1. contract of international carriage of passengers and goods in international through traffic by rail, including complementary carriage by other modes of transport subject to a single contract;
  - 2. contract of use of wagons as means of transport in international rail traffic;
  - 3. contract of use of infrastructure in international rail traffic;
  - 4. carriage of dangerous goods in international rail traffic;
- b) contributing to the removal, in the shortest time possible, of obstacles to the crossing of frontiers in international rail traffic, while taking into account special public interests, to the extent that the causes of these obstacles are within the responsibility of States;
- c) contributing to interoperability and technical harmonisation in the railway field by the validation of technical standards and the adoption of uniform technical prescriptions;
- d) establishing a uniform procedure for the technical admission of railway material intended for use in international traffic;
- e) keeping a watch on the application of all the rules and recommendations established within the Organisation;
- f) developing the systems of uniform law, rules and procedures referred to in letters a) to e) taking account of legal, economic and technical developments.

§ 2. The Organisation may

- a) within the framework of the aim referred to in § 1, elaborate other systems of uniform law;
- b) constitute a framework within which the Member States can elaborate other international conventions aiming to promote, improve and facilitate international rail traffic.

### **Article 3**

#### **International cooperation**

§ 1. The Member States undertake to concentrate their international cooperation in the railway field, in principle, within the framework of the Organisation, and this to the extent that there exists a coherence in the tasks which are attributed to it in accordance with Articles 2 and 4. To attain this objective, the Member States will adopt all measures necessary and useful in order that the international multilateral conventions and agreements in force to which they are contracting parties should be adapted, to the extent that these conventions and agreements concern international cooperation in the railway field and attribute competences to other intergovernmental or non-governmental organisations which cut across the tasks attributed to the Organisation.

§ 2. The obligations resulting from § 1 for the Member States, which are at the same time Members of the European Communities or States parties to the European Economic Area Agreement, shall not prevail over their obligations as members of the European Communities or States parties to the European Economic Area Agreement.

### **Article 4**

#### **Taking on and transfer of attributions**

§ 1. By a decision of the General Assembly, the Organisation shall be authorised to take on, within the framework of its aim as defined in Article 2, the attributions, resources and obligations which may be transferred to it by other intergovernmental organisations by virtue of agreements concluded with those organisations.

§ 2. The Organisation may, by a decision of the General Assembly, transfer to other intergovernmental organisations attributions, resources and obligations, by virtue of agreements concluded with those organisations.

§ 3. The Organisation may, with the approval of the Administrative Committee, take on administrative functions related to its aim and which are entrusted to it by a Member State. The expenses of the Organisation, arising out of these functions, shall be met by the Member State concerned.

### **Article 5**

#### **Special obligations of the Member States**

§ 1. The Member States agree to adopt all appropriate measures in order to facilitate and accelerate international rail traffic. To that end, each Member State undertakes, to the extent possible, to

- a) eliminate any useless procedure,
- b) simplify and standardise the formalities already required,
- c) simplify frontier checks.

§ 2. In order to facilitate and improve international rail traffic, the Member States agree to lend their support to attain the highest possible degree of uniformity in the regulations, standards, procedures and methods of organisation relating to railway vehicles, railway personnel, railway infrastructure and auxiliary services.

§ 3. The Member States agree to facilitate the conclusion of agreements between infrastructure managers intended to optimise international rail traffic.

### **Article 6**

#### **Uniform Rules**

§ 1. So far as declarations are not made in accordance with Article 42 § 1, first sentence, international rail traffic and admission of railway material to use in international traffic shall be governed by:

- a) the "Uniform Rules concerning the Contract of International Carriage of Passengers by Rail (CIV)", forming Appendix A to the Convention,
- b) the "Uniform Rules concerning the Contract of International Carriage of Goods by Rail (CIM)", forming Appendix B to the Convention,
- c) the "Regulation concerning the International Carriage of Dangerous Goods by Rail (RID)", forming Appendix C to the Convention,

- d) the “Uniform Rules concerning Contracts of Use of Vehicles in International Rail Traffic (CUV)”, forming Appendix D to the Convention,
- e) the “Uniform Rules concerning the Contract of Use of Infrastructure in International Rail Traffic (CUI)”, forming Appendix E to the Convention,
- f) the “Uniform Rules concerning the Validation of Technical Standards and the Adoption of Uniform Technical Prescriptions applicable to Railway Material intended to be used in International Traffic (APTU)”, forming Appendix F to the Convention,
- g) the “Uniform Rules concerning Technical Admission of Railway Material used in International Traffic (ATMF)”, forming Appendix G to the Convention,
- h) other systems of uniform law elaborated by the Organisation pursuant to Article 2 § 2, letter a), also forming Appendices to the Convention.

§ 2. The Uniform Rules, the Regulation and the systems listed in § 1, including their Annexes, shall form an integral part of the Convention.

#### **Article 7**

##### **Definition of the expression “Convention”**

In the following provisions the expression “Convention” covers the Convention itself, the Protocol referred to in article 1 § 4 and the Appendices referred to in Article 6, including their Annexes.

#### **Title II**

##### **Common Provisions**

#### **Article 8**

##### **National law**

§ 1. When interpreting and applying the Convention, its character of international law and the necessity to promote uniformity shall be taken into account.

§ 2. In the absence of provisions in the Convention, national law shall apply.

§ 3. “National law” means the law of the State in which the person entitled asserts his rights, including the rules relating to conflict of laws.

#### **Article 9**

##### **Unit of account**

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

§ 2. The value in Special Drawing Rights of the national currency of a Member State which is a member of the International Monetary Fund shall be calculated in accordance with the method applied by the International Monetary Fund for its own operations and transactions.

§ 3. The value in Special Drawing Rights of the national currency of a Member State which is not a member of the International Monetary Fund shall be calculated by the method determined by that State. This calculation must express in the national currency a real value as close as possible to that which would result from the application of § 2.

§ 4. For a Member State which is not a member of the International Monetary Fund and whose legislation does not permit the application of § 2 or § 3 above, the unit of account referred to in the Appendices shall be deemed to be equal to three gold francs. The gold franc is defined as 10/31 of a gramme of gold of millesimal fineness 900. The conversion of the gold franc must express in the national currency a real value as close as possible to that which would result from the application of § 2.

§ 5. Within three months after the entry into force of the Convention and each time that a change occurs in their method of calculation or in the value of their national currency in relation to the unit of account, States shall notify the Secretary General of their method of calculation in accordance with § 3 or of the results of the conversion in accordance with § 4. The latter shall inform the Member States of these notifications.

**§ 6.** An amount expressed in units of account shall be converted into the national currency of the State of the court or tribunal seized. The conversion shall be made in accordance with the value of the corresponding currency on the day of the judicial decision or on the day agreed between the parties.

## **Article 10**

### **Supplementary provisions**

**§ 1.** Two or more Member States or two or more carriers may agree supplementary provisions for the execution of the CIV Uniform Rules and the CIM Uniform Rules; they may not derogate from these Uniform Rules.

**§ 2.** The supplementary provisions referred to in § 1 shall be put into force and published in the manner required by the laws and prescriptions of each State. The supplementary provisions of States and their coming into force shall be notified to the Secretary General. He shall inform the Member States of these notifications.

## **Article 11**

### **Security for costs**

Security for costs cannot be required in proceedings founded on the CIV Uniform Rules, the CIM Uniform Rules, the CUV Uniform Rules or the CUI Uniform Rules.

## **Article 12**

### **Execution of judgments. Attachment**

**§ 1.** Judgments pronounced by the competent court or tribunal pursuant to the provisions of the Convention after trial or by default shall, when they have become enforceable under the law applied by that court or tribunal, become enforceable in each of the other Member States on completion of the formalities required in the State where enforcement is to take place. The merits of the case shall not be subject to review. These provisions shall apply also to judicial settlements.

**§ 2.** § 1 shall apply neither to judgments which are provisionally enforceable, nor to awards of damages in addition to costs against a plaintiff who fails in his action.

**§ 3.** Debts arising from a transport operation subject to the CIV Uniform Rules or the CIM Uniform Rules, owed to one transport undertaking by another transport undertaking not under the jurisdiction of the same Member State, may only be attached under a judgment given by the judicial authority of the Member State which has jurisdiction over the undertaking entitled to payment of the debt sought to be attached.

**§ 4.** Debts arising from a contract subject to the CUV Uniform Rules or the CUI Uniform Rules may only be attached under a judgment given by the judicial authority of the Member State which has jurisdiction over the undertaking entitled to payment of the debts sought to be attached.

**§ 5.** Railway vehicles may only be seized on a territory other than that of the Member State in which the keeper has its registered office, under a judgment given by the judicial authority of that State. The term “keeper” means the person who, being the owner or having the right to dispose of it, exploits the railway vehicle economically in a permanent manner as a means of transport.

## **Title III**

### **Structure and Functioning**

## **Article 13**

### **Organs**

**§ 1.** The functioning of the Organisation shall be ensured by the following organs:

- a) the General Assembly,
- b) the Administrative Committee,
- c) the Revision Committee,
- d) the Committee of Experts for the Carriage of Dangerous Goods (RID Expert Committee),
- e) the Rail Facilitation Committee,
- f) the Committee of Technical Experts,

g) the Secretary General.

§ 2. The General Assembly may decide to establish temporarily other committees for specific tasks.

§ 3. On the determination of the quorum in the General Assembly or in the Committees referred to in § 1, letters c) to f), Member States which do not have the right to vote (Article 14 § 5, Article 26 § 7 or Article 40 § 4) shall not be taken into account.

§ 4. The chairmanship of the General Assembly, the chairmanship of the Administrative Committee as well as the function of Secretary General must, in principle, be conferred on nationals of different Member States.

#### **Article 14**

##### **General Assembly**

§ 1. The General Assembly shall be composed of all Member States.

§ 2. The General Assembly shall :

- a) establish its rules of procedure;
- b) designate the members of the Administrative Committee as well as a deputy member for each member and elect the Member State which will provide the chairmanship of it (Article 15 §§ 1 to 3);
- c) elect the Secretary General (Article 21 § 2);
- d) issue directives concerning the activity of the Administrative Committee and the Secretary General;
- e) fix, for six-year periods, the maximum amount that the expenditure of the Organisation may reach in each budgetary period (article 25); if not, it shall issue directives relating to the limitation of that expenditure for a period no longer than six years;
- f) decide whether the headquarters of the Organisation should be located at another place (Article 1 § 2);
- g) take decisions about the introduction of other working languages (Article 1 § 6);
- h) take decisions about the taking on of other attributions by the Organisation (Article 4 § 1) and the transfer of attributions of the Organisation to another intergovernmental organisation (Article 4 § 2);
- i) decide, if necessary, on the temporary establishment of other committees for specific tasks (Article 13 § 2);
- j) consider whether the attitude of a State should be regarded as a tacit denunciation (Article 26 § 7);
- k) decide whether to entrust the carrying out of the auditing of the accounts to another Member State than the Headquarters State (Article 27 § 1);
- l) take decisions about proposals aiming to modify the Convention (Article 33 §§ 2 and 3);
- m) take decisions about applications for accession submitted to the General Assembly (Article 37 § 4);
- n) take decisions about the conditions of accession of a regional economic integration organisation (Article 38 § 1);
- o) take decisions about applications for association submitted to it (Article 39 § 1);
- p) take decisions about the dissolution of the Organisation and about the possible transfer of its attributions to another intergovernmental organisation (Article 43);
- q) take decisions about other questions placed on the agenda.

§ 3. The Secretary General shall convene the General Assembly once every three years or at the request either of one-third of the Member States or of the Administrative Committee, as well as in the cases referred to in Article 33 §§ 2 and 3 and in Article 37 § 4. He shall send the draft agenda to the Member States at least three months before the opening of the session, in accordance with the conditions defined by the rules of procedure referred to in § 1, letter a).

§ 4. There shall be a quorum (Article 13 § 3) in the General Assembly when the majority of the Member States are represented there. A Member State may arrange to be represented by another Member State; however a State may not represent more than one other State.

§ 5. In the case of a vote in the General Assembly concerning modifications of the Appendices to the Convention, Member States which have made a declaration in respect of the Appendix in question pursuant to Article 42 § 1, first sentence, shall not have the right to vote.

§ 6. The General Assembly shall take its decisions by the majority of the Member States represented at the time of the vote, save in the case of § 2, letters e), f), g), h), l) and p) as well as of Article 34 § 6, for which the majority shall be two-thirds. However, in the case of § 2, letter l) the majority shall be two-thirds only in the case of proposals aiming to modify the Convention itself, with the exception of Articles 9 and 27 §§ 2 to 10 and the Protocol referred to in Article 1 § 4.

§ 7. On the invitation of the Secretary General, issued with the agreement of a majority of the Member States,

- a) States which are not members of the Organisation,
- b) international organisations and associations having competence for questions concerning the Organisation's activities or dealing with problems which have been placed on the agenda, may attend sessions of the General Assembly in an advisory capacity.

## **Article 15**

### **Administrative Committee**

§ 1. The Administrative Committee shall be composed of a third of the Member States.

§ 2. The members of the Committee and one deputy member for each of them as well as the Member State which chairs the Committee shall be designated for three years. The composition of the Committee shall be determined for each period, having regard in particular to an equitable geographical distribution. A deputy member that becomes a member of the Committee in the course of a period must be designated as a member of the Committee for the period which follows.

§ 3. If a vacancy occurs or the right to vote of a member is suspended or in the case of absence of a member for two consecutive sessions of the Committee, without the member arranging to be represented by another member in accordance with § 6, the deputy member designated by the General Assembly shall exercise its functions for the remainder of the period.

§ 4. With the exception of the case referred to in § 3, no Member State may sit on the Committee for more than two full consecutive periods.

§ 5. The Committee shall :

- a) establish its rules of procedure;
- b) conclude the Headquarters Agreement;
- c) establish the staff regulation for the Organisation;
- d) appoint, taking account of the ability of the candidates and an equitable geographical distribution, the senior officers of the Organisation;
- e) establish a regulation concerning the finances and book-keeping of the Organisation;
- f) approve the work programme, budget, management report and accounts of the Organisation;
- g) fix, on the basis of the approved accounts, the definitive contributions due from the Member States in accordance with Article 26 for the two previous calendar years, as well as the amount of the treasury advance due from the Member States in accordance with Article 26 § 5 for the current year and the next calendar year;
- h) determine the attributions of the Organisation which concern all the Member States or only some of the Member States as well as the expenses to be borne, in consequence, by these Member States (Article 26 § 4);
- i) fix the amount of specific remuneration (Article 26 § 11);
- j) issue special directives concerning the auditing of accounts (Article 27 § 1);
- k) approve the taking on of administrative functions by the Organisation (Article 4 § 3) and fix the specific contributions due from the Member State concerned;
- l) send to the Member States the management report, the statement of accounts as well as its decisions and recommendations;
- m) prepare and send to the Member States, with a view to the General Assembly which is to decide the composition of the Committee, at least two months before the opening of the session, a report on its activity as well as proposals as to how it should be reconstituted (Article 14 § 2, letter b));
- n) keep a check on the conduct of business by the Secretary General;

- o) keep a watch on the proper application of the Convention by the Secretary General and the execution, by the Secretary General, of decisions taken by the other organs; to this end, the Committee may take all measures likely to improve the application of the Convention and of the above mentioned decisions;
- p) give reasoned opinions on questions which may affect the work of the Organisation and are submitted to the Committee by a Member State or by the Secretary General;
- q) resolve disputes between a Member State and the Secretary General with respect to his function as Depositary (Article 36 § 2);
- r) take decisions about applications for suspension of membership (Article 40).

§ 6. There shall be a quorum in the Administrative Committee when two-thirds of its members are represented there. However, a member may arrange to be represented by another member; no member may however represent more than one other member.

§ 7. The Committee shall take its decisions by the majority of the members represented at the time of vote.

§ 8. Unless it decides otherwise, the Committee shall meet at the headquarters of the Organisation. The minutes of its meetings shall be sent to all Member States.

§ 9. The Chairman of the Committee shall :

- a) convene the Committee at least once a year as well as at the request of four of its members or of the Secretary General;
- b) send to the members of the Committee the draft agenda;
- c) deal, within the limits and under the conditions laid down in the rules of procedure, with urgent questions arising in the interval between meetings;
- d) sign the Headquarters Agreement referred to in § 5, letter b).

§ 10. The Committee may, within the limits of its own responsibilities, instruct the Chairman to carry out certain specific tasks.

## Article 16

### Other Committees

§ 1. The Committees referred to in Article 13 § 1, letters c) to f) and § 2 shall be composed, in principle, of all Member States. When the Revision Committee, the RID Expert Committee or the Committee of Technical Experts deliberate and take decisions, within the limits of their competence, about modifications of the Appendices to the Convention, Member States which have made a declaration in respect of the Appendices in question pursuant to Article 42 § 1, first sentence, shall not be members of the Committee concerned.

§ 2. The Secretary General shall convene the Committees either on his own initiative or at the request of five Member States or of the Administrative Committee. The Secretary General shall send the draft agenda to the Member States at least two months before the opening of the meeting.

§ 3. A Member State may arrange to be represented by another Member State; no State may however represent more than two other States.

§ 4. Each Member State represented shall have one vote. A proposal shall be adopted if the number of votes in favour is :

- a) equal to at least one-third of the number of Member States represented at the time of the vote and
- b) greater than the number of votes against.

§ 5. On the invitation of the Secretary General, issued with the agreement of a majority of the Member States,

- a) States which are not members of the Organisation,
  - b) Member States which, however, are not members of the Committee concerned,
  - c) international organisations and associations having competence for questions concerning the Organisation's activities or dealing with problems which have been placed on the agenda,
- may attend meetings of the Committees in an advisory capacity.

§ 6. The Committees shall elect for each meeting or for an agreed period a Chairman and one or several Deputy Chairmen.

§ 7. The proceedings shall be conducted in the working languages. The substance of what is said during a meeting in one of the working languages shall be translated into the other working languages; proposals and decisions shall be translated in full.

§ 8. The minutes shall summarise the proceedings. Proposals and decisions shall be reproduced in full. With regard to decisions, the French text shall prevail. The minutes shall be sent to all Member States.

§ 9. The Committees may appoint working groups to deal with specific questions.

§ 10. The Committees shall establish their rules of procedure.

#### **Article 17**

##### **Revision Committee**

§ 1. The Revision Committee shall :

- a) take decisions, in accordance with Article 33 § 4, about proposals aiming to modify the Convention;
- b) consider proposals to be submitted, in accordance with Article 33 § 2, to the General Assembly for decision.

§ 2. There shall be a quorum (Article 13 § 3) in the Revision Committee when the majority of the Member States are represented there.

#### **Article 18**

##### **RID Expert Committee**

§ 1. The RID Expert Committee shall take decisions, in accordance with Article 33 § 5, about proposals aiming to modify the Convention.

§ 2. There shall be a quorum (Article 13 § 3) in the RID Expert Committee when one-third of the Member States are represented there.

#### **Article 19**

##### **Rail Facilitation Committee**

§ 1. The Rail Facilitation Committee shall :

- a) give its opinion on all questions aiming to facilitate frontier crossing in international rail traffic;
- b) recommend standards, methods, procedures and practices relating to rail facilitation.

§ 2. There shall be a quorum (Article 13 § 3) in the Rail Facilitation Committee when one-third of the Member States are represented there.

#### **Article 20**

##### **Committee of Technical Experts**

§ 1. The Committee of Technical Experts shall :

- a) take decisions, in accordance with Article 5 of the APTU Uniform Rules, about the validation of a technical standard relating to railway material intended to be used in international traffic;
- b) take decisions, in accordance with Article 6 of the APTU Uniform Rules, about the adoption of a uniform technical prescription relating to the construction, operation, maintenance or relating to a procedure concerning railway material intended to be used in international traffic;
- c) keep a watch on the application of technical standards and uniform technical prescriptions relating to railway material intended to be used in international traffic and examine their development with a view to their validation or adoption in accordance with the procedures provided for in Articles 5 and 6 of the APTU Uniform Rules;
- d) take decisions, in accordance with Article 33 § 6, about proposals aiming to modify the Convention;
- e) deal with all other matters which are assigned to it in accordance with the APTU Uniform Rules and the ATMF Uniform Rules.

§ 2. There shall be a quorum (Article 13 § 3) in the Committee of Technical Experts, when one-half of the Member States, within the meaning of Article 16 § 1, are represented there. When the Committee is taking decisions about provisions of the Annexes to the APTU Uniform Rules, Member States which have

made an objection, in accordance with Article 35 § 4, with regard to the provisions concerned or have made a declaration, in accordance with Article 9 § 1 of the APTU Uniform Rules, shall not have the right to vote.

§ 3. The Committee of Technical Experts may either validate technical standards or adopt uniform technical prescriptions or refuse to validate or adopt them; it may not under any circumstances modify them.

## **Article 21**

### **Secretary General**

§ 1. The Secretary General shall assume the functions of Secretariat of the Organisation.

§ 2. The Secretary General shall be elected by the General Assembly for a period of three years, renewable twice at most.

§ 3. The Secretary General must, in particular :

- a) assume the functions of Depositary (Article 36);
- b) represent the Organisation externally;
- c) send to Member States the decisions taken by the General Assembly and by the Committees (Article 34 § 1, Article 35 § 1);
- d) carry out the duties entrusted to him by the other organs of the Organisation;
- e) examine proposals of the Member States aiming to modify the Convention, if necessary with the assistance of experts;
- f) convene the General Assembly and the other Committees (Article 14 § 3, Article 16 § 2);
- g) send to Member States, in due time, the documents necessary for the meetings of the various organs;
- h) draw up the work programme, draft budget and management report of the Organisation and submit them to the Administrative Committee for approval (Article 25);
- i) manage the financial affairs of the Organisation within the limits of the approved budget;
- j) endeavour, at the request of one of the parties concerned, by using his good offices, to settle disputes between them arising from the interpretation or application of the Convention;
- k) give, at the request of all parties concerned, an opinion on disputes arising from the interpretation or application of the Convention;
- l) assume the functions which are attributed to him by Title V;
- m) receive communications from the Member States, international organisations and associations referred to in Article 16 § 5, and from the undertakings (carriers, infrastructure managers, etc.) participating in international rail traffic, and notify them, where appropriate, to the other Member States, international organisations and associations as well as undertakings;
- n) exercise the management of the staff of the Organisation;
- o) inform the Member States, in due time, of any vacancy in the posts of the Organisation;
- p) maintain and publish the lists of lines and services referred to in Article 24.

§ 4. The Secretary General may, on his own initiative, present proposals aiming to modify the Convention.

## **Article 22**

### **Staff of the Organisation**

The rights and duties of the staff of the Organisation shall be laid down by the staff regulation established by the Administrative Committee in accordance with Article 15 § 5, letter c).

## **Article 23**

### **Bulletin**

§ 1. The Organisation shall publish a bulletin which shall contain official communications as well as others necessary or useful with respect to the application of the Convention.

§ 2. The communications for which the Secretary General is responsible under the Convention may, if necessary, be made in the form of a publication in the Bulletin.

## **Article 24**

### **Lists of lines or services**

**§ 1.** The maritime and inland waterway services referred to in Article 1 of the CIV Uniform Rules and of the CIM Uniform Rules, on which carriage is performed in addition to carriage by rail subject to a single contract of carriage, shall be included in two lists :

- a) the CIV list of maritime and inland waterway services,
- b) the CIM list of maritime and inland waterway services.

**§ 2.** The railway lines of a Member State which has lodged a reservation in accordance with Article 1 § 6 of the CIV Uniform Rules or in accordance with Article 1 § 6 of the CIM Uniform Rules shall be included in two lists in accordance with that reservation :

- a) the CIV list of railway lines,
- b) the CIM list of railway lines.

**§ 3.** Member States shall send to the Secretary General their notifications concerning the inclusion or deletion of lines or services referred to in §§ 1 and 2. In so far as they link Member States, the maritime and inland waterway services referred to in § 1 shall only be included in the lists with the agreement of those States; for the deletion of such a service, notification by one of those States shall suffice.

**§ 4.** The Secretary General shall notify all Member States of the inclusion or deletion of a line or a service.

**§ 5.** Carriage on the maritime and inland waterway services referred to in § 1 and carriage on the railway lines referred to in § 2 shall be subject to the provisions of the Convention on the expiration of one month running from the date of the notification of their inclusion by the Secretary General. Such a service or line shall cease to be subject to the provisions of the Convention on the expiration of three months running from the date of the notification of the deletion by the Secretary General, save in respect of carriage underway which must be finished.

## **Title IV**

### **Finances**

## **Article 25**

### **Work programme. Budget. Accounts. Management report**

**§ 1.** The work programme, budget and accounts of the Organisation shall cover a period of two calendar years.

**§ 2.** The Organisation shall publish a management report at least every two years.

**§ 3.** The total amount of expenditure of the Organisation shall be fixed, for each budgetary period, by the Administrative Committee on a proposal by the Secretary General.

## **Article 26**

### **Financing the expenditure**

**§ 1.** Subject to §§ 2 to 4, the expenditure of the Organisation, not covered by other receipts, shall be met by the Member States as to two fifths on the basis of the United Nations system of apportioning contributions, and as to three fifths in proportion to the total length of railway infrastructure as well as of the maritime and inland waterway services included in accordance with Article 24 § 1. However, maritime and inland waterway services shall count only in respect of one-half of the length of their routes.

**§ 2.** When a Member State has lodged a reservation in accordance with Article 1 § 6 of the CIV Uniform Rules or in accordance with Article 1 § 6 of the CIM Uniform Rules, the contribution formula referred to in § 1 shall be applied as follows :

- a) instead of the total length of railway infrastructure on the territory of that Member State only the length of railway lines included in accordance with Article 24 § 2 shall be taken into account;
- b) the part of the contribution according to the United Nations system shall be calculated pro rata as a function of the length of the lines and services included in accordance with Article 24 §§ 1 and 2 in relation to the total length of railway infrastructure on the territory of that Member State plus the length of the services included in accordance with Article 24 § 1, but with a minimum of 0.01 per cent.

§ 3. Each Member State shall meet at least 0.25 per cent and at most 15 per cent of the contributions.

§ 4. The Administrative Committee shall determine the attributions of the Organisation concerning

- a) all the Member States equally and the expenditure which shall be met by all Member States according to the formula referred to in § 1,
- b) only some of the Member States and the expenditure which shall be met by those Member States according to the same formula.

§ 3 shall apply mutatis mutandis. These provisions shall not affect Article 4 § 3.

§ 5. The contributions of the Member States to the expenditure of the Organisation shall be due in the form of a treasury advance payable in two instalments at the latest by the 31 October of each of the two years covered by the budget. The treasury advance shall be fixed on the basis of the definitive contributions for the two preceding years.

§ 6. When sending the management report and statement of accounts to the Member States, the Secretary General shall notify the definitive amount of the contribution for the two previous calendar years as well as the amount of the treasury advance in respect of the two calendar years to come.

§ 7. After the 31 December of the year the notification is made by the Secretary General in accordance with § 6, the amounts due for the last two calendar years shall bear interest at the rate of five per cent per annum. If, one year after that date, a Member State has not paid its contribution, its right to vote shall be suspended until it has fulfilled its obligation to pay. On expiry of a further period of two years, the General Assembly shall consider whether the attitude of that State should be regarded as a tacit denunciation of the Convention and, where necessary, shall determine the effective date thereof.

§ 8. Contributions overdue shall remain payable in the cases of denunciation pursuant to § 7 or Article 41, and in cases of suspension of the right to vote referred to in Article 40 § 4, letter b).

§ 9. Sums not recovered shall be made good out of the resources of the Organisation.

§ 10. A Member State which has denounced the Convention may become a Member State again by accession, provided that it has paid the sums which it owes.

§ 11. A charge shall be made by the Organisation to cover the special expenses arising from activities provided for in Article 21 § 3, letters j) to l). In the cases provided for in Article 21 § 3, letters j) and k), that charge shall be determined by the Administrative Committee on the basis of a proposal by the Secretary General. In the case provided for in Article 21 § 3, letter l), Article 31 § 3 shall apply.

## **Article 27**

### **Auditing of accounts**

§ 1. In the absence of a contrary decision by the General Assembly pursuant to article 14 § 2, letter k), the auditing of accounts shall be carried out by the Headquarters State, according to the rules laid down in this Article and, subject to any special directives of the Administrative Committee, in conformity with the Financial and Accounting Regulation of the Organisation (Article 15 § 5, letter e)).

§ 2. The Auditor shall audit the accounts of the Organisation, including all the trust funds and special accounts, as he considers necessary in order to ensure :

- a) that the financial statements are in conformity with the ledgers and accounts of the Organisation;
- b) that the financial transactions which the statements account for have been carried out in conformity with the rules and regulations, budgetary provisions and other directives of the Organisation;
- c) that effects and cash held at banks or in the cash box have either been audited by reference to certificates received directly from the depositaries, or actually counted;
- d) that the internal checks, including the internal audit of the accounts, are adequate;
- e) that all assets and liabilities as well as all surpluses and deficits have been posted according to procedures that he considers satisfactory.

§ 3. Only the Auditor shall be competent to accept in whole or in part certificates and supporting documents furnished by the Secretary General. If he considers it appropriate, he may undertake an examination and detailed audit of any accounting record relating either to financial transactions or to supplies and equipment.

§ 4. The Auditor shall have unrestricted access, at any time, to all ledgers, accounts, accounting documents and other information which he considers needful.

§ 5. The Auditor shall not be competent to reject such and such a heading of the accounts, but he shall immediately draw to the attention of the Secretary General any transaction of which the regularity or appropriateness appears to him to be questionable, so that the latter may take the requisite measures.

§ 6. The Auditor shall present and sign a certificate in respect of the financial statements with the following wording: "I have examined the financial statements of the Organisation for the budgetary period which ended on 31 December..... My examination consisted of a general analysis of the accounting methods and the checking of the accounting records and other evidence which I judged necessary in the circumstances." That certificate shall indicate, according to the circumstances, that:

- a) the financial statements satisfactorily reflect the financial position at the date of expiry of the period in question as well as the results of the transactions carried out during the period which ended on that date;
- b) the financial statements have been drawn up in accordance with the accounting principles mentioned;
- c) the financial principles have been applied in accordance with procedures which accord with those adopted during the previous budgetary period;
- d) the financial transactions have been carried out in conformity with the rules and regulations, budgetary provisions and other directives of the Organisation.

§ 7. In his report on the financial transactions, the Auditor shall mention:

- a) the nature and extent of the audit which he has carried out;
- b) factors connected with the completeness or correctness of the accounts, including as appropriate :
  1. information necessary for the correct interpretation and assessment of the accounts;
  2. any sum which ought to have been collected but which has not been passed to account;
  3. any sum which has been the subject of a regular or conditional expenditure commitment and which has not been posted or which has not been taken into account in the financial statements;
  4. expenditure in support of which no sufficient vouchers have been produced;
  5. whether or not ledgers have been kept in good and due form; it is necessary to note cases where the material presentation of the financial statements diverges from accounting principles generally recognised and invariably applied;
- c) other matters to which the attention of the Administrative Committee should be drawn, for example:
  1. cases of fraud or presumption of fraud;
  2. wastage or irregular use of funds or other assets of the Organisation (even when the accounts relating to the transaction carried out were in order);
  3. expenditure which could subsequently lead to considerable costs for the Organisation;
  4. any defects, general or particular, in the system of checking receipts and expenses or supplies and equipment;
  5. expenditure not in conformity with the intentions of the Administrative Committee, taking account of transfers duly authorised within the draft budget;
  6. overstepping of appropriations, taking account of changes resulting from transfers duly authorised within the draft budget;
  7. expenditure not in conformity with the authorisations which govern it;
- d) the correctness or incorrectness of the accounts relating to supplies and equipment, established from the inventory and the examination of the ledgers.

In addition, the report may mention transactions which have been posted in the course of an earlier budgetary period and about which new information has been obtained or transactions which are to be carried out in the course of a later financial period and about which it seems desirable to inform the Administrative Committee in advance.

§ 8. The Auditor must on no account include criticisms in his report without first affording the Secretary General an opportunity of giving an explanation.

§ 9. The Auditor shall inform the Administrative Committee and the Secretary General of the findings of the audit. He may, in addition, submit any comments that he considers appropriate about the financial report of the Secretary General.

§ 10. Where the Auditor has carried out a summary audit or has not obtained adequate supporting documents, he must mention the fact in his certificate and his report, specifying the reasons for his

observations as well as the consequences which result therefrom for the financial position and the posted financial transactions.

## **Title V**

### **Arbitration**

#### **Article 28**

##### **Competence**

§ 1. Disputes between Member States arising from the interpretation or application of the Convention, as well as disputes between Member States and the Organisation arising from the interpretation or application of the Protocol on Privileges and Immunities may, at the request of one of the parties, be referred to an Arbitration Tribunal. The parties shall freely determine the composition of the Arbitration Tribunal and the arbitration procedure.

§ 2. Other disputes arising from the interpretation or application of the Convention and of other conventions elaborated by the Organisation in accordance with Article 2 § 2, if not settled amicably or brought before the ordinary courts or tribunals may, by agreement between the parties concerned, be referred to an Arbitration Tribunal. Articles 29 to 32 shall apply to the composition of the Arbitration Tribunal and the arbitration procedure.

§ 3. Any State may, at the time of its application for accession to the Convention, reserve the right not to apply all or part of the provisions of §§ 1 and 2.

§ 4. A State which has made a reservation pursuant to § 3 may withdraw it at any time by informing the Depositary. This withdrawal shall take effect one month after the date on which the Depositary notifies it to the Member States.

#### **Article 29**

##### **Agreement to refer to arbitration. Registrar**

The Parties shall conclude an agreement to refer to arbitration, which shall, in particular, specify:

- a) the subject matter of the dispute;
- b) the composition of the Tribunal and the period agreed for nomination of the arbitrator or arbitrators;
- c) the place where it is agreed that the Tribunal is to sit.

The agreement to refer to arbitration must be communicated to the Secretary General who shall act as Registrar.

#### **Article 30**

##### **Arbitrators**

§ 1. A panel of arbitrators shall be established and kept up to date by the Secretary General. Each Member State may nominate two of its nationals to the panel of arbitrators.

§ 2. The Arbitration Tribunal shall be composed of one, three or five arbitrators in accordance with the agreement to refer to arbitration. The arbitrators shall be selected from persons who are on the panel referred to in § 1. Nevertheless, if the agreement to refer to arbitration provides for five arbitrators, each of the parties may select one arbitrator who is not on the panel. If the agreement to refer to arbitration provides for a sole arbitrator, he shall be selected by mutual agreement between the parties. If the agreement to refer to arbitration provides for three or five arbitrators, each party shall select one or two arbitrators as the case may be; these, by mutual agreement, shall appoint the third or fifth arbitrator, who shall be President of the Arbitration Tribunal. If the parties cannot agree on the selection of a sole arbitrator, or the selected arbitrators cannot agree on the appointment of a third or fifth arbitrator, the appointment shall be made by the Secretary General.

§ 3. The sole arbitrator, or the third or fifth arbitrator, must be of a nationality other than that of either party, unless both are of the same nationality.

§ 4. The intervention of a third party in the dispute shall not affect the composition of the Arbitration Tribunal.

### **Article 31**

#### **Procedure. Costs**

§ 1. The Arbitration Tribunal shall decide the procedure to be followed having regard in particular to the following provisions:

- a) it shall enquire into and determine cases on the basis of the evidence submitted by the parties, but will not be bound by their interpretations when it is called upon to decide a question of law;
- b) it may not award more than the claimant has claimed, nor anything of a different nature, nor may it award less than the defendant has acknowledged as due;
- c) the arbitration award, setting forth the reasons for the decision, shall be drawn up by the Arbitration Tribunal and notified to the parties by the Secretary General;
- d) save where the mandatory provisions of the law of the place where the Arbitration Tribunal is sitting otherwise provide and subject to contrary agreement by the parties, the arbitration award shall be final.

§ 2. The fees of the arbitrators shall be determined by the Secretary General.

§ 3. The Tribunal shall determine in its award the amount of costs and expenses and shall decide how they and the fees of the arbitrators are to be apportioned between the parties.

### **Article 32**

#### **Limitation. Enforcement**

§ 1. The commencement of arbitration proceedings shall have the same effect, as regards the interruption of periods of limitation, as that attributed by the applicable provisions of substantive law to the institution of an action in the ordinary courts or tribunals.

§ 2. The Arbitration Tribunal's award shall become enforceable in each of the Member States on completion of the formalities required in the State where enforcement is to take place. The merits of the case shall not be subject to review.

## **Title VI**

### **Modification of the Convention**

### **Article 33**

#### **Competence**

§ 1. The Secretary General shall immediately bring to the notice of the Member States proposals aiming to modify the Convention, which have been sent to him by the Member States or which he has prepared himself.

§ 2. The General Assembly shall take decisions about proposals aiming to modify the Convention in so far as §§ 4 to 6 do not provide for another competence.

§ 3. When seized of a modification proposal the General Assembly may decide, by the majority provided for under Article 14 § 6, that such proposal is closely linked with one or more provisions of the Appendices to the Convention. In that case as well as in the cases referred to in §§ 4 to 6, second sentences, the General Assembly is also empowered to take decisions about the modification of such provision or provisions of the Appendices.

§ 4. Subject to decisions taken by the General Assembly in accordance with § 3, first sentence, the Revision Committee shall take decisions about proposals aiming to modify :

- a) Articles 9 and 27 §§ 2 to 10;
- b) the CIV Uniform Rules except Articles 1, 2, 5, 6, 16, 26 to 39, 41 to 53 and 56 to 60;
- c) the CIM Uniform Rules except Articles 1, 5, 6 §§ 1 and 2, Articles 8, 12, 13 § 2, Articles 14, 15 §§ 2 and 3, Article 19 §§ 6 and 7 and Articles 23 to 27, 30 to 33, 36 to 41 and 44 to 48;
- d) the CUV Uniform Rules except Articles 1, 4, 5 and 7 to 12;
- e) the CUI Uniform Rules except Articles 1, 2, 4, 8 to 15, 17 to 19, 21, 23 to 25;
- f) the APTU Uniform Rules except Articles 1, 3 and 9 to 11 and the Annexes of these Uniform Rules;
- g) the ATMF Uniform Rules except Articles 1, 3 and 9.

When modification proposals are submitted to the Revision Committee in accordance with letters a) to g), one-third of the States represented on the Committee may require these proposals to be submitted to the General Assembly for decision.

§ 5. The RID Expert Committee shall take decisions about proposals aiming to modify the provisions of the Regulation concerning the International Carriage of Dangerous Goods by Rail (RID). When such proposals are submitted to the RID Expert Committee, one-third of the States represented on the Committee may require these proposals to be submitted to the General Assembly for decision.

§ 6. The Committee of Technical Experts shall decide on proposals aiming to modify the Annexes to the APTU Uniform Rules. When such proposals are submitted to the Committee of Technical Experts, one-third of the States represented on the Committee may require these proposals to be submitted to the General Assembly for decision.

#### **Article 34**

##### **Decisions of the General Assembly**

§ 1. Modifications of the Convention decided upon by the General Assembly shall be notified to the Member States by the Secretary General.

§ 2. Modifications of the Convention itself, decided upon by the General Assembly, shall enter into force for all Member States twelve months after their approval by two-thirds of the Member States with the exception of those which, before the entry into force, have made a declaration in terms that they do not approve such modifications.

§ 3. Modifications of the Appendices to the Convention, decided upon by the General Assembly, shall enter into force for all Member States twelve months after their approval by half of the Member States which have not made a declaration pursuant to Article 42 § 1, first sentence, with the exception of those which, before the entry into force, have made a declaration in terms that they do not approve such modifications and with the exception of those which have made a declaration pursuant to Article 42 § 1, first sentence.

§ 4. The Member States shall address their notifications concerning the approval of modifications of the Convention decided upon by the General Assembly as well as their declarations in terms that they do not approve such modifications, to the Secretary General. The Secretary General shall give notice of them to the other Member States.

§ 5. The period referred to in §§ 2 and 3 shall run from the day of the notification by the Secretary General that the conditions for the entry into force of the modifications are fulfilled.

§ 6. The General Assembly may specify, at the time of adoption of a modification, that it is such that any Member State which will have made a declaration pursuant to § 2 or § 3 and which will not have approved the modification within the period of eighteen months running from its entry into force will cease, on the expiration of this period, to be a Member State of the Organisation.

§ 7. When decisions of the General Assembly concern Appendices to the Convention, the application of the Appendix in question shall be suspended, in its entirety, from the entry into force of the decisions, for traffic with and between the Member States which have, in accordance with § 3, opposed the decisions within the period allowed. The Secretary General shall notify the Member States of that suspension; it shall come to an end on the expiration of a month from the day on which the Secretary General notified the other Member States of the withdrawal of opposition.

#### **Article 35**

##### **Decisions of the Committees**

§ 1. Modifications of the Convention, decided upon by the Committees, shall be notified to the Member States by the Secretary General.

§ 2. Modifications of the Convention itself, decided upon by the Revision Committee, shall enter into force for all Member States on the first day of the twelfth month following that during which the Secretary General has given notice of them to the Member States. Member States may formulate an objection during the four months from the day of the notification. In the case of objection by one-quarter of the Member States, the modification shall not enter into force. If a Member State formulates an objection against a decision of the Revision Committee within the period of four months and it denounces the Convention, the denunciation shall take effect on the date provided for the entry into force of that decision.

**§ 3.** Modifications of Appendices to the Convention, decided upon by the Revision Committee, shall enter into force for all Member States on the first day of the twelfth month following that during which the Secretary General has given notice of them to the Member States. Modifications decided upon by the RID Expert Committee or by the Committee of Technical Experts shall enter into force for all Member States on the first day of the sixth month following that during which the Secretary General has given notice of them to the Member States.

**§ 4.** Member States may formulate an objection within the period of four months from the day of the notification referred to in § 3. In the case of objection by one-quarter of the Member States, the modification shall not enter into force. In the Member States which have formulated objections against a decision within the period allowed, the application of the Appendix in question shall be suspended, in its entirety, from the moment the decisions take effect, in so far as concerns traffic with and between those Member States. However, in the case of objection to the validation of a technical standard or to the adoption of a uniform technical prescription, only that standard or prescription shall be suspended in respect of traffic with and between the Member States from the time the decisions take effect; the same shall apply in the case of a partial objection.

**§ 5.** The Secretary General shall notify the Member States of the suspensions referred to in § 4; the application shall no longer be suspended after the expiry of a period of one month from the day when the Secretary General has given notice to the other Member States of the withdrawal of such an objection.

**§ 6.** In the determination of the number of objections referred to in §§ 2 and 4, Member States which

- a) do not have the right to vote (Article 14 § 5, Article 26 § 7 or Article 40 § 4),
- b) are not members of the Committee concerned (article 16 § 1, second sentence),
- c) have made a declaration in accordance with Article 9 § 1 of the APTU Uniform Rules

shall not be taken into account.

## **Title VII**

### **Final Provisions**

#### **Article 36**

##### **Depositary**

**§ 1.** The Secretary General shall be the Depositary of this Convention. His functions as the Depositary shall be those set forth in Part VII of the Vienna Convention on the Law of Treaties of 23 May 1969.

**§ 2.** When a dispute arises between a Member State and the Depositary about the performance of his functions, the Depositary or the Member State concerned must bring the question to the attention of the other Member States or, if appropriate, submit it for resolution by the Administrative Committee.

#### **Article 37**

##### **Accession to the Convention**

**§ 1.** Accession to the Convention shall be open to any State on the territory of which railway infrastructure is operated.

**§ 2.** A State wishing to accede to the Convention shall address an application to the Depositary. The Depositary shall notify it to the Member States.

**§ 3.** The application shall be deemed to be accepted three months after the notification referred to in § 2, unless five Member States lodge objections with the Depositary. The Depositary shall, without delay, notify the applicant State as well as the Member States accordingly. The accession shall take effect on the first day of the third month following that notification.

**§ 4.** In the event of opposition from at least five Member States within the period provided for in § 3, the application for accession shall be submitted to the General Assembly for decision.

**§ 5.** Subject to Article 42, any accession to the Convention may only relate to the Convention in its version in force at the time when the accession takes effect.

## **Article 38**

### **Accession of regional economic integration organisations**

§ 1. Accession to the Convention shall be open to regional economic integration organisations which have competence to adopt their own legislation binding on their Member States, in respect of the matters covered by this Convention and of which one or more Member States are members. The conditions of that accession shall be defined in an agreement concluded between the Organisation and the regional organisation.

§ 2. The regional organisation may exercise the rights enjoyed by its members by virtue of the Convention to the extent that they cover matters for which it is competent. This applies also to the obligations imposed on the Member States pursuant to the Convention, with the exception of the financial obligations referred to in Article 26.

§ 3. For the purposes of the exercise of the right to vote and the right to object provided for in Article 35 §§ 2 and 4, the regional organisation shall enjoy the number of votes equal to those of its members which are also Member States of the Organisation. The latter may only exercise their rights, in particular their right to vote, to the extent allowed by § 2. The regional organisation shall not enjoy the right to vote in respect of Title IV.

§ 4. Article 41 shall apply mutatis mutandis to the termination of the accession.

## **Article 39**

### **Associate Members**

§ 1. Any State on whose territory railway infrastructure is operated may become an Associate Member of the Organisation. Article 32 §§ 2 to 5 shall apply mutatis mutandis.

§ 2. An Associate Member may participate in the work of the organs mentioned in Article 13 § 1, letters a) and c) to f) only in an advisory capacity. An Associate Member may not be designated as a member of the Administrative Committee. It shall contribute to the expenditure of the Organisation with 0.25 per cent of the contributions (Article 26 § 3).

§ 3. Article 41 shall apply mutatis mutandis to the termination of the association.

## **Article 40**

### **Suspension of membership**

§ 1. A Member State may request, without denouncing the Convention, a suspension of its membership of the Organisation, when international rail traffic is no longer carried out on its territory for reasons not attributable to that Member State.

§ 2. The Administrative Committee shall take a decision about a request for suspension of membership. The request must be lodged with the Secretary General at least three months before a session of the Committee.

§ 3. The suspension of membership shall enter into force on the first day of the month following the notification by the Secretary General of the decision of the Administrative Committee. The suspension of membership shall terminate with the notification by the Member State that international rail traffic on its territory is restored. The Secretary General shall, without delay, give notice of it to the other Member States.

§ 4. Suspension of membership shall have as a consequence :

- a) to free the Member State from its obligation to contribute to the financing of the expenses of the Organisation;
- b) to suspend the right to vote in the organs of the Organisation;
- c) to suspend the right to object pursuant to Article 34 §§ 2 and 3 and Article 35 §§ 2 and 4.

## **Article 41**

### **Denunciation of the Convention**

§ 1. The Convention may be denounced at any time.

§ 2. Any Member State which wishes to denounce the Convention shall so inform the Depositary. The denunciation shall take effect on 31 December of the following year.

## **Article 42**

### **Declarations and reservations to the Convention**

§ 1. Any Member State may declare, at any time, that it will not apply in their entirety certain Appendices to the Convention. Furthermore, reservations as well as declarations not to apply certain provisions of the Convention itself or of its Appendices shall only be allowed if such reservations and declarations are expressly provided for by the provisions themselves.

§ 2. The reservations and declarations shall be addressed to the Depositary. They shall take effect at the moment the Convention enters into force for the State concerned. Any declaration made after that entry into force shall take effect on 31 December of the year following the declaration. The Depositary shall give notice of this to the Member States.

## **Article 43**

### **Dissolution of the Organisation**

§ 1. The General Assembly may decide upon a dissolution of the Organisation and the possible transfer of its attributions to another intergovernmental organisation laying down, where appropriate, with that organisation the conditions of this transfer.

§ 2. In the case of the dissolution of the Organisation, its assets shall be distributed between the Member States which have been members of the Organisation, without interruption, during the last five calendar years preceding that of the decision pursuant to § 1, this in proportion to the average percentage rate at which they have contributed to the expenses of the Organisation during these five preceding years.

## **Article 44**

### **Transitional provision**

In the cases provided for in Article 34 § 7, Article 35 § 4, Article 41 § 1 and Article 42 the law in force at the time of the conclusion of contracts subject to the CIV Uniform Rules, the CIM Uniform Rules, the CUV Uniform Rules or the CUI Uniform Rules shall remain applicable to existing contracts.

## **Article 45**

### **Texts of the Convention**

§ 1. The Convention shall be expressed in the English, French and German languages. In case of divergence, the French text shall prevail.

§ 2. On a proposal of one of the States concerned, the Organisation shall publish an official translation of the Convention into other languages, in so far as one of these languages is an official language on the territory of at least two Member States. These translations shall be prepared in cooperation with the competent services of the Member States concerned.

## **Protocol on the Privileges and Immunities of the Intergovernmental Organisation for International Carriage by Rail (OTIF)**

### **Article 1**

#### **Immunity from jurisdiction, execution and seizure**

§ 1. Within the scope of its official activities, the Organisation shall enjoy immunity from jurisdiction and execution save :

- a) to the extent that the Organisation shall have expressly waived such immunity in a particular case;
- b) in the case of a civil action brought by a third party;
- c) in the case of a counter-claim directly connected with principal proceedings commenced by the Organisation;
- d) in the case of attachment by order of a court or tribunal, of the salary, wages and other emoluments payable by the Organisation to a member of its staff.

§ 2. The property and other assets of the Organisation, wherever situated, shall be immune from any form of requisition, confiscation, sequestration and any other form of seizure or distraint, except to the extent that this is rendered necessary as a temporary measure by the prevention of accidents involving

motor vehicles belonging to or operated on behalf of the Organisation and by enquiries in connection with such accidents.

## **Article 2**

### **Safeguards against expropriation**

If expropriation is necessary in the public interest, all the appropriate steps must be taken to avoid interference with the exercise by the Organisation of its activities and adequate prompt compensation must be paid in advance.

## **Article 3**

### **Exemption from taxes**

§ 1. Each Member State shall exempt the Organisation, its property and income, from direct taxes in respect of the exercise of its official activities. Where purchases or services of substantial value which are strictly necessary for the exercise of the official activities of the Organisation are made or used by the Organisation and where the price of such purchases or services includes taxes or duties, appropriate measures shall, whenever possible, be taken by the Member States to grant exemption from such taxes and duties or to reimburse the amount thereof.

§ 2. No exemption shall be granted in respect of taxes or charges which are no more than payment for services rendered.

§ 3. Goods acquired in accordance with § 1 may not be sold or given away, nor used otherwise than in accordance with the conditions laid down by the Member State which has granted the exemptions.

## **Article 4**

### **Exemption from duties and taxes**

§ 1. Goods imported or exported by the Organisation and strictly necessary for the exercise of its official activities, shall be exempt from all duties and taxes levied on import or export.

§ 2. No exemption shall be granted under this Article in respect of goods purchased or imported, or services provided, for the personal benefit of the members of the staff of the Organisation.

§ 3. Article 3 § 3 shall apply mutatis mutandis to goods imported in accordance with § 1.

## **Article 5**

### **Official activities**

The official activities of the Organisation referred to in this Protocol are those activities which correspond to the aim defined in Article 2 of the Convention.

## **Article 6**

### **Monetary transactions**

The Organisation may receive and hold any kind of funds, currency, cash or securities. It may dispose of them freely for any purpose provided for by the Convention and hold accounts in any currency to the extent required to meet its obligations.

## **Article 7**

### **Communications**

For its official communications and the transmission of all its documents, the Organisation shall enjoy treatment no less favourable than that accorded by each Member State to other comparable international organisations.

## **Article 8**

### **Privileges and immunities of representatives of Member States**

Representatives of Member States shall, while exercising their functions and during journeys made on official business, enjoy the following privileges and immunities on the territory of each Member State:

- a) immunity from jurisdiction, even after the termination of their mission, in respect of acts, including words spoken and written, done by them in the exercise of their functions; such immunity shall not apply, however, in the case of loss or damage arising from an accident caused by a motor vehicle or any other means of transport belonging to or driven by a representative of a State, nor in the case of a traffic offence involving such a means of transport;
- b) immunity from arrest and from detention pending trial, save when apprehended flagrante delicto;
- c) immunity from seizure of their personal luggage save when apprehended flagrante delicto;
- d) inviolability for all their official papers and documents;
- e) exemption for themselves and their spouses from all measures restricting entry and from all aliens' registration formalities;
- f) the same facilities regarding currency and exchange control as those accorded to representatives of foreign Governments on temporary official missions.

#### **Article 9**

##### **Privileges and immunities of members of the staff of the Organisation**

The members of the staff of the Organisation shall, while exercising their functions, enjoy the following privileges and immunities on the territory of each Member State:

- a) immunity from jurisdiction in respect of acts, including words spoken and written, done by them in the exercise of their functions and within the limits of their prerogatives; such immunity shall not apply, however, in the case of loss or damage arising from an accident caused by a motor vehicle or any other means of transport belonging to or driven by a member of the staff of the Organisation, nor in the case of a traffic offence involving such a means of transport; the members of the staff shall continue to enjoy such immunity, even after they have left the service of the Organisation;
- b) inviolability for all their official papers and documents;
- c) the same exemptions from measures restricting immigration and governing aliens' registration as are normally accorded to members of staff of international organisations; members of their families forming part of their households shall enjoy the same facilities;
- d) exemption from national income tax, subject to the introduction for the benefit of the Organisation of an internal tax on salaries, wages and other emoluments paid by the Organisation; nevertheless the Member States may take these salaries, wages and emoluments into account for the purpose of assessing the amount of tax to be charged on income from other sources; Member States shall not be obliged to apply this exemption from tax to payments, retirement pensions and survivor's pensions paid by the Organisation to its former members of staff or their assigns;
- e) in respect of exchange control, the same privileges as are normally accorded to staff members of international organisations;
- f) in a time of international crisis, the same repatriation facilities for themselves and members of their families forming part of their households as are normally accorded to members of the staff of international organisations.

#### **Article 10**

##### **Privileges and immunities of experts**

Experts upon whose services the Organisation calls shall, while exercising their functions in relation to, or undertaking missions on behalf of, the Organisation, enjoy the following privileges and immunities to the extent that these are necessary for the exercise of their functions, including during journeys made in the exercise of their functions and in the course of such missions:

- a) immunity from jurisdiction in respect of acts, including words spoken and written, done by them in the exercise of their functions; such immunity shall not apply, however, in the case of loss or damage arising from an accident caused by a motor vehicle or any other means of transport belonging to or driven by an expert, nor in the case of a traffic offence involving such a means of transport; experts shall continue to enjoy such immunity even after they have ceased to exercise their functions in relation to the Organisation;
- b) inviolability for all their official papers and documents;
- c) the exchange control facilities necessary for the transfer of their remuneration;
- d) the same facilities, in respect of their personal luggage, as are accorded to agents of foreign Governments on temporary official missions.

## **Article 11**

### **Purpose of privileges and immunities accorded**

§ 1. The privileges and immunities provided for in this Protocol shall be instituted solely to ensure, in all circumstances, the unimpeded functioning of the Organisation and the complete independence of the persons to whom they are accorded. The competent authorities shall waive any immunity in all cases where retaining it might impede the course of justice and where it can be waived without prejudicing the achievement of the purpose for which it was accorded.

§ 2. The competent authorities for the purposes of § 1 shall be

- a) the Member States, in respect of their representatives;
- b) the Administrative Committee, in respect of the Secretary General;
- c) the Secretary General, in respect of other members of the staff of the Organisation and of experts upon whose services the Organisation calls.

## **Article 12**

### **Prevention of abuse**

§ 1. None of the provisions of this Protocol may call into question the right of each Member State to take every necessary precaution in the interests of its public security.

§ 2. The Organisation shall co-operate at all times with the competent authorities of the Member States in order to facilitate the proper administration of justice, to ensure the observance of the laws and prescriptions of the Member States concerned and to prevent any abuse which might arise out of the privileges and immunities provided for in this Protocol.

## **Article 13**

### **Treatment of own nationals**

No Member State shall be obliged to accord the privileges and immunities referred to in this Protocol under

- a) Article 8, excluding letter d),
- b) Article 9, excluding letters a), b) and d),
- c) Article 10, excluding letters a) and b),

to its own nationals or to persons who have their permanent residence in that State.

## **Article 14**

### **Complementary agreements**

The Organisation may conclude with one or more Member States complementary agreements to give effect to this Protocol as regards such Member State or Member States, and other agreements to ensure the proper functioning of the Organisation.

## **Uniform Rules concerning the Contract of International Carriage of Passengers by Rail (CIV – Appendix A to the Convention)**

### **Title I**

#### **General Provisions**

##### **Article 1**

###### **Scope**

§ 1. These Uniform Rules shall apply to every contract of carriage of passengers by rail for reward or free of charge, when the place of departure and the place of destination are situated in two different Member States, irrespective of the domicile or the place of business and the nationality of the parties to the contract of carriage.

§ 2. 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.

§ 3. 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 lists of services provided for in Article 24 § 1 of the Convention.

§ 4. These Uniform Rules shall also apply, as far as the liability of the carrier in case of death of, or personal injury to, passengers is concerned, to persons accompanying a consignment whose carriage is effected in accordance with the CIM Uniform Rules.

§ 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 passengers 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 a 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 departure or of destination, 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**

### **Declaration concerning liability in case of death of, or personal injury to, passengers**

§ 1. Any State may, at any time, declare that it will not apply to passengers involved in accidents occurring on its territory the whole of the provisions concerning the liability of the carrier in case of death of, or personal injury to, passengers, when such passengers are nationals of, or have their usual place of residence in, that State.

§ 2. A State which has made a declaration in accordance with § 1 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.

## **Article 3**

### **Definitions**

For purposes of these Uniform Rules, the term

- a) “carrier” means the contractual carrier with whom the passenger has concluded the contract of carriage pursuant to these Uniform Rules, or a successive 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 passenger, 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) “vehicle” means a motor vehicle or a trailer carried on the occasion of the carriage of passengers.

## **Article 4**

### **Derogations**

§ 1. The 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. Subject to other provisions of public international law, two or more Member States may set between themselves conditions under which carriers are subject to the obligation to carry passengers, luggage, animals and vehicles in traffic between those States.

§ 4. Agreements referred to in §§ 1 to 3 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 notify the Member States and interested undertakings of this.

#### **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 passenger as well as, where appropriate, luggage and vehicles to the place of destination and to deliver the luggage and vehicles at the place of destination.

§ 2. The contract of carriage must be confirmed by one or more tickets issued to the passenger. However, subject to Article 9 the absence, irregularity or loss of the ticket shall not affect the existence or validity of the contract which shall remain subject to these Uniform Rules.

§ 3. The ticket shall be prima facie evidence of the conclusion and the contents of the contract of carriage.

#### **Article 7**

##### **Ticket**

§ 1. The General Conditions of Carriage shall determine the form and content of tickets as well as the language and characters in which they are to be printed and made out.

§ 2. The following, at least, must be entered on the ticket :

- a) the carrier or carriers;
- b) a statement that the carriage is subject, notwithstanding any clause to the contrary, to these Uniform Rules; this may be indicated by the acronym CIV;
- c) any other statement necessary to prove the conclusion and contents of the contract of carriage and enabling the passenger to assert the rights resulting from this contract.

§ 3. The passenger must ensure, on receipt of the ticket, that it has been made out in accordance with his instructions.

§ 4. The ticket shall be transferable if it has not been made out in the passenger's name and if the journey has not begun.

§ 5. The ticket 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 ticket represented by those data.

## **Article 8**

### **Payment and refund of the carriage charge**

§ 1. Subject to a contrary agreement between the passenger and the carrier, the carriage charge shall be payable in advance.

§ 2. The General Conditions of Carriage shall determine under what conditions a refund of the carriage charge shall be made.

## **Article 9**

### **Right to be carried. Exclusion from carriage**

§ 1. The passenger must, from the start of his journey, be in possession of a valid ticket and produce it on the inspection of tickets. The General Conditions of Carriage may provide

- a) that a passenger who does not produce a valid ticket must pay, in addition to the carriage charge, a surcharge;
- b) that a passenger who refuses to pay the carriage charge or the surcharge upon demand may be required to discontinue his journey;
- c) if and under what conditions a refund of the surcharge shall be made.

§ 2. The General Conditions of Carriage may provide that passengers who

- a) present a danger for safety and the good functioning of the operations or for the safety of other passengers,
  - b) inconvenience other passengers in an intolerable manner,
- shall be excluded from carriage or may be required to discontinue their journey and that such persons shall not be entitled to a refund of their carriage charge or of any charge for the carriage of registered luggage they may have paid.

## **Article 10**

### **Completion of administrative formalities**

The passenger must comply with the formalities required by customs or other administrative authorities.

## **Article 11**

### **Cancellation and late running of trains. Missed connections**

The carrier must, where necessary, certify on the ticket that the train has been cancelled or the connection missed.

## **Title III**

### **Carriage of Hand Luggage, Animals, Registered Luggage and Vehicles**

#### **Chapter I**

##### **Common Provisions**

## **Article 12**

### **Acceptable articles and animals**

§ 1. The passenger may take with him articles which can be handled easily (hand luggage) and also live animals in accordance with the General Conditions of Carriage. Moreover, the passenger may take with him cumbersome articles in accordance with the special provisions, contained in the General Conditions of Carriage. Articles and animals likely to annoy or inconvenience passengers or cause damage shall not be allowed as hand luggage.

§ 2. The passenger may consign articles and animals as registered luggage in accordance with the General Conditions of Carriage.

§ 3. The carrier may allow the carriage of vehicles on the occasion of the carriage of passengers in accordance with special provisions, contained in the General Conditions of Carriage.

**§ 4.** The carriage of dangerous goods as hand luggage, registered luggage as well as in or on vehicles which, in accordance with this Title are carried by rail, must comply with the Regulation concerning the Carriage of Dangerous Goods by Rail (RID).

### **Article 13**

#### **Examination**

**§ 1.** When there is good reason to suspect a failure to observe the conditions of carriage, the carrier shall have the right to examine whether the articles (hand luggage, registered luggage, vehicles including their loading) and animals carried comply with the conditions of carriage, unless the laws and prescriptions of the State in which the examination would take place prohibit such examination. The passenger must be invited to attend the examination. If he does not appear or cannot be reached, the carrier must require the presence of two independent witnesses.

**§ 2.** If it is established that the conditions of carriage have not been respected, the carrier can require the passenger to pay the costs arising from the examination.

### **Article 14**

#### **Completion of administrative formalities**

The passenger must comply with the formalities required by customs or other administrative authorities when, on being carried, he has articles (hand luggage, registered luggage, vehicles including their loading) or animals carried. He shall be present at the inspection of these articles save where otherwise provided by the laws and prescriptions of each State.

## **Chapter II**

### **Hand Luggage and Animals**

### **Article 15**

#### **Supervision**

It shall be the passenger's responsibility to supervise the hand luggage and animals that he takes with him.

## **Chapter III**

### **Registered Luggage**

### **Article 16**

#### **Consignment of registered luggage**

**§ 1.** The contractual obligations relating to the forwarding of registered luggage must be established by a luggage registration voucher issued to the passenger.

**§ 2.** Subject to Article 22 the absence, irregularity or loss of the luggage registration voucher shall not affect the existence or the validity of the agreements concerning the forwarding of the registered luggage, which shall remain subject to these Uniform Rules.

**§ 3.** The luggage registration voucher shall be prima facie evidence of the registration of the luggage and the conditions of its carriage.

**§ 4.** Subject to evidence to the contrary, it shall be presumed that when the carrier took over the registered luggage it was apparently in a good condition, and that the number and the mass of the items of luggage corresponded to the entries on the luggage registration voucher.

### **Article 17**

#### **Luggage registration voucher**

**§ 1.** The General Conditions of Carriage shall determine the form and content of the luggage registration voucher as well as the language and characters in which it is to be printed and made out. Article 7 § 5 shall apply mutatis mutandis.

**§ 2.** The following, at least, must be entered on the luggage registration voucher :

- a) the carrier or carriers;
- b) a statement that the carriage is subject, notwithstanding any clause to the contrary, to these Uniform Rules; this may be indicated by the acronym CIV;
- c) any other statement necessary to prove the contractual obligations relating to the forwarding of the registered luggage and enabling the passenger to assert the rights resulting from the contract of carriage.

§ 3. The passenger must ensure, on receipt of the luggage registration voucher, that it has been made out in accordance with his instructions.

#### **Article 18**

##### **Registration and carriage**

§ 1. Save where the General Conditions of Carriage otherwise provide, luggage shall be registered only on production of a ticket valid at least as far as the destination of the luggage. In other respects the registration of luggage shall be carried out in accordance with the prescriptions in force at the place of consignment.

§ 2. When the General Conditions of Carriage provide that luggage may be accepted for carriage without production of a ticket, the provisions of these Uniform Rules determining the rights and obligations of the passenger in respect of his registered luggage shall apply mutatis mutandis to the consignor of registered luggage.

§ 3. The carrier can forward the registered luggage by another train or by another mode of transport and by a different route from that taken by the passenger.

#### **Article 19**

##### **Payment of charges for the carriage of registered luggage**

Subject to a contrary agreement between the passenger and the carrier, the charge for the carriage of registered luggage shall be payable on registration.

#### **Article 20**

##### **Marking of registered luggage**

The passenger must indicate on each item of registered luggage in a clearly visible place, in a sufficiently durable and legible manner :

- a) his name and address,
- b) the place of destination.

#### **Article 21**

##### **Right to dispose of registered luggage**

§ 1. If circumstances permit and if customs requirements or the requirements of other administrative authorities are not thereby contravened, the passenger can request luggage to be handed back at the place of consignment on surrender of the luggage registration voucher and, if the General Conditions of Carriage so require, on production of the ticket.

§ 2. The General Conditions of Carriage may contain other provisions concerning the right to dispose of registered luggage, in particular modifications of the place of destination and the possible financial consequences to be borne by the passenger.

#### **Article 22**

##### **Delivery**

§ 1. Registered luggage shall be delivered on surrender of the luggage registration voucher and, where appropriate, on payment of the amounts chargeable against the consignment. The carrier shall be entitled, but not obliged, to examine whether the holder of the voucher is entitled to take delivery.

§ 2. It shall be equivalent to delivery to the holder of the luggage registration voucher if, in accordance with the prescriptions in force at the place of destination:

- a) the luggage has been handed over to the customs or octroi authorities at their premises or warehouses, when these are not subject to the carrier's supervision;

b) live animals have been handed over to third parties.

§ 3. The holder of the luggage registration voucher may require delivery of the luggage at the place of destination as soon as the agreed time and, where appropriate, the time necessary for the operations carried out by customs or other administrative authorities, has elapsed.

§ 4. Failing surrender of the luggage registration voucher, the carrier shall only be obliged to deliver the luggage to the person proving his right thereto; if the proof offered appears insufficient, the carrier may require security to be given.

§ 5. Luggage shall be delivered at the place of destination for which it has been registered.

§ 6. The holder of a luggage registration voucher whose luggage has not been delivered may require the day and time to be endorsed on the voucher when he requested delivery in accordance with § 3.

§ 7. The person entitled may refuse to accept the luggage if the carrier does not comply with his request to carry out an examination of the registered luggage in order to establish alleged damage.

§ 8. In all other respects delivery of luggage shall be carried out in accordance with the prescriptions in force at the place of destination.

## **Chapter IV Vehicles**

### **Article 23 Conditions of carriage**

The special provisions governing the carriage of vehicles, contained in the General Conditions of Carriage, shall specify in particular the conditions governing acceptance for carriage, registration, loading and carriage, unloading and delivery as well as the obligations of the passenger.

### **Article 24 Carriage voucher**

§ 1. The contractual obligations relating to the carriage of vehicles must be established by a carriage voucher issued to the passenger. The carriage voucher may be integrated into the passenger's ticket.

§ 2. The special provisions governing the carriage of vehicles, contained in the General Conditions of Carriage, shall determine the form and content of the carriage voucher as well as the language and the characters in which it is to be printed and made out. Article 7 § 5 shall apply mutatis mutandis.

§ 3. The following, at least, must be entered on the carriage voucher :

- a) the carrier or carriers;
- b) a statement that the carriage is subject, notwithstanding any clause to the contrary, to these Uniform Rules; this may be indicated by the acronym CIV;
- c) any other statement necessary to prove the contractual obligations relating to the carriage of vehicles and enabling the passenger to assert the rights resulting from the contract of carriage.

§ 4. The passenger must ensure, on receipt of the carriage voucher, that it has been made out in accordance with his instructions.

### **Article 25 Applicable law**

Subject to the provisions of this Chapter, the provisions of Chapter III relating to the carriage of luggage shall apply to vehicles.

## **Title IV**

### **Liability of the Carrier**

#### **Chapter I**

#### **Liability in case of Death of, or Personal Injury to, Passengers**

##### **Article 26**

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

§ 1. The carrier shall be liable for the loss or damage resulting from the death of, personal injuries to, or any other physical or mental harm to, a passenger, caused by an accident arising out of the operation of the railway and happening while the passenger is in, entering or alighting from railway vehicles whatever the railway infrastructure used.

§ 2. The carrier shall be relieved of this liability

- a) if the accident has been caused by circumstances not connected with the operation of the railway and which the carrier, in spite of having taken the care required in the particular circumstances of the case, could not avoid and the consequences of which he was unable to prevent;
- b) to the extent that the accident is due to the fault of the passenger;
- c) if the accident is due to the behaviour of a third party which the carrier, in spite of having taken the care required in the particular circumstances of the case, could not avoid and the consequences of which he was unable to prevent; another undertaking using the same railway infrastructure shall not be considered as a third party; the right of recourse shall not be affected.

§ 3. If the accident is due to the behaviour of a third party and if, in spite of that, the carrier is not entirely relieved of his liability in accordance with § 2, letter c), he shall be liable in full up to the limits laid down in these Uniform Rules but without prejudice to any right of recourse which the carrier may have against the third party.

§ 4. These Uniform Rules shall not affect any liability which may be incurred by the carrier in cases not provided for in § 1.

§ 5. If carriage governed by a single contract of carriage is performed by successive carriers, the carrier bound pursuant to the contract of carriage to provide the service of carriage in the course of which the accident happened shall be liable in case of death of, and personal injuries to, passengers. When this service has not been provided by the carrier, but by a substitute carrier, the two carriers shall be jointly and severally liable in accordance with these Uniform Rules.

##### **Article 27**

##### **Damages in case of death**

§ 1. In case of death of the passenger the damages shall comprise :

- a) any necessary costs following the death, in particular those of transport of the body and the funeral expenses;
- b) if death does not occur at once, the damages provided for in Article 28.

§ 2. If, through the death of the passenger, persons whom he had, or would have had, a legal duty to maintain are deprived of their support, such persons shall also be compensated for that loss. Rights of action for damages of persons whom the passenger was maintaining without being legally bound to do so, shall be governed by national law.

##### **Article 28**

##### **Damages in case of personal injury**

In case of personal injury or any other physical or mental harm to the passenger the damages shall comprise :

- a) any necessary costs, in particular those of treatment and of transport;
- b) compensation for financial loss, due to total or partial incapacity to work, or to increased needs.

## **Article 29**

### **Compensation for other bodily harm**

National law shall determine whether and to what extent the carrier must pay damages for bodily harm other than that for which there is provision in Articles 27 and 28.

## **Article 30**

### **Form and amount of damages in case of death and personal injury**

§ 1. The damages under Article 27 § 2 and Article 28, letter b) must be awarded in the form of a lump sum. However, if national law permits payment of an annuity, the damages shall be awarded in that form if so requested by the injured passenger or by the persons entitled referred to in Article 27 § 2.

§ 2. The amount of damages to be awarded pursuant to § 1 shall be determined in accordance with national law. However, for the purposes of these Uniform Rules, the upper limit per passenger shall be set at 175,000 units of account as a lump sum or as an annual annuity corresponding to that sum, where national law provides for an upper limit of less than that amount.

## **Article 31**

### **Other modes of transport**

§ 1. Subject to § 2, the provisions relating to the liability of the carrier in case of death of, or personal injury to, passengers shall not apply to loss or damage arising in the course of carriage which, in accordance with the contract of carriage, was not carriage by rail.

§ 2. However, where railway vehicles are carried by ferry, the provisions relating to liability in case of death of, or personal injury to, passengers shall apply to loss or damage referred to in Article 26 § 1 and Article 33 § 1, caused by an accident arising out of the operation of the railway and happening while the passenger is in, entering or alighting from the said vehicles.

§ 3. When, because of exceptional circumstances, the operation of the railway is temporarily suspended and the passengers are carried by another mode of transport, the carrier shall be liable pursuant to these Uniform Rules.

## **Chapter II**

### **Liability in case of Failure to Keep to the Timetable**

## **Article 32**

### **Liability in case of cancellation, late running of trains or missed connections**

§ 1. The carrier shall be liable to the passenger for loss or damage resulting from the fact that, by reason of cancellation, the late running of a train or a missed connection, his journey cannot be continued the same day, or that a continuation of the journey the same day could not reasonably be required because of given circumstances. The damages shall comprise the reasonable costs of accommodation as well as the reasonable costs occasioned by having to notify persons expecting the passenger.

§ 2. The carrier shall be relieved of this liability, when the cancellation, late running or missed connection is attributable to one of the following causes :

- a) circumstances not connected with the operation of the railway which the carrier, in spite of having taken the care required in the particular circumstances of the case, could not avoid and the consequences of which he was unable to prevent,
- b) fault on the part of the passenger or
- c) the behaviour of a third party which the carrier, in spite of having taken the care required in the particular circumstances of the case, could not avoid and the consequences of which he was unable to prevent; another undertaking using the same railway infrastructure shall not be considered as a third party; the right of recourse shall not be affected.

§ 3. National law shall determine whether and to what extent the carrier must pay damages for harm other than that provided for in § 1. This provision shall be without prejudice to Article 44.

## **Chapter III**

### **Liability in respect of Hand Luggage, Animals, Registered Luggage and Vehicles**

#### **Section 1**

#### **Hand luggage and animals**

##### **Article 33**

##### **Liability**

§ 1. In case of death of, or personal injury to, passengers the carrier shall also be liable for the loss or damage resulting from the total or partial loss of, or damage to, articles which the passenger had on him or with him as hand luggage; this shall apply also to animals which the passenger had brought with him. Article 26 shall apply mutatis mutandis.

§ 2. In other respects, the carrier shall not be liable for the total or partial loss of, or damage to, articles, hand luggage or animals the supervision of which is the responsibility of the passenger in accordance with Article 15, unless this loss or damage is caused by the fault of the carrier. The other Articles of Title IV, with exception of Article 51, and Title VI shall not apply in this case.

##### **Article 34**

##### **Limit of damages in case of loss of or damage to articles**

When the carrier is liable under Article 33 § 1, he must pay compensation up to a limit of 1,400 units of account per passenger.

##### **Article 35**

##### **Exclusion of liability**

The carrier shall not be liable to the passenger for loss or damage arising from the fact that the passenger does not conform to the formalities required by customs or other administrative authorities.

#### **Section 2**

#### **Registered luggage**

##### **Article 36**

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

§ 1. The carrier shall be liable for loss or damage resulting from the total or partial loss of, or damage to, registered luggage between the time of taking over by the carrier and the time of delivery as well as from delay in delivery.

§ 2. The carrier shall be relieved of this liability to the extent that the loss, damage or delay in delivery was caused by a fault of the passenger, by an order given by the passenger other than as a result of the fault of the carrier, by an inherent defect in the registered luggage 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) the absence or inadequacy of packing,
- b) the special nature of the luggage,
- c) the consignment as luggage of articles not acceptable for carriage.

##### **Article 37**

##### **Burden of proof**

§ 1. The burden of proving that the loss, damage or delay in delivery was due to one of the causes specified in Article 36 § 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 36 § 3, it shall be

presumed that it did so arise. The person entitled shall, however, have the right to prove that the loss or damage was not attributable either wholly or in part to one of those risks.

### **Article 38**

#### **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 luggage with the luggage registration voucher or the vehicle with the carriage voucher, shall become a party to the contract of carriage in respect of the forwarding of luggage or the carriage of vehicles, in accordance with the terms of the luggage registration voucher or of the carriage voucher and shall assume the obligations arising therefrom. In such a case each carrier shall be responsible for the carriage over the entire route up to delivery.

### **Article 39**

#### **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 apply also to the liability of the substitute carrier for the carriage performed by him. Articles 48 and 52 shall apply if an action is brought against the servants or 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 40**

#### **Presumption of loss**

§ 1. The person entitled may, without being required to furnish further proof, consider an item of luggage as lost when it has not been delivered or placed at his disposal within fourteen days after a request for delivery has been made in accordance with Article 22 § 3.

§ 2. If an item of luggage deemed to have been lost is recovered within one year after the request for delivery, the carrier must notify the person entitled if his address is known or can be ascertained.

§ 3. Within thirty days after receipt of a notification referred to in § 2, the person entitled may require the item of luggage to be delivered to him. In that case he must pay the charges in respect of carriage of the item from the place of consignment to the place where delivery is effected and refund the compensation received less, where appropriate, any costs included therein. Nevertheless he shall retain his rights to claim compensation for delay in delivery provided for in Article 43.

§ 4. If the item of luggage recovered has not been claimed within the period stated in § 3 or if it is recovered more than one year after the request for delivery, the carrier shall dispose of it in accordance with the laws and prescriptions in force at the place where the item of luggage is situated.

### **Article 41**

#### **Compensation for loss**

§ 1. In case of total or partial loss of registered luggage, the carrier must pay, to the exclusion of all other damages:

a) if the amount of the loss or damage suffered is proved, compensation equal to that amount but not exceeding 80 units of account per kilogram of gross mass short or 1200 units of account per item of luggage;

b) if the amount of the loss or damage suffered is not established, liquidated damages of 20 units of account per kilogram of gross mass short or 300 units of account per item of luggage.

The method of compensation, by kilogram missing or by item of luggage, shall be determined by the General Conditions of Carriage.

§ 2. The carrier must in addition refund the charge for the carriage of luggage and the other sums paid in relation to the carriage of the lost item as well as the customs duties and excise duties already paid.

#### **Article 42**

##### **Compensation for damage**

§ 1. In case of damage to registered luggage, the carrier must pay compensation equivalent to the loss in value of the luggage, to the exclusion of all other damages.

§ 2. The compensation shall not exceed :

a) if all the luggage has lost value through damage, the amount which would have been payable in case of total loss;

b) if only part of the luggage has lost value through damage, the amount which would have been payable had that part been lost.

#### **Article 43**

##### **Compensation for delay in delivery**

§ 1. In case of delay in delivery of registered luggage, the carrier must pay in respect of each whole period of twenty-four hours after delivery has been requested, but subject to a maximum of fourteen days:

a) if the person entitled proves that loss or damage has been suffered thereby, compensation equal to the amount of the loss or damage, up to a maximum of 0.80 units of account per kilogram of gross mass of the luggage or 14 units of account per item of luggage, delivered late;

b) if the person entitled does not prove that loss or damage has been suffered thereby, liquidated damages of 0.14 units of account per kilogram of gross mass of the luggage or 2.80 units of account per item of luggage, delivered late.

The methods of compensation, by kilogram missing or by item of luggage, shall be determined by the General Conditions of Carriage.

§ 2. In case of total loss of luggage, the compensation provided for in § 1 shall not be payable in addition to that provided for in Article 41.

§ 3. In case of partial loss of luggage, the compensation provided for in § 1 shall be payable in respect of that part of the luggage which has not been lost.

§ 4. In case of damage to luggage not resulting from delay in delivery the compensation provided for in § 1 shall, where appropriate, be payable in addition to that provided for in Article 42.

§ 5. In no case shall the total of compensation provided for in § 1 together with that payable under Articles 41 and 42 exceed the compensation which would be payable in case of total loss of the luggage.

### **Section 3**

#### **Vehicles**

#### **Article 44**

##### **Compensation for delay**

§ 1. In case of delay in loading for a reason attributable to the carrier or delay in delivery of a vehicle, the carrier must, if the person entitled proves that loss or damage has been suffered thereby, pay compensation not exceeding the amount of the carriage charge.

§ 2. If, in case of delay in loading for a reason attributable to the carrier, the person entitled elects not to proceed with the contract of carriage, the carriage charge shall be refunded to him. In addition the person entitled may, if he proves that loss or damage has been suffered as a result of the delay, claim compensation not exceeding the carriage charge.

#### **Article 45**

##### **Compensation for loss**

In case of total or partial loss of a vehicle the compensation payable to the person entitled for the loss or damage proved shall be calculated on the basis of the usual value of the vehicle. It shall not exceed 8000 units of account. A loaded or unloaded trailer shall be considered as a separate vehicle.

#### **Article 46**

##### **Liability in respect of other articles**

§ 1. In respect of articles left inside the vehicle or situated in boxes (e.g. luggage or ski boxes) fixed to the vehicle, the carrier shall be liable only for loss or damage caused by his fault. The total compensation payable shall not exceed 1400 units of account.

§ 2. So far as concerns articles stowed on the outside of the vehicle, including the boxes referred to in § 1, the carrier shall be liable in respect of articles placed on the outside of the vehicle only 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 a loss or damage or recklessly and with knowledge that such loss or damage would probably result.

#### **Article 47**

##### **Applicable law**

Subject to the provisions of this Section, the provisions of Section 2 relating to liability for luggage shall apply to vehicles.

### **Chapter IV**

#### **Common Provisions**

#### **Article 48**

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

The limits of liability provided for in these Uniform Rules as well as the provisions of national law, which limit the compensation to a fixed amount, 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 49**

##### **Conversion and interest**

§ 1. Where the calculation of 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 the 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 55 or, if no such claim has been made, from the day on which legal proceedings were instituted.

§ 3. However, in the case of compensation payable pursuant to Articles 27 and 28, interest shall accrue only from the day on which the events relevant to the assessment of the amount of compensation occurred, if that day is later than that of the claim or the day when legal proceedings were instituted.

§ 4. In the case of luggage, interest shall only be payable if the compensation exceeds 16 units of account per luggage registration voucher.

§ 5. In the case of luggage, 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 50**

### **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 51**

### **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 52**

### **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 and other persons for whom the carrier is liable pursuant to Article 51.

## **Title V**

### **Liability of the Passenger**

## **Article 53**

### **Special principles of liability**

The passenger shall be liable to the carrier for any loss or damage

a) resulting from failure to fulfil his obligations pursuant to

1. Articles 10, 14 and 20,
  2. the special provisions for the carriage of vehicles, contained in the General Conditions of Carriage, or
  3. the Regulation concerning the International Carriage of Dangerous Goods by Rail (RID),
- or

b) caused by articles and animals that he brings with him, unless he proves that the loss or damage was caused by circumstances that he could not avoid and the consequences of which he was unable to prevent, despite the fact that he exercised the diligence required of a conscientious passenger. This provision shall not affect the liability of the carrier pursuant to Articles 26 and 33 § 1.

## **Title VI**

### **Assertion of Rights**

## **Article 54**

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

**§ 1.** When partial loss of, or damage to, an article carried in the charge of the carrier (luggage, vehicles) 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 article 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 of the luggage or vehicle 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 55**

### **Claims**

§ 1. Claims relating to the liability of the carrier in case of death of, or personal injury to, passengers must be addressed in writing to the carrier against whom an action may be brought. In the case of a carriage governed by a single contract and performed by successive carriers the claims may also be addressed to the first or the last carrier as well as to the carrier having his principal place of business or the branch or agency which concluded the contract of carriage in the State where the passenger is domiciled or habitually resident.

§ 2. Other claims relating to the contract of carriage must be addressed in writing to the carrier specified in Article 56 §§ 2 and 3.

§ 3. Documents which the person entitled thinks fit to submit with the claim shall be produced either in the original or as copies, where appropriate, the copies duly certified if the carrier so requires. On settlement of the claim, the carrier may require the surrender of the ticket, the luggage registration voucher and the carriage voucher.

## **Article 56**

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

§ 1. An action based on the liability of the carrier in case of death of, or personal injury to, passengers may only be brought against the carrier who is liable pursuant to Article 26 § 5.

§ 2. Subject to § 4 other actions brought by passengers 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 carriage on which the event giving rise to the proceedings occurred.

§ 3. When, in the case of carriage performed by successive carriers, the carrier who must deliver the luggage or the vehicle is entered with his consent on the luggage registration voucher or the carriage voucher, an action may be brought against him in accordance with § 2 even if he has not received the luggage or the vehicle.

§ 4. 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.

§ 5. An action may be brought against a carrier other than those specified in §§ 2 and 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 one of them; this shall also apply if the plaintiff has a choice between one or more carriers and a substitute carrier.

## **Article 57**

### **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 the Member State on whose territory the defendant has his domicile or habitual residence, his principal place of business or the branch or agency which concluded the contract of carriage. 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 58**

##### **Extinction of right of action in case of death or personal injury**

**§ 1.** Any right of action by the person entitled based on the liability of the carrier in case of death of, or personal injury to, passengers shall be extinguished if notice of the accident to the passenger is not given by the person entitled, within twelve months of his becoming aware of the loss or damage, to one of the carriers to whom a claim may be addressed in accordance with Article 55 § 1. Where the person entitled gives oral notice of the accident to the carrier, the carrier shall furnish him with an acknowledgement of such oral notice.

**§ 2.** Nevertheless, the right of action shall not be extinguished if

- a) within the period provided for in § 1 the person entitled has addressed a claim to one of the carriers designated in Article 55 § 1;
- b) within the period provided for in § 1 the carrier who is liable has learned of the accident to the passenger in some other way;
- c) notice of the accident has not been given, or has been given late, as a result of circumstances not attributable to the person entitled;
- d) the person entitled proves that the accident was caused by fault on the part of the carrier.

#### **Article 59**

##### **Extinction of right of action arising from carriage of luggage**

**§ 1.** Acceptance of the luggage 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 delay in delivery.

**§ 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 54 before the acceptance of the luggage by the person entitled;
  2. the ascertainment which should have been carried out in accordance with Article 54 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 luggage by the person entitled, if he
  1. asks for ascertainment in accordance with Article 54 immediately after discovery of the loss or damage and not later than three days after the acceptance of the luggage, and
  2. in addition, proves that the loss or damage occurred between the time of taking over by the carrier and the time of delivery;
- c) in case of delay in delivery, if the person entitled has, within twenty-one days, asserted his rights against one of the carriers specified in Article 56 § 3;
- d) if the person entitled proves that the loss or damage was caused by fault on the part of the carrier.

#### **Article 60**

##### **Limitation of actions**

**§ 1.** The period of limitation of actions for damages based on the liability of the carrier in case of death of, or personal injury to, passengers shall be:

- a) in the case of a passenger, three years from the day after the accident;
- b) in the case of other persons entitled, three years from the day after the death of the passenger, subject to a maximum of five years from the day after the accident.

**§ 2.** The period of limitation for other actions 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 for loss or damage resulting from an act or omission committed either with the intent to cause such loss or damage, or recklessly and with knowledge that such loss or damage would probably result.

**§ 3.** The period of limitation provided for in § 2 shall run for actions :

- a) for compensation for total loss, from the fourteenth day after the expiry of the period of time provided for in Article 22 § 3;
- b) for compensation for partial loss, damage or delay in delivery, from the day when delivery took place;
- c) in all other cases involving the carriage of passengers, from the day of expiry of validity of the ticket.

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

**§ 4.** When a claim is addressed to a carrier in writing in accordance with Article 55 together with the necessary supporting documents, the period of limitation shall be suspended 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 run again in respect of that part of the claim still in dispute. The burden of proof of receipt of the claim or of the reply and of the return of the documents shall lie on the party who relies on those facts. The period of limitation shall not be suspended by further claims having the same object.

**§ 5.** A right of action which has become time-barred may not be exercised further, even by way of counter-claim or by way of exception.

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

## **Title VII**

### **Relations between Carriers**

#### **Article 61**

##### **Apportionment of the carriage charge**

**§ 1.** Any carrier who has collected or ought to have collected a carriage charge must pay to the carriers concerned their respective shares of such a charge. The methods of payment shall be fixed by agreement between the carriers.

**§ 2.** Article 6 § 3, Article 16 § 3 and Article 25 shall also apply to the relations between successive carriers.

#### **Article 62**

##### **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 63**

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

**§ 1.** The validity of the payment made by the carrier exercising a right of recourse pursuant to Article 62 may not be disputed by the carrier against whom the right to 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 present 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 shall 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 64**

##### **Agreements concerning recourse**

The carriers may conclude agreements which derogate from Articles 61 and 62.

### **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.

### **Regulation concerning the International Carriage of Dangerous Goods by Rail (RID – Appendix C to the Convention)**

#### **Article 1**

##### **Scope**

§ 1. This Regulation shall apply

- a) to the international carriage of dangerous goods by rail on the territory of Member States,
  - b) to carriage complementary to carriage by rail to which the CIM Uniform Rules are applicable, subject to the international prescriptions governing carriage by another mode of transport,
- as well as the activities referred to by the Annex to this Regulation.

§ 2. Dangerous goods barred from carriage by the Annex must not be accepted for international carriage.

#### **Article 2**

##### **Exemptions**

This Regulation shall not apply, in whole or in part, to the carriage of dangerous goods for which an exemption is provided in the Annex. Exemptions may only be provided when the quantity or the nature of the exempted carriage of goods or the packaging would guarantee the safety of the carriage.

### **Article 3**

#### **Restrictions**

Each Member State shall retain the right to regulate or prohibit, for reasons other than safety during carriage, the international carriage of dangerous goods on its territory.

### **Article 4**

#### **Other prescriptions**

The carriage to which this Regulation applies shall remain subject to the national or international prescriptions applicable in general to the carriage of goods by rail.

### **Article 5**

#### **Type of trains allowed. Carriage as hand luggage, registered luggage or on board motor vehicles**

**§ 1.** Dangerous goods may only be carried in goods trains, except

- a) dangerous goods which are acceptable for carriage in accordance with the Annex complying with the relevant maximum quantities and the special conditions of carriage in trains other than goods trains;
- b) dangerous goods which are carried, under the special conditions of the Annex, as hand luggage, registered luggage or in or on board motor vehicles in accordance with Article 12 of the CIV Uniform Rules.

**§ 2.** The passenger may not take with him dangerous goods as hand luggage or consign them as registered luggage or on board motor vehicles if they do not meet the special conditions of the Annex.

### **Article 6**

#### **Annex**

The Annex shall form an integral part of this Regulation.

\* \* \*

The text of the Annex will be that drawn up by the Expert Committee for the Carriage of Dangerous Goods, at the time of entry into force of the Protocol of 3 June 1999 modifying the Convention concerning International Carriage by Rail (COTIF) of 9 May 1980, in accordance with Article 19 § 4 of the latter.

## **Uniform Rules concerning Contracts of Use of Vehicles in International Rail Traffic (CUV – Appendix D to the Convention)**

### **Article 1**

#### **Scope**

These Uniform Rules shall apply to bi- or multilateral contracts concerning the use of railway vehicles as means of transport for carriage in accordance with the CIV Uniform Rules and in accordance with the CIM Uniform Rules.

### **Article 2**

#### **Definitions**

For the purposes of these Uniform Rules the term

- a) “rail transport undertaking” means a private or public undertaking which is authorised to carry persons or goods and which ensures traction;
- b) “vehicle” means a vehicle, suitable to circulate on its own wheels on railway lines, not provided with a means of traction;
- c) “keeper” means the person who, being the owner or having the right to dispose of it, exploits a vehicle economically in a permanent manner as a means of transport;
- d) “home station” means the place mentioned on the vehicle and to which the vehicle may or must be sent back in accordance with the conditions of the contract of use.

### **Article 3**

#### **Signs and inscriptions on the vehicles**

§ 1. Notwithstanding the prescriptions relating to the technical admission of vehicles to circulate in international traffic, the person who provides a vehicle, pursuant to a contract referred to in Article 1, must ensure that there appears on the vehicle :

- a) a statement of the keeper;
- b) when applicable, a statement of the rail transport undertaking to whose vehicle park the vehicle belongs;
- c) when applicable, a statement of the home station;
- d) other signs and inscriptions agreed in the contract of use.

§ 2. The signs and inscriptions provided for in § 1 may be completed by means of electronic identification.

### **Article 4**

#### **Liability in case of loss of or damage to a vehicle**

§ 1. The rail transport undertaking to which the vehicle has been provided for use as a means of transport shall be liable for the loss or damage resulting from loss of or damage to the vehicle or its accessories, unless it proves that the loss or damage was not caused by fault on its part.

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

§ 3. In case of loss of the vehicle or its accessories, the compensation shall be limited, to the exclusion of all other damages, to the usual value of the vehicle or of its accessories at the place and time of loss. When it is impossible to ascertain the day or the place of loss, the compensation shall be limited to the usual value on the day and at the place where the vehicle has been provided for use.

§ 4. In case of damage to the vehicle or its accessories, the compensation shall be limited, to the exclusion of all other damages, to the cost of repair. The compensation shall not exceed the amount due in case of loss.

§ 5. The contracting parties may agree provisions derogating from §§ 1 to 4.

### **Article 5**

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

The limits of liability provided for in Article 4 §§ 3 and 4 shall not apply, if it is proved that the loss or damage results from an act or omission, which the rail transport undertaking 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 6**

#### **Presumption of loss of a vehicle**

§ 1. The person entitled may, without being required to furnish other proof, consider a vehicle as lost when he has asked the rail transport undertaking to which he provided the vehicle for use as a means of transport, to have a search for the vehicle carried out and if the vehicle has not been put at his disposal within three months following the day of receipt of his request or else when he has not received any indication of the place where the vehicle is situated. This period shall be increased by the time the vehicle is immobilised for any reason not attributable to the rail transport undertaking or owing to damage.

§ 2. If the vehicle considered as lost is recovered after the payment of the compensation, the person entitled may require the rail transport undertaking to which he provided the vehicle for its use as a means of transport, within a period of six months after receiving notice of it, that the vehicle be returned to him, without charge and against restitution of the compensation, at the home station or at another agreed place.

§ 3. In the absence of the request referred to in § 2, or alternatively if the vehicle is recovered more than a year after the payment of the compensation, the rail transport undertaking to which the person entitled provided the vehicle for use as a means of transport, shall dispose of the vehicle in accordance with the laws and prescriptions in force at the place where the vehicle is situated.

§ 4. The contracting parties may agree provisions derogating from §§ 1 to 3.

## **Article 7**

### **Liability for loss or damage caused by a vehicle**

§ 1. The person who, pursuant to a contract referred to in Article 1, has provided the vehicle for use as a means of transport shall be liable for the loss or damage caused by the vehicle when he is at fault.

§ 2. The contracting parties may agree provisions derogating from § 1.

## **Article 8**

### **Subrogation**

When the contract of use of vehicles provides that the rail transport undertaking may provide the vehicle to other rail transport undertakings for use as a means of transport, the rail transport undertaking may, with the agreement of the keeper, agree with the other rail transport undertakings

- a) that, subject to its right of recourse, it shall be subrogated to them, in respect of their liability to the keeper for loss of or damage to the vehicle or its accessories;
- b) that only the keeper shall be liable to the other rail transport undertakings, for loss or damage caused by the vehicle, but that only the rail transport undertaking which is the contractual partner of the keeper shall be authorised to assert the rights of the other rail transport undertakings.

## **Article 9**

### **Liability for servants and other persons**

§ 1. The contracting parties shall be liable for their servants and other persons whose services they make use of for the performance of the contract, when these servants and other persons are acting within the scope of their functions.

§ 2. Unless the contracting parties otherwise agree, the managers of the infrastructure on which the rail transport undertakings use the vehicle as a means of transport, shall be regarded as persons whose services the rail transport undertaking makes use of.

§ 3. §§ 1 and 2 shall also apply in the case of subrogation in accordance with Article 8.

## **Article 10**

### **Other actions**

§ 1. In all cases where these Uniform Rules shall apply, an action in respect of liability, for loss of or damage to the vehicle or its accessories, on whatever grounds, may be brought against the rail transport undertaking to which the vehicle was provided for use as a means of transport only subject to the conditions and limitations laid down in these Uniform Rules and the contract of use.

§ 2. § 1 shall apply also in the case of subrogation in accordance with Article 8.

§ 3. The same shall apply to an action brought against the servants or other persons for whom the rail transport undertaking to which the vehicle was provided for use as a means of transport, is liable.

## **Article 11**

### **Forum**

§ 1. Actions based on a contract concluded in accordance with these Uniform Rules may be brought before the courts or tribunals designated by agreement between the parties to the contract.

§ 2. Unless the parties otherwise agree, the competent courts or tribunals shall be those of the Member State where the defendant has his place of business. If the defendant has no place of business in a Member State, the competent courts or tribunals shall be those of the Member State where the loss or damage occurred.

## **Article 12**

### **Limitation of actions**

§ 1. The period of limitation for actions based on Articles 4 and 7 shall be three years.

§ 2. The period of limitation shall run :

- a) for actions based on Article 4, from the day when the loss of or damage to the vehicle was discovered or the person entitled could consider the vehicle lost in accordance with Article 6 § 1 or § 4;
- b) for actions based on Article 7, from the day when the loss or damage occurred.

## **Uniform Rules concerning the Contract of Use of Infrastructure in International Rail Traffic (CUI – Appendix E to the Convention)**

### **Title I General Provisions**

#### **Article 1 Scope**

§ 1. These Uniform Rules shall apply to any contract of use of railway infrastructure for the purposes of international carriage within the meaning of the CIV Uniform Rules and the CIM Uniform Rules. They shall apply regardless of the place of business and the nationality of the contracting parties. These Uniform Rules shall apply even when the railway infrastructure is managed or used by States or by governmental institutions or organisations.

§ 2. Subject to Article 21, these Uniform Rules shall not apply to other legal relations, such as in particular

- a) the liability of the carrier or the manager to their servants or other persons whose services they make use of to accomplish their tasks;
- b) the liability to each other of the carrier or the manager of the one part and third parties of the other part.

#### **Article 2 Declaration concerning liability in case of bodily loss or damage**

§ 1. Any State may, at any time, declare that it will not apply to victims of accidents occurring in its territory the whole of the provisions concerning liability in case of bodily loss or damage (death, injury or any other physical or mental harm), when the victims are nationals of, or have their usual place of residence in, that State.

§ 2. A State which has made a declaration in accordance with § 1 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.

#### **Article 3 Definitions**

For the purposes of these Uniform Rules, the term

- a) “railway infrastructure” means all the railway lines and fixed installations, so far as these are necessary for the circulation of railway vehicles and the safety of traffic;
- b) “manager” means the person who makes railway infrastructure available;
- c) “carrier” means the person who carries persons or goods by rail in international traffic under the CIV Uniform Rules or the CIM Uniform Rules;
- d) “auxiliary” means the servants or other persons whose services the carrier or the manager makes use of for the performance of the contract when these servants or other persons are acting within the scope of their functions;
- e) “third party” means any person other than the manager, the carrier and their auxiliaries;
- f) “licence” means the authorisation, in accordance with the laws and prescriptions of the State in which the carrier has the place of business of his principal activity, to carry on the activity of carrier by rail;
- g) “safety certificate” means the document attesting, in accordance with the laws and prescriptions of the State in which the infrastructure being used is situated, that so far as concerns the carrier,
  - the internal organisation of the undertaking as well as

– the personnel to be employed and the vehicles to be used on the infrastructure, meet the requirements imposed in respect of safety in order to ensure a service without danger on that infrastructure.

#### **Article 4**

##### **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 other provisions of the contract. Nevertheless, the parties to the contract may assume a liability greater and obligations more burdensome than those provided for in these Uniform Rules or fix a maximum amount of compensation for loss of or damage to property.

#### **Title II**

##### **Contract of Use**

#### **Article 5**

##### **Contents and form**

§ 1. Relations between the manager and the carrier shall be regulated in a contract of use.

§ 2. The contract shall regulate in particular the administrative, technical and financial conditions of use. It shall cover at least the following matters :

- a) the infrastructure to be used,
- b) the extent of use,
- c) the services provided by the manager,
- d) the services provided by the carrier,
- e) the personnel to be employed,
- f) the vehicles to be used,
- g) the financial conditions.

§ 3. The contract must be concluded in writing or in an equivalent form. The absence or irregularity of a written form or equivalent form of contract or the absence of one of the matters specified in § 2 shall not affect the existence or the validity of the contract which shall remain subject to these Uniform Rules.

#### **Article 6**

##### **Special obligations of the carrier and the manager**

§ 1. The carrier must be authorised to carry on the activity of a carrier by rail. The personnel to be employed and the vehicles to be used must satisfy the safety requirements. The manager may require the carrier to prove, by the presentation of a valid licence and safety certificate or certified copies, or in any other manner, that these conditions are fulfilled.

§ 2. The carrier must notify the manager of any event which might affect the validity of his licence, his safety certificates or other elements of proof.

§ 3. The manager may require the carrier to prove that he has taken out a sufficient liability insurance or taken equivalent measures to cover any claims, on whatever grounds, referred to in Articles 9 to 21. Each year, the carrier must prove, by an attestation in due form, that the liability insurance or the equivalent provisions still exist; he must notify the manager of any modification relating to them before it takes effect.

§ 4. The parties to the contract must inform each other of any event which might impede the execution of the contract they have concluded.

#### **Article 7**

##### **Duration of the contract**

§ 1. The contract of use may be concluded for a limited or unlimited period.

§ 2. The manager may rescind the contract forthwith when

- a) the carrier is no longer authorised to carry on the activity of carrier by rail;

- b) the personnel to be employed and the vehicles to be used no longer meet the safety requirements;
- c) the carrier is in arrear with payment, that is to say
  - 1. for two successive payment periods and for an amount in excess of the equivalent of one month's use, or
  - 2. for a period covering more than two payment periods and for an amount equal to the value of two months' use;
- d) the carrier is in clear breach of one of the special obligations specified in Article 6 §§ 2 and 3.

**§ 3.** The carrier may rescind the contract of use forthwith when the manager loses his right to manage the infrastructure.

**§ 4.** Each party to the contract may rescind the contract of use forthwith in the case of a clear breach of one of the essential obligations by the other party to the contract, when that obligation concerns the safety of persons or goods; the parties to the contract may agree the modalities for the exercise of this right.

**§ 5.** The party to the contract who is the cause of its rescission shall be liable to the other party for the loss or damage resulting from it, unless he proves that the loss or damage was not caused by his fault.

**§ 6.** The parties to the contract may agree conditions derogating from the provisions of § 2 letters c) and d) and § 5.

### **Title III**

### **Liability**

#### **Article 8**

#### **Liability of the manager**

**§ 1.** The manager shall be liable

- a) for bodily loss or damage (death, injury or any other physical or mental harm),
  - b) for loss of or damage to property (destruction of, or damage to, movable or immovable property),
  - c) for pecuniary loss resulting from damages payable by the carrier under the CIV Uniform Rules and the CIM Uniform Rules,
- caused to the carrier or to his auxiliaries during the use of the infrastructure and having its origin in the infrastructure.

**§ 2.** The manager shall be relieved of this liability

- a) in case of bodily loss or damage and pecuniary loss resulting from damages payable by the carrier under the CIV Uniform Rules
  - 1. if the incident giving rise to the loss or damage has been caused by circumstances not connected with the management of the infrastructure which the manager, in spite of having taken the care required in the particular circumstances of the case, could not avoid and the consequences of which he was unable to prevent,
  - 2. to the extent that the incident giving rise to the loss or damage is due to the fault of the person suffering the loss or damage,
  - 3. if the incident giving rise to the loss or damage is due to the behaviour of a third party which the manager, in spite of having taken the care required in the particular circumstances of the case, could not avoid and the consequences of which he was unable to prevent;
- b) in case of loss of or damage to property and pecuniary loss resulting from damages payable by the carrier under the CIM Uniform Rules, when the loss or damage was caused by the fault of the carrier or by an order given by the carrier which is not attributable to the manager or by circumstances which the manager could not avoid and the consequences of which he was unable to prevent.

**§ 3.** If the incident giving rise to the loss or damage is due to the behaviour of a third party and if, in spite of that, the manager is not entirely relieved of liability in accordance with § 2, letter a), he shall be liable in full up to the limits laid down in these Uniform Rules but without prejudice to any right of recourse against the third party.

**§ 4.** The parties to the contract may agree whether and to what extent the manager shall be liable for the loss or damage caused to the carrier by delay or disruption to his operations.

## **Article 9**

### **Liability of the carrier**

#### **§ 1. The carrier shall be liable**

- a) for bodily loss or damage (death, injury or any other physical or mental harm),
- b) for loss of or damage to property (destruction of or damage to movable or immovable property), caused to the manager or to his auxiliaries, during the use of the infrastructure, by the means of transport used or by the persons or goods carried.

#### **§ 2. The carrier shall be relieved of this liability**

- a) in case of bodily loss or damage
  - 1. if the incident giving rise to the loss or damage has been caused by circumstances not connected with the operations of the carrier which he, in spite of having taken the care required in the particular circumstances of the case, could not avoid and the consequences of which he was unable to prevent,
  - 2. to the extent that the incident giving rise to the loss or damage is due to the fault of the person suffering the loss or damage,
  - 3. if the incident giving rise to the loss or damage is due to the behaviour of a third party which the carrier, in spite of having taken the care required in the particular circumstances of the case, could not avoid and the consequences of which he was unable to prevent;
- b) in case of loss of or damage to property when the loss or damage is caused by a fault of the manager or by an order given by the manager which is not attributable to the carrier or by circumstances which the carrier could not avoid and the consequences of which he was unable to prevent.

**§ 3.** If the incident giving rise to the loss or damage is due to the behaviour of a third party and if, in spite of that, the carrier is not entirely relieved of liability in accordance with § 2, letter a), he shall be liable in full up to the limits laid down in these Uniform Rules but without prejudice to any right of recourse against the third party.

**§ 4.** The parties to the contract may agree whether and to what extent the carrier shall be liable for the loss or damage caused to the manager by disruption to his operations.

## **Article 10**

### **Concomitant causes**

**§ 1.** If causes attributable to the manager and causes attributable to the carrier contributed to the loss or damage, each party to the contract shall be liable only to the extent that the causes attributable to him under Article 8 and 9 contributed to the loss or damage. If it is impossible to assess to what extent the respective causes contributed to the loss or damage, each party shall bear the loss or damage he has sustained.

**§ 2.** § 1 shall apply mutatis mutandis if causes attributable to the manager and causes attributable to several carriers using the same railway infrastructure contributed to the loss or damage.

**§ 3.** § 1, first sentence, shall apply mutatis mutandis in case of loss or damage referred to in Article 9 if causes attributable to several carriers using the same infrastructure contributed to the loss or damage. If it is impossible to assess to what extent the respective causes contributed to the loss or damage, the carriers shall be liable to the manager in equal shares.

## **Article 11**

### **Damages in case of death**

#### **§ 1. In case of death, the damages shall comprise :**

- a) any necessary costs following the death, in particular those of transport of the body and the funeral expenses;
- b) if death does not occur at once, the damages provided for in Article 12.

**§ 2.** If, through the death, persons whom the deceased had or would have had in the future a legal duty to maintain, are deprived of their support, they shall also be compensated for that loss. Rights of action for damages by persons whom the deceased was maintaining without being legally bound to do so, shall be governed by national law.

## **Article 12**

### **Damages in case of personal injury**

In case of personal injury or any other physical or mental harm, the damages shall comprise :

- a) any necessary costs, in particular those of treatment and of transport;
- b) compensation for financial loss, due to total or partial incapacity to work, or to increased needs.

## **Article 13**

### **Compensation for other bodily harm**

National law shall determine whether and to what extent the manager or the carrier must pay damages for bodily harm other than that provided for in Articles 11 and 12.

## **Article 14**

### **Form and amount of damages in case of death and personal injury**

§ 1. The damages provided for in Article 11 § 2 and in Article 12 letter b) must be awarded in the form of a lump sum. However, if national law permits the award of an annuity, the damages shall be awarded in that form if so requested by the injured person or by persons entitled referred to in Article 11 § 2.

§ 2. The amount of damages to be awarded pursuant to § 1 shall be determined in accordance with national law. However, for the purposes of these Uniform Rules, the upper limit per person shall be set at 175,000 units of account as a lump sum or as an annuity corresponding to that sum, where national law provides for an upper limit of less than that amount.

## **Article 15**

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

The limits of liability provided for in these Uniform Rules as well as the provisions of national law, which limit the compensation to a certain amount, shall not apply if it is proved that the loss or damage results from an act or omission, which the author of the loss or damage has committed either with the intent to cause such loss or damage, or recklessly and with knowledge that such loss or damage would probably result.

## **Article 16**

### **Conversion and interest**

§ 1. Where the calculation of 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 the compensation.

§ 2. The person entitled may claim interest on compensation, calculated at five per cent per annum, from the day of initiation of a conciliation procedure, of seizure of the Arbitration Tribunal provided for in Title V of the Convention or from the day on which legal proceedings were instituted.

## **Article 17**

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

The manager and 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 18**

### **Liability for auxiliaries**

The manager and the carrier shall be liable for their auxiliaries.

## **Article 19**

### **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 manager or 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 auxiliaries for whom the manager or the carrier is liable pursuant to Article 18.

## **Article 20**

### **Agreements to settle**

The parties to the contract may agree conditions in which they assert or renounce their rights to compensation from the other party to the contract.

## **Title IV**

### **Actions by Auxiliaries**

## **Article 21**

### **Actions against the manager or against the carrier**

§ 1. Any action in respect of liability brought by the auxiliaries of the carrier against the manager on account of loss or damage caused by him, on whatever grounds, may be brought only subject to the conditions and limitations laid down in these Uniform Rules.

§ 2. Any action in respect of liability brought by the auxiliaries of the manager against the carrier on account of loss or damage caused by him, on whatever grounds, may be brought only subject to the conditions and limitations laid down in these Uniform Rules.

## **Title V**

### **Assertion of Rights**

## **Article 22**

### **Conciliation procedures**

The parties to the contract may agree conciliation procedures or appeal to the Arbitration Tribunal provided for in Title V of the Convention.

## **Article 23**

### **Recourse**

The validity of the payment made by the carrier on the basis of the CIV Uniform Rules or the CIM Uniform Rules may not be disputed when compensation has been determined by a court or tribunal and when the manager, duly served with notice of the proceedings, has been afforded the opportunity to intervene in the proceedings.

## **Article 24**

### **Forum**

§ 1. Actions based on these Uniform Rules may be brought before the courts or tribunals of the Member States designated by agreement between the parties to the contract.

§ 2. Unless the parties to the contract otherwise agree, the competent courts or tribunals shall be those of the Member State where the manager has his place of business.

## **Article 25**

### **Limitation of actions**

§ 1. The period of limitation for actions based on these Uniform Rules shall be three years.

§ 2. The period of limitation shall run from the day when the loss or damage occurred.

§ 3. In case of death of persons, the period of limitation shall be three years from the day after the day the death occurred, but not exceeding five years from the day after the day of the accident.

§ 4. A recourse action by a person held liable may be brought even after the expiration of the limitation period provided for in § 1, if it is brought within the period allowed by the law of the State where the proceedings are brought. However, the period allowed shall be not less than ninety days from the day when the person bringing the recourse action has settled the claim or has been served with notice of the proceedings against himself.

§ 5. The period of limitation shall be suspended when the parties agree a conciliation procedure or when they seize the Arbitration Tribunal provided for in Title V of the Convention.

§ 6. Otherwise, suspension and interruption of the limitation period shall be governed by national law.

## **Uniform Rules concerning the Validation of Technical Standards and the Adoption of Uniform Technical Prescriptions applicable to Railway Material intended to be used in International Traffic (APTU – Appendix F to the Convention)**

### **Article 1**

#### **Scope**

These Uniform Rules lay down, for railway material intended to be used in international traffic, the procedure for the validation of technical standards and the adoption of uniform technical prescriptions.

### **Article 2**

#### **Definitions**

For the purposes of these Uniform Rules and its Annexes, the term

- a) “Contracting State” means a Member State of the Organisation which has not made a declaration in respect of these Uniform Rules in accordance with Article 42 § 1, first sentence, of the Convention;
- b) “international traffic” means the circulation of railway vehicles on railway lines over the territory of at least two Contracting States;
- c) “rail transport undertaking” means a private or public undertaking which is authorised to carry persons or goods and which ensures traction;
- d) “infrastructure manager” means an undertaking or an authority which manages railway infrastructure;
- e) “railway material” means railway material intended to be used in international traffic, in particular the railway vehicles and railway infrastructure;
- f) “railway vehicle” means a vehicle suitable for circulation on its own wheels on railway lines with or without traction;
- g) “traction unit” means a railway vehicle provided with a means of traction;
- h) “wagon” means a railway vehicle, not provided with a means of traction, which is intended to carry goods;
- i) “carriage” means a railway vehicle, not provided with a means of traction, which is intended to carry passengers;
- j) “railway infrastructure” means all the railway lines and fixed installations, so far as these are necessary for the circulation of railway vehicles and the safety of traffic;
- k) “technical standard” means a technical specification adopted by a recognised national or international standardisation body, according to the procedures applicable to it; a technical specification prepared within the framework of the European Communities shall be treated as a technical standard.
- l) “technical prescription” means a rule, other than a technical standard, relating to the construction, operation, maintenance or relating to a procedure concerning railway material;
- m) “Committee of Technical Experts” means the Committee provided for in Article 13 § 1, letter f) of the Convention.

### **Article 3**

#### **Aim**

§ 1. The validation of technical standards relating to railway material and the adoption of uniform technical prescriptions applicable to railway material shall have as its aim to

- a) facilitate the free circulation of vehicles and the free use of other railway material in international traffic,
- b) contribute to ensuring the safety, efficiency and the availability for international traffic,
- c) take account of the protection of the environment and public health.

§ 2. When technical standards are validated or uniform technical prescriptions are adopted, only those prepared at the international level shall be taken into account.

§ 3. To the extent possible

- a) it is appropriate to ensure interoperability of technical systems and components necessary for international traffic;
- b) technical standards and uniform technical prescriptions shall be performance related; if appropriate, they shall include variants.

### **Article 4**

#### **Preparation of technical standards and prescriptions**

§ 1. The preparation of technical standards and of uniform technical prescriptions concerning railway material shall be the responsibility of the bodies recognised as competent in the matter.

§ 2. The standardisation of industrial products and procedures shall be the responsibility of recognised national and international standardisation bodies.

### **Article 5**

#### **Validation of technical standards**

§ 1. An application for validation of a technical standard may be made by :

- a) any Contracting State;
- b) any regional economic integration organisation to which its Member States have transferred competence to legislate in the field of technical standards relating to railway material;
- c) any national or international standardisation body having the task of standardisation in the railway field;
- d) any representative international association for whose members the existence of technical standards relating to railway material is indispensable for reasons of safety and economy in the exercise of their activity.

§ 2. The Committee of Technical Experts shall decide whether to validate a technical standard in accordance with the procedure laid down in Articles 16, 20 and 33 § 6 of the Convention. The decisions shall enter into force in accordance with Article 35 §§ 3 and 4 of the Convention.

### **Article 6**

#### **Adoption of uniform technical prescriptions**

§ 1. An application for adoption of a uniform technical prescription may be made by :

- a) any Contracting State;
- b) any regional economic integration organisation to which its Member States have transferred competence to legislate in the field of technical prescriptions concerning railway material;
- c) any representative international association for whose members the existence of uniform technical prescriptions relating to railway material is indispensable for reasons of safety and economy in the exercise of their activity.

§ 2. The Committee of Technical Experts shall decide whether to adopt a uniform technical prescription in accordance with the procedure laid down in Articles 16, 20 and 33 § 6 of the Convention. The decisions shall enter into force in accordance with Article 35 §§ 3 and 4 of the Convention.

## **Article 7**

### **Form of applications**

Applications referred to in Articles 5 and 6 must be complete, coherent and reasoned. They must be addressed to the Secretary General of the Organisation in one of its working languages.

## **Article 8**

### **Technical Annexes**

**§ 1.** The validated technical standards and the adopted uniform technical prescriptions shall be included in the following Annexes to these Uniform Rules numbered as follows :

- a) Technical Standards and Uniform Technical Prescriptions relating to all Railway Vehicles (Annex 1);
- b) Technical Standards and Uniform Technical Prescriptions relating to Traction Units (Annex 2);
- c) Technical Standards and Uniform Technical Prescriptions relating to Wagons (Annex 3);
- d) Technical Standards and Uniform Technical Prescriptions relating to Carriages (Annex 4);
- e) Technical Standards and Uniform Technical Prescriptions relating to Infrastructure Installations other than those specified in letter f) (Annex 5);
- f) Technical Standards and Uniform Technical Prescriptions relating to Safety and Operational Control Systems (Annex 6);
- g) Technical Standards and Uniform Technical Prescriptions concerning Systems of Information Technology (Annex 7);
- h) Technical Standards and Uniform Technical Prescriptions relating to any other Railway Material (Annex 8).

**§ 2.** The Annexes shall form an integral part of these Uniform Rules. They shall be framed in accordance with the particularities of the track gauge, the loading gauge, the systems of energy supply and the safety and operational control systems in the Contracting States.

**§ 3.** The Annexes will contain the version as it will be adopted, after the entry into force of the Protocol of 3 June 1999 for the modification of the Convention, by the Committee of Technical Experts according to the same procedure as that provided for in Articles 16, 20 and 33 § 6 of the Convention for modifications of the Annexes.

## **Article 9**

### **Declarations**

**§ 1.** Any Contracting State may, within a period of four months from the day of notification of the decision of the Committee of Technical Experts by the Secretary General, make a reasoned declaration notifying him that it will not apply or will apply only partially, the validated technical standard or the adopted uniform technical prescription, so far as it concerns the railway infrastructure situated on its territory and the traffic on that infrastructure.

**§ 2.** The Contracting States which have made a declaration in accordance with § 1 shall not be taken into account in determining the number of States which must formulate an objection in accordance with Article 35 § 4 of the Convention, in order that a decision of the Committee of Technical Experts should not enter into force.

**§ 3.** A State which has made a declaration in accordance with § 1 may withdraw it at any time by notification to the Secretary General. This withdrawal shall take effect on the first day of the second month following the notification.

## **Article 10**

### **Abrogation of Technical Unity**

The entry into force of the Annexes, adopted by the Committee of Technical Experts in accordance with Article 8 § 3, in all the States parties to the 1938 version of the International Convention on the Technical Unity of Railways, signed at Berne on 21 October 1882, shall abrogate that convention.

**Article 11****Precedence of the Annexes**

**§ 1.** With the entry into force of the Annexes, adopted by the Committee of Technical Experts in accordance with Article 8 § 3, the technical standards and the uniform technical prescriptions therein shall take precedence, in relations between Contracting States, over the provisions of the 1938 version of the International Convention on the Technical Unity of Railways, signed at Berne on 21 October 1882.

**§ 2.** With the entry into force of the Annexes, adopted by the Committee of Technical Experts in accordance with Article 8 § 3, these Uniform Rules as well as the technical standards and the uniform technical prescriptions contained in its Annexes, shall take precedence, in the Contracting States, over the technical provisions

- a) of the Regulation governing the reciprocal use of carriages and brake vans in international traffic (RIC),
- b) of the Regulation governing the reciprocal use of wagons in international traffic (RIV).

**Annex 1****Technical Standards and Uniform Technical Prescriptions relating to all Railway Vehicles**

- A. Track gauge
  - 1. Railways with standard track gauge (1435 mm)
  - 2. Railways with wide track gauge (Russian) (1520 mm)
  - 3. Railways with wide track gauge (Finnish) (1524 mm)
  - 4. Railways with wide track gauge (Irish) (1600 mm)
  - 5. Railways with wide track gauge (Iberian) (1688 mm)
  - 6. Other railways
- B. Loading gauge
  - 1. Railways with normal loading gauge on the European continent
  - 2. Railways with normal loading gauge in Great Britain
  - 3. ...
- C. ...

**Annex 2****Technical Standards and Uniform Technical Prescriptions relating to Traction Units**

- A. Energy supply systems
  - 1. Direct current of 3000 V
  - 2. Direct current of 1500 V or less
  - 3. Alternating current of 25 kV / 50 Hz
  - 4. Alternating current of 15 kV / 16 2/3 Hz
- B. Safety and operational control systems
- ...

**Annex 3****Technical Standards and Uniform Technical Prescriptions relating to Wagons****Annex 4****Technical Standards and Uniform Technical Prescriptions relating to Carriages**

**Annex 5****Technical Standards and Uniform Technical Prescriptions relating to Infrastructure Installations****Annex 6****Technical Standards and Uniform Technical Prescriptions relating to Safety and Operational Control Systems****Annex 7****Technical Standards and Uniform Technical Prescriptions concerning Systems of Information Technology****Annex 8****Technical Standards and Uniform Technical Prescriptions relating to any other Railway Material**

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As a first step, the technical standards and the uniform technical prescriptions relating to railway material already existing and recognised at the international level, such as contained in Technical Unity, in RIV and RIC as well as in the technical leaflets of UIC, will be integrated in the above-mentioned Annexes.

**Uniform Rules concerning the Technical Admission of Railway Material used in International Traffic (ATMF – Appendix G to the Convention)****Article 1****Scope**

These Uniform Rules lay down, for railway vehicles and other railway material, the procedure for the admission to circulation or use in international traffic.

**Article 2****Definitions**

For the purposes of these Uniform Rules and its Annex, the term

- a) “Contracting State” means a Member State of the Organisation which has not made a declaration in respect of these Uniform Rules in accordance with Article 42 § 1, first sentence of the Convention;
- b) “international traffic” means the circulation of railway vehicles on railway lines over the territory of at least two Contracting States;
- c) “rail transport undertaking” means a private or public undertaking which is authorised to carry persons or goods and which ensures traction;
- d) “infrastructure manager” means an undertaking or an authority which manages railway infrastructure;
- e) “keeper” means the person who, being the owner or having the right to dispose of it, exploits a railway vehicle economically in a permanent manner as a means of transport;
- f) “technical admission” means the procedure carried out by the competent authority to admit a railway vehicle to circulation or other railway material to use in international traffic;
- g) “admission of a type of construction” means the procedure, relating to a type of construction of a railway vehicle, carried out by the competent authority, by which the right is granted to deliver, by a simplified procedure, an admission to operation for vehicles which correspond to that type of construction;

- h) “admission to operation” means the right granted by the competent authority for each railway vehicle to circulate in international traffic;
- i) “railway vehicle” means a vehicle suitable for circulation on its own wheels on railway lines with or without traction;
- j) “other railway material” means any railway material intended to be used in international traffic not being a railway vehicle;
- k) “Committee of Technical Experts” means the Committee provided for in Article 13 § 1, letter f) of the Convention.

### **Article 3**

#### **Admission to international traffic**

**§ 1.** Each railway vehicle must, for circulation in international traffic, be admitted in accordance with these Uniform Rules.

**§ 2.** Technical admission shall have the aim of ascertaining whether the railway vehicles satisfy

- a) the construction prescriptions contained in the Annexes to the APTU Uniform Rules,
- b) the construction and equipment prescriptions contained in the Annex to RID,
- c) the special conditions of an admission under Article 7 § 2 or § 3.

**§ 3.** §§ 1 and 2 as well as the following articles shall apply mutatis mutandis to the technical admission of other railway material and of elements of construction either of vehicles or of other railway material.

### **Article 4**

#### **Procedure**

**§ 1.** Technical admission shall be carried out

- a) either, in a single stage, by the grant of admission to operation to a given individual railway vehicle,
- b) or, in two successive stages, by the grant
  - 1. of admission of a type of construction to a given type of railway vehicle,
  - 2. then admission to operation of individual vehicles corresponding to this type of construction by a simplified procedure confirming that they are of this type.

**§ 2.** This provision shall not affect the application of Article 10.

### **Article 5**

#### **Competent authority**

**§ 1.** Technical admission of railway vehicles to circulation and of other railway material to use in international traffic shall be the task of the national or international authority competent in the matter in accordance with the laws and prescriptions in force in each Contracting State.

**§ 2.** The authorities referred to in § 1 may transfer to bodies recognised as suitable, competence to grant technical admission on condition that the authorities shall ensure their supervision. The transfer of competence to grant technical admission to a rail transport undertaking while others are excluded from that competence, shall not be allowed. Furthermore, the transfer of competence to an infrastructure manager participating directly or indirectly in the manufacture of railway material shall be prohibited.

### **Article 6**

#### **Recognition of technical admission**

Admission of a type of construction and admission to operation by the competent authority of a Contracting State in accordance with these Uniform Rules, as well as the corresponding certificates issued shall be recognised by the authorities, the rail transport undertakings and the infrastructure managers in the other Contracting States, without the need for another examination and another technical admission with a view to circulation and use on the territories of those other States.

## **Article 7**

### **Construction prescriptions applicable to vehicles**

**§ 1.** In order to be admitted to circulation in international traffic, railway vehicles must satisfy

- a) the construction prescriptions contained in the Annexes to the APTU Uniform Rules,
- b) the construction and equipment prescriptions contained in the Annex to RID.

**§ 2.** In the absence of provisions in the Annexes to the APTU Uniform Rules, technical admission shall be based on the generally recognised technical rules. A technical standard, even if it has not been validated in accordance with the procedure laid down in the APTU Uniform Rules, shall constitute the proof that the know-how contained in that standard represents a generally recognised technical rule.

**§ 3.** In order to permit technical developments, derogations from the generally recognised technical rules and from the construction prescriptions of the Annexes to the APTU Uniform Rules shall be allowed on condition that proof exists

- a) that at least the same level of safety as when those rules and those prescriptions are observed,
- b) and also that interoperability remain assured.

**§ 4.** When a Contracting State intends to admit, in accordance with § 2 or § 3, a railway vehicle it shall inform the Secretary General of the Organisation without delay. He shall notify the other Contracting States of this. Within one month after the reception of the notification by the Secretary General, a Contracting State may ask for the convocation of the Committee of Technical Experts in order that it ascertains whether the conditions for the application of § 2 or § 3 are fulfilled. The Committee shall reach its decision on this within three months after the receipt, by the Secretary General, of the request for convocation.

## **Article 8**

### **Construction prescriptions applicable to other material**

**§ 1.** In order to be admitted to use in international traffic other railway material must satisfy the construction prescriptions contained in the Annexes to the APTU Uniform Rules.

**§ 2.** Article 7 §§ 2 to 4 shall apply mutatis mutandis.

**§ 3.** The obligations of the Contracting States, arising for them from the European Agreement on the Great International Railway Lines (AGC) of 31 May 1985 and from the European Agreement on the Great International Combined Transport Routes and Connected Installations (AGTC) of 1 February 1991, to which they also are Contracting Parties, shall remain unaffected.

## **Article 9**

### **Operation prescriptions**

**§ 1.** The rail transport undertakings which operate railway vehicles admitted to circulation in international traffic shall be required to comply with the prescriptions relating to the operation of a vehicle in international traffic, specified in the Annexes to the APTU Uniform Rules.

**§ 2.** The undertakings and administrations which manage infrastructure in the Contracting States, including operational safety and control systems, intended and suitable for operation in international traffic, shall be required to comply with the technical prescriptions specified in the Annexes to the APTU Uniform Rules and satisfy them permanently in respect of the construction and the management of that infrastructure.

## **Article 10**

### **Technical admission**

**§ 1.** The grant of technical admission (admission of a type of construction, admission to operation) shall be attached to the type of construction of a railway vehicle or to the railway vehicle.

**§ 2.** An application for technical admission may be made by :

- a) the manufacturer,
- b) a rail transport undertaking,
- c) the keeper of the vehicle,

d) the owner of the vehicle.

The application may be made to any competent authority, referred to in Article 5, of one of the Contracting States.

**§ 3.** A person who applies for an admission to operation for railway vehicles by the simplified procedure of technical admission (Article 4 § 1, letter b)), must attach to his application the certificate of admission of a type of construction, established in accordance with Article 11 § 2, and demonstrate in an appropriate manner that the vehicles for which he is applying for admission to operation correspond to that type of construction.

**§ 4.** Technical admission must be granted irrespective of the quality of the applicant.

**§ 5.** Technical admission shall be granted in principle for an unlimited period; it can be general or limited in scope.

**§ 6.** An admission of a type of construction may be withdrawn when safety, public health or respect for the environment are no longer assured with the circulation of railway vehicles which have been or are to be built in conformity with that type of construction.

**§ 7.** Admission to operation may be withdrawn

- a) when the railway vehicle no longer satisfies the construction prescriptions contained in the Annexes to the APTU Uniform Rules, the special conditions of its admission under Article 7 § 2 or § 3 or the construction and equipment prescriptions contained in the Annex to RID and if the keeper does not comply with the requirement of the competent authority to remedy the defects within the prescribed time;
- b) when stipulations and conditions, resulting from a limited admission under § 5, are not fulfilled or complied with.

**§ 8.** Only the authority which has granted the admission of a type of construction or the admission to operation may withdraw it.

**§ 9.** The admission to operation shall be suspended

- a) when technical checks, inspections, maintenance and servicing of the railway vehicle prescribed in the Annexes to the APTU Uniform Rules, in the special conditions of admission pursuant to Article 7 § 2 or § 3 or in the construction and equipment prescriptions contained in the Annex to RID are not carried out;
- b) if in case of severe damage to a railway vehicle the order of the competent authority to present the vehicle is not complied with;
- c) in case of non-compliance with these Uniform Rules and prescriptions contained in the Annexes to the APTU Uniform Rules;
- d) when the competent authority so decides.

**§ 10.** The admission to operation shall become void when the railway vehicle is withdrawn from service. This withdrawal from service must be notified to the competent authority which has granted the admission to operation.

**§ 11.** In the absence of provisions in these Uniform Rules the procedure of technical admission shall be governed by the national law of the Contracting State in which an application for technical admission is made.

## **Article 11**

### **Certificates**

**§ 1.** The admission of a type of construction and the admission to operation shall be evidenced by separate documents called : “Certificate of admission of a type of construction” and “Certificate of admission to operation”.

**§ 2.** The certificate of admission of a type of construction must specify :

- a) the manufacturer of the type of construction of a railway vehicle;
- b) all the technical characteristics necessary to identify the type of construction of a railway vehicle;
- c) if appropriate, the special conditions of circulation for the type of construction of a railway vehicle and for railway vehicles which correspond to this type of construction.

**§ 3.** The certificate of admission to operation must specify :

- a) the keeper of the railway vehicle;

- b) all the technical characteristics necessary to identify the railway vehicle; this may also be done by reference to the certificate of admission of a type of construction;
- c) if appropriate, the special conditions of circulation for the railway vehicle;
- d) if appropriate, the period of its validity;
- e) the servicing of a railway vehicle prescribed in the Annexes to the APTU Uniform Rules, in the special conditions of an admission under Article 7 § 2 or § 3 or in the construction and equipment prescriptions contained in the Annex to RID as well as the other technical examinations relating to elements of construction and to specified equipment of the vehicle.

§ 4. The certificates must be printed in at least two languages of which one at least must be chosen from among the working languages of the Organisation.

## **Article 12**

### **Uniform models**

§ 1. The Organisation shall prescribe uniform models of “Certificate of admission of a type of construction” and of “Certificate of admission to operation”. They shall be prepared and adopted by the Committee of Technical Experts.

§ 2. Article 35 §§ 1 and 3 to 5 of the Convention shall apply *mutatis mutandis*.

## **Article 13**

### **Data bank**

§ 1. A data bank concerning railway vehicles admitted to circulation in international traffic shall be established and updated under the responsibility of the Organisation.

§ 2. The competent authorities, or if appropriate the bodies authorised by them to admit a railway vehicle to operation, shall transmit to the Organisation, without delay, the data necessary for the purposes of these Uniform Rules relating to vehicles admitted to circulation in international traffic. The Committee of Technical Experts shall establish which are the necessary data. Only those data shall be registered in the data bank. In all cases, withdrawals from service, official immobilisations, withdrawals of admission to operation and modifications to a vehicle which derogate from the admitted type of construction shall be notified to the Organisation.

§ 3. The data registered in the data bank shall only be considered as *prima facie* evidence of the technical admission of a railway vehicle.

§ 4. The registered data may be consulted by :

- a) the Contracting States,
- b) the rail transport undertakings engaged in international traffic having their place of business in a Contracting State,
- c) the infrastructure managers having their place of business in a Contracting State on whose infrastructure international traffic is carried out,
- d) the manufacturers of railway vehicles, so far as concerns their vehicles,
- e) the keepers of railway vehicles, so far as concerns their vehicles.

§ 5. The data to which the persons entitled referred to in § 4 have access as well as the conditions of that access shall be defined in an Annex to these Uniform Rules. This Annex shall be an integral part of these Uniform Rules. The text of this Annex shall be that decided by the Revision Committee according to the procedure referred to in Articles 16, 17 and 33 § 4 of the Convention.

## **Article 14**

### **Inscriptions and signs**

§ 1. Railway vehicles admitted to operation must bear

- a) a sign, which establishes clearly that they have been admitted to operation in international traffic according to these Uniform Rules, and
- b) the other inscriptions and signs prescribed in the Annexes to the APTU Uniform Rules.

§ 2. The Committee of Technical Experts shall lay down the sign provided for in § 1, letter a) and the transitional periods during which the railway vehicles admitted to circulation in international traffic may bear inscriptions and signs derogating from those prescribed according to § 1.

§ 3. Article 35 §§ 1 and 3 to 5 of the Convention shall apply mutatis mutandis.

#### **Article 15**

##### **Maintenance**

The railway vehicles and the other railway material must be in a good state of maintenance in such a way that their condition would not compromise in any way operational safety and would not harm the environment and public health by their circulation or their use in international traffic. To that end, the railway vehicles must be submitted for the servicing and the maintenance operations prescribed in the Annexes to the APTU Uniform Rules, in the special conditions of an admission under Article 7 § 2 or § 3 or in the construction and equipment prescriptions contained in the Annex to RID.

#### **Article 16**

##### **Accidents and severe damage**

§ 1. In case of accident or severe damage to railway vehicles, the infrastructure managers, if appropriate in common with the keepers and the transport undertakings concerned, shall be required

- a) to take, without delay, all necessary measures to ensure the safety of railway traffic, respect for the environment and public health and
- b) to establish the causes of the accident or the severe damage.

§ 2. A vehicle shall be considered severely damaged when it cannot be repaired by a simple operation which would allow it to be joined in a train and to circulate on its own wheels without danger for the operations.

§ 3. The accidents and severe damage shall be notified, without delay, to the authority which admitted the vehicle to circulation. That authority may require the damaged vehicle to be presented, possibly already repaired, for examination of the validity of the admission to operation which has been granted. If appropriate, the procedure concerning the grant of admission to operation must be repeated.

§ 4. The competent authorities of the Contracting States shall inform the Organisation of the causes of accidents and severe damage in international traffic. The Committee of Technical Experts may, at the request of a Contracting State, examine the causes of serious accidents in international traffic with a view possibly to developing the construction and operation prescriptions for railway vehicles and other railway material contained in the Annexes to the APTU Uniform Rules.

#### **Article 17**

##### **Immobilisation and rejection of vehicles**

The competent authority referred to in Article 5, another rail transport undertaking or an infrastructure manager may not reject or immobilise railway vehicles if these Uniform Rules, the prescriptions contained in the Annexes to the APTU Uniform Rules, the special conditions of admission under Article 7 § 2 or § 3 as well as the construction and operation prescriptions contained in the Annex to RID, have been complied with.

#### **Article 18**

##### **Non-compliance with the prescriptions**

§ 1. Subject to § 2 and Article 10 § 9, letter c), the juridical consequences resulting from failure to comply with these Uniform Rules and the prescriptions of the Annexes to the APTU Uniform Rules, shall be regulated by the national law of the Contracting State of which the competent authority has granted the admission to operation, including the rules relating to conflict of laws.

§ 2. The consequences in civil and penal law, resulting from failure to comply with these Uniform Rules and the prescriptions of the Annexes to the APTU Uniform Rules, shall be regulated, so far as concerns the infrastructure, by the national law of the Contracting State in which the infrastructure manager has his place of business, including the rules relating to conflict of laws.

#### **Article 19**

##### **Disputes**

Two or more Contracting States, which have a dispute relating to the technical admission of railway vehicles and other railway material intended to be used in international traffic, may refer it to the

Committee of Technical Experts if they have not succeeded in resolving it by direct negotiation. Such disputes may also be submitted, in accordance with the procedure specified in Title V of the Convention, to the Arbitration Tribunal.