

**Annex 1 to the Convention
on International Through
Railway Traffic**

**GENERAL PROVISIONS ON THE CONTRACT OF CARRIAGE OF
GOODS IN INTERNATIONAL TRAFFIC**

**Article 1
Definitions**

For the purposes of these General Provisions on the Contract of Carriage of Goods in International Traffic (hereinafter 'General Provisions'), the following terms shall be defined as set out below:

Road vehicle – a laden motor vehicle, road train or trailer or an unladen motor vehicle, road train or trailer, before or after use for the carriage of goods by rail;

Tariff currency – the currency unit in which the tariff rate is expressed;

Goods – any merchandize, wagons as transportation vehicles not owned by the carrier, and other physical objects accepted for carriage under a formal contract of carriage;

Contractual carrier – a carrier who has concluded a contract of carriage with a consignor in accordance with these General Provisions;

Railway – infrastructure located in the territory of one State;

Intermodal transport unit (ITU) – container, swap body or semi-trailer intended for the carriage of goods by two or more modes of transport without transshipment of the goods during the change of transport mode;

Infrastructure (railway infrastructure) – a technological complex including public railway lines, railway stations and other structures and equipment ensuring the functioning of this complex, using which carriers perform the carriage of goods;

Penalty (fine) – a fixed sum of money or a sum of money expressed as a

percentage of the amount of obligation which one party to a contract of carriage has to pay to the other party in the event of failure to fulfil obligations under the contract of carriage;

Consignor – a person who has presented goods for carriage and is indicated in the consignment note as the consignor of the goods;

Consignment – goods accepted for carriage from a single consignor at a single station of origin to a single consignee at a single station of destination under a single consignment note;

Carriage of goods – carriage of goods in international through railway traffic and carriage of goods in international through railway-ferry traffic;

Carriage of goods in international through railway traffic – carriage of goods by rail on the territory of two or more States under a single document (consignment note) issued for the whole route;

Carriage of goods in international through railway-ferry traffic – carriage of goods in international through railway traffic assisted by waterway transport provided that the cargo travels in a wagon or on its own axles from the departure station to the destination station;

Loading tackle – equipment intended for the stowing, fastening and safekeeping of goods being carried;

Carrier – the contractual carrier and all successive carriers involved in the carriage of goods, including on a waterway section of route in international railway-ferry traffic;

Seal – a control element being a component part of a single structure, the integrity of which confirms that no access has been gained to the goods through the sealed structural openings in a wagon, ITU or road vehicle. A seal is also understood to mean a locking and sealing device;

Successive carrier – a carrier which, acceding to the contract of carriage (concluded by a contractual carrier), accepts the goods from the contractual carrier or other successive carrier for their further transportation;

Consignee – a person who is indicated in the consignment note as the person receiving the goods;

Carriage charges – payments including carriage fares, fares for an accompanying person or road train driver, supplementary charges and other payments arising in the period between the conclusion of the contract of carriage and the delivery of goods to the consignee, including charges in connection with transshipment of goods or changeover of bogies;

Party – a State which is a party to the Convention on International Through Railway Traffic;

Tariff – a system of rates and the rules for calculating carriage charges that determine the amount of carriage charges;

Third State – a State not applying these General Provisions;

Infrastructure Manager – a person who renders services to carriers relating to the use of infrastructure;

Participant in carriage – the consignor, carrier or consignee.

Electronic document – a legal document created in an electronic format and containing all the data required for the corresponding paper document completed under these General Provisions.

Article 2

Application of these General Provisions

§ 1. These General Provisions establish a common legal basis for contracts for the carriage of goods in international through railway traffic and international through railway-ferry traffic.

§ 2. The carriage of goods in international through railway traffic shall take place between stations that are open for freight operations in accordance with the national law of the Parties, and in international through railway-ferry traffic, including a waterway section of the route which the Parties have declared open for such carriage.

§ 3. If the Parties are at the same time parties to other international agreements establishing the legal norms for the contract of carriage of goods by rail, traffic between stations of the railways of these Parties may be performed under the terms of those agreements.

Article 3

Method of carriage

If the station of departure and the station of destination of the goods are located on the railways of different gauges, carriage may, depending on the technical possibilities available, be effected by the following means: transshipment of goods from wagons of the one gauge to wagons of the other gauge, changing over the wagons onto bogies of the other gauge or using the wheelsets of adjustable gauge.

Article 4
Partial invalidity and severability

Any condition of a contract of carriage directly or indirectly contravening the conditions laid down in these General Provisions shall be null and void and of no legal force, except as expressly provided in these General Provisions. The nullity of such conditions shall not entail the nullity of other terms of the contract of carriage.

Article 5
Pre-contractual coordination of carriage

Pre-contractual coordination of the carriage of goods shall take place pending the conclusion of a contract of carriage in the following manner:

- between the consignor and the contractual carrier – in accordance with national law;
- between the contractual carrier and successive carriers – in accordance with the procedure agreed by them.

Article 6
Rules governing the carriage of goods

§ 1. The procedure for applying the terms of these General Provisions and special conditions for the carriage of various types of goods shall be determined by the Rules for the Carriage of Goods.

Special conditions for the carriage of goods may be established by means of a contract between the consignor, consignee and all carriers involved in carriage. Such special conditions shall take precedence over the conditions set out in the Rules for the Carriage of Goods.

§ 2. The Rules for the Carriage of Goods shall set out detailed standard solutions and procedures ensuring uniform interpretation and application of the Articles of these General Provisions.

CONTRACT OF CARRIAGE

Article 7
Contract of carriage

§ 1. Under the contract of carriage, the carrier shall undertake, for a fee, to carry the goods entrusted to it by the consignor to the destination station over the route agreed by the consignor and the contractual carrier and to deliver them to the consignee.

§ 2. The carrier shall perform the carriage of goods under the terms of these General Provisions provided that:

- 1) the carrier or consignor has at its disposal the means of transport necessary for such carriage;
- 2) the consignor complies with the terms of these General Provisions;
- 3) carriage is not prevented by circumstances which the carrier cannot prevent and the elimination of which is beyond its control;
- 4) carriage is coordinated among carriers for the route taken by the goods.

§ 3. The conclusion of the contract of carriage shall be confirmed by a consignment note.

§ 4. Incorrect or inaccurate information entered in the consignment note, as well as the loss of the consignment note by the carrier shall affect neither the existence nor the validity of the contract of carriage.

§ 5. Each successive carrier, by taking over the goods for carriage, together with the consignment note, thereby accedes to this contract of carriage and shall assume the obligations arising therefrom.

§ 6. Wagons to be used for the carriage of the goods shall be provided by the carrier or consignor.

Wagons provided for the carriage shall be approved for international carriage.

§ 7. All parties involved in a carriage may exercise their rights and obligations using either paper or electronic documents.

Electronic documents may be used provided that agreements thereon exist between the carriers involved in the carriage.

Article 8

Consignment note

§ 1. The consignment note must contain the following information:

- 1) name and postal address of the consignor;
- 2) name and postal address of the consignee;
- 3) name of the contractual carrier;
- 4) name of the railway and station of departure;
- 5) name of the railway and station of destination;
- 6) names of the border stations;
- 7) designation of the goods and their code;
- 8) consignment number;
- 9) type of packaging;
- 10) number of packages;
- 11) mass of the goods;
- 12) wagon (container) number, who assigned the wagon for the carriage of goods (the consignor or the carrier);
- 13) a list of accompanying documents enclosed by the consignor to the consignment note;
- 14) information on payment of carriage charges;

- 15) number of seals and their signs;
- 16) method for determination of the mass of goods;
- 17) date of the contract of carriage.

§ 2. The consignment note shall, where appropriate, contain the following particulars in addition to the information listed in §1 of this Article:

- 1) the names of successive carriers;
- 2) the consignor's declarations concerning the goods;
- 3) the port railway stations and the ports for the transfer to transport by water;
- 4) other particulars provided for in the Rules for the Carriage of Goods.

§ 3. Consignment note blank forms shall be printed and completed in one of the official languages of the OSJD.

Consignment note blank forms, as well as the entries in all or some fields of the consignment note, may contain translation into another language.

By agreement between participants in the carriage, the consignment note may be completed in any other language.

§ 4. The consignment note may be completed as a paper document (paper consignment note) or an electronic document (electronic consignment note).

Article 9

Responsibility for particulars entered in the consignment note

§ 1. The consignor shall ensure the correctness of the particulars and statements it enters in the consignment note. It shall bear responsibility for all the consequences in the event of those particulars and statements being incorrect, inaccurate or incomplete, or made elsewhere than in the allotted field of the consignment note. If, in accordance with the provisions of these General Provisions, the carrier enters the consignor's statements in the consignment note, it shall be deemed to have done so on behalf of the consignor unless the contrary is proved.

§ 2. If, before the conclusion of the contract of carriage, the carrier detects incorrect, inaccurate or incomplete particulars in the consignment note, the consignor shall produce a new consignment note if the Rules for the Carriage of Goods do not permit correction of particulars and statements in the consignment note.

§ 3. The consignor shall pay the carrier a penalty if, after a contract of carriage has been concluded, the carrier finds particulars and statements furnished by the consignor in the consignment note to be incorrect, inaccurate or incomplete and, at the same time, establishes that:

- 1) the goods include articles that are not allowed to pass through the State border in at least one of the States on whose territory they would have to be carried;
- 2) dangerous goods have been accepted for carriage in violation of their conditions of carriage;

- 3) in the process of loading by the consignor, overloading of the wagon beyond its carrying capacity has been allowed;
- 4) the amount of carriage charges has been underestimated;
- 5) circumstances jeopardising the safety of traffic have arisen.

A penalty provided for in subparagraphs 1, 2, 4 or 5 of this paragraph shall be imposed in accordance with the provisions of Article 24 'Payment of carriage charges and penalties' of these General Provisions in an amount equal to five times the fare payable to the carrier who ascertained such an infringement.

The penalty relating to subparagraph 3 of this paragraph shall be imposed in accordance with the provisions of Article 24 'Payment of carriage charges and penalties' of these General Provisions in the amount of five times the fare for the carriage of the excess mass of goods due to the carrier who detected the excess.

The carrier shall be entitled to impose the penalties provided for in this paragraph, regardless of indemnification for possible damages and other penalties to be paid by the consignor or consignee in accordance with the terms of these General Provisions.

Article 10

Declaration of value of goods

§ 1. By agreement between the carrier and the consignor, the carriage of goods may be performed with a declaration of the value of goods.

§ 2. The carrier shall have the right to demand a supplementary payment for the declaration of the value of goods.

Article 11

Unit containers, packaging and marking

§ 1. Goods requiring unit containers or packaging to protect them from loss, damage, spoilage and reduction of quality during carriage, to prevent damage to and contamination of transport vehicles or other goods, as well as to avoid causing harm to human health, animals, the environment and railway infrastructure, shall be presented for carriage in unit containers or packaging that meet these requirements.

§ 2. The consignor shall ensure the correctness of markings, labels or tags applied or attached to cargo packages, as well as of labels affixed by the consignor to wagons, ITUs and road vehicles.

§ 3. If shortcomings are detected during external inspection of unit containers (packaging) of goods presented for carriage, raising concerns about the impossibility of transshipment, total or partial loss of, or damage to (spoilage of) goods and transport vehicles, the carrier shall refuse to accept the goods for carriage or shall accept them for carriage subject to special contractual conditions.

If the condition of unit containers or packaging of goods precludes further carriage, the goods shall be handled in accordance with the provisions of Article 21 'Impediments to carriage and delivery of goods' of these General Provisions.

§ 4. The consignor shall be liable for the consequences of the absence or defective condition of unit containers or packaging, and for the consequences of the absence or irregularity of markings, labels or tags, and shall in particular make good any damage caused to the carrier as a result of this.

Article 12

Loading of goods and determination of their mass

§ 1. Goods shall be loaded onto wagons that are in good working order, suitable for the carriage of such goods and clean.

§ 2. The national law of the country of departure shall determine who is to load the goods onto the wagon: the carrier or the consignor.
The loading of goods onto ITUs and road vehicles shall be carried out by the consignor.

§ 3. The person carrying out the loading shall be responsible for establishing the suitability of the wagons for the carriage of the specific goods, for compliance with technical requirements regarding the stowage and fastening of goods in wagons, ITUs and road vehicles, and also for all the consequences of defective loading.

§ 4. If the consignment note contains no information as to who loaded the goods, they shall be deemed to have been loaded by the consignor.

§ 5. The mass of goods shall be determined in accordance with the Rules for the Carriage of Goods.

Article 13

Sealing

§ 1. Seals which cannot be removed without damaging them shall be used for sealing. Seals must be affixed in such a way as to exclude the possibility of access to the goods without damaging them.

§ 2. The requirements to be met by seals and the markings on them shall be laid down by the Rules for the Carriage of Goods.

§ 3. Serviceable seals affixed to wagons, ITUs or road vehicles in third States shall be deemed equivalent to seals affixed in accordance with these General Provisions.

Article 14
Acceptance of goods for carriage

Goods shall be accepted for carriage by the contractual carrier.

Article 15
Completion of administrative formalities

§ 1. The consignor shall attach to the consignment note the accompanying documents necessary for the completion of customs and other administrative formalities over the entire route. These documents shall refer only to those goods which appear in the consignment note in question.

If the consignor does not attach to the consignment note a document that is necessary for the completion of administrative formalities and send it to the relevant administrative inspection body, it shall include information about this in the consignment note.

§ 2. The carrier shall not be obliged to check whether the accompanying documents attached by the consignor to the consignment note are correct and sufficient.

§ 3. The consignor shall be liable to the carrier for consequences resulting from the absence, insufficiency or incorrectness of the accompanying documents.

§ 4. Accompanying documents which the consignor has attached to the consignment note shall be listed by the consignor in the consignment note.

If the consignor has not complied with the provisions of this paragraph, the contractual carrier shall refuse to accept the goods for carriage.

§ 5. If the carriage or delivery of the goods is delayed because the consignor has not submitted the necessary accompanying documents or the documents it has submitted and listed in the consignment note are inadequate or incorrect, the carrier shall be paid the resulting additional carriage charges and costs as well as the penalties provided for by national law as laid down in Article 24 'Payment of carriage charges and penalties' of these General Provisions.

§ 6. Opening a wagon, ITU or road vehicle for border, customs, sanitary, veterinary, phytosanitary and other controls shall be recorded by the carrier by means of a report of opening.

§ 7. Intact seals of customs authorities or of the carrier, affixed after border, customs, sanitary, veterinary, phytosanitary and other types of checks, shall be treated as equivalent to the seals originally attached.

Article 16

Verification of goods

§ 1. The carrier shall be entitled to verify whether the consignor has complied with the conditions of carriage and whether the consignment corresponds to the particulars furnished by the consignor in the consignment note. Verification shall be carried out in accordance with the procedure laid down by national law.

§ 2. If the consignor has not complied with the conditions of carriage or the consignment does not match the information supplied by the consignor in the consignment note, the carrier shall, in the manner provided for in Article 24 'Payment of carriage charges and penalties' and in Article 25 'Additional costs associated with the carriage of goods' of these General Provisions, be compensated for all costs resulting from the verification and substantiated by supporting documents.

Article 17

Goods delivery period

§ 1. Save where otherwise agreed by the consignor and the carrier, the delivery period shall be determined for the whole of the route followed by the goods and must not exceed the period calculated on the basis of the rates established in this Article.

§ 2. The goods delivery period shall be determined on the basis of the following rates:

- for containers: 1 day (24 hours) per 150 km or part thereof;
- for other consignments: 1 day (24 hours) per 200 km or part thereof.

Delivery periods shall be set by the carrier for the goods requiring a speed restriction due to their technical characteristics, out-of-gauge goods and goods travelling on special trains with a separate locomotive.

For goods being moved in international through railway-ferry traffic, the delivery period for the waterway section of the journey shall be set by the carrier performing the carriage on that section of the journey.

§ 3. The goods delivery period shall increase by one day for operations connected with shipment of the goods.

The goods delivery period shall increase by two days:

- each time the goods are transhipped to wagons of a different gauge;
- each time wagons or cargo on its own axles are changed over to bogies of another gauge;
- for the carriage of goods in international through railway-ferry traffic.

§ 4. The delivery period shall be extended for the duration of any delay en route for reasons beyond the control of the carrier.

§ 5. The duration of the goods delivery period shall begin at 00:00 on the day following the day on which the contract of carriage is concluded, and shall end when the consignee is given notice that the goods have arrived, an incomplete day (24-hour

period) being counted as a full day.

§ 6. Where the goods are distributed en route, the delivery period shall be calculated for that portion of the goods which has arrived according to the consignment note.

§ 7. The delivery period shall be deemed to have been complied with if the goods have arrived at the destination station before the period has expired and the carrier notifies the consignee that the goods have arrived and can be handed over to the consignee. The procedure for notifying the consignee shall be determined by the national law in force at the place where delivery takes place.

Article 18

Amendment of the contract of carriage

§ 1. The consignor and the consignee shall have the right to give instructions to the carrier in respect of the goods and thereby amend the contract of carriage. The consignor shall contact the contractual carrier, and the consignee shall contact the carrier delivering the goods.

§ 2. The consignor may make the following amendments to the contract of carriage:

- 1) change the destination station;
- 2) change the consignee of the goods.

§ 3. The consignee may make the following amendments to the contract of carriage only within the country of destination:

- 1) change the destination station;
- 2) change the consignee of the goods.

The consignee may amend the contract of carriage in accordance with the terms of these General Provisions only as long as the goods are at the border station of entry into the country of destination.

Where the goods have already passed through the border station of entry into the country of destination, amendment of the contract of carriage by the consignee shall be subject to the national law in force in the country of destination.

§ 4. No amendment of the contract of carriage which results in the splitting of the consignment shall be permitted.

§ 5. The consignor's right to amend the contract of carriage shall cease when the consignment note is delivered to the consignee or the goods have arrived at the border station of entry into the country of destination, if the carrier already has a written declaration by the consignee concerning amendment of the contract of carriage.

§ 6. From the time when the contract of carriage is amended by the consignee, the consignor's obligations under the contract of carriage shall extend to it.

§7. The consignor shall not be liable for any consequences arising from the amendment of the contract of carriage made on the basis of the consignee's declaration.

§ 8. The carrier shall have the right to refuse to amend the contract of carriage or delay the implementation of the amendment only in cases where:

1) it is not feasible for the carrier at the time of receiving the declaration concerning the amendment of the contract of carriage;

2) it may interfere with the operation of the railway;

3) in the case of a change of destination station, the value of the goods will not cover all the estimated charges associated with carriage to the new destination station, unless the amount of such charges is paid or guaranteed immediately.

4) in the case of a change of destination station, the carriers indicated in the consignment note are changed and the new carriers have not agreed to perform carriage.

§ 9. The carrier shall have the right to demand payment of additional carriage costs and the costs arising due to the amendment of the contract of carriage.

Article 19 **Delivery of goods**

§ 1. On arrival of the goods at the destination station, the carrier shall deliver the consignment note and the goods to the consignee and the consignee shall accept the goods and the consignment note.

§ 2. The consignee may refuse to accept the goods only in cases where, through the fault of the carrier, the quality of the goods has changed so much that they can no longer be used, either in part or in whole, for the original purpose.

§ 3. The consignment note and the goods shall be delivered after the consignee has paid all carriage charges payable to the carrier, save where otherwise stipulated in the agreement between them. The consignee shall be obliged to pay the carriage charges for all of the goods specified in the consignment note even if part of the goods specified in the consignment note is missing.

§ 4. Where the consignment is unloaded by the consignee, the carrier shall take part in verification of the number of packages or the condition or mass of the goods if:

1) the goods have arrived at the destination station showing signs that access may have been gained to the goods in a wagon, ITU or road vehicle with intact seals of the consignor, bearing markings corresponding to those indicated in the consignment note;

2) the goods have arrived at the destination station in a wagon, ITU or road vehicle with lost seals, damaged seals or seals bearing markings not corresponding to those indicated in the consignment note; the carrier shall, however, be entitled to refuse to take part in verifying the goods if even one undamaged seal of the consignor,

preventing access to the goods and bearing markings corresponding to those shown in the consignment note, is still in place;

3) goods transported in open rolling stock show signs of shortage, damage or spoilage which can be determined by external visual inspection;

4) perishable goods have arrived upon expiry of the delivery period;

5) the carrier has not adhered to the temperature regime for carriage in the refrigerated wagons it operates;

6) the goods were loaded by the carrier.

§ 5. When returning a wagon/container after unloading the goods, the consignee shall return it to the carrier in a clean condition.

Article 20 Presumption of loss of goods

§ 1. If the goods have not been delivered to the consignee within 10 days upon the expiry of the goods delivery period, the consignor or the consignee shall have the right to apply, respectively, to the contractual carrier or the carrier delivering the goods for the goods to be traced. Applying for the goods to be traced shall not be regarded as lodging a claim for loss of the goods.

§ 2. The goods shall be deemed lost if they have not been delivered to the consignee within 30 days upon expiry of the goods delivery period.

§ 3. If the goods have arrived at the destination station after 30 days have elapsed since the delivery period expired, the carrier must notify the consignee accordingly. The consignee must accept the goods if they arrive no later than six months upon the

expiry of the delivery period, and return to the carrier the amounts which the carrier had paid him as compensation for the loss of goods, the refund of carriage charges and other costs of carriage.

If the compensation was paid to the consignor, the consignor must return the amount of the compensation to the carrier.

Nevertheless, the right shall remain to claim a penalty from the carrier for exceeding the goods delivery period and to claim compensation from it for insufficient mass, damage (spoilage), or reduction of the quality of the goods.

Article 21 Obstructions to carriage and delivery of goods

§ 1. If, for reasons beyond the carrier's control, an obstruction to the carriage of goods arises, the carrier shall decide whether to obtain instructions from the consignor or to transport the consignment to the destination station with modification of the original route.

§ 2. If the carrier, for reasons beyond its control, cannot transport the goods with modification of the original route, continue carriage, or deliver the goods to the consignee, the carrier shall immediately ask for instructions from the consignor.

§ 3. If, within eight days after the forwarding the application to the consignor, or within three days in the case of perishable goods and within two days in the case of animals, the consignor fails to give instructions as to what to do with the goods or gives instructions which cannot be carried out, the carrier shall have the right to dispose of the goods.

§ 4. The carrier shall have the right to dispose of the goods without observing the deadlines set forth in § 3 of this Article if the condition of the goods calls for urgent action.

§ 5. If the consignor has given instructions in the consignment note as to what to do with the goods in the event of impediments to carriage and delivery of the goods, the carrier shall act accordingly. If the carrier decides that such instructions cannot be carried out, the provisions of § 1-3 of this Article shall apply.

§ 6. If the obstruction to the carriage and delivery of goods arose for reasons beyond the carrier's control, the carrier shall be paid the additional carriage charges and costs it has incurred in connection with the obstruction, as well as penalties where these are provided for by national law.

Article 22 Formal Report

§ 1. The carrier shall draw up a formal report if, on verification of the goods during their carriage or delivery, it finds:

1) discrepancies between the name, mass or number of cargo packages and the particulars specified in the consignment note;

2) discrepancies between the marking of cargo packages and the particulars specified in the consignment note concerning the marking of cargo packages, the station and the railway of destination, the consignee and the number of cargo items;

3) damage to (spoilage of) goods;

4) that the consignment note, or any of its separate sheets concerning the goods in question, or goods listed in the consignment note in question are missing (lost).

§ 2. If, under the national law of the country of destination of the goods, a formal report can be drawn up after the goods have been delivered to the consignee, the consignee shall be entitled to ask the carrier which delivered the goods to draw up a formal report for a reason which could not have been detected by means of external inspection when the goods were delivered. Such a request to the carrier which delivered the goods shall be made by the consignee immediately after establishing loss

or shortage of, damage to (spoilage of) goods, and within three days upon the delivery of the goods at the latest.

Article 23 **Calculation of carriage charges**

§ 1. Carriage charges shall be calculated in accordance with the tariffs applied by the carriers performing the carriage.

§ 2. Carriage charges shall be calculated separately by each carrier involved in the carriage, for the carriage distances and in the currency to be determined in accordance with the applicable tariffs for the international carriage in question.

Carriage charges for a waterway section of the journey shall be calculated in accordance with the tariff applicable to the carriage concerned.

§ 3. Carriage charges shall be calculated in accordance with the tariffs applicable on the day on which the contract of carriage is concluded.

§ 4. When a wagon is found to be loaded beyond its carrying capacity or the maximum static load exerted by a wheelset of the wagon on the rails is found to be exceeded, the charges for carriage of the surplus mass of goods, unloaded onto a separate wagon shall be calculated as for a separate consignment according to the tariffs applicable on the day on which the excess load was discovered.

§ 5. When a consignment note is found to contain incorrect, inaccurate or incomplete information, the carrier who found this discrepancy and successive carriers shall calculate the carriage charges for the goods actually carried.

§ 6. If, in the event of obstructions to the carriage of goods for reasons not attributable to the carrier, the route of carriage of the goods has been changed, the carriage charges shall be calculated for carriage as to the modified route.

§ 7. If, for the transshipment of a consignment from one wagon en route, for reasons not attributable to the carrier, two or more wagons of the same gauge are required, the carriage charges for the goods loaded onto each of the wagons shall be calculated as for a separate consignment.

§ 8. If, at a station which is a connecting station for railways of different gauges, the transshipment of a consignment from one wagon of one gauge requires two or more wagons of another gauge, the carrier shall have the right to calculate the carriage charges for the goods loaded into each of the wagons separately as for separate consignments.

§ 9. Where the contract of carriage is modified, the carriage charges shall be calculated separately for the distance to the station where the contract of carriage was modified, and the distance from that station to the new destination station.

Article 24

Payment of carriage charges and penalties

§ 1. Save where otherwise stipulated in an agreement between the parties to the carriage, carriage charges shall be paid:

- 1) by the consignor to the carriers involved in the carriage of the goods, except for the carrier delivering the goods, for the carriage performed by those carriers;
- 2) by the consignee to the carrier delivering the goods, for the carriage performed by that carrier.

The same procedure shall apply with regard to penalties.

§ 2. If the consignor or the consignee assigns fulfilment of their obligations under § 1 of this Article to a third party, that third party shall be specified by the consignor in the consignment note as the payer and have a contract with the relevant carrier.

§ 3. If the consignee has neither taken over the goods nor exercised the rights provided for in § 3 of Article 18 'Modification of the contract of carriage' and § 2 of Article 19 'Delivery of goods' of these General Provisions, or if it has failed to attend to receive the goods, the obligation to pay carriage charges under the contract of carriage shall transfer to the consignor.

§ 4. In the case of incorrect calculation of carriage charges, undercharges shall be paid and overcharges repaid.

§ 5. Carriage charges and penalties shall be paid to the carrier in the manner provided for by the national law of the State in which the payment is made.

§ 6. The carrier shall be entitled to demand payment of carriage charges before carriage commences.

Article 25

Additional costs associated with the carriage of goods

§ 1. The carrier shall be reimbursed for all costs associated with the carriage of goods that are not provided for in the applicable tariffs but have been incurred owing to circumstances beyond the carrier's control. Such costs shall be determined on the date on which they arise, separately for each consignment and shall be confirmed by corresponding documents.

§ 2. Additional costs shall be reimbursed in accordance with the procedure provided

for in Article 24 'Payment of carriage charges and penalties' of these General Provisions.

Article 26
Cash on delivery payments and loans

Cash on delivery payments and loans shall not be permitted.

Article 27
Carrier's lien

§ 1. Until all payments arising out of the contract of carriage have been received, the carrier shall have a right of lien over the goods in its charge.

§ 2. Exercise of the right of lien shall be determined by the national law of the country where the carrier exercises its right of lien.

Article 28
Settlement of accounts between carriers

§ 1. A carrier which has received or should have received carriage charges due under the contract of carriage to other carriers involved in the carriage, must pay them to those carriers.

§ 2. Settlement of accounts between carriers resulting from the application of these General Provisions shall be effected in accordance with a contract concerning the settlement procedure concluded between the carriers.

Article 29
Claims between carriers
for recovery of amounts of compensation paid

§ 1. A carrier who, in the cases provided for in these General Provisions, has paid compensation to a consignor or a consignee in accordance herewith, shall have a right of recourse against other carriers involved in the carriage, in accordance with the following provisions:

1) if the loss or damage has been caused due to the fault of one carrier, that carrier shall have sole liability for it;

2) if the loss or damage has been caused due to the fault of several carriers involved in the carriage, each carrier shall be liable only for the portion of the loss or damage it has caused;

3) if it cannot be proved that the loss or damage was caused due to the fault of one or more carriers, the carriers shall agree a procedure for the apportionment of

liability. If the carriers cannot reach agreement on a procedure for the apportionment of liability, liability shall be apportioned among them in proportion to the tariff kilometres travelled by the consignment when carried by each of the carriers except those which prove that the loss or damage did not arise through any fault of theirs.

§ 2. When recovering amounts of compensation for exceeding the goods delivery period, if the goods delivery period was exceeded at the fault of more than one carriers, the percentage for calculating the compensation shall be determined in accordance with § 2 of Article 38 'Amount of compensation for exceeding the goods delivery period' of these General Provisions based on the total exceedance of the delivery period for the whole of the route, and shall be applied to the carriage charge received by each of the carriers who allowed the delivery period to be exceeded.

§ 3. A carrier with whom a claim for recovery of compensation paid is lodged shall not be entitled to contest the validity of the compensation payment by the carrier lodging the claim if the compensation was determined by a court decision and if the carrier against whom the claim is made was notified in good time of the consideration of the case by a court.

§ 4. A claim for recovery of compensation paid under a claim for compensation shall be lodged within 75 days of the date of the actual payment of the amount payable under the claim.

A claim for compensation determined by a court decision shall be lodged within 75 days of the entry into force of that decision.

Article 30 **Liability of the carrier**

§ 1. A carrier shall bear liability in respect of the consignor or the consignee, arising solely from the contract of carriage, in the manner and within the limits prescribed by these General Provisions.

§ 2. The carrier shall be liable for loss or shortage of, or damage to (spoilage of), goods between the time of their acceptance for carriage and the time of their delivery. The circumstances constituting grounds for the carrier's liability for the loss or shortage of, or damage to (spoilage of), the goods, shall be certified by the formal report.

§ 3. The carrier shall be liable for exceeding the goods delivery period.

Article 31

Persons for whose actions the parties to the contract of carriage shall be liable

§ 1. The parties to a contract of carriage shall be liable for the actions of their staff members and any other persons whose services they use to execute a contract of carriage, when these staff members or other persons are performing their duties.

§ 2. The railway infrastructure manager shall be considered to be a person whose services are used by a carrier to execute a contract of carriage.

Article 32

Limit of carrier's liability

§ 1. The limit of a carrier's liability shall not exceed the amount of compensation payable by the carrier for the loss of goods.

§ 2. The carrier shall be relieved of liability for loss or shortage of, damage to (spoilage of) goods accepted for carriage if these have occurred:

1) due to circumstances which the carrier could not avert and the elimination of which was beyond its control;

2) due to the inadequate quality of goods, unit containers or packaging, or owing to particular natural and physical properties of goods, unit containers or packaging that has caused damage to (spoilage of) them;

3) through the fault of the consignor or the consignee, or in consequence of their requirements, owing to which blame cannot be attributed to the carrier;

4) for reasons connected with the loading or unloading of goods, if these operations were performed by the consignor or the consignee;

5) due to the absence of unit containers or packaging of the goods which were necessary for their carriage;

6) as a result of the fact that the consignor handed the goods over for carriage under an incorrect, inaccurate or incomplete designation, or without complying with the terms of these General Provisions;

7) due to loading of goods by the consignor onto a wagon or into a container not suitable for the carriage of the goods in question;

8) due to the incorrect selection, by the consignor, of the method of carriage of perishable goods or of the type of wagon (container);

9) due to failure by the consignor or by the consignee to complete or inadequate completion of customs or other administrative formalities;

10) due to the checking, detention or confiscation of goods by public authorities, for reasons beyond the carrier's control.

§ 3. The carrier shall not be liable for loss or shortage of, or damage to (spoilage of) goods accepted for carriage if they happened during carriage subject to special contractual terms and exemption from liability is provided for in these special contractual terms.

§ 4. The carrier shall not be liable for shortages of:

1) goods transported in unit containers or in bundles, if the total number of items in intact unit containers or bundles are delivered to the consignee and there are no external signs of access to the contents that could have caused a partial loss of the goods;

2) goods transported without unit containers or bundling if the total number of intact items are delivered to the consignee and there are no external signs of access to the contents that could have caused a shortage of the goods;

3) goods, if the goods loaded by the consignor into wagons, ITUs or road vehicles are delivered to the consignee with the consignor's seals intact and there are no external signs of access to the goods that could have caused a shortage of the goods;

4) goods in containers loaded by the consignor onto a wagon (with doors facing inside), if the containers on this wagon continued their journey without being re-arranged and were handed over to the consignee without the checking of seals and without any external signs of access to the goods that could have caused a shortage of the goods;

5) goods accepted for carriage in open rolling stock, if the goods have arrived in an intact wagon without reloading en route, and there are no signs indicating that a shortage of goods occurred during carriage;

6) removable or spare parts stowed in sealed ITUs or road vehicles, if these ITUs or road vehicles were delivered to the consignee with the consignor's seals intact.

§ 5. The carrier shall not be liable for damage to goods accepted for carriage in open rolling stock if the goods have arrived in intact wagons without reloading en route and there are no signs indicating damage to (spoilage of) the goods during carriage.

§ 6. The carrier shall be relieved of liability for exceeding the goods delivery period if the exceedance was caused:

1) by circumstances which the carrier could not avert and the elimination of which was beyond its control;

2) through the fault of the consignor or of the consignee, or in consequence of their requirements, whereby blame cannot be attributed to the carrier;

3) owing to non-completion or inadequate completion of customs or other administrative formalities by the consignor or the consignee, or a person authorised by them.

§ 7. In international through railway-ferry traffic, the carrier shall also be released from liability for loss or shortage of, damage to (spoilage of), or exceeding the delivery period for goods accepted for carriage if the loss, shortage, damage (spoilage) or exceedance of the goods delivery period occurred as a result of:

1) a fire, if the carrier proves that the fire did not occur through its fault or through the fault of other persons whose services it uses to execute the contract of carriage, when these other persons were performing their duties;

2) lifesaving measures or reasonable measures to save property;

3) a hazard, danger or accidents.

The carrier may refer to these reasons for release from liability only if it proves that the loss or shortage of, damage to (spoilage of), or exceedance of the delivery period of goods took place on the waterway section of the route during the period from

commencement of the loading of the goods in a wagon for waterway transport and before its unloading from the waterway transport.

Article 33

Presumption in the event of a change in the legal regime governing the contract of carriage

If, in the case of carriage of goods from a third state after the reissuance of the consignment note owing to a change in the legal regime governing the contract of carriage, in accordance with the terms of these General Provisions, there is found to be damage to (spoilage of) or shortage of the goods, and the consignment was accepted by the carrier without remarks, it shall be presumed, until the contrary is proved, that the damage to (spoilage of) or shortage of the goods occurred during the execution of the last contract of carriage.

Article 34

Burden of proof

§ 1. The burden of proving that loss or shortage of, or damage to (spoilage of) goods occurred as a result of one of the circumstances specified in subparagraphs 1 and 4 of § 2 of Article 32 'Limit of carrier liability' of these General Provisions shall be borne by the carrier.

§ 2. If it is established that the loss or shortage of, or damage to (spoilage of) the goods could have occurred as a result of the circumstances specified in subparagraphs 2, 3 and 5-10 of § 2 and subparagraphs 2 and 3 of § 7 of Article 32 'Limits of carrier liability' of these General Provisions, the damage shall be considered to have occurred as a result of those circumstances unless the consignor or the consignee proves otherwise.

§ 3. The burden of proving that the exceedance of the goods delivery period was not attributable to the carrier shall be borne by the carrier.

Article 35

Amount of compensation in the event of loss or shortage of goods

§ 1. In cases where these General Provisions require the carrier to compensate the consignor or the consignee for loss or shortage of goods, the amount of compensation shall be determined on the basis of the value of goods.

If goods transported with a declaration of value are lost or short, the carrier shall pay to the consignor or the consignee the amount of the declared value or the portion of the declared value corresponding to the portion of the goods which has been lost.

§ 2. In addition to the compensation provided for in § 1 of this Article, carriage charges and other costs of the consignor (consignee) received by the carrier for the carriage of (the portion of) the goods lost shall be refunded if they have not been included in the cost of the goods.

§ 3. In calculating the amount of compensation in the event of a shortage in terms of mass, the carrier shall have the right to offset surplus mass against the shortage if, at the time of delivery of goods of the same designation and quality which arrived from the same consignor to the same consignee, including if they have been transshipped en route, there was a shortage of goods under one consignment note and a surplus under another one.

Article 36 **Limitation of liability for shortage of mass of goods**

§ 1. In respect of goods which, by reason of their nature, are subject to wastage during carriage, the carrier shall, whatever the distance travelled by the goods, be liable only to the extent that the shortage exceeds the following allowances expressed as percentages:

- 1) two percent of mass for liquid goods or goods presented for carriage in a wet (moist) condition;
- 2) one percent% of mass for dry goods.

In the case of goods transported in bulk, if these are transshipped en route, the above allowances shall be increased by 0.3% for each transshipment.

§ 2. In respect of goods which, by reason of their nature, are subject to wastage during carriage, the carrier shall, whatever the distance travelled by the goods, be liable only to the extent that the shortage exceeds 0.2% of the mass of the goods.

§ 3. Where several cargo packages are carried under a single consignment note, wastage shall be calculated separately for each package if its mass has been shown separately in the consignment note or can be ascertained by other means.

§ 4. When calculating compensation for the loss or shortage of several cargo packages, no deductions for the allowances laid down in § 1 and § 2 of this Article shall be made in respect of lost goods or short packages.

Article 37 **Amount of compensation in the event of damage to (spoilage of) goods**

§ 1. In cases where these General Provisions require the carrier to compensate the consignor or the consignee for damage to (spoilage of) goods, the amount of compensation payable shall be equivalent to the amount by which the value of the goods has decreased.

§ 2. In the case of damage to (spoilage of) goods transported with a declaration of value, the carrier shall reimburse an amount representing the portion of the declared value corresponding to the percentage decrease in the value of the goods resulting from the damage to (spoilage of) the goods.

§ 3. The amounts of compensation provided for in § 1 and § 2 of this Article shall be determined in accordance with the provisions of § 1 of Article 35 'Amount of compensation for loss or shortage of goods' of these General Provisions, taking into account the extent of the reduction in the value of goods, established at the place of destination in accordance with national law.

Article 38 **Amount of compensation for exceeding the goods delivery period**

§ 1. If the carrier has failed to comply with the goods delivery deadline calculated in accordance with Article 17 'Goods delivery deadline' of these General Provisions, the carrier shall pay compensation for exceeding the delivery deadline in the form of a penalty.

§ 2. The amount of penalty for exceeding the goods delivery deadline shall be determined on the basis of the carriage charges of the carrier who caused the delivery deadline to be exceeded, and the value (length) of the exceedance of the delivery deadline, calculated as the ratio of the exceedance of the delivery deadline (in days) to the total delivery period, namely:

6% of the carriage charge when the exceedance of the delivery deadline is not more than one tenth of the total delivery period;

18% of the carriage charges when the exceedance of the delivery deadline is more than one tenth but not more than three tenths of the total delivery period;

30% of the carriage charge when the exceedance of the delivery deadline is more than three tenths of the total delivery period.

§ 3. In cases where these General Provisions require the carrier to pay compensation for the loss of goods, no penalty shall be paid for exceeding the goods delivery deadline.

In the event of shortage of goods, the penalty for exceeding the delivery period shall be paid in an amount determined on the basis of the portion of the goods delivered.

In the case of damage to (spoilage of) goods, the payment of compensation for exceeding the delivery deadline shall not preclude the payment of compensation provided for in Article 37 'Amount of compensation in the event of damage to (spoilage of) goods'.

Article 39

Claims

§ 1. The right to make claims against the carrier shall belong to the consignor and the consignee.

The right to make claims for refund of overpayments of carriage charges pursuant to § 4 of Article 24 'Payment of carriage charges and penalties' of these General Provisions shall also belong to any person who has paid these carriage charges in accordance with § 2 of Article 24 'Payment of carriage charges and penalties' of these General Provisions.

Assignment of the right to make claims is not permitted.

§ 2. Claims shall be have appropriate justification and an indication of the amount claimed. A claim shall be served on paper unless the parties to the carriage have agreed on an electronic format.

Claims may be made:

by the consignor, against the contractual carrier;

by the consignee, against the carrier delivering the goods.

§ 3. Claims shall be made separately for each consignment, except for:

a claim for refund of overpayments of carriage charges. Such a claim may be made for several consignments;

where one formal report has been drawn up for several consignments. In such cases, a claim shall be made for all consignments indicated in the formal report.

§ 4. No claim for an amount equivalent to 23 Swiss francs or less per consignment shall be satisfied. If a claim is made for a higher amount and is recognised as compensable in an amount which is equivalent to 23 Swiss francs or less, that amount shall not be paid to the claimant.

§ 5. Claimants shall provide proper justification of their claims as required by the Rules of Carriage of Goods.

The originals of the consignment note and the formal report shall be attached.

§ 6. Claims not made in compliance with § 3 and § 5 of this Article shall be returned by the carrier to the claimant without consideration, no later than 15 days of the date of its receipt by the carrier, with an indication of the reason for its return. In such cases, the period of limitation referred to in § 3 of Article 41 'Period of limitation' shall not be suspended. If the carrier returns a claim to the claimant upon expiry of the 15-day period, the limitation period shall be suspended from the day following the expiry of this term until the day when the carrier sends the claim to the claimant. The return of the claim by the carrier to the claimant shall not constitute its rejection and shall not entitle the claimant to bring the case before a court.

§ 7. The carrier shall, within 180 days of receipt of a claim, consider the claim, respond to the claimant and, in the event of complete or partial recognition of the claim, pay the due amount to the claimant.

§ 8. In the case of partial or complete rejection of a claim, the carrier shall notify the claimant of the grounds for rejecting the claim. If the claim was filed on paper, the carrier shall return the documents attached to the claim.

§ 9. In all cases to which these General Provisions apply, any claim may be lodged with a carrier only subject to the conditions and within the scope of the provisions of these General Provisions. This provision shall apply to all claims in respect of staff members and other persons for whom the carrier is liable under the provisions of Article 31 'Persons for whose actions the parties to the contract of carriage are liable' of these General Provisions.

Article 40 **Claims under the contract of carriage. Jurisdiction**

§ 1. An action may be brought only after a claim has been made, and only against the carrier against which the claim was made. The right to bring an action under these General Provisions shall belong to the person who has the right to make a claim against the carrier.

§ 2. The right to make a claim and bring an action shall arise:

for compensation for shortage of or damage to (spoilage of) goods, and for exceeding the goods delivery period – from the day on which the goods are delivered to the consignee;

for compensation for loss of goods –30 days after the expiration of the delivery period;

3) for refund of overpayments of carriage charges – from the day on which the carriage charges were paid;

4) for other claims – from the day when the circumstances constituting grounds for making the claims arose.

§ 3. An action may be brought:

1) if the carrier has not responded to a claim within the period prescribed for consideration of the claim;

2) if, within the period prescribed for consideration of a claim, the carrier has notified the claimant of complete or partial rejection of the claim.

§ 4. Action shall be brought in a competent court at the respondent's location.

Article 41 **Limitation periods**

§ 1. Actions against carriers pursuant to these General Provisions shall be brought:

1) within two months, where they concern exceedance of the goods delivery deadline;

2) within nine months, where brought on other grounds.

§ 2. The periods referred to in § 1 of this Article shall start from the moment when the right to bring an action referred to in § 2 of Article 40 'Claims under the contract of carriage. Jurisdiction' of these General Provisions arose. The day on which the period of limitation commences shall not be included in the period.

§ 3. The lodging of a claim made in accordance with Article 39 'Claims' of these General Provisions shall cause the limitation periods laid down in § 1 of this Article to be suspended.

The limitation period shall recommence on the day on which the carrier notifies the claimant of complete or partial rejection of its claim, or from the day when the time limit laid down in § 7 of Article 39 'Claims' of these General Provisions expires, if the carrier does not answer the claim.

The re-lodging of a claim on the same grounds shall not cause the limitation periods provided for in § 1 of this Article to be suspended.

§ 4. The passing of limitation periods shall constitute a ground for rejecting claims.