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LEGAL WORKING GROUP

Revision of Document Trade/WP.4/ R.1096 dated 22 JULY 1994

Review of definitions of "Writing, "Signature" and "Document" employed in multinational conventions and agreements relating to international trade

Submitted by the Legal Working Group (LWG) *

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LEGAL WORKING GROUP
(Item 4 of the Programme of Work)

Revision of Document Trade/WP.4/ R.1096 dated 22 JULY 1994
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Explanatory Note

Document A represents a revision and updating of Document TRADE/WP.4/R.1096 which now includes:

- a new introduction and recommendations for further work (Section 1);
- an evaluation of the legal position under the relevant conventions (Section 2);
- an additional eight conventions in Annex I:
  - the Chicago Convention (Appendix 7);
  - conditions covering FIATA FB (Appendix 13);
  - UNCITRAL Model Law on International Credit Transfers (Appendix 21);
  - UN Convention on Guarantees and Standby L/C (Appendix 22)
  - TIR Convention (Appendix 23);
  - Convention on Harmonisation of Frontier Controls (Appendix 24);
  - Convention on Civil Liability for Damage etc (Appendix 28); and
  - ADR Agreement concerning International Carriage of Dangerous Goods by Road (Appendix 29)
- a new Annex II with references to private law and arbitration; and
- a new Annex III containing the text of the UNCITRAL Model Law on Electronic Commerce.

Document B represents a supplement to Document TRADE/WP.4/R.1096 which contains:

- an introduction and recommendations for further work (Section 1);
- a status report on the need for revision and an evaluation of the willingness of the convention owners to carry out a revision process (Section 2); and
- Annex I setting out the review mechanisms for each convention and agreement.

The Legal Working Group is drafting a UN/ECE Recommendation to UNCITRAL seeking their agreement to undertake a feasibility study to take this work forward.

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DOCUMENT A

1. INTRODUCTION AND RECOMMENDATIONS FOR FURTHER WORK

1.1 In March 1990, the Working Party on Facilitation of International Trade Procedures (WP.4) "requested its rapporteurs on legal questions to establish .... a detailed action programme on legal aspects of trade data interchange, with indication of priorities and proposals concerning the resources which would be needed to execute the programme" (see TRADE/WP.4/R.171, para. 19).

1.2 In March 1991, TRADE/WP.4/R697 was introduced, which set forth a proposed programme of work and which defined, for the overall activity, the following terms of reference:

> "To eliminate any constraints to international trade through problems of a legal and/or commercial practice nature (with particular reference to the use of EDI) by coordinating action with all interested parties and, where necessary, carrying out specific projects."

1.3 Project 4.5 of the programme of work is to:

> "Develop, for possible adoption at the national level uniform definitions of "writing", "document", "signature" and other appropriate terms which will include messages transmitted by electronic data interchange and related procedures for authenticating, in both legal and commercial contexts, those messages and establishing appropriate security therefore."

1.4 On 22 July 1994 TRADE/WP.4/R 1096 was issued as a background document for delegations and organisations to consider the definitions of "writing", signature" and "document" employed in multilateral conventions and agreements relating to international trade. It identified a number of problem areas where barriers existed to the increased use of EDI messages.

1.5 This present paper reveals that the current rules concerning international trade transactions still do not all satisfactorily accommodate the reality of EDI. In many instances, under these rules, EDI messages remain potentially unacceptable as legal means of communication.

1.6. The present situation should, in the reasonably short term future, be improved by the UNCITRAL Model Law on Electronic Commerce see A/CN.9/426 and the report of UNCITRAL on the work of its 29th session, supplement No.17 (A/51/17). The latest version of this is reproduced as Annexe 3 post. The UNCITRAL Model Law on Electronic Commerce is the new title for the draft articles previously known as the "Draft Model Law on Legal Aspects of Electronic Data Interchange (EDI) and Related Means of Communication".

1.6.1. The Model Law is intended to serve as a model to countries for the evaluation and modernisation of certain aspects of their laws and practices in the field of commercial relationships involving the use of computerised or other modern communication techniques, and for the establishment of relevant legislation where none presently exists.

One purpose of the Model Law is to enable potential EDI users to establish a legally secure EDI relationship by way of a communication agreement within a closed network. A second purpose is to support the use of EDI in an open environment.

1.6.2. Key features of the Model Law are that:

- It is a framework law that does not itself set forth all the rules and regulations which may be necessary to implement those techniques in an enacting State. Accordingly an enacting State may wish to issue regulations to fill in the procedural details for procedures authorised by the Model Law.

- Techniques for recording and communicating information considered in the Model Law may raise certain legal questions the answers to which will not necessarily be found in the Model Law but in other bodies of law such as administrative, contract, criminal and judicial procedure law, which the Model Law was not intended to deal with.

- The Model Law relies on a new approach, sometimes referred to as the "functional-equivalent approach", which is based on an analysis of the purposes and functions of the traditional paper-based requirement with a view to determining how those purposes or functions could be fulfilled through EDI techniques. For example, among the functions served by a paper document are the following: to provide that a document would be legible by all; to provide that a document would remain unaltered over time; to allow for the reproduction of a document so that each party would hold a copy of the same data; to allow for the authentication of data by means of a signature; and to provide that a document would be in a form acceptable to public authorities and courts.

- The Model Law does not attempt to define a computer-based equivalent to any kind of paper document. Instead, it singles out basic functions of paper-based form requirements, with a view to providing criteria which, once they are met by data messages, enable such data messages to enjoy the same level of legal recognition as corresponding paper documents performing the same function.

  The Model Law provides specific provisions dealing with transit of goods and the substitution of electronic messages for paper documents. See Articles 16 and 17.

1.6.3. If enacted into national legislations the Model Law would eliminate some of the problems identified in this report so far as national laws and other non statutory rules are concerned. The difficulties highlighted in relation to the mandatory international conventions would, however, not be resolved solely by the implementation of a model law unless this were to be adopted as an overriding convention of the same kind as that setting global liability limits for sea going ships, which overrides the Hague Rules. However, at present it does not appear practicable to most observers to move beyond promotion of a model law.

1.7. This paper is intended as an updated and improved reissue of TRADE/WP.4/R.1096 to provide background information for continuing work in this area. It considers a wider range of agreements than that included in the original paper and is a response to comments received from delegates and outside organisations.

1.8 This paper does not consider the different stages of transactions in examining convention provisions. Yet the significance of requirements for "writing" will be very different in contexts which lend themselves naturally to EDI processes - eg routine setting up of "documents" evidencing transactions to other contexts such as claims handling, where irregular and unique information is transmitted. In the former context any legal impediments to EDI are serious, whereas in the latter it may be many years before EDI processes will be applied, if they are at all, so that legal impediments are of less significance.

1.9. It would be useful in the future programme of work to divide the subject of "writing" into sub-topics:

1. Establishment of standard transactions - eg for every bill of lading.

2. Initiating special procedure at the inception of business eg - value declarations.

3. Initiating special procedures in the course of the transaction - eg entering reservations at the time the cargo is uplifted.

4. Notice requirements at the time of delivery - eg clausing of receipts.

5. Notice required in claims administration.

This sub division is already occurring. See notably the recent work on a proposed "Article X" to be inserted in the UNCITRAL Model Law to deal with negotiability and transferability of EDI transport documents with particular emphasis on EDI maritime transport documents referred to in A/CN.9/WG.IV/WP.66 and also incorporation by reference treated in A/CN.9/WG.IV/WP.65 and A/CN.9/WG.IV/WP.66.

1.10. Breaking the subject up should focus minds not only on the current legal impediments but also on the future practical problems of operating certain procedures under the conventions when using EDI transmissions. In considering the need to remove a narrow requirement for "writing", thought must also be given to the actual mechanics of the system. Can the existing procedure sensibly be carried out by EDI means? Is it commercially attractive and logistically possible to install equipment at the quayside and goods inward bay which will allow real time unique messages to be transmitted to other parts of the system, in lieu of simple manual endorsement onto existing paper documents? Practical specialists in the field of dangerous goods have, for example, raised serious doubts as to whether a fully paperless system would ever be regarded as "safe" by the legal regulators and the operators of the emergency fire and other services. It is quite easy to foresee breakdown of computer links and physical injury and incapacity of vehicle operator

occurring simultaneously at the very moment when clear information on the dangerous substance and instructions on how to minimise risks are most urgently required. However, others believe most practical problems will ultimately be resolved by new technology and investment.

1.11. The paper considers signatures where they are specifically required at present. Forms of authentication other than manual signatures are already permissible under a number of conventions. It would be useful in future work to look beyond the narrow issue of "signatures" to consider authentication in general. Where the conventions do not at present require signatures at particular stages eg when a reservation is entered in a document manually : it may be necessary under EDI, to consider how the authenticity of such data is to be established. There will be no need to alter a convention which has no authentication requirement or which permits "commercially acceptable authentication, but at a practical level it may be necessary to develop codes of practice and security procedures which will inhibit fraud in these areas. Delegations are invited to comment further on these practical aspects.

1.12 "Document"

The conventions refer frequently to "documents". These references are to the "documents" which are the subject of the conventions themselves - eg bills of lading, air waybills - but also to other documents such as customs forms. Generally the word "document" is not defined. It may be assumed that a written document was envisaged by the draughtsman as that was the only format then available.

There are a number of Conventions which do not stipulate use of a hard-copy document in relation to their own procedures but where ancillary documentation may still be required to be in hard-copy form by national laws or by another international convention.

2. LEGAL REGULATIONS AND AGREEMENTS

This section evaluates the legal position under relevant conventions, regulations and agreements which affect, directly or otherwise, the use of EDI for the transmission of information. The evaluation is presented in sections dealing with transport, trade, Customs and dangerous goods.

Relevant texts from the regulations are shown at Annex 1 in the same order as they appear in the main paper.

SECTION I : TRANSPORT REGULATIONS

2.1 International Convention for the Unification of Certain Rules Relating to Bills of Lading (Hague Rules).

2.1.1 Status.

Signed 25 August 1924. Entered in force 2 June 1931. Hague-Visby Protocol signed 23 February 1968. Entered into force 23 June 1977.

2.1.2 Purpose.

To promulgate rules for the carriage of goods by ship, in particular, the responsibilities of the parties for loss and damage and the information that should be contained in a bill of lading.

2.1.3 Comment

Some commentators have observed that Article III would appear to permit the sipper to specify that EDI be used for the issuance of bills of lading. The better view, however, is that the convention envisages and requires paper bills of lading to be issued. The convention also refers to writing" in Article III and to "documents" which, by implication, are written documents.

As there is a definition clause in the rules, this could be amended to state that "document" is not restricted to a paper document.

2.2. United Nations Convention on the Carriage of Goods by Sea 1978 (Hamburg Rules)

2.2.1 Status

Signed 30 March 1978. Entered into force 1 November 1992.

2.2.2 Purpose

Same as Hague Rules.

2.2.3 Comment

The Hamburg Rules contain a non-exhaustive definition of "writing" to include telegram and telex (Article 1). They also provide for electronic signatures in bills of lading (Article 14). They do not, however, define "document" which appears in a number of articles so some residual doubts must remain as to the extent to which full EDI processes are contemplated. It may be seen that consideration needs to be given to the legal interpretation of "document" under the convention to determine whether this can be construed as including non-paper "documents" or not. Interestingly Article 3 states "In the interpretation and application of the provisions of this convention regard shall be had to its international character and to the need to promote uniformity" and a "common understanding" might therefore be devised on interpretation of the word "document".

A comparison may be drawn between the provision contained in the Hamburg Rules Article 14 3, which allows local law requirements for paper writings to supersede the convention's allowance for electronic signatures and the provision contained in the Convention on the International Sale of Goods (Vienna Convention), in which contracts need not be on paper (Article 11) unless a country affirmatively opts out (Article 96) and requires paper evidence of the contract. The Convention on the Liability of Operators of Transport Terminals in International Trade (Terminal Operator's Convention) also adopts the affirmative opt-out provision.

See also submission of the Simpler Trade Procedures Board (SITPRO) of the United Kingdom on international acceptance of facsimile signatures on export documents. TRADE/WP.4/R.585.

2.3 CMI Rules for electronic Bills of Lading.

2.3.1 Status

Adopted June 1990

2.3.2 Purpose

To establish a set of rules, to be adopted by voluntary agreement, giving legal effect to the exchange of electronic documents.

2.3.3 Comment.

The CMI rules provide expressly that any requirement for "writing" or for "signatures" will be satisfied by EDI messages which are capable of being displayed "in human language on a video screen or as printed out by a computer." It should however be noted that the rules are voluntary only and could be overridden by national law if one of the parties to their use had recourse to certain national courts.

2.4 UNITED NATIONS CONVENTION ON NATIONAL MULTIMODAL TRANSPORT OF GOODS

2.4.1 Status

Adopted 24 May 1980. Not in force.

2.4.2 Purpose

To resolve legal uncertainties in the area of liability pertaining to international multimodal transport and to set levels of compensation for loss damage and delay to goods in transit.

2.4.3 Comment.

The Multimodal Convention contains a non-exhaustive definition of "writing" to include telegram or telex (Article 1). It provides for electronic signatures in the MT document (Article 5) if not inconsistent with national law at the place of issue - see comments ante under Hamburg Rules. Unfortunately, like Hamburg, it does not define "document" by reference to the medium of transmission/reproduction and residual doubts must remain as to how far full EDI processes are contemplated by the convention. An apparent distinction is made (Article 5(4)) between a non-negotiable MT document where full EDI seems to be contemplated and premitted and negotiable MT documents. Even in the case of non-negotiable MT documents a document in "readable form" must be issued at some time after taking in charge of the goods. No doubt a hard copy document was in contemplation but it could be argued that the words "readable form" are loose enough to allow some freedom in interpretation.

A reference to customs "forms" (Annex 1) also suggests that hard-copy forms were in contemplation. Notation requirements (Article 9) raise again the present practical difficulties for "real time" insertion of unique information by non-office based personnel in an EDI system.

See also paper of Professor E du Pontavice of France on Preparation of Automatic Data Processing Systems for Multimodal Transportation submitted by Simprofrance. TRADE/WP.4/R.116.

See also paper of Professor Roger Henriksen submitted by legal rapporteur from Norway. TRADE/WP.4/R.98.

See also submission of the Simpler Trade Procedures Board (SITPRO) of the United Kingdom on international acceptance of facsimile signatures on export documents. TRADE/WP.4/R.585.

2.5 CONVENTION FOR THE UNIFICATION OF CERTAIN RULES RELATING TO INTERNATIONAL TRANSPORTATION BY AIR (WARSAW CONVENTION) INCLUDING THE HAGUE PROTOCOL

2.5.1 Status

Signed 12 October 1929. Entered into force 13 February 1933. Hague Protocol signed 28 September 1955. Entered into force 1 August 1963, but not in force in US trade which accounts for 20% of total international air traffic.

2.5.2 Purpose

To set limitations on the liabilities of airline carriers resulting from injury to passengers or their baggage or from damage to cargo.

2.5.3 Comment

The Warsaw Convention does not prevent a valid contract of carriage being effected by EDI (Article 5(2)). However it clearly contemplates the issue of a paper document and there are some serious consequences for the carrier if a paper document is not issued.

The word "document" appears, without definition, both in relation to the air waybill (Article 5(1)) and to customs and other matters (Article 8, Article 16) and the better view is that a written document is required. This requirement is of particular significance in relation to the statement that carriage is subject to the convention provisions (Article 8(q)). If such a statement is omitted from the air waybill the carrier loses the benefit of limited liability under the convention. One of the few relevant differences between the convention and its Hague Protocol 1955 is that the Protocol refers to a notice" in place of a "statement". This spells out that the applicability of the convention <u>must</u> be obvious at the time of contract. It is open to doubt whether the requirement for notice would be adequately satisfied in all legal jurisdiction by an EDI message between computers.

Notice of loss or damage must be given in writing.

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

2.6.1 Status

Signed on 16 October 1975. Not in force.

2.6.2. Purpose

Same as Warsaw Convention.

2.6.3 Comment.

It must be stressed that the Montreal Protocol is not in force in any state in spite of having been agreed in 1975. This is regrettable having regard to EDI as the Protocol overcomes many of the deficiencies in the Warsaw/Hague Convention of 1929/55.

The Protocol expressly provides for an electronic air waybill (Article 5). Importantly it no longer removes from the carrier all benefit of limited liability in the case of non-compliance with the requirement for notice of the applicability of the convention (Article 9).

The Protocol does not contemplate totally paperless trading. It requires manuscript printed or stamped signatures (Article 6(3)) which would appear to conflict with the EDI provision in Article 5. Also where an electronic air waybill is issued the consignor remains entitled (on request) to a paper receipt (Article 5(2), 7(b).

The Protocol does not change the requirement for written notice of claim (Article 26) highlighting the practical difficulty of establishing a totally paperless system. It also far-sightedly contemplates the problems of mixed EDI/paper systems existing side by side (Article 5(3).

2.7 CONVENTION ON INTERNATIONAL CIVIL AVIATION (THE CHICAGO CONVENTION)

2.7.1 Status

Adopted on 7 December 1944. Entered into force on 4 April 1947.

2.7.2 Purpose

To promote the safe and orderly development of civil aviation and to ensure that international air transport services may be established on the basis of equality of opportunity and operated soundly and economically.

2.7.3 Comment

Although the term "document" which appears frequently in the Convention refers to a paper-based environment the constantly revised annexes to the Convention, notably Annex 18 and Annex 9 (facilitation) have effectively adapted the Convention to the electronic age.

Standard 4.5 of Annex 9 in particular states that "contracting states shall accept commercial documents required for the clearance of air cargo, when

produced by electronic data-processing techniques, provided they are in legible and understandable form and that they contain the required information".

Furthermore a modified Standard 2.8 of Annex 9 is due to enter into force on 30 April 1997 unless a majority of contracting states register their disapproval. The revised standard will allow information to be included in the cargo manifest by methods other than hard copy.

2.8. CONVENTION ON THE LIABILITY OF OPERATORS OF TRANSPORT TERMINALS IN INTERNATIONAL TRADE.

2.8.1 Status

Adopted l9 April 1991. Not in force.

2.8.2 Purpose

To promulgate uniform rules governing the liabilities of persons who take charge of goods in international trade in order to perform transport related services, including storage, warehousing, loading, unloading stowage and lashing.

2.8.3 Comment.

As should be expected from such a recent instrument, but which it must be stressed is not in force, the Terminal Operator's Convention contains generally satisfactory provisions for EDI. It allows expressly for electronic documents (Article 4(3)) and also for electronic signatures (Article 4(4)). Furthermore it appears to allow notices to be given electronically where a record of the message will be retained (Article l(e)).

See also submission of the Simpler Trade Procedures Board (SITPRO) of the United Kingdom on international acceptance of facsimile signatures on export documents. TRADE/WP.4/R.585.

2.9 INTER-AMERICAN CONVENTION ON INTERNATIONAL CARRIAGE OF GOODS BY ROAD

2.9.1 Status

Adopted 15 July 1989.

2.9.2 Purpose

To harmonise the laws with respect to negotiability of bills of lading for international road transportation.

2.9.3 Comment

The convention provides for issue of electronic consignment notes (Article 4) and for electronic signatures.

2.10. CONVENTION ON THE CONTRACT FOR THE INTERNATIONAL CARRIAGE OF GOODS BY ROAD (CMR).

2.10.1 Status

Adopted 19 May 1956. Entered into force 2 July 1961.

2.10.2 Purpose

The CMR Convention regulates the rights and liabilities of senders of goods by road in international traffic in Europe, in an increasing number of countries of the former Soviet Bloc, and in parts of Asia and North Africa. It also regulates the rights and liabilities of road hauliers and their sub contractors. It establishes compensation limits for damage, loss and delay.

2.10.3 Comment

Application of the convention provisions is not dependent on the issue of a paper document (Article l)(Article 4). However, the CMR does require that a CMR consignment note be made out in three originals. There are some potential problems if a paper document is not produced and automation is permitted only to the extent of allowing signatures to be printed or stamped and then only if the law of the country in which the note is produced so permits (Article 5(1)).

A paper note is required so as to incorporate a statement that CMR is applicable (Article 6(1)(k)), that COD charges are payable, that a time limit for delivery applies, and for declaration of value or special interest in delivery (Article 6(2)). The absence of the statement can lead to unlimited liability for the carrier. The absence of the other matters referred to above may be fatal to any claim made by a claimant, particularly if it I not made against the contracting carrier but against a sub contractor or "successive CMR carrier".

Reservations concerning the condition of the goods must be made in the note and again absence of such reservations can have serious consequences for the carrier (Article 8, Article 9).

Customs and other documents must be attached to the note (Article 11) but provision is made for them to be otherwise "placed at the disposal" of the carrier which would allow EDI transmission.

Disposal of the goods in certain circumstances is dependent on physical transfer of the note (Article 12). Finally sub-contractors or "successive carriers" only become obligated under the convention if they have taken over both the goods and a physical CMR Note (Article 34). Some courts have been very strict in their interpretation of this provision so as to bar certain claims under CMR terms against a sub-contractor who was not handed the CMR Note.

The International Road Transport Union (IRU) has carried out some detailed and authoritative work exploring ways of remedying the difficulties outlined above. It published a useful discussion document entitled "Electronic transmission of information in the context of a contract for carriage of goods by road under the CMR Convention" on 2 February 1994 and a "model communication agreement between commercial partners in the context of international carriage by road" on 8 February 1994. It believes virtually

all problems posed by the Convention itself can be remedied by contractual clarification but recognises that EDI can only readily be used when all parties to the process of carriage by road are connected by EDI (still very rarely the case).

A revision of the Convention itself is not thought practical but IRU believes a protocol dealing solely with the problem of electronic transmission of commercial documents could readily be devised.

2.11 CONVENTION ON A COMMON TRANSIT PROCEDURE BETWEEN THE EEC AND THE EFTA COUNTRIES.

2.11.1 Status

Signed at Interlaken on 20 May 1987, and entered into force on 1 January 1988.

2.11.2 Purpose

To establish measures for the carriage of goods in transit between the Community and the EFTA countries as well as between the EFTA countries themselves.

2.11.3 Comment

The convention expressly provides for declarations for customs purposes to be made electronically subject to certain safeguards such as prior authorisation (Article 1 and Appendix III Article 3). Similarly electronic signatures may be authorised.

2.12 CONVENTION CONCERNING INTERNATIONAL CARRIAGE BY RAIL (COTIF/CIM).

2.12.1 Status

Latest 1980 revision of the convention entered into force in 1985.

2.12.2 Purpose

The CIM appendix serves to regulate the rights and liabilities of senders of goods by rail and railway administrations in international traffic in Europe, North Africa and the Middle East. It establishes compensation limits for loss damage and delay.

2.12.3 Comment

A paper consignment note is at the heart of CIM which covers only goods moving under a through consignment note (Article l)(Article 11(1)(3)(5)). The note must be in prescribed form (Article 13). However the CIM has already been modified to permit the replacement of a paper consignment note by "an instrument suitable for automatic data transmission" where two or more states or railway operators make a special agreement to that effect (Article 8(4)(g).

Normally customs documents must be attached to the note but they may be "held at the disposal of the railway at an office of the customs" (Article 13(1)(g) and this would appear to allow for computerised entries as "documents" are not defined as having to be in writing see also the provisions of the EC/EFTA Convention. Claims must be in writing and be accompanied by paper documents (Article 53). However the special agreements referred to in Article 8 could modify these requirements if they become an impediment to EDI usage.
At the date of this paper a framework agreement is under development by the Comité International des Transports Ferroviaires (CIT) to regulate the use of EDI within the COTIF/CIM system.

It should be noted that the main COTIF Treaty provides for fairly rapid amendments to be made to the CIM by a revision committee at the request of the Treaty organisation itself (OTIF) or of five of its member states.

2.13. STANDARD CONDITIONS (1992) GOVERNING THE FIATA MULTIMODAL TRANSPORT BILL OF LADING.

2.13.1. Status

Adopted 1992. Based on the provisions of the UNCTAD/ICC Rules for a multi-modal transport document.

2.13.2. Purpose

To provide a common basis for the liability of freight forwarders who are members of FIATA affiliated national associations when undertaking multi-modal transport operations. Only forwarders meeting certain quality criteria are authorised to use the distinctive blue document.

2.13.3. Comment

Although of recent origin, the FIATA FB makes no specific provision for EDI and does contain requirements for "writing", without indicating that hard copy form may be replaced by EDI methods.

In Condition 4.1. the merchant is required to notify the forwarder "in writing" of the exact nature of the danger presented by goods categorised as "dangerous".

In Condition 14 the forwarder is given a lien over "documents" in certain circumstances and in some jurisdictions this may not extend to electronic information.

In Condition 16.1. notice of apparent loss or damage to the goods must be given to the forwarder "in writing" failing which the burden of proving the circumstances of the loss will pass to the merchant.

SECTION II TRADE REGULATIONS

2.14 UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS (VIENNA CONVENTION).

2.14.1 Status

Signed on 11 April 1980. Entered into force 1 January 1988.

2.14.2 Purpose

To adopt "uniform rules which govern contracts for the international sale of goods and take into account the different social, economic and legal

systems would contribute to the removal of legal barriers in international trade and promote the development of international trade". (Vienna Convention preamble).

2.14.3 Comment

The Convention impliedly provides for contracts of sale to be concluded by EDI means (Article 11) similarly EDI produced records should satisfy any evidential requirements under the Convention (Article 11). Unfortunately any contracting state to the convention can override these provisions so far as they concern contracts connected with its territory by declaring that all such contracts must continue to be made in writing (Article 12, Article 96).

The effect on other evidential requirements of such a declaration is unclear, but a declaration under Article 96 overrides the expressed wishes of the parties to the contract.

2.15. UNIFORM CUSTOMS AND PRACTICES FOR DOCUMENTARY CREDITS

2.15.1 Status

International Chamber of Commerce Publication No. 500 (1993 revision).

2.15.2 Purpose

To provide binding rules, unless otherwise agreed, "for all documentary credits, including to the extent to which they may be applicable, standby letters of credits."

2.15.3 Comment

UCP 500, adopted in 1993 consolidates the effort towards accommodating electronic banking documents made in the 1983 UCP 400. It provides for self-standing teletransmission of credit instruments without the need for hand copy backup (Article 11). Though an important aid to EDI facilitation, teletransmission of banking documents would not in itself speed up the banking process if a need for paper supporting documents were to remain. UCP 500 deals with the EDI aspect of other documents by making it acceptable for such documents to be produced by automated or computerised systems and authenticated electronically (Article 20).

It attempts to reduce formalities further, for example, by stating that commercial invoices need not be signed (Article 37) but here as elsewhere I must be borne in mind that UCP 500 is in the nature of a code of conduct which cannot override any contrary national law. In spite of UCP 500 national legal barriers to EDI will remain until amending legislation is brought forward.

UCP 500 provides for fully automated documentary systems but such systems will be unable to become fully operative until each link in the chain is capable of adding endorsements to documents at the appropriate physical stage of the carriage of the goods. Provisions for superimposition of declarations of weight on transport documents (Article 38) or for signature of the master (Article 24) will not be satisfied "on the ground" unless facilities exist for all elements of the transport chain to be linked in to EDI.

2.16. INCOTERMS 1990

2.16.1. Status

International Chamber of Commerce Publication No. 460 "INCOTERMS 1990". Entered into force on 1 July 1990.

2.16.2. Purpose

To "provide a set of international rules for the interpretation of the most commonly used trade terms in foreign trade. Thus, the uncertainties of different interpretations of such terms in different countries can be avoided or at least reduced to a considerable degree."

2.16.3. Comment

In the introduction to "INCOTERMS 1990" the authors explain that the main reason for the revision of INCOTERMS was the desire to adapt these trade terms to electronic data interchange. It provides for various documents used in international trade - commercial invoices, documents needed for customs clearance or documents in proof of delivery of goods as well as transport documents - to be transmitted electronically. (A8 and B8 of each INCOTERM). However, it makes particular reference to the problems associated with negotiable transport documents and explains that when using EDI equivalent messages it is vital that the buyer has the same legal position as he would if he had received a paper bill of lading from the seller.

While this is an important EDI awareness initiative it should be remembered that INCOTERMS are intended to deal with the passing of risk, responsibility and costs related to the movement of goods between the seller and the buyer. They only relate to the trade terms used in the contract of sale and do not deal with terms associated with the contract of carriage. Finally, merchants wishing to use the rules should specify in their contracts that they will be governed by "INCOTERMS 1990".

2.17 CONVENTION ON THE SIMPLIFICATION OF FORMALITIES IN TRADE IN GOODS BETWEEN THE EEC AND THE EFTA COUNTRIES.

2.17.1 Status

Entered into force on 1 January 1988.

2.17.2 Purpose

To establish measures to simplify formalities in trade in goods between the Community and EFTA countries, as well as between the EFTA countries themselves. In particular, by introducing a single administrative document to be used for any procedure applicable to trade between the contracting parties, regardless of the kind and origin of goods.

2.17.3 Comment

The Convention expressly provides for declarations to be made to the authorities by EDI means where the authorities have installed computerised systems (Article 4(3)). The Convention contemplates that a paper document may never be required even for record-keeping purposes. Where legislation

requires documents to be signed, provision is made in the convention for alternative authentication by agreement with the authorities, including the use of security codes (Annex II Article 3).

2.18 UNCITRAL MODEL LAW ON INTERNATIONAL COMMERCIAL ARBITRATION

2.18.1 Status

Approved June 1985.

2.18.2 Purpose

To facilitate international commercial arbitration by providing rules that are binding between states that adopt the Model Law. Legislation based on the model law has been enacted in nine countries including Australia and Canada and in four states of the USA including California and Texas.

2.18.3 Comment

The Model Law provides that an arbitration agreement may be contained in a communication transmitted by EDI which provides a record of the agreement (Article 7). It is probably intended that an arbitration agreement referred to in a contract made by EDI means shall also be effective, but the wording employed in Article 7 is very unclear. "Agreements" are state~ to be capable of being made by EDI means but "contracts" are stated to require "writing", giving the possible absurd outcome that a contract including an arbitration clause can be made by EDI but a contract referring to a separate arbitration clause or agreement would only effectively incorporate that clause if made in writing.

See also submission by the Government of the then USSR on rules for use of EDI documents in arbitration. TRADE/WP.4/R.126.

See also comments on TRADE/WP.4/R.126 submitted by DEUPRO. TRADE/WP.4/R.201.

2.19 UNIDROIT CONVENTION ON INTERNATIONAL FACTORING

2.19.1 Status

Approved 28 May 1988. Entered into force on 1 May 1995

2.19.2 Purpose

To unify and modernise the laws governing the financing and factoring of transnational accounts receivable thereby promoting international trade.

2.19.3 Comment

A factoring contract is defined as a contract in which, inter alia, notice in writing of the assignment of the receivables is given to debtors, (Article l(C)). Such a notice is, however, expressly stated to be capable of being given by EDI means provided those means provide for reproduction in "tangible form" (Article 4(b)).

The reference to "tangible form" raises the issue of whether a paper record~ is eventually contemplated. Some observers have noted that language such as "readable" is much more media-neutral and removes the connotation that paper-based reproduction may be required for record purposes.

2.20 UNITED NATIONS CONVENTION ON INTERNATIONAL BILLS OF EXCHANGE AND INTERNATIONAL PROMISSORY NOTES

2.20.1 Status

Approved in December 1988. Not in force.

2.20.2 Purpose

To facilitate international trade by harmonising laws in order to promote the free circulation of bills of exchange and promissory notes.

2.20.3 Comment

A bill of exchange is defined as a written instrument (Article 3(1)). It must be signed by the drawer (Article 3(1). Similar requirements apply in the case of promissory notes (Article 3(2)). The Convention does provide for "signatures" to be by way of any satisfactory means of authentication and not necessarily in writing (Article 5(k)). However, the Convention contemplates action in writing taking place at various stages in a transaction, for example endorsements (Article 14). One way to remedy deficiencies in the Convention might be to reach a"common understanding" for facilitation under the provisions of Article 4.

2.21. UNCITRAL MODEL LAW ON INTERNATIONAL CREDIT TRANSFERS

2.21.1. Status

Adopted 1992.

2.21.2. Purpose

To offer the opportunity to unify the law of credit transfers by enacting a text that is drafted to meet the needs of modern funds transfer techniques.

2.21.3. Comment

The UNCITRAL model law on international credit transfers contains no requirement that payment orders should be in hard copy form. Neither does it require any written signatures. It does, however~ require that some aspects of credit transfer transactions should be "authenticated". Article 5 states that when a payment order or an amendment or revocation of a payment order is subject to authentication, other than by means of a mere comparison of signature, the authentication must, in the circumstances be a commercially reasonable method of security against unauthorised payment orders. It is submitted that this requirement can be met within EDI-based systems.

2.22. UN CONVENTION ON INDEPENDENT GUARANTEES AND STAND-BY LETTERS OF CREDIT

2.22.1. Status

Adopted 11 December 1995.

2.22.2. Purpose

To facilitate the international use of credit instruments, by establishing provisions recognising the rights of guarantors, issuers and other parties to exercise their rights and obligations under independent bank guarantees and stand-by letters of credit in line with other international sets of rules.

2.22.3. Comment.

The Convention provides fully for the use of EDI. Thus according to Article 6(g) a "document" means a communication made in a form that provides a complete record thereof, which may be interpreted to include an electronic message. Similarly an "undertaking", which includes a guarantee or credit may, according to Article 7(2), be issued in any form which preserves a complete record of the text of the undertaking and provides authentication of its source.

It therefore appears that the credit itself and also any supporting document may be transmitted in EDI form.

SECTION III CUSTOMS REGULATIONS

2.23. CUSTOMS CONVENTION ON THE INTERNATIONAL TRANSPORT OF GOODS UNDER COVER OF TIR CARNETS

2.23.1. Status

Adopted on 14 November 1975. Entered into force on 20 March 1978.

2.23.2. Purpose

To facilitate the international carriage of goods by road vehicles by establishing a procedure, based on use of a TIR Carnet document, whereby transit goods shall not be liable to import and export duties, taxes and restrictions nor, as a general rule, be subjected to examination at customs offices en route.

2.23.3. Comment

The TIR Convention revolves fundamentally around the issue and use of a paper-based document, the TIR Carnet. Not only does the convention not envisage the use of EDI but the present carnet is not aligned to the UN system and not readily capable of being reproduced by electronic means because of its dimensions.

There may be a possible loophole in Article 49 which does not prevent the application of "greater facilities" which contracting parties may wish to grant on a unilateral, bilateral or multi-lateral basis. Adopting a very loose interpretation of "greater facilities" it is conceivable that groups of countries could elect to establish a non paper based system. Given the rapid computerisation of border facilities in all parts of the Eurasian land mass it is possible to envisage a computer-based system evolving, though given the level of fraud with the existing system States would doubtless require an assurance of high levels of security before agreeing to changes.

There are moves to revise the 1975 TIR Convention and it is to be hoped that any revision will take full account of the need to provide for substitution of EDI methods for the present paper-based system as an alternative option.

2.24. INTERNATIONAL CONVENTION ON THE HARMONISATION OF FRONTIER CONTROL OF GOODS

2.24.1. Status

Adopted on 21 October 1982. Entered into force on 15 October 1985.

2.24.2. Purpose

To harmonise frontier controls to facilitate the passage of goods at borders.

2.24.3. Comment

The Convention itself is no barrier to the use of EDI systems. In Article 9(1) it promotes the use of UN aligned documents. In Article 9(2) it requires contracting parties to accept documents produced by any appropriate technical process, provided that they comply with official regulations as to their form, authenticity and certification and that they are legible and understandable. It should, however, be observed that if individual national laws require hard-copy documents the convention will not override such a requirement, so it is in fact of little use in reducing existing national barriers to the use of EDI. Its effect is further weakened by Article 14 which states that it does not override "treaties" which contracting parties to the Convention concluded before becoming contracting parties. The meaning of "treaties" is not clarified but it may be presumed to include other international conventions, some of which, as indicated elsewhere in this paper, do present barriers to the use of EDI.

SECTION IV DANGEROUS GOODS

2.25 IMO INTERNATIONAL MARITIME DANGEROUS GOODS (IMDG) Code

2.25.1 Status

The legal basis of the code stems from the International Convention for Safety of Life at Sea 1974 (SOLAS) as amended. The current edition of the IMDG Code is amendment 28-96.

2.25.2 Purpose

To provide a single set of international regulations governing the sea transport of dangerous goods.

2.25.3 Comment

Part A of Chapter VII of the SOLAS Convention contains the mandatory provisions which govern the carriage of dangerous goods at sea. Chapter VII/1.3 prohibits the carriage of dangerous goods except when carried in accordance with the provisions of part A of Chapter VII, which are expanded in the IMDG Code.

The IMDG Code is additionally recommended to governments for adoption into or as a basis for national legislation in pursuance of their obligations under the SOLAS Convention (Chapter VII/1.4) and the 1973 MARPOL (The International Convention for the Prevention of Pollution from Ships) Regulations (Regulation 1(3)) of Annex III of MARPOL 73/78).

The Code does permit EDI and EDP, via SOLAS and MARPOL, as an aid to paper

documents. Reference to this allowance is shown where it is presented in the legislation (see Annex I). The main areas of reference to documentation and signatures in the IMDG Code are section 7, 9, 12 and 17 of the General Introduction.

2.26 INTERNATIONAL CIVIL AVIATION ORGANISATION (ICAO) REGULATIONS

2.26.1 Status

Drawn from Annex 18 of the Convention on International Civil Aviation - the safe transport of dangerous goods by air. Presently 1997/8 Edition.

2.26.2 Purpose

The broad principles governing the transport of dangerous goods by air are held in Annex 18 to the Convention on International Civil Aviation. It is this convention that provides the legal base for the technical instructions. The purpose and status of the International Civil Aviation Authority "Technical Instructions for the Safe Transport of Dangerous Goods by Air" is to amplify those provisions in Annex 18 to the Convention and provide all the detail necessary safely to move dangerous goods by air.

2.26.3 Comment

With the wide use of EDI in the air environment one would assume that this mode of transport would be the most liberal as far as EDI and the transfer of information was concerned. However both the ICAO Regulations (the legal base) and the IATA Regulations (the commercial field document for practical reference by the industry) refer extensively to paper documents and signatures and make no allowance for EDI even as an aid to paper documents. This is thought by some observers to be connected to the, as yet, unresolved EDI problems in the unamended Warsaw Convention.

2.27 INTERNATIONAL AIR TRANSPORT ASSOCIATION DANGEROUS GOODS REGULATIONS (IATA)

2.27.1 Status

The International Air Transport Association Dangerous Goods Regulations are solely for IATA airlines. They are published by the IATA Dangerous Goods Board pursuant to IATA Resolutions 618 and 619 presently in 38th Edition 1997.

2.27.2 Purpose

They constitute a manual of industry carrier regulations to be followed by all IATA member airlines.

2.27.3 Comment

The IATA Regulations have no direct legal base other than reference to Annexe 18 of the Chicago Convention - the Convention on Civil Aviation and the associated ICAO Technical Instructions (evaluated above). For most practical purposes the requirements of ICAO and IATA are the same.

Reference to documentary and signatory requirements are held in two chapters of the IATA Regulations; in Section 10 which concerns radioactive material and Section 8 which concerns general documentation. While the IATA Regulations are not applicable outside of IATA membership, due to the number of airlines belonging to the organisation they are considered a de facto standard.

2.28. CONVENTION ON CIVIL LIABILITY FOR DAMAGE CAUSED DURING CARRIAGE OF DANGEROUS GOODS BY ROAD RAIL AND INLAND NAVIGATION VESSELS

2.28.1. Status

Adopted 10 October 1989. No in force.

2.28.2. Purpose

To establish uniform rules ensuring adequate and speedy compensation for damage caused during carriage of dangerous goods by road, rail and inland navigation vessels.

2.28.3. Comment

The Convention contains no specific requirement for "writing" or hard copy documents. It refers to obligations of the sender to inform the carrier of the dangerous nature of goods in Article 5(4)(C) but it is submitted that this requirement could adequately be fulfilled by electronic means where all parties are using EDI. It requires "notice" of proceedings to be given in Article 18 and in some jurisdictions such notice might still not be permissible in electronic form.

In Article 14 requirements as to the issue of insurance certificates are set out. These would presently be required to be in hard copy form in many jurisdictions but the Convention itself is no barrier to a relaxation of such requirements and, indeed, provides in Article 14.10 that "two or more states parties (to the Convention) may agree to dispense with the requirements .... for the certificate or green card."

2.29 THE ADR REGULATIONS

2.29.1 Status

Drawn from the European Agreement Concerning the International Carriage of Dangerous Goods by Road (ADR) Regulations, the current version of which is the 1997 Edition.

2.29.2 Purpose

To provide for the international carriage of dangerous goods by road.

2.29.3 Comment

Subject to compliance with certain provisions notably the conditions of Annex A to the ADR Agreement concerning the packing, labelling and documentation of dangerous goods in or on road vehicles and those of Annexe B concerning construction equipment and operation of vehicles goods will be permitted to enter and/or cross the territory of Contracting Parties.

The Agreement itself consists of 17 articles which contain the basic conditions with which signatories agree to comply and Annex A which contains the detailed provisions and Annex B which concerns transport equipment and operations. No reference is made in either the articles or the Annex to the use of electronic data interchange (EDI).

Regarding documentation and signature requirements ADR makes continuing reference to paper documents declarations and statements. No mention is currently made to the use of EDI or EDP techniques, except that in the case of container packing certificates EDI or EDP techniques as an aid to or instead of paper documents are not precluded.

It is expected that the question of the use of EDI techniques instead of paper documentation for the transport of dangerous goods will be discussed in the forthcoming two years.

However, it has to be clear that the information required for safety reasons will continue to be required to be available on board the vehicle at all times, i.e. it is probable that contracting parties to the ADR will have no objection to the use of EDI techniques instead of paper documentation provided that the vehicle is equipped with suitable and reliable equipment to provide immediately all necessary information concerning the dangerous goods carried on board to the control authorities in case of spot checks on the road or, in the case of incident/accident to the driver and emergency services.

Nevertheless, as long as a consignment note concerning information on the goods carried, including dangerous goods, continues to be required on board the vehicle by CMR (CMR article 4), it is also highly probable that this consignment note will remain the most suitable way to comply with the ADR information requirements.

If the regulations contained in CMR were to be changed to accommodate the use of EDI, the ADR requirements would also most probably be amended subsequently.

A study on the availability reliability and experience with vehicle EDI equipment which could meet the ADR information requirements would be most useful.

2.30 THE RID REGULATIONS

2.30.1 Status

The Regulations Concerning the International Carriage of Dangerous Goods by

Rail (RID) 1993 Edition are an annex to the Uniform Rules concerning the Contract for the International Carriage of Goods by Rail (CIM) which, in their turn, form an appendix to the Convention concerning International Carriage by Rail (COTIF). The RID regulations are only effective in the countries which have ratified the COTIF Convention.

2.30.2 Purpose

To provide for the international carriage of goods by rail.

2.30.3 Comment

Reference to paper documents is made in several areas of the RID Regulations and use of EDI is admitted, for example, by RID marginal 115(1), 226 (3 to 6) 314 etc. The RID Regulations are divided into three parts; Part I concerns the general requirements; Part II concerns special requirements for the various classes and Part III comprises of appendices concerning requirements related to specific hazards/equipment. Reference to documents and signatures are made in Part I and in the individual class information in Part II.

Problems might, however, arise where paper documents are needed to complete administrative formalities or an authorisation is needed and that document or authorisation is only given in paper-based form. It is hoped that the CIT model framework agreement under development for use with CIM/RID will help resolve these problems.

The requirement to provide a document or signature, similar to ADR, relies on documentation used for a previous mode of transport or upon the CIM Note.

ANNEX I

This Annex contains excerpts from conventions regulations and agreements relevant in considering the question of legal barriers to the use of EDI.

TRANSPORT REGULATIONS

Appendix 1	Hague Rules
Appendix 2	Hamburg Rules
Appendix 3	CMI Rules for Electronic Bills of Lading
Appendix 4	Multi-Modal Convention
Appendix 5	Warsaw Convention
Appendix 6	Warsaw: Montreal Protocol No. 4
Appendix 7	The Chicago Convention
Appendix 8	Convention on Liability of Terminal Operators
Appendix 9	Inter-American Convention on the International Carriage of Goods by Road
Appendix 10	CMR Convention
Appendix 11	Convention on a Common Transit Procedure
Appendix 12	COTIF/CIM Convention
Appendix 13	Conditions Governing FIATA FBL

TRADE REGULATIONS

Appendix 14	Vienna Convention on International Sale of Goods
Appendix 15	UCP 500
Appendix 16	INCOTERMS 1990
Appendix 17	Convention on Simplification of Formalities in Trade Between EC/EFTA
Appendix 18	UNCITRAL Model Law on Commercial Arbitration
Appendix 19	UNIDROIT Convention on International Factoring
Appendix 20	UN Convention on International Bills of Exchange
Appendix 21	UNCITRAL Model Law on International Credit Transfers
Appendix 22	UN Convention on Guarantees and Stand-by Letters of Credit

CUSTOMS REGULATIONS

Appendix 23	TIR Convention
Appendix 24	Convention on Harmonisation of Frontier Controls

DANGEROUS GOODS REGULATIONS

Appendix 25	International Maritime Dangerous Goods (IMDG) Code
Appendix 26	International Civil Aviation Organisation (ICAO)
Appendix 27	International Air Transport Association (IATA) Regulations
Appendix 28	Convention on Civil Liability for Damage Caused During Carriage of Dangerous Goods by Road, Rail and Inland Navigation.
Appendix 29	ADR Agreement Concerning International Carriage of Goods by Road
Appendix 30	RID Regulations Concerning the International Carriage of Goods by Rail
Appendix 31	CMR and COTIF (CIM)

APPENDIX 1 : THE HAGUE RULES

Article 1

In these rules the following words are employed with the meanings set out below:

b) "Contract of Carriage" applies only to contracts of carriage covered by a bill of lading or similar document of title, insofar as such document relates to the carriage of goods by sea, including any bill of lading or any similar document as aforesaid issued under or pursuant to a charter party from the moment which such bill of lading or similar document of title regulates the relation between a carrier and a holder of the same".

Article III

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

a) The-leading marks necessary for identification of the goods as the same are furnished in writing by the shipper before the loading of such goods starts, provided such marks are stamped or otherwise shown clearly upon the goods if uncovered, or on the cases or coverings in which such goods are contained, in such a manner as should ordinarily remain legible until the end of the voyage.

b) Either the number of packages or pieces, or the quantity or weight, a the case may be, as furnished in writing by the shipper.

c) The apparent order and condition of the goods.

6. Unless notice of loss or damage and the general nature of such loss or damage can be given in writing to the carrier or his agent at the port of discharge before or at the time of the removal of the goods into the custody of the person entitled to delivery thereof under the contract of carriage, such removal shall be prima facie evidence of the delivery by the carrier of the goods as described in the bill of lading.

If the loss or damage is not apparent the notice must be given within three days of the delivery.

The notice in writing need not be given if the state of the goods has at the time of their receipt been the subject of joint survey or inspection.

In any event the carrier and the ship shall be discharged from all liability in respect of loss or damage unless suit is brought within one year after delivery of the goods or the date when the goods should have been delivered.

In the case of any actual or apprehended loss or damage the carrier and the receiver shall give all reasonable facilities to each other for inspecting and tallying the goods.

96. The Hague-Visby Rules

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

APPENDIX 2: THE HAMBURG RULES

Article 1

7. "Bill of Lading" means a document which evidences a contract of carriage by sea and the taking over or loading of the goods by the carrier,, and by which the carrier undertakes to deliver the goods against surrender of the document. A provision in the document that the goods are to be delivered to the order of a named person, or to order, or to bearer, constitutes such an undertaking.

8. "Writing" includes, inter alia telegram and telex.

Article 9. Deck Cargo

2. If the carrier and the shipper have agreed that the goods shall or ma be carried on deck, the carrier must insert in the bill of lading or other document evidencing the contract of carriage by sea a statement to that effect. In the absence of such a statement the carrier has the burden of proving that an agreement for carriage on deck has been entered into; however, the carrier is not entitled to invoke such an agreement against a third party, including a consignee, who has acquired the bill of lading in good faith.

Article 14

3. The signature on the bill of lading may be in handwriting, printed in facsimile, perforated, stamped, in symbols, or made by any other mechanics or electronic means, if not inconsistent with the law of the country where the bill of lading is issued.

Article 15.

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

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

Article 18. Documents other than Bills of Lading.

Where a carrier issues a document other than a bill of lading to evidence the

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

Article 19. Notice of Loss Damage or Delay.

1. Unless notice of loss or damage, specifying the general nature of such loss or damage, is given in writing by the consignee to the carrier not later than the working day after the day when the goods were handed over t the consignee, such handing over is prima facie evidence of the delivery the carrier of the goods as described in the document of transport or, if no such document has been issued, in good condition. (Also Article 19(2)- 19(8)).

APPENDIX 3 : CMI RULES FOR ELECTRONIC BILLS OF LADING

18.3 Note should be taken of the following provision:

Rule 11

The carrier and the shipper and all subsequent parties utilizing these procedures agree that any national or local law, custom or practice requiring the contract of carriage to be evidenced in writing and signed, is satisfied by the transmitted and confirmed electronic data residing on computer data storage media displayable in human language on a video scree or as printed out by a computer. In agreeing to adopt these Rules, the parties shall be taken to have agreed not to raise the defence that this contract is not in writing.

APPENDIX 4 : UNITED NATIONS MULTIMODAL TRANSPORT CONVENTION

9.3 Note should be taken of the following provisions:

Article 1

(4) "Multimodal transport document" means a document which evidences a multimodal transport contract, the taking in charge of the goods by the multimodal transport operator, and an undertaking by him to deliver the goods in accordance with the terms of the contract.

(10) "Writing" means, inter alia, telegram or telex.

Article 5

(1) When the goods are taken in charge by the multimodal transport operator, he shall issue a multimodal transport document which, at the option of the consignor shall be in either negotiable or non-negotiable form.

(2) The multimodal transport document shall be signed by the multimodal transport operator or by a person having authority from him.

(3) The signature on the multimodal transport document may be in handwriting, printed on facsimile, perforated, stamped, in symbols, or mad~ by any other mechanical or electronic means, if not inconsistent with the law of the country where the multimodal transport document is issued.

(4) If the consignor so agrees, a non-negotiable multimodal transport document may be issued by making use of any mechanical or other means preserving a record of the particulars stated in Article 8 to be contained in the multimodal transport document. In such a case the multimodal transport operator, after having taken the goods in charge, shall deliver to the co-signor a readable document containing all the particulars so recorded, and such document shall for the purposes of the provision of this~ Convention be deemed to be a multimodal transport document.

Article 8

1. The multimodal transport document shall contain the following particulars:

(List of 15 Particulars)

2. The absence from the multimodal document of one or more of the particulars referred to in paragraph 1 of this article shall not affect the legal character of the document as a multimodal transport document provide, that it nevertheless meets the requirements set out in paragraph 4 of Article 1.

Article 9.

1. If the multimodal transport document contains particulars concerning the general nature, leading marks, number of packages or pieces, weight or quantity of the goods which the multimodal transport operator or a person acting on his behalf knows, or has reasonable grounds to suspect, do not accurately represent the goods actually taken in charge, or if he has no reasonable means of checking such particulars, the multimodal transport operator or a person acting on his behalf shall insert in the multimodal transport document a reservation specifying these inaccuracies, grounds o~ suspicion or the absence of reasonable means of checking.

2. If the multimodal transport operator or a person acting on his behalf fails to note on the multimodal transport document the apparent condition of the goods, he is deemed to have noted on the multimodal transport document that the goods were in apparent good condition.

Annex Article 1

"Customs transit document" means a form containing the record or data entries and information required for the customs transit operation.

APPENDIX 5 : THE WARSAW CONVENTION

Section III - Air Waybill

Article 5

1. Every carrier of goods has the right to require the consignor to make out and hand over to him a document called an "air waybill"; every consignor has the right to require the carrier to accept this document.

2. The absence, irregularity, or loss of this document shall not affect the existence of the validity of the contract of transportation which shall, subject to the provisions of Article 9, be nonetheless governed by the rules of this convention.

Article 6

1. The air waybill shall be made out by the consignor in three original parts and be handed over with the goods.

2. The first part shall be marked "for the carrier", and shall be signed by the consignor. The second part shall be marked "for the consignee"; it shall be signed by the consignor and by the carrier and shall accompany the goods. The third part shall be signed by the carrier and handed by him to the consignor after the goods have been accepted.

3. The carrier shall sign on acceptance of the goods.

4. The signature of the carrier may be stamped; that of the consignor ma be printed or stamped.

5. If, at the request of the consignor, the carrier makes out the air waybill, he shall be deemed, subject to proof to the contrary, to have don so on behalf of the consignor.

Article 8

The air waybill shall contain the following particulars:

(List of 17 particulars)

(o) The document handed to the carrier to accompany the air waybill.

(q) A statement that the carriage is subject to the rules relating to liability established by this convention.

Hague Protocol
Article 8©

"The air waybill shall contain a notice to the consignor to the effect that if the carriage involved an ultimate destination or stop in a country other than the country of departure, the Warsaw Convention may be applicable and that the convention governs and in most cases limits the liability of carriers in respect of loss of or damage to cargo."

Article 9

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

Hague Protocol
Article 9 of the convention shall be deleted and replaced by the following:

"If, with the consent of the carrier, cargo is loaded on board the aircraft

without an air waybill having been made out, or if the air waybill does not include the notice required by Article 8, paragraph (c), the carrier shall not be entitled to avail himself of the provision of Article 22, paragraph 2."

Hague Protocol
Article 15(3)

"3. Nothing in this convention prevents the issue of a negotiable air waybill."

Article 16

1. The consignor must furnish such information and attach to the air waybill such documents as are necessary to meet the formalities of customs, octroi, or the police before the goods can be delivered to the consignee. The consignor shall be liable to the carrier for any damage occasioned by the absence, insufficiency or irregularity of any such information or documents, unless the damage is due to the fault of the carrier or his agents.

2. The carrier is under no obligation to inquire into the correctness or sufficiency of such information or documents. Paragraph 5(4).

Article 16

1. Receipt by the person entitled to delivery of luggage or goods without complaint is prima facie evidence that the same have been delivered in good condition and in accordance with the document of carriage.

2. In the case of damage, the person entitled to delivery must complain to the carrier forthwith after the discovery of the damage, and at the latest, within three days from the date of receipt in the case of luggage and seven days from the date of receipt in the case of goods. In the case of delay the complaint must be made at the latest within fourteen days from the date on which the luggage or goods have been placed at his disposal.

3. Every complaint must be made in writing upon the document of carriage or by separate notice in writing despatched within the times aforesaid.

4. Failing complaint within the times aforesaid, no action shall lie against the carrier, save in the case of fraud on his part.

APPENDIX 6 : MONTREAL PROTOCOL NO.4 TO THE WARSAW CONVENTION

Article 5

1. In respect of the carriage of cargo an air waybill shall be delivered.

2. Any other means which would preserve a record of the carriage to be performed may, with the consent of the consignor, be substituted for the delivery of an air waybill. If such other means are used the carrier shall, if so requested by the consignor, deliver to the consignor a receipt for the cargo permitting identification of the consignment and access to the information contained in the record preserved by such other means.

3. The impossibility of using, at points of transit and destination, the other means which would preserve the record of the carriage referred to in paragraph 2 of this Article does not entitle the carrier to refuse to accept the cargo for carriage.

Article 6

1. The air waybill shall be made out by the consignor in three original parts.

2. The first part shall be marked "for the carrier"; it shall be signed by the consignor. The second part hall be marked "for the consignee"; it shall be signed by the consignor and by the carrier. The third part shall be signed by the carrier and handed by him to the consignor after the cargo has been accepted.

3. The signature of the carrier and that of the consignor may be printed or stamped.

4. If, at the request of the consignor, the carrier makes out the air waybill, he shall be deemed, subject to proof to the contrary, to have done so on behalf of the consignor.

Article 7

When there is more than on package:

a) the carrier of cargo has the right to require the consignor to make out separate air waybills;

b) the consignor has the right to require the carrier to deliver separate receipts when the other means referred to in paragraph 2 of Article 5 are used.

Article 9

Non-compliance with the provisions of Articles 5 to 8 shall not affect the existence or the validity of the contract of carriage which shall, nonetheless, be subject to the rules of this convention including those relating to limitation of liability.

APPENDIX 7 : THE CHICAGO CONVENTION

ANNEXE 9 CHAPTER 2

B. Description purpose and use of aircraft documents

2.8 When the information included in the cargo manifest can be readily provided in an alternative manner legally acceptable to the competent authorities, Contracting States shall not require the presentation of the Cargo Manifest in writing.

ANNEXE 9 CHAPTER 4: ENTRY AND DEPARTURE OF CARGO AND OTHER ARTICLES

B. Electronic Data-processing Techniques

4.4. Recommended Practice. When introducing electronic data processing techniques for air cargo facilitation, Contracting States should encourage international airline operators, handling companies, airports, customs and other authorities and/or cargo agents, to exchange data electronically to facilitate cargo processing in conformity with international message standards.

4.5. Contracting States shall accept commercial documents required for the clearance of air cargo, when produced by electronic data processing techniques, provided they are in legible and understandable form and that they contain the required information.

4.6. Contracting States shall examine, in close collaboration with international operators and others concerned with air cargo, the facilitation implications which may result from the introduction of electronic data-processing techniques.

4.6.1. Recommended Practice. When introducing electronic data processing techniques for air cargo, Contracting States should limit the information required from operators to that relating to the latter's particular function concerned (e.g. operator, clearing agent, importer), as provided for in the pertinent provisions of this Annex.

4.7. Recommended Practice. When the introduction, or modification, of electronic data-processing techniques for air cargo is planned Contracting States should endeavour to apply the following principles:

a) affording all interested parties, from the outset, the opportunity for consultation;

b) evaluating existing procedures and eliminating those which are unnecessary;

c) determining those procedures which are to be computerised;

d) using United Nations (UN) standards to the maximum extent practicable. These include, but are not limited to, the UN Trade Data Element Directory (TDED), Electronic Data Interchange for Administration Commerce and Transport (EDIFACT) syntax rules)and UN Standard Messages (UNMs); and

e) ensuring compatibility with the various electronic data processing systems in existence.

4.8. When introducing electronic data-processing techniques for air cargo, Contracting States shall consider the principle of optionality regarding participation by operators and other interested parties.

4.8.1. Recommended Practice. Electronic data-processing systems for the clearance and facilitation of air cargo should cover its intermodal transfer.

APPENDIX 8 : CONVENTION ON LIABILITY OF TERMINAL OPERATORS

Article 1

(e) "Notice" means a notice given in a form which provides a record of the information contained therein.

Article 4. Issuance of Document.

(1) The operator may, and at the customer's request shall, within a reasonable period of time, at the option of the operator, either:

(a) acknowledge his receipt of the goods by signing and dating a document presented by the customer that identifies the goods, or;

(b) issue a signed document identifying the goods, acknowledging hi receipt of the goods and the date thereof, and stating their conditio and quantity insofar as they can be ascertained by reasonable means of checking.

(2) If the operator does not act in accordance with either sub-paragraph (a) or (b) of paragraph (1), he is presumed to have received the goods in apparent good condition, unless he proves otherwise. No such presumption applies when the services performed by the operator are limited to the immediate transfer of the goods between means of transport.

(3) A document referred to in paragraph (1) may be issued in any form which preserves a record of the information contained therein. When the customer and the operator have agreed to communicate electronically, a document referred to in paragraph (1) may be replaced by an equivalent electronic data interchange message.

(4) The signature referred to in paragraph (1) means a hand-written signature, its facsimile or an equivalent authentication effected by any other means.

APPENDIX 9 : INTER AMERICAN CONVENTION ON THE INTERNATIONAL CARRIAGE OF GOODS BY ROAD

14.3 Note should be taken of the following provisions;

Article 1

(d) BILL OF LADING, TRANSPORT DOCUMENT OR CONSIGNMENT NOTE means the document certifying that the carrier has taken the goods into his care and has undertaken a commitment to deliver these in accordance with the agreed upon term.

Article 4

(a) If the shipper so agrees, a non-negotiable bill of lading may be used using any mechanical or electronic means that recover the information stipulated in Article 5.

Article 5

The bill of lading shall contain the following particulars:

(1) The signature of the carrier or of the party issuing the bill of lading in the carrier's name and as his representative, and the signature of the shipper, his representative, agents or servants. These signatures may be handwritten or made by any mechanical or electronic means, if this is not inconsistent with the laws of the country where the bill of lading is issued.

APPENDIX 10 : THE CMR CONVENTION

Article 1

1. This Convention shall apply to every contract for the carriage of goods by road in vehicles for reward, when the place of taking over of the goods and the place designated for delivery, as specified in the contract, are situated in two different countries, of which at least one is a contracting country, irrespective of the place of residence and the nationality of the parties.

5. The contracting parties agree not to carry any of the provisions of this convention by special agreements between two or more of them, except to make it inapplicable to their frontier traffic or to authorise the use in transport operations entirely confined to their territory of consignment notes representing a title to the goods.

Conclusion and Performance of the Contract of Carriage

Article 4

The contract of carriage shall be confirmed by the making out of a consignment note. The absence, irregularity or loss of the consignment note shall not affect the existence or the validity of the contract of carriage which shall remain subject to the provisions of this convention.

Article 5

1. The consignment note shall be made out in three original copies signed by the sender and by the carrier. These signatures may be printed or replaced by the stamps of the sender and the carrier if the law of the country in which the consignment note has been made out so permits. The first copy shall be handed to the sender, the second shall accompany the goods and the third shall be retained by the carrier.

2. When the goods which are to be carried have to be loaded in different vehicles, or are of different kinds or are divided into different lots, the sender or the carrier shall have the right to require a spare consignment note to be made out for each vehicle used, or for each kind or lot of goods.

Article 6

1. The consignment note shall contain the following particulars:

(f) the description in common use of the nature of the goods and the method of packing, and, in the case of dangerous goods, their generally recognised description.

(k) a statement that the carriage is subject, notwithstanding any clause to the contrary, to the provisions of this convention.

2. Where applicable, the consignment note shall also contain the following particulars:

(a) a statement that transhipment is not allowed;

(b) the charges which the sender undertakes to pay;

© the amount of "cash on delivery" charges;

(d) a declaration of the value of the goods and the amount representing special interest in delivery;

(e) the sender's instructions to the carrier regarding insurance of the goods;

(f) the agreed time-limit within which the carriage is to be carried out;

(g) a list of the documents handed to the carrier.

Article 7

3. If the consignment note does not contain the statement specified in Article 6. paragraph l(k), the carrier shall be liable for all expenses, loss and damage sustained through such omission by the person entitled to dispose of the goods.

Article 8

1. On taking over the goods, the carrier shall check:

(a) the accuracy of the statements in the consignment note as to the number of packages and their marks and numbers. and;

(b) the apparent condition of the goods and their packaging.

2. Where the carrier has no reasonable means of checking the accuracy of the statements referred to in paragraph l(a) of this article, he shall enter his reservations in the consignment note together with the grounds o~ which they are based. He shall likewise specify the grounds for any reservations which he makes with regard to the apparent condition of the goods and their packaging. Such reservations shall not bind the sender unless he has expressly agreed to be bound by them in the consignment note

Article 9

1. The consignment note shall be prima facie evidence of the making of the contract of carriage, the conditions of the contract and the receipt o: the goods by carrier.

2. If the consignment note contains no specific reservations by the carrier, it shall be presumed, unless the contrary is proved, that the goods and their packaging appeared to be in good condition when the carrier~ took them over and that the number of packages, their marks and numbers corresponded with the statements in the consignment note.

Article 11

1. For the purposes of the customs or other formalities which have to be completed before delivery of the goods, the sender shall attach the necessary documents to the consignment note or place them at the disposal of the carrier and shall furnish him with all the information which he requires.

Article 12

1. The sender has the right to dispose of the goods, in particular by asking the carrier to stop the goods in transit, to change the place at which delivery is to take place or to deliver the goods to a consignee other than the consignee indicated in the consignment note.

2. This right shall cease to exist when the second copy of the consignment note is handed to the consignee or when the consignee exercises his right under Article 13, paragraph 1; from that time onwards the carrier shall obey the orders of the consignee.

3. The consignee shall, however, have the right of disposal from the time when the consignment note is drawn up, if the sender makes an entry to that effect in the consignment note.

Provisions Relating to Carriage Performed by Successive Carriers

Article 34

If carriage governed by a single contract is performed by successive road carriers, each of them shall be responsible for the performance of the whole operation, the second carrier and each succeeding carrier becoming a party to the contract of carriage, under the terms of the consignment note by reason of his acceptance of the goods and the consignment note.

Article 35

1. A carrier accepting the goods from a previous carrier shall give the latter a dated signed receipt. He shall enter his name and address on the second copy of the consignment note. Where applicable, he shall enter on the second copy of the consignment note and on the receipt reservations of the kind provided for in article 8, paragraph 2.

2. The provisions of article 9 shall apply to the relations between successive carriers.

APPENDIX 11 : CONVENTION ON A COMMON TRANSIT PROCEDURE

17.3 Note should be taken of the following provisions:

Article 1

4. Transit declarations and transit documents for the purposes of the common

transit procedure shall conform to and be made out in accordance with Appendix III

Appendix II to the Convention

Article 109

not to sign Tl or T2 declarations .... drawn up by an electronic or automatic data processing system.

Appendix III to the Convention

Article 3

1. When formalities are completed using public or private computer systems, the competent authorities shall authorize persons who request it to replace the handwritten signature with a comparable technical device, which may, where applicable, be based on the use of codes and which has the same legal consequences as a handwritten signature. This facility shall b granted only if the technical and administrative conditions laid down by the competent authorities are met.

2. Where formalities are completed using public or private computers which also print out the declarations, the competent authorities may provide for direct authentication to the system of declarations produced I place of the manual or mechanical application of the customs office stamp and the signature of the competent official.

APPENDIX 12 : COTIF/CIM CONVENTION

Article 1. Scope

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

Article 8

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

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

Article 10. National Law

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

2. "National law" means the law of the state in which the person entitle asserts his rights, including the rules relating to conflict of laws.

Article 11. Making of the contract of carriage.

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

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

5. The railway shall certify receipt of the goods and the date of acceptance for carriage by affixing the date stamp to or making the accounting machine entry on the duplicate of the consignment note before returning the duplicate to the consignor.

The duplicate shall not have effect as the consignment note accompanying the goods, nor as a bill of lading.

Article 13. Wording of the Consignment Note.

1. The consignment note must contain:

(g) a detailed list of the documents which are required by Customs or other administrative authorities and are attached to the consignment note or shown as held at the disposal of the railway at a named station or at a office of the Customs or of any other authority.

4. The consignment note shall not be replaced by other documents or supplemented by documents other than those prescribed or allowed by the Uniform Rules, the supplementary provisions or the tariffs.

Article 53. Claims

1. Claims relating to the contract of carriage shall be made in writing to the railway specified in Article 55.

2. A claim may be made by persons who have the right to bring an action against the railway under Article 54.

3. To make the claim the consignor must produce the duplicate of the consignment note. Failing this, he must produce an authorisation from the consignee or furnish proof that the consignee has refused to accept the consignment.

To make the claim the consignee must produce the consignment note if it ha~ been handed over to him.

4. The consignment note, the duplicate and any other documents which the person entitled thinks fit to submit with the claim shall be produced either in the original or as copies, the copies to be duly authenticated I~ the railway so requires.

On settlement of the claim, the railway may require the production, in the original form, of the consignment note, the duplicate or the cash on delivery voucher so that they may be endorsed to the effect that settlement ha been made.

APPENDIX 13 : CONDITIONS GOVERNING FIATA FB

4.1. The Merchant shall comply with rules which are mandatory according to the national law or by reason of international Convention, relating to the carriage of goods of a dangerous nature, and shall in any case inform the Freight Forwarder in writing of the exact nature of the danger, before goods of a dangerous nature are taken in charge by the Freight Forwarder and indicate to him, if need be, the precautions to be taken.

14. Lien

The Freight Forwarder shall have a lien on the goods and any documents relating thereto for any amount due at any time to the Freight Forwarder from the Merchant including storage fees and the cost of recovering same, and may enforce such lien in any reasonable manner which he may think fit.

16.1. Unless notice of loss of or damage to the goods, specifying the general nature of such loss or damage, is given in writing by the consignee to the Freight Forwarder when the goods are delivered to the consignee in accordance with clause 12, such handing over is prima facie evidence of the delivery by the Freight Forwarder of the goods as described in this FB.

16.2. Where the loss or damage is not apparent, the same prima facie effect shall apply if notice in writing is not given within 6 consecutive days after the day when the goods were delivered to the consignee in accordance with clause 12.

APPENDIX 14: VIENNA CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS

8.3 Note should be taken of the following provisions:

Article 11

A contract of sale need not be concluded in or evidenced by writing and is not subject to any other requirement as to form. It may be proved by any means, including witnesses.

Article 12

Any provision of Article 11, Article 29 or Part II of this~Convention that allows a contract of sale or its modification or termination by agreement or any offer, acceptance or other indication of intention to be made in any form other than in writing does not apply where any party has his place of business in a contracting state which has made a declaration under Article 96 of this Convention. The parties may not derogate from or vary the effect of this article.

Article 13

For the purposes of this Convention "writing" includes telegram and telex.

Article 96

A contracting state whose legislation requires contracts of sale to be concluded in or evidenced by writing may at any time make a declaration in accordance with Article 12 that any provision of Article 11, Article 29 or Part II of this Convention, that allows a contract of sale or its modification or termination by agreement or any offer, acceptance, or other indication of intention to be made in any form other than in writing, does not apply where any party has his place of business in that state.

APPENDIX 15: UNIFORM CUSTOMS AND PRACTICES FOR DOCUMENTARY CREDITS

Article 11. Tele-transmitted and Pre-advised Credits

a. I. When an Issuing Bank instructs an Advising Bank by an authenticated teletransmission to advise a credit or an amendment to a credit, the teletransmission will be deemed to be the operative credit instrument or the operative amendment, and no mail confirmation should be sent. Should a mail confirmation nevertheless be sent it will have no effect and the Advising Bank will have no obligation to check such mail confirmation against the operative credit instrument or the operative amendment received by teletransmision.

ii. If the teletransmission states "full details to follow" (or words of similar effect) or states that the mail confirmation is to be the operative credit instrument or the operative amendment, then the teletransmission will not be deemed to be the operative credit instrument or the operative amendment. The Issuing Bank must forward the operative credit instrument or the operative amendment to such Advising Bank without delay.

Article 20. Ambiguity as to the Issuers of Documents.

b. Unless otherwise stipulated in the credit, banks will also accept as an original document(s), a document(s) produced or appearing to have been produced:

I. by reprographic, automated or computerised systems;

ii. as carbon copies,

provided that it is marked as original and, where necessary, appears to be signed.

A document may be signed by handwriting, by facsimile signature, by perforated signature, by stamp, by symbol, or by any other mechanical or electronic method of authentication.

c. I. Unless otherwise stipulated in the credit banks will accept as a copy(ies), a document(s) either labelled copy or not marked as an original and a copy(ies) need not be signed.

ii. Credits that require multiple document(s) such as "duplicate", "two fold", "two copies" and the like, will be satisfied by the presentation of one original and the remaining number in copies except where the document itself indicates otherwise.

d. Unless otherwise stipulated in the credit, a condition under a credit calling for a document to be authenticated, validated, legalised, visaed, certified, or indicating a similar requirement, will be satisfied by any signature, mark, stamp or label on such document that on its face appears to satisfy the above condition.

Article 23. Marine/Ocean Bill of Lading.

a. If a credit calls for a bill of lading covering a port-to-port shipment, banks will unless otherwise stipulated in the credit, accept a document, however named, which:

I. appears on its face to indicate the name of the carrier and to have been signed or otherwise authenticated by:

- the carrier or a named agent for or on behalf of the carrier, or

- the master or a named agent for or on behalf of the master.

Any signature or authentication of the carrier or master must be identified as carrier or master, as the case may be. An agent signing or authenticating for the carrier or master must also indicate the name and the capacity of the party, ie carrier or master, on whose behalf that agent is acting.

Article 37. Commercial Invoices

a. Unless otherwise stipulated in the credit, commercial invoices:

I. must appear on their face to be issued by the beneficiary named in the credit (except as provided in Article 48);

ii. must be made out in the name of the applicant (except as provided in Article 48(h);

iii. need not be signed.

Article 38. Other Documents

If a credit calls for an attestation or certification of weight in the case of transport other than by sea, banks will accept a weight stamp or declaration of weight which appears to have been superimposed on the transport document unless the credit specifically stipulates that the attestation or certification of weight must be made by means of a separate document.

APPENDIX 16 : INCOTERMS 1990

There are 13 INCOTERMS in all - EXW (Ex Works), FCA (Free Carrier), FAS (Free Alongside Ship), FOB (Free on Board), CFR (Cost and Freight), CIF (Cost, Insurance and Freight), CPT (Carriage Paid To), CIP (Carriage and Insurance Paid To), DAF (Delivered at Frontier), DES (Delivered ex Ship), DEQ (Delivered Ex Quay), DDU (Delivered Duty Unpaid) and DDP (Delivered Duty Paid). The cost, responsibilities and risk of the buyer and seller are grouped together under 10 headings where each heading on the sellers side mirrors that on the buyers. Note should be taken of Al/Bl, A8/B8 and A10/B10. For example:

EXW. Al Provision of goods in conformity with the contract.

Provide the goods and the commercial invoice, or its equivalent electronic message, in conformity with the contract of sale and any other evidence of conformity which may be required by the contract.

FCA. A8 Proof of delivery, transport document or equivalent electronic message

Provide the buyer at the seller's expense, if customary, with the usual document in proof of delivery of the goods in accordance with A4.

Unless the document referred to in the preceding paragraph is the transport document, render the buyer at the latter's request, risk and expense, every assistance in obtaining a transport document for the contract of carriage (for example, a negotiable bill of lading, a nonnegotiable sea waybill, an inland waterway document, an air waybill, a railway consignment note, a road consignment note, or a multimodal transport document).

When the seller and the buyer have agreed to communicate electronically, the document referred to in the preceding paragraph may be replaced by an equivalent electronic data interchange (EDI) message.

APPENDIX 17: CONVENTION ON SIMPLIFICATION OF FORMALITIES IN TRADE BETWEEN EC/EFTA

Article 2

Where goods are the subject of trade between the contracting parties, the formalities connected with such trade shall be completed using a single document based on a declaration form.

Article 4

3. Nothing in this convention shall preclude the contracting parties from:

- dispensing with the requirement of written declarations;

- enabling the competent authorities to require that data necessary for completing the formalities in question be entered in their computerised declaration-processing systems without, where appropriate, requiring a written declaration;

- enabling the competent authorities, should a computerised declaration-processing system be used, to provide that the export, transit or import declaration be constituted either by the single document produced by that system or by entry of the data in the computer, if such a document is not produced.

Annex II to the Convention

Article 3

2. When formalities are completed using public or private computer systems, the competent authorities shall authorise persons, who so request to replace the handwritten signature with a comparable technical device which may, where applicable, be based on the use of codes, and which has the same legal consequences as a handwritten signature. This facility shall be granted only if the technical and administrative conditions laid down by the competent authorities are met.

3. When formalities are completed using public or private computers which also print out the declarations, the competent authorities may provide for direct authentication of the system of the declarations produced in place of the manual or mechanical application of the customs office stamp and t~ signature of the competent official.

APPENDIX 18 :UNCITRAL MODEL LAW ON INTERNATIONAL COMMERCIAL ARBITRATION

Article 7

2. The arbitration agreement shall be in writing. An agreement is in writing if it is contained in a document signed by the parties or in an exchange of letters, telex, telegrams or other means of telecommunication which provide a record of the agreement, or in an exchange of statements o claim and defence in which the existence of an agreement is alleged by one party and not denied by another. The reference in a contract to a document containing an arbitration clause constitutes an arbitration agreement provided that the contract is in writing and the reference is such as to make that clause part of the contract.

APPENDIX 19 : UNIDROIT CONVENTION ON INTERNATIONAL FACTORING

12.3 Note should be taken of the following provisions:

Article 4

For the purposes of this convention:

(a) a notice in writing need not be signed but must identify the person whom or in whose name it is given;

(b) "notice in writing" includes, but is not limited to, telegrams, telex and any other telecommunications capable of being reproduced in tangible form;

© a notice in writing is given when it is received by the addressee.

APPENDIX 20 : UN CONVENTION ON INTERNATIONAL BILLS OF EXCHANGE

13.3 Note should be taken of the following provisions:

Article 3

1. A bill of exchange is a written instrument which:

(a) Contains an unconditional order whereby the drawer directs the drawee to pay a definite sum of money to the payee or to his order.

(b) Is payable on demand at or at a definite time.

© Is dated.

(d) Is signed by the drawer.

2. A promissory note is a written instrument which:

(a) Contains an unconditional order whereby the maker undertakes to pay a definite sum of money to the payee or to his order.

(b) Is payable on demand or at a definite time. © Is dated. (d) Is signed by the maker.

Article 4

In the interpretation of this convention regard is to be had to its international character and to the need to promote uniformity in its application and the observance of good faith in international transaction

Article 4

(k) "Signature" means a handwritten signature, its facsimile or an equivalent authentication effected by any other means, "forged signature" includes a signature by the wrongful use of such means

Article 14

(1) An endorsement must be written on the instrument or on a slip affixed thereto ("allonge"). It must be signed.

APPENDIX 21 : UNCITRAL MODEL LAW ON INTERNATIONAL CREDIT TRANSFERS

Article 2 - Definitions

(b) "Payment order" means an unconditional instruction, in any form, by a sender to a receiving bank to place at the disposal of a beneficiary a fixed or determinable amount of money.

(I) "Authentication" means a procedure established by agreement to determine whether a payment order or an amendment or revocation of a payment order was issued by the person indicated as the sender.

CHAPTER II - OBLIGATIONS OF THE PARTIES

Article 5. Obligations of Sender

1. A sender is bound by a payment order or an amendment or revocation of a payment order if it was issued by the sender or by another person who had the authority to bind the sender.

2. When a payment order or an amendment or revocation of a payment order is subject to authentication other than by means of a mere comparison of signature, a purported sender who is not bound under paragraph 1 is nevertheless bound if

(a) the authentication is in the circumstances a commercially reasonable method of security against unauthorised payment orders, and

(b) the receiving bank complied with the authentication.

3. The parties are not permitted to agree that a purported sender is bound under paragraph 2 if the authentication is not commercially reasonable in

the circumstances.

Article 12. Revocation

4. A revocation order must be authenticated.

APPENDIX 22 : UN CONVENTION FOR GUARANTEES AND STAND-BY LETTERS OF CREDIT

Article 2. Undertaking

An undertaking is an independent commitment, known in international practice as an independent guarantee or as a stand-by letter of credit, given by a bank or other institution or person ("guarantor/issuer") to pay to the beneficiary a certain or determinable amount upon simple demand or upon demand accompanied by other documents.

Article 6. Definitions

"Counter-guarantee" means an undertaking given to the guarantor/issuer of another undertaking by its instructing party and providing for payment upon simple demand or upon demand accompanied by other documents....

"Document" means a communication made in a form that provides a complete record thereof.

Article 7. Issuance, form and irrevocability of undertaking

(2) An undertaking may be issued in any form which preserves a complete record of the text of the undertaking and provides authentication of its source by generally accepted means or by a procedure agreed upon by the guarantor/issuer and the beneficiary.

Article 8. Amendment

(1) An undertaking may not be amended except in the form stipulated in the undertaking or, failing such stipulation, in a form referred to in paragraph (2) of article 7.

Article 11. Cessation of right to demand payment

(2) The undertaking may stipulate, or the guarantor/issuer and the beneficiary may agree elsewhere, that return of the document embodying the undertaking to the guarantor/issuer, or a procedure functionally equivalent to the return of the document in the case of the issuance of the undertaking in non-paper form, is required for the cessation of the right to demand payment, either alone or in conjunction with one of the events referred to in subparagraphs (a) and (b) of paragraph (1) of this article. However, in no case shall retention of any such document by the beneficiary after the right to demand payment ceases in accordance with subparagraph © and (d) of paragraph (1) of this article preserve any rights of the beneficiary under the undertaking.

Article 16. Examination of demand and accompanying documents

(2) Unless otherwise stipulated in the undertaking or elsewhere agreed by the guarantor/issuer and the beneficiary, the guarantor/issuer shall have a reasonable time, but not more than seven business days following the day

of receipt of the demand and any accompanying documents, in which to:

© If the decision is not to pay, issue notice thereof to the beneficiary.

The notice referred to in sub-paragraph © above shall, unless otherwise stipulated in the undertaking or elsewhere agreed by the guarantor/issuer and the beneficiary, be made by teletransmission or, if that is not possible by other expeditious means and indicate the reason for the decision not to pay.

CUSTOMS REGULATIONS

APPENDIX 23 : TIR CONVENTION

Article 3.

The transport operations must be guaranteed by associations approved in accordance with the provisions of Article 6 and must be performed under cover of a TIR carnet, which shall conform to the model reproduced in Annex 1 to this Convention.

Article 7.

TIR carnet forms sent to the guaranteeing associations by the corresponding foreign associations or by international organisations shall not be liable to import and export prohibitions and restrictions.

Article 10.

1. The TIR carnet may be discharged unconditionally or conditionally. Where discharge is conditional this shall be on account of facts connected with the TIR operation itself. These facts shall be clearly indicated in the TIR carnet.

Article 17

1. A single TIR carnet shall be made out in respect of each road vehicle or container.

2. The TIR carnet shall be valid for one journey only. It shall contain at least the number of detachable vouchers for customs acceptance and for discharge which are necessary for the transport operation in question.

Article 24

If the customs authorities conduct an examination of the load of a road vehicle, combination of vehicles or container in the course of a journey or at a customs office en route, they shall record on the TIR carnet vouchers used in their country, on the corresponding counterfoils, and on the vouchers remaining in the TIR carnet, particulars of the new seals affixed and of the controls carried out.

© Provisions concerning transport of heavy or bulky goods.

Article 33

The authorities at the customs office of departure may require such packing lists, photographs, drawings etc., as are necessary for the identification of the goods carried to be appended to the TIR carnet. In this case they shall endorse these documents, one copy of the said documents shall be attached to the inside of the cover page of the TIR carnet, and all the manifests of the TIR carnet shall include a reference to such documents.

Article 49

This Convention shall not prevent the application of greater facilities which Contracting Parties grant or may wish to grant either by unilateral provisions or by virtue of bilateral or multilateral agreements provided that such facilities do not impede the application of the provisions of this Convention and, in particular, TIR operations.

APPENDIX 24 : CONVENTION ON HARMONISATION OF FRONTIER CONTROLS

Article 9. Documents

The Contracting Parties shall endeavour to further the use, between themselves and with the competent international bodies, of documents aligned on the United Nations Layout Key.

2. The Contracting Parties shall accept documents produced by any appropriate technical process, provided that they comply with official regulations as to their form, authenticity and certification, and that they are legible and understandable.

Article 14. Relation to other Treaties

Without prejudice to the provisions of Article 6, the Convention shall not override the rights and obligations arising from treaties which the Contracting Parties to the Convention concluded before becoming contracting parties to this Convention.

APPENDIX 25 : INTERNATIONAL MARITIME DANGEROUS GOODS CODE (IMDG)

Section 2 of the Introduction to the IMDG Code, entitled "Conventions" provides extracts from Chapter VII of SOLAS and MARPOL 73/78. Excerpts relating to documentation from those Conventions are as follows:

SOLAS. Chapter VII, Regulation 5

Documents.

1. In all documents relating to the carriage of dangerous goods by sea where the goods are named, the correct technical name ....

2. The shipping documents prepared by the shipper shall include, or be accompanied by, a signed certificate or declaration` that the shipment offered for carriage ....

3. The persons responsible for the packing of dangerous goods into a freight container or road vehicle shall provide a signed container packing certificate or vehicle packing declaration stating that the cargo has been properly packed and secured and that all applicable transport requirements have been met. Such a certificate or vehicle packing declaration may be combined with the document referred to in paragraph 2.

4. Where there is due cause to suspect that a freight container ..... or where a packing certificate or vehicle declaration is not available, the freight container shall not be accepted for shipment.

5. Each ship carrying dangerous goods shall have a special list or manifest ...

* Text adopted by the Maritime Safety Committee at its 59th session.

Note: Reference to documents in this regulation does not preclude the use of electronic data processing (EDP) and electronic data interchange (EDI) transmission techniques as an aid to paper documentation.

MARPOL 73/78, Annex III Regulations 1, 4 and 7;

Regulation 1.

Application

3. To supplement the provisions of this Annex, the government of each party to the convention shall issue, or cause to be issued, detailed requirements on packing, marking, labelling, documentation, stowage, quantity limitations and exceptions for preventing or minimising pollution of the marine environment by harmful substances.

Regulation 4

Documentation

1. In all documents relating to the carriage of harmful substances by sea where such substances are named, the correct technical name ... the addition of the words "MARINE POLLUTANT".

2. The shipping documents supplied by the shipper shall include, or be accompanied by, a signed certificate or declaration that the shipment offered for carriage is properly packaged and marked ...
4. When the ship carries a special list or manifest or a detailed stowage plan, required for the carriage of dangerous goods by the International Convention for the Safety of Life at Sea, 1974, as amended, the documents required by this regulation may be combined with those for dangerous goods. Where documents are combined, a clear distinction shall be made between dangerous goods and harmful substances covered by this Annex. A copy of one of these documents shall be made available before departure to the person or organisation designated by the port state authority.

* Reference to "documents" in this regulation does not preclude the use of electronic data processing (EDP) and electronic data interchange (EDI) transmission techniques as an aid to paper documentation.

Note - as stated with the SOLAS Convention, whilst this final statement is welcomed it still provides a barrier to the full use of EDP and EDI.

Regulation 7. International Conference on Safety of Life at Sea 1960, Paragraph 3.

56. The Conference

noting that the Economic and Social Council of the United Nations in its Resolution 645G (XIII) of 26 April 1957, and 724C (XXVIII) of 17 July 1959, has approved the Reports of the Committees of Experts on the classification, labelling and documentation of dangerous goods whether carried by sea, road, rail or air ...

Note - this last reference does not directly concern the legal question.

Section 7 - Identification, Marking, Labelling and Placarding of Dangerous Goods.

7.1.2. The purpose of indicating the proper shipping name* (see 7.1.3) and the UN number of a substance, material or article offered for transport and, in the case of a marine pollutant, of the addition of MARINE POLLUTANT on documentation accompanying the consignment (see subsection 9.3 of this General Introduction), and of marking the proper shipping name in accordance with subsection 7.2 on the package** containing the goods, are to ensure that the substance, material or article can be readily identified during transport ...

7.1.3 ... Trade names may be utilised on documents and packages in addition to the proper shipping name...

7.1.5... When conjunctions such as "and" or "or" are not capitalised, or when capitalised segments of an entry are punctuated by commas, the entire capitalised portion of the entry need not necessarily be shown as the proper shipping name on documentation or packages ...

7.1.7 ... In addition, when qualifying words are used as part of the proper shipping name, their sequence on documentation or packages is optional.

7.1.9. Practical considerations prohibit the listing of all dangerous goods by name in this Code ... Thus for the purpose of documentation and marking of packages, these entries should be supplemented, in parentheses, with the additional information required by 7.1.11.

Section 9 - Documentation of Dangerous Goods Shipments.

Note - Foot notes are given in this section which make reference to UN Recommendation No. 11.

9.1 When dangerous goods are offered for shipment, similar documents to those required for other categories of goods have to be prepared. The form of these documents, the particulars to be entered`on them and the obligations they may entail may be fixed by international conventions applying to certain modes of transport and by national legislation .

9.2. One of the primary requirements of a shipping document for dangerous goods is to convey the fundamental information relative to the hazards of the goods. It is, therefore, necessary to include certain basic information on the document for consignment of a (the) dangerous good(s) unless otherwise exempted or regulated in this Code.

9.4. The dangerous goods documentation to be prepared by the shipper should in addition carry, or be accompanied by, a certificate or declaration that the shipment offered can be accepted for shipment and that it is properly packaged, marked ...

transport, making a dangerous goods declaration issued for the initial mode of transport valid for subsequent modes in international multi-modal and combined transport. A suggested form for such a declaration is ...

"I hereby declare ...

... Signature on behalf of shipper"

9.5. The text of the above declaration, and the special information relative to the hazards of the goods to be carried (as in 9.3 above) should be incorporated into, or combined with, an existing transport or shipping document. The layout of the information on the document (or the order of transmission of the corresponding data by electronic or other automatic data processing (EDP) or electronic data interchange (EDI) techniques should be as in 9.3.

9.6. When an existing transport or shipping document, or cargo handling form, cannot be used for the purposes of dangerous goods documentation for international transport, a specimen declaration form has been prepared which is suitable for use where the declaration is made on a separate document ...,.... to restrict the number of individual descriptions that may appear on a single document. However, if both dangerous and non-dangerous goods are listed on one document, the dangerous goods should be listed first, or otherwise emphasised.

9.7.2. In certain circumstances special certificates are required such as:

(Introduction) the provisions of the IMDG Code (e.g. see individual entries for charcoal ...

Note - the documents referred to in paragraph 9.8 are not necessarily part of the declaration but are specialist certificates and declarations which may form part of or consist of a separate collection of information.

9.8. When packages containing dangerous goods are packed into a unit, e.g. freight container, flat, trailer or other vehicle intended for carriage by sea, those responsible for the packing of the unit should provide a certificate or declaration in accordance with` 12.3.7 or 17.7.7. of this General Introduction as appropriate ....

Note - the comments above apply.

9.9. References to "documents" in this section do not preclude the use of electronic data processing (EDP) and electronic data interchange (EDI) transmission techniques, as an aid to paper documentation.

Note - the above which reflects the same statement as that made in the SOLAS and MARPOL Conventions, refers to EDI and EDP but still prevents their full implementation and maintains the necessity for a paper based system.

9.10. Each ship carrying dangerous goods should have a special list or manifest setting forth, in accordance with regulation 5... ...The dangerous goods list or manifest should be based on the documentation and certification required in this Code...

Section 12 - Freight Container Traffic

1.2.3 concerns container packing and certification.

12.3.3. The acquirement set out in Section 9 of this General Introduction with respect to the documentation of packaged dangerous goods and freight containers used as bulk packaging for dangerous goods should be met.

12.3.7. Those responsible for the packing of the dangerous goods into a container should provide a "container packing certificate" certifying that this has been properly carried out and embodying the following provisions ...

- the container was clean and dry ...

- the dangerous goods declaration required in subsection 9.4 of the General Introduction to the International Maritime Dangerous Goods Code (IMDG Code) has been received.

The functions of the documents required in 12.3.3 and 12.3.7 above may be incorporated into a single document; if not, it may be desirable to attach these documents one to the other. If these functions are incorporated into a single document, e.g. a dangerous goods declaration, a shipping note, etc., the inclusion of a phrase such as "it is declared that the packing of the container has been carried out in accordance ...

Section 17 - Carriage of Dangerous Goods on Roll-on Roll-off Ships.

17.7.6. The requirements set out in Section 9 of this General Introduction with respect to the documentation of packaged dangerous goods and freight containers used as bulk packagings for dangerous goods should be met.

17.7.7. Those responsible for the packing or loading of dangerous goods into a vehicle or freight container should provide a "declaration" certifying that this has been properly carried out and stating that:

- the vehicle or freight container was clean, dry and apparently fit to receive goods...

- the dangerous goods declaration required in subsection 9.4 of the General Introduction to the International Maritime Dangerous Goods Code (IMDG Code) has been received ...

The functions of the documents required in 17.7.6 and 17.7.7 may be incorporated into a single document; if not, these documents should be attached one to the other. If these functions are incorporated into a single document, e.g. a dangerous goods declaration, a shipping note, etc., the inclusions of such a phrase as "It is declared ..." ... may suffice.

APPENDIX 26 :ICAO TECHNICAL INSTRUCTIONS FOR THE SAFE TRANSPORT OF DANGEROUS GOODS BY AIR

In the Technical Instructions, Chapter 1, 1.2 General Transport Requirement, it is stated that:

Except as otherwise provided for in these Instructions, no person may offer or accept dangerous goods for international civil transport by air unless those goods are properly classified, documented, certified, described, packaged, marked, labelled and in the condition for shipment required by these Instructions ...

Linked to this statement, Part 4 of the Technical Instructions concerns the Shipper's Responsibilities and it is primarily in this part that legal barriers to EDI can be found. These are as follows:

Part 4, Chapter 1 - General;

1.1 © Before a person offers any package or overpack of dangerous goods for transport by air he must ensure that the dangerous goods transport document has been properly executed and the declaration signed . . .

Part 4, Chapter 4 - Documentation

4.1. Dangerous Goods Transport Document

4.1.1 The person who offers dangerous goods for transport by air must provide to the operator two copies of the dangerous goods transport document, completed and signed as provided for in this paragraph.

4.1.2 Dangerous goods must be accurately described on the dangerous goods transport document by their proper shipping name ...

4.1.3 In addition ... additional information must be included on the dangerous goods transport document ...

4.1.4 For solid substances, unless the word 'molten' is already included in the proper shipping name, it must be added to the proper shipping name on the dangerous goods transport document when a substance is offered for air transport in the molten state (see Part 2; 11.3.4).

4.1.5 When waste dangerous goods (other than radioactive wastes) are being transported for disposal or for processing for disposal, the proper shipping name must be preceded by the word 'Waste'.

4.1.6 The name and address of the person who offers the dangerous goods and the full address of the consignee must be included on the dangerous goods transport document ...

4.1.7 For explosive substances, where Packing Instruction 124 has been adopted ..., the State's distinguishing sign for motor vehicles in international trade of the country for which the authority acts must be marked on the dangerous goods transport document ...

4.1.11 When the appropriate national authority authorises the transport of a sample of a new self reacting substance ... a statement must be included on the dangerous goods transport document to indicate that it is such a sample.

4.1.12 The dangerous goods transport document required by 4.1.1 must bear a declaration signed by the person who offers the dangerous goods for transport which includes the following text:

> I hereby declare that the contents of this consignment are fully and accurately described above by the proper shipping name, and are classified, packaged, marked and labelled/ placarded, and are in all respects in proper condition for transport according to applicable international and national governmental regulations.

4.1.13 In addition to the languages which may be required by the States of origin, English should be used for the dangerous goods transport document.

4.2 When an air waybill is issued for a consignment for which a dangerous goods transport document is required, the air waybill must contain a statement to indicate that the dangerous goods are described on an accompanying dangerous goods transport document.

4.3. Additional Documentation for other than Radioactive Material.

4.3.1. When dangerous goods are shipped as authorised by Special Provision Al, A2 or A109 they must be accompanied by a copy of the document(s) of approval, showing the quantity limitations, the packing requirements and, in the case of A2, the labelling requirements.

4.3.2 When dangerous goods are shipped in portable tanks as authorised by Part S-3, Chapter 12 of the Supplement, they must be accompanied by a copy of the document(s) of approval.

4.3.3 When dangerous goods are shipped in packagings by Part 3;2.5, they must be accompanied by a copy of the document(s) of approval.

4.3.4 When organic peroxides and self-reactive substances require an approval prior to transport under the provisions of Part 2;4.1.3.3.2 or Part 2;5.3.1.2.1, a copy of the approval must be attached to the dangerous goods transport document

4.4 Additional Documentation for Radioactive Material

Note: The provisions of 4.4 relate solely to special certificates required for radioactive material.

4.4 Copy(ies) of the applicable competent authority certificates referred to in 1.3.4 need not necessarily accompany the consignment to which they relate. The shipper must, however, be prepared to provide them to the operator before loading, unloading and at any transshipment. To facilitate shipment it may be preferable for the certificates to accompany the consignment.

4.5. Documentation for Radioactive Material, Excepted Package

4.5 Excepted packages of radioactive material must be described on the air waybill or other similar document (such as a consignment note) or on the dangerous goods transport document by the appropriate proper shipping name from the list below:

APPENDIX 27: INTERNATIONAL AIR TRANSPORT ASSOCIATION (IATA) REGULATIONS

The 38th Edition (1997) of the IATA Regulations essentially contain the same requirement as to documents as the ICAO Technical Instructions considered Ante. IATA has, however, designated a standard format document

for use by member airlines. In the interests of saving space the relevant extracts from the IATA Regulations are not reproduced.

APPENDIX 28 :CONVENTION ON CIVIL LIABILITY FOR DAMAGE CAUSED DURING CARRIAGE OF DANGEROUS GOODS BY ROAD, RAIL AND INLAND NAVIGATION VESSELS (CRTD)

Article 3

1. This Convention shall apply to claims, other than claims arising out of any contract for the carriage of goods or passengers, for damage caused during carriage of dangerous goods by road, rail or inland navigation vessel.

5. This Convention shall not apply when the vehicle on board which the dangerous goods have been loaded is carried by a sea-going ship, sea-borne craft or aircraft.

Article 5. Liability Provisions

4. No liability shall attach to the carrier if he proves that:

© The consignor or any other person failed to meet his obligation to inform him of the dangerous nature of the goods...

Article 14

1. Each State Party shall designate one or several competent authorities to issue or approve certificates attesting that carriers falling within the definition of Article 1, paragraph 8(a) have a valid insurance or other financial security in accordance with the provisions of this Convention.

6. The State where the certificate is issued or approved shall, subject to the provisions of this Convention, determine the conditions of issue and validity of the certificate.

10. Two or more States Parties may agree to dispense with the requirements of this article for the certificate or green card referred to in paragraph 9 of this article in respect of road vehicles registered in their territories for the carriage, within their territories, of goods by road covered by this Convention.

APPENDIX 29: EUROPEAN AGREEMENT CONCERNING THE INTERNATIONAL CARRIAGE OF DANGEROUS GOOD BY ROAD (ADR)

Annex A - Provisions Concerning Dangerous Substances and Articles

Part I. Definitions and General Provisions

Marginal 2002:

3. Any carriage of goods governed by this annex shall be accompanied by both the following documents:

a) a transport document containing at least the following information (Class 7, see also marginal 2709):

a description of the goods including the substance identification number (where available)

... a declaration as required by the terms of any special agreement.

The document containing this information may be that already required by other regulations in force for carriage by another mode of transport ... The consignor shall communicate this information to the carrier in writing.

b) instructions to be implemented in the event of an accident (see Annex B, marginal 10 385), (unless exempted under marginal 10 011).

4. If by reason of the size of the load a consignment cannot be loaded in its entirety on a single transport unit, at least as many separate documents, or copies of the single document, shall be made out as transport units loaded. Furthermore, in all cases separate transport documents shall be made out for consignments or parts of consignments which may not be loaded together on the same vehicle by reason of the prohibitions set forth in Annex B.

9. The consignor, either in the transport document or in a separate declaration incorporated into or combined with it, shall certify that the substance presented may be carried by road in conformity with the provisions of ADR ...

Marginal 2003, paragraph 3 (Class 7)

Schedule 10. Transport Documents

Marginal 2007.

(b) In addition to the particulars prescribed for ADR, the words "Carriage under marginal 2007 of ADR" shall be entered in the transport document.

Marginal 2008.

If the carriage of dangerous goods in a large container precedes a voyage by sea, a container packing certificate conforming to paragraph 12.3.7 of the General Introduction to the IMDG Code shall be provided with the transport document.

The functions of the transport document required under marginal 2002(3)(a), of the declaration required under marginal 2002(9) and of the container packing certificate as provided above may be incorporated into a single document; if not, these documents shall be attached one to the other. If these functions are incorporated into a single document, the inclusion in the transport document of a statement that the loading of the container has been carried out in accordance with the applicable modal regulations together with the identification of the person responsible for the container packing certificate shall be sufficient. The use of electronic data processing (EDP) or electronic data interchange (EDI) techniques as an aid to or instead of paper documentation is not precluded.

NOTE: The container packing certificate is not required for tankcontainers.

Marginal 10381

Documents to be carried on the transport unit

(1) In addition to the documents required under other regulations, the following documents shall be carried on the transport unit:

(a) the transport documents prescribed in Annex A, marginal 2002 (3), (4) and (9) covering all the dangerous substances carried and, when appropriate, the container packing certificate prescribed in marginal 2008;

(b) a copy of the main text of the special agreement(s) concluded in accordance with marginals 2010 and 10602 if transport is carried out on the basis of such agreement(s).

(2) Where the provisions of this Annex require the following documents to be drawn up, they shall likewise be carried on the transport unit:

(a) The certificate of approval referred to in marginal 10282 for each transport unit or element thereof;

(b) The driver's training certificate prescribed in marginal 10315 and reproduced in Appendix B.6;

© The instructions prescribed in marginal 10315 , relating to all the dangerous substances carried and;

(d) The permit authorising the transport operation.

Marginal 10385

Instructions in writing for the driver

(1) As a precaution against any accident or emergency that may occur or arise during carriage, the driver shall be given instructions in writing, specifying concisely for each dangerous substance or article carried or for each group of dangerous goods presenting the same dangers to which the substance(s) or article(s) carried belong(s):

(a) the name of the substance or article or group of goods, the Class and the identification number or for a group of goods the identification number of the goods for which these instructions are intended to be applicable;

(b) the nature of the danger inherent in these goods as well as the measures and personal protection to be applied by the driver;

© the immediate action to be taken by the driver in the event of an accident.

General Provisions

(2) These instructions shall be provided by the consignor who shall be responsible for their content, in a language the driver(s) taking over the dangerous goods is (are) able to read and to understand, as far as this language is an official language of one of the ADR contracting parties.

(3) These instructions shall be kept in the driver's cab.

(4) Instructions in writing according to this marginal which are not applicable to the goods which are on board of the vehicle, shall be kept separate from pertinent documents in such a way as to prevent confusion.

(5) The carrier shall ensure that the drivers concerned understand and are capable of carrying out these instructions properly.

(6) In case of mixed loads of packaged goods including dangerous goods which belong to different groups of goods presenting the same dangers, the instructions in writing may be restricted to one instruction per class of dangerous goods carried on board of the vehicle. In such case no name of goods, nor identification number has to be mentioned in the instructions.

APPENDIX 30 :REGULATIONS CONCERNING THE INTERNATIONAL CARRIAGE OF GOODS BY RAIL (RID)

Part I - General Requirements

Marginal 2

(1) The conditions of carriage applicable to each class, with the exception of Class 7, are subdivided into the following sections:

2. A Packages

1. General conditions of packing
2. Specific conditions of packaging

..C Particulars in the consignment note

The conditions of carriage applicable to Class 7 are contained in the schedules comprising the following headings:

1. Materials
2. Packaging/packing
..10. Transport documents

Marginal 8

2. In the case of mixed packing, the requirements of RID relating to the particulars in the consignment note apply for each of the dangerous goods ...

Marginal 9

14. Packages with a capacity of not more than 450 1 or 400 kg which do not ... under the following conditions:

(a) if their labelling does not comply ...
(b) for mixed packing in a package ...
© in addition to the particulars prescribed in RID, the consignment note must include the statement "Carriage in accordance with marg. 14 RID"

Marginal 15

5. Besides the particulars prescribed in the various classes of RID for the goods carried, the consignor shall include in the box on the consignment note reserved for the description ... ... identification numbers shall also be included in front of the description of the goods on the consignment note.

Further references to documentary requirements and particulars to appear on the transport document are made in the **individual class** divisions in Part II of the RID Regulations. It is not considered appropriate for the purposes of this document to list these with the extracts from the text only to say that the remaining references to documents and signatures can be found in the following Classes/marginals; Class 1 - 115; Class 2 - 226; Class 3 - 314; Class 4.1 - 414, Class 4.2 - 444; Class 4.3 - 484; Class 5.1 - 514; Class 5.2 - 561i Class 6.1 - 614; Class 6.2 - 664; Class 7 - 702 (10), 703 (10), 704 Schedule 1-13 (paragraphs 10), 706 (3(c)), 709 and 710(1); Class 8 - 814; Class 9 - 914.

APPENDIX 31 : CMR AND COTIF (CIM)

CMR

Article 6

1. The consignment note shall contain the following particulars ...

(f) the description in common use of the nature of the goods and the method of packing, and, in the case of dangerous goods, their generally recognised description;

Article 22

1. When the sender hands goods of a hazardous nature to the carrier, he shall inform the carrier of the exact nature of the danger and indicate, if necessary, the precautions to be taken. If this information has not been entered in the consignment note, the burden of proving, by some other means, that the carrier knew the exact nature of the danger constituted by the carriage of the said goods shall rest upon the sender or the consignee...

NOTE: This article does not prevent the use of EDI for the transfer of information, but places the liability for providing evidence that the information has been provided (without specifying the form or media) with the sender or the consignee.

COTIF

Article 19

4. The Committee of Experts shall take decisions on proposals to amend the provisions of the Regulations concerning the International Carriage of Dangerous Goods by Rail (RID), Annex I to the CIM Uniform Rules.

CIM

Article 13

1. The consignment note must contain:

© the description of the goods;

(g) a detailed list of documents which are required by Customs or other administrative authorities and are attached to the consignment note ...

2. The consignment note must, where appropriate, contain all the other particulars provided for in the Uniform Rules.

ANNEX II

This Annex contains conventions, agreements and model laws of secondary importance to the trade facilitation work of WP.4 containing references to "writing", "signature" or "document".

Source: Treaties and International Documents Used in International Trade Law (Alain Prujiner, 1992)

1. Convention for the Recognition and Enforcement of Foreign Arbitral Awards (New York, 1958): art.II, 1. and 2.;

2. European Convention on International Commercial Arbitration (Geneva,1961): art I,2;

3. Convention on the Settlement of Investment Disputes Between States and Nationals of other States (Washington,1965): art.28,36,48 and 50;

4. Inter-American Convention on International Commercial Arbitration (Panama, 1975) art.l ;

5. Convention on the Law Applicable to Contractual Obligations (Rome, 1980): art.9;

6. Convention on Agency in the International Sale of Goods (Geneva, 1983): art.l0, 11 and 15(8);

Source: Register of Texts of Conventions and Other Instruments Concerning International Trade Law (United Nations. 1971)

7. Convention Relating to a Uniform Law on the International Sale of Goods (The Hague, 1964): art. 1(4) ad 15;

8. Arbitration Rules of the United Nations Economic Commission for Europe (1966): art. 3,4,7,8,9,11,15,16,19,20,32 and 41;

9. Convention Relating to a Uniform Law on the Formation of Contracts for the International Sale of Goods (The Hague, 1964): art. 3;

Source: The Hague Conference on Private International Law: Collection of Conventions (1951-1988)

10. Convention on the Law Applicable to International Sales of Goods (1955): art.l;

11. Convention on the Jurisdiction of the Selected Forum in the Case of International Sale of Goods (1958): art.l and 2;

12. Convention Abolishing the Requirements of Legalization for Foreign Public Documents (1961): art. 3 and 5;

13. Convention for the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial matters (1965);

14. Convention for the Recognition and Enforcement of Foreign Judgements in Civil and Commercial Matters (1971): art.l3 and 23(22);

15. Convention on the Law Applicable to Agency (1978): art.l3 and 14;

16. Convention on the Law Applicable to Trusts and on their Recognition (1985): art.3 and 6;

17. Convention on the Law Applicable to contracts for the International Sale of Goods (1986): art.7,10 and 11;

Source: United Nations Commission on International Trade Law (UNCITRAL)

18. UNCITRAL Arbitration Rules (1977): art.l,4,11(2),18,19 and 27; and

19. UNCITRAL Model Law on Procurement of Goods, Construction and Services (1994): art. 9,36(a) and 53(1);

Other sources: Convention on jurisdiction and the enforcement of judgements in civil and commercial matters (Lugano, 1988): art.l7 and 46 to 50.

Convention on jurisdiction and the enforcement of judgements in civil and commercial matters (Brussels, 1968 and 1978): art.l7 and 46 to 50 [the text of these articles is the same as the Lugano Convention].

ANNEX III

This Annex contains the text of the UNCITRAL Model Law on Electronic Commerce in its latest draft.

A/5 1/17

Excerpt from Report of the
United Nations Commission on
International Trade Law
on the work of its twenty-ninth session

(New York, 28 May - 14 June 1996)

General Assembly,
Fifty-first Session,
Supplement No.17 (A/51/17)

(MANUSCRIPT, SUBJECT TO EDITING)

ANNEX I

[Original: Arabic, Chinese, English, French, Russian, Spanish]

UNCITRAL Model Law on Electronic Commerce

PART ONE. ELECTRONIC COMMERCE IN GENERAL

CHAPTER I. GENERAL PROVISIONS

Article 1. Sphere of application*

This Law** applies to any kind of information in the form of a data message used in the context*** of commercial**** activities.

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* The Commission suggests the following text for States that might wish to limit the applicability of this Law to international data messages:

This Law applies to a data message as defined in paragraph (1) of article' 2 where the data message relates to international commerce.

** This Law does not override any rule of law intended for the protection of consumers.

*** The Commission suggests the following text for States that might wish to extend the applicability of this Law:

This Law applies to any kind of information in the form of a data message, except in the following situations: [...].

**** The term "commercial" should be given a wide interpretation so as to cover matters arising from all relationships of a commercial nature, whether contractual or not. Relationships of a commercial nature include, but are not limited to the following transactions: any trade transaction for the supply or exchange of goods or services; distribution agreement; commercial representation or agency; factoring; leasing; construction of works; consulting; engineering; licensing; investment; financing; banking; insurance; exploitation agreement or concession; joint venture and other forms of industrial or business cooperation; carriage of goods or passengers by air, sea, rail or road.

Article 2. Definitions

For the purposes of this Law:

(a) "Data message" means information generated, sent, received or stored by electronic, optical or similar means including, but not limited to, electronic data interchange (EDI), electronic mail, telegram, telex or telecopy;

(b) "Electronic data interchange (EDI)" means the electronic transfer from computer to computer of information using an agreed standard to structure the information;

© "Originator" of a data message means a person by whom, or on whose behalf, the data message purports to have been sent or generated prior to storage, if any, but it does not include a person acting as an intermediary with respect to that data message;

(d) "Addressee" of a data message means a person who is intended by the originator to receive the data message, but does not include a person acting as an intermediary with respect to that data message;

(e) "Intermediary", with respect to a particular data message, means a person who, Oll behalf of another person, sends, receives or stores that data message or provides other services with respect to that data message;

(f) "Information system" means a system for generating, sending, receiving, storing or otherwise processing data messages.

Article 3. Interpretation

(I) In the interpretation of this Law, regard is to be had to its international origin and to the need to promote uniformity in its application and the observance of good faith.

(2) Questions concerning matters governed by this Law which are not expressly settled in it are to be settled in conformity with the general principles on which this Law is based.

Article 4. Variation by agreement

(1) As between parties involved in generating, sending, receiving, storing or otherwise processing data messages, and except as otherwise provided, the provisions of chapter III may be varied by agreement.

(2) Paragraph (I) does not affect any right that may exist to modify by agreement any rule of law referred to in chapter II.

CHAPTER II. APPLICATION OF LEGAL REQUIREMENTS TO DATA MESSAGES

Article 5. Legal recognition of data messages

Information shall not be denied legal effect, validity or enforceability solely on the grounds that it is in the form of a data message.

Article 6. Writing

(1) Where the law requires information to be in writing, that requirement is met by a data message if the information contained therein is accessible so as to be usable for subsequent reference.

(2) Paragraph (1) applies whether the requirement therein is in the form of an obligation or whether the law simply provides consequences for the information not being in writing.

(3) The provisions of this article do not apply to the following: [...].

Article 7. Signature

(1) Where the law requires a signature of a person, that requirement is met in relation to a data message if:

(a) a method is used to identify that person and to indicate that person's approval of the information contained in the data message; and

(b) that method is as reliable as was appropriate for the purpose for which the data message was generated or communicated, in the light of all the circumstances, including any relevant agreement.

(2) Paragraph (1) applies whether the requirement therein is in the form of an obligation or whether the law simply provides consequences for the absence of a signature.

(3) The provisions of this article do not apply to the following: [...].

Article 8. Original

(1) Where the law requires information to be presented or retained in its original form, that requirement is met by a data message if:

(a) there e~cists a reliable assurance as to the integrity of the information from the time when it was first generated in its final form, as a data message or otherwise; and

(b) where it is required that information be presented, that information is capable of being displayed to the person to whom it is to be presented.

(2) Paragraph (1) applies whether the requirement therein is in the form of an obligation or whether the law simply provides consequences for the information not being presented or retained in its original form.

(3) For the purposes of subparagraph (a) of paragraph (1):

(a) the criteria for assessing integrity shall be whether the information has remained complete and unaltered, apart from the addition of any endorsement and any chan~e which arises in the normal course of communication, storage and display; and

(b) the standard of reliability required shall be assessed in the light of the purpose for which the information was generated and in the light of

all the relevant circumstances.

(4) The provisions of this article do not apply to the following: [...].

Article 9. Admissibility and evidential weight of data messages

(1) In any legal proceedings, nothing in the application of the rules of evidence shall apply so as to deny the admissibility of a data message in evidence:

(a) on the sole ground that it is a data message; or,

(b) if it is the best evidence that the person adducing it could reasonably be expected to obtain, on the grounds that it is not in its original form.

(2) Information in the form of a data message shall be given due evidential weight. In assessing the evidential weight of a data message, regard shall be had to the reliability of the manner in which the data message was generated, stored or communicated, to the reliability of the manner in which the integrity of the information was maintained, to the manner in which its originator was identified, and to any other relevant factor.

Article 10. Retention of data messages

(1) Where the law requires that certain documents, records or information be retained, that requirement is met by retaining data messages, provided that the following conditions are satisfied:

(a) the information contained therein is accessible so as to be usable for subsequent reference; and

(b) the data message is retained in the format in which it was generated, sent or received, or in a format which can be demonstrated to represent accurately the information generated, sent or received; and

© such information, if any, is retained as enables the identification of the origin and destination of a data message and the date and time when it was sent or received

(2) An obligation to retain documents, records or information in accordance with paragraph (1) does not extend to any information the sole purpose of which is to enable the message to be sent or received.

(3) A person may satisfy the requirement referred to in paragraph (I) by using the services of any other person, provided that the conditions set forth in subparagraphs (a), (b) and © of paragraph (I) are met.

CHAPTER III. COMMUNICATION OF DATA MESSAGES

Article 11. Formation and validity of contracts

(1) In the context of contract formation, unless otherwise agreed by the parties, an offer and the acceptance of an offer may be expressed by means of data messages. Where a data message is used in the formation of a contract, that contract shall not be denied validity or enforceability on the sole ground that a data message was used for that purpose.

(2) The provisions of this article do not apply to the following: [...].

Article 12. Recognition by parties of data messages

(1) As between the originator and the addressee of a data message, a declaration of will or other statement shall not be denied legal effect, validity or enforceability solely on the grounds that it is in the form of a data message.

(2) The provisions of this article do not apply to the following: [...].

Article 13. Attribution of data messages

(1) A data message is that of the originator if it was sent by the originator itself

(2) As between the originator and the addressee, a data message is deemed to be that of the originator if it was sent:

(a) by a person who had the authority to act on behalf of the originator in respect of that data message; or

(b) by an information system programmed by or on behalf of the originator to operate automatically.

(3) As between the originator and the addressee, an addressee is entitled to regard a data message as being that of the originator, and to act on that assumption, if:

(a) in order to ascertain whether the data message was that of the originator, the addressee properly applied a procedure previously agreed to by the originator for that purpose; or

(b) the data message as received by the addressee resulted from the actions of a person whose relationship with the originator or with any agent of the originator enabled that person to gain access to a method used by the originator to identify data messages as its own.

(4) Paragraph (3) does not apply:

(a) as of the time when the addressee has both received notice from the originator that the data message is not that of the originator, and had reasonable time to act accordingly; or

(b) in a case within paragraph (3) (b), at any time when the addressee knew or should have known, had it exercised reasonable care or used any agreed procedure, that the data message was not that of the originator.

(5) Where a data message is that of the originator or is deemed to be that of the originator, or the addressee is entitled to act on that assumption, then, as between the originator and the addressee, the addressee is entitled to regard the data message as received as being what the originator intended to send, and to act on that assumption. The addressee is not so entitled when it knew or should have known, had it exercised reasonable care or used any agreed procedure, that the transmission resulted in any error in the data message as received.

(6) The addressee is entitled to regard each data message received as a separate data message and to act on that assumption, **except to the extent** that it duplicates another data message and the addressee knew or should have known, had it exercised reasonable care or used any agreed procedure, that the data message was a duplicate.

Article 14. Acknowledgement of receipt

(1) Paragraphs (2) to (4) of this article apply where, on or before sending a data message, or by means of that data message, the originator has requested or has agreed with the addressee that receipt of the data message be acknowledged.

(2) There the originator has not agreed with the addressee that the acknowledgement be given in a particular form or by a particular method, an acknowledgement may be given by

(a) any communication by the addressee, automated or otherwise, or

(b) any conduct of the addressee, sufficient to indicate to the originator that the data message has been received.

(3) Where the originator has stated that the data message is conditional on receipt of the acknowledgement, the data message is treated as though it has never been sent, until the acknowledgement is received.

(4) Where the originator has not stated that the data message is conditional on receipt of the acknowledgement, and the acknowledgement has not been received by the originator within the time specified or agreed or, if no time has been specified or agreed, within a reasonable time the originator:

(a) may give notice to the addressee stating that no acknowledgement has been received and specifying a reasonable time by which the acknowledgement must be received; and

(b) if the acknowledgement is not received within the time specified in subparagraph (a), may, upon notice to the addressee, treat the data message as though it had never been sent, or exercise any other rights it may have.

(5) Where the originator receives the addressee's acknowledgement of receipt, it is presumed that the related data message was received by the addressee. That presumption does not imply that the data message corresponds to the message received.

(6) Where the received acknowledgement states that the related data message met technical requirements, either agreed upon or set forth

in applicable standards, it is presumed that those requirements have been met.

(7) Except in so far as it relates to the sending or receipt of the data message, this article is not intended to deal with the legal consequences that may flow either from that data message or from the acknowledgement of its receipt.

Article 15. Time and place of dispatch and receipt of data messages

(1) Unless otherwise agreed between the originator and the addressee, the dispatch of a data message occurs when it enters an information system outside the control of the originator or of the person who sent the data message on behalf of the originator.

(2) Unless otherwise agreed between the originator and the addressee, the time of receipt of a data message is determined as follows:

(a) if the addressee has designated an information system for the purpose of receiving data messages, receipt occurs:

(I) at the time when the data message enters the designated information system; or

(ii) if the data message is sent to an information system of the addressee that is not the designated information system, at the time when the data message is retrieved by the addressee;

(b) if the addressee has not designated an information system, receipt occurs when the data message enters an information system of the addressee.

(3) Paragraph (2) applies notwithstanding that the place where the information system is located may be different from the place where the data message is deemed to be received under paragraph (4).

(4) Unless otherwise agreed between the originator and the addressee, a data message is deemed to be dispatched at the place where the originator has its place of business, and is deemed to be received at the place where the addressee has its place of business. For the purposes of this paragraph:

(a) if the originator or the addressee has more than one place of business, the place of business is that which has the closest relationship to the underlying transaction or, where there is no underlying transaction, the principal place of business;

(b) if the originator or the addressee does not have a place of business, reference is to be made to its habitual residence.

(5) The provisions of this article do not apply to the following: [...].

PART TWO. ELECTRONIC COMMERCE IN SPECIFIC AREAS

CHAPTER I. CARRIAGE OF GOODS

Article 16. Actions related to contracts of carriage of goods

Without derogating from the provisions of part I of this Law, this chapter applies to any action in connection with, or in pursuance of, a contract of carriage of goods, including but not limited to:

(a) (I) furnishing the marks, number, quantity or weight of goods;

(ii) stating or declaring the nature or value of goods;

(iii) issuing a receipt for goods;

(iv) confirming that goods have been loaded;

(b) (I) notifying a person of terms and conditions of the contract;

(ii) giving instructions to a carrier;

© (I) claiming delivery of goods;

(ii) authorizing release of goods;

(iii) giving notice of loss of, or damage to, goods;

(d) giving any other notice or statement in connection with the performance of the contract;

(e) undertaking to deliver goods to a named person or a person authorized to claim delivery;

(f) granting, acquiring, renouncing, surrendering, transferring or negotiating rights in goods;

(g) acquiring or transferring rights and obligations under the contract.

Article 17. Transport documents

(1) Subject to paragraph (3), where the law requires that any action referred to in article 16 be carried out in writing or by using a paper document, that requirement is met if the action is carried out by using one or more data messages.

(2) Paragraph (1) applies whether the requirement therein is in the form of an obligation or whether the law simply provides consequences for failing either to carry out the action in writing or to use a paper document.

(3) If a right is to be granted to, or an obligation is to be acquired by, one person and no other person, and if the law requires that, in order to effect this, the right or obligation must be conveyed to that person by the transfer, or use of, a paper document, that requirement is met if the right or obligation is conveyed by using one or more data messages, provided that a reliable method is used to render such data message or messages unique.

(4) For the purposes of paragraph (3), the standard of reliability required shall be assessed in the light of the purpose for which the right or obligation was conveyed and in the light of all the circumstances, including any relevant agreement.

(5) Where one or more data messages are used to effect any action in

subparagraphs (f) and (g) of article (16), no paper document used to effect any such action is valid unless the use of data messages has been terminated and replaced by the use of paper documents. A paper document issued in these circumstances shall contain a statement of such termination. The replacement of data messages by paper documents shall not affect the rights or obligations of the parties involved.

(6) If a rule of law is compulsorily applicable to a contract of carriage of goods which is in, or is evidenced by, a paper document, that rule shall not be inapplicable to such a contract of carriage Or goods which is evidenced by one or more data messages by reason of the fact that the contract is evidenced by such data message or messages instead of by a paper document.

(7) The provisions of this article do not apply to the following: [...].

The following table indicates new article numbers assigned to the provisions of the UNClTRAL Model Law on Electronic Commerce upon adoption by the Commission and the articles as they were presented in the draft Model Law on Legal Aspects of Electronic Data Interchange ~EDI) and Related Means of Communication before the Commission.

Number of article in Model law	Number of draft article before the Commission	Number of article in Model Law	Number of draft article before the Commission
1	1	11	13
2	2	12	new 13bis
3	3	13	11
4	10	14 (1) to (4)	12 (1) to (4)
5	4	14 (5) and (6)	12 (5)
6 (1) and (2)	5 (1)	14 (7)	new
6 (3)	s (2)	15	14
7 (1) and (2)	6 (1)	16	X (1)
7 (3)	6 (2)	17 (1) and (2)	X (2)
8 (1) and (2)	7 (1)	17 (3)	X (4)
8 (3)	7 (2)	17 (4)	X (s)
8 (4)	7 (3)	17 (S)	X (3)
9	8	17 (6)	X (6)
10	9	17 (7)	X (7)

DOCUMENT B

1. INTRODUCTION AND RECOMMENDATIONS

1.1 In March 1990, the Working Party on Facilitation of International Trade Procedures (WP.4) "requested its rapporteurs on legal questions to establish .... a detailed action programme on legal aspects of trade data interchange, with indication of priorities and proposals concerning the resources which would be needed to execute the programme" (see TRADE/WP.4/R.171, para. 19).

1.2 In March 1991, TRADE/WP.4/R697 was introduced, which set forth a proposed programme of work and which defined, for the overall activity, the following terms of reference:

"To eliminate any constraints to international trade through problems of a legal and/or commercial practice nature (with particular reference to the use of EDI) by coordinating action with all interested parties and, where necessary, carrying out specific projects."

1.3 Project 4.5 of the programme of work is to:

"Develop, for possible adoption at the national level uniform definitions of "writing, "document", "signature" and other appropriate terms which will include messages transmitted by electronic data interchange and related procedures for authenticating, in both legal and commercial contexts, those messages and establishing appropriate security therefore."

1.4 On 22 July 1994 TRADE/WP.4/R 1096 was issued as a background document for delegations and organisations to consider the definitions of "writing", signature" and "document" employed in multilateral conventions and agreements relating to international trade. It identified a number of problem areas where barriers existed to the increased use of EDI messages. R1096 has recently been re-issued in revised form.

1.5 TRADE A/CN.9/WG.IV/WP.71 was issued on 31.12.96 and carries forward the debate on the issue of standardisation of digital signatures, certification authorities and related legal issues.

1.6 This present paper is intended as a supplement to R1096. It expands the scope of the information presented in R1096 to include the revision mechanisms applicable under the Conventions and agreements identified in R1096. It also now seems appropriate to focus future efforts on the Conventions and agreements in most need of rapid revision.

1.7 Certain recommendations seem appropriate on the basis of information contained in R1096 and this present paper:

1.7.1 General recommendation

l. Revision should not be piecemeal and haphazard. There should be concerted and minimalist approach to revision based on introducing the same facilitating definitions into Conventions and agreements, so far as reasonably practicable. In order to achieve this the work on electronic signatures referred to in paper A/CN/.9/WG.IV/WP.71 should be accelerated and the provisions on "writing" etc in the UNCITRAL Model Law on Electronic Commerce should be adapted into definitions which could be imported into the presently defective Conventions and agreements identified below.

2.Where there is an entirely new initiative arising from the work of WP 4 to call a Convention review conference, it should be agreed in advance that only the issue of facilitation of electronic commerce will be on the agenda. The introduction of other items for revision is likely to create controversy

and make the agreement of a protocol a lengthy and possibly unsuccessful process.

3.Further consideration should be given to the problem of local law in relation to Conventions, such as the Vienna Convention and Hamburg Rules, which are satisfactory in themselves but are expressed not to override such local law even when it is unsatisfactory for EDI.

1.7.2 Dangerous Goods

The case of dangerous goods legislation is worthy of separate mention as the process of achieving uniformity of treatment across the conventions is already well advanced.

The IMDG Code, ICAO Regulations and ADR Regulations are all technical annexes of their "master" convention, respectively SOLAS 1974 as amended; the Chicago Convention as amended; and ADR and these are all United Nations Conventions.

These technical annexes are generally capable of amendment without amendment being required to the "master" convention. In recent years there has developed an unwritten rule that changes, other than those relating solely to a modal issue affecting, sea, air etc, will be introduced only on the recommendation of the UN Committee of Experts on Dangerous Goods as approved and implemented by the Economic and Social Council of the UN (ECOSOC).

Changes are implemented on a two year cycle. Thus recommendations~ published in July 1997 will take effect in the modal regulations in January 1999.

It is likely that changes to the modal regulations concerning "writing" "signatures" etc would be regarded as appropriate for a harmonised approach as described above ie emanating from ECOSOC. Certainly the potential seems to exist to foster such a harmonised approach thus facilitating amendment of ICAO, IMDG, ADR and associated contractual rules such as the IATA Regulations.

This leaves out only rail transport where the relevant regulations, RID, are currently revised under powers contained in the COTIF Convention. However, it is understood that there have been active steps taken to prepare draft legal instruments to separate RID from COTIF and to make it a free standing convention. If such drafts are implemented it is to be hoped that RID could formally follow the same harmonised cycle as now effectively applies to the other three modes.

1.7.3 Other specific recommendations

1. Protocols should be agreed to the following Conventions:

- Hague Visby Rules/Hague Rules
- Warsaw Convention (if Montreal protocol cannot be activated)
- CMR Convention
- TIR Convention (unless a general review conference is called in 1997 anyway)

to enable them to accommodate EDI systems.

2. The World Customs Organisation should expand its official glossary of terms to include satisfactory definitions of "writing", "signature" etc.

3. A "common understanding" should be reached with regard to endorsement in the UN Convention on Bills of Exchange.

4. FIATA should revise the FIATA FB terms specifically to accommodate EDI, or take other appropriate action to clarify the position in relation to the FB and EDI.

2. REVISION MECHANISMS

This section considers the processes required to revise the conventions, regulations and agreements which were considered in the re-issued R1096. The evaluation is presented in sections dealing with transport, trade, Customs and dangerous goods and follows the same order as that used in R1096. In the case of each agreement the need for review is also analysed and comment is made on the apparent willingness or otherwise of the depository of the agreement to carry out a revision process.

Relevant texts from the Conventions and agreements are shown at Annex 1 in the same order as they appear in the main paper.

SECTION I : TRANSPORT REGULATIONS.

2.1 International Convention for the Unification of Certain Rules Relating to Bills of Lading (Hague Rules).

2.1.1 Status.

Signed 25 August 1924. Entered in force 2 June 1931. Hague-Visby Protocol signed 23 February 1968. Entered into force 23 June 1977.

2.1.2 Purpose.

To promulgate rules for the carriage of goods by ship, in particular, the responsibilities of the parties for loss and damage and the information that should be contained in a bill of lading.

2.1.3 Comment

Article 16 of the Convention provides that a single Contracting State may call for a review conference. R1096 suggests that such a conference may well be needed to insert appropriate definitions for "document" etc into the text of the Convention.

It is not believed that there is presently any move to call a revision conference.

2.2. United Nations Convention on the Carriage of Goods by Sea 1978 (Hamburg Rules)

2.2.1 Status

Signed 30 March 1978. Entered into force 1 November 1992.

2.2.2 Purpose

Same as Hague Rules.

2.2.3 Comment

Article 32 of the Hamburg Rules requires a request by one third of the contracting parties to call a review conference.

R1096 suggests that the Convention itself may accommodate EDI in a generally satisfactory way already. The main problem is in Article 14 3, which allows local law requirements for paper writings to supersede the convention's allowance for electronic signatures. It is not clear whether revising the convention to remove this provision would actually have any impact on local law. It may be more productive to encourage States to modify their local law.

2.3 CMI Rules for electronic Bills of Lading.

2.3.1 Status

Adopted June 1990

2.3.2 Purpose

To establish a set of rules, to be adopted by voluntary agreement, giving legal effect to the exchange of electronic documents.

2.3.3 Comment.

The CMI rules can be modified by agreement within the CMI at any time.

As they are already satisfactory according to R1096 no further consideration is required. As with the Hamburg Rules any problems arise from local law not the text itself.

2.4 UNITED NATIONS CONVENTION ON INTERNATIONAL MULTIMODAL TRANSPORT OF GOODS

2.4.1 Status

Adopted 24 May 1980. Not in force.

2.4.2 Purpose

To resolve legal uncertainties in the area of liability pertaining to international multimodal transport and to set levels of compensation for loss damage and delay to goods in transit.

2.4.3 Comment.

Article 39 of the Multimodal Convention requires a request by not less than one third of the Contracting States to call a review conference.

R1096 suggests that such a review conference may well be necessary. The MT Convention remains controversial and unlikely to come into force in the foreseeable future. It may make sense to overhaul the text in a number of respects including the EDI aspects but it is not believed that there is presently any move to call a review conference.

2.5 CONVENTION FOR THE UNIFICATION OF CERTAIN RULES RELATING TO INTERNATIONAL TRANSPORTATION BY AIR (WARSAW CONVENTION) INCLUDING THE HAGUE PROTOCOL

2.5.1 Status

Signed 12 October 1929. Entered into force 13 February 1933. Hague Protocol signed 28 September 1955. Entered into force 1 August 1963, but not in force in US trade which accounts for 20% of total international air traffic.

2.5.2 Purpose

To set limitations on the liabilities of airline carriers resulting from injury to passengers or their baggage or from damage to cargo.

2.5.3 Comment

Article 41 of the Convention requires a request by a single Contracting State to call a review conference.

The problems highlighted in R1096 would largely be overcome if the Montreal Protocol No 4 were to enter into force as it would amend the Convention in a way which would be generally satisfactory for EDI.

However, it is not believed that there are presently any moves to call a further review conference.

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

2.6.1 Status

Signed on 16 October 1975. Not in force.

2.6.2. Purpose

Same as Warsaw Convention.

2.6.3 Comment.

R1096 indicates that the protocol largely meets the requirements of EDI.

The protocol remains controversial for other reasons and seems no nearer being brought into force. That being so, and with representatives involved with the Chicago Convention annexes claiming that the continuing difficulties with the Warsaw regime are holding up more general adoption of EDI methods, there may be a strong case for the promotion of a new simple protocol to tackle only the updating of the Warsaw Convention to accommodate EDI. Such a protocol, which should not be politically controversial, might stand good prospects of achieving an early entry into force.

2.7 CONVENTION ON INTERNATIONAL CIVIL AVIATION (THE CHICAGO CONVENTION)

2.7.1 Status

Adopted on 7 December 1944. Entered into force on 4 April 1947.

2.7.2 Purpose

To promote the safe and orderly development of civil aviation and to ensure that international air transport services may be established on the basis of equality of opportunity and operated soundly and economically.

2.7.3 Comment

Article 49 of the Convention confers powers on the Assembly to recommend amendments of the Convention and to delegate powers to the Council, inter alia to amend the annexes to the Convention.

R1096 indicates that the constantly revised annexes to the Convention, notably Annex 18 and Annex 9 (facilitation) have effectively adapted the Convention to the electronic age.

There is therefore at present no perceived urgency to amend the Convention itself.

2.8. CONVENTION ON THE LIABILITY OF OPERATORS OF TRANSPORT TERMINALS IN INTERNATIONAL TRADE.

2.8.1 Status

Adopted 19 April 1991. Not in force.

2.8.2 Purpose

To promulgate uniform rules governing the liabilities of persons who take charge of goods in international trade in order to perform transport related services, including storage, warehousing, loading, unloading stowage and lashing.

2.8.3 Comment.

Article 23 of the Convention requires a request by one third of Contracting States to call a review conference.

According to R1096 the Convention provides satisfactorily for EDI and no such conference is required.

2.9 INTER-AMERICAN CONVENTION ON INTERNATIONAL CARRIAGE OF GOODS BY ROAD

2.9.1 Status

Adopted 15 July 1989.

2.9.2 Purpose

To harmonise the laws with respect to negotiability of bills of lading for international road transportation.

2.9.3 Comment

The Convention has no revision mechanism stated in its text.

R1096 indicates that the convention provides for issue of electronic consignment notes and for electronic signatures so revision does not presently appear necessary to accommodate EDI.

2.10. CONVENTION ON THE CONTRACT FOR THE INTERNATIONAL CARRIAGE OF GOODS BY ROAD (CMR)

2.10.1 Status

Adopted 19 May 1956. Entered into force 2 July 1961.

2.10.2 Purpose

The CMR Convention regulates the rights and liabilities of senders of goods by road in international traffic in Europe, in an increasing number of countries of the former Soviet Bloc, and in parts of Asia and North Africa. It also regulates the rights and liabilities of road hauliers and their sub contractors. It establishes compensation limits for damage, loss and delay.

2.10.3 Comment

Article 49 of the Convention requires a request by a single Contracting State in order to call a review conference.

R1096 highlights a number of difficulties with the present text. The International Road Transport Union (IRU) has carried out some detailed and authoritative work exploring ways of remedying these. It believes virtually all problems posed by the Convention itself can be remedied by contractual clarification.

IRU believes a revision of the Convention itself would not be practical but that a protocol dealing solely with the problem of electronic transmission of commercial documents could readily be devised. This may be regarded as an urgent priority.

2.11 CONVENTION ON A COMMON TRANSIT PROCEDURE BETWEEN THE EEC AND THE EFTA COUNTRIES

2.11.1 Status

Signed at Interlaken on 20 May 1987, and entered into force on 1 January

1988.

2.11.2 Purpose

To establish measures for the carriage of goods in transit between the Community and the EFTA countries as well as between the EFTA countries themselves.

2.11.3 Comment

R1096 finds the Convention already satisfactory. The European Union draws attention to the imminent introduction in 1998 of an EDI based system of Community Transit.

2.12 CONVENTION CONCERNING INTERNATIONAL CARRIAGE BY RAIL (COTIF/CIM)

2.12.1 Status

Latest 1980 full revision of the convention entered into force in 1985.

2.12.2 Purpose

The CIM appendix serves to regulate the rights and liabilities of senders of goods by rail and railway administrations in international traffic in Europe, North Africa and the Middle East. It establishes compensation limits for loss damage and delay.

2.12.3 Comment

Article 19 of COTIF requires a request by one third of Contracting States in order to consider proposals for amendments in its Revision Committee and a two thirds majority to implement them.

R1096 suggests that the Convention is now in a generally satisfactory state for EDI and that further practical measures are under development.

2.13. STANDARD CONDITIONS (1992) GOVERNING THE FIATA MULTIMODAL TRANSPORT BILL OF LADING

2.13.1. Status

Adopted 1992. Based on the provisions of the UNCTAD/ICC Rules for a multi-modal transport document.

2.13.2. Purpose

To provide a common basis for the liability of freight forwarders who are members of FIATA affiliated national associations when undertaking multi-modal transport operations. Only forwarders meeting certain quality criteria are authorised to use the distinctive blue document.

2.13.3. Comment

The FIATA FB can at any time be revised if the political will exists within FIATA.

R1096 suggests that such revision may be required to make the FB fully compatible with EDI systems and it is recommended that the necessary changes should be introduced as soon as conveniently possible.

SECTION II TRADE REGULATIONS

2.14 UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS (VIENNA CONVENTION)

2.14.1 Status

Signed on 11 April 1980. Entered into force 1 January 1988.

2.14.2 Purpose

To adopt "uniform rules which govern contracts for the international sale of goods and take into account the different social, economic and legal systems would contribute to the removal of legal barriers in international trade and promote the development of international trade". (Vienna Convention preamble).

2.14.3 Comment

The text of the Convention sets out no revision mechanism.

R1096 indicates that the Convention itself is satisfactory but it does not override any unsatisfactory local law on EDI which may affect the contract.

2.15. UNIFORM CUSTOMS AND PRACTICES FOR DOCUMENTARY CREDITS

2.15.1 Status

International Chamber of Commerce Publication No. 500 (1993 revision).

2.15.2 Purpose

To provide binding rules, unless otherwise agreed, "for all documentary credits, including to the extent to which they may be applicable, standby letters of credits."

2.15.3 Comment

UCP 500 can be revised at any time by the ICC if the political will exists.

R1096 indicates that UCP 500 itself is satisfactory for EDI application and indeed was specifically revised for that purpose.

2.16. INCOTERMS 1990

2.16.1. Status

International Chamber of Commerce Publication No. 460 "INCOTERMS 1990". Entered into force on 1 July 1990.

2.16.2. Purpose

To "provide a set of international rules for the interpretation of the most commonly used trade terms in foreign trade. Thus, the uncertainties of different interpretations of such terms in different countries can be avoided or at least reduced to a considerable degree."

2.16.3. Comment

INCOTERMS can be revised at any time by the ICC if the political will exists.

R1066 indicates that the current editions meets EDI requirements.

2.17 CONVENTION ON THE SIMPLIFICATION OF FORMALITIES IN TRADE IN GOODS BETWEEN THE EEC AND THE EFTA COUNTRIES

2.17.1 Status

Entered into force on 1 January 1988.

2.17.2 Purpose

To establish measures to simplify formalities in trade in goods between the Community and EFTA countries, as well as between the EFTA countries themselves. In particular, by introducing a single administrative document to be used for any procedure applicable to trade between the contracting parties, regardless of the kind and origin of goods.

2.17.3 Comment

Article 10 of the Convention provides for establishment of a Joint Committee of Contracting States to keep the Convention under ,constant review and amend it as necessary.

R1096 indicates that it is satisfactory for EDI. It has been suggested by the administrators of the Convention that worldwide clarity in Customs terminology (outside the area covered by the Convention) might be achieved if the World Customs Organisation were to expand its official Glossary of Terms to include satisfactory definitions of "writing" and "signature" as well as the existing definition of "document". It is recommended that this work should proceed.

2.18 UNCITRAL MODEL LAW ON INTERNATIONAL COMMERCIAL ARBITRATION

2.18.1 Status

Approved June 1985.

2.18.2 Purpose

To facilitate international commercial arbitration by providing rules that are binding between states that adopt the Model Law. Legislation based on the model law has been enacted in nine countries including Australia and Canada and in four states of the USA including California and Texas.

2.18.3 Comment

The Model Law can be revised at any time if there is agreement within UNCITRAL.

R1096 indicates that it is generally satisfactory for EDI.

2.19 UNIDROIT CONVENTION ON INTERNATIONAL FACTORING

2.19.1 Status

Approved 28 May 1988. Entered into force on 1 May 1995

2.19.2 Purpose

To unify and modernise the laws governing the financing and factoring of transnational accounts receivable thereby promoting international trade.

2.19.3 Comment

R1096 indicates that the Convention is generally satisfactory for EDI.

2.20 UNITED NATIONS CONVENTION ON INTERNATIONAL BILLS OF EXCHANGE AND INTERNATIONAL PROMISSORY NOTES

2.20.1 Status

Approved in December 1988. Not in force.

2.20.2 Purpose

To facilitate international trade by harmonising laws in order to promote the free circulation of bills of exchange and promissory notes.

2.20.3 Comment

The text of the Convention contains no revision mechanism.

R1096 suggests some difficulties in relation to endorsements and EDI. One way to remedy these might be to reach a"common understanding" for facilitation under the provisions of Article 4 and it is recommended that this should be done.

2.21. UNCITRAL MODEL LAW ON INTERNATIONAL CREDIT TRANSFERS

2.21.1. Status

Adopted 1992.

2.21.2. Purpose

To offer the opportunity to unify the law of credit transfers by enacting a text that is drafted to meet the needs of modern funds transfer techniques.

2.21.3. Comment

The UNCITRAL model law can be revised at any time if there is agreement within UNCITRAL.

R1096 indicates that it is generally satisfactory for EDI purposes.

2.22. UN CONVENTION ON INDEPENDENT GUARANTEES AND STAND-BY LETTERS OF CREDIT

2.22.1. Status

Adopted 11 December 1995.

2.22.2. Purpose

To facilitate the international use of credit instruments, by establishing provisions recognising the rights of guarantors, issuers and other parties to exercise their rights and obligations under independent bank guarantees and stand-by letters of credit in line with other international sets of rules.

2.22.3. Comment.

The text of the Convention contains no review mechanism but already fully supports EDI based system.

SECTION III CUSTOMS REGULATIONS

2.23. CUSTOMS CONVENTION ON THE INTERNATIONAL TRANSPORT OF GOODS UNDER COVER OF TIR CARNETS.

2.23.1. Status

Adopted on 14 November 1975. Entered into force on 20 March 1978.

2.23.2. Purpose

To facilitate the international carriage of goods by road vehicles by establishing a procedure, based on use of a TIR Carnet document, whereby transit goods shall not be liable to import and export duties, taxes and restrictions nor, as a general rule, be subjected to examination at customs offices en route.

2.23.3. Comment

Articles 59-62 set out the procedure for revision at the request of a single Contracting State. A simpler procedure applies to the technical annexes.

R1096 highlights fundamental problems with TIR and EDI. There are moves to revise the 1975 TIR Convention and it is recommended that any revision will

take full account of the need to provide for substitution of EDI methods for the present paper-based system as an alternative option.

2.24. INTERNATIONAL CONVENTION ON THE HARMONISATION OF FRONTIER CONTROL OF GOODS.

2.24.1. Status

Adopted on 21 October 1982. Entered into force on 15 October 1985.

2.24.2. Purpose

To harmonise frontier controls to facilitate the passage of goods at borders.

2.24.3. Comment

Article 22 requires a request by a single Contracting State in order to call a review by the Administrative Committee.

R1096 indicates that the Convention itself is no barrier to the use of EDI systems but it will not override unsatisfactory local laws.

SECTION IV DANGEROUS GOODS

2.25 IMO International Maritime Dangerous Goods (IMDG) Code

2.25.1 Status

The legal basis of the code stems from the International Convention for Safety of Life at Sea 1974 (SOLAS) as amended. The current edition of the IMDG Code is amendment 28-96.

2.25.2 Purpose

To provide a single set of international regulations governing the sea transport of dangerous goods.

2.25.3 Comment

The revision mechanism for the Code is set out in the SOLAS Convention -see Annex 1.25.

As indicated in R1096 the Code does permit EDI and EDP but only as an aid to paper documents. There is no present intention to permit a wholly electronic system as this is not thought compatible with overriding safety considerations.

2.26 INTERNATIONAL CIVIL AVIATION ORGANISATION (ICAO) REGULATIONS

2.26.1 Status

Drawn from Annex 18 of the Convention on International Civil Aviation - the safe transport of dangerous goods by air. Presently 1997/8 Edition.

2.26.2 Purpose

The purpose and status of the International Civil Aviation Authority "Technical Instructions for the Safe Transport of Dangerous Goods by Air" is to amplify provisions in Annex 18 to the Chicago Convention and provide all the detail necessary safely to move dangerous goods by air.

2.26.3 Comment

The revision mechanism for the Regulations is set out in the Chicago Convention-see Annexe 1.7.

R1096 highlights problems with EDI in the Regulations some of them attributed to the unresolved problems with the Warsaw Convention system discussed in 2.5 and 2.6 above. It is recommended that a concerted approach be adopted to resolve these problems.

2.27 INTERNATIONAL AIR TRANSPORT ASSOCIATION DANGEROUS GOODS REGULATIONS (IATA)

2.27.1 Status

The International Air Transport Association Dangerous Goods Regulations are solely for IATA airlines. They are published by the IATA Dangerous Goods Board pursuant to IATA Resolutions 618 and 619 presently in 38th Edition 1997.

2.27.2 Purpose

They constitute a manual of industry carrier regulations to be followed by all IATA member airlines.

2.27.3 Comment

The IATA Regulations can be revised by IATA at any time but revision is constrained by the overall requirements of the Chicago/ICAO regulations system.

2.28. CONVENTION ON CIVIL LIABILITY FOR DAMAGE CAUSED DURING CARRIAGE OF DANGEROUS GOODS BY ROAD RAIL AND INLAND NAVIGATION VESSELS.

2.28.1. Status

Adopted 10 October 1989. Not in force.

2.28.2. Purpose

To establish uniform rules ensuring adequate and speedy compensation for damage caused during carriage of dangerous goods by road, rail and inland navigation vessels.

2.28.3. Comment

Article 28 of the Convention requires a request by one third of the Contracting States in order to call a review conference.

R1096 considers the Convention generally satisfactory for EDI.

2.29 THE ADR REGULATIONS

2.29.1 Status

Drawn from the European Agreement Concerning the International Carriage of Dangerous Goods by Road (ADR) Regulations, the current version of which is the 1997 Edition.

2.29.2 Purpose

To provide for the international carriage of dangerous goods by road.

2.29.3 Comment

Article 13 requires a request backed by one fourth of Contracting States

in order to call a review conference and Article 14 contains a provision for revision of the technical annexes.

R1096 indicates that there is resistance to introduction of EDI only systems because of overriding safety considerations and requirements for paper in the CMR Convention.

It is recommended that a study on the availability reliability and experience with vehicle "on board" EDI equipment which could meet the ADR information requirements should be carried out in the near future. Positive experience might transform present opinion.

2.30 THE RID REGULATIONS

2.30.1 Status

The Regulations Concerning the International Carriage of Dangerous Goods by Rail (RID) 1993 Edition are an annexe to COTIF/CIM.

2.30.2 Purpose

To provide for the international carriage of goods by rail.

2.30.3 Comment

The revision mechanism for RID is contained in the COTIF/CIM Convention and is described in 2.12 above and Annexe 1.12 below.

R1096 indicates that remaining barriers to the use of EDI are in the course of being resolved.

ANNEX I

This Annex contains excerpts dealing with revision mechanisms in conventions regulations and agreements relevant in considering the question of legal barriers to the use of EDI.

TRANSPORT REGULATIONS

Appendix 1	Hague Rules
Appendix 2	Hamburg Rules
Appendix 3	CMI Rules for Electronic Bills of Lading
Appendix 4	Multi-Modal Convention
Appendix 5	Warsaw Convention
Appendix 6	Warsaw: Montreal Protocol No.4
Appendix 7	The Chicago Convention
Appendix 8	Convention on Liability of Terminal Operators
Appendix 9	Inter-American Convention on the International Carriage of Goods by Road
Appendix 10	CMR Convention
Appendix 11	Convention on a Common Transit Procedure
Appendix 12	COTIF/CIM Convention
Appendix 13	Conditions Governing FIATA FB

TRADE REGULATIONS

Appendix 14	Vienna Convention on International Sale of Goods
Appendix 15	UCP 500
Appendix 16	INCOTERMS 1990
Appendix 17	Convention on Simplification of Formalities in Trade Between EC/EFTA
Appendix 18	UNCITRAL Model Law on Commercial Arbitration
Appendix 19	UNIDROIT Convention on International Factoring
Appendix 20	UN Convention on International Bills of Exchange
Appendix 21	UNCITRAL Model Law on International Credit Transfer
Appendix 22	UN Convention on Guarantees and Stand-by Letters of Credit

CUSTOMS REGULATIONS

Appendix 23	TIR Convention
Appendix 24	Convention on Harmonisation of Frontier Controls

DANGEROUS GOODS REGULATIONS

Appendix 25	International Maritime Dangerous Goods (IMDG) Code
Appendix 26	International Civil Aviation Organisation (ICAO)
Appendix 27	International Air Transport Association (IATA) Regulations
Appendix 28	Convention on Civil Liability for Damage Caused During Carriage of Dangerous Goods by Road, Rail and Inland Navigation.
Appendix 29	ADR Agreement Concerning International Carriage of Goods by Road
Appendix 30	RID Regulations Concerning the International Carriage of Goods by Rail
Appendix 31	CMR and COTIF (CIM)

TRANSPORT REGULATIONS

APPENDIX 1. HAGUE-VISBY RULES

Article 16. Any one of the contracting states shall have the right to call for a fresh conference with a view to considering possible amendments.

A state which would exercise this right should notify its intention to the other states through the Belgian Government, which would make arrangements for convening the conference

APPENDIX 2. HAMBURG RULES

Article 32. Revision and Amendment.

1. At the request of not less than one-third of the contracting states to this convention, the depositary shall convene a conference of the contracting states for revising or amending it.

2. Any instrument of ratification, acceptance, approval or accession deposited after the entry into force of an amendment to this convention, is deemed to apply to the convention as amended.

APPENDIX 3. CMI RULES FOR ELECTRONIC BILLS OF LADING

The rules contain no revision mechanism.

APPENDIX 4. UN MULTI-MODAL CONVENTION

Article 39. Revision and Amendments.

1. At the request of not less than one-third of the contracting states the Secretary General of the United Nations shall, after the entry into force of the Convention, convene a conference of the contracting states for revising or amending it. The Secretary-General of the United Nations shall circulate to all contracting states the texts of any proposals for amendments at least three months before the opening date of the conference.

2. Any decision by the revision conference including amendments shall be taken by a two-thirds majority of the states present and voting. Amendments adopted by the conference shall be communicated by the depositary to all the contracting states for acceptance and to all the states signatories of the convention for information.

3. Subject to paragraph 4 below any amendment adopted by the conference shall enter into force only for those contracting parties which have accepted it, on the first day of the month following one year after its acceptance by two-thirds of the contracting states. For any state accepting an amendment after it has been accepted by two-thirds of the contracting states, the amendment shall enter into force on the first day of the month following one year after its acceptance by that state.

4. Any amendment adopted by the conference altering the amounts specified in Article 18 and paragraph 2 of Article 31 or substituting either or both the units defined in paragraphs 1 and 3 of Article 31 by other units shall enter into force on the first day of the month following one year after its acceptance by two-thirds of the contracting states. Contracting states which have accepted the altered amounts or the substituted units shall apply them in their relationship with all contracting states.

5. Acceptance of amendments shall be effected by the deposit of a formal instrument to that effect with the depositary.

6. Any instrument of ratification, acceptance, approval or accession deposited after the entry into force of any amendment adopted by the conference, shall be deemed to apply to the convention as amended.

APPENDIX 5 - WARSAW CONVENTION

Article 41. Any high contracting party shall be entitled not earlier than two years after the coming into force of this convention to call for the assembling of a new international conference in order to consider any improvements which may be made in this convention. To this end it will communicate with the government of the French Republic which will take the necessary measures to make preparations for such conference.

APPENDIX 6 - WARSAW : MONTREAL PROTOCOL NO. 4

The protocol contains no revision mechanism.

APPENDIX 7 - CHICAGO CONVENTION

Article 49. Powers and Duties of Assembly.

The powers and duties of the Assembly shall be to:

(h) Delegate to the Council the powers and authority necessary or desirable for the discharge of the duties of the organisation and revoke or modify the delegations of authority at any time;

(j) Consider proposals for the modification or amendment of the provisions of this convention and, if it approves of the proposals, recommend them to the contracting states in accordance with the provisions of Chapter XXI;

Article 52. Voting in Council.

Decisions by the Council shall require approval by a majority of its members. The Council may delegate authority with respect to any particular matter to a committee of its members. Decisions of any committee of the Council may be appealed to the Council by any interested contracting state.

Article 54. Mandatory functions of Council.

The Council shall:

(1) Adopt, in accordance with the provisions of Chapter VI of this Convention, international standards and recommended practices; for convenience, designate them as annexes to this Convention; and notify all contracting states of the action taken;
(m) Consider recommendations of the Air Navigation Commission for amendment of the annexes and take action in accordance with the provisions of Chapter XX;

CHAPTER XX - ANNEXES

Article 90. Adoption and Amendment of Annexes.

(a) The adoption by the Council of the annexes described in Article 54, sub-paragraph (1), shall require the vote of two-thirds of the Council at a meeting called for that purpose and shall then be submitted by the Council to each contracting state. Any such annex or any amendment of an

annex shall become effective within three months after its submission to the contracting states or at the end of such longer period of time as the Council may prescribe, unless in the meantime a majority of the contracting states register their disapproval with the Council.

(b) The Council shall immediately notify all contracting states of the coming into force of any annex or amendment thereto.

CHAPTER XXI - RATIFICATIONS, ADHERENCE, AMENDMENTS AND DENUNCIATIONS

Article 94. Amendment of Convention.

(a) Any proposed amendment to this Convention must be approved by a two-thirds vote of the Assembly and shall then come into force in respect of states which have ratified such amendment when ratified by the number of contracting states specified by the Assembly. The number so specified shall not be less than two-thirds of the total number of contracting states.

(b) If in its opinion the amendment is of such a nature as to justify this course, the Assembly in its resolution recommending adoption may provide that any state which has not ratified within a .specified period after the amendment has come into force shall thereupon cease to be a member of the organisation and a party to the Convention.

APPENDIX 8 - CONVENTION ON LIABILITY OF INTERNATIONAL TERMINAL OPERATORS

Article 23. Revision and Amendment.

1. At the request of not less than one-third of the states parties to this Convention, the depository shall convene a conference of the contracting states for revising or amending it.

2. Any instrument of ratification, acceptance, approval or accession deposited after the entry into force of an amendment to this Convention is deemed to apply to the Convention as amended.

APPENDIX 9 - INTER-AMERICAN CONVENTION ON THE INTERNATIONAL CARRIAGE OF GOODS BY ROAD

The Convention contains no revision mechanism.

APPENDIX 10 - CMR CONVENTION

Article 49

1. After this Convention has been in force for three years, any contracting party may, by notification to the Secretary-General of the United Nations, request that a conference be convened for the purpose of reviewing the Convention. The Secretary-General shall notify all contracting parties of the request and a review conference shall be convened by the Secretary-General if, within a period of four months following the date of notification by the Secretary-General, not less than one-fourth of the contracting parties notify him of their concurrence with the request.

2. If a conference is convened in accordance with the preceding paragraph, the Secretary-General shall notify all the contracting parties and invite them to submit within a period of three months such proposals as they may wish the conference to consider. The Secretary general shall circulate to all contracting parties the provisional agenda for the conference together with the texts of such proposals at least three months before the date on which the conference is to meet.

3. The Secretary-General shall invite to any conference convened in accordance with this article all countries referred to in article 42, paragraph 1, and countries which have become contracting parties under article 42, paragraph 2.

APPENDIX 11 - CONVENTION ON A COMMON TRANSIT PROCEDURE

The Convention can be amended by a joint committee of the type shown in Appendix 17.

APPENDIX 12 - COTIF/CIM CONVENTION

TITLE V. AMENDMENT OF THE CONVENTION

Article 19. Competence.

1. Member States shall send their proposals for amending the Convention to the Central Office, which shall immediately bring them to the notice of the other Member States.

2. The General Assembly shall take decisions on proposals to amend provisions of the Convention not referred to in paragraphs 3 and 4.

The inclusion of a proposal for an amendment on the agenda for a session of the General Assembly must be supported by one-third of the

Member States.

When seized of a proposal for an amendment the General Assembly may decide, by the majority required under article 6 para 5, that such proposal is closely linked with one or more provisions the amendment of which is within the competence of the Revision Committee in accordance with paragraph 3. In that case the General Assembly is also empowered to take decisions on the amendment of such provision or provisions.

3. Subject to decisions taken by the General Assembly in accordance with paragraph 2, sub-paragraph 3, the Revision Committee shall take decisions on proposals to amend the provisions listed below:

(a) CIV Uniform Rules:
- Articles 1, paragraph 3, 4, 2;5 (except para. 2),6, 9 to 14, 15 (except para. 6), 16 to 21, 22, paragraph 3; 23 to 25, 37, 43 (except paras. 2 and 4), 48, 49, 56 to 58 and 61;

the amounts expressed in units of amount in Articles 30, 31, 38, 40 and 41, where the purpose of the amendment is to increase those amounts.

(b) CIM Uniform Rules:

- Articles 1, paragraph 2;3 paras. 2 to 5, 4, 5, 6 (except para. 3), 7,8,11 to 13, 14 (except para. 7), 15 to 17, 19 (except para. 4), 20 (except para. 3), 21 to 24, 25 (except para. 3, 26 (except para. 2), 27, 28 para. 3 and 6; 29, 30 (except para. 3), 31, 32 (except para. 3), 33 (except para. 5), 34, 38, 39, 41, 45, 46, 47 (except para. 3), 48 (only insofar as it is a question of adaptation to international maritime transport law), 52, 53, 59 to 61, 64 and 65;

- the amount expressed in units of account in Article 40, where the purpose of the amendment is to increase that amount;

- Regulations concerning the International Haulage of Private Owners' Wagons by Rail (RIP), Annex II;

- Regulations concerning the International Carriage of Containers by Rail (RICo), Annex III;

- Regulations concerning the International Carriage of Express Parcels by Rail (RIEx), Annex IV.

4. The Committee of Experts shall take decisions on proposals to amend the provisions of the Regulations concerning the International Carriage of Dangerous Goods by Rail (RID), Annex I to the CIM Uniform Rules.

Article 20. Decisions of the General Assembly.

1. Amendment decided upon by the General Assembly shall be recorded in a Protocol signed by the representatives of the Member States. The Protocol shall be subject to ratification, acceptance or approval; instruments of ratification, acceptance or approval shall be deposited as soon as possible with the depositary Government.

2. When the Protocol has been ratified, accepted or approved by more than two-thirds of the Member States, the decisions shall come into force on the expiry of a period of time determined by the General Assembly.

3. As soon as the decisions enter into force, the application of the CIV and CIM Uniform Rules shall be suspended in respect of traffic with and between those Member States which, one month before the date fixed for such entry into force, have not yet deposited their instruments of ratification, acceptance or approval. Such suspension shall be notified to Member States by the Central Office; it shall end one month after the date of notification by the Central Office of the ratification, acceptance or approval of the said decisions by the States concerned.

Such suspension shall not apply to Member States which notify the Central Office that, without having deposited their instrument of ratification, acceptance or approval, they will apply the amendments decided upon by the General Assembly.

Article 21. Decisions of the Committees.

1. Amendments decided upon by the Committees shall be notified to the Member States by the Central Office.

2. Such decisions shall come into force for all Member States on the first day of the twelfth month following the month in which the Central Office notifies them to the Member States, unless one-third of the Member States have objected within four months from the date of such notification.

However, if a Member State lodges objections to a decision of the Revision Committee within the period of four months and denounces the Convention not later than two months before the date fixed for the entry into force of that decision, the latter shall only come into force at the time when the denunciation by the State concerned takes effect.

APPENDIX 13 - CONDITIONS GOVERNING FIATA FB

The Conditions do not contain a revision mechanism.

TRADE REGULATIONS

APPENDIX 14 - VIENNA CONVENTION ON INTERNATIONAL SALE OF GOODS

The text of the Convention itself contains no formal revision

mechanism.

APPENDIX 15 - UCP 500

The Uniform Customs and Practice for Documentary Credits itself contains no revision mechanism.

APPENDIX 16 - INCOTERMS 1990

INCOTERMS do not contain any revision mechanism.

APPENDIX 17 - CONVENTION ON SIMPLIFICATION OF FORMALITIES IN TRADE BETWEEN EC/EFTA

Article 10.

A Joint Committee is hereby established in which each contracting party to this Convention shall be represented.

2. The Joint Committee shall act by mutual agreement.

3. The Joint Committee shall meet whenever necessary but at least once a year. Any contracting party may request that a meeting be held.

4. The Joint Committee shall adopt its own rules of procedure which shall contain, inter alia, provisions for convening meetings and for the designation of the chairman and his term of office.

5. The Joint Committee may decide to set up any sub-committee or working party that can assist it in carrying out its duties.

Article 11.

1. It shall be the responsibility of the Joint Committee to administer this Convention and ensure its proper implementation. For this purpose, the said committee shall be kept regularly informed, by the contracting parties, of the experiences gained from application of the Convention, shall make recommendations and, in the cases provided for in paragraph 3, shall take decisions.

2. In particular, the Joint Committee shall recommend:

(a) amendments to this Convention;

(b) any other measure required for its application.

3. The Joint Committee shall adopt, by decision, amendments to the Annexes to this Convention and facilities referred to in the last indent of Article 4(3). Such decisions shall be put into effect by the contracting parties in accordance with their own legislation.

4. If a contracting party's representative in the Joint Committee has accepted a decision subject to the fulfilment of constitutional requirements, the decision shall enter into force, if no date is contained therein, on the first day of the second month following notification that the reservation has been lifted.

APPENDIX 18 - UNCITRAL MODEL LAW ON COMMERCIAL ARBITRATION

The Model Law contains no revision mechanism.

APPENDIX 19 - UNIDROIT CONVENTION ON INTERNATIONAL FACTORING

The Convention Contains no revision mechanism.

APPENDIX 20 - INTERNATIONAL CONVENTION ON INTERNATIONAL BILLS OF EXCHANGE

The text of the Convention contains no formal revision mechanism.

APPENDIX 21 - UNCITRAL MODEL LAW ON INTERNATIONAL CREDIT TRANSFERS

The Model Law contains no revision mechanism.

APPENDIX 22 - UN CONVENTION ON GUARANTEES AND STAND-BY LETTERS OF CREDIT

The text of the Convention contains no formal revision mechanism.

CUSTOMS REGULATIONS

APPENDIX 23 - TIR CONVENTION

Article 59. Procedure for Amending this Convention

1. This Convention, including its Annexes, may be amended upon the proposal of a contracting party by the procedure specified in this article.

2. Any proposed amendment to this Convention shall be considered by an administrative committee composed of all the contracting parties in accordance with the Rules of Procedure set out in Annex 8. Any such amendment considered or prepared during the meeting of the Administrative Committee and adopted by it by a two-thirds majority of the members present and voting shall be communicated by the Secretary General of the United Nations to the Contracting Parties for their acceptance.

3. Except as provided for under Article 60, any proposed amendment communicated in accordance with the preceding paragraph shall come into force with respect to all Contracting Parties three months after the expiry of a period of 12 months following the date of communication of the proposed amendment during which period no objection to the proposed amendment has been communicated to the Secretary-General of the United Nations by a state which is a contracting party.

4. If an objection to the proposed amendment has been communicated in accordance with paragraph 3 of this Article, the amendment shall be deemed not to have been accepted and shall have no effect whatsoever.

Article 60. Special Procedure for Amending Annexes 1 to 7.

1. Any proposed amendment to Annexes 1 to 7 considered in accordance with Article 59(1) and (2) shall come into force on a date to be determined by the Administrative Committee at the time of its adoption unless, by a prior date determined by the Administrative Committee at the same time, one fifth or five of the states which are contracting parties, whichever number is less, notify the Secretary-General of the United Nations of their objection to the amendment. Determination by the Administrative Committee of the dates referred to in this paragraph shall be by a two-thirds majority of those present and voting.

2. On entry into force, any amendment adopted in accordance with the procedures set out in paragraph 1 above shall for all Contracting Parties replace and supersede any previous provisions to which the amendment refers.

Article 61. Requests, Communications and Objections.

The Secretary-General of the United Nations shall inform all contracting parties and all states referred to in Article 52(1) of this

Convention of any request, communication or objection under Articles 59 and 60 above and of the date on which any amendment enters into force.

Article 62. Review Conference

1. Any State which is a Contracting Party may, by notification to the Secretary General of the United Nations, request that a conference be convened for the purpose of reviewing this Convention.

2. A review conference, to which all contracting parties and all states referred to in Article 52(1) shall be invited, shall be convened by the Secretary-General of the United Nations if, within a period of six months following the date of notification by the Secretary-General, not less than one fourth of the states which are contracting parties notify him of their concurrence with the request.

3. A review conference, to which all contracting parties and all states referred to in Article 52(1) shall be invited, shall also be convened by the Secretary-General of the United Nations upon notification of a request by the Administrative Committee. The Administrative Committee shall make a request if agreed to by a majority of those present and voting in the Committee.

4. If a conference is convened in pursuance of paragraph 1 or 3 of this Article, the Secretary-General of the United Nations shall so advise all the contracting parties and invite them to submit, within a period of three months, the proposals which they wish the conference to consider. The Secretary-General of the United Nations shall circulate to all contracting parties the provisional agenda for the conference, together with the texts of such proposals, at least three months before the date on which the conference is to meet.

APPENDIX 24 - CONVENTION ON HARMONISATION OF FRONTIER CONTROLS

Article 22. Procedure for Amending this Convention.

1. This Convention, including its annexes, may be amended upon the proposal of a contracting party by the procedure specified in this article .

2. Any proposed amendment to this Convention shall be considered in an administrative committee composed of all the contracting parties in accordance with the rules of procedure set out in Annex 7. Any such amendment considered or prepared during the meeting of the administrative committee and adopted by it shall be communicated by the Secretary-General of the United Nations to the contracting parties for their acceptance.

3. Any proposed amendment communicated in accordance with the preceding paragraph shall come into force with respect to all contracting parties three months after the expiry of a period of 12 months following the date of communication of the proposed amendment during which period no objection to the proposed amendment has been communicated to the Secretary-General of the United Nations by a state which is a contracting party or by a regional economic integration organisation, itself a contracting party, which then acts within the conditions specified in Article 16, paragraph 2, of this Convention.

4. If an objection to the proposed amendment has been communicated in accordance with paragraph 3 of this article, the amendment shall be deemed not to have been accepted and shall have no effect whatsoever.

Article 23. Requests, Communications and Objections.

The Secretary-General of the United Nations shall inform all contracting parties and all states of any request, communication or objection under Article 22 and of the date on which any amendment enters into force.

Article 24. Review Conference

After this Convention has been in force for five years, any contracting party may, by notification to the Secretary-General of the United Nations, request that a conference be convened for t~e purpose of reviewing the Convention, indicating the proposals which should be dealt with by the conference. In such a case:

(I) The Secretary-General of the United Nations shall notify all the contracting parties of the request and invite them to submit, within a period of three months, their comments on the original proposals and such other proposals as they may wish the conference to consider;

(ii) The Secretary-General of the United Nations shall also communicate to all the contracting parties the text of any other proposals made and shall convene a review conference if, within a period of six months from the date of that communication, not less than one third of the contracting parties notify the Secretary-General of the United Nations of their concurrence with the convening of such a conference.

(iii) However, if the Secretary-General of the United Nations considers that a review proposal may be regarded as a proposed amendment under paragraph 1 of Article 2, he may, by agreement with the contracting party which has made the proposal, implement the amendment procedure provided for by Article 22 instead of the review procedure.

DANGEROUS GOODS REGULATIONS

APPENDIX 25 - INTERNATIONAL MARITIME DANGEROUS GOODS (IMDG) CODE

The relevant revision procedures are set out in the SOLAS Convention 1974 as amended and are reproduced below:

Article VIII. Solas 1974. Amendments.

(a) The present Convention may be amended by either of the procedures specified in the following paragraphs.

(b) Amendments after consideration within the organisation:

(I) Any amendment proposed by a contracting government shall be submitted to the Secretary-General of the Organisation, who shall then circulate it to all members of the Organisation and all contracting governments at least six months prior to its consideration.

(ii) Any amendment proposed and circulated as above shall be referred to the Maritime Safety Committee of the Organisation for consideration.

(iii) Contracting governments of states, whether or not members of the Organisation, shall be entitled to participate in the proceedings of the Maritime Safety Committee for the consideration and adoption of amendments.

(iv) Amendments shall be adopted by a two-thirds majority of the contracting governments present and voting in the Maritime Safety Committee expanded as provided for in subparagraph (iii) of this paragraph (hereinafter referred to as "the expanded Maritime Safety Committee") on condition that at least one third of the contracting governments shall be present at the time of voting.

(v) Amendments adopted in accordance with subparagraph (iv) of this paragraph shall be communicated by the Secretary-General of the Organisation to all contracting governments for acceptance.

(vi) (1) An amendment to an article of the Convention or to chapter I of the annex shall be deemed to have been accepted on the date on which it is accepted by two thirds of the contracting governments.

(2) An amendment to the annex other than chapter I shall be deemed to have been accepted

(aa) at the end of two years from the date on which it is communicated to contracting governments for acceptance or

(bb) at the end of a different period, which shall not be less than one year, if so determined at the time of its adoption by a two-thirds majority of the contracting governments present and voting in the expanded Maritime Safety Committee.

However, if within the specified period either more than one third of contracting governments, or contracting governments the combined merchant fleets of which constitute not less than fifty per cent of the gross tonnage of the world's merchant fleet, notify the Secretary-General of the Organisation that they object to the amendment, it shall be deemed not to have been accepted.

(vii) (1) An amendment to an article of the Convention or to chapter 1 of the annex shall enter into force with respect to those contracting governments which have accepted it, six months after the date on which it is deemed to have been accepted, and with respect to each contracting government which accepts it after that date, six months after the date of that contracting government's acceptance.

(2) An amendment to the annex other than chapter 1 shall enter into force with respect to all contracting governments, except those which have objected to the amendment under subparagraph (vi((2) of this paragraph and which have not withdrawn such objections, six months after the date on which it is deemed to have been accepted. However, before the date set for entry into force, any contracting government may give notice to the Secretary general of the Organisation that it exempts itself from giving effect to that amendment for a period not longer than one year from the date of its entry into force, or for such longer period as may be determined by a two-thirds majority of the contracting governments present and voting in the expanded Maritime Safety Committee at the time .of the adoption of the amendment.

© Amendment by a Conference;

(I) Upon the request of a contracting government concurred in by at least one third of the contracting governments, the organisation shall convene a conference of contracting governments to consider amendments to the present Convention.

(ii) Every amendment adopted by such a Conference by a two thirds majority of the contracting governments present and voting shall be communicated by the Secretary-General of the Organisation to all contracting governments for acceptance.

(iii) Unless the Conference decides otherwise, the amendment shall be deemed to have been accepted and shall enter into force in accordance with the procedures specified in subparagraphs (b)(vi) and (b)(vii) respectively of this article, provided that references in these paragraphs to the expanded Maritime Safety Committee shall be taken to mean references to the Conference.

(d) (I) A Contracting Government which has accepted an amendment to the annex which has entered into force shall not be obliged to extend the benefit of the present Convention in respect of the certificates issued to a ship entitled to fly the flag of a state the government of which, pursuant to the provisions of subparagraph (b)(vi)(2) of this article, has objected to the amendment and has not withdrawn such an objection, but only to the extent that such certificates relate to matters covered by the amendment in question.

(ii) A contracting government which has accepted an amendment to the annex which has entered into force shall extend the benefit of the present Convention in respect of the certificates issued to a ship entitled to fly the flag of a state the government of which, pursuant to the provisions of subparagraph (b)(vii)(2) of this article, has notified the Secretary-General of the Organisation that it exempts itself from giving effect to the amendment.

(e) Unless expressly provided otherwise, any amendment to the present Convention made under this article, which relates to the structure of a ship, shall apply only to ships the keels of which are laid or which are at a similar stage of construction, on or after the date on which the amendment enters into force.

(f) Any declaration of acceptance of, or objection to, an amendment or any notice given under subparagraph (b)(vii)(2) of this article shall be submitted in writing to the Secretary-General of the Organisation who shall inform all contracting governments of any such submission and the date of its receipt.

(g) The Secretary-General of the Organisation shall inform all contracting governments of any amendments which enter into force under this article, together with the date on which each such amendment enters into force.

APPENDIX 26 - INTERNATIONAL CIVIL AVIATION ORGANISATION ICAO REGULATIONS

The relevant revision procedures are set out in the Chicago Convention reproduced under Appendix 7.

APPENDIX 27 -INTERNATIONAL AIR TRANSPORT ASSOCIATION (IATA) REGULATIONS

The IATA Regulations follow amendments introduced via the ICAO Regulations.

APPENDIX 28 -CONVENTION ON CIVIL LIABILITY FOR DAMAGE CAUSED DURING CARRIAGE OF DANGEROUS GOODS BY ROAD, RAIL AND INLAND NAVIGATION

Article 28.

1. A conference for the purpose of revising or amending this Convention may be convened by the Inland Transport Committee of the Economic Commission for Europe of the United Nations.

2. Upon the request of not less than one-third of the states parties, with a minimum of three, the Inland Transport Committee shall convene a Conference of the contracting states for revising or amending this Convention.

APPENDIX 29 - ADR AGREEMENT CONCERNING INTERNATIONAL CARRIAGE OF GOODS BY ROAD

Article 13

1. After this Agreement has been in force for three years, any contracting party may, by notification to the Secretary-General of the United Nations, request that a conference be convened for the purpose of reviewing the text of the Agreement. The Secretary-General shall notify all contracting parties of the request and a review conference shall be convened by the Secretary-General if, within a period of four months following the date of notification by the Secretary-General, not less than one-fourth of the contracting parties notify him of their concurrence with the request.

2. If a conference is convened in accordance with paragraph 1 of this article, the Secretary-General shall notify all the contracting parties and invite them to submit within a period of three months such proposals as they may wish the conference to consider. The Secretary general shall circulate to all contracting parties the **provisional** agenda for the conference, together with the texts of such proposals, at least three months before the date on which the conference is to meet.

3. The Secretary-General shall invite to any conference convened in accordance with this article all countries referred to in article 6, paragraph 1, and countries which have become contracting parties under article 6, paragraph 2.

Article 14.

1. Independently of the revision procedure provided for in article 13, any contracting party may propose one or more amendments to the annexes to this Agreement. To that end it shall transmit the text thereof to the Secretary-General of the United Nations. The Secretary-General may also propose amendments to the annexes to this Agreement for the purpose of ensuring concordance between those annexes and other international agreements concerning the carriage of dangerous goods.

2. The Secretary-General shall transmit any proposal made under paragraph 1 of this article to all contracting parties and inform thereof the other countries referred to in article 6, paragraph 1.

3. Any proposed amendment to the annexes shall be deemed to be accepted unless, within three months from the date on which the Secretary-General circulates it, at least one-third of the contracting parties, or five of them if one-third exceeds that figure, have given the Secretary-General written notification of their objection to the proposed amendment. If the amendment is deemed to be accepted, it shall enter into force for all the contracting parties, on the expiry of further period of three months, except in the following cases:

(a) In cases where similar amendments have been or are likely to be made to the other international agreements referred to in paragraph 1 of this article, the amendment shall enter into force on the expiry of a period the duration of which shall be determined by the Secretary-General in such a way as to allow, wherever possible, the simultaneous entry into force of the amendment and those that have been made o~ are likely to be made to such other agreements; such period shall not, however, be of less than one month's duration.

(b) The contracting party submitting the proposed amendment may specify in its proposal, for the purpose of entry into force of the amendment, should it be accepted, a period of more than three months' duration.

4. The Secretary-General shall, as soon as possible, notify all contracting parties and all the countries referred to in article 6, paragraph 1, of any objection which may be received from the contracting parties to a proposed amendment.

5. If the proposed amendment to the annexes is not deemed to be accepted, but if at least one contracting party other than the contracting party which proposed the amendment has given the Secretary-General written notification of its agreement to the proposal, a meeting of all the contracting parties and all the countries referred to in article 6, paragraph 1, shall be convened by the Secretary-General within three months after the expiry of the period of three months within which, under paragraph 3 of this article, notification must be given of objection to the amendment. The Secretary-General may also invite to such meeting representatives of:

(a) intergovernmental organisations which are concerned with transport matters;

(b) international non-governmental organisations whose activities are directly related to the transport of dangerous goods in the territories of the contracting parties.

6. Any amendment adopted by more than half the total number of contracting parties at a meeting convened in accordance with paragraph 5 of this article shall enter into force for all contracting parties in accordance with the procedure agreed at such meeting by the majority of the contracting parties attending it.

APPENDIX 30 - RID REGULATIONS CONCERNING THE INTERNATIONAL CARRIAGE OF GOODS BY ROAD

The revision mechanism is set out in the text of the COTIF Convention shown at Appendix 12 ante.

APPENDIX 31 - CMR AND COTIF/CIM

The revision mechanisms are set out in the texts shown at Appendix 10 and 12 ante.

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