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**ADDITIONAL PROTOCOL TO THE CONVENTION ON THE CONTRACT FOR THE
INTERNATIONAL CARRIAGE OF GOODS BY ROAD (CMR)**

Note by the secretariat

Delegates will find below the final draft text of the additional Protocol taking into account the latest modifications of a formal character made to the text (Articles 1 to 7) which were adopted at the 100th session as well as the Final Provisions of the Protocol revised by the secretariat following observations made by the Office of Legal Affairs in New York and checked for a last time by that office. In particular, at the request of the United Nations Treaty Section, an article introducing an amendment procedure has been added.

Modifications made to the Annex III of the report ECE/TRANS/SC.1/379 appear in italics.

An explanatory memorandum to the additional Protocol is annexed to the present document.

**PROTOCOL ADDITIONAL TO THE CONVENTION ON THE CONTRACT
FOR THE INTERNATIONAL CARRIAGE OF GOODS BY ROAD (CMR)
CONCERNING THE ELECTRONIC CONSIGNMENT NOTE**

THE PARTIES TO THIS PROTOCOL

BEING PARTIES to the Convention on the Contract for the International Carriage of Goods by Road (CMR), done at Geneva on 19 May 1956,

DESIROUS OF supplementing the Convention in order to facilitate the optional making out of the consignment note by means of procedures used for the electronic recording and handling of data,

HAVE AGREED as follows:

Article 1

Definitions

For the purposes of the present Protocol,

“Convention” means the Convention on the Contract for the International Carriage of Goods by Road (CMR);

“Electronic communication” means information generated, sent, received or stored by electronic, optical, digital or similar means with the result that the information communicated is accessible so as to be usable for subsequent reference;

“Electronic consignment note” means a consignment note *issued by electronic communication by a carrier*, a sender or any other party interested in the performance of a contract of carriage to which the Convention applies, including particulars logically associated with the electronic communication by attachments or otherwise linked to the electronic communication contemporaneously with or subsequent to its issue, so as to become part of the electronic consignment note;

“Electronic signature” means data in electronic form which are attached to or logically associated with other electronic data and which serve as a method of authentication.

Article 2

Scope and effect of the electronic consignment note

1. Subject to the provisions of this Protocol, the consignment note referred to in the Convention, as well as any demand, declaration, instruction, request, reservation or other communication relating to the performance of a contract of carriage to which the Convention applies, may be made out by electronic communication.

2. An electronic consignment note that complies with the provisions of this Protocol shall be considered to be equivalent to the consignment note referred to in the Convention and shall therefore have the same evidentiary value and produce the same effects as that consignment note.

Article 3

Authentication of the electronic consignment note

1. The electronic consignment note shall be authenticated by the parties to the contract of carriage by means of a reliable electronic signature that ensures its link with the electronic consignment note. The reliability of an electronic signature method is presumed, unless otherwise proved, if the electronic signature:

- (a) is uniquely linked to the signatory;
- (b) is capable of identifying the signatory;
- (c) is created using means that the signatory can maintain under his sole control; and
- (d) is linked to the data to which it relates in such a manner that any subsequent change of the data is detectable.

2. The electronic consignment note may also be authenticated by any other electronic authentication method permitted by the law of the country in which the electronic consignment note has been made out.

3. The particulars contained in the electronic consignment note shall be accessible to any party entitled thereto.

Article 4

Conditions for the establishment of the electronic consignment note

1. The electronic consignment note shall contain the same particulars as the consignment note referred to in the Convention.

2. The procedure used to issue the electronic consignment note shall ensure the integrity of the particulars contained therein from the time when it was first generated in its final form. There is integrity when the particulars have remained complete and unaltered, apart from any addition or change which arises in the normal course of communication, storage and display.

3. The particulars contained in the electronic consignment note may be supplemented or amended in the cases authorized by the Convention.

The procedure used for supplementing or amending the electronic consignment note shall make it possible to detect as such any supplement or amendment to the electronic consignment note and shall preserve the particulars originally contained therein.

Article 5

Implementation of the electronic consignment note

1. The parties interested in the performance of the contract of carriage shall agree on the procedures and their implementation in order to comply with the requirements of this Protocol and the Convention, in particular as regards:

- (a) The method for the issuance and the delivery of the *electronic* consignment note to the entitled party;
- (b) An assurance that the electronic consignment note retains its integrity;
- (c) The manner in which the party entitled to the rights arising out of the electronic consignment note is able to demonstrate that entitlement;
- (d) The way in which confirmation is given that delivery to the consignee has been effected;
- (e) The procedures for supplementing or amending the electronic consignment note; and
- (f) The procedures for a *possible* replacement of the electronic consignment note by a consignment note issued by different means.

2. The procedures in paragraph 1 must be referred to in the electronic consignment note and shall be readily ascertainable.

Article 6

Documents supplementing the electronic consignment note

1. The carrier shall in any case hand over to the sender, at the latter's request, a receipt for the goods and all information necessary for identifying the shipment and for access to the *electronic* consignment note to which this Protocol refers.

2. The documents referred to in Article 6, paragraph 2 (g) and Article 11 of the Convention may be furnished by the sender to the carrier in the form of an electronic communication if the documents exist in this form and if the parties have agreed to procedures enabling a link to be established between these documents and the *electronic* consignment note to which this Protocol refers in a manner that assures their integrity.

FINAL PROVISIONS

Article 7

Signature, ratification, accession

1. This Protocol shall be open for signature by States which are signatories to or Parties to the Convention and are either members of the Economic Commission for Europe or have been

admitted to the Commission in a consultative capacity under paragraph 8 of the Commission's terms of reference.

2. This Protocol shall be open for signature at [Geneva from ... to ... inclusive] and after this date, at United Nations Headquarters in New York from.....toinclusive.

3. This Protocol shall be subject to ratification by signatory States and open for accession by non-signatory States, referred to in paragraph 1 of this article, which are Parties to the Convention.

4. Such States as may participate in certain activities of the Economic Commission for Europe in accordance with paragraph 11 of the Commission's terms of reference and which have acceded to the Convention may become ~~Contracting~~ Parties to this Protocol by acceding thereto after its entry into force.

5. Ratification or accession shall be effected by the deposit of an instrument with the Secretary-General of the United Nations.

6. Any instrument of ratification or accession, deposited after the entry into force of an amendment to the present Protocol adopted in accordance with the provisions of Article 13 or Article 14 hereafter, shall be deemed to apply to the Protocol as modified by the amendment.

Article 8

Entry into force

1. This Protocol shall enter into force on the ninetieth day after five of the States referred to in article 7, paragraphs 3 and 4 of this Protocol, have deposited their instruments of ratification or accession.

2. For any State ratifying or acceding to it after five States have deposited their instruments of ratification or accession, this Protocol shall enter into force on the ninetieth day after the said State has deposited its instrument of ratification or accession.

Article 9

Denunciation

1. Any ~~Contracting~~ Party may denounce this Protocol by so notifying the Secretary-General of the United Nations.

2. Denunciation shall take effect 12 months after the date of receipt by the Secretary-General of the notification of denunciation.

3. Any State which ceases to be Party to the Convention shall on the same date cease to be Party to this Protocol.

Article 10

Termination

If, after the entry into force of this Protocol, the number of ~~Contracting~~ Parties is reduced, as a result of denunciations, to less than five, this Protocol shall cease to be in force from the date on which the last of such denunciations takes effect. It shall also cease to be in force from the date on which the Convention ceases to be in force.

Article 11

Dispute

Any dispute between two or more ~~Contracting~~ Parties relating to the interpretation or application of this Protocol which the Parties are unable to settle by negotiation or other means may, at the request of any one of the ~~Contracting~~ Parties concerned, be referred for settlement to the International Court of Justice.

Article 12

Reservations

1. *Any State* may, at the time of signing, ratifying, or acceding to this Protocol, declare by a notification addressed to the Secretary-General of the United Nations that it does not consider itself bound by article 11 of this Protocol. Other ~~Contracting~~ Parties shall not be bound by article 11 of this Protocol in respect of any ~~Contracting~~ Party which has entered such a reservation.
2. The declaration referred to in paragraph 1 of this article may be withdrawn at any time by a notification addressed to the Secretary-General of the United Nations.
3. No other reservation to this Protocol shall be permitted.

Article 13

Amendments

1. *After this Protocol has been in force for three years, it may be either amended according to the procedure defined in this article.*
2. *Any proposed amendment presented by a ~~Contracting~~ Party to this Protocol shall be submitted to the Working Party on Road Transport of the United Nations Economic Commission for Europe (UNECE) for consideration and decision.*

3. *The Parties to this Protocol shall make all possible efforts to achieve consensus. If, despite these efforts, consensus is not reached on the proposed amendment, it shall require, as a last resort, for adoption, a two thirds majority of Parties, present and voting. A proposed amendment adopted in this way shall be submitted by the secretariat of the United Nations Economic Commission for Europe to the Secretary-General to be circulated for acceptance to all Parties to this Protocol.*
4. *Within a period of six months from the date on which the proposed amendment is communicated by the Secretary-General, any Party may inform the Secretary-General that it has an objection to the amendment proposed.*
5. *The amendment shall be deemed to have been accepted if, by the end of the period of six months foreseen in the preceding paragraph, less than three Parties have notified an objection.*
6. *In the case of a country which becomes a Party to this Protocol between the moment of notification of a proposal for amendment and the end of the six-month period foreseen in paragraph 4 of this article, the secretariat of the Working Party on Road Transport of the Economic Commission for Europe shall notify the new State Party about the proposed amendment as soon as possible. The latter may inform the Secretary-General before the end of this period that it has an objection to the proposed amendment.*
7. *The Secretary-General shall notify, as soon as possible, all the Parties of objections raised in accordance with paragraphs 4 and 6 of this Article as well as of any amendment accepted according to paragraph 5 above.*
8. *Any amendment deemed to have been accepted shall enter into force six months after the date of notification of such acceptance by the Secretary-General to Parties.*

Article 14

Convening of a diplomatic conference

1. *After this Protocol 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 this Protocol. 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 to this Protocol 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 States referred to in Article 7, paragraphs 1, 3 and 4, of this Protocol.

4. *Any amendment to this Protocol shall be deemed to be accepted if it has been adopted by a two thirds majority of the States represented at the conference, provided that such majority comprises at least two thirds of Parties to this Protocol represented at the conference. The Secretary-General shall notify all Parties of the amendments adopted at the conference. These amendments shall enter into force, for all Parties to this Protocol, six months after the date of the aforesaid notification.*

Article 15

Notifications to States

In addition to the notifications provided for in Articles 13 and 14, the Secretary-General of the United Nations shall notify the States referred to in Article 7, paragraph 1, above, and the States which have become ~~Contracting~~ Parties to this Protocol in accordance with paragraphs 3 and 4 of Article 7, of:

- (a) Ratifications and accessions under Article 7;
- (b) The dates of entry into force of this Protocol in accordance with Article 8;
- (c) Denunciations under Article 9;
- (d) The termination of this Protocol in accordance with article 10;
- (e) Declarations and notifications received in accordance with Article 12, paragraphs 1 and 2.

Article 16

Depositary

The original of this Protocol shall be deposited with the Secretary-General of the United Nations, who shall send certified true copies thereof to all the States referred to Article 7, paragraphs 1, 3 and 4, of this Protocol.

DONE [*at Geneva*], this, in a single copy in the English and French languages, each text being equally authentic.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto, have signed this Protocol in the name of:

Annex

Explanatory memorandum

At the time of the elaboration of the Convention on the Contract for the International Carriage of Goods by Road (CMR) in 1956 under the auspices of the United Nations Economic Commission for Europe, the consignment note, the transport document used in the transport of goods by road and intended to record the contractual relations between Contracting Parties, could not have been imagined in any form other than on paper.

Since that time, ways of exchanging information have evolved, in particular by means of electronic messages or electronic data interchange (EDI).

This process consists of the exchange of information without the need for paper. The storing of data in the memory of computers and the transfer from one computer to another avoids the transcribing of this information, which both saves time and reduces errors for the most part.

The need for the use of EDI is today seen in all modes of transport when goods are often delivered before the documents arrive with the consignee. EDI is already operational in the other modes of transport – rail, maritime, air and inland navigation.

The object of the additional Protocol to the CMR is therefore to authorise, for road transport, in the model of other existing conventions in the field of transport, the electronic consignment note by means of processes used for the recording and electronic processing of data.

However, it is essential that in legally contractual relations the best conditions for the protection and security of documents are offered to operators:

- the inalterability of the message, without the agreement of the parties, but also the possibility to change if there is agreement;
- understanding and acceptance of the message by the consignee;
- identification of the parties and security of the authentication of their signatures.
