

**AGREEMENT CONCERNING CONTRACTS OF TRANSPORTATION AND CIVIL LIABILITY OF
CARRIERS OF GOODS BY ROAD IN INTERNATIONAL TRANSPORT¹**

CHAPTER I

DEFINITIONS

Article 1

1. For the purposes of this Agreement:
 - a) "Contract of international road transport," means a contract under which the carrier undertakes, against payment of freight, to perform or to arrange performance of transportation of goods from the territory of a State to the territory of another, using road vehicles for all or part of the route.
 - b) "Goods" means any thing capable of being transported. When the goods are shipped in a container, pallet or other device, the term "goods" includes such devices if they have been supplied by the shipper.
 - c) "Carrier" means the natural person or legal entity who, either personally or through another person acting on its behalf, enters into a contract for international carriage of goods by road.
 - d) "Shipper" means the natural person or legal entity who, either personally or through another person acting on its behalf or on his behalf, enters into a contract of international freight transport by road with the carrier, or any person who personally or through another person acting on its behalf or on its account, actually delivers the goods to the carrier.
 - e) "Consignee" means the natural person or legal entity legally entitled to receive the goods.
 - f) "Recipient" means the natural person or legal entity to whom goods are shipped.
 - g) "Bill of Lading or Waybill" means the document issued by the carrier stating that it has taken over the goods to be delivered as agreed.
2. Any reference to a natural person or legal entity shall be deemed also to mean their servants or agents.

Article 2

1. This Agreement shall apply to all contracts of international carriage of goods by road, provided that the carrier receives the goods in his custody, is located in a signatory country and the place where it must deliver them is in another signatory country.

¹ The Spanish language text from which this translation was made is found the Uruguayan Parliament's website at: <http://www0.parlamento.gub.uy/htmlstat/pl/acuerdos/acue-ap-37134.htm>. The signed original may be found at the ALADI website: http://www.aladi.org/biblioteca/Publicaciones/ALADI/Acuerdos/ART_14/ES/10/A14TM_010.PDF. ALADI is the Asociación Latinoamericana de Integración (Latin American Integration Association). The authentic text exists only in the Spanish and Portuguese languages. This unofficial translation was prepared by Charles E. Schmidt and Noe Hamra of Kennedy Lillis Schmidt & English (<http://www.klselaw.com/attorney/charles-e-schmidt/>) for guidance of its English-speaking clients. While every effort was made to render the text faithfully, certain Spanish language civil law terms, among others, do not translate freely into English. The reader is cautioned not to rely on this translation as a definitive expression of the law in any country where the Agreement has been adopted and to consult counsel in such a place for a more knowledgeable interpretation informed by local law, customs and practices.

2. This Agreement shall also apply to contracts of international carriage of goods by road entered into by institutions, organizations, companies or transport companies owned in whole or in part by a signatory country.
3. This Agreement shall not apply to transport operations that are governed by International Postal Agreements.

CHAPTER II

FORMATION AND EXECUTION OF THE ROAD TRANSPORT CONTRACT

Article 3

1. The Bill of Lading or Waybill is a document evidencing the existence of a contract of carriage. The absence, irregularity or loss of the document shall not affect the existence or the validity of the contract of carriage, which shall remain subject to the provisions of this Agreement.
2. The bill of lading or waybill is prima facie evidence, subject to proof to the contrary, of the conditions of the contract, the information required for its performance, and receipt of goods by the carrier.

Article 4

1. For the purposes of this Agreement, the bill of lading or waybill shall be issued in three originals signed by the shipper and the carrier. The first original will be delivered to the shipper, the second shall accompany the goods and the third will be retained by the carrier. The foregoing does not preclude the issuance of copies to comply with the laws of the country of origin.
2. When the goods to be transported must be loaded in different vehicles, or in the case of different kinds of goods or distinct lots, the shipper or the carrier are entitled to require the issuance of so many bills of lading or waybills as vehicles, classes or lots of goods are to be used.

Article 5

1. The bill of lading or waybill must contain at least the following statements:
 - a) Place and date of issue;
 - b) Name and address of the shipper;
 - c) Name and address of carrier;
 - d) Place and date on which the carrier takes charge of the goods;
 - e) Name and address of the recipient and place of delivery;
 - f) Name and address of consignee;
 - g) A statement of the nature of the goods and method of packaging, as well as the regular name of the goods if they are dangerous.
 - h) Number of packages and their marks and numbers;
 - i) Quantity of goods, expressed in gross weight or other unit of measurement;
 - j) Transport costs (price, supplementary charges and other charges incurred from the execution of the contract to the time of delivery);
 - k) The instructions required for Customs and other formalities, and

- l) A clause stating that the carriage is subject to the provisions of this Agreement, which nullify any stipulation derogating from them to the detriment of the shipper or consignee.
2. Where appropriate, the bill of lading or waybill shall also contain the following:
 - a) Express mention of prohibition of transshipment;
 - b) Charges which the shipper undertakes to pay;
 - c) Amount of reimbursement to be received at the time of delivery of goods;
 - d) The shipper's instructions to the carrier regarding insurance of the goods;
 - e) Declared value of goods;
 - f) Agreed period which has to be performed the carriage, and,
 - g) List of documents delivered to the carrier.
 3. The parties to the contract may add to the bill of lading or waybill any other information deemed appropriate.

Article 6

1. The shipper is responsible for all expenses and losses suffered by the carrier by reason of the inaccuracy or inadequacy of:
 - a) In the particulars specified in article 5, paragraphs 1 b), e), f), g), h), k);
 - b) In the particulars specified in article 5, paragraph 2, and,
 - c) Any other particulars or instructions given by him in connection with the issuance of the bill of lading or waybill, or for inclusion therein.
2. If at the request of the shipper the carrier includes the particulars mentioned in the preceding paragraph in the bill of lading or waybill, it is presumed, unless proved otherwise, that the carrier has acted on behalf of the shipper.
3. If the bill of lading or waybill does not contain the statement specified in article 5, paragraph 1, letter l), the carrier is liable for such omission.
4. The carrier's right to recoup costs and losses referred to in paragraph 1 above shall not limit in any way the responsibility of any person other than the shipper.

Article 7

1. At the time of taking over the goods, the carrier shall check:
 - a) The accuracy of the information on the bill of lading or waybill concerning the number of packages, and
 - b) The apparent condition of the goods and their packaging.
2. If the carrier has no reasonable means to verify the accuracy of the data referred to in paragraph 1 a), it shall note reasoned reservations on the bill of lading or waybill. Likewise it must state the reasons for the reservations it takes with respect to the apparent condition of the goods and their packaging. These reservations shall not bind the shipper unless it has expressly accepted them in the bill of lading or waybill.
3. The shipper is entitled to require a verification of the quantity of goods expressed in gross weight or other unit of measure, as well as the contents of the packages, the carrier in turn being enti-

ted to claim the payment of expenses of verification. The result of the verification shall be entered in the bill of lading or waybill.

4. In the absence of any notation on the bill of lading or waybill of reserves by the carrier, it is presumed that the goods and their packaging were in apparent good condition at the time that the carrier took charge of them, and that the number of packages and their marks and numbers conformed to the statements thereof in the bill of lading or waybill.

Article 8

The shipper is liable to the carrier for damage to persons, equipment or other goods, and the expenses incurred due to defective packing of goods, unless the defect was apparent or known to the carrier at the time it took charge of the goods and it failed to express timely reservations concerning it.

Article 9

1. The shipper shall attach to the bill of lading or waybill, or make available to the carrier, the documents required for the fulfillment of customs formalities and other necessary formalities prior to the time of delivery of the goods, and provide all necessary information.
2. The carrier is not required to consider whether these documents and information are accurate or sufficient. The shipper is liable to the carrier for all damages that may result from the absence, insufficiency or irregularity of such documents and information, except in the case of the carrier's fault.
3. The carrier is responsible for the consequences of the loss or misuse of the documents mentioned in the bill of lading or waybill, whether they are attached to it, or handed over to the carrier; in any case, no compensation may exceed that which would be payable in the event of loss of goods.

Article 10

1. The shipper has the right to dispose of the goods, to request the carrier to stop the transport, to change the place designated for delivery or to deliver the goods to a recipient other than the one indicated on the bill of lading or waybill
2. This right is extinguished when the first original of the bill of lading or waybill is sent to the recipient or when the recipient exercises its right under article 11, paragraph 1, and from that moment on, the carrier shall obey the orders of the recipient.
3. The right of disposition in any case belongs to the recipient from the time of drafting the bill of lading or waybill, if so noted in this bill of lading or waybill by the shipper.
4. If in exercising its right of disposal the recipient has ordered the goods to be delivered to another person, such other person, in turn, may not designate a new recipient without the consent of the carrier.
5. The right of disposition shall be subject to the following conditions:
 - a) The shipper or recipient, if they wish to exercise the right that is permitted in paragraph 3, must submit the first original of the bill of lading or waybill, on which the new instructions to the carrier must be written, and compensate it for costs and damages incurred in the execution of such instructions;
 - b) The performance of these new instructions must be possible when they are given and should not hinder the normal operation of the carrier or harm shippers or recipients of other consignments, and

- c) The instructions may not result in a division of the consignment.
6. Where under the provisions of paragraph 5 b) of this article the carrier cannot carry out the instructions it receives, it should inform the person who gave them.
 7. The carrier that does not carry out instructions given in accordance with the conditions set out in this article, or that carries them out without requiring the submission of the first original of the bill of lading or waybill, will be responsible to the person entitled to damage caused by such act.

Article 11

1. After the arrival of goods at the place designated for delivery, the recipient is entitled to request that the second original of the bill of lading or waybill be turned over to it and that the goods be delivered to it against a receipt. If the goods are lost or if they were not delivered at the end of the period mentioned in paragraph 3 of article 16, the recipient is entitled to enforce, in its own name, the rights against the carrier arising from the contract transport.
2. The recipient that exercises the rights granted in the preceding paragraph shall comply with all obligations arising from the bill of lading or waybill. If in doubt, the carrier is not required to make delivery of goods unless security has been furnished by the recipient.

Article 12

1. If for any reason it becomes impossible to perform the contract as provided in the bill of lading or waybill before the arrival of the goods to the place of delivery, the carrier shall request instructions from the person having the right of disposition of the goods under article 10.
2. In any case, if circumstances allow for the transport under conditions different from those provided in the bill of lading or waybill and the carrier could not receive timely instructions from the person who has the right of disposition of the goods under article 10, the carrier shall take such measures as it deems appropriate to the interests of the person having the right of disposition of the goods.

Article 13

1. When, after the arrival of goods at the destination, there are impediments to making delivery, the carrier shall request the shipper to provide instructions. If it is proven that the recipient refuses the goods the shipper shall be entitled to dispose of them without using the first original of the bill of lading or waybill.
2. Even if the recipient has refused the goods it may, nonetheless, still require their delivery, provided that the carrier has not yet received contrary instructions from the shipper.
3. If an impediment to the delivery of the goods arises after the recipient has given orders to deliver them to a third party in accordance with the right granted by article 10, paragraph 3, the recipient replaces the shipper and the third party replaces the recipient, for the purposes of paragraphs 1 and 2 of this article.

Article 14

1. The carrier is entitled to demand payment of expenses it incurs in requesting instructions or carrying out instructions received, unless these expenses are caused by the carrier's fault.
2. In the cases referred to in article 10, paragraph 1, and article 13, the carrier may immediately unload the goods for the account of the person entitled to them; after unloading, the transport is considered terminated; the carrier may, however, entrust the goods to a third party, and in such case the carrier is only responsible for the reasonable performance of the third party. The goods are subject to the liabilities and expenses resulting from the bill of lading or waybill.

3. The carrier can proceed with the sale of goods without awaiting instructions from the person entitled to them, if this is justified by the perishable nature or condition of them and if storage fees are excessive relative to the goods' value. Otherwise, it can proceed with the sale if within 60 calendar days after the transport has ended it has not received reasonable instructions to the contrary from the person with the right of disposition of the goods.
4. If the goods have been sold under the conditions stated in this article, the proceeds of the sale shall be made available to the person entitled to them, less any costs that incurred. If these charges exceed the proceeds of the sale, the carrier is also entitled to recover the difference.
5. The procedure in case of sale shall be determined by law or custom of the place where the goods are located.

CHAPTER III

LIABILITY OF THE ROAD CARRIER

Article 15

1. The carrier is responsible for the goods from the time they enter its custody until the time of delivery.
2. For purposes of paragraph one it is understood that the goods are in the custody of the carrier from the time they are received from the shipper or any third party, including an authority, having custody or control of them. It is also understood that the carrier has delivered the goods when they are received by the consignee at the agreed place; if the consignee does not receive them directly from the carrier, when they are made available to the consignee in accordance with the contract, applicable law or commercial usage at the place of delivery, or by delivery of goods to an authority or a third party to which the carrier is obliged to make delivery in accordance with the laws or regulations applicable in the place of delivery.

Article 16

1. The carrier is liable for the total or partial loss of goods and damage sustained by them, and for any delay in delivery, if the incident which resulted in the loss or damage or delay took place while the goods were in its charge, in accordance with the provisions of article 15, except as provided in article 17.
2. There is a delay in delivery when the goods have not been delivered within the agreed time or, if there is no agreed time, within such reasonable time as would be normally required of a carrier, bearing in mind the circumstances of the case.
3. The person entitled to claim for loss of goods can treat them as lost if they have not been delivered in accordance with the provisions of article 15, paragraph 2, within 30 consecutive days or the period stipulated by the parties according to the nature of goods, counting from the deadline for delivery in accordance with the provisions of paragraph 2 of this article.
4. The carrier is liable also for acts and omissions of its agents and servants and those acts and omissions attributable to third parties whose services are used for transportation.

Article 17

1. The carrier is not liable for any loss or damage or delay in delivery of the goods when such is due to the special risks inherent in one or more of the following circumstances:
 - a) Culpable act or omission of the claimant;
 - b) Inherent vice of the goods;

- c) Acts of war, civil commotion or acts of terrorism;
 - d) Strikes, lockouts (lock-outs), strikes, or interruption or partial or total suspension of work, beyond the control of the carrier;
 - e) Unavoidable loss or force majeure;
 - f) Defect or insufficiency of packing that is not obvious;
 - g) Circumstances that may require unloading, destruction or rendering harmless, at any time or place, of goods whose danger has not been declared by the shipper when the carrier took charge of them;
 - h) Transport of live animals, provided that the carrier proves that it carried out all the specific instructions given by the shipper;
 - i) Normal wastage of product through handling of the goods or due to the characteristics of the goods themselves, as previously agreed between the parties or established by the appropriate legal standards, and
 - j) Insufficiency or inadequacy of marks or labeling.
2. In case of loss or damage or delay in delivery of the goods, the carrier shall have the burden to prove that such loss or damage or delay was due to one of the special risks set forth in paragraph 1.
 3. When a ground for exoneration of the carrier's liability set out in paragraph 1 operates together with an act or omission of the carrier to cause the same loss or damage or delay in delivery, the carrier shall only be liable for loss or damage or delay in delivery that can be attributed to his act or omission. In this case, the carrier shall have the burden to prove the amount of the loss or damage or delay in delivery and, and the amount due to its act or omission and that determines the amount for which it is not responsible.

Article 18

1. When in accordance with the provisions of this Agreement the carrier must pay compensation for total or partial loss of goods, the same shall be determined according to their value, and its amount may not exceed the maximum limit of three United States of America dollars per kilogram of gross weight transported, without prejudice to the provisions of article 19. The value of the goods shall be that at the time and place when the carrier took charge them. This value will be set taking into account the amount stated by the shipper on the bill of lading or waybill that shown in the commercial invoice.
2. The carrier's liability only for delay in delivery as provided in article 16 shall not exceed the price of the freight of the goods subject to the delay, unless the parties have expressly agreed to more.
3. The overall responsibility of the carrier pursuant to paragraphs 1 and 2 may in no event exceed the amount specified in paragraph 1 for the total loss of the goods for which such liability was incurred.

Article 19

If the shipper wants to increase the carrier's liability limit to one greater than that laid down in article 18, paragraph 1, it must previously declare this intention in the bill of lading or waybill, paying an additional price to be agreed between the parties. In no event shall such value exceed the actual value of goods, including customs duties, where applicable, and other transportation costs.

Article 20

In case of damage, the carrier shall pay the legitimate claimant the indemnity that corresponds with the calculation made in the manner stipulated in article 18 paragraphs 1 and 3 and in article 19.

Article 21

The carrier, its servants or agents may not invoke the provisions that exempt or limit its liability, that is articles 17 and 18, if it is proved that the loss or damage or delay in delivery resulted from an act or omission of willful misconduct or fault that that is the equivalent of willful misconduct and with knowledge that it would likely result in such loss or damage or delay.

Article 22

Loss or damage caused by third parties, not included in the contract of carriage, does not relieve the carrier of liability.

Article 23

1. Where the loss or damage is apparent or perceived, it is presumed that the goods were received in good condition, unless the consignee gives written notice to the carrier of loss or damage, specifying its general nature at the time of delivery of goods. In other cases governed by the provisions of the respective applicable national laws will govern.
2. If, when they have been handed over to the consignee, the condition of the goods has been subject to a joint survey or inspection by parties which was recorded in writing, no written notice of the loss or damage that was ascertained during such survey or inspection is required.
3. In the case of actual or alleged total or partial loss or damage, the carrier and the consignee shall grant each other all reasonable means to proceed with the finding of fact or of review or inspection of the goods.
4. There shall be no payment of compensation for late delivery unless notice in writing is given to the carrier within 30 consecutive days from the day on which the goods were delivered to the consignee.
5. If the goods have been delivered by a servant or agent of the carrier, notifications made to them under this article shall be construed as having been made to the carrier.

Article 24

1. Actions related to a contract for international carriage of goods by road, covered by this Agreement, may be commenced before the Court agreed by the parties. In the absence of agreement or when it is legally unenforceable, such actions may be brought in any court that is competent, considering that is within its jurisdiction:
 - a) The legally constituted domicile of the defendant;
 - b) The place where the carrier took over the goods, or,
 - c) The place designated for delivery of goods.
2. Judgments with the force of res judicata issued by the competent Court of a State may be enforced or executed by the parties within or outside the territory in which the Court sits, as appropriate to their interests and in accordance with international treaties in force. When a party seeks enforcement outside the territory of the Court that issued the judgment, it must comply with formalities required by the laws of the State in which enforcement of the judgment is sought. Compliance with such formalities does not authorize revisions or amendment of the judgment whose

enforcement is sought.

3. The provisions of paragraph 2 shall apply to judgments that have the force of res judicata, and agreements adopted or approved by a resolution issued by the competent court.

Article 25

1. An action related to a contract for international carriage of goods by road, covered by this Agreement, shall be proscribed after one year, measured from the date when the cause of action accrues. In case of willful misconduct, or fault that is the equivalent of willful misconduct and must be determined by a criminal court according to the law of the Country where the Court is located which should know that the matter is related to transportation, the one year period commences after the criminal Court renders judgment.
2. The time limit shall not include the day on which the period begins to run.

CHAPTER IV

EFFECTIVE DATE AND DURATION

Article 26

1. This Agreement shall enter into force thirty (30) days after the date on which the General Secretariat of the ALADI notifies the signatory countries of the receipt of at least three notices of the fulfillment of domestic legislative requirements for the Agreement to come into effect. For other countries, this Agreement comes into force thirty (30) days after the date of notification to the General Secretariat of the ALADI of its entry into force in their respective territories.
2. This Agreement will last for five years, automatically renewable for equal periods, unless otherwise stated in a signatory country, in which case it will need to be renegotiated.
3. The provisions of this Agreement shall apply exclusively to the signatory and acceding countries upon its entry into force.

CHAPTER V

ACCESSION

Article 27

1. This Agreement shall be open for accession, through negotiation, by the member countries of the Association.
2. Accession will be formalized once the terms of the same have been negotiated between the signatory countries and the requesting country, by signing an Additional Protocol to this Agreement, which shall enter into force thirty (30) days after its entry into force in its territory.

CHAPTER VI

EVALUATION AND REVIEW

Article 28

1. The signatory countries shall evaluate the results achieved under the Agreement annually, or at any time if a signatory country so requests.
2. The commitments arising from the review and evaluation and adjustments to be agreed will be formalized through the signing of Additional or Modifying Protocols to this Agreement.

CHAPTER VII

DENUNCIATION

Article 29

Any signatory country may denounce this Agreement two years after it comes into effect. For this purpose, it must notify its decision at least sixty days in advance, depositing of the instrument of denunciation with the General Secretariat of the ALADI, who will report the denunciation to the other signatory countries. Thirty days after the Agreement has been formally denounced, all obligations and rights contracted by this Agreement shall cease for the denouncing country.

CHAPTER VIII

FINAL PROVISIONS

Article 30

The Competent National Authorities and the Commission on International Land Transport Agreement shall act in those capacities for the purposes of this Agreement.

Article 31

Nothing in this Agreement shall excuse compliance with customs, health or other rules applicable in each country.

Article 32

Nothing in this Agreement prevents the application of article 50 of the Treaty of Montevideo 1980.

Article 33

The General Secretariat of the Latin American Integration Association shall be the depository of this Agreement and shall send copies thereof, duly authenticated, to the governments of the signatory and acceding countries.

IN WITNESS WHEREOF the respective plenipotentiaries have signed this Agreement in the city of Montevideo, on the sixteenth day of August 1995, in an original in Spanish and Portuguese languages, both texts being equally authentic.

(Signed :) For the Government of the Republic of Bolivia:
Antonio Cespedes Toro,
For the Government of the Federative Republic of Brazil:
José Artur Denot Medeiros,
For the Government of the Republic of Chile
Augusto Bermúdez Arancibia,
For the Government of the Republic of Paraguay:
Dario Efrain Centurion;
For the Government of the Republic of Peru:
Guillermo del Solar Rojas;
For the Government of the Oriental Republic of Uruguay:
Adolfo Castells.

Montevideo, Uruguay. Legislature.